



FEDERAL COURT OF AUSTRALIA ANNUAL REPORT 2016-2017



Iritjinga (Eagle Hawk) belonging to the Aranda and Luritja Peoples of Hermannsburg (Ntaria) in the Central Desert of Northern Territory

In 2017, when the Court was developing the requirements for its new Digital Court Program (to replace the old case management system called Casetrack) it was decided that a name for the new system was needed.

Staff were encouraged to come up with names, and in researching one suggestion about using the name of a particular colour, the CEO and Principal Registrar came across some academic work about the theory of colours and noticed a reference to Indigenous connections. Those 'connections' made him think of the idea to find an Aboriginal word that would be a suitable name for the new system.

The CEO met with Ms Larissa Minniecon, the Court's Aboriginal Cultural HR Advisor, and discussed some concepts that would be suitable – something was needed that recognised that the new system would include the general federal law and family law jurisdiction requirements.

A few days later, Larissa produced a copy of an academic paper about Aboriginal Astronomy. She told the CEO that he would find the 'word' in the paper.

"Eventually I came across a word that, instantly, excited my attention. It was the explanation of the meaning of the word that left me with a sense of humility and how it was relevant to the work we do. Here is the explanation and the word is easily identified. I hope you, like me, find it thought provoking." – **Warwick Soden**

'By watching the movement of the stars the Aborigines of central Australia discerned for themselves that certain stars neither rise nor set, i.e. they are circumpolar. Thus, they knew that the Iritjinga (Eagle) constellation which was made up of some of the stars of the Southern Cross (Gamma and Delta Crucis) and the Pointers (Gamma and Delta Centauri) was circumpolar.

It is interesting to note that in Aboriginal astronomy it is not necessarily the case that only the brightest most conspicuous stars are grouped together when forming a constellation. This is illustrated in the case of the Aboriginal constellation Iritjinga (Eagle).

In this group, the stars of the Southern Cross, Alpha Crucis (magnitude 0.75) – the lower the magnitude the brighter the star – and Beta Crucis (magnitude 1.25), are connected by their marriage classes with the Pointer Alpha Centauri (magnitude – 0.04), whereas the stars Gamma and Delta Crucis (magnitudes 1.56 and 2.78 respectively), are grouped with the less luminous stars Gamma and Delta Centauri (with magnitudes 2.18 and 2.56 respectively), in disregard of their close proximity to the brilliant stars Alpha and Beta Crucis.

IRITJINGA



This different perspective arises as a result of grouping the stars in Aboriginal astronomy according to family and social relationships in Aboriginal society.'

'Iritjinga is such an appropriate representation of Aboriginal societal knowledge. As we researched further into Iritjinga it was such a natural phenomenon for our courts as it represented exactly what our courts and the future of Casetrack was designed for: "Aboriginal astronomy according to family and social relationships in Aboriginal society." Understanding that Iritjinga (the Eagle Hawk constellation) belonged to the Arrernte Nation of Central Desert, Alice Springs NT – I had to identify if our use of Iritjinga was permitted and approved. I found it after four weeks, a lot of

*correspondence within Alice Springs, NT, five different organisations and an article written by Dr Ragbir Bhathal, the author of Astronomy in Aboriginal Culture. They were all most helpful. I would like to especially acknowledge Dr Ragbir Bhathal, who helped me explain the Iritjinga constellation and approved the use of his work on 'Aboriginal Astronomy' by granting permission to quote his work. In Alice Springs, representatives from the NT Government Aboriginal Interpreter Service and the Strehlow Research Centre – Museum and Art Gallery of the Northern Territory, who looked at this request and agreed with the very fitting concept of 'open knowledge' and that Iritjinga had a big and powerful totem, with many sites of significance and restricted ceremonial acts across Central Australia'. **Larissa Minniecon***



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20 September 2017

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

Dear Attorney-General

We have pleasure in submitting the annual report on the operations of the Federal Court of Australia for the financial year ending 30 June 2017.

The report is submitted in accordance with:

- section 18S of the *Federal Court of Australia Act 1976*
- section 17AI of the Public Governance, Performance and Accountability Rule 2014
- section 46 of the *Public Governance, Performance and Accountability Act 2013*

This report has been prepared in accordance with the Department of Finance's *Resource Management Guide No. 135: annual reports for non-corporate Commonwealth entities* (May 2017).

This is the Court's 28th annual report.

Yours sincerely

The Honourable James Allsop AO
Chief Justice

Warwick Soden OAM
Chief Executive Officer and Principal Registrar

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.

PURPOSE

As outlined in the Court's Corporate Plan, the purpose of the Court is to contribute to the social and economic development and wellbeing of all Australians by applying and upholding the rule of law to deliver remedies and enforce rights.



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) 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.



PART 1

THE COURT’S OUTCOME AND PROGRAM STRUCTURE

The Court’s outcome and program structure appears in Part 4. This report uses the outcome and program structure to outline the Court’s work and performance during 2016–17. 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 70.

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

At 30 June 2017, 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 48 judges, there were two whose work as members of other courts or tribunals occupied all, or most, of their time.

Table 1.1: Judges of the Court (as at 30 June 2017)

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
Chief Justice The Hon James Leslie Bain ALLSOP AO	Sydney	
The Hon Anthony Max NORTH	Melbourne	Industrial Relations Court of Australia – Judge Supreme Court of the ACT – Additional Judge
The Hon John Alfred DOWSETT AM	Brisbane	Supreme Court of the ACT – Additional Judge
The Hon Susan Coralie KENNY	Melbourne	Administrative Appeals Tribunal – Deputy President
The Hon Antony Nicholas SIOPIS	Perth	Administrative Appeals Tribunal – Deputy President
The Hon Andrew Peter GREENWOOD	Brisbane	Administrative Appeals Tribunal – Deputy President Copyright Tribunal – President Australian Competition Tribunal – Part-time Deputy President

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Steven David RARES	Sydney	Supreme Court of the ACT – Additional Judge
The Hon Berna Joan COLLIER	Brisbane	National & Supreme Courts of Papua New Guinea – Judge Administrative Appeals Tribunal – Deputy President Supreme Court of the ACT – Additional Judge
The Hon Anthony James BESANKO	Adelaide	Supreme Court of Norfolk Island – Chief Justice Supreme Court of the ACT – Additional Judge
The Hon Richard Ross Sinclair TRACEY AM RFD	Melbourne	Australian Defence Force – Judge Advocate General Defence Force Discipline Appeal Tribunal – President
The Hon John Eric MIDDLETON	Melbourne	Australian Competition Tribunal – Part-time President Administrative Appeals Tribunal – Deputy President Australian Law Reform Commission – Part-time Commissioner
The Hon John GILMOUR	Perth	Supreme Court of the ACT – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon John Alexander LOGAN RFD	Brisbane	Administrative Appeals Tribunal – President (Acting 16 May to 30 June 2017) Defence Force Discipline Appeal Tribunal – Deputy President National and Supreme Courts of Papua New Guinea – Judge
The Hon Geoffrey Alan FLICK	Sydney	
The Hon Neil Walter McKERRACHER	Perth	
The Hon John Edward REEVES	Brisbane	Supreme Court of the NT – Additional Judge
The Hon Nye PERRAM	Sydney	Copyright Tribunal – Deputy President Administrative Appeals Tribunal – Deputy President
The Hon Jayne Margaret JAGOT	Sydney	Supreme Court of the ACT – Additional Judge Administrative Appeals Tribunal – Deputy President Copyright Tribunal – Deputy President
The Hon Lindsay Graeme FOSTER	Sydney	Supreme Court of the ACT – Additional Judge Australian Competition Tribunal – Part-time Deputy President

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Michael Laurence BARKER	Perth	Administrative Appeals Tribunal – Deputy President
The Hon John Victor NICHOLAS	Sydney	
The Hon David Markey YATES	Sydney	Australian Competition Tribunal – Part-time Deputy President
The Hon Mordecai BROMBERG	Melbourne	
The Hon Anna Judith KATZMANN	Sydney	Supreme Court of the ACT – Additional Judge
The Hon Alan ROBERTSON	Sydney	Administrative Appeals Tribunal – Deputy President Australian Competition Tribunal – Part-time Deputy President
The Hon Bernard Michael MURPHY	Melbourne	
The Hon Iain James Kerr ROSS AO	Melbourne	Fair Work Australia – President Supreme Court of the ACT – Additional Judge
The Hon John Edward GRIFFITHS	Sydney	
The Hon Duncan James Colquhoun KERR Chev LH	Hobart	
The Hon Kathleen FARRELL	Sydney	Australian Competition Tribunal – Part-time Deputy President
The Hon Tony PAGONE	Melbourne	Administrative Appeals Tribunal – Deputy President
The Hon Jennifer DAVIES	Melbourne	Administrative Appeals Tribunal – Deputy President
The Hon Debra Sue MORTIMER	Melbourne	
The Hon Darryl Cameron RANGIAH	Brisbane	Supreme Court of the ACT – Additional Judge
The Hon Richard Conway WHITE	Adelaide	Administrative Appeals Tribunal – Deputy President
The Hon Michael Andrew WIGNEY	Sydney	Supreme Court of the ACT – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon Melissa Anne PERRY	Sydney	Supreme Court of the ACT – Additional Judge

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Jacqueline Sarah GLEESON	Sydney	
The Hon Jonathan Barry Rashleigh BEACH	Melbourne	
The Hon Brigitte Sandra MARKOVIC	Sydney	
The Hon Mark Kranz MOSHINSKY	Melbourne	
The Hon Robert James BROMWICH	Sydney	Supreme Court of the ACT – Additional Judge
The Hon Natalie CHARLESWORTH	Adelaide	
The Hon Stephen Carey George BURLEY	Sydney	
The Hon David John O'CALLAGHAN	Melbourne	
The Hon Michael Bryan Joshua LEE	Sydney	
The Hon Roger Marc DERRINGTON	Brisbane	
The Hon David Graham THOMAS	Brisbane	Administrative Appeals Tribunal – President

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

- 1 July 2016 – 24 July 2016 The Honourable Justice North
- 12 September 2016 – 2 October 2016 The Honourable Justice North
- 30 December 2016 – 2 January 2017 The Honourable Justice North
- 3 January 2017 – 10 January 2017 The Honourable Justice Dowsett
- 3 May 2017 – 7 May 2017 The Honourable Justice North
- 22 June 2017 – 27 July 2017 The Honourable 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 2016–17

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

- The **Honourable David John O’Callaghan** was appointed on 1 February 2017.
- The **Honourable Michael Bryan Joshua Lee** was appointed on 29 March 2017.
- The **Honourable Roger Marc Derrington** was appointed on 29 March 2017.
- The **Honourable David Graham Thomas** was appointed on 27 June 2017.

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

- The **Honourable Justice John Ronald Mansfield AM** retired upon reaching the compulsory retirement age for federal judges on 24 August 2016.
- The **Honourable Justice Robert John Buchanan** resigned his commission as a judge of the Court with effect from 9 September 2016.
- The **Honourable Justice James Joshua Edelman** resigned his commission as a judge of the Court with effect from 29 January 2017.
- The **Honourable Justice Christopher Neil Jessup** retired upon reaching the compulsory retirement age for federal judges on 15 April 2017.

Other appointments during the year include:

- **Justice Middleton** was appointed as a part-time President of the Australian Competition Tribunal on 1 July 2016.
- **Justice Greenwood** was appointed as a part-time Deputy President of the Australian Competition Tribunal on 25 August 2016.

- **Justice Yates** was appointed as a part-time Deputy President of the Australian Competition Tribunal on 25 August 2016.
- **Justice Robertson** was appointed as a part-time Deputy President of the Australian Competition Tribunal on 25 August 2016.
- **Justice Bromwich** was appointed as a judge to the Supreme Court of the Australian Capital Territory on 5 September 2016.
- **Justice Middleton** was reappointed as a part-time member of the Australian Law Reform Commission on 28 November 2016.
- **Justice Jagot** was reappointed as Deputy President of the Australian Copyright Tribunal on 8 December 2016.
- **Justice Logan RFD** was appointed to the Administrative Appeals Tribunal as Acting President for the period 16 May 2017 to 30 June 2017.
- **Justice Foster** was reappointed as a part-time Deputy President of the Australian Competition Tribunal on 8 June 2017.
- **Justice Wigney** was appointed a judge of the Supreme Court of Norfolk Island on 15 June 2017.

FEDERAL COURT REGISTRIES

CHIEF EXECUTIVE OFFICER AND PRINCIPAL REGISTRAR

Mr Warwick Soden OAM is the Chief Executive Officer and Principal Registrar of the Court.

The Chief Executive Officer and Principal Registrar is appointed by the Governor-General on the nomination of the Chief Justice and 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 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 Queensland District Registry.
- The Victorian District Registry is the Principal Registry for each of the Defence Force Discipline Appeal Tribunal and 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 Chief Executive Officer and Principal Registrar under section 18N of the Federal Court of Australia Act and are:

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

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, Federal Court (Corporations) Rules 2000, Federal Court (Criminal Proceedings) Rules 2016, the Admiralty Act and Admiralty Rules 1988. These include issuing process, taxing costs and settling appeal indexes. They also exercise various powers delegated by judges under the Federal Court of Australia Act, *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 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 2017 there were 1102 staff employed by the entity under the Public Service Act. Staff providing services specifically to the Federal Court total 373 (excludes casual employees). Generally, judges have two personal staff members. More details on court staff can be found in Part 4 and Appendix 9.



10 Introduction

10 Significant issues and developments

THE YEAR IN REVIEW



PART 2



This part of Iritjinga contains elements of the familiar Southern Cross. This is the brightest part of the star formation. Stars are used to show the progress of time or identify particular events in the calendar. The celestial knowledge of the movement and time is observed through gradual annual seasonal change of the constellation in the same direction.

Adele Pring: *Astronomy and Australian Indigenous peoples (draft), 14 July 2017 (pg. 12-13).*





THE YEAR IN REVIEW

INTRODUCTION

During 2016–17, 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 the relentless improvement of practices, processes and technology has provided ongoing recognition of its leading role as a modern and innovative court.

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 in this part.

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 key purpose of the NCF is to reinvigorate the Court's approach to case management by further modernising the Court's operations so that the Court is better placed to meet the demands of litigants and can operate as a truly national and international court.

The Court's entire workload has been reorganised by reference to nine National Practice Areas in order to:

- foster consistent national practice
- utilise and develop specialised judicial and registrar skills, and
- achieve the effective, orderly and expeditious discharge of the Court's business.

New Practice Notes

A key component of the NCF was the review of the Court's practice documents to ensure nationally consistent and simplified practice. The practice documents have been consolidated and refined from 60 practice and administrative notes, to 28 national practice notes. On 25 October 2016, the Chief Justice revoked all existing practice notes and issued the new practice notes. 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, in line with a greater focus on the delivery of electronic court services.

40TH ANNIVERSARY

On 7 February 2017, the Federal Court marked the 40th anniversary of its first sitting, with a special sitting held to acknowledge the occasion. The anniversary provided an opportunity to reflect on the formation of the Court and its evolution over the past 40 years.

The sitting was attended by a large number of distinguished guests, including current and former chief justices from Australia and overseas, current and former members of the Australian judiciary, court employees and members of the profession.

The Federal Court has a proud 40 years of legal service, including leading some of the most important reforms in case management history. It has created an efficient dispute resolution service and is a world leader in digital innovation.

The Court also published, on its website, documents, materials, images and video from its archives to mark the occasion.

ORGANISATIONAL REVIEW

The Court has commissioned an organisational review to consider how it may be structured to best support its core work. A key purpose of the organisational review is to extend the NCF reforms and the application of core NCF principles to other areas of the Court's work.

A review of the structure is necessary because the environment in which the Court now operates is very different to that which existed when the Court came into being. Work may now be organised around the flexibility of a digital operation.

The Nous Group was engaged to provide the Court with advice on how its structure might be better organised. The essence of Nous' advice relates to three areas:

1. national judicial support (including national allocation of all judicial and registrar matters)
2. national case support, and
3. corporate services.

Consultation was undertaken with staff at every registry throughout June 2017 and a process is now underway to further define and carry out the appropriate reform. Any proposed changes to the organisation will position the Court as an example of excellence – how modern courts should organise and manage their business.

DIGITAL INNOVATION

Digital Court Program

The Digital Court Program is a variety of technology related projects that aim to streamline core business systems and create flexibility and operational efficiency; support the courts ongoing digital transformation; and improve service delivery.

It includes improvements to the existing Case Management System, a new document management system to hold all the court documents in electronic form, new features to support the lodgment and access of electronic documents and a gradual transfer of existing paper based processes to digital form.

The program provides all the courts (including the Family Court of Western Australia) with an opportunity to work together to maximise the advantages that technology provides. The wider community has an expectation that courts work digitally and the Court understands the need to keep up with the service expectations of the profession and the community.

The following are the scoped projects and work is well underway to deliver these full capabilities over the next 18–24 months.

- **Electronic Lodgment:** develop a lodgment capability across all courts that will support the creation of the Official Court Record at lodgment stage which considers the recordkeeping and archiving requirements of all courts.
- **Case Management:** deliver a single docket view across the general federal law and family law jurisdictions and provide an enhanced client experience for internal users of the courts.
- **Digital/Electronic Court File:** develop a digital/electronic court file (similar to that which has operated for the last three years in the FCA) replacing the physical court record for all the courts.
- **Document and Record Management Systems:** deliver a capability that will support the Official Court Record being electronic and provide record management capability for long term storage and archival of information.

WORKLOAD

In 2016–17 the total number of filings (including appeals) in the Court decreased by five per cent to 5695. Filings in the Court's original jurisdiction (excluding appeals) decreased by seven per cent to 4650.

This is a statistically insignificant shift and the filings remained substantially increased compared to a low of 3445 original jurisdiction filings in 2014–15.

Combined filings of FCA and FCC original jurisdiction increased by five per cent to 14,354.

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, Federal Court registrars dealt with, and disposed of, 3042 FCC bankruptcy matters which equates to 89.7 per cent of the FCC's bankruptcy caseload.

Among the total disposals (7920) 49.3 per cent of the FCC's General Federal Law workload is dealt with by registrars; and 50.7 per cent is dealt with by judges.

Further information about the Court's workload, including the management of appeals is available in Part 3 and Appendix 5.

PERFORMANCE

The Court has two targets for timely completion of cases:

1. Eighty-five per cent of cases completed within 18 months of commencement

During the reporting year, the Court completed 94 per cent of cases in less than 18 months. As shown in Figure A5.5 and Table A5.5 in Appendix 5, over the last five years the Court has consistently exceeded its benchmark of 85 per cent, with the average over the five years being 92 per cent.

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 2016–17, the Court handed down 1712 judgments for 1502 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 a slight decrease from last year by 64 judgments. The data indicates that 83 per cent of appeals (both full court and single judge) were delivered within three months and 79 per cent of judgments at first instance were delivered within three months of the date of being reserved (a slight decrease from 2015–16).

FINANCIAL MANAGEMENT AND ORGANISATIONAL PERFORMANCE

In 2015–16 the Australian Government announced the amalgamation of the corporate services functions of the Federal Court of Australia (FCA), the Family Court of Australia (FCoA) and the Federal Circuit Court of Australia (FCC). From 1 July 2016 the *Courts Administration Legislation Amendment Act 2016* established the amalgamated entity, known as the Federal Court of Australia (the Entity).

The financial figures outlined in this report for 2016–17 are for the consolidated results of FCA, the National Native Title Tribunal (NNTT), the FCoA, the FCC and the Commonwealth Courts Corporate Services (Corporate Services). The comparative figures for 2015–16 show the results of the FCA and NNTT only.

The financial statements show an operating loss of \$1.539m before depreciation costs of \$13.725m and Other Gains of \$9.631m. Other Gains relates to the transfer of tangible assets to the entity which were received free of charge. The deficit is significantly lower than the budgeted and approved deficit of \$5.5m and is as a result of the entity closely monitoring costs to ensure savings were achieved wherever possible, consistent with the overall strategy better positioning itself to manage within a financially constrained environment.

The next three-year budget cycle continues to challenge the entity to make further savings. In 2017–18 the entity has an approved deficit of \$2.5m and thereafter is expected to achieve a balanced budget. With over 60 per cent of the entity's costs relating to property and judicial costs, which are largely fixed, the ability to reduce overarching costs is limited. The entity is endeavouring to achieve a budget outcome in 2017–18 in line with the authorised deficit.

MERGER OF CORPORATE SERVICES

Throughout 2016–17, work continued on consolidating the merger of corporate services, focussing on maintaining and improving the service levels to the Federal Court, Family Court, Federal Circuit Court and the NNTT, whilst delivering a reduction in the cost of corporate services to the courts and positioning corporate services to drive further cost efficiencies in future years.

A key focus during the year has been IT and system amalgamation projects, targeted at simplifying the combined court environment to achieve efficiency improvements and synergies to reduce the cost of delivery. Duplicate systems have been migrated onto single unified platforms with redundant systems decommissioned. Key projects successfully delivered include:

- consolidation of Wide Area Network to single contract
- migration of the FCoA/FCC network directory services from Novell to Microsoft
- migration of the FCoA/FCC email from Lotus Notes to Microsoft technology
- migration to single instance of Aurion across all courts
- migration to single instance of Finance One and the introduction of enterprise budgeting module implemented across all courts
- migration of email to a cloud service
- a new Business Intelligence Report portal for all courts for accessing reports directly with near real-time data, and
- automation of management reports for all courts.

A report on the delivery of corporate services in 2016–17 can be found in Part 4 on page 48.



Warwick Soden

Chief Executive Officer and Principal Registrar
Federal Court of Australia



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THE WORK OF THE COURT IN 2016-17



PART 3



This section of Iritjinga highlights the star groupings. Star groups detail important models of how the world works. The particular importance of this section is the Luritja and Aranda camps and how these two groups are located or interact. Stars to the East (Aranda) are seen as one camp and stars to the West (Luritja) are another. The Milky Way is a long celestial river that divides the camps, but there are stars within the Milky Way which are a mixture of the two camps.

Dr R Bhathal: *Astronomy in Aboriginal Culture; Bhathal: Aboriginal Skies. A&G October 2006, Vol.47 (pg. 5.28).*





THE WORK OF THE COURT IN 2016–17

INTRODUCTION

The Federal Court has one key outcome identified for its work, which is, through its jurisdiction, apply and uphold the rule of law for litigants in the Federal Court of Australia and parties in the National Native Title Tribunal (NNTT) through the resolution of matters according to law and through the effective management of the administrative affairs of the Court and the NNTT.

