



# FEDERAL COURT OF AUSTRALIA ANNUAL REPORT 2015-2016

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National operations

Digital transformation

Beyond the boundaries

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9 September 2016

Senator the Hon George Brandis QC  
Attorney-General  
Parliament House  
CANBERRA ACT 2600

Dear Attorney-General

I have the pleasure in submitting, in accordance with section 18S of the *Federal Court of Australia Act 1976*, a report of the management of the administrative affairs of the Court during the financial year 2015–2016 and the financial statements in respect of that financial year. The report also includes information about the Court, its composition, jurisdiction and workload.

This is the Court's twenty-seventh annual report.

Yours sincerely

The Hon James Allsop  
Chief Justice



# Part 1 Overview of the Federal Court of Australia



## Objectives

The objectives of the Court are to:

- Decide disputes according to law – promptly, courteously and effectively and, in so doing, to interpret the statutory law and develop the general law of the Commonwealth, so as to fulfil the role of a court exercising the judicial power of the Commonwealth under the Constitution.
- Provide an effective registry service to the community.
- Manage the resources allotted by Parliament efficiently.



## Establishment

The Federal Court of Australia was created by the *Federal Court of Australia Act 1976* and began to exercise its jurisdiction on 1 February 1977.

It assumed jurisdiction formerly exercised in part by the High Court of Australia and the whole jurisdiction of the Australian Industrial Court and the Federal Court of Bankruptcy.

The Court is a superior court of record and a court of law and equity. It sits in all capital cities and elsewhere in Australia from time to time.



## Functions and powers

The Court's jurisdiction is broad, covering almost all civil matters arising under Australian Federal Law and some summary and indictable criminal matters.

Central to the Court's civil jurisdiction is s 39B(1A)(c) of the *Judiciary Act 1903*. This jurisdiction includes cases created by a federal statute, and extends to matters in which a federal issue is properly raised as part of a claim or of a defence and to matters where the subject matter in dispute owes its existence to a federal state.

The Court has a substantial and diverse appellate jurisdiction. It hears appeals from decisions of single judges of the Court and from the Federal Circuit Court in non-family law matters. The Court also exercises general appellate jurisdiction in criminal and civil matters on appeal from the Supreme Court of Norfolk Island. The Court's jurisdiction is described more fully in Part 3.

## THE COURT’S OUTCOME AND PROGRAMME STRUCTURE

The Court’s outcome and programme structure appears in Part 4 on page 52.

This report uses the outcome and programme structure to outline the Court’s work and performance during 2015–16. Part 3 reports on these issues in detail.

## JUDGES OF THE COURT

The Federal Court of Australia Act provides that the Court consists of a Chief Justice and other judges as appointed. The Chief Justice is the senior judge of the Court and is responsible for managing the business of the Court.

Judges of the Court are appointed by the Governor-General by commission and may not be removed except by the Governor-General on an address from both Houses of Parliament in the same session.

All judges must retire at the age of seventy.

Judges, other than the Chief Justice, may hold more than one judicial office. Most judges hold other commissions and appointments.

At 30 June 2016, there were 48 judges of the Court. They are listed below in order of seniority with details about any other commissions or appointments held on courts or tribunals. Of the forty-eight judges, there were two whose work as members of other courts or tribunals occupied all, or most, of their time.

## JUDGES OF THE COURT (AS AT 30 JUNE 2016)

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
<b>Chief Justice</b> The Hon James Leslie Bain ALLSOP AO	<b>Sydney</b>	
The Hon Anthony Max NORTH	<b>Melbourne</b>	Industrial Relations Court of Australia – Judge Supreme Court of the ACT – Additional Judge
The Hon John Ronald MANSFIELD AM	<b>Adelaide</b>	Supreme Court of the ACT – Additional Judge Supreme Court of the NT – Additional Judge Supreme Court of the Republic of Vanuatu – Judge Australian Competition Tribunal – President Administrative Appeals Tribunal – Deputy President Aboriginal Land Commissioner – Part-time
The Hon John Alfred DOWSETT AM	<b>Brisbane</b>	Supreme Court of the ACT – Additional Judge
The Hon Susan Coralie KENNY	<b>Melbourne</b>	Administrative Appeals Tribunal – Deputy President

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Antony Nicholas SIOPIs	<b>Perth</b>	Administrative Appeals Tribunal – Deputy President
The Hon Andrew Peter GREENWOOD	<b>Brisbane</b>	Administrative Appeals Tribunal – Deputy President Copyright Tribunal – President
The Hon Steven David RARES	<b>Sydney</b>	Supreme Court of the ACT – Additional Judge
The Hon Berna Joan COLLIER	<b>Brisbane</b>	Supreme and National Courts of Papua New Guinea – Judge Administrative Appeals Tribunal – Deputy President Supreme Court of ACT – Additional Judge
The Hon Anthony James BESANKO	<b>Adelaide</b>	Supreme Court of the ACT – Additional Judge Supreme Court of Norfolk Island – Chief Justice
The Hon Christopher Neil JESSUP	<b>Melbourne</b>	
The Hon Richard Ross Sinclair TRACEY AM RFD	<b>Melbourne</b>	Australian Defence Force – Judge Advocate General Defence Force Discipline Appeal Tribunal – President
The Hon John Eric MIDDLETON	<b>Melbourne</b>	Australian Competition Tribunal – Deputy President Administrative Appeals Tribunal – Deputy President Australian Law Reform Commission – Part-time Commissioner
The Hon Robert John BUCHANAN	<b>Sydney</b>	Supreme Court of the ACT – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon John GILMOUR	<b>Perth</b>	Supreme Court of Norfolk Island – Judge
The Hon John Alexander LOGAN RFD	<b>Brisbane</b>	Administrative Appeals Tribunal – Deputy President Defence Force Discipline Appeal Tribunal – Deputy President Supreme and National Courts of Papua New Guinea – Judge
The Hon Geoffrey Alan FLICK	<b>Sydney</b>	
The Hon Neil Walter McKERRACHER	<b>Perth</b>	
The Hon John Edward REEVES	<b>Brisbane</b>	Supreme Court of the NT – Additional Judge

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Nye PERRAM	<b>Sydney</b>	Copyright Tribunal – Deputy President Australian Law Reform Commission – Part-time Commissioner Administrative Appeals Tribunal – Deputy President
The Hon Jayne Margaret JAGOT	<b>Sydney</b>	Supreme Court of the ACT – Additional Judge Administrative Appeals Tribunal – Deputy President Copyright Tribunal – Deputy President
The Hon Lindsay Graeme FOSTER	<b>Sydney</b>	Supreme Court of the ACT – Additional Judge Australian Competition Tribunal – Part-time Deputy President
The Hon Michael Laurence BARKER	<b>Perth</b>	Administrative Appeals Tribunal – Deputy President
The Hon John Victor NICHOLAS	<b>Sydney</b>	
The Hon David Markey YATES	<b>Sydney</b>	
The Hon Mordecai BROMBERG	<b>Melbourne</b>	
The Hon Anna Judith KATZMANN	<b>Sydney</b>	Supreme Court of the ACT – Additional Judge
The Hon Alan ROBERTSON	<b>Sydney</b>	Administrative Appeals Tribunal – Deputy President
The Hon Bernard Michael MURPHY	<b>Melbourne</b>	
The Hon Iain James Kerr ROSS AO	<b>Melbourne</b>	Fair Work Australia – President Supreme Court of the ACT – Additional Judge
The Hon John Edward GRIFFITHS	<b>Sydney</b>	
The Hon Duncan James Colquhoun KERR Chev LH	<b>Hobart</b>	Administrative Appeals Tribunal – President
The Hon Lucy Kathleen FARRELL	<b>Sydney</b>	Australian Competition Tribunal – Part-time Deputy President
The Hon Tony PAGONE	<b>Melbourne</b>	Administrative Appeals Tribunal – Deputy President
The Hon Jennifer DAVIES	<b>Melbourne</b>	Administrative Appeals Tribunal – Deputy President
The Hon Debra Sue MORTIMER	<b>Melbourne</b>	

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Darryl Cameron RANGIAH	<b>Brisbane</b>	Supreme Court of the ACT – Additional Judge
The Hon Richard Conway WHITE	<b>Adelaide</b>	Administrative Appeals Tribunal – Deputy President
The Hon Michael Andrew WIGNEY	<b>Sydney</b>	Supreme Court of the ACT – Additional Judge
The Hon Melissa Anne PERRY	<b>Sydney</b>	Supreme Court of the ACT – Additional Judge
The Hon Jacqueline Sarah GLEESON	<b>Sydney</b>	
The Hon Jonathan Barry Rashleigh BEACH	<b>Melbourne</b>	
The Hon James Joshua EDELMAN	<b>Brisbane</b>	
The Hon Brigitte Sandra MARKOVIC	<b>Sydney</b>	
The Hon Mark Kranz MOSHINSKY	<b>Melbourne</b>	
The Hon Robert James BROMWICH	<b>Sydney</b>	
The Hon Natalie CHARLESWORTH	<b>Adelaide</b>	
The Hon Stephen Carey George BURLEY	<b>Sydney</b>	

The Chief Justice was absent on the following dates during the year. Acting Chief Justice arrangements during these periods were as follows:

- |                                     |                           |
|-------------------------------------|---------------------------|
| • 29 June 2015 – 5 July 2015        | The Hon Justice Mansfield |
| • 6 July 2015 – 7 July 2015         | The Hon Justice North     |
| • 10 October 2015 – 23 October 2015 | The Hon Justice Mansfield |
| • 1 December 2015 – 6 December 2015 | The Hon Justice North     |
| • 6 March 2016 – 9 March 2016       | The Hon Justice North     |
| • 2 May 2016 – 12 May 2016          | The Hon Justice North     |
| • 14 June 2016 – 16 June 2016       | The Hon Justice North     |

Most of the judges of the Court devote some time to other courts and tribunals on which they hold commissions or appointments. Judges of the Court also spend a lot of time on activities related to legal education and the justice system. More information about these activities is set out in Part 3 and Appendix 8.



## APPOINTMENTS AND RETIREMENTS DURING 2015-16

During the year, five judges were appointed to the Court:

The **Honourable Justice Brigitte Sandra Markovic** (resident in Sydney) was appointed on 24 August 2015.

The **Honourable Justice Mark Kranz Moshinsky** (resident in Melbourne) was appointed on 2 November 2015.

The **Honourable Justice Robert James Bromwich** (resident in Sydney) was appointed on 29 February 2016.

The **Honourable Justice Natalie Charlesworth** (resident in Adelaide) was appointed on 1 March 2016.

The **Honourable Justice Stephen Carey George Burley** (resident in Sydney) was appointed on 23 May 2016.

During the year, three judges retired or resigned from the Court:

The **Honourable Justice Shane Raymond Marshall** resigned his commission as a judge of the Court with effect from 21 November 2015.

The **Honourable Justice Richard Francis Edmonds** retired upon reaching the compulsory retirement age for federal judges on 10 February 2016.

The **Honourable Justice Annabelle Claire Bennett AO** resigned her commission as a judge of the Court with effect from 23 March 2016.

Other appointments, awards, resignations and retirements during the year include:

- **Justices Barker, Greenwood, Jagot, Logan, Middleton and Siopis** were appointed Deputy Presidents of the Administrative Appeals Tribunal on 24 November 2015.
- **Justice Greenwood** was appointed President of the Copyright Tribunal on 29 March 2016.
- **Justice Kenny** was reappointed to the Administrative Appeals Tribunal as Acting President, when required, from 2 May 2016 – 23 November 2020.
- **Justice Collier** was appointed as a judge to the Supreme Court of the Australian Capital Territory on 3 May 2016.

## FEDERAL COURT REGISTRIES

### REGISTRAR

Mr Warwick Soden OAM is the Registrar of the Court. The Registrar is appointed by the Governor-General on the nomination of the Chief Justice. The Registrar has the same powers as the Head of a Statutory Agency of the Australian Public Service in respect of the officers and staff of the Court employed under the *Public Service Act 1999* (section 18Q of the *Federal Court of Australia Act*).

### PRINCIPAL AND DISTRICT REGISTRIES

The Principal Registry of the Court, located in Sydney, is responsible for the overall administrative policies and functions of the Court's registries and provides policy advice, human resources, financial management, information technology support, library services, property management and support to the judges' committees. The National Operations Registrar, located in Melbourne, is responsible for the implementation of the National Court Framework and its ongoing functions.

There is a District Registry of the Court in each capital city. The District Registries provide operational support to the judges in each state, as well as registry services to legal practitioners and members of the public. The registries receive court and related documents, assist with the arrangement of court sittings and facilitate the enforcement of orders made by the Court.

The Registry of the Copyright Tribunal is located in the New South Wales District Registry. The Victorian Registry is the Principal Registry for the Defence Force Discipline Appeal Tribunal. The South Australia Registry is the Principal Registry for the Australian Competition Tribunal. Most other District Registries are also registries for these two Tribunals. The Queensland, South Australia, Western Australia and Northern Territory District Registries are registries for the High Court. The Tasmania District Registry provides registry services for the Administrative Appeals Tribunal.

The registries of the Court are also registries for the Federal Circuit Court in relation to non-family law matters.

More information on the management of the Court is outlined in Part 4.

## OFFICERS OF THE COURT

Officers of the Court are appointed by the Registrar under section 18N of the Federal Court of Australia Act and are:

- (a) a District Registrar for each District Registry
- (b) Deputy Registrars and Deputy District Registrars
- (c) a Sheriff and Deputy Sheriffs
- (d) Marshals under the *Admiralty Act 1988*.

The registrars must take an oath or make an affirmation of office before undertaking their duties (section 18Y of the Federal Court of Australia Act). Registrars perform statutory functions assigned to them by the Federal Court of Australia Act, Federal Court Rules 2011, Federal Court (Bankruptcy) Rules 2016 and the Federal Court (Corporations) Rules 2000. These include issuing process, taxing costs and settling appeal indexes. They also exercise various powers delegated by judges under the *Bankruptcy Act 1966*, *Corporations Act 2001* and *Native Title Act 1993*. A number of staff in each registry also perform functions and exercise delegated powers under the *Federal Circuit Court of Australia Act 1999*. Appendix 4 on page 138 lists the registrars of the Court.

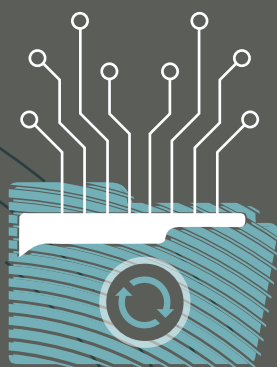
## STAFF OF THE COURT

The officers and staff of the Court (other than the Registrar and some Deputy Sheriffs and Marshals) are appointed or employed under the Public Service Act. On 30 June 2016 there were 387 staff employed under the Public Service Act. Generally, judges have two personal staff members. More details on court staff is set out in Part 4 and Appendix 9.

*Introduction* **12**

*Significant issues and developments* **12**

# Part 2 The year in review



## INTRODUCTION

**During the year under review, the Court continued to achieve its objective of promptly, courteously and effectively deciding disputes according to law, in order to fulfil its role as a court exercising the judicial power of the Commonwealth under the Constitution.**

**The Court's forward thinking approach to managing its work and its commitment to relentless improvement of practices, processes and technology brought continuing recognition of its leading role as a modern and innovative court.**

**During 2015–16, the Court maintained its commitment to achieving performance goals for its core work, while also developing and implementing a number of key strategic and operational projects. These are discussed separately below.**

## SIGNIFICANT ISSUES AND DEVELOPMENTS

### NATIONAL COURT FRAMEWORK

The National Court Framework (NCF) is a fundamental reform to the Court and the way it operates. The Court's entire workload has been reorganised by reference to eight National Practice Areas (NPAs) – allowing it to operate as a truly national and international court.

Since last year, the Court has reorganised itself through three key changes:

- removing certain organisational structures based along registry lines and replacing them with the eight subject area based NPAs. This placed the focus on responding to the needs of the case and the parties rather than a geographically based approach. The previous impediments arising from State boundaries in the Court have been dismantled
- centralising the manner in which judges are allocated cases for their dockets with the creation of the National Operations Registrar role and team. This removed differing approaches in case management between registries, and
- reinvigorating the Court's case management procedures.

The reforms are designed to address the needs of litigants who seek highly skilled, inexpensive and expeditious dispute resolution.



### New Practice Notes

A key component of the NCF reform is the review of the Court's practice documents to ensure nationally consistent and simplified practice. Currently, the Court has approximately 60 practice documents guiding how it operates. Under the NCF, there will no longer be administrative State-based notices and practice documents will be integrated and reduced to less than half the number that exists. The new practice notes are a central part of introducing a consistent national approach to case management and making the Court more streamlined and efficient.

The proposed new practice notes fall into three categories: the Central Practice Note, NPA Practice Notes and General Practice Notes.

The Central Practice Note is the core practice note for Court users and addresses the guiding NCF case management principles applicable to all NPAs. One of its main aims is to ensure that case management is not process-driven or prescriptive, but flexible – with parties and practitioners being encouraged and expected to take a commonsense and cooperative approach to litigation to reduce its time and cost.

Interlocking with the Central Practice Note will be new practice notes in each NPA. Amongst other things, the NPA Practice Notes detail NPA-specific case management principles and may offer expedited or truncated hearing processes and tailored or concise pleading processes. Parties may also adopt the processes set out in one NPA Practice Note for use in a different NPA. For example, the flexible and streamlined procedures for the commencement of proceedings, use of concise statements and tailored discovery and evidence procedures set out in the Commercial and Corporations NPA Practice Note may be used in other NPAs.

Also interlocking with the Central Practice Note and NPA Practice Notes will be 18 new or amended General Practice Notes. These General Practice Notes are intended to apply to a number of NPAs or to procedures generally used in the Court.

An extensive external consultation was undertaken during the reporting year to seek feedback on the draft Central Practice Note, NPA Practice Notes and Class Action Practice Note. The Court received many submissions from individuals within the profession, representative associations and public and private agencies. The feedback was very positive about the NCF reforms, as well as the Court's initiatives within the practice notes themselves. The feedback has been considered in the further refining of these practice notes.

The General Practice Notes will be issued at the same time as the Central Practice Note and the NPA Practice Notes, but on a "12 month review" basis, accompanied by an external consultation process similar to that which took place for the Central and NPA Practice Notes. This will allow the General Practice Notes to be fully considered by the legal profession, allowing further feedback to be received and allow any appropriate refinements to be made following the review process.

To support the implementation of the NCF and the introduction of the new practice notes, the Court's website will be updated and enhanced to provide dedicated pages for each NPA. The NPA webpages will be an important resource for a broad audience including Court users, academics, law students as well as international practitioners.

### National Allocation of Judicial Matters

A further key component of the implementation of the NCF has been the introduction of the national allocation system for judicial matters. This national system ensures consistent and appropriate allocations of judge-related matters and the effective management of the Court's judicial workload.

## National Duty System

An important component of the implementation of the NCF has been the review and reform of the Court's duty arrangements to ensure a nationally consistent duty system that focuses on timely responses to urgent duty matters, with a "direct-to-chambers" approach.

The National Duty System commenced on 1 February 2016. The key features of the system are:

- the creation of a Commercial and Corporations NPA Duty Judge system to operate alongside a General Duty Judge system;
- a direct-to-chambers approach that enables practitioners to liaise directly with the chambers of the Duty Judge about an urgent case;
- specialist assistance for self represented litigants provided by the local registry NCF Coordinator or Self Represented Litigant Coordinator;
- daily court lists reflecting the new duty arrangements and including the "direct-to-chambers" contact details of the relevant duty judges.

Practitioners were advised of the new duty arrangements via State Law Society and Bar Association newsletters, various NPA consultation forums and direct notification through the Court's Practice News.

## Introduction of Insurance List

The introduction of the NCF reforms is part of the Court's commitment to the provision of commercial dispute resolution mechanisms that emphasise flexibility, efficiency and cost-effectiveness. As part of the reforms, the Court has established an Insurance List within the Commercial Contracts, Banking, Finance and Insurance sub-area of the Commercial and Corporations NPA.

The aim is to provide the insurance commercial community, including underwriters, reinsurers, brokers and insureds with a list that caters for the prompt and efficient resolution of legal issues. This enables the parties to resolve their disputes without necessitating full-blown hearings where a crucial issue could be decided discretely and swiftly. The List is not intended to deal with all insurance claims, but principally short matters such as the interpretation of an insurance policy or the operation of insurance legislation. The List covers marine as well as non-marine insurance.

Information sessions have been held by the Chief Justice to explain the List, its aims and how it is expected to operate in a number of registries and the sessions were well attended by members of the profession.

## Consultation with the legal profession

To ensure engagement and ongoing consultation with the legal profession, the following consultation forums regarding the NCF and NPAs have been conducted in the reporting year:

- Commercial and Corporations NPA: in the Victoria Registry in February 2016 and the NSW Registry in March 2016. These supplemented the nationwide forums held in early 2015.
- Taxation NPA: forums were held in December 2015 across all registries, and
- Employment and Industrial Relations NPA: forums were held in November and December 2015 across all registries.

A national Class Action Users' Group has been established. The aim of this group is to provide a forum for Court representatives and the legal profession to discuss existing and emerging issues, obtain feedback for the Court and act as a reference group. The Court will set up similar user groups in other NPAs following the implementation of the NCF reforms.

## ADVANCING THE COURT'S DIGITAL APPROACH

Work progresses on the Digital Hearings (formerly eTrials) project. The project focuses on developing a solution for managing electronic material in hearings for small to medium size matters. A Digital Hearings Committee made up of judges and staff of the Court guides this work. Over the reporting year, this project examined the needs of judges and litigants when working digitally in the courtroom. This process involved shadowing the work undertaken in the courtroom, considering the litigants' prehearing activities and observing the judges preferences when managing the flow of information in the courtroom. Detailed requirements have been completed and the Court is planning the next stage of the project. In conjunction with this work and the National Court Framework reforms, a review of the Court's internationally respected practice note *CM 6 Electronic technology in litigation* is underway. The intention of the review is to update the practice note to accommodate the acceleration of technology used by litigants and to provide further clarity about the presentation of information used during a hearing. This review work is being undertaken in consultation with the legal profession and other interested parties. Digital Hearings are enabled by the Court's electronic court file.

Registry process reforms continue with a number of planned eServices projects that will expand further how litigants can interact with the Court. Based on the successful uptake of eLodgment, where there is now near universal use of eLodgment as the method to provide the Court with filed documents, the Court will develop additional features to provide a more interactive system. These features will initially focus on high volume, transactional matters where automation will provide a quicker and more convenient service for Court users.

The Court has continued to develop its business intelligence capabilities. Further detailed reports have been created to provide a comprehensive overview of the activities of the Court. The Court has been developing predictive reports that allow the Court to forecast impacts on workload and then respond quickly. The central goal of this work remains to provide the right operational information to the Court at the right time so informed and rapid decision-making can take place.

## PERFORMANCE AGAINST TIME GOALS

The Court maintains three time goals for the performance of its work, two of which were put in place over fourteen years ago when the majority of the Court's work was less complex. Notwithstanding the increased complexity, the Court has maintained these time goals. The first goal concerns the time taken from filing a case to completion, the second goal concerns the time taken to deliver reserved judgments and the third goal concerns the time taken to complete migration appeals. The goals do not determine how long all cases will take, as some are very long and complex and others will, necessarily, be very short.

### **Time goal 1: Eighty-five per cent of cases completed within eighteen months of commencement**

During the reporting year, the Court completed ninety-two per cent of cases in less than eighteen months, which is a slight increase from the previous year. As shown in Figure A5.5 and Table A5.4 in Appendix 5 on page 148 over the last five years the Court has consistently exceeded its benchmark of eighty-five per cent, with the average over the five years being ninety-two per cent.

### **Time goal 2: Judgments to be delivered within three months**

The Court has a goal of delivering reserved judgments within a period of three months. Success in meeting this goal depends upon the complexity of the case and the pressure of other business upon the Court. During 2015–16, the Court handed down 1776 judgments for 1529 court files (some files involve more than one judgment being delivered e.g. interlocutory decisions and sometimes, one judgment will cover multiple files). This is an increase from last year by 246 judgments due in part to the eighteen per cent increase in judicial filings. The data indicates that eighty-seven per cent of appeals (both full court and single judge) were delivered within three months (no change from 2014–15) and eighty-two per cent of judgments at first instance were delivered within three months of the date of being reserved (a slight increase from 2014–15).

### **Time goal 3: Disposition of migration appeals and related applications within three months**

Most matters commenced in the Court from decisions arising under the *Migration Act 1958* (Cth) are appeals and related applications.

The majority of these cases are heard and determined by a single judge exercising the appellate jurisdiction of the Court. The Court's goal for disposing of migration appeals and related applications is three months from the date of commencement. The Court applies a number of initiatives to assist in achieving this goal, including special arrangements to ensure that all appeals and related applications are listed for hearing in the Full Court and Appellate sitting periods as soon as possible after filing. Additional administrative arrangements are also made to streamline the prehearing procedures.

The Court carefully monitors the achievement of the three-month goal in order to ensure that there are no delays in migration appeals and related applications, and that delay is not an incentive to commencing appellate proceedings.

In the reporting period, 722 migration matters (including 682 appeals and related actions, cross appeals and 40 interlocutory applications) from the Federal Circuit Court (FCC) or the Court were finalised. Of these, 418 matters were filed and finalised in the reporting year.

Notwithstanding that in the reporting period the number of appellate non-migration matters filed increased substantially by almost thirty per cent from 263 in 2014–15 to 340 in 2015–16, the Court has continued to dispose of a very significant number of migration matters in a timely and efficient manner.

Of the 722 migration matters finalised, the average time from filing to final disposition was 134 days and the median time from filing to final disposition was 122 days. A significant number of matters have been affected by or are awaiting decisions of the Full Court of the Federal Court or the High Court. Many of these matters were or remain in, abeyance without a hearing. Therefore, the Court's ability to hear and dispose of matters within the time goal, is dependent upon the timing of the outcome of the relevant Full Court or High Court decision.

Performance information is also available in the Court's Annual Performance Statement at Annexure 10 on page 195.

## **WORKLOAD**

In 2015–16 the total number of filings (including appeals) in the Court increased by thirty-eight per cent to 5992. Filings in the Court's original jurisdiction (excluding appeals) increased by forty-five per cent. The increase in filings is attributed to an increase in Corporations matters including winding up applications, the majority of which are dealt with by registrars.

Further information about the Court's workload, including the management of appeals is available in Part 3 commencing on page 30.

The Court's registries also undertake registry services for the FCC. The workload for the FCC has again continued to grow over the last five years. It should be noted that Federal Court registrars continue to hear and determine a substantial number of cases in the FCC. In the bankruptcy jurisdiction, filings were up five per cent from the previous financial year. Federal Court registrars dealt with, and disposed of, 3525 FCC bankruptcy matters which equates to ninety-two per cent of the FCC's bankruptcy caseload. Overall, forty-five per cent of the FCC's General Federal Law workload is shared by Federal Court registrars.

## FINANCIAL MANAGEMENT AND ORGANISATIONAL PERFORMANCE

The financial figures outlined in this report are for the consolidated results of both the Federal Court and the National Native Title Tribunal (NNTT). A summary of the NNTT's expenditure is included in Table 5.4 on page 80.

The Court's budget position continues to be affected by the Government's tight fiscal policy.

During the financial year, expenditure was closely monitored to ensure that savings were realised wherever possible. As a result, the Court achieved an operating surplus before depreciation of \$8,267 after providing redundancy payments of \$1.324 million associated with the merger of the Corporate Services of the Family Court of Australia (FCoA), Federal Circuit Court of Australia (FCC) and the Court. Notwithstanding the ability to achieve a surplus in 2015–16, in the next three-year budget cycle the Court will continue to manage limited parameter adjustment funding increases together with escalating costs.

From July 2016 the Federal Court has overarching responsibility for the funding of the FCoA, FCC and the Court. The funding for the Court includes funding for the NNTT. The total funding is divided up into four programs, one for each of the courts and one for the provision of Corporate Services to all the courts.

The Court is endeavouring to achieve a balanced budget for 2016–17. However, the fixed nature of sixty per cent of the Court's costs (such as judges and their direct staff) severely limits the Court's ability to reduce overarching costs. These fixed costs also mean that, in effect, the efficiency dividend is primarily applied to the non-fixed costs.

The Department of Finance has authorised the Court to incur a deficit of \$5.5 million in 2016–17 to cover expected losses by the FCoA and FCC. Both the FCoA and the FCC are endeavouring to achieve a budget outcome in line with the authorised deficit but are encountering some difficulties in reducing overarching costs.



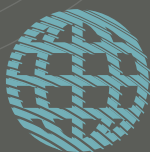
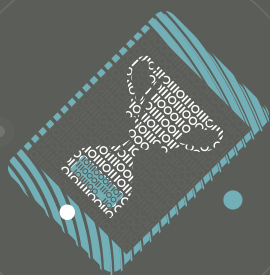
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# Part 3 The work of the Court in 2015–16



## INTRODUCTION

The Federal Court has one key outcome identified for its work, which is, through its jurisdiction, to apply and uphold the rule of law to deliver remedies and enforce rights and, in so doing, contribute to the social and economic development and wellbeing of all Australians.

This Part of the Annual Report covers the Court's performance against this objective. In particular, it reports extensively on the Court's workload during the year, as well as its management of cases and performance against its stated workload goals. Aspects of the work undertaken by the Court to improve access to the Court for its users, including changes to its practices and procedures, are discussed. Information about the Court's work with overseas courts is also covered.

## MANAGEMENT OF CASES AND DECIDING DISPUTES

The following examines the Court's jurisdiction, management of cases, workload and use of assisted dispute resolution.

### THE COURT'S JURISDICTION

The Court's jurisdiction is broad, covering almost all civil matters arising under Australian federal law and some summary and indictable criminal matters. It also has jurisdiction to hear and determine any matter arising under the Constitution through the operation of s 39B of the *Judiciary Act 1903*.

Central to the Court's civil jurisdiction is s 39B (1A) (c) of the *Judiciary Act*. This jurisdiction includes cases created by federal statute, and extends to matters in which a federal issue is properly raised as part of a claim or of a defence and to matters where the subject matter in dispute owes its existence to a federal statute.

The Court has jurisdiction under the *Judiciary Act* to hear applications for judicial review of decisions by officers of the Commonwealth. Many cases also arise under the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act), which provides for judicial review of most administrative decisions made under Commonwealth enactments on grounds relating to the legality, rather than the merits, of the decision. The Court also hears appeals on questions of law from the Administrative Appeals Tribunal. This jurisdiction falls under the Administrative and Constitutional Law and Human Rights National Practice Area (NPA) which also includes complaints

about unlawful discrimination no longer being dealt with by the Australian Human Rights Commission and matters concerning the Australian Constitution. Figure A5.9.1 on page 152 shows the matters filed in this practice area over the last five years.

The Court hears taxation matters on appeal from the Administrative Appeals Tribunal. It also exercises a first instance jurisdiction to hear objections to decisions made by the Commissioner of Taxation. Figure A5.9.7 on page 155 shows the taxation matters filed over the last five years.

The Court shares first instance jurisdiction with the Supreme Courts of the States and Territories in the complex area of intellectual property (copyright, patents, trademarks, designs and circuit layouts). All appeals in these cases, including appeals from the Supreme Courts, are to a full Federal Court. Figure A5.9.5 on page 154 shows the intellectual property matters filed over the last five years.

Another significant part of the Court's jurisdiction derives from the *Native Title Act 1993*. The Court has jurisdiction to hear and determine native title determination applications and to be responsible for their mediation, to hear and determine revised native title determination applications, compensation applications, claim registration applications, applications to remove agreements from the Register of Indigenous Land Use Agreements and applications about the transfer of records. The Court also hears appeals from the National Native Title Tribunal (NNTT) and matters filed under the ADJR Act involving native title. The Court's native title jurisdiction is discussed on page 32. Figure A5.9.6 on page 155 shows native title matters filed over the last five years.

A further important area of jurisdiction for the Court derives from the *Admiralty Act 1988*. The Court has concurrent jurisdiction with the Supreme Courts of the States and Territories to hear maritime claims under this Act. Ships coming into Australian waters may be arrested for the purpose of providing security for money claimed from ship owners and operators. If security is not provided, a judge may order the sale

of the ship to provide funds to pay the claims. During the reporting year the Court's Admiralty Marshals made 31 arrests. While the number of arrests fluctuates from year to year, the noticeable increase during this reporting period is due to twenty-three of these arrests arising out of the OW Bunker dispute. See Figure A5.9.2 on page 153 for the number of Admiralty and Maritime Law matters filed in the past five years.

The Court has jurisdiction under the *Fair Work Act 2009*, *Fair Work (Registered Organisations) Act 2009* and related industrial legislation (including matters to be determined under the *Workplace Relations Act 1996* in accordance with the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*). Workplace relations and Fair Work matters filed over the last five years are shown in Figure A5.9.4 on page 154.

The Court's jurisdiction under the *Corporations Act 2001* and *Australian Securities and Investments Commission Act 2001* covers a diversity of matters ranging from the appointment of provisional liquidators and the winding up of companies, to applications for orders in relation to fundraising, corporate management and misconduct by company officers. The jurisdiction is exercised concurrently with the Supreme Courts of the States and Territories.

The Court exercises jurisdiction under the *Bankruptcy Act 1966*. It has power to make sequestration (bankruptcy) orders against persons who have committed acts of bankruptcy and to grant bankruptcy discharges and annulments. The Court's jurisdiction includes matters arising from the administration of bankrupt estates.

Cases arising under Part IV (restrictive trade practices) and Schedule 2 (the Australian Consumer Law) of the *Competition and Consumer Act 2010* constitute a significant part of the workload of the Court. These cases often raise important public interest issues involving such matters as mergers, misuse of market power, exclusive dealing or false advertising.

The above areas fall under the Commercial and Corporations NPA. Figure A5.9.3 on page 153 provides statistics on this practice area

Since late 2009, the Court has also had jurisdiction in relation to indictable offences for serious cartel conduct.

The Court has a substantial and diverse appellate jurisdiction. It hears appeals from decisions of single judges of the Court, and from the Federal Circuit Court (FCC) in non-family law matters and from other courts exercising certain federal jurisdiction. In recent years a significant component of its appellate work has involved appeals from the FCC concerning decisions under the *Migration Act 1958*. The Court's migration jurisdiction is discussed later in this Part on page 32. The Court also exercises general appellate jurisdiction in criminal and civil matters on appeal from the Supreme Court of Norfolk Island. The Court's appellate jurisdiction is discussed on page 30. Figure A5.7 on page 150 shows the appeals filed in the Court since 2011–12.

This summary refers only to some of the principal areas of the Court's work. Statutes under which the Court exercises jurisdiction in addition to the jurisdiction vested under the Constitution through s 39B of the Judiciary Act are listed on the Court's website at [www.fedcourt.gov.au](http://www.fedcourt.gov.au).

## CHANGES TO THE COURT'S JURISDICTION IN 2015–16

The Court's jurisdiction during the year was enlarged or otherwise affected by a number of statutes including:

- *Australian Citizenship Amendment (Allegiance to Australia) Act 2015*
- *Business Services Wage Assessment Tool Payment Scheme Act 2015*

- *Crimes Legislation Amendment (Powers, Offences and Other Measures) Act 2015*
- *Foreign Acquisitions and Takeovers Legislation Amendment Act 2015*
- *Health Legislation Amendment (eHealth) Act 2015*
- *Higher Education Support Amendment (VET FEE-HELP Reform) Act 2015*
- *Narcotic Drugs Amendment Act 2016*
- *Private Health Insurance Amendment Act 2015*
- *Private Health Insurance (Collapsed Insurer Levy) Amendment Act 2015*

## AMENDMENTS TO THE FEDERAL COURT OF AUSTRALIA ACT

During the reporting year amendments to the Federal Court Act were made or took effect as a result of:

- *Passport Legislation Amendment (Integrity) Act 2015*
- *Civil Law and Justice (Omnibus Amendments) Act 2015*
- *Acts and Instruments (Framework Reform) Act 2015*
- *Trade Legislation Amendment Act (No.1) 2016*

The *Passports Legislation Amendment (Integrity) Act 2015* amended paragraph 58DC (2) (c) of the Federal Court of Australia Act from 8 October 2015 to ensure the terminology of the provision remained consistent with the *Australian Passports Act 2005*. The amendment to paragraph 58DC (2) (c) clarifies that the provision relates to “documents issued for the purposes of travel” and is not limited in its operation to passports, whether Australian or foreign.



The *Civil Law and Justice (Omnibus Amendments) Act 2015* commenced on 14 October 2015 and included amendments to the Federal Court of Australia Act to:

- streamline and enhance the process for the empanelment of juries for indictable primary proceedings which are tried in the Court and the pre-trial process for such proceeding more generally (by inserting one new definition in section 4; replacing subsections 23BH(1) and (2), section 23CA, subsection 23DG(1), subsection 23DV(2), paragraph 23EM(2)(a), subsection 23EM(3), paragraph 23EM(5)(a); repealing subsection 23EL(1); and amending subparagraph 23CE(b)(ii) and paragraph 23GB(2 (b))
- clarify and correct legislative omissions and oversights in relation to indictable primary proceedings and criminal appeals (by repealing paragraph 30AE(4)(a) and amending paragraphs 30AL(a), 30BF(2)(b) and 30BF(5)(b)).

The *Trade Legislation Amendment Act (No. 1) 2016* amended legislation from 1 May 2016 relating to export and trade; including the *Australian Trade Commission Act 1985* (in part by changing the short title of that Act to the *Australian Trade and Investment Commission Act 1985*). It also amended the name of the Australian Trade Commission to the Australian Trade and Investment Commission. Amongst consequential amendments made to other Acts, paragraph 45(2)(cb) of the Federal Court of Australia Act was amended for consistency with the changed titles.

The *Acts and Instruments (Framework Reform) Act 2015* amended the *Legislative Instruments Act 2003*, with effect from 5 March 2016, to change its short title to the *Legislation Act 2003*. It included consequential amendment of subsections 59(4), 59(5) and section 59A of the Federal Court of Australia Act to ensure that these provisions remain consistent with the changed title.

## FEE REGULATION

From 1 July 2015 fees payable under the Federal Court and Federal Circuit Court Regulation 2012 for proceedings in the Court increased by 10 per cent, the categories of fees under that Regulation for all but some bankruptcy filings and examinations were restructured; some additional types of applications were added on which fees are not payable; and the Regulation was amended to correctly refer to a renamed Division of the Administrative Appeals Tribunal.

The increased fees applied to any document filed in the Court on or after 1 July 2015 but the new setting-down, hearing and mediation fees applied only to hearings and mediations fixed on or after that date. Hearings and mediations which had been fixed up to and including 30 June 2015 were required to pay the reduced rates for setting-down, hearing and mediation fees which applied up to that date even if the hearing or mediation did not take place until on or after 1 July 2015.

Otherwise the operation of the Regulation remained unchanged during the reporting period.

By virtue of the biennial adjustment provision (section 2.20) of the Regulation, most filing and other fees will again increase from 1 July 2016 by 5.5 per cent. This increase was calculated under a formula based on the change in the Consumer Price Index for the March quarter 2016 compared to the March quarter 2014. It was applied to each fee mentioned in Schedule 1 of the Regulation apart from the fees for filing human rights, some Fair Work applications, and for service and execution of process.

FEDERAL COURT RULES

The judges are responsible for making the Rules of Court under the Federal Court Act. The Rules provide the procedural framework within which matters are commenced and conducted in the Court. The Rules of Court are made as Commonwealth Statutory Legislative Instruments.

The Rules are kept under review. New and amending rules are made to ensure that the Court’s procedures are current and responsive to the needs of modern litigation. They also provide the framework for new jurisdiction conferred upon the Court. A review of the Rules is often undertaken as a consequence of changes to the Court’s practice and procedure described elsewhere in this report. Proposed amendments are discussed with the Law Council of Australia and other relevant organisations as considered appropriate.

There were no changes to the Federal Court Rules during the reporting year, except for a small number of consequential amendments substituting references to the Federal Court (Bankruptcy) Rules 2016 for the Federal Court (Bankruptcy) Rules 2005 on the making of the former and repeal of the latter from 1 April 2016 (discussed below under ‘Other Rules’).

APPROVED FORMS

Approved Forms are available on the Court’s website. Any document that is filed in a proceeding in the Court must be in accordance with any approved form. The Chief Justice may approve a form for the purposes of the Federal Court Rules and, since 1 April 2016, the Federal Court (Bankruptcy) Rules 2016.

No new forms were approved by the Chief Justice for the purposes of the Federal Court Rules and no changes were approved for any existing forms approved for those rules during the reporting year.

On 29 March 2016 the Chief Justice approved, with effect from 1 April 2016, the following forms for the purposes of the Federal Court (Bankruptcy) Rules 2016:

- Form B1 Title
- Form B2 Application
- Form B3 Interim Application
- Form B4 Notice of Appearance
- Form B5 Notice stating grounds of opposition to application, interim application or petition
- Form B6 Creditor’s petition
- Form B7 Sequestration order
- Form B8 Referral of debtor’s petition
- Form B9 Summons for Examination
- Form B10 Application for summons to examine relevant person or examinable person
- Form B11 Notice to creditors of annulment application
- Form B12 Notice to creditors of application for review of Registrar’s decision to make sequestration order
- Form B13 Notice to creditors
- Form B14 Applicant creditor’s petition for administration of deceased person’s estate
- Form B15 Administrator’s petition
- Form B16 Arrest warrant under section 78 of the *Bankruptcy Act 1966*
- Form B17 Apprehension warrant under section 264B of the *Bankruptcy Act 1966*
- Form B18 Search warrant under section 130 of the *Bankruptcy Act 1966*
- Form B19 Consent to act as designated person
- Form B20 Notice of filing of application for recognition of foreign proceeding
- Form B21 Notice of making of order under *Cross-Border Insolvency Act 2008*
- Form B22 Notice of dismissal or withdrawal of application for recognition of foreign proceeding
- Form B23 Notice of filing of application to modify or terminate an order for recognition or other relief

## PRACTICE NOTES

Practice Notes supplement the procedures set out in the Rules of Court and are issued by the Chief Justice upon the advice of the judges of the Court under rules 2.11, 2.12 and 2.21 of the Federal Court Rules and the Court's inherent power to control its own processes. All Practice Notes are available on the Court's website.

During the reporting year, no new Practice Notes were issued and no changes were made to any of the existing Practice Notes.

## OTHER RULES

By operation of the sunset provisions contained in Part 4 of Chapter 3 of the Legislation Act, the former Federal Court (Bankruptcy) Rules 2005, as well as the harmonised Federal Circuit Court (Bankruptcy) Rules 2006, were to be automatically repealed on 1 April 2016.

In close consultation with the Federal Circuit Court and with considerable assistance from the Office of Parliamentary Counsel and significant input from Judges and Registrars harmonised replacement rules were developed. From 1 April 2016, the Federal Court (Bankruptcy) Rules 2016 replaced the former Federal Court (Bankruptcy) Rules 2005. These rules incorporate, as Part 14, the rules for proceedings brought in the Federal Court under the *Cross-Border Insolvency Act 2008* which are harmonised with the rules of all Australian courts with concurrent jurisdiction under that Act. Also from that same date the Federal Circuit Court (Bankruptcy) Rules 2016 replaced the former Federal Circuit Court (Bankruptcy) Rules 2006.

The replacement bankruptcy rules:

- reflected the current drafting style for legislative instruments adopted by the Office of Parliamentary Counsel;
- corrected obvious errors identified through the drafting process in the former bankruptcy rules;
- adopted wording more consistent with the relevant enabling provisions of the *Bankruptcy Act 1966*;
- clarified, simplified and provided additional guidance where it was felt that this would be useful to court users and do not affect policy; and
- consistent with the approach adopted in the Federal Court Rules, made express provision for the Chief Justice to approve forms for the purposes of the bankruptcy rules and to set out certain procedural and other requirements in practice notes.

To ensure that there was no lacuna between the otherwise automatic repeal of the former rules and the commencement of the replacement rules, the Federal Court (Bankruptcy) Repeal Rules 2016 were made by the judges to repeal the former rules; make a small number of consequential amendments to the Federal Court Rules by replacing references to the former bankruptcy rules with references to the new bankruptcy rules; and transitional provisions for the continued use of the forms prescribed under the former bankruptcy rules for a period of six months were made. A similar approach was adopted in the Federal Circuit Court.

### Freedom of Information Information Publication Scheme

Agencies subject to the *Freedom of Information Act 1982* (FOI Act) are required to publish information to the public as part of the Information Publication Scheme (IPS). This requirement is in Part II of the FOI Act and has replaced the former requirement to publish a section 8 statement in an annual report. Each agency must display on its website a plan showing what information it publishes in accordance with the IPS requirements. The Court's plan is accessible from the Court's website at <http://www.fedcourt.gov.au/ips>. The NNTT's plan can be found at <http://www.nntt.gov.au/Pages/ips.aspx>.

The availability of some documents under the FOI Act will be affected by s. 5 of that Act, which states that the Act does not apply to any request for access to a document of the Court unless the document relates to matters of an administrative nature. Documents filed in Court proceedings are not of an administrative nature; however, they may be accessible by way of the Federal Court Rules.

### WORKLOAD OF THE FEDERAL COURT AND FEDERAL CIRCUIT COURT

The Court has concurrent jurisdiction with the Federal Circuit Court (FCC) in a number of areas of general federal law including bankruptcy, human rights, workplace relations and migration matters. The registries of the Federal Court provide registry services for the FCC in its general federal law jurisdiction.

**Figure 3.1 – Filings to 30 June 2016**  
**Federal Court of Australia (FCA) and Federal Circuit Court (FCC)**

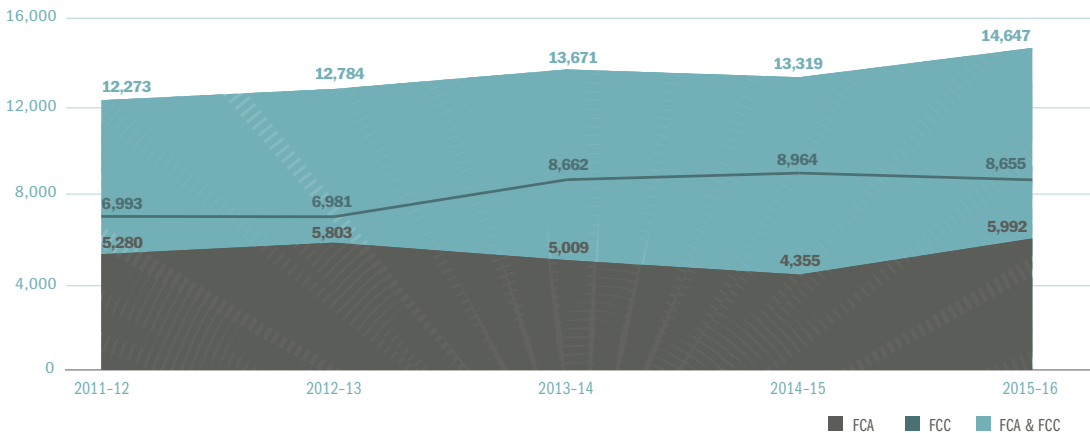


Figure 3.1 above shows an increase in the combined filings of the two courts since 2011–12.

In 2015–16, a total of 14 647 matters were filed in the two courts. The significant increase in FCA filings related in part to changes to the fee arrangements. Any growth in filings has an impact on the Federal Court’s registries, as they process the documents filed for both courts. The registries also provide the administrative support for each matter to be heard and determined by the relevant court. The Court was able to accommodate this increase easily due to the technology and systems it has set up, most notably ECFs and eLodgment, to aid efficient case processing.

## CASE FLOW MANAGEMENT OF THE COURT'S JURISDICTION

As noted in Part 2, the Court has adopted as one of its key case flow management principles the establishment of time goals for the disposition of cases and the delivery of reserved judgments. The time goals are supported by the careful management of cases through the Court's Individual Docket System, and the implementation of practices and procedures designed to assist with the efficient disposition of cases according to law. This is further enhanced by the reforms of the National Court Framework.

Under the Individual Docket System, a matter will usually stay with the same judge from commencement until disposition. This means a judge has greater familiarity with each case and leads to the more efficient management of the proceeding.

### Disposition of matters other than native title

In 1999–2000, the Court set a goal of eighteen months from commencement as the period within which it should dispose of at least eighty-five per cent of its cases (excluding native title cases).

The time goal was set having regard to the growing number of long, complex and difficult cases, the impact of native title cases on the Court's workload, and a decrease in the number of less complex matters. It is reviewed regularly by the Court in relation to workload and available resources. The Court's ability to continue to meet its disposition targets is dependent upon the timely replacement of judges.

Notwithstanding the time goal, the Court expects that most cases will be disposed of well within the eighteen-month period, with only particularly large and/or difficult cases requiring more time. Indeed, many cases are urgent and need to be disposed of quickly after commencement. The Court's practice and procedure facilitates early disposition when necessary.

During the five-year period from 1 July 2011 to 30 June 2016, 93 per cent of cases (excluding native title matters) were completed in less than eighteen months, 89 per cent in less than twelve months and 78 per cent in less than six months (see Figure A5.4 on page 147). Figure A5.5 on page 148 shows the percentage of cases (excluding native title matters) completed within eighteen months over the last five reporting years. The figure shows that in 2015–16, over 93.7 per cent of cases were completed within eighteen months. This is an increase from last year's figures.

