



# **NORTHERN TERRITORY CIVIL & ADMINISTRATIVE TRIBUNAL**

**ANNUAL REPORT**  
2019/2020





**NTCAT**  
Northern Territory  
Civil and Administrative Tribunal

The Honourable Selena Uiibo MLA  
Attorney-General and Minister for Justice  
Parliament House  
DARWIN NT 0801

Dear Attorney-General

**NTCAT ANNUAL REPORT 2019/2020**

In accordance with section 151 of the *Northern Territory Civil and Administrative Tribunal Act 2014*, I am pleased to submit for your attention the Northern Territory Civil and Administrative Tribunal's annual report for the period 1 July 2019 to 30 June 2020.

Yours faithfully

**Judge Richard Bruxner**  
President  
Northern Territory Civil and Administrative Tribunal

29 September 2020

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## INTRODUCTORY

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1. This is the annual report of the Northern Territory Civil and Administrative Tribunal ('NTCAT') for the 2019/2020 financial year. The preparation of an annual report is required by section 151 of the *Northern Territory Civil and Administrative Tribunal Act 2014* ('NTCAT Act'), which is in these terms:

### **151 Annual report**

- (1) The President must prepare and give to the Minister a report on the administration and operation of the Tribunal during each financial year.
  - (2) The report must contain information about:
    - (a) the number, nature and outcome of matters that have come before the Tribunal; and
    - (b) the number and nature of matters that are outstanding; and
    - (c) any trends or special problems that may have emerged; and
    - (d) in relation to the matters that have come before the Tribunal – the level of compliance by decision makers with requirements to:
      - (i) notify persons of reviewable decisions and their rights to seek review; and
      - (ii) provide written reasons for reviewable decisions when requested to do so; and
    - (e) forecasts of the workload of the Tribunal in the next financial year; and
    - (f) any proposals for improving the administration and operation of the Tribunal.
  - (3) The report must not contain information in relation to the evidence given in closed hearings or other confidential matters.
  - (4) The report must be given to the Minister within 3 months after the end of the financial year or such other period as the Minister determines.
  - (5) The Minister must table a copy of the report in the Legislative Assembly within 7 sitting days after the Minister receives the report.
2. The matters listed in section 151(2)(a) – (f) are addressed below under separate headings, following some general observations.



## GENERAL

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3. This is NTCAT's sixth annual report.
4. Since 3 June 2020, when the tribunal commenced exercising mental health review jurisdiction under the *Mental Health and Related Services Act 1998*, NTCAT has been exercising all of the high volume jurisdictions that were originally planned for it at the time of its creation.
5. 2019-20 has seen another year of consolidation and refinement of NTCAT's procedures and structures, as well as the profound (and continuing) challenge of responding to the COVID-19 pandemic.
6. The most pressing issues for NTCAT remain the sufficiency of its premises (including in terms of security) and need for greater depth in its human resources as its jurisdictional load continues to expand.

## JURISDICTIONAL OVERVIEW

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### Acts

7. As at 30 June 2020, jurisdiction had been conferred upon NTCAT under the following Acts (\*denotes commencement of the jurisdiction in the current reporting period):

- *Administrators Pensions Act 1981*
- *Advance Personal Planning Act 2013*
- *Alcohol Harm Reduction Act 2017*
- *Anti-Discrimination Act 1992*
- *Auctioneers Act 1935\**
- *Births Deaths and Marriages Registration Act 1996*
- *Building Act 1993 (& Building (Resolution of Residential Building Work Disputes) Regulations 2012)*
- *Caravan Parks Act 2012*
- *Construction Contracts (Security of Payments) Act 2004\**
- *Control of Roads Act 1953*
- *Cooperatives (National Uniform Legislation) Act 2015*
- *Cullen Bay Marina Act 1992*
- *Darwin Waterfront Corporation Act 2006*
- *Education Act 2015*
- *Energy Pipelines Act 1981*
- *Expungement of Historical Homosexual Offence Records Act 2018*
- *Fences Act 1972*
- *Firearms Act 1997\**