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 147 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 150 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 149 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* (Cth) (NTA). 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 NNTT and matters filed under the ADJR Act involving native title. The Court's native title jurisdiction is discussed on page 29. Figure A5.9.6 on page 150 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 six arrests. See Figure A5.9.2 on page 148 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 149.

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 bankruptcy estates.

CHANGES TO THE COURT'S JURISDICTION IN 2016–17

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

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 dealings or false advertising.

The above areas fall under the Commercial and Corporations NPA. Figure A5.9.3 on page 148 provides statistics on this practice area.

Since late 2009, the Court has also had jurisdiction in relation to indictable offences for serious cartel conduct. This jurisdiction falls under the Federal Crime and Related Proceedings NPA together with summary prosecutions and criminal appeals and other related matters. During the reporting year the Court's first criminal cartel matter was filed, guilty pleas to all charges were subsequently entered and a sentence hearing was held. Judgment on sentence remained reserved at the end of the year.

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 28. 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 27. Table A5.3 on page 140 shows the appeals filed in the Court since 2012–13.

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

- *Budget Savings (Omnibus) Act 2016*
- *Building and Construction Industry (Improving Productivity) Act 2016*
- *Comcare and Seacare Legislation Amendment (Pension Age and Catastrophic Injury) Act 2017*
- *Copyright Amendment (Disability Access and Other Measures) Act 2017*
- *Corporations Amendment (Auditor Registration) Act 2016*
- *Corporations Amendment (Crowd-sourced Funding) Act 2017*
- *Counter Terrorism Legislation Amendment Act (No 1) 2016*
- *Education and Other Legislation Amendment Act (No. 1) 2017*
- *Fair Work (Registered Organisations) Amendment Act 2016*
- *Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Act 2017*
- *Human Rights Legislation Amendment Act 2017*
- *Insolvency Law Reform Act 2016*
- *National Cancer Screening Register Act 2016*
- *National Vocational Education and Training Regulator Amendment (Annual Registration Charge) Act 2017*
- *Native Title Amendment (Indigenous Land Use Agreements) Act 2017*
- *Parliamentary Business Resources Act 2017*
- *Parliamentary Entitlements Legislation Amendment Act 2017*
- *Therapeutic Goods Amendment (2016 Measures No 1) Act 2017*
- *Treasury Laws Amendment (Fair and Sustainable Superannuation) Act 2016*
- *Treasury Laws Amendment (Combating Multinational Tax Avoidance) Act 2017*
- *VET Student Loans Act 2016*

AMENDMENTS TO THE FEDERAL COURT OF AUSTRALIA ACT

During the reporting year, some significant amendments to the Federal Court Act, made by the *Courts Administration Legislation Amendment Act 2016* (Amendment Act), took effect from 1 July 2016.

The Amendment Act implemented a measure announced as part of the Federal Government's 2015–16 Budget to merge the corporate services functions of the Federal Court with those of the Family Court (FCoA) and FCC by bringing the three courts (along with the NNTT which was already within the Federal Court) into a single administrative entity and making legislative provisions for the courts and the NNTT to share corporate services. These changes were aimed at generating efficiencies in the delivery of shared corporate services by reducing unnecessary duplication with the savings gained being reinvested to support the core functions of the courts.

As a result of the amendments to the Federal Court Act (along with complementary amendments to the *Family Law Act 1975*, *Federal Circuit Court of Australia Act 1999* and *Native Title Act 1993* (NTA) and relatively minor consequential amendments to a range of other enactments), the Federal Court's Chief Executive Officer and Principal Registrar (Federal Court CEO) is responsible for managing the corporate services functions and for providing these services to the three courts and the NNTT.

The Federal Court CEO is the accountable authority for the administrative entity (known as the 'Federal Court of Australia') under the *Public Governance, Performance and Accountability Act 2013* and the agency head for the purposes of the *Public Service Act 1999*.

The Chief Justice of the Federal Court remains responsible for the business of the Federal Court and the management of the administrative affairs of the Federal Court (now defined to exclude corporate services which are also now defined). The Federal Court's Chief Justice continues to be assisted in the management of the Court's administrative affairs by the Federal Court CEO. The Federal Court CEO must consult with each of the Chief Justices of the Federal Court and Family Court, Chief Judge of the Federal Circuit Court and the Chief Executive Officers and Principal Registrars of the Family Court and the Federal Circuit Court and the President of the NNTT as required in relation to the provision of shared corporate services.

FEE REGULATION

As noted in the 2015–16 Annual Report, by virtue of the biennial adjustment provisions (section 2.20) of the Federal Court and Federal Circuit Court Regulation 2012, most filing and other fees were increased 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 that index for the March quarter 2014 and was applied to each fee mentioned in Schedule 1 of the Regulation save for the fees for filing human rights and some Fair Work applications and for service and execution of process.

The fees for filing some Fair Work applications increased from 1 July 2016 and will again increase from 1 July 2017. Under the Regulation, that fee is fixed as the fee prescribed under subsection 395(2) of the *Fair Work Act 2009* for the filing of an application in the Fair Work Commission. That latter fee is adjusted on 1 July of each year for changes in the Consumer Price Index by regulation 3.07 of the Fair Work Regulations 2009.

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

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, save and except for some consequential amendments on the making of the Federal Court (Criminal Proceedings) Rules 2016 noting that those new rules govern criminal proceeding in the Federal Court, noting that some powers that may be exercised by a Registrar are contained in those new rules, repealing a Division and a Part which was replaced in the new rules and omitting a reference to repealed rule.

OTHER RULES

In some specialised areas of the Federal Court's jurisdiction, the judges have made rules which govern relevant proceedings in the Court; however, in each of those areas, the Federal Court Rules continue to apply where they are relevant and not inconsistent with the specialised rules.

The Federal Court (Corporations) Rules 2000 govern proceedings in the Federal Court under the *Corporations Act 2001* and *Australian Securities and Investments Commission Act 2001*, as well as proceedings under the *Cross-Border Insolvency Act 2008* which involve a corporate debtor.

The Federal Court (Bankruptcy) Rules 2016 govern proceedings in the Federal Court under the *Bankruptcy Act 1966*, as well as proceedings under the *Cross-Border Insolvency Act 2008* involving a debtor who is an individual.

With effect from 10 November 2016, the Federal Court (Criminal Proceedings) Rules 2016 were made to govern all criminal proceedings in the Federal Court, including summary criminal proceedings, indictable primary proceedings and criminal appeal proceedings.

Those rules were designed, as far as practicable, to provide a single set of rules for the conduct of criminal proceeding in the Court and to address most of the issues which are likely to arise on a day-to-day basis in any such proceeding. For that reason, the rules for the conduct of summary prosecutions and criminal appeals from the Supreme Court of a Territory were removed from the Federal Court Rules and included in the Federal Court (Criminal Proceedings) Rules.

The Admiralty Rules 1988 govern proceedings in the Federal Court under the *Admiralty Act 1988*.

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, *Federal Court (Bankruptcy) Rules 2016* and, since 10 November 2016, *Federal Court (Criminal Proceedings) Rules*.

No new forms were approved by the Chief Justice for the purposes of the Federal Court Rules during the reporting year. On 25 October 2016, the Chief Justice approved a new Bill of Costs form for use for all bills which were prepared after that date.

On 10 November 2016 the Chief Justice approved, with immediate effect, the following forms for the purposes of the Federal Court (Criminal Proceedings) Rules:

- CP1 General form: indictable primary proceedings
- CP2 General form: summary criminal proceedings
- CP3 General form: criminal appeal proceedings
- CP4 Notice of acting: appointment of lawyer
- CP5 Notice of termination of lawyer's retainer
- CP6 Notice of ceasing to act
- CP7 Notice of acting: change of lawyer

CP8	Notice of intention of ceasing to act	CP31	Bail application
CP9	Affidavit	CP32	Application to vary or revoke bail order
CP10	Notice of address for service	CP33	Bail undertaking
CP11	Notice of change of address for service	CP34	Third party security undertaking
CP12	Summons: summary criminal proceedings	CP35	Application for direction to issue notice of proposed forfeiture
CP13	Information: summary criminal proceedings	CP36	Direction to issue notice of proposed forfeiture
CP14	Indictment	CP37	Notice of proposed forfeiture
CP15	Indictment information notice	CP38	Notice of objection to forfeiture
CP16	Application for extension of time to file indictment	CP39	Request for service in a foreign country
CP17	Application for an order discharging the accused	CP40	Request for transmission to a foreign country
CP18	Notice of particulars of alibi	CP41	Subpoena to attend to give evidence
CP19	Notice of particulars of mental impairment	CP42	Subpoena to produce a document or thing
CP20	Summons to attend for jury service	CP43	Subpoena to attend to give evidence and to produce a document or thing
CP21	Application for leave to appeal	CP44	Subpoena – Notice and declaration by addressee
CP22	Application for extension of time and for leave to appeal	CP45	Interlocutory application
CP23	Notice withdrawing appeal or application for leave to appeal or application for an extension of time	CP46	Summons to appear before the Court
CP24	Notice of appeal	CP47	Order to produce a prisoner
CP25	Application for extension of time to file notice of appeal	CP48	Warrant for arrest
CP26	Application for an order to allow inspection of report	CP49	Warrant for imprisonment
CP27	Application for leave to refer a question of law	CP50	Notice of intention to adduce evidence of previous representation
CP28	Notice of referral of a question of law	CP51	Notice of intention to adduce tendency evidence
CP29	Notice of intended appearance at hearing of an application	CP52	Notice of intention to adduce coincidence evidence
CP30	Notice of intended appearance at hearing of a question of law		

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, rule 1.07 of the Federal Court (Bankruptcy) Rules, rule 1.14, 1.15 and 4.20 of the Federal Court (Criminal Proceedings) Rules and the Court's inherent power to control its own processes. All Practice Notes are available on the Court's website.

A key component of the National Court Framework (NCF), a fundamental reform of the Court and the way it operates, was the review of the Court's practice documents to ensure nationally consistent and simplified practice.

Under the NCF, there are no longer administrative state-based notices and practice documents have been integrated and reduced to less than half the number that existed. After extensive internal and external consultation, on 25 October 2016, the Chief Justice revoked all existing Practice Notes and issued the following Practice Notes:

Central Practice Note

The Central Practice Note is the core practice note for court users and addresses the guiding NCF case management principles applicable to all NPAs.

- | | |
|---------|---|
| 1 CPN-1 | Practice Note: National Court Framework and Case Management |
|---------|---|

National Practice Area Practice Notes

Interlocking with the Central Practice Note are the practice notes in each NPA. These practice notes raise 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.

- | | |
|-----------|--|
| 2 ACLHR-1 | Administrative and Constitutional Law and Human Rights Practice Note |
| 3 A&M-1 | Admiralty and Maritime Practice Note |

- | | |
|----------|---|
| 4 C&C-1 | Commercial and Corporations Practice Note |
| 5 E&IR-1 | Employment and Industrial Relations Practice Note |
| 6 IP-1 | Intellectual Property Practice Note |
| 7 NT-1 | Native Title Practice Note |
| 8 TAX-1 | Taxation Practice Note |

General Practice Notes

The General Practice Notes (GPNs) apply to all or many cases across NPAs, or otherwise address important administrative matters. The GPNs were issued on a '12-month review' basis and the review period ends in October 2017. This allows the GPNs to be fully considered by the profession, allow further feedback to be received, and allow for any appropriate amendments to be made during or following the review period.

- | | |
|--------------|---|
| 9 GPN-CA | Class Actions Practice Note |
| 10 GPN-EXPT | Expert Evidence Practice Note |
| 11 GPN-SURV | Survey Evidence Practice Note |
| 12 GPN-COSTS | Costs Practice Note |
| 13 GPN-FRZG | Freezing Orders Practice Note |
| 14 GPN-SRCH | Search Orders Practice Note |
| 15 GPN-UNDR | Usual undertaking as to damages Practice Note |
| 16 GPN-SUBP | Subpoenas and Notices to Produce Practice Note |
| 17 GPN-ENF | Enforcement, Endorsement and Contempt Practice Note |
| 18 GPN-XBDR | Cross-border Insolvency: Cooperation with Foreign Courts or Foreign Representatives Practice Note |
| 19 GPN-OSE | Overseas Service and Evidence Practice Note |
| 20 GPN-FRGN | Foreign Judgments Practice Note |
| 21 GPN-AUTH | Lists of Authorities and Citations Practice Note |
| 22 GPN-ACCS | Access to Documents and Transcripts Practice Note |
| 23 GPN-TECH | Technology and the Court Practice Note |
| 24 GPN-INT | Interest on Judgments Practice Note |
| 25 GPN-TRIB | Consent Orders Involving a Federal Tribunal Practice Note |

Appeals Practice Note

26

Practice Note

Content of Appeal Books and Preparation for Hearing

Following consultation with the Law Council of Australia and the Commonwealth Director of Public Prosecutions, on 2 May 2017 the Chief Justice issued a further NPA Practice Note, which took effect from 15 May 2017, in relation to Federal Crime and Related Proceedings (CRIME-1).

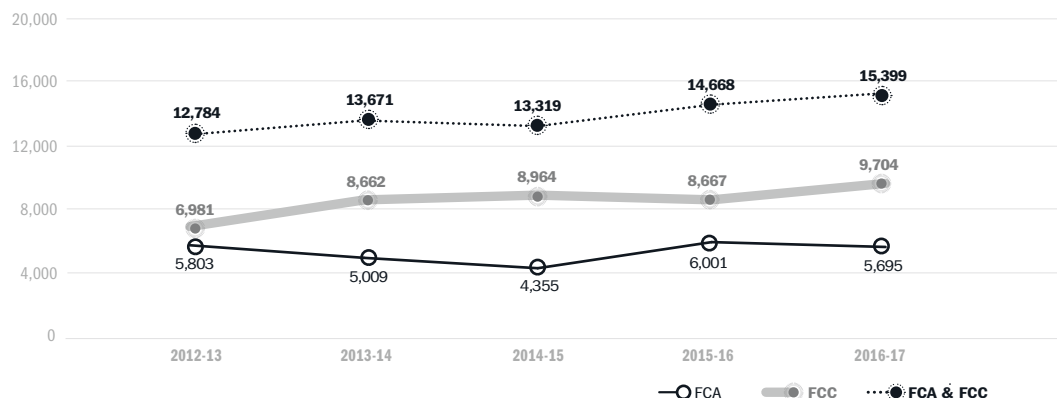
GUIDES

The Federal Court has also issued guides on a range of practical and procedural matters, such as communicating with chambers and registry staff, how different types of matters are likely to progress, the role and duties of expert witnesses and on the preparation of costs summaries and bills of costs. All guides are available on the Court's website.

WORKLOAD OF THE FEDERAL COURT AND FEDERAL CIRCUIT COURT

The Court has concurrent jurisdiction with the 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 2017 – Federal Court of Australia (FCA) and Federal Circuit Court (FCC)



In 2016–17, a total of 15,399 matters were filed in the two courts. 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 electronic court files for all files (ECFs) and lodgment, 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 NCF.

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 18 months from commencement as the period within which it should dispose of at least 85 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 18 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 2012 to 30 June 2017, 93 per cent of cases (excluding native title matters) were completed in less than 18 months, 89 per cent in less than 12 months and 78 per cent in less than six months (see Figure A5.4 on page 143). Figure A5.5 on page 143 shows the percentage of cases (excluding native title matters) completed within 18 months over the last five reporting years.

Delivery of judgments

In the reporting period, 1712 judgments were delivered. Of these, 679 judgments were delivered in appeals (both single judge and full court) and 1033 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. This was a slight reduction from the number of judgments delivered in 2015–16.

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 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, 4650 cases were commenced in, or transferred to, the Court's original jurisdiction. See Table A5.2 on page 139.

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*, and
- *Federal Circuit Court of Australia Act 1999*.

During the reporting year, 132 matters were remitted or transferred to the Court:

- four from the High Court
- 61 from the Federal Circuit Court
- 19 from the Supreme Courts, and
- 48 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*, and
- *Administrative Appeals Tribunal Act 1975*.

During 2016–17, two matters were transferred from the Court:

- one to the Federal Circuit Court
- one to Supreme Courts, and
- none to other courts.

Matters completed

Figure A5.2 on page 141 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 5627.

Current matters

The total number of current matters in the Court's original jurisdiction at the end of the reporting year was 3173 (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 2017 is set out in Table 3.1.

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

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

CAUSE OF ACTION	UNDER SIX MONTHS	6-12 MONTHS	12-18 MONTHS	18-24 MONTHS	OVER 24 MONTHS	SUB TOTAL
Administrative law	90	1	1	0	0	92
Admiralty	28	0	0	0	0	28
Bankruptcy	139	2	3	3	6	153
Competition law	7	1	0	1	3	12
Trade practices	166	6	7	5	14	198
Corporations	831	34	9	15	32	921
Human rights	44	0	0	2	0	46
Workplace relations	7	0	0	0	2	9
Intellectual property	154	7	10	6	18	195
Migration	113	0	0	0	0	113
Miscellaneous	162	8	3	2	4	179
Taxation	52	1	16	4	5	78
Fair Work	146	5	1	0	3	155
Total	1939	65	50	38	87	2179
Percentage of total	89.0%	3.0%	2.3%	1.7%	4.0%	100.00%
Running total	1939	2004	2054	2092	2179	
Running percentage	89.0%	92.0%	94.3%	96.0%	100.0%	

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

	UNDER SIX MONTHS	6-12 MONTHS	12-18 MONTHS	18-24 MONTHS	OVER 24 MONTHS	SUB TOTAL
Native Title Action	108	9	4	12	162	295
Percentage of total	36.6%	3.1%	1.4%	4.1%	54.9%	100.0%
Running total	108	117	121	133	295	
Running percentage	36.6%	39.7%	41.0%	45.1%	100.0%	

The number of native title matters over 18 months old decreased. The number of native title matters between 12–18 months and 18–24 months old increased. Further information about the Court’s native title workload can be found on page 33.

The Court will continue to focus on reducing its pending caseload and the number of matters over 18 months old. A collection of graphs and statistics concerning the workload of the Court is contained in Appendix 5.

THE COURT'S APPELLATE JURISDICTION

The appellate workload of the Court constitutes a significant part of its overall workload. While most appellate matters 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. Appellate matters may also include matters filed in the original jurisdiction of the Court but referred to a Full Court for hearing.

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. Appellate matters will generally be listed in the next available Full Court and appellate sitting in the capital city where the matter was heard at first instance.

In the reporting year, Full Court and appellate matters were scheduled for hearing in all eight capital cities. When appeals are considered to be sufficiently urgent, the Court will convene a special sitting of a Full Court outside of the four scheduled sitting periods. In 2016–17 the Court specially fixed 37 Full Court or appellate matters, involving 23 sets of proceedings, for hearing outside of the four scheduled sitting periods. Hearing these matters involved a total of 28 sitting days or part thereof compared with 34 special hearing fixtures involving 41 sitting days in 2015–16.

THE APPELLATE WORKLOAD

During the reporting year, 1345 appellate proceedings were filed in the Court. They include 1106 appeals and related actions (1045 filed in the appellate jurisdiction and 61 matters filed in the original jurisdiction), 20 cross appeals and 219 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 75 per cent (836 of the 1106) of the appeals and related actions filed in 2016–17. 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 Table A5.3 on page 140.

Although there was an overall increase of more than four per cent in the Court's appellate workload in 2016–17, the Court's migration appeals and related actions increased markedly by almost 18 per cent from 653 in Table A5.3 in 2015–16 to 763 in Table A5.3 in 2016–17.

In the reporting year, 885 appeals and related actions were finalised. Of these, 457 matters were filed and finalised in the reporting year. At 30 June 2017, there were 749 appeals (comprising 699 filed in the appellate jurisdiction and 50 matters filed in the original jurisdiction) currently before the Court.

The comparative age of matters pending in the Court's appellate jurisdiction (including native title appeals) at 30 June 2017 is set out in Table 3.3.

At 30 June 2017 there were six matters that are 18 months or older, two filed in the appellate jurisdiction and four matters filed in the original jurisdiction. Almost 95 per cent of appellate matters pending at present are less than six months old. It is also noted that a large number of migration appeals and applications 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, cross appeals and interlocutory appellate applications at 30 June 2017

CURRENT AGE	UNDER 6 MONTHS	6-12 MONTHS	12-18 MONTHS	18-24 MONTHS	OVER 24 MONTHS	TOTAL
Appeals and related actions	687	7	3	0	2	699
% of total	98.3%	1.0%	0.4%	0.0%	0.3%	100.0%
Running total	687	694	697	697	699	
Running %	98.3%	99.3%	99.7%	99.7%	100.0%	

MANAGING MIGRATION APPEALS

In 2016–17, 23 migration appeals 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 740 migration matters were filed in relation to judgments of the FCC.

Table 3.4 shows the number of appellate proceedings involving the Migration Act as a proportion of the Court’s overall appellate workload since 2012–13. Over the last four years, approximately 70 per cent of the Court’s appellate workload concerned decisions made under the *Migration Act 1958*. 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.

The Court reviews all migration matters to identify cases 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 cross appeals and interlocutory applications)

APPEALS AND RELATED ACTIONS	2012-13	2013-14	2014-15	2015-16	2016-17
Migration jurisdiction	278	370	648	653	763
%	43.8%	50.8%	71.2%	65.8%	73.0%
Total appeals and related actions	634	728	910	993	1045

THE COURT'S NATIVE TITLE JURISDICTION

In the reporting year 2016–17, the Court resolved a total of 64 native title applications (commenced under s 61 of the NTA), consisting of 57 native title applications, five non-claimant applications, one compensation application and one application to vary the orders made in one earlier determination.

Of the finalised applications, 15 were resolved by consent of the parties, three were finalised following litigation and 46 applications were either discontinued or dismissed. Where applications have been partitioned into separate parts to facilitate early agreement, there have been seven partial consent determinations that may not have finalised the application.

Forty-six new applications under s 61 of the NTA were filed during the reporting period. Of these new matters, 27 are native title determination applications, 15 are non-claimant applications, one is a variation application and three are compensation applications.

