



Review of the provision of services to the Administrative Appeals Tribunal by the Federal Court of Australia Registry in Hobart, Tasmania

FINAL REPORT OF THE REVIEW TEAM

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Executive Summary

The Review revealed that the Tasmanian Registry enjoys considerable support from those it services, both internally and externally. Registry staff are highly regarded for their responsiveness and general willingness to attend to client needs. Nevertheless the Review identified that there are areas in which improvements can be achieved, particularly in the clarification of the roles, responsibilities and expectations of the various agencies serviced by the Registry. The recommendations contained in this report are aimed at strengthening the performance of the Registry and responding to some of the areas of need identified during the Review consultations.

If accepted, the Review Team anticipates that most, if not all, of the recommendations could be implemented by the end of the calendar year. In fact, most could be implemented either immediately or within a very short timeframe.

None of the recommendations, if accepted, will generate any significant cost savings nor involve any significant additional expenditure. They should, nevertheless, lead to more effective and efficient operations and more productive use of Registry resources (particularly human resources).

The Terms of Reference for the review are at Annexure 1.

List of Recommendations

1. The Federal Court and AAT enter into a Memorandum of Understanding in relation to the Tasmanian Registry setting out agreed service parameters, time standards, staffing levels, accountability and reporting lines, training and development commitments, funding arrangements and other relevant matters. A copy of the finalised MOU is at Annexure 7. (Responsibility for implementation – FCA and AAT)
2. The AAT develop agreements with Federal Court staff who perform AAT related work to cover the responsibilities, expected service standards and priorities for AAT work as well as operational consultation and reporting arrangements and training. Regular feedback should be provided to those staff on how well those responsibilities, standards and priorities have been met. (AAT)
3. The Registry consider holding bi-annual liaison meetings with frequent users to encourage two way communication and seek feedback on Registry practices and procedure. (Tasmanian Registry)
4. The Federal Court and the AAT participate, to the greatest extent possible, in continuing legal education activities in Tasmania. (Tasmanian Registry)
5. Primary management of the Tasmanian Registry should remain in Tasmania.
6. The Deputy President of the AAT consider holding monthly meetings with the District Registrar and Senior Client Service Officer (AAT) to discuss the progress of matters, listing issues, non-compliance and difficult applications. (AAT)
7. The AAT engage a designer to examine options for maximising functional space in the AAT Chambers area on level 2 of the Federal Court Building. (AAT)

8. The Federal Court investigate the cost and impact of implementing the suggestions for changes to the layout and design of the workstations installed in the open-plan offices on the Ground floor space occupied by the Registry made by the staff who work in that area. (FCA)
9. Discussions be entered into between the Federal Court, the Commonwealth Director of Public Prosecutions, the Australian Industrial Relations Commission and the Tasmanian Industrial Commission to review the level of contributions to the library, with any change in needs for access to library services being considered and contributions adjusted accordingly. Discussions should also canvass the frequency of future cyclical reviews of contributions and services. (FCA)
10. The Federal Court and the AAT agree on the financial contribution required to restore the level of library services sought by AAT members. (FCA and AAT)
11. Funds collected through agency contributions be retained in the Tasmanian Registry Library budget. (FCA)

Chapter 1 Background to the Review

The Tasmanian Registry of the Federal Court of Australia (Federal Court) has for many years provided administrative services and support for the Federal Court, Federal Magistrates Court of Australia (Federal Magistrates Court) in non-family law matters, Administrative Appeal Tribunal (AAT) and National Native Title Tribunal (NNTT). Services are provided to the AAT in return for a financial contribution to some staff and running costs. However, no Memorandum of Understanding has ever been entered into between the Federal Court and AAT about the provision of Registry services in Tasmania.

In July 2003 the Federal Court conducted an Organisational Review, which made a number of recommendations that, directly or indirectly, related to the Court's Tasmanian Registry. These included that the Court should formulate guidelines for deciding under what circumstances the operations or any of its Registries should be modified; re-negotiate with the AAT the contribution made to the cost of operating the Tasmanian Registry; consider shifting the primary management of the Tasmanian Registry to Victoria; and actively pursue the sharing of resources with other Courts and agencies, especially (along with other places) in Tasmania. The Federal Court adopted Guidelines for the Establishment of New Registries and Modification of the Operations of Existing Registries on 25 February 2004 (see Annexure 2).

In early 2004 the AAT determined that it had an interest in clarifying expectations and service levels offered by the Federal Court Registry in Tasmania. Following discussions between the two organisations, the Federal Court and the AAT decided to undertake a review of the provision of services by the Court's Tasmanian Registry to the Federal Court and AAT.

Review Team

The Review Team was comprised of Mr John Mathieson, former NSW & ACT District Registrar of the Federal Court, Ms Sian Leathem, Assistant Registrar of AAT and, from September 2004, Mr Chris Matthies, who acted in Ms Leathem's position while she was on extended leave. Mr Gordon Foster, Manager of Corporate Services in the Federal Court has assisted in finalising the Review report and MOU following Mr John Mathieson's departure to take up a position in the Federal Magistrates Court in May 2005. The Review Team operated under the direction of a Steering Committee comprised of Mr Warwick Soden, Registrar of the Federal Court and Mr Douglas Humphreys, Registrar of the AAT.

Methodology

The review has involved a combination of information gathering techniques and analysis, including:

- examination of lodgement and caseload statistics;
- projections/estimates of future workloads;
- consideration of former reviews or assessments of the Hobart Registry;
- consultations with staff in the Hobart Registry;

- discussions with wider Federal Court, Federal Magistrates Court, AAT and NNTT staff;
- discussions with relevant members of the judiciary and tribunals; and
- discussions with key external stakeholders and user groups.

The Review Team visited Hobart on 21 and 22 June and Melbourne on 24 June 2004 to meet with Registry staff and other relevant parties. Telephone interviews were subsequently held with individuals who the Review Team were unable to meet face-to-face. A full list of individuals and agencies consulted during the Review is at Annexure 3.

Chapter 2 Workload

The Tasmanian Registry provides operational support to the Federal Court, AAT, NNTT (since its creation in 1994) and Federal Magistrates Court in non-family law matters (since it commenced operations in July 2000).

Overall the workload of the registry is low with only approximately 1% of the combined total filings or lodgements of the national workload of the Federal Court, AAT, NNTT and Federal Magistrates Court.

Federal Court / Federal Magistrates Court

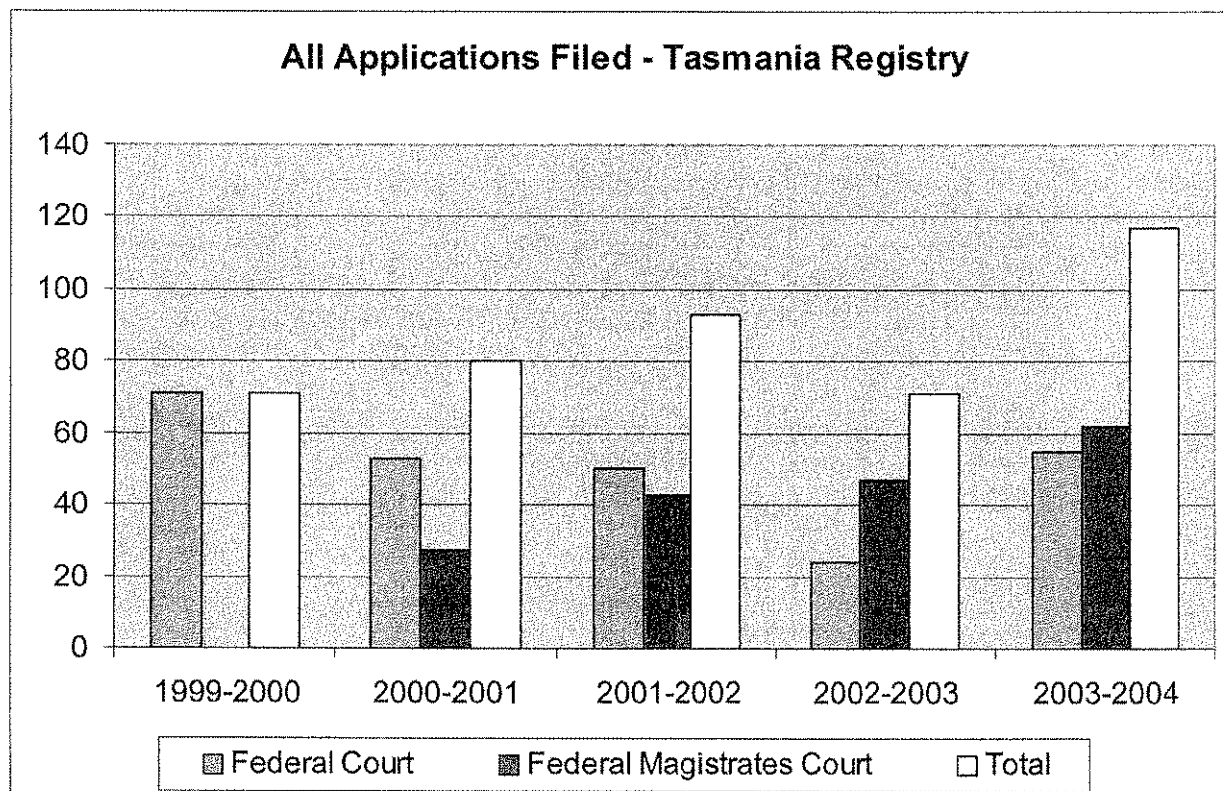
The most significant recent event that has impacted on the workload of the Federal Court, nationally as well as in the Tasmanian Registry, has been the creation of the Federal Magistrates Court. That Court was intended to deal with the less complex matters which previously were dealt with (in non-family law areas) by the Federal Court and to provide a quicker and cheaper option for litigants. To provide improved access to the court system, that Court is required to adopt user-friendly procedures and a less formal judicial culture and its fees are lower (less than half of those applying in the Federal Court).

In non-family law matters, the Federal Magistrates Court has concurrent jurisdiction with the Federal Court in bankruptcy, human rights, judicial review of administrative decisions under the *Administrative Decisions (Judicial Review) Act 1977*, migration (since October 2001), appeals from the AAT (but only if commenced in the Federal Court and transferred to the Federal Magistrates Court), Trade Practices consumer protection (but subject to a limit of \$200,000 which can be awarded by the Federal Magistrates Court for loss or damage), privacy and civil copyright (since April 2003).

A significant part of the 'court' workload of the Tasmanian Registry has for many years been in the high volume and relatively low complexity areas of bankruptcy and corporations, in which Registrars hold delegations from Judges and (since 2000) Federal Magistrates to exercise powers to make sequestration, winding-up and other final orders. Following the establishment of the Federal Magistrates Court in 2000 and the vesting in that court of jurisdiction in bankruptcy combined with court fees of only approximately half of those charged in the Federal Court, almost all of the bankruptcy work shifted from the Federal Court to the Federal Magistrates Court. This trend occurred nationally and is not unique to the Tasmanian Registry. In practical terms, as Registry and Registrar services for both courts are provided by the staff of the Tasmanian Registry, this change has had a neutral impact on Registry workload. The only significant difference being that should a judicial officer be required to hear a matter now being dealt with in the Federal Magistrates Court, arrangements must be made for this to be done by a visiting Federal Magistrate rather than, as previously, a visiting Federal Court Judge.

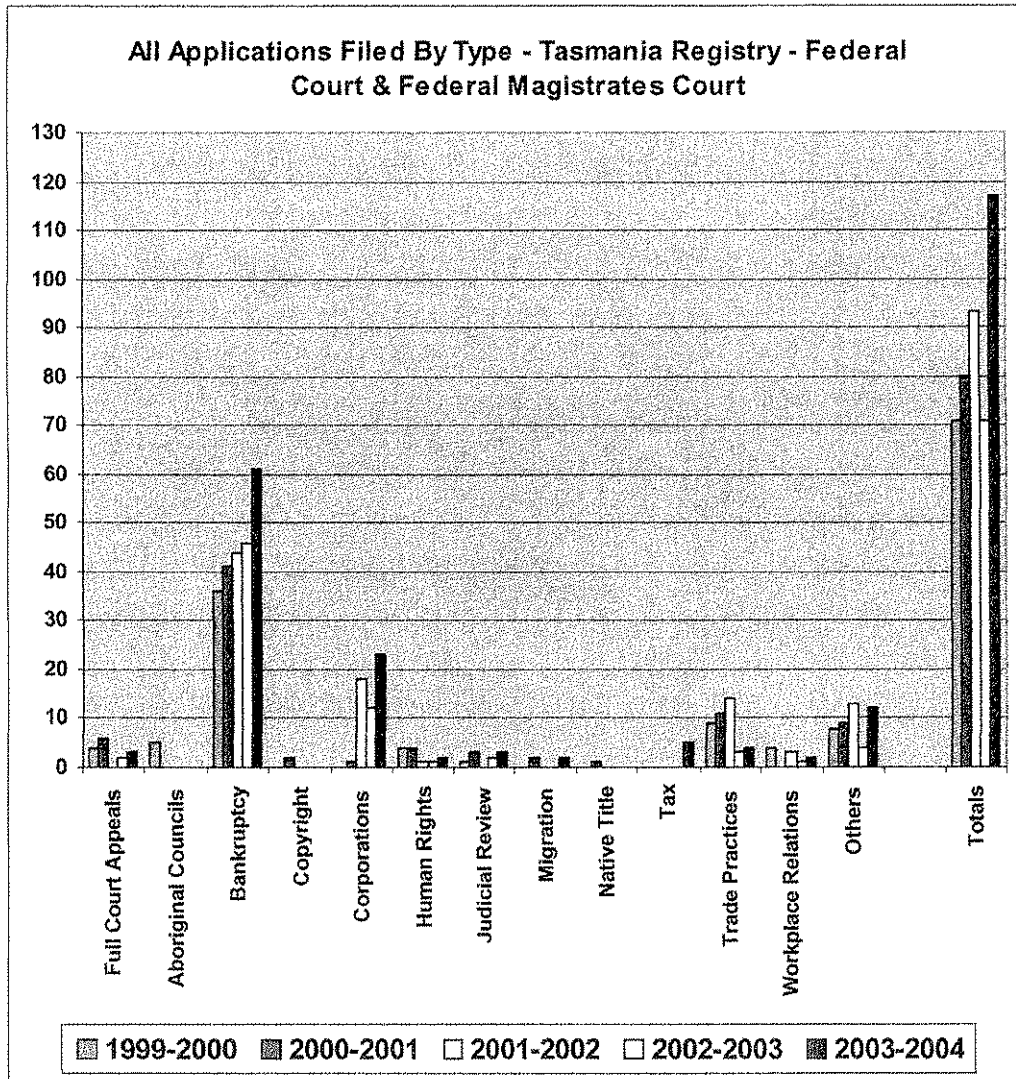
Total filings in the Tasmanian Registry in the Federal Court and the Federal Magistrates Court (in non-family law matters) during the last 5 years are relatively stable but with a general trend upwards. Filings in the Federal Magistrates Court have, since 2000/2001, increased steadily year to year with a roughly commensurate decline in filings in the Federal

Court in 2000/2001 but, other than in 2002/2003, remained stable in that Court in each of the following years.

