

Annual Overview 2018/19



Housing Appeals
Committee



From the Manager



I am pleased to present our 'year in review' summary report for 2018/19. This year, the report will highlight our key performance measures and core business activities, data on appeal trends, as well as an analysis of appeals information from the public and community housing sector.

In addition to these standardised reporting areas, the report contains information about the Housing Appeals Committee's (HAC) ongoing goal for continuous improvement in service delivery and our stakeholder engagement activities. We have again this year, collated a selection of de-identified appeal cases heard during the year and present them in a case study format. I hope that you find this year's report interesting, insightful and informative.

The Housing Appeals Committee is the external appeals mechanism for NSW social housing clients. We can hear appeals about most decisions under the broader social housing policy framework and some affordable housing decisions as outlined in the Ministerial Guidelines for Affordable Housing.

This year's priority project involved the state-wide delivery of information sessions to Aboriginal community housing providers. It was a continuation of our Engaging With The Aboriginal Community Housing Sector Project. The initial phases of this project involved the development and distribution of Aboriginal specific publications and forms, aimed at providing Aboriginal clients access to high quality and consistent information about the external appeals process.

During the first half of this year we delivered 10 information sessions across Sydney and in Regional NSW to local representatives from Aboriginal community housing providers, Aboriginal tenancy

advocacy services, the Aboriginal Housing Office (AHO) and NSW Local Aboriginal Lands Council (NSWALC).

The next stage of the project will involve working with the AHO and Aboriginal Community Housing providers to identify if there are any policies that specific to the sector need to be included in the types of matters that can be heard by the HAC.

This year through a competitive recruitment process, we welcomed a new Aboriginal member to the HAC. We are very fortunate to now have two Aboriginal Committee Members. They play an important role in helping the HAC provide a more accessible and culturally appropriate process for Aboriginal and Torres Strait Islander clients requesting our services.

In 2018/19 we received 505 appeal requests, of which 141 did not proceed to a hearing. The cases that did not proceed to a hearing were either:

- Matters that were out of HAC jurisdiction, referred to another tribunal or body for action,
- Matters that required an internal review prior to the HAC appeal, or
- Matters that were successfully resolved through contact between the the HAC secretariat and the housing provider.

The top three decisions appealed to the HAC were:

1. Urgent housing requests (Priority Housing)
2. Recognition as a Tenant (requests to succeed a tenancy)
3. Offers of Accommodation



Priority Housing

Priority housing appeals remain within the top three reasons for appeals, showing the ongoing difficulties clients have in securing affordable accommodation. Although the appeal percentage has decreased by a small amount since last year (4%), it still remains high. Housing affordability continues to make it difficult for low income households to gain access to housing in the private rental market. This issue, along with a limited supply of social and affordable housing, means that clients are more likely to appeal decisions around priority housing if they feel that other options are more limited.

Recognition as a Tenant

Appeals regarding Recognition as a Tenant (RaaT) have again increased (7%) on last year. This trend of increasing numbers has occurred over the last four years and is a reflection of social housing policies becoming more defined and a greater emphasis being placed on clients attempting to meet their own housing need in the private rental market.

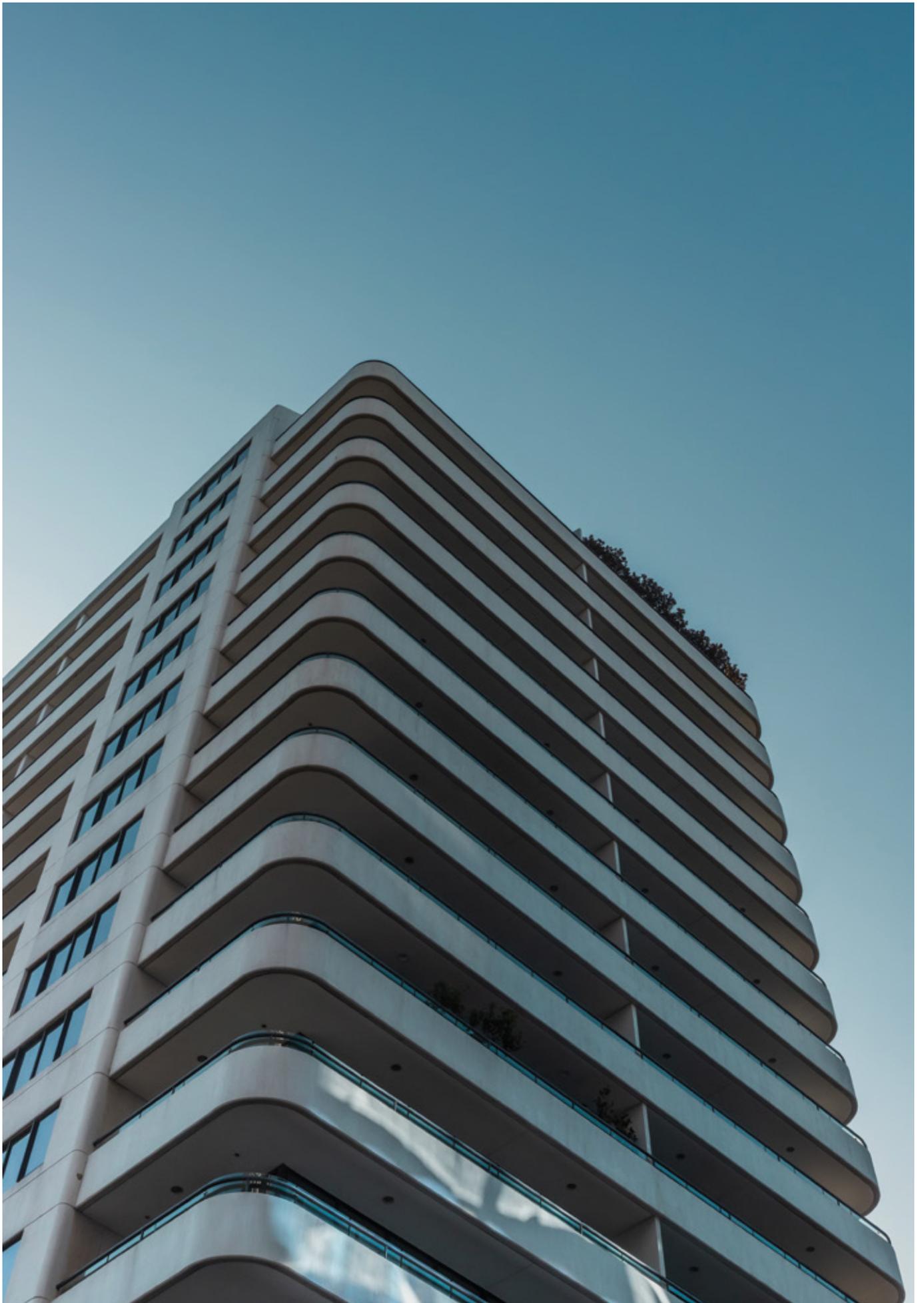
These appeals are automatically referred to the HAC by the Department of Communities and Justice (DCJ) following the first tier appeal process. This contributes to the steady number of appeals received each year. Where the HAC has found that the clients are not eligible for Recognition as a Tenant, they are often referred to other DJC services or products such as Private Rental Brokerage or Tenancy Facilitation to assist them to transition into the private rental market.