### Delivery of judgments

In the reporting period, 1776 judgments were delivered. Of these, 681 judgments were delivered in appeals (both single judge and full court) and 1095 in first instance cases. These figures include both written judgments and judgments delivered orally on the day of the hearing, immediately after the completion of evidence and submissions. There was a significant increase in judgments delivered in the reporting year and is in line with the increase in filings the Court has seen.

The nature of the Court's workload means that a substantial proportion of the matters coming before the Court will go to trial and the decision of the trial judge will be reserved at the conclusion of the trial. The judgment is delivered at a later date and is often referred to as a "reserved judgment". The nature of the Court's appellate work also means a substantial proportion of appeals require reserved judgments.

Appendix 7 on page 159 includes a summary of decisions of interest delivered during the reporting year and illustrates the Court's varied jurisdiction.

## WORKLOAD OF THE COURT IN ITS ORIGINAL JURISDICTION

### Incoming work

In the reporting year, 5000 cases were commenced in, or transferred to, the Court's original jurisdiction. See Table A5.1 on page 32.

### Matters transferred to and from the Court

Matters may be remitted or transferred to the Court under:

- *Judiciary Act 1903*, s 44
- Cross-vesting Scheme Acts
- *Corporations Act 2001*
- *Federal Circuit Court of Australia Act 1999*

During the reporting year, 92 matters were remitted or transferred to the Court:

- 13 from the High Court
- 36 from the Federal Circuit Court
- 14 from the Supreme Courts
- 29 from other courts

Matters may be transferred from the Court under:

- *Federal Court of Australia (Consequential Provisions) Act 1976*
- *Jurisdiction of Courts (Cross-vesting) Act 1987*
- *Administrative Decisions (Judicial Review) Act 1977*
- *Bankruptcy Act 1966*
- *Corporations Act 2001*
- *Administrative Appeals Tribunal Act 1975*

During 2015–16, two matters were transferred from the Court:

- two to the Federal Circuit Court
- none to Supreme Courts
- none to other courts

### Matters completed

Figure A5.2 on page 143 shows a comparison of the number of matters commenced in the Court's original jurisdiction and the number completed. The number of matters completed during the reporting year was 5870.

### Current matters

The total number of current matters in the Court's original jurisdiction at the end of the reporting year was 3035 (see Table A5.1).

### Age of pending workload

The comparative age of matters pending in the Court's original jurisdiction (against all major causes of action, other than native title matters) at 30 June 2016 is set out in Table 3.1 below.

Native title matters are not included in Table 3.1 because of their complexity, the role of the National Native Title Tribunal and the need to acknowledge regional priorities.

**Table 3.1** – Age of current matters (excluding appeals and related actions and native title matters)

	UNDER 6 MONTHS	6-12 MONTHS	12-18 MONTHS	18-24 MONTHS	OVER 24 MONTHS	SUB-TOTAL
Cause of Action						
Administrative Law	81	3	1	1	4	90
Admiralty	39	1	2	5	8	55
Bankruptcy	113	5	7	7	6	138
Competition Law	7	2	0	1	4	14
Trade Practices	114	15	14	9	26	178
Corporations	920	52	14	19	38	1043
Human Rights	22	3	1	3	1	30
Workplace Relations	5	0	0	0	2	7
Intellectual Property	131	15	21	8	34	209
Migration	38	2	0	0	0	40
Miscellaneous	102	9	4	2	9	126
Taxation	50	2	17	2	24	95
Fair Work	118	20	9	1	4	152
<b>Total</b>	<b>1740</b>	<b>129</b>	<b>90</b>	<b>58</b>	<b>160</b>	<b>2177</b>
% of Total	79.9%	5.9%	4.1%	2.7%	7.3%	100.0%
<b>Running Total</b>	<b>1740</b>	<b>1869</b>	<b>1959</b>	<b>2017</b>	<b>2177</b>	
Running %	79.9%	85.9%	90.0%	92.7%	100.0%	

Table 3.1 shows that at 30 June 2016 there were 218 first instance matters over eighteen months old compared with 309 in 2015 (not including native title matters). The decrease in matters in this category is due to the types of filings received and the reforms introduced under the National Court Framework.

**Table 3.2** – Age of current native title matters (excluding appeals)

	UNDER 6 MONTHS	6-12 MONTHS	12-18 MONTHS	18-24 MONTHS	OVER 24 MONTHS	SUB-TOTAL
Native Title Action	73	10	6	13	235	337
% of Total	21.7%	3.0%	1.8%	3.9%	69.7%	100.0%
<b>Running Total</b>	<b>73</b>	<b>83</b>	<b>89</b>	<b>102</b>	<b>337</b>	
Running %	21.7%	24.6%	26.4%	30.3%	100.0%	

The number of native title matters over eighteen months old decreased. The number of native title matters between 12–18 months and 18–24 months old also decreased. This has been mainly due to the Court's approach to managing native title matters namely the use of the priority list. Further information about the Court's native title workload can be found on page 32.

The Court will continue to focus on reducing its pending caseload and the number of matters over eighteen months old. A collection of graphs and statistics concerning the workload of the Court is contained in Appendix 5 commencing on page 141.

## THE COURT'S APPELLATE JURISDICTION

The appellate workload of the Court constitutes a significant part of its overall workload. While most of the appeals arise from decisions of single judges of the Court or the FCC, some are in relation to decisions by State and Territory courts exercising certain federal jurisdiction.

The number of appellate proceedings commenced in the Court is dependent on many factors including the number of first instance matters disposed of in a reporting year, the nature of matters filed in the Court and whether the jurisdiction of the Court is enhanced or reduced by legislative changes or decisions of the High Court of Australia on the constitutionality of legislation.

Subject to ss 25(1), (1AA) and (5) of the Federal Court Act, appeals from the FCC, and courts of summary jurisdiction exercising federal jurisdiction, may be heard by a Full Court of the Federal Court or by a single judge in certain circumstances. All other appeals must be heard by a Full Court, which is usually constituted by three, and sometimes five, judges.

The Court publishes details of the four scheduled Full Court and appellate sitting periods to be held in February, May, August and November of each year. Each sitting period is up to four weeks in duration.

In the reporting year, Full Court and appellate matters were scheduled for hearing in all eight capital cities. Once an appeal is ready to be heard, it can usually be listed for the next scheduled Full Court and appellate sittings in the capital city where the matter was heard at first instance.

When appeals are considered to be sufficiently urgent, the Court will convene a special sitting of a Full Court which may, if necessary and appropriate, use videoconferencing facilities or hear the appeal in a capital city other than that in which the case was originally heard.

In 2015-16 the Court specially fixed 55 Full Court or appellate matters, involving 34 sets of proceedings, for early hearing outside of the four scheduled sitting periods. Hearing these matters involved a total of 41 sitting days or part thereof compared with 34 special hearing fixtures involving 26 sitting days in 2014-15.

## THE APPELLATE WORKLOAD

During the reporting year 1203 appellate proceedings were filed in the Court. They include 993 appeals and related actions, 19 cross appeals and 191 interlocutory applications such as applications for: security for costs in relation to an appeal, a stay, an injunction, expedition or various other applications.

The FCC is a significant source of appellate work accounting for approximately seventy per cent (849 of the 1203) of the appeals and related actions (746), cross appeals (5) and other interlocutory applications (98) filed in 2015–16. The majority of these proceedings continue to be heard and determined by single judges exercising the Court's appellate jurisdiction.

Further information on the source of appeals and related actions is set out in Figure A5.8 on page 151.



Although the above figures indicate that there was an overall increase of more than nine per cent in the Court's appellate workload in 2015–16, the Court's non-migration appeals and related actions increased substantially by almost thirty per cent from 263 in 2014–15 to 340 in 2015–16.

During the reporting year the number of appellate migration matters filed (695) remained high including 653 appeals and related actions, one cross-appeal and 41 interlocutory applications.

As shown in Table 3.4, this workload is subject to fluctuation due to changes that may occur in government policy or the impact of decisions of the Federal Circuit Court, the Full Court of the Federal Court or the High Court.

In the reporting year 959 appeals and related actions, 26 cross appeals and 182 interlocutory applications were finalised. At 30 June 2016, there were 517 appeals and related actions, 19 cross appeals and 102 interlocutory applications current before the Court.

The comparative age of matters pending in the Court's appellate jurisdiction (including native title appeals) at 30 June 2016 is set out in Table 3.3 below.

At 30 June 2016 there were seven matters that are eighteen months or older. These matters are either awaiting the outcome of decisions in the Federal Court (e.g. following the conclusion of High Court proceedings in one matter) or the matters involve further litigation and/or the pursuit of a negotiated outcome in a complex native title appeal. It is also noted that a large number of migration appeals and application have been held in abeyance pending the outcomes of decisions of the Full Federal Court and the High Court.

**Table 3.3 – Age of current appeals and related actions, cross appeals and interlocutory appellate applications as at 30 June 2016**

CURRENT AGE	UNDER 6 MONTHS	6–12 MONTHS	12–18 MONTHS	18–24 MONTHS	OVER 24 MONTHS	SUB-TOTAL
Appeals and related actions	399	92	19	6	1	517
% of Total	77%	17.8%	3.7%	1.2%	0.2%	100%
Cross appeals and interlocutory appellate applications	92	20	8	1	0	121
% of Total	76%	16.5%	6.6%	0.8%	0.0%	100%

## MANAGING MIGRATION APPEALS

In 2015–16 fourteen migration appeals and related actions and six interlocutory applications were filed in the Court’s appellate jurisdiction related to judgments of single judges of the Court exercising the Court’s original jurisdiction. A further 675 migration matters were filed in relation to judgments of the FCC including 639 appeals and related actions, one cross-appeal and thirty-five interlocutory applications.

Table 3.4 shows the number of appellate proceedings involving the Migration Act as a proportion of the Court’s overall appellate workload since 2010–11. The Court continues to apply a number of procedures to streamline the preparation and conduct of these appeals and applications and to facilitate the expeditious management of the migration workload.

Initially, the Court applies systems to assist with identifying matters raising similar issues and where there is a history of previous litigation. This process allows for similar cases to be managed together resulting in more timely and efficient disposal of matters. Then, all migration related appellate proceedings (whether to be heard by a single judge or by a Full Court) are listed for hearing in the next scheduled Full Court and appellate sitting period. Fixing migration related appellate proceedings for hearing in the four scheduled sitting periods has provided greater certainty and consistency for litigants. It has also resulted in a significant number of cases being heard and determined within the same sitting period.

Where any migration related appellate proceeding requires an expedited hearing, the matter is allocated to a single judge or referred to a specially convened Full Court.

**Table 3.4 – Appellate proceedings concerning decisions under the Migration Act as a proportion of all appellate proceedings (including appeals and related actions, cross appeals and interlocutory applications)**

APPELLATE PROCEEDINGS	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
Migration Jurisdiction	269	338	333	393	677	695
% of Total	32%	43%	42%	44%	61%	58%
<b>Total Appellate Proceedings</b>	<b>837</b>	<b>797</b>	<b>787</b>	<b>890</b>	<b>1101</b>	<b>1203</b>

Information about the Court’s time goal for the disposition of migration appeals can be found in Part 2 at page 16.

## THE COURT’S NATIVE TITLE JURISDICTION

During the reporting year the Court resolved 96 native title determination applications.

Thirty-five applications were resolved by consent determination, 11 applications were resolved following a litigated hearing and a further 50 matters were otherwise resolved including by discontinuance or dismissal.

In addition to the applications referred to above 7 consent determinations of native title were achieved which partially resolved applications.

Fifty new applications were filed during the reporting period; 32 of these were native title determination applications. Significantly, 16 were non-claimant applications, the majority of which were filed in Queensland.

At the end of the reporting period the Court's native title caseload consisted of 303 of which 266 were claimant applications, 31 were non-claimant applications, 5 were compensation applications and 1 was a revised native title determination application.

The Court maintains a priority list that has been identified, in conjunction with the parties, as likely to be resolved in the coming twelve to eighteen months. The identification and publication of these claims on the Court's website allows the resources and coordinated efforts of all parties to be appropriately focused on their resolution. There are currently 92 matters on the Court's priority list. It is anticipated that approximately 54 of these matters will be resolved in 2016–17.

The Court has continued to utilise a number of strategies to achieve the orderly resolution of matters consistent with the overarching purpose of facilitating the just resolution of disputes according to law as quickly, inexpensively and effectively as possible. Intensive case management by both judges and registrars continues to be used to identify the genuine issues in dispute between the parties and the most effective means of resolving those disputes. Mediation is ordered, as required, and may be conducted by a registrar or a specialist native title mediator from the Court's published list of native title mediators. In some instances particular issues in an application are referred to a judge for hearing and adjudication.

A number of significant decisions were made by the Court in the reporting year relating to the validity of tenure and extinguishment, the content of native title rights and interests and the power of the Court to make native title determinations. In the Ngadju

matter (*State of Western Australia v Graham on behalf of the Ngadju People* [2016] FCAFC 47) the Full Court, after considering the interrelationship between State Agreements and the relevant Western Australian mining legislation, confirmed the validity of almost 300 mining leases initially found to be invalid in a determination of native title made in November 2014. The application of section 47B of the *Native Title Act 1993* (Cth) was considered in the Banjima appeal to the Full Court (*Banjima People v State of Western Australia & Ors* [2015] FCAFC 171). The Full Court confirmed Barker J's findings that exploration licences did not fall within the exceptions to the application of section 47B and the Banjima People were entitled to exclusive possession of each of the relevant unallocated crown land parcels. Applications for special leave to the High Court have been filed in both the Ngadju and Banjima matters

In the case of the Iman People (*Doyle on behalf of the Iman People #2 v Queensland* [2016] FCA 13) the Court relied upon the presumption of regularity to find that a public road had extinguished native title. The Court also found that the combined effect of the *Native Title Act 1993* (Cth) (NTA) and the *Native Title (Queensland) Act 1993* was to validate the grant of leases as "past acts" notwithstanding that the leases had been surrendered before the NTA came into effect. The latter finding is the subject of an appeal. In the Pilki matter (*State of Western Australia v Willis on behalf of the Pilki People* [2015] FCAFC 186), the Full Court found that there was no reason to draw a distinction between 'commercial purposes' and 'non-commercial purposes', and accordingly, the decision by North J to recognise the right of the Pilki People to access and take resources for any purpose was upheld. The Full Court of five judges in the Badimia case (*CG (Deceased) on behalf of the Badimia People v State of Western Australia* [2016] FCAFC 67) confirmed that the Court has the power under the NTA to make a negative determination in the absence of a non-claimant application.

The Court also held two User Forums in the first part of 2016. The first was held in February in Western Australia and focused on issues surrounding the preparation and production of tenure material by the State as well as particular concerns raised by Native Title Representative Bodies, including timing of production of tenure information, issues arising from large extinguishment acts that cover large portions of claims, production of source documentation, the use of electronic documents in Court, the provision of cadastre and tenure data and managing contested tenure issues in a collaborative way. The second forum was held in April in Queensland. Issues discussed included the next generation of native title anthropologists, utilising the National Native Title Tribunal's tenure portal, Prescribed Body Corporate issues (capacity, governance, dispute resolution and managing a PBC), the impact and costs of collateral litigation (costs of intra indigenous disputes), and post-determination issues (including approaches to ILUAs and s 31 agreements and the authority of the applicant).

## ASSISTED DISPUTE RESOLUTION

Assisted Dispute Resolution (ADR) has become an important part of the efficient resolution of litigation in the Court context, with cases now almost routinely referred to some form of Assisted Dispute Resolution. In addition to providing a forum for potential settlement, mediation is an integral part of the Court's case management.

In recognition of the Court's unique model of mediation and commitment to a quality professional development program, the Court became a Recognised Mediator Accreditation Body in September 2015 and implemented the Federal Court Mediator Accreditation Scheme (FCMAS). The FCMAS incorporates the National Mediator Accreditation Standards and the majority of court ordered mediations are conducted by registrars who are trained and accredited by the Court under the FCMAS. In the native title jurisdiction, the

Court maintains a list, available on its website, of specialist mediators who have current experience in the resolution of complex Indigenous land management disputes.

Since the 2010–11 reporting period, the Court has provided some statistical information about referrals to ADR. Data about ADR should be considered in light of a number of factors. Firstly, referrals to mediation or other types of ADR may occur in a different reporting period to the conduct of that mediation or ADR process. Secondly, not all referrals to mediation or the conduct of mediation occur in the same reporting period as a matter was filed. This means that comparisons of mediation referrals or mediations conducted as a proportion of the number of matters filed in the Court during the reporting period are indicative only. Thirdly, the data presented on referrals to ADR during the reporting period does not include information about ADR processes that may have been engaged in by parties before the matter is filed in the Court, or where a private mediator is used during the course of the litigation. Similarly, the statistics provided below do not include instances where judges of the Court order experts to confer with each other to identify areas where their opinions are in agreement and disagreement without the supervision of a registrar.

As shown by Table 3.5 the main practice areas where mediation referrals are made are Commercial and Corporations and Employment and Industrial Relations. Although the reporting of these statistics is by reference to National Practice Area rather than cause of action, as in past years, the mediation referrals by matter type is broadly consistent with past years.

**Table 3.5 – Mediation referrals in 2015–16 by National Practice Area (NPA) and Registry**

NPA	NSW	VIC	WA	QLD	NT	SA	TAS	ACT	TOTAL
Administrative Law and Constitutional Law and Human Rights	6	11	1	0	0	0	2	3	23
Admiralty and Maritime	5	1	2	0	0	0	0	0	8
Commercial and Corporations	66	46	31	18	1	15	2	9	188
Employment and Industrial Relations	17	54	11	5	4	5	1	5	102
Intellectual Property	29	43	2	6	0	3	0	0	83
Migration	1	1	0	0	0	0	0	0	2
Native Title	5	0	8	4	0	0	0	0	17
Taxation	0	0	2	0	5	0	0	0	7
Total	129	156	57	33	10	23	5	17	425

A review of the reporting on Assisted Dispute Resolution is underway and will consider better methods to collect data about referrals and outcomes. If further statistics are required, contact the Court via [query@fedcourt.gov.au](mailto:query@fedcourt.gov.au). In the reporting year, over 200 matters have been resolved through mediation. This has meant the Court vacated 765 days of judicial listings and saved a nominal amount of \$3.3 million in terms of the Court's time and resources. When a mediation process has a successful outcome and a matter settles, savings are made by the Court, the parties and the wider community.

## MANAGEMENT OF CASES AND DECIDING DISPUTES BY TRIBUNALS

The Court provides operational support to the Australian Competition Tribunal, the Copyright Tribunal and the Defence Force Discipline Appeal Tribunal. This support includes the provision of registry services to accept and process documents, collect fees, list matters for hearings and otherwise assist the management and determination of proceedings. The Court also provides the infrastructure for tribunal hearings including hearing rooms, furniture, equipment and transcript services.

A summary of the functions of each tribunal and the work undertaken by it during the reporting year is set out in Appendix 6 commencing on page 156.

# IMPROVING ACCESS TO THE COURT AND CONTRIBUTING TO THE AUSTRALIAN LEGAL SYSTEM

## INTRODUCTION

The following section reports on the Court's work during the year to improve the operation and accessibility of the Court, including reforms to its practices and procedures, enhancements in the use of technology and improvements to the information about the Court and its work.

This section also reports on the Court's work during the year to contribute more broadly to enhancing the quality and accessibility of the Australian justice system, including the participation of judges in bodies such as the Australian Law Reform Commission, the Australian Institute of Judicial Administration and in other law reform, community and educational activities.

An outline of the judges' work in this area is included in Appendix 8 commencing on page 170.

## eSERVICES STRATEGY

The Court's eServices strategy aims to take advantage of technology opportunities to achieve benefits to the Court and its users. The Court uses technology to maximise the efficient management of cases by increasing online accessibility for the legal community and members of the public, as well as assisting judges in their task of deciding cases according to law quickly, inexpensively and as efficiently as possible.

One of the objectives of the Court's eServices strategy is to create an environment where actions are commenced, case managed and heard digitally. A significant component of this objective was achieved by the introduction of Electronic Court Files (ECFs) in July 2014. Matters commencing with the Court since its deployment are now handled entirely electronically. The Court's official record for

such matters is the Electronic Court File. To date over 25 000 ECFs have been created. The system has had a number of enhancements made in the reporting year. These have included creating views of all the Court's files by National Practice Areas, functionality to easily identify types of documents, for example suppressed documents and the ability to view future listings over a range of dates.

The Court has continued to promote the use of its electronic filing application, eLodgment. This application was further enhanced in preparation for the introduction of ECFs and will continue to be enhanced in future years. In 2015–16 the number of active users of eLodgment increased by thirty-three per cent to 14 121 and over 128 000 documents were electronically lodged. By June 2016, ninety-eight per cent of documents filed with the Court were done so electronically.

The growth in eLodgment users can be attributed to the Court's approach in promoting and improving the eLodgment system. The Court consulted with the users about enhancements made to the system ensuring that any changes improved usability. The Court also conducts an education and training program that targets both practitioners and their support staff. Building upon engagement of the previous year, a further two hundred and fifty members of the legal sector were trained this year. The eLodgment training for legal support staff is "hands on" using an exact replica of the eLodgment system. Training helped prospective users acquire all the knowledge they needed to use the system efficiently and with proficiency.

During the reporting year, 675 matters were conducted in eCourtroom. The majority of these were applications for sub service heard by the Court's registrars. These matters are ordinarily dealt with entirely in eCourtroom saving the parties time and cost in attending Court and the Court costs in setting up courtrooms. Most matters in eCourtroom are completed within two weeks of the eCourtroom commencing.

The Court has also expanded its real time business intelligence work to assist in decision making, monitoring trends and workload management. This will assist registries in planning and ensure that the Court maximises the available resources effectively to meet a fluctuating workload.

All the elements of the Court's eServices strategy have streamlined the way in which the Court operates, allowing all court users to focus on resolving differences as quickly, inexpensively and efficiently as possible. This fulfils the Court's legislative purpose to facilitate the just resolution of disputes.

## PRACTICE AND PROCEDURE REFORMS

The National Practice Committee is responsible for developing and refining policy and significant principles regarding the Court's practice and procedure. It comprises of the National Coordinating Judges who are responsible for managing the National Practice Areas under the Court's National Court Framework. During the reporting year, the Committee dealt with a range of matters including:

- drafting of Practice Notes
- public consultation about Practice Notes
- judgments, and
- third party access to documents.

The Committee also considered proposed legislative changes and reform in the areas of telecommunications; administrative law; bankruptcy; evidence; environmental protection; and foreign acquisitions and takeovers of corporations.

### **Liaison with the Law Council of Australia**

Members of the National Practice Committee met during the reporting year with the Law Council's Federal Court Liaison Committee to discuss matters concerning the Court's practice and procedure.

These matters included:

- the National Court Framework
- migration appeals, and
- Case Management Handbook.

## ASSISTANCE FOR SELF REPRESENTED LITIGANTS

The Court delivers a wide range of services to self represented litigants. These services have been developed to meet the needs of self represented litigants for information and assistance concerning the Court's practice and procedure.

During the reporting year, the Government provided funding to Queensland Public Interest Law Clearing House (QPILCH), JusticeConnect, JusticeNet SA and Legal Aid Western Australia to provide basic legal information and advice to self represented litigants in the Federal Court and Federal Circuit Court. This may involve diverting parties from commencing proceedings or continuing unmeritorious proceedings, providing assistance to draft or amend pleadings or prepare affidavits, giving advice on how to prepare for a hearing and advice on how to enforce a court order. The service began in Queensland in March 2014 and has been operating nationally in this reporting period. While the service is independent of the courts, facilities are provided within court buildings to enable meetings to be held with clients. The service is also assisted by volunteer lawyers from participating law firms.

Tables 3.6, 3.7 and 3.8 below provide some broad statistics about the number of self represented litigants appearing in the Court as applicants in a matter (respondents are not recorded). As the recording of self represented litigants is not a mandatory field in the Court's case management system statistics shown in the Tables are indicative only. In the reporting year, 563 people who commenced proceedings in the Court were identified as self represented. The majority were appellants in migration appeals.

**Table 3.6 – Actions commenced by Self Represented Litigants (SRLs) during 2015–16 by Registry**

	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	TOTAL
SRLs	6	341	6	46	49	1	61	53	563
%Total	1%	61%	1%	8%	9%	0%	11%	9%	100%

The 563 SRLs in 2015–16 were applicants in 513 proceedings, as a proceeding can have more than one applicant. The following table breaks down these proceedings by major CoA. Reporting continues to be by CoA to show the particular areas of the Court’s jurisdiction where litigants identify as self represented.

**Table 3.7 – Proceedings commenced by SRLs in 2015–16 by CoA**

COA	TOTAL ACTIONS	% OF TOTAL
Administrative Law	39	8%
Admiralty	0	0%
Appeals and related actions	383	75%
Bankruptcy	16	3%
Bills of Costs	0	0%
Competition law	0	0%
Consumer Protection	6	1%
Corporations	6	1%
Cross Claim	0	0%
Fair work	12	2%
Human Rights	4	1%
Industrial	0	0%
Intellectual Property	2	0%
Migration	13	3%
Miscellaneous	26	5%
Native Title	4	1%
Taxation	2	0%
<b>Total</b>	<b>513</b>	<b>100%</b>



**Table 3.8** – Appeals commenced by SRLs in 2015–16 by type of appeal

COA	TOTAL ACTIONS	% OF TOTAL
Administrative Law	4	1%
Admiralty	0	0%
Bankruptcy	12	3%
Competition Law	1	0%
Consumer Protection	7	2%
Corporations	0	0%
Fair Work	10	3%
Human Rights	3	1%
Industrial	2	1%
Intellectual Property	0	0%
Migration	343	90%
Miscellaneous	0	0%
Taxation	0	0%
Native Title	1	0%
<b>Totals</b>	<b>383</b>	<b>100%</b>

## INTERPRETERS

The Court is aware of the difficulties faced by litigants who have little or no understanding of the English language. The Court will not allow a party or the administration of justice to be disadvantaged by a person's inability to secure the services of an interpreter. It has therefore put in place a system to provide professional interpreter services to people who need those services but cannot afford to pay for them.

In general, the Court's policy is to provide these services for litigants who are unrepresented and who do not have the financial means to purchase the services, and for litigants who are represented but are entitled to an exemption from payment of court fees, under the Federal Court and Federal Circuit Court Regulation (see below).

## COURT FEES AND EXEMPTION

Fees are charged under the Federal Court and Federal Circuit Court Regulation for filing documents; setting a matter down for hearing; hearings and mediations; taxation of bills of costs; and for some other services in proceedings in the Court. During the reporting year the rate of the fee that was payable depended on whether the party liable to pay was a publicly listed company (for bankruptcy filing and examination fees only); a corporation; a public authority (for bankruptcy filing and examination fees only); a person; a small business; or a not-for-profit association.

Some specific proceedings are exempt from all or some fees. These include:

- Human Rights applications (other than an initial filing fee of \$55)
- some Fair Work applications (other than an initial filing fee of \$68.60)
- appeals from a single judge to a Full Court in Human Rights and some Fair Work applications
- an application by a person to set aside a subpoena
- an application under section 23 of the *International Arbitration Act 1974* for the issue of a subpoena requiring the attendance before or production of documents to an arbitrator (or both)
- an application for an extension of time
- a proceeding in relation to a case stated or a question reserved for the consideration or opinion of the Court
- a proceeding in relation to a criminal matter
- setting-down fees for an interlocutory application.

A person is entitled to apply for a general exemption from paying court fees in a proceeding if that person:

- has been granted Legal Aid
- has been granted assistance by a registered body to bring proceedings in the Federal Court under Part 11 of the Native Title Act or has been granted funding to perform some functions of a representative body under section 203FE of that Act
- is the holder of a health care card, a pensioner concession card, a Commonwealth seniors health card or another card certifying entitlement to Commonwealth health concessions
- is serving a sentence of imprisonment or is otherwise detained in a public institution
- is younger than 18 years
- is receiving youth allowance, Austudy or ABSTUDY benefits.

Such a person can also receive, without paying a fee, the first copy of any document in the court file or a copy required for the preparation of appeal papers.

A corporation which had been granted Legal Aid or funding under the Native Title Act had the same entitlements.

A person (but not a corporation) is exempt from paying a court fee that otherwise is payable if a Registrar or an authorised officer is satisfied that payment of that fee at that time would cause the person financial hardship. In deciding this, the Registrar or authorised officer must consider the person's income, day-to-day living expenses, liabilities and assets. Even if an earlier fee has been exempted, eligibility for this exemption must be considered afresh on each occasion a fee is payable in any proceeding.

More comprehensive information about filing and other fees that are payable, how these are calculated (including definitions used, for example 'not-for-profit association', 'public authority', 'publicly listed company' and 'small business') and the operation of the exemption from paying the fee is available on the Court's website [www.fedcourt.gov.au](http://www.fedcourt.gov.au). Details of the fee exemptions during the reporting year are set out in Appendix 1 on page 88.

## WEBSITE

The Federal Court website is the main source of public information and a gateway to the Court's suite of online services such as eLodgment, eCourtroom and the Commonwealth Courts Portal. It provides access to a range of information including court forms and fees, guides for court users, daily court listings and judgments. In recent years it has also been used to publish selected court documents in representative proceedings and cases of high public interest; these were previously only available to interested parties by visiting the registry in which the matter was filed. In the reporting year the website provided 3,186,887 page views, in 1,287,257 sessions by 641,430 users. While the majority of users of the Court's website are from Australia, there has been an increase in international traffic from the United States of America, the United Kingdom and South East Asia.

The Federal Court website is the foundation of information campaigns and other court initiatives and projects. In the 2015–16 reporting year it was used extensively to communicate changes to court users regarding the National Court Framework (NCF). Currently there is development under way in order to accommodate procedural changes introduced as part of the NCF.

There are two subscription services offered on the Court website: Practice News, which communicates changes to the Court's practice and procedure, and the Daily Court Lists, which provides details of hearings listed the next business day. Work is underway to increase the types of email subscriptions available to Court users. In the reporting year, an Arrest and Release notification service was developed for Admiralty practitioners and other interested parties; the service has been highly successful. The Court also provided RSS feeds (Rich Site Summary feeds) for judgments and news items.

## REQUESTS FOR INFORMATION

In 2015–16 nearly 600 emails were received by the Court through the website's email account: [query@fedcourt.gov.au](mailto:query@fedcourt.gov.au). The query account was used as a contact for the Court's initiatives as well as requests received from students, researchers and members of the public who are interested in the role of the Court, its jurisdiction, practice and procedure and at times particular cases of interest. Staff ensure they respond to the queries in a comprehensive and timely fashion.

Some enquiries concern legal advice. Whilst court staff cannot provide legal advice, they endeavour to assist all enquirers by referring them to reliable sources of information on the internet or to community organisations such as legal aid agencies and libraries.

## PUBLISHED INFORMATION

The Court publishes a range of information on aspects of its work including: a guide for witnesses appearing in the Court; information on procedures in appeals, bankruptcy, native title and human rights cases; and information on the Court's use of mediation. In addition, during the reporting year the Court developed comprehensive information about the National Court Framework reforms which is available from the Court's website, [www.fedcourt.gov.au](http://www.fedcourt.gov.au).

## FREEDOM OF INFORMATION

### Information Publication Scheme

Agencies subject to the *Freedom of Information Act 1982* (FOI Act) are required to publish information to the public as part of the Information Publication Scheme (IPS). This requirement is in Part II of the FOI Act and has replaced the former requirement to publish a section 8 statement in an annual report. Each agency must display on its website a plan showing what information it publishes in accordance with the IPS requirements. The Court's plan is accessible from the Court's website at <http://www.fedcourt.gov.au/ips>. The NNTT's plan can be found at <http://www.nntt.gov.au/Pages/ips.aspx>.

The availability of some documents under the FOI Act will be affected by s. 5 of that Act, which states that the Act does not apply to any request for access to a document of the Court unless the document relates to matters of an administrative nature. Documents filed in Court proceedings are not of an administrative nature; however, they may be accessible by way of the Federal Court Rules.

## ACCESS TO JUDGMENTS

When a decision of the Court is delivered, a copy is made available to the parties and published on the Federal Court and AustLII websites for access by the media and the public. Judgments of public interest are published within an hour of delivery and other judgments within a few days. The Court also provides copies of judgments to legal publishers and other subscribers.

## INFORMATION FOR THE MEDIA AND TELEVISED JUDGMENTS

The Director, Public Information deals with enquiries about cases and issues relating to the Court's work from media throughout Australia and internationally. These predominantly relate to the timely provision of judgments and guidance on how to access court files.

During the reporting year, the DPI facilitated the establishment of an online file for the *Wotton v State of Queensland* matter to coincide with the trial that was heard, in part, on Palm Island. Mainstream television access was also arranged for the first day of the trial.

The DPI is also responsible for the production of training and educational videos about the Court's work. During the year a training video on how to obtain best results in videoconferencing was made with the cooperation of court staff.

The DPI assisted producers of "Legal Briefs" an educational series for ABC Television – by arranging an interview with a judge and access to a court room for filming.

The reporting year was also notable for the record number of shipping arrests by court marshals and resultant coverage – assisted by the DPI – in both mainstream and specialist maritime media.

## COMMUNITY RELATIONS

The Court engages in a wide range of activities with the legal profession, including regular user group meetings. The aim of user groups is to provide a forum for Court representatives and the legal profession to discuss existing and emerging issues, provide feedback to the Court and act as a reference group. Seminars and workshops on issues of practice and procedure in particular areas of the Court's jurisdiction are also regularly held.

In 2015–16, members of the Court were involved in:

### National Court Framework – consultation and information forums

Registries across the country hosted consultations regarding the draft NPA practice notes. The forums were well attended by Court users and provided an opportunity for the Court to seek input from the profession regarding the practice of the Court and its case management initiatives. Forums were held in the NPAs of Taxation, Employment and Industrial Relations as well as Commercial and Corporations.

### **International Arbitration Series –a joint initiative of the CIArb Australia and Federal Court of Australia**

The first seminar in the series focused on a range of cutting-edge legal issues regarding the role of the courts in international commercial arbitration.

### **National Commercial Law Seminar Series**

In the reporting year, this national seminar series considered legal pitfalls that commonly arise in the sale of a business, including: misleading or deceptive conduct, intellectual property issues, and post-sale restraints of trade. The seminar series also looked at *D'Arcy v Myriad* and its implications for patent law.

### **Working with the Bar**

The Victoria Registry hosted the Victorian Silks ceremony on 4 December 2015. Queensland Registry hosted the Queensland Silks ceremony on 17 December 2015. Registries across the country hosted Advocacy sessions as well as a number of Bar Moot Courts, Moot Competitions and assisted with Readers' Courses during the year.

### **Federal Court User Groups**

The Court is reconsidering its approach to user liaison. User groups are being formed along NPA lines to discuss issues related to the operation of the Court, its practice and procedure, act as a reference group for discussion of developments and proposals and as a channel to provide feedback to the Court on particular areas of shared interest.

During the reporting year, user groups met in NSW for the Copyright and Competition Tribunals. In Queensland, a specialist Native Title user forum was held.

### **Legal community**

During the course of the year the Court's facilities were made available for many events for the legal community including:

- in Sydney – the Richard Cooper Memorial Lecture, Australian Association of Constitutional Law Lectures, Magna Carta Lecture, Forbes Society Tutorial, Tony Blackshield Lecture, Tristan Jepson Memorial Foundation Lecture, Australian Academy of Law AGM, International Arbitration Lecture, Gilbert + Tobin Centre for Public Law UNSW Lecture, AMTAC Address, Mahla Pearlman Oration
- in Brisbane – an ALRC Symposium, and
- in Perth – the Court held a successful intellectual property seminar series and hosted the Australian Women Lawyers Welcome for their National Conference.

### **Education**

The Court also engages in a range of strategies to enhance public understanding of its work and the Court's registries are involved in educational activities with schools and universities and, on occasion, with other organisations that have an interest in the Court's work. The following highlights some of these activities during the year.

The Court is committed to providing opportunities for students to gain hands on work experience. The Court hosted many work experience students across multiple registries including New South Wales, Queensland and Victoria. Students are given a program that exposes them to all areas of the Court's operations over the course of one week.

The NSW Registry provided internships for university students specifically with the University of Sydney. The Court in the Victoria Registry participated in the Indigenous Clerkship Program run by the Victorian Bar. Two clerks participated in the program and each clerk spent one week with each of the participating institutions: the Federal Court of Australia, the Supreme Court of Victoria and the Victorian Bar.

The Court hosted a number of school visits and educational tours to the Court across its registries. The Western Australia Registry hosted two school visits organised by the WA Law Society.

The Court support for and work with universities continued through the year: in the Western Australia Registry, the Murdoch Student Law Society held the Grand Final of their Junior Trial Advocacy Competition at Court and the Jones-Day Inter-Law School Trial Advocacy Competition involving four law schools was also held at the Court. The Queensland Registry hosted five university moot competitions. The Victoria Registry hosted a number of moot courts for Monash, Melbourne, New England, La Trobe and Deakin universities. The South Australia Registry held the Flinders Law Students Association Moot competition and the NSW Registry hosted University of New England and University of New South Wales Moot Courts.

On 21 May 2016, the Victoria Registry participated in Courts Open Day during Victoria Law Week; an event organised by the Victoria Law Foundation. Justice Pagone, District Registrar Daniel Caporale and staff of the Victorian Registry welcomed members of the public to the Court. A number of information sessions were organised including “On the Bench” – a Q&A session with Justice Pagone, “How to Arrest a Ship” – a presentation by the Court’s Admiralty Marshals and “Connecting Courtrooms” – an interactive session highlighting the use of technology in Federal Court hearings.

## COMPLAINTS ABOUT THE COURT’S PROCESSES

During the reporting year, seven complaints were made to the Court in relation to its procedures, rules, forms, timeliness or courtesy to users. This figure is down from twelve last year. This figure does not include complaints about the merits of a decision by a judge, which may only be dealt with by way of appeal.

Information about the Court’s feedback and complaints processes can be found at [www.fedcourt.gov.au/feedback-and-complaints](http://www.fedcourt.gov.au/feedback-and-complaints).

## INVOLVEMENT IN LEGAL EDUCATION PROGRAMS AND LEGAL REFORM ACTIVITIES (CONTRIBUTION TO THE LEGAL SYSTEM)

The Court is an active supporter of legal education programs, both in Australia and overseas. During the reporting year, the Chief Justice and many judges:

- presented papers, gave lectures and chaired sessions at judicial and other conferences, judicial administration meetings, continuing legal education courses and university law schools
- participated in Bar reading courses, Law Society meetings and other public meetings
- held positions on advisory boards or councils or committees.

An outline of the judges’ work in this area is included in Appendix 8 commencing on page 170.

## NATIONAL STANDARD ON JUDICIAL EDUCATION

In 2010 a report entitled “Review of the National Standard for Professional Development for Australian Judicial Officers” was prepared for the National Judicial College of Australia. The Court was invited and agreed to adopt a recommendation from that Report to include information in the Court’s Annual Report about:

- participation by members of the Court in judicial professional development activities
- whether the proposed Standard for Professional Development was met during the year by the Court
- if applicable, what prevented the Court meeting the Standard (such as judicial officers being unable to be released from court, lack of funding, etc).

The Standard provides that judicial officers identify up to five days a year on which they could participate in professional development activities. During 2015–16 the Court offered the following activities:

- a one day Intellectual Property Workshop, in conjunction with the Law Council of Australia
- a number of seminars in Commercial Law, as part of the National Commercial Law seminar series
- an information session, conducted by videoconference to each Registry, for the Court's Admiralty judges and marshals
- six education sessions were scheduled at the Judges meeting in August 2015
- five education sessions were scheduled at the Judges meeting in March 2016, and
- judges were also offered the opportunity to attend the Supreme Court and Federal Court Judges' Conference held in Brisbane, 23–27 January 2016.

Education sessions offered in 2015–2016 included:

- Judicial ethics
- Judgment writing tips
- Discrimination law
- Contempt
- Fundamentals of the Internet
- The new arrangements in the Administrative Appeals Tribunal
- A workshop on the court's Admiralty jurisdiction
- A workshop on the court's industrial jurisdiction
- The courtroom and the brain
- Efficient use of interpreters in court, and
- Eyes on the spies: The inspector, the committee and the judges.

In addition to the above, judges undertook other education activities through participation in seminars and conferences, details of which can be found in Appendix 8 on page 170. In the period 1 July 2015 to 30 June 2016, the Federal Court of Australia met the National Standard for Professional Development for Australian Judicial

## WORK WITH INTERNATIONAL JURISDICTIONS

### INTRODUCTION

The Court's International Programs Unit collaborates with neighbouring judiciaries predominantly across the Asia Pacific Region to promote governance, access to justice and the rule of law both in Australia and overseas. In 2015–16, the Court coordinated a number of activities and hosting of several international visits.

### MEMORANDUM OF UNDERSTANDING WITH THE SUPREME AND NATIONAL COURTS OF PAPUA NEW GUINEA

Under the existing Memorandum of Understanding (MoU) with Papua New Guinea (PNG) signed in December 2014, the Courts continued to promote judicial development, understanding of each country's respective laws, judicial culture and international legal standards. Within this, the Courts have collaborated in support of promoting court-annexed mediation and case management more broadly, along with promoting leadership and change management capabilities. The Federal Court hosted several visits from delegates within the PNG courts:

- A delegation led by Justice George Manahu visited the Victorian Registries of the Supreme Court and Federal Court to exchange ideas on the development of a case management system and processes for the higher courts of PNG.
- A delegation led by Justice David Cannings visited the NSW and Principal Registries to enhance knowledge of electronic case management and the role of judicial and court officers to improve the facilitation of justice in PNG.
- Queensland Registry hosted library staff from PNG with an aim of improving the Court's electronic library services.
- South Australian Registry hosted court officers from PNG to develop their knowledge of the roles and responsibilities of Registry staff and the management of court processes.

Federal Court officers provided ongoing support for the facilitation of visits in Australia as well as in PNG.

In PNG, the Federal Court's Chief Information Officer reviewed tenders for the design and implementation of the PNG Court's new integrated case management system. The NSW District Registrar and the Deputy District Registrar reviewed the progress with respect to case management reforms and the outcomes of visits from PNG to the Federal Court. Improvements in PNG's case docketing system were observed, as well as their ability to provide alternative dispute resolution with the appointment of internal mediators. The Registrars identified future options and actions for ongoing development and support to PNG Courts, which will continue in 2016-17.

## MEMORANDUM OF UNDERSTANDING WITH THE SUPREME COURT OF INDONESIA

Cooperation with the Mahkamah Agung Republik Indonesia (Supreme Court of Indonesia) continued under the Memorandum of Understanding signed in June 2014. Chief Justice Allsop, Registrar Soden and National Operations Registrar Lagos met with the Chief Justice and senior members of the Supreme Court of Indonesia in March. The discussions highlighted the Court's role in improving the ease of doing business with Indonesia, including the prospect of establishing a Commercial Court and implementing electronic processes in the Indonesian Court. As the current Annex to the MoU with Indonesia nears completion, the signing of the new Annex is envisaged for 2017.

## MEMORANDUM OF UNDERSTANDING WITH THE SUPREME COURT OF THE UNION OF MYANMAR

The Federal Court and the Supreme Court of the Union of Myanmar signed an historic five-year Memorandum of Understanding (MoU) in June. Chief Justice Allsop and Registrar Soden visited Myanmar to attend a signing ceremony. Australian diplomatic representatives, including the Ambassador to Myanmar, attended the event. The areas of cooperation under the MoU were developed in line with the Supreme Court's strategic judicial reform plans and include improving the public's access to justice through court annex mediation, enhancing accountability and transparency through annual court reporting, developing leadership and change management expertise to implement reforms. Ongoing knowledge exchanges will be facilitated through attachments to the Federal Court and further visits to Myanmar later in 2016.

The MoU followed the visit to the Federal Court by fellows from the Supreme Court in late 2015. The purpose of the DFAT-funded Australia Awards Fellowship was to provide an opportunity for two judicial administrators from Myanmar to observe an effectively governed and functioning judiciary and to develop a plan to implement associated reforms locally.

## PACIFIC JUDICIAL DEVELOPMENT PROGRAM

After five and a half years, the Pacific Judicial Development Program (PJDP) ended on 31 December 2015. During its life participating countries achieved notable improvements in the quality of justice in ways that are relevant, effective, efficient and sustainable. These improvements have had a measurable impact on promoting a fairer society and improving human wellbeing in the Pacific.

In the period July to December, a number of activities were held which focussed support on issues of bilateral and regional importance including networking among the region's Chief Justices, and training judicial and court officers in fundamental aspects of their role.



## PACIFIC JUDICIAL STRENGTHENING INITIATIVE

The Federal Court was successful in its tender to assess the region's ongoing judicial support needs, design and manage the implementation of the Pacific Judicial Strengthening Initiative (PJSI). In May the Court agreed with the New Zealand Ministry of Foreign Affairs and Trade (MFAT) to manage and implement the PJSI over the next three years, with a possibility of extension for a further two years. Assistance will be provided to participating Pacific Island Countries to improve their capacity to drive change locally, achieve professionalism and service excellence, deliver justice in a fair and timely manner, and increase access to justice for their citizens.

## AUSTRALIAN FEDERAL POLICE EXPERT PANEL

The Court successfully tendered to join an exclusive panel of experts from which the Australian Federal Police (AFP) will draw upon to provide project design, monitoring and evaluation services to its international operations. The Court looks forward to the opportunity to bring its experience in law and justice reform to the AFP.

## VISITORS TO THE COURT

During the year, the Court hosted the following visitors:

**Chief Justices of Myanmar and Indonesia:** Chief Justice Allsop met with Chief Justice Htun Htun Oo of Myanmar and Deputy Chief Justice Rahmadi of Indonesia who attended the 16th Asia Pacific Chief Justices Meeting in Sydney. The meeting entailed discussions regarding the road to judicial reform and court led initiatives that can support public confidence in the judiciary through accountability and transparency measures.

**France:** In November, Chief Justice Allsop hosted a lunch with Consul-General Nicolas Croizier. President Beazley of the NSW Court of Appeal attended, together with Justices Bennett, Greenwood, Rares, Jessup, Tracey, Reeves, Robertson, Rangiah, Wigney and Perry.

**Indonesian Judicial Commission:** Justice Logan and District Registrar Heather Baldwin hosted members of the Indonesian Judicial Commission at the Queensland Registry in November, where the visitors were given demonstrations of eLodgement and the Electronic Court File.

**Nauru:** The Court facilitated a work placement for an administrative officer of the Supreme Court of Nauru, providing them with an insight into the administrative and financial systems of the Court through skill and knowledge sharing.

**Vietnam:** Deputy Chief Justice Nguyen met with Justice Bennett and Principal Registrar Soden to discuss the processes and policies related to judges such as judicial remuneration and the application and development of judicial precedents; as well as more generally the settlement of bankruptcy, intellectual property and environmental disputes.

# Part 4 Management of the Court



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## Management of the Court

### FEDERAL COURT GOVERNANCE

Since 1990 the Court has been self-administering, with a separate budget appropriation and reporting arrangement to the Parliament. Under the Federal Court of Australia Act, the Chief Justice of the Court is responsible for managing the Court's administrative affairs. The Chief Justice is assisted by the Registrar/Chief Executive Officer. The Act also provides that the Chief Justice may delegate any of his or her administrative powers to judges, and that the Registrar may exercise powers on behalf of the Chief Justice in relation to the Court's administrative affairs.

In practice, the Court's governance involves two distinct structures: the management of the Court through its registry structure; and the judges' committee structure which facilitates the collegiate involvement of the judges of the Court. Judges also participate in the management of the Court through formal meetings of all judges. The registries and the judges' committees are discussed in more detail below.

### FEDERAL COURT REGISTRY MANAGEMENT STRUCTURE

As outlined in Part 1 of this report, the Court's administration is supported by a national registry structure, with a Principal Registry responsible for managing national issues and provision of the corporate services functions of the Court, National Operations for the implementation of the National Court Framework and its ongoing function and a District Registry in each State and Territory which supports the work of the Court at a local level.

A diagram of the management structure of the Court is set out in Appendix 3 on page 137.

### JUDGES' COMMITTEES

There are a number of committees of judges of the Court, which assist with the administration of the Court and play an integral role in managing issues related to the Court's administration, as well as its rules and practice.

An overarching Policy and Planning Committee provides advice to the Chief Justice on policy aspects of the administration of the Court. It is assisted by standing committees that focus on a number of specific issues in this area. In addition, other ad hoc committees and working parties are established from time to time to deal with particular issues.

An overarching National Practice Committee provides advice to the Chief Justice and judges on practice and procedure reform and improvement.

There are also a small number of standing committees that focus on specific issues within the framework of the Court's practice and procedure.

All of the committees are supported by registry staff. The committees provide advice to the Chief Justice and to all judges at the bi-annual judges' meetings.