At the end of the reporting year, there were 285 applications remaining on the native title docket comprising 236 determination applications, 41 non-claimant applications, seven compensation applications and one variation application.

These statistics do not include appeals from native title decisions or other types of related matters managed by the native title practice area but which are not s 61 applications. Some of the graphs in this report that record native title workload include these additional matters.

The Court's priority list identifies, after consultation with the parties, those applications that may be resolved either by consent or in litigation, in the coming 12 to 18 months. There are currently 94 matters on the priority list. Of these, it is anticipated that 63 matters will be resolved by consent determination, eight will be litigated outcomes and 12 are expected to be discontinued in 2017–18. The priority list is intended to allow the parties to allocate their financial and human resources with the primary intention of resolving the matters by negotiation.

The focus of the Court continues to be on directed case management by native title registrars and on mediation conducted by the registrars and specialist native title mediators from the Court's published list of mediators to achieve a resolution of the whole of a matter or to identify any separate question that is holding up final resolution. 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. This process accords with the overarching purpose of the NTA and ss 37M and 37N of the *Federal Court of Australia Act 1976* to facilitate the just resolution of disputes according to the law as quickly, inexpensively and effectively as possible. Mediation is ordered, as required, and may be conducted by a registrar or external mediator. In some instances, particular issues or separate questions 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. These decisions have provided guidance on how valuation of compensation will be addressed in the future, on how Indigenous Land Use Agreements are validly made and what is necessary for the variation of an earlier order of the Court.

Alan Griffiths and Lorraine Jones on behalf of the Ngaliwurru and Nungali Peoples v Northern Territory of Australia 2016 FCA 900 (the Timber Creek case) is the first litigated determination on quantum of native title compensation. The decision establishes a framework for the calculation of compensation for the extinguishment or impairment of native title rights and interests.

Compensation was awarded for 'economic loss', which was in essence calculated by reference to 80 per cent of the land value of the areas subject to the extinguishing acts; interest on that economic loss (reflecting the extinguishment of native title had occurred many years ago); and 'non-economic/intangible loss', or 'solatium', in recognition of the loss or diminution of connection or traditional attachment to the land. The decision has been appealed to the Full Court of the Federal Court and judgment is reserved.

Four applications to the High Court that were commenced to prevent the Native Title Registrar from registering four of the six agreements which form part of the South West Native Title Settlement Agreement, were remitted to the Full Court of the Federal Court. The Full Court found that the Native Title Registrar does not have the jurisdiction to register an agreement on the Register of Indigenous Land Use Agreements unless the agreement is signed by all registered native title claimants. Where a named applicant does not sign an agreement, there must be an application under s 66B of the NTA to remove that named applicant (*McGlade v Native Title Registrar (No 2)* 2017 FCAFC 84). The decision prompted the introduction of the Native Title Amendment (Indigenous Land Use Agreements) Bill 2017 to effect amendments to the NTA.

Tarlka Matuwa Piarku (Aboriginal Corporation) RNTBC v State of Western Australia 2017 FCA 40: This application is the first variation to an approved native title determination pursuant to s 13(1)(b) of the NTA. The application was made by the registered native title body corporate determined by the Court to hold the native title rights and interests in trust for the Wiluna, Tarlpa and Wiluna #3 native title holders following a consent determination made on 29 July 2013. The basis of the variation application related to an agreement reached between the parties to the consent determination that the parties may seek to vary the determination of native title following judgment of the High Court regarding pastoral improvements in *Western Australia v Brown* 2014 HCA 8. Following judgment of the High Court, the registered native title body corporate with the consent of all parties sought a variation to the determination due to the incorrect determination of areas of pastoral improvements as areas where native title does not exist.

This year (2017) is the 25th anniversary of the High Court's Mabo decision. In February, the Court, in conjunction with the NNTT and the Centre for Native Title Anthropology at the Australian National University, convened a conference in Perth to explore the role of native title anthropology in the development of the jurisprudence. In September 2016, a User Forum was held in the Court in Sydney which focussed on the significant issues impeding the resolution of native title applications in New South Wales.

To celebrate NAIDOC week, Dr Ragbir Bhathal, an astrophysicist, was invited to deliver a lecture on Cook, Mabo and the Stars of Tagai to judges and staff in the Federal Court registries around the country. The lecture explored how Aboriginal and Torres Strait Islander peoples view the night sky and their views on the formation of the universe.

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 ADR. 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, while native title registrars now conduct most mediations of native title matters, the Court maintains a list on its website of appropriately qualified professionals if there is a need to engage an external mediator or co-facilitate mediation.

Since the 2010–11 reporting period, the Court has provided comprehensive statistical information about referrals to ADR and the outcomes of ADR processes held during the relevant reporting period. In doing so, the Court is best able to assess the performance of its ADR program across years and to provide academics and policy makers with data upon which they may base their work.

As in previous years, the data below 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 in 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 NPA 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 2016–17 by NPA and registry

NPA	NSW	VIC	QLD	WA	SA	NT	TAS	ACT	TOTAL
Administrative and constitutional law and human rights	6	24	3	1	0	0	0	3	37
Admiralty and maritime	4	0	0	3	0	0	0	0	7
Commercial and corporations	44	64	11	32	13	0	3	8	175
Employment and industrial relations	32	41	18	16	2	2	3	9	123
Intellectual property	35	34	12	2	4	1	0	0	88
Migration	1	0	0	0	0	0	0	0	1
Native title	5	0	1	5	0	0	0	0	11
Other federal jurisdiction	4	0	1	0	0	0	1	0	6
Taxation	1	2	2	3	0	0	0	0	8
Total	132	165	48	62	19	3	7	20	456

A collection of statistics concerning the workload of the Court by NPA is contained in Appendix 5 commencing on page 147.

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.

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. 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 167.

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 is comprised of the Chief Justice, National NPA Coordinating Judges and the National Appeals Coordinating Judges, and is supported by a number of registrars of the Court. During the reporting year, the Committee dealt with a range of matters including:

- finalisation and implementation of Practice Notes, including consultation with the profession
- consideration of the arrangements for practice and procedure in appeals
- redevelopment of the Court's website in support of the NCF reforms and new practice notes
- adjustments to the scope of the Federal Crime and Related Proceedings NPA and the development of the Other Federal Jurisdiction NPA, and
- management responsibilities and support for each NPA, including considering the development of national arrangements for liaison with the profession.

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 included:

- the NCF
- practice notes (including consultation with the profession)
- the redevelopment of the Court's website
- updates to the Case Management Handbook
- Criminal Proceedings Rules
- migration appeals, and
- digital hearings.

ASSISTANCE FOR SELF-REPRESENTED LITIGANTS

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

During the reporting year, the Attorney-General's Department (AGD) continued to provide funding to LawRight (formerly the Queensland Public Interest Law Clearing House (QPILCH) – the name change occurred on 15 February 2017), Justice Connect, JusticeNet SA and Legal Aid Western Australia to provide basic legal information and advice to SRLs in the Federal Court and Federal Circuit Court.

These services involved dissuading parties from commencing or continuing unmeritorious proceedings, providing assistance to draft or amend pleadings or prepare affidavits, giving advice on how to prepare for a hearing and advising on how to enforce a court order. 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.

Each of the organisations delivering this service provides the Court with quarterly and annual reports setting out statistics and case studies of SRLs they have been able to assist. The reports reveal that, nationally, there were a significant number of referrals made by the Court. The organisations also provide the Court with information on the NPAs SRLs sought assistance on and examples of the issues where help was provided.

Tables 3.6, 3.7 and 3.8 provide some broad statistics about the number of SRLs appearing in the Court as applicants in a matter (respondents are not recorded). As the recording of SRLs is not a mandatory field in the Court's case management system, statistics shown in the tables are indicative only. In the reporting year, 642 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 SRLs during 2016–17 by registry

	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	TOTAL
SRLs	6	383	15	47	24	0	105	62	642
% total	1%	60%	2%	7%	4%	0%	16%	10%	100%

Table 3.7: Proceedings commenced by SRLs in 2016–17 by CoA

COA	TOTAL ACTIONS	% OF TOTAL
Administrative law	40	6%
Admiralty	0	0%
Appeals and related actions	486	77%
Bankruptcy	18	3%
Bills of costs	0	0%
Competition law	0	0%
Consumer protection	6	1%
Corporations	8	1%
Cross claim	0	0%
Fair work	6	1%
Human rights	4	1%
Industrial	1	0%
Intellectual property	1	0%
Migration	46	7%
Miscellaneous	13	2%
Native title	1	0%
Taxation	2	0%
Total	632	100%

Table 3.8: Appeals commenced by SRLs in 2016–17 by CoA

COA	TOTAL ACTIONS	% OF TOTAL
Administrative law	11	2%
Admiralty	0	0%
Bankruptcy	14	3%
Competition law	0	0%
Consumer protection	3	1%
Corporations	3	1%
Fair work	15	3%
Human rights	5	1%
Industrial	2	0%
Intellectual property	2	0%
Migration	424	87%
Miscellaneous	2	0%
Native title	0	0%
Taxation	5	1%
Total	486	100%

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 self-represented 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 FCC Regulation (see below).

COURT FEES AND EXEMPTION

Fees are charged under the Federal Court and FCC 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 \$69.60)
- 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 NTA 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 NTA 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. Details of the fee exemptions during the reporting year are set out in Appendix 1.

FREEDOM OF INFORMATION

Information Publication Scheme

As required by subsection 8(2) of the *Freedom of Information Act 1982* (FOI Act), the Federal Court has published on its website at <http://www.fedcourt.gov.au/ips> Information Publication Scheme (IPS) information. This includes the Court’s current IPS plan as well as information about the Court’s organisational structure, functions, appointments, annual reports, consultation arrangements, FOI contact officer and information routinely provided to the Australian Parliament.

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 a number of online free-access legal information websites for access by the media and the public. Judgments of public interest are published by the Court 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. Online free-access legal information websites providing access to Federal Court judgments include AustLII and Jade.

INFORMATION FOR THE MEDIA AND TELEVISED JUDGMENTS

The Director Public Information (DPI) deals with media enquiries about cases and issues relating to the Court’s work from throughout Australia and internationally. These predominantly relate to accessing judgments and guidance on how to search court files and involves close liaison with chambers and registries.

The DPI also arranges camera access in some cases of public interest, briefs associates on media matters and contacts outlets when mistakes are made and corrections are required.

The reporting year was notable for a number of high profile native title determinations requiring the provision of background information and maps to local and mainstream media. The DPI was also responsible for the production of a video commemorating the Court’s 40th anniversary for court archives and a new video to assist associates in fulfilling their role.

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 2016–17 members of the Court were involved in seminars relating to GST, arbitration, commercial law, tax, maritime and migration.

Working with the Bar

The NSW registry hosted the NSW Silks ceremony on 25 October 2016. The Victorian registry hosted the Victorian Bar ICC Advocacy assessment and course throughout the year. 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.

User groups

User groups have been 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 class action, admiralty, corporations and bankruptcy. In Victoria, bankruptcy, migration and class action user group meetings were held. In Queensland, a specialist Native Title user forum was held. In NT and SA user group meetings were held for bankruptcy and corporations.

Legal community

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

- **Sydney** – the Whitmore Lecture, Australian Association of Constitutional Law Lectures, Tony Blackshield Lecture, Tristan Jepson Memorial Foundation Lecture, Law Council of Australia Arbitration conference, International Arbitration Lecture, AMTAC address and the Mahla Pearlman Oration.
- **Brisbane** – the Australasian Institute of Judicial Administration's media forum in August 2016; the Australian Maritime Commission's addresses on personal law insolvency in September 2016; the Hellenic Australia Lawyer's Association Seminar in March 2017; and the Richard Cooper Memorial Lecture.
- **Perth** – the registry hosted three intellectual property seminars, the Annual Australian Maritime and Transport Arbitration Commission address, and an Admiralty and Maritime Law Seminar organised by the Maritime Lawyers Association of Australia and New Zealand. The Australian Women's Lawyers also held a welcome to their national conference at the registry.
- **Melbourne** – the Richard Cooper Memorial lecture and AMTAC address.

Education

The Court 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 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 Court hosted a number of school visits and educational tours across its registries. The Western Australia registry hosted two school visits organised by the WA Law Society. The Victorian registry participated in the Indigenous Clerkship Program run by the Victorian Bar. Three 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 South Australia registry hosted a visit from students and teachers from Salisbury High School.

The Court's 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 Program competition; and the Jones-Day inter-law school trial advocacy championship was held at the registry involving four law schools in Perth. The Queensland registry hosted five university moot competitions and had visits from school groups from Damascus School, Southern Cross College, the University of Queensland and TAFE Queensland. The Victorian registry hosted a number of moot courts for Monash, Melbourne, New England, La Trobe, Victoria and Deakin universities. The ACT registry hosted the 2017 quarter finals of the Jessup Moot Competition.

Overseas delegations

Registries regularly host visiting delegations from overseas courts who are interested in learning more about the Court's operations.

- **Victoria** – in November 2016, the Victorian registry hosted a delegation of judges from the Supreme Court of Indonesia and officials from the Indonesian Ministry of Law and Human Services; the Ministry of National Planning; the Coordinating Ministry of Economic Affairs; and the local government of the province of Jakarta.
- **New South Wales** – in March 2017 the NSW registry hosted a visit from the Sendai District Court of Japan. In June 2017 the NSW registry hosted a delegation from the Korean Ministry of Justice. In February 2017 the NSW registry hosted a delegation from the American Judicial (Insolvency).

COMPLAINTS ABOUT THE COURT'S PROCESSES

During the reporting year, five complaints were made to the Court in relation to its procedures, rules, forms, timeliness or courtesy to users. This figure is down from seven 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.

CORRECTION OF ERRORS IN 2015–16 REPORT

The compliance index used in the 2015–16 annual report was a condensed version of the required list. The annual performance statement did not meet the Department of Finance recommendations for presentation, although it did meet the requirements of the PGPA Act and PGPA Rule. The compliance index (review by accountable authority) should have referred to page 11 not page 195.

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, and
- 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 167.

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, and
- 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 2016–17 the Court offered the following activities:

- a Corporations 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
- seven education sessions were scheduled at the judges' meeting in August 2016
- five education sessions were scheduled at the judges' meeting in February 2017, and
- judges were also offered the opportunity to attend the Supreme Court and Federal Court judges' conference held in Perth on 23–25 January 2017.

Education sessions offered at the judges' meetings in 2016–17 included:

- workshops on the following national practice areas:
 - native title
 - administrative law, constitutional law and human rights law
 - industrial relations, and
 - intellectual property.
- courts and the media
- class actions
- early detection of dementia
- mental health performance and personal asset management
- Islam, the nature of the faith, and
- developments in the legal profession concerning artificial intelligence.

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 167. In the period 1 July 2016 to 30 June 2017, the Federal Court of Australia met the National Standard for Professional Development for Australian Judicial Officers.

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. In 2016–17, the Court coordinated a number of activities and hosted several international visits.

Memorandum of Understanding with the Supreme Court of Indonesia

Under the existing Annex to the Memorandum of Understanding signed between the Federal Court and Supreme Court of Indonesia in June 2014, cooperation with Indonesia continued in 2016.

In November 2016, the Victorian registry hosted an Indonesian delegation comprising of Supreme Court judges and officials from various government departments. The visit supported the delegation's ability to make recommendations on the enforcement of commercial disputes upon their return to Indonesia. The visit involved numerous meetings, including one with Chief Justice Allsop, Justice Murphy and Registrar Sia Lagos. Meetings were also held with the Judicial Registrar for the Commercial Court of the Supreme Court of Victoria, the President and members of the Victorian Civil and Administrative Tribunal and the Sheriff for Victoria. District Registrar Daniel Caporale and Registrar Tim Luxton led a presentation entitled 'From Judgment Debt to Insolvency', and Registrar Rupert Burns convened a discussion regarding the Financial Counsellors Program.

Memorandum of Understanding with the National & Supreme Courts of Papua New Guinea

In July 2016, the Federal Court's NSW registry hosted a visit by five registry staff from the Supreme and National Courts of Papua New Guinea. The visitors participated in activities aimed at strengthening the capacity of the Supreme Court to utilise technology in the management of cases.

The Chief Justices of the Federal Court of Australia and the Supreme Court of Papua New Guinea signed a further Annex to the existing Memorandum of Understanding between their courts on 15 September. The Annex was signed during the Pacific Judicial Conference, which took place in Papua New Guinea. The Memorandum continues to serve as a public statement of both courts' commitment to continued collaboration. The recently signed Annex expands on previous collaborations, to encompass court-supported mediation, electronic case management, leadership and change management, and support for the Papua New Guinea Centre for Judicial Excellence.

Memorandum of Understanding with the Supreme Court of Vanuatu

On 26 September 2016, a further Annex to the existing Memorandum of Understanding was signed by Chief Justice Lunabek of the Supreme Court of Vanuatu, and the Federal Court CEO, Warwick Soden. The signing took place at the Federal Court of Australia in Sydney. The Annex provides for three areas of judicial assistance, which will focus on case management, judicial administration and Vanuatu's Magistrates' Court.

Pursuant to the Memorandum, a visit to Vanuatu's Magistrates' Court took place in November. An assessment of the Court's priority needs was conducted, which focused on court procedures and processes, delay, domestic violence proceedings, and outstanding reserve judgments, among other things. The visit resulted in a prioritised work plan, supported by the Chief Magistrate, which is designed to be implemented in 2017, and will assist the Court in achieving its goals.

Memorandum of Understanding with the Supreme Court of the Union of Myanmar

Further to the Memorandum signed between the courts in June 2016, the Federal Court collaborated on several activities with the Supreme Court of the Union of Myanmar.

In November 2016, Federal Court CEO Warwick Soden led a workshop on leadership and change management in Naypyidaw. The event was attended by 21 judges from the Supreme Court, along with several High Court and District Court judges. The workshop identified the pressing issues facing the judiciary and provided strategies, tools, and skills, to lead and manage change to address them. Participants devised detailed plans which are being considered as part of the Supreme Court's strategic planning process.

In November 2016, three judicial officers from the Supreme Court completed an internship program with the Federal Court, to gain knowledge and develop skills to produce the Court's first annual report. During the two-week program, the judicial officers participated in sessions on data collection, disaggregation, and analysis, along with skills-based sessions in drafting and structuring an annual report. The sessions were hosted in the Federal Court's Principal Registry in Sydney. Following the internship, the Federal Court has continued to provide remote support to the Supreme Court, as it develops its annual report.

In May 2017, a senior business intelligence analyst from the Federal Court visited Myanmar to continue supporting the Supreme Court's Annual Reporting Team and to supply technical guidance and advice related to attendant case management systems and processes required to systematically gather and analyse the data included in the annual report.

Pacific Judicial Strengthening Initiative

On behalf of the New Zealand Government, the Federal Court continues to manage the Pacific Judicial Strengthening Initiative (PJSI). The initiative includes 14 Pacific island countries and aims to build fairer societies by supporting their courts to develop more accessible, just, efficient, and responsive justice services. Participating countries include the Cook Islands, Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu.

PJSI is addressing numerous and diverse needs of the courts that relate to three major development challenges. These are: (i) expanding access to justice to and through the courts; (ii) building competent provision of substantive justice outcomes; and (iii) increasing efficient delivery of procedural justice services.

The following activities were delivered during the period July 2016 to June 2017:

- Twelve participating Chief Justices, or their representatives, met at the first Chief Justices' Leadership Forum, held in September 2016 in Port Moresby, Papua New Guinea. Discussions focussed on approving PJSI's goals and plans, and included regional assessments of court file management, access to justice, gender and family violence, human rights, accountability, and court professionalisation. This was followed by the first Initiative Executive Committee (IEC) Meeting. IEC members discussed PJSI progress and budget reports.
- PJSI has embarked on a project to create Certificates and Diplomas in Justice to enable the provision of entry level and ongoing professional development within the Pacific region, as well as to institutionalise professional development. Further to the visit to Port Moresby, Papua New Guinea, in November 2016, discussions took place with the University of the South Pacific in January, and in June 2017 in Port Vila, Vanuatu. Collaborations with the Supreme and National Courts of Justice in Papua New Guinea are advancing to ensure that the infrastructural, organisational, pedagogical, and capacity foundations are in place.
- The regional Project Management and Evaluation workshop took place in Port Vila, Vanuatu, in February 2017. The aim of the workshop was to strengthen participants' capacity to produce results through the delivery of projects. The workshop had a practical focus, and participants were able to: reflect and build on prior experiences implementing or managing projects; gain new knowledge and skills to manage projects effectively; apply the project management tools discussed at the workshop to locally relevant projects and activities; and share approaches that maximise positive and sustainable project results.
- The second Chief Justices' Leadership Forum took place in Apia, Samoa, from 3 to 5 April 2017. Thirteen Pacific Island Countries (PICs) were represented. The purpose of the meeting was to review the planning of PJSI activities, provide feedback and direction on these activities, and supply a forum for leadership dialogue and networking on judicial development. This was followed by the second Initiative Executive Committee Meeting. IEC members discussed PJSI progress and budget reports, as well as reviewing and approving the Chief Justices' recommendations.
- Pursuant to PJSI's focus on the protection of human rights in the region, the Human Rights Toolkit was piloted in Honiara, Solomon Islands, from 24 April to 5 May 2017. The visit aimed to introduce and elicit feedback on the Human Rights Toolkit from as many judges, court staff, and other justice actors as possible.

- The first Local Project Management and Planning Visit for Tokelau took place in Apia, Samoa from 29 April to 14 May 2017. The objective of this visit was to strengthen Tokelau's capacity to competently manage and achieve results through local judicial development activities.
- The first Access to Justice Local Visit took place in Pohnpei, Federated States of Micronesia, from 15 to 26 May 2017. The objectives were to: improve the quality of justice administered by courts to the community; provide a process for court outreach and community engagement; identify and address the needs of unrepresented litigants; identify and address unmet legal needs; and use the 'Enabling Rights and Unrepresented Litigants' Toolkit.
- The Regional Certificate-level Training-of-Trainers Workshop took place in the Cook Islands, from 12–23 June 2017. The Workshop aimed to provide participants with a program that equips participants with confidence and competence, to build capacity within their own country and/or region.
- The Gender and Family Violence Toolkit was piloted in Nuku'alofa, Tonga, from 12 to 23 June 2017. The pilot and introductory gender sensitisation program (one day) was well received by the magistrates. The activity also resulted in the production of a draft 12 month Magistrates Court Family Violence Action Plan, that requires limited investment to implement. Opportunities for collaboration and harmonisation with other donor initiatives were also identified.
- The first Local Visit as part of the Efficiency Output took place in Koror, Palau, from 12–23 June 2017. The purpose of the visit was to assist the courts to implement management and administrative actions, and to use technological tools to improve efficiency in the disposal of cases. The overall aim was to promote efficiency in the delivery of justice.

