



QUEENSLAND

Land and Resources Tribunal

Chambers of President Koppenol

28 October 2004

Hon Rod Welford MP
Attorney-General and Minister for Justice
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 2004.

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 fifth 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.

The number of new matters increased by 61% and the number of matters completed increased by 39%. Due to procedural simplifications which the Tribunal has introduced, 69% of matters were completed in less than 3 months. There was also an increase of 40% in the number of mining tenements which we recommended for grant.

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. The number of decisions delivered increased by 27%. Our case management procedures continued to work well. Feedback about the Tribunal from user-groups has again been highly complimentary.

We sat outside of Brisbane on a number of occasions. Considerable use was made of our teleconference hearing facilities. This is particularly convenient for persons in regional or remote locations.

We also received additional jurisdiction in relation to mining (native title protection conditions) and indigenous cultural heritage (management plans).

The Tribunal's budget allocation was adequate for all operational purposes, for which I thank the Executive Government. We were able to reduce our operating expenses by 13% last year. We also received appropriate Ministerial and departmental support throughout the year, which was much appreciated.

Precise details of the Tribunal's operations for the 2003/04 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.

Highlights

- ▶ New matters: ↑ 61% to 212.
- ▶ Matters completed: ↑ 39% to 200.
- ▶ New matters completed in <3 months: ↑ 1% to 69%.
- ▶ Mining tenements recommended for grant: ↑ 40% to 140.
- ▶ Decisions delivered: ↑ 27% to 178.
- ▶ Matters heard "on the papers" (no oral hearing): 79%.
- ▶ Average time decisions reserved: 6 days.
- ▶ Reserved decisions outstanding at 30.06.04: 0.
- ▶ Number of hearings: ↑ 6% to 349.
- ▶ Sittings or site inspections outside Brisbane: 10.
- ▶ Operating expenses: ↓ 13% to \$2.32m.

Jurisdiction and case management

The Tribunal was established by the Land and Resources Tribunal Act 1999 (the LRT Act). Under the 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
- ▶ Land and Resources Tribunal Act 1999
- ▶ Mineral Resources Act 1989
- ▶ Offshore Minerals Act 1998
- ▶ Petroleum Act 1923
- ▶ 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

Additional jurisdiction for the Tribunal is proposed under the:

- ▶ Geothermal Exploration Act 2004
- ▶ Petroleum and Gas (Production and Safety) Act 2004

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 sat regionally on a number of occasions to ensure equitable access by parties wherever they were located.

The Tribunal focuses on ensuring mediated solutions wherever possible. Even where complete resolution has not been possible 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.

Four Practice Directions were made during the year: see Appendix 1. No amendments were made to the Land and Resources Tribunal Rules 2000 and no new forms were gazetted. Amendments were made to the LRT Act by the Mineral Resources and Other Legislation Amendment Act 2002 (minor operational issues), the Justice and Other Legislation Amendment Act 2003 (minor amendments to the general provisions about members and giving the Tribunal exclusive jurisdiction regarding mining lease native title protection conditions), the Aboriginal Cultural Heritage Act 2003 and the *Torres Strait Islander Cultural Heritage Act 2003* (amendments to keep the Tribunal's exclusive jurisdiction for cultural heritage injunctions) and the Aurukun Associates Repeal Act 2004 (minor jurisdictional amendments).

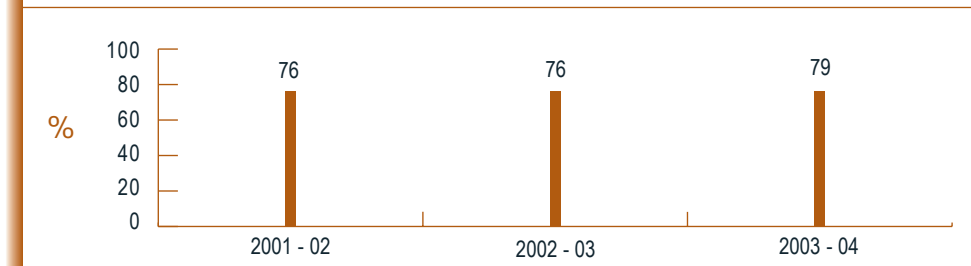
Simplification of procedures

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 saw a continuation of the high number of mining tenement applications which were dealt with "on the papers" and without an oral hearing: see Table 1. That occurred as a direct result of our procedural simplifications.