## JUDGES' MEETINGS

There were two meetings of all judges of the Court during the year, which dealt with matters such as reforms of the Court's practice and procedure and amendments to the Rules of Court. Business matters discussed included the National Court Framework, the progress of Digital Hearings, management of the Court's finances and cost savings initiatives.

## CORPORATE FUNCTIONS

The Corporate Services Branch in the Principal Registry is responsible for supporting the Court's and National Native Title Tribunal (NNTT) corporate functions.

In the 2015-2016 Budget, the Government outlined reforms that would see the corporate functions of the Family Court and Federal Circuit Court merge with the Court to form a single administrative body with a single appropriation. The merge is to commence on 1 July 2016. The reform preserves all the courts' functional and judicial independence while pursuing efficient and effective delivery of shared corporate services for all the courts. The coming year will create a significant opportunity to strengthen the services provided by the Corporate Services group.

The following outlines the major corporate services issues during the reporting year.

## FINANCIAL MANAGEMENT

The Finance Committee, which is made up of judges from each of the registries, as well as the Registrar, oversees the financial management of the Court. The Corporate Services Branch supports the Committee. During 2015–16, the Committee met on three occasions.

## FINANCIAL ACCOUNTS

During 2015–16 revenues from ordinary activities totalled \$130.747 million.

Total revenue, in the main, comprised:

- An appropriation from Government of \$94.225 million
- \$20.338 million of resources received free of charge, including for accommodation occupied by the Court in Sydney
- \$14.314 million of liabilities assumed by other government agencies, representing the notional value of employer superannuation payments for the Court's judges
- \$1.870 million from the sale of goods and services.

Pre-depreciation expenses of \$130.739 million in 2015–16 comprised: \$82.252 million in judges' and employees' salaries and related expenses; \$27.587 million in property related expenses; \$20.667 million in other administrative expenses and \$0.227 million write-down of non-current assets.

- The net operating result from ordinary activities for 2015–16 was a surplus of \$8,267 prior to depreciation expenses. This was primarily as a result of less than expected expenditure on:
  - property operating costs
  - judges' and employee benefits
  - registry staff salaries even after providing for redundancy costs of \$1.597m
  - judges' long leave
  - library publications

- Some of the lower than expected expenditure was offset by higher than expected expenditure on:
  - domestic travel
  - contractors

When depreciation expenses of \$4.013 million are included, the Court's expenses for 2015–16 totalled \$134.752 million.

The above result includes a \$0.501 million surplus in relation to the NNTT, primarily as a result of lower than expected employee costs.

Equity increased from \$51.812 million in 2014–15 to \$52.771 million in 2015–16.

**Table 4.1 – Outcome and Programme Statement**

	BUDGET 15-16 (\$'000)	ACTUAL 15-16 (\$'000)	VARIATION (\$'000)
<b>Outcome 1:</b> Through its jurisdiction, the Court will apply and uphold the rule of law to deliver remedies and enforce rights and in so doing, contribute to the social and economic development and well-being of all Australians			
Programme 1.1 – Federal Court Business			
Administered Expenses	.600	.988	-0.388
Departmental Appropriation	96.799	96.095	0.704
Expenses not requiring appropriation in the budget year	37.351	38.657	-1.306
<b>Total for Programme 1.1</b>	<b>134.750</b>	<b>135.740</b>	<b>-0.990</b>
<b>Total expenses for Outcome 1</b>	<b>134.750</b>	<b>135.740</b>	<b>-0.990</b>
	2014–15	2015–16	
Average staffing level (number)	400	391	

The Court's agency resource statement can be found at Appendix 2 on page 136

## AUDIT AND RISK MANAGEMENT

The Registrar certifies that:

- Fraud control plans and fraud risk assessments have been prepared that comply with the Commonwealth Fraud Control Guidelines.
- Appropriate fraud prevention, detection, investigation and reporting procedures and practices that comply with the Commonwealth Fraud Control Guidelines are in place.
- The Court has taken all reasonable measures to appropriately deal with fraud relating to the Court and there have been no cases of fraud during 2015–16 to be reported to the Australian Institute of Criminology.

The Court had the following structures and processes in place to implement the principles and objectives of corporate governance:

- An Audit Committee that met four times during 2015–16. The committee comprises an independent chairperson, four judges and the NSW District Registrar. The Principal Registrar, the Executive Director – Corporate Services and Chief Financial Officer and representatives from the internal audit service provider and the Australian National Audit Office (ANAO) attend committee meetings as observers.
- Internal auditors, O'Connor Marsden and Associates, who conducted three internal audits during the year to test the Court's systems of internal control.
- A Fraud Control Plan.
- Quarterly self-controlled assessments completed by senior managers.
- Internal compliance certificates completed by senior managers.
- Annual audit performed by the ANAO who issued an unmodified audit certificate attached to the annual financial statements.

## COMPLIANCE REPORT

There were no significant issues reported under paragraph 19(1)(e) of the *Public Governance, Performance and Accountability Act 2013* that relate to non-compliance with the finance law in relation to the entity.

## EXTERNAL SCRUTINY

The Court was not the subject of any reports by a Parliamentary committee or the Commonwealth Ombudsman. The Court was not the subject of any judicial decisions or decisions of administrative tribunals regarding its operations as a statutory agency for the purposes of the *Public Service Act 1999* or as a non corporate Commonwealth entity under the *Public Governance, Performance and Accountability Act 2013*.

## PURCHASING

The Court's procurement policies and procedures, expressed in the Court's Resource Management Instructions, are based on the requirements of the *Public Governance, Performance and Accountability Act 2013*, the Commonwealth Procurement Rules and best practice guidance documents published by the Department of Finance. The Court achieves a high level of performance against the core principles of achieving value for money through efficient, effective and appropriately competitive procurement processes.

The Court supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance's website. In compliance with its obligations under the Commonwealth Procurement Rules to achieve value for money in its purchase of goods and services, and reflecting the scale, scope and risk of a particular procurement, the Court applies procurement practices that provide small and medium-sized enterprises the appropriate opportunity to compete for its business.

CONSULTANTS

During 2015–16, 11 new consultancy contracts were entered into involving total actual expenditure of \$840 278. In addition, one ongoing consultancy contract was active during the 2015–16 year which involved total actual expenditure of \$98 313.

Table 4.2 below outlines expenditure trends for consultancy contracts over the three most recent financial years.

Table 4.2 – Expenditure trends for consultancy contracts 2013–14 to 2015–16

FINANCIAL YEAR	NEW CONTRACTS – ACTUAL EXPENDITURE	ONGOING CONTRACTS – ACTUAL EXPENDITURE
2015–16	\$ 840 278	\$98 313
2014–15	\$ 532 381	\$88 000
2013–14	\$ 360 198	\$930 591

INFORMATION ON CONSULTANCY SERVICES

The Court’s policy on the selection and engagement of all contractors is based on the Australian Government’s procurement policy framework as expressed in the Commonwealth Procurement Rules (CPR) (July 2014) and associated Finance Circulars and guidance documentation published by the Department of Finance.

The main function for which consultants were engaged related to the delivery of specialist and expert services, primarily in connection with the Court’s information technology (IT) infrastructure, finance and business elements of the Court’s corporate services delivery.

Selection of consultant services was made in accordance with the guidelines, and was obtained by way of either an Open, Prequalified or Limited Tender process, which are defined as follows:

Method 1 – Open tender which involves publishing an open approach to market and inviting submissions.

Method 2 – Prequalified tender which involves publishing an approach to market inviting submissions from all potential suppliers on:

- (a) a shortlist of potential suppliers that responded to an initial open approach to market on AusTender;
- (b) a list of potential suppliers selected from a multi-use list established through an open approach to market; or
- (c) a list of all potential suppliers that have been granted a specific licence or comply with a legal requirement, where the licence or compliance with the legal requirement is essential to the conduct of the procurement.

Method 3 – Limited tender which involves either:

- (a) an agency approaching one or more potential suppliers to make submissions, where the process does not meet the rules for open tender or prequalified tender; or
- (b) for procurements at or above the relevant procurement threshold, limited tender can only be conducted in accordance with paragraph 10.3 of the CPRs; or
- (c) where a procurement is exempt as detailed in Appendix A of the CPRs.

Consultancy services are sought where:

- (a) skills are not available in the agency; or
- (b) specialised or professional skills are needed; or
- (c) independent research or assessment is needed.

Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website [www.tenders.gov.au](http://www.tenders.gov.au).



## COMPETITIVE TENDERING AND CONTRACTING

During 2015-16, there were no contracts let to the value of \$100,000 or more that did not provide for the Auditor-General to have access to the contractor's premises.

During 2015-16, there were no contracts or standing offers exempted by the Chief Executive Officer from publication in the contract reporting section on AusTender.

## PROPERTY MANAGEMENT

The Court occupies law court buildings in every Australian capital city. With the exception of Sydney and Darwin, the purpose-built facilities within these Commonwealth-owned buildings are shared with other Commonwealth Court jurisdictions.

The Federal Court in Sydney is located in the Law Courts Building in Queens Square. This building is owned by a private company (Law Courts Limited) that is jointly owned by the Commonwealth and New South Wales governments. The Court pays no rent, outgoings or utility costs for its space in this building.

The Court's Darwin Registry is co-located in the Northern Territory Supreme Court building under the terms of a Licence to Occupy between the Court and the Territory Government.

From 1 July 2012, the Commonwealth Law Court buildings have been managed under revised 'Special Purpose Property' principles. Leasing arrangements are now governed by whether the space is designated as special purpose accommodation (courtrooms, chambers, public areas) or usable office accommodation (registry areas). An interim Memorandum of Understanding was signed by the Court with the Department of Finance and Deregulation for 2015-16 with negotiations continuing for a long-term agreement.

## SECURITY

In the course of this year the Court continued to develop and revise security policies and undertake awareness training in compliance with its obligations under the Government's Protective Security Policy Framework. A review has been conducted of the workplace emergency plans and procedures, including evacuation and lockdown procedures for each of the Commonwealth Law Courts buildings.

In relation to physical security, an audit of security equipment across all Commonwealth Law Court buildings was conducted. The intention, over a five-year period, is to replace and upgrade the security equipment in each of these buildings. Additionally, following a procurement process the Commonwealth Law Courts and Tribunals entered into a new Security Guarding contract which commenced in January 2015.

Amendments to the *Court Security Act 2013*, which commenced on 18 August 2015, provided greater flexibility to court security officers in handling dangerous items that are left for safekeeping or seized. Previously any seized items could only be handed to the police but, in practice, police officers were reluctant to receive knives and other potential weapons where there was no offence provision which covered the confiscation. Further, there was no provision authorising disposal of unclaimed items left for safekeeping. As amended, the provisions now only require court security officers to take reasonable steps to give items to the police and provide explicit authority to dispose of any unclaimed items.

## ENVIRONMENTAL MANAGEMENT

The Court provides the following information as required under s516A of the *Environment Protection and Biodiversity Conservation Act 1999*.

The Court, together with other jurisdictions in shared premises, seeks to reduce the impact of its operations on the environment through the following measures:

- Environmental Management Systems are in place in all buildings to minimise the consumption of energy, water and waste.
- The Court has established a National Environment Committee with sub committees in most registries. The Committee seeks to raise staff awareness of workplace environment issues.
- The Court has developed a National Environmental Initiative Policy which encourages staff to adopt water and energy savings practices.

## ADVERTISING AND MARKETING SERVICES

A total of \$10 344 was paid for recruitment advertising services in 2015–16. Payments to Adcorp on advertising for notification of native title applications, as required under the *Native Title Act 1933*, totalled \$174 137 over the reporting year. The Court did not conduct any advertising campaigns in the reporting period.

## HUMAN RESOURCES

### STAFFING PROFILE

At 30 June 2016, the Court employed 477 employees under the *Public Service Act 1999*, comprised of 238 ongoing full-time employees, 50 ongoing part-time employees and 189 non-ongoing employees. The high number of non-ongoing employees is due to the nature of the engagement of judges' associates, who are typically employed for a specified term of twelve months, as well as the engagement of casual court officers for irregular and intermittent courtroom duties.

At 30 June 2016, the Court employed nine employees who identify as Indigenous, of whom eight were engaged in ongoing positions and one in a non-ongoing position. This is a decrease of one ongoing employee from the previous reporting year (nine ongoing and one non-ongoing as at 30 June 2015).

The Court had an average staffing level of 387.25 during the reporting period.

More detailed staffing statistics can be found in Appendix 9 commencing on page 190.

### EMPLOYEE CONSULTATION

The Court's approach to change management and human resources issues is characterised by transparency and consultation. Consistent with this, the Court's National Consultative Committee (NCC) continued to operate as necessary through the year. In large, most of the NCC's responsibilities were taken over in 2015–16 by the Court's Enterprise Bargaining Negotiation Team, which includes the Community and Public Sector Union (CPSU) and Bargaining Representatives. The Court's other consultative forums such as Regional Consultative Committees and the Work Health and Safety Committee continued to operate. Minutes from all committees are placed on the Court's intranet where they can be readily accessed by staff.

## ENTERPRISE AGREEMENT AND WORKPLACE BARGAINING

The Court's 2011–2014 Enterprise Agreement expired on 30 June 2014 and Court Management negotiated with the CPSU and Bargaining Representatives for a replacement agreement during the year. The process however has not yet been completed and will continue in 2016–17 in line with the Australian Government Public Sector Workplace Bargaining Policy.

During the reporting period, the Court relied on determinations under s24 of the Public Service Act for setting the employment conditions of all substantive Senior Executive Service (SES) employees and individual flexibility agreements under the Court's Enterprise Agreement to supplement the salaries for 25 non-SES employees. The Court has no employees on Australian workplace agreements or common law contracts.

The Enterprise Agreement and s24 determinations provide a range of monetary and non-monetary benefits to the Court's employees. Employees may choose to participate in salary sacrifice arrangements including for motor vehicles through novated lease, and for making additional superannuation contributions.

No performance bonus payments were made in 2015–16.

## WORK HEALTH AND SAFETY

The Court continued to promote a proactive approach to Work Health and Safety (WHS) management. Court management engaged with the Court's Health and Safety Committee (HSC) to promote health and safety in the workplace. Work in this area focussed on ensuring that the Court complies with its responsibilities under the Work Health and Safety Act 2011 (WHS Act).

Specific measures included:

- Arranging regular meetings of the national HSC, with four meetings held during the reporting year
- Undertaking WHS workplace inspections and follow-up audits
- Providing 16 workstation assessments for staff, with three conducted internally by trained Health and Safety Representatives
- Providing annual influenza vaccinations for all staff, with 218 employees taking up the vaccination offer. This equated to approximately 42% of staff
- Providing access to eyesight testing and reimbursement for spectacles where needed for screen-based work
- Providing access to free confidential counselling services through the Court's Employee Assistance Program
- Providing access to professional debriefing following trauma/critical incidents in the workplace
- Providing training to Admiralty Marshals in boarding and disembarking vessels, consistent with a risk assessment of the role
- Continuing to arrange medical fitness assessments of all court staff undertaking Admiralty Marshal duties, consistent with a risk assessment of the role and
- Encouraging health and fitness-related activities (eg participation in community-based fitness events) by providing funding via the Court's Health and Fitness policy.

The Court's workers compensation premium for 2015-2016 was 1.69 per cent of payroll costs, which compared favourably to the overall scheme premium rate of 1.85 per cent, but is an increase from the Court's premium rate of 1.50 per cent for 2014-2015. The increase was largely due to re-opening of a number of long-term cases for updates to treatment, ongoing costs of invalidity retirement cases and a small number of short-term cases being opened and resolved. The Court has increased efforts to implement early intervention strategies as well as reviewing longstanding cases (for both compensable and non-compensable), and will continue to manage its workers compensation cases proactively throughout the next reporting period.

During the reporting year, the Court had:

- no notifiable incidents reported to Comcare under s38 of the WHS Act
- no provisional improvement notices issued under s90 of the WHS Act
- no enforcement notices issued under Part 10 of the WHS Act
- no incidents under ss83–86 of the WHS Act (ceasing of work due to a reasonable concern of exposure to serious risk).

## WORKFORCE PLANNING

A critical component of the full implementation of the Court's National Court Framework (NCF) and the Electronic Court File projects has been workforce planning to ensure that organisation structures and work practices are realigned and standardised across the Court, and that staff develop greater legal competency and strong skills for working in a digital environment, to support the work of judges and registrars and deliver high quality and efficient services to our clients. As part of the re-orientation of positions within the Court during the year, there was an increase in advertised recruitment activity, movement of current staff, and initial, medium and long-term training and development to build capability to support the NCF and its ongoing operation.

The NNTT also introduced a new organisational structure and workflows as part of implementing the second phase of the NNTT President's Review to energise and strengthen the NNTT's capability to support Members and clients in the native title space. The restructure which included: consolidation of various units into two practice teams; creation of new positions focussed on research and business development, and providing specialist advice; creation of a business unit to manage systems, processes and procedures and communications; consolidation of various administrative support staff into a national business support team; accommodated all current ongoing employees. An expanded staff training and development program supported employees to perform effectively in the new structure, and a recruitment strategy has commenced to fill vacant positions or roles currently undertaken by staff on temporary arrangements.

### Retention strategies

The Court has a range of strategies in place to attract, develop, recognise and retain key staff including flexible work conditions and individual flexibility agreements available under the Enterprise Agreement. The Court continued to refine and customise these through 2015–16 as required to meet specific issues and cases.

### Work life balance

The Court's Enterprise Agreement and a range of other human resources policies, provide flexible working arrangements to help employees balance their work and other responsibilities, including young families and ageing parents. The options available include access to part-time work, job sharing, flexible leave arrangements, purchased leave, and long term leave with or without pay.

The Court also provides a range of other family-friendly initiatives including improved parental and adoption leave arrangements and homework rooms or similar appropriate facilities for staff with school-aged children.

## REWARD AND RECOGNITION

The Court encourages and recognises exceptional performance through its annual National Excellent Service Award, which is presented by the Chief Justice each year to mark the anniversary of the Court's Foundation Day, 7 February 1977. The award recognises the work of individual staff and teams; those who consistently demonstrate a high level of commitment to service, integrity and professionalism in dealing with others in order to strive for improvements to benefit everyone in the Court and/or the wider community.

This year there were many strong nominations, and for the first time in the history of the Court's Award, joint winners were announced. The winners of the 2015 National Excellent Service Awards were Nellie Burke of the National Operations Team, and the NNTT Brisbane Office Relocation Team consisting of: Barry Miller, Brian Campbell, Chris King, Clair Berman-Robinson, Joanna Fear, Kay van Brederode, Mark McInerney, Rae Heather, and Susan Jenkins. Recipients received their awards in ceremonies led by the Chief Justice.

Nellie Burke, National Allocations and Workload Coordinator for the National Operations Registrar, received the Award for the instrumental role she played in the development and implementation of the National Court Framework and the ongoing management of the national allocation system which is a critical function of the Court.

The NNTT Brisbane Office Relocation Team that coordinated the relocation of the NNTT's Brisbane office from 239 George Street to the Commonwealth Law Courts Building also demonstrated outstanding commitment to service by accomplishing a well-planned and smooth transition. This transition not only minimised costs to the Court, but also delivered benefits to the wider community with surplus furniture items and books being donated to various community organisations including community legal centres and libraries in need.

## TRAINING AND DEVELOPMENT

During 2015–16 the Court offered a range of development opportunities to assist employees develop and improve their skills and knowledge in order to meet current operations requirements and ensure they have the capabilities needed for the future.

The focus for the Court was on competency based training in the legal and information technology areas to support the implementation and ongoing operations of the National Court Framework reforms and the Electronic Court File project. In-house training took a variety of forms including small group face-to-face information sessions, classroom based teaching, eLearning modules and peer mentoring (on the job training). The Court provided training across all registries on its Skype for Business application and new equipment upgrade. Employees also attended legal specialist conferences, seminars and workshops to be kept up to date on topics relevant to their work.

The Court also provided access to management and leadership training to reinforce professional skills; interpersonal and change management sessions to the NNTT staff to support the restructure; recruitment and selection training to managers to refresh skills in attracting and assessing quality staff; and training to registry staff on dealing with self represented litigants. As part of their ongoing training, in-house mediators attended refresher workshops to maintain their accreditation.

The Court's study assistance policy continued to operate and provided 24 employees with leave and/or financial assistance to pursue approved tertiary studies during 2015–16. The Court supports staff to gain tertiary qualifications in disciplines identified as important by the Court, the NNTT and the Australian Public Service. The policy's objectives are to foster a highly-skilled and committed workforce and to enhance the skills and employment prospects of staff.

## DIVERSITY

The Court continues to develop guidelines and implement strategies to remain inclusive of cultural and lifestyle differences across employees and clients. Work continued on the Court's Multicultural Plan, Reconciliation Action Plan and Website/ Intranet Accessibility activities. Client information is made accessible through translators and translated documents. Employees have access to appropriate software or other support to enable them to work effectively. Staff are also provided with guidance and training in dealing with clients from varying backgrounds as needed.

## DISABILITY REPORTING MECHANISM

Since 1994, non-corporate Commonwealth entities have reported on their performance as policy adviser, purchaser, employer, regulator and provider under the Commonwealth Disability Strategy. In 2007-08, reporting on the employer role was transferred to the Australian Public Service Commission's State of the Service reports and the APS Statistical Bulletin. These reports are available at [www.apsc.gov.au](http://www.apsc.gov.au). From 2010-2011, entities have no longer been required to report on these functions.

The Commonwealth Disability Strategy has been overtaken by the National Disability Strategy 2010-2020, which sets out a 10-year national policy framework to improve the lives of people with disability, promote participation and create a more inclusive society. A high-level, two-yearly report will track progress against each of the six outcome areas of the strategy and present a picture of how people with disability are faring. The first of these progress reports was published in 2014, and can be found at [www.dss.gov.au](http://www.dss.gov.au).

## AGENCY MULTICULTURAL PLAN

The Court's Agency Multicultural Plan (the Plan) aims to ensure that no-one's rights are affected because of the inability of a party or a witness in a Court proceeding to speak or to hear the English language. All court users must have every reasonable means of understanding the course of court proceedings and be treated with due courtesy and respect.

Actions contained in the Plan that were progressed in the 2015-16 include:

- finalising the Court's interpreter and translation policy
- awareness activities for the Court's staff and
- review of the Court's guidelines for the use of interpreters in Court.

## INFORMATION AND TECHNOLOGY

### RECORDKEEPING AND INFORMATION MANAGEMENT

The Court is on track to meet the Federal Government's 2016 targets for Digital Continuity 2020 with the establishment of an Information Governance Committee in May 2016 and an information governance framework presently in progress. The first meeting of the Information Governance Committee was held in May with membership from the Court's senior management and the NNTT.

The Court is committed to working in a digital recordkeeping environment and continues to emphasise the importance of digital records and implementing procedures to ensure all records are kept in digital format. The Court's electronic document records management system (EDRMS) in conjunction with the Court's financial and human resources business systems are cooperating to ensure records are not being duplicated and meet recordkeeping business system standards.

A Court Records Policy Committee was established in July 2015 to provide practical guidance on the records management of electronic court files and establish policies to assist the management of court records. The Committee's membership consists of registry practitioner's from the eight Court registries. The Committee has been successful in making a number of recommendations that have now become official Court procedure.

A number of records management awards were received in 2015 for the Court's Electronic Court File project which was implemented in 2014. The Court won the inaugural National Archives Award for Digital Excellence, the ACT's Records Information Management Rob Barnett Award and the business benefit and innovation categories of the Eddis Linton Award for excellence in records and information management.

The 2nd "Check Up" report to the National Archives of Australia on digital records management was completed in 2015. This report is the 2nd in a three-year reporting cycle and was a joint report from the Court and the NNTT. The Court has made steady improvement in most reporting categories.

The project to digitise the papers and documents of the first chief justice of the Federal Court, Chief Justice Sir Nigel Bowen and the Judges' meeting was completed in June 2016. Two archive assistants worked on the project, a copy of the documents will be housed at National Archives.

The Court hosted a meeting of the Federal Agencies Records Managers Network in May 2016 where the emphasis was on the legality of digital signatures. The Court's Registrar addressed the group on this topic.

The Court's policy on accessing Native Title and significant case files is well advanced. Files within these categories will be located at the National Archives for the benefit of the nation's history.

The NNTT has successfully rolled out EDRMS (eDOCS) to staff across all offices. System end user training was provided and eLearning/information modules were also completed by all staff in preparation for a digital transition.

Since 1 January 2016, all core and administrative records are captured and managed in digital format only. Concomitantly the NNTTs records and information management policy and procedures have been updated to reflect the digital transition. The archiving and secondary storage projects are ongoing.

## INFORMATION TECHNOLOGY

The Court continues to optimise its technology resources to pursue future efficiencies and support its operations. The Court's Information Technology group has worked in close collaboration with judges, registrars and staff of the Court to deliver a range of ICT program areas that support the Court's objectives. Work on some of the program areas will continue into 2016–17.

### Wi-Fi project

In the reporting year, a project has commenced which will prepare the Court for Wi-Fi. The Wi-Fi service will provide access to the Internet for members of the profession and the public. Judges and staff with a Court tablet or laptop will be able to use the Wi-Fi to connect to the Court's network to access electronic court files, share drives, the Intranet, and other resources. Connectivity in the courtroom will enable more efficient running of proceedings and supports the wider move to digital working within the Court.

A Wi-Fi proof of concept project was successfully conducted in the Victoria Registry in conjunction with the March 2016 Judges' Meeting. A network has been deployed in the NSW Registry with a trial running throughout June 2016. Deployment to other registries is planned in the 2016-2017 financial year.

### Courtroom Video Conferencing Modernisation

The Court's new Internet Protocol based courtroom Video Conference network and bridge was deployed in the reporting year. The new technology provides considerable improvement in picture and sound quality.

Advantages of the new network include the following:

- a more reliable network
- the Court owns and controls the bridge removing the reliance on third parties
- increased quality of video calls to broadcast quality high definition
- the bridge enables the Court to use all of the features of new courtroom equipment and
- the network is private from the public Internet.

The Court will continue a program of upgrading audio-visual technology equipment to modernise all courtrooms. The modern equipment includes a personal computer at the bench of each courtroom fitted with a large format touchscreen monitor. This allows judges familiar with the touch screen interface of their tablets to work in a similar manner while in the courtroom. The stands of these monitors allow them to be laid back almost flat with the bench to minimise restrictions to lines of sight.

Key projects that have been finalised this year include:

- Adding VCF capability to Qld Courtroom 2
- Upgrade of AV equipment in Tasmania Courtroom 1
- Adding VCF capability to ACT Courtroom 7
- Adding a third camera for use in seminars in WA Courtroom 4
- Upgrading and standardising microphones in Victoria Registry.

### PC refresh

All judges and eligible staff within the Court and the NNTT received their new laptop or tablet device within the reporting year. The tablets were chosen for their portability and touch-screen capability. The tablets also offered increased battery life and can be used with a keyboard dock.

### NNTT Data Centre migration

A major project for IT completed in the 2015-2016 year has been to complete the integration of the NNTT technology environment with the Court. The final critical step of this has been to relocate the remaining NNTT servers from a data centre in the Perth Registry to the main court data centre in Sydney. This migration was successfully completed in March 2016.



There are a number of advantages for the NNTT and Court of this migration, as follows:

- NNTT applications are now hosted in a purpose built commercial data centre
- NNTT applications can be included in the Court's high quality disaster recovery arrangements
- The NNTT and Court share a common email and Skype for Business (Lync) platforms and
- The NNTT and Court may share use of conference room equipment for Skype for Business (Lync).

The Perth data centre will be decommissioned and the floor space on Level 4 made available to other tenants of the building.

### IT security

The Protective Security Policy Framework (PSPF) provides the appropriate controls for the Australian Government to protect its people, information and assets, at home and overseas. The IT Security section of the PSPF forms a major element of the framework. Federal Court's IT Security compliance to the PSPF has risen from thirty-five per cent in 2014 to sixty-eight per cent in 2015.

The Court has invested in IT Security Technology to enable scanning of its IT assets. This technology offers complete vulnerability analytics and continuous network monitoring to identify known vulnerabilities, continuously monitor networks for threats, and perform analysis to measure security and compliance status and to allow Court IT Staff to rapidly respond to security breaches.

The Court has deployed online credit card payments for all miscellaneous court payments. This will enable any third party to make payments to the Court online. This online payment system conforms with the Payment Card Industry (PCI) standards.

## LIBRARY AND INFORMATION SERVICES

The Federal Court Library provides a comprehensive, professional library service to judges and staff of the Federal Court, Family Court of Australia (including Child Dispute Services), Federal Circuit Court of Australia and Members and staff of the NNTT. The collection is distributed nationally with library staff in each State capital except Hobart, Canberra and Darwin. Services to Tasmania, the Australian Capital Territory, and the Northern Territory are provided by librarians in the Victorian, New South Wales and South Australian libraries respectively.

The Federal Court entered into a new Heads of Agreement with the New South Wales Department of Justice under which the New South Wales Law Courts Library provides library services to Judges and staff of the Federal Court and Federal Circuit Court who are located in the Sydney Law Courts Building. This continues the joint library service and cost sharing arrangements that have existed since 1977.

The Federal Court Library continues to collaborate with other court libraries through a number of consortia arrangements including the Australian Courts Consortia for a shared library management system using SirsiDynix software. This consortia now incorporates the libraries of the Federal Court, High Court and the courts in New South Wales, Victoria and South Australia. The Federal Court has also joined the New South Wales Department of Justice consortia for the purchase of CCH subscription services.

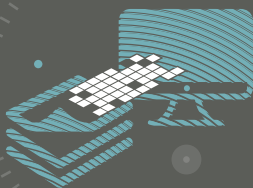
Assistance to libraries in the Pacific region continued with the Federal Court Library organising the shipping to Tonga of a set of New South Law Reports that had been donated by the Hon K.R. Handley. A delegation of library and information technology staff from the National Courts and Supreme Courts of Papua New Guinea visited the Brisbane Library in October 2015 to investigate the eLibrary systems.

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## OVERVIEW OF THE TRIBUNAL ESTABLISHMENT

The *Native Title Act 1993* (Cth) (the Act) establishes the National Native Title Tribunal (Tribunal) as an independent body with a wide range of functions. The Preamble to the Act describes it as a special measure for the advancement and protection of Aboriginal peoples and Torres Strait Islanders (Indigenous Australians). The Act is also intended to further advance the process of reconciliation among all Australians.

The Act creates an Australia-wide native title scheme, the objectives of which include:

- a) to provide for the recognition and protection of native title
- b) to establish a mechanism for determining claims to native title
- c) to establish ways in which future dealings affecting native title (future acts) may proceed.

The Act provides that the Tribunal must carry out its functions in a fair, just, economical, informal and prompt way. In carrying out those functions, the Tribunal may take account of the cultural and customary concerns of Indigenous Australians.

## FUNCTIONS AND POWERS

Under the Act, the Tribunal, comprising the President and members, has specific functions in relation to:

- mediating in native title proceedings, upon referral by the Federal Court of Australia (Federal Court)
- arbitrating objections to the expedited procedure in the future act scheme

- mediating in relation to certain proposed future acts on areas where native title exists or might exist
- arbitrating applications for a determination of whether a future act may be undertaken and, if so, whether any conditions will apply
- assisting people to negotiate Indigenous Land Use Agreements (ILUAs), and helping to resolve any objections to registration of area or alternative procedure ILUAs
- assisting with negotiations to settle applications that relate to native title, and with statutory access agreement negotiations
- providing assistance under s 203BK of the Act to representative bodies in performing their dispute resolution functions
- reconsidering decisions of the Native Title Registrar not to accept a native title determination application (claimant application) for registration
- upon referral by the Federal Court, conducting reviews on whether there are native title rights and interests
- conducting native title application inquiries as directed by the Federal Court
- conducting special inquiries under Ministerial direction.

The President may delegate to a member, or members, all or any of the President's powers under the Act, and may arrange through the Federal Court Chief Executive Officer (Federal Court CEO) for the engagement of consultants in relation to any assistance, mediation or review that the Tribunal provides.

The President is responsible for managing the administrative affairs of the Tribunal with the assistance of the Federal Court CEO, who is empowered by the Act to delegate his responsibilities under the Act to the Native Title Registrar, Deputy Registrar or staff assisting the Tribunal. The President may direct the Federal Court CEO regarding the exercise of his power to assist the President in managing the administrative affairs of the Tribunal.

Deputy Registrars and staff assisting the Tribunal are made available for that purpose by the Federal Court CEO. The organisation which includes any Deputy Registrars and the staff assisting the Tribunal is referred to in this report as the NNTT.

The Act gives the Native Title Registrar specific responsibilities, including:

- assisting people to prepare applications and to help them, at any stage of a proceeding, in matters relating to the proceeding
- helping other people, at any stage of a proceeding, in matters relating to the proceeding
- considering claimant applications for the purposes of registering on the Register of Native Title Claims those applications which meet prescribed statutory conditions
- giving notice of applications to individuals, organisations, governments and the public in accordance with the Act
- registering ILUAs that meet the registration requirements of the Act
- maintaining the Register of Native Title Claims, the National Native Title Register and the Register of Indigenous Land Use Agreements.

The Native Title Registrar may delegate to the Deputy Registrar, or to members of the staff assisting the Tribunal, all or any of the Native Title Registrar's powers. The President may direct the Native Title Registrar regarding the exercise of the Native Title Registrar's powers under Part 5 of the Act, including to conduct certain searches and to keep and make available public records and information.

## THE PRESIDENT, MEMBERS AND THE NATIVE TITLE REGISTRAR

Members of the Tribunal are appointed by the Governor-General for specific terms of not longer than five years. The Act sets out the qualifications for membership and defines members' responsibilities. The Act also prescribes the conditions of appointment and the responsibilities of the Native Title Registrar.

The table below outlines the terms of the Tribunal's current statutory office-holders.

**Table 5.1 – Current Tribunal Statutory Office-Holders**

NAME	TITLE	APPOINTED	TERM	LOCATION
Raelene Webb QC	President	1 April 2013	Five years	Perth
Helen Shurven	Member	Reappointed 29 November 2012	Five years	Perth
Dr Valerie Cooms	Member	4 February 2013	Five Years	Brisbane
James McNamara	Member	31 March 2014	Five years	Brisbane

Andrew Luttrell was appointed Native Title Registrar for five years commencing on 3 November 2014. He held the position until 7 April 2016. Robert Powrie, NNTT Practice Director, was acting Native Title Registrar for the remainder of the reporting period.

## OFFICE LOCATIONS

The NNTT provides services and native title assistance in all Australian States and Territories from offices in Perth, Sydney, Melbourne, Brisbane and Cairns and the Federal Court Registry in Canberra. The office of the President is located in Perth and, since April 2016, the Native Title Registrar has been located in Canberra.

## STRATEGIC VISION

### **Vision: Shared country, shared future**

The vision for the NNTT is *Shared country, shared future*. This vision encompasses the President's vision of an organisation which:

- solves problems, working towards a shared country, shared future for all Australians – an organisation which looks for ways to do and to achieve things
- is outward looking and expansive in its thinking
- focuses on developing its staff and members, creating succession plans and career pathways
- motivates individuals and teams to strive for innovative and ground-breaking solutions that enhance the way we do things and create opportunities for growth
- is collegiate, and in which genuine respect for others – internally and externally – is always shown.

## THE YEAR IN REVIEW

Implementation of the organisation's strategic vision continued to be the major focus for the year under review. This was achieved through organisational change, staff development, collaboration and ongoing native title education for external stakeholders.

## SIGNIFICANT DEVELOPMENTS

### **President's Review**

A key priority for the 2015–2016 financial year was the implementation of phase two of the President's Review. The Review, undertaken to revitalise and re-energise the NNTT, was finalised in 2014 and included recommendations for revised governance, streamlined processes and a new organisational structure to enable a front line, multi-stream client capability.

With a new Board of Management in place and senior staff appointed, the focus of this reporting period shifted towards implementing the recommendations for a new organisational structure and revised service delivery processes. These included:

- The appointment of a Research Director to oversee a new business unit aimed at strengthening internal research capabilities and providing research and related services to both internal and external stakeholders;
- The establishment of a dedicated Communications team to develop and implement a cohesive communications strategy to improve client interface, and promote the services and capability of the NNTT. The Communications team and Business Systems team operate as one unit, overseen by the newly appointed Communications and Business Systems Director, to ensure the integrity and consistency of the organisation's information management and distribution;
- Restructuring the Cairns Office for the creation of a service delivery model to meet the unique needs of Indigenous stakeholders in northern Queensland;
- The implementation of a national approach to the delivery of key NNTT services. In moving away from the regional model, NNTT services will be provided based on staff availability and workload, rather than geographical location; and
- Implementation of an advanced training program to cross skill APS level 6 staff and above, building their capacity to provide a range of services across a variety of functions including, future acts, claim registration, ILUA registration and other assistance functions.

### Client and Stakeholder Engagement

Client and stakeholder engagement continued to be a major focus in this reporting period. The President, Native Title Registrar, members and senior staff met regularly with key stakeholders and other clients, to provide maximum support and assistance to participants in the native title system.

President Webb, Tribunal Member Valerie Cooms and Geospatial Director Mark McNerney represented the NNTT at Human Rights Commission Roundtables held throughout the year. The Roundtable discussions established a new dialogue between Aboriginal and Torres Strait Islander peoples and the government about Indigenous property rights and economic development on the Indigenous estate.

As the focus in the native title system shifts from the pre determination to the post determination environment, the NNTT is receiving an increasing number of requests for assistance related to Prescribed Bodies Corporate (PBCs).

After an extensive round of consultation by the President, a meeting of stakeholders was convened in June 2016 to assess the feasibility of a consortium approach to the delivery of capacity building, training and governance assistance to PBCs. The meeting mapped existing support services available to PBCs and identified gaps. As a lead agency, the NNTT will establish the terms of reference for a PBC forum and develop a scoping paper that addresses alternative models for the delivery of services to these corporations. With 157 PBCs already registered, most of which have no or limited resources, there is increasing pressure to develop a PBC service delivery model that is both affordable and sustainable.

The demand for the President and Tribunal members to speak at conferences and seminars remained high throughout the reporting period.

President Webb returned to the world stage at the World Bank Land and Poverty Conference in Washington DC in March 2016. The theme this year was Scaling up Responsible Land Governance. The President's presentation, *Born Native, Born Digital*, focussed on the use of digital technologies for the management of native title. The President noted the lack of a national land tenure database in Australia and called for State and Territory Governments to develop an effective registration system for all Indigenous land. She advocated an online database accessible to Aboriginal people, allowing them to manage their own land in line with Free, Prior and Informed Consent principles.

While visiting Chile in 2016, President Webb spoke at a Land Policy Seminar, where she shared the Australian native title experience with key policy makers interested in exploring new ways to reconcile with their own Indigenous populations. The presentation has been widely distributed via YouTube.

The President and Tribunal members also provided native title education to students from various universities throughout the country, including the Queensland University of Technology and Bond, Deakin, Griffith, Macquarie, Murdoch, Southern Queensland, Sunshine Coast, Sydney and Wollongong Universities. Topics ranged from basic native title concepts and cultural heritage, to property and sea rights, dispute resolution, Indigenous empowerment, working on country and Indigenous Land Use Agreements.

In addition to an ambitious mediation program, the Tribunal members made a significant contribution to the native title system through committee membership, conference presentations and attendance, and authoring of journal publications.

During the reporting period, Member Shurven was the NNTT's representative for the Western Australian Dispute Resolution Association and adjudicator for the National Schools Conflict Resolution and Mediation Program. She also published an article in the Australasian Dispute Resolution Journal, *The pros, cons, and maybes of telephone mediation: A conversation about the "fourth party"*.

Member Valerie Cooms continued as an active participant on numerous committees, including the AIATSIS Native Title Research Advisory Committee, Australian Human Rights Commission Committees and the Council of Australian Governments (COAG) Expert Indigenous Working Group. She also coordinated the establishment of a TAFE-accredited course for Aboriginal and Torres Strait Islander students that equips them with the necessary knowledge and skills to enable their effective participation and employment in the area of native title and cultural heritage in Queensland.

Member James McNamara presented at a number of external summits and information sessions, including the Torres Sea Summit in Cairns, Indigenous Land Use Agreement (ILUA) information sessions, the Queensland Native Title Forum and the National Native Title Conference held in Darwin in June 2016. He also published an article in LexisNexis *"Give a little, take a little": the Ugar traditional boundaries project*.

Newly appointed Research Director, Dr Pamela McGrath, made a significant contribution to existing native title knowledge as editor and contributor to a new book *The Right to protect sites: Indigenous heritage management in the era of native title*. The book is an exploration of the impact of native title on the management and protection of significant places for Aboriginal and Torres Strait Islanders. In addition, Dr McGrath published a book chapter titled *"The Work of Rights: the nature of native title labour"* and was a contributing author to the *Managing Information in Native Title (MINT) Survey and Workshop Report*. Dr McGrath is currently President of the Australian Anthropological Society

and actively supports the native title anthropology community of practice through her involvement in a range of knowledge sharing, research and mentoring activities.

A full list of the President's and Tribunal members' presentations is annexed to this report.

### Recognition

Each year the Federal Court of Australia acknowledges outstanding performance through its National Excellent Service Award. This year the NNTT's Brisbane Office Relocation Team (Relocation Team) were joint winners. They were presented with their awards in May 2015. The Relocation Team demonstrated a commitment to service by accomplishing a well-organised and smooth office relocation. The team minimised costs to the Court and brought benefits to the wider community by donating surplus furniture items to various community organisations, including community legal centres.

### Transition of Services

In line with the National Archives of Australia Digital Transition Policy, on 1 January 2016 the NNTT transitioned to an electronic records management system. The purpose of the Digital Transition Policy is to move Australian Government agencies to digital information and records management for efficiency purposes.

In March 2016, the NNTT's technical integration into the Federal Court of Australia was finalised with the migration of its network to the Federal Court servers in Sydney. The server migration resulted in improved overall performance, an upgraded version of Microsoft exchange and greater data security.

To comply with the Australian Government's Public Data Policy and to enable economic outcomes, the NNTT also automated the publishing of non-sensitive spatial representations of its statutory registers to data.gov.au.



### New Look

Following the organisational review and subsequent restructure, the NNTT developed a new look for the agency's corporate documents and publications. The new look is based on the designs and colours contained in the *Shared country, shared future* artwork by Bronwyn Bancroft and reflects the NNTT's new strategic vision.

### Training

Ongoing staff development and training was another key priority for the reporting period. The training program was developed to build staff capacity in new and emerging areas of business as well as enhance knowledge in relation to the Tribunal's and the Native Title Registrar's statutory functions. All members of the Practice Team were provided with training from the Australian Government Solicitor reviewing the tenets of Administrative Law. Practical skills for working in nationally dispersed teams were provided to team leaders along with extension of leadership skills for more experienced managers. Other teams undertook training relevant to their specialty areas.

To ensure cultural safety and respect for Aboriginal staff, clients and colleagues, the NNTT contracted cultural respect training for all staff. The training placed a strong focus on non-Aboriginal people in terms of their values, culture and place in society, and how these impact on:

- their relationships with Aboriginal Australians;
- the services they provide to and/or engagement they have with Aboriginal Australians; and
- Aboriginal people's experiences in non-Aboriginal structures and organisations.

There was a deliberate focus in this training program on systems rather than individuals, and on the operation of power and privilege. Its particular focus was on Aboriginal and Torres Strait Islander people's experiences during and since colonisation. It identified issues non-Aboriginal people need to consider, and actions they could take, if they are to develop and improve their personal and organisational capacity for culturally safe and respectful practice.

## ASSISTING CLIENTS MEET THE NEEDS OF THE CONTEMPORARY NATIVE TITLE ENVIRONMENT

### Tenure Support

The NNTT continued to improve the functionality of its tenure portals during the reporting period. Working closely with other service providers in the native title system, access to geospatial information and services was increased. The portals are now in use across a number of jurisdictions, providing negotiating parties with a simple visual display of tenure and its impact on the extinguishment of native title. This allows parties to focus specifically on those areas where it is unclear whether or not native title exists, reducing the time spent on negotiations and increasing the effectiveness of outcomes.

### Mapping Products

During the reporting period, the NNTT also updated its mapping production and publishing systems to improve accessibility to mapping products. NNTT mapping and publishing systems now operate on the same platform, and are directly compatible with State, Territory and Commonwealth government mapping systems. Products are more visually accessible and customisable to meet user needs. Products developed on the new systems are functional across a variety of platforms including mobile, web and desktop applications.

In addition, the NNTT developed a range of innovative mapping products to support Indigenous decision making in North Queensland. These products utilised NNTT surveying, mapping and photographic information to prepare portable electronic (and print) maps of traditional boundaries within a determination area. The data contained in the maps identified and substantiated the right people for country, resulting in the timely negotiation of Indigenous Land Use Agreements for much needed infrastructure.

The NNTT has also created a geo-coded database of its research materials containing over 500 records, in preparation for the establishment of a map-based online self-service portal. The concept of a native title research portal has been developed as a solution for the ongoing management of the many hundreds of research reports created by the NNTT over the past 20 years. These reports have enormous value for understanding the cultural, social and historical basis of native title rights but, due to the difficulties associated with providing copies in their entirety, this value cannot currently be realised. By de-aggregating their contents and providing access to them (or information about them) via an online portal, the NNTT aims to make unproblematic elements of these reports more widely available.

**Future Act Workshop**

On 24 March 2016, in conjunction with Allens, the Tribunal conducted a practical future act workshop in Melbourne, titled *Evidence and Future Act Inquiries*. The Workshop, which was the third of the series, focused on the operation of two key statutory provisions, ss 39 and 237, relevant to future act determinations under the Act and explored the interaction between native title and the Victorian *Traditional Owner Settlement Act 2010*.

THE WORK OF THE NNTT IN 2015–16

GENERAL OVERVIEW

Services and native title assistance are delivered to all Australian states and territories from offices in Perth, Sydney, Melbourne, Brisbane and Cairns. Detailed information about statutory functions and trends, together with quantitative data for deliverables achieved by the Tribunal and the Native Title Registrar respectively, is set out below.

FUNCTIONS OF THE TRIBUNAL

FUTURE ACTS

**Overview**

A key function of the Tribunal, under subdivision P of the Act, is the resolution by mediation or arbitration of issues involving certain proposed future acts (primarily, in practice, the grant of exploration and mining tenements) on land where native title has been determined to exist or where native title might exist.

**Table 5.2 – Number of applications lodged with the Tribunal in 2015–16**

FUTURE ACT	QLD	WA	TOTAL
Objections to expedited procedure	74	915	989
Future act determination applications	1	25	26
<b>Total</b>	<b>75</b>	<b>940</b>	<b>1,015</b>

A future act which is governed by Subdivision P can only be done if the relevant government complies with the notification requirements set out in s 29(2) of the Act (s 29 notice).

As in previous years, most future act activity occurred in Western Australia, with the remaining future act activity occurring in Queensland.

### **Expedited procedure objection applications and inquiries**

Under s 29(7) of the Act, a government party may assert that the proposed future act is an act which attracts the expedited procedure (i.e. that it is an act which will have minimal impact on native title) and, as such, does not give rise to the procedural right for native title party/parties to negotiate. If a native title party considers that the expedited procedure should not apply to the proposed future act, it may lodge an expedited procedure objection application (objection application) with the Tribunal.

A total of 989 objection applications were lodged during the reporting period, approximately 93 per cent of which were lodged in Western Australia. The ratio of objections lodged to notices issued has remained relatively consistent, with approximately 31 per cent of notices attracting an objection in this period compared to 32 per cent in the 2014–15 period.

Although fewer objection applications were lodged and a lower number finalised (1019) than in the last reporting period, there was a continued decrease in the number of active applications at the end of a reporting period (515 2015–16: 545 2014–15). Approximately 400 objections were withdrawn after agreement was reached between the native title party and proponent and a further 317 objection applications were finalised due to the withdrawal of the tenement application by the proponent.

A total of 33 determinations in respect of objection applications were made during the reporting period, the same number as the previous year. The expedited procedure was determined to apply on 21 occasions, a decrease of approximately 59 per cent from the previous reporting period and on 12 occasions the expedited procedure was determined not to apply, a 40 per cent reduction on the previous year.

### **Future act determination applications, negotiation and good faith requirements and inquiries**

If a proposed future act does not attract the expedited procedure, the parties proceed to negotiate to gain the agreement of each native title party to the doing of the future act, either without conditions or subject to conditions. Any party may request Tribunal assistance in mediating amongst parties to obtain agreement. During the reporting period, 114 new requests for Tribunal mediation assistance in negotiating future acts were made; 23 per cent fewer requests than for the previous reporting period.

The Act prescribes a minimum six months period, including negotiation in good faith, to obtain the agreement of native title parties. After this period, any party to the negotiation may lodge a future act determination application. During the reporting period, 26 applications were lodged, two more than in the previous reporting period. The Act requires that negotiations about a proposed future act must occur in good faith. If there has been a failure to negotiate in good faith by a party, other than a native title party, the Tribunal has no power to make a determination on the application. If any party asserts that negotiations in good faith have not occurred, the Tribunal will hold a preliminary inquiry to establish whether or not that is the case. During the reporting period, there was only one ‘good faith’ determination. The Tribunal determined that good faith negotiations had not occurred and the parties were required to negotiate further before the matter could be brought back to the Tribunal for arbitration.

