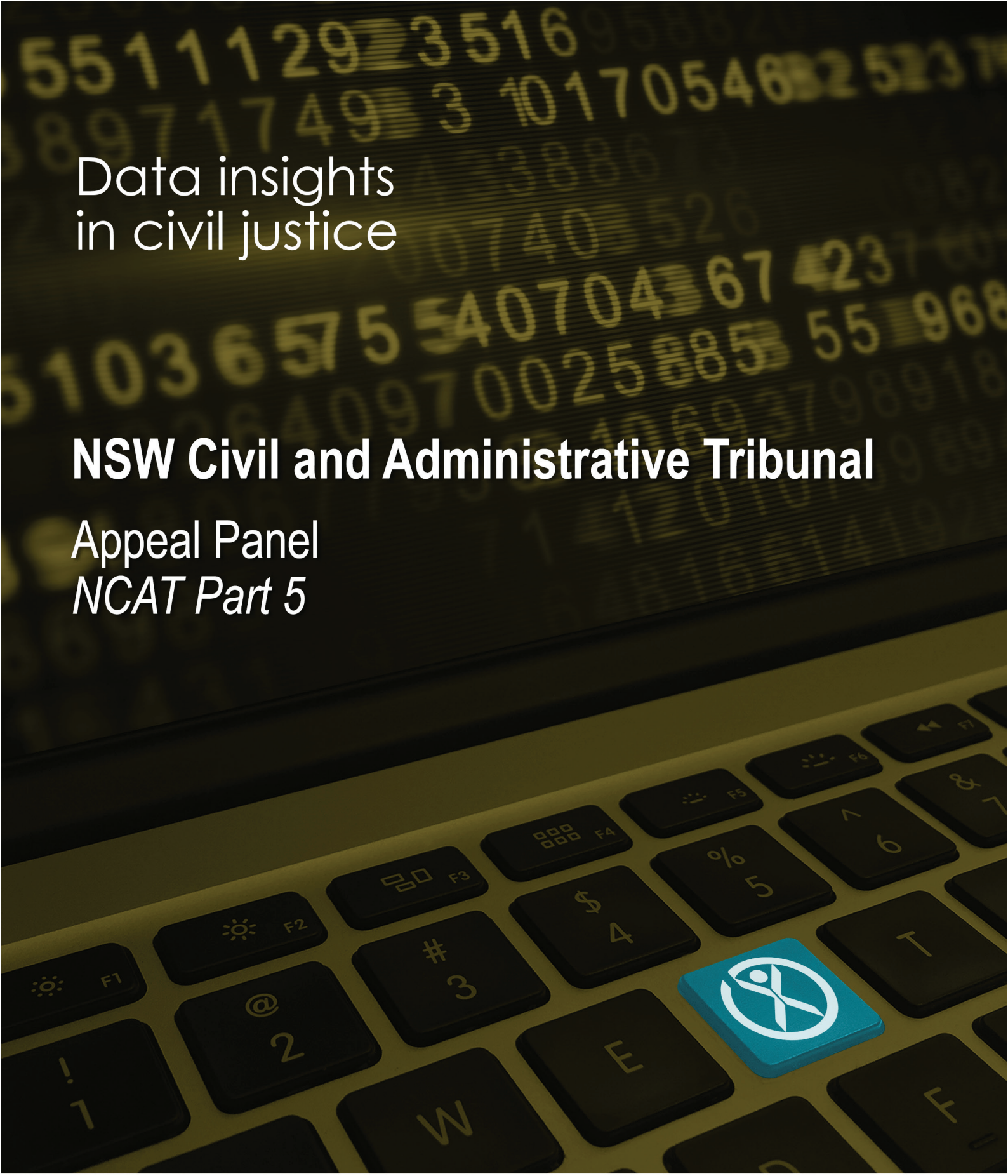
Data insights
in civil justice

NSW Civil and Administrative Tribunal

Appeal Panel
NCAT Part 5



LAW AND JUSTICE FOUNDATION OF NEW SOUTH WALES

Data insights in civil justice:

NSW Civil and Administrative Tribunal *Appeal Panel* (NCAT Part 5)

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Law and Justice Foundation of New South Wales

November 2016

LAW AND JUSTICE FOUNDATION OF NEW SOUTH WALES

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Shortened forms

ABN	Australian Business Number
ABR	Australian Business Register
ACN	Australian Company Number
AEOD	Administrative and Equal Opportunities Division
AP	Appeal Panel
CCD	Consumer and Commercial Division
CMS	Case Management System
CTTT	Consumer Trader and Tenancy Tribunal
Foundation	Law and Justice Foundation of New South Wales
GD	Guardianship Division
NCAT	New South Wales Civil and Administrative Tribunal
OD	Occupational Division

Key messages

Overview

The Department of Justice NSW is seeking to optimise the use of civil court and tribunal data for evidence-based decision-making, specifically the civil divisions of the Local, District and the Supreme Court, the Land and Environment Court, and the NSW Civil and Administrative Tribunal (NCAT). The Law and Justice Foundation of NSW has been engaged by the Department to investigate the quality and utility of each court and tribunal's data in informing policy and practice. This is a report on the data of NCAT's Appeal Panel (AP).

The Appeal Panel

The NCAT AP was introduced to provide an inexpensive and prompt system of internal appeals from a decision of any of the four NCAT Divisions: the Consumer and Commercial Division (CCD), the Administrative and Equal Opportunities Division (AEOD), the Occupational Division (OD) and the Guardianship Division (GD). The AP can consider whether the Tribunal which originally heard the proceedings made an error of law and, if it gives leave, whether any other error was made in reaching the original decision. AP data is stored on the same Case Management System (CMS) as CCD data.

The NCAT appeals process was still in development in early 2015 and we are advised that the process has subsequently changed significantly. This is likely to have had an impact on a number of the findings reported here.

Findings

What types of matter are heard by the AP?

Of the 589 matters lodged in the AP in 2015, which exclude matters originating from the GD, 92% originated from the CCD, 7% originated from the AEOD and less than 1% originated from the OD (n=544, 43 and 2 respectively). These proportions are roughly in line with the number of matters dealt with by the originating Divisions. Excluding GD, CCD dealt with 97.3% of NCAT matters finalised in 2015 (57,653 matters), AEOD with 1.3% (776 matters) and OD with 0.4% (241 matters).

The CCD lists from which most matters in the AP originated were the *CCD Tenancy* (28%), *CCD Home building* (24%) and the *CCD General* list (13%). *CCD Home building* was over-represented compared to CCD where it made up only 5.3% of matters (or 5.2% of all NCAT matters excluding GD). *CCD Social housing* was under-represented, comprising 9.8% of AP matters, compared to 25.7% of CCD matters (or 25.0% of NCAT matters excluding GD).

What is the monetary value of appeal matters?

The Notice of Appeal form asks appellants to detail the orders to be appealed but does not specifically ask for the monetary value of those orders. We recommend consideration be given to the collection of this information, where relevant, in a reportable form.

Who are the parties in AP matters?

Either the applicant or the respondent of the originating matter can submit an appeal. Currently it is not feasible from the CMS data to identify whether the appellant was the applicant or the respondent as this requires linking to the relevant originating matter (of which there may be more than one). Given the policy interest in understanding who uses the AP, we recommend that appellants are asked to indicate on their application whether they were the applicant or the respondent in the originating matter.

The Foundation reviewed and coded the entity type for each party of the 589 CCD, AEOD and OD matters lodged in the AP. In 2015:

- approximately three-quarters (72%) of appellants and 58% of respondents were coded as individuals
- matters that originated in the *CCD Social housing* and the *CCD Tenancy* lists had the highest proportion of individual appellants (91% and 93% respectively)
- matters that originated in the *CCD Residential parks* and the *AEOD Revenue* lists (78% and 75% respectively) had the highest proportions of appellants as organisations
- matters arising from the *CCD Tenancy* list (88%) had the highest proportion of respondents as individuals
- the highest proportion of respondents as organisations were in matters that originated from the *AEOD Revenue* and *CCD Social housing* lists (100% and 91%) – as were the respondents in the originating lists
- AP matters most commonly involved individuals against individuals (37%).

Are parties represented and by whom?

Parties are not automatically allowed to be represented for AP hearings as leave is required for representation for appeals against decisions of the GD and the CCD.

Representation details are recorded on forms at hearings and then entered into the CMS. As the Foundation did not request data on representation in the AP, we are not able to draw any conclusions on the utility of AP CMS representation data.

How do matters progress to finalisation?

Appeals must usually be lodged within 28 days (or 14 days for some residential related matters originating from the CCD) of the appellant being notified of the original decision or being given written reasons for the decision, whichever is the later. If an appeal is lodged outside the relevant time period, the appellant must request an extension of time, otherwise the appeal may be dismissed. Of the 589 CCD, AEOD & OD matters lodged in the AP in 2015, 2.3% (n=11) were recorded on the CMS as dismissed because an extension of time was refused.