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 212 new matters and completed 200 matters, as shown in Table 2. That represented increases of 61% and 39% respectively over the previous year. Only one matter (4 in 2002/03) was the subject of an appeal from a Deputy President to the President.

Table 2

Number of Cases	2001-02	2002-03	2003-04
At start of year	56	62	48*
Commenced during year	107	131	212
Disposed of during year	101	144	200
Undisposed at end of year	62	49	60

*Adjustment made to figures due to revision of data

Due to our simplified procedures, the Tribunal completed 69% of new matters in less than 3 months. Details are set out in Table 3.

Table 3

Disposal Rate (Number of Matters)	2001-02	2002-03	2003-04
< 3 months	40	89	146
3-6 months	17	9	24
> 6 months	6	4	7
Unable to be completed due to native title	22	0	3
Uncompleted	22	29	35

Details of the matters disposed of by type are set out in Table 4. The number of mining tenement matters disposed of increased by 36% over the previous year.

Table 4

Matters disposed of by type	2001-02	2002-03	2003-04
Mining tenement	58	113	154
Compensation	26	32	26
Native Title/Cultural Heritage	8	6	1
Other	9	4	19
Total	101	155	200

Resources and Environment

A total of 169 new mining tenement matters were received in the year. That was an increase of 81% over the previous year.

A break-up of the mining tenement matters and related environmental objections received by category is set out in Table 5. No petroleum or fossicking matters were received in the year.

Table 5

Mining Tenement	2001-02	2002-03	2003-04
Mining Lease	53	85	150
Mining Lease (Additional Surface Area)	6	3	2
Mining Claim	2	0	1
Exploration Permit	1	0	9
Environmental Objection	10	5	7
Total	72	93	169

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

Table 6

Compensation	2001-02	2002-03	2003-04
Mining Lease	20	25	23
Mining Claim	2	1	1
Petroleum	0	0	1
Total	22	26	25

A number of other mining-related matters were received in the year. Details are set out below in Table 7.

Table 7

Other mining related matters	2001-02	2002-03	2003-04
Administrative	0	0	1
Caveats	0	0	3
Actions	3	2	7
Appeals	2	4	1
Total	5	6	12

The Tribunal recommended the grant of a mining lease or an additional surface area of land for a mining lease in 140 cases (some subject to conditions). That was an increase of 40% over the previous year. Details are set out in Table 8.

Table 8

Outcome	2001-02	2002-03	2003-04
Recommended for grant	43	100	140
Recommended for rejection	3	1	1
Withdrawn	4	1	1
Total	50	102	142

Native title

During the year, the Tribunal was able to complete 6 of the 15 native title matters which were on hand as at 1 July 2003. Those matters were all mining lease applications over land where native title may exist. The parties had been involved in lengthy negotiations over land-use issues and the mining lease applications in those cases were not able to be progressed until the negotiations had been completed. The Tribunal had 9 such matters still on hand as at 30 June 2004, and it may be some time before they can be completed.

Because the Commonwealth right to negotiate provisions now apply to new mining tenement applications over land where native title may exist, it is not expected that the Tribunal will receive any further applications of this nature. However the Tribunal will receive applications by mining explorers for access to land that may be subject to native title.

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

Table 9

Native Title	2001-02	2002-03	2003-04
Mining Tenement Matter	22	3	10
Exploration Access Applications	3	3	1
Native Title Compensation	0	1	0
Total	25	7	11

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) 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; and
- ▶ section 707 (Native title compensation) of the MRA.

Cultural Heritage

The Tribunal received 1 application 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 deals with these cases with the speed and sensitivity that is appropriate in the circumstances. Sometimes a hearing occurs 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.

Details of the native title/cultural heritage matters received during the year are set out in Table 10.

Table 10

Native Title/Cultural Heritage	2001-02	2002-03	2003-04
Cultural Heritage Injunctions	5	2	1
Exploration Access Applications	3	3	1
Native Title Access (Compensation)	0	1	0
Total	8	6	2

An analysis of the cultural heritage injunction applications received is shown in Table 11.