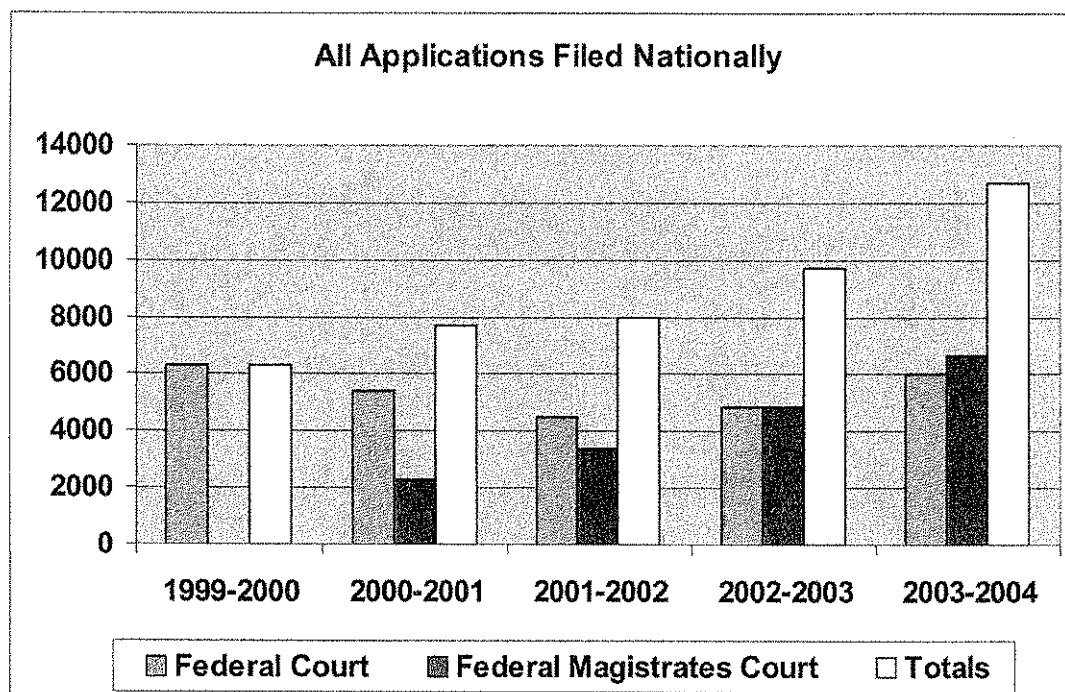


Although there have been some marked changes from year to year in the type of matters filed in the Tasmanian Registry for the two Courts (for non-family law only for the Federal Magistrates Court), trends are:

- the number of Full Court Appeals has remained relatively stable;
- the number of bankruptcy matters have increased year to year;
- since 2001/2002 there has been a dramatic increase in the number of corporations matters filed (see also discussion on page 12 below); and
- the number of Trade Practices matters has declined since 2002/2003.

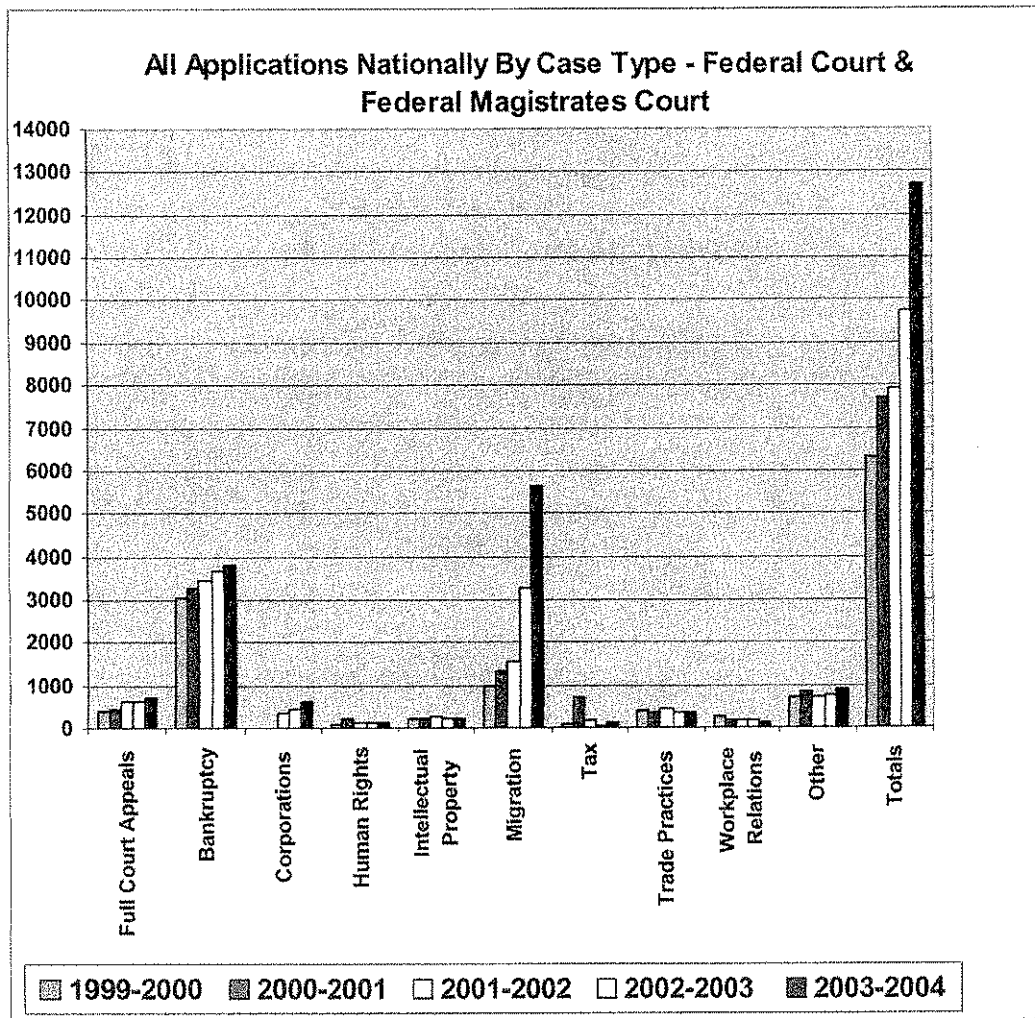


Over the same period nationally there was a relatively gradual increase in the filings in the 2 Courts (for non-family law only for the Federal Magistrates Court) from 1999/2000 to 2001/2002 (more marked in the second of those years) followed by sharp increases in each of the next 2 years.



The national trends over these years in the two Courts (for non-family law only in the Federal Magistrates Court) have been:

- ❑ the number of Full Court appeals has increased year to year with marked increases in 2001/2002 and 2003/2004;
- ❑ the number of bankruptcy matters has increased gradually year to year;
- ❑ the number of corporations matters have increased steadily from 2001/2002 onwards following legislative change to reintroduce the Federal Court's jurisdiction in these matters following a High Court finding that the Court's previous jurisdiction was unconstitutional;
- ❑ there have been dramatic increases, particularly in 2002/2003 and 2003/2004, in the number of migration matters year to year. (Note: The numbers of filings in migration as shown in the preceding and following tables are inflated through the double counting of cases which have been filed in the Federal Court and transferred to the Federal Magistrates Court, this is only to an extent of several hundred 'filings' in each of 2002/2003 and 2003/2004, and the increase encountered in each of these years has been considerable notwithstanding. The increase in migration workload is largely confined to New South Wales, Victoria, South Australia and Western Australia); and
- ❑ there has been a gradual decline (although with some fluctuations in some years) in Trade Practices and Workplace Relations matters.



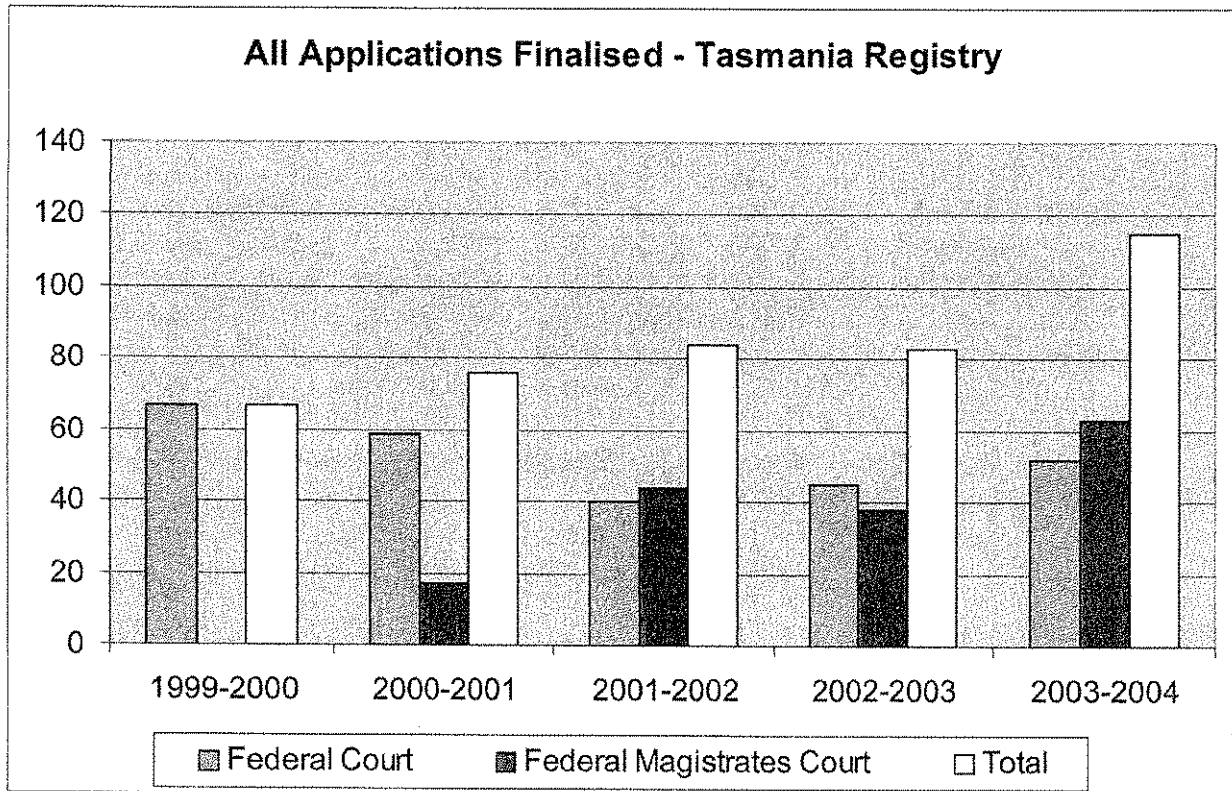
The filings in the Tasmanian Registry represent currently slightly less than 1% of the filings nationally in both the Federal Court and the Federal Magistrates Court. By comparison to other Registries, this is slightly greater than the Australian Capital Territory Registry (which currently has filings of approximately 0.5% of the Federal Court's national filings and approximately 0.6% of the Federal Magistrates Court's national filings) and approximately twice that of the Northern Territory Registry (which currently has filings of approximately 0.5% of the Federal Court's national filings and approximately 0.2% of the Federal Magistrates Court's national filings).

Compared to the national position of filings in the two Courts:

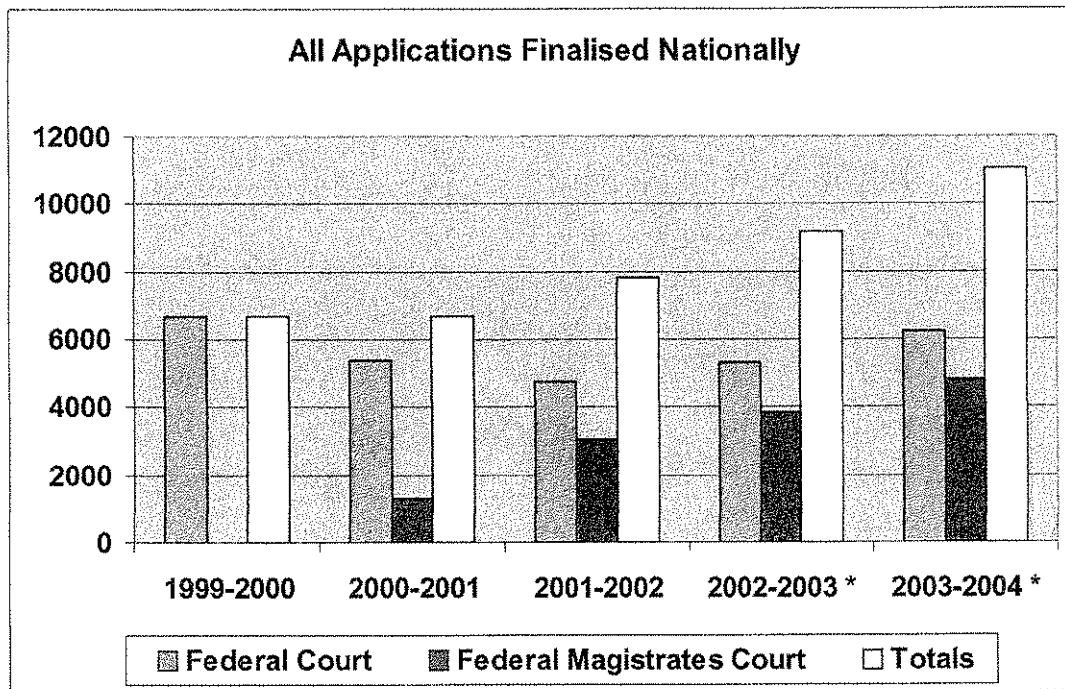
- the proportion of corporations matters filed in the Federal Court in the Tasmanian Registry (41%) is considerably higher than the national average (10%) and higher than any other Registry (the next highest is the Victorian Registry where it is 27%); and
- the proportion of bankruptcy matters filed in the Tasmanian Registry of the two Courts (52%) is significantly higher than the national average (30%) and only surpassed by the Queensland Registry (71%).