Fifteen future act determination applications were finalised during the reporting period. In nine cases, the Tribunal determined that the future act may be done. The remaining six future act determination applications were not accepted, withdrawn or dismissed. Three applications were withdrawn due to agreement being reached.

MEDIATION

Section 203BK(3) of the Act provides that a Representative Aboriginal/Torres Strait Islander body may seek the assistance of the Tribunal in performing its dispute resolution functions, subject to reaching agreement for payment for the assistance. In the reporting period, the Tribunal provided assistance, under this section, in five instances. Prior to this reporting period, assistance had only been provided twice under this section.

Assistance in negotiating an agreement under s 86F of the Act was also provided on one occasion and was finalised during the period.

ASSISTANCE IN NEGOTIATING INDIGENOUS LAND USE AGREEMENTS

During the reporting period the Tribunal received six assistance requests in negotiating ILUAs pursuant to s 24BF (body corporate agreements) of the Act. All of these requests were in Queensland.

FUNCTIONS OF THE NATIVE TITLE REGISTRAR

**Table 5.3 – Number of applications referred to or lodged with the Native Title Registrar for registration in 2015–16**

NATIVE TITLE DETERMINATION APPLICATIONS	NSW	NT	QLD	SA	VIC	WA	TOTAL
Claimant (new)	4	3	12	5	2	7	33
Claimant (amended)	1	0	14	0	0	6	21
Non-Claimant	5	3	7	1	0	0	16
Compensation (new)	0	0	0	0	0	0	0
Compensation (amended)	0	0	0	0	0	0	0
Revised Native Title Determination	0	0	0	0	0	2	2
Total	10	6	33	6	2	15	72

## CLAIMANT AND AMENDED APPLICATIONS: ASSISTANCE AND REGISTRATION

Sections 190A – 190C of the Act confer upon the Native Title Registrar the responsibility of considering native title determination applications (claimant applications), and applications for certain amendments to a claimant application, for acceptance for registration on the Register of Native Title Claims. To that end, the Federal Court CEO provides the Native Title Registrar with a copy of new or amended claimant applications and accompanying documents which have been filed in the Federal Court.

The Native Title Registrar considers the relevant applications against the requirements of the Act. The Native Title Registrar may also undertake preliminary assessments of such applications, and draft applications, by way of assistance provided pursuant to s 78(1)(a) of the Act.

During the reporting period, the Native Title Registrar received 33 new claimant applications, four more than in the previous reporting period, and 21 amended applications, which was four less than the year before. The majority of new applications and amended applications were filed in Queensland and Western Australia.

Forty-five applications were considered for registration during the reporting period; 35 were accepted, and ten were not accepted for registration following consideration of the claim in the application pursuant to s 190A of the Act. This included seven amended applications considered and accepted for registration pursuant to the test prescribed by s 190A(6A) of the Act.

Excluding decisions made under s 190A(6A), 89 per cent of the applications were considered for registration within six months of receipt. The average time taken to apply the registration test to an application was just over three months.

Preliminary assessments of 11 applications were also provided during the reporting period.

## INDIGENOUS LAND USE AGREEMENTS: ASSISTANCE AND REGISTRATION

Under ss 24BG(3), 23CG(4) and 24DH(3) of the Act, the Native Title Registrar can provide assistance in the preparation of applications to register ILUAs. Often, this assistance takes the form of pre-lodgement comments upon the draft ILUA and the application for registration.

During the reporting period, assistance in the form of comments on draft ILUAs was provided on 64 occasions and on 147 occasions mapping assistance and related information pursuant to s 24BG(3) and s 24CG(4) of the Act was provided to parties to assist them to prepare applications to register ILUAs.

Under the Act, parties to an ILUA (whether a body corporate agreement, area agreement or an alternative procedure agreement) must apply to the Native Title Registrar in order for the agreement to be registered on the Register of Indigenous Land Use Agreements. Each registered ILUA, in addition to taking effect as a contract among the parties, binds all persons who hold, or may hold, native title in relation to any of the land or waters in the area covered by the ILUA.

One thousand and ninety seven ILUAs are currently on the Register of Indigenous Land Use Agreements, the majority of which are in Queensland. This trend continued in the reporting period as 81 per cent of all agreements registered were in Queensland and, consistent with previous years, many provided for the exercise of native title rights and interests over pastoral leases.

Other registered ILUAs dealt with a wide range of native title related matters, including local government issues, mining, state-protected areas and community infrastructure such as social housing.

During the reporting period a total of 108 ILUAs (25 body corporate agreements and 83 area agreements) were lodged with the Native Title Registrar for registration. In the case of area agreements, this was almost one-and-a-half times as many as in the previous reporting period; in the case of body corporate agreements, this was almost half as many as in the previous reporting period.

Eighty-eight of the 108 applications to register ILUAs covered land and waters in Queensland.

Thirty-one body corporate and 74 area agreement ILUAs were accepted for registration and entered onto the Register of Indigenous Land Use Agreements during the reporting period. One area agreement ILUA was not accepted for registration. The number of registration decisions is similar to that of the previous reporting period, although there were fewer decisions in relation to body corporate agreements.

The average time taken to register an area agreement was less than five months where there was no objection or other barriers to registration; the average time taken to register a body corporate agreement was less than three months.

## NOTIFICATION

During the reporting period a total of 39 native title determination applications were notified, compared with 51 in the previous reporting period. Twenty-four claimant applications were notified, compared with 32 in the previous year and fourteen non-claimant applications were notified, four fewer than in the previous reporting period. One revised determination application was notified during the reporting period.

In addition, the Native Title Registrar gave notice in respect of three amended applications.

Eighty-six Area Agreement ILUAs and 31 Body Corporate ILUAs were notified during the period. This represents a 33 per cent increase in notification of Area Agreement ILUAs and a 39 per cent decrease in Body Corporate ILUA notifications compared with the previous period.

## OTHER FORMS OF ASSISTANCE

### Assistance in relation to applications and proceedings

Section 78(1) of the Act provides for the Native Title Registrar to give such assistance as s/he thinks reasonable to help people prepare applications and to help them at any stage of the proceeding; it also provides that the Native Title Registrar may help other people in relation to a proceeding. During the reporting period, assistance was provided pursuant to s 78 of the Act on 239 occasions, which is 18 per cent less than the previous reporting period. Consistent with previous years, a significant number of the requests were for the provision of geospatial products.

### Searches of registers

Pursuant to s 78(2) of the Act, 1357 searches of registers and other records were conducted to assist applicants and respondents during the reporting period. The volume of this activity was similar to the previous period.

## THE REGISTER OF NATIVE TITLE CLAIMS

Under s 185(2) of the Act the Native Title Registrar has responsibility for establishing and keeping a Register of Native Title Claims. This Register records the details of claimant applications that have met the statutory conditions for registration prescribed by ss 190A – 190C of the Act.

As at 30 June 2016, there were a total of 249 claimant applications on the Register of Native Title Claims. This number represents a decrease of 20 applications from the previous reporting period.

## THE NATIONAL NATIVE TITLE REGISTER

Under s 192(2) of the Act, the Native Title Registrar must establish and keep a National Native Title Register which records approved determinations of native title. During the reporting period, a total of 43 determinations of native title were registered on the National Native Title Register, an increase of 44 per cent compared with the previous reporting period.

As at 30 June 2016, a total of 358 determinations of native title have been registered: 295 determinations that native title exists, and 63 determinations that native title does not exist.

A map of registered native title determinations as at 30 June 2016 is set out in Map 1.

## THE REGISTER OF INDIGENOUS LAND USE AGREEMENTS

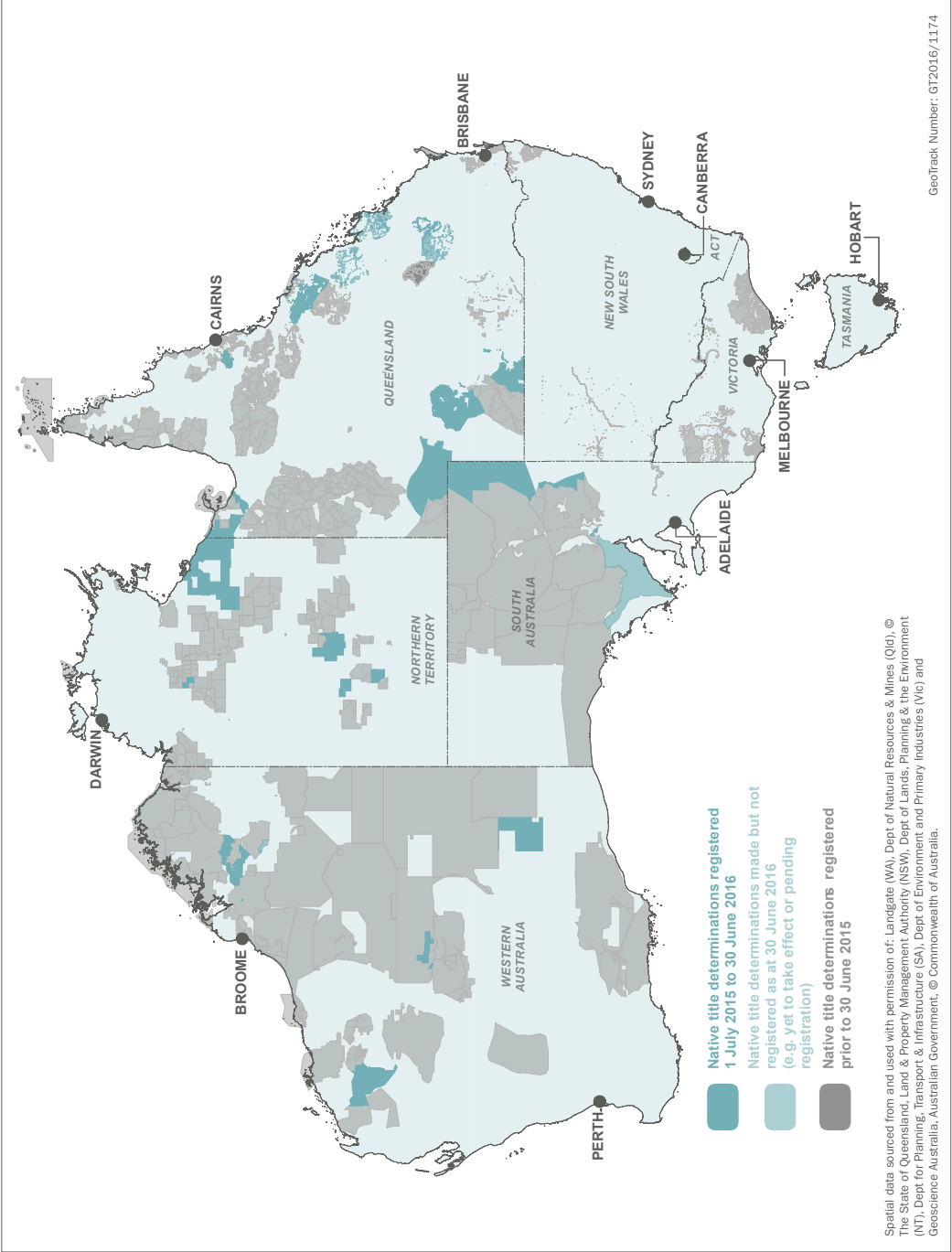
Under s 199A(2) of the Act, the Native Title Registrar must establish and keep a Register of Indigenous Land Use Agreements, on which area agreement, body corporate and alternative procedure ILUAs are registered. During the reporting period, 105 new ILUAs were registered, and six were removed from the Register. At 30 June 2016, there were a total of 1097 ILUAs registered on the Register of Indigenous Land Use Agreements.

## MAPS

The 358 registered determinations as at 30 June 2016 covered a total area of about 2,479,520 sq km or 32.3 per cent of the land mass of Australia and approximately 99,502 sq km of sea (below the high water mark). Six determinations yet to take effect (four in Queensland, one in South Australia and one in Western Australia) were still awaiting registration, and two determinations in Queensland were in the process of being registered at 30 June 2016. Upon registration, these determinations will increase the area to approximately 2,524,880 sq km or 32.8 per cent of the land mass of Australia and approximately 100,240 sq km of sea: see Map 1.

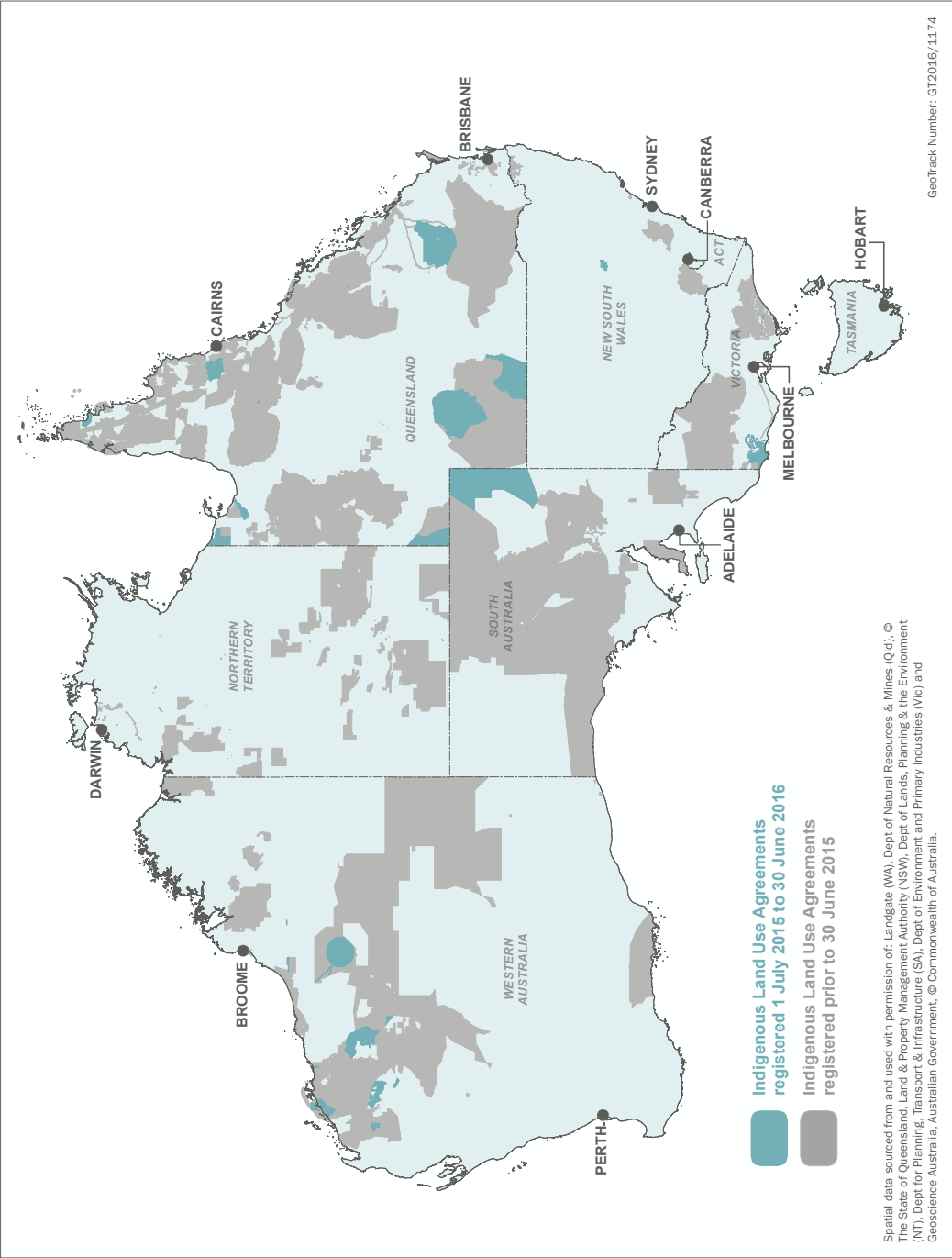
Registered ILUAs cover about 2,161,392 sq km or 28.1 per cent of the land mass of Australia and approximately 12,328 sq km of sea: see Map 2.

**Map 1:** Map of native title determinations as at 30 June 2016





**Map 2:** Map of Indigenous Land use Agreements as per the Register of Indigenous Land Use Agreements at 30 June 2016



# MANAGEMENT OF THE TRIBUNAL

## TRIBUNAL GOVERNANCE

The NNTT's key governance group, the Board of Management, is accountable for setting the strategic direction of the NNTT and ensuring effective and efficient service delivery to clients.

The Board is chaired by the President and includes the Native Title Registrar, Member McNamara and Deputy Registrar, Dr Debbie Fletcher. The Board met regularly during the reporting period.

The President and Members also met regularly in Members' Meetings.

## FINANCIAL REVIEW

The Federal Court's appropriation includes funding for the operations of the NNTT. This funding is set out as sub-program 1.1.2 in the Court's Portfolio Budget Statements. \$10.960 million was allocated for the NNTT's operations in 2015–16.

The financial figures at Appendix 1 are the consolidated results for both the Court and the NNTT.

A summary of the NNTT's income and expenditure for 2015–16 is set out in the following Operating Statement.

**Table 5.4 – Financial Operating Statement**

OPERATING STATEMENT FOR YEAR ENDING 30 JUNE 2016			
PROGRAM 1.1.2 NATIONAL NATIVE TITLE TRIBUNAL	AMENDED BUDGET ACTUAL \$'000	ACTUAL \$'000	VARIATION \$'000
Revenue	10,960	10,960	0
Service receipts	0	7	7
Total revenue	10,960	10,967	7
Expenses staff and office holders	10,061	8,995	1,066
Supplies and services	899	1,471	-572
<b>Total Expenses</b>	<b>10,960</b>	<b>10,466</b>	<b>494</b>
Operating Result	0	501	501

The NNTT managed its financial resources carefully throughout the reporting period and at 30 June 2016 recorded a surplus of \$0.501 million most of which related to savings in staff salaries.

## EXTERNAL SCRUTINY

### JUDICIAL DECISIONS

There were no judicial decisions, decisions of administrative tribunals, or decisions by the Australian Information Commissioner, that have had, or may have, a significant impact on the operation of the Native Title Registrar's responsibilities or on the Tribunal during the reporting period.

### ACCOUNTABILITY TO CLIENTS

The NNTT maintains a Client Service Charter (Commitment to Service Excellence) to ensure that service standards meet client needs. No complaints that required action under the Charter were received during the reporting period.

### MEMBERS' CODE OF CONDUCT

Members of the Tribunal are subject to various statutory provisions relating to behaviour and capacity. While the Native Title Registrar is subject to the APS Code of Conduct, this does not apply to Tribunal members except where they may be, directly or indirectly, involved in the supervision of staff.

Tribunal members have voluntarily adopted a code of conduct, procedures for dealing with alleged breaches of the members' voluntary code of conduct and an expanded conflict of interest policy. During the reporting period, there were no complaints under either document.

### ONLINE SERVICES

The NNTT maintains a website at [www.nntt.gov.au](http://www.nntt.gov.au). During the reporting period, further online functionality of NNTT services was expanded in relation to statistical and geospatial information.

## AUSTRALIAN HUMAN RIGHTS COMMISSION

Under s 209 of the Act, the Aboriginal and Torres Strait Islander Social Justice Commissioner must report annually on the operation of the Act and its effect on the exercise and enjoyment of human rights by Aboriginal peoples and Torres Strait Islanders. The NNTT continues to assist the Commissioner as requested in this exercise.

## IN MEMORIAM

The President, members and staff of the NNTT were deeply saddened by the passing of Native Title Registrar Andrew Luttrell on 7 April 2016.

## ANNEXURE

### PRESIDENT'S PRESENTATIONS

#### President's presentations 1 July 2015 to 30 June 2016

DATE	TITLE	EVENT	ORGANISERS
27-28 July 2015	Prevention is Better Than Cure & Emerging Trends, Challenges and Opportunities in Current Practice	Alternative Dispute Resolution in Indigenous Communities Conference 2015	Native Title Services Victoria Ltd
13-15 October 2015	Native Title Sea Rights & Fisheries	Torres Strait Island Sea Summit	Native Title Office and Torres Strait Regional Authority
29 October 2015	Native Title in Australia	Presentation to Shandong Lawyers and Judge Tsot	Sir Zelman Cowen Centre, Victoria University
03 December 2015	Reducing Delay in Native Title Proceedings	Presentation to Samoan Land and Titles Court	Pacific Judicial Development Programme
04 December 2015	Future Acts and Tribunal Arbitration	CPD presentation State Solicitor's Office	State Solicitor's Office Western Australia
04 February 2016	Winton Local Government Information Session	Workshop for Pastoralists	Winton Local Government
09 March 2016	Introduction to Native Title	Native Title Information Session	Dept of Premier and Cabinet NSW
09 March 2016	Making a Difference: The Role of the National Native Title Tribunal	2016 Eminent Speakers Series, Perth	Notre Dame University
15 March 2016	Born Native, Born Digital	Annual World Bank Conference on Land & Poverty 2016 – Scaling Up Responsible Land Governance, Washington DC	World Bank

DATE	TITLE	EVENT	ORGANISERS
04 April 2016	Victorian Future Act Workshops – Interaction between the Land Use Activity Regime and the Future Act Regime – Evidence and Future Act Inquiries	Future Act workshop – Melbourne	Allens/National Native Title Tribunal
25 April 2016	Native Title in Australia	Land Policy Seminar Chile	Sofofa Education Management
04 May 2016	Native Title Forum with Queensland Legal Practitioners	Native Title Forum	National Native Title Tribunal
05 May 2016	Role and Function of the National Native Title Tribunal in the Native Title system	Lecture	Queensland University of Technology
23 May 2016	Native Title and Mining	Lecture with Alex Ripper	Murdoch University
3 June 2016	On Country, Online: Using Information Technology to Support Effective Participation of Indigenous Australians in Land Management Decisions	National Native Title Conference, Darwin	AIATSIS
16 June 2016	A Look at the National Native Title Tribunal in 2016	Native Title Conference, Perth	Legalwise Seminars

## MEMBERS' PRESENTATIONS

### Helen Shurven's presentations 1 July 2015 to 30 June 2016

DATE	TITLE	EVENT	ORGANISERS
18 September 2015	Using Telephone Mediation in Multi Party Disputes	kon gres Mediation Conference	Resolution Institute
6 April 2016	Native Title	Presentation to visiting Sri Lankan Judges	Deakin University
12 April 2016	Native Title in Property Law	Presentation to Property Law Students	University of Wollongong
23 May 2016	ADR in Native Title – The New South Wales Regime Context	Australian Dispute Centre Panel	Australian Dispute Centre
26 May 2016	Land Rights: Guest Lecture on Native Title	Presentation to Indigenous Settler Relations Class	Macquarie University
26 May 2016	ADR in Native Title – Resolving Disputes in a Statutory Framework	Presentation to Remedies, Reparations and Resolution in Law Class	Macquarie University
27 May 2016	Native Title in Property Law	Presentation to Property Law Class	Macquarie University
16 June 2016	A Look at the National Native Title Tribunal in 2016	Native Title Conference, Perth	Legalwise Seminars

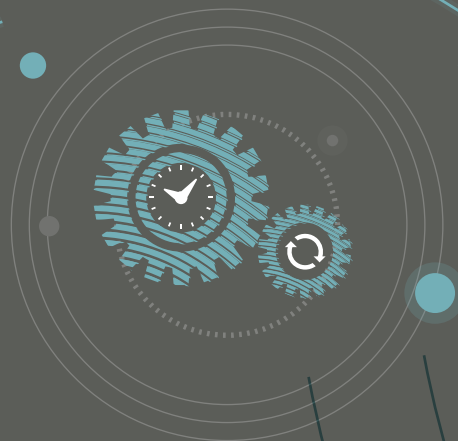
### James McNamara's presentations 1 July 2015 to 30 June 2016

DATE	TITLE	EVENT	ORGANISERS
15 September 2015	Native Title Exploration and Mining Activities	Video Presentation to Associate Degree in Mining Students	University of Southern Queensland Torres Strait Island Sea Summit
13-15 October 2015	Give a Little, Take a Little	Presentation to Torres Sea Summit	Native Title Office and Torres Strait Regional Authority
14 December 2015	Understanding ILUAs Cape York Peninsular	Presentation ILUA Information Session	National Native Title Tribunal
22 April 2016	Understanding ILUAs Cape York Peninsular	Presentation ILUA Information Session	National Native Title Tribunal
29 April 2016	Tenure Portal – Online Collaboration Tool	Queensland Native Title Forum	Federal Court of Australia

**Valerie Cooms' presentations 1 July 2015 to 30 June 2016**

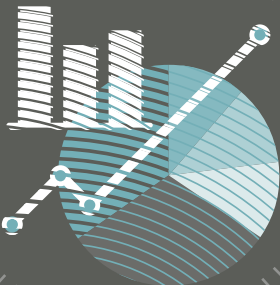
DATE	TITLE	EVENT	ORGANISERS
07 July 2015	Sensitivities of Native Title, Laws Relating to Native Title and the Challenges that Indigenous People Face when Attempting to Secure Native Title	Presentation to NAIDOC Event	Bond University
18 August 2015	Emerging Themes in Native Title Forum	Presentation to National Native Title Tribunal Staff	National Native Title Tribunal
25 August 2015	United Nations International Policy and Practice	Presentation to Humanities and Geography Students	University of Sunshine Coast
22 September 2015	Native Title and Cultural Heritage	Presentation to Humanities and Geography Students	Griffith University
29 September 2015	Policy Success and Policy Failure in Aboriginal Affairs	Presentation to Masters Students	Griffith University
24 November 2015	Native Title and Indigenous Empowerment	Panel Discussion	Sydney University
30 November 2015	Responding to the Challenges of Delivering ADR Services in Courts and Tribunals	AAT Panel Discussion	Griffith University
11 March 2016	Prescribed Bodies Corporate	Presentation to the Kalkadoon PBC	Queensland South Native Title Service
29 April 2016	Governance in Native Title	Presentation to the Queensland Native Title Forum	Federal Court of Australia
03 May 2016	Ideas for Developing a National, more Integrated Approach to Native Title	Presentation to Legal Practitioners	Native Title Tribunal
30 May 2016	Native Title and Working on Country	Presentation to Students and Alumni	University of Sydney

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# Part 6 Appendices





## INDEPENDENT AUDITOR'S REPORT

### To the Attorney-General

I have audited the accompanying annual financial statements of the Federal Court of Australia for the year ended 30 June 2016, which comprise:

- Statement by the Accountable Authority and Chief Financial Officer;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement;
- Administered Schedule of Comprehensive Income;
- Administered Schedule of Assets and Liabilities;
- Administered Reconciliation Schedule;
- Administered Cash Flow Statement; and
- Notes comprising a Summary of Significant Accounting Policies and other explanatory information.

### Opinion

In my opinion, the financial statements of the Federal Court of Australia:

- (a) comply with Australian Accounting Standards and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Federal Court of Australia as at 30 June 2016 and its financial performance and cash flows for the year then ended.

### Accountable Authority's Responsibility for the Financial Statements

The Registrar of the Federal Court of Australia is responsible under the *Public Governance, Performance and Accountability Act 2013* for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards and the rules made under that Act and is also responsible for such internal control as the Registrar determines is necessary to enable the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on my audit. I have conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. These auditing standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Accountable Authority of the entity, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

***Independence***

In conducting my audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the requirements of the Australian accounting profession.

Australian National Audit Office



Colin Biecke  
Senior Director  
Delegate of the Auditor-General  
Canberra  
1 September 2016

## STATEMENT BY THE ACCOUNTABLE AUTHORITY AND CHIEF FINANCIAL OFFICER

### FEDERAL COURT OF AUSTRALIA

#### STATEMENT BY THE ACCOUNTABLE AUTHORITY AND CHIEF FINANCIAL OFFICER

The corporate services functions of the Family Court and Federal Circuit Court merged with the Federal Court to form a single administrative entity from 1 July 2016 pursuant to the *Courts Administration Legislation Amendment Act 2016*. The Department of Finance has authorised the Registrar and the Chief Financial Officer of the Federal Court to prepare the 2016 Family Court and Federal Circuit Court financial statements.

In our opinion, the attached financial statements for the year ended 30 June 2016 comply with subsection 42(2) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and are based on properly maintained financial records as per subsection 41 (2) of the PGPA Act.

From 1 July 2016, the debts and obligations of the Family Court and Federal Circuit Court will be met and paid by the Federal Court.

In our opinion, at the date of this statement, there are reasonable grounds to believe that the Federal Court will be able to pay these debts as and when they fall due.



Signed .....

Warwick Soden OAM  
Chief Executive Officer/Principal Registrar

1 September 2016



Signed .....

Peter Bowen  
Chief Financial Officer

1 September 2016

## APPENDIX 1

## STATEMENT OF COMPREHENSIVE INCOME

for the period ended 30 June 2016

	NOTES	2016 \$'000	2015 \$'000	ORIGINAL BUDGET \$'000
<b>NET COST OF SERVICES</b>				
<b>Expenses</b>				
Judge Benefits	1.1A	<b>36,204</b>	33,366	34,569
Employee Benefits	1.1A	<b>46,048</b>	44,962	45,674
Suppliers	1.1B	<b>48,254</b>	49,128	49,467
Depreciation and Amortisation	3.2A	<b>4,013</b>	4,702	4,354
Finance Costs	1.1C	<b>6</b>	17	86
Write-Down and Impairment of Assets	1.1D	<b>227</b>	661	–
<b>Total expenses</b>		<b>134,752</b>	132,836	134,150
<b>Own-Source Income</b>				
<b>Own-source revenue</b>				
Sale of Goods and Rendering of Services	1.2A	<b>1,870</b>	3,323	2,769
<b>Total own-source revenue</b>		<b>1,870</b>	3,323	2,769
<b>Gains</b>				
Gains from sale of assets		–	3	–
Other Gains	1.2B	<b>34,652</b>	32,868	32,997
<b>Total gains</b>		<b>34,652</b>	32,871	32,997
<b>Total own-source income</b>		<b>36,522</b>	36,194	35,766
<b>Net (cost of) services</b>		<b>(98,230)</b>	(96,642)	(98,384)
Revenue from Government	1.2C	<b>94,225</b>	92,419	94,030
<b>(Deficit) attributable to the Australian Government</b>		<b>(4,005)</b>	(4,223)	(4,354)
<b>OTHER COMPREHENSIVE INCOME</b>				
<b>Total other comprehensive income</b>		–	–	–

The above statement should be read in conjunction with the accompanying notes.

## BUDGET VARIANCES COMMENTARY

## STATEMENT OF COMPREHENSIVE INCOME FOR NOT-FOR-PROFIT REPORTING ENTITIES

**Write-Down and Impairment of assets**

These items were not budgeted for in the original budget.

**Own-Source Revenue**

Revenue from rendering of services was lower than budgeted, due to less revenue being received to perform international aid functions than originally expected at budget. This also led to lower than expected expenditure on suppliers.

# APPENDIX 1

## STATEMENT OF FINANCIAL POSITION

as at 30 June 2016

	NOTES	2016 \$'000	2015 \$'000	ORIGINAL BUDGET \$'000
<b>ASSETS</b>				
<b>Financial assets</b>				
Cash and Cash Equivalents	3.1A	<b>1,320</b>	603	576
Trade and Other Receivables	3.1B	<b>53,628</b>	49,348	47,970
<b>Total financial assets</b>		<b>54,948</b>	49,951	48,546
<b>Non-financial assets</b>				
Buildings	3.2A	<b>13,767</b>	15,007	13,522
Plant and Equipment	3.2A	<b>7,639</b>	7,022	10,891
Computer Software	3.2A	<b>3,283</b>	3,938	5,340
Other Non-Financial Assets	3.2B	<b>653</b>	1,159	957
<b>Total non-financial assets</b>		<b>25,342</b>	27,126	30,710
<b>Total assets</b>		<b>80,290</b>	77,077	79,256
<b>LIABILITIES</b>				
<b>Payables</b>				
Suppliers	3.3A	<b>500</b>	2,070	1,407
Other Payables	3.3B	<b>2,514</b>	2,455	75
<b>Total payables</b>		<b>3,014</b>	4,525	1,482
<b>Interest bearing liabilities</b>				
Leases	3.4A	<b>307</b>	42	1,512
<b>Total interest bearing liabilities</b>		<b>307</b>	42	1,512
<b>Provisions</b>				
Employee Provisions	6.1A	<b>24,114</b>	20,614	23,036
Other Provisions	3.5A	<b>84</b>	84	254
<b>Total provisions</b>		<b>24,198</b>	20,698	23,290
<b>Total liabilities</b>		<b>27,519</b>	25,265	26,284
<b>Net assets</b>		<b>52,771</b>	51,812	52,972
<b>EQUITY</b>				
Contributed equity		<b>47,825</b>	42,861	47,829
Reserves		<b>7,074</b>	7,074	7,074
Retained surplus/(Accumulated deficit)		<b>(2,128)</b>	1,877	(1,931)
<b>Total equity</b>		<b>52,771</b>	51,812	52,972

The above statement should be read in conjunction with the accompanying notes.

**BUDGET VARIANCES COMMENTARY****STATEMENT OF FINANCIAL POSITION FOR NOT-FOR-PROFIT REPORTING ENTITIES****Trade and other receivables**

Receivables are higher due to an increase in the amount of capital appropriation receivable as the capital budget was underspent in 2015-16. Capital appropriation has been carried forward to be expended in connection with the amalgamation with the Family Court and Federal Circuit Court on 1 July 2016.

**Employee Provisions**

Employee provisions are higher than budgeted due to the transfer of Corporate Services Staff from the Family Court and Federal Circuit Court of Australia in anticipation of the amalgamation with those Courts on 1 July 2016.

Those staff's accrued liabilities were recognised as at the transfer date of 30 June, along with a corresponding recognition of an equivalent account receivable from the Family Court and Federal Circuit Court.

**Non-financial assets**

Non-financial assets are lower than budgeted as the full capital budget was not spent in 2015-16. Capital has been carried forward to be expended in connection with the amalgamation with the Family Court and Federal Circuit Court on 1 July 2016.

**Interest bearing liabilities**

Interest bearing liabilities are lower than expected as less finance leases for IT equipment were entered into than was expected at the time of the budget.

**Other payables**

Other payables are higher due to the effect of accrued redundancy payments as at 30 June 2016.

# APPENDIX 1

## STATEMENT OF CHANGES IN EQUITY

for the period ended 30 June 2016

	NOTES	2016 \$'000	2015 \$'000	ORIGINAL BUDGET \$'000
<b>CONTRIBUTED EQUITY</b>				
<b>Opening balance</b>				
Balance carried forward from previous period		42,861	38,534	42,861
<b>Adjusted opening balance</b>		<b>42,861</b>	38,534	42,861
<b>Comprehensive income</b>				
Other comprehensive income		–	–	–
<b>Total comprehensive income</b>		<b>–</b>	–	–
<b>Transactions with owners</b>				
<b>Distributions to owners</b>				
Returns of capital				
Appropriation returned		(4)	–	–
<b>Contributions by owners</b>				
Departmental capital budget		4,968	4,327	4,968
<b>Total transactions with owners</b>		<b>4,964</b>	4,327	4,968
<b>Closing balance as at 30 June</b>		<b>47,825</b>	42,861	47,829
<b>RETAINED EARNINGS</b>				
<b>Opening balance</b>				
Balance carried forward from previous period		1,877	6,100	2,423
<b>Adjusted opening balance</b>		<b>1,877</b>	6,100	2,423
<b>Comprehensive income</b>				
Surplus/(Deficit) for the period		(4,005)	(4,223)	(4,354)
<b>Total comprehensive income</b>		<b>(4,005)</b>	(4,223)	(4,354)
<b>Closing balance as at 30 June</b>		<b>(2,128)</b>	1,877	(1,931)
<b>ASSET REVALUATION RESERVE</b>				
<b>Opening balance</b>				
Balance carried forward from previous period		7,074	7,074	7,074
<b>Adjusted opening balance</b>		<b>7,074</b>	7,074	7,074



	NOTES	2016 \$'000	2015 \$'000	ORIGINAL BUDGET \$'000
<b>Comprehensive income</b>				
Other comprehensive income		–	–	–
<b>Total comprehensive income</b>		–	–	–
<b>Closing balance as at 30 June</b>		<b>7,074</b>	7,074	7,074
<b>TOTAL EQUITY</b>				
<b>Opening Balance</b>				
Balance carried forward from previous period		<b>51,812</b>	51,708	52,358
<b>Adjusted opening balance</b>		<b>51,812</b>	51,708	52,358
<b>Comprehensive income</b>				
(Deficit) for the period		<b>(4,005)</b>	(4,223)	(4,354)
<b>Total comprehensive income</b>		<b>(4,005)</b>	(4,223)	(4,354)
<b>Transactions with owners</b>				
<b>Distributions to owners</b>				
Returns of capital		–	–	–
Returned Appropriation		<b>(4)</b>	–	–
<b>Contributions by owners</b>				
Departmental capital budget		<b>4,968</b>	4,327	4,968
<b>Total transactions with owners</b>		<b>4,964</b>	4,327	4,968
<b>Closing balance as at 30 June</b>		<b>52,771</b>	51,812	52,972

The above statement should be read in conjunction with the accompanying notes.

## ACCOUNTING POLICY

### Equity Injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budgets (DCBs) are recognised directly in contributed equity in that year.

### Restructuring of Administrative Arrangements

Net assets received from or relinquished to another Government entity under a restructuring of administrative arrangements are adjusted at their book value directly against contributed equity.

# APPENDIX 1

## CASH FLOW STATEMENT

for the period ended 30 June 2016

	NOTES	2016 \$'000	2015 \$'000	ORIGINAL BUDGET \$'000
<b>OPERATING ACTIVITIES</b>				
<b>Cash received</b>				
Appropriations		97,002	92,443	94,212
Receipts from Government		55	341	–
Sale of goods and rendering of services		2,571	3,408	2,769
Net GST received		–	677	–
<b>Total cash received</b>		<b>99,628</b>	<b>96,869</b>	<b>96,981</b>
<b>Cash used</b>				
Employees		67,138	65,881	65,658
Suppliers		29,142	28,416	30,587
Borrowing costs		6	17	86
Net GST paid		326	–	–
Section 74 receipts transferred to OPA		2,670	3,300	–
<b>Total cash used</b>		<b>99,282</b>	<b>97,614</b>	<b>96,331</b>
<b>Net cash from/(used by) operating activities</b>	5.4A	<b>346</b>	<b>(745)</b>	<b>650</b>
<b>INVESTING ACTIVITIES</b>				
<b>Cash received</b>				
Proceeds from sales of property, plant and equipment		–	4	–
<b>Total cash received</b>		<b>–</b>	<b>4</b>	<b>–</b>
<b>Cash used</b>				
Purchase of property, plant and equipment		2,015	2,267	3,693
Purchase of intangibles		578	364	1,550
<b>Total cash used</b>		<b>2,593</b>	<b>2,631</b>	<b>5,243</b>
<b>Net cash (used by) investing activities</b>		<b>(2,593)</b>	<b>(2,627)</b>	<b>(5,243)</b>

	NOTES	2016 \$'000	2015 \$'000	ORIGINAL BUDGET \$'000
<b>FINANCING ACTIVITIES</b>				
<b>Cash received</b>				
Appropriation Received – contributed equity		<b>3,064</b>	3,766	4,968
<b>Total cash received</b>		<b>3,064</b>	3,766	4,968
<b>Cash used</b>				
Payment of finance lease liabilities		<b>100</b>	367	375
<b>Total cash used</b>		<b>100</b>	367	375
<b>Net cash from financing activities</b>		<b>2,964</b>	3,399	4,593
<b>Net increase in cash held</b>		<b>717</b>	27	–
Cash and cash equivalents at the beginning of the reporting period		603	<b>576</b>	576
<b>Cash and cash equivalents at the end of the reporting period</b>	3.1A, 5.4A	<b>1,320</b>	603	576

The above statement should be read in conjunction with the accompanying notes.

## BUDGET VARIANCES COMMENTARY

### CASH FLOW STATEMENT FOR NOT-FOR-PROFIT REPORTING ENTITIES

#### Cash used and received for operating activities

Cash used and received for operating activities was higher than budget as the effect of transferring section 74 receipts to the Official Public Account and then re-drawing it was not accounted for in the budget.

#### Cash used for investing activities

Cash used for the purchase of assets was lower than budgeted for. Capital funding provided for the amalgamation of corporate services with the Family Court and Federal Circuit Court will mostly be spent in future years.

This also accounts for the reduced amount of cash received for financing activities in relation to appropriation received.

# APPENDIX 1

## ADMINISTERED SCHEDULE OF COMPREHENSIVE INCOME

for the period ended 30 June 2016

	NOTES	2016 \$'000	2015 \$'000	ORIGINAL BUDGET \$'000
<b>NET COST OF SERVICES</b>				
<b>Expenses</b>				
Suppliers	2.1A	<b>456</b>	568	600
Write-Down and Impairment of Assets	2.1B	<b>532</b>	400	–
<b>Total expenses</b>		<b>988</b>	968	600
<b>Income</b>				
<b>Revenue</b>				
<b>Non-taxation revenue</b>				
Fees	2.2A	<b>16,619</b>	17,260	16,987
Fines	2.2A	<b>766</b>	486	–
<b>Total non-taxation revenue</b>		<b>17,385</b>	17,746	16,987
<b>Total revenue</b>		<b>17,385</b>	17,746	16,987
<b>Net contribution by services</b>		<b>16,397</b>	16,778	16,387
<b>Surplus</b>		<b>16,397</b>	16,778	16,387
<b>OTHER COMPREHENSIVE INCOME</b>				
<b>Total comprehensive income</b>		<b>16,397</b>	16,778	16,387

The above schedule should be read in conjunction with the accompanying notes.

### BUDGET VARIANCES COMMENTARY ADMINISTERED SCHEDULE OF COMPREHENSIVE INCOME

#### Expenses

Write-down and impairment of asset expenses were not budgeted for, as none were expected.

#### Revenue

Fines were not budgeted for, as the amount received from fines is based on the results of individual cases and is therefore not predictable.

**APPENDIX 1****ADMINISTERED SCHEDULE  
OF ASSETS AND LIABILITIES**

for the period ended 30 June 2016

	NOTES	2016 \$'000	2015 \$'000	ORIGINAL BUDGET \$'000
<b>ASSETS</b>				
<b>Financial assets</b>				
Cash and Cash Equivalents	4.1A	<b>66</b>	59	29
Trade and Other Receivables	4.1B	<b>2,580</b>	2,838	1,926
<b>Total financial assets</b>		<b>2,646</b>	2,897	1,955
<b>Total assets administered on behalf of Government</b>		<b>2,646</b>	2,897	1,955
<b>LIABILITIES</b>				
<b>Payables</b>				
Other Payables	4.2A	<b>6,459</b>	1,168	132
<b>Total payables</b>		<b>6,459</b>	1,168	132
<b>Total liabilities administered on behalf of Government</b>		<b>6,459</b>	1,168	132
<b>Net assets/(liabilities)</b>		<b>(3,813)</b>	1,729	1,823

The above schedule should be read in conjunction with the accompanying notes.

## BUDGET VARIANCES COMMENTARY

### ADMINISTERED SCHEDULE OF ASSETS AND LIABILITIES

#### Payables

The variance in other payables is due to an arrangement being reached with the Family Court and Federal Circuit Courts (FCFCC) to receive funds on their behalf and not remit them to the FCFCC pending the amalgamation of the administration of the Courts on 1 July 2016.

#### Net Assets/liabilities

The negative net asset position also arises from the arrangements with the FCFCC. Cash amounts that have been received on behalf of the FCFCC and are therefore recorded as a liability, have been remitted to the Government and are therefore not recorded as an administered asset of the Court.

After the amalgamation occurred on 1 July 2016, the payable amount was offset against the corresponding receivable amount carried forward by the FCFCC leading to the combined entity having a positive net asset position.

# APPENDIX 1

## ADMINISTERED RECONCILIATION SCHEDULE

for the period ended 30 June 2016

	2016 \$'000	2015 \$'000
<b>Opening assets less liabilities as at 1 July</b>	<b>1,729</b>	1,823
<b>Adjusted opening assets less liabilities</b>	<b>1,729</b>	1,823
<b>Net contribution by services</b>		
Income	<b>17,385</b>	17,746
Expenses		
Payments to entities other than corporate Commonwealth entities	<b>(988)</b>	(968)
Payments to corporate Commonwealth entities		
<b>Transfers (to)/from the Australian Government</b>		
Appropriation transfers from Official Public Account		
Special appropriations (unlimited) s77 PGPA Act repayments		
Payments to entities other than corporate Commonwealth entities	<b>460</b>	580
Appropriation transfers to OPA		
Transfers to OPA	<b>(22,399)</b>	(17,452)
<b>Closing assets less liabilities as at 30 June</b>	<b>(3,813)</b>	1,729

The above schedule should be read in conjunction with the accompanying notes.

### ACCOUNTING POLICY

#### Administered Cash Transfers to and from the Official Public Account

Revenue collected by the entity for use by the Government rather than the entity is administered revenue. Collections are transferred to the Official Public Account (OPA) maintained by the Department of Finance. Conversely, cash is drawn from the OPA to make payments under Parliamentary appropriation on behalf of Government. These transfers to and from the OPA are adjustments to the administered cash held by the entity on behalf of the Government and reported as such in the schedule of administered cash flows and in the administered reconciliation schedule.

### ADMINISTERED RECONCILIATION VARIANCE

#### Transfers to OPA

The variance in the transfer to OPA between the current year and the previous year is due to the fact that the Federal Court remitted a large amount of funds to the OPA on behalf of the Federal Circuit Court, instead of paying those funds to the Federal Circuit Court.

**APPENDIX 1****ADMINISTERED CASH FLOW STATEMENT**

for the period ended 30 June 2016

	NOTES	2016 \$'000	2015 \$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Fees		21,644	16,976
Fines		766	486
<b>Total cash received</b>		22,410	17,462
<b>Cash used</b>			
Refund of Court Fees		465	560
<b>Total cash used</b>		465	560
<b>Net cash from operating activities</b>	5.4B	21,945	16,902
<b>Cash from Official Public Account</b>			
Appropriations		460	580
<b>Total cash from official public account</b>		460	580
<b>Cash to Official Public Account</b>			
Appropriations		(22,399)	(17,452)
<b>Total cash to official public account</b>		(22,399)	(17,452)
<b>Cash and cash equivalents at the end of the reporting period</b>	4.1A 5.4B	66	59

This schedule should be read in conjunction with the accompanying notes.

**CASH FLOW VARIANCE**

The variance in the cash received between the current year and the previous year is due to the fact that the Federal Court remitted a large amount of funds to the OPA on behalf of the Family Court and Federal Circuit Court (FCFCC), instead of remitting those funds to the FCFCC.

## OVERVIEW

### OBJECTIVES OF THE COURT

The Federal Court of Australia (the Court) is an Australian Government controlled entity. The Court is a not for profit entity.

The objectives of the Court are to:

- decide disputes according to law promptly, courteously and effectively; and in so doing to interpret the statutory law and develop the general law of the Commonwealth, so as to fulfil the role of a court exercising the judicial power of the Commonwealth under the Constitution;
- provide an effective registry service to the community; and
- manage the resources allotted by Parliament efficiently.

The Court is structured to meet one outcome:

To apply and uphold the rule of law to deliver remedies and enforce rights and in so doing, contribute to the social and economic development and well-being of all Australians.

The Court's activities contributing toward this outcome are classified as either departmental or administered. Departmental activities involve the use of assets, liabilities, revenue and expenses controlled or incurred by the Court in its own right. Administered activities involve the management or oversight by the Court, on behalf of the Government, of items controlled or incurred by the Government.

The Court conducts the following administered activity on behalf of the Government: The collection of fees and fines.

The continued existence of the Court in its present form and with its present programs is dependent on Government policy and on continuing appropriations by Parliament for the Court's administration and programs.

### BASIS OF PREPARATION OF THE FINANCIAL STATEMENTS

The financial statements are general purpose financial statements and are required by section 42 of the *Public Governance, Performance and Accountability Act 2013*.

The financial statements and notes have been prepared in accordance with:

- *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015* (FRR) for reporting periods ending on or after 1 July 2015; and
- Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and are in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

The financial statements are presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

## NEW ACCOUNTING STANDARDS

### ADOPTION OF NEW AUSTRALIAN ACCOUNTING STANDARD REQUIREMENTS

No accounting standard has been adopted earlier than the application date as stated in the standard. Of the new standards, amendments to standards and interpretations issued prior to the sign-off date that are applicable to the current period, none have a material impact on the Court.

#### Future Australian Accounting Standard requirements

The following new/revised accounting standards and interpretations were issued by the Australian Accounting Standards Board prior to the signing of the statement by the accountable authority and chief financial officer, which are expected to have a material impact on the Court's financial statements for future reporting periods.