Table 11

Applications	2001-02	2002-03	2003-04
Received	5	2	1
Outcomes			
Granted	2	0	0
Dismissed	1	2	0
Discontinued	2	0	1

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.

Mediation

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 6 cases, as shown in Table 12.

Table 12

Referrals	2001-02	2002-03	2003-04
	18	14	6

Two referral orders were made to an external mediator and a Deputy President acted as mediator in 4 cases. The mediations were held in various places in the State. No matters were fully resolved by mediation in the last year: see Table 13.

Table 13

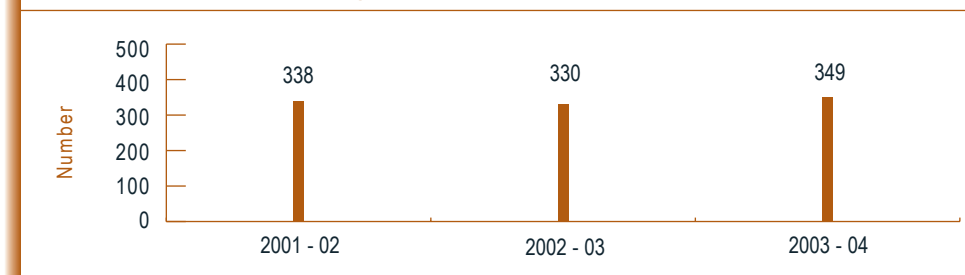
Outcomes	2001-02	2002-03	2003-04
Issues fully resolved	4	9	0
Returned to Tribunal for hearing	14	5	6
Total	18	14	6

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 349 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 such a high matter completion rate. The number of hearings was slightly higher than last year: see Table 14. That was due to the increased number of new matters received.

Table 14 - no of hearings



The Tribunal conducted 5 sittings and 5 site inspections (views) out of Brisbane: see Table 15.

Table 15

	2001-02	2002-03	2003-04
Regional sittings			
Regional sittings	5	3	5
Site inspections	10	8	5

Hearings were held at the Atherton, Mareeba, Emerald and Charters Towers courthouses. The matters concerned were mining lease and mining claim applications; environmental and other objections; and applications for compensation, declaratory relief and damages. I express my thanks to the Chief Magistrate for kindly permitting the Tribunal to use those courthouse facilities.

Hearings (continued)

Views or site inspections were also conducted at “Kielembeta” near Emerald, Rubyvale near Emerald, Wyandotte Station near Greenvale, Mowbray River Road near Port Douglas and Cornelia Station near Pentland.



Site Inspection Mowbray River Road, near Port Douglas (30 September 2003)

(L to R): Mr Tony Cameron, Mr Bernie Treston, Mr John Reynolds, Deputy President Kingham, Mr Lee McDowall and Ms Maya De Murashkin

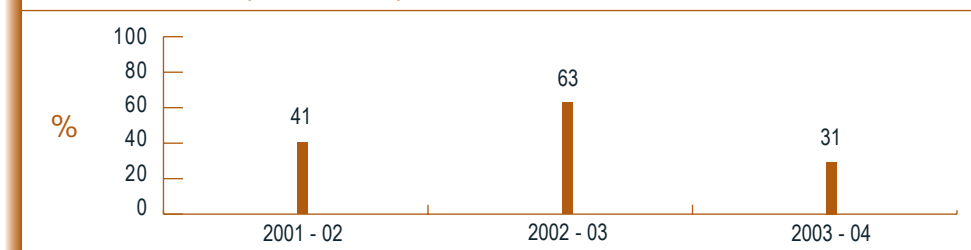


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Because of the extensive use that we make of telephone hearings, parties, witnesses and lawyers outside Brisbane are able to appear by telephone at Tribunal hearings. As a result, considerable public money is saved on Tribunal travelling expenses. The use of video hearing facilities also assists in that regard.

Legally unrepresented parties appeared in 31% of all directions or final hearings that were held. That is a 32% decrease on last year, as shown in Table 16. The decrease occurred because most unrepresented parties now choose to have their matters dealt with under our streamlined “on the papers” system rather than at an oral hearing.