Although an appeal may be lodged against a decision, the original decision holds until and if the appeal is successful. The appellant can therefore apply for a stay order on the original decision. Of the 589 AP matters lodged in 2015, 41.4% of appellants applied for a stay order. The list with the highest proportion of stay order applications was CCD *Social housing* (60.3%).

AP matters can be finalised either on paper or at hearing. Our analysis indicated a high proportion finalising on paper (63%) which will partly reflect that not all the matters lodged had yet finalised, and that on average matters going to hearing will probably take longer. However, we are also informed by NCAT that this figure is far higher than expected and that this is probably due to the incorrect use of the *on paper* code in the CMS. They have informed us that the actual proportion is likely to be far lower (less than 16%).

Do parties attend hearings?

Due to the recording error on the CMS which resulted in under-recording of hearings, the findings on who attends hearings may be unreliable. For those matters for which a hearing was recorded:

- 73% were attended by both parties
- 18% were attended by the respondent only
- 6% were attended by the appellant only
- 3% were not attended by either party.

Although attendance is recorded on the CMS, our review identified some limitations to the utility of this information for policy purposes arising from how the information was initially recorded (on paper forms) and limited detail about who was actually in attendance (an individual party, an officer of an organisational party, an agent).

How are AP matters finalised or resolved?

The AP CMS codes for matter outcome were upgraded during 2015, from the basic categories of *Allowed* and *Dismissed* to more detailed categories. These are very valuable, as dismissals include very different outcomes for the parties (e.g. *Dismissed – Application misconceived* compared to *Dismissed – By consent*). A recoding of those matters that had been allocated the old broad categories indicated that within the broad *Dismissed* category, *Withdrawal by the applicant* was the most common type. Although overall dismissals were the most common outcome for finalised matters, this picture may change as 20% of matters lodged in 2015 were yet to finalise by the end of March 2016. Figures provided by NCAT for the financial year 2015–2016 are that 30.6% of matters were allowed, 55.9% dismissed and 13.3% withdrawn.

The AP CMS also includes a consent flag that could apply to many of the outcome types. However, there was some evidence it wasn't a reliable indicator of matters settled by consent. It will also necessarily not include consensual outcomes the Tribunal was unaware of.

How long do matters take?

Just under two-thirds of appeals lodged in 2015 were done so within a month of the original decision date, which is in line with NCAT Guidelines. Although the remainder took longer, this is likely because the time is from the date of decision, or the date at which written reasons for the decision were provided, whichever is the later. We have not assessed whether the CMS includes this latter date.

For those matters given a listing date (491 of the 589 matters lodged), the average number of days from lodgement to first listing was 31. The longest period of time was over 8 months (253 days). Just over half (57.8%) of matters progressed to listing within a month, and nearly all had a first listing within 3 months (99.0%)

Not all matters lodged in the AP during 2015 had finalised by the end of March 2016, which was the period for which data was available at the time we requested it. Of the 589 CCD, AEOD & OD matters lodged, 473 (80.3%) had finalised. Those that had not finalised were taking more than 3 months to finalise. Of all matters lodged in 2015, 17% had finalised within a month, and 40% within 3 months, with the remainder (60%) taking more than 3 months.

Introduction

The Department of Justice NSW is seeking to optimise the use of civil court and tribunal data for evidence-based decision-making, specifically the civil divisions of the Local, District and the Supreme Court, the Land and Environment Court and the NSW Civil and Administrative Tribunal (NCAT).

To facilitate this process, the Law and Justice Foundation of NSW (the Foundation) has been engaged by the Department to investigate the utility of data collected by the four NCAT Divisions, for the purpose of informing decision-making. This report provides findings and observations from the analysis of NCAT's **Internal Appeal Panel (AP)**. Separate reports cover Consumer and Commercial Division (CCD), the Administrative and Equal Opportunity Division and Occupational Division (AEOD & OD in one report) and the Guardianship Division (GD).

Scope of the task

The Foundation was asked to:

1. assess the content and quality (reliability, validity) of NCAT data, as evidence for the purpose of policy making, and
2. suggest any changes to data definition, collection, entry, analysis and/or retrieval that would improve the quality and utility of the data for this purpose.

Key questions addressed

In order to explore the content and quality of NCAT data, for the purpose of policy making, we are examining the capability of data from each Division to address a series of questions. In this report on the AP we ask:

1. What types of matters are heard by the AP?
2. What is the monetary value of these matters?
3. Who are the parties in these matters?
4. Are parties represented and by what types of representatives?
5. Do parties attend hearings?
6. How do matters progress to finalisation?
7. How are matters finalised or resolved and how do orders made compare to orders sought?
8. How long do matters take to finalise?

In each case we provide a snapshot of data analysed to date, and raise key issues that may impact upon the reliability and validity of that data. It is important to bear in mind that information and data are primarily collected by NCAT to support the administration of the Division, and systems have been primarily designed for that purpose.

An overview of the methodology

To assess AP data quality and answer the priority questions, the Foundation used the following sources:

1. Unit record data for all matters lodged (excluding those originating from the GD) in the AP during 2015, taken from the CMS used by both the CCD and the AP. Data included information on appellants and respondents, orders made, processes, outcomes and relevant dates. The Foundation looked at matters lodged in the AP (rather than matters finalised, as was the case for the other Divisions) because we were interested in capturing the continuation of matters from the Divisions to the AP.
2. Specific entity coding of the appellants and respondents of the unit record data for all matters lodged in the AP during 2015.
3. A sample of 30 electronic and paper files held by the AP, to check the accuracy of information on the databases and collect relevant details that these databases do not hold.
4. Relevant documents, including legislation, forms, instructions and procedure manuals relevant to paper applications, NCAT Online and the management of matters within the AP.

Factors affecting data quality

As was the case for Local Court data[1] the utility of NCAT data to answer policy questions and to accurately inform decision-making may be compromised in a number of different ways. In each discrete data system, quality may be affected by:

- relevant information not being collected or recorded (e.g. on appellant and respondent entity types, representatives)
- how data or information is defined (e.g. definitions of matter types and of representatives)
- how data is collected and then entered onto the NCAT databases (e.g. forms being completed and/or data entered by a range of different individuals, with varying interest and skill in data accuracy)
- how data is stored and retrieved (some information is only available on the paper files)
- the sheer amount and complexity of the data held and how the data systems have been built, documented and maintained over time to accommodate this complexity
- how data is analysed, cleaned and reported.

Differences between the three separate data systems will also impact upon the consistency, completeness and quality of the data across NCAT.

Our review of the AP is less rigorous than the other NCAT Divisions as we requested fewer data fields and are reviewing a smaller, not necessarily representative sample of paper files. The Foundation did this because at the time the data was requested, the primary purpose was to assess the extent to which matters from other Divisions were appealed.

[1] Forell, S & Mirrlees-Black, C 2016 *Data insights in civil justice: NSW Local Court,* Law and Justice Foundation of NSW, Sydney

The Foundation attempted to match information on appeals lodged in NCAT between January 2015 and March 2016 with matters finalised in CCD and AEOD & OD during 2015. This indicated that matters could be associated with more than one appeal and that appeal matters could be associated with more than one original (or substantive) matter. There were also some matters that could not be matched using the information provided. We have not presented the findings here as analysis of the appeals data indicated that a longer than 3 month follow up period is probably required to accurately capture the proportion of matters that are appealed.

Matching of appeals to original matters should be facilitated with the introduction of one NCAT management information system if this functionality is appropriately designed to support the identification of related matters. The Foundation understands that NCAT intends that the new management information system will recognise appeal matters as part of the original matter, and allow for stays and appeals to be matched to the original matter. Consideration could also be given to a revised NCAT numbering system for all matters whereby new actions (cross claims, stays, appeals etc.) reference one of the originating matters. For example, the appeal file number could be the original file number, with a digit appended as a suffix (e.g. 10446774.1).

Background

The AP was a feature of the Administrative Decisions Tribunal when it was established in 1998. Previously, parties to proceedings in the Consumer Trader and Tenancy Tribunal (CTTT) could only appeal on a limited basis to the District Court in certain matters or seek judicial review in the Supreme Court. The formation of the AP within NCAT sought to introduce an inexpensive and prompt system of internal appeals.[2]

Under sections 32 and 80 of the *Civil and Administrative Tribunal Act 2013* (NSW) (the Act), NCAT's AP allows parties to appeal, on a question of law or by leave, any decision:

- made by the Tribunal in proceedings for a general decision or an administrative review decision;
- made by a registrar of a kind that is internally appealable.

Most matters in the AP originate from the Consumer and Commercial Division (CCD), Administrative and Equal Opportunity Division (AEOD), the Occupational Division (OD) and the Guardianship Division (GD). Appeals arising from the GD were excluded from this review.