- *Fisheries Act 1988*
- *Gaming Control Act 1993*
- *Gaming Machine Act 1995*
- *Geothermal Energy Act 2009*
- *Guardianship of Adults Act 2016*
- *Health Practitioner Regulation (National Uniform Legislation) Act 2010*
- *Health Practitioners Act 2004*
- *Hemp Industry Act 2019\**
- *Heritage Act 2011*
- *Independent Commissioner Against Corruption Act 2017*
- *Information Act 2002*
- *Kava Management Act 1998*
- *Lands Acquisition Act 1978*
- *Legislative Assembly Members' Pension Act 1979*
- *Liquor Act 2019*
- *Local Government Act 2008*
- *Marine Act 1981*
- *Mental Health and Related Services Act 1998\**
- *Mineral Titles Act 2010*
- *National Disability Insurance Scheme (Authorisations) Act 2019\**
- *Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction for Native Title Matters) Act 2014*
- *Pastoral Land Act 1992*
- *Petroleum Act 1984*
- *Planning Act 1999*
- *Poppy Regulation Act 2014*
- *Ports Management Act 2015*
- *Private Security Act 1995*
- *Racing and Betting Act 1983*
- *Residential Tenancies Act 1999*
- *Sex Industry Act 2019\**
- *Small Claims Act 2016*
- *Superannuation Act 1986*
- *Teacher Registration (Northern Territory) Act 2004\**
- *Termination of Units Plans and Unit Titles Schemes Act 2014*
- *Tobacco Control Act 2002*
- *Totalisator Licensing and Regulation Act 2000*
- *Training and Skills Development Act 2016*
- *Unit Titles Act 1975*
- *Unit Titles Schemes Act 2009*
- *Victims of Crimes Assistance Act 2006*

8. In addition, the following legislation, under which NTCAT will acquire jurisdiction, has been passed, but had not commenced by the end of the reporting period:

- *Animal Protection Act 2018*
- *National Disability Insurance Act (Worker Clearance) Act 2020*

9. The most significant of NTCAT's new jurisdictions that commenced during the reporting period was the mental health review jurisdiction under the *Mental Health and Related Services Act 1998*. Prior to 3 June 2020, that jurisdiction had been administered by the Mental Health Review Tribunal ('MHRT').
10. The practical impact of NTCAT taking over the mental health review jurisdiction should be less than the statistical impact. This is because NTCAT had been managing the administrative and quasi-judicial responsibilities of the MHRT from early 2015 (with NTCAT's President also appointed as the President of the MHRT and several of NTCAT's administrative officers also holding MHRT-related appointments). In addition, the MHRT jurisdiction was transferred to NTCAT in a way that involved minimal changes to the way in which the jurisdiction is to be exercised.

## COVID-19

11. During the fourth quarter of the reporting period, NTCAT's operations were profoundly impacted by the coronavirus pandemic.
12. In late March 2020, the tribunal made orders cancelling the vast majority of its pending listings (hearings and compulsory conferences). All hearing activity ceased, except for some matters in the guardianship and mental health review jurisdictions, which simply could not wait. In addition, measures were put in place by which new applications would only be allowed to proceed beyond filing in circumstances of demonstrated urgency. In cases where hearings remained necessary, they were conducted in ways that involved minimal contact between participants. Extensive measures (guided by Northern Territory Government requirements and recommendations) were also introduced for the protection of tribunal staff and members. These included closure of the tribunal's physical registries and a temporary ban on the lodgement of hard copy documentation.
13. From early May 2020, NTCAT began to wind back the measures introduced in late March 2020. Cancelled listings were restored according to the order in which they had been cancelled. In addition, the tribunal commenced processing new applications that had been held in abeyance. From mid May 2020, the expectation for physical attendance at hearings was reintroduced, albeit with extensive accommodations for parties with particular concerns about physical attendance, or for whom physical attendance was impossible. Although the physical registries were reopened, parties remained unable to lodge hard copy documents.
14. From mid-June 2020, NTCAT returned to essentially normal operations, subject to the continued observance of requirements imposed by the Territory and Commonwealth governments. By that time, all listings cancelled as a result of the pandemic had been restored and the Registry was well advanced in processing the backlog of new applications.



15. As at the time of writing this report, NTCAT has largely recovered from the two-month interruption to its operations caused by COVID-19. The flexibility and agility of tribunal processes played a significant part in its ability to 'mothball' and then restore its operations in such a short time; however, that should not overshadow the tireless efforts of Registry staff in what were (and continue to be) extremely challenging circumstances.

## Proceedings

16. In the reporting period, 2616 new NTCAT matters were commenced (not including matters in the mental health review jurisdiction). Of those matters 82.4% related to the Darwin area, 9.4% concerned Alice Springs and the remainder (8.2%) related to other locations in the Northern Territory.
17. The jurisdiction in which the largest number of matters was commenced was the small claims jurisdiction with 1384 new matters.
18. 575 new residential tenancies matters were commenced in the reporting period. This represented a significant drop when compared to the 2018-19 figure of 722. The reduction reflects the impacts of the COVID-19 pandemic. As noted above, the pandemic resulted in a protracted shut down of NTCAT's usual hearing lists (for all but critically urgent matters). In addition, emergency amendments to the *Residential Tenancies Act 1999* affected both the grounds upon which residential tenancies could be terminated and the procedures (including notice timeframes) for doing so. NTCAT expects that the reduction in activity in residential tenancies during the last quarter of the reporting period may be offset by a spike in activity in the latter part of 2020.
19. NTCAT's adult guardianship jurisdiction remains the most time-consuming of the tribunal's high volume jurisdictions. 240 new guardianship proceedings were commenced in 2019-2020, an increase from 208 in the preceding reporting period. In addition, 368 reassessments of existing guardianship orders were commenced in 2019-2020, a decrease from 444 in 2018-19. The decrease in reassessments was likely contributed to by two factors: first, a move by NTCAT in recent years towards four year reassessment periods for guardianship orders; and, secondly, the effects of the COVID-19 pandemic on tribunal activity in the fourth quarter of the reporting period.
20. During the reporting period, there was a substantial increase in the number of variation orders made in the adult guardianship jurisdiction (343, up from 59 in 2018-19). This was due principally to the fact that, during the reporting period (and in particular in the latter part of 2019) the Public Guardian ceased acting as guardian for financial matters, handing over that responsibility to the Public Trustee.