ACCOUNTING STANDARD	APPLICATION DATE FOR THE COURT	NATURE OF CHANGE/S IN ACCOUNTING POLICY ADJUSTMENT TO THE FINANCIAL STATEMENTS
AASB 16 Leases	1 Jan 2019	AASB 16 brings all leases onto the balance sheet of lessees, thereby increasing the transparency surrounding such arrangements and making the lessee's balance sheet better reflect the economics of its transactions. This standard will have an impact on the balance sheet of the Court as all property leases are fully recognised.
AASB 15 Revenue from Contracts with Customers	1 Jan 2017	AASB 15: – establishes principles for reporting information about the nature, amount, timing and uncertainty of revenue and cash flows arising from an entity's contracts with customers, with revenue recognised as 'performance obligations' are satisfied; and – will apply to contracts of Not For Profit entities that are exchange transactions.  The new standard may have a significant impact on the timing of the recognition of revenue. The final impact on the Court will need to be considered once the related Income for Not for Profit project is completed.

All other new and amending standards and interpretations that were issued prior to the sign-off date and are applicable to future reporting periods are not expected to have a material impact on the entity's financial statements.

## TAXATION

The Court is exempt from all forms of taxation except fringe benefits tax (FBT) and goods and services tax (GST).

Revenues, expenses and assets are recognised net of GST except:

- where the amount of GST incurred is not recoverable from the Australia Taxation Office; and
- for receivables and payables.

## REPORTING OF ADMINISTERED ACTIVITIES

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the administered schedules and related notes.

Except where otherwise stated, administered items are accounted for on the same basis and using the same policies as the Court, including the application of Australian Accounting Standards.

## EVENTS AFTER THE REPORTING PERIOD

On 1 July 2016, the corporate services functions of the Family Court and Federal Circuit Court merged into a single administrative entity with the Federal Court pursuant to the *Courts Administration Legislation Amendment Act 2016*. All assets (\$56,531,000), liabilities (\$46,783,000) and commitments (\$38,829,000) of the Family Court and Federal Circuit Court were transferred to the Federal Court. The Federal Court administrative entity continues to be subject to the PGPA Act.

## 1. FINANCIAL PERFORMANCE

This section analyses the financial performance of the Federal Court of Australia for the year ended 2016.

## 1.1 EXPENSES

	2016 \$'000	2015 \$'000
<b>1.1A: Judge and Employee Benefits</b>		
Judges remuneration	21,890	20,626
Judges notional superannuation	14,314	12,740
<b>Total judge benefits</b>	<b>36,204</b>	<b>33,366</b>
Wages and salaries	34,940	34,753
Employee superannuation	5,983	5,664
Leave and other entitlements	3,409	3,699
Separation and redundancies	1,716	846
<b>Total employee benefits</b>	<b>46,048</b>	<b>44,962</b>
<b>Total judge and employee benefits</b>	<b>82,252</b>	<b>78,328</b>

**Accounting Policy**

Accounting policies for employee related expenses is contained in Section 6: People and relationships.

**1.1B: Suppliers****Goods and services supplied or rendered**

Property Operating Costs	2,056	2,352
Library Purchases	4,377	4,180
Travel	3,812	3,698
IT services	4,447	4,472
Contractors and Consultants	3,470	3,399
Other	3,874	4,186
<b>Total goods and services supplied or rendered</b>	<b>22,036</b>	<b>22,287</b>
Goods supplied	2,773	2,975
Services rendered	19,263	19,312
<b>Total goods and services supplied or rendered</b>	<b>22,036</b>	<b>22,287</b>
<b>Other suppliers</b>		
Operating lease rentals in connection with		
Minimum lease payments	25,531	26,270
Workers compensation expenses	687	571
<b>Total other suppliers</b>	<b>26,218</b>	<b>26,841</b>
<b>Total suppliers</b>	<b>48,254</b>	<b>49,128</b>

**Leasing commitments**

	2016 \$'000	2015 \$'000
<b>Commitments for minimum lease payments in relation to non-cancellable operating leases are payable as follows:</b>		
Within 1 year	<b>576</b>	857
Between 1 to 5 years	<b>116</b>	284
<b>Total operating lease commitments</b>	<b>692</b>	1,141

**Accounting Policy**

Where an asset is acquired by means of a finance lease, the asset is capitalised at either the fair value of the lease property or, if lower, the present value of minimum lease payments at the inception of the contract and a liability recognised at the same time and for the same amount.

The discount rate used is the interest rate implicit in the lease. Leased assets are amortised over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are expensed on a straight line basis which is representative of the pattern of benefits derived from the leased assets.

**1.1C: Finance Costs**

Finance leases	<b>6</b>	17
<b>Total finance costs</b>	<b>6</b>	17

**Accounting Policy**

All borrowing costs are expensed as incurred.

**1.1D: Write-Down and Impairment of Assets**

Impairment on financial instruments	<b>3</b>	3
Impairment of property, plant and equipment	<b>161</b>	658
Impairment on intangible assets	<b>63</b>	–
<b>Total write-down and impairment of assets</b>	<b>227</b>	661

## 1.2 OWN-SOURCE REVENUE AND GAINS

	2016 \$'000	2015 \$'000
<b>Own-Source Revenue</b>		
<b>1.2A: Sale of Goods and Rendering of Services</b>		
Sale of goods	5	10
Rendering of services	1,865	3,313
<b>Total sale of goods and rendering of services</b>	<b>1,870</b>	<b>3,323</b>

**Accounting Policy**

Revenue from the sale of goods is recognised when:

- a) the risks and rewards of ownership have been transferred to the buyer;
- b) the entity retains no managerial involvement or effective control over the goods;

The stage of completion of contracts at the reporting date is determined by reference to the proportion that costs incurred to date bear to the estimated total costs of the transaction.

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any impairment allowance account. Collectability of debts is reviewed at end of the reporting period.

Allowances are made when collectability of the debt is no longer probable.

**Gains****1.2B: Other Gains**

Liabilities assumed by other agencies	14,314	12,740
Resources received free of charge	20,338	20,128
<b>Total other gains</b>	<b>34,652</b>	<b>32,868</b>

**Accounting Policy***Resources Received Free of Charge*

Resources received free of charge are recognised as gains when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of these resources is recognised as an expense.

The major resources received free of charge are free use of property in the Commonwealth Law Courts Buildings and the Law Courts Building, Queens Square. Services provided by the Australian National Audit Office are also included here.

Liabilities assumed by other agencies refers to the notional cost of Judicial pensions.

	2016 \$'000	2015 \$'000
<b>1.2C: Revenue from Government</b>		
Appropriations		
Departmental appropriations	<b>94,225</b>	92,419
<b>Total revenue from Government</b>	<b>94,225</b>	92,419

### Accounting Policy

#### *Revenue from Government*

Amounts appropriated for departmental appropriations for the year (adjusted for any formal additions and reductions) are recognised as Revenue from Government when the entity gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned. Appropriations receivable are recognised at their nominal amounts.

## 2. INCOME AND EXPENSES ADMINISTERED ON BEHALF OF GOVERNMENT

This section analyses the activities that the Federal Court does not control but administers on behalf of the Government. Unless otherwise noted, the accounting policies adopted are consistent with those applied for departmental reporting.

### 2.1 ADMINISTERED – EXPENSES

	2016 \$'000	2015 \$'000
<b>2.1A: Suppliers</b>		
<b>Goods and services supplied or rendered</b>		
Refunds of Court Fees	<b>456</b>	568
<b>Total goods and services supplied or rendered</b>	<b>456</b>	568
<b>Total suppliers</b>	<b>456</b>	568
<b>2.1B: Write-Down and Impairment of Assets</b>		
Fees and Fines – Write-Down	<b>20</b>	10
Fees and Fines – provision for doubtful debts	<b>512</b>	390
<b>Total write-down and impairment of assets</b>	<b>532</b>	400

### 2.2 ADMINISTERED – INCOME

	2016 \$'000	2015 \$'000
<b>Revenue</b>		
<b>2.2A: Fees and Fines</b>		
Court Fees	16,619	17,260
Fines	766	486
<b>Total fees and fines</b>	<b>17,385</b>	<b>17,746</b>

#### Accounting Policy

All administered revenues are revenues relating to the course of ordinary activities performed by the Court on behalf of the Australian Government. As such, administered appropriations are not revenues of the Court.

Fees are charged for services provided by the Court to litigants under the *Federal Court and Federal Circuit Court Regulation 2012*.

Revenue from fees is recognised at the time the services are performed. The services are performed at the same time as, or within two days of, the fees becoming due and payable. It is recognised at its nominal amount due less any impairment allowance. Collectability of debts is reviewed at the end of the reporting period. Impairment allowances are made when collectability of the debt is judged to be less, rather than more, likely. Revenue from fines is recognised in the period in which the invoice for the fine is raised.

## 3. FINANCIAL POSITION

This section analyses the Court's assets used to conduct its operations and the operating liabilities incurred as a result. Employee related information is disclosed in the People and Relationships section.

### 3.1 FINANCIAL ASSETS

	2016 \$'000	2015 \$'000
<b>3.1A: Cash and Cash Equivalents</b>		
Cash on hand or on deposit	1,320	603
<b>Total cash and cash equivalents</b>	<b>1,320</b>	<b>603</b>

#### Accounting Policy

Cash is recognised at its nominal amount. Cash and cash equivalents includes:

- a) cash on hand;
- b) demand deposits in bank accounts with an original maturity of 3 months or less that are readily convertible to known amounts of cash and subject to insignificant risk of changes in value; and
- c) cash held in special accounts is not recognised in the balance sheet, as it is not available for use by the Court.

	2016 \$'000	2015 \$'000
<b>3.1B: Trade and Other Receivables</b>		
<b>Goods and services receivables</b>		
Goods and services	2,463	403
<b>Total goods and services receivables</b>	<b>2,463</b>	<b>403</b>
<b>Appropriations receivables</b>		
Appropriation receivable – operating	47,129	47,236
Appropriation receivable – capital	3,215	1,315
<b>Total appropriations receivables</b>	<b>50,344</b>	<b>48,551</b>
<b>Other receivables</b>		
GST receivable from the Australian Taxation Office	828	397
<b>Total other receivables</b>	<b>828</b>	<b>397</b>
<b>Total trade and other receivables (gross)</b>	<b>53,635</b>	<b>49,351</b>
<b>Less impairment allowance</b>	<b>(7)</b>	<b>(3)</b>
<b>Total trade and other receivables (net)</b>	<b>53,628</b>	<b>49,348</b>
<b>Trade and other receivables (net) expected to be recovered</b>		
No more than 12 months	53,628	49,348
More than 12 months	–	–
<b>Total trade and other receivables (net)</b>	<b>53,628</b>	<b>49,348</b>
<b>Trade and other receivables (gross) aged as follows</b>		
Not overdue	53,563	49,339
Overdue by		
0 to 30 days	52	–
31 to 60 days	4	5
61 to 90 days	3	1
More than 90 days	6	6
<b>Total trade and other receivables (net)</b>	<b>53,628</b>	<b>49,351</b>
<b>Impairment allowance aged as follows</b>		
Not overdue	–	–
Overdue by		
0 to 30 days	–	–
31 to 60 days	–	–
61 to 90 days	–	–
More than 90 days	7	3
<b>Total impairment allowance</b>	<b>7</b>	<b>3</b>

Credit terms for goods and services were within 30 days (2015: 30 days).

# APPENDIX 1

## NOTES TO THE FINANCIAL STATEMENTS

for the period ended 30 June 2016

### Accounting Policy

#### Receivables

Trade receivables and other receivables that have fixed or determinable payments and that are not quoted in an active market are classified as 'Receivables'.

### Reconciliation of the Impairment Allowance

#### Movements in relation to 2016

	GOODS AND SERVICES \$'000	OTHER RECEIVABLES \$'000	TOTAL \$'000
<b>As at 1 July 2015</b>	<b>3</b>	<b>–</b>	<b>3</b>
Amounts written off	–	–	–
Amounts recovered and reversed	–	–	–
Increase/(Decrease) recognised in net cost of services	4	–	4
<b>Total as at 30 June 2016</b>	<b>7</b>	<b>–</b>	<b>7</b>

#### Movements in relation to 2015

	GOODS AND SERVICES \$'000	OTHER RECEIVABLES \$'000	TOTAL \$'000
As at 1 July 2014	3	–	3
Amounts written off	(3)	–	(3)
Amounts recovered and reversed	3	–	3
Increase/(Decrease) recognised in net cost of services	–	–	–
<b>Total as at 30 June 2015</b>	<b>3</b>	<b>–</b>	<b>3</b>

### Accounting Policy

Financial assets are assessed for impairment at the end of each reporting period.



### 3.2 NON-FINANCIAL ASSETS

#### 3.2A: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment and Intangibles

##### Reconciliation of the opening and closing balances of property, plant and equipment for 2016

	BUILDINGS \$'000	PLANT AND EQUIPMENT \$'000	COMPUTER SOFTWARE <sup>1</sup> \$'000	TOTAL \$'000
<b>As at 1 July 2015</b>				
Gross book value	16,403	10,193	7,837	34,433
Accumulated depreciation, amortisation and impairment	(1,396)	(3,171)	(3,899)	(8,466)
<b>Total as at 1 July 2015</b>	<b>15,007</b>	<b>7,022</b>	<b>3,938</b>	<b>25,967</b>
Additions				
Purchase	181	1,834	515	2,530
Internally developed	–	–	63	63
Finance lease	–	366	–	366
Impairments recognised in net cost of services	(28)	(133)	(63)	(224)
Depreciation and amortisation	(1,393)	(1,450)	(1,170)	(4,013)
<b>Total as at 30 June 2016</b>	<b>13,767</b>	<b>7,639</b>	<b>3,283</b>	<b>24,689</b>
<b>Total as at 30 June 2016 represented by</b>				
Gross book value	16,328	11,702	8,352	36,382
Accumulated depreciation, amortisation and impairment	(2,561)	(4,063)	(5,069)	(11,693)
<b>Total as at 30 June 2016</b>	<b>13,767</b>	<b>7,639</b>	<b>3,283</b>	<b>24,689</b>

1 The carrying amount of computer software included \$0.929m purchased software and \$2.354m internally generated software.

No indicators of impairment were found for property, plant and equipment and intangibles

#### Revaluations of non-financial assets

All revaluations were conducted in accordance with the revaluation policy stated. On 30 June 2014, an independent valuer conducted the revaluations and management conducted a review of the underlying drivers of the independent valuation.

### Contractual commitments for the acquisition of property, plant, equipment and intangible assets

Commitments for capital purchases for property, plant and equipment were \$0.435m. (2015: \$0.582m). Other plant and equipment commitments for purchases of IT equipment were for \$0.477m (2015: \$0.335m).

### Reconciliation of the opening and closing balances of property, plant and equipment for 2015

	BUILDINGS \$'000	PLANT AND EQUIPMENT \$'000	COMPUTER SOFTWARE \$'000	TOTAL \$'000
As at 1 July 2014				
Gross book value	16,523	8,948	7,469	32,940
Accumulated depreciation, amortisation and impairment	(203)	(1,459)	(2,586)	(4,248)
Total as at 1 July 2014	16,320	7,489	4,883	28,692
Additions				
Purchase	932	1,335	234	2,636
Internally developed	–	–	135	–
Impairments recognised in net cost of services	(622)	(36)	–	(658)
Depreciation and amortisation	(1,623)	(1,765)	(1,314)	(4,702)
Other movements				
Other	–	(1)	–	(1)
Total as at 30 June 2015	15,007	7,022	3,938	25,967
Total as at 30 June 2015 represented by				
Gross book value	16,403	10,193	7,837	34,433
Accumulated depreciation, amortisation and impairment	(1,396)	(3,171)	(3,899)	(8,466)
Total as at 30 June 2015	15,007	7,022	3,938	25,967

### Accounting Policy

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and income at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor's accounts immediately prior to the restructuring.

**Asset Recognition Threshold**

Purchases of property, plant and equipment are recognised initially at cost in the statement of financial position, except for purchases of:

- assets other than information technology equipment costing less than \$2,000; and
- information technology equipment costing less than \$1,500.

which are expensed in the year of acquisition other than where they form part of a group of similar items, which are significant in total.

**Revaluations**

Following initial recognition at cost, buildings, infrastructure, plant and equipment were carried at fair value less subsequent accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the asset revaluation reserve except to the extent that it reverses a previous revaluation decrement of the same asset class previously recognised in the surplus/(deficit). Revaluation decrements for a class of assets are recognised directly through the Income Statement except to the extent that they reverse a previous revaluation increment for that class.

Any accumulated depreciation as at the valuation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

**Depreciation**

Depreciable property plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the Court using, in all cases, the straight-line method of depreciation.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation and amortisation rates for each class of depreciable asset are based on the following useful lives:

	2016	2015
Leasehold improvements	<b>10 to 20 years or Lease term</b>	10 to 20 years or Lease term
Plant and equipment – excluding library materials	<b>3 to 100 years</b>	3 to 100 years
Plant and equipment – library materials	<b>5 to 10 years</b>	5 to 10 years

### *Impairment*

All assets were assessed for impairment at 30 June 2016. Where indications of impairment exist, the asset's recoverable amount is estimated and an adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs to sell and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the Court were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

### *Derecognition*

An item of property, plant and equipment is derecognised upon disposal or when no future economic benefits are expected from its use or disposal.

### *Computer Software*

The Court's intangibles comprise externally and internally developed software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment loss.

Software is amortised on a straight line basis over its anticipated useful life of 5 years (2015: 5 years).

All software assets were assessed for indications of impairment at 30 June 2016.

	2016 \$'000	2015 \$'000
<b>3.2B Other Non-Financial Assets</b>		
Prepayments	653	1,159
<b>Total other non-financial assets</b>	<b>653</b>	<b>1,159</b>
<b>Other non-financial assets expected to be recovered</b>		
No more than 12 months	653	1,154
More than 12 months	—	5
<b>Total other non-financial assets</b>	<b>653</b>	<b>1,159</b>

No indicators of impairment were found for other non-financial assets.

**3.3 PAYABLES**

	2016 \$'000	2015 \$'000
<b>3.3A: Suppliers</b>		
Trade creditors and accruals	<b>500</b>	2,041
Operating lease rentals	–	29
<b>Total suppliers</b>	<b>500</b>	2,070
<b>Suppliers expected to be settled</b>		
No more than 12 months	<b>500</b>	2,070
More than 12 months	–	–
<b>Total suppliers</b>	<b>500</b>	2,070

Settlement to suppliers is usually made net 30 days

<b>3.3B: Other Payables</b>		
Salaries and wages	<b>150</b>	1,302
Superannuation	<b>901</b>	1,035
Separations and redundancies	<b>890</b>	19
Prepayments received/unearned income	<b>573</b>	99
<b>Total other payables</b>	<b>2,514</b>	2,455
<b>Other payables to be settled</b>		
No more than 12 months	<b>2,514</b>	2,455
<b>Total other payables</b>	<b>2,514</b>	2,455

## 3.4 INTEREST BEARING LIABILITIES

	2016 \$'000	2015 \$'000
<b>3.4A: Leases</b>		
Finance Leases	<b>307</b>	42
<b>Total leases</b>	<b>307</b>	42
<b>Minimum lease payments expected to be settled</b>		
Within 1 year	<b>120</b>	42
Between 1 to 5 years	<b>187</b>	–
<b>Total leases</b>	<b>307</b>	42

In 2016, finance leases existed in relation to information technology equipment. The leases were non-cancellable and for fixed terms averaging 3 years, with a maximum of 3 years. The interest rate implicit in the leases averaged 2.13% (2015: 4.22%). The lease assets secured the lease liabilities. The Court guaranteed the residual values of all assets leased.

**Accounting Policy**

A distinction is made between finance leases and operating leases. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of leased assets. An operating lease is a lease that is not a finance lease.

Where an asset is acquired by means of a finance lease, the asset is capitalised at either the fair value of the lease property or, if lower, the present value of minimum lease payments at the inception of the contract and a liability is recognised at the same time and for the same amount.

The discount rate used is the interest rate implicit in the lease. Leased assets are amortised over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are expensed on a straight-line basis which is representative of the pattern of benefits derived from the leased assets.

### 3.5 OTHER PROVISIONS

#### 3.5A: Other Provisions

	PROVISION FOR RESTORATION \$'000	TOTAL \$'000
<b>As at 1 July 2015</b>	<b>84</b>	<b>84</b>
Amounts used	–	–
Amounts reversed	–	–
<b>Total as at 30 June 2016</b>	<b>84</b>	<b>84</b>

	2016 \$'000	2015 \$'000
<b>Other provisions expected to be settled</b>		
No more than 12 months	<b>84</b>	<b>84</b>
More than 12 months	–	–
<b>Total other provisions</b>	<b>84</b>	<b>84</b>

The Court currently has 1 (2015: 1) agreement for the leasing of premises which have provisions requiring the entity to restore the premises to their original condition at the conclusion of the lease. The Court has made a provision to reflect the present value of this obligation.

## 4. ASSETS AND LIABILITIES ADMINISTERED ON BEHALF OF THE GOVERNMENT

This section analyses assets used to generate financial performance and the operating liabilities incurred as a result that the Court does not control but administers on behalf of the Government. Unless otherwise noted, the accounting policies adopted are consistent with those applied for departmental reporting.

### 4.1 ADMINISTERED – FINANCIAL ASSETS

	2016 \$'000	2015 \$'000
<b>4.1A: Cash and Cash Equivalents</b>		
Cash on hand or on deposit	66	59
<b>Total cash and cash equivalents</b>	<b>66</b>	<b>59</b>
<b>4.1B: Trade and Other Receivables</b>		
<b>Other receivables</b>		
Fees	3,360	3,336
<b>Total other receivables</b>	<b>3,360</b>	<b>3,336</b>
<b>Total trade and other receivables (gross)</b>	<b>3,360</b>	<b>3,336</b>
<b>Less impairment allowance</b>	<b>(780)</b>	<b>(498)</b>
<b>Total trade and other receivables (net)</b>	<b>2,580</b>	<b>2,838</b>
All receivables are expected to be recovered in no more than 12 months.		
<b>Trade and other receivables (gross) aged as follows</b>		
Not overdue	1,031	1,114
Overdue by		
0 to 30 days	830	1,000
31 to 60 days	387	313
61 to 90 days	174	235
More than 90 days	938	674
<b>Total trade and other receivables (gross)</b>	<b>3,360</b>	<b>3,336</b>
<b>Impairment allowance aged as follows</b>		
Not overdue	–	–
Overdue by		
0 to 30 days	–	–
31 to 60 days	–	–
61 to 90 days	–	–
More than 90 days	780	498
<b>Total impairment allowance</b>	<b>780</b>	<b>498</b>
Credit terms for goods and services were within 30 days (2015: 30 days).		



**Accounting Policy****Receivables**

Collectability of debts is reviewed at the end of the reporting period. Allowances are made when collection of debts is judged to be less rather than more likely.

**Reconciliation of the Impairment Allowance  
Movements in relation to 2016**

	OTHER RECEIVABLES \$'000	TOTAL \$'000
<b>As at 1 July 2015</b>	<b>498</b>	<b>498</b>
Amounts written off	(230)	(230)
Amounts recovered and reversed	(8)	(8)
Increase/(Decrease) recognised in net cost of services	520	520
<b>Total as at 30 June 2016</b>	<b>780</b>	<b>780</b>
Movements in relation to 2015		
As at 1 July 2014	264	264
Amounts written off	(155)	(155)
Amounts recovered and reversed	(16)	(16)
Increase/(Decrease) recognised in net cost of services	405	405
Total as at 30 June 2015	498	498

**4.2 ADMINISTERED – PAYABLES**

	2016 \$'000	2015 \$'000
<b>4.2A: Other Payables</b>		
Accrued expenses	6,459	1,168
<b>Total other payables</b>	<b>6,459</b>	<b>1,168</b>
<b>Other payables expected to be settled</b>		
No more than 12 months	6,459	1,168
More than 12 months	–	–
<b>Total other payables</b>	<b>6,459</b>	<b>1,168</b>

### 5. FUNDING

This section identifies the Court's funding structure.

#### 5.1 APPROPRIATIONS

##### 5.1A: Annual Appropriations ('Recoverable GST exclusive')

##### Annual Appropriations for 2016

	APPROPRIATION ACT		PGPA ACT		TOTAL APPROPRIATION \$'000	APPROPRIATION APPLIED IN 2016 (CURRENT AND PRIOR YEARS) \$'000	VARIANCE <sup>2</sup> \$'000
	ANNUAL APPROPRIATION <sup>1</sup> \$'000	ADVANCE TO THE FINANCE MINISTER \$'000	SECTION 74 RECEIPTS \$'000	SECTION 75 TRANSFERS \$'000			
<b>Departmental</b>							
Ordinary annual services	94,225	–	2,571	–	96,796	(96,286)	510
Capital Budget <sup>1</sup>	4,968	–	–	–	4,968	(2,693)	2,275
Other services							
Equity Injections	–	–	–	–	–	–	–
Loans	–	–	–	–	–	–	–
<b>Total departmental</b>	<b>99,193</b>	<b>–</b>	<b>2,571</b>	<b>–</b>	<b>101,764</b>	<b>(98,979)</b>	<b>2,785</b>

1. Departmental Capital Budgets are appropriated through Appropriation Acts (No.1, 3). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts.
2. The variance in the expenditure for ordinary annual services is due to timing differences of payments. The underspend of capital appropriation is due to capital projects related to the amalgamation with the Family Court and Federal Circuit Court not taking place until after the amalgamation on 1 July 2016.

**Annual Appropriations for 2015**

	APPROPRIATION ACT		PGPA ACT		TOTAL APPROPRIATION \$'000	APPROPRIATION APPLIED IN 2015 (CURRENT AND PRIOR YEARS) \$'000	VARIANCE <sup>2</sup> \$'000
	ANNUAL APPROPRIATION <sup>1</sup> \$'000	ADVANCE TO THE FINANCE MINISTER \$'000	SECTION 74 RECEIPTS \$'000	SECTION 75 TRANSFERS \$'000			
Departmental							
Ordinary annual services	92,419	–	3,412	–	95,831	(94,315)	1,516
Capital Budget <sup>1</sup>	4,327	–	–	–	4,327	(2,998)	1,329
Other services							
Equity Injections	–	–	–	–	–	–	–
Loans	–	–	–	–	–	–	–
Assets and liabilities	–	–	–	–	–	–	–
Total departmental	96,746	–	3,412	–	100,158	(97,313)	2,845

1. Departmental Capital Budgets are appropriated through Appropriation Acts (No.1, 3, 5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts.
2. Underspends of appropriation are due to the surplus achieved in operating results and timing differences of payments.

**5.1B: Unspent Annual Appropriations ('Recoverable GST exclusive')**

	2016 \$'000	2015 \$'000
<b>Departmental</b>		
Appropriation Act (No.2) 2012-13	–	4
Appropriation Act (No.1) 2014-15	–	48,547
Appropriation Act (No. 1) 2015-16	<b>50,149</b>	–
Appropriation Act (No. 3) 2015-16	<b>195</b>	–
Cash at bank	<b>1,320</b>	603
<b>Total departmental</b>	<b>51,664</b>	<b>49,154</b>

## 5.1C: Special Appropriations ('Recoverable GST exclusive')

	APPROPRIATION APPLIED	
	2016 \$'000	2015 \$'000
Public Governance Performance and Administration Act 2013	465	560
<b>Total special appropriations applied</b>	<b>465</b>	<b>560</b>

## 5.2 SPECIAL ACCOUNTS

	SERVICES FOR OTHER ENTITIES AND TRUST MONEYS SPECIAL ACCOUNT <sup>1</sup>		FEDERAL COURT OF AUSTRALIA LITIGANTS FUND <sup>2</sup>	
	2016 \$'000	2015 \$'000	2016 \$'000	2015 \$'000
<b>Balance brought forward from previous period</b>	–	–	<b>14,554</b>	22,853
<b>Increases</b>	<b>1,644</b>	46	<b>24,365</b>	10,152
<b>Total increases</b>	<b>1,644</b>	46	<b>24,365</b>	10,152
<b>Available for payments</b>	<b>1,644</b>	46	<b>38,919</b>	33,005
<b>Decreases</b>				
<b>Departmental</b>	<b>824</b>	46	<b>9,110</b>	18,451
<b>Total departmental</b>	<b>824</b>	46	<b>9,110</b>	18,451
<b>Total decreases</b>	<b>824</b>	46	<b>9,110</b>	18,451
<b>Total balance carried to the next period</b>	<b>820</b>	–	<b>29,809</b>	14,554

1. Appropriation: *Public Governance, Performance and Accountability Act 2013* section 78;  
Establishing Instrument: FMA Determination 2012/11  
Purpose: To disburse amounts held on trust or otherwise for the benefit of a person other than the Commonwealth.
2. Appropriation: *Public Governance, Performance and Accountability Act 2013* section 78;  
Establishing Instrument: FMA Determination 2004/07  
Purpose: The purposes of the Federal Court of Australia Litigant's Fund Special Account, in relation to which amounts may be debited from the Special Account are:
  - a) In accordance with:
    - (i) An order of the Federal Court of Australia or a Judge of that Court under Rule 2.43 of the Federal Court Rules; or
    - (ii) A direction of a Registrar under that Order; and
  - b) In any other case in accordance with the order of the Federal Court of Australia or a Judge of that Court.

### 5.3 NET CASH APPROPRIATION ARRANGEMENTS

	2016 \$'000	2015 \$'000
<b>Total comprehensive income less depreciation/amortisation expenses previously funded through revenue appropriations</b>	<b>8</b>	479
Plus: depreciation/amortisation expenses previously funded through revenue appropriation	<b>(4,013)</b>	(4,702)
<b>Total comprehensive (loss) – as per the Statement of Comprehensive Income</b>	<b>(4,005)</b>	(4,223)

### 5.4 CASH FLOW RECONCILIATION

#### 5.4A: Cash Flow Reconciliation

	2016 \$'000	2015 \$'000
<b>Reconciliation of cash and cash equivalents as per statement of financial position and cash flow statement</b>		
<b>Cash and cash equivalents as per</b>		
Cash flow statement	<b>1,320</b>	603
Statement of financial position	<b>1,320</b>	603
<b>Discrepancy</b>	<b>–</b>	–
<b>Reconciliation of net cost of services to net cash from/(used by) operating activities</b>		
Net (cost of)/contribution by services	<b>(98,230)</b>	(96,642)
Revenue from Government	<b>94,225</b>	92,419
<b>Adjustments for non-cash items</b>		
Depreciation/amortisation	<b>4,013</b>	4,702
Net write down of non-financial assets	<b>224</b>	658
Gain on disposal of assets	<b>–</b>	(3)
<b>Movement in assets and liabilities</b>		
<b>Assets</b>		
(Increase)/Decrease in net receivables	<b>(2,381)</b>	(2,405)
(Increase)/Decrease in prepayments	<b>506</b>	(204)
<b>Liabilities</b>		
Increase/(Decrease) in employee provisions	<b>3,500</b>	553
Increase/(Decrease) in suppliers payables	<b>(1,570)</b>	663
Increase/(Decrease) in other payables	<b>59</b>	(316)
Increase/(Decrease) in other provisions	<b>–</b>	(170)
<b>Net cash from/(used by) operating activities</b>	<b>346</b>	(745)

## 5.4B: Administered – Cash Flow Reconciliation

	2016 \$'000	2015 \$'000
<b>Reconciliation of cash and cash equivalents as per statement of financial position and cash flow statement</b>		
<b>Cash and cash equivalents as per</b>		
Administered cash flow statement	66	59
Administered schedule of assets and liabilities	66	59
<b>Discrepancy</b>	–	–
<b>Reconciliation of net cost of services to net cash from/(used by) operating activities</b>		
Net (cost of)/contribution by services	16,397	16,778
<b>Adjustments for non-cash items</b>		
<b>Movement in assets and liabilities</b>		
<b>Assets</b>		
(Increase)/Decrease in net receivables	257	(912)
<b>Liabilities</b>		
Increase/(Decrease) in other payables	5,291	1,036
<b>Net cash from/(used by) operating activities</b>	<b>21,945</b>	16,902

## 6. PEOPLE AND RELATIONSHIPS

This section describes a range of employment and post employment benefits provided to our people and our relationships with other key people.

### 6.1 EMPLOYEE PROVISIONS

	2016 \$'000	2015 \$'000
<b>6.1A: Employee Provisions</b>		
Leave	<b>12,434</b>	9,695
Separations and redundancies	<b>386</b>	–
Long Leave (Judges)	<b>11,294</b>	10,919
<b>Total employee provisions</b>	<b>24,114</b>	20,614
<b>Employee provisions expected to be settled</b>		
No more than 12 months	<b>6,591</b>	5,221
More than 12 months	<b>17,523</b>	15,393
<b>Total employee provisions</b>	<b>24,114</b>	20,614

#### Accounting policy

Liabilities for 'short-term employee benefits and termination benefits expected within twelve months of the end of reporting period are measured at their nominal amounts.

Other long-term judge and employee benefits are measured as net total of the present value of the defined benefit obligation at the end of the reporting period minus the fair value at the end of the reporting period of plan assets (if any) out of which the obligations are to be settled directly.

#### Leave

The liability for employee benefits includes provision for annual leave and long service leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time the leave is taken, including the entity's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

### ***Separation and Redundancy***

Provision is made for separation and redundancy benefit payments. The entity recognises a provision for termination when it has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.

### ***Superannuation***

The Court's staff are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), or the PSS accumulation plan (PSSap), or other superannuation funds held outside the Australian Government.

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported in the Department of Finance's administered schedules and notes.

The Court makes employer contributions to the employees' defined benefit superannuation scheme at rates determined by an actuary to be sufficient to meet the current cost to the Government. The entity accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June represents outstanding contributions.

### **Accounting policy**

#### ***Judges' Pension***

Under the *Judges' Pension Act 1968*, Federal Court Judges are entitled to a non-contributory pension upon retirement after 6 years service. Where entitlements are not available under the *Judges Pension Act 1968*, entitlements are available under the *Superannuation (Productivity Benefit) Act 1988*. As the liability for these pension payments is assumed by the Australian Government, the Court has not recognised a liability for unfunded superannuation liability. The Court does, however, recognise an expense and a corresponding revenue item, "Liabilities assumed by other agencies", in respect of the notional amount of the employer contributions to Judges' pensions for the reporting period amounting to \$12,959,803 (2014-15: \$12,739,899). The contribution rate has been provided by the Australian Government Actuary.



**6.2 SENIOR MANAGEMENT PERSONNEL REMUNERATION**

	2016 \$'000	2015 \$'000
<b>Short-term employee benefits</b>		
Salary	<b>3,111</b>	2,747
Motor vehicle and other allowances	<b>352</b>	275
<b>Total short-term employee benefits</b>	<b>3,463</b>	3,022
<b>Post-employment benefits</b>		
Superannuation	<b>502</b>	471
<b>Total post-employment benefits</b>	<b>502</b>	471
<b>Other long-term employee benefits</b>		
Annual leave	<b>231</b>	232
Long-service leave	<b>74</b>	75
<b>Total other long-term employee benefits</b>	<b>305</b>	307
<b>Termination benefits</b>		
Voluntary redundancy payments	–	149
<b>Total termination benefits</b>	–	149
<b>Total senior executive remuneration expenses</b>	<b>4,270</b>	3,949

The total number of senior management personnel that are included in the above table are 15 (2015: 16).

**Related Party Disclosures**

There have been no related party transactions during the year ended 30 June 2016.

## 7. MANAGING UNCERTAINTIES

This section analyses how the Court manages financial risks within its operating environment.

### 7.1 CONTINGENT ASSETS AND LIABILITIES

The Court had no quantifiable or unquantifiable contingent assets or liabilities at 30 June. (2015: Nil)

### 7.2 FINANCIAL INSTRUMENTS

	2016 \$'000	2015 \$'000
<b>7.2A: Categories of Financial Instruments</b>		
<b>Financial assets</b>		
<b>Cash and receivables</b>		
Cash on hand or on deposit	<b>1,320</b>	603
Trade Receivables	<b>2,456</b>	403
<b>Total cash and receivables</b>	<b>3,776</b>	1,006
<b>Total financial assets</b>	<b>3,776</b>	1,006
<b>Financial Liabilities</b>		
<b>Financial liabilities measured at amortised cost</b>		
Finance Leases	<b>307</b>	42
Trade Creditors	<b>500</b>	2,070
<b>Total financial liabilities measured at amortised cost</b>	<b>807</b>	2,112
<b>Total financial liabilities</b>	<b>807</b>	2,112

#### Accounting Policy

##### Financial assets

The Court has financial assets only in the nature of cash and receivables.

The classification depends on the nature and purpose of the financial assets and is determined at the time of initial recognition. Financial assets are recognised and derecognised upon trade date.

##### Impairment of Financial Assets

Financial assets are assessed for impairment at the end of each reporting period.

**Accounting Policy****Financial liabilities**

Financial liabilities are classified as either financial liabilities 'at fair value through profit or loss' or other financial liabilities. Financial liabilities are recognised and derecognised upon 'trade date'.

**Other Financial Liabilities**

Other financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs. These liabilities are subsequently measured at amortised cost using the effective interest method, with interest expense recognised on an effective interest basis.

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

	2016 \$'000	2015 \$'000
<b>7.2B: Net Gains or Losses on Financial Liabilities</b>		
<b>Financial liabilities measured at amortised cost</b>		
Interest expense	6	17
<b>Net gains/(losses) on financial liabilities measured at amortised cost</b>	<b>6</b>	<b>17</b>
<b>Net losses from financial liabilities</b>	<b>6</b>	<b>17</b>

**7.2C: Fair Value of Financial Instruments**

	CARRYING AMOUNT 2016 \$'000	FAIR VALUE 2016 \$'000	CARRYING AMOUNT 2015 \$'000	FAIR VALUE 2015 \$'000
<b>Financial Assets</b>				
Cash	1,320	1,320	603	603
Receivables	2,456	2,456	403	403
<b>Total financial assets</b>	<b>3,776</b>	<b>3,776</b>	1,006	1,006
<b>Financial Liabilities</b>				
Finance Leases	307	307	42	42
<b>Total financial liabilities</b>	<b>307</b>	<b>307</b>	42	42

### 7.2D: Credit Risk

The Court is exposed to minimal credit risk. The maximum exposure to credit risk is the risk that arises from potential default of a debtor. This amount is equal to the total amount of trade receivables (2016: \$2,463,000 and 2015: \$406,000). The Court has assessed the risk of default on payment and has allocated \$7,000 in 2016 (2015: \$3,000) to an impairment allowance account.

The Court manages its credit risk by undertaking background and credit checks prior to allowing a debtor relationship. In addition, the Court has policies and procedures that are to be applied by employees who perform debt recovery duties.

The Court holds no collateral to mitigate credit risk.

### Credit quality of financial assets not past due or individually determined as impaired

	NOT PAST DUE NOR IMPAIRED 2016 \$'000	NOT PAST DUE NOR IMPAIRED 2015 \$'000	PAST DUE OR IMPAIRED 2016 \$'000	PAST DUE OR IMPAIRED 2015 \$'000
Cash	1,320	603	–	–
Trade Receivables	2,456	391	13	12
<b>Total</b>	<b>3,776</b>	<b>994</b>	<b>13</b>	<b>12</b>

### Ageing of financial assets that were past due but not impaired in 2016

	0 TO 30 DAYS \$'000	31 TO 60 DAYS \$'000	61 TO 90 DAYS \$'000	90+ DAYS \$'000	TOTAL \$'000
Trade Receivables	–	4	3	–	7
<b>Total</b>	<b>–</b>	<b>4</b>	<b>3</b>	<b>–</b>	<b>7</b>

### Ageing of financial assets that were past due but not impaired in 2015

	0 TO 30 DAYS \$'000	31 TO 60 DAYS \$'000	61 TO 90 DAYS \$'000	90+ DAYS \$'000	TOTAL \$'000
Trade Receivables	–	5	1	3	9
<b>Total</b>	<b>–</b>	<b>5</b>	<b>1</b>	<b>3</b>	<b>9</b>

**7.2E: Liquidity Risk**

Liquidity risk is the risk that the Court will not meet its obligations as they fall due. The Court's financial liabilities are payables, and finance leases. The possibility of the Court not meeting its obligations is highly unlikely as the Court is appropriated funding from the Australian Government and the Court manages its budgeted funds to ensure it has adequate funds to meet payments as they fall due. In addition, the Court has policies in place to ensure timely payments were made when due and has no past experience of default.

**Maturities for non-derivative financial liabilities in 2016**

	WITHIN 1 YEAR \$'000	BETWEEN 1 TO 2 YEARS \$'000	BETWEEN 2 TO 5 YEARS \$'000	TOTAL \$'000
Payables – Suppliers	500	–	–	500
Finance Leases	120	124	63	307
<b>Total</b>	<b>620</b>	<b>124</b>	<b>63</b>	<b>807</b>

**Maturities for non-derivative financial liabilities in 2015**

	WITHIN 1 YEAR \$'000	BETWEEN 1 TO 2 YEARS \$'000	BETWEEN 2 TO 5 YEARS \$'000	TOTAL \$'000
Payables – Suppliers	2,070	–	–	2,070
Finance Leases	42	–	–	42
<b>Total</b>	<b>2,112</b>	<b>–</b>	<b>–</b>	<b>2,112</b>

**7.2F: Market Risk****Interest rate risk**

Interest rate risk refers to the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates. The only interest-bearing item on the statement of financial position is the 'Finance Lease'. This bears interest at a fixed interest rate and will not fluctuate due to changes in the market interest rate.

**7.3 ADMINISTERED – FINANCIAL INSTRUMENTS**

	2016 \$'000	2015 \$'000
<b>7.3A: Categories of Financial Instruments</b>		
<b>Financial Assets</b>		
Cash on hand or on deposit	66	59
Other receivables	2,580	2,838
<b>Total financial assets</b>	<b>2,646</b>	<b>2,897</b>

### 7.3B: Fair Value of Financial Instruments

The carrying amount of the Court's administered financial assets and liabilities are a fair approximation of the fair value.

### 7.3C: Credit Risk

The administered activities of the Court are not exposed to a high level of credit risk as the majority of financial assets are receivables. The Court has policies and procedures that guide staff who perform debt recovery functions.

#### Credit quality of financial assets not past due or individually determined as impaired

	NOT PAST DUE NOR IMPAIRED 2016 \$'000	NOT PAST DUE NOR IMPAIRED 2015 \$'000	PAST DUE OR IMPAIRED 2016 \$'000	PAST DUE OR IMPAIRED 2015 \$'000
Cash	66	59	—	—
Trade Receivables	1,031	1,114	2,329	2,222
<b>Total</b>	<b>1,097</b>	<b>1,173</b>	<b>2,329</b>	<b>2,222</b>

#### Ageing of financial assets that were past due but not impaired in 2016

	0 TO 30 DAYS \$'000	31 TO 60 DAYS \$'000	61 TO 90 DAYS \$'000	90+ DAYS \$'000	TOTAL \$'000
Receivables	830	387	174	158	1,549
<b>Total</b>	<b>830</b>	<b>387</b>	<b>174</b>	<b>158</b>	<b>1,549</b>

#### Ageing of financial assets that were past due but not impaired in 2015

	0 TO 30 DAYS \$'000	31 TO 60 DAYS \$'000	61 TO 90 DAYS \$'000	90+ DAYS \$'000	TOTAL \$'000
Receivables	1,000	313	235	176	1,724
<b>Total</b>	<b>1,000</b>	<b>313</b>	<b>235</b>	<b>176</b>	<b>1,724</b>

## 7.4 FAIR VALUE MEASUREMENT

The following tables provide an analysis of assets and liabilities that are measured at fair value. The remaining assets and liabilities disclosed in the statement of financial position do not apply the fair value hierarchy.

The different levels of the fair value hierarchy are defined below.

Level 1: Quoted prices (unadjusted) in active markets for identical assets or liabilities that the entity can access at measurement date.

Level 2: Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly.

Level 3: Unobservable inputs for the asset or liability.

### Accounting Policy

The Court has elected to early adopt AASB2015-7 which provides relief for not-for-profit public sector entities from making certain specified disclosures about the fair value measurement of assets measured at fair value and categorised within Level 3 of the fair value hierarchy.

Valuations are performed regularly so as to ensure that the carrying amount does not materially differ from fair value at the reporting date. The last valuation was done by an external valuer in 2014. The Court reviews the method used by the valuer annually.

### 7.4A: Fair Value Measurement

	FAIR VALUE MEASUREMENTS AT THE END OF THE REPORTING PERIOD		
	2016 \$'000	2015 \$'000	CATEGORY (LEVEL 1, 2 OR 3),
<b>Non-financial assets</b>			
Leasehold improvements	<b>13,767</b>	15,007	Level 3
Plant and Equipment	<b>4,959</b>	4,035	Level 2
Plant and Equipment	<b>2,680</b>	2,987	Level 3

The Court's assets are held for operational purposes and not held for the purposes of deriving a profit. The current use of these assets is considered to be the highest and best use.

There have been no transfers between the levels of the hierarchy during the year. The Court deems transfers between levels of the fair value hierarchy to have occurred when advised by an independent valuer of a change in the market for particular items.

### 8. OTHER INFORMATION

#### 8.1 REPORTING OF OUTCOMES

The Court has one Output and Outcome:

To apply and uphold the rule of law to deliver remedies and enforce rights and in so doing, contribute to the social and economic development and well-being of all Australians.

	OUTCOME 1	
	2016 \$'000	2015 \$'000
<b>Expenses</b>		
Employee Benefits	82,252	78,328
Suppliers	48,254	49,128
Depreciation and Amortisation	4,013	4,702
Finance Costs	6	17
Write-Down and Impairment of Assets	227	661
<b>Total expenses</b>	<b>134,752</b>	<b>132,836</b>
<b>Own-source income</b>	<b>36,522</b>	<b>36,194</b>
<b>Total own-source income</b>	<b>36,522</b>	<b>36,194</b>
<b>Expenses</b>		
Refunds and Impairment	988	968
<b>Total expenses</b>	<b>988</b>	<b>968</b>
<b>Income</b>		
Fees and Fines	17,385	17,746
<b>Total income</b>	<b>17,385</b>	<b>17,746</b>
<b>Net cost/(contribution) of outcome delivery</b>	<b>81,833</b>	<b>79,864</b>



	OUTCOME 1	
	2016 \$'000	2015 \$'000
<b>Assets</b>		
Cash	<b>1,320</b>	603
Receivables	<b>53,628</b>	49,348
Property, Plant and Equipment	<b>24,689</b>	25,967
Other non-financial assets	<b>653</b>	1,159
<b>Total assets</b>	<b>80,290</b>	77,077
<b>Liabilities</b>		
Payables	<b>3,014</b>	4,525
Provisions	<b>24,198</b>	20,698
Interest Bearing Liabilities	<b>307</b>	42
<b>Total liabilities</b>	<b>27,519</b>	25,265
<b>Assets</b>		
Financial Assets	<b>2,646</b>	2,897
<b>Total assets</b>	<b>2,646</b>	2,897
<b>Liabilities</b>		
Payables	<b>6,459</b>	1,168
<b>Total liabilities</b>	<b>6,459</b>	1,168

## APPENDIX 2

## AGENCY RESOURCE STATEMENT

	ACTUAL AVAILABLE APPROPRIATIONS FOR 2015-16 \$'000	PAYMENTS MADE 2015-16 \$'000	BALANCE REMAINING \$'000
<b>ORDINARY ANNUAL SERVICES<sup>1</sup></b>			
<b>Departmental appropriation</b>			
Prior year departmental appropriation	48 551	48 551	–
Departmental appropriation <sup>2</sup>	99 193	48 654	50 539
s 74 relevant agency receipts	1 870	1 870	–
Total	149 614	99 075	50 539
Total ordinary annual services	149 614	99 075	50 539
<b>OTHER SERVICES</b>			
<b>Departmental non-operating</b>			
Previous year's outputs			–
Total			–
Total other services			–
Total available annual appropriations	149 614	99 075	50 539
Total appropriations excluding special accounts	149 614	99 075	50 539
Total resourcing	149 614	99 075	50 539
<b>Total net resourcing for Court</b>	<b>149 614</b>	<b>99 075</b>	<b>50 539</b>

1 Appropriation Bill (No.1) 2015-16 and Appropriation Bill (No. 3) 2015-16

2 Includes a Departmental Capital Budget of \$4.968m.

**APPENDIX 3**

**FEDERAL COURT MANAGEMENT STRUCTURE**



# APPENDIX 4

## REGISTRARS OF THE COURT

REGISTRY	NAME	APPOINTMENTS UNDER OTHER ACTS
<b>PRINCIPAL REGISTRY</b>		
Registrar	Warwick Soden OAM	
National Operations Registrar	Sia Lagos (based in Melbourne)	A Registrar, Federal Circuit Court
Deputy Registrars	John Mathieson (based in Sydney)	Sheriff A Registrar, Federal Circuit Court A Deputy Sheriff, Federal Circuit Court
	Angela Josan (based in Melbourne)	
	June Eaton (based in Perth)	A Registrar, Federal Circuit Court
	Ann Daniel (based in Perth)	
	Christine Fewings (based in Brisbane)	
	David Priddle (based in Melbourne)	A Registrar, Federal Circuit Court
	Katie Stride (based in Brisbane)	
	Lauren McCormick (based in Melbourne)	A Registrar, Federal Circuit Court
<b>NSW SOUTH WALES</b>		
District Registrar	Michael Wall	A Registrar, Federal Circuit Court Deputy Registrar, Defence Force Discipline Appeal Tribunal Registrar, Copyright Tribunal
Deputy District Registrars	Geoffrey Segal	A Registrar, Federal Circuit Court Deputy Registrar, Australian Competition Tribunal
	Anthony Tesoriero	A Registrar, Federal Circuit Court
	Kim Lackenby (based in Canberra)	A Registrar, Federal Circuit Court Deputy Registrar, Australian Competition Tribunal
	Paddy Hannigan	A Registrar, Federal Circuit Court
	Chuan Ng	A Registrar, Federal Circuit Court Deputy Registrar, Supreme Court of Norfolk Island
	Thomas Morgan	A Registrar, Federal Circuit Court

REGISTRY	NAME	APPOINTMENTS UNDER OTHER ACTS
<b>VICTORIA</b>		
District Registrar	Daniel Caporale	Deputy Sheriff A Registrar, Federal Circuit Court Deputy Registrar, Supreme Court of Norfolk Island Registrar, Defence Force Discipline Appeal Tribunal
Deputy District Registrars	Timothy Luxton	A Registrar, Federal Circuit Court Deputy Registrar, Australian Competition Tribunal Deputy Registrar, Defence Force Discipline Appeal Tribunal
	Rupert Burns	A Registrar, Federal Circuit Court
	Phillip Allaway	A Registrar, Federal Circuit Court
	David Pringle	A Registrar, Federal Circuit Court Deputy National Operations Registrar
	David Ryan	A Registrar, Federal Circuit Court
	Danica Buljan	A Registrar, Federal Circuit Court
<b>QUEENSLAND</b>		
District Registrar	Heather Baldwin	A Registrar, Federal Circuit Court Deputy Registrar, Defence Force Discipline Appeal Tribunal
Deputy District Registrars	Murray Belcher	A Registrar, Federal Circuit Court
	Katie Lynch	A Registrar, Federal Circuit Court
	Scott Tredwell	A Registrar, Federal Circuit Court

# APPENDIX 4

## REGISTRARS OF THE COURT

REGISTRY	NAME	APPOINTMENTS UNDER OTHER ACTS
<b>WESTERN AUSTRALIA</b>		
District Registrar	Martin Jan PSM	A Registrar, Federal Circuit Court Deputy Registrar, Australian Competition Tribunal Deputy Registrar, Defence Force Discipline Appeal Tribunal
Deputy District Registrars	Elizabeth Stanley	A Registrar, Federal Circuit Court
	Russell Trott	A Registrar, Federal Circuit Court
<b>SOUTH AUSTRALIA</b>		
District Registrar	Nicola Colbran	A Registrar, Federal Circuit Court
Deputy District Registrar	Nicholas Parkyn	A Registrar, Federal Circuit Court
<b>TASMANIA</b>		
District Registrar	Catherine Scott	District Registrar, Administrative Appeals Tribunal A Registrar, Federal Circuit Court
<b>AUSTRALIAN CAPITAL TERRITORY</b>		
District Registrar	Michael Wall (based in Sydney)	A Registrar, Federal Circuit Court Deputy Registrar, Defence Force Discipline Appeal Tribunal Registrar, Copyright Tribunal
Deputy District Registrars	Geoffrey Segal (based in Sydney)	A Registrar, Federal Circuit Court Deputy Registrar, Australian Competition Tribunal
	Anthony Tesoriero (based in Sydney)	A Registrar, Federal Circuit Court
	Kim Lackenby	A Registrar, Federal Circuit Court Deputy Registrar, Australian Competition Tribunal
	Paddy Hannigan (based in Sydney)	A Registrar, Federal Circuit Court
	Chuan Ng (based in Sydney)	A Registrar, Federal Circuit Court Deputy Registrar, Supreme Court of Norfolk Island
	Thomas Morgan (based in Sydney)	A Registrar, Federal Circuit Court
<b>NORTHERN TERRITORY</b>		
District Registrar	(based in Adelaide)	A Registrar, Federal Circuit Court

**APPENDIX 5****WORKLOAD STATISTICS**

The statistics in this appendix provide comparative historical information on the work of the Court, including in certain areas of the Court's jurisdiction.