In the case of appeals from the CCD where leave is required, leave can only be granted if the AP is satisfied that the appellant may have suffered a substantial miscarriage of justice because:

- the decision was not fair and equitable;
- the decision was against the weight of the evidence; or
- significant new evidence has arisen (that was not reasonably available at the time of the original hearing).

The jurisdiction of the AP does not extend to certain decisions. These are listed in the *Civil and Administrative Tribunal Act 2013.*[3]

NCAT can also hear 'designated external appeals'. Appeals arising from external appeal are not included in this report.

Administration of the AP was brought onto NCAT's electronic CMS during the reporting year 2014/2015.[4]

[2] http://www.ncat.nsw.gov.au/Documents/speech_ncat_practice_and_procedure_20150529.pdf

[3] Civil and Administrative Tribunal Act 2013, section 32 'Internal appeal jurisdiction of Tribunal', http://www.austlii.edu.au/au/legis/nsw/consol_act/caata2013326/s32.html

[4] NCAT Annual Report 2014-2015, http://www.ncat.nsw.gov.au/Documents/ncat_annual_report_2014_2015.pdf

Lists in the AP

In 2015, there were 589 matters lodged and 473 matters finalised in the AP (excluding matters from the GD).

Matters are organised here by the 13 different lists from where the matter originated:

- AEOD Administrative
- AEOD Discrimination
- AEOD Revenue
- OD Administrative
- CCD Commercial
- CCD General
- CCD Home building
- CCD Motor vehicles
- CCD Residential parks
- CCD Retirement villages
- CCD Social housing
- CCD Strata & community schemes
- CCD Tenancy.

The GD is also a list in the AP, however the Foundation did not review these matters.

Lodging an appeal in the AP

Appeals can be lodged by post, over the counter at an NCAT registry, or at Service NSW[5] locations. Table 1, shows that the reviewed AP claims were most commonly lodged by post (80.3%). Relatively few appeals were lodged over the counter (11.4%) or by fax[6] (7.3%). Analysis of the CMS data indicates that a small number of appeals were lodged electronically. However, electronic filing is not available for AP matters; therefore this small number of cases may be the result of an online lodgement trial which the Foundation understands was run in the AP, or possibly data entry error.

Table 1: Lodgement method, CCD, AEOD & OD matters lodged in the AP, 2015

Lodgement Method		
	N	%
Post	473	80.3
Counter	67	11.4
Fax	43	7.3
Electronic (ESD)	5	0.8
Courier	1	0.2
Total	**589**	**100.0**

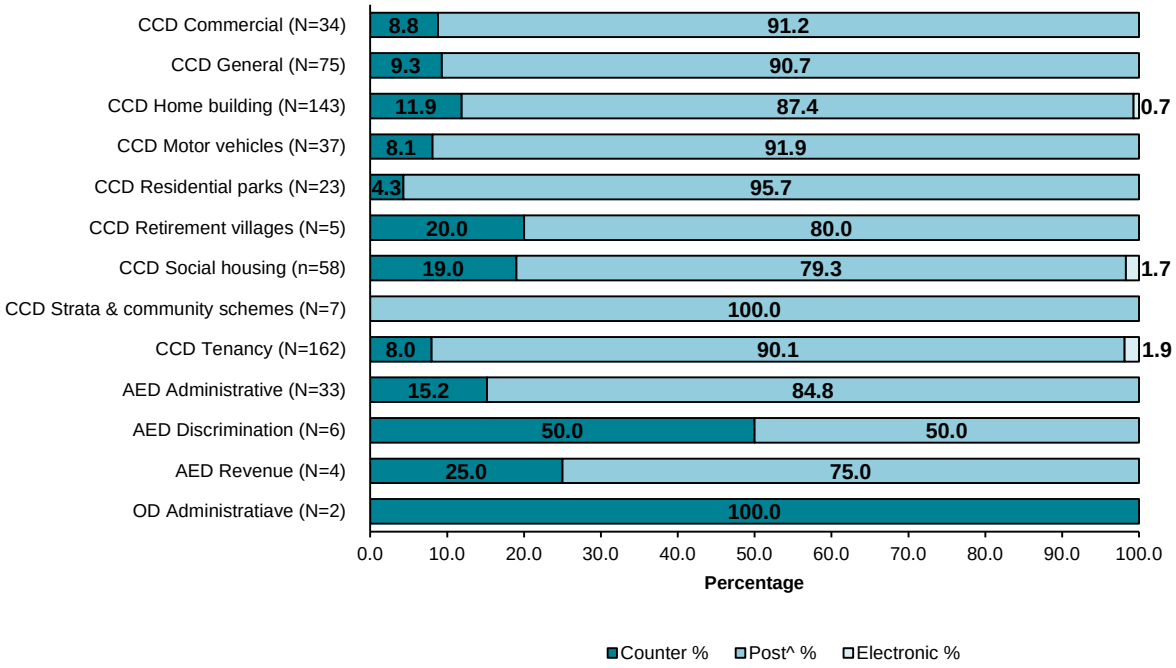
Source: AP CMS, matters lodged in 2015 (excluding GD).

[5] Service NSW is a 'gateway' to NSW Government transactional services.

[6] Lodgement by fax is no longer permitted in the AP.

Figure 1 shows the variation in lodgement method by list, though the total numbers of matters originating from some lists are very small. Focusing on the larger lists, nearly 20% of matters from the *CCD Social housing* list and 12% of matters in the CCD *Home building* list were lodged over the counter.

Figure 1: Lodgement method by list, CCD, AEOD & OD matters lodged in the AP, 2015



Source: AP CMS, matters lodged in 2015 (excluding GD).
Notes:^ Includes 9% of matters which were lodged by fax or courier.

1. What types of matter are heard by the AP?

What is a matter?

A matter in the AP arises when an appellant or their representative lodges a Notice of Appeal form. Unless an appellant is appealing a final or an ancillary decision of the Tribunal on a question of law only, the appellant needs to seek leave to appeal and give reasons. Appeals generally must be lodged within 28 days (or 14 days for some residential related matters originating from the CCD) of the appellant being notified of the original decision or being given written reasons for the decision, whichever is the later.[7]

A count of a matter in the AP reflects one appeal from the time of lodgement to finalisation. Any interlocutory applications related to the matter, such as request for extension of time or an application for a stay order against the original decision, are dealt with as part of the matter and not counted separately.

Types of matters dealt with

Information about the decision to be appealed is taken from the Notice of Appeal form lodged to commence a matter and entered onto CMS. The following information is recorded on the CMS about the matter:

- the Division in which decision being appealed was made
- the details of the decision of the completed proceedings, including NCAT file number
- the grounds for appeal
- the leave to appeal details
- extension of time details.

Of all reviewed AP matters lodged in 2015, Table 2 shows that together the *CCD Tenancy* and the CCD *Home building* lists make up approximately half (51.8%) of these. The *CCD Tenancy* list accounted for 27.5% of the 589 matters, followed by *CCD Home building* and CCD *General* at 24.3% and 12.7% respectively. The *AEOD Administrative* list accounted for 5.6% of the 589 CCD, AEOD & OD matters lodged in the AP during 2015. For matters originating out of the OD, the *OD Administrative* list accounted for 0.3% of the 589 lodged matters.

Of the 589 matters lodged in the AP in 2015, which exclude matters originating from the GD, 92% originated from the CCD, 7% originated from the AEOD and less than 1% originated from the OD (n=544, 43 and 2 respectively). These proportions are roughly in line with the number of matters dealt with by the originating Divisions. Excluding GD, CCD dealt with 97.3% of NCAT matters finalised in 2015 (57,653 matters); AEOD with 1.3% (776 matters) and OD with 0.4% (241 matters).

[7] NCAT, 2016, *NCAT Guideline 1: Internal appeals (March 2016)*, http://www.ncat.nsw.gov.au/Documents/ncat_guideline_internal_appeals.pdf

The CCD lists from which most matters in the AP originated were the *CCD Tenancy* (28%), *CCD Home building* (24%) and the *CCD General* list (13%). *CCD Home building* was over-represented compared to CCD where it made up only 5.3% of matters (or 5.2% of all NCAT matters excluding GD). *CCD Social housing* was under-represented, comprising 9.8% of AP matters, compared to 25.7% of CCD matters (or 25.0% of all NCAT matters excluding GD).

Table 2: CCD, AEOD & OD matters lodged in the AP, 2015

List	Matters lodged in 2015	
	N	%
CCD Tenancy	162	27.5
CCD Home building	143	24.3
CCD General	75	12.7
CCD Social housing	58	9.8
CCD Motor vehicles	37	6.3
CCD Commercial	34	5.8
CCD Residential parks	23	3.9
CCD Strata & community schemes	7	1.2
CCD Retirement villages	5	0.8
AEOD Administrative	33	5.6
AEOD Discrimination	6	1.0
AEOD Revenue	4	0.7
OD Administrative	2	0.3
Total	**589**	**100.0**

Source: AP CMS, matters lodged in 2015 (excluding GD).