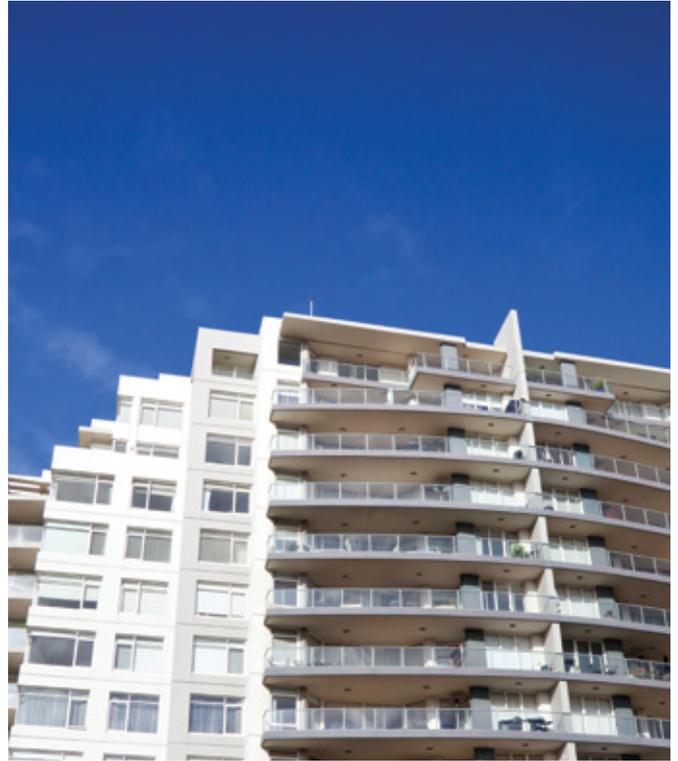
Offers of Accommodation

The number of appeals concerning Offers of Accommodation have increased by 11% on last year, rising from 21% to 32%, with the majority of these appeals from DCJ clients. This increase may reflect the high demand for social housing and the difficult choices people on a low income must make around accommodation standards, location, suitability and amenity.

Finally, I congratulate all Members and staff for their achievements in 2018/19, and for their commitment to the role they play in supporting our clients through the delivery of timely and high quality social housing appeal services.

— **Catherine Walton**
Manager





About us

About us

The Housing Appeals Committee (HAC) provides an independent process for dealing with appeals from people who are unhappy with a decision of a social housing provider. The HAC comprises of Secretariat staff who perform a wide range of support functions, and Committee Members who are appointed by Cabinet on the recommendation of the Minister for Families, Communities and Disability Services.

The Secretariat staff are the first point of contact for clients who choose to use the services provided by HAC, and the Members conduct the appeal hearings. The HAC Service Charter expresses the Committee's commitment to providing high quality, timely and courteous services to our clients and other parties.

What can be appealed?

The HAC can hear appeals on a range of appealable decisions made by DCJ Housing Services (public housing) and community housing providers. Most social housing policy decisions that determine eligibility or level of entitlement for a specific product or service, can be appealed to the HAC. We can also hear appeals about certain affordable housing decisions made by registered providers, for example, decisions about rent setting and ongoing eligibility.

How does HAC work?

The HAC aims to provide an appeal service that is fair, just, economical, informal and quick. Our services are free of charge to clients.

A HAC hearing is conducted by two to three Members, either by conference telephone call or in a face to face informal interview that will take about 30 - 50 minutes.

The HAC decision making follows administrative law merits review principles. The Committee reviews decisions made by the housing provider to see if the decision was correct and preferable.

The Committee will review all available evidence including evidence provided at the interview, against the relevant policy to reach a decision. The HAC can affirm a decision or recommend a change in full or in part to the housing provider.



Key Performance Outcomes

1. Timeframes

Hearing timeframes

The HAC aims to hear appeals within 28 days of the receipt of appeal applications. In 2018/19, the median number of days between the receipt of an appeal and the hearing date was 19.94, and the average was 17. This is a pleasing result with clients having their appeal heard in an efficient and timely manner.

Appeal decisions completed

The HAC aims to complete the appeal decision within 14 days of the hearing date. An appeal decision can be a confirmation of the original decision, a recommendation to change the decision in full or in part, or in some cases, a 'resolved' appeal decision.