Visitors to the Court

During the year, the court hosted visitors from the following countries:

China: In November 2016, Justice Collier met with a delegation from the Chinese Government. The delegation was led by Mr Wang Xin, Deputy Director-General of the Remedy and Investigation Bureau at the Chinese Ministry of Commerce, and comprised 27 other visitors from the Ministry of Commerce, provincial commerce departments, chambers of commerce and the China Council for the Promotion of International Trade. Meeting with the delegation at the Federal Court's Canberra registry, Justice Collier delivered a presentation on trade remedies and investigations in Australia, with a particular focus on 'Anti-Dumping' procedures.

Portugal: The Federal Court's Principal Registry hosted Judge Ana Lobo of Portugal from 12 to 16 December 2016 as part of an exchange programme run through the International Association of Supreme Administrative Jurisdictions. Judge Lobo spent her time at the Federal Court observing hearings, and meeting with senior court staff, and was particularly interested in the way in which the judges work in the Federal Court, how they undertake decision-making, and maintain a work-life balance.

Nepal: In December 2016, Chief Justice Allsop and Federal Court CEO Warwick Soden met with a delegation from the Supreme Court of Nepal, and other Nepal-based entities, as part of a wider study tour to learn about the Australian juvenile justice system. The delegation visited the Federal Court of Australia to learn about case management efficiency, court process transparency and the Federal Court's programme of international judicial cooperation and court-to-court engagement.

Canada: In February 2017, Federal Court CEO Warwick Soden hosted a visit in the Sydney registry from the Honourable Richard G Mosley of the Federal Court of Canada. The visit focused on electronic case file management (ECF). The visit involved a demonstration of eLodgment and the Commonwealth Courts Portal, and discussions on how rules have been changed to accommodate ECF. The visit also included a tour of the NSW registry, and a demonstration of how ECF, video conferencing and other technologies are used in the courtroom.

China: On 5 April 2017, the Principal Registry hosted a visit from seven judges of the Supreme People’s Court of China led by the Presiding Judge, Mr MA Yongxin. The visit was part of a wider study tour, coordinated by the Australian Human Rights Commission, to enhance the capacity of China’s leading judicial body to protect and promote the right of citizens to access government information. The delegation was received by Justice Rares, who provided an overview of the jurisdiction and structure of the Federal Court and discussed the Court’s role in reviewing freedom of information decisions.

India: In May 2017, the Victorian registry hosted a delegation which included the Chairman of the Indian Law Commission, and eight judges from the Supreme Court of India and various High Courts. The visit provided a technological overview of the Federal Court from various perspectives. The visit began with the judicial perspective delivered by the Honourable Christopher N Jessup, followed by the technical perspective from the Court’s Chief Information Officer, Craig Reilly. The delegation then received presentations about registrar and administrative perspectives from District Registrar, Daniel Caporale, and Deputy Director of Court Services, Thomas Stewart, respectively.

Turkey: In June 2017, the Federal Court’s Principal Registry hosted Judge Nilufer Sulku from Turkey, as part of an exchange programme run by the International Association of Supreme Administrative Jurisdictions. Judge Sulku spent her time meeting with the Court’s judges and senior staff, observing hearings and had a particular interest in administrative law, constitutional law and human rights.



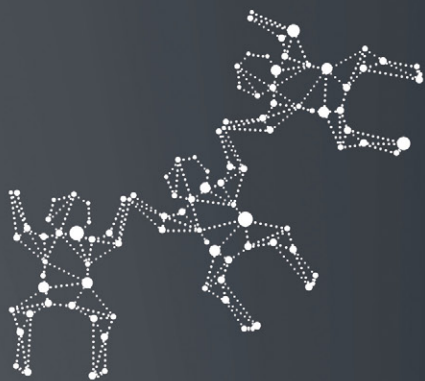
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MANAGEMENT OF THE COURT

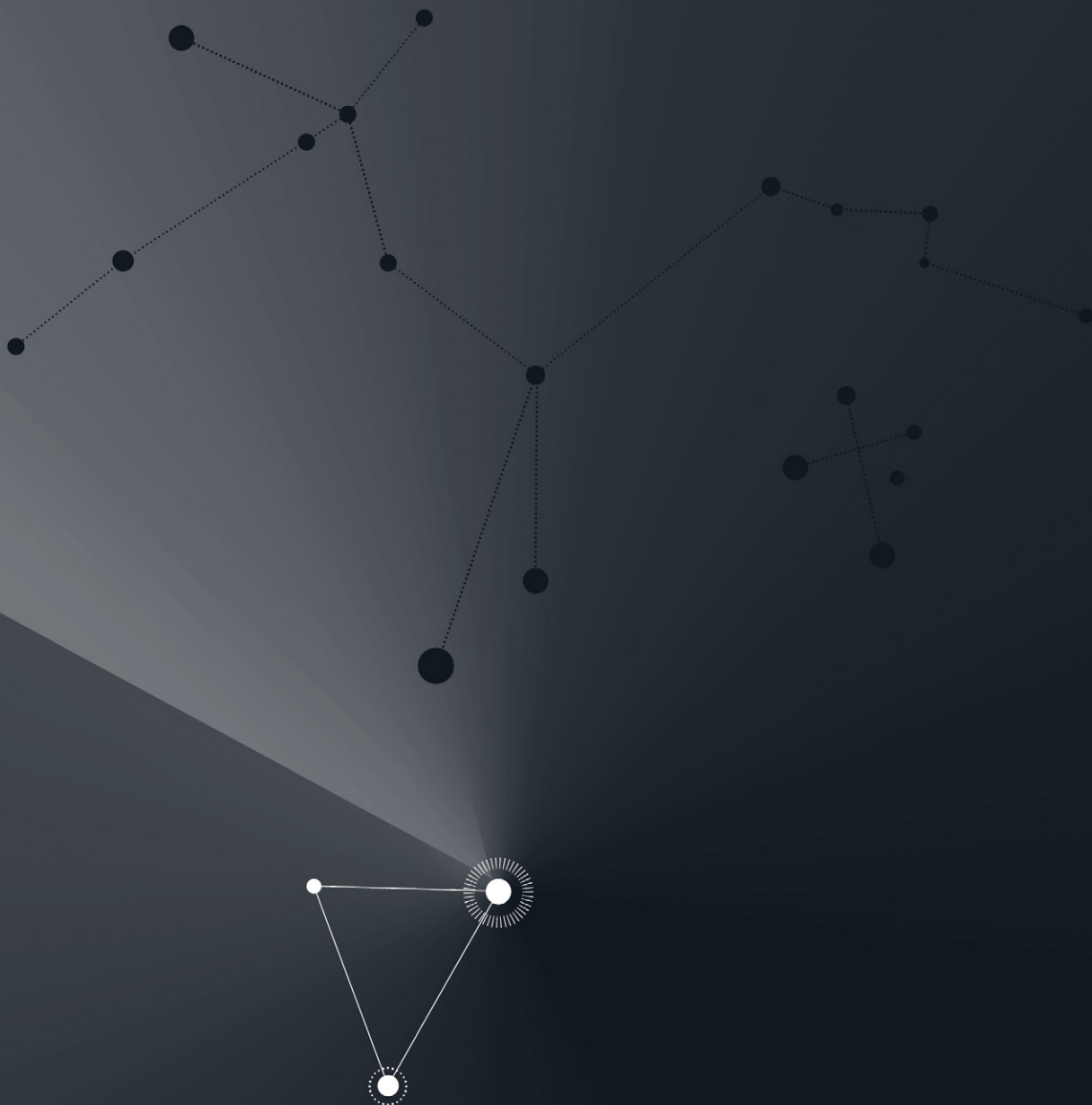


PART 4



In Aboriginal astronomy, the Triangulum Australae star formation is associated with family relationships. In this part of Iritjinga, certain stars represent parents, while others represent skin groups and kinship. These stars provide guidance about the significance of relationships and the cultural importance of connections being made between the correct groups.

Dr R Bhathal: *Astronomy of the First People of Australia: From the Archives and the Indigenous Community* (pg. 5–6).





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 is responsible for managing the Court's administrative affairs. The Chief Justice is assisted by the Chief Executive Officer and Principal Registrar.

The Act also provides that the Chief Justice may delegate any of his or her administrative powers to judges, and that the Chief Executive Officer and Principal 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 in this part.

FEDERAL COURT REGISTRY MANAGEMENT STRUCTURE

As outlined in Part 1 of this report, the Court is supported by a national registry structure, with a Principal Registry responsible for managing national issues; National Operations for the implementation of the National Court Framework and its ongoing function; a District Registry in each state and territory which supports the work of the Court at a local level; and Corporate Services for the provision of the corporate services functions to the Federal Court, Family Court, Federal Circuit Court and the NNTT.

A diagram of the management structure of the Court is set out in Appendix 3 on page 133.

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 new practice notes under the National Court Framework, the organisational review, the corporate services merger which commenced on 1 July 2016, the progress of digital hearings, management of the Court's finances and cost savings initiatives.

Table 4.1: Outcome 1: Federal Court of Australia

	BUDGET 16-17 (\$'000)	ACTUAL 16-17 (\$'000)	VARIATION (\$'000)
Outcome 1: Apply and uphold the rule of law for litigants in the Federal Court of Australia and parties in the National Native Title Tribunal through the resolution of matters according to law and through the effective management of the administrative affairs of the Court and Tribunal.			
Program 1.1 – Federal Court of Australia			
Administered Expenses	600	1,132	-532
Departmental Appropriation	65,757	66,645	-888
Expenses not requiring appropriation in the budget year	13,102	14,681	-1,579
Total for Program 1.1	79,459	82,458	-2,999
Total expenses for outcome 1	79,459	82,458	-2,999
Average staffing level (number)*	339	318	

* Please note that average staffing levels have been compared with budgeted figures rather than prior year figures. This is due to the merger of the courts on 1 July 2016, which makes comparison with prior years not meaningful.

The Court's agency resource statement can be found at Appendix 2 on page 132.

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 entity under the *Public Governance, Performance and Accountability Act 2013*.

SECURITY

The safety of all people who attend or work in court premises is a high priority for the courts. Almost \$8.7m was expended for court security services including the presence of security officers, weapons screening, staff training and other security measures. This excludes funding spent on security equipment maintenance and equipment upgrades.

REPORT ON CORPORATE SERVICES

Corporate Services is responsible for supporting the corporate functions of the Federal Court, Family Court, Federal Circuit Court and the National Native Title Tribunal (NNTT).

In the 2015–16 Budget, the Government outlined reforms that saw the corporate functions of the Family Court and Federal Circuit Court merged with the Federal Court to form a single administrative body with a single appropriation, from 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 amalgamated corporate services is expected to generate savings of \$14.129m in operating costs over a five-year period, i.e. 2016–17 to 2020–21, with most of the savings realised in 2019–20 and 2020–21.

With the additional efficiency dividend and changes to the parameter adjustment, a further \$5.3m in savings are now required to meet reduced appropriations.

The objectives of the first year of operation for the amalgamated corporate services were to:

1. Deliver a reduction of the cost of corporate services to the courts of \$1.397m with an appropriation reduction from \$63.978m in 2016–17 to \$62.581m in 2017–18. With the additional efficiency dividend, the appropriation in 2017–18 is now reduced to \$61.361m, excluding funding from new initiatives.
2. Maintain and improve the level of service to all three federal courts and the NNTT.
3. Position corporate services to drive further cost efficiencies in subsequent years.

Most of the savings were expected to be achieved by reducing average staffing levels in the order of 30 per cent over the forward estimates period.

For the 2016–17 year, corporate services has achieved its targets having operated within its reduced budget allocation with staffing levels reduced by 15 per cent at year-end.

The following outlines the major corporate services projects and achievements during the reporting year.

Table 4.2: Outcome 4: Corporate Services

	BUDGET 16-17 (\$'000)	ACTUAL 16-17 (\$'000)	VARIATION (\$'000)
Outcome 4: Improved administration and support for the resolution of matters according to law for litigants in the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate services.			
Program 4.1 – Commonwealth Courts Corporate Services			
Administered Expenses	–	–	–
Departmental Appropriation	64,228	64,394	-166
Expenses not requiring appropriation in the budget year	53,875	53,509	366
Total for Program 4.1	118,103	117,903	200
Total expenses for outcome 4	118,103	117,903	200
Average staffing level (number)*	150	128	

* Please note that average staffing levels have been compared with budgeted figures rather than prior year figures. This is due to the merger of the courts on 1 July 2016, which makes comparison with prior years not meaningful.

AUDIT AND RISK MANAGEMENT

The Chief Executive Officer and Principal Registrar of the Federal Court of Australia 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 entity has taken all reasonable measures to appropriately deal with fraud relating to the entity and there have been no cases of fraud during 2016–17 to be reported to the Australian Institute of Criminology.

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

- a single Audit Committee overseeing the entity that met four times during 2016–17. The committee comprises an independent chairperson, two judges from the Federal Court of Australia, one judge from the Family Court of Australia, one judge from the Federal Circuit Court of Australia and two additional external members. The Chief Executive Officer and Principal Registrars for each of the courts, the Executive Director Corporate Services, the 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, conducted three internal audits during the year to test the entity's systems of internal control
- a Fraud Control Plan
- internal compliance certificates completed by senior managers, and
- annual audit performed by the ANAO who issued an unmodified audit certificate attached to the annual financial statements.

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.

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 (March 2017) and associated Resource Management Guides 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, International Programs, finance and business elements of the Court's corporate services delivery.

Depending on the particular needs, value and risks (as set out in the Court's Procurement Information) the Court uses open tender, prequalified tender and limited tender for its consultancies. The Court is a relatively small user of consultants. As such the Court has no specific policy by which consultants are engaged, other than within the broad frameworks above, related to skills unavailability within the Court or when there is need for specialised and/or independent research or assessment.

Information on expenditure on all court contracts and consultancies is available on the AusTender website www.tenders.gov.au

CONSULTANTS

During 2016–17, eight new consultancy contracts were entered into involving total actual expenditure of \$451,846. In addition, nine ongoing consultancy contracts were active during 2016–17 which involved total actual expenditure of \$175,520.

Table 4.3 outlines expenditure trends for consultancy contracts over the three most recent financial years.

Table 4.3: Expenditure trends for consultancy contracts 2014–15 to 2016–17

FINANCIAL YEAR	NEW CONTRACTS - ACTUAL EXPENDITURE	ONGOING CONTRACTS - ACTUAL EXPENDITURE
2016–17: FCA + FCoA/FCC	\$451,846	\$175,520
2015–16: FCA results only	\$ 840,278*	\$98,313*
2014–15: FCA results only	\$ 532,381*	\$88,000*

* FCA results only: pre-dates the amalgamation of the commonwealth courts corporate services.

COMPETITIVE TENDERING AND CONTRACTING

During 2016–17, 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 2016–17, there were no contracts or standing offers exempted by the Chief Executive Officer and Principal Registrar from publication in the contract reporting section on AusTender.

Exempt contracts

During the reporting period no contracts or standing offers were exempt from publication on AusTender in terms of the *Freedom of Information Act 1982*.

Procurement initiatives to support small business

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:

- www.finance.gov.au/procurement/statistics-on-commonwealth-purchasing-contracts/

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.

The Court recognises the importance of ensuring that SMEs are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury's website at www.treasury.gov.au/. In doing so, the Court utilises some of the following initiatives or practices:

- the Commonwealth Contracting Suite for low-risk procurements valued under \$200,000, and
- electronic systems or other processes used to facilitate on-time payment performance, including the use of payment cards.

ASSET MANAGEMENT

Commonwealth Law Court buildings

The Court occupies Commonwealth Law Court (CLCs) buildings in every Australian capital city (eight in total). With the exception of two CLCs in Sydney, the purpose-built facilities within these Commonwealth-owned buildings are shared with other largely Commonwealth Court jurisdictions.

From 1 July 2012, the CLC buildings have been managed in collaboration with the building 'owners', the Department of Finance (DoF), under revised 'Special Purpose Property' principles. Leasing and management arrangements are 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 DoF for 2016–17, as has been the annual practice since 2012, with negotiations yet to be reached on a long-term agreement.

Regional registries – leased

Corporate Services also manages some 13 regional registry buildings across the nation, located in leased premises. Leased premises locations include Albury, Cairns, Canberra, Dandenong, Dubbo, Sydney, Launceston, Newcastle, Townsville and Wollongong. There are also arrangements for use of ad hoc accommodation for circuiting in Alice Springs and Coffs Harbour.

Regional registries – co-located

The courts co-locate with a number of state court jurisdictions, leasing accommodation from their state counterparts. The following arrangements are in place:

- the Court's Darwin registries (there is a separate registry for the FCoA, FCC and FCA) are co-located in the Northern Territory Supreme Court building under the terms of a Licence to Occupy between the Court and the Northern Territory Government, and
- the Court has a FCoA and FCC registry in Rockhampton, and formerly circuitured to this premises six weeks per year, under the terms of a Licence to Occupy between the Court and the Queensland State Government. Since the Commonwealth Attorney-General announced a new full-time judicial appointment there in early 2016, negotiations continue with the State Government regarding full-time accommodation options.

Queen's Square, Sydney

The Federal Court in Sydney is located in the Law Courts Building in Queens Square, co-tenanting with the NSW Supreme Court. This building is owned by a private company (Law Courts Limited) a joint collaboration between the Commonwealth and New South Wales governments. The Court pays no rent, outgoings or utility costs for its space in this building.

Projects and capital works delivered in 2016–17

The majority of capital works delivered in 2016–17 were projects addressing the urgent and essential business needs of the courts. Projects included:

- several furniture and compactii replacements where equipment had reached end of life
- security upgrades in Adelaide, Canberra, Newcastle, Sydney, Brisbane and Melbourne
- minor registry upgrades in Cairns
- minor chambers upgrade in Canberra
- acoustic upgrades to address WHS issues in Parramatta, and
- construction of a full suite of mediation rooms in Queens Square in Sydney, and Perth CLC.

ENVIRONMENTAL MANAGEMENT

The Court provides the following information as required under s 516A of the *Environment Protection and Biodiversity Conservation Act 1999*.

The Court, together with other jurisdictions in shared premises, ensures all activities are undertaken in an environmentally sustainable way, and has embedded ecologically sustainable development (ESD) principles through the following:

- an Environmental Policy which articulates the Court's environmental commitment to raising environmental awareness and minimising the consumption of energy, water and waste in all accommodation.

- a National Environmental Initiative Policy which is intended to encourage staff to adopt water and energy savings practices. It provides clear recycling opportunities and guidance, encourages public transport and active travel to and from the workplace. Salary initiatives are offered for staff to purchase rainwater tanks, solar panels and hot water systems, to encourage active participation in environmental initiatives at all levels. Next year this initiative will be further developed on to ensure broader and more active uptake across all court jurisdictions where possible.

Monitoring of actual impacts on the environment

The Court impacts on the environment in a number of areas, primarily in the consumption of resources. Table 4.4 lists environmental impact/usage data where available (noting data is for the full court jurisdictions this financial year, whereas before the merger all courts reported separately, and only FCoA and FCC figures were reported pre-financial year 2016–17).

Table 4.4: The Court's environmental impact/usage data, 2016–17

	2012-13 FCFCC ONLY	2013-14 FCFCC ONLY	2014-15 FCFCC ONLY	2015-16 FCFCC ONLY	2016-17 FCFCC AND FCA
Energy usage privately leased sites (stationary)*	6490 GJ (Giga joules)	6237 GJ	5383 GJ	5722	5315 GJ
Transport vehicles – energy usage	6100 GJ	6035 GJ	5871 GJ	6002 GJ	112,721 L/ 970,500 km Petrol + 59,776 L/ 650750 km Diesel + 4749 L/ 83420 km dual fuel = 6535 GJ or 12,075 tonnes CO ₂
Transport flights (estimated)	3,101,516 km 860 tonnes CO ₂	3,461,665 km 962 tonnes CO ₂	2,843,969 km 783** tonnes CO ₂	3,829,5970 km Emissions report unavailable from new travel provider	FCFCC 3,247,252 km 532 tonnes CO ₂ FCA 6421353 km 909 tonnes CO ₂ Total 9668605 km or 1442 tonnes CO ₂
Paper usage (office paper)	27,181 reams	23,964 reams	30,385 reams	33,872 reams	FCFCC 29,576 reams FCA 6403 reams Total 35,979 reams

* Note: DoF reports for CLCs; these figures are for the leased sites only.

** This figure does not include the emissions for 45,830 km travelled under a new travel booking provider for the courts which commenced operation in May 2015 (emission figures not available at this time).

Measures to minimise the Court's environmental impact: Environmental Management System

The Court's Environmental Management System (EMS) has many of the planned key elements now in place.

They include:

- an environmental policy and environmental initiatives outlining the Court's broad commitment to environmental management, and
- an environmental risk register identifying significant environmental aspects and impacts for the Court and treatment strategies to mitigate them.

Other measures

During 2016–17, the Court worked within its EMS to minimise its environmental impact through a number of specific measures, either new or continuing.

Energy

- electricity contracts continued to be reviewed to ensure value for money, and
- ongoing staff education to reduce energy use where possible, such as shutting down desktops and switching off lights and other electrical equipment when not in use.

Information technology

- in addition to the desktop auto shutdown program that commences at 7pm, staff continued to be encouraged to shut down their desktops as they leave work to maximise energy savings
- e-waste was recycled or reused where possible, including auctioning redundant but still operational equipment, and
- ensuring fully recyclable packaging where possible.

Paper

- an electronic court file (ECF) was introduced for the Federal Court and the FCC (general federal law) in 2014. Matters commencing with the courts are now handled entirely electronically. Over 40,000 ECFs have been created, comprising almost 500,000 electronic documents – effectively replacing the use of paper in court files.
- family law eFiling also continues to be expanded, with 66 per cent of divorce applications now being electronically filed.
- clients are encouraged to use the online portal system, and staff are encouraged to send emails rather than letters where feasible
- secure paper (confidential etc) continued to be shredded and recycled for all court locations
- non-secure paper recycling was available at all sites, and
- most printers are set to default double-sided printing and monochrome.