21. Guardianship matters (whether new applications or reassessments) usually require a series of listings (an oral hearing or hearings followed by later consideration (often more than once) 'on the papers'). The tribunal had 1818 guardianship listings for the reporting period.
22. Apart from the core jurisdictions, new NTCAT proceedings were also commenced during the reporting period under the following Acts: *Alcohol Harm Reduction Act 2017*; *Anti-Discrimination Act 1992*; *Building Act 1993*; *Caravan Parks Act 2012*; *Health Practitioner Regulation (National Uniform Legislation) Act 2010*; *Heritage Act 2011*; *Information Act 2002*; *Liquor Act 1978* (now repealed); *Liquor Act 2019*; *Mineral Titles Act 2010*; *Planning Act 1999*; *Racing and Betting Act 1983*; *Unit Titles Act 1975*; *Unit Titles Schemes Act 2009*; *Victims of Crime Assistance Act 2006*.
23. As already noted above, on 3 June 2020, NTCAT took over from the MHRT in the exercise of mental health review jurisdiction under the *Mental Health and Related Services Act 1998*. Prior to taking over the jurisdiction, NTCAT had for several years managed the administrative and quasi-judicial responsibilities of the MHRT (with the NTCAT President also President of the MHRT). The statistics included later in this report include some summary statistics for the mental health review jurisdiction. The statistics relate to the entire reporting period (i.e. bridging the times at which the MHRT and NTCAT exercised the jurisdiction). More extensive statistics for the mental health review jurisdiction are included in the (final) Annual Report for the MHRT, which will be submitted at the same time as this report.
24. As is the case with guardianship, matters in the mental health review jurisdiction - which most often involve recurring reviews of orders affecting a particular person - are not always easily able to be classified as 'new'. In terms of the commitment of tribunal resources to mental health matters, the most reliable measure is the number of hearings in fact conducted. For the reporting period, there were 750 hearings (by MHRT and NTCAT) in the mental health review jurisdiction.

## STAFFING

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### Senior Staff

25. For the reporting period, NTCAT's senior staff comprised:

Judge Richard Bruxner - President;  
Andrew Macrides - Senior Member;  
Mark O'Reilly - Alice Springs Member;  
Renata Blanch – Registrar (presently acting as Registrar of the Supreme Court);  
Lucy Hopkinson – Acting Registrar (from 21 May 2020);  
Eleanor Poulter - Tribunal Manager; and

Christi Hamon - Listings Coordinator

### Tribunal Coordinators

26. The senior staff were supported by an executive assistant and eight tribunal coordinators - seven in Darwin and one in Alice Springs.
27. It was noted in previous annual reports that there was a pressing need for an additional tribunal coordinator to support NTCAT's Alice Springs operations; in particular, so as to allow the Alice Springs Registry to remain open at all times during business hours.
28. This remained a challenge during the reporting period; however, steps have recently been taken to address the issue by trialling the addition of a part time tribunal coordinator in Alice Springs. The trial involves 'splitting' one tribunal coordinator position between Darwin and Alice Springs and may as such have a bearing on NTCAT's Darwin operations.

### Members

29. The President, Senior Member, Alice Springs Member and Registrar (who is able to constitute the Tribunal for certain matters) have had the conduct of the majority of the caseload of NTCAT for the reporting period.
30. NTCAT also continues to rely upon the services of its sessional members, in particular those holding legal qualifications, for the conduct of compulsory conferences and for selected hearings.
31. The following were sessional members of NTCAT during the reporting period:

*Legally qualified members (s16(2)(a) of the Northern Territory Civil and Administrative Tribunal Act 2014):*

Mr David Alderman  
Mr David Baldry  
Ms Helena Blundell  
Ms Nardine Collier  
Ms Cassandra Ellis  
Mr Andrew George  
Mr Russell Goldflam  
Mr Kenneth Grime  
Ms Lesley Hastwell  
Mr Ron Levy  
Mr Alister Lindsay  
Prof. Les McCrimmon