In 2018/19, the median number of days for completed appeal decisions was eight days and the average was 11.7 days. The HAC continued to provide high quality appeals to clients on social housing appealable matters well within the target performance benchmark.

2. Promoting policy and procedural improvement

The Housing Appeals Committee continues to regularly liaise with DCJ Housing and community housing providers. We also meet quarterly with DCJ Housing Statewide Services, DCJ District representatives and the Aboriginal Housing Office. These meetings provide an opportunity to discuss any systemic policy issues and provide feedback on new policy development. Housing providers have listened to our feedback and engaged with us in the development of fair and workable policy.



3. Maintain strong and professional HAC membership

Towards the end of last year we welcomed eight new Committee members. The HAC benefits from the combination of long-term highly experienced members with new members bringing their different life experiences, expertise and perspective to the role. The diversity of skills and the breadth of experience of our Members helps ensure a knowledgeable, impartial and independent assessment of the appellants' housing needs.

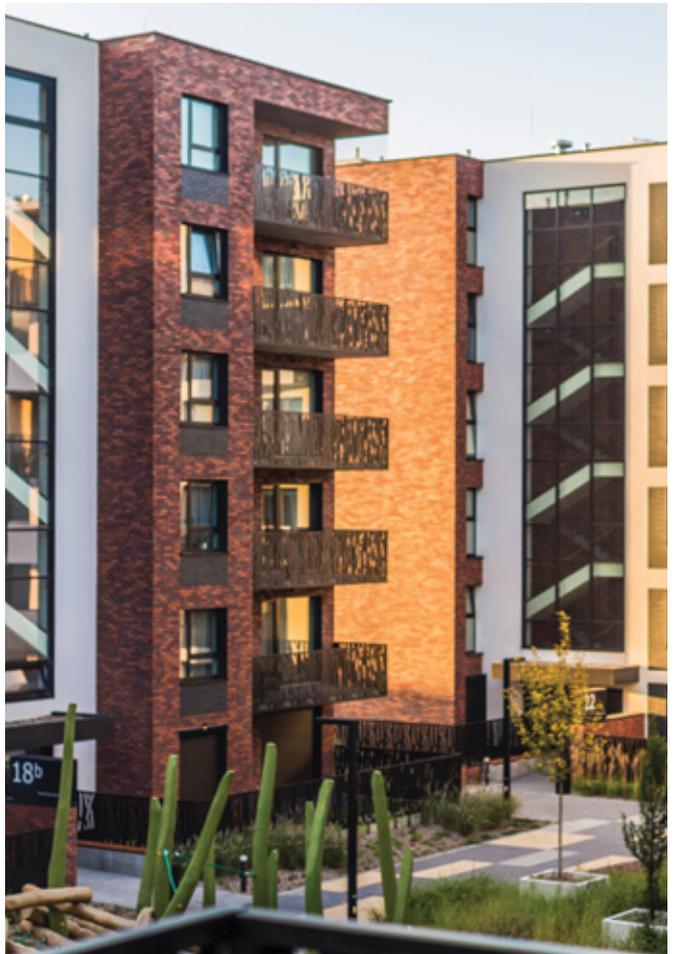
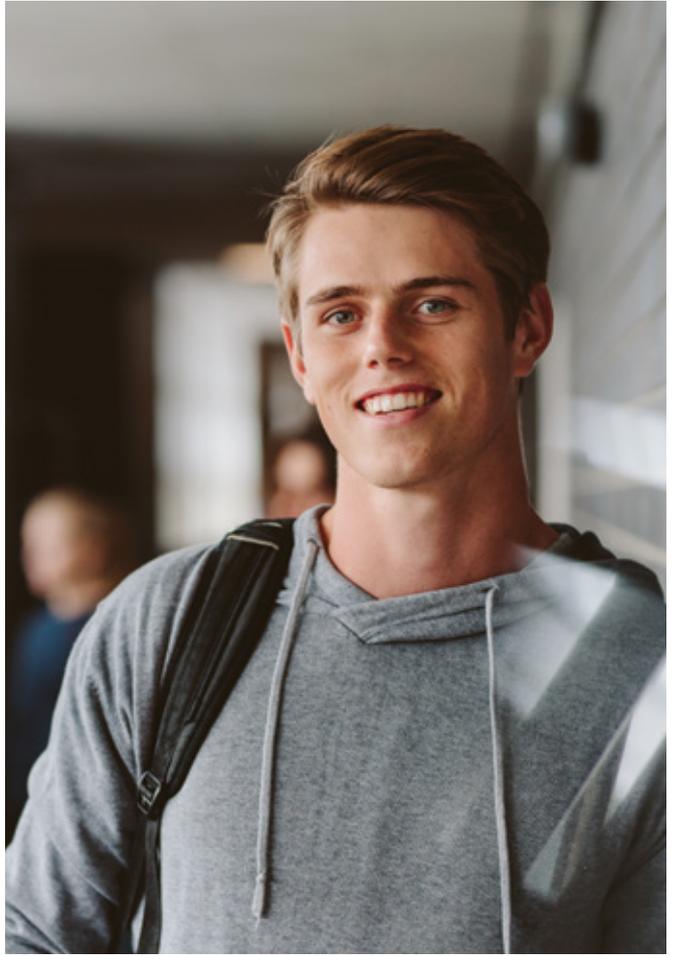
Reviewing social housing decisions is a difficult and challenging task and requires expertise across social housing policies and decision making. With this in mind, this year's professional development

training program focused on activities designed to help increase members knowledge, experience and expertise in administrative justice and the social housing sector.

Members attended three training days which covered a range of social housing policies, current issues and development of initiatives to improve service delivery.

To increase their knowledge and awareness of best practice in administrative decision making, Members also participated in training courses and conferences run by the Council of Australasian Tribunals (COAT). During 2018/19, three Members completed COAT's Online Member Induction training, two Members attended the NSW COAT Conference in September 2018 and another three Members went to the National COAT conference in June 2019.