When considering the statistics it is important to note that matters vary according to the nature and complexity of the issues in dispute.

It should also be noted that the figures reported in this report may differ from figures reported in previous years. The variations have occurred through refinements or enhancements to the Casetrack database which necessitated the checking or verification and possible variation of data previously entered.

Casetrack records matters in the Court classified according to sixteen main categories, described as 'causes of action' (CoA). The classification of matters in this way causes an under representation of the workload as it does not include filings of supplementary CoAs (cross appeals and cross claims), interlocutory applications or Native Title joinder of party applications. In 2007–08 the Court started to count and report on interlocutory applications (including interim applications and notices of motion) in appellate proceedings in order to provide the most accurate possible picture of the Court's appellate workload. From 2008–09 the Court has counted all forms of this additional workload in both its original and appellate jurisdictions.

Table A5.3 on page 144 provides a breakdown of these matters. At this stage it is not possible to obtain information about finalisations of interlocutory applications (because they are recorded in the Court's case management system as a document filed rather than a specific CoA). Because of this, detailed reporting of these matters has been restricted to the information about appeals in Part 3 and Table A5.3.

In 2015, the National Court Framework reforms were introduced. The Court began reporting on matters by seven main National Practice Areas (NPAs) last financial year. This information can be found in Figure A5.9 onwards. A NPA for Criminal Cartel Trials has been identified in readiness for the Court's first filing in this area.

**Table A5.1** – Summary of Workload Statistics – Original and Appellate jurisdictions  
Filings of Major CoAs (including appellate and Related Actions)

CAUSE OF ACTION	2011-12	2012-13	2013-14	2014-15	2015-16
<b>Total CoAs (incl. Appeals &amp; Related Actions)</b>					
Filed	5280	5803	5009	4355	5992
Finalised	5749	5513	5570	3903	5870
Current	2732	3022	2461	2913	3035
<b>Corporations (incl. Appeals &amp; Related Actions)</b>					
Filed	3327	3897	2905	2210	3685
Finalised	3752	3501	3395	1858	3513
Current	640	1036	546	898	1070
<b>Bankruptcy (incl. Appeals &amp; Related Actions)</b>					
Filed	185	216	281	260	291
Finalised	191	213	258	249	264
Current	107	110	133	144	171
<b>Native Title (incl. Appeals &amp; Related Actions)</b>					
Filed	98	61	58	64	65
Finalised	98	82	109	75	124
Current	486	465	414	403	344
<b>Total CoAs (incl. Appeals &amp; Related Actions &amp; excluding Corporations, Bankruptcy &amp; Native Title)</b>					
Filed	1670	1629	1765	1821	1951
Finalised	1708	1717	1808	1721	1969
Current	1499	1411	1368	1468	1450



**Table A5.2** – Summary of Workload Statistics – Appeals and related actions only  
Filings of Appeals and Related Actions

CAUSE OF ACTION	2011-12	2012-13	2013-14	2014-15	2015-16
<b>Total Appeals &amp; Related Actions</b>					
Filed	616	634	728	910	992
Finalised	671	628	690	757	956
Current	288	294	332	485	521
<b>Corporations Appeals &amp; Related Actions</b>					
Filed	43	48	29	25	35
Finalised	52	40	39	22	26
Current	17	25	15	18	27
<b>Migration Appeals &amp; Related Actions</b>					
Filed	243	278	370	648	652
Finalised	240	255	356	463	679
Current	86	109	123	308	281
<b>Native Title Appeals &amp; Related Actions</b>					
Filed	11	11	14	9	7
Finalised	14	7	10	7	13
Current	3	7	11	13	7
<b>Total Appeals &amp; Related Actions (excl. Corporations, Migration &amp; Native Title Appeals &amp; Related Actions)</b>					
Filed	319	297	315	228	298
Finalised	365	326	285	265	238
Current	182	153	183	146	206

**Table A5.3** – Summary of supplementary workload statistics – fillings of supplementary CoAs (cross appeals and cross claims), interlocutory applications or Native Title joinder of party applications.

	2011-12	2012-13	2013-14	2014-15	2015-16
<b>Total CoAs (excl. Appeals &amp; Related Actions)</b>					
Cross Appeals (original jurisdiction)	0	0	0	0	0
Cross Claims	186	165	177	134	135
Interlocutory Applications	1693	1673	1541	1513	1528
Native Title (NT) Joinder of party applications	628	405	982	781	346
<b>Appeals &amp; Related Actions</b>					
Cross Appeals	11	16	25	25	19
Interlocutory Applications	179	138	135	172	191
<b>Total Actions (incl. Appeals &amp; Related Actions)</b>					
Cross Appeals	11	16	25	25	19
Cross Claims	186	165	177	134	135
Interlocutory Applications	1872	1811	1676	1685	1719
NT Joinder of party applications	628	405	982	781	346
<b>Totals</b>	<b>2069</b>	<b>1992</b>	<b>1878</b>	<b>1844</b>	<b>1873</b>

**Table A5.3.1** – Finalisations of supplementary causes of action

	2011-12	2012-13	2013-14	2014-15	2015-16
<b>Total Actions (excl. Appeals &amp; Related Actions)</b>					
Cross Appeals (original jurisdiction)	1	2	1	0	0
Cross Claims	166	218	158	167	107
NT Joinder of party applications	628	405	982	781	346
<b>Appeals &amp; Related Actions</b>					
Cross Appeals	35	6	24	18	22
<b>Total Actions (incl. Appeals &amp; Related Actions)</b>					
Cross Appeals	36	8	25	18	22
Cross Claims	166	218	158	167	107
NT Joinder of party applications	628	405	982	781	346
<b>Totals</b>	<b>830</b>	<b>631</b>	<b>1165</b>	<b>966</b>	<b>475</b>

**Table A5.3.2** – Current cross appeals & cross claims as at 30 Jun 2016

<b>CAUSE OF ACTION</b>	
<b>Appeals &amp; Related Actions</b>	
Cross Appeals	22
<b>Total Supplementary CoAs (excl. Appeals &amp; Related Actions)</b>	
Cross Appeals (original jurisdiction)	0
Cross Claims	107
<b>Total Supplementary CoAs (incl. Appeals &amp; Related Actions)</b>	
Cross Appeals	22
Cross Claims	107
<b>Totals</b>	<b>129</b>

Figure A5.1 – Matters filed over the last five years

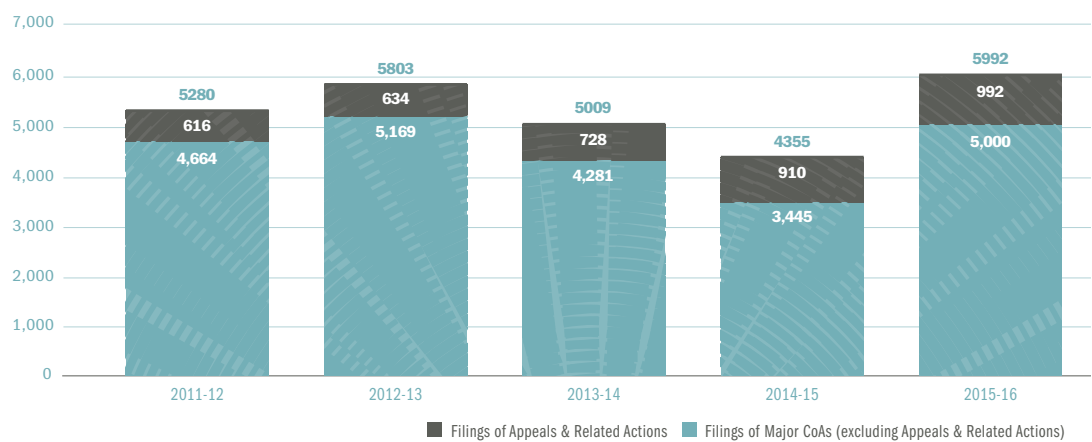
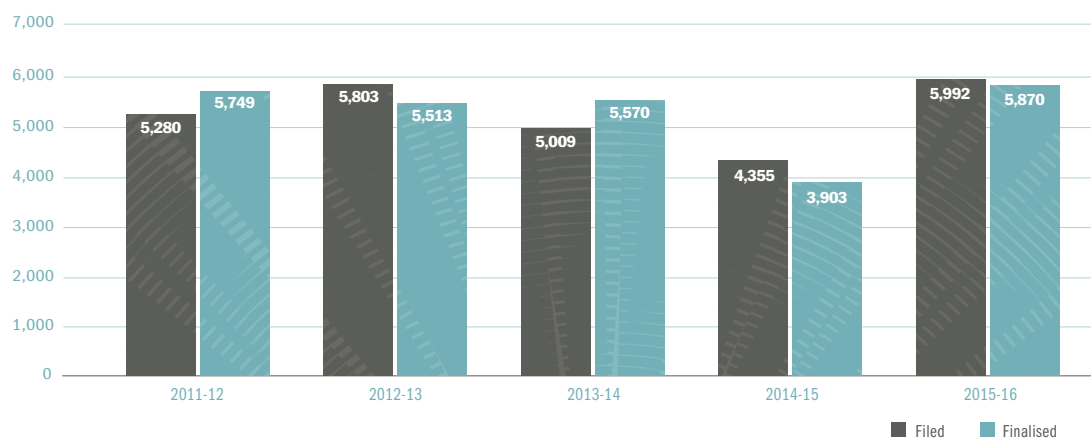
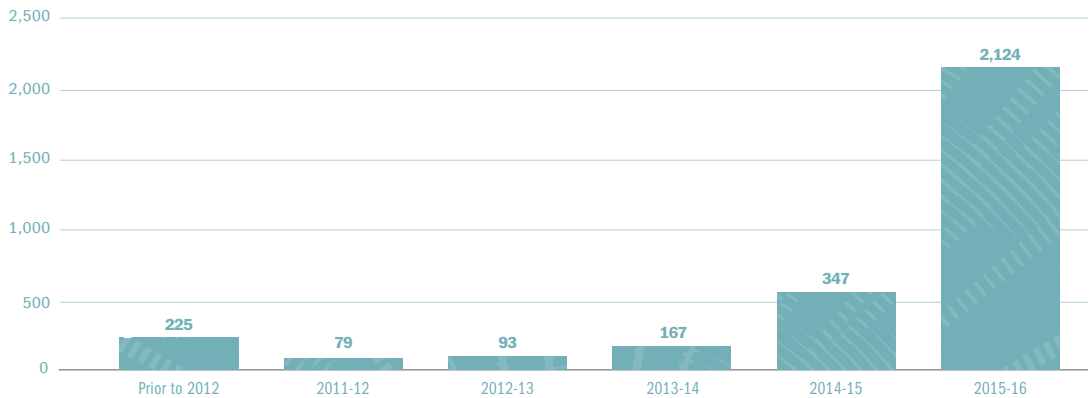


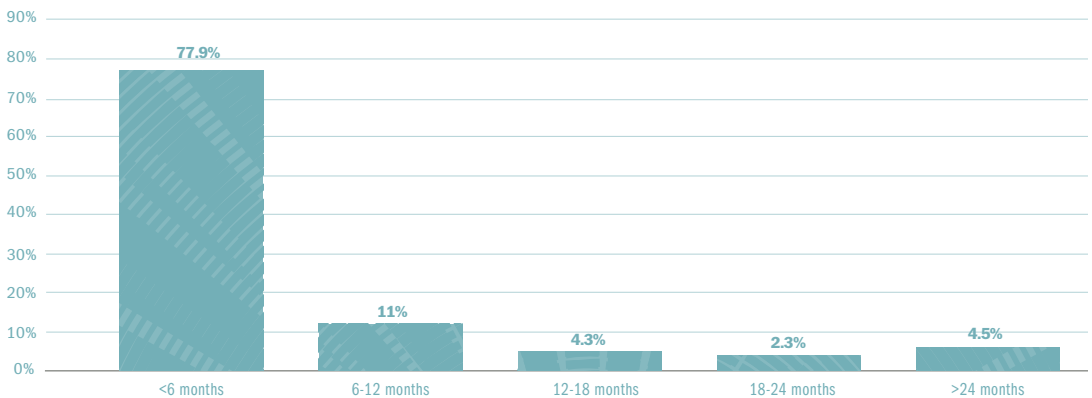
Figure A5.2 – Matters filed and finalised over the last five years



The number finalised refers to those matters finalised in the relevant financial year, regardless of when they were originally filed.

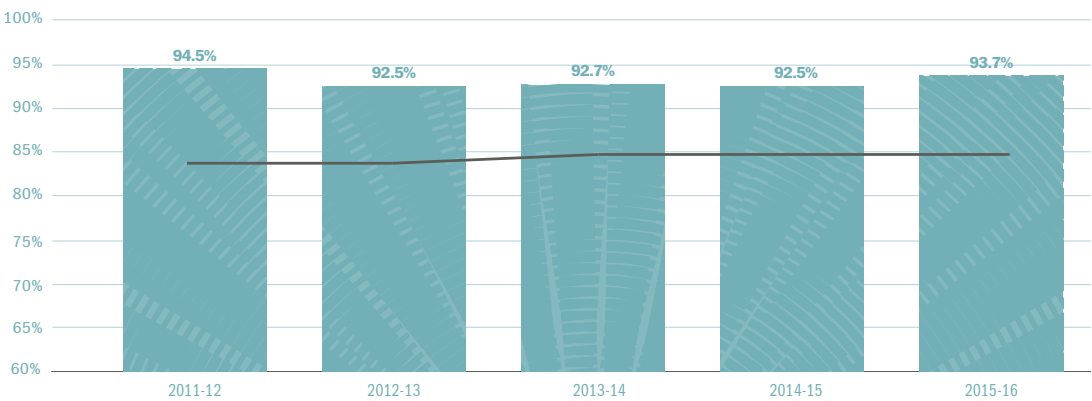
**Figure A5.3 – Age and number of current matters at 30 June 2016**

A total of 3035 matters remain current at 30 June 2016. There were 225 applications still current relating to periods before those shown in Figure A5.3. Seven per cent of cases prior to 2012 are native title matters.

**Figure A5.4 – Time span to complete – Matters completed (excl. native title) over the last five years**

A total of 26 168 matters were completed during the five year period ending 30 June 2016, excluding native title matters. The time span, from filing to disposition of these matters, is shown in Figure A5.4 above.

**Figure A5.5** – Time span to complete against the benchmark (excl. native title) over the last five years

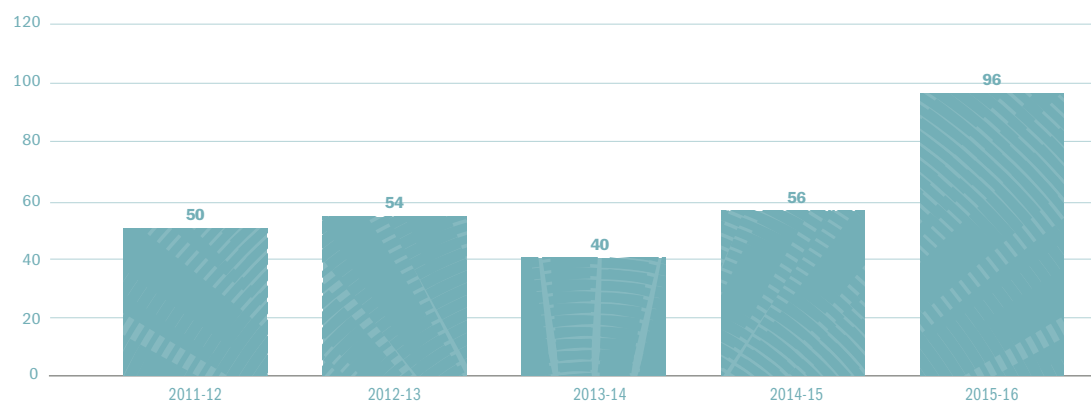


The Court has a benchmark of eighty-five per cent of cases (excluding native title) being completed within eighteen months of commencement. Figure A5.5 sets out the Court's performance against this time goal over the last five years. The total number of matters (including appeals but excluding Native Title) completed for each of the last five years and the time span for completion are shown below in Table A5.4.

**Table A5.4** – Finalisation of major CoAs in accordance with 85% benchmark (incl. appeals and related actions and excluding native title matters) over the last five years

PERCENTAGE COMPLETED	2011-12	2012-13	2013-14	2014-15	2015-16
Under 18 months	5353	5030	5071	3547	5395
% of Total	94.5%	92.5%	92.7%	92.5%	93.7%
Over 18 months	312	408	400	288	364
% of Total	5.5%	7.5%	7.3%	7.5%	6.3%
Total CoAs	5665	5438	5471	3835	5759

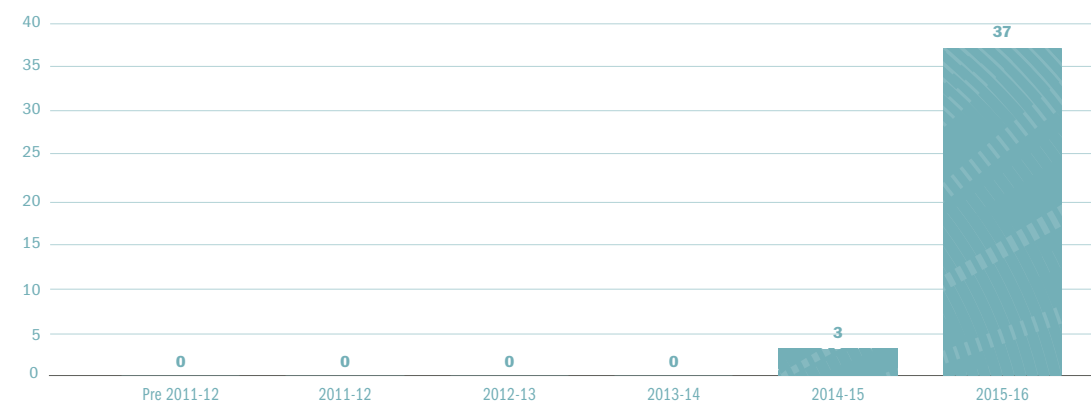
**Figure A5.6 – Migration Act matters (excl. appeals) filed over the last five years**



These figures include migration applications filed under the Judiciary Act, Administrative Decisions (Judicial Review) Act and Migration Act.

Since 1 December 2005, when the Migration Litigation Reform Act commenced, almost all first instance migration cases have been filed in the Federal Circuit Court.

**Figure A5.6.1 – Current Migration Act matters (excl. appeals) by year of filing**



A total of 40 Migration Act matters remain current as at 30 June 2016.

Figure A5.7 – Appeals and Related Actions filed over the last five years

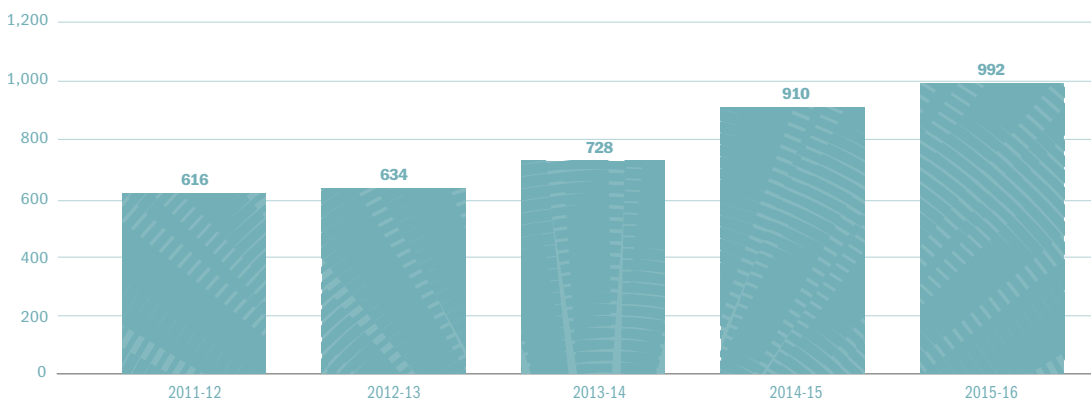
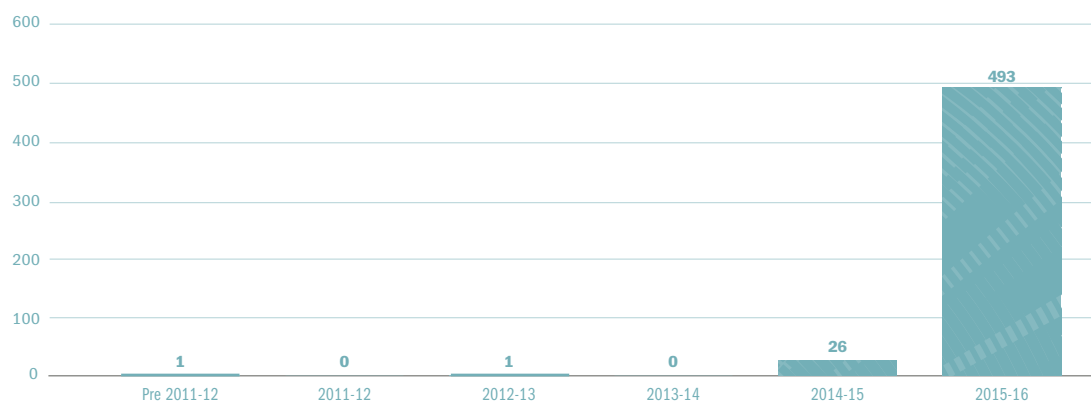
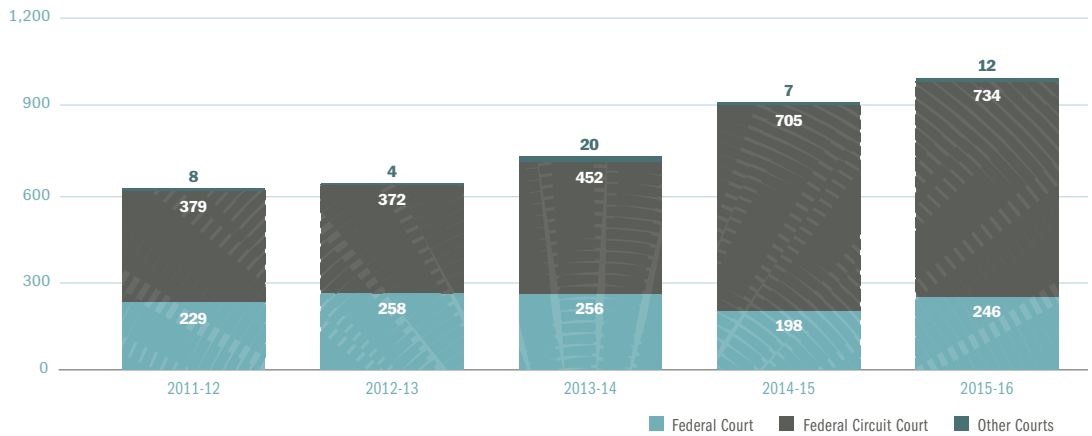


Figure A5.7.1 – Current Appeals and Related Actions by date filed



A total of 521 Appeals and Related Actions remain current as at 30 June 2016.



**Figure A5.8 – Source of Appeals and Related Actions over the last five years****Table A5.5 – Appeals and Related Actions (excl. interlocutory applications)**

SOURCE	2011-12		2012-13		2013-14		2014-15		2015-16	
Federal Court	229	37.2%	258	40.7%	256	35.2%	198	21.8%	246	24.8%
Federal Circuit Court	379	61.5%	372	58.7%	452	62.1%	705	77.5%	734	74.0%
Other	8	1.3%	4	0.6%	20	2.7%	7	0.8%	12	1.2%
<b>Total by Period</b>	<b>616</b>		<b>634</b>		<b>728</b>		<b>910</b>		<b>992</b>	

NATIONAL COURT FRAMEWORK

Figure A5.9 – All filings, finalisation and pending by All National Practice Areas (NPAs)

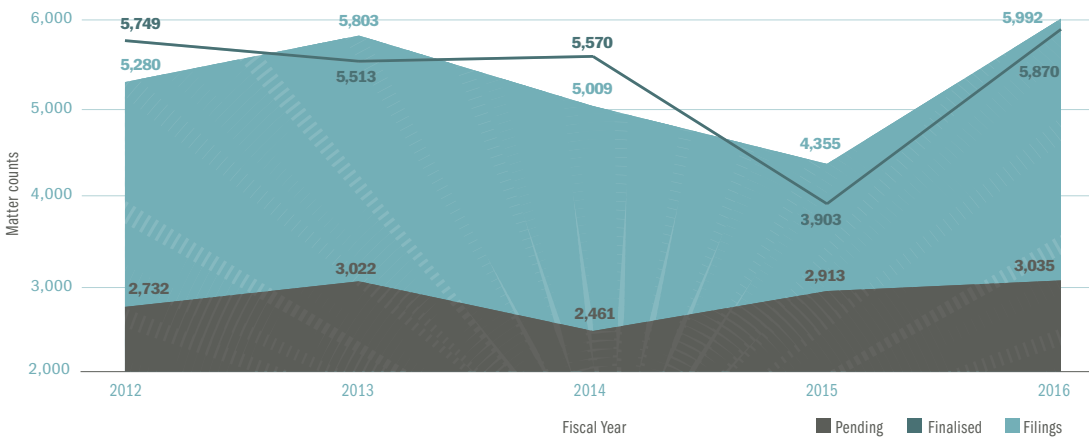
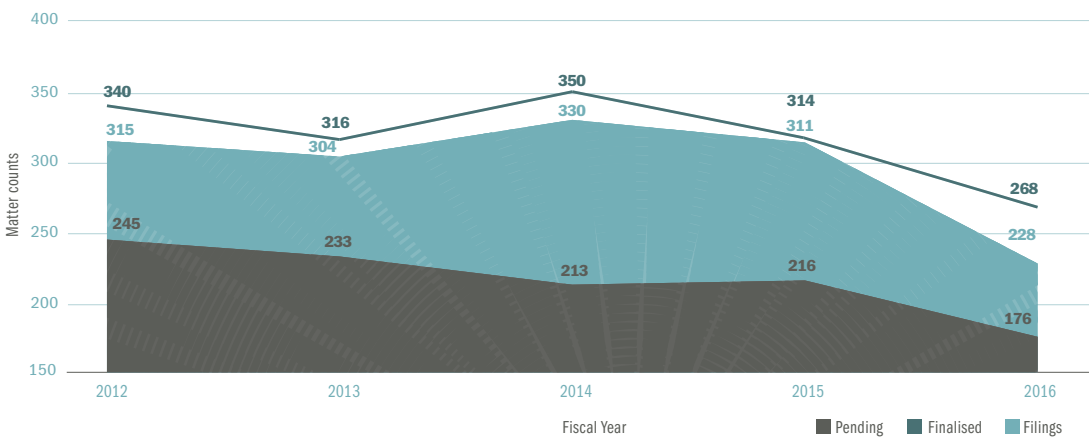
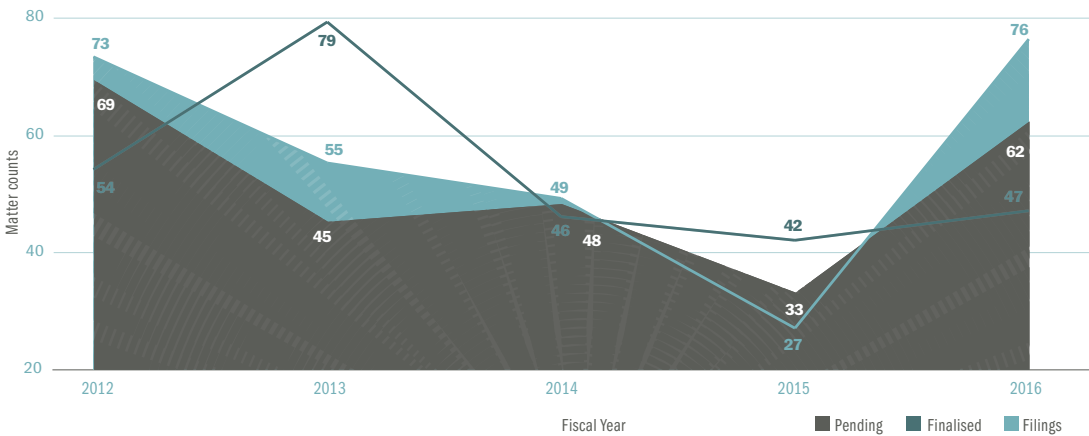


Figure A5.9.1 – All filings, finalisation and pending by Administrative and Constitutional Law and Human Rights NPA



**Figure A5.9.2 – All filings, finalisation and pending by Admiralty and Maritime NPA**



**Figure A5.9.3 – All filings, finalisation and pending by Commercial and Corporations NPA**

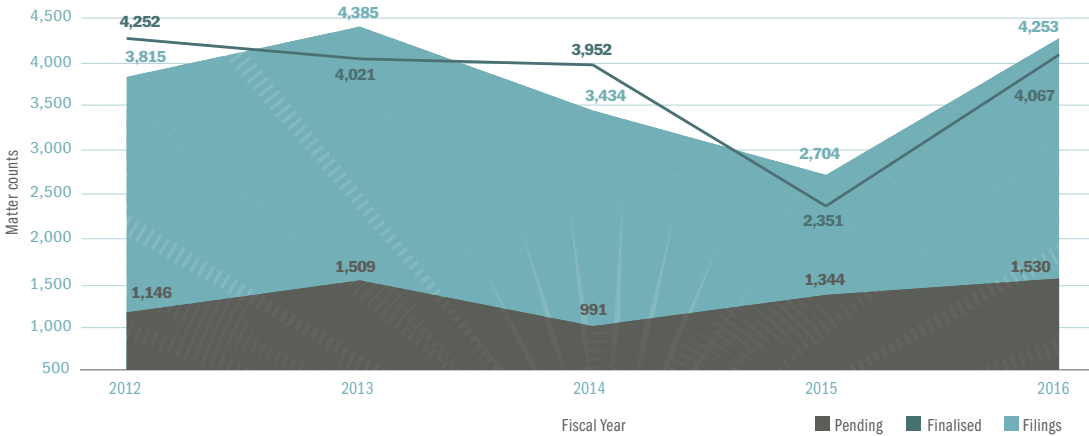


Figure A5.9.4 – All filings, finalisation and pending by Employment and Industrial Relations NPA

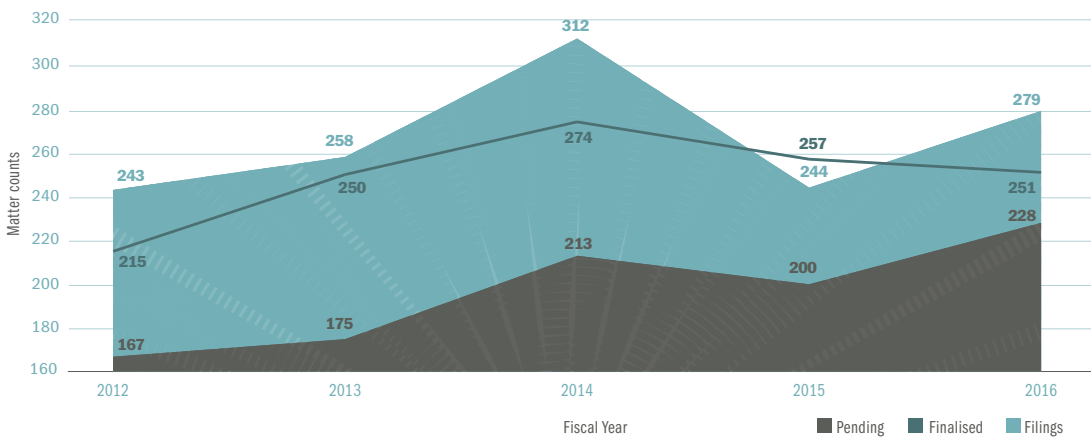
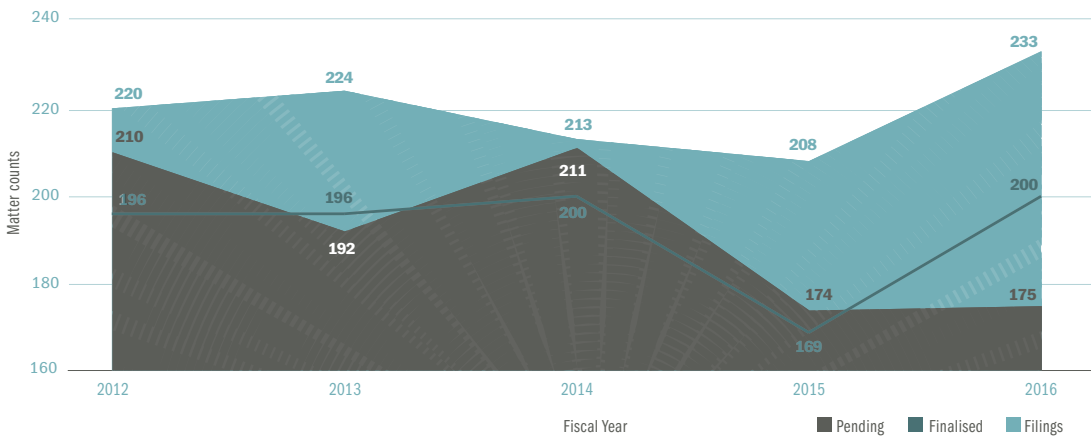
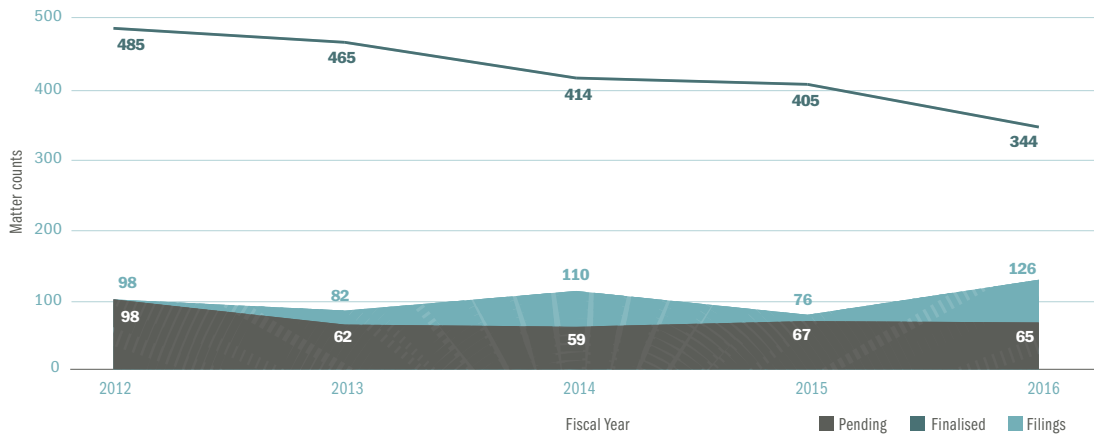
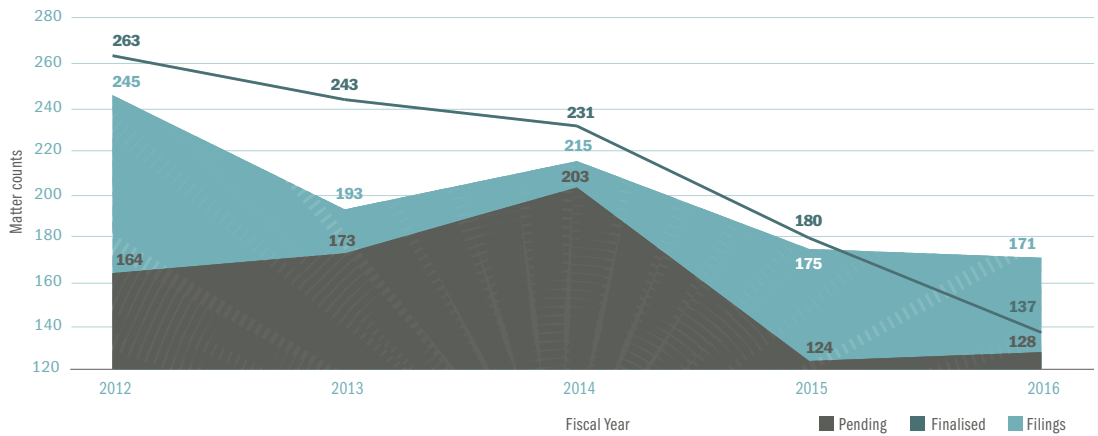


Figure A5.9.5 – All filings, finalisation and pending by Intellectual Property NPA



**Figure A5.9.6 – All filings, finalisation and pending by Native Title NPA****Figure A5.9.7 – All filings, finalisation and pending by Taxation NPA**

## AUSTRALIAN COMPETITION TRIBUNAL

### FUNCTIONS AND POWERS

The Australian Competition Tribunal was established under the *Trade Practices Act 1965* and continues under the *Competition and Consumer Act 2010* (the Act) to hear applications for the review of:

- Determinations by the Australian Competition and Consumer Commission (ACCC) in relation to the grant or revocation of authorisations which permit conduct and arrangements that would otherwise be prohibited under the Act for being anti-competitive.
- Decisions by the Minister or the ACCC in relation to allowing third parties to have access to the services of essential facilities of national significance, such as electricity grids or gas pipelines.
- Determinations by the ACCC in relation to notices issued under s 93 of the Act in relation to exclusive dealing.
- Determinations by the ACCC granting or refusing clearances for company mergers and acquisitions.

The Tribunal also hears applications for authorisation of company mergers and acquisitions which would otherwise be prohibited under the Act.

The Tribunal also hears reviews of 'reviewable regulatory decisions' of the Australian Energy Regulator (AER): National Electricity Law, s 71B(1) and National Gas Law, s 245 and certain other parallel State legislation. These reviewable regulatory decisions include:

- a network revenue or pricing determination covering a regulatory period, or
- any other determination (including a distribution determination or transmission determination) or decision of the AER under the National Electricity Law or National Gas Law.

A review by the Tribunal is in some instances a review on the papers, with some qualifications, and in some instances it is a full merits review, with additional investigative powers. It can affirm, set

aside or vary the decision under review. The Tribunal also has power to inquire into, and report to the Minister on, whether a non-conference ocean carrier has a substantial degree of market power on a trade route.

### PRACTICE AND PROCEDURE

Hearings before the Tribunal normally take place in public. Parties may be represented by a lawyer. The procedure of the Tribunal is subject to the Act and regulations within the discretion of the Tribunal. The Competition and Consumer Regulations 2010 sets out some procedural requirements in relation to the making and hearing of review applications.

Proceedings are conducted with as little formality and technicality and with as much expedition as the requirements of the Act and a proper consideration of the matters before the Tribunal permit. The Tribunal is not bound by the rules of evidence.

### MEMBERSHIP AND STAFF

The Tribunal consists of a President and such number of Deputy Presidents and other members as are appointed by the Governor-General. During 2015–2016, there were no changes to the membership of the Tribunal.

The Registrar and Deputy Registrars of the Tribunal are all officers of the Federal Court. Their details are set out in Appendix 4 on page 137. Katrina Bochner resigned as Registrar on 4 September 2015 and the position will be filled in the next financial year.

### ACTIVITIES

Eight matters were current at the start of the reporting year. During the year, twelve matters were commenced and eleven were finalised. Nine of the matters finalised were the first matters filed under the new statutory arrangements in the National Gas Law and National Electricity Law. The other two matters were a withdrawn application for merger application, which was re-filed in April 2016, and an application for review of the decision by the Commonwealth Treasurer under subsection 44K(2) of the Act in relation to an application for declaration of a service.

No complaints were made to the Tribunal about its procedures, rules, forms, timeliness or courtesy to users during the reporting year.

## DECISIONS OF INTEREST

*Applications by Public Interest Advocacy Service Ltd and Ausgrid Distribution* [2016] ACompT 1 (26 February 2016)

*Applications by Public Interest Advocacy Service Ltd and Endeavour Energy* [2016] ACompT 2 (26 February 2016)

*Applications by Public Interest Advocacy Service Ltd and Essential Energy* [2016] ACompT 3 (26 February 2016)

*Application by ActewAGL Distribution* [2016] ACompT 4 (26 February 2016)

*Application by Jemena Gas Networks (NSW) Ltd* [2016] ACompT 5 (3 March 2016)

*Application by South Australian Council of Social Service Incorporated* [2016] ACompT 8 (2 May 2016)

*Application by Glencore Coal Pty Ltd* [2016] ACompT 6 (31 May 2016)

- To determine a wide range of issues in relation to the statutory licensing scheme in favour of government.

The *Copyright Amendment Act 2006*, assented to on 11 December 2006, has given the Tribunal more jurisdiction, including to hear disputes between collecting societies and their members.

## PRACTICE AND PROCEDURE

Hearings before the Tribunal normally take place in public. Parties may be represented by a lawyer. The procedure of the Tribunal is subject to the Copyright Act and regulations and is also within the discretion of the Tribunal. The Copyright Tribunal (Procedure) Regulations 1969 set out procedural requirements for the making and hearing of applications.

Proceedings are conducted with as little formality and technicality and as quickly as the requirements of the Act, and a proper consideration of the matters before the Tribunal, permit. The Tribunal is not bound by the rules of evidence.

## COPYRIGHT TRIBUNAL

### FUNCTIONS AND POWERS

The Copyright Tribunal was established under the *Copyright Act 1968* to hear applications dealing with four main types of matters:

- To determine the amounts of equitable remuneration payable under statutory licensing schemes.
- To determine a wide range of ancillary issues with respect to the operation of statutory licensing schemes, such as the determination of sampling systems.
- To declare that the applicant (a company limited by guarantee) be a collecting society in relation to copying for the services of the Commonwealth or a State.

### MEMBERSHIP AND STAFF

The Tribunal consists of a President and such number of Deputy Presidents and other members as are appointed by the Governor-General. Justice Bennett resigned as president of the Tribunal on 23 March 2016. Justice Greenwood was appointed as President of the Tribunal on 24 March 2016. Dr Rhonda Smith was reappointed as a lay member of the Tribunal on 11 December 2015 for a period of two years.

The Registrar of the Tribunal is an officer of the Federal Court. Details are set out in Appendix 4 on page 138.

## ACTIVITIES

At the commencement of reporting period, there were two current matters.

One matter was commenced and finalised during the year.

One matter was remitted back to the Tribunal by the Full Federal Court, this matter was heard and finalised.

There are two matters still before the Tribunal. No complaints were made to the Tribunal about its procedures, rules, forms, timeliness or courtesy to users during the reporting year.

## DECISIONS OF INTEREST

*Pocketful of Tunes Pty Ltd v Commonwealth of Australia* [2016] ACopyT 1, Deputy President Jagot (15 Mar 2016). A decision on costs.

*Phonographic Performance Company of Australia Limited under s 154(1) of the Copyright Act 1968 (Cth)* [2016] ACopyT 3, Perram J and McMillan (lay member) (13 May 2016). An application for judicial review of this decision has been filed in the Federal Court.

## DEFENCE FORCE DISCIPLINE APPEAL TRIBUNAL

### FUNCTIONS AND POWERS

The Defence Force Discipline Appeal Tribunal was established under the *Defence Force Discipline Appeals Act 1955* (Cth) (the Act). Pursuant to s 20 of the Act, a convicted person may bring an appeal to the Tribunal against his or her conviction and/or against a punishment or court order made in respect of that conviction.

Following the decision of the High Court of Australia in *Lane v Morrison* (2009) 239 CLR 230, the Defence Force Discipline Appeals Act was amended by operation of the *Military Justice (Interim Measures) Act (No 1) 2009* (Cth). In the main, references in the Act to the Australian Military Court were replaced with references to courts martial and Defence Force magistrates. Accordingly, appeals to the Tribunal now lie from decisions of courts martial and Defence Force magistrates, rather than from the Australian Military Court.

The Tribunal has the power to hear and determine appeals and questions of law.

### PRACTICE AND PROCEDURE

Formal determination of sitting dates has been introduced. Under s 141(1) of the Act, the sittings of the Tribunal were held at places determined on the following dates, subject to the availability of business: 1–2 October 2015, 3–4 December 2015, 17–18 March 2016 and 23–24 June 2016.

Otherwise, the procedure of the Tribunal is within its discretion.

### MEMBERSHIP AND STAFF

The Tribunal consists of a President, a Deputy President and such other members as are appointed by the Governor-General.

The Registrar and Deputy Registrars of the Tribunal are officers of the Federal Court. Their details are set out in Appendix 4 on page 138.

## ACTIVITIES

There were four matters before the Tribunal during the reporting year.

No complaints were made to the Tribunal about its procedures, rules, forms, timeliness or courtesy to users during the reporting year.



## APPENDIX 7

## DECISIONS OF INTEREST

The Court's decisions of interest are ordered by National Practice Area (NPA).

## COMMERCIAL AND CORPORATIONS NPA

## COMMERCIAL CONTRACTS, BANKING, FINANCE AND INSURANCE

**Chubb Insurance Company Limited v Robinson [2016] FCAFC 17**

(26 February 2016, Foster, Robertson and Davies JJ)

In 2010, 470 St Kilda Road Pty Ltd (St Kilda) entered into a design and construct contract with Reed Constructions Australia Pty Ltd (Reed). Under that contract, Reed verified its progress claims by statutory declaration. Glenn Roy Robinson, an officer of Reed, swore one of these statutory declarations. St Kilda commenced a proceeding against Robinson, claiming damages for misleading and deceptive conduct and negligence. As, at the relevant times, Chubb Insurance Company of Australia Limited (Chubb) insured Reed for various losses incurred by its directors and officers, Robinson filed a cross claim claiming indemnity from Chubb in respect of any liability he may have been found to have. Chubb in turn claimed that Robinson's actions were not indemnified as they would fall under the policy's 'professional services' exclusion, which excluded from the cover any action that constituted the rendering of professional services.