Mr Ben O'Loughlin  
Mr Robert Perry  
Mr George Roussos  
Ms Jodi Truman

Former legal members of the MHRT\* who became legally qualified members of NTCAT when the mental health review jurisdiction was transferred to NTCAT on 3 June 2020 (see s181 of the *Mental Health and Related Services Act 1998*):

Mr Julian Johnson  
Mr Anthony Whitelum  
Mr Joshua Ingrames  
Mr Ben Grimes  
Ms Megan Lawton  
Ms Jodi Mather  
Ms Alison Phillis

(\*this list does not include former MHRT members who already held an NTCAT appointment on 3 June 2020)

Other members (s16(2)(b) of the *Northern Territory Civil and Administrative Tribunal Act 2014*):

Ms Kathleen Blair  
Mr John Brears  
Dr Anthony Brownjohn  
Ms Kathryn Crawley  
Dr Kerry Eupene  
Ms Jill Huck  
Mr Marcus Mancer  
Mr Paul Rysavy  
Ms Karen Schneider  
Dr Diane Szarkowicz

Former medical and community members of the MHRT\* who became members of NTCAT when the mental health review jurisdiction was transferred to NTCAT on 3 June 2020 (see s181 of the *Mental Health and Related Services Act 1998*):

Dr Dinesha Arya  
Dr Teresa Garrone  
Dr Jim Greenwood  
Dr Rosemary Howard  
Dr Peter O'Brien  
Dr Arnold Waugh  
Ms Renate Dwyer  
Ms Suzi Kapetas  
Ms Frances Kilgariff  
Ms Patricia Kurnoth  
Mr Don Zoellner

(\*this list does not include former MHRT members who already held an NTCAT appointment on 3 June 2020)

### New Remuneration Determination

32. On 16 December 2019, an updated determination of remuneration entitlements for NTCAT members - made under the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006* - came into effect. The determination replaced a determination that had been in operation since 31 August 2015 and which, apart from being out of date, had become administratively inefficient.

### Creation of Divisions

33. Section 58 of the *Northern Territory Civil and Administrative Tribunal Act 2014* provides that the President may establish various divisions for matters that reflect the areas of jurisdiction of the Tribunal and may assign members to one or more divisions.

34. On 10 February 2020 the President established three NTCAT divisions:

- the Civil Claims Division, headed by Andrew Macrides, with original jurisdiction under the following Acts:
  - *Building Act 1993 & Building (Resolution of Residential Building Work Disputes) Regulations 2012*;
  - *Caravan Parks Act 2012*;
  - *Cullen Bay Marina Act 1992*;
  - *Fences Act 1972*;
  - *Residential Tenancies Act 1999*;
  - *Small Claims Act 2016*;
  - *Unit Titles Act 1975*; and
  - *Unit Titles Schemes Act 2009*.
- the Human Rights Division, headed by Mark O'Reilly, with original jurisdiction under the following Acts:
  - *Advance Personal Planning Act 2013*;
  - *Anti-Discrimination Act 1992*;
  - *Guardianship of Adults Act 2016*; and
  - *Mental Health and Related Services Act 1998 (from 3 June 2020)*.
- the Review and Vocational Division, headed by the President, with original and review jurisdiction in all matters not within the original jurisdiction of the Civil Claims and Human Rights Divisions.

35. Two main considerations led to the creation of the above divisions. First it is hoped the new structure will help streamline the management and administration of NTCAT's increasingly



broad and diverse jurisdictional load. Secondly, the capacity to allocate particular members to particular divisions only should help address the difficulties that can arise where a tribunal member wishes to appear for a party in a tribunal proceeding.

### Additional full-time member and Deputy President

36. The appointment of another full-time Darwin-based NTCAT member remains highly desirable and NTCAT will continue to explore that possibility with the Department of the Attorney-General and Justice.
37. Despite the requirement in section 15(1) of the *Northern Territory Civil and Administrative Tribunal Act 2014*, NTCAT remains without a Deputy President. There was an expectation at the time of the creation of the tribunal that the Deputy President role could be filled by a serving Local Court judge; however, this has not proven practicable. In particular, it does not appear likely that NTCAT and the Local Court would be able to arrive at arrangements under which an appointee could divide their time between the two institutions.
38. The appointment of a Deputy President will be a priority for 2020-21.

## FACILITIES

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### Registries

39. During the reporting period, NTCAT has continued to maintain registries in Darwin (Casuarina) and Alice Springs. In addition, it has continued arrangements with the Local Court under which NTCAT documentation can be lodged at Local Court registries in remote centres.
40. NTCAT's Darwin premises for the reporting period included three hearing rooms. NTCAT also has a hearing room in Alice Springs. By arrangement with the Local Court, hearings of NTCAT matters in places other than Darwin and Alice Springs are able to be conducted from court houses in those places. If, on a particular day, there is a sufficient number of listings in Katherine or Tennant Creek, and if circumstances otherwise permit, the tribunal will endeavour to have a member travel to those towns to conduct hearings in person.
41. All of NTCAT's hearing rooms and its Darwin conference room are fully equipped for video conferencing and teleconferencing.
42. Previous annual reports referred to the desirability of establishing videoconferencing facilities for the Alice Springs conference room. As a result of steps taken during the reporting period,

this has now occurred. Not only will this allow NTCAT greater flexibility with its Alice Springs listings (for both hearings and compulsory conferences), it should also mean that there is greater scope for the tribunal's Alice Springs facilities to be made available for use by other courts and tribunals.