— “The HAC benefits from the combination of long-term highly experienced members with new members bringing their different life experiences, expertise and perspective to the role.”



Statistical Report 2018-19

1. Appeals activity/outputs

505

Appeals received

364

Appeals heard

141

Ineligible appeals

2. Diversity of clients

(who appealed to the HAC?)

9%

from Aboriginal clients

49%

from clients with a culturally and linguistically diverse background

6%

from community housing clients

3. Diversity of appeal issues

(why clients appealed?)

32%

were Priority Housing

29%

were Recognition as a Tenant

9%

were Offers of Accommodation

8%

were request for a Transfer

4. Appeal outcomes

(what the HAC achieved)

39%

with recommendation for full or part change in decision

98%

of recommended appeals were approved in full or in part by housing providers



Key Statistics 2018-19

The HAC received 505 appeal requests in 2018/19. This is a decrease of 44 compared with the 549 appeals received last year.

1. Appeals requests that did not proceed to a hearing

In 2018/2019, 141 appeal requests did not proceed to a hearing. As shown in Table 1, “Internal review required” has continued to be the most common reason for requests not proceeding to hearing. The proportion of “Not an appealable issue” has decreased from 26% in 2017/18 to 19% this year.

TABLE 1 – Analysis of appeals heard and appeal decisions

	COUNT	PERCENTAGE
Internal Review Required	87	62%
Not an appealable Issue	27	19%
Resolved	10	7%
Withdrawn at client's request	11	8%
Out of timeframe	6	4%
Total	141	100%

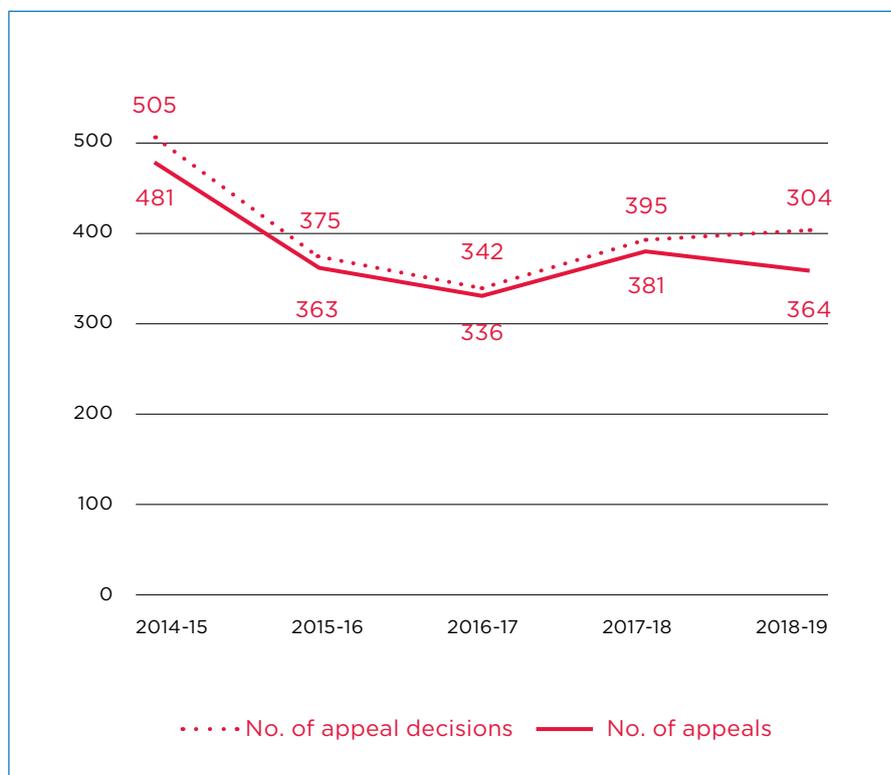
2. Appeals heard

The HAC conducted 364 hearings during 2018/2019 compared to 381 the previous year. The dotted line in Chart 1 shows the trend of the appeal decisions over the last 5 years.

Hearing Timeframes

The median number of days between the receipt of an appeal and a hearing date was 19.94, and the average was 17.

CHART 1 – Appeals heard and appeal decisions - historical analysis



Appeal Decision completed

In 2018/19, the median number of days for completed appeal decision was 8 and the average was 11.7 days.

The HAC conducted 364 hearings during 2018/19, a slight decrease of 17 compared to 381 in the previous year. Table 2 shows the number and percentage of each appeal type by public housing and community housing providers. These are also represented in Chart 2.

An analysis of appeal numbers across different appeal types between public housing and community housing providers, identified that, similar to last year the most common appeal in public housing continued to be Priority Housing (117) followed by Recognition as a Tenant (101).

Community Housing Provider appeals, show that the most common appeal is Rental Subsidy (7) changing from last year's most common which was Transfers, although Transfers are still second highest this year with three followed by Succession of Tenancy with two received.



TABLE 2 – Number and percentage of Appeal type by public housing and community housing

APPEAL TYPE	DCJ HOUSING SERVICES	COMMUNITY HOUSING	PERCENTAGE
Housing Register Eligibility	12	1	13 (4%)
Offers of Accommodation	31	1	32 (9%)
Other tenancy matters	18	5	23 (6%)
Other applicant matters	2	0	2 (1%)
Priority Housing	117	1	118 (32%)
Private Rental Subsidy	10	0	10 (3%)
Recognition as a Tenant/ Succession of Tenancy	105	2	107 (29%)
Property Modifications	2	0	2 (1%)
Rental Subsidy	17	7	24 (7%)
Section 149	0	2	2 (1%)
Relocation	2	0	2 (1%)
Transfer	26	3	29 (8%)
Total	342	22	364
Percentage	94%	6%	100%

CHART 2 – Number of appeal types by public housing and community housing



3. In Focus

3.1. Appeals from Aboriginal and Torres Straits Islander Clients

Table 3 shows the number of appeals based on different backgrounds. Appeals from Aboriginal and Torres Strait Islanders have remained the same as last year at 9%, with 34 appeals heard as opposed to 35 last year.