Waste/cleaning

- cleaning contracts for the CLCs (via the DoF which acts as the lessor) and the majority of the privately leased sites came into effect in 2014. Provision for waste co-mingled recycling (such as non-secure paper, cardboard, recyclable plastics, metals and glass) forms a part of both contracts, with regular waste reporting included in the contract requirements for the privately leased sites
- printer toner cartridges continued to be recycled at the majority of sites
- recycling facilities for staff personal mobiles were permanently available at 11 sites
- secure paper and e-waste recycling was available at all sites, and
- fluorescent light globes continued to be recycled for all sites.

Corporate culture/communication

- the courts participated in Earth Hour in 2016–17.

Property

Fitouts and refurbishments continued to be conducted in an environmentally responsible manner including:

- recycling demolished materials where possible
- maximising reuse of existing furniture and fittings
- engaging consultants with experience in sustainable development where possible and including environmental performance requirements in relevant contracts (design and construction)
- maximising the use of environmentally friendly products such as recycled content in furniture and fittings, low VOC (volatile organic compounds) paint and adhesives, and energy efficient appliances, lighting and air conditioning
- installing water and energy efficient appliances, and
- project management – the courts project planning applies ESD principles from ‘cradle to grave’ – taking a sustainable focus from initial planning through to operation, and on to end of life disposal. Risk planning includes consideration of environment risks and mitigations are put in place to address environmental issues.

Travel

The Federal Court supports the use of videoconferencing facilities in place of staff travel. Although some travel is unavoidable, staff are encouraged to consider other alternatives.

Review and improvement of environmental strategies

As is noted in its Environmental Policy, the Court is committed to ‘continual improvement in environmental performance’. Reviews are periodically conducted of environmental impacts and improvement strategies. In 2016–17 the Court collected and reported relevant energy use data under the Energy Efficiency in Government Operations Policy.

Additional ESD implications

In 2016–17, the Court did not administer any legislation with ESD implications, nor did it have outcomes specified in an Appropriations Act with ESD implications.

MANAGEMENT OF HUMAN RESOURCES

Staffing profile

At 30 June 2017, the Court employed 1102 employees under the *Public Service Act 1999* (this excludes 57 casual employees).

The *Courts Administration Legislation Amendment Act 2016* designated all employees of the Federal Court of Australia, the Federal Circuit Court of Australia and the Family Court of Australia to be employees of the Federal Court of Australia.

Employees are assigned to each jurisdiction as follows:

- Federal Court of Australia – 373 (excludes 57 non-ongoing casual employees)
- National Native Title Tribunal – 74 (excludes casual employees)
- Federal Circuit Court of Australia – 560 (excludes casual employees), and
- Family Court of Australia – 95 (excludes casual employees).

The high number of non-ongoing employees is due to the nature of the engagement of judge’s associates, who are typically employed for a specific term of 12 months. The courts additionally engage casuels for irregular and intermittent courtroom duties. This fluctuates as needed.

At 30 June 2017, the Court employed 19 employees who identify as Indigenous. The breakdown in each jurisdiction is as follows:

- Federal Court of Australia – six
- National Native Title Tribunal – five
- Federal Circuit Court of Australia – seven, and
- Family Court of Australia – one.

More detailed staffing statistics can be found in Appendix 9 commencing on page 189.

Employee consultation

The Court's approach to change management and human resources issues is characterised by transparency and consultation. The National Consultative Committees of the Federal Court, Federal Circuit Court and Family Court were combined in 2016 and the new committee met three times throughout the year. The Court's other Consultative Committees and Work Health and Safety Committee continued to operate. Minutes of all committees are placed on the courts' intranets where they are readily accessed by staff.

Enterprise agreement and workplace bargaining

The courts' two 2011–2014 Enterprise Agreements expired on 30 June 2014 and court management has continued negotiations with the Community and Public Sector Union and bargaining representatives for a replacement agreement during the year. The process has not yet completed and will continue in 2017–18 in line with the Australian Government Public Sector Workplace Bargaining Policy.

During the reporting period, the Court relied on determinations under s 24 of the Public Service Act for setting the employment conditions of all substantive Senior Executive Service (SES) employees. See Table A9.12 in Appendix 9.

The Enterprise Agreements and s 24 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.

Non-salary benefits provided by the Court to employees include:

- motor vehicles
- car parking
- superannuation
- access to salary sacrificing arrangements
- computers, including home-based computer access
- membership of professional associations
- mobile phones

- studies assistance
- leave flexibilities
- workplace responsibility allowances (for example, first aid, fire warden, community language), and
- airline club memberships.

During the reporting period, the Court had:

- 12 employees on an Australian workplace agreements
- 18 employees on common law contracts
- 32 employees on individual flexibility arrangements, and
- 14 employees on determination s 24 arrangements.

No performance bonus payments were made in 2016–17.

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 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*.

Specific measures included:

- regular meetings of the national WHS committee, with four meeting held during the reporting year
- WHS workplace inspections and follow-up audits
- 49 workstation assessments for staff, with five conducted internally by trained Health and Safety representatives
- annual influenza vaccinations for all staff, with 594 employees taking up the vaccination offer
- access to eyesight testing and reimbursement for spectacles where needed for screen-based work
- access to free confidential counselling services through the Court's Employee Assistance Program

- access to professional debriefing following trauma/critical incidents in the workplace is part of the Employee Assistance Program, and
- health and fitness related activities (e.g. participation in community-based fitness events) by providing funding via the Court's health and fitness policy. A weekly yoga class is held at the Sydney registry once per week for staff to attend in the lunchbreak.

Agency and scheme worker's compensation average premium rates

Table 4.5: Premium rate summary for the Court's and overall scheme since 2013–14

	2013–14	2014–15	2015–16	2016–17
Latest premium rates	0.88%	1.18%	1.00%	1.02%
Overall scheme premium rate	1.65%	1.93%	1.85%	1.72%

The Court's workers compensation premium for 2016–17 was 1.02 per cent of payroll costs.

During the reporting year, the Court had:

- no notifiable incidents reported to Comcare under s 38 of the WHS Act
- no provisional improvement notices issued under s 90 of the WHS Act
- no enforcement notices issued under Part 10 of the WHS Act, and
- no incidents under ss 83-86 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 NCF and the ECF 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 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.

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 Agreements. The Court continued to refine and customise these through 2016–17 as required to meet specific issues and cases.

Work life balance

The courts' Enterprise Agreements 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/or teams who consistently demonstrate a high level of commitment to service, integrity and professionalism. The winner of the 2016 National Excellent Service Awards was Anna Masters, Judgments Officer.

As Judgments Officer, Anna oversees the preparation and publication of on average 1800 judgments per year to the Court's website and intranet, as well as managing the distribution of judgments to the legal publishers. For every one of these judgments, Anna ensures that the Court's work is of the highest quality. In February 2016, a new judgment template was introduced. Anna's involvement in this was significant over the implementation and transition period.

Training and development

New starters with the Court are educated on the APS Code of Conduct and Values and relevant policies on commencement. The courts' intranets contain eLearning modules on pre-induction package, fraud prevention and control, time management and workplace wellness as well as a Code of Conduct refresher and APS induction.

The study assistance policy continued to operate and provided 33 employees with leave and/or financial assistance to pursue approved tertiary studies during 2016–17. The Court supports staff to gain tertiary qualifications in disciplines identified as important by the courts, 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 continues to carry out 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. From 2010–11, 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

One HR system

Significant work was undertaken by Human Resources throughout 2016–17 to prepare to merge the courts' two separate Aurion HR information management systems. This was a complex and challenging project which involved extensive testing over many months. The databases were successfully merged in March 2017.

INFORMATION TECHNOLOGY

The work of the information technology (IT) section of corporate services in 2016–17 was dominated by the amalgamation of corporate services areas. This amalgamation will be a multi-year undertaking as the technology architectures and approaches of the two entities were very different. The overall goal of this amalgamation is to create a technology environment that is simple, follows contemporary industry standards, and meets the evolving needs of judges and staff across all of the courts and tribunals.

WAN consolidation

The first amalgamation project in IT was to consolidate the two wide area network (WAN) technologies onto a single technology platform and single telecommunications contract. This consolidation is a fundamental first step in bringing the two technology environments together. It also represented a significant cost saving in the IT operation. The consolidation was completed in late 2016.

Email consolidation

Judges and staff of the Family Court and Federal Circuit Court were successfully migrated from Lotus Notes email to the Microsoft Office 365 cloud email platform. To facilitate this migration, a secure connection to the Microsoft cloud environment was established via the Court's Macquarie Telecom Secure Internet Gateway service. This connection will be used to access other public cloud services from Microsoft Azure and is a critical element of the technology roadmap. The migration required more than 1500 individual mailboxes to be converted from Lotus Notes and hundreds of millions of emails to be migrated to the Office 365 cloud service. It was completed in early 2017.

Novell migration

The Family Court had retained a legacy network directory infrastructure based on Novell technology. This created significant complexity in the environment for integrating applications, reducing flexibility and increasing costs. This was converted to the industry standard Microsoft Active Directory technology in early 2017.

Application development

The Family Court maintained an internal software development team for the support and maintenance of its bespoke business systems. By comparison, the Federal Court had long outsourced these functions to specialist commercial vendors. These services are presently provided by Datacom. After analysis and commercial negotiations, the Family Court internal function was outsourced to Datacom under the same service level agreement as the Federal Court. This represents a significant cost saving as well as standardising service levels and preparing for the unification of these business systems as an outcome of the Digital Court Program.

IT service desk

The staffing of the IT service desk was expanded to include a permanent staff member in the Parramatta registry. The two heritage service desk teams have been amalgamated into a single support group, operating on a national roster system to maximise hours of support. The team has standardised onto a single service management tool which provides an online service portal available to all judges and staff. This portal provides access to report service incidents and to make service requests. The portal also surveys a random sample of judges and staff at the closing of an incident ticket to gauge customer satisfaction; this information is used for staff coaching.

People and process

There has been a significant restructure of the IT organisation in response to the amalgamation. This is now largely complete, with the key IT functions now in single work groups operating under unified processes. An outcome of this restructuring has been a considerable reduction in the total number of IT staff. Coupled with key technology projects aimed at reducing IT operating costs, IT is tracking well against the cost reduction targets set for the amalgamation.

A key part of process unification was the rollout of the Federal Court IT Infrastructure Library (ITIL) compliant change management process across the merged organisation. This has established a robust mechanism for planning, coordination and communication of changes across IT. The bi-weekly change advisory board meetings provide an opportunity for IT management to meet to discuss service and project issues to decide the best way to communicate activity to court customers.

Courtroom technology

The program to modernise the courtroom technology of the Federal Court has shifted to a lifecycle maintenance footing with equipment being replaced as it reaches end of useful life. The courtrooms of the Family Court and FCC will require significant investment to bring them to a state equivalent to the Federal Court. Aside from there being significantly more courtrooms, these courtrooms

have relatively aged equipment and were built to a variety of design standards. During this year three courtrooms were completely upgraded for courtroom technology including video conferencing. There is increasing demand across all courts for video conferencing facilities.

Ten courtrooms have been set up for evidence display in an etrial. This enables a PC on the associate's table to display evidence to monitors located throughout the courtroom – bench, witness box, bar table etc.

WiFi project

For the past two years the Court has executed a program to establish WiFi access to support public Internet access for practitioners and members of the public and a secure private WiFi access for judges and staff. The private WiFi access is a key supporting technology for the Court's shift to greater use of contemporary mobile computing technologies including tablet PCs. During the reporting year, the network was expanded to include the Perth and Adelaide Commonwealth Law Court buildings, covering all areas used by the courts in the entity. The networks in Melbourne and Brisbane were extended to include all areas used by the Family Court and Federal Circuit Court.

Continuous deployment

Initial deployments of tools to support automated testing and deployment of new application code were made in development and test environments. These tools remove slow, error prone manual processes and are expected to improve turn-around times in application development. This will be a critical element in the Digital Court Program. These tools will be further expanded with the deployment of the hybrid cloud infrastructure detailed in the technology roadmap.

Technology roadmap

A technology roadmap was developed this year to map out the transition in IT architectures, infrastructures and processes over the coming 3-5 years. A key element of this roadmap is the shift to a hybrid cloud infrastructure within the data centre environment. Hybrid cloud will marry private and public cloud services within a single management platform. This architecture will allow IT to place workloads on the most cost effective platform weighing up considerations of performance and availability.

WEBSITE

Federal Court

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 the reporting year, 3,423,849 pages were viewed by 694,955 users, an increase of over seven per cent from the previous year. The most popular pages continue to be online services, judgments and daily court listings.

Several enhancements were made to the Federal Court website in 2016–17. The most significant of these were the addition of nine National Practice Area pages to support the launch of the National Court Framework and the release of the National Practice Notes. Laid out in dashboard style, the pages display key information relating to each of the practice areas such as applicable forms, fees, legislation and practice notes. The pages also display the latest judgments and judges' speeches.

The NCF reforms together with the new practice notes necessitated a revision and reorganisation of a large portion of website content. One noteworthy mention is the addition of a new section, 'I am a Party' which guides SRLs through court processes and sources of legal information and help. Two plain English guides on human rights and administrative and constitutional law were also published.

The range of subscription offerings to the public was expanded with the addition of the **Judgments by NPA** email alerts. Launched in June 2017, there are already over 1000 subscribers to the service.

The Federal Court celebrated its 40th anniversary in February 2017. To mark the occasion, a collection of archival documents, videos and photos relating to the establishment of the Court in February 1977 were made available on the website.

Family Court and Federal Circuit Court

Corporate Services also has responsibility for the management of the Family Court and Federal Circuit Court websites. Like the Federal Court website, these sites provide access to a range of court information including forms and fees, 'How do I' guides, daily court listings and judgments.

During the reporting year, the websites underwent the following improvements:

- A list of former Family Court judges and their appointment and retirement dates.
- In October 2016, the FCC changed the procedure for applying for divorce, requiring applicants to eFile the application rather than paper filing. A suite of 'How do I' pages was created to guide applicants through the process. The 'How do I apply for divorce' page has dynamic features that allow applicants to self-select content to check their eligibility to apply for divorce in Australia. It also provides information on what they need to know before applying.
- The 'How do I' pages for self-represented litigants were enhanced with improved interactivity as well as a range of new pages to help guide applicants and respondents through the family law process in a step-by-step manner. Information is categorised by topic area, making it easier to find.
- New 'How do I' pages for lawyers were created to assist in utilising the Commonwealth Courts Portal (CCP).
- The FCC judgments section was updated and split into tabs for general federal law and family law, as well as the month they were uploaded onto AustLII. This improved navigation and reduced slow page load times.
- Interactivity in pages across the websites was enhanced.

Page views and the most accessed areas include:

- **Family Court:** 5,651,131 page views by 1,397,381 users, an increase of over six per cent on the previous year. The most popular pages were applying for divorce, forms, court lists and fees.
- **Federal Circuit Court:** 4,747,909 page views by 877,383 users, an increase of over 10 per cent on the previous year. The most popular pages were court lists, forms, applying for divorce, registering for the CCP and eFiling an application for divorce.

In 2017–18 work will commence on a project to amalgamate all the websites to a common platform, providing better search facilities across all websites and savings in licence and software fees.

DIGITAL STRATEGY

The Court's digital strategy aims to take advantage of technology opportunities to achieve benefits to the courts and all 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.

The CCP (www.comcourts.gov.au), launched in July 2007, is a continuing initiative of the Federal Court, the Family Court and the Federal Circuit Court. The CCP provides free web-based access to information about cases that are before these courts. After registering, lawyers and parties can keep track of their cases, identify documents that have been filed and view outcomes, orders made and future court dates. Users log on using a single user ID and access multiple jurisdictions from a single central web-based system.

One of the objectives of the digital strategy is to create an environment where actions are commenced, case managed and heard digitally. A significant component of this objective was achieved with the introduction of electronic court files (ECFs) in July 2014 for the Federal and Federal Circuit

Court (general federal law). Matters commencing with the courts since its deployment are now handled entirely electronically. The Court's official record for such matters is the ECF and to date, over 40,000 ECFs have been created.

The family law eFiling functions continue to be expanded with 66 per cent of divorce applications now being electronically filed. This accompanied with the ability for staff to scan and upload documents to the case management system, has provided the Federal Circuit Court with a fully electronic divorce file.

The Court has continued to promote the use of electronic filing applications, eLodgment for general federal law and eFiling for family law matters. These applications continue to be enhanced to facilitate the ability to file all documents electronically in future years.

In 2016–17 the number of active users of eLodgment increased to 17,300 and over 156,000 documents were electronically lodged. By June 2017, 98 per cent of documents filed with the Court were done so electronically.

Similarly, the following statistics highlight the significant growth in the number of CCP users as at 30 June 2017:

- 7953 firms now registered (up from 6843 at 30 June 2016)
- lawyer registrations have increased to 16,527 (up from 14,031 at 30 June 2016), and
- total registered users is now at 317,248 (up from 247,887 at 30 June 2016).

The growth in eLodgment and eFiling users can be attributed to the Court's approach in promoting and improving both systems. The Court continues to consult with the users about enhancements made to the systems ensuring that any changes ensure improved usability.

During the reporting year, 689 general federal law 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 systems had a number of enhancements made in the reporting year. These included:

General federal law

- additional NPAs added and an update of listing reasons to improve national consistency in case management
- improvement of the orders production and stamping process to ensure timely availability of stamped orders on the Commonwealth Courts Portal
- tuning of the database to enhance performance and user experience
- introduction of new forms in eLodgment as a result of changes to the Bankruptcy Rules. These were subject to a transition period where both the old form and new form were accepted, and
- updates to the fee structure to accommodate the biennial fee increase.

Family law

- electronic sign and seal of all orders excluding appeals and consent orders, which allows clients to access sealed copies of orders in a timely manner from the CCP, and
- updates to the fee structure to accommodate the biennial fee increase.

The Court continues to expand its real time business intelligence work to assist in decision making, monitoring trends and workload management. This has removed the need for a lot of manual input of data into spreadsheets and assists registries in planning and ensuring that the Court maximises the available resources effectively to meet a fluctuating workload.

All the elements of the Court's digital 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.

RECORDKEEPING AND INFORMATION MANAGEMENT

Corporate structure

From 1 July 2016 records management for the Family Court and the Federal Circuit Court came under the corporate responsibilities of the Federal Court. Records management reporting now incorporates the three federal courts and the NNTT.

40th anniversary

The Federal Court celebrated its 40th year of foundation in 2017. The first swearing in of judges was on 7 February 1977. In celebration, many documents from the Court's archives were displayed on the Court's website covering the background to the Court's foundation, legislative base and comments at the time. These documents will continue to be available on the website throughout the year.

Working digitally

The Court continues to implement targets and pathways to meet the Federal Government's benchmarks for working digitally by 2020. Procedures have been implemented in many business areas to streamline work processes and business systems to ensure standards are met and records received digitally are managed digitally.

Records management systems

As a result of the amalgamation of the commonwealth courts corporate services, there are three separate electronic document records management systems. The Court is presently in the process of replacing all these systems with one system.

Annual records management report to National Archives

A new check-up report format to the National Archives of Australia was introduced in the reporting period. In the form of a survey, the report now covers the Federal Court, Family Court, Federal Circuit Court and the NNTT. The report continues to show an improvement in the courts' overall records management, systems and processes.

Information Governance Committee

The Information Governance Committee continues to meet bi-monthly, with membership now including the Family Court and Federal Circuit Court. The committee issued a joint Information Governance Framework in December 2016. The framework is a high-level statement of the Court's vision, principles and direction for information and records management.

Records Policy Committee

The committee continued to meet throughout the year to provide guidance on the management of electronic court files and establish consensus on procedures. It made a number of policy recommendations to assist the national management of court records. The committee now has representation from the Family Court and Federal Circuit Court.

Native title files

A pilot is presently underway to assess the contents of native title files for accessibility. The Court's Native Title files will eventually be located at the National Archives and it is important to examine the accessibility of the documents within the files for suitability of public access and research.

Native title artefacts

The Court was fortunate to acquire the native title collection of David Oldland for the Court's archives. David has assisted the Court at many 'On Country' hearings and determinations and videoed a number of the ceremonies.

Tribunals

Australian Competition Tribunal files from 1980–2009 and Significant Copyright Tribunal files covering 1980–2008 are in the process of being transferred to National Archives. An access agreement is being negotiated with the National Archives and once completed, the files will be available for the public to view via National Archives.

LIBRARY SERVICES

The Federal Court library provides a comprehensive library service to judges and staff of the Federal Court, Family Court of Australia, Federal Circuit Court of Australia, and members and staff of the NNTT.

The library collection consists of both print and electronic materials and is distributed nationally, with qualified librarians in each state capital except Hobart. Services to Tasmania, the Australian Capital Territory and the Northern Territory are provided by staff in the Victorian, New South Wales and South Australian libraries respectively. In Sydney, Federal Court judges and staff are supported by the New South Wales Law Courts Library under a Heads of Agreement between the Federal Court and New South Wales Department of Justice.

Although primarily legal in nature, the Federal Court library collection includes material on Indigenous history and anthropology to support the native title practice areas and material on children and families to support the child dispute practitioners. Details of items held in the collection are publicly available through the Library Catalogue and Native Title Infobase, both of which are accessible from the Federal Court website. The library's holdings are also added to Libraries Australia and are available through Trove. Many items may be borrowed on inter-library loan, subject to the use of judges and court staff.

The primary focus of the past 12 months has been on realigning library services, particularly the library webpage and current awareness activities, to reflect the Federal Court's National Court Framework and national practice areas.

The Federal Court library continues to benefit from collaboration with other court libraries, including as a foundation member of the Australian Courts Consortium for a shared library management system using SirsiDynix software. During 2016–17 this consortium also investigated the possibility of bulk purchasing of textbook titles. Additionally, the Federal Court library continues to be a member of the New South Wales Department of Justice Consortium for the purchase of LexisNexis and CCH products and services.

Assistance to libraries in the Pacific region continues with the Federal Court library organising for the binding of spare loose parts of law reports that will be distributed to Pacific law libraries. Duplicate textbooks were also donated to the University of Papua New Guinea.