### Casuarina premises

43. NTCAT's three hearing rooms at Casuarina are adequate for managing the existing workload of the tribunal; however, security arrangements for those rooms remain unsatisfactory (see below).
44. NTCAT's Casuarina facilities for the conduct of compulsory conferences - with a single conference room and no 'breakout' room - remain less than optimal. An ideal configuration (two conference rooms each with breakout rooms) could not be achieved without a substantial redesign of the Casuarina facilities.

### Security

45. The inadequacy of security arrangements for NTCAT's premises has been noted in previous annual reports.
46. The need to provide adequate security for participants in NTCAT processes (parties, witnesses, observers, tribunal members and staff) is self-evident; however, the existing layout of NTCAT's premises (Casuarina in particular) makes this extremely difficult.
47. During the reporting period, NTCAT has introduced new security measures for Casuarina - specifically, the presence of a security guard in the tribunal's non-secure areas at all times when members of the public are attending for listings (hearings and compulsory conferences).
48. Although the introduction of an active security presence is clearly a step in the right direction, it does not remedy passive security issues affecting NTCAT's Casuarina premises. Those issues are a product of the way in which NTCAT's Casuarina premises are laid out and can only be addressed (if at all) by a complete redesign of the premises.
49. NTCAT's Alice Springs premises are better configured for passive security than its Casuarina premises. An active security presence is maintained during the tribunal's sittings each Thursday (which tends to be the busiest day). For other days, active security is engaged on an *ad hoc* basis.

## PROCEDURES AND SYSTEMS

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### Case management

50. During the reporting period, NTCAT has maintained its focus upon keeping its forms and procedures as straightforward as possible.
51. Rather than expecting parties (the majority of whom are not legally represented) to conduct themselves according to lengthy and complicated rules, the tribunal endeavours to control proceedings by means of issuing orders (tailored according to particular jurisdictions and matter types within those jurisdictions) in which the parties are clearly notified of what they are expected to do and when.
52. For the majority of matters in NTCAT's high volume jurisdictions, case management is coordinated by the NTCAT registry according to well-established procedures for categorising proceedings according to their complexity and urgency. Once categorised, matters are allocated to procedural 'streams' and standard orders are issued accordingly.
53. For other matters (for example matters in the tribunal's review jurisdiction), the approach is similar; however, the initial decisions about management of such matters are made by a tribunal member (usually the President) at a directions hearing.
54. In matters where the issues are suitable to resolution by mediation, a usual early step in the case management process is an order requiring the parties to participate in a compulsory conference. For the reporting period 52% of matters referred to a compulsory conference were resolved at, or as a result of, the conference. This is practically identical to the rate for 2018-19 of 53%.

### Odyssey

55. NTCAT continues to work towards wholly 'paperless' management of its files using the Odyssey case management system.

## STAKEHOLDER ENGAGEMENT

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56. The tribunal continues to be represented on the executive committee of the Council of Australasian Tribunals ('COAT') and on the Australian Guardianship and Administration Council ('AGAC').

57. Between July and December 2019, the tribunal introduced streamlined procedures to facilitate the transfer to the Public Trustee of all financial guardianship orders formerly managed by the Public Guardian. In that period, NTCAT heard and determined in excess of 300 applications for variations of affected guardianship orders. This was a major undertaking, involving extensive consultation and coordination with both the Public Trustee and the Public Guardian.
58. During the reporting period, NTCAT was regularly consulted by Northern Territory Government agencies regarding proposals for the conferral of new jurisdiction, as well as amendments to legislation under which the tribunal already exercises jurisdiction. Although, in the context of such consultations, NTCAT does not have a role in the development of policy, it does closely consider the implications of the proposed legislation for tribunal resources and processes. In particular, NTCAT is assiduous to avoid situations where a new jurisdiction is unable to be managed according to established tribunal procedures. In the case of conferrals of review jurisdiction, this is best achieved if that jurisdiction is to be exercised wholly in terms of the *Northern Territory Civil and Administrative Tribunal Act 2014*.

## RESOURCES

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59. The tribunal has been able to operate within its financial resources during the reporting period.

## MATTERS IN SECTION 151(2) OF THE NTCAT ACT

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60. The following paragraphs address the matters listed in section 151(2) of the NTCAT Act.