In February 2013, the trial judge tried the question of whether the professional services exclusion applied. Her Honour found that Chubb would be liable to indemnify Robinson, as making a statutory declaration did not constitute rendering professional services.

The Full Court granted leave to appeal because, although the trial judge's decision was interlocutory in form, it had the practical effect of finally determining the issues between Robinson and Chubb.

The appeal focussed on the construction of the insurance policy, specifically the professional services exclusion clause. Chubb argued that the trial judge had construed the clause too narrowly, incorrectly defined professional services and misapplied the *contra proferentem* rule.

The Full Court held that the trial judge had correctly construed the exclusion clause, referring to *Chemetics, Fitzpatrick v Job, Vero* and the recent Full Court decision in *Todd*. The Full Court agreed that, at the relevant times, project management was not a 'profession'. The Full Court held that the provision of the statutory declaration in the circumstances of the case was not the rendering of a professional service by Robinson or Reed to St Kilda, nor was it conduct which took place in the course of rendering such services. The Full Court further found that the trial judge had appropriately applied the *contra proferentem* rule as a last resort in interpreting the exclusion clause.

The appeal was dismissed with costs.

## CORPORATIONS AND CORPORATE INSOLVENCY

**Caason Investments Pty Ltd v Cao [2015] FCAFC 94**

(3 September 2015, Gilmour, Foster and Edelman JJ)

Caason involved an application for leave to appeal following a refusal of the primary judge to grant leave to amend the statement of claim so as to include pleadings of 'market-based' causation, as distinct from 'reliance-based' causation. The appeal was focused on whether market-based causation is arguable as a pleading point. It was not a determination as to whether it would ultimately be vindicated as a correct application of principle in the case.

The substantive proceeding was a class action brought by the applicants on behalf of themselves and group members who acquired shares in Arasor International Ltd between 11 October 2006 and 12 May 2008.

The applicants pleaded that they, in dealing on-market, acted differently, in that they acquired Arasor Shares at a price higher than the price that would have prevailed but for the contraventions and/or retained the Arasor Shares in the circumstances of an inflated market. The applicants further contended that a range of persons, being the market, acted differently. Thus, their causation case relied on the market of investors operating efficiently in that there are sufficient participants making decisions which cause the market to reflect information which was or ought to have been disclosed to the market.

The Court by majority (Gilmour and Foster JJ) held that the primary judge was in error as a matter of principle in concluding that a claim based on s 729 of the *Corporations Act 2001* (Cth) which does not plead reliance is not viable. The majority held that whilst reliance is a sufficient condition for establishing causation, it is not a necessary one. There was also persuasive support in the superior court decision, the majority held, for the arguability of a market-based causation case in the relevant context.

***Jones v Treasury Wine Estates Ltd [2016] FCAFC 59***

(13 April 2016, Gilmour, Foster and Beach JJ)

The decision in *Jones* is an example of the application of modern judicial case management principles, particularly in relation to discovery, which is no longer a matter of course or of right.

The applicant, without notice to the docket judge or the respondent, upon *ex parte* applications, obtained orders in two proceedings in the United States (US Proceedings) under 28 USC §1782 of the Federal Rules of Civil Procedure. These orders related to the obtaining of oral discovery, commonly referred to in the US as ‘depositions’, from present and former senior executives of the respondent, Treasury Wine Estates Ltd, (TWE) going to issues raised in the litigation on foot in Australia.

TWE sought, by interlocutory application, orders in the nature of anti-suit injunctions in relation to the US Proceedings, restraining the applicant from any such oral depositions.

The Court was critical of the actions of the applicant, which were ‘patently made in order to obtain the benefit of processes not available in this Court’. Interrogatories in Australia are conceptually different to oral discovery of the kind permitted under the US procedure, and whilst 28 USC §1782 orders are not forbidden to Australian proceedings, they must be obtained with the consent of the Court.

The matter had been the subject of case management conferences and detailed directions had been given for the specific, proper and efficient management of the case for a trial, the date of which had been fixed. The 28 USC §1782 orders were obtained without the prior knowledge of both the Court and the respondent.

There was no finding that Australian litigants are in any way barred from employing the US proceedings in question. Rather, the important outcome of *Jones* is that any such process must be framed within the context of the Court’s case management proceedings.

***Australasian Centre for Corporate Responsibility v Commonwealth Bank of Australia [2016] FCAFC 80***

(10 June 2016, Allsop CJ, Foster and Gleeson JJ)

This appeal concerned the power of shareholders in general meeting to pass resolutions about the management of the company.

The appellant proposed to move one of three alternative resolutions at the Bank’s 2014 Annual General Meeting (AGM). The Bank included the appellant’s third proposed resolution in the AGM notice, but declined to include the others on the basis that they regarded matters within the powers of the Board.

In the first instance, the appellant sought a declaration that the disputed resolutions ‘could validly be moved’ at an AGM. The primary judge found that those resolutions were not referable to a power vested in the shareholders at the general meeting, and were referable to the power of management vested exclusively in the Bank’s directors, and therefore were not required to be included in the notice.

On appeal, the appellant contended, *inter alia*, that the primary judge erred in concluding that it was necessary to identify a source of power in the shareholders at general meeting to pass resolutions, or alternatively, that the shareholders had the requisite power by reason of their plenary or implied power to express opinions concerning the management of the company.

In its reasons, the Full Court considered the statutory context, the nature of resolutions and the business of AGMs, referring to well-established principles of company law. The Full Court held *Clifton v Mount Morgan* is authority for the proposition that shareholders in general meeting have no authority to speak or act on behalf of the company except to the extent and in the manner authorised by and consistent with the company’s constitution or any relevant statute.

The Full Court dismissed the appellant’s suggestions as to the source of shareholders’ power to pass resolutions regarding the company’s management. The Full Court found that *Parker v NRMA* was a correct statement of the law in relation to the power required to express an opinion about company management; a power that shareholders generally do not have.

Despite the appellant’s argument that the Court should not make a costs order where the proceedings had been brought in the public interest, the Court found that the case did not warrant a departure from the usual rule of costs following the event and so dismissed the appeal with costs.

## ECONOMIC REGULATOR, COMPETITION AND ACCESS

### *Investa Properties Pty Ltd v Nankervis (No 7)* [2015] FCA 1004

(10 September 2015, Collier J)

Two development sites in the western suburbs of Brisbane were owned by the applicants. Mr Nankervis (the first respondent) was a senior development manager employed by the first applicant. The applicants decided to sell both sites in the aftermath of the global financial crisis of 2008. They engaged the fourth respondent, Oliver Hume South East Queensland Pty Ltd, to effect a sale of these properties on their behalf. The second respondent, Mr Barclay, was a director of, and an individual real estate agent employed by, the fourth respondent.

It was not disputed that the first parcel of land (Lot 191) was sold to a company controlled by the wife of Mr Barclay. The second parcel of land (Lot 170) was sold to a company controlled by a third party, Mr Tonuri. The applicants claimed that Mr Tonuri had secretly entered an agreement with Mr Nankervis and Mr Barclay by which they would participate and derive profits from the development of Lot 170.

At the time of the sales, the applicants were unaware of the relationship between Mr Nankervis, Mr Barclay and the respective purchasers of the sites.

A key issue affecting the relationship between the applicants and the second and fourth respondents was the fact that no formal appointment of the fourth respondent as real estate agent had been made by the applicants pursuant to the *Property Agents and Motor Dealers Act 2000* (Qld).

The applicants claimed breach of fiduciary duty by all three respondents. There were also five cross claims between the respondents and against the insurer of the fourth respondent. Of the cross claims only one succeeded.

The Court found that Mr Nankervis owed fiduciary obligations to the applicants in respect of both Lot 191 and Lot 170 and that he breached those fiduciary obligations.

The Court also found that the fiduciary obligations, if any, owed to the applicants by Mr Barclay and the fourth respondent would be the same because of the employment and corporate relationship between Mr Barclay and the fourth respondent. The Court was satisfied that there was a fiduciary relationship between the applicants and the fourth respondent in respect of Lot 191 but not in respect of Lot 170, and that both respondents had acted in breach of that relationship.

**ACCC v Australia and New Zealand Banking Group Ltd [2015] FCAFC 103**

(31 July 2015, Allsop CJ, Davies and Wigney JJ)

The ACCC alleged that the Australia and New Zealand Banking Group Ltd (ANZ) had engaged in anti-competitive practices, by entering into a price-fixing agreement with a mortgage broker which had the purpose or effect of substantially lessening competition in the market (within the meaning of s 45A of the *Trade Practices Act 1974* (Cth)). The focus of the case, at trial and on appeal, was as to the proper characterisation, for the purposes of competition law, of the concepts of ‘market’ and ‘competition’, and of whether bank branches and mortgage brokers could be said to be providing services in the same market and in competition with one another. In approaching that task the Court was also required to consider and characterise the nature of the interactions between the various participants in the market for mortgage loans, and of the services provided by those participants.

The Full Court of the Federal Court dismissed the appeal, holding that it was reasonably open on the evidence for the primary judge to conclude that the bank did not participate in the same market as the mortgage brokers, and was therefore not, in any relevant sense, in competition with the broker. In dismissing the appellant’s challenge to the primary judge’s factual findings, the Full Court emphasised that:

1. The process of market identification or definition must be conducted in a generally purposive manner and be directed to the specific problem or issue at hand.
2. The question of whether persons are supplying products in competition with each other in the same market must be answered by reference to economic and commercial reality, not by reference to an artificial construct of the market and services provided.
3. The essence of competition is substitutability, in a real-world commercial sense. The courts must assess whether the participants are offering similar and competing services.

The Full Court also allowed a cross appeal by ANZ, holding that the refund arrangement was appropriately characterised as a payment made to induce customers to use the services provided by the mortgage broker, and was not a payment made to offset or reduce the cost to the consumer of using the services. It therefore could not be properly characterised as a rebate, discount, allowance, or credit.

**ACCC v P T Garuda Indonesia Ltd [2016] FCAFC 42**

(21 March 2016, Dowsett, Yates and Edelman JJ)

The ACCC appealed from a decision in relation to proceedings against P T Garuda Indonesia Ltd, and Air New Zealand Ltd (the airlines) for price fixing contraventions under s 45 of the *Trade Practices Act 1974* (Cth) (the Act) with respect to freight and cargo surcharges. The primary judge found that there was no contravention because the airlines were not in competition with each other in ‘a market in Australia’ as defined by ss 45A and 4E of the Act.

The appeal centred on whether or not a market for carriage of cargo by air from specified ports of origin in Asia, to specified ports in Australia, was ‘a market in Australia’ for the purposes of the Act. Justices Dowsett and Edelman (Yates J dissenting), in a joint judgment found that the relevant market to include a suite of air cargo services between foreign ports and Australian ports. Their Honours held that the relevant market was ‘a market in Australia’ for several reasons including:

- (1) that a market could be in Australia even if it were also in another country;
- (2) the legislation allows for consideration of the location of Australian customers;
- (3) a significant part of the suite of services occurred in Australia;
- (4) the suite of services involved barriers to entry in Australia;
- (5) the services were marketed, and the airlines competed for business, in Australia;
- (6) the legislative purpose of the Act to promote competition was consistent with the conclusion that there is a market in Australia; and
- (7) the finding would be consistent with comparable foreign cases in Europe and New Zealand.

Another issue was whether ss 45 and 45A of the Act were inconsistent with terms or the practical effect of the *Air Navigation Act 1920* (Cth) (the *Air Navigation Act*). Dowsett and Edelman JJ held that the provisions of the Act were not inconsistent with the terms of s 13(b) of the *Air Navigation Act* because s 13(b) gave the Minister a power to suspend or cancel an international airline licence but did not create new legislative duties. Their Honours also held that the provisions of the Act were not inconsistent with the practical effect of s 13(b) of the *Air Navigation Act*, when read with an Australia-Indonesia Air Services Agreement or the terms of Garuda’s airline licence because (i) the Minister had a discretion whether or not to cancel an airline licence; and (ii) the Air Services Agreement and the airline licence did not require Garuda to enter into price fixing arrangements. In any event, their Honours concluded that Part IV of the Act could not be read down to exclude international commercial aviation.

## REGULATOR AND CONSUMER PROTECTION

### *Australian Competition and Consumer Commission v Jetstar Airways Pty Limited* [2015] FCA 1263

(17 November 2015, Foster J)

This case determined the Australian Competition and Consumer Commission (ACCC) complaints against two low cost airlines – Jetstar Airways and Virgin Australia Airlines.

The ACCC complained that, between 2013 and 2014, Jetstar and Virgin advertised and promoted airfares for sale on their websites, their mobile websites and via promotional email without adequate disclosure of the requirement to pay a fee for purchases made using commonly used payment methods. The ACCC alleged that, by this conduct, the airlines made false representations regarding the price and conditions of sale of flights, which were misleading and deceptive or likely to mislead or deceive, in contravention of the *Australian Consumer Law* (ACL).

The ACCC relied on the contention that the airlines had used a ‘carefully constructed staged booking process throughout which information was disclosed on a progressive basis’, which seduced consumers into the sellers’ ‘web of negotiation’ or ‘marketing web’. The airlines argued that they had not made the impugned representations as they had sufficiently disclosed the booking fee before the transaction was completed.

These allegations were significant because they raised for the Court’s consideration the limits of advertising techniques which use the internet and mobile phone networks to promote and sell products and services.

In these proceedings, the ACCC used video capture evidence to demonstrate the booking process on each of the airlines’ websites and mobile sites. The Court found this evidence useful and reliable.

In relation to the website contraventions by Jetstar, the Court found that Jetstar only contravened the ACL in September 2013, and that subsequent changes to how the fee was disclosed avoided further contraventions. The Court found that there were no contraventions by Virgin in relation to its website, as prices were advertised as 'from' a certain price and the existence of the booking fee was disclosed early enough in the booking process as to negate the effect of any representation. The Court further found that in relation to the mobile websites, both airlines had contravened the ACL by not adequately disclosing the booking fee, but in relation to the emails there was no contravention by either airline.

The question of penalty and costs was reserved.

## ADMINISTRATIVE AND CONSTITUTIONAL LAW AND HUMAN RIGHTS NPA

### ***Esposito v Commonwealth of Australia* [2015] FCAFC 160**

(17 November 2015, Allsop CJ, Flick and Perram JJ)

In 2007, Shoalhaven Council sought to rezone certain allotments on the NSW South Coast as residential, and to provide necessary supporting infrastructure. Because the land was home to threatened species, the Council sought approval for the rezoning and infrastructure works from the federal Environment Minister under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (the EPBC Act), which was refused. In 2012, the Commonwealth and NSW agreed to voluntarily acquire the land, using Commonwealth funds, to add it to the National Park. Some but not all landowners took up the offer.

In 2013, current and former landowners brought a class action against the Commonwealth, NSW and others seeking compensation and declaratory relief on two main grounds: first, that the Commonwealth had acquired the land without providing just terms contrary to s 51(xxxi) of the *Constitution*; and secondly, that the Minister's decision to refuse the Council's proposal was liable to administrative review. Other minor points were also pursued.

The Constitutional argument failed chiefly because neither the prohibitions imposed by the EPBC Act nor the Minister's decision constituted an acquisition of property. The applicants lost a mere hope (or spes) that their land might be rezoned, which is not property; and the benefits that the Commonwealth received, if any, were not proprietary either. An allegation that the agreement between the Commonwealth and NSW was a device to avoid s 51(xxxi) was not made out.

The administrative argument, on the other hand, succeeded in part. The EPBC Act did not require authorisation of the Council's zoning decision (cf. the Council's infrastructure works proposal), and the Minister's decision was therefore ultra vires to the extent that it dealt with the rezoning proposal. However, the Court rejected the submission that the decision should be set aside in its entirety (the error was plainly severable), and refused declaratory relief because in the circumstances it would not have been consistent with good administration to declare the decision partially invalid.

Other arguments, including those based on unjust enrichment, various interlocutory decisions, and the fact that the primary judge produced two sets of reasons with trivial and less trivial differences, failed.



***Minister for Immigration and Border Protection v Stretton [2016] FCAFC 11***

(15 February 2016, Allsop CJ, Griffiths and Wigley JJ)

The respondent, a British citizen, arrived in Australia as a child in 1961 and had resided in the country since that time. In 2009, Mr Stretton committed sexual offences in relation to his granddaughter and was sentenced to a period of imprisonment of two years. Prior to his release from prison the Minister gave notification of an intention to consider cancelling his visa under s 501(2) of the *Migration Act 1958* (Cth), and subsequently the Minister personally determined to cancel the visa, on the basis that Mr Stretton had failed the character test. The primary judge allowed Mr Stretton's application for judicial review, finding that the decision was unreasonable and that the Minister's exercise of his direction was 'in excess of what, on any view, was necessary for the purpose it served'.

The central question for the Full Court was whether the primary judge had correctly applied the principles concerning judicial review for unreasonableness in the legal sense, as expressed in authorities such as *Minister for Immigration and Citizenship v Li* (2013) 249 CLR 332 and *Minister for Immigration and Border Protection v Singh* (2014) 231 FCR 437. In addressing that question, the Full Court stated that the Court's task was not definitional, but one of characterisation, and emphasised that the statements relating to legal unreasonableness provided in the case law were designed to be explanations or explications, rather than exhaustive descriptions or definitions.

The Full Court held that the Court's task is not to make an assessment of what it thought was reasonable and to thereby conclude that any other view displayed error. Rather, its task is to assess whether a decision-maker could reasonably come to the conclusion reached or whether the decision should instead be characterised as one which was not a reasonable and rational exercise of a power made in furtherance of the protection of the Australian community.

The Full Court allowed the appeal, finding that it was reasonably open for the Minister to reach the ultimate conclusion which he did, and that he had properly evaluated the countervailing considerations. It further held that the primary judge had erred by introducing an extraneous concept (what was 'necessary') in considering the Minister's decision.

***Tasmanian Aboriginal Centre v Secretary, Department of PIPWE (No 2) [2016] FCA 168***

(1 March 2016, Mortimer J)

In this proceeding, the Tasmanian Aboriginal Centre sought orders preventing the Tasmanian Government from opening three tracks in the Western Tasmania Aboriginal Cultural Landscape (WTACL) to recreational vehicles. The WTACL contains a number of indigenous heritage sites, including middens and hut depressions that provide a record of the way of life of indigenous people who lived in the area over thousands of years.

In 2013, the Federal Minister for the Environment designated the WTACL as a 'National Heritage place' under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (the Act) by reason of its 'indigenous heritage values'. Under the Act, 'indigenous heritage value' means a heritage value of a place that is of 'significance to Indigenous persons in accordance with their practices, observances, customs, traditions, beliefs or history'.

The Court held that the proposed opening of the tracks was an 'action' for the purposes of the Act and was not a 'governmental authorisation' for another person to take an 'action'. Therefore, the Act applied to the proposed opening of the tracks.

Next, the Court held that the 'indigenous heritage values' of a place include its significance to Aboriginal people in accordance with their practices, observances, customs, traditions, beliefs or history. Thus, the 'indigenous heritage values' of a National Heritage place are not limited to the text of the Ministerial declaration for the place, nor are they limited to the values mentioned in the assessment prepared by the Australian Heritage Council that precedes a Ministerial declaration.

Finally, the Court held that, on the evidence, the opening of the tracks was likely to have a 'significant impact' on the National Heritage values of the WTACL, being its Indigenous heritage values, contrary to s 15B(4) of the Act. The Court made a declaration to that effect.

***Plaintiff S99 of 2016 v MIABP [2016] FCA 483***  
(6 May 2016, Bromberg J)

The applicant was a young African woman who arrived in Australia by boat and was removed to Nauru. She was there detained and, upon being accepted as a refugee, was released into the Nauruan community. Throughout, the respondent Minister and the Commonwealth provided her with food, accommodation, security, and health services. The applicant suffered, *inter alia*, from seizures and psychiatric illness. Whilst on Nauru, experiencing a seizure and unconscious, she was raped and fell pregnant. The applicant requested that the Commonwealth provide for the termination of her pregnancy. For that purpose, she was taken to Papua New Guinea (PNG). In a proceeding commenced in the High Court and transferred to the Federal Court, the applicant contended that the respondents owed her a duty of care requiring that she be provided a safe and lawful termination. She argued that a termination in PNG may expose her to criminal prosecution, and that it would not be safe because the nature of her ailments required specialist medical expertise and facilities unavailable in PNG.

Justice Bromberg considered whether the respondents owed a duty of care to exercise reasonable care in procuring a safe and lawful abortion for the applicant. It was determined that the proper law of the alleged tort was Australia and not PNG. In applying the *Stavar* multi-factorial approach to the determination of the existence of a novel duty of care, Bromberg J considered the relationship of the applicant with the respondents, including the circumstances of her removal to Nauru, her detention and continued presence there, and the respondents' provision of settlement and health services to her. Consideration was also given

to the consistency of the putative duty with the statutory scheme and with policy, to the applicant's vulnerability, and to the respondents' assumption of responsibility for her. Justice Bromberg determined that the applicant was owed a duty of care. Applying the *Shirt* formula, Bromberg J determined that procuring an abortion for the applicant in PNG would not discharge the duty of care. The Court made orders requiring the respondents to cease failing to discharge their duty, in effect by procuring an abortion without risk of breaching criminal law, and where necessary specialist medical expertise and facilities were available. Justice Bromberg rejected the respondents' contention that the Court lacked jurisdiction to make the orders sought because s 474 of the *Migration Act 1958* (Cth) precluded the issue of injunctive relief in the subject proceeding.

## NATIVE TITLE NPA

***Wyman on behalf of the Bidjara People v State of Queensland [2015] FCAFC 108***  
(13 August 2015, North, Barker and White JJ)

The appellants, the Brown River people and the Bidjara people, separately appealed determinations made by the primary judge that native title did not exist in the claim area overlapped by their claims under the *Native Title Act 1993* (Cth) (the Act). The Court dismissed each of the grounds of appeal.

The key question raised for the Full Court's consideration was whether, in focusing on those of the laws and customs of each of the appellants which were acknowledged by them at sovereignty but had since been discontinued, the primary judge erred by failing sufficiently to appreciate the 'continuities' that suggested the maintenance by each of a traditional normative system, as required by *Members of the Yorta Yorta Aboriginal Community v State of Victoria and Others* (2002) 214 CLR 422. In considering this question, the Court noted that a society may continue to exist even though traditional laws and customs may cease. The first step in the inquiry is to ascertain what the traditional laws and customs were. Then, the laws and customs of



the contemporary society can be compared. Some laws and customs may have been lost, while other aspects of the contemporary society may be a continuation, albeit in altered form, of traditional law and customs. The Court held that if, despite the discontinuities, there is nonetheless a 'normative system' out of which rights and interests arise, which is rooted in the sovereignty system, then those rights and interests may be recognised under the Act.

In the circumstances, the Full Court placed particular emphasis on the 'important' discontinuity of the 'tenure system'. The primary judge found the contemporary 'rule' that the whole of the claim area belonged equally to all respective claimants, stood in 'stark contrast' to the traditional, sovereignty rule under which each of the appellants had differential rights and responsibilities in land based on familial/environmental clusters. The Full Court considered that, because there was no evidence to explain the rule's evolution, it was difficult to second-guess the primary judge's finding that the contemporary rule was a new rule, following a complete break in the continuity of the old rule.

The Full Court also upheld the appropriateness of a negative determination of native title, as recently confirmed by another Full Court (North, Mansfield, Reeves, Jagot and Mortimer JJ) in *CG (Deceased) on behalf of the Badimia People v State of Western Australia* [2016] FCAFC 67.

## TAXATION NPA

### ***Tech Mahindra Limited v Commissioner of Taxation* [2015] FCA 1082**

(7 October 2015, Perry J)

The applicant taxpayer was resident in India and registered in Australia. It provided IT services to Australian customers through offices in Australia constituting a permanent establishment for the purposes of the agreement between Australia and India for the avoidance of double taxation (the Indian Agreement). The IT services were performed partly by employees located in India (the Indian Services). The

taxpayer argued it was not liable to taxation under the *Income Tax Assessment Act 1997* of income earned from the Indian services because Australia had no right to tax that income under Article 7(1) of the Indian Agreement. Article 7(1) established the general rule that the profits of an enterprise of one contracting State (relevantly India) were liable to tax only in that State subject to exceptions including where the profits were attributable to business activities of the same or a similar kind as those carried out through a permanent establishment located in the other contracting State (Australia). Nor, in the applicant's submission, could the payments be taxed as royalties under Article 12 of the Indian Agreement as Article 12(4) gave priority to Article 7 even if, contrary to the applicant's submission, they could be characterised as royalties.

Justice Perry held that, in line with Parliament's intention to fulfil its intentional obligations by enacting the treaty text, the treaty as enacted should be construed by reference to principles of international law governing treaty interpretation. Applying those principles, her Honour held that certain categories of payments in Australia for the Indian services constituted royalties within Article 12(3)(g) of the Indian Agreement and were thereby deemed income derived from Australian sources. In so holding, her Honour held that Article 12(4) was not engaged and the case fell to be decided under Article 12. In the alternative, Perry J considered that Australia would not be entitled to tax the payments under Article 7. The contrary construction urged by the Commissioner would, in her Honour's view, run counter to the State parties' apparent intention to encapsulate in Article 7(1) the 'limited force of attraction' rule as established in international practice, namely, to permit a country to tax in addition to profits attributable to the foreign resident's permanent establishment, other income attributed to other business activities carried on within that country otherwise than through the permanent establishment.

***Cable & Wireless Australia & Pacific Holding BV (in liquidatie) v Commissioner of Taxation [2016] FCA 78***

(11 February 2016, Pagone J)

The issue in this proceeding was whether the non-resident applicant was entitled to a refund of \$452M in dividend withholding tax following Optus' buy-back of its shares from the applicant. Optus and SingTel had entered into an implementation agreement for SingTel to acquire Optus. Optus debited the consideration to an account labelled 'buy-back reserve account'. The payment was treated by all concerned as part of a dividend on which withholding tax was to be paid.

In *Commissioner of Taxation v Consolidated Media Holdings Ltd* (2012) 250 CLR 503, the High Court found that an account labelled 'share buy-back reserve account' was an account which a company had kept of its share capital, against which the purchase price was debited, within the definition of s 6D for the purposes of s 159GZZP of the *Income Tax Assessment Act 1936*. An objective of ss 6D and 159GZZP is to ensure that a shareholder is not taken to receive a taxable dividend in an off market buy-back of shares for the return of the capital contributed to the company for the issue of the shares. The applicant contended that the buy-back reserve account was a share capital account and, therefore, the amount debited to the account for the shares was not taken to be a dividend paid by Optus.

Finding against the applicant, Pagone J held that the decision in *Consolidated Media* did not mean that all accounts with such labels are share capital accounts. The fact that an outgoing has an impact upon a company's equity does not mean the outgoing is a reduction in capital. The source of Optus' funding was from loans from SingTel required to be provided under the implementation agreement. The buy-back in *Consolidated Media* had involved a return of excess capital from a company to its shareholder whereas Optus' buy-back did not return capital to its shareholders in excess of the needs of Optus but was, in an economic sense, a substitution of the capital which had previously been contributed by its previous shareholder with that funded by its subsequent shareholder.

## INTELLECTUAL PROPERTY NPA

### TRADE MARKS

***Veda Advantage Pty Ltd v Malouf Group [2016] FCA 255***

(21 March 2016, Katzmann J)

Veda Advantage is a member of the Veda group of companies, which operate a credit reporting business. It is also the registered owner of a number of trade marks, consisting of or incorporating the word 'VEDA'. Malouf runs a 'credit repair' business, assisting consumers with poor credit ratings to rectify errors in credit reports, predominantly those issued by Veda. Malouf advertises its business on the internet. For that purpose it uses the Google AdWords program. Google AdWords involves advertisers specifying to Google 'keywords' which generate sponsored link advertisements when the advertiser's chosen 'keyword' is used as a search term by an internet user. Malouf's campaign used keywords that included the names of Veda trade marks, such as 'veda advantage', 'contact veda' and 'veda credit check free'. Malouf also used the name 'Veda' in the display text of sponsored links advertisements such as 'Get Your Veda File Now' and 'Fix Your Veda Report'.

Veda alleged that by using its various trade marks both as keywords and in its sponsored link advertisements Malouf had infringed the Veda trade marks within the meaning of s 120 of the *Trade Marks Act 1995* (Cth) and made false or misleading representations that Malouf's business or services were those of Veda, in contravention of s 18 and other provisions of the Australian Consumer Law. Veda also claimed that Malouf's keywords falsely represented that Malouf provided free Veda credit reports. A critical issue in the trade mark infringement case was whether Malouf had used the sign 'Veda' and the other Veda marks as trade marks.

The Court held that the use of the Veda marks as keywords was neither use as a trade mark nor misleading or deceptive. As the keywords were not visible to the public, the Court considered that they did not serve as a badge of origin or indicate a connection in the course of trade between Malouf's services and those provided by Veda. For the same reason, the Court concluded that Malouf did not make any representations to customers by its use of the trade marks in its keywords.

Veda's claims in relation to the display text of the sponsored links enjoyed only modest success. The Court found that in all but one case, the references to Veda were descriptive uses only and were not apt to mislead. The exception was an advertisement headed 'The Veda Report Centre'. The Court found that this had an authoritative air and represented that the services the searcher would receive if she or he clicked on the links were services provided by Veda.

## EMPLOYMENT AND INDUSTRIAL RELATIONS NPA

### ***Esso Australia Pty Ltd v The Australian Workers' Union* [2016] FCAFC 72**

(25 May 2016, Siopis, Buchanan and Bromberg JJ)

During bargaining for enterprise agreements at certain Esso Australia Pty Ltd (Esso) facilities, the Australian Workers' Union (AWU) organised industrial action by its members. Esso alleged that the industrial action taken was not 'protected action' under the *Fair Work Act 2009* (Cth) (the Act), and sought injunctions and damages. Justice Jessup, the trial judge, determined that the industrial action taken was unprotected and therefore not immune from suit. Both parties appealed.

On appeal before Justices Siopis, Buchanan and Bromberg, most challenges to Justice Jessup's judgment failed. In determining the appeal, the Full Court addressed a number of important questions relating to the interpretation of provisions of the Act regulating the taking of industrial action. Section 418 of the Act was considered and it was held that certain orders made by the Fair Work Commission (FWC) requiring that industrial action stop lacked specificity and were invalid, in whole or in part. Section 413(5) of the Act was held not to operate to deny protection to industrial action otherwise than in conditions of *current* non-compliance with an FWC order. Sections 343 and 348, dealing with coercion, were also considered. It was held that it was not necessary to establish that a contravener intended to act unlawfully, and that it was not a defence that the contravener believed its action to be lawful. The Full Court further considered s 414 and the requirement for a notice of industrial action to be given, in circumstances where the nature of the industrial action notified by the AWU was open to both a wide and a narrow meaning. By majority, the Full Court held that the notice given by the AWU was to be construed as having its narrow meaning and, as a result, that the industrial action organised by the AWU was not covered by the notice given and was unprotected.

## CHIEF JUSTICE ALLSOP

DATE	ACTIVITY
<b>2015</b>	
1–3 Jul 2015	Attended the London CI Arb Centenary Conference: 'The London Principles' hosted at The London Guildhall. He presented a paper entitled 'Courts and arbitration as partners in the international dispute resolution project' which has been published by the Chartered Institute of Arbitrators.
20 Aug	Attended the Richard Cooper Memorial Lecture, in memory of Justice Richard Ellard Cooper, a former judge of the Federal Court of Australia held at the Court in Brisbane.
5–6 Sep 12–13 Sep	LAWS7865 Maritime Law lecturing at the TC Beirne School of Law, University of Queensland.
16 Sep	Attended the 42nd Annual AMTAC Address held at the Federal Court in Perth.
17 Sep	Chaired the AMTAC Conference session entitled 'International Law'.
17 Sep	Attended the Perth launch of CI Arb Centenary Celebration at Clyde & Co. Opened the event and gave a short speech.
21 Sep	Requested by the French Australian Lawyers Society to be involved in the Henri Capitant book project. He wrote two chapters that will be translated into French for the book project. The two chapters were: <i>Chapter 3: Sources of Methods of Law</i> (written by Chief Justice Allsop and Kathleen Morris); and <i>Chapter 11: Restitution and Unjust Enrichment</i> (written by Chief Justice Allsop and Justice Edelman).
23 Sep	Attended the Australian Disputes Centre and Melbourne Commercial Arbitration and Mediation Centre's inaugural joint seminar in Sydney. He delivered a speech entitled 'The Development and adoption of an 'Australian Commercial Law'.
25 Sep	Attended Conference in honour of Professor Paul Finn in Canberra and delivered speech 'Conscience, Fair-Dealing and Commerce – Parliaments and the Courts'. The speech is to be published in a book to be published by Federation Press and will also be published in the <i>Australian Law Journal</i> .
1 Oct	Attended the public lecture by the Right Hon the Lord Igor Judge 'Magna Carta: Destiny or Accident?' held at the Federal Court, Sydney.
9 Oct	Attended the Victorian Bar and Law Institute Victoria Conference 2015 participating in panel session entitled 'New Standards in Regulatory Matters: litigation as a regulatory tool'.

DATE	ACTIVITY
27 Oct	Delivered the second James Spigelman Oration entitled 'Values in Public Law' which is to be published in <i>The Judicial Review and Australian Law Journal</i> .
4 Nov	Presented a paper at the Forbes Society Australian Legal History Tutorial entitled 'Restitution: Some Historical Remarks'. The paper is to be published in the <i>Australian Law Journal</i> .
5 Nov	Attended a Baker & McKenzie and the French Australian Lawyers Society joint event on the occasion of the visit of the Paris Bar delegation to Australia.
6 Nov	Attended a meeting at the Federal Court Sydney with the Chief Justice of Myanmar and Justice Takdir Rahmadi, representing the Chief Justice of Indonesia.
6 Nov	Attended the opening of the LawAsia Conference in Sydney.
7–8 Nov	Attended the 16th Conference of Chief Justices of Asia and the Pacific in Sydney and gave an address entitled 'Comity & Commerce'.
9 Nov	Chief Justice Allsop participated and presented a paper at the LawAsia Conference Plenary Session entitled 'Asia as a Law Area – a case study on commercial law and arbitration'.
11 Nov	Attended and spoke at the launch of the CommBar Equitable briefing initiative at the Federal Court in Melbourne.
11 Nov	Attended the Commercial CPD Seminar held at Monash Law University. He presented a joint paper entitled 'The Role of the Courts in Commercial Arbitration' with the Honourable Justice Croft from the Supreme Court of Victoria.
12 Nov	Attended the Law Society Planning Conference 2015 at Hydro Majestic Hotel, Medlow Bath. The session he presented was 'Access to Justice: A Judicial Perspective'.
17 Nov	Attended the New South Wales Bar Association invitation event 'Tipping the Scales' held in The Banco Court.
24 Nov	Presented the Opening Address at the ACICA/CI Arb (Australia) and BLS 3rd International Arbitration Conference 'Opportunities and challenges for dispute resolution in the next century' held in Sydney.
25 Nov	Attended by invitation to 'A Masterclass on Evidence and Procedure in International Arbitration: – is there a Global Best Practice?' from the Australian Branch of the International Law Association for Arbitration Week.
25 Nov	Attended the 14th Annual Clayton Utz International Arbitration Lecture 2015 entitled 'Dynamics, discretion and diversity – A recipe for unpredictability in international arbitration?' held at the Federal Court, Sydney.

DATE	ACTIVITY
26 Nov	Attended the Indigenous Imprisonment Symposium organised by the Law Council of Australia.
1–5 Dec	Attended The Hague Conference on Private International Law. He was chair of the Experts' Group Meeting on the Use of Video-link and Other Modern Technologies in the Taking of Evidence Abroad.
19 Dec	Attended Contracts in Commercial Law Conference at the Domain Theatre, Art Gallery of New South Wales. He presented a paper in Session 5: Breach and Termination entitled 'Characterisation of contractual terms and commercial relationships'. This paper is due to be published in Thomson Reuters publication which is a collection of papers presented at the conference entitled Contracts in Commercial Law (2016).
<b>2016</b>	
21–22 Jan 2016	Attended 'Doing business across Asia: Legal Convergence in an Asian Century, International Conference' in Singapore. He spoke on Panel 2 – Asian Economic Expansion – The role of legal and regulatory frameworks.
1 Feb	Spoke at the Community Opening of the Legal Term in Waldron Hall, County Court, Melbourne.
8 Feb	Attended the Ceremonial sitting to mark the Fiftieth Anniversary of the first sitting of the Court of Appeal in the Banco Court.
11 Feb	Attended the Annual Bannerman Competition Lecture at Herbert Smith Freehills, Melbourne.
6–8 Mar	Attended seminar between the Federal Court of Australia and Supreme Court of Indonesia in Jakarta. He presented a paper entitled 'The role of the Judiciary in Maintaining Business Confidence: Seminar on The Role of the Legal Sector in Improving the Ease of Doing Business in Indonesia'.
16–18 Mar	Attended the National Judges Workshop in Melbourne.
13 Apr	Attended the Australian Insurance Law Association event at Norton Rose Fulbright, Melbourne. He discussed the Federal Court's commitment to providing commercial dispute mechanisms for the insurance community in a flexible, efficient and cost-effective manner through the newly established Insurance List for Short Matters as part of the National Court Framework reforms.
22 Apr	Attended the Industrial Bar Association and the Workplace Relations Section of the Law Institute of Victoria event held at the Federal Court Melbourne.
28–30 Apr	Attended the Council of Chief Justices meeting in Hobart, Tasmania.

DATE	ACTIVITY
3–6 May	Attended the 42nd International Comité Maritime International/Maritime Law Association of the United States 2016 New York Conference.
5 May	Gave a speech at the Nicholas J Healy Lecture on Admiralty Law entitled 'Comity and Unity in Maritime Law'.
8–11 May	Attended the ICCA Mauritius 2016 Conference at which he presented the keynote speech at the Second Plenary entitled 'International Arbitration and its Conformity with the Rule of Law'.
20 May	Attended the Judges and the Academy Seminar at Monash University Law Chambers as the judicial respondent to Jane Stapleton's paper on causation.
24 May	Attended the Maritime Law Association of Australia and New Zealand (MLAANZ) – Proposed reform of the Commonwealth Marine Insurance Act 1909 meeting in the Federal Court, Sydney.
25 May	Attended the Ngara Yura seminar entitled 'Who speaks for Country' held at the Judicial Commission, Sydney.
30 May	A panellist at the CALD Research Workshop held at Melbourne Law School.
3 Jun	Attended the Future of Law Reporting in Australia Forum 2016 held in conjunction with the 36th Annual Meeting of the Consultative Council of Australian Law Reporting at Federal Court, Sydney.
14–16 Jun	Travelled to Myanmar for the signing of the Memorandum of Understanding between the Supreme Court of the Union of Myanmar and the Federal Court of Australia.
23 Jun	Attended as a special guest at the International Negotiation and Dispute Resolution Series launch event at Baker and McKenzie. Mr Justin Gleeson SC, Solicitor-General, Commonwealth of Australia delivered the keynote address.
27 Jun	Chair for the CI Arb Evidence in International Commercial Arbitration event at the Federal Court, Sydney.
12 Aug 2015	<b>Justice MANSFIELD</b> chaired at the Law Society of South Australia Seminar entitled 'Native Title Update'
23 Oct	Attended the University of South Australia 13th Annual Competition Law and Economics Workshop
6 Nov	After Dinner Speaker at the SA Bar Association Annual Dinner
17 Feb 2016	Presented at WA Bar Association Annual Dinner – paper entitled: "The role of the Bar"

DATE	ACTIVITY
21 May	Presented at the Competition Law Conference, Sydney – paper entitled The Economic Philosophy Underlying the Competition and Consumer Act: 'Every time I find the meaning of life, they change it'
11 Jun	Presented After Dinner Speech at NT Bar Association Annual Dinner
2015–2016	<b>Justice DOWSETT</b> remains: <ul style="list-style-type: none"> <li>• a member of the Programs Advisory Committee of the National Judicial College of Australia</li> <li>• a Community Member of The College of Law and</li> <li>• the Chair of the University of Queensland Law School Advisory Board.</li> </ul>
29 Jul 2015	Marked the 30th anniversary of his appointment to the Bench.
20 Aug	Attended the 2015 Richard Cooper Memorial Lecture, "A Diminished Nation?": The "races" power, non discrimination and the <i>Native Title Act</i> , presented by Professor Jonathan Fulcher, Brisbane.
9 Sep	Chaired a meeting of the University of Queensland Law School Advisory Board, Brisbane.
7 Oct	Assisted with program development for the 'Dialogues on Being a Judge' Conference, Mt Lofty, South Australia; was co presenter to welcome participants and introduce the conference programme; was co presenter for the session 'Judicial reticence or public engagement; My view of the judges' role' and co chaired a panel discussion in respect of the sessions 'Judicial reticence and the public interest' and 'Judicial reticence or public engagement' and the plenary session.
17 Nov	Attended the 2015 Annual General Meeting of The College of Law, Sydney.
14–15 Dec	Attended the 'Private Law in the 21st Century' Conference, Brisbane.
25–27 Jan 2016	Welcomed Senator the Honourable George Brandis QC, the Commonwealth Attorney-General to the Supreme and Federal Court Judges' Conference held in Brisbane and introduced the session 'A panel and forum discussion on construction of contracts'.
5 Feb	Attended a combined meeting in Canberra of the National Judicial College of Australia Council and Programmes Advisory Committee to consider the Glanfield Report.
6-7 Feb	Attended the National Judicial College of Australia's 'Current Issues in Sentencing' Conference, Canberra.
11 Mar	Presided and co judged at the practice moot for the University of Queensland team prior to the Phillip C Jessup International Law Moot Court Competition World Rounds in Washington.



DATE	ACTIVITY
29 Apr	Chaired the session 'Collateral Litigation' at the Native Title Forum, Federal Court, Brisbane.
19 May	Presented the final address, 'The 20th Century – the Courts Quiescent! The 21st Century – the Courts Militant?' to the Bar Practice Course of 66 readers for the Bar Association of Queensland, Brisbane.
21 May	Chaired the session, 'Forecasting SLC: economics versus lawyers' at the Competition Law Conference, Sydney.
27 May	Attended a meeting of the Programmes Advisory Committee of the National Judicial College of Australia, Canberra.
30 June	Awarded an Honorary LLM and Honorary Fellowship of The College of Law.
2015–2016	<p><b>Justice KENNY</b> is a:</p> <ul style="list-style-type: none"> <li>• member of the Council of the Australian Institute of Judicial Administration</li> <li>• Foundation Fellow of the Australian Academy of Law</li> <li>• College Fellow of St Hilda's College, University of Melbourne</li> <li>• Chair, Asian Law Centre Advisory Board, Melbourne University Law School and</li> <li>• member of the Editorial Board of the <i>Journal of the Intellectual Property Society of Australia and New Zealand</i></li> </ul>
Aug 2015	Interviewee for a series of filmed interviews for students studying legal studies or law.
Oct	A member of the Selection Committee for Menzies Scholarships in Law.
Nov	Co-taught with Professor Adrienne Stone, 'Constitutional Rights and Freedoms', in the Masters' Program, Melbourne Law School.
Dec	Published 'Women at the IP Bar: A Case for Unpacking the "Merit" Ideal', 104 <i>Intellectual Property Forum</i> 19.
Feb 2016	Chaired session 'Developments from the Political Hotspot of NSW' at 2016 Constitutional Law Conference, Gilbert + Tobin Centre for Public Law UNSW, with the support of AACL.
March	Presented paper at authors' conference for <i>Oxford Handbook of the Australian Constitution</i> , edited by Laureate Professor Cheryl Saunders and Professor Adrienne Stone.
March	Published (with Christopher Sexton), 'A Tribute to the Honourable Dr Annabelle Bennett AP, SC' 104 <i>Intellectual Property Forum</i> 9.

# APPENDIX 8

## JUDGES' ACTIVITIES

DATE	ACTIVITY
Apr	Interviewed by the Menzies Foundation for series 'Scholars in action'.
May	Participated in External Review of the Centre for Comparative Constitutional Studies, Melbourne Law School.
May	Participated in Academic Awards Dinner at St Hilda's College, University of Melbourne.
Jun	Contributed chapter, 'Evolution', to Oxford Handbook of the Australian Constitution, edited by Laureate Professor Cheryl Saunders and Professor Adrienne Stone.
8 Apr 2016	<b>Justice SIOPIs</b> gave the welcome speech at Australian Women Lawyers Conference 2016.
17 May	Attended as an Event Ambassador for the Inaugural Law Access Walk for Justice held on National Pro Bono Day.
24 May	Presided at Jones Day Interlaw Trial Advocacy Championship Grand Final.
1 Jul 2015 to 31 Dec 2015	<b>Justice GREENWOOD</b> participated in a series of organisational meetings for the National Integrity Conference sponsored by Griffith University.
Aug	Participated in the Bar Practice Course Native Title Seminar.
Aug	Attended the Sydney Competition Law Conference and chaired a session at the Conference.
Nov	Delivered lectures at the University of Queensland Law School on the topics of Federal jurisdiction and practice and procedure in the Federal Court of Australia.
1 Jan 2016 to 30 Jun 2016	Participated in a series of organisational meetings for the National Integrity Conference sponsored by Griffith University.
May	Delivered further lectures on Federal jurisdiction and practice and procedure in the Federal Court at the University of Queensland Law School.
2015–2016	<b>Justice RARES</b> is: <ul style="list-style-type: none"> <li>• President of the Judicial Conference of Australia since October 2014, having previously served as vice-President from 2013</li> <li>• a member of the Board of Management of the Australasian Institute of Judicial Administration and retired as a member of the Steering Committee of the National Judicial Orientation Program on 31 December 2015</li> <li>• the Chairman of the Consultative Council of Australian Law Reporting</li> <li>• the Presiding Member of the Admiralty Rules Committee established under the <i>Admiralty Act 1988</i> (Cth) and</li> <li>• a member of the Comité Maritime International's International Working Group on Offshore Activities.</li> </ul>

DATE	ACTIVITY
7 Jul 2015	Judging Panel Member – International Maritime Law Arbitration Moot Grand Final, Melbourne.
4–5 Sep	Guest speaker at opening session of annual Banking and Financial Services Law Association (BFSLA) Conference Speech titled ‘Consistency and Conflict – Cross-Border Insolvency’.
16–18 Sep	Attended MLAANZ Annual Conference, Perth.
9–11 Oct	Delivered Speech to Judicial Conference of Australia Colloquium, Adelaide titled ‘Why Magna Carta still matters’.
12–17 Oct	Attended 8th International Conference of Maritime Law hosted by Dalian Maritime University, China. Delivered speech on subject of Cross-Border Insolvency. Met with members of the SPC to discuss collaboration between the SPC and FCA.
20 Oct	Guest speaker at book launch of Dr Simon Blount’s text <i>Electronic Contracts (2nd ed)</i> .
17 Nov	Speaker at Twilight Seminar held by Society of Notaries of NSW, speech titled ‘The Importance of Notaries in International Arbitrations and the Admiralty Jurisdiction’.
23–27 Jan 2016	Attended Supreme and Federal Court Judges Conference, Brisbane.
17 Feb	Delivered opening address to the MLAANZ Mini-Conference, Sydney.
15 Mar	Delivered address title ‘Balancing judicial resources, case management and the imperatives of Class Actions in the interests of justice’ to the UNSW Faculty of Law CLE/CPD Seminar on Class Actions: <i>Case management and Settlement Distributions in focus</i> .
19 Apr	Guest lecturer at Tulane University Law School (New Orleans, Louisiana) with Professor Robert Force.
4–6 May	Attended the Comité Maritime International 2016 Colloquium in New York, USA and panellist with Judge Robert E Gerber and Professor Martin Davies on topic: ‘Recent cross-border trends and developments affecting shipping insolvencies, including the interplay of maritime and bankruptcy law, and the potential need for a protocol to the UNCITRAL Model Law addressing in rem actions.’
12 May	Presented opening remarks to readers participating in the Federal Court of Australia practice day in the NSW Bar Practice Course.
21 May	Attended the Competition Law Conference and chaired session presented by Luke Woodward on the topic ‘The Use and Misuse of Section 46’, with a commentary by Dr Geoff Edwards of Charles River Associates.

