

The Motor Accidents Compensation Tribunal

Annual Report

2020/2021



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1 Overview

As at 5 November 2021, the Motor Accidents Compensation Tribunal (MACT) is scheduled to formally become part of the Tasmanian Civil and Administrative Tribunal (TASCAT), which will be formed through the amalgamation of nine existing tribunals and a board into one statutory tribunal. It will join the existing seven other CATs or “Super Tribunals” that already exist in each other State and Territory.

The nine bodies to be amalgamated in TASCAT are:

1. Motor Accidents Compensation Tribunal (MACT);
2. Workers Rehabilitation and Compensation Tribunal (WRCT);
3. Asbestos Compensation Tribunal (ACT);
4. Health Practitioners Tribunal (HPT);
5. Anti-Discrimination Tribunal (ADT);
6. Resource Management and Planning Appeal Tribunal (RMPAT);
7. Forest Practices Tribunal (FPT);
8. Mental Health Tribunal (MHT); and
9. Guardian and Administration Board (GAB).

The work of the existing tribunals and board will continue largely unchanged once TASCAT commences.

The primary difference being that each of the jurisdictions will come under the umbrella of one organisation with a leadership structure headed up by a President, supported by Deputy Presidents and Principal Registrar, supported by Deputy Registrars.

Like the MACT, TASCAT will remain an independent quasi-judicial tribunal, separate to government.

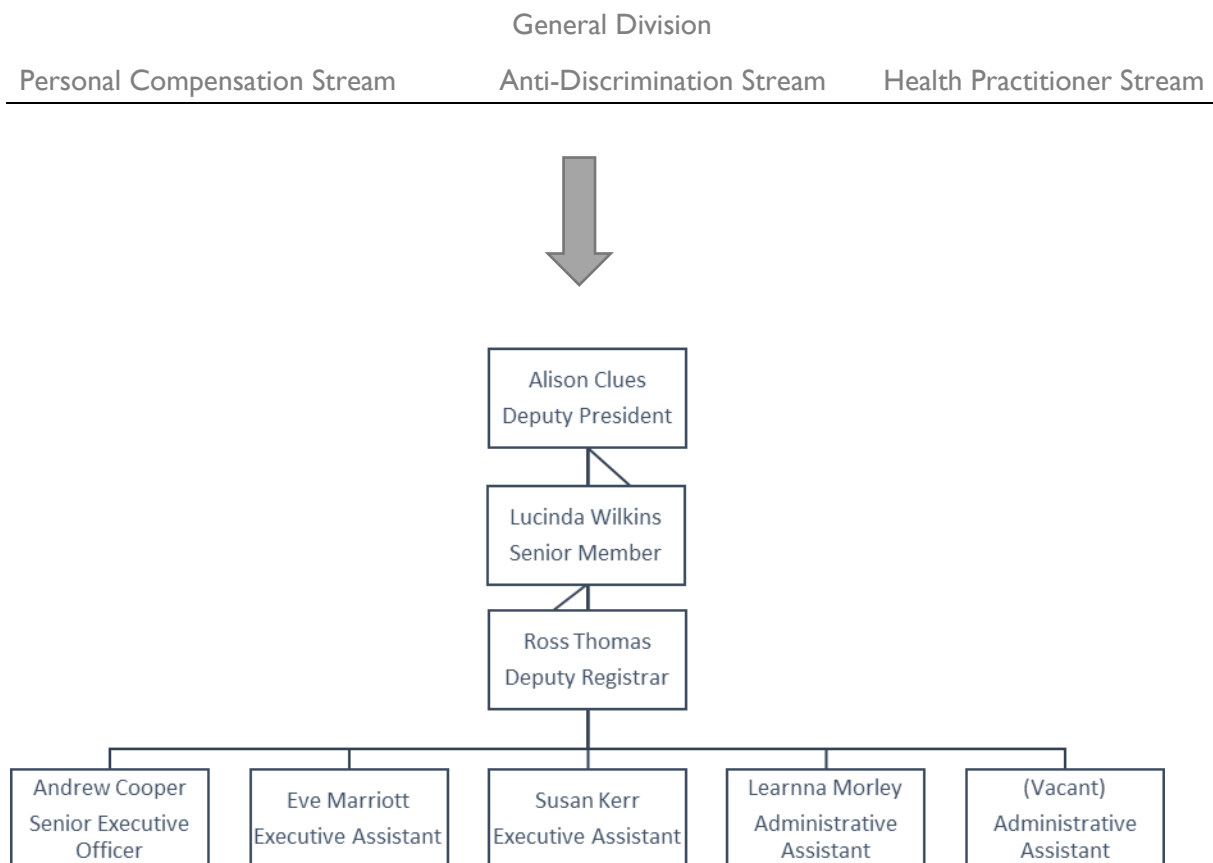
TASCAT is to be established on 1 November 2021. The actual commencement date will be the date of Royal Assent which is scheduled for 5 November 2021. The individual tribunals and board will continue to operate in the usual way between those two dates. On commencement day, full amalgamation (including the abolishment of the old tribunals and board) takes effect.