### ‘THE NUMBER, NATURE AND OUTCOME OF MATTERS THAT HAVE COME BEFORE THE TRIBUNAL’ - S 151(2)(a)

61. The following tables include breakdowns of proceedings commenced and concluded in 2019-20.
62. For completeness, data relating to proceedings in the mental health review jurisdiction are included. That jurisdiction was formally transferred to NTCAT on 3 June 2020. Prior to that time, the jurisdiction was exercised by the MHRT (for which NTCAT had administrative and managerial responsibility). The statistics provided are for the entire 2019-20 period, rather than for the period of less than four weeks after 3 June 2020.
63. In both the guardianship and mental health review jurisdictions, a large part of NTCAT’s workload involves the review of earlier orders made in respect of a person. There will usually only be one tribunal ‘matter’ (or file) for that person, but it may remain on foot for many years (with sporadic activity throughout that period). As such, many proceedings in these jurisdictions are not ‘commenced’ or ‘concluded’ in the same sense as proceedings in other

NTCAT jurisdictions. Because of these differences, statistics for the guardianship and mental health review jurisdictions are presented separately below.

**Table 1**  
**Proceedings Commenced: Jurisdictions other than Guardianship & Mental Health**

<b>JURISDICTION</b>	<b>2018/19</b>	<b>2019/20</b>
<i>Alcohol Harm Reduction Act 2017</i>	0	1
<i>Anti-Discrimination Act 1992</i>	8	7
<i>Building Act 1993</i>	3	1
<i>Caravan Parks Act 2012</i>	3	1
<i>Fences Act 1972</i>	7	0
<i>Health Practitioner Regulations (N.U.L) Act 2010</i>	2	1
<i>Heritage Act 2011</i>	0	2
<i>Information Act 2002</i>	4	5
<i>Liquor Act 1978</i>	3	2
<i>Mineral Titles Act 2010</i>	0	1
<i>Planning Act 1999</i>	7	6
<i>Racing and Betting Act 1983</i>	0	1
<i>Residential Tenancies Act 1999</i>	722	575
<i>Small Claims Act 2016</i>	1345	1384
<i>Superannuation Act 1986</i>	0	1
<i>Unit Titles Act 1975</i>	9	9
<i>Unit Titles Schemes Act 2009</i>	0	1
<i>Victims of Crime Assistance Act 2006</i>	6	3
<b>TOTAL</b>	<b>2119</b>	<b>2001</b>

**Table 2**  
**Proceedings Commenced: Guardianship**

<b>JURISDICTION</b>	<b>2018/19</b>	<b>2019/20</b>
<i>Advanced Personal Planning Act 2013</i> (new applications)	1	7
<i>Guardianship of Adults Act 2016</i> (new applications)	208	240
<i>Guardianship of Adults Act 2016</i> (reassessments of existing orders initiated)	444	368
<b>TOTAL</b>	<b>653</b>	<b>615</b>



**Table 3**  
**Matters requiring a hearing: Mental Health**

Hearing type	2018/19			2019/20		
	ALICE SPRINGS	DARWIN	COMBINED	ALICE SPRINGS	DARWIN	COMBINED
Order for involuntary detention due to mental illness	55	206	261	39	202	241
Order for involuntary detention mental disturbance	7	13	20	4	15	19
Revoke admission & order person be discharged from facility	1	1	2	1	2	3
Discharge within seven days	0	3	3	0	0	0
Community Management Order (CMO)	33	176	209	48	177	225
Community Management Order (CMO) declined	2	3	5	1	6	7
Review report – Further action	0	2	2	0	1	1
Review report – No further action	8	47	55	4	39	43
Authorise electroconvulsive therapy	2	20	22	1	21	22
Authorise non-psychiatric treatment	0	5	5	5	14	19
Authorise major medical procedure	0	5	5	0	1	1
Warrant to apprehend a person for assessment	0	56	56	0	87	87
Adjourned	25	51	76	21	56	77
No order made	1	4	5	1	4	5
<b>TOTAL</b>	<b>134</b>	<b>592</b>	<b>726</b>	<b>125</b>	<b>625</b>	<b>750</b>

**Table 4**  
**Proceedings Concluded: Jurisdictions other than Guardianship & Mental Health**

JURISDICTION	2018/19	2019/20
<i>Alcohol Harm Reduction Act 2017</i>	0	1
<i>Anti-Discrimination Act 1992</i>	7	8
<i>Building Act 1993</i>	1	2
<i>Caravan Parks Act 2012</i>	3	1
<i>Fences Act 1972</i>	8	1
<i>Health Practitioner Regulations (N.U.L) Act 2010</i>	6	0
<i>Heritage Act 2011</i>	0	1
<i>Information Act 2002</i>	0	6
<i>Liquor Act 1978</i>	0	1
<i>Mineral Titles Act 2010</i>	1	0
<i>Planning Act 1999</i>	8	4
<i>Private Security Act 1995</i>	0	2
<i>Residential Tenancies Act 1999</i>	733	569
<i>Small Claims Act 2016</i>	1323	1545
<i>Superannuation Act 1986</i>	0	1