ADVERTISING AND MARKETING SERVICES

A total of \$36,933 was paid for recruitment advertising services in 2016–17. Payments for advertising the notification of native title applications, as required under the *Native Title Act 1993*, totalled \$150,198 over the reporting year. The Court did not conduct any advertising campaigns in the reporting period.

FINANCIAL MANAGEMENT

Each of the three courts (the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia) has a Finance Committee which is made up of judges from the relevant Court as well as the Chief Executive Officer and Principal Registrar.

These committees meet quarterly and oversee the financial management of their respective courts, with the Commonwealth Courts Corporate Services supporting each of these committees. As the Accountable Authority, the Chief Executive Officer and Principal Registrar of the Federal Court has overarching responsibility for the financial management of the three courts and the Commonwealth Courts Corporate Services, together forming the Federal Court of Australia entity.

Financial accounts

During 2016–17 revenue from ordinary activities totalled \$324.530 million.

Total revenue, in the main, comprised:

- an appropriation from Government of \$245.343 million
- \$39.603 million of resources received free of charge, for accommodation occupied by the Court in Commonwealth Law Courts Buildings and the Law Courts Building in Sydney
- \$25.554 million of liabilities assumed by other government agencies, representing the notional value of employer superannuation payments for the courts' judges
- \$9.656 of assets provided free of charge to the Court in the Law Courts Building in Sydney
- \$4.374 million from the sale of goods and services and other revenue.

Pre-depreciation expenses of \$316.438 million in 2016–17 comprised: \$201.110 million in judges' and employees' salaries and related expenses; \$61.073 million in property related expenses; \$53.983 million in other administrative expenses, and \$0.272 million for the write-down of non-current assets and financing costs.

The net operating result from ordinary activities for 2016–17 was a deficit of \$1.564 million prior to depreciation expenses and other extraordinary asset transactions.

The deficit is significantly lower than the budgeted and approved deficit of \$5.5m and is as a result of the entity closely monitoring costs to ensure savings were achieved wherever possible to better position itself to manage within a financially constrained environment.

The next three-year budget cycle continues to challenge the entity to make further savings. In 2017–18 the entity has an approved deficit of \$2.5m and thereafter is expected to achieve a balanced budget. With over 60 per cent of the entity's costs relating to property and judicial costs, which are largely fixed, the ability to reduce overarching costs is limited. The entity is endeavouring to achieve a budget outcome in 2017–18 in line with the authorised deficit.

When depreciation expenses of \$13.725 million are included, the Court's expenses for 2016–17 totalled \$330.163 million.

Equity increased from \$52.771 million in 2015–16 to \$71.900 million in 2016–17. This includes a net transfer of \$9.747 million from the Family Court and Federal Circuit Court.

Program statements for each of the Court's programs can be found at the following:

- **Federal Court of Australia** – page 47
- **Family Court of Australia** – page 211
- **Federal Circuit Court of Australia** – page 211
- **Commonwealth Courts Corporate Services** – page 49.

GRANT PROGRAMS

The Federal Court of Australia made no grant payments in 2016–17.



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REPORT OF THE NATIONAL NATIVE TITLE TRIBUNAL



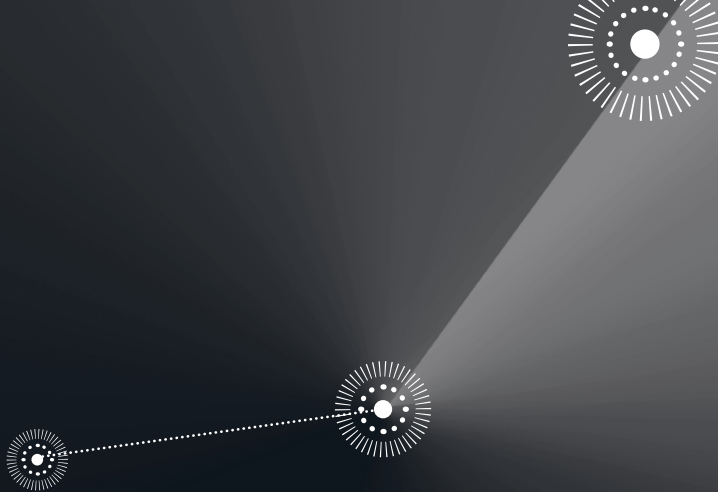
PART 5



This is the final piece of the constellation Iritjinga. Centaurus forms a part of the sky map where stars and the darkness between stars are used to assist navigation. The sky maps aligned with the landscape and allowed clans and groups to travel around country.

Dr R Bhathal: *Astronomy of the First People of Australia: From the Archives and the Indigenous Community* (pg. 5–6).





ESTABLISHMENT

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

The NTA 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, and
- c) to establish ways in which future dealings affecting native title (future acts) may proceed.

The NTA 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 Australian people.

FUNCTIONS AND POWERS

Under the NTA, 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 must not be done, or may be undertaken and, if so, whether any, and what, 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 NTA to representative bodies in performing their dispute resolution functions
- reconsidering decisions of the Native Title Registrar (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, and
- 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 NTA, and may arrange through the 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 NTA to delegate his responsibilities under the Act to the 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 NTA gives the 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 NTA
- registering ILUAs that meet the registration requirements of the NTA, and
- maintaining the Register of Native Title Claims, the National Native Title Register and the Register of Indigenous Land Use Agreements.

The Registrar may delegate to the Deputy Registrar, or to members of the staff assisting the Tribunal, all or any of the Registrar's powers. The President may direct the Registrar regarding the exercise of the Registrar's powers under Part 5 of the NTA, including to conduct certain searches and to keep and make available public records and information. The President also may appoint an acting Registrar if there is a vacancy in the office of Registrar, or if the Registrar is unable to perform the duties of the office for any reason.

THE PRESIDENT, MEMBERS AND THE NATIVE TITLE REGISTRAR

The President, other members of the Tribunal and the Registrar are appointed by the Governor-General for specific terms of no longer than five years. The NTA sets out the qualifications for appointment and defines the responsibilities of the President, other members and the 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

The office of Registrar is currently vacant. Robert Powrie was acting Registrar for the reporting period, as appointed by the President.

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 acting Registrar has been co-located in Sydney and 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 things are done and create opportunities for growth, and
- is collegiate, and in which genuine respect for others – internally and externally – is always shown.

THE YEAR IN REVIEW

The 2016–17 financial year was one of consolidation for the NNTT, with the majority of the recommendations arising from the President's Review in 2014–15 (President's Review), having taken effect. As a newly invigorated national organisation the focus this year was on service delivery as well as client and stakeholder engagement. External factors, too, played a key role in the organisation's operations.

SIGNIFICANT DEVELOPMENTS

Client and stakeholder engagement

To build capacity within the native title system, the NNTT conducted numerous forums, information sessions, workshops and seminars across the country.

Continuing with its initiative to support and strengthen Prescribed Bodies Corporate (PBC), the NNTT convened meetings of the PBC Support Forum (forum) in Perth, Adelaide and Melbourne. This unique inter-agency forum brings together government and non-government bodies to identify ways to deliver more targeted support to PBCs through information sharing, strategic discussion and collaborative effort. Forum members include representatives from the Commonwealth Department of Prime Minister and Cabinet, the Commonwealth Attorney-General's Department, the National Native Title Council, the Office of the Registrar of Indigenous Corporations (ORIC), the Indigenous Land Corporation, Indigenous Business Australia, the Australian Institute of Aboriginal and Torres Strait Islander Studies, CEOs of native title representative bodies and service providers and members of PBCs. To facilitate discussion, the NNTT provided the forum with a draft discussion paper addressing the issues of post determination funding, support services for PBCs, and gaps in existing services.

Native title information sessions were delivered to the Broome Shire, the Looma Community, the Western Australian Department of Lands, the WA Water Corporation and Queensland Parks and Wildlife Services. In addition, the NNTT worked in collaboration with the Australian Local Government Association on a project designed to increase knowledge of native title issues in the local government sector and inform the development of relevant information resources.

President Raelene Webb QC and acting Registrar Robert Powrie delivered training in Canberra to approximately 60 staff from Commonwealth Government agencies with an interest in native title. The roles of the NNTT and the Federal Court, native title processes and managing native title in the post-determination environment were just a few of the topics covered.

The President, acting Registrar and Tribunal Members provided native title presentations to students and staff at various Australian Universities, including Deakin University, Southern Cross University, University of Adelaide, the university of Queensland and Victoria University.

At the request of the Central Desert Native Title Services, the NNTT undertook professional legal development training for lawyers in Western Australia's (WA) Native Title Representative Bodies (NTRBs). The NNTT, in collaboration with legal firm Gilbert + Tobin, facilitated a two-day program in March 2017, covering topics such as future act processes, the application of s 47B NTA and resilience in the workplace, from an agenda developed in consultation with the NTRBs. The workshops were attended by over 80 of WA's native title lawyers and the NNTT has received expressions of interest for similar training in other states.

Once again the demand for President Webb to speak at conferences and seminars throughout the year remained high.

President Webb delivered 17 presentations across Australia and internationally. Of note, was the President's Sir Frank Kitto Lecture, a prestigious event held annually at the University of New England (NSW). Her presentation *Whither native title?* considered the impact of the Mabo decision and the legislative response on the lives of Indigenous Australian peoples. She noted the continuing reluctance in some quarters to accept native title, and discussed the key priorities necessary to realise some of the hopes engendered by the Mabo decision.

In November, President Webb spoke at the Western Australian Bar Association's Colloquium in honour of retiring Chief Justice Robert French AC, tracing his Honour's contribution to native title in her paper 'No Mere Platitude. The influence of Chief Justice French on native title'. Chief Justice French was the inaugural President of the NNTT, served as a judge for 30 years firstly of the Federal Court, then as Chief Justice of the High Court.

As an internationally renowned speaker, President Webb has become a regular presenter at the Annual World Bank Conference on Land and Poverty in Washington DC. In this year's presentation, entitled *Management of native title – Australia's next "wicked" problem*, President Webb said that 'the way forward for Australia in managing native title to its fullest potential is to develop a unified framework which is both integrated and interactive, embodying partnerships between governments at all levels, native title holders, industry and the Australian community.'

In addition to a full load of mediation work, including approximately 218 mediation meetings throughout 2016-17, the NNTT's Tribunal Members Helen Shurven, Dr Valerie Cooms and James McNamara made a significant contribution to the wider native title system, providing assistance across the sector, authoring publications, attending and presenting at conferences and workshops and participating as members of key committees.

Among her many activities, Member Shurven co-authored two articles for the *Australasian Dispute Resolution Journal* with senior staff member Clair Berman-Robinson, and while on leave in Kota Kinabalu, gave a presentation to representatives from the Sabah Law Association interested in the operations of the NTA, and the role of the NNTT (the Chief Judge of Sabah has been calling for a Native Title Tribunal in the region), and finished out the year in Boston, where she undertook a course of study at the Harvard Negotiation Institute, 'Advanced Mediation Workshop: Mediating Complex Disputes'. She also convened two stakeholder meetings in NSW to discuss the complexities arising from the overlapping native title and Aboriginal Land Rights regimes, and presented on that topic at the Australian Disputes Centre.

Member Cooms continued as an active member on various Australian Human Rights Commission Committees as well as the AIATSIS Native Title Research Advisory Committee and the Indigenous Business of Australia's Housing Roundtable. In collaboration with ORIC, she assisted in dispute resolution (mediating issues within PBCs) and assisted with the establishment of PBCs. She also maintained her involvement in TAFE training programs for Indigenous youth.

During the reporting period, Member McNamara played a significant role in progressing ILUA negotiations throughout northern Queensland and the Torres Strait. At the request of the Torres Strait Regional Authority, Member McNamara worked with a number of communities to assist them to identify traditional boundaries and facilitated discussions between communities and the State of Queensland to resolve land tenure issues. A full list of the President's, other members' and acting Registrar's presentations is annexed to this report.

The NNTT's Research and Development Director, Dr Pamela McGrath continued to raise the profile of the NNTT with two publications: 'Native title anthropology after the Timber Creek decision', published in *AIATSIS' Land, Rights, Laws: Issues in Native Title*, and 'Providing public access to native title records: balancing the risks against the benefit', to be published in *The Court as Archive: Rethinking the institutional role of federal superior courts of record* (ANU Press).

In order to improve client services, the Cairns Office was renovated, to meet the needs of local stakeholders. The layout of the new office was designed to be more culturally acceptable to Indigenous Australian peoples by being more open and accessible and including a specially designed discussion area to facilitate interaction and communication.

At year's end, it was reassuring to receive the results of the Stakeholder and Client Satisfaction Survey, which revealed that approximately 80 per cent of respondents were either very satisfied or satisfied with the overall service provided to them by the NNTT. They reported that the NNTT was easy to contact, provided accurate information, had an appropriate level of knowledge and took into account cultural and customary concerns of Indigenous Australian peoples. Ninety-two per cent of responders considered the NNTT's staff to be friendly and helpful.

Overall, respondents considered that the NNTT was performing well across its various services with the highest rating of 93 per cent given for native title searches and 90 per cent for the NTV mapping system, which were the most commonly accessed services.

External factors

External factors had a significant impact on the operations of the NNTT during the 2016–17 financial year.

On 24 August 2016, judgment in the first litigated native title compensation claim was handed down by Justice Mansfield of the Federal Court in *Griffiths v Northern Territory of Australia (No 3)* 2016 FCA 900 (*Griffiths*). This decision provided the native title community with some long awaited guidance as to principles underpinning, and the means of calculating, the quantum of native title compensation. The decision has been appealed to a Full Bench of the Federal Court and legal commentators predict that it will make its way to the High Court before the matter is finally resolved. Following the decision, three additional compensation claims were made to the Federal Court and provided to the NNTT for notification. A significant number of compensation claims are anticipated when the legal processes in *Griffiths* conclude.

Immediately following the *Griffiths* decision, the NNTT partnered with legal firm Gilbert + Tobin to deliver a series of stakeholder workshops entitled 'Practical Implications of the Griffiths Decision'. In total, the workshop series was delivered across six cities, Brisbane, Sydney, Melbourne, Adelaide, Perth and Darwin and was attended by 215 interested parties, mostly legal representatives from government, industry and native title bodies. The feedback was very positive and indicated an appetite for more NNTT led events in the future.

The Full Federal Court decision in *McGlade v Native Title Registrar & Ors* 2017 FCAFC 10 (*McGlade*) called into question the validity of Area Indigenous Land Use Agreements (Area ILUAs) that were not executed by all members of the registered native title claimant. In response to *McGlade*, the acting Registrar placed a 'moratorium' on Area ILUAs in the registration/notification stage that could be affected by the decision, while continuing to apply the registration test to those unaffected. The 'moratorium' was in place from February 2017 until June 2017 when amendments to NTA retrospectively validated otherwise invalid Area ILUAs and clarified the process by which Area ILUAs may be authorised in the future, and the persons who are required to sign or to be a party to Area ILUAs.

To assess the impact of the *McGlade* decision and to assist in the delivery of an informed policy response from the Attorney-General's Department, the NNTT conducted an audit of Area ILUAs registered between 17 September 2010 (the date of the previous authority in this matter, *QGC Pty Limited v Bygrave (No 2)* (2010) 189 FCR 412) and 2 February 2017, to determine how many agreements would be impacted. At least 125 were identified.

There was a great deal of interest from both the media and the native title community in the outcome of the *McGlade* decision, the conduct of the audit, consequences for affected Area ILUAs already on the register, those still awaiting registration testing and the proposed legislation. Dealing with these issues required the commitment of dedicated resources to manage the increased workload.

Mapping products

The NNTT's new Native Title Vision Platform, NTV+, generated a lot of excitement in the native title community this year. Upon request, the Geospatial services team made numerous presentations to stakeholders keen to explore the new platform. In early November, Geospatial Services Director Mark McInerney provided staff from the Western Australian Department of State Development an advance preview of the new features which included an intuitive interface, enhanced search functions and a variety of map backgrounds, including aerial imagery, and a choice of export formats. Demonstrations were also made to the PBC Support Forum, Commonwealth agencies in Canberra and to lawyers and other legal staff from the Cape York Land Council.

NTV+ was officially launched in January and by April statistics indicated that the majority of users had made the switch to the new platform.

Training

In 2016–17, the NNTT continued to deliver advanced training to all staff. As identified in the President's Review, advanced training is a key element of the NNTT's ability to deliver service of a high standard, at a client's first point of contact. In addition to core business, training encompassed Indigenous cultural considerations and the history of native title, so that all NNTT business is conducted within that context. Training utilises the expert knowledge held by the President, other members, acting Registrar and senior staff, as well as external service providers.

The program of advanced training is in addition to regular induction training for new staff and training undertaken by staff relevant to their specialty area.

Cultural respect

Cultural understanding and respect remains a high priority for the NNTT. Throughout the year, the NNTT instituted a number of initiatives to improve workplace culture and ensure a culturally safe workplace. These included:

- ongoing development of an Indigenous Employment Strategy, which will form part of the Federal Court's strategy
- supporting the development of a new Reconciliation Action Plan
- re-instituting the Indigenous Advisory Group (IAG)
- requiring training materials and research proposals with cultural content to be provided to the IAG for comment
- classifying all NNTT positions as Identified positions – employees are required to have effective communications skills and an understanding of the issues affecting Indigenous Australian peoples
- meeting the Australian Public Service Commission guidelines and ensuring the Aboriginal and Torres Strait Islander selection criteria are in all job descriptions
- ensuring all recruitment panels contain an Indigenous panel member (at level of position or above) and requiring recommended applicants to provide an Indigenous referee

- delivering compulsory cultural respect training to all staff
- commissioning an Organisational Culture Change Plan
- developing and delivering training to all staff on the impact of European settlement and the native title regime on Aboriginal and Torres Strait Islander people
- ensuring practices and procedures within the NNTT are delivered in a manner which is consistent with the requirements of the NTA, being beneficial legislation for Aboriginal and Torres Strait Islander people, and
- creating more culturally acceptable spaces for Aboriginal and Torres Strait Islander people in office redevelopment plans.

Creating efficiencies

The NNTT has an ongoing commitment to efficiency and throughout the reporting period revised and improved a number of business processes. To facilitate registration testing, the acting Registrar introduced concurrent processing, the use of plain English in all documentation, and regular reporting to the Federal Court in relation to notification and registration timeframes.

There have been improvements to the future act processes, including a revised case management approach to the expedited procedure inquiry process in WA. The NNTT's policies and practices library has been updated and transitioned to a new, user friendly format and the case management system (ICaFAMS) now includes automated templates for regular correspondence. Notification advertising is also being transitioned to in-house production to shorten timeframes and reduce costs.

In compliance with the Australian Government Digital transition policy, the NNTT now creates, manages and stores the majority of its records digitally, allowing files to be shared and accessed seamlessly across the country.

Celebrating Mabo 25th anniversary

The NNTT embraced the 25th anniversary of Mabo this year, taking a lead role in key celebratory activities.

In February, the NNTT, the Federal Court of Australia and the Centre for Native Title Anthropology at the Australian National University co-convened a special event in Perth to recognise the contribution of anthropology and anthropologists to native title law. The event was attended by nearly 160 people and featured a program of 16 speakers, among them Federal Court judges, anthropologists and barristers. Each speaker provided a unique perspective on the importance of anthropological knowledge to the legal recognition of native title rights, and some of the joys and challenges of working with anthropologists. The event was opened by Justice Michael Barker, who is one of the National Coordinating Judges in the Court's Native Title National Practice Area, and the judge principally responsible for native title case management in Western Australia. The video and transcript from the event have been made available online.

With support from the judiciary, native title representative bodies and other native title stakeholders, the NNTT also published a 'pop-up' website in March 2017 to celebrate 25 years of native title recognition in Australia. The website traces the history of native title recognition from the early land rights movement to the historic Mabo decision in 1992. It explores the impact of the NTA and the many changes to both native title legislation and common law that have taken place over the quarter century to 2017. To support the 'pop-up' website and to generate interest across the native title sector, the NNTT utilised social media channels for the first time, including YouTube, Facebook and Twitter. The website has attracted over 2000 unique visitors each month, with interests peaking during the Mabo celebrations in early June. The website will be available for the remainder of 2017 and will continue to be updated with unique contributions as the year progresses.

Looking forward

The NNTT looks forward to consolidating and improving its performance and client/stakeholder satisfaction ratings in 2017–18. While demand for NNTT services and assistance has increased steadily year-on-year, the organisation's capacity to meet this demand and to provide satisfactory levels of service into the future will depend upon sufficient resources being made available for it to perform both mandatory and discretionary statutory functions.

THE WORK OF THE NNTT IN 2016–17

GENERAL OVERVIEW

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

FUNCTIONS OF THE TRIBUNAL

FUTURE ACTS

Overview

A key function of the Tribunal, under subdivision P of the NTA 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 2016–17

FUTURE ACT	NT	QLD	WA	TOTAL
Objections to expedited procedure	22	103	1012	1137
Future act determination applications	n/a	2	19	21
Total	22	105	1031	1158

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 and the Northern Territory.

Expedited procedure objection applications and inquiries

Under s 29(7) of the NTA, 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 1137 objection applications were lodged during the reporting period, approximately 89 per cent of which were lodged in Western Australia. The ratio of objections lodged to notices issued has reduced markedly, with approximately 26 per cent of notices attracting an objection in this period compared to 31 per cent in 2015–16.

A greater number of objection applications were lodged and a slightly greater number finalised (1035) than in the last reporting period. The number of active applications at the end of the reporting period stood at 615 which is 100 more than at the end of the previous reporting period (515). Approximately 465 objections were withdrawn after agreement was reached between the native title party and proponent and a further 228 objection applications were finalised due to the withdrawal of the tenement application by the proponent.

A total of 44 determinations in respect of objection applications were made during the reporting period, an increase of 33 per cent from the previous year. The expedited procedure was determined to apply on 30 occasions, an increase of approximately 43 per cent from the previous reporting period and on 14 occasions the expedited procedure was determined not to apply, an almost 17 per cent increase 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, 60 new requests for Tribunal mediation assistance in negotiating future acts were made; 39 per cent fewer requests than for the previous reporting period.

The NTA prescribes a minimum six-month 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, 21 applications were lodged, five fewer than in the previous reporting period. The NTA 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 were four 'good faith' determinations. In three cases, 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.