Table 16 - unrepresented parties



Decisions

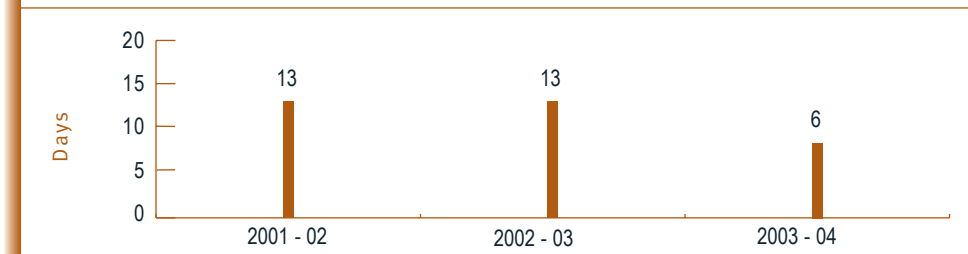
A total of 178 decisions were delivered by the members in the year. That represents an increase of 27% over last year, as shown in Table 17. Once again, the Tribunal completed the financial year with no reserved decisions outstanding. That is a significant achievement.

Table 17

Decisions	2001-02	2002-03	2003-04
Outstanding at start of year	8	3	0
Reserved	63	120	164
Ex Tempore Decisions Delivered	20	17	14
Reserved Decisions Delivered	68	123	164
Outstanding at end of year	3	0	0

The average time per decision between hearing a matter and delivering the decision was only 6 days: see Table 18. We are committed to the very prompt delivery of reserved decisions.

Table 18 - 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 Mining and Petroleum Law Association Journal
- ▶ Native Title News
- ▶

Arrangements are also being made for Tribunal decisions to be accessible via Austlii.

A number of the presiding members' decisions have been of precedential significance. Two matters were also the subject of Court of Appeal decisions and one matter was heard by the High Court. A list of notable cases is set out in Appendix 2.

Presiding Members

The Tribunal operates with 3 presiding members—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 also presided in a number of student moots at the Queensland University of Technology.

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



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

Non-presiding Members

Following the Mining Referee's appointment to the Tribunal, I arranged with the Department of Natural Resources and Mines for Mr Windridge to have access to departmental records of Mining Wardens' decisions from 1993 to 2000, for the purpose of compiling a list and copies of the more important decisions. There has never been a publicly-accessible database of these decisions and the opportunity was then taken to create one. This took some months and was successfully completed in November 2003. The Tribunal website now contains these decisions in an easily searchable format.

I thank Mr Windridge and the Director-General of the Department of Natural Resources and Mines (Mr Terry Hogan) for their much appreciated efforts.

The LRT Act requires the Tribunal to be constituted as a panel in particular cases. Although most cases are heard by a single member, 7 panels (of at least 2 members) were formally constituted during the year but only 6 panels sat, as set out in Table 19. One of those panels included a member of the Land Tribunal established under the Aboriginal Land Act 1991. The other 5 panels were comprised of our members only.

Table 19

Panels	2001-02	2002-03	2003-04
Constituted	5	9	7
Sat	3	9	6

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 D. Bancroft) and 8 staff members, as well as Government security officers. 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.



Back (L to R): Matt Black, Betty Lippiatt, Margaret Christison, Kevin Hughes
Front (L to R): Diane Blewett, Nerida Mead, Tony Cameron

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.

Registrar's Report

The Registry



David Bancroft

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.

Organisational Structure

During the 2003-2004 financial year, the Registry had 8 staff. An organisational chart of the Registry is included in Appendix 3.

Registrar

The Registrar is responsible for the overall management of the Registry and has other specific responsibilities under the legislation and as delegated by the President of the Tribunal. In December 2003, Mr David Bancroft was appointed Acting Registrar to replace the previous Registrar.

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

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.

This team:

- ▶ Ensures that all public accountability duties are effectively discharged by the Tribunal including those imposed under the Financial Administration and Audit Act and the Public Finance Standards, Public Service Act, Statutory Authorities Financial Arrangements Act, co-ordinates and prepares the mandatory reports including the Strategic and Operational plans, the Annual Report and the Ministerial Program Statement for the Tribunal.
- ▶ Co-ordinates and manages human resource practices and administration staff work schedules and ensures staff compliance with public sector standards and policies; and
- ▶ Manages the resource needs of Tribunal staff, in the area of information technology, office support services, and ensures administrative procedures and standards are implemented for effective client service delivery.