The number of cases finalised in the Tasmanian Registry in the Federal Court and the Federal Magistrates Court (in non-family law matters) during the last 5 years also increased

gradually commensurate with the increasing number of filings. The overall position has been that the number of pending cases has remained relatively static over time.



Over the same period nationally there also was a relatively gradual increase in the number of cases finalised in the 2 Courts (for non-family law only for the Federal Magistrates Court) although this has not been able to keep pace with the considerable increase in filings in 2002/2003 and 2003/2004 in migration matters.



Conclusion

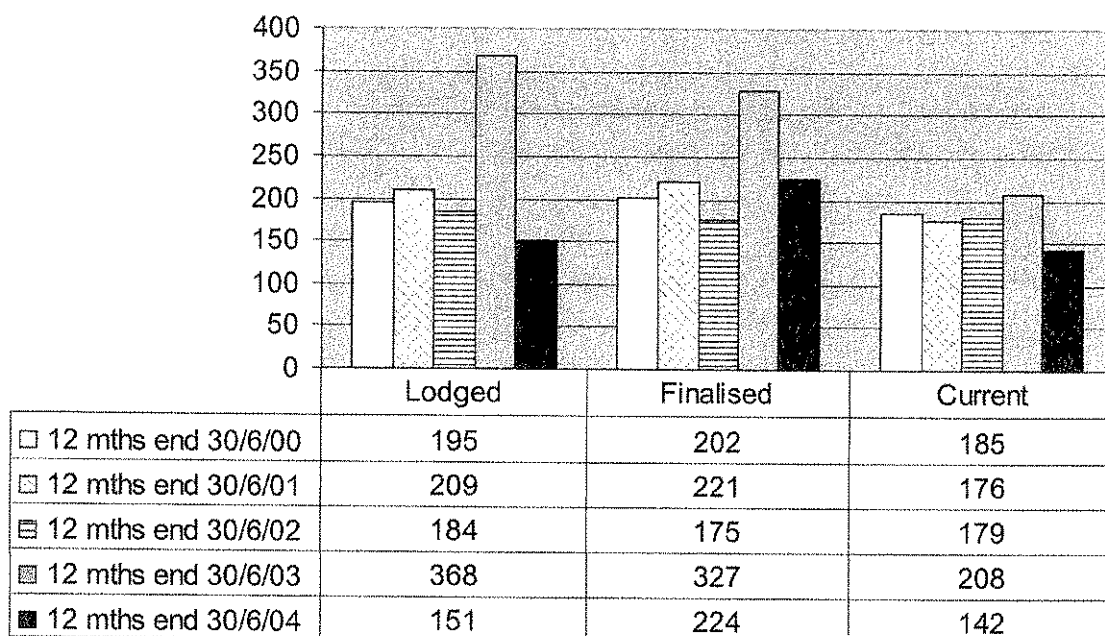
With the increasing number of applications being filed in the Tasmanian Registry in the Federal Court and the Federal Magistrates Court (non-family law) it will be necessary to monitor at least annually the impact on Registry's staffing resources overall. Presently adequate resources exist for the management of this work.

AAT

Lodgements, Finalisations and Current Matters

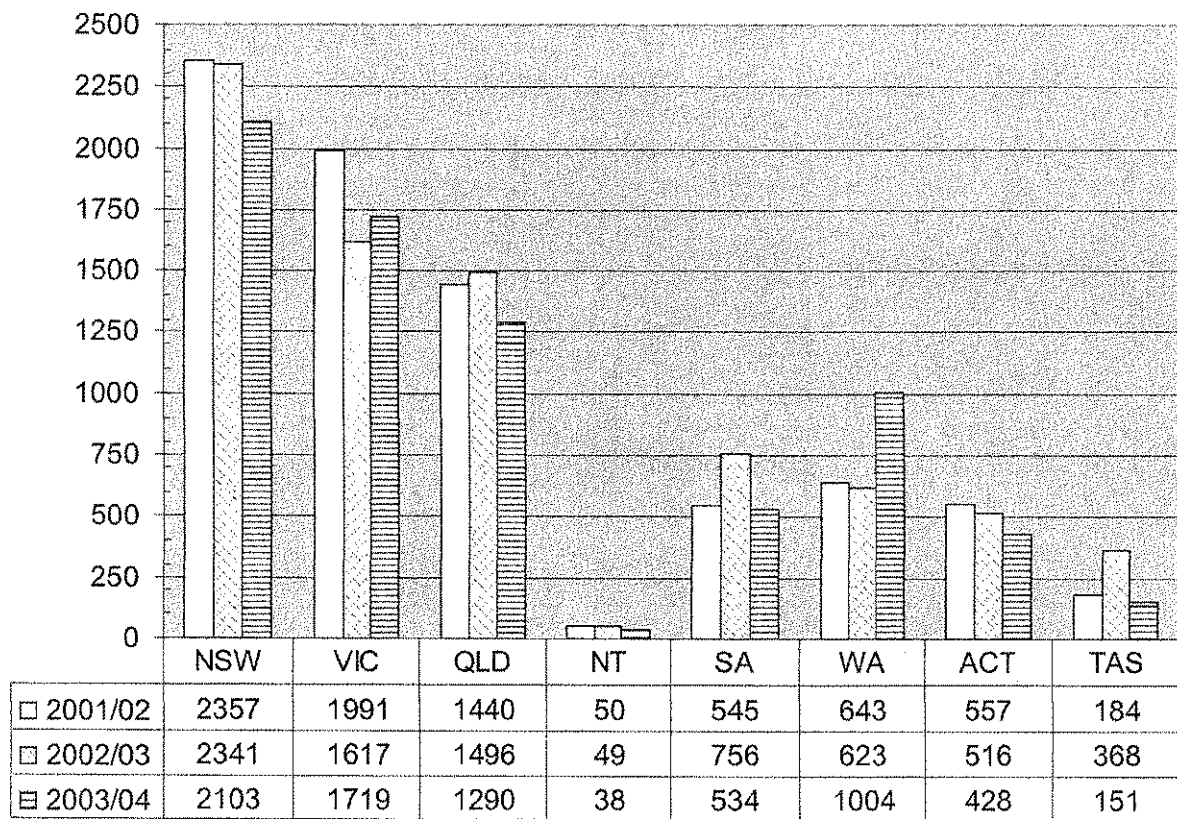
In relation to the AAT work conducted by the Tasmanian Registry, lodgements, finalisations and current matters have remained relatively stable over the last 5 years, except for the year ending 30 June 2003 when there were an unusually large number of applications related to the Aboriginal and Torres Strait Islander Commission (ATSIC) Regional Council elections. When the ATSIC applications are excluded from the figures, over the past 5 years the numbers of lodgements ranged from 151 to 232; finalisations from 175 to 223; and current matters from 142 to 208.

Chart 1 - TAS total lodgements, finalisations and current matters for the last 5 years

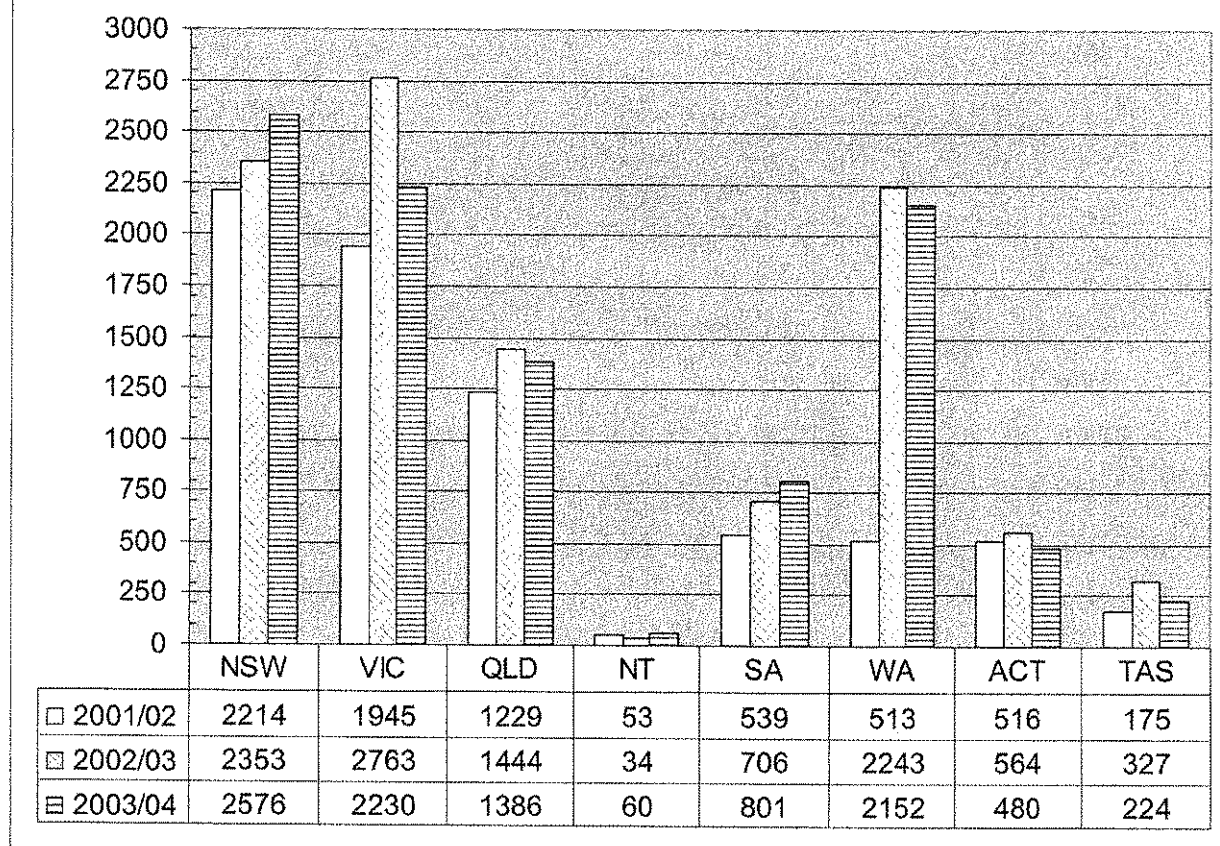


AAT lodgements nationally have been gradually declining for the past few years. The number of lodgements in the Tasmanian Registry has fluctuated somewhat over the years but declined markedly in the 2003/04 year. The number of applications lodged in 2001/02 was 27 less than the number lodged in 2000/2001, a decline of 13%. Excluding the ATSIC applications, the number of lodgements increased in 2002/03 to 232. The number of applications in 2003/04 was 81 less than the number of applications other than ATSIC applications lodged in 2002/03, a decline of 35%. To provide some comparison with other AAT Registries, details of lodgements, finalisations and current cases by Registry appear below.

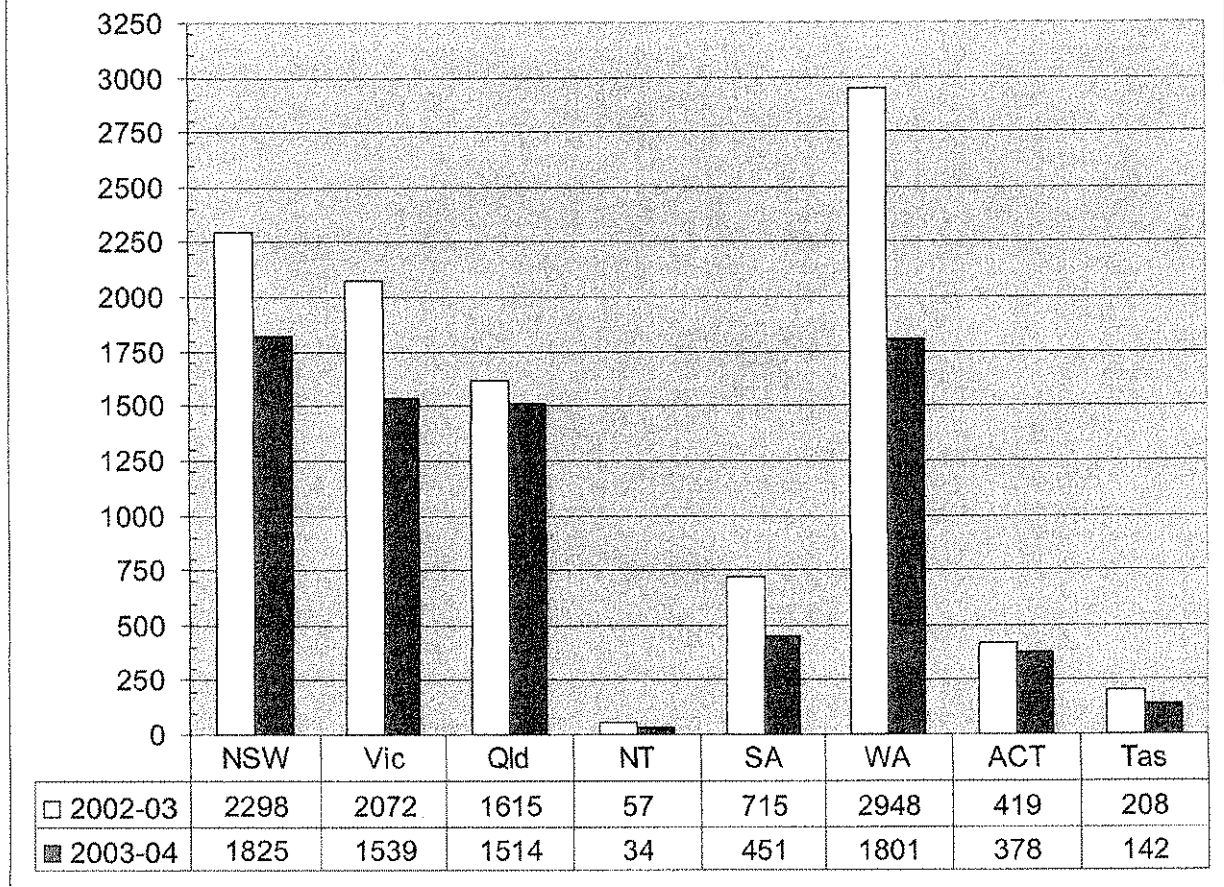
Chart - Applications lodged in each Registry



Of the total 7267 lodgements nationally in 2003/2004, 151 or 2 per cent were in the Tasmanian Registry. By comparison, the next smallest AAT Registry by lodgements, the ACT, had a total of 428 or 6 per cent of lodgements.