Fees paid

When lodging a Notice of Appeal, the appeal lodgement fee must be paid. A Notice of Appeal will not be treated as properly lodged until the prescribed fee is paid. Some appellants are eligible for a fee waiver or a concessional rate (in limited circumstances).[8] On lodgement, parties need to identify whether they are a 'corporation' (rather than an individual) for the purpose of calculating fees.[9] Fee information does not appear in the AP CMS data that was provided to the Foundation.

The Foundation undertook a casefile review of 30 of the 589 AP matters lodged in 2015. Of those reviewed, a third (n=10) were rejected or dismissed for administrative reasons which could include non-payment of fees in the required time (particularly when there was a request for a concession involved) or for not submitting the required numbers of copies of the Notice of Appeal or other documentation.[10] Overall the data showed that 5.9% of matters were dismissed for non-payment of fees.

[8] NCAT, 2015, *Request for fee waiver,* http://www.ncat.nsw.gov.au/Documents/ncat_form_fee_waiver_request.pdf

[9] NCAT, 2016, *Fees and charges,* http://www.ncat.nsw.gov.au/Pages/apply_to_ncat/fees_and_charges/fees_and_charges.aspx

[10] Examples of each were found in the casefiles we reviewed.

Orders sought

Due to the nature of the AP, matters relate to a previous order being challenged on appeal on a question of law (or are granted leave to appeal). The Notice of Appeal form allows appellants to list the details of the decision being appealed including:

- NCAT file number
- date of decision
- date notice of decision was received
- the Division in which decision being appealed was made
- the details of the decision of the completed proceedings, including NCAT file number
- the grounds for appeal
- the leave to appeal details
- extension of time details.

There are fields in a separate section on the Notice of Appeal form for appellants or their representatives to fill out the orders challenged on appeal, the grounds for appeal and the orders the appellant believes the AP should make.

Reporting of the CMS data by list could allow NCAT to determine the nature of the matters that are being lodged in the AP. To capture further information about the nature of the matters in the AP, the order being appealed could also be reported in the data. The Foundation understands that the new management information system will recognise appeal matters as part of the original matter, and allow for stays and appeals to be associated with the original matter.

2. What is the monetary value of these matters?

The nature of the AP Division is that most matters relate to a previous order from the CCD, AEOD, OD or GD which is being challenged on appeal. The Notice of Appeal form asks appellants to detail the orders to be appealed but does not specifically ask for the monetary value of those orders.

It would be necessary to attach appeal information to the originating matter to determine the monetary value of the original matter. However, the value of the orders sought was only recorded on the CMS for four of the nine CCD lists (16% of all CCD matters) and not at all in the other Divisions. We recommend consideration be given to the collection of this information, where relevant, in a reportable form.

3. Who are the parties?

Information about the parties involved in any particular AP matter is drawn from the Notice of Appeal form completed by the appellant or their representative.[11] The information from the form is entered onto the CMS.

The following information about the parties can be recorded on the CMS:

- the names of each appellant and respondent
- the address and contact details for each appellant and respondent, including postcode
- the details for appellant and respondent representative details (if applicable)
- the details for any special needs for hearings
- the ACN for companies (but note while this information can be included, there is no dedicated field to enter an ACN).

Either the applicant or the respondent of the originating matter can submit an appeal. Currently it is not feasible from the CMS data to identify whether the appellant was the applicant or the respondent as this requires linking to the relevant originating matter (of which there may be more than one). Given the policy interest in understanding who uses the AP, we recommend that appellants are asked to indicate on their application whether they were the applicant or the respondent in the originating matter.

Appellants and respondents

This section reports information about the appellants and the respondents' entity type, namely:

- broad entity type (person v organisation) as recorded on the CMS
- detailed entity type (e.g. business, government) as identified by the Foundation.

Several of the 589 matters reviewed had multiple parties as appellants or respondents. The total number of matters with two or more appellants was 107 (18.2%) and the total number of matters with two or more respondents was 142 (24.1%).

Table 3: Single and multiple appellants and respondents, CCD, AEOD & OD matters lodged in the AP, 2015

Number of parties N=589	Appellants	Respondents
	%	%
1 party	81.8	75.9
2 or more parties	18.2	24.1
Total AP matters	**100.0**	**100.0**

Source: AP CMS, matters lodged in 2015 (excluding GD).

[11] There is one appeal form listed under the Appeals page on the NCAT website (Notice of Appeal). There are also other Appeal forms for Reply to Appeal and Stay of original decision pending appeal.

Persons or organisations

When lodging a matter in NCAT (including the AP), parties need to identify whether they are a 'corporation' (rather than an individual) for the purpose of calculating fees.[12] On the CMS, this appears as a field where parties are described as either a *person* or as an *organisation*. Companies, most businesses, government agencies and non-government organisations are all entered as 'organisations' in the AP data.

The Foundation reviewed and coded the entity type for each appellant and respondent of the 589 reviewed AP matters. This was used to provide a more detailed picture of the types of entities involved in AP matters.

Table 4 indicates the proportions of appellants and respondents in each list that we identified as organisations or persons. Overall, 72.3% of the appellants and 57.9% of respondents were identified as persons. This varied by list, with the vast majority of appellants in the *CCD Social housing* and *CCD Tenancy* lists being persons (91.4% and 92.6% respectively). There were also higher proportions of organisations as appellants in the *CCD Residential parks* list (78.3%) and *AEOD Revenue* list (75%).

Table 4: Appellants and Respondents by list and party type, CCD, AEOD & OD matters lodged in the AP, 2015

		Appellants		Respondents	
List		Person	Organisation	Person	Organisation
	N	%	%	%	%
CCD Tenancy	162	92.6	7.4	87.7	12.3
CCD Home building	143	66.4	33.6	58.7	41.3
CCD General	75	60.0	40.0	52.0	48.0
CCD Social housing	58	91.4	8.6	8.6	91.4
CCD Motor vehicles	37	54.1	45.9	40.5	59.5
CCD Commercial	34	58.8	41.2	64.7	35.3
CCD Residential parks	23	21.7	78.3	73.9	26.1
CCD Strata & community schemes	7	85.7	14.3	14.3	85.7
CCD Retirement villages	5	80.0	20.0	20.0	80.0
AEOD Administrative	33	63.6	36.4	30.3	69.7
AEOD Discrimination	6	83.3	16.7	66.7	33.3
AEOD Revenue	4	25.0	75.0	0.0	100.0
OD Administrative	2	50.0	50.0	50.0	50.0
Total	**589**	**72.3**	**27.7**	**57.9**	**42.1**

Source: AP CMS, matters lodged in 2015 (excluding GD) coded by LJF into entity types.
Note: Organisation includes those matters that had appellants (n=12 matters) /respondents (n=19 matters) from both organisations and individuals. Appellant total mixed n=12, respondent total mixed n=19.

[12] NCAT has a three-tiered fee structure. There is a 'standard fee', a 'corporation fee', and a reduced or concession fee for those on a pension, or those in receipt of a grant of legal aid or who are being assisted by a community legal centre. NCAT also has provision for fee waivers where in special circumstances NCAT will consider requests from appellants for the fee payment to be waived wholly or in part. (Source: NCAT website *fees and charges*).

When looking at respondents, almost all of the respondents in the *CCD Tenancy* list were persons (87.7%). Furthermore, all of the respondents in the *AEOD Revenue* list were identified as organisations (100%) and there were a higher proportion of organisations as respondents in the *CCD Social housing* list (91.4%).

A key factor relevant to the profile of appellants and respondents in the AP list will be the profile of parties in the original list. For instance, the pattern of individual appellants appealing decisions against organisational respondents in the AP *Social housing* list, reflects the high proportion of organisational applicants in the original list.

Who is seeking orders against whom?

Using the sample of 589 matters classified by detailed entity type, we explored who was taking action against whom in the AP. As indicated in Table 5, both appellants and respondents were most commonly individuals. Matters most commonly involved individuals against individuals (36.8%), followed by individuals against businesses/organisations (26.3%) and businesses/organisations against individuals (19.9%). Matters least commonly involved government against businesses/organisations (0.2%).

Table 5: Who is taking action against whom in the AP, percentage by entity type

Respondents	Individuals	Government	Business/ Organisation^	Total
Appellants	%	%	%	%
Individuals	36.8	9.3	26.3	72.5
Government	1.5	0.0	0.2	1.7
Business/Organisation^	19.9	1.7	4.2	25.8
Total	**58.2**	**11.0**	**30.7**	**100.0**

Source: AP CMS, matters lodged in 2015 (excluding GD) coded by LJF into entity type.
Note: ^ Business/organisation includes representing groups, construction businesses, leisure businesses, transport businesses, other businesses (including services, property, technology, retail, insurance, finance, agriculture), community housing, strata managers and owners and health and education organisations.

