



Land and Resources Tribunal

Annual Report 2005 - 2006





QUEENSLAND

Land and Resources Tribunal

Chambers of President Koppenol

7 October 2006

Hon Linda Lavarch MP
Attorney-General & Minister for Justice & Women
18th Floor
State Law Building
50 Ann Street
BRISBANE QLD 4000

Dear Attorney

In accordance with section 78(1) of the *Land and Resources Tribunal Act 1999*, I **enclose** my report on the operations of the Land and Resources Tribunal for the year ended 30 June 2006.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Gregory J. Koppenol'.

Gregory J. Koppenol
President





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Overview



Gregory J. Koppenol,
President

This is my seventh annual report as President of the Land and Resources Tribunal. The past year was again one of activity and achievement in relation to all aspects of the Tribunal's operations.

New matters increased by 8% to 220 and we completed 68% of them within 3 months. Again, most matters (65%) were dealt with "on the papers" and without an oral hearing. This procedural innovation has proven very successful.

The Tribunal continued to provide efficient and timely service delivery. Our staff again deserve particular commendation for their high level of courteous and knowledgeable service. The members disposed of their caseload with diligence and skill and delivered 153 decisions in the year. The average time that decisions were reserved was only 6 days. We completed the year with only 1 decision reserved. These are very pleasing results. Our case management procedures continued to work well. Feedback about the Tribunal from user-groups has again been highly complimentary.

Considerable use was made of our teleconference hearing facilities. This is particularly convenient for persons in regional or remote locations.

During the year, we received the first referrals of cultural heritage management plans under the *Aboriginal Cultural Heritage Act 2003*. One of them involved the \$500 million plus Tugun Bypass project (pictured), which was able to proceed after the Tribunal recommended approval of the plan.

One of our colleagues, Deputy President Kingham, was appointed as a District Court judge on 17 July 2006. We will miss her on the Tribunal.

The Tribunal's budget allocation was adequate for all operational purposes, for which I thank the Executive Government. We also received appropriate Ministerial and departmental support throughout the year, which was much appreciated.

Precise details of the Tribunal's operations for the 2005/06 year are set out in the pages which follow. I am very pleased with the results which we achieved. We are committed to providing the most efficient service delivery possible.



Artist impression aerial view from Tugun Hill

(Photo supplied by the PacificLink Alliance –the consortium made up of Department of Main Roads, SMEC and Abigroup)

Jurisdiction and case management

The Tribunal was established by the *Land and Resources Tribunal Act 1999* (LRT Act). The Tribunal is a court of record and has (for exercising its jurisdiction) all of the powers of the Supreme Court.

In general terms, the Tribunal's jurisdiction embraces (a) resources and environment and (b) indigenous matters.

The Tribunal is invested with jurisdiction by the following Acts:

- *Aboriginal Cultural Heritage Act 2003*
- *Alcan Queensland Pty Limited Agreement Act 1965*
- *Central Queensland Coal Associates Agreement Act 1968*
- *Environmental Protection Act 1994*
- *Fossicking Act 1994*
- *Geothermal Exploration Act 2004*
- *Land and Resources Tribunal Act 1999*
- *Mineral Resources Act 1989*
- *Offshore Minerals Act 1998*
- *Petroleum Act 1923*
- *Petroleum and Gas (Production and Safety) Act 2004*
- *Queensland Nickel Agreement Act 1970*
- *State Development and Public Works Organisation Act 1971*
- *Thiess Peabody Coal Pty Ltd Agreement Act 1962*
- *Torres Strait Islander Cultural Heritage Act 2003*
- *Water Act 2000*

The members continued with an active case management approach to achieve the efficient disposition of our caseload.

Matters are allocated to a member who then has the carriage of that matter, often from shortly after it is filed. The matter is then case-managed through to its conclusion. The benefits of that approach include consistency, expeditious and efficient pre-hearing and hearing procedures and speedy decisions.

To permit parties and their lawyers or agents in regional and remote places to participate without an additional cost burden, the Tribunal encourages the wide use of telephone hearings. In more complex matters, the Tribunal sits regionally as required to ensure equitable access by parties wherever they are located.