Chart - Applications finalised in each Registry

Across the entire AAT, the majority of Registries (excluding NSW, NT and SA) experienced a decrease in finalisations for the year ending 30 June 2004. Of the total 9909 applications finalised nationally in 2003/2004, 224 or 2 per cent were in the Tasmanian Registry. By comparison, the ACT Registry finalised 480 or 5 per cent of total matters.

Chart - Applications current in each Registry

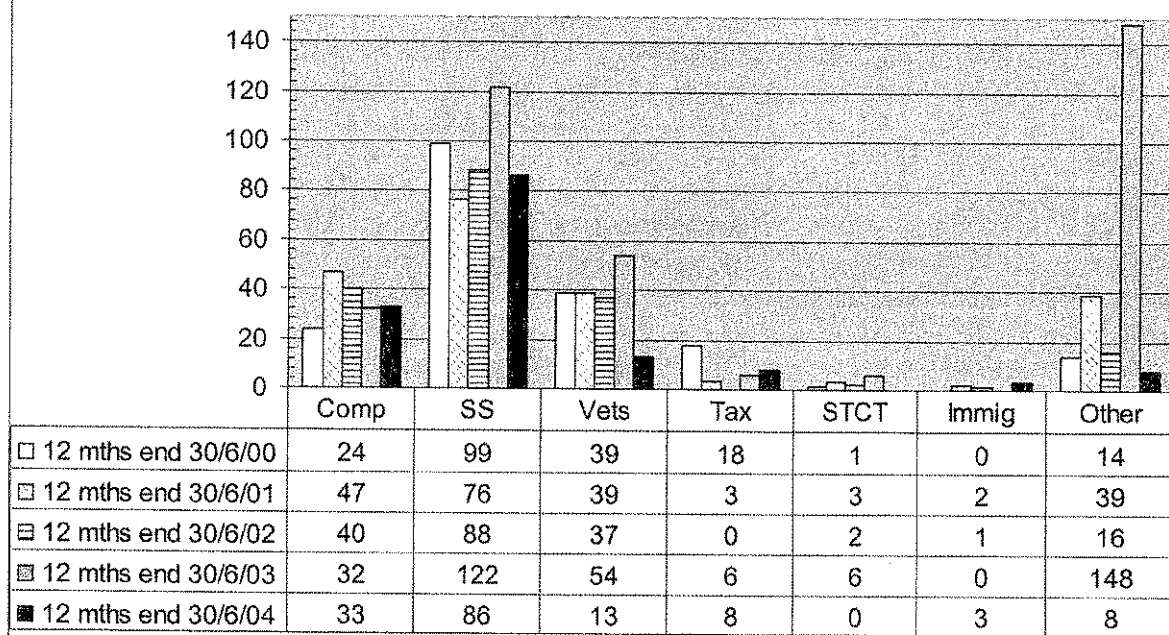
The Tasmanian Registry, along with all other AAT registries, reduced its current caseload in 2003/2004. Of the active national caseload of 7684 applications as at 30 June 2004, the Tasmanian Registry was handling 142 or 2 per cent of total active applications. By comparison, the ACT Registry was handling 378 or 5 per cent of current matters.

Types of applications

Of all the major jurisdictions, social security matters have consistently represented the largest proportion of matters lodged in the Tasmanian Registry over the last 5 years. For the year ending 30 June 2004, social security matters made up 57% of all lodgements, compensation 22% and veterans' affairs 9%.

For the year ending 30 June 2004, lodgements of social security, veterans' affairs and Small Taxation Claims Tribunal matters have all declined since the previous year. Most notably, veterans' affairs lodgements have declined by 76% or 41 applications and social security by 30% or 36 applications.

Chart - TAS lodgements by jurisdiction for the last 5 years



The nature and proportion of applications handled by AAT Registries tends to vary considerably and is largely a consequence of local demographics. For example, the ACT has a large proportion of compensation matters, reflecting the significant numbers of Commonwealth public servants employed in the Territory. It is likely that social security and compensation appeals will continue to comprise the majority of work in the Tasmanian Registry.

Conclusion

According to the Tribunal's own existing staffing formula (the Green formula, See Annexure 6), the Hobart Registry is already overstaffed with 2 full-time officers. On the basis of the 151 applications received in 2003/2004, the Registry should only have an allocation of 1.5 staff. It is also worth noting that most other registries manage within their Green formula allocation notwithstanding the fact that they also manage warrants and Proceeds of Crime work, of which there is none in Tasmania.

Given the above, it is clear that there are sufficient resources within the Registry to manage the AAT workload. In light of the recent decline in the number of lodgements and the fact that the Tasmanian Registry is finalising more matters than it is receiving, there is no basis to increase the current staffing resources devoted by Registry to AAT work. The AAT will need to monitor the workload in the next few years. Should the number of lodgements continue to decline, the AAT will need to examine the level of resources required to manage the AAT workload effectively.

NNTT

The Tasmanian Registry is required by the NNTT to provide only low-level administrative support for that Tribunal's operations in Tasmania. This includes:

- ❑ displaying NNTT publications and information;
- ❑ liaising with the Melbourne office of the NNTT on occasion to ensure that the Tasmanian Registry's stock of publications is up-to-date;
- ❑ on occasion (perhaps once or twice a year) providing a meeting room for use by NNTT Members or staff travelling to Hobart; and
- ❑ referring occasional callers or visitors to the Melbourne Registry of the NNTT if assistance is required.

Conclusion

The NNTT's requirements have minimal impact on the current workload of the Tasmanian Registry and it is unlikely this will change in the foreseeable future. Currently there is only one native title determination application in Tasmania and the NNTT do not expect that it is likely that this application will be the subject of intensive mediation by the NNTT. The NNTT also believe it unlikely that there will be a significant increase in native title activity in Tasmania in the foreseeable future.

Chapter 3 Staffing, Structure, Functions, Accommodation and Finances

History

The AAT commenced operations on 1 July 1976 with only a Registry in Canberra. The Federal Court commenced its operations on 1 February 1977 with Registries in all Capital cities staffed by a small number of officers supplied by the Commonwealth Attorney-General's Department and officers from the former Bankruptcy Registries. Over the following several years Registries of the Federal Court and AAT were established in most capital cities, including Hobart. As the workload of the Court and the Tribunal expanded and increasing numbers of Judges and Members were appointed to the Court and the Tribunal, each organisation outgrew these arrangements in all locations except Hobart, and found it necessary to establish their own separate Registries.

Notwithstanding its history as a registry, it is more accurate to describe the current Tasmanian Registry as a Federal Court registry that provides services to the AAT, Federal Magistrates Court and NNTT (since 1994).

Current Staffing, Structure and Functions

All Registry staff are employed by the Federal Court. The current staffing structure is comprised of a District Registrar (Federal Court Legal 2), Director Court Services (Federal Court Staff Level 6), Senior Client Service Officer (Federal Court Staff Level 5), three Client Service Officer positions (Federal Court Staff Level 3) and a Librarian (Federal Court Staff Level 3). One of the Client Service Officer positions is "job-shared" with one employee employed in that position for three days per week and another employee employed in that position for the remaining two days per week. The Librarian is employed for a total of 15 hours per week and works 3 hours per day.

The District Registrar, in addition to his appointment as such in the Federal Court, holds appointments as a District and Conference Registrar of the AAT, a Registrar of the Federal Magistrates Court, a Deputy Registrar of the NNTT, a Deputy Sheriff of the Federal Court and a Marshal for the purposes of the *Admiralty Act 1988*. The District Registrar is also a Deputy Registrar of the Australian Competition Tribunal and, even though holding no direct appointments in this regard, will assist if necessary with the support of the other Tribunals administered by staff of the Federal Court (i.e. Copyright Tribunal, Defence Force Discipline Appeal Tribunal and Federal Police Disciplinary Tribunal). The District Registrar is also appointed as an "authorised person" for the purposes of the *Public Order (Protection of Persons and Property) Act 1971*.

The District Registrar exercises, in the Federal Court and the Federal Magistrates Court, powers delegated by Judges and Federal Magistrates (eg: making sequestration and other orders under the *Bankruptcy Act 1966*, winding up and other orders under the *Corporations Act 2001* and dealing with interlocutory issues, such as returns of subpoenas, directions, amendment and transfer of proceedings) and conducts conciliation conferences and

mediations; conducts preliminary conferences and conciliation conferences in the AAT; and generally performs the statutory functions under the various appointments held.

The District Registrar is responsible for the management of the operations of the Registry including its human resources, finances, strategic and business planning and local administrative practice and reports directly to the Registrar of the Federal Court situated in the Principal Registry of the Court in Sydney. For the purposes of AAT-related work, the District Registrar reports principally to the AAT Assistant Registrar, located in the Principal Registry of the Tribunal in Sydney. On other AAT-related issues, the District Registrar liaises with other staff in the AAT Principal Registry, including the Registrar. However, these are informal arrangements that are not supported by any written agreement. No structural reporting link exists between the District Registrar and the Chief Executive Officer of the Federal Magistrates Court or the Registrar of the NNTT.

The Director Court Services coordinates the operations of the Registry, is responsible for Registry resources including financial and human resources, provides administrative support and advice to the District Registrar and represents the Court and the AAT on the local Building Management Committee. The Director Court Services also is appointed as a Deputy Sheriff of the Federal Court and a Marshal for the purposes of the *Admiralty Act 1988*. The Director Court Services is also an "authorised person" for the purposes of the *Public Order (Protection of Persons and Property) Act 1971*.

The Senior Client Service Office is responsible for case management and daily operations of the AAT work in Hobart. This includes: dealing with more complex enquiries from AAT Members, parties and their representatives and the general public; 'Outreach' contact with self-represented AAT applicants; managing progress of AAT applications, data entry in the AAT's case management system (AATCAMS), lodgement and acceptance of AAT documents, AAT file maintenance and return of AAT exhibits and subpoena documents; and handling matters relating to fees for AAT applications. Administrative support for this position is provided by one of the Client Service Officer positions which, on a rotational basis, assists with AAT responsibilities such as listings, attending the counter, dealing with enquiries, maintaining the AAT's case management system, file maintenance and Tribunal attendance functions.

The remaining two Client Service Officer positions undertake a wide range of functions for the Federal Court including listing, attending the counter, dealing with enquiries, maintaining the Federal Court's case management system (previously FEDCAMS but more recently Casetrack), file maintenance, coordinating video conference bookings and court officer duties. In addition they provide assistance to the District Registrar and general administrative support such as accounts payable for the registry generally, Collector of Public Monies, purchasing, travel and debt management.

To provide back-up support during times of illness, leave and other absences and to aid greater job satisfaction, the occupants (treating the shared job as a single occupant) are rotated through the three Client Service Officer positions approximately every 4 months.

The Review Team notes that, while the duties of any particular position are undertaken primarily by the staff member assigned to that position, the staff work cooperatively in carrying out the work of the Registry.

The Librarian is responsible for the management of the library and the provision of library and information services to visiting Federal Court Judges as well as Federal Court staff,

office holders and staff of the Australian Industrial Relations Commission and Tasmanian Industrial Commission, officers of the Director of Public Prosecutions, officers of the Australian Government Solicitor, other practitioners and litigants in person. The Librarian is assisted by staff of the Federal Court's Victorian Registry Library in the management of budget, selection, ordering and cataloguing of materials for the Tasmanian Registry Library.

For the support of the AAT Members based in Tasmania the AAT employs a Members Support Officer (Administrative) (Australian Public Service Officer Level 4). Duties include research, typing of decisions, pre-hearing liaison with parties and their representatives, accompanying members on circuit and Tribunal attendant duties. On a day to day basis, the position holder works directly under the supervision of AAT Members and does not have a formal reporting relationship with the District Registrar of the Tasmanian Registry. On issues relating to human resources or other policy or procedural matters, the position holder liaises directly with the Registrar or Assistant Registrar of the AAT located in the Principal Registry in Sydney.

A chart showing the reporting structure of the staff located in the Tasmanian Registry is at Figure 1. A chart showing the work and communication relationships, internally and externally, in the Registry is at Figure 2.

Federal Court/AAT Registry (Tasmania)