Improving the quality of information about parties

To report on further information about the parties in the AP, inclusion of the details of the parties from the original matter being appealed could also be reported in the data. The Foundation did not request information on the appellant or respondent type or fee information for the parties in the AP so are not able to draw any further conclusions.

ACN/ABN

The AP Notice of Appeal form does not currently have a discrete field in which to record the ACN for a company, and does not ask for an ABN. As it stands, the Notice of Appeal form allows space for appellants to complete details on full name, address and contact details for both the appellant and respondent. In the explanatory text for these fields, there is a note that states ‘If a company include Australian Company Number (ACN)’.

One potential benefit of recording ABNs/ACNs for all organisations is that data matching with the Australian Business Register would enable the consistent classification of these entities into categories. This is one way to profile organisations involved in matters within

the AP. The limitation of this approach is that the categories used by the ABR may not match the information needs of the Department of Justice NSW.

The Foundation is not aware if ABN or ACN details for organisations are carried over into the AP from their originating matters.

Entity type

As recommended in the Local Court report[13], to better understand the types of people and organisations using courts and tribunals, more detailed information is required on entity type. One approach is to have appellants or their representative select from a more detailed list of entity types, including, for instance:

- Commonwealth government or agency
- State government or agency
- Local government
- Not-for-profit/non-government organisation
- Business
- Individual
- Other (specify).

Any categories created need to be applicable across all courts and tribunals.

[13] Forell, S & Mirrlees-Black, C 2016 *Data insights in civil justice: NSW Local Court,* Law and Justice Foundation of NSW, Sydney

4. Are parties represented and by whom?

Representation in the AP

In the AP, representation is defined as, 'when another person (other than a party to the proceedings) presents a party's case at hearing' (NCAT AP Procedure Request for Representation).

The NCAT Guidelines state that parties are not automatically allowed to be represented for AP hearings and leave is required to obtain representation, with the exception of where the parties were entitled to be represented without leave at the original decision hearing.[14] Leave is required for representation for appeals against decisions of the GD and the CCD. Leave is not required for appeals against decisions of the AEOD and the OD except for certain community services matters.[12]

If granted, parties can be represented by a legal practitioner, a real estate agent on behalf of a landlord, an advocate, friend or relative with authorisation to act on behalf of a party.

Each paper file has a form for each hearing, on which attendance and representation at that hearing is recorded. This information is then entered into the CMS. As the Foundation did not request data on representation in AP, we are not able to draw any conclusions on the utility of this data.

[14] NCAT, 2016, *NCAT Guideline 1: Internal appeals (March 2016)*, http://www.ncat.nsw.gov.au/Documents/ncat_guideline_internal_appeals.pdf

5. How do matters progress to finalisation?

The NCAT Guidelines[15] state that appeals usually must be lodged within 28 days of the appellant being notified of the original decision or being given written reasons for the decision, whichever is the later. For some residential related matters originating from the CCD, the appeal must be lodged within 14 days of the appellant being notified of the original decision or being given reasons for the decision.

If a Notice of Appeal is lodged outside the relevant time period, the appellant must request an extension of time, otherwise the appeal may be dismissed. The AP may determine an extension of time on the papers, without an oral hearing. If an extension of time is requested, but is not granted, the appeal will be dismissed because it is out of time. This may be decided before the appeal is heard or it may be left to be decided at the final hearing of the appeal. Of the 589 CCD, AEOD & OD matters lodged in the AP in 2015, 1.9% (n=11) were dismissed because an extension of time was refused.

Although an appeal may be lodged against a decision, the original decision still holds and can be enforced unless the Tribunal grants a stay order. The appellant therefore can also apply for a stay order for the original decision, at the same time. Table 6 shows that of the 589 matters lodged, 41.4% of appellants applied for a stay order. The list with the highest proportion of stay order applications was *CCD Social housing* (60.3%).

Table 6: Number and percentage of stay order applications by list

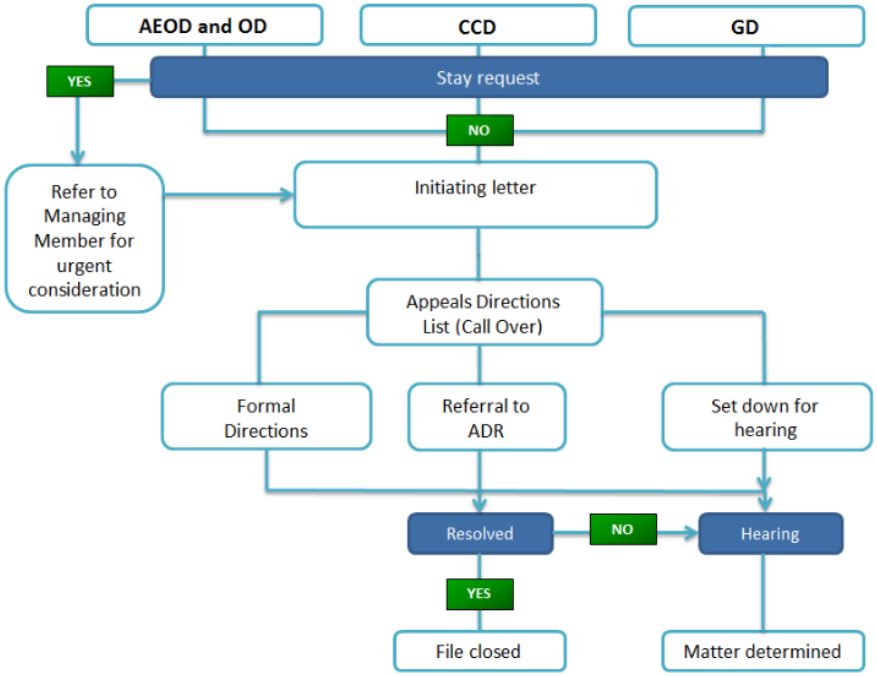
List	Total	No stay order application		Stay order application	
	N	N	%	N	%
CCD Tenancy	162	92	56.8	70	43.2
CCD Home building	143	83	58.0	60	42.0
CCD General	75	46	61.3	29	38.7
CCD Social housing	58	23	39.7	35	60.3
CCD Motor vehicles	37	22	59.5	15	40.5
CCD Commercial	34	19	55.9	15	44.1
CCD Residential parks	23	21	91.3	2	8.7
CCD Strata & community schemes	7	6	85.7	1	14.3
CCD Retirement villages	5	4	80.0	1	20.0
AEOD Administrative	33	20	60.6	13	39.4
AEOD Discrimination	6	4	66.7	2	33.3
AEOD Revenue	4	3	75.0	1	25.0
OD Administrative	2	2	100.0	0	0.0
Total	**589**	**345**	**58.6**	**244**	**41.4**

Source: AP CMS, matters lodged in 2015 (excluding GD).

[15] NCAT, 2016, *NCAT Guideline 1: Internal appeals (March 2016)*, http://www.ncat.nsw.gov.au/Documents/ncat_guideline_internal_appeals.pdf

Figure 2 shows the 'appeal process diagram' from the NCAT Guidelines Internal appeals documentation. This diagram may not fully reflect all the stages and pathways in and out of the AP, nor the history or process of the matter before it comes before the AP but it provides a useful overview.

Figure 2: Appeal process diagram once matter has been lodged, NCAT Guidelines 1, Internal appeals (March 2016).



Source: NCAT Guidelines 1, Internal appeals (March 2016), page 13. Note that lodgement of the appeal (not included in the process diagram) occurs prior to, or in tandem with, the stay request.

Mode of finalisation

AP matters can be finalised by Members either on the papers or at a hearing, which the parties can attend. Our analysis indicated a high proportion finalising on paper (63%) which will partly reflect that not all the matters lodged had yet finalised. However, we are also informed by NCAT that this figure is far higher than expected and that this is probably due to the incorrect use of the *on paper* code in the CMS. They have informed us that the actual proportion is likely to be far lower (less than 16%). Given the limited utility of this data we have not presented here any further analysis, such as differences in outcome according to the mode of finalisation, though this would be feasible in practice.