When TASCAT commences, MACT will become part of the General Division – Personal Compensation Stream.

The Personal Compensation Stream also includes the WRCT and the ACT. The administration and operation of the MACT and the ACT are conducted by the WRCT personnel.

The WRCT personnel, also administer and operate the HPT and the ADT, both of which will be part of the General Division – Health Practitioners Stream and Anti-Discrimination Stream respectively.

I.1 Human Resources of WRCT and MACT (when they become part of TASCAT)



I.2 The MACT in 2020/2021

The Motor Accidents Compensation Tribunal (MACT) is an independent statutory tribunal established under the *Motor Accidents (Liabilities and Compensation) Act 1973* (the Act). The MACT's function is to resolve or determine disputes between the Motor Accidents Insurance Board (MAIB) and any person with respect to the payment of no fault benefits under the Act and the *Motor Accidents (Liabilities and Compensation) Regulations 2010* (the Regulations). The benefits which are payable are set out in Schedule 1 to the Regulations which is entitled Scheduled Benefits.

If the MAIB has determined:

- a person is not to be treated as a person within a class of persons to whom scheduled benefits may be paid,
- a person is not to be paid a scheduled benefit,
- the amount of any scheduled benefit to be paid to a person,

or the MAIB:

- has refused or failed to make a payment of a scheduled benefit (medical account, funeral benefit, death benefit, disability allowance, disability benefit or counselling service),

then the person aggrieved by the MAIB's determination, refusal or failure may refer that matter to the MACT. The referral is to be made within 14 days of receiving notice of the MAIB's determination, refusal or failure or such further period as the MACT may, upon application, determine.

The MAIB is also entitled to refer to the MACT any matter affecting:

- the right of a person to a scheduled benefit, or
- the amount of any scheduled benefit.

2 Constitution of the MACT

The MACT is currently constituted by the Chief Commissioner of the WRCT (Alison Clues) who is the Chairperson and the Commissioner of the WRCT (Lucinda Wilkins) who is a member of the MACT. Both the Chairperson and the member fulfill the requirements of the the *Motor Accidents (Liabilities and Compensation) Act 1973* in that they are Australian lawyers of at least 5 years standing as Australian legal practitioners. The Chief Commissioner (Chairperson) and the Commissioner (member) are both appointed on a full-time basis.

The administration and operation of the MACT is conducted by staff of the WRCT.

The MACT, the ACT, the HPT and the ADT are all supported by the WRCT.

4 Tribunal Accommodation

In July 2020, the MACT and the other tribunals that are operated and administered by the WRCT relocated with the other tribunals and board that form TASCAT to a purpose built and accessible premises located at 38 Barrack Street, Hobart.

Through the WRCT the MACT also has available to it premises suitable for hearings and conciliations at 1/111 St John Street, Launceston. These rooms are also made available to other tribunals.

If a conciliation is required in a matter where the claimant is based on the North West Coast then rooms at the Devonport Community & Health Services Centre at 23 Steele Street, Devonport are utilised.

Video and telephone conferencing as well as recording facilities are available at the premises in Hobart and Launceston.

5 Referrals to the Tribunal 2020/2021

The MACT received 12 referrals in the 2020/2021 financial year. Of those referrals 3 were finalised in that financial year and there was one substantive hearing. A further 6 matters which were filed in previous financial years were also finalised in the 2020/2021 financial year. There are only 13 matters in this Tribunal which are yet to be finalised.

6 Conciliation

The MACT maintains conciliation as the primary method of resolving disputes. Insofar as is possible the WRCT has attempted to standardise the procedures applicable to all jurisdictions that it currently hosts. Upon receipt of a referral the MACT will conduct one or more pre-reference conferences by telephone or in person. During this stage directions will be given to ensure both parties take whatever steps are necessary to prepare their case. At the conclusion of this process the intention is that the issue to be determined is either highlighted or conceded and, if not conceded, then disputed facts are identified and medical opinion obtained. Then the matter will be referred to a conciliation conference. If a matter does not resolve at that stage it will be listed for an arbitrated hearing at the location closest to where the claimant resides.

7 Appeals to the Supreme Court of Tasmania

There were no appeals to the Supreme Court in the 2020/2021 financial year. There was one Judicial Review application which was dismissed.

8 Report on Financial Statement

The MACT does not have its own budget. Work it performs is recovered by the WRCT from the Department of Justice in accordance with an agreement between those entities on a fixed fee for service basis.

An allocation of \$10,716 was made by the Department of Justice in 2020/2021 to cover the administrative costs of the MACT which is shared with the HPT.