3.2. Appeals from clients from a Culturally and Linguistically Diverse Background

As shown in Table 3, the proportion of appeals heard from clients with a culturally and linguistically diverse background (CALD) accounted for almost half (49%) of appeals heard, which is down 3% from last year. The percentage of CALD applicants fluctuates each year but typically remains within 45% – 50%.

3.3. Appeals from household types

As shown in Chart 3 below, the majority of appeals continue to come from single person households (58%) followed by single parent households (19%) a slight decrease from last year. This is consistent with the findings from previous years.

Among the 177 hearings from CALD appellants, 48% of them (85) required language interpreter services. In total, HAC sourced interpreter services for 21 different languages. The top five language groups required for appellants were Arabic, Vietnamese, Assyrian, Neo-Aramaic and Persian.

3.4. Appeals by age groups

As shown in Chart 4, the largest proportion of appeals came from 46-55 year olds, increasing 3% on last year from 25% to 28%. Showing a slight decrease since last year are those received from clients aged 56-65 at 21% and clients aged 36-45 at 20%.

TABLE 3 – Appeals Heard - Background

	NUMBER	PERCENTAGE
Aboriginal	34	9
CALD	177	49
Other	153	42
Total	364	100%

CHART 3 – Number and percentage of appeals from different household types

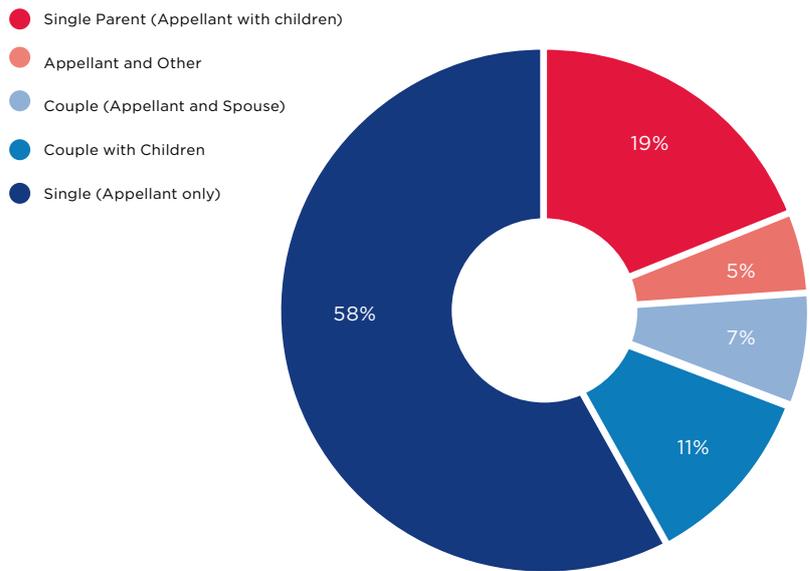
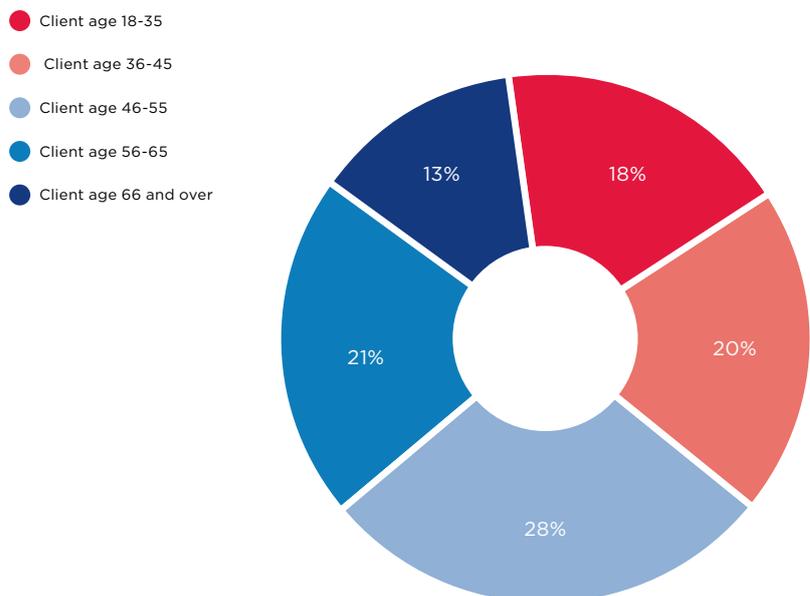