Twenty-three future act determination applications were finalised during the reporting period. In nine cases, the Tribunal determined that the future act may be done and in one case that the act must not be done. The remaining 13 future act determination applications were either withdrawn or dismissed. Three applications were withdrawn due to agreement being reached.

MEDIATION

Section 203BK(3) of the NTA 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 two instances.

No assistance in negotiating an agreement under s 86F of the NTA was provided during the period.

ASSISTANCE IN NEGOTIATING INDIGENOUS LAND USE AGREEMENTS

During the reporting period the Tribunal received three assistance requests in negotiating ILUAs pursuant to s 24BF (body corporate agreements) and one pursuant to s 24CF (area 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 2016–17

NATIVE TITLE DETERMINATION APPLICATIONS	NSW	NT	QLD	SA	VIC	WA	TOTAL
Claimant (new)	4	4	13	0	0	5	26
Claimant (amended)	3	5	6	3	0	14	31
Non-Claimant	10	0	4	1	0	0	15
Compensation (new)	0	0	3	0	0	0	3
Compensation (amended)	0	0	0	0	0	0	0
Revised Native Title Determination	0	0	0	0	0	1	1
Total	17	9	26	4	0	20	76

CLAIMANT AND AMENDED APPLICATIONS: ASSISTANCE AND REGISTRATION

Sections 190A – 190C of the NTA confer upon the 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 Registrar with a copy of new or amended claimant applications and accompanying documents which have been filed in the Federal Court.

The Registrar considers the relevant applications against the requirements of the NTA. The 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 NTA.

During the reporting period, the Registrar received 26 new claimant applications, seven less than in the previous reporting period, and 31 amended applications, which was ten more than the year before. The majority of new applications and amended applications were filed in Queensland and Western Australia.

Fifty-two applications were considered for registration during the reporting period; 46 were accepted, and six were not accepted for registration following consideration of the claim in the application pursuant to s 190A of the NTA. This included 12 amended applications considered and accepted for registration pursuant to the test prescribed by s 190A(6A) of the NTA.

Excluding decisions made under s 190A(6A), 85 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 approximately three and a half months.

Preliminary assessments of 13 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 NTA, the Registrar can provide assistance in the preparation of applications to register ILUAs. Often, this assistance takes the form of pre-lodgment 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 28 occasions and on 78 occasions mapping assistance and related information pursuant to s 24BG(3) and s 24CG(4) of the NTA was provided to parties to assist them to prepare applications to register ILUAs.

Under the NTA, parties to an ILUA (whether a body corporate agreement, area agreement or an alternative procedure agreement) must apply to the 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.

There are 1174 ILUAs on the Register of Indigenous Land Use Agreements, the majority of which are in Queensland. This trend continued in the reporting period as 66 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 78 ILUAs (47 body corporate agreements and 31 area agreements) were lodged with the Registrar for registration. In the case of area agreements, this was a 67 per cent reduction from the previous reporting period (a likely consequence of the *McGlade* decision and subsequent moratorium on the registration of affected Area ILUAs). In the case of body corporate agreements, this was almost twice as many as in the previous reporting period.

Forty of the 78 applications to register ILUAs covered land and waters in Queensland, and 31 covered areas in Western Australia.

Thirty-four body corporate and 43 Area ILUAs were accepted for registration and entered onto the Register of Indigenous Land Use Agreements during the reporting period. One Body Corporate ILUA was not accepted for registration. The number of registration decisions in relation to body corporate agreements is similar to that of the previous reporting period; however, there were significantly fewer decisions in relation to area agreements.

Consistent with the previous reporting period, 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 51 native title determination applications were notified, compared with 39 in the previous reporting period. Thirty-one claimant applications were notified, compared with 24 in the previous year and 17 non-claimant applications were notified, three more than in the previous reporting period. Three compensation applications were also notified during the reporting period.

In addition, the Registrar gave notice in respect of seven amended applications.

Thirty-five Area ILUAs and 45 Body Corporate ILUAs were notified during the period. This represents a 59 per cent decrease in notification of Area ILUAs and a 31 per cent increase 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 NTA provides for the 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 Registrar may help other people in relation to a proceeding. During the reporting period, assistance was provided pursuant to s 78 of the NTA on 191 occasions, which is 20 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 NTA, 1326 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 NTA the 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 NTA.

As at 30 June 2017, there were a total of 209 claimant applications on the Register of Native Title Claims. This number represents a decrease of 40 applications from the previous reporting period.

THE NATIONAL NATIVE TITLE REGISTER

Under s 192(2) of the NTA, the Registrar must establish and keep a National Native Title Register which records approved determinations of native title. During the reporting period, a total of 27 determinations of native title were registered on the National Native Title Register, a decrease of 37 per cent compared with the previous reporting period.

As at 30 June 2017 there were:

- 385 determinations of native title registered
- 321 determinations that native title exists, and
- 64 determinations that native title does not exist.

A map of registered native title determinations as at 30 June 2017 is set out in Map 1.

THE REGISTER OF INDIGENOUS LAND USE AGREEMENTS

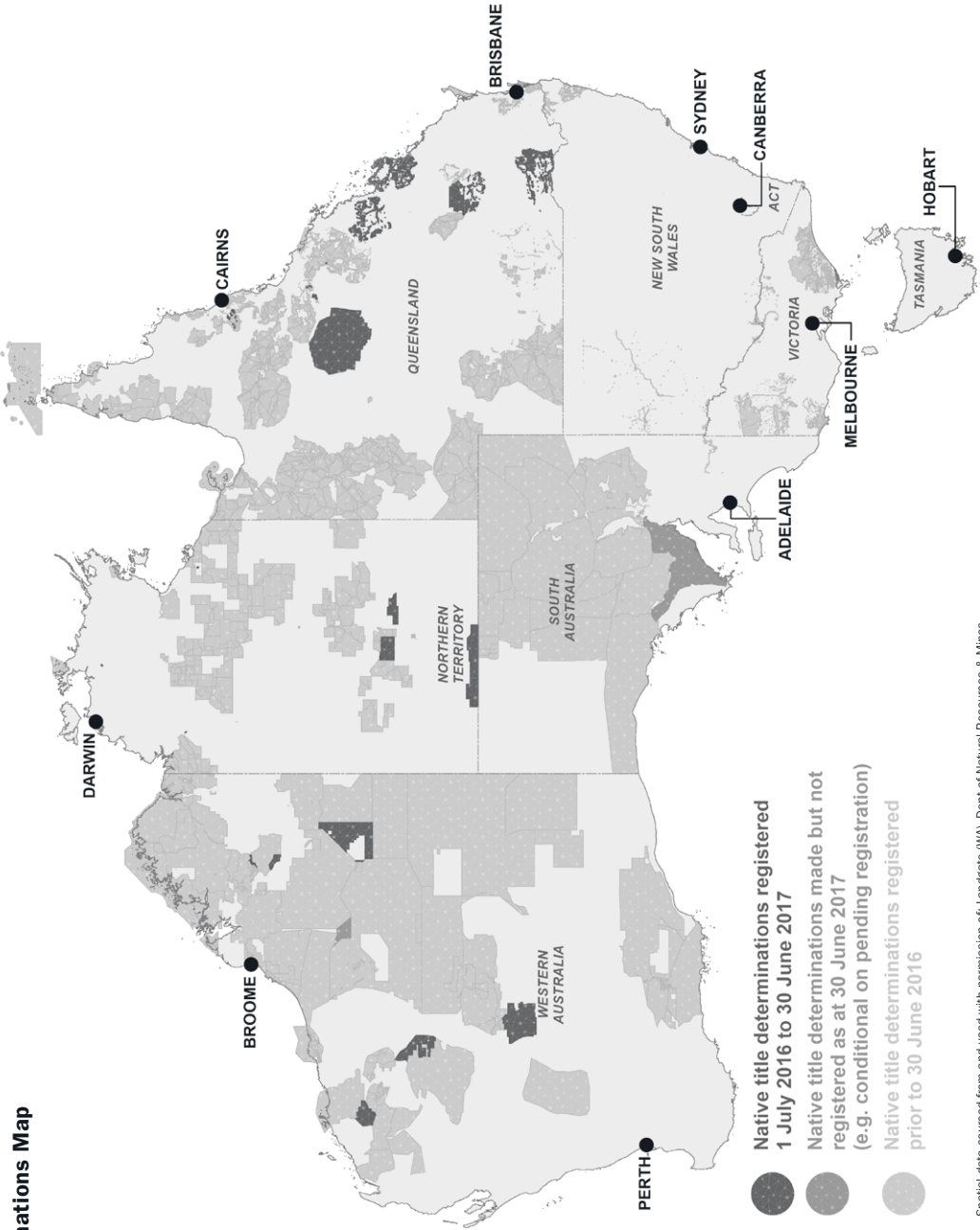
Under s 199A(2) of the NTA, the Registrar must establish and keep a Register of Indigenous Land Use Agreements, on which area agreement, body corporate and alternative procedure ILUAs are registered. During the reporting period, 77 new ILUAs were registered. No ILUAs were removed from the Register. At 30 June 2017, there were a total of 1174 ILUAs registered on the Register of Indigenous Land Use Agreements.

MAPS

The 385 registered determinations as at 30 June 2017 covered a total area of about 2,589,285 sq km or 33.7 per cent of the land mass of Australia and approximately 100,028 sq km of sea (below the high water mark). Two determinations yet to take effect (one in South Australia and one in Western Australia) were still awaiting registration at 30 June 2017. Upon registration, these determinations will increase the area to approximately 2,626,924 sq km or 34.2 per cent of the land mass of Australia and approximately 100,217 sq km of sea: see Map 1.

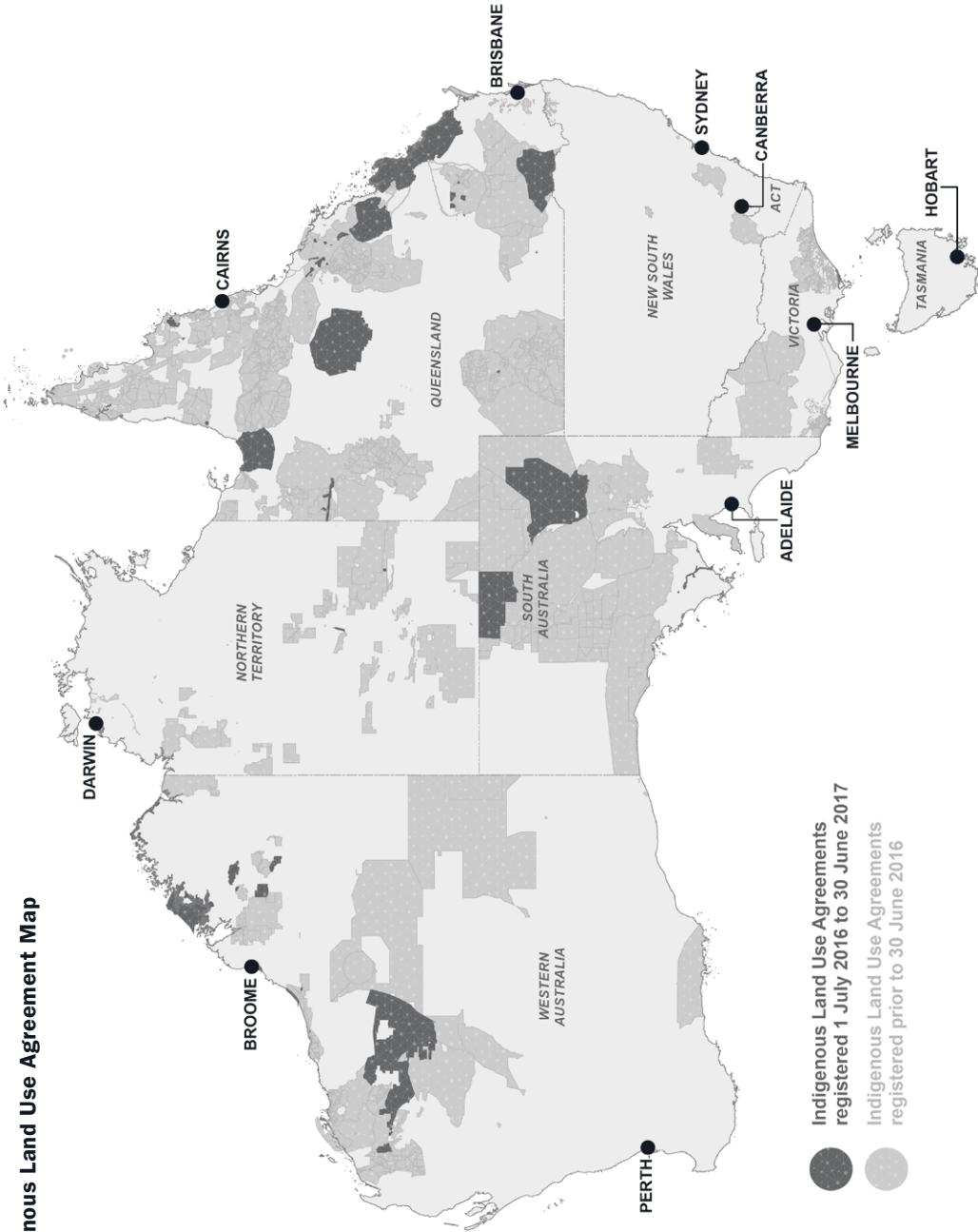
Registered ILUAs cover about 2,298,746 sq km or 29.9 per cent of the land mass of Australia and approximately 24,108 sq km of sea: see Map 2.

Map 1: Determinations Map



Spatial data sourced from and used with permission of: Landgate (WA), Dept of Natural Resources & Mines (Qld), © The State of Queensland, Land & Property Management Authority (NSW), Dept of Lands, Planning & the Environment (NT), Dept for Planning, Transport & Infrastructure (SA), Dept of Environment and Primary Industries (Vic) and Geoscience Australia, Australian Government, © Commonwealth of Australia.

Map 2: Indigenous Land Use Agreement Map



Spatial data sourced from and used with permission of: Landgate (WA), Dept of Natural Resources & Mines (Qld), © The State of Queensland, Land & Property Management Authority (NSW), Dept of Lands, Planning & the Environment (NT), Dept for Planning, Transport & Infrastructure (SA), Dept of Environment and Primary Industries (Vic) and Geoscience Australia, Australian Government. © Commonwealth of Australia.

Geotrack Number: GT2017/1023

MANAGEMENT OF THE TRIBUNAL

TRIBUNAL GOVERNANCE

The President has statutory responsibility for the administration of the NNTT which she discharges through the NNTT's key governance group, the Board of Management. The Board is the organisation's key leadership, planning and accountability forum, supporting the President and Registrar in discharging their responsibilities under the NTA. It is accountable for setting the strategic direction of the NNTT, and is collectively responsible for the success of the organisation.

The Board is chaired by the President and includes the Registrar, Deputy Registrar and a member (currently Member Shurven). The Board met five times during the reporting period.

The President and other 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. \$10.876 million was allocated for the NNTT's operations in 2016–17.

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

A summary of the NNTT's revenue and expenditure for 2016–17 is set out in the following Operating Statement.

Table 5.4: Financial Operating Statement

OPERATING STATEMENT FOR YEAR ENDING 30 JUNE 2017				
PROGRAM 1.1.2 NATIONAL NATIVE TITLE TRIBUNAL	AMENDED BUDGET ACTUAL \$'000	ACTUAL \$'000	VARIATION \$'000	
Revenue	10,876	10,883	7	
Service receipts	0	7	7	
Total revenue	10,876	10,890	14	
Expenses staff and office holders	9,897	8,758	1,139	
Supplies and services	979	997	-18	
Total Expenses	10,876	9,755	1,121	
Operating Result	0	1,135	1,135	

The NNTT managed its financial resources carefully throughout the reporting period and at 30 June 2017 recorded a surplus of \$1.135 million, most of which related to savings in staff salaries.

EXTERNAL SCRUTINY

JUDICIAL DECISIONS

The Full Federal Court decision in *McGlade v Native Title Registrar & Ors* 2017 FCAFC 10 had a significant impact on the Registrar's capacity to notify and register area ILUAs from February 2017 to June 2017. See Year in Review section of this report for further details.

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 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. 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 NTA, 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.

ANNEXURE

PRESIDENT'S PRESENTATIONS

President Raelene Webb's presentations: 1 July 2016 to 30 June 2017

DATE	TITLE	EVENT	ORGANISERS
4 August 2016	Ethical choices for native title lawyers: adversarial, responsible, moral activist or relational?	Southern Cross University, Research Week	Southern Cross University, Gold Coast campus
5 August 2016	The next wicked problem in native title: managing rights to realise their potential	Southern Cross University, Public Lecture	Southern Cross University, Gold Coast campus
24 August 2016	Post Determination issues – looking to the future of native title	Federal Court Judges Native Title Workshop	Federal Court, Sydney
6 September 2016	Whither native title?	Sir Frank Kitto Lecture	University of New England, NSW
9 September 2016	Native title and the National Native Title Tribunal	University of Adelaide, Lecture	University of Adelaide
14 September 2016	Opportunities for NNTT assistance in NSW	NSW Native Title Federal Court NSW Registry, Presentation	Federal Court NSW Registry
12–14 October 2016	Governance challenges in the implementation of mining agreements	AMPLA conference	AMPLA
27–28 October 2016	New and emerging trends in native title valuation cases	Victorian Bar National Conference	Australian Bar Association & Victorian Bar
08 November 2016	The how, when, where and why of effective Indigenous engagement	Annual Northern Territory Major Projects Conference, Darwin	Expotrade Australia
11 November 2016	The past, present and future of native title	Commonwealth Bank Information Session	Commonwealth Bank, Sydney
24 November 2016	No mere platitude: the influence of Chief Justice French on native title	French Colloquium	Western Australian Bar Association

DATE	TITLE	EVENT	ORGANISERS
23 March 2017	Management of native title – Australia's next 'wicked' problem	Annual World Bank Conference on Land and Poverty 2017: Responsible land governance – Towards an evidence-based approach, Washington DC	World Bank
2 June 2017	25 years on from Mabo	25th Anniversary Mabo Symposium	Mer Gedkem Le (TSI) Corporation RNTBC & Torres Strait Regional Authority
7 June 2017	Exercising native title rights and interests, presentation and panel discussion	National Native Title Conference, Cairns	AIATSIS
15 June 2017	Insights from the NNTT	Native Title Conference, Brisbane	Legalwise Seminars
20 June 2017	Developing with dialogue	Developing Northern Australia Conference 2017, Progress, Growth and Investment	Office of Northern Australia, Association for Sustainability in Business
28 June 2017	Management of native title – Australia's next 'wicked' problem	National Indigenous Economic Development Forum	Akolade Australia

ACTING NATIVE TITLE REGISTRAR'S PRESENTATIONS

Robert Powrie's presentations: 1 July 2016 to 30 June 2017

DATE	TITLE	EVENT	ORGANISERS
17 August 2016	Native title and the National Native Title Tribunal	Professional development workshop for a delegation of Sri Lankan judges	Deakin Law School
25 August 2016	Australian legal system in context	Foundation Law Students Presentation	Victoria University
6 November 2016	The past, present and future of native title	Commonwealth Bank Information Session	National Native Title Tribunal and Commonwealth Bank
27 March 2017	On time, on budget, on point	Innovation and Excellence in Courts Conference	Supreme Court of Victoria and Australasian Institute of Judicial Administration
6 April 2017	Native title and the National Native Title Tribunal	Native Title Information Session	National Native Title Tribunal and Commonwealth Government Agencies

MEMBERS' PRESENTATIONS

Helen Shurven's presentations: 1 July 2016 to 30 June 2017

DATE	TITLE	EVENT	ORGANISERS
19 August 2016	Mediating native title issues	Presentation to the Sabah Mediation Association and Federal Court Sabah	Sabah Mediation Association
5 September 2016	Looma Community information session	Looma Community information session	Looma Community
6 & 7 September 2016	Native title Workshops	Shire of Broome Workshops	Shire of Broome
12–14 September 2016	Telephone mediation: the next 10 years	National Mediation Conference	National Mediation Conference Committee
4 & 11 October 2016	Mediation in native title: Resolving disputes in a statutory framework	DOL Training Workshops	Department of Lands (DOL) (WA)
7–11 November 2016	Using technology with multi party disputes: Some observations from a Tribunal	Law and Courts in an Online World conference	Cowen Centre/ Victoria University Melbourne
16 March 2017	Using ADR to assist land dispute negotiations in NSW	Evening Seminar Series	Australia Dispute Centre
21 March 2017	Native title mediation	NTRB Lawyers' Workshop	NNTT
15 & 22 May 2017	Mediation in native title	Water Corporation Training Workshops	Water Corporation
9 June 2017	Tribunals and self-represented parties	COAT Conference, Sydney	Council of Australasian Tribunals
21 June 2017	Mediating complex disputes	Seminar in Boston	Community Dispute Settlement Center

Dr Valerie Cooms' presentations: 1 July 2016 to 30 June 2017

DATE	TITLE	EVENT	ORGANISERS
07 December 2016	Keynote address	Launch of the Social Justice and Native Title Report 2016	Australian Human Rights Commission
28 March 2017	Quandamooka Nation	Common Futures Conference	Australian Indigenous Governance Institute
11 April 2017	Native title	Presentation to UQ InspireU Law Students with Member McNamara	University of Queensland
26 May 2017	Sorry Day	Sorry Day – Still Bringing Them Home ... Twenty Years Later	Link-Up Queensland Aboriginal Corporation

James McNamara's presentations: 1 July 2016 to 30 June 2017

DATE	TITLE	EVENT	ORGANISERS
16 August 2016	Land Board Tenure Portal	Presentation and Discussion to Department of Natural Resources and Mine with Mark McInerney, Geospatial Director	National Native Title Tribunal
11 October 2016	Practical implications of the Griffith decision	NNTT Compensation Workshop	National Native Title Tribunal
11 April 2017	Native title	Presentation to UQ InspireU Law Students with Member Cooms	University of Queensland