REPORTING STRUCTURE – Supervisory & Operational

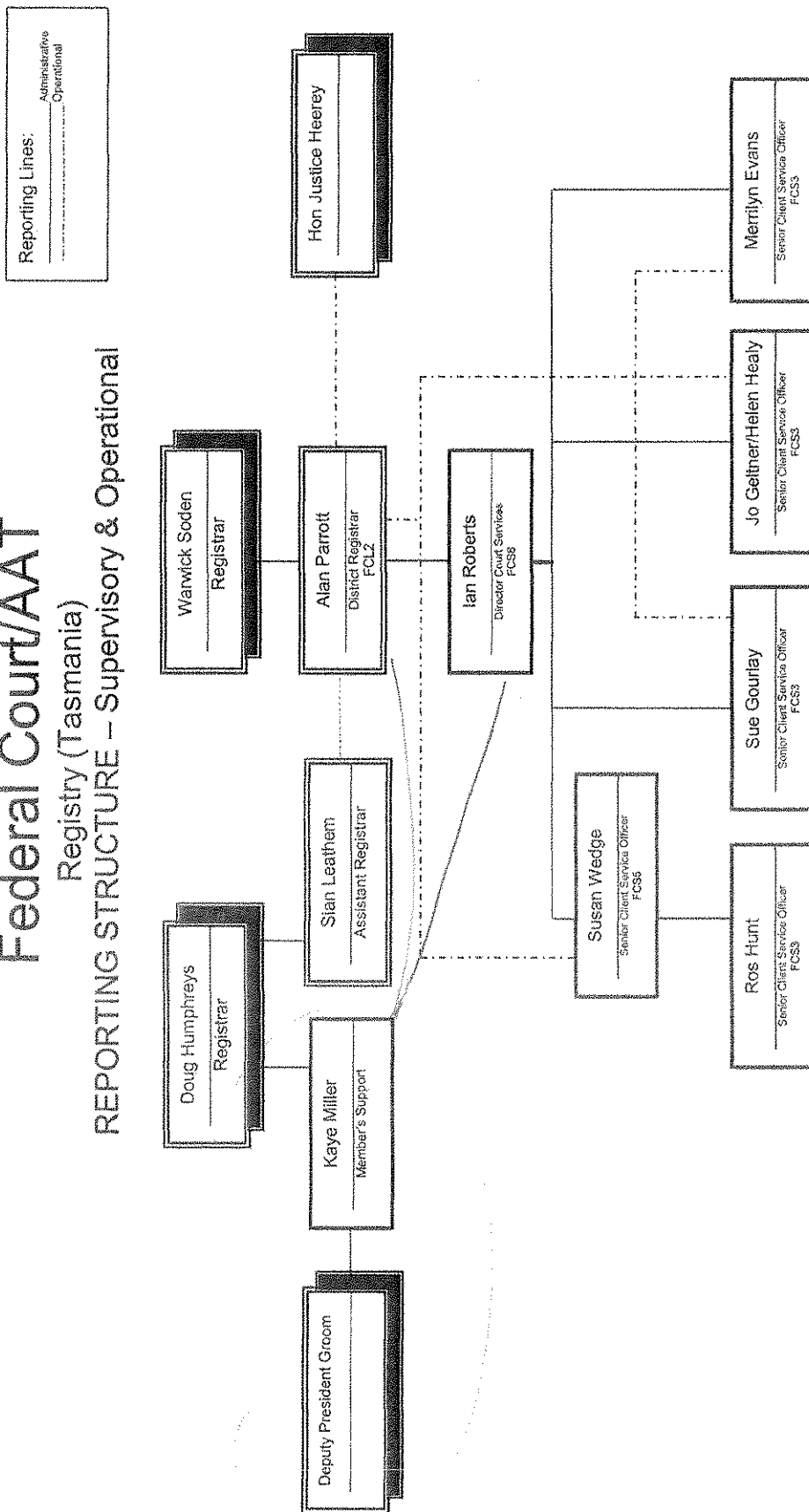


Figure 1

Federal Court/AAT Registry (Tasmania) - RELATIONSHIPS

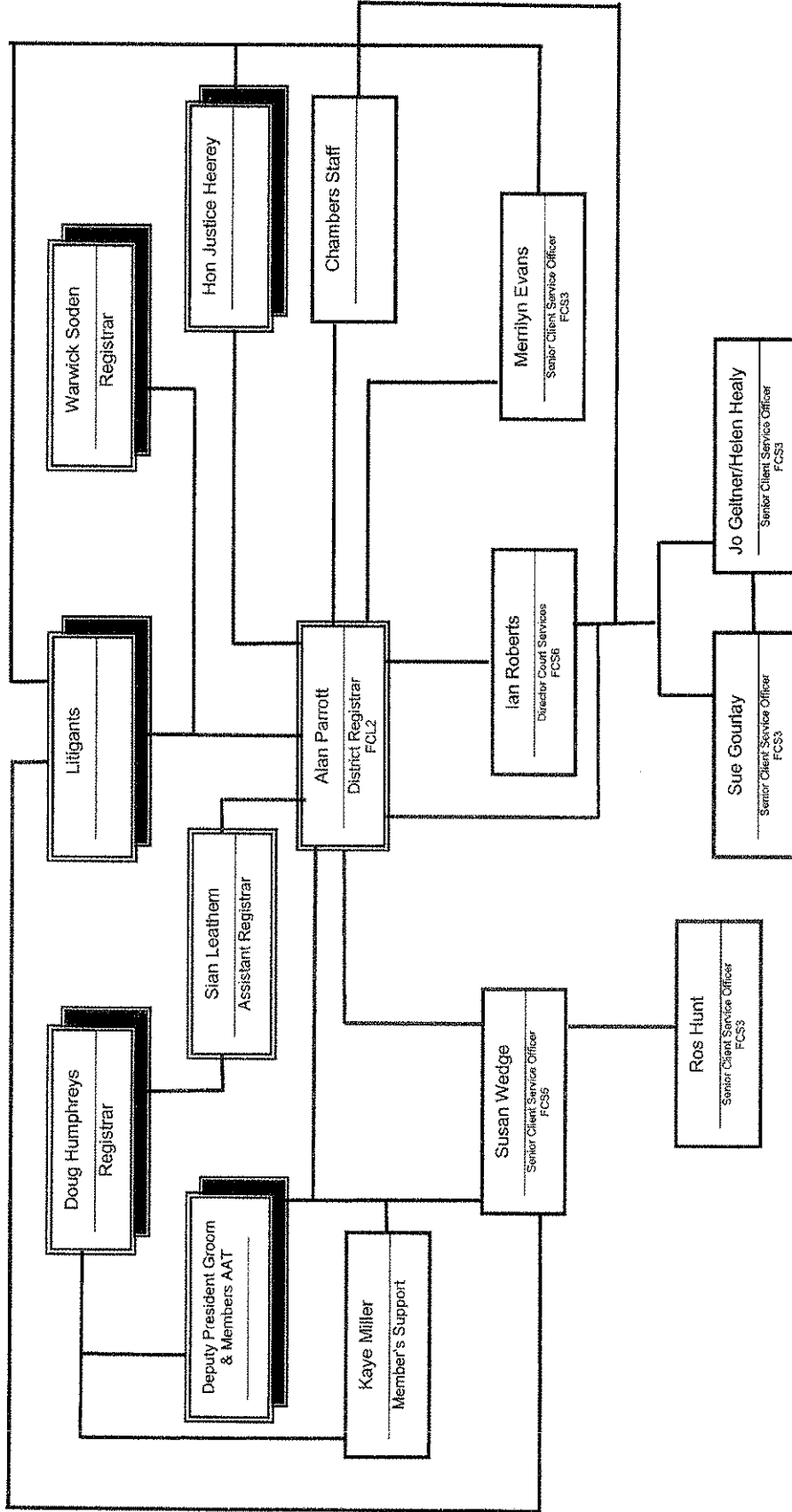


Figure 2

Accommodation

The Tasmanian Registry is located in the purpose built Commonwealth Law Courts Building situated at 39-41 Davey Street, Hobart. The building was commissioned in 1984 and is owned by the Commonwealth of Australia, operated on its behalf by the National Law Courts Building Management Committee and managed under contract from that Committee by United KFPW. A Building Manager, employed by United KFPW, is permanently located on site. In addition there is employed on site a receptionist, a security officer and custodian/cleaner.

Within that building the Registry occupies space on the Ground, Second and Third floors. Currently the other occupants of the building are the Family Court of Australia, the Australian Industrial Relations Commission/Australian Industrial Registry and the Tasmanian Industrial Commission.

The space on the Ground floor occupied by the Registry is approximately 300 square meters in area and comprises a public filing, reception and waiting area, interview rooms, offices, an open-plan general office, a photocopier/printer room, a conference room, store rooms, tea room and staff toilets. All of the registry staff are located in this area. Adjacent common areas provide for building reception, security and waiting areas. A major refit of the Ground floor area occupied by the Registry was carried out in 1999 at a total cost of approximately \$220,000 which was contributed by the Federal Court and the AAT in shares of \$200,000 and \$20,000 respectively.

On the Second floor the space occupied by the Registry is approximately 590 square meters in area and comprises the Federal Court's main court room (Courtroom 1), an adjoining jury room with toilets for jurors, the Federal Court's Courtroom 3, AAT Hearing Rooms 2 and 4, a Judges' lift lobby, chambers for AAT Members, a small open-plan general office, toilets and a tea room. Adjacent common areas provide interview and witness rooms, waiting areas and public toilets.

The space on the Third floor occupied by the Registry is approximately 355 square meters in area and comprises the library, chambers for Judges, Judges' lift lobby, toilets and tearoom. Adjacent common areas provide public toilets.

The Federal Court has been allocated 5 car parking spaces in the basement of the building (although 1 of these is unusable) and the AAT has been allocated 3 spaces. The Registry also has exclusive use of a storeroom and computer room in the basement. The computer room houses network equipment for both the Federal Court and the AAT.

For the accommodation provided in the Commonwealth Law Courts Building in Hobart the Federal Court contributed \$863,505 in 2003/2004 and the AAT contributed \$236,695, each sum being calculated on a formula based on space (including shares of common space attributed to each jurisdiction)

allocated. These contributions cover capital use (i.e. rent), outgoings, ongoing repairs and maintenance, life cycle program works, capital works (if any) and building manager's fees and expenses. The Federal Court and the AAT were fully funded through the Budget for these contributions.

The building is well appointed and spacious with a lot of natural light. It is well maintained and located within the legal precinct in Hobart.

The Ground floor area provides adequate space and facilities for the current number of staff employed. However the staff working in the open-plan office had a number of concerns about the current layout and design of the workstations. Likewise, AAT Members and the AAT Administrative Assistant had a number of concerns about the suitability of the design of the AAT Chambers and adjoining offices and corridors. Options to address these are discussed in Chapter 6. Otherwise the space, fit-out and facilities made available to the Registry provides fully for the accommodation needs of the Federal Court, Federal Magistrates Court, AAT and NNTT.

Finances

The expenses incurred and contributions made by Federal Court and the AAT for building running costs are discussed under Accommodation above.

Leaving building running costs aside, the expenses incurred by the Federal Court in 2003/2004 in relation to the Tasmanian Registry were \$640,122 made up of:

Salaries	
[including superannuation and employee benefits]	\$450,122
Administration costs	
[including contractors and consultants; stores; library services and material; hospitality; legal; repairs and maintenance of equipment; telecommunications; court reporting charges; training and development; lease rental of equipment; vehicle expenses; staff health costs; and domestic travel]	\$190,821
Total =	\$640,122

The contribution from the AAT in respect of these expenses for 2003/2004 was \$164,859 calculated as the anticipated cost of one Federal Court Staff Level 5 and one Federal Court Staff Level 3 position and those administration expenses directly related to AAT work, together with a fair apportionment of expenses incurred on administrative items common to the Federal Court and AAT, such as stationery.

In addition the Federal Court received contributions from the Commonwealth Director of Public Prosecutions, Australian Industrial Relations Commission

and Tasmanian Industrial Commission for library services of \$15,000 (see "Federal Court Library" in Chapter 6 below for further discussion).

By way of comparison, the expenses incurred by the Federal Court in 2002/2003 in relation to the Tasmanian Registry were \$620,328 made up of:

Salaries	
[including superannuation and employee benefits]	\$470,987
Administration costs	
(for details see above)	\$149,341
Total =	\$620,328

The contributions from the AAT in respect of these expenses for 2002/2003 was \$173,570.

The AAT is directly responsible for costs associated with the maintenance and staffing of the AAT Chambers, including the salary of the Members Support Officer (APS4), the Chambers' library collection and any fees and expenses associated with Members servicing the Registry.

In 2003/04 the costs incurred directly by the AAT for these items were approximately \$232,000. By way of comparison, the costs incurred in 2002/03 were approximately \$192,000.

Documentation of arrangements between the Federal Court and the AAT

The Review Team notes that there is no current written agreement between the Federal Court and the AAT in relation to services provided to the AAT by the Registry. Nor does it appear that any written agreement has been made in the past outlining the financial and other arrangements relating to the operation of the Registry. There are no established processes for reviewing and considering changes to the arrangements.

The Review Team recommends that the Federal Court and the AAT enter into a Memorandum of Understanding in relation to the Tasmanian Registry setting out agreed service parameters, time standards, staffing levels, training and development commitments, funding arrangements and other relevant matters. In negotiating the Memorandum of Understanding, the existing financial arrangements should be considered and adjusted if necessary.

In the context of developing a Memorandum of Understanding, consideration should be given to identifying a process for considering changes to the arrangements during the term of the Memorandum of Understanding in relation to matters such as significant variations in workload whether in volume, complexity or procedural requirements (including use of different technologies). Consideration should also be given to ensuring that the arrangements are reviewed generally by the Federal Court and the AAT at appropriate future intervals (for example, at least every three years).

Recommendation:

The Federal Court and AAT enter into a Memorandum of Understanding in relation to the Tasmanian Registry setting out agreed service parameters, time standards, staffing levels, training and development commitments, funding arrangements and other relevant matters.

Chapter 4 Expectations of Agencies

One of the challenges facing Registry staff identified during the Review, was the lack of clarity of expectations of the various agencies serviced by the Registry. This section attempts to articulate the main expectations of the relevant agencies, with the purpose of promoting a clear and consistent outline of the main roles and responsibilities of staff and management.

AAT

The AAT expects that the staff of the Federal Court Tasmanian Registry will:

- provide a high quality registry service which meets the needs of the AAT and its clients;
- perform this role in a professional, client focused and courteous manner;
- comply with relevant Practice Directions and other policies and procedures issued by the AAT;
- maintain strong and effective communication with the AAT, including the AAT Chambers in Hobart and Principal Registry in Sydney;
- ensure any known factors which may adversely affect the provision of the services are reported immediately that they become known to the Assistant Registrar of the AAT.

In return, the AAT expects that it will:

- provide Registry staff with training and up to date information on changes to policy or procedures;
- deal with staff of the Registry in a professional and courteous manner;
- maintain regular open and effective communication links with Registry staff;
- ensure that Registry staff are aware with whom they need to deal with in the Tribunal on operational issues;
- ensure that Registry staff are issued with the appropriate delegations and authorisations;
- advise Members of the AAT servicing the Tasmanian Registry of the role of Registry officers performing functions for the AAT; and
- ensure any known factors which may adversely affect the provision of the agreed services are reported immediately that they become known to Registry staff.

The Review Team notes that these expectations have been included in the draft Memorandum of Understanding between the Federal Court and the AAT and should also appear in agreements between the AAT and Registry staff performing AAT work.

Recommendation:

The AAT develop agreements with Federal Court staff who perform AAT related work to cover the responsibilities, expected service standards, priorities for AAT work as well as operational consultation and reporting arrangements and training. Regular feedback should be provided to those staff on how well those responsibilities, standards and priorities have been met.

Federal Court Judges

The Review Team spoke to the two Federal Court Judges who regularly visit the Tasmanian Registry. Both were very complimentary about the helpfulness, levels of service provided by and relationship they had established with the staff of the Registry. Both judges commented favourably on how well run the Library was and the support that they received during their visits from the Librarian.

Overall they rated all aspects of their involvement with the Registry as first class and indicated that they saw no area in their dealings with the staff of the Registry where improvement could be made or where they would like to see change.

Federal Magistrates Court

Similarly, in the discussions that the Review Team held with the Federal Magistrate who most regularly visits the Tasmanian Registry to deal with general federal law matters and the senior staff of the Federal Magistrates Court's central office, very positive feedback was offered in respect of the staff of the Registry.