Case Management and Hearing Support

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

- ▶ Preparation of files for Tribunal hearings;
- ▶ Liaising with the parties to ensure as far as practicable their participation at the hearing;
- ▶ Conducting inquiries and investigating information in respect to applications made to the Tribunal;
- ▶ 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;
- ▶ Arranging external services to facilitate hearings of the Tribunal, for example arranging for the State Reporting Bureau to attend the hearing;
- ▶ Assisting in the monitoring and evaluation of procedures and systems performance, including information technology systems improvements, developments and changes;
- ▶ Managing the records and statistics of the Tribunal; and
- ▶ Co-ordinating the preparation and issue of Tribunal orders/decisions.

Member Support

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

These duties include:

- ▶ Provision of secretarial and administrative support;
- ▶ Ensuring security of confidential documents;
- ▶ Word processing of decisions, correspondence, speeches, Ministerial submissions and other written work for the presiding members;
- ▶ Uploading decisions and other documents to the Tribunal website;
- ▶ Maintaining loose-leaf library services, including the filing of updates;
- ▶ Answering telephone calls, redirecting or answering enquiries where appropriate;
- ▶ Making appointments and bookings, and arranging meetings;
- ▶ Making all travel and accommodation enquiries and bookings and preparing itineraries for the presiding members and officers of the Tribunal;
- ▶ Reconciliation of the travel and motor vehicle reports for the presiding members;
- ▶ Maintenance of administrative systems for the presiding members.

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 and the Statement of Financial Performance is shown in Table 20.

Relocation

In March 2004 the Tribunal relocated to new registry and hearing rooms at levels 9 and 10, 259 Queen Street, Brisbane. The Tribunal has co-located with the Children Services Tribunal, Guardianship and Administration Tribunal, Land Court, Aboriginal Land Tribunal, Torres Strait Islander Land Tribunal, Queensland Gas Appeals Tribunal, Commercial and Consumer Tribunal and Retail Shop Leases Tribunal. The Tribunal's team has greatly appreciated the support and co-operation of all Tribunals and Registries at these new premises.

Conclusion

All staff of the Tribunal are thanked for their efforts and ongoing professionalism during the year.

Administrative activities

Ministerial responsibility

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

I thank the Attorney (Hon Rod Welford MP), the Director-General of the Department of Justice and Attorney-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. Our video-link facilities are also used for similar purposes. This efficient and convenient technology assists parties, witnesses and lawyers in regional and remote locations in appearing before the Tribunal. It has also reduced the Tribunal's expenditure for regional sittings.

The Tribunal's website www.lrt.qld.gov.au continues to be an outstanding success. User group feedback has been very positive and complimentary. Our "What's New" page is regularly updated with news of recent developments and our Decisions page contains every decision by a presiding member. On most occasions, new decisions are uploaded within 20 minutes of the decision being delivered. The Decisions page also contains a useful 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 2003/04. Summary details of the Tribunal's operating expenses are set out in Table 20. The Tribunal's operating expenses were able to be reduced by 13% last year.

Table 20

Operating Expenses	2001-02 \$	2002-03 \$	2003-04 \$
Transfers to government	6,636	8,167	3,849
Employee related expenses	1,281,502	1,255,314	1,399,119
Supplies and services	1,906,057	979,960	719,812
Depreciation & amortisation	361,840	449,682	210,525
Gains on disposal of assets etc	6,035	119	154
Total Operating Expenses	2,851,470	2,676,908	2,329,610

General

▶ Freedom of information requests

There was one request for information under the Freedom of Information Act 1992. The Courier-Mail requested all documents relating to the costs and organising of overseas travel by the presiding members of the Tribunal and other documents relating to the Tribunal's proposed new accommodation, vehicles, expenses and other entitlements.

▶ Overseas travel

Using his jurisprudential expense allowance, President Koppenol travelled to Canada in June-July 2004 to attend the Council of Canadian Administrative Tribunals' International Conference, visit various courts and tribunals and discuss procedural issues.