CHART 4 – Percentage of Appeals by age groups





3.5 Appeals from DCJ districts

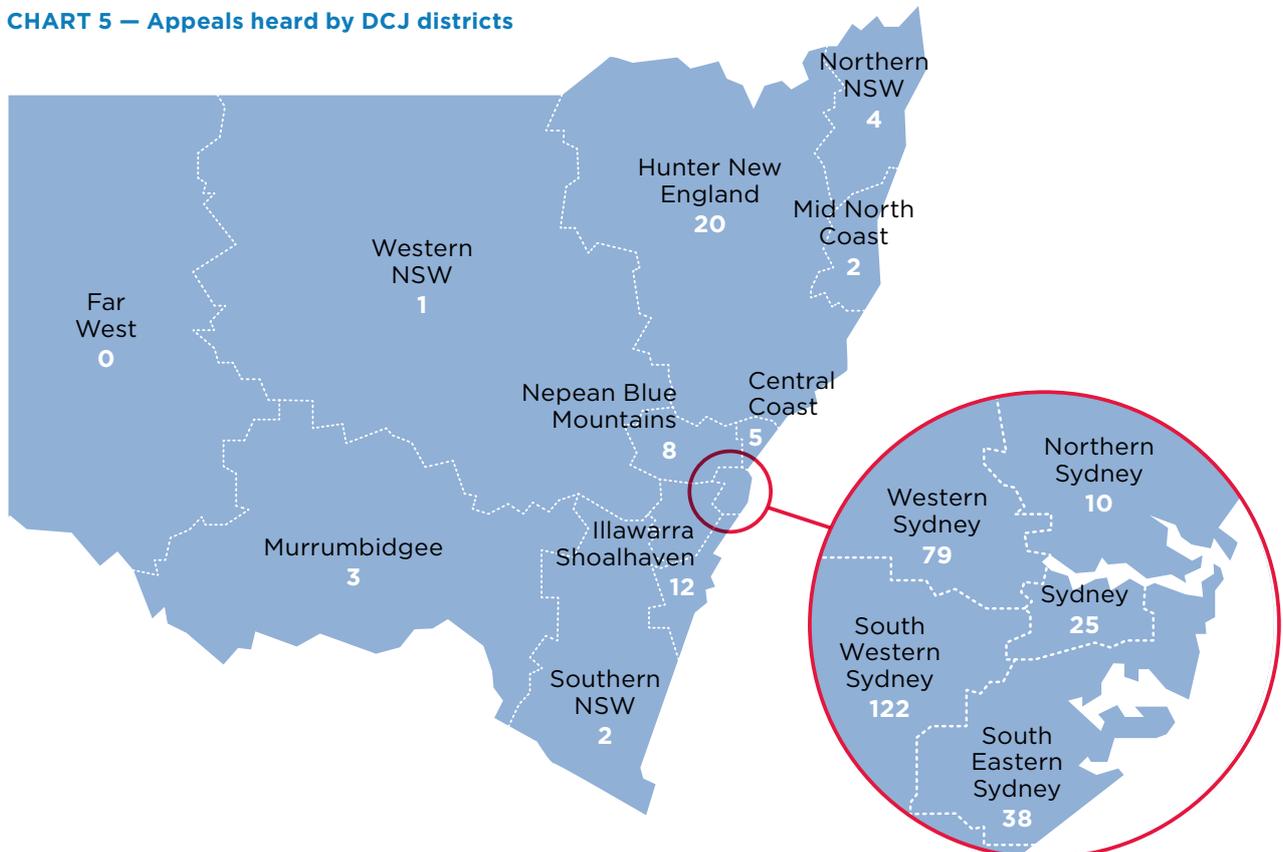
There were 15 DCJ Housing districts across NSW in 2018/19. Chart 5 shows the distribution of appeals across those 15 districts. The number of appeals received from Regional NSW as a whole (57) remain relatively consistent with a slight increase on the previous year (56). Compared to the previous two years there has been an overall increase for the number of appeals received from metropolitan Sydney overall, increasing from 262 to 274 appeals. This includes an increase of 111 to 122 in South Western Sydney and in South Eastern Sydney from 26 to 38 for the previous year. South Eastern Sydney had shown a decrease of 4% in the previous year 2017/18 last year. Sydney and North Sydney have remained relatively the same. While Western Sydney has shown a decrease from 91 to 79, in the previous year 2017/18 it had increased by 19%.



TABLE 4 – DCJ Housing appeals heard by NSW region

NSW REGION	NUMBER	PERCENTAGE
Metropolitan Sydney	274	80
Regional NSW	57	17
Housing Contact Centre	11	3
Total	342	100%

CHART 5 – Appeals heard by DCJ districts





4. Appeal decisions and final outcomes

4.1. Appeal Decisions

Table 5 shows the number and percentage of different appeal decisions by provider types. In total, the HAC referred 39% of all appeals to housing providers with a recommendation to change the decision in full or in part, which is lower than 2017/18 at 56% and 2016/17 at 47%. The recommendation rate to DCJ Housing has decreased significantly from 54% to 39%. The recommendation rate has also fallen significantly for community housing from 60% to 46%. The HAC recommended a change of decision in 32% of all cases heard, fewer than in previous years, reflecting greater clarity in the decisions made by housing providers.

Table 6 shows the number and percentage of cases heard over the last 5 years where the HAC agreed with the provider.

TABLE 5 – Appeal decisions following the hearing

APPEAL RESULTS	DCJ HOUSING	COMMUNITY HOUSING	TOTAL
Declined ¹	208 (61%)	12 (55%)	220 (60%)
Recommended ²	114 (33%)	9 (41%)	123 (34%)
Recommended part change decision	18 (5%)	1 (5%)	19 (5%)
Withdrawn Post-Hearing	2 (1%)	0	29 (1%)
Total	342	22	364

TABLE 6 – Percentage of cases where HAC agreed with the provider – historical analysis.

YEAR	DCJ HOUSING	COMMUNITY HOUSING
2014/15	54%	46%
2015/16	45%	42%
2016/17	51%	37%
2017/18	58%	44%
2018/19	61%	55%

1 HAC agreed with the housing provider's decision

2 HAC recommended a change of decision

Table 7 outlines the top five reasons for recommendations to change a decision. This shows that one of the key reasons for the HAC to recommend a change in decision is due to clients providing new information that was not available to the housing provider at the time of their original decision. The HAC also continued throughout the year to provide feedback on systemic issues relating to social housing policies and processes with the aim of improving greater policy clarity and improved decision making for social housing clients.

4.2. Outcomes of recommendations to change a decision

As shown in Table 8, the HAC continues to receive a high approval rate from housing providers (85%) for recommendations in 2018/19. However this is slightly down from the previous year of 91%. The HAC also offers to meet with housing providers to provide feedback in cases where the provider may be considering declining the HAC recommendation. During this year only 2% of cases recommended for change of decision were not agreed to, with HAC acknowledging the explanation provided by the housing provider.