The Federal Magistrate spoke of the very good service he had received from staff and of having no recollection of any negative experience at all in his dealings with them.

The Federal Magistrates Court central office staff said that their dealings with the Registry staff and the District Registrar in particular had been excellent. They noted that a Memorandum of Understanding was already in existence between the Federal Court and the Federal Magistrates Court which provided, in generic terms, clarification on the services which the Federal Magistrates Court expected would be provided by Federal Court staff. They said that in their experience, even though expressed in high-level terms, this was referred to by staff regularly for direction and guidance on what was expected of them. They said that they did not see any need for any further document specific to the Registry in regard to service to be provided to the Federal Magistrates Court.

NNTT

It was clear from the Review Team's discussions with the Victorian State Manager of the NNTT, that the NNTT's support requirements from the staff of the Registry is very limited.

The State Manager also spoke in complimentary terms of the helpfulness and level of service received by the NNTT in its dealings with the staff of the Registry and said that whilst the NNTT would be happy to formalise their arrangements with the Registry by a Memorandum of Understanding or something similar, if required, it saw no need for this to be done.

Chapter 5 Analysis

External Stakeholders

During the face-to-face and telephone consultations held with external stakeholders during the course of the review, the Review Team was impressed by the level and consistency of positive feedback concerning the service provided by the Registry. This positive feedback was offered by users of both the Federal Court and the AAT. Typical comments included:

"The Registry is much more user friendly and flexible than the Supreme Court which tends to be more antiquated and pedantic in its approach."

"We have a very good relationship with Registry staff who bend over backwards to assist".

"We are very well serviced by the Registry. It has experienced staff who work at the coal face and know the area well."

When matters such as delay and non-compliance were explored, it was generally felt that Registry timeframes and approach to compliance were consistent with the needs and capacity of the local legal profession and that any delays which might be encountered were minimal when compared with the State jurisdictions. However, some comments were made about the potential for the Registry to place a greater emphasis on compliance, particularly in the veterans' affairs jurisdiction of the AAT.

Several stakeholders commented that there was a general lack of knowledge of the Federal jurisdictions amongst the profession in Tasmania. The Review Team was informed that the District Registrar has for some time been involved in continuing legal education (CLE) activities for the profession in the area of bankruptcy. He has also had discussions with the Law Society about involvement in similar but more broadly based activities. In addition, the Review Team learned that the Chief Justice of the Federal Court and Justice Heerey (who is one of the Federal Court Judges who regularly visits the Tasmanian Registry) have also been involved in CLE activities in Hobart.

Notwithstanding the above, it was felt that both the Federal Court and AAT might benefit from participating in greater liaison with the local profession through participation in networking and continuing legal education (CLE) activities.

A number of stakeholders observed that the relatively high filing, setting down and hearing fees applicable in the Federal Court acted as a deterrent to potential clients. On the other hand, one user (the Australian Taxation Office) said that it had, as a matter of policy, decided to bring matters in the Tasmanian Registry of the Federal Court instead of the Supreme Court of

Tasmania, notwithstanding the higher fees, because of the superior service and quicker disposal of matters available through the Federal Court.

Recommendation:

The Registry consider holding bi-annual liaison meetings with frequent users to encourage two way communication and seek feedback on Registry practices and procedure.

Recommendation:

The Federal Court and the AAT participate to the greatest extent possible in continuing legal education activities in Tasmania.

Internal Registry Users

The Review revealed some areas in which internal stakeholders felt improvements could be made to the Registry structure and operations. These suggestions came from Tasmanian Registry staff themselves, AAT Members servicing the Tasmanian Registry, as well as AAT and Federal Court staff outside of the Registry.

The areas identified for possible improvement included:

- internal communication;
- organisation of work within the Registry (particularly in relation to AAT work);
- case management of AAT applications;
- possible implementation of AAT Victorian social security pilot;
- possible engagement of a part-time AAT Conference Registrar;
- liaison between Registry and the AAT Chambers;
- resolution of access rights to the Federal Court Library;
- review of court signage;
- engagement of a casual staff member to perform court attendant duties;
- identification of a person who could perform the duties of the Members Support Officer when that officer is not available;
- establishment of a Memorandum of Understanding between the Federal Court and AAT;
- implementation of agreements between AAT and Registry staff who perform AAT work setting out responsibilities, service standards and priorities;
- introduction of annual or bi-annual liaison meetings with frequent users; and
- better integration of IT systems used by the Federal Court and AAT.

Elsewhere in this report there is discussion and recommendations in regard to the suggestions for the establishment of a Memorandum of Understanding between the Federal Court and the AAT; agreements between the AAT and Registry staff who perform AAT work (see Chapter 4); case management of AAT applications; possible implementation of the AAT's Victorian Social Security pilot; resolution of access rights to the Federal Court library; and the introduction of annual or bi-annual liaison meetings with frequent users (see Chapter 6).

During the course of the review, the Review Team discussed with the District Registrar and Director Court Services the issues of internal communication, organisation of work within the Registry and court signage. The Review Team also notes that over recent times considerable work has been done by the staff of the Registry, with the assistance of an independent management consultant, in addressing a range of communication and similar issues. It is anticipated that the issues concerning internal communication and organisation of the work within the Registry raised in the review would be subject to further discussion in the context of implementing the review recommendations and that, if it was considered beneficial, this may be with the assistance of the same management consultant. As a result, it is not considered necessary to make any specific recommendations in respect to these issues.

In relation to the issues of engaging a casual staff member to perform court officer duties/tribunal attendant duties and identifying a person who could perform the duties of the Members Support Officer when that officer is not available, the Review Team considers that the coordination of support arrangements for AAT members should be subject to further consideration and discussion within and between the AAT and the Registry.

Better integration of IT systems which are used by staff of the Registry and the AAT's Members Support Officer is, of course, likely to increase staff productivity where they are required to handle simultaneously Federal Court/Federal Magistrates Court and AAT work. However, because of the considerable capital costs invested in these systems and the complexity of the technical, security and other issues associated with any such integration, any consideration of this issue is beyond the capacity of the current review. However, the Review Team notes that the AAT is currently in the process of investigating options for a new case management system (CMS). It is likely that the recently introduced Federal Court CMS, Casetrack, will be one of the solutions under consideration.

Chapter 6 Options for Change

Registry Management

In the Review Team's discussions with legal practitioners, the Law Society and other external stakeholders there was considerable resistance and, at times hostility, to any suggestion that the management responsibility of the Registry be transferred to the Victorian Registry or elsewhere. There was considerable concern about the impact that this would have on the service provided locally and several examples were provided of the negative experience which resulted from transfers of that responsibility in other Commonwealth agencies.

The Review Team notes that such a transfer would be beneficial in providing a ready source of Registrar backup during periods when the Tasmanian District Registrar is absent through leave, illness or otherwise and would also assist in avoiding the difficulty which the Tasmanian District Registrar must find himself in from time to time when he is (as the only legally qualified and experienced person in the Registry) required to provide procedural advice in a matter in which he may subsequently have to make a determination. However, this could equally be achieved through the informal cementing of relationships between the Tasmanian and Victorian Registries without the need for a transfer of management responsibility.

It was clear that a good relationship already exists between the Registrars of the Victorian Registry and staff of the Tasmanian Registry, particularly from two of the Victorian Deputy District Registrars who have acted in the Tasmanian District Registrar's position on several occasions.

There are considerable cultural (including legal cultural) differences between Tasmania and Victoria (unlike those which exist between the Australian Capital Territory and NSW where a transfer from the former to the latter of the management responsibilities has worked well). As a result, there are real advantages in the person who has management responsibilities in relation to the Tasmanian Registry having the environmental knowledge which can only be gained from living in the community in which the Registry operates.

Overall it is considered that little would be gained financially or otherwise and that there would be considerable disadvantages, particularly in the perception created in the legal and general community, by any transfer of the management responsibility for the Registry to the Victorian Registry.

Recommendation:

Primary management of the Tasmanian Registry should remain in Tasmania.

Registry Staffing Structure

A number of the Registry staff suggested to the Review Team that while the current staffing structure at the lower classification levels has a number of advantages, it has also a number of drawbacks.

As discussed in Chapter 3, the lower classification staffing is comprised of a Senior Client Service Officer and 3 Client Service Officer positions with one of these "job-shared" between 2 employees.

This arrangement provides, as between the Client Service Officers, back-up support for absences and, by the regular rotation of the employees through each of the 3 positions, aids job-satisfaction. However it does mean that with each rotation there is some loss of efficiency as each employee reacquaints themselves with all of the tasks and duties of a position they have not performed fully for approximately eight months. Additionally, the gap between the Federal Court Staff Level 5 Senior Client Service Officer and Federal Court Staff Level 3 Client Service Office positions inhibits career development of the staff at the lower level.

It was suggested to the Review Team that a better structure, at approximately a neutral cost, would be 2 Federal Court Staff Level 4 and 2 Federal Court Staff Level 3 positions.

In a small office, particularly one dealing with a reasonable volume of work with similar complexity, it is inevitable that some gaps will exist in any staffing structure. From the very favourable comments made to the Review Team both internally and externally, it is clear that the current staffing structure is meeting the needs of those served by these staff of the Registry and the Review Team can see no reason to recommend any change at present. However into the future as circumstances change and opportunities present themselves it is suggested that the situation be re-examined and other structural options, including that mentioned above, be considered. One such opportunity may be any general review undertaken by the AAT of the appropriate classifications of its Registry staff.

Case Management of AAT Applications

The AAT has a legislative obligation to deal with applications for review "with as much expedition" as is appropriate.¹ Consistent with the AAT's renewed national focus on improving the timeliness of finalising applications, there are a number of means by which case management in the Tasmanian Registry might be improved to ensure that applications progress in a timely manner.

Firstly, the newly appointed Deputy President has indicated an interest in increasing the level of liaison between the Registry and Chambers. In particular, the Deputy President has shown an interest in assessing applications at an earlier stage in order to provide guidance to the Registry on

¹ See paragraph 33(1)(b) of the *Administrative Appeals Tribunal Act 1975*

how they should be progressed. This would provide an opportunity for Directions Hearings to be held when appropriate so that parties have a clear timetable for the progression of matters and the collection of evidence.

Secondly, improved liaison between the Registry and Chambers and between the Tasmanian Registry and AAT Principal Registry will assist in managing instances in which parties fail to comply with legislative and Tribunal requirements. Consistent with the Registry's strong emphasis on providing friendly and courteous client service, non-compliance can be addressed initially in an informal or low-key manner through the use of follow up phone calls or reminder letters. While this will be effective in many instances, lengthy or repeated non-compliance can be managed more formally and at the earliest opportunity by referral to the Deputy President or another AAT member for a Directions Hearing. Instances of repeated delay, inaction or non-appearances can also be referred to Principal Registry for appropriate action in the quarterly reports from the Registry .

In relation to the management of social security applications, it has been suggested that the revised procedures operating in the Victorian Registry of the AAT could be implemented in the Tasmanian Registry. The main aspect of these procedures is that Conference Registrars conduct outreach where the non-agency party is self-represented. During outreach, or at the conclusion of an extension of time or stay hearing, the issues and preferable course for managing the application is discussed. The process encourages the undertaking of any necessary investigations at this early stage before any conference is scheduled or the matter is referred direct to hearing.

In consultations with the AAT, national Centrelink representatives have expressed support for the Victorian model. Centrelink is of the view that the model facilitates quicker resolution of matters and that staff have readily adapted to it.

The procedures operating in the Victorian Registry are to be the subject of an evaluation which the AAT will conduct in the current financial year. Given the proposed evaluation, it would appear premature to implement the procedures at this time in the Tasmanian Registry. However, it is suggested that the Deputy President and Registry discuss the management of social security applications and the need for any changes to streamline current processes in the proposed monthly meetings.

Recommendation:

The Deputy President of the AAT consider holding monthly meetings with the District Registrar and Senior Client Service Officer (AAT) to discuss the progress of matters, listing issues, non-compliance and difficult applications.

AAT Chambers

The AAT Chambers on Level 2 of the federal Courts Building was fitted-out some 20 years ago, when the building was initially opened. Since that time, the number of AAT members servicing the Registry, along with their working requirements, have altered considerably.

A large proportion of the Chambers floor space is under-utilised, such as the Members' sitting area and the secure lift foyer. In other areas the Chambers is cramped, with members being required to share offices. This can present difficulties if more than two members are working in Chambers at any given time.

During the consultations, a couple of members expressed concern that other occupants of the Federal Court building were transiting through the Chambers area in order to access the two adjacent hearing rooms. This raised both privacy and security concerns, in relation to AAT files, members and staff.

It may be that a designer would be able to devise a new floor plan for the Chambers area which would maximise the functional space and neutralise the current security concerns.

Recommendation:

The AAT engage a designer to examine options for maximising functional space in the AAT Chambers area on level 2 of the Federal Court Building.

Ground Floor Open-Plan Office

The staff who work in the open-plan office on the ground floor suggested that the layout and design of the current workstations in that area is now not ideal for the needs of their work. They have also suggested that, to provide them and other Registry staff with greater privacy, opaque film should be fitted to the glass in the workstations.

A sketch of an alternative layout and design prepared by these staff is at Annexure 4. It shows the current location of the network printer which services these staff as well as the suggested re-location of that printer if the suggestions are adopted.

It was not suggested that there was any urgency about making these changes and it was not possible in the course of the review to assess the likely cost and impact of the suggested changes of the workflow overall or on other Registry staff. The suggestions appeared to have some merit and warrant further investigation at an early convenient time.

Recommendation:

The Federal Court investigate the cost and impacts of implementing the suggestions for changes to the layout and design of the workstations installed in the open-plan offices on the Ground floor space occupied by the Registry made by the staff who work in that area.

Federal Court Library

From the opening of the Commonwealth Law Courts Building in Hobart in 1984 until July 1997, a library for building occupants was operated by the Commonwealth Attorney-General's Department. These included the Federal Court, Family Court of Australia, AAT, Australian Industrial Relations Commission (AIRC), Australian Government Solicitor (AGS) and later (during the period of its operation) the Industrial Relations Court of Australia. Legal practitioners appearing in the federal courts, the AIRC and the AAT were also permitted to use the library.

Following the departure of the AGS from the Commonwealth Law Courts Building in Hobart in late 1996 and extensive negotiations on future management of the library, in July 1997 responsibility for the library was transferred to the AAT. In conjunction, funding covering the library material budget, staff salaries, professional development and building running costs was also transferred along with the then current library staff at level.