The Tribunal focuses on ensuring mediated solutions wherever possible. Even where complete resolution is not achieved through mediation, it often reduces the number of contentious issues. As a result of our mediation services, the issues in dispute in a number of matters were narrowed.

No Practice Directions were made during the year. No amendments were made to the LRT Act or to the *Land and Resources Tribunal Rules 2000*. No new forms were gazetted.

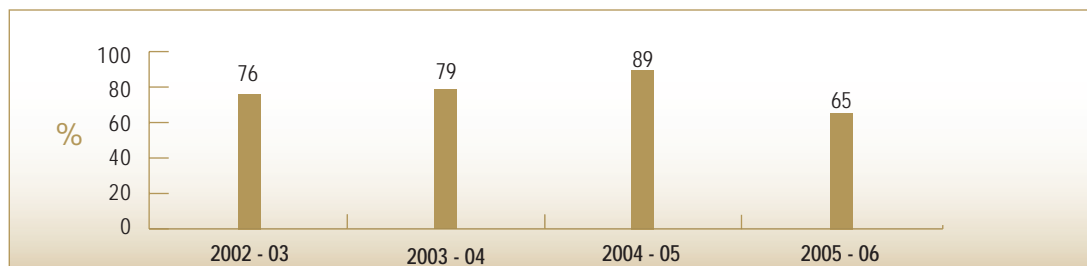
Simplified procedures

It has been one of the Tribunal's achievements that we continually examine ways to improve and simplify our procedures. That results in better and quicker service delivery, as well as savings in costs for the parties and reduced public expenditure.

The measures which we have taken have improved and streamlined our procedures and expedited the Tribunal's capacity to efficiently deal with all applications.

The last year again saw most mining tenement and compensation applications dealt with "on the papers" and without an oral hearing: see Table 1. That occurred as a direct result of our simplified procedures.

Table 1- Hearings on the papers



I am also pleased to be able to report that the Tribunal continues to receive regular complimentary feedback from parties, lawyers, industry groups, government departments and agencies. That is very pleasing.

The Tribunal is committed to ensuring that we deliver efficient and timely outcomes, as expected by all interested parties and the public generally.



In the last year, the Tribunal received 220 new matters and completed 199 matters, as shown in Table 2. That represented an increase of 8% and a decrease of 7% respectively over the previous year. 22 matters (7 in 2004/05) were the subject of appeals – all to a Tribunal panel.

Table 2

Number of cases	2002-03	2003-04	2004-05	2005-06
At start of year	62	48*	60	49
Commenced during year	131	212	203	220
Disposed of during year	155*	200	214	199
Undisposed at end of year	49	60	49	70

*Adjustment made to figures due to revision of data. Some discrepancy in figures due to improvements made in data collection.

Due to our simplified procedures, the Tribunal completed 68% of new matters in less than 3 months. That is similar to last year. Details are set out in Table 3.

Table 3

Disposal rate (number of matters)	2002-03	2003-04	2004-05	2005-06
<3 months	89	146	140	135
3-6 months	9	24	19	16
>6 months	4	7	5	4
Unable to be completed due to native title	0	0	0	2
Uncompleted	29	35	39	63
Total	131	212	203	220

Details of the matters disposed of by type are set out in Table 4.

Table 4

Matters disposed of by type	2002-03	2003-04	2004-05	2005-06
Mining tenement	113	154	144	108
Compensation	32	26	50	66
Native title/cultural heritage	6	1	8	2
Other	4	19	12	23
Total	155	200	214	199

A total of 179 new mining tenement and compensation matters were received in the year. That was 1 less than the previous year.

A break-up by category of the mining tenement matters and related environmental objections received in the year is set out in Table 5.

Table 5

Mining tenement/environmental objection	2002-03	2003-04	2004-05	2005-06
Mining Lease	85	150	112	93
Mining Lease (Additional Surface Area)	3	2	2	2
Mining Claim	0	1	3	2
Exploration Permit	0	9	1	0
Environmental Objection	5	7	1	6
Total	93	169	119	103

A break-up by category of the compensation matters received in the year is set out in Table 6.