<i>Unit Titles Act 1975</i>	10	7
<i>Unit Titles Schemes Act 2009</i>	1	1
<i>Victims of Crime Assistance Act 2006</i>	7	4
<b>TOTAL</b>	<b>2108</b>	<b>2154</b>

**Table 5**  
**Hearing Outcomes: Guardianship**

<b>TYPE OF ORDER (Section of <i>Guardianship of Adults Act 2016</i>)</b>	<b>NUMBER OF ORDERS MADE 2018/19</b>	<b>NUMBER OF ORDERS MADE 2019/20</b>
New guardianship order (s11)	173	154
Continued guardianship order - reassessment (s11, s38)	400	322
Interim (urgent) guardianship order (s20)	91	66
Specified measures (s35)	28	11
Vary guardianship order (s39)	59	343
Revoke guardianship order (s39)	23	10
Register interstate order (s54)	8	10

## THE NUMBER & NATURE OF MATTERS THAT ARE OUTSTANDING' - S 151(2)(B)

64. Past annual reports have noted the uncertainty regarding the term 'outstanding' in section 151(2)(b) of the NTCAT Act.
65. If the term is understood as referring to the number of NTCAT matters that remained 'active' as at the expiry of the reporting period - in the sense that some further action by the tribunal is required before the matter can be regarded as concluded (for example by judgment, settlement or withdrawal) – then there were 752 (non-guardianship and non-mental health) matters in that category, as noted in the table below. This is an increase compared with the same figure for 2018-19; however, the difference is explained by the cessation of hearing activity in most of the fourth quarter of the reporting period, as well the filing of a large number of debt recovery claims by a corporate applicant in February and March 2020. Data regarding 'active' adult guardianship and mental health matters are not included in the table below because files in those jurisdictions can remain open indefinitely.

**Table 6**  
**Proceedings Active: Jurisdictions other than Guardianship and Mental Health**

<b>JURISDICTION</b>	<b>PROCEEDINGS ACTIVE (AS AT 30 JUNE 2019)</b>	<b>PROCEEDINGS ACTIVE (AS AT 30 JUNE 2020)</b>
<i>Anti-Discrimination Act 1992</i>	2	3
<i>Building Act 1993</i>	2	1
<i>Health Practitioner Regulations (N.U.L) Act 2010</i>	2	3

<i>Heritage Act 2011</i>	0	1
<i>Information Act 2002</i>	4	0
<i>Liquor Act 1978</i>	3	4
<i>Mineral Titles Act 2010</i>	0	1
<i>Planning Act 1999</i>	0	4
<i>Private Security Act 1995</i>	2	0
<i>Racing and Betting Act 1983</i>	0	1
<i>Residential Tenancies Act 1999</i>	87	117
<i>Small Claims Act 2016</i>	260	610
<i>Unit Title Act 1975</i>	1	4
<i>Victims of Crime Assistance Act 2006</i>	3	3
<b>TOTAL</b>	<b>366</b>	<b>752</b>

## ‘ANY TRENDS OR SPECIAL PROBLEMS THAT MAY HAVE EMERGED’ - S 151(2)(C)

### Jurisdictional inconsistency

66. NTCAT’s previous Annual Reports have emphasised the desirability avoiding unnecessary inconsistency across NTCAT’s many and varied jurisdictions.
67. The ability of the tribunal to manage its extremely (and increasingly) diverse workload efficiently and in a way that maximises benefit for *all* tribunal users depends upon it being able to adopt a consistent and largely standardised approach to how it does its business.
68. This is achieved most easily if legislation conferring jurisdiction upon the tribunal provides for that jurisdiction to be exercised in accordance with the *Northern Territory Civil and Administrative Tribunal Act 2014*.
69. There are several examples of legislation which depart from that approach and which, as a consequence, have had a disproportionate bearing upon the tribunal’s resources. During the reporting period, the most notable example of such legislation was the *Information Act 2002*, which was the subject of a number of lengthy NTCAT decisions concerned with attempting to pin down the tribunal’s role.

### Membership - Depth

70. At no stage during the reporting period did NTCAT find itself without a suitable member to allocate to a matter; however, the potential for the tribunal to be faced with such a challenge is obvious and will only increase as new jurisdictions are conferred.

71. Although, theoretically, it would be possible for the tribunal to attempt to recruit sessional members to cover every possible contingency, that would be unrealistic and administratively cumbersome.
72. It remains desirable that there is the capacity for *ad hoc* member appointments in limited circumstances.
73. As noted in previous annual reports, this could be achieved by amendments to the *Northern Territory Civil and Administrative Tribunal Act 2014*:
  - a. to include provision for short-term, matter-specific, appointments by the President; or
  - b. to provide that a person who is a relevantly qualified member of an interstate 'Super Tribunal' may sit as a member of NTCAT in circumstances where there is no relevantly qualified member of NTCAT available to do so.