▶ **Staff training and development**

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

▶ **Move to new premises**

In March 2004, the Tribunal moved to new premises at 259 Queen Street, Brisbane. These facilities are shared by other Queensland tribunals.



259 Queen Street

▶ **New Land and Environment Court**

On 18 August 2004, the Attorney-General and Minister for Justice announced that the Tribunal, the Land Court and the Planning and Environment Court would be merged to form the Land and Environment Court.

Practice Directions

Number	Description	Date Issued
9/2003	Opening and closing proceedings in the Tribunal	21 July 2003
10/2003	Simplification of Tribunal procedures—Mining Leases	28 October 2003
11/2003	Christmas-New Year arrangements 2003-2004	1 December 2003
12/2003	Repealed Practice Directions	8 December 2003

Notable Cases

Tribunal decisions

1. *Benney v Vella* [2003] QLRT 80 (Smith DP) – Mining lease compensation – renewal of lease applied for but later withdrawn – landowner not entitled to compensation for effect of mining in interim period.
 2. *Re Mann* [2003] QLRT 127 (Kingham DP) – Mining lease application – applicant previously found by Magistrates Court to have mined illegally – no conviction recorded – before commencing mining, applicant to ensure he understands his future obligations – grant of lease recommended.
 3. *Re Wallace* [2003] QLRT 137 (Koppenol P) – Review of mining registrar’s direction to readvertise public notice – wrong mining lease number inserted in heading – notice misleading – direction confirmed.
 4. *Cape Flattery Silica Mines Pty Ltd v Hope Vale Aboriginal Council* [2004] QLRT 34 (Koppenol P) – Interim injunction application – persons attempting to take over mine – alleged threatening behaviour – injunction granted.
 5. *Re Wesfarmers Curragh Pty Ltd* [2004] QLRT 46 (Kingham DP) – Mining lease application – significant rehabilitation obligations – Mineral Resources Act 1989 access rights insufficient to facilitate post-mining rehabilitation – grant of lease recommended for mining and rehabilitation.
 6. *Hicks v Graham* [2004] QLRT 47 (Kingham DP) – Review of mining compensation – parties previously agreed compensation when under misunderstanding about effect of mining lease – whether material change in circumstances justifying review – review not warranted.
 7. *Re Australian Diatomaceous Earth Pty Ltd & Marsterson* [2004] QLRT 49 (Koppenol P) – Mining lease compensation – “before and after” valuation methodology applied – Land Court approach not followed – compensation determined.
 8. *Re Mbunt Isa Mines Ltd & Callope & Ors* [2004] QLRT 55 (Koppenol P and Kingham DP) – Access agreement application – low impact exploration permit – opposed by 1 of 11 native title parties – no evidence supporting opposition – agreement appropriate – nil compensation.
- compensation claim – Held: injurious affection and preparatory legal expenses are not consequential damages – compensation reduced by those amounts – Tribunal’s decision varied.
2. *Armstrong v Brown* [2004] QCA 80 (McPherson and Jerrard JJA and McMurdo J) Mining lease application – Tribunal recommended grant of lease – landholders claimed that Tribunal did not consider mineralisation/ economic mineralisation and that natural justice denied – no error of law – appeal dismissed.

High Court decision (on appeal from the Court of Appeal)

1. *Armstrong v Miles* [2004] HCATrans 52 (McHugh ACJ and Kirby J) Mining lease application – landholders claimed that proposed activities constituted exploration only and did not fall within definition of “mine” – Tribunal decided activities were within meaning of “mine” and recommended grant of lease – Court of Appeal upheld Tribunal decision – High Court found no reason to doubt correctness of Court of Appeal’s decision – special leave refused.

Court of Appeal decision (on appeal from the Tribunal)

1. *Sullivan v Oil Co of Aust Ltd* [2004] 2 QdR 105 (Davies JA, Atkinson and Holmes JJ) – Compensation – Petroleum Act 1923 – respondents claimed compensation for injurious affection for land adjacent to but not covered by petroleum permits and leases and for legal expenses incurred preparing

Organisation Chart