Table 6

Compensation	2002-03	2003-04	2004-05	2005-06
Mining Lease	25	23	55	72
Mining Claim	1	1	0	0
Petroleum	0	1	6	4
Total	26	25	61	76

The number of compensation matters has increased by 192% over the last 4 years.

Various other mining-related matters were received in the year. Details are set out in Table 7.

Table 7

Other mining-related matters	2002-03	2003-04	2004-05	2005-06
Actions	2	7	2	6
Administrative	0	1	0	0
Appeals	4	1	8	22
Caveats	0	3	0	3
Total	6	12	10	31

The Tribunal recommended the grant of a mining lease or an additional surface area of land for a mining lease in 92 cases (some subject to conditions). Details are set out in Table 8.

Table 8

Outcome	2002-03	2003-04	2004-05	2005-06
Recommended for grant	100	140	135	92
Recommended for rejection	1	1	1	0
Withdrawn	1	1	0	0
Dismissed	0	0	1	0
Total	102	142	137	92

Native title

The Tribunal commenced the year with 1 outstanding mining tenement matter and 1 exploration access application involving native title. With the Tribunal closely monitoring progress, the parties in each matter continued to negotiate during the year with a view to mutually resolving the issues still in dispute.

Because the Commonwealth *Native Title Act 1993* right to negotiate provisions now apply to new mining tenement applications over land where native title may exist, it was not expected that the Tribunal would receive any further applications of this nature. However in 2005-06, the Tribunal did receive 1 further referral of a mining tenement under the native title alternative State provisions of the *Mineral Resources Act 1989*. It is likely that the Tribunal will continue to receive applications by mining explorers for access to land that may be subject to native title.

Details of the native title matters received are set out in Table 9.

Table 9

Native title matters	2002-03	2003-04	2004-05	2005-06
Mining tenement matter	3	10	0	1
Exploration access applications	3	1	1	1
Native title compensation	1	0	1	0
Total	7	11	2	2

The Tribunal still retains a variety of jurisdiction in respect of native title matters, namely that referred to in:

- section 51A (Jurisdiction under Commonwealth *Native Title Act 1993*) of the LRT Act;
- section 51B (Jurisdiction of tribunal for registered indigenous land use agreements) of the LRT Act;
- section 52 (Exclusive jurisdiction for negotiated agreements) of the LRT Act;
- section 53A (Exclusive jurisdiction for contract conditions) of the LRT Act;
- section 363(2)(ea) (Disputes about native title protection conditions) of the *Mineral Resources Act 1989* (MRA); and
- section 707 (Native title compensation) of the MRA.

Cultural heritage

The Tribunal did not receive any applications for a cultural heritage injunction during the year. Under section 53 of the LRT Act, the Tribunal has the exclusive State jurisdiction to grant injunctions of this nature.

The Tribunal will always deal with these cases with the speed and sensitivity that is appropriate in the circumstances. If necessary, a hearing may occur within an hour of the application being filed. As part of our commitment to accessibility, the Tribunal is contactable, and a presiding member will be available if necessary, 24 hours a day on every day of the year. This ensures that urgent cases that may arise out of normal business hours can be dealt with expeditiously.

An analysis of the cultural heritage injunction applications received is shown in Table 10.

Table 10

Applications	2002-03	2003-04	2004-05	2005-06
Received	2	1	2	0
Outcomes				
Granted	0	0	0	0
Dismissed	2	0	1	0
Discontinued	0	1	1	0

This year saw the first referrals under the *Aboriginal Cultural Heritage Act 2003* for the Tribunal to make a recommendation for the approval of a cultural heritage management plan (CHMP) on major infrastructure projects. Three referrals were made. After hearing the parties, the Tribunal recommended that the Minister approve the Tugun Bypass Project CHMP and the Powerlink electricity transmission line (Middle Ridge to Greenbank) CHMP. The application for the approval of the South-West Transport Corridor CHMP was discontinued after the parties reached agreement.