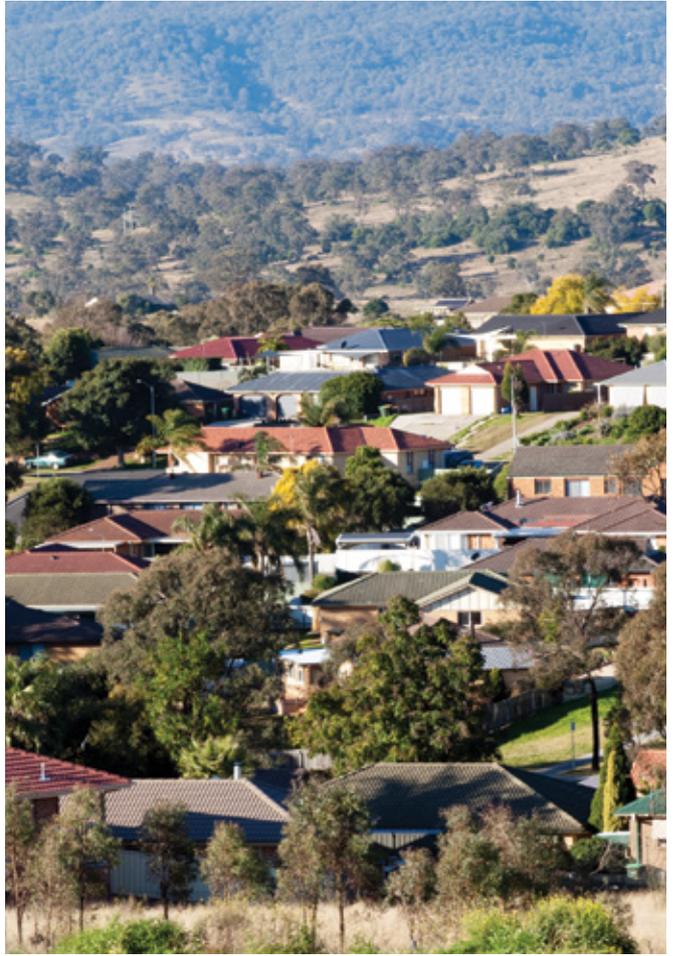
TABLE 7 – Reasons for recommending a change of decision

RECOMMENDATION REASON	NUMBER OF APPEALS
New information has been provided or additional information is available since the original decision	53
Inadequate consideration was given to the available information when the original decision was made	41
Additional Information was provided or sought by the HAC	37
Inadequate housing provider consideration of information / evidence / options	21
The original decision involved a poor interpretation of the housing provider's policy	13
Other reasons	46

TABLE 8 – Final outcome by Housing Providers to recommendation

	DCJ HOUSING	COMMUNITY HOUSING	TOTAL
Approved ¹	113	7	120 (85%)
Part Approved	18	1	19 (13%)
Declined	1	2	3 (2%)
Total	132 (93%)	10 (7%)	142 (100%)

1 Housing provider agreed with the HAC recommendation



Case Study 1: Charbel



recommended the family to be placed in the waiting list for a disability modified property.

Due to the limited availability of suitable properties, the Committee requested that if the family could not be housed in a reasonable time, that they be approved for a private rental disability subsidy. This would allow them to rent a suitable property in the private rental market whilst waiting for a suitable social housing property to become available. The Committee also suggested that the Housing provider may need to help Charbel source a suitable property due to his caring responsibilities and limited English. After considering the new information provided by Charbel, DCJ Housing fully accepted the Committee's recommendation. Charbel was approved for priority housing assistance to a three or four bedroom modified dwelling in the Parramatta area.

Charbel is a 47 year old man who along with his wife Yasmin 47 and three children moved to Australia in 2015 as refugees. Charbel had a business that was bombed and he was shot, prior to the family fleeing to Turkey. They were granted a humanitarian visa and permanent residency in Australia.

Yasmin suffers from Multiple Sclerosis and is significantly affected by this, with paralysis and need for a full time carer. This was diagnosed upon her arrival in Australia and Charbel is her sole carer. The family are reliant on Centrelink benefits for income. The family was living in private rental accommodation which was not affordable and not suited to Yasmin's medical needs.

Charbel applied for housing assistance in 2017 due to his wife's medical needs, her need for a full time carer and difficulties in finding suitable and affordable private rental accommodation. He was assessed for housing assistance and placed on the general waiting list for housing but was declined for priority housing assistance.

In 2018, Charbel completed a Change of Circumstance form requesting a re-assessment for priority housing due to Yasmin's medical issues and need for modified accommodation.

The application was again declined on the basis that he did not have an urgent need for housing as he could resolve his housing need by finding a property suitable to Yasmin's medical needs in the private rental market.

Committee findings

At the hearing, the Committee spoke with Charbel and considered the information on Charbel's file as well as the new evidence provided by him including medical documentation and an occupational therapist report regarding Yasmin's housing requirements. The Committee concluded the family was in urgent need for housing as their current rental accommodation was not suited to Yasmin's medical needs for a modified bathroom, due to her multiple sclerosis. They also found that Charbel would find it difficult to find suitable housing in the private rental market due to their need for a suitably modified dwelling, Charbel having limited English, and his need to provide a high level of care for Yasmin during the day.

The Committee concluded that Charbel met the policy criteria for priority housing and

— “The Committee concluded that Charbel met the policy criteria for priority housing and recommended the family to be placed in the waiting list for a disability modified property.”

Case Study 2: Ryan



— “Based on the new medical documentation provided, the Committee concluded that Ryan was eligible for recognition as a tenant. DCJ agreed with the Committee’s recommendation, giving Ryan tenancy to the current property.”