6. Do parties attend hearings?

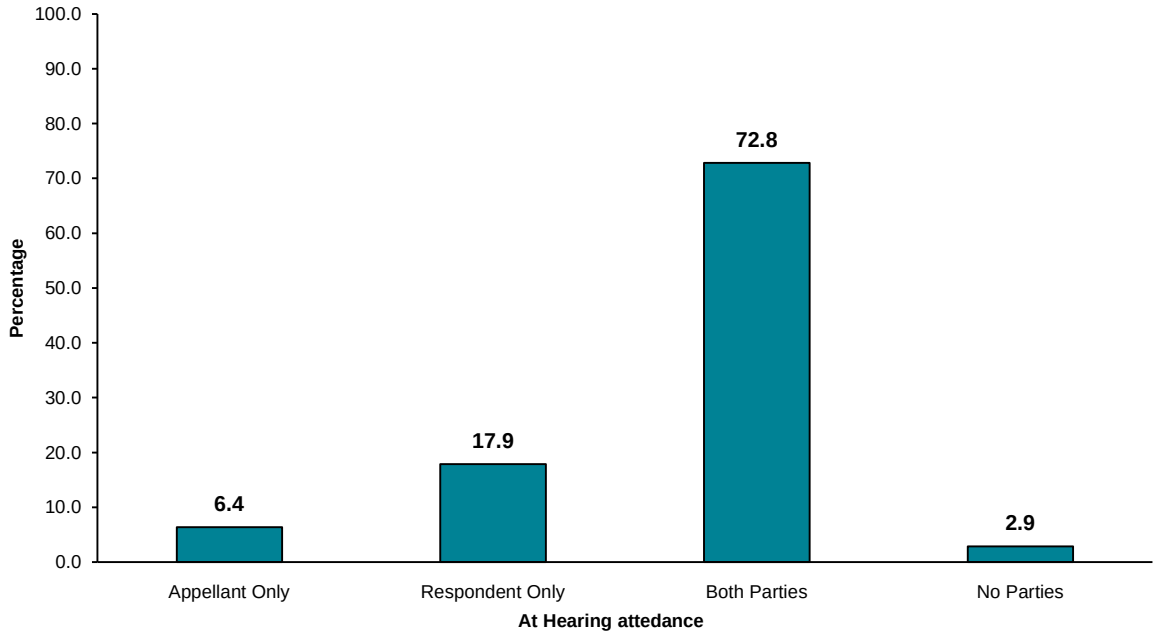
As noted above, matters in the AP are finalised either on paper or at hearing. Each paper file has a form for hearings, on which attendance and representation is recorded. Based on the forms, attendance by the parties is recorded on the CMS for each hearing. Appearance is recorded on the CMS as:

- Applicant only
- Respondent only
- Both parties
- No parties

Of the 173 AP matters recorded on the CMS as being finalised at a hearing rather than on paper: 72.8% were attended by both parties; 17.9% were attended by the respondent only; 6.4% were attended by the appellant only; and 2.9% were not attended by either party (Figure 3). However, as we are informed there has been a recording error on the CMS which has resulted in an undercount of hearings (relative to on paper finalisations), the findings on who attends hearings presented here may not give the full picture.

Although attendance is recorded on the CMS, our review identified some limitations to the utility of this information for policy purposes arising from how the information was initially recorded (on paper forms) and limited detail about who was actually in attendance (an individual party, an officer of an organisational party, an agent). This is discussed further in our report on the CCD.

Figure 3: Hearing attendance, for CCD, AEOD & OD matters lodged and finalised by end March 2016 in the AP for those matters recorded on the CMS as finalised at a hearing, 2015



Source: AP CMS, matters lodged in 2015 (excluding GD) which were recorded as finalised at a hearing. (n=173).

Note: We are informed by NCAT that this is likely to be an under-count of the number of matters finalised at hearing, due to recording error. These findings should not therefore be relied upon.

7. How are AP matters finalised or resolved?

During 2015 changes were made to the way that the outcomes of AP matters were recorded and this transition was evident in the data. Rather than simply being recorded in broad categories of *Allowed* or *Dismissed,* more detailed categories were introduced which better describe the reason for appeals to be allowed or dismissed. This change improves the utility of the data for policy making, particularly as the reasons for dismissal can indicate quite different outcomes for the parties (e.g. *Dismissed – Application misconceived* compared to *Dismissed – By consent*).

We therefore reviewed all the 124 matters that had been allocated to the broad *AP-Dismissed* category and 13 of the 23 matters in the *AP-Allowed* category and reallocated them to the more detailed categories. The results of doing this are shown in Table 7.[16] Of the 473 matters that were finalised by the end of March 2016, 79.1% had been dismissed, and most commonly this was because the appeal had been withdrawn by the appellant. However, looking just at matters that had finalised within a restricted time period is not representative of all matters, as some types of outcome (such as dismissal for non-payment of fees) happen much more quickly than others. Figures provided by NCAT for the 2015–2016 financial year indicate that 30.6% of matters were allowed, 55.9% dismissed and 13.3% withdrawn.

Table 7: Finalised orders for CCD, AEOD & OD matters lodged in the AP in 2015 that had finalised by end March 2016, as recorded on the CMS and revised LJF analysis

Final order type	CMS		Revised	
	N=589	%	N=589	%
AP-Allowed	23	3.9	11	1.9
AP-Allowed – Matter remitted in full or part	43	7.3	48	8.1
AP-Allowed – Order varied or substituted	30	5.1	37	6.3
AP-Dismissed^	140	23.8	38	6.5
AP-Dismissed – After Hearing	143	24.3	143	24.3
AP-Dismissed – Application misconceived	1	0.2	1	0.2
AP-Dismissed – Application withdrawn	49	8.3	90	15.3
AP-Dismissed – By consent	-	-	4	0.7
AP-Dismissed – Extension of time refused	11	1.9	19	3.2
AP-Dismissed – For want of prosecution	2	0.3	2	0.3
AP-Dismissed – Leave to appeal refused	-	-	14	2.4
AP-Dismissed – No grounds for appeal	-	-	9	1.5
AP-Dismissed – Non-appearance of Appellant	14	2.4	26	4.4
AP-Dismissed – Non-payment of fees	14	2.4	28	4.8
Costs Order	2	0.3	2	0.3

[16] Where a matter had more than one order indicated as the final order in the CMS, the order that had the same date as the finalised date is reported here.

Final order type	CMS		Revised	
	N=589	%	N=589	%
Notice of Order	1	0.2	1	0.2
Matters not yet finalised	116	19.7	116	19.7

Source: AP CMS, matters lodged in 2015 (excluding GD) & LJF AP casefile analysis of AP-Allowed and AP-Dismissed outcomes.
Note^: Includes 1 matter coded as dismissed in the AP CMS, but matter was part remitted/varied and 3 matters coded as dismissed in the AP CMS, but the order was part varied or substituted.

It is feasible to determine the outcome of matters by list type using these revised categories. However, given the limitations of the only part finalised set of matters, we report here only the outcomes at the broadest levels (Table 8). We caution that these findings cannot be used as an indication of the chance of success of an appeal as we do not know how the not yet finalised cases will resolve.

Table 8: Final order types for CCD, AEOD & OD matters lodged in the AP, 2015 by list

List	Lodged	AP-Allowed	AP-Dismissed	Other order^	Not yet finalised
	N	%	%	%	%
CCD Tenancy	162	9.3	80.2	0.6	9.9
CCD Home building	143	18.9	54.5	0.7	25.9
CCD General	75	14.7	62.7	0.0	22.7
CCD Social housing	58	17.2	60.3	0.0	22.4
CCD Motor vehicles	37	18.9	48.6	0.0	32.4
CCD Commercial	34	26.5	52.9	0.0	20.6
CCD Residential parks	23	39.1	60.9	0.0	0.0
CCD Strata & community schemes	7	14.3	71.4	0.0	14.3
CCD Retirement villages	5	0.0	80.0	0.0	20.0
AEOD Administrative	33	15.2	57.6	3.0	24.2
AEOD Discrimination	6	16.7	50.0	0.0	33.3
AEOD Revenue	4	0.0	50.0	0.0	50.0
OD Administrative	2	50.0	50.0	0.0	0.0
Total	**589**	**16.3**	**63.5**	**0.5**	**19.7**

Source: AP CMS, matters lodged in 2015 (excluding GD).
Note: ^ Other order includes Costs Order and Notice of Order.
Note: * Some separate Residential parks matters in 2015 were heard together as they were effectively only one matter.

The AP CMS also includes a separate consent flag, which can be useful in recognising that the parties may consent to a range of tribunal outcomes. However, our analysis suggested that this could not be relied on to identify AP matters resolved by consent. For instance, only three of the four matters recorded as *AP-Dismissed – By consent* had the consent flag (Table 9). Also, as there is no requirement that applicants explain their reason for withdrawing matters, it is likely that some of these are settled by consent without the Tribunal being aware.