Compulsory acquisitions

The Tribunal's jurisdiction in this respect is under section 127 of the *State Development and Public Works Organisation Act 1971*. It relates to hearing and determining objections to the compulsory acquisition of native title rights and interests. No matters of that type have yet been received.



The Tribunal encourages and facilitates the resolution of disputes by way of mediation. In appropriate cases, the Tribunal will provide a mediator or may pay some of the costs of an external mediation.

During the year, orders referring matters to mediation were made in 2 cases, as shown in Table 11.

Table 11

Referrals	2002-03	2003-04	2004-05	2005-06
	14	6	3	2

One referral order was made to an external mediator and a Deputy President acted as mediator in the other. The mediations were held in Brisbane. No matters were fully resolved by mediation in the last year: see Table 12.

Table 12

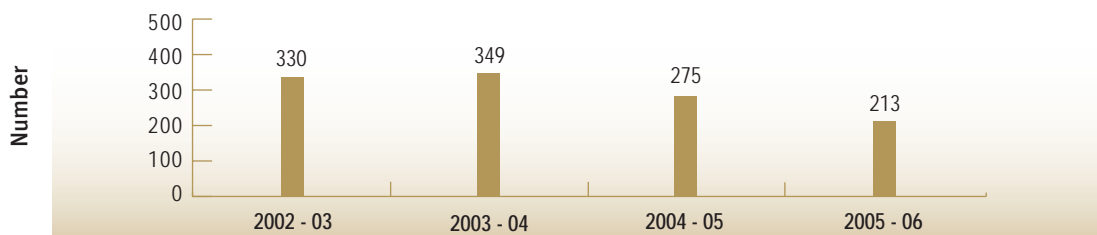
Outcomes	2002-03	2003-04	2004-05	2005-06
Issues fully resolved	9	0	0	0
Returned to Tribunal for hearing	5	6	3	2
Total	14	6	3	2

I thank the mediators for their efforts and also thank the parties involved for their determination to work towards a mutually satisfactory resolution of the matters in dispute.

Hearings

During the year, the Tribunal conducted a total of 213 hearings. These were comprised of directions and interlocutory hearings, final hearings and delivery of decisions. This reflects the active case management approach which we adopt in all matters and which has assisted us in achieving a high matter completion rate. The number of hearings was less than last year: see Table 13. That was again due to the number of matters which were able to be dealt with “on the papers” and without an oral hearing.

Table 13 - No of hearings



There was no necessity during the year for any regional sittings; however the Tribunal conducted 1 site inspection out of Brisbane: see Table 14. The number of regional sittings and site inspections varies considerably from year to year depending upon the type of case and other factors.

Table 14

	2002-03	2003-04	2004-05	2005-06
Regional sittings	3	5	1	0
Site inspections	8	5	2	1

The site inspection related to a contested mining lease application and was conducted at Helidon.

Hearings (continued)



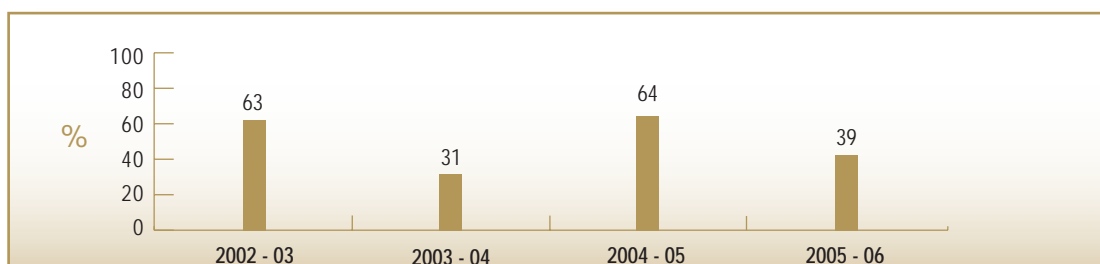
Site Inspection,
Helidon
(12 September 2005)

*(L to R): Ian Pepper,
Deputy President
Kingham, Andrew
Skoien, Chris McGrath*

Because of the extensive use that we make of telephone hearings, parties, witnesses and lawyers outside Brisbane are able to appear by telephone at Tribunal hearings. As a result, considerable public money is saved on Tribunal travelling expenses. It is also very convenient and cost-effective for parties, witnesses and lawyers.