It was agreed that access to library services would continue to be provided to the Federal Court and the Family Court of Australia without fee but a "fee for service" arrangement was entered into between the AAT and the AGS for provision of library services to staff of the AGS at a cost of \$20,000 per annum. The arrangement allowing legal practitioners appearing in the federal courts, AIRC and AAT access to library services was continued. Within the AAT, the Hobart library funding remained quarantined.

In April 2002 the AAT decided, with effect from 4 July 2002, to close the library as it had a need to find savings and it wished to move to on-line delivery of library services. With the agreement of the Attorney-General the AAT transferred back to the Attorney-General's Department the funding it had received (less building running costs) for the management of the library. The library staff were retrenched on the closure of the library and all library subscriptions were cancelled.

In December 2002, following further negotiations and agreement from the Attorney-General's Department to transfer funding of \$43,000 to the Federal Court towards ongoing maintenance of the collection and one-off funding of \$5,000 for transfer of catalogue records, the Federal Court reopened the library in the space in which it had previously operated. The building running costs associated with this space were transferred from the AAT to the Federal Court in accordance with the usual arrangements of the National Law Courts Building Management Committee. "Fee for service" arrangements were entered into between the Federal Court and the Commonwealth Director of

Public Prosecutions (DPP), the AIRC and the Tasmanian Industrial Commission for provision of library services at a cost of \$5,000 each per annum.

The library, as reopened, provides only limited services compared with those previously provided, being staffed by one part-time librarian working only 15 hours per week. She is assisted by staff of the Federal Court's Victorian Registry Library in the management of budget, selection, ordering and cataloguing of the materials for the Tasmanian Registry Library. Access is confined to the Federal Court and the agencies that contribute financially to the operation of the library. As a result, the AAT and the Family Court have no access. The arrangement allowing legal practitioners appearing in the federal courts, AIRC and AAT access to library services has been continued.

It is estimated that the current operating expenses of the Tasmanian Registry Library are \$130,506 per annum as set out in Annexure 5.

Following preliminary discussions between the AAT Principal Registrar and staff of the Registry in early 2004 in regard to a possible "fee for service" arrangement for access to library services to be provided to AAT members, Ms Merrilyn Evans, the Librarian in the Tasmanian Registry, proposed two options. These are:

Option 1 : For the payment of \$10,000 per annum:

- Access to the Library
- Research by the Librarian
- Borrowing of materials required for Tribunal Hearings
- Inter-Library Loans
- Preparation of Authorities lists for Tribunal Hearings
- Photocopying
- Training in the use of electronic materials.

Option 2: For the payment of \$5,000 per annum:

- Access to the Library whilst the Librarian is present (mornings only)
- Material for the Tribunal hearings may be borrowed but must remain in the building
- Limited research eg finding material readily available in the catalogue

In its consultations with AAT members and staff the review team sought views on the options proposed. Opinions varied, however the consensus was that AAT members needs for research and other services were met by members' support staff and resources in the AAT Principal Registry Library and, as a result, AAT members would not avail themselves of a research facility in the Tasmanian Registry Library. Accordingly the consensus view was that option

1 was in excess of the needs of the AAT members but that there was a need for:

- Access rights to the library for AAT members during normal working hours;
- Standard borrowing rights for AAT members; and
- Directional reference material (i.e. locating an item on a library shelf) to be provided by the Librarian when she was in attendance.

The Tasmanian Registry Library is now the only comprehensive collection of Commonwealth legal materials in the State of Tasmania. It is essential to the Federal Court's operations but is also relied on by practitioners appearing in the federal courts, the AIRC and the AAT. It is also relied on by State courts. The Federal Court believes that the retention of this library is essential to the administration of justice in Tasmania and its operations there and, in the circumstances as now exist, it accepts that it must bear the primary financial responsibility for such. However it also believes that it is not unreasonable for other courts, tribunals and agencies that require access to the library services available to contribute towards operating expenses commensurate with the value of the services obtained.

The Federal Court also believes that in assessing that value, consideration should be given beyond the actual running costs and take into account, as relevant, human resources – not only of the local librarian but of the other librarians and support staff who contribute directly and indirectly towards the running of the Tasmanian Registry Library through the Federal Court's network as a whole.

It is now almost 2 years since the "fee for service" arrangements between the Federal Court and the DPP, the AIRC and the Tasmanian Industrial Commission were negotiated. Running costs have escalated over that time. It is appropriate for discussions to be entered into with these agencies for review of the level of contributions on the basis discussed above. In addition, any change in needs for access to library services should be considered and contributions adjusted for any such changes if appropriate. The frequency of future cyclical reviews of contributions and services should also be discussed.

The Federal Court and the AAT should agree on the financial contribution required to restore the level of library services needed by AAT members.

To maintain the library collection and its services, additional contributions received from the AAT and other contributors should be retained in the Tasmanian Registry Library budget to meet rising salary and material costs.

Recommendation:

Discussions be entered into between the Federal Court, the Commonwealth Director of Public Prosecutions, the Australian Industrial Relations Commission and the Tasmanian Industrial Commission to review the level of contributions to the library with any change in needs for access to library services being considered and contributions adjusted accordingly. Discussions should also canvass the frequency of future cyclical reviews of contributions and services.

Recommendation:

The Federal Court and the AAT agree on the financial contribution required to restore the level of library services sought by AAT members.

Recommendation:

Funds collected through agency contributions be retained in the Tasmanian Registry Library budget.

Implications of Review Recommendations

The Registry enjoys considerable support from those it services, internally and externally, and is highly regarded for its service and helpfulness. Nevertheless improvements can be achieved and the recommendations made throughout this report, if implemented, will assist in it building from what is already a strong position.

If adopted, all of the recommendations could be implemented by the end of the current financial year. In fact most could be implemented either immediately or within a very short timeframe.

None of the recommendations, if adopted, will generate any significant cost savings or involve any significant additional expenditure. They should, nevertheless, lead to more effective and efficient operations and more productive use of Registry resources (particularly human resources).

The financial contribution to restore library access to AAT members would result in an additional cost to the AAT estimated at present at between \$5,000 and \$10,000 per annum. This would not be a saving to the Federal Court as (with any additional contributions received from other agencies with whom "fee for service" arrangements exist) it would be retained in the library budget and utilised in meeting increased material and staff costs. However this would result in indirect savings to the Federal Court over time in it not having to otherwise fund those increases which will inevitably occur.

Annexures

- 1. *Terms of Reference***
- 2. *Federal Court Guidelines for the Establishment of New Registries and Modification of the Operations of Existing Registries***
- 3. *Consultation List***
- 4. *Suggested Changes to Layout of Workstations in Open-Plan Office on Ground Floor***
- 5. *Estimate - Hobart Library Running Costs***
- 6. *AAT Green Staffing Formula***
- 7. *Finalised MOU***

1. *Terms of Reference*

1. Report on the Registry workload, past and projected, in relation to the Federal Court, Federal Magistrates Court, AAT and NNTT matters.
2. Report on the current structure, staffing, functions (including statutory and judge-directed/delegated functions) and services provided, physical layout and resourcing of the Registry, including:
 - existing cost sharing arrangements regarding salaries and administrative expenses;
 - existing property operating expenses and obligations in respect of the Commonwealth Law Courts Building in Hobart; and
 - library facilities and funding arrangements.
3. Report on the service and performance expectations of the courts and tribunals served by the Registry both current and future, including the need to service users outside of Hobart.
4. Analyse the combined resource implications of the projected workload and future service delivery expectations.
5. Consider and present a range of structural and resource options for the future, including the possible use of alternate service delivery models and an increased use of appropriate technology with applicable resource and other implications.

2. Federal Court Guidelines for the Establishment of New Registries and Modification of the Operations of Existing Registries

Guidelines for the Establishment of New Registries and Modification of the Operation of Existing Registries

Approved by: Policy and Planning Committee

Date approved: 25 February 2004

Purpose: To provide guidelines for deciding under what circumstances (if any) Registries should be established, continued or their operations modified.

Background

The Organisation Review Report of July 2003 recommended that:

"5.1 The Court, through the Policy and Planning Committee, should formulate guidelines for deciding under what circumstances (if any) District Registries should be established, continued² or their operations modified. The process should actively address changes in demography, jurisdiction and litigious trends that might affect the delivery of Court services in the District Registry."

As well, the review concluded that the criteria should include:

- ***"The nature and type of services required to meet the needs of the community which the Court will serve. This would be identified by a consultative process involving legal practitioners, community groups and relevant government agencies.***
- ***The alternative means by which these services might be delivered. This will require an examination of the advantages and disadvantages of remote service solutions and of different Registry structures. For example, one possibility is a Registry with shopfront services provided through another court (federal, State or Territory) or an agency such as the Post Office or a Local Government Office.***
- ***The availability and cost of appropriate technology to deliver the services. This would require consideration of the 'user***

² The word 'continued' has replaced the word 'closed', which was deleted by agreement of the Judges at their meeting on 29 August 2003.

friendliness' of the technology and its impact on the users of the Court.

- **The availability, cost and security of suitable accommodation for the Court.**
- **The feasibility, cost and risks associated with outsourcing some or all basic Registry services.** This would require consideration of the extent to which an external provider of Registry services should be inculcated with the 'culture' of the Court and mechanisms (including technology) whereby the necessary inculcation could be achieved. The challenge is how one organisation can ensure that another provides services in a manner that meets the formers' objectives.
- **The impact of potential location decisions on the recruitment and retention of appropriately qualified judges and staff.** For example, it appears to be accepted (at least in Canada) that the Federal Court of Canada, which has a central Registry in Ottawa to which all judges are appointed, does not necessarily attract the best candidates for judicial appointment.
- **Changes in demography, jurisdiction and litigious trends that might affect the delivery of services by a District Registry.³**

The above criteria, on its own, could be used as a general criteria. However, there are existing statutory provisions that need consideration and the criteria needs to be dealt with in an appropriate process framework.

Existing Statutory Framework

Section 34 of the *Federal Court of Australia Act* provides:

"(1) The Governor-General shall cause such Registries of the Court to be established as he or she thinks fit, but so that at least one Registry shall be established in each State, in the Australian Capital Territory and in the Northern Territory. [subs (10) am Act 43 of 1996 s 3 and Sch 5]

(2) The Governor-General shall designate one of the Registries as the Principal Registry, and each other Registry shall be a District Registry in respect of such District as the Governor-General specifies.

(3) [subs (3) rep Act 60 of 1996 s 3 and Sch 16]"

By comparison, the *Family Court of Australia Act* provides:

"36(1) [Establishment] The Governor-General shall cause such Registries of the Court to be established as the Governor-General thinks fit.

³ Organisational Review Report; Chapter 5 – Location of registries; Page 5-5.

36(2) **[Principal Registry]** Unless and until the regulations otherwise provide, the Principal Registry shall be located in Sydney."

and, the Federal Magistrates Court Act provides:

"98. The Minister must cause to be established such Registries of the Federal Magistrates Court as the Minister thinks fit."

The arrangements for the High Court are more comprehensive. Section 30 of the High Court Act provides:

"30(1) There shall be a Registry of the High Court, which shall be at the seat of the Court.

(2) The Registry shall be under the control of the Chief Executive and Principal Registrar.

[subs (2) am Act 13 of 1994 s 32]

(3) There shall be an office of the Registry at the seat of the Court, at the capital city of each State, at Darwin in the Northern Territory and at such other places as the Court deems necessary.

(4) The Minister may arrange with the appropriate Minister of a State or of the Northern Territory for an officer or officers of that State or Territory to perform on behalf of the Court at any office in that State or Territory of the Registry of the Court all or any of the functions referred to in sub-section (6).

(5) The Chief Judge may arrange with the Chief Judge of the Federal Court of Australia for an officer or officers of the Federal Court of Australia to perform on behalf of the High Court at an office or offices of the Registry of the High Court referred to in the arrangement all or any of the functions referred to in sub-section (6).

[subs (5) am Act 60 of 1996 s 3 and Sch 16]

(6) The functions to which an arrangement under sub-section (4) or (5) may relate are:

- (a) the receipt of documents to be lodged with or filed in the High Court;
- (b) the signing and issuing of writs, commissions and process;
- (c) the administration of oaths and affirmations for the purposes of any proceedings in the High Court; and
- (d) such other functions as are permitted by Rules of Court to be performed in pursuance of such an arrangement.

(7) Documents received at any office of the Registry for lodgement with or filing in the Court shall be deemed to be received at the Registry.

(8) A copy of an arrangement made under sub-section (4) or (5) shall be published in the Gazette.

(9) Where an office of the Registry is established at a place not specifically mentioned in sub-section (3), a notice stating that an office

of the Registry has been established at that place shall be published in the Gazette.

It is interesting to note that there is no mention of "sub-registries" in any of the relevant legislation. Notwithstanding the provisions concerning the establishment of registries, it is considered possible to provide some services for District Registries out of places other than the actual District Registry. This could be done by establishing an "Office of a District Registry". Such an office was opened in Parramatta in 1990, but closed shortly after due to a transfer of some bankruptcy work to ITSA. The office in Parramatta was known as an "Office of the NSW Registry".

However, in the absence of supportive legislation, it would appear difficult to provide full registry services (such as those matters mentioned in s 30(6) of the *High Court Act* set out above.) The lack of such services may limit the take-up of possible services in an office of a Registry. An office would be limited to basic receipt of documents (in the manner of a mail box). Such an option might not be attractive to practitioners in regional locations. Nevertheless, the viability of an office would need to be tested by the process described below.

The Need for New or Modified Registry Services?

No matter what authority exists to establish registry services, the need, proposed services, methods of delivery, term of establishment and mechanisms for evaluation and review, together with related issues, require consideration before any decision (even in principle) should be made.

The Organisational Review identified a number of issues to be included in criteria for decision making purposes. The first issue suggested for possible inclusion in guidelines is "the nature and type of services required to meet the needs of the community which the Court will serve". The review also assumed that the need would be identified by a consultative process involving legal practitioners, community groups and relevant government agencies.

It appears desirable that the consultation process with local practitioners and representative bodies (such as State Bar Councils and Law Societies) would be a critical first step.

The identification of need would require some elaboration of a proposed or modified service. In the absence of such an explanation, the need may not be appreciated by potential users or properly identified.

Two approaches to the identification of need warrant consideration.

First, the need may be identified by consultation (as described above) where a proposed or modified service is explained and the need tested.

On the other hand, a test of the need for service might be done with a pilot of the proposed service concurrently with or immediately after consultation. This approach might be used where the level of need may not be appreciated by users until the service is actually tested.