Table 9: Finalised orders with consent flag for matters lodged in the AP in 2015, as recorded on the CMS and revised LJF analysis

Final order type	Total	With consent	Without consent
	N	%	%
AP-Allowed	11	18.2	81.8
AP-Allowed – Matter remitted in full or part	48	8.3	91.7
AP-Allowed – Order varied or substituted	37	27.0	73.0
AP-Dismissed	34	5.9	94.1
AP-Dismissed – After Hearing	143	4.2	95.8
AP-Dismissed – Application misconceived / For want of prosecution / Matter remitted in full or in part	4	0.0	100.0
AP-Dismissed – Application withdrawn	90	15.6	84.4
AP-Dismissed – By consent	4	75.0	25.0
AP-Dismissed – Extension of time refused	19	0.0	100.0
AP-Dismissed – Leave to appeal refused	14	0.0	100.0
AP-Dismissed – No grounds for appeal	9	11.1	88.9
AP-Dismissed – Non-appearance of Appellant	26	0.0	100.0
AP-Dismissed – Non-payment of fees	28	0.0	100.0
AP-Dismissed – Order varied or substituted	3	0.0	100.0
Other orders	3	33.3	66.7
Total finalised matters	**473**	**9.1**	**90.1**
Matters not finalised by end March 2016	116		
Total matters lodged in 2015	**589**		

Source: AP CMS, matters lodged and finalised in 2015 (excluding GD), with LJF recoding of CMS broad outcome categories.

8. How long do AP matters take to finalise?

In the AP, a matter commences with the lodgement of an appeal via a Notice of Appeal and may involve several interlocutory orders, including a stay order, and finalises when a decision is made. Of course, most of these matters actually commenced some time previously in another NCAT Division and it should in theory be feasible to measure the time from lodgement in the originating Division, though we have not done that here.[17] The CMS does, though, include the finalisation date of the originating matter.

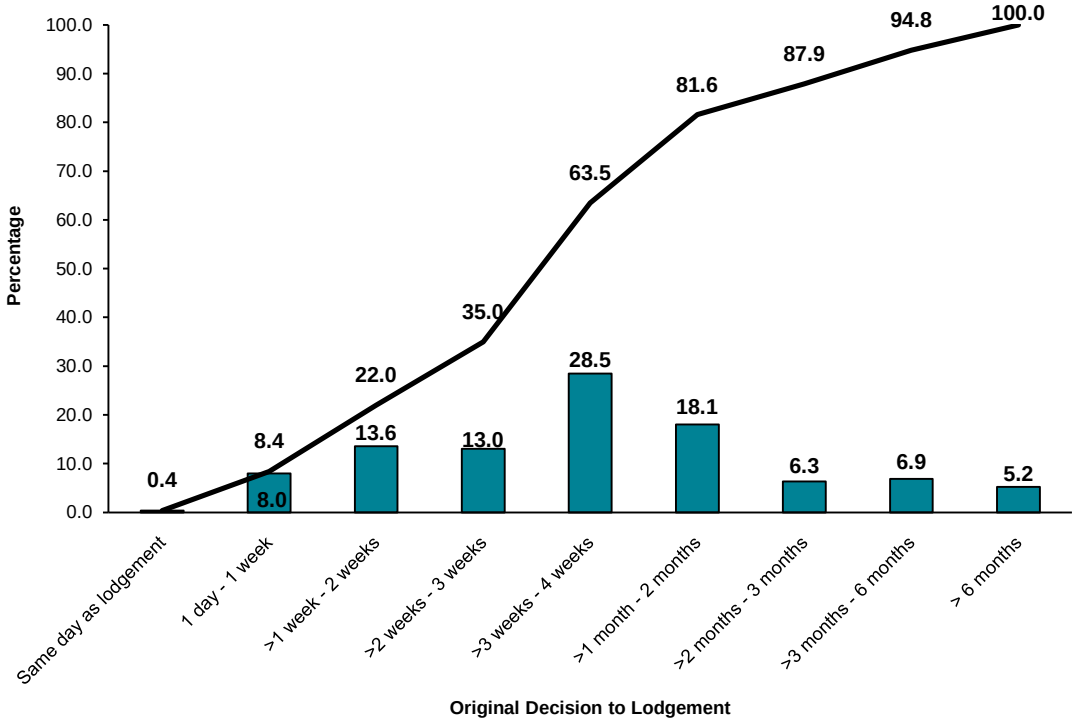
Time from originating matter decision date to appeal lodgement date

Of the 589 CCD, AEOD & OD appeal matters which were lodged in 2015, 537 had a valid originating matter decision date recorded.[18] Just under two-thirds (63.5%) lodged an appeal within 1 month and nearly had done so within 6 months (94.8%) (Figure 4). The average number of days between original decision date and lodgement of the appeal was 53. Although this is nearly double the 28 days the NCAT Guidelines state that an appeal must be lodged within (14 for some residential related matters originating from the CCD), that date can either be the original decision date or the date on which written reasons for the decision were received – whichever is the later. We have not assessed whether the CMS records the latter date.

[17] Our attempt to match AP matters to their originating matter indicated that they could be associated with more than one originating matter, and that originating matters can be associated with more than one appeal. We have not presented findings on matched cases as the findings reported here show that a longer than 3 month follow up is required to capture all matters that go to appeal.

[18] The remaining 52 did not have an original decision date recorded (n=47) or the date was after the appeal lodgement date (n=5).

Figure 4: Length of time from original decision to AP lodgement (percentage)



Source: AP CMS, matters lodged in 2015 (excluding GD) with a valid date range (n=537).

The time between the original decision date and the lodgement of the appeal varied by type of matter (Table 10). *CCD Strata & community schemes* had the longest average time at 142 days, followed by *AEOD Administrative review matters*, which took an average of 72 days. The shortest times were for the four *AEOD Discrimination* matters which averaged 17 days (and all within a month).

Table 10: Time from original decision date to lodgement date (number, average and cumulative percentage), by list

			Cumulative percentage	
		Average number of days	Within 1 month	Within 3 months
	N	m	%	%
CCD Tenancy	150	42	66.7	89.3
CCD Home building	136	68	60.3	83.1
CCD General	73	51	64.4	94.5
CCD Social housing	52	32	59.6	92.3
CCD Motor vehicles	35	41	68.6	91.4
CCD Commercial	34	67	55.9	76.5
CCD Strata & community schemes	7	142	57.1	71.4
CCD Residential parks	6	43	66.7	83.3
CCD Retirement villages	5	28	80.0	100.0
AEOD Administrative	29	72	58.6	86.2
AEOD Discrimination	4	17	100.0	100.0

			Cumulative percentage	
		Average number of days	Within 1 month	Within 3 months
	N	m	%	%
AEOD Revenue	4	28	100.0	100.0
OD Administrative	2	42	50.0	100.0

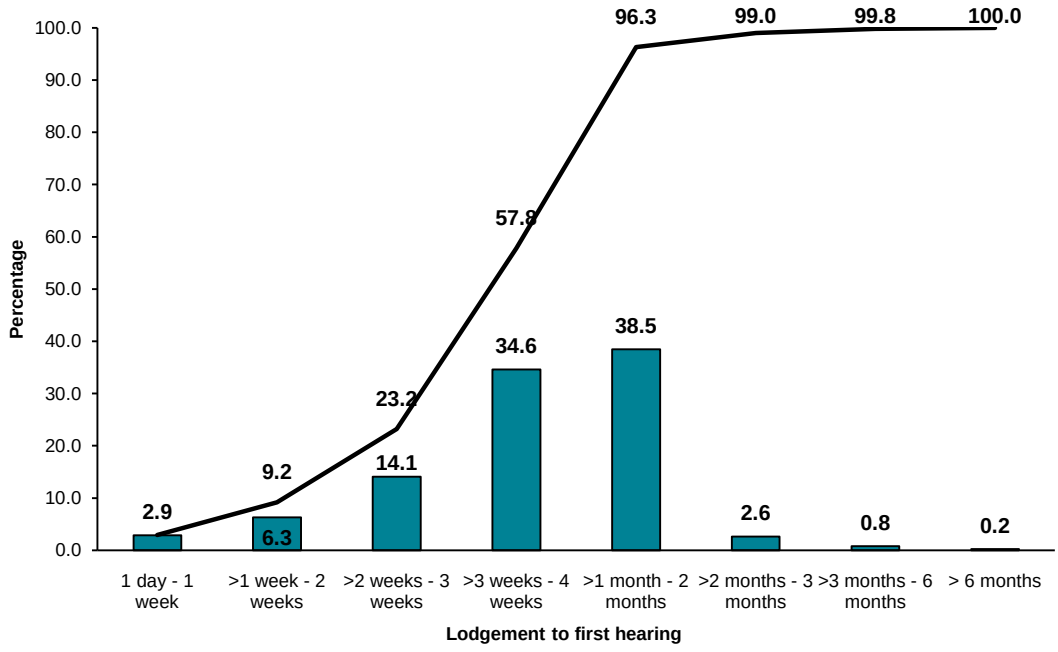
Source: AP CMS, all matters lodged in 2015 (excluding GD) with a valid date range (n=537).
Note: The remaining 52 did not have an original decision date recorded (n=47) or the date was after the appeal lodgement date (n=5).