Legally unrepresented parties appeared in 39% of all directions or final hearings that were held. That was less than last year, but this fluctuates from year to year as shown in Table 15.

Table 15 - Unrepresented parties



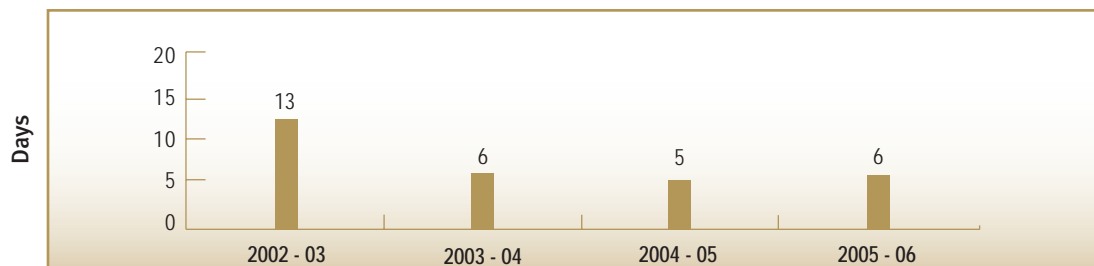
A total of 153 decisions were delivered by the members in the year. That is slightly less than last year, as shown in Table 16. The Tribunal completed the financial year with only 1 reserved decision outstanding.

Table 16

Decisions	2002-03	2003-04	2004-05	2005-06
Outstanding at start of year	3	0	0	0
Reserved	120	164	175	146
Ex tempore decisions delivered	17	14	5	8
Reserved decisions delivered	123	164	175	145
Outstanding at end of year	0	0	0	1

The average time per decision between hearing a matter and delivering the decision was again less than a week: see Table 17. We are committed to the very prompt delivery of reserved decisions.

Table 17 - Average time to delivery



All decisions were posted on the Tribunal website, usually within a very short time of their delivery.

Notes of relevant Tribunal decisions have been published in the following journals:

- Australian Resources and Energy Law Association Journal
- Native Title News
- Queensland Government Mining Journal
- Queensland Property Newsletter

Tribunal decisions are also accessible via AustLII.

A number of the members' decisions have been of significance. No matters were the subject of Court of Appeal decisions. A list of notable cases is set out in Appendix 1.

*P*residing Members

*T*he Tribunal operated with 3 presiding members during the year—the President (at a level equivalent to a Supreme Court judge) and 2 Deputy Presidents (at a level equivalent to District Court judges).

Apart from the disposition of our caseload, the presiding members have taken steps to maintain their continuing legal education in areas of relevance and importance. Consequently, the presiding members attended a number of conferences and seminars during the year. No Tribunal funds were expended for these attendances, which were funded from the presiding members' prescribed allowances. The presiding members are also part-time members of the Land Court and during the year, they dealt with some 164 Land Court matters (39 directions hearings and other hearings and 125 settlement conferences). They also presided in a number of student moots at the Queensland University of Technology.

I express my sincere thanks to my colleagues for the dedicated and efficient discharge of their important responsibilities, and for the support which they have given me throughout the year. It is much appreciated.




Deputy President Kingham again deserves special mention and thanks for the extensive and ongoing work that she undertook throughout the year in relation to external mediation and facilitation activities.

On 17 July 2006, Deputy President Kingham was appointed as a District Court judge.



(L to R): Mining Referee Windridge, President Koppenol, Deputy President Smith

Non-presiding Members

 he Tribunal's full-time non-presiding member is Mining Referee Mr Frank Windridge.