In either event, the need would require some evaluation after a period of any implementation and as a general rule, it is suggested that this criteria include a requirement for the need to be evaluated after 12 months of any pilot. The criteria might also include a principle that a new location registry service not continue beyond 18 months without consideration of an evaluation undertaken at the end of a 12 month period. Any evaluation would include consultation, as a priority, with local professional and government bodies.

A Process to test Demography, jurisdiction and litigious trends

It is suggested that the criteria recommended by the Organisation Review (together with relevant statutory provisions) and the following general process be used, as a general rule, in all proposals to provide or alter Court and Registry services.

Phase 1. Assessing the Potential of the Proposal

Initially, it is essential that the potential of the proposal be considered and a determination made as to whether the proposal merits formal investigation. Consideration needs to be given to the strategic reasons for the proposal and the fit with the Court's strategic direction and organisation objectives.

Phase 2. Developing a Proposal

This would involve testing (as against the Organisation Review Criteria) that the proposal is viable, based on the collection and consideration of relevant data. In relation to establishing a new registry, or sub registry, this might include consideration of:

- Potential services to be provided;
- Potential take up;
- Competing interests from other jurisdictions;
- Location demographics;
- Likely attitude of stakeholders and the general community following consultation;
- Options for service delivery – both physical and electronic;
- Enabling technologies considered; and
- Timing considerations.

In relation to modifying existing Registry services this might involve consideration of:

- Trends in demand for services as reflected in the level of new applications and other events;
- Location demographics;
- Cost of providing existing services;
- Likely attitude of stakeholders and the general community following consultation;
- Options for service delivery – both physical and electronic;
- Options for support arrangements; and
- Timing considerations.

Phase 3. Approval in Principle

Prior to committing resources to the development of a detailed design and implementation plan, the outcome of phase 2 considerations should be referred to the Policy and Planning Committee for consideration. Should the Committee be satisfied that there is sufficient supporting data to warrant the development of a detailed design and implementation plan, the Committee would recommend that the Chief Justice provide approval in principle for the proposal.

Phase 4. Detailed Design and Planning

This would involve development of a preferred implementation solution, and discussions with interested parties and stakeholders. A firm proposal is

needed as distinct from any theoretical consideration. The focus would be on:

- The detail and level of service to be provided;
- Organisational structural and reporting relationships;
- Site location decisions and specification of facility requirements;
- Staffing arrangements;
- Technology strategies;
- Identification and discussion with potential partners;
-
- Resolution of any potential practice and procedure issues;
- Business processes to be followed; and
- Setting the criteria against which success of the initiative will be measured, and over what timeframe.

Phase 5. Detailed Financial Analyses

This would involve the development of a model that would identify the cost to the Court of implementing the proposal and the associated ongoing costs. Should the proposal concern the curtailment of Court and Registry services, the costing model would identify likely savings to the Court, in addition to any implementation costs.

The draft detailed costing model would be submitted to the Finance Committee for comments.

Phase 6 Formal Approval

At this stage the proposal, including the financial analyses and any comments provided by the Finance Committee would be referred to the Policy and Planning Committee for consideration and for formulation of a recommendation to the Chief Justice for formal approval of the proposal, or otherwise.

Phase 7 . Transition

Transitional arrangements in relation to the establishment of a new Registry or sub-Registry would need to focus on: _

- Finalisation of facility arrangements;
- Recruitment and training of staff;
- Development of any required MOU/Service Level arrangements;
- Communication and briefing of the profession and affected parties;
- Cutover approach from existing arrangements;
- Records and information management strategy; and
- Implementation and testing of IT infrastructure.

Transitional arrangements in relation to the modification of existing Court and Registry services would need to focus on:

- Finalisation of additional or new facilities or decommissioning of existing facilities;
- Recruitment and training of staff or redeployment of staff
- Development of any required MOU/Service Level arrangements;
- Communication and briefing of the profession and affected parties;
- Cutover approach from existing arrangements;
- Integration of additional IT infrastructure and equipment or decommissioning/relocation of existing infrastructure and equipment.

Phase 8. Evaluation and Performance Assessment

This would involve a review to confirm that the initiative has been successful and has met the original objective/targets set. The review should propose any adjustments identified or any necessary improvements.

In relation to the establishment of new registries, an assessment of the level of Court and Registry services provided and the cost of providing those services should be undertaken using similar indicators and methodology as used in the Court's proposed Resource Allocation Model. The assessment would need to establish the level of core and non-core work performed by the new Registry in response to local demand, the relative cost effectiveness of the services provided and the actual benefits to the local profession and community serviced by the new Registry. Such assessments should be undertaken at the conclusion of the first, second and third years of operation and thereafter as considered appropriate.

Similar methodology could be used to assess the impact and effectiveness of modifications to existing Court and Registry services. Any assessment should include consultation with the local profession, and community groups if warranted, to gauge the impact of service modifications on the local community and the need for further modifications.

Recommended Approach

It is suggested that the above general criteria and process be adopted as a general approach to any proposal concerning the establishment or alteration of Court and Registry services. The Court's Policy and Planning Committee would give consideration to approving each of the phases mentioned above. (Note, it would be possible, of course, for a number of different phases to receive approval at the same time).

It should also be noted that ultimately the decision to establish a new Registry or significantly modify the operation of an existing Registry rests with the Chief Justice, advised to the extent appropriate by the Policy and Planning Committee and the Judges of the Court.

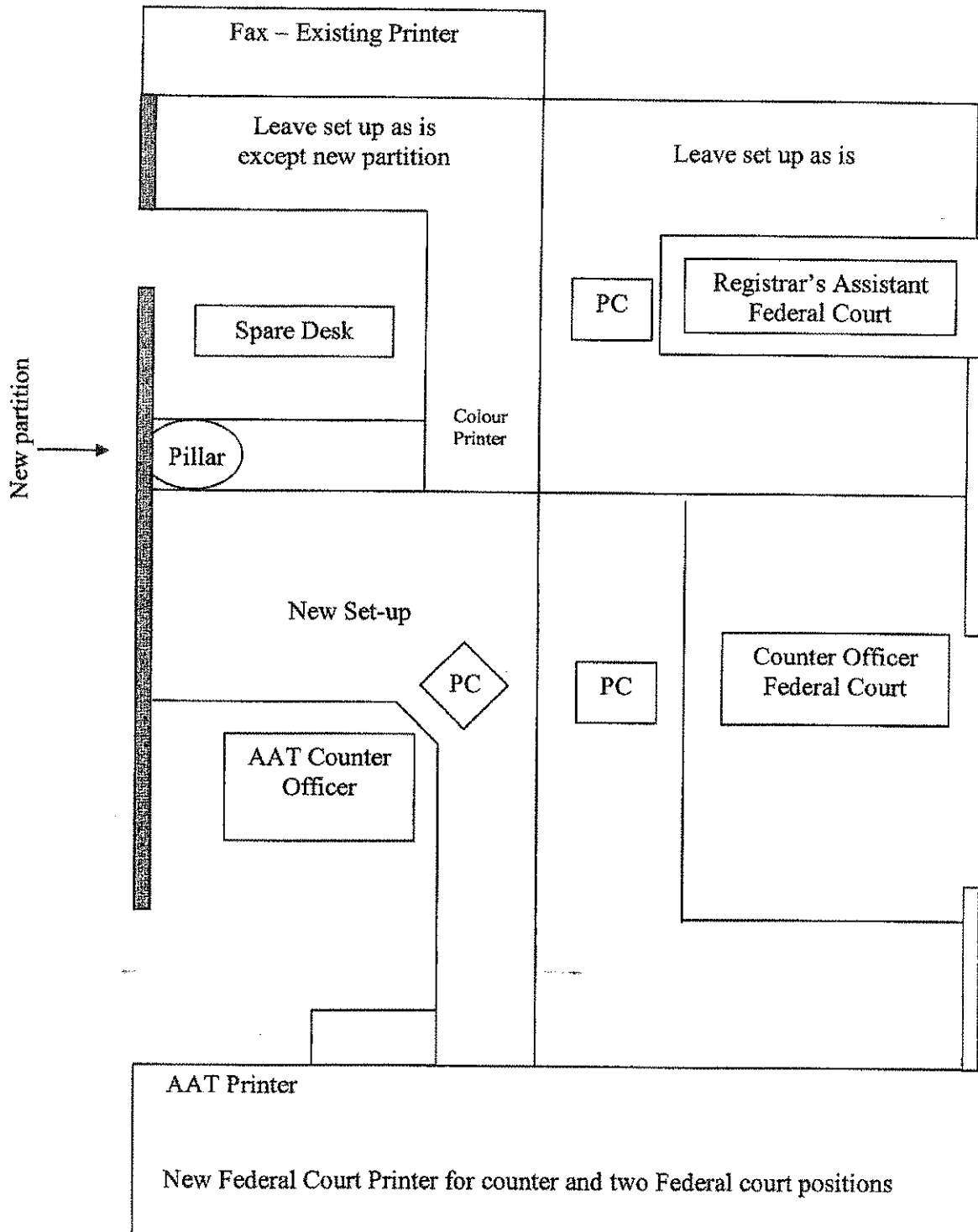
3. Consultation List

People and/or organisations that were consulted in the preparation of this report:

1. Justice Peter Heerey, Federal Court Judge
2. Justice Shane Marshall, Federal Court Judge
3. Justice Alan Blow, Supreme Court of Tasmania
4. Mr Ray Groom, Deputy President, Administrative Appeals Tribunal, Hobart
5. Mr Christopher Wright QC, Deputy President, Administrative Appeals Tribunal, Hobart
6. Miss Mary Imlach, Senior Member, Administrative Appeals Tribunal, Hobart
7. Ms Anne Cunningham, Member, Administrative Appeals Tribunal, Hobart
8. Associate Professor Bruce Davis, Member, Administrative Appeals Tribunal, Hobart
9. Deputy President Stephanie Forgie, Administrative Appeals Tribunal, Melbourne
10. Federal Magistrate Murray McInnes
11. Mr Alan Parrott, District Registrar, Federal Court, Tasmanian Registry
12. Mr Ian Roberts, Manager Court Services, Federal Court, Tasmanian Registry
13. Ms Susan Wedge, Senior Client Service Officer (AAT), Federal Court, Tasmanian Registry
14. Ms Jo Geltner, Client Service Officer, Federal Court, Tasmanian Registry
15. Ms Sue Gourlay, Client Service Officer, Federal Court, Tasmanian Registry
16. Ms Helen Healy, Client Service Officer, Federal Court, Tasmanian Registry
17. Ms Ros Hunt, Client Service Officer, Federal Court, Tasmanian Registry
18. Ms Kaye Miller, Members Support Officer, Administrative Appeals Tribunal
19. Ms Merrilyn Evans, Librarian, Federal Court, Tasmanian Registry
20. Mr Ian Campbell-Fraser, State Manager, National Native Title Tribunal, Melbourne
21. Mr Jamie Wood, District Registrar, Federal Court, Victorian Registry
22. Ms Adele Byrne, Registrar, Federal Magistrates Court, Melbourne
23. Mr Tony Gawne, Deputy Registrar, Administrative Appeals Tribunal, Melbourne
24. Mr Steve Agnew, Court Coordinator, Federal Magistrates Court, Melbourne
25. Ms Jane Mussett, Deputy District Registrar, Federal Court, Victorian Registry
26. Mr Tim Connard, Deputy District Registrar, Federal Court, Melbourne
27. Ms Petal Kinder, Manager Library and Information Services, Federal Court, Victorian Registry

28. Ms Cynthia Butler, Australian Taxation Office, Hobart
29. Ms Leigh Mackey, Jennings Eliot Lawyers
30. Mr Brian Sparkes, Centrelink, Hobart
31. Ms Dianna Hutchison, Centrelink
32. Mr Robert Healey, Building Services Manager, Commonwealth Law Courts, Hobart
33. Mr Mike Castle, Department of Veterans' Affairs, Hobart
34. Ms Dorothy Shea, Librarian, Supreme Court of Tasmania and Vice-President of the Australian Law Librarians Group
35. Mr Martyn Hagan, Chief Executive Officer, Tasmanian Law Society
36. Mr Brett Harrison, Paul Cook and Associates Accountants
37. Mr Mark Rapley, Paige Seager, Barristers and Solicitors
38. Mr Ian Duncan, Argyle Law, Barristers and Solicitors
39. Mr Chris Cunningham, Simmons Wolfhagen, Barristers and Solicitors
40. Mr Greg Sando, Hobart Community Legal Centre
41. Deputy President Patricia Leary, Australian Industrial Relations Commission (also President, Tasmanian Industrial Commission)

4. Suggested Changes to Layout of Workstations in Open-Plan Office on Ground Floor



5. *Estimate - Hobart Library Running Costs*

Building Running Costs ₁

Rent	25,061
Outgoings (inc Life Cycle)	34,798
Total Building Running Costs	59,859

Salary ₂

Librarian - Hobart	20,914 (15 hours per week)
Hobart Registry Staff ₃	1,938 (1 hour per week)
Melbourne Staff ₄	7,755 (4 Hours per week average FCS6)
Total Salary costs	30,607

Collection

Texts and Subscriptions	34,139
Total	34,139

Administrative

Stationary	500
Consumables	500
Photocopy Charges	600
Computer Lease	1,824
Telephones/Fax	500
Personal Development	1,000
On site Visit - Melb Librarian ₅	977
Total Administrative	5,901

Total Running Costs	130,506
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Notes

- 1 Based on floor space.
- 2 Including superannuation.
- 3 Administrative support to library by Registry staff at FCS6 level.
- 4 General support at FCS6 plus 2 days per year visit by Victoria Manager, Library & Information Services.
- 5 Travel costs for one annual visit by Victoria Manager, Library & Information Services.

6. *Green Staffing Formula*

GREEN FORMULA (Includes District Registrars but excludes Conference Registrars)

Applications	Staff	Breaks
1-599 additional officer each 100	1-5	100-200-300-400-500
600-1449 additional officer each 200	6-10	600-800-1000-1200-1400
1450-2950 additional officer each 250	11-17	1450-1700-1950-2200- 2450- 2700-2950

2003/2004

Registry	Green Allocation	Positions currently filled*
NSW (2103)	13.6	14
VIC (1719)	12	11.3
QLD/NT (1328)	9.6	10
WA (1004)	8	7
SA (534)	5.3	5
ACT (428)	4.3	5
TAS (151)	1.5	2
TOTAL	54.3	54.3

