



# Dreams & Realities: The Evolution of Tribunals

Council of Australasian Tribunals' National Conference

*Thursday 4 – Friday 5 June 2015*

*RACV Club Melbourne, Victoria*



# President's Welcome

On behalf of the organising committee, I am delighted to welcome you to Melbourne for the Council of Australasian Tribunals' 2015 National Conference "Dreams and Realities: The Evolution of Tribunals".

The Conference organising committee has put together a programme that invites us all to reflect upon the evolution of merits review over the past four decades. This programme goes further and invites more than nostalgia — it asks us to think about and discuss our future direction and ambitions.

I am delighted that the Presidents and Heads of a significant number of Australasian Tribunals have accepted the organising committee's invitation to participate in these discussions.

Furthermore, I am delighted that the Attorney-General of Australia, Senator the Hon. George Brandis QC, has accepted our invitation to give a keynote address incorporating his reflections on future directions for Commonwealth merits review.

As always, a significant part of the programme will address the more practical 'tradecraft' issues that Tribunal Members face. This year we look at the challenges presented by vulnerable or disadvantaged participants and the role of specialist Tribunal Members.

A Friday afternoon session will give Conference participants an opportunity to provide their feedback on COAT's project to develop a best practice guide to Tribunal appointments. I urge you to stay for that session.

Finally, in light of our hugely successful 2014 National Conference in Auckland, New Zealand, I extend a special warm welcome to our colleagues from New Zealand who join us in Melbourne in 2015.

**To all welcome!**

**Justice Duncan Kerr**  
*President of COAT*

# DAY 1

THURSDAY 4 JUNE



10:30am	<b>Heads of Tribunals' Meeting</b>	<b>Bourke Room</b>
12:00pm	Lunch & Registration	
1:00pm	<b>Welcome &amp; Opening Address</b>	<b>Bourke Room</b>
	<i>Presenter:</i> The Honourable Justice <b>Duncan Kerr</b> <i>Chev LH</i> , President, Administrative Appeals Tribunal (AAT)	
1:30pm	<b>Plenary Session – Civil and Administrative Tribunals' Retrospective and Prospective</b>	<b>Bourke Room</b>
	<i>Facilitator:</i> His Honour Judge <b>Alexander Horneman-Wren</b> SC, Deputy President, Queensland Civil and Administrative Tribunal (QCAT)	
	<i>Presenters:</i> The Honourable <b>Murray Kellam</b> AO, inaugural President, Victorian Civil and Administrative Tribunal (VCAT); His Honour Judge <b>David Parry</b> , Deputy President, State Administrative Tribunal, Western Australia (SAT)	
	<i>Panel of speakers:</i> The Honourable Justice <b>Duncan Kerr</b> <i>Chev LH</i> , President, AAT; The Honourable <b>Murray Kellam</b> AO, inaugural President, VCAT; Her Honour Judge <b>Pamela Jenkins</b> , Vice-President, VCAT; The Honourable Justice <b>John Chaney</b> , inaugural Vice-President and subsequent President, SAT; His Honour Judge <b>David Parry</b> , Deputy President, SAT; <b>Linda Crebbin</b> , General President, Australian Capital Territory Civil and Administrative Tribunal (ACAT); <b>Martin Treadwell</b> , Deputy Chair, Immigration and Protection Tribunal, New Zealand; The Honourable <b>Alan Wilson</b> , inaugural President, QCAT; The Honourable Justice <b>David Thomas</b> , President, QCAT; The Honourable Justice <b>Robertson Wright</b> , President, New South Wales Civil and Administrative Tribunal (NCAT); <b>Richard Bruxner</b> , President, Northern Territory Civil and Administrative Tribunal (NTCAT); The Honourable Justice <b>Greg Parker</b> , President, South Australian Civil and Administrative Tribunal (SACAT)	
	<i>Topic:</i> Presenters will give insight into initial expectations, challenges encountered and significant developments of their Super-Tribunal. This will be followed by an interactive discussion between panel and audience addressing such matters as ADR, therapeutic jurisprudence, use of specialist panel members, internal appeals, member reappointment process, use of interpreters, litigants in person and other hot topics.	
3:00pm	Afternoon Tea	
3:20pm	<b>Plenary Session - Civil and Administrative Tribunals' Retrospective and Prospective</b> <i>continued</i>	<b>Bourke Room</b>
5:00pm	Closing Remarks	
5:15pm	Close of Day One	
7:00pm	Pre-Dinner Drinks & Canapés	<b>Level 17 RACV Club</b>
7:30pm – 10:30pm	<b>CONFERENCE DINNER</b>	<b>Level 17 RACV Club</b>
	<i>Presenter:</i> The Honourable Justice <b>Chris Maxwell</b> , President, Court of Appeal, Victoria	
	<i>Topic:</i> The Dream of Merits Review and the Reality of Appellate Courts	