The LRT Act requires the Tribunal to be constituted as a panel in particular cases. Although most cases are heard by a single member, 11 panels (of at least 2 members) were formally constituted during the year but only 7 panels sat, as set out in Table 18. One of those panels included a member of the Land Tribunal established under the *Aboriginal Land Act 1991*. The other 6 panels were comprised of our members only.

Table 18

Panels	2002-03	2003-04	2004-05	2005-06
Constituted	9	7	10	11
Sat	9	6	9	7

I express my thanks to the Land Tribunal and its members for their accessibility and the assistance they provided.

No circumstances arose during the year that required me to arrange for the participation of a member of the National Native Title Tribunal on a Land and Resources Tribunal panel.

Staff

The Tribunal's staff consists of the Acting Registrar (Mr Raimund Heggie) and 7 staff members, as well as a Government security officer. An organisation chart is set out in Appendix 2.

I express my very sincere thanks to the Registrar and all Tribunal staff members for their dedication, efficiency and commitment. Feedback from Tribunal user groups, parties and lawyers has always been very complimentary about the helpfulness of Tribunal staff. That is very pleasing.



Front (L to R): Mandy Jolly, Betty Lippiatt, Diane Blewett, Margaret Christison

Back (L to R): Helen Bannerman, Ron Brown, Tony Cameron, Raimund Heggie, Ryan Gawrych

All proceedings before the Tribunal are tape recorded. On occasions, officers of the State Reporting Bureau attended to these duties and I commend them for their efficient and cheerful service.

The Tribunal receives library support from the Department of Justice and Attorney-General and security services from the State Government Protective Security Service. I express my sincere thanks to the officers involved. Their work is of a high standard and is very much appreciated.

The Registry

The Tribunal receives administrative, case management, member and hearing support from the Tribunal Registry. The Registry team in turn is supported by the Department of Justice and Attorney-General.

Registrar

The Registrar is responsible for the overall management of the registry and has other specific responsibilities under the LRT Act and as delegated by the President of the Tribunal.

The registry team combines 3 important areas to carry out the functions of the LRT Act and to assist the Tribunal. Those areas are case management and hearing support, member support and administration.

Case management and hearing support

The case management team provides the general registry function of the Tribunal including:

- Preparing files for Tribunal hearings;
- Liaising with the parties to ensure (as far as practicable) their participation at the hearing;
- Organising hearings, for example liaising with Tribunal members and parties, issuing notices of hearings of applications and reviews and co-ordinating hearing travel arrangements and requirements;
- Assisting in the monitoring and evaluation of procedures and systems performance, including information technology systems improvements, developments and changes;
- Co-ordinating the preparation and issue of Tribunal orders and decisions.

During the year, the Tribunal commenced a review and upgrade of its case management system (CMS) to improve efficiency by (a) web-enabling the system and (b) providing the additional function of automatic generation of statistics to assist management decision-making.

The Registry (continued)

Member support

The role of the member support team is to provide administrative and secretarial support to the Tribunal's President, 2 Deputy Presidents (presiding members) and Mining Referee.

These duties include:

- Ensuring security of confidential documents;
- Word processing of decisions, correspondence, speeches, Ministerial submissions and other written work for the members;
- Uploading decisions and other documents to the Tribunal website;
- Making all travel and accommodation enquiries and bookings and preparing itineraries for the presiding members and officers of the Tribunal;
- Reconciling of the travel and motor vehicle reports for the presiding members;
- Maintaining administrative systems for the members.

Administration

This team carries out important business services such as budgetary, reporting and administrative functions of the registry and Tribunal. The manager of this team plans, manages and co-ordinates the financial budget of the Tribunal.

Funding

The Tribunal is funded by the Queensland Government through the Department of Justice and Attorney-General. Audited financial statements are included in the annual report of the Department of Justice and Attorney-General. The Tribunal's statement of financial performance is shown in Table 19.

A Administrative activities

Ministerial responsibility

The Minister responsible for the operations of the Tribunal is the Honourable the Attorney-General and Minister for Justice and Women.

I thank the Attorney (Hon Linda Lavarch MP), the Director-General of the Department of Justice and Attorney-General (Mr Jim McGowan) and the previous Director-General (Ms Rachel Hunter) and their officers for the assistance and support which they have given to the Tribunal. It is very much appreciated.