RAAT

Ryan is a single 58 year old, in receipt of Newstart benefit. Ryan suffers from a number of medical issues including heart disease, vascular issues with his legs and mental health issues. Ryan has been an additional occupant in his friend Mark’s tenancy for the past two years. He was approved by the Department to live there and has been paying rent. Ryan was Mark’s full time carer. Regrettably Mark passed away and Ryan then lodged an application for Recognition as a Tenant. He was given a six month provisional lease whilst DCJ Housing assessed his application. DCJ Housing determined that he was not eligible for Recognition as a tenant, as he had not demonstrated that he could not resolve his own housing need in the private rental market.

The Department conducted an internal First Tier Appeal assessment and agreed with the original decision to decline his application for Recognition as a Tenant. With Ryan’s consent, DCJ referred Ryan’s case to the HAC for a second tier appeal.

Committee findings

The Committee reviewed Ryan’s file, and spoke to him in person during an appeal hearing along with his son Daniel (15) and a neighbour. During the hearing Ryan provided new medical evidence including a letter from his psychiatrist outlining a recent diagnosis of mobility issues, and raising his concern about the impact Ryan’s housing instability may have on his mental health. New evidence of medical expenses was also provided. Ryan also advised that the assessment process was stressful and causing him anxiety, as he was concerned of becoming homeless again.

Based on the new medical documentation provided and taking Ryan’s medical expenses into account, the Committee concluded Ryan was eligible for recognition as a tenant. He had lived in the property for over two years, and due to his mental health, medical expenses and risk of homelessness, he would also have difficulty locating suitable and affordable private rental accommodation. DCJ agreed with the Committee’s recommendation and approved Ryan for Recognition as a Tenant, giving him tenancy to the current property.

Case Study 3: Carol



Offers of Accommodation

Carol (69) lives in a DCJ property where she has been a tenant since 2014. In May 2017 Carol was asked to temporarily move out so necessary repairs could be carried out on her current property. DCJ would pay all relocation costs for her move. It was expected the repairs would take about three months. These repairs along with a number of other repairs that had been completed while Carol was living in the property, are subject to an NCAT order that require DCJ to complete the repairs. Carol has a number of serious and complex medical condition that affect her housing requirements. This includes the need for accommodation with a two bedroom, a backyard, minimal stairs and a bath and shower.

Carol was made two offers of temporary accommodation which she rejected. DCJ then determined the matter as a management transfer, with one further offer of accommodation and she was given a final offer. Carol rejected this offer as it did not have a bath for her medical requirements, and she also stated other issues with the property that would impact on her health. DCJ assessed these reasons for rejection and deemed the offer to be a reasonable offer of accommodation.

A First Tier appeal application was submitted along with a letter from her doctor that outlined Carol's needs for a bath to manage a chronic medical condition. It also noted that the noise from the nearby school was not beneficial for her mental health, and that the property had poor ventilation and airflow that are not conducive to her health.

An internal appeal assessment was conducted by DCJ and it was determined that a recent Medical Assessment form did not mention the need for a bath, and although subsequent medical information stated a bath is required to manage a medical condition – the condition was not specified. The First Tier Appeal was declined and the offer deemed reasonable.

A Notice of intention to Issue a Notice of Termination was issued by DCJ, and a Second Tier HAC appeal hearing was automatically made regarding the suitability of the offer of accommodation.

Committee Findings.

After speaking to Carol and considering all the information on her file, including new medical supporting documentations provided from her GP, the Committee concluded the offer was not a reasonable offer and recommended for a change of decision. The accommodation did not meet Carol's medical requirements. DCJ agreed with the Committee and approved Carol for one final offer of accommodation. she was also allowed to stay in her current tenancy until a suitable accommodation is located.

— “She was allowed to stay in her current tenancy until a suitable accommodation is located.”

The Year Ahead



The HAC is looking forward to the year ahead. This year we will continue to provide a high quality appeals mechanism for social housing clients in NSW, and provide feedback and systemic advice to housing providers on the application of housing policies and processes.

The Secretariat will maintain its focus on supporting the Members and ensuring the effective operation of the Housing Appeals Committee.

A key priority for the year ahead will be engaging not only with housing providers, but also with advocacy groups and agencies that support clients so they understand the appeals process and the Committee's role and scope.

Next year we will also continue to implement new service improvement processes and performance management strategies to enhance the way we deliver our services.

We look forward to the challenges the year ahead will bring and providing a credible, professional independent appeals mechanism for social housing clients in NSW.

Housing Appeals Committee Members and Staff 2018/19



Manager

Catherine Walton

Hui Tan

(A/Manager, July - October 2018)

Presiding Chairs

Adrian Williams

Claudia Kennedy

Susan Fenwick

Julie Hourigan Ruse

Committee Members

Blanch Lake

(Aboriginal member)

Neva Collings

(Aboriginal member)

Catherine White

Julie Walding

Kanagasabai Vasan

Kerryn Boland

Kristie Walker

Maria Linkenbagh

Mark Groom

Qingsheng Zhou

Shane Brown

Secretariat Staff

Loren Wilson

Carol Pereira-Crouch

January Bartels

Mary Jane Carzano

Tia Lum

Siniua Sua

Erin Janssen

Riley Curran

Maria Esteban

Viet Le

Jenny Rowe



FREECALL

1800 629 794

OFFICE

8.30am — 4.30pm

HOURS

Monday — Friday

ADDRESS

Offices: 5-6 Ground Floor
1-17 Elsie Street,
BURWOOD NSW 2134

Postal: PO Box 1030 Westfield
BURWOOD NSW 2134

PHONE

(02) 8741 2555

FAX

(02) 8741 2566

EMAIL

hac@facs.nsw.gov.au

WEBSITE

www.hac.nsw.gov.au



**Housing Appeals
Committee**