Time from lodgement to first listing

The date for first listing is set once documentation and fees have been received. In some cases it can be affected by other factors, such as awaiting the outcome of a related matter in another jurisdiction. Of the 589 CCD, AEOD & OD appeal matters lodged in 2015, 491 had a first listing date recorded on the CMS. A review of the events for the 98 remaining matters indicates they were often dismissed for non-payment of fees, withdrawn before listing or bundled for listing with other matters.[19]

For those matters with a listing date, the average number of days from lodgement to first listing was 31. The longest period of time for a matter was over 8 months (253 days). Just over half (57.8%) of matters progressed to listing within a month, and nearly all had a first listing within 3 months (99.0%) (Figure 5).

Figure 5: Length of time from lodgement to first listing (percentage)



Source: AP CMS, matters lodged in 2015 (excluding GD) with a first listing recorded (n=491).

[19] Five of the 98 matters without a listing date had not yet finalised. 1 matter had a listing date prior to lodgement date and so has been defined as missing here.

The average number of days from lodgement to first listing varied by list, though most averaged around the 30 day mark (Table 11). Matters originating in *AEOD Discrimination* took the longest on average at 78 days.

Table 11: Time from lodgement to first listing), by list

			Percentage		
List		Average number of days	Within 1 month	Within 1 - 3 months	Greater than 3 months
	N	m	%	%	%
CCD Tenancy	133	27	63.2	36.8	0.0
CCD Home building	131	34	55.0	42.0	3.1
CCD General	62	29	61.3	38.7	0.0
CCD Social housing	50	26	62.0	38.0	0.0
CCD Motor vehicles	34	31	52.9	47.1	0.0
CCD Commercial	31	31	48.4	51.6	0.0
CCD Residential parks	5	35	20.0	80.0	0.0
CCD Strata & community schemes	4	30	50.0	50.0	0.0
CCD Retirement villages	4	32	50.0	50.0	0.0
AEOD Administrative	26	31	53.8	46.2	0.0
AEOD Discrimination	5	78	60.0	20.0	20.0
AEOD Revenue	4	36	75.0	25.0	0.0
OD Administrative	2	29	50.0	50.0	0.0

Source: AP CMS, matters lodged in 2015 (excluding GD) with both a lodgement date and a first listing date in the AP CMS (n=491).
Note: A first listing date was available for 492 matters, 97 did not have one. An additional case was dropped from analysis as its first listing date was prior to its lodgement date.

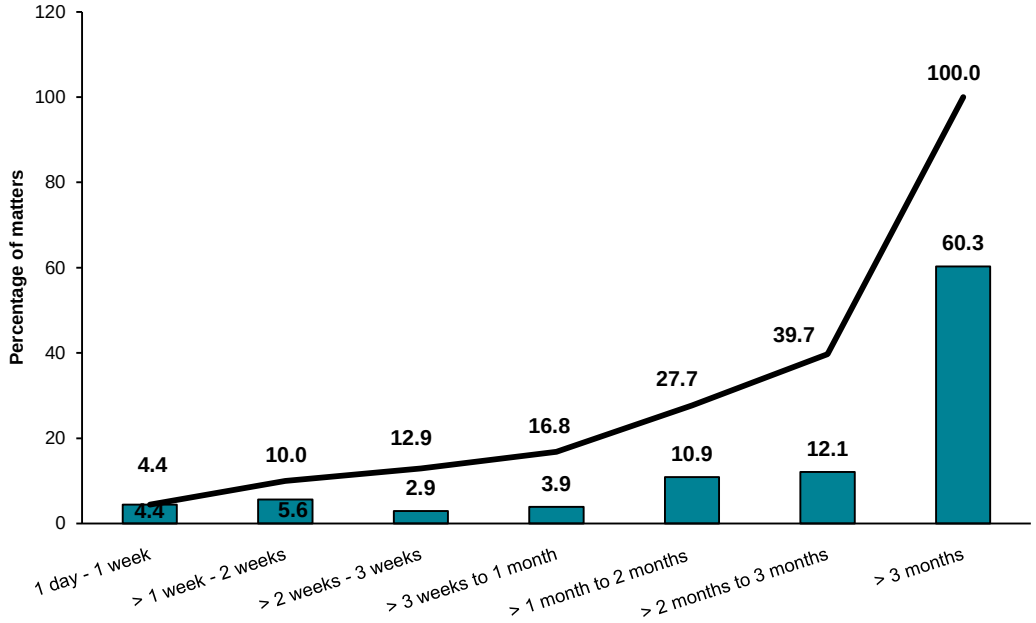
Time from lodgement to finalisation

Not all matters lodged in AP during 2015 had finalised by the end of March 2016, which was the period for which data was available at the time we requested it. Of the 589 CCD, AEOD & OD matters lodged, 473 (80.3%) had finalised. Those that had not, were taking more than 3 months to finalise. Figure 6 shows that 16.8% of all matters lodged had finalised within a month, and 39.7% within 3 months, with the remainder taking more than 3 months.

Time to finalisation varies by list, with all AEOD Revenue and *OD Administrative* matters taking longer than 3 months, compared to a half or less of *CCD Social housing* and *CCD Tenancy* matters (Table 12).[20]

[20] As not all matters had finalised, average time to finalisation could not be calculated..

Figure 6: Time from lodgement to finalisation for all matters lodged in AP in 2015 (excluding GD)



Source: AP CMS, matters lodged in 2015 (excluding GD) finalised prior to end March (n=473).

Table 12: Time from lodgement to finalisation for matters lodged in AP in 2015

		Within 1 month	Between 1 and 3 months	More than 3 months
	N	%	%	%
CCD Tenancy	162	24.1	32.1	43.8
CCD Home building	143	10.5	18.2	71.3
CCD General	75	14.7	22.7	62.7
CCD Social housing	58	25.9	24.1	50.0
CCD Motor vehicles	37	8.1	24.3	67.6
CCD Commercial	34	2.9	29.4	67.6
CCD Residential parks	23	8.7	4.3	87.0
CCD Strata & community schemes	7	42.9	0.0	57.1
CCD Retirement villages	5	20.0	20.0	60.0
AEOD Administrative	33	24.2	12.1	63.6
AEOD Discrimination	6	16.7	16.7	66.7
AEOD Revenue	4	0.0	0.0	100.0
OD Administrative	2	0.0	0.0	100.0
All AP	**589**	**16.8**	**22.9**	**60.3**

Source: AP CMS matters lodged in 2015 (excluding GD).

Note: Matters that had not finalised after a 3 month follow up are included in the 'more than 3 month' category.

Technical Note

Data from CMS

Data was provided for all matters lodged, by whatever means, during 2015. The fields provided for analysis are shown in Table AX. *APPEAL MATTER ID* is the linking field. There may be additional fields that we did not request, or were not provided with, that could also be of value in understanding the business of AP.

Table AX Data tables and Field names provided from CMS

Matters	Orders	Listings	Related substantive	Substantive and related	Events
APPEAL MATTER ID	APPEAL MATTER ID	APPEAL MATTER ID	APPEAL_MATTER_ID	MATTER ID	APPEAL MATTER ID
APPEAL MATTER NUMBER	APPEAL MATTER NUMBER	APPEAL MATTER NUMBER	APPEAL_MATTER_NUMBER	MATTER NUMBER	EVENT DATE TIME
DIVISION DESC	DIVISION DESC	DIVISION DESC	RELATED_MATTER_ID	DIVISION DESC	EVENT TYPE
LIST	ORDER DATE	HEARING TYPE	RELATED_NON_CMS_MATTER_NUM	LIST	MATTER PREVIOUS STATUS
APPEAL LODGEMENT DATE	ORDER DESCRIPTION	HEARING LOCATION POSTCODE	SUBSTANTIVE_FLAG	CLASSIFICATION	MATTER NEXT/CURRENT STATUS
LODGEMENT METHOD	APPEARANCE	HEARING LOCATION		ORDER SOUGHT	EVENT DESCRIPTION
MATTER CURRENT STATUS	CONSENT FLAG	LISTING DATE		FINALISED DATE	
DATE ORIGINAL DECISION MA	ORDER MODE	LISTING TIME		FIRST HEARING DATE	
STATUTORY JURISDICTION	FINAL ORDER	LISTING DURATION		NUM LISTINGS	
STAY OF ORIGINAL DECISION REQUESTED	REASON FOR ADJOURNMEN	LISTING STATUS DESC		FINALISED ORDER	
FIRST HEARING DATE		SPECIALNOTES		FINALISED LOCATION	
FINALISED DATE				APPLICANTS	
FINALISED ORDER				RESPONDENTS	
Applicants				APPLICANT LANGUAGE	
Respondents				RESPONDENT LANGUAGE	

Casefiles

A sample of 30 casefiles was drawn from the 589 matters lodged in 2015. This provided at least some matters from each of the main categories of case type.

Entity coding

The appellant and respondent for all AP matters (excluding GD) were coded into entity type categories using the same codes as used for the entity coding in the other NCAT Divisions.

Final outcome coding

The final order codes for all matters were also recoded.