DATE	ACTIVITY
27 May	Attended the joint Australian Institute of Judicial Administration and Judicial Conference of Australia symposium on 'Challenges of Social Media for Courts and Tribunals'; chaired session on <i>Social Media and Courts and Tribunals – A view from Government</i> with speaker Attorney-General George Brandis QC; moderated panel discussion on 'When social media is used maliciously or contemptuously to denigrate, threaten or cyberstalk judicial officers or tribunal members: the issues involved, can judicial officers and tribunal members be protected, and the potential for government response and panellist in session What can be done: the way forward'.
3 June	Chaired the 36th annual general meeting and open conference of the Consultative Council of Australian Law Reporting in Sydney.
1 July 2015	<b>Justice COLLIER</b> delivered a paper entitled 'The influence of the Magna Carta on Papua New Guinea law' at The Sir Salamo Injia Lecture Series at the University of Papua New Guinea.
23 Aug	Spoke at the Bar Association of Queensland Employment and Industrial Relations Conference 2015.
28 Aug	Participated on a judicial panel at the Queensland Law Society Senior Counsellors' Conference 2015.
4 Sep	Presented a paper entitled 'When <u>little</u> knowledge is a dangerous thing – some thoughts on the duties of directors and corporate officers in Australian law' at the 32nd Annual Conference of the Banking & Financial Services Law Association.
13-18 Sep	Facilitated a session 'Writing judgments and delivering ex tempore judgments' at the Commonwealth Magistrates' and Judges' Association 17th Triennial Conference in New Zealand.
2015–2016	<b>Justice TRACEY</b> is a: <ul style="list-style-type: none"> <li>• member of the Advisory Board of the Centre of Public Law (University of Melbourne) and</li> <li>• member of the Juris Doctor Advisory Board (Graduate School of Business and Law, RMIT University).</li> </ul>
2015–2016	<b>Justice MIDDLETON</b> is a: <ul style="list-style-type: none"> <li>• Council Member of the University of Melbourne, Chairman of the University of Melbourne Foundation</li> <li>• member of the American Law Institute</li> <li>• member of Judicial Liaison Committee for Australian Centre for Commercial International Arbitration,</li> <li>• Board member of the Victorian Bar Foundation</li> <li>• Fellow of the Australian Academy of Law and</li> <li>• member of the Editorial Board of the <i>Journal of the Intellectual Property Society of Australia and New Zealand</i>.</li> </ul>

DATE	ACTIVITY
3-10 Jul 2015	Attended the Australian Bar Association Conference held in Washington and Boston in the United States of America.
30 Sep	Chaired a symposium held by the Australian Law Reform Commission on the topic 'Fair trial, procedural fairness and other traditional rights', a symposium to discuss aspects of the ALRC Freedoms Inquiry.
9 Oct	Presented at the Victorian Bar's and Law Institute of Victoria's Conference 2015 concerning 'Thriving in an increasingly complex legal world', on a topic for panel discussion entitled 'The Four C's: Consumer & Competition Law; Class Actions; Contingency Fees'.
23 Oct	Attended function for the Australian Law Reform Commission – celebrating 40 years of law reform.
11 Nov	Attended the Launch of the CommBar Equitable Briefing Initiative.
3 Mar	Presented at Wotton + Kearney solicitors, on the Federal Court Insurance Law List.
8 Mar	Chaired session for Monash University, Centre for Commercial Law and Regulatory Studies for the National Commercial Law Seminar Series on the topic 'Intellectual Property update: D'Arcy v Myriad and its implications for patent law'.
14 Apr	Delivered the 2016 Melbourne University Law Review Annual Lecture, entitled 'Statutory Interpretation – Mainly a Matter of Common Sense'.
28 Apr	Delivered a paper in conjunction with Mr David O'Callaghan QC to the Victorian Bar Readers' Course on 'Written Advocacy'.
10 May	Conversation with Professor Bryan Mercurio (from the Chinese University of Hong Kong) to discuss 'Does the international intellectual property framework need a facelift?' which was jointly held by the Federal Court and Melbourne Law School.
3 Jun	Presented at RACV to Legal Practitioners regarding the Commercial and Company Practice Area.
7 Jun	Chaired Tax Bar Association Ethics Seminar Series on the topic 'Direct Briefing – How to do it, when to do it and ethical considerations'.

DATE	ACTIVITY
2015–2016	<p><b>Justice LOGAN is:</b></p> <ul style="list-style-type: none"> <li>• Chairman (until the end of March 2016) of the Queensland Bar Association's Annual Conference Committee</li> <li>• a member of the Board of Governors of Cromwell College within the University of Queensland</li> <li>• a member of the Queensland Bar Association's South Pacific Region Education Committee and</li> <li>• Co-Chairman of the Queensland Supreme Court Library's Ad Hoc Project Committee in respect of the Commemoration of the Service of Members and Prospective Members of the Queensland Legal Profession in the First World War.</li> </ul>
19 Aug	As guest lecturer, delivered lecture at TC Beirne School of Law University of Queensland, lecture on 'Appeals to the Federal Court of Australia'.
Sep	Attended, at own expense, the Commonwealth Magistrates and Judges Association Conference at Wellington, New Zealand and, on 16 September 2015, presented as a panel member a paper on 'Closing the Borders: Current Issues in Refugee Law'.
7–11 Sep	Participated again as a volunteer member of the Queensland Bar Association teaching team conducting a Commercial Litigation Workshop at the PNG Legal Training Institute in Port Moresby.
10–11 Nov	Attended the ANU/UNE Centenary of ANZAC Legal History Symposium in Armidale, NSW.
22 Jan 2016	Delivered a speech 'The Immortal Memory' in support of a toast to Robert Burns at the St Andrew's Society of Scotland (Queensland) Burns Supper.
23–27 Jan	Attended the Supreme and Federal Courts' Judges Conference, Brisbane.
18 Feb	As Project Committee Co-Chairman, addressed the Official Opening by the Queensland Chief Justice of the 'In Freedom's Cause' exhibition and related publication to the service of members and prospective members of the Queensland Legal Profession in the First World War.
27 Feb	Attended the Queensland Bar Association Annual Conference, Brisbane.
14 Apr	Chaired panel of judges for the Grand Final of the QUT Law Society's 2016 King & Wood Mallesons Senior Moot.
11 Mar	Member of judging panel for the University of Queensland Law School practice moot for the 2016 Jessup International Law Moot Competition.
16 Apr	Delivered a paper, 'What now for Defence Force Discipline Appeals?' at the Joint Services Legal Panel (South-East-Queensland) Training Day.

DATE	ACTIVITY
23 May	Attended and delivered as a panel member a paper on 'Statutory Construction' at the Administrative Appeals Tribunal Members Conference, Twin Waters Resort, Sunshine Coast'.
9 Jun	Delivered a paper, 'The Relationship between Parliament, the Judiciary and the Executive ('The Latimer House Principles')' at the 27th Commonwealth Parliamentary Association Seminar.
27 Jun	Chaired panel of judges for the University of Queensland Law School practice moot for the International Maritime Law Competition.
2015–2016	<b>Justice MCKERRACHER</b> chaired several twilight Intellectual Property Seminars.
17 Jul 2015	Acted as a mock trial judge for the Australian Bar Association Essential Trial Advocacy Course.
16 Sep	Attended the MLAANZ Conference and delivered a paper entitled 'A Regional International Maritime Dispute Resolution Centre'.
13–16 Oct	Attended the 8th International Conference of Maritime Law (ICML 2015) in Dalian, China and delivered a paper on 'Maritime Litigation and Arbitration'.
25 Feb 2016	Chaired an Admiralty and Maritime Law Seminar in the WA Registry of the Federal Court.
26 Feb	Participated as a panellist at the Law Summer School on the topic of the 'Future of the Legal Profession'.
3 Mar	Chaired a Law Society of Western Australia Seminar on 'Recent Developments in Australian Consumer Law'.
6 May	Chaired a Piddington Pleadings Master Class Workshop hosted by Curtin Law School on 'Consumer Law and Unconscionable Conduct'.
23 May	Delivered annual address on Federal Jurisdiction to the Western Australian Bar Association Bar Readers' Course.
8 Jun	Delivered an after dinner address at the Royal Association of Justices of the Peace of WA (Inc), Stirling.
2 Sep 2015	<b>Justice JAGOT</b> attended launch of, and delivered Keynote address at Asian Australian Lawyers' Association 2015 Mentoring Program Launch. Justice Jagot also acted as a mentor as part of this program.
12 Feb 2016	Chaired 'Recent Cases' session at the Gilbert + Tobin Centre of Public Law's 2016 Constitutional Law Conference.

DATE	ACTIVITY
29 Mar	Presented two papers at Commercial Law Association of Australia's 'Patents and Trade Marks Master Class', entitled 'Patent Infringement: "Purposive" construction, essential and inessential integers and infringing the "substantial idea" of the invention' and 'Patent Validity: "Law of enabling disclosure" in the UK. Does it form part of the law of novelty under the <i>Patents Act 1990</i> (Cth)?'
4 Apr	Conducted information and questions and answers session with Indigenous students from Tranby College enrolled in a Legal Advocacy course.
29 Apr	Delivered paper titled 'A civil penalty case from the perspective of the Bench' at 2016 AGS Civil Regulators Forum in Canberra.
2 May	Attended and spoke as panellist at inaugural Asian Australian Lawyers' Association William Lee Address.
2 Jun	Judged Grand Final of Macquarie University Law School's Clayton Utz Senior Mooting Grand Final Competition.
23–24 Oct 2015	<b>Justice FOSTER</b> attended the 13th Annual Competition Law and Economics Workshop in Adelaide.
25 Nov	At the invitation of the International Law Association and 12th Floor Chambers, Justice Foster participated in a panel discussing practical arbitration issues from the perspective of judges and practitioners. Other members of the panel included Michael Hwang SC and Lord Goldsmith.
5 Apr 2016	Presenter at a Practitioners' Consultation Forum held in Sydney regarding the Commercial and Corporations National Practice Area of the Court. The Forum was chaired by Justice Middleton and Justice Foster (the Court's National Coordinating Judges and Registry Coordinating Judges for the Commercial and Corporations National Practice Area). Topics for discussion included various Practice Notes and the establishment of a Standing Users' Group.
20 May	Attended the Second Annual UNCITRAL Seminar held in Canberra.
26 Aug 2015	<b>Justice BARKER</b> spoke at the University of Western Australia Blackstone (Law Students) Society Career Pathways presentation.
25 Sep	Presented a paper entitled 'To Akiba and Beyond: Old Hopes and New Dreams for Native Title' at Finn's Law: An Australian Justice Conference in Canberra.
28 Oct	Convened the Australian Academy of Law (WA Chapter) Annual Lecture presented by Prof Frank S Alexander "Neighbourhood stabilisation strategies for vacant and abandoned properties" in Perth.
22 Feb 2016	Presiding judge at the Notre Dame University International Commercial Arbitration Student Moot, Fremantle.



DATE	ACTIVITY
22 Oct 2015	<b>Justice YATES</b> attended and addressed the 17th Biennial Copyright Law and Practice Symposium conducted by the Copyright Society of Australia and the Australian Copyright Council.
23–24 Oct 2015	Attended and addressed the 13th Annual Competition Law and Economics Workshop conducted by the University of South Australia.
26 Nov 2015	Delivered an address on Subpoenas, Interrogatories and Discovery at the College of Law Judges' Series.
21 May 2016	Attended the Competition Law Conference held in Sydney.
2016	Continues to be a member of the Editorial Board of the <i>Journal of the Intellectual Property Society of Australia and New Zealand</i> .
25 Aug 2015	<b>Justice BROMBERG</b> addressed students from the Melbourne Law School on 'Judicial Associateships'.
2 Feb 2016	Hosted the International Commission of Jurist's Opening of the 2016 Legal Year in his capacity as President of the ICJ Victoria.
15 Feb–4 Mar	Hosted the Indigenous Clerkship Program held at the Federal Court in Melbourne.
22 Apr	Chaired a conversation at the Federal Court for Employment and Industrial Relations practitioners on the topic of 'Current Issues in the Practice of Employment and Industrial Law'.
16 Jun	Hosted at the Federal Court the Judicial College of Victoria's Koori Twilight Forum on 'Communicating with Indigenous Witnesses'.
28 Jun	Participated in the 'Judges in Conversation Series' interviewing Professor Philip Alston of New York University on 'Justiciability of Economic and Social Rights.'
	<b>Justice KATZMANN</b> is a: <ul style="list-style-type: none"> <li>• director of the Tristan Jepson Memorial Foundation</li> <li>• director of Neuroscience Research Australia (NeuRA) and</li> <li>• member of the Advisory Committee of the Gilbert + Tobin Centre of Public Law.</li> </ul>
18 Sep 2015	Assisted with judging course participants at the Australian Bar Association Appellate Advocacy Course in Sydney.
30 Sep	Launched <i>The Wellness Doctrines for Law Students and Young Lawyers</i> , written by Jerome Doraisamy.
6 Oct	Participated in a questions and answer style panel discussion on the topic of 'Resilience in Law' as part of the University of Technology Sydney Law Students' Society (UTS LSS) Smile Project. The Smile Project is a UTS LSS initiative that focuses on the mental and physical wellbeing of law students.

# APPENDIX 8

## JUDGES' ACTIVITIES

DATE	ACTIVITY
20 Oct	Judged the Grand Final of the Herbert Smith Freehills Contract Law Moot at the Sydney University Law Society.
5 Nov	Presented a paper on Pleadings and Case Management at the College of Law Judges' Series.
18–19 Dec	Attended the University of NSW 'Contracts in Commercial Law' Conference at the Art Gallery of New South Wales.
25–27 Jan 2016	Attended the Supreme and Federal Court Judges' Conference in Brisbane.
4 Feb	Delivered the Opening Address of the College of Law 2016 National Wellness for Law Forum with a paper entitled: 'Re-Wiring the Law'.
26–29 May	Attended the IAWJ 13th Biennial International Conference in Washington, DC – USA – 'Women Judges and the Rule of Law: Assessing the Past, Anticipating the Future'.
4 Aug 2015	<b>Justice ROBERTSON</b> provided an introduction and comments for a book launch. Federation Press, James Stellios, <i>Zines's High Court and the Constitution</i> (6th ed).
24 Aug	Presented at University of Sydney Law School – LLM Series 'Statutory interpretation'.
26 Aug	Presented at Judicial Education Workshop, Federal Court of Australia, Sydney, "judgment writing tips" with Perram J.
4 Sep	Presented at Melbourne University Law School, Judges and the Academy: 'Natural Justice or Procedural Fairness'.
18–19 Sep	Presented at: ABA Appellate Advocacy Course.
7–9 Oct	Attended the conference – National Judicial College of Australia, Mr Lofty, Adelaide, 'Dialogues on being a judge'.
12 Nov	Presented at College of Law, Banco Court, Law Courts Building, 'Affidavit Evidence'.
18–19 Dec	Attended a conference, Art Gallery of NSW, UNSW Law, 'Contracts in Commercial Law 2015'.
23–27 Jan 2016	Attended a Supreme & Federal Court Judges' Conference, Brisbane.
15–16 Mar	Presented at Judges' Panel, International Transfer Pricing Conference, Millennium Gloucester Hotel, London.
27–31 Jul 2015	<b>Justice MURPHY</b> lectured in 'Melbourne Law Masters – Class Actions', at University of Melbourne.

DATE	ACTIVITY
22 Oct	Presented at Legal Leaders' Briefing on 'Class Actions and the National Court Framework', at Jones Day Lawyers, Sydney.
7 Dec	Presented at Legal Leaders' Briefing on 'Class Actions and the National Court Framework', at Federal Court, Melbourne.
7 Apr 2016	Presented at the International Association of Defence Counsel Australian Regional Meeting on 'Class Actions', at Clayton Utz, Melbourne.
28 Oct 2015	<b>Justice ROSS</b> participated in the Judicial Leadership Program (NJCA).
27 May 2016	Attended the ALERA National Conference.
22 Mar	Attended the VECCI – Workplace Relations Practitioners Forum.
31 Mar	Presented at Sydney University on the Equal Remuneration Decision.
2015–2016	<b>Justice GRIFFITHS</b> is a committee member of AIJA Indigenous Justice Committee
23–24 Jul 2015	Launched Zines's <i>The High Court and the Constitution 6th edition</i> by James Stellios at Constitution Law Conference 2015 – Melbourne
27 Jul	Attended the Constitutional Aspects of Commonwealth and State Application Laws – NSW Bar Association Public Law Section.
4 Aug	Attended launch by Sir Anthony Mason of Zines's <i>The High Court and the Constitution 6th edition</i> by James Stellios.
17 Aug	Attended NSW Bar Association Public Law Section "Unifying Principles in Administrative and Criminal Law".
20 Aug	Attended Richard Cooper Memorial Lecture.
25 Sep	Attended Finn's Law: An Australian Justice – A Conference in Honour of Professor Paul Finn – Canberra.
	Published article on "Application of the Australian Consumer Law to Government Activities" [2015] Commercial Law Quarterly 3.
27 Oct	Attended The Spigelman Public Law Oration 'Values in Public Law'.
19 Nov	Presented Paper for The College of Law in the 2015 Judges' Series 'Professional Ethics, Court Etiquette and Witness Preparation', Banco Court.
26 May 2016	Chaired session at the AIJA and JCA Conference 'Challenges of Social Media for Courts & Tribunals'.

DATE	ACTIVITY
2015–2016	<b>Justice PAGONE</b> is: <ul style="list-style-type: none"> <li>• President of Asian, North American and Oceanian Group</li> <li>• Vice-President of the International Association of Judges and</li> <li>• a Board Member of International Association of Tax Judges.</li> </ul>
2015-2016	<b>Justice MORTIMER</b> is a: <ul style="list-style-type: none"> <li>• Senior Fellow, Melbourne Law School</li> <li>• member of the Advisory Board of the Centre for Comparative Constitutional Studies (CCCS)</li> <li>• member of the Australian Academy of Law (AAL)</li> <li>• member of the International Association of Refugee Law Judges (IARLJ)</li> <li>• member of the Judicial Conference of Australia (JCA) and</li> <li>• member of the Monash University Faculty of Law 'External Professional Advisory Committee' (EPAC).</li> </ul>
9 Oct 2015	Spoke at the Victoria Legal Aid (VLA) Civil Justice Conference on the topic of 'Creative lawyering and choosing the right case for running public interest litigation'.
19 Nov	Guest speaker at the Monash University Law Review's 41st Annual Dinner.
23 Nov	Gave keynote address at Australian Institute of Administrative Law (AIAL) Seminar entitled 'Getting to the substance (but not the merits): appeals on questions of law, judicial review and the Federal Court's Administrative Law, Constitutional Law and Human Rights Law National Practice Area'.
03 Feb 2016	Spoke to first year students at the Melbourne Law School Orientation Day.
13–19 Apr	Taught at the Melbourne Law School Masters Program entitled 'Current Issues in Administrative Law'.
4 May	Presented at Australian Institute of Administrative Law (AIAL) annual seminar series entitled 'Reasonable Apprehension of Bias'.
2 Jun	Presented at Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) National Native Title Conference 2016 on the topic of 'A Judicial Perspective on Native Title'.
2015–2016	<b>Justice RANGIAH</b> is: <ul style="list-style-type: none"> <li>• a member of the University of Queensland Pro Bono Advisory Board and</li> <li>• a member of the Griffith University Law School Visiting Committee.</li> </ul>
29 Sep 2015	Judged the University of Queensland Law Society Air Law Moot Grand Final.
4 Feb 2016	Gave keynote address to Centre for Native Title Anthropology (ANU) Annual Conference.

DATE	ACTIVITY
24 Mar	Judged a practice moot for the University of Queensland Air Law Mooting Team.
29 Apr	Chaired session on Prescribed Bodies Corporate at the Federal Court (Queensland Registry) Native Title Forum.
14–16 Aug 2015	<b>Justice WIGNEY</b> attended a 2015 Competition and Consumer Workshop – Melbourne presenting ‘Criminal Proceedings For Cartel Offences – some issues and practical considerations’.
9–11 Oct	Attended the JCA Colloquium 2015 – Adelaide and presented ‘Prosecutorial Assistance to a Sentencing Court: <i>R v Barbaro</i> ’.
2015–2016	<p><b>Justice PERRY</b> is:</p> <ul style="list-style-type: none"> <li>• a Squadron Leader with the Royal Australian Air Force, Legal Specialist Reserves</li> <li>• a member of the Judicial Council on Diversity (JCCD) established by the Council of Chief Justices as the representative of the Federal Court of Australia</li> <li>• Chair of the specialist committee tasked with preparing draft model rules and national standards for working with interpreters in courts and tribunals (released for public consultation in June 2016)</li> <li>• a fellow of the Australian Academy of Law</li> <li>• a section-editor (administrative law) with the <i>Australian Law Journal</i></li> <li>• an Ambassador for One Disease (a charity concerned with the elimination of preventable diseases in remote indigenous communities)</li> <li>• a member of the Advisory Committee, Gilbert + Tobin Centre of Public Law, University of New South Wales</li> <li>• a member of the Law School Advisory Board, University of Adelaide</li> <li>• a member of the Advisory Council, Centre for International and Public Law, Australian National University</li> <li>• a member of the Board of Advisors, Research Unit on Military Law and Ethics (RUMLAE), University of Adelaide and</li> <li>• a member of the New South Wales Bar Association Choir.</li> </ul>
Aug 2015	Questions and Answers session with the Judge entitled ‘There should be more Women in the Courtroom’ published in vol. 37, <i>The Bulletin</i> , Law Society of South Australia, August 2015. Awarded the Special Interest Article of the Year by <i>The Bulletin</i> .
28 Aug	Delivered the Keynote address entitled ‘iDecide: Administrative Decision-Making in the Digital World’ at the Council of Australasian Tribunals 2015 Annual Conference.

## APPENDIX 8

## JUDGES' ACTIVITIES

DATE	ACTIVITY
2 Sep	Delivered the after dinner speech at the CamSoc Winter Feast held by the Cambridge Society of New South Wales. Her Honour's address was entitled 'Shattering Glass Ceilings: Benefiting from Diversity'.
3 Sep	Chaired the Military Operations Law Panel at the RUMLAE Seminar, University of Adelaide.
19 Sep	Judged moots held by the Australian Bar Association Appellate Advocacy Course.
25 Sep	Delivered the inaugural John Perry Oration held by the South Australian branch of the Hellenic Australian Lawyers Association in Adelaide. The oration was published in the South Australian Law Society Bulletin in October 2015.
24 Nov	Spoke to students visiting the Federal Court, Sydney Registry, from Mackillop College Port Macquarie as part of the 'Law Day Out' programme instituted by the Rule of Law Institute of Australia.
27 Nov	Participated on the Panel of the International Law Colloquium in Canberra on 'Legitimacy in the adjudication of international law: a conflict of ideas'. Her Honour's presentation was entitled 'The role of international law in the interpretation of domestic laws by Australian courts'.
17 Dec	Participated in a discussion held at the Federal Court regarding a Review of the Commonwealth Legal Services.
20 Jan 2016	Judged a practice moot for the Sydney University team competing in the Philip C Jessup International Law Moot.
12 Feb	Delivered a presentation on 'Procedural fairness in a culturally and linguistically diverse society' at the Law Society of South Australia Forum 2016 in Adelaide.
22 Mar	Attended RAAF Legal Workshop, Sydney.
12 May	Presided over moots held by the Bar Readers Course by the NSW Bar Association.
23 May	Presided over the Grand Final of the Public International Law Moot, Sydney University Law School.
27 May	Presented at the International Women Judges Association 2016 Biannual Conference in Washington DC at a session on 'New Developments in International Human Rights and Humanitarian Law'. Her Honour's presentation was entitled 'Automated Weaponry and Artificial Intelligence: Implications for the Rule of Law'.
7–8 Aug 2015	<b>Justice EDELMAN</b> presented at the University of New South Wales Australia (UNSW) Colloquium on Equitable Compensation and Disgorgement of Profit, UNSW Law, University of New South Wales 'An English misturning with equitable compensation'.

DATE	ACTIVITY
4 Sep	Presented at the Supreme Court of Victoria/University of Melbourne Colloquium, Melbourne Law School, University of Melbourne on 'Why do we have rules of procedural fairness?'.
07 Sep	Presented at the Supreme Court of Victoria/University of Melbourne Commercial Law Conference on Current Issues in Commercial Law, Banco Court, Supreme Court of Victoria on 'Understanding causation and attribution of responsibility'.
11 Sep	Presented at the Bar Association of Queensland/University of Queensland TC Beirne School of Law/Australian Centre of Private Law/Symposium II on Private Law and Power, held by the Bar Association of Queensland, Brisbane on 'Foreword – Private law and power'.
24 Nov	Presented on 'Advocacy' at the University of Queensland TC Beirne School of Law David F Jackson AM QC Advocacy Dinner, Women's College, University of Queensland.
26 Nov	Presenter on 'Understanding tracing rules' at the Queensland University of Technology Faculty of Law 15th Annual W A Lee Equity Lecture 2015, Banco Court, Supreme Court of Queensland.
03 Dec	Presented at the Supreme Court Library Queensland Selden Society Lecture Series (Australian Chapter), Banco Court, Supreme Court of Queensland on 'Lord Bingham of Cornhill'.
15 Dec	Presented on 'Vindictory damages' at the University of Queensland TC Beirne School of Law Conference on Private Law in the 21st Century, Brisbane.
18–19 Dec	Co-organiser and author/editor of book from the proceedings with the University of New South Wales Australia (UNSW) Contracts in Commercial Law Conference, Domain Theatre, Art Gallery of New South Wales.
27 Jan 2016	Presented on 'Three issues in construction of contracts' at the Supreme and Federal Court Judges' Conference 2016, Banco Court, Supreme Court of Queensland.

Note: The Federal Court Principal Registrar and NNTT Registrar are holders of public office and are not included in this appendix.

Table A9.1 – Staffing overview by location  
(actual occupancy as at 30 June 2016 and 2015 – includes full-time and part-time staff)

LEVEL	PRIN		NSW		VIC		QLD		SA		WA		TAS		ACT		NT		NAT		NNTT		TOTAL	
	2016	2015	2016	2015	2016	2015	2016	2015	2016	2015	2016	2015	2016	2015	2016	2015	2016	2015	2016	2015	2016	2015	2016	2015
SES2	2	2	1	1	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	3	3
SES1	1	1	–	–	1	1	1	1	1	1	1	1	–	–	–	–	–	–	1	2	1	1	7	8
FCL2	2	–	6	6	5	4	2	2	1	1	2	2	–	–	–	–	–	–	4	3	3	1	25	19
FCL1	5	1	–	–	–	–	–	–	–	–	–	1	1	–	–	–	–	–	1	–	1	1	8	3
FCM2	7	8	–	1	1	1	1	1	–	–	1	1	–	–	–	–	–	–	1	1	4	4	15	17
FCM1	19	18	2	2	1	–	1	1	2	2	1	1	–	–	–	–	–	–	1	1	9	11	36	36
FCS6	22	21	23	25	15	16	8	8	6	4	3	8	7	–	1	1	1	1	9	11	26	24	117	115
FCS5	13	12	30	30	20	15	9	8	6	7	8	7	–	–	–	–	–	–	2	1	3	2	91	82
FCS4	5	5	9	15	15	15	11	11	9	8	6	6	4	4	1	1	2	3	1	3	20	23	83	94
FCS3	2	1	4	4	1	1	1	2	1	1	–	–	–	–	2	3	1	1	–	–	4	2	16	15
FCS2	2	1	–	–	–	1	–	–	–	–	–	–	–	–	–	–	–	–	–	–	6	13	8	15
FCS2/CCO	–	–	29	18	11	12	12	8	7	9	7	8	–	–	2	1	–	–	–	1	–	–	68	57
FCS1	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	0
Total	80	70	104	102	70	66	46	40	31	32	34	33	5	5	6	6	4	5	20	23	77	82	477	464

SES	Senior Executive Service officer	NAT National. Includes the following staff:	NAT National. Includes the following staff:
FCL	Federal Court Legal	the following staff:	• Federal Court Native Title staff
FCM	Federal Court Manager		• Chambers of Chief Justice
FCS	Federal Court Staff		• Tribunals
CCO	Casual Court Officer		• Appeals
PR	Principal Registry	NNTT	National Native Title Tribunal



**Table A9.2 – Staffing by gender, classification and location (as at 30 June 2016 and 2015)**

LEVEL	GENDER	PR	NSW	VC	QLD	SA	WA	TAS	ACT	NT	NAT	NNTT	TOTAL
		2016	2015	2016	2015	2016	2015	2016	2015	2016	2015	2016	2015
SES2	Male	–	1	1	–	–	–	–	–	–	–	–	1
–	Female	2	1	–	–	–	–	–	–	–	–	–	2
SES1	Male	1	1	1	–	–	1	1	–	–	1	–	3
–	Female	–	–	–	1	1	1	–	–	–	1	1	4
FCL2	Male	2	1	4	4	1	1	1	–	–	–	–	14
–	Female	–	2	2	1	1	1	1	–	–	4	3	11
FCL1	Male	1	–	–	–	–	–	–	–	–	–	1	2
–	Female	4	–	–	–	–	–	1	1	–	1	–	6
FCM2	Male	3	3	–	–	–	1	1	–	–	1	1	7
–	Female	4	5	1	1	1	–	–	–	–	–	3	10
FCM1	Male	10	11	1	–	–	–	–	–	–	–	4	15
–	Female	9	7	2	2	2	1	1	–	–	1	5	22
FCS6	Male	6	7	1	1	–	–	–	–	–	2	9	19
–	Female	16	14	22	15	8	6	4	3	8	7	17	96
FCS5	Male	7	7	15	11	5	3	5	2	2	3	2	35
–	Female	6	5	15	10	6	3	4	5	5	4	1	47
FCS4	Male	–	5	8	1	2	2	1	1	1	–	–	21
–	Female	5	4	7	14	13	9	7	6	5	4	3	73
FCS3	Male	2	1	1	2	–	–	1	1	2	–	–	7
–	Female	–	3	2	1	1	2	–	–	1	1	3	8
FCS2	Male	–	7	4	3	3	8	6	4	4	–	1	25
(incl CCO)													
–	Female	2	1	22	14	8	10	4	2	3	5	3	47
<b>TOTAL</b>	<b>–</b>	<b>80</b>	<b>70</b>	<b>104</b>	<b>102</b>	<b>70</b>	<b>66</b>	<b>46</b>	<b>40</b>	<b>31</b>	<b>32</b>	<b>34</b>	<b>477</b>

SES	Senior Executive Service officer	NAT National. Includes the following staff:	NAT National. Includes the following staff:
FCL	Federal Court Legal	the following staff:	• Federal Court Native Title staff
FCM	Federal Court Manager		• Chambers of Chief Justice
FCS	Federal Court Staff		• Tribunals
CCO	Casual Court Officer		• Appeals
PR	Principal Registry	NNTT	National Native Title Tribunal

Table A9.3 – Staffing by gender, classification and employment type (as at 30 June 2016 and 2015)

LEVEL	GENDER	ONGOING				NON-ONGOING				INTERMITTENT/ IRREGULAR				TOTAL	
		FULL-TIME		PART-TIME		FULL-TIME		PART-TIME		2016		2015		2016	2015
SES2	Male	1	1	–	–	–	–	1	–	–	–	–	–	1	2
	Female	1	1	–	–	1	–	–	–	–	–	–	–	2	1
SES1	Male	3	4	–	–	–	–	–	–	–	–	–	–	3	4
	Female	2	4	–	–	1	–	–	–	–	–	–	–	4	4
FCL2	Male	10	9	2	1	1	1	1	1	–	–	–	–	14	11
	Female	7	6	2	1	2	–	–	2	–	–	–	–	11	9
FCL1	Male	2	1	–	–	–	–	–	–	–	–	–	–	2	1
	Female	5	–	1	1	–	–	–	–	–	–	–	–	6	1
FCM2	Male	4	6	–	–	2	1	–	–	–	–	–	–	6	7
	Female	5	6	2	1	2	2	1	1	–	–	–	–	9	10
FCM1	Male	10	10	1	1	3	3	1	1	–	–	–	–	15	14
	Female	13	15	5	5	2	1	–	1	1	1	–	–	21	22
FCS6	Male	18	14	–	–	–	5	–	–	–	–	–	–	18	19
	Female	71	63	16	15	7	18	4	–	1	1	–	–	99	96
FCS5	Male	12	11	–	–	30	24	–	–	–	–	–	–	42	35
	Female	12	11	3	2	34	33	–	1	–	–	–	–	49	47
FCS4	Male	7	8	1	1	5	11	–	1	–	–	–	–	13	21
	Female	38	43	17	13	11	14	3	2	1	1	1	1	70	73
FCS3	Male	4	5	–	–	–	–	2	2	1	–	–	–	7	7
	Female	7	4	–	2	2	1	–	–	–	–	1	1	9	8
FCS2	Male	–	1	–	–	–	–	–	1	–	–	–	–	0	2
	Female	6	9	–	–	–	3	–	–	–	2	1	1	8	13
FCLS2/CCO	Male	–	–	–	–	–	–	–	–	–	27	23	23	27	23
	Female	–	–	–	–	–	–	–	–	41	34	34	41	41	34
Total		238	232	50	43	103	118	12	11	74	60	477	464	477	464

SES	Senior Executive Service officer
FCL	Federal Court Legal
FCM	Federal Court Manager
FCS	Federal Court Staff
CCO	Casual Court Officer

**Table A9.4** – Salary ranges by classification level under Enterprise Agreement or Determination (as at 30 June 2016)

COURT DESIGNATION	AUSTRALIAN PUBLIC SERVICE (APS) CLASSIFICATION	SALARY
<b>CLERICAL ADMINISTRATIVE POSITIONS</b>		
Federal Court Staff Level 1	APS Level 1	\$43 108
		\$47 641
Federal Court Staff Level 2	APS Level 2	\$48 786
		\$54 100
Federal Court Staff Level 3	APS Level 3	\$55 568
		\$59 975
Federal Court Staff Level 4	APS Level 4	\$61 936
		\$67 247
Federal Court Staff Level 5	APS Level 5	\$69 080
		\$73 248
Federal Court Staff Level 6	APS Level 6	\$74 610
		\$85 705
Federal Court Manager Level 1	Executive Level 1	\$95 493
		\$103 131
Federal Court Manager Level 2	Executive Level 2	\$110 087
		\$129 018
<b>LEGAL POSITIONS</b>		
Federal Court Legal 1	From APS Level 3	\$62 389
	To Executive Level 1	\$121 285
Federal Court Legal 2	Executive Level 2	\$140 503
		\$146 001
<b>SENIOR EXECUTIVE POSITIONS</b>		
Senior Executive Service Band 1	SES Band 1	\$182 438
		\$249 802
Senior Executive Service Band 2	SES Band 2	\$239 924
		\$269 324

**Table A9.5 – Senior Executive Service (SES) (as at 30 June 2016)**

PRINCIPAL REGISTRY		SES LEVEL
Executive Director, Corporate Services	Catherine Sullivan	Senior Executive Band 2
National Operations Registrar	Sia Lagos	Senior Executive Band 2
Deputy Principal Registrar	John Mathieson	Senior Executive Band 1
National Registrar, Native Title	June Eaton	Senior Executive Band 1
NEW SOUTH WALES DISTRICT REGISTRY		
District Registrar	Michael Wall	Senior Executive Band 2
VICTORIA DISTRICT REGISTRY		
District Registrar	Daniel Caporale	Senior Executive Band 1
QUEENSLAND DISTRICT REGISTRY		
District Registrar	Heather Baldwin	Senior Executive Band 1
SOUTH AUSTRALIA DISTRICT REGISTRY		
District Registrar	Nicola Colbran	Senior Executive Band 1
WESTERN AUSTRALIA DISTRICT REGISTRY		
District Registrar	Martin Jan PSM	Senior Executive Band 1
NATIONAL NATIVE TITLE TRIBUNAL		
Acting Deputy Registrar	Debbie Fletcher	Senior Executive Band 1

**APPENDIX 10****ANNUAL PERFORMANCE STATEMENT**

This is the Annual Performance Statement for the Federal Court of Australia, including the National Native Title Tribunal as required under s 39(1) (a) of the *Public Governance, Performance and Accountability Act 2013*. This statement accurately presents the entity's performance for the financial year 2015–2016 based on properly maintained records and in compliance with s 39(2) of the Act.

**PURPOSE**

The Federal Court of Australia is a superior court of record and a court of law and equity. It sits in all capital cities and elsewhere in Australia from time to time. The Court has jurisdiction to hear and determine any civil matter and some summary and indictable criminal matters arising under laws made by the Federal Parliament, as well as any matter arising under the Constitution or involving its interpretation. The Federal Court has a substantial and diverse appellate jurisdiction. Further details about the Court's jurisdiction are available in Part 1 at page 3.

The primary objective of the Court is to apply and uphold the rule of law to deliver remedies and enforce rights and in so doing, contribute to the social and economic development and well-being of all Australians. The Court is required to decide cases according to law as quickly, inexpensively and efficiently as possible.

Since July 2012, the Court has had responsibility for the corporate administration of the National Native Title Tribunal (NNTT). The NNTT is an independent body established by the *Native Title Act 1993*. The Federal Court provides staff and resources to the NNTT to enable the tribunal to carry out its functions. Further details about the NNTT and its work are available in Part 5 at page 64.

**RESULTS****PERFORMANCE CRITERION ONE**

*Timely completion of cases: dispose of 85 per cent of cases within 18 months of commencement (excluding native title cases) (2015–2016 Portfolio Budget Statement p 339)*

In the reporting period, the Court disposed of 93.7 per cent (5395 cases) within 18 months of commencement. This figure includes appeals and related actions and excludes native title cases. This is well above the target rate of 85 per cent. Further information about the Court's performance on this criterion can be found in Part 2 at page 11.

## PERFORMANCE CRITERION TWO

*Reduction in the number of matters over 18 months old. (2015–2016 Portfolio Budget Statement p 339)*

In the reporting period, the Court had only 6.3 *per cent* of its caseload over 18 months old. This figure represents a four-year low and a reduction from 7.5 *per cent* in 2014–2015. This is well above the target rate of 18.50 *per cent*. Further information about the Court's performance on this criterion can be found in Part 2 at page 11.

## ANALYSIS

Since early 2015, the Court has been in the process of reinvigorating its case management approach through the National Court Framework (NCF). The NCF has four main goals, which are to organise and manage nationally the Court's work by subject matter areas, organise the Court's resources to meet the demands of the broad range of work done by the Court, develop the confidence of the profession and the community; and broaden the base of judicial knowledge and experience in the Court.

The Court restructured the system of allocation of matters to ensure efficiency and national consistency in the allocation of matters to judges. The Court has created new simplified practice notes reflecting the national practice areas, driven by a central case management practice note that offers guidance to parties, the profession and judges about critical aspects of practice; and operated a carefully managed docket system to support judges and facilitate timely judgment delivery. These reforms have contributed to the Court meeting its performance criteria. More details of the NCF reforms can be found in Part 2 at page 11.

The Court has continued implementing its successful eServices strategy. This strategy aims to use technology to maximise the efficient management of cases, by increasing online accessibility for the legal community and, where appropriate, members of the public, as well as assisting judges in their task of deciding cases according to law quickly, inexpensively and as efficiently as possible. The strategy has provided the benefits of streamlining systems and processes of the Court as well as creating time efficiencies. More information about the eServices strategy can be seen at Part 4 at page 49.

**APPENDIX 11****COMPLIANCE WITH ANNUAL REPORT REQUIREMENTS**

The Federal Court's Annual Report complies with the reporting requirements of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), rules made under the PGPA Act, related Orders and other applicable legislation.

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   see also Fair Work Act  
 Workplace Relations/Fair Work matters  
   Jurisdiction, 21  
   Workload and statistics, 29  
   see also Employment and Industrial Relations NPA  
 World Bank Land and Poverty conference, 69  
*Wotton v State of Queensland*, 42

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## GLOSSARY

<b>Administrative Notices</b>	See Practice Notes.
<b>Alternative procedure agreement</b>	A type of Indigenous land use agreement.
<b>Appeal</b>	An application to a higher court to review a decision of a lower court or tribunal. For example, an appeal from a decision of a Federal Circuit Court judge may be made to the Federal Court, and a decision of a single judge of the Federal Court may be the subject of an appeal to the Full Court of the Federal Court.
<b>Appellate jurisdiction</b>	The power given to a court to hear appeals in certain matters.
<b>Applicant</b>	The individual, organisation or corporation who/which applies to the Court to start legal proceedings against another person or persons. Also known as ‘plaintiff’ in admiralty and corporations matters and in some other courts. In the National Native Title Tribunal the applicant is the person or persons who make an application for a determination of native title or a future act determination.
<b>Application</b>	The document that starts most proceedings in the Federal Court.
<b>Area agreement</b>	A type of Indigenous land use agreement.
<b>Body corporate agreement</b>	A type of Indigenous land use agreement.
<b>Cause of action</b>	A term used in the Federal Court’s case management system to classify proceedings commenced with the Court. There are sixteen main causes of action and five supplementary causes of action.
<b>Compensation application</b>	An application made by Indigenous Australians seeking compensation for loss or impairment of their native title.
<b>Cross appeal</b>	An application by a respondent in an appeal also seeking a review of the lower court or tribunal decision and made in response to the appeal. A cross appeal is not required if the respondent is simply seeking that the decision of the lower court or tribunal be upheld.
<b>Cross claim</b>	A claim made in a proceeding by one party against a co-party, such as the first respondent (or defendant) against the second respondent (or defendant). However, if the claim in the proceeding is by one party against an opposing party, such as the respondent (or defendant) against the applicant (plaintiff), it is called a counter claim. A cross claim has to be closely connected to what is in dispute in the original claim or a counter claim.



## GLOSSARY

<b>Directions</b>	Orders made by the Court or a judge in relation to the conduct of a proceeding. Before the trial or hearing of a matter a judge may give directions so that the parties involved will be properly ready. The directions usually set down a list of steps to be taken by the parties and the deadline for those steps. The steps usually involve filing of material and defining the issues that require a decision by the Court.
<b>Discovery</b>	A process by which the parties involved in a legal proceeding must inform each other of documents they have in their possession and which relate to the matters in dispute between the parties.
<b>Docket system</b>	A system by which each case is allocated to a particular judge who will then see the case through to completion. In the Federal Court the system is called the Individual Docket System (IDS).
<b>Electronic Court File</b>	An electronic court file is a digital version of the Court file including all documents filed with the Court or created by the Court.
<b>Exhibit</b>	A document or item produced in court for the purpose of becoming part of the evidence in a proceeding.
<b>Filing of documents</b>	The process of the Court accepting a document or documents lodged by a party to a proceeding.
<b>First instance</b>	A proceeding heard in the Court's original jurisdiction.
<b>Full Court</b>	Three or more judges sitting together to hear a proceeding.
<b>Future act</b>	A proposed activity on land and/or waters that may affect native title.
<b>Future act determination application</b>	An application requesting the National Native Title Tribunal (NNTT) to determine whether a future act can be done (with or without conditions).
<b>Future act determination</b>	A decision by the NNTT either that a future act cannot be done, or can be done with or without conditions. In making the determination, the Tribunal takes into account (among other things) the effect of the future act on the enjoyment by the native title party of their registered rights and interests and the economic or other significant impacts of the future act and any public interest in the act being done.
<b>Good faith negotiations (native title)</b>	All negotiation parties must negotiate in good faith in relation to the doing of future acts to which the right to negotiate applies (Native Title Act 1993 s 31(1)(b)). See the list of indicia put forward by the NNTT of what may constitute good faith in its Guide to future act decisions made under the Right to negotiate scheme at <a href="http://www.nntt.gov.au">www.nntt.gov.au</a> . Each party and each person representing a party must act in good faith in relation to the conduct of the mediation of a native title application (s 136B(4)).
<b>Hearing</b>	That part of a proceeding where the parties present evidence and submissions to the Court.



<b>ILUA</b>	Indigenous land use agreement, a voluntary, legally binding agreement about the use and management of land or waters, made between one or more native title groups and others (such as miners, pastoralists, governments).
<b>Interlocutory application</b>	Interlocutory proceedings are for dealing with a specific issue in a matter – usually between the filing of the application and the giving of the final hearing and decision. An interlocutory application may be for interim relief (such as an injunction) or in relation to a procedural step (such as discovery).
<b>Judgment</b>	The final order or set of orders made by the Court after a hearing, often accompanied by reasons which set out the facts and law applied in the case. A judgment is said to be ‘reserved’ when the Court postpones the delivery of the judgment to a later date to allow time to consider the evidence and submissions. A judgment is said to be ‘ex tempore’ when the Court gives the judgment orally at the hearing or soon after.
<b>Jurisdiction</b>	The extent of legal authority or power of the Court to apply the law.
<b>Litigants</b>	Individuals, organisations or companies who/which are the parties to a proceeding before the Court.
<b>Mediation (or Assisted Dispute Resolution)</b>	A process in which an impartial third party (the mediator) assists the parties in an attempt to bring about an agreed settlement or compromise, without requiring a decision of the Court.
<b>Milestone agreement</b>	An agreement on issues, such as a process or framework agreement, that leads towards the resolution of a native title matter but does not fully resolve it.
<b>National Court Framework</b>	The National Court Framework is a number of reforms to the Court’s case management approach.
<b>National Native Title Register</b>	The record of native title determinations.
<b>National Native Title Tribunal Member</b>	A person who has been appointed by the Governor-General as a member of the Tribunal under the Native Title Act. Members are classified as presidential and non-presidential. Some members are full-time and others are part-time appointees.
<b>National Practice Area</b>	A subject matter areas in which the Court’s work is organised and managed.
<b>Native Title determination</b>	A decision by an Australian court or other recognised body that native title does or does not exist. A determination is made either when parties have reached an agreement after mediation (consent determination) or following a trial process (litigated determination).

## GLOSSARY

<b>Native title claimant application/claim</b>	An application made for the legal recognition of native title rights and interests held by Indigenous Australians.
<b>Native title representative body</b>	Representative Aboriginal/Torres Strait Islander Body also known as native title representative bodies are recognised and funded by the Australian Government to provide a variety of functions under the Native Title Act 1993. These functions include assisting and facilitating native title holders to access and exercise their rights under the Act, certifying applications for determinations of native title and area agreements (ILUA), resolving intra-indigenous disputes, agreement-making and ensuring that notices given under the NTA are brought to the attention of the relevant people.
<b>Non-claimant application</b>	An application made by a person who does not claim to have native title but who seeks a determination that native title does or does not exist.
<b>Notification</b>	The process by which people, organisations and/or the general public are advised by the relevant government of their intention to do certain acts or by the NNTT that certain applications under the Act have been made.
<b>On country</b>	Description applied to activities that take place on the relevant area of land, for example mediation conferences or Federal Court hearings taking place on or near the area covered by a native title application.
<b>Original jurisdiction</b>	The authority or legal power of the Court to hear a case in the first instance.
<b>Parties</b>	People involved in a court case. Applicants, appellants, respondents, defendants, are generally called 'parties'.
<b>PBC</b>	Prescribed body corporate, a body nominated by native title holders which will represent them and manage their native title rights and interests once a determination that native title exists has been made.
<b>Practice Notes and Administrative Notices</b>	The Court publishes Practice Notes and Administrative Notices. Practice Notes are issued by the Chief Justice on advice of the judges of the Court. Administrative Notices are issued by each District Registrar at the request, or with the agreement, of the judges in the District Registry to which the notice relates.
<b>Proceeding</b>	The regular and orderly progression of a lawsuit, including all acts and events between the time of commencement and the judgment.
<b>Register of Indigenous Land Use Agreements</b>	A record of all indigenous land use agreements that have been registered. An ILUA can only be registered when there are no obstacles to registration or when those obstacles have been resolved.
<b>Register of Native Title Claims</b>	The record of native title claimant applications that have been filed with the Federal Court, referred to the Native Title Registrar and generally have met the requirements of the registration test.

<b>Registered native title claimant</b>	A person or persons whose names(s) appear as ‘the applicant’ in relation to a claim that has met the conditions of the registration test and is on the Register of Native Title Claims.
<b>Registration test</b>	A set of conditions under the Native Title Act 1993 that is applied to native title claimant applications. If an application meets all the conditions, it is included in the Register of Native Title Claims, and the claimants then gain the right to negotiate, together with certain other rights, while their application is under way.
<b>Regulations</b>	The Federal Court of Australia Regulations 2004 which prescribe the filing and other fees that must be paid in relation to proceedings in the Federal Court.
<b>Respondent</b>	The individual, organisation or corporation against whom/which legal proceedings are commenced. Also known as a ‘defendant’ in admiralty and corporations matters and in some courts. In an appeal it is the party who/which did not commence the appeal.
<b>Rules</b>	Rules made by the judges which set out the procedures for conducting a proceeding. The current rules of the Federal Court are the Federal Court Rules, Federal Court (Corporations) Rules 2000 (for proceedings under the Corporations Act 2001) and Federal Court (Bankruptcy) Rules 2016 (for proceedings under the Bankruptcy Act 1966).
<b>Self Represented Litigant</b>	A party to a proceeding who does not have legal representation and who is conducting the proceeding on his or her own behalf.
<b>Setting Down Fee</b>	A fee that must be paid when a date is set for hearing a matter. It includes the first day’s hearing fee and, usually, has to be paid at least 28 days before the hearing.

# FEDERAL COURT REGISTRIES

## PRINCIPAL REGISTRY

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## AUSTRALIAN CAPITAL TERRITORY DISTRICT REGISTRY

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Childers Street, Canberra City ACT 2600**

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- TTY users phone 133 677 then ask for your local registry's phone number as listed above
- Speak and Listen users phone 1300 555 727 then ask for your local registry's phone number as listed above
- Internet relay users connect to the NRS and then ask for your local registry's phone number as listed above.
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