As the Tribunal operates with a small number of staff, appropriate departmental assistance and support is crucial to our ability to continue to provide the very high level of client service which has become a hallmark of the Tribunal's operations.

Technology

The Tribunal makes extensive use of the telephone for directions and other hearings. This efficient and convenient technology assists parties, witnesses and lawyers in regional and remote locations in appearing before the Tribunal.

The Tribunal's website www.lrt.qld.gov.au continues to be an outstanding success. Our "What's New" page is regularly updated with news of recent developments and our Decisions page contains every decision by a member. On most occasions, new decisions are uploaded within 20 minutes of the decision being delivered. The Decisions page also contains a word search facility. Numerous other aspects about the Tribunal and its operations are set out on the website. The Tribunal will continually strive to ensure that our website is as user-friendly and informative as possible.

Financial

Full financial details relating to the operations of the Tribunal are reported in the annual report of the Department of Justice and Attorney-General for 2005/06. Summary details of the Tribunal's operating expenses are set out in Table 19.

Table 19

Operating expenses	2002-03 \$	2003-04 \$	2004-05 \$	2005-06 \$
Employee related expenses	1,255,314	1,399,119	1,567,537	1,633,311
Supplies and services	980,079	719,833	561,335	647,823
Depreciation & amortisation	449,682	210,525	87,667	35,867
Total operating expenses	2,685,075	2,329,477	2,216,539	2,317,001

During 2005-06, the Tribunal registry was audited for the first time as part of the department's internal audit program. I am very pleased to report that the registry was commended for its strength in a number of key areas. The registry continues to improve its robust compliance with prescribed auditing procedures.

General

➤ Overseas travel

President Koppenol travelled to Italy in September 2005 to attend the Pan Europe Asia Legal Conference.

Deputy President Kingham travelled to Canada in October 2005 to attend a Judicial Mediation Conference and to Italy in April and June 2006 to attend the International Bar Association's SEERIL Conference and the Europe Asia Legal Conference, respectively.

Deputy President Smith travelled to Austria in June 2006 to attend the International Arbitration & Mediation Conference.

The members used their jurisprudential and expense of office allowances to attend these conferences.

➤ Staff training and development

The Tribunal is committed to providing opportunities for staff to develop their skills. Officers were encouraged to attend a range of courses and workshops during the year.

➤ New premises

In March 2004, the Tribunal moved to a new building at 259 Queen Street, Brisbane. These facilities are shared by other Queensland tribunals and various commercial tenants.

Regrettably, the Tribunal continues to experience technical problems (concerning hearing room telephones, microphones and recording equipment) and logistical difficulties (caused by the frequent unavailability of hearing rooms) at the new premises. This has necessitated a number of procedural modifications so as to minimise inconvenience to Tribunal users.

The Tribunal is grateful to the Director-General and officers of the Department of Justice and Attorney-General for their continuing efforts to resolve these difficulties.