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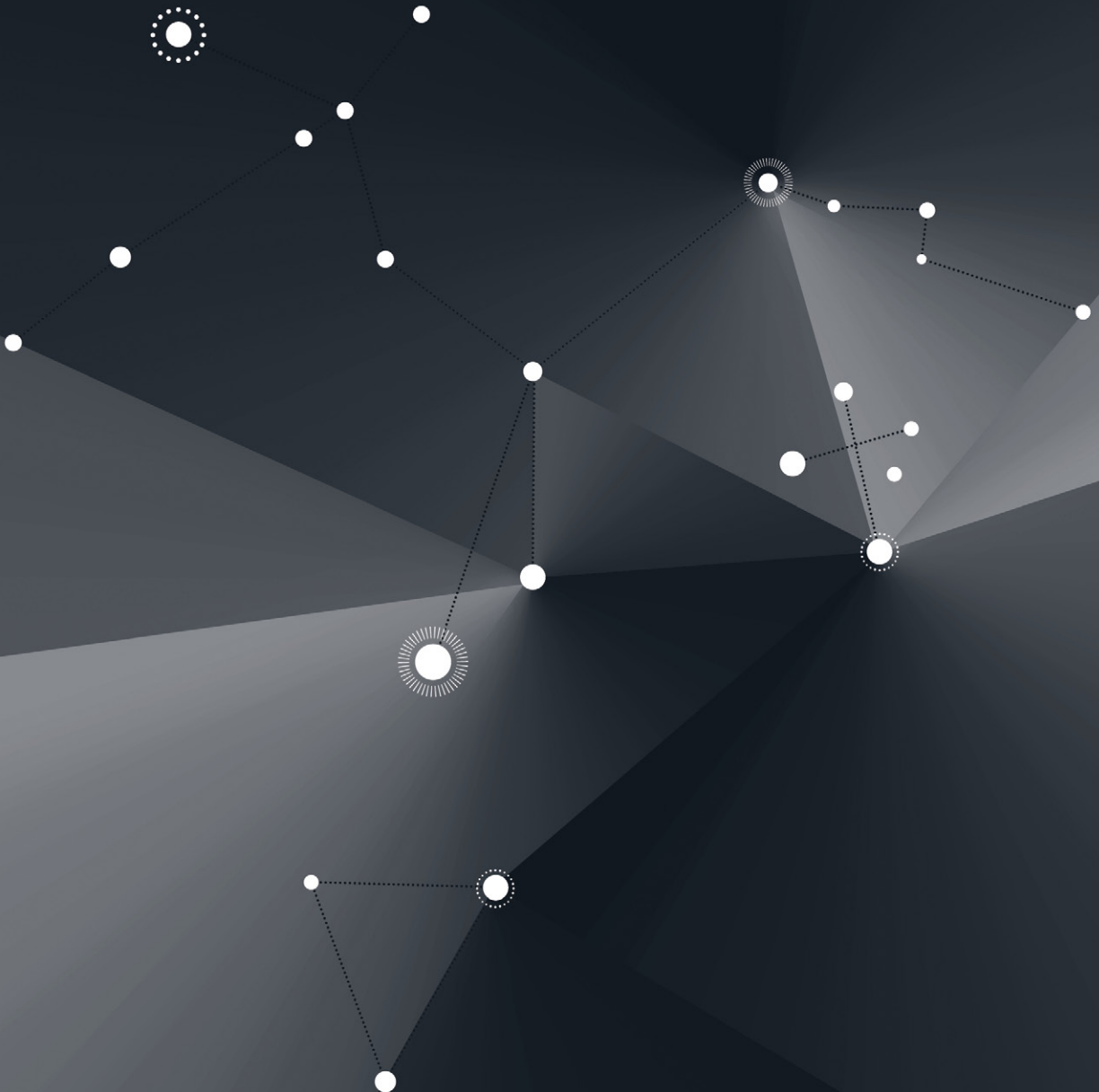
APPENDICES

PART 6



There was an understanding by the Luritja and Aranda people that parts of Iritjinga were circumpolar – the Southern Cross (Gamma and Delta Crucis) and Pointers (Gamma and Delta Centauri). These stars neither rise nor set and remain in the sky always.

Dr R Bhathal: *Astronomy in Aboriginal Culture; Bhathal: Aboriginal Skies. A&G October 2006, Vol.47 (pg. 5.29).*



APPENDIX 1

INDEPENDENT AUDITOR'S REPORT



INDEPENDENT AUDITOR'S REPORT

To the Attorney-General

Opinion

In my opinion, the financial statements of the Federal Court of Australia for the year ended 30 June 2017:

- (a) comply with Australian Accounting Standards – Reduced Disclosure Requirements 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 2017 and its financial performance and cash flows for the year then ended.

The financial statements of the Federal Court of Australia, which I have audited, comprise the following statements as at 30 June 2017 and for the year then ended:

- Statement by the Chief Executive Officer and Chief Finance Officer of the Federal Court of Australia;
- 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 to the financial statements, comprising a summary of significant accounting policies and other explanatory information.

Basis for Opinion

I conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Federal Court of Australia in accordance with the relevant ethical requirements for financial statement audits conducted by the Auditor-General and his delegates. These include the relevant independence requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* to the extent that they are not in conflict with the *Auditor-General Act 1997* (the Code). I have also fulfilled my other responsibilities in accordance with the Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Accountable Authority's Responsibility for the Financial Statements

As the Accountable Authority of the Federal Court of Australia the Chief Executive Officer 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 – Reduced Disclosure Requirements and the rules made under that Act. The Chief Executive Officer is also responsible for such internal control as the Chief Executive Officer 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.

GPO Box 707 CANBERRA ACT 2601
19 National Circuit BARTON ACT
Phone (02) 6203 7300 Fax (02) 6203 7777

In preparing the financial statements, the Chief Executive Officer is responsible for assessing the Federal Court of Australia's ability to continue as a going concern, taking into account whether the entity's operations will cease as a result of an administrative restructure or for any other reason. The Chief Executive Officer is also responsible for disclosing matters related to going concern as applicable and using the going concern basis of accounting unless the assessment indicates that it is not appropriate.

Auditor's Responsibilities for the Audit of the Financial Statements

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the Australian National Audit Office Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with the Australian National Audit Office Auditing Standards, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control;
- obtain an understanding of internal control relevant to the audit 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;
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Accountable Authority;
- conclude on the appropriateness of the Accountable Authority's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the entity to cease to continue as a going concern; and
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Australian National Audit Office



Colin Bienke
Senior Director

Delegate of the Auditor-General

Canberra

1 September 2017

APPENDIX 1

STATEMENT BY THE ACCOUNTABLE AUTHORITY AND CHIEF FINANCIAL OFFICER

Federal Court of Australia

Statement by the Chief Executive Officer and Chief Finance Officer of the Federal Court of Australia

In our opinion, the attached financial statements for the period ended 30 June 2017 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.

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



Signed.....

Mr Warwick Soden OAM

Chief Executive Officer/Principal Registrar

1 September 2017



Signed.....

Ms Kathryn Hunter

Chief Finance Officer

1 September 2017

APPENDIX 1

STATEMENT OF COMPREHENSIVE INCOME FOR THE PERIOD ENDED 30 JUNE 2017

Statement of Comprehensive Income for the period ended 30 June 2017

		2017	2016	Original Budget
	Notes	\$'000	\$'000	\$'000
NET COST OF SERVICES				
Expenses				
Judicial Benefits	1.1A	86,940	36,204	88,014
Employee Benefits	1.1A	114,170	46,048	116,191
Suppliers	1.1B	115,056	48,254	110,545
Depreciation and Amortisation	3.2A	13,725	4,013	14,399
Finance Costs	1.1C	91	6	255
Write-Down and Impairment of Assets	1.1D	181	227	-
Total expenses		330,163	134,752	329,404
Own-Source Income				
Own-source revenue				
Sale of Goods and Rendering of Services	1.2A	3,984	1,870	3,318
Other Revenue	1.2B	390	-	-
Total own-source revenue		4,374	1,870	3,318
Gains				
Other Gains	1.2C	74,813	34,652	63,789
Total gains		74,813	34,652	63,789
Total own-source income		79,187	36,522	67,107
Net (cost of)/contribution by services		(250,976)	(98,230)	(262,297)
Revenue from Government	1.2D	245,343	94,225	242,398
Surplus/(Deficit) on continuing operations		(5,633)	(4,005)	(19,899)
OTHER COMPREHENSIVE INCOME				
Items not subject to subsequent reclassification to net cost of services				
Changes in Asset Revaluation Reserve		1,817	-	-
Total other comprehensive income		(3,816)	(4,005)	(19,899)

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

Budget Variances Commentary

Statement of Comprehensive Income

Employee Benefits and Suppliers expenses

Due to the amalgamation of the Commonwealth Courts Corporate Services, the split between employee and supplier benefits was not fully known at budget time in April 2016. The increase in actual supplier costs is partially offset by reduced employee costs compared with budget.

Sale of Goods and Rendering of Services and Other Revenue

All revenue was budgeted for as goods and services revenue. During the year an assessment of revenue led to recognition that some revenue should be classified as other revenue.

Other Gains

\$9.6 million worth of assets were received free of charge in the Sydney Law Courts Building that were not included in the budget as this transaction was not certain, and the value of the assets was not then known. These assets included leasehold improvements, furniture and courtroom equipment.

APPENDIX 1

Statement of Comprehensive Income *for the period ended 30 June 2017*

Changes in Asset Revaluation Reserve

In June 2017, an asset revaluation was performed giving rise to an increase in asset values of \$0.97 million. Make good provision adjustments of \$0.84 million for leased properties were also recognised during the year relating to the Cairns and Newcastle family law registries.

APPENDIX 1

Statement of Financial Position as at 30 June 2017

	Notes	2017 \$'000	2016 \$'000	Original Budget \$'000
ASSETS				
Financial assets				
Cash and Cash Equivalents	3.1A	1,675	1,320	1,999
Trade and Other Receivables	3.1B	72,491	53,628	58,346
Other Financial Assets	3.1C	30	-	-
Total financial assets		74,196	54,948	60,345
Non-financial assets				
Land and Buildings	3.2A	41,814	13,767	32,756
Property, Plant and Equipment	3.2A	20,617	7,639	23,734
Computer Software	3.2A	8,553	3,283	10,292
Inventories	3.2B	49	-	63
Other Non-Financial Assets	3.2C	2,145	653	3,114
Total non-financial assets		73,178	25,342	69,959
Total assets		147,374	80,290	130,304
LIABILITIES				
Payables				
Suppliers	3.3A	7,910	500	4,077
Other Payables	3.3B	2,964	2,514	2,260
Total payables		10,874	3,014	6,337
Interest bearing liabilities				
Leases	3.4A	3,219	307	4,732
Total interest bearing liabilities		3,219	307	4,732
Provisions				
Employee Provisions	6.1A	58,369	24,114	61,594
Other Provisions	3.5A	3,012	84	2,969
Total provisions		61,381	24,198	64,563
Total liabilities		75,474	27,519	75,632
Net assets		71,900	52,771	54,672
EQUITY				
Contributed Equity		70,770	47,825	109,887
Reserves		8,891	7,074	29,938
Accumulated Deficit		(7,761)	(2,128)	(85,153)
Total equity		71,900	52,771	54,672

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

APPENDIX 1

Statement of Financial Position

as at 30 June 2017

Budget Variances Commentary

Statement of Financial Position

Trade and other receivables

There was an increase in appropriation receivable of over \$8 million. This is due to an underspend of capital appropriation and a lower than budgeted operating deficit.

Land and Buildings

The value of Land and Buildings increased due to the receipt of \$9.6 million of assets provided free of charge in the Sydney Law Courts Building, which was not budgeted for. These assets included leasehold improvements, furniture and courtroom equipment.

Suppliers payable

There is \$2.9 million worth of revenue that has been received for international programs projects that has not yet been spent. This item was not expected in the budget.

Employee provisions

The budget estimate was taken from a combination of the previous Family Court and Federal Circuit Court and Federal Court of Australia budgets as at April 2016. Reductions in staff numbers during the year has led to a reduction in this provision at year end when compared with budget.

Leases

New finance leases for equipment have not been entered into in 2016-17 that were expected at budget.

APPENDIX 1

Statement of Changes in Equity for the period ended 30 June 2017

	Notes	2017 \$'000	2016 \$'000	Original Budget \$'000
CONTRIBUTED EQUITY				
Opening balance				
Balance carried forward from previous period		47,825	42,861	47,829
Opening balance		47,825	42,861	47,829
Comprehensive income				
Other comprehensive income		-	-	-
Total comprehensive income/(loss)		-	-	-
Transactions with owners				
Distributions to owners				
Returns of capital				
Appropriation returned		-	(4)	-
Contributions by owners				
Equity injection		150	-	150
Departmental capital budget		13,048	4,968	13,048
Restructuring	8.1A	9,747	-	8,947
Total transactions with owners		22,945	4,964	22,145
Closing balance as at 30 June		70,770	47,825	69,974
RETAINED EARNINGS				
Opening balance				
Balance carried forward from previous period		(2,128)	1,877	(2,477)
Opening balance		(2,128)	1,877	(2,477)
Comprehensive income				
Surplus/(Deficit) for the period		(5,633)	(4,005)	(19,899)
Other comprehensive income		-	-	-
Total comprehensive income/(loss)		(5,633)	(4,005)	(19,899)
Closing balance as at 30 June		(7,761)	(2,128)	(22,376)
ASSET REVALUATION RESERVE				
Opening balance				
Balance carried forward from previous period		7,074	7,074	7,074
Opening balance		7,074	7,074	7,074
Comprehensive income				
Other comprehensive income		1,817	-	-
Total comprehensive income/(loss)		1,817	-	-
Closing balance as at 30 June		8,891	7,074	7,074

APPENDIX 1

Statement of Changes in Equity for the period ended 30 June 2017

	Notes	2017 \$'000	2016 \$'000	Original Budget \$'000
TOTAL EQUITY				
Opening balance				
Balance carried forward from previous period		52,771	51,812	52,426
Opening balance		52,771	51,812	52,426
Comprehensive income				
Surplus/(Deficit) for the period		(5,633)	(4,005)	(19,899)
Other comprehensive income		1,817	-	-
Total comprehensive income/(loss)		(3,816)	(4,005)	(19,899)
Transactions with owners				
Distributions to owners				
Returns of capital				
Returned appropriation		-	(4)	-
Contributions by owners				
Equity injection		150	-	150
Departmental capital budget		13,048	4,968	13,048
Restructuring		9,747	-	8,947
Total transactions with owners		22,945	4,964	22,145
Closing balance as at 30 June		71,900	52,771	54,672

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.

Budget Variances Commentary

Statement of Changes in Equity

Restructuring

This relates to the transfer of equity through the amalgamation of the Commonwealth Courts Corporate Services for the Federal Court of Australia, the Federal Circuit Court and the Family Court of Australia.

Retained earnings

These have increased due to the receipt of \$9.6 million of assets free of charge that was not budgeted for. The Federal Court of Australia also had a lower than budgeted operating deficit.

Asset revaluation reserve

In June 2017, an asset revaluation was performed giving rise to an increase in asset values of \$0.97 million. Make good provision adjustments of \$0.84 million for leased properties were also recognised during the year relating to the Cairns and Newcastle family law registries.

APPENDIX 1

Cash Flow Statement for the period ended 30 June 2017

	Notes	2017 \$'000	2016 \$'000	Original Budget \$'000
OPERATING ACTIVITIES				
Cash received				
Appropriations		245,913	97,002	247,898
Receipts from Government		-	55	-
Sales of goods and rendering of services		3,613	2,571	3,318
Net GST received		8,376	-	-
Other		390	-	-
Total cash received		258,292	99,628	251,216
Cash used				
Employees		177,436	67,138	178,047
Suppliers		76,302	29,142	73,019
Borrowing costs		88	6	150
Net GST paid		-	326	-
Section 74 receipts transferred to OPA		5,472	2,670	-
Total cash used		259,298	99,282	251,216
Net cash (used by)/from operating activities		(1,006)	346	-
INVESTING ACTIVITIES				
Cash received				
Proceeds from sales of property, plant and equipment		25	-	-
Total cash received		25	-	-
Cash used				
Purchase of property, plant and equipment		6,335	2,015	12,823
Purchase of intangibles		2,284	578	-
Total cash used		8,619	2,593	12,823
Net cash from/(used by) investing activities		(8,594)	(2,593)	(12,823)
FINANCING ACTIVITIES				
Cash received				
Contributed equity		9,156	3,064	13,198
Total cash received		9,156	3,064	13,198
Cash used				
Repayment of borrowings		537	100	375
Total cash used		537	100	375
Net Cash from/(used by) financing activities		8,619	2,964	12,823
Net increase (decrease) in cash held		(981)	717	-
Cash and cash equivalents at the beginning of the reporting period		1,320	603	1,999
Cash and cash equivalents at the beginning of the reporting period - restructuring		1,336	-	-
Cash and cash equivalents at the end of the reporting period	3.1A	1,675	1,320	1,999

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

APPENDIX 1

Cash Flow Statement *for the period ended 30 June 2017*

Budget Variances Commentary

Statement of Cash Flow Statement

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

Capital purchases were less than budgeted with funding provided for the amalgamation of Corporate Services being carried forward for use in future years.

This also accounts for the decrease in cash received for financing activities.

APPENDIX 1

Administered Schedule of Comprehensive Income for the period ended 30 June 2017

		2017	2016	Original Budget
	Notes	\$'000	\$'000	\$'000
NET COST OF SERVICES				
Expenses				
Suppliers	2.1A	682	-	894
Write-down and Impairment of Assets	2.1B	2,810	532	-
Other Expenses - Refunds of Fees	2.1C	746	456	900
Total expenses		4,238	988	1,794
Income				
Revenue				
Non-taxation revenue				
Fees and Fines	2.2A	81,206	17,385	74,101
Total non-taxation revenue		81,206	17,385	74,101
Total revenue		81,206	17,385	74,101
Total income		81,206	17,385	74,101
Net contribution by services		76,968	16,397	72,307
Total comprehensive income		76,968	16,397	72,307

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

Budget Variances Commentary

Administered Schedule of Comprehensive Income

Fees and Fines

Fees were higher than expected, due to increased filings in the Federal Circuit Court. Fines were not budgeted for, as the amount received from fines is based on the results of individual cases and is therefore unpredictable.

Suppliers

The variance was due to a lower than expected amount of clients accessing mediation and conciliation services.

Write-down and Impairment of Assets

The Courts have not previously budgeted for the write-down and impairment of assets due to uncertainty surrounding outstanding fees.

APPENDIX 1

Administered Schedule of Assets and Liabilities as at 30 June 2017

	Notes	2017 \$'000	2016 \$'000	Original Budget \$'000
ASSETS				
Financial Assets				
Cash and Cash Equivalents	4.1A	8	66	642
Trade and Other Receivables	4.1B	4,006	2,580	4,156
Total assets administered on behalf of Government		4,014	2,646	4,798
LIABILITIES				
Payables				
Suppliers	4.2A	-	-	40
Other Payables	4.2B	662	6,459	1,168
Total liabilities administered on behalf of Government		662	6,459	1,208
Net assets/(liabilities)		3,352	(3,813)	3,590

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

Budget Variances Commentary

Administered Schedule of Assets and Liabilities

Cash and Cash Equivalents

Following the amalgamation of corporate services there has been a consolidation in cash management practices in the year which has led to a lower balance of cash held.

Other Payable

The variance in payables is due to a decrease in revenue received in advance for fees relating to future events.

APPENDIX 1

Administered Reconciliation Schedule for the period ended 30 June 2017

	2017	2016
	\$'000	\$'000
Opening assets less liabilities as at 1 July	(3,813)	1,729
Net contribution by services		
Income	81,206	17,385
Expenses		
Payments to entities other than corporate Commonwealth entities	(4,238)	(988)
Transfers (to)/from the Australian Government		
Appropriation transfers from Official Public Account		
Annual appropriation for administered expenses		
Payments to entities other than corporate Commonwealth entities	-	-
Supply Act 1 (2016-2017)	373	-
Appropriation Act 1 (2016-2017)	309	-
Special appropriations (unlimited) s77 PGPA Act repayments		
Payments to entities other than corporate Commonwealth entities	755	460
GST increase to appropriations s74 PGPA Act		
Payments to entities other than corporate Commonwealth entities	67	-
Appropriation transfers to OPA		
Transfers to OPA	(78,045)	(22,399)
Restructuring	6,738	-
Closing assets less liabilities as at 30 June	3,352	(3,813)

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 cashflows and in the administered reconciliation schedule.

APPENDIX 1

Administered Cash Flow Statement for the period ended 30 June 2017

	Notes	2017 \$'000	2016 \$'000
OPERATING ACTIVITIES			
Cash received			
Fees		76,535	21,644
Fines		1,223	766
Net GST received		66	-
Total cash received		77,824	22,410
Cash used			
Suppliers		749	-
Refunds of fees		746	465
Other		12	-
Total cash used		1,507	465
Net cash from operating activities		76,317	21,945
Net increase in cash held		76,317	21,945
Cash and cash equivalents at the beginning of the reporting period - restructuring		166	-
Cash and cash equivalents at the beginning of the reporting period		66	60
Cash from Official Public Account for:			
Supply Act 1 (2016-17)		373	-
Appropriation Act 1 (2016-17)		309	-
GST increase to appropriations (s74A PGPA Act)		67	-
Special appropriation - repayments (s 77 PGPA Act)		755	460
Total cash from official public account		1,504	460
Cash to Official Public Account for:			
Transfer to OPA		(78,045)	(22,399)
Total cash to Official Public Account		(78,045)	(22,399)
Cash and cash equivalents at the end of the reporting period	4.1A	8	66

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

APPENDIX 1

Overview

The Basis of Preparation

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 have been prepared in accordance with:

- a) *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015* (FRR) for reporting periods ending on or after 1 July 2016; and
- b) Australian Accounting Standards and Interpretations – Reduced Disclosure Requirements 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 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

The following new accounting standard was issued prior to the sign-off date and is applicable to the current reporting period and had an impact on the entity's financial statements:

AASB 124 Related Party Disclosures - July 2015 (Principal) (effective date: 1 July 2016)	Refer to AASB 2015-6 Amendments to Australian Accounting Standards – Extending Related Party disclosures to include application by not-for-profit public sector entities and includes implementation guidance for these entities.
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The following new accounting standard was issued by the Australian Accounting Standards Board prior to the sign-off date, which is expected to have a material impact on the entity's financial statements for future reporting periods:

AASB 16 Leases (effective date: 1 January 2019)	AASB 16 brings all leases onto the balance sheet of lessees, thereby increasing transparency surrounding such arrangements and making the lessee's balance sheet better reflect the economics of its transactions.
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Taxation

The Federal Court of Australia is