#### Membership – additional full time member desirable

74. The existing membership structure of NTCAT, under which there are only three full time members (including the President), means that a significant part of the hearing workload must be met by sessional members who are remunerated according to the time they spend preparing for a matter, hearing it and then writing their decision.
75. There is substantial variation from matter to matter and from member to member in the amounts charged for their attendances. The resultant uncertainties present obvious challenges for NTCAT in terms of planning and budgeting.
76. In addition, the more NTCAT needs to depend upon the services of its sessional members (whose areas of expertise and availability vary quite significantly) the more difficult it is to ensure that the tribunal's processes are applied consistently and that, as far as possible, proceedings result in optimal outcomes.
77. For the above reasons, as well as building the additional depth necessary to manage an increasingly demanding and complicated workload (see further paragraph [84] below), NTCAT would benefit greatly if it were able to appoint an additional full time member. Securing approval to do so will be a major focus in 2020-21.

‘IN RELATION TO THE MATTERS THAT HAVE COME BEFORE THE TRIBUNAL - THE LEVEL OF COMPLIANCE BY DECISION MAKERS WITH REQUIREMENTS TO... NOTIFY PERSONS OF REVIEWABLE DECISIONS AND THEIR RIGHTS TO SEEK REVIEW’ - S 151(2)(D)(I))

78. In the matters that NTCAT dealt with in its review jurisdiction during the reporting period, no concerns arose regarding decision-makers’ compliance with requirements either to notify reviewable decisions or review rights in respect of such decisions.

‘IN RELATION TO THE MATTERS THAT HAVE COME BEFORE THE TRIBUNAL - THE LEVEL OF COMPLIANCE BY DECISION MAKERS WITH REQUIREMENTS TO... PROVIDE WRITTEN REASONS FOR REVIEWABLE DECISIONS WHEN REQUESTED TO DO SO’ - S 151(2)(D)(II)

79. In the matters that NTCAT dealt with in its review jurisdiction during the reporting period, no concerns arose regarding decision-makers’ compliance with requirements to provide written reasons for decision.

‘FORECASTS OF THE WORKLOAD OF THE TRIBUNAL IN THE NEXT FINANCIAL YEAR’ - S 151(2)(E)

80. When understood having regard to the impacts of COVID-19 in the final quarter of the reporting period, NTCAT’s statistics for 2018/19 and 2019/20 show relative consistency across the tribunal’s main jurisdictions and enable the following estimates for 2020-21 to be made with some confidence:

- Small Claims and other similar disputes: 1200-1400 matters;
- Residential Tenancies: 800\* matters;
- Guardianship: 650 matters (i.e. new applications and reassessments);
- Mental Health: 750 matters requiring hearings;
- Other matters: 100-200.

(\*The forecast figure for residential tenancies matters assumes that the downturn in activity in that jurisdiction in the last quarter of the reporting period will be offset by an increase in the latter part of 2020.)

81. It is important to recognise that the above estimates, which are based upon tribunal statistics for matter commencements, do not make allowance for the commitment of resources that may be necessary for an individual matter.
82. It can be noted, for example, that proceedings relating to the proposal to establish a Dan Murphy’s liquor outlet in Darwin are presently scheduled for a one week hearing in December 2020. The paperwork relating to the proceeding runs to thousands of pages and the time



required for preparation and decision writing will be substantial. The likelihood is that NTCAT's three full time members will hear that proceeding. There will be very significant 'knock-on' effects for other tribunal proceedings before, during and after the Dan Murphy's hearing.

83. In a different vein, there are currently two sets of proceedings before NTCAT that are in the nature of class actions on behalf of multiple public housing tenants in remote indigenous communities. The management of those matters to date has proven extremely resource-intensive for the tribunal (and they are ongoing).
84. Proceedings of the scale of the Dan Murphy's matter and the remote tenancy matters are not common; however, it must be assumed that there will be matters of a similar size in the future and it is realistic to expect that they will become more frequent as NTCAT's jurisdiction continues to expand.

#### 'ANY PROPOSALS FOR IMPROVING THE ADMINISTRATION AND OPERATION OF THE TRIBUNAL' - S 151(2)(F)

##### Member Training

85. Prior to the intervention of the COVID-19 pandemic, NTCAT was well advanced in arrangements with the Council of Australasian Tribunals ('COAT') for the presentation of a decision-writing course for members. The course was originally planned for July 2020 but has been postponed indefinitely. Hopefully there will again be the opportunity for it to be presented in 2021.

##### Alternative Dispute Resolution

86. In the 2019-20 annual report it was noted that a priority for 2019-20 would be exploring options for advanced mediation training for members who regularly conduct compulsory conferences. Such training has not yet been organised but remains a priority for NTCAT.