# DAY 2

FRIDAY 5 JUNE



8:30am	COAT Annual General Meeting		Bourke Room
9:30am	<b>Keynote Address – The Merger of Commonwealth Tribunals: Underlying Policy and Objectives</b> <i>Introduction:</i> The Honourable Justice <b>Duncan Kerr</b> <i>Chev LH</i> , President, AAT <i>Presenter:</i> The Honourable <b>George Brandis</b> QC, Attorney General of Australia		Club Pavilion Room
10:20am	<b>Plenary Session – Mindfulness for Resilience, Wellbeing and Sustainable Performance</b> <i>Introduction:</i> Her Honour Judge <b>Pamela Jenkins</b> , Vice-President, VCAT <i>Presenter:</i> Dr <b>Craig Hassed</b> MBBS, FRACGP, Senior Lecturer, Monash University, Department of General Practice		Club Pavilion Room
11:20am	Morning Tea		
11:40am	Concurrent Session 1	Concurrent Session 2	Concurrent Session 3
	Club Pavilion Room	Bourke Room	Bayside Room
	<b>Alternative Dispute Resolution – Sharing Best Practice</b> <i>Chair:</i> <b>Genevieve Nihill</b> , Deputy President and Head of Human Rights Division, VCAT <i>Panel of speakers:</i> <b>Peter Johnstone</b> , ADR Manager, QCAT; <b>Louise Clegg</b> , Manager Dispute Resolution and Case Management, NCAT; <b>Ian Lulham</b> , Deputy President and ADR Manager, VCAT	<b>Access to Justice and Tribunals</b> <i>Chair:</i> Professor <b>Matthew Groves</b> , Monash University <i>Panel of speakers:</i> Commissioner <b>Angela MacRae</b> , Australian Government Productivity Commission; Professor <b>Bryan Horrigan</b> , Dean of Law, Monash University; Commissioner <b>Kate Jenkins</b> , Victorian Equal Opportunity and Human Rights Commission <i>Topic:</i> <ul style="list-style-type: none"> <li>Critical examination of tribunals in context of Productivity Commission Report Access to Justice.</li> <li>Challenges and opportunities for tribunals.</li> </ul>	<b>Flexibility and Innovation in Tribunals: Confronting the Constraints</b> <i>Chair:</i> <b>Trish McConnell</b> , Chair, Weathertight Homes Tribunal, Auckland, New Zealand. <i>Panel of speakers:</i> Dr <b>Juliet Lucy</b> , Barrister and Senior Member, NCAT and <b>Martha Roche</b> , Member, Weathertight Homes Tribunal, Auckland, New Zealand
12:50pm	Lunch		

1:30pm	Concurrent Session 4	Concurrent Session 5	Concurrent Session 6
	<b>Club Pavilion Room</b>	<b>Bourke Room</b>	<b>Bayside Room</b>
	<p><b>Administrative Law Update</b></p> <p><i>Chair:</i> Professor <b>Gregory Reinhardt</b>, Monash University Law School and Executive Director of the Australasian Institute of Judicial Administration</p> <p><i>Presenter:</i> Professor <b>Robin Creyke</b>, Australian National University College of Law and Sessional Member, ACAT</p> <p><i>Topic:</i></p> <ul style="list-style-type: none"> <li>· Analysis of proposed legislation to amalgamate selected Commonwealth tribunals.</li> <li>· Appraisal of significant administrative case law.</li> </ul>	<p><b>Accessibility of Tribunals for Vulnerable or Disadvantaged Participants</b></p> <p><i>Chair:</i> <b>Matthew Carroll</b>, President, Victorian Mental Health Tribunal</p> <p><i>Panel of speakers:</i> <b>Linda Crebbin</b>, General President, ACAT; <b>Malcolm Schyvens</b>, Deputy President and Head of Guardianship Division, NCAT; <b>Anita Smith</b>, President, Tasmanian Guardianship and Administration Board</p> <p><i>Topic:</i></p> <ul style="list-style-type: none"> <li>· Explore personal characteristics of tribunal users that impact upon accessibility.</li> <li>· Appraise how tribunals currently take account of diverse personal characteristics of users.</li> <li>· Advance practical reforms through case studies and address limitations and challenges to reforms.</li> </ul>	<p><b>Role of Specialist Members on Tribunal Panels</b></p> <p><i>Chair:</i> <b>Lisa Ward</b>, Member, SAT</p> <p><i>Panel of speakers:</i> <b>Heather Lambrick</b>, Deputy President and Head of Review and Regulation List, VCAT; <b>Regina Perton</b> OAM, Member, AAT; <b>Pam Barry</b>, expert panel member in health matters, VCAT; <b>John Clampett</b>, expert panel member in building matters, VCAT</p> <p><i>Topic:</i></p> <ul style="list-style-type: none"> <li>· Role and challenges of non-presiding members.</li> <li>· Relevant legal aspects of the role of specialist members.</li> <li>· Specialist member's perspective on appearing before a panel.</li> </ul>
2:40pm	Afternoon Tea		
3:00pm	<b>Plenary Session – COAT's Project to Develop a Best Practice Guide to Tribunal Independence in Appointments</b>		<b>Club Pavilion Room</b>
	<p><i>Chair:</i> The Honourable Justice <b>Duncan Kerr</b> <i>Chev LH</i>, President, AAT</p> <p><i>Presenters:</i> Professor <b>Pamela O'Connor</b>, University of the Sunshine Coast Law School and Professor <b>Philip Bryden</b>, University of Alberta Faculty of Law</p> <p><i>Topic:</i> Professor O'Connor will outline the draft principles and questions for consultees in the Discussion Paper released in May. Professor Bryden will provide comparative comment from the perspective of Canadian tribunals.</p>		
4:00pm	Closing Remarks		
4:15pm	Close of Day Two		



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COUNCIL OF AUSTRALASIAN TRIBUNALS