This financial arrangement requires updating in order that there is a transparent accounting process to ensure that the WRCT (which is not funded by Consolidated Revenue) is not subsidising the operation of the MACT

In 2017 the Department of Justice engaged KPMG to conduct an audit of the funding and accounting of the various tribunals overseen by the Chief Commissioner of the WRCT. The audit considered the application of, and accounting for, the funds provided to support the various activities of the tribunals under the responsibility of the Chief Commissioner of the WRCT to ensure such funds were being applied in compliance with current policies and legislative requirements of the various tribunals. The audit was finalised in February 2018. The audit considered the current procedures for the recovery by the WRCT of the cost of work done in other tribunals and found overall the procedures used to account for tribunals' funds are effective. However, the previous Chairperson suggested a move away from the accounting and reimbursement method set out in the agreement to the provision of an annual contribution to the budget of the WRCT. This approach has been adopted with respect to the ADT. It will not only reduce red tape but it will save time for both Tribunal and Departmental staff. I support direct budget allocation.

The budget will need to be reviewed upon the formal amalgamation of all tribunals scheduled for 5 November 2021.

9 Decisions of the Tribunal

The MACT's determinations in relation to Inquiries are published on <http://www.austlii.edu.au/cgi-bin/viewdb/au/cases/tas/TASADT/>

One decision was published during the 2020/2021 financial year.

10 Intent for 2020/2021

To continue to work with the President of TASCAT and various stakeholders to achieve the main objectives of TASCAT including:

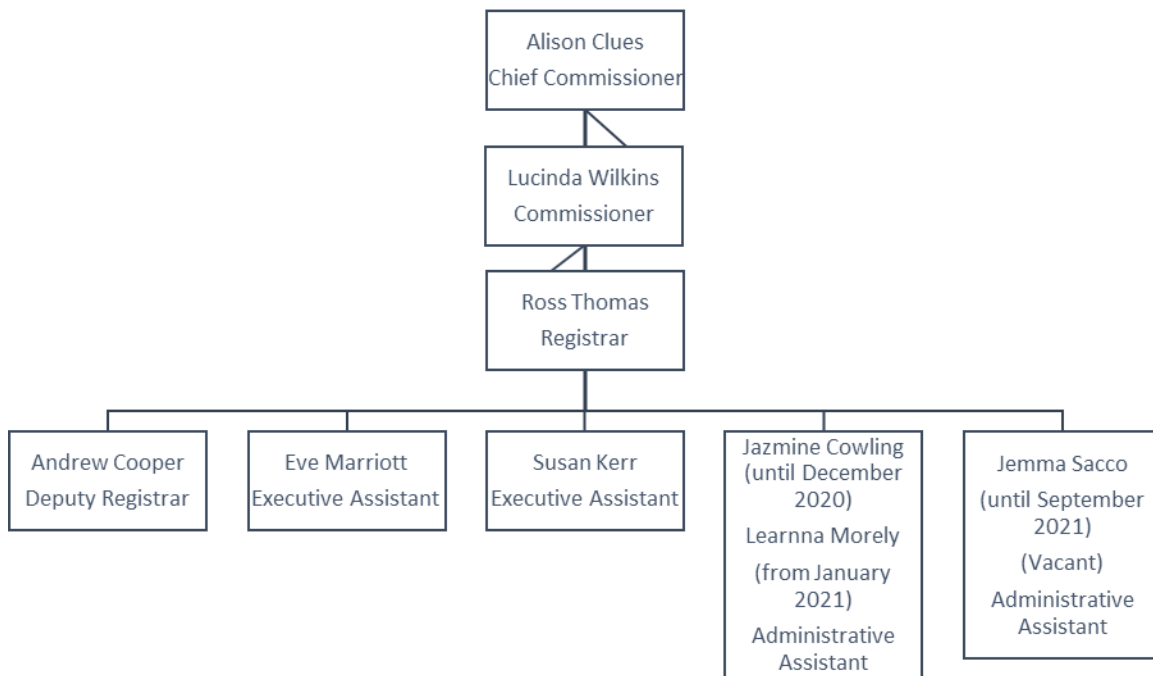
- (a) The promotion of independence in decision making, natural justice and procedural fairness, high quality, consistent decision making as well as transparency and accountability.
- (b) To be accessible by being easy to find and easy to access, and to be responsive to parties, especially parties with greater needs for assistance than others.

- (c) To ensure that all matters referred to the MACT are processed and resolved as quickly as possible while achieving a just outcome, including by resolving disputes through high quality processes and the use of conciliation.
- (d) To keep costs to parties to a minimum.
- (e) To use straight forward language and procedures.
- (f) To act with as little formality and technicality as possible.
- (g) To be flexible in the way in which the MACT conducts its business and to adjust its procedures to best fit the circumstances of a particular case.
- (h) To ensure a seamless amalgamation of all tribunals at the TASCAT premises which will include a review of the most effective way of ensuring appropriate budgeting for the MACT and all tribunals currently supported by the WRCT.

11 Members of Tribunal & Staff

The MACT staff are the same as the WRCT staff set out in the following diagram. I express my appreciation to the staff for the work they have performed this year. They have been diligent and professional in performing that work and they have provided great assistance in the efficient running of the MACT.

Personnel of Workers Rehabilitation and Compensation Tribunal as at 30 June 2021



A M Clues
Chairperson