Appendix 1

Notable Cases

Tribunal decisions

1. *Smith v Mining Registrar, Brisbane District* [2005] QLRT 109 (Koppenol P) – application to stay decision to cancel prospecting permit – Tribunal not satisfied that applicant had good arguable case – balance of convenience did not favour grant of stay – application refused.
2. *Re Xalco Pty Ltd & Colonial Agricultural Company Ltd* [2005] QLRT 124 (Koppenol P & Kingham DP) – compensation appeal – application for extension of time – extensions of time to be determined by demands of justice in particular case – no prejudice to respondent – extension of time granted.
3. *Re Schmidt-Lanz & Bradley* [2005] QLRT 142 (Windridge MR) – objection to mining lease application – applicant entitled to mark out and apply for land – no adverse affect on public right or interest – objection struck out.
4. *Tipperary Oil & Gas (Australia) Pty Ltd v Shelton* [2005] QLRT 145 (Koppenol P) – petroleum lease compensation application – works proposed but not completed before *Petroleum and Gas (Production and Safety) Act 2004* came into effect - whether former compensation provisions applied – compensation to be assessed under former provisions.
5. *Re Clark, Bexton & Lane and Ors* [2005] QLRT 146 (Kingham DP) – mining lease and environmental authority application – no single definitive test for whether mining lease or environmental authority should be granted – *Mineral Resources Act 1989* and *Environmental Protection Act 1994* merely list matters the Tribunal is required to consider – grant of mining lease and environmental authority recommended.
6. *Re Baumann v Wilson* [2005] QLRT 153 (Windridge MR) – application for prospecting permit – appeal against decision of Mining Registrar - Mining Registrar required security deposit of \$1,000 – amount of deposit justified where high fire danger – appeal dismissed.
7. *D'Aguiar Gold Ltd v Gympie Eldorado Mining Pty Ltd* [2005] QLRT 156 (Koppenol P) – jurisdiction of Tribunal – whether claim “arising in relation to” mining or mining permit – whether with respect to “possession of or other interest or share in” an exploration permit – claim outside Tribunal's jurisdiction – claim struck out.
8. *Lee v Kokstad Mining Pty Ltd* [2005] QLRT 160 (Koppenol P) – application to set aside mining lease recommendation – Tribunal may set aside order at any time if made in absence of a party – whether satisfactory reason for absence established – all circumstances must be considered including whether person would suffer injustice if order not set aside – recommendation set aside.
9. *Re Queensland Electricity Transmission Corporation Ltd (trading as Powerlink Queensland) and Bonner* [2006] QLRT 8 (Koppenol P) – application for approval of Aboriginal cultural heritage management plan – s.85 of *Aboriginal Cultural Heritage Act 2003* envisaged agreed appointment of consultants – rate of remuneration for Aboriginal monitors based on industry standards – recommended approval of cultural heritage management plan.
10. *State of Queensland and Best* [2006] QLRT 9 (Koppenol P) – application for approval of Aboriginal cultural heritage management plan (for Tugun Bypass project) – whether public notices complied with statutory requirements – whether defective referral results in invalidity – defects did not affect persons' capacity to understand notices or to respond to them – notices valid – matter set down for hearing of substantive issues.
11. *State of Queensland and Best (No 2)* [2006] QLRT 16 (Koppenol P) – application for approval of Aboriginal cultural heritage management plan – objection to approval because allegedly inadequate reporting and consultation – previous cultural heritage studies conducted – *Aboriginal Cultural Heritage Act 2003* does not require social history report – on-going consultation and discussion between project proponent and people of area – approval of plan recommended.
12. *Krco v Mining Registrar, Emerald* [2006] QLRT 28 (Smith DP) – application to mine area of claim in accordance with hand-mining regulations and without restrictions – *Mineral Resources Act 1989* does not prohibit hand mining after use of prohibited machinery – declaration that applicant's right to hand mine not restricted by use of machinery pursuant to mining registrar's approval.
13. *Re Graham v Hicks* [2006] QLRT 33 (Windridge MR) – mining lease renewal – application for determination of compensation – not equitable for miner to pay freehold value of land for every short term lease renewal – compensation to be assessed at agistment rate.
14. *Osbourne v Mining Registrar, Northern Region* [2006] QLRT 46 (Smith DP) – mining lease – application for review of direction by mining registrar to remove fencing on part of mining lease – purpose of fencing justified to ensure protection of mining equipment and other improvements – use of land was for bona fide purposes consistent with *Mineral Resources Act 1989* – direction revoked.
15. *Re Xstrata Coal Queensland Pty Ltd v Perry & Anor* [2006] QLRT 64 (Windridge MR) – mining lease – application for determination of compensation – claims for accounting or taxation advice, legal and valuation fees to prepare claim do not arise as consequence of grant or renewal of mining lease – solatium claim under s.281(4)(e) of *Mineral Resources Act 1989* based solely upon award under subsection (3) – claims for purchase costs of replacement land must not be ambit claims which give rise to unjust windfall profit – compensation determined at \$548,625.

Appendix 2

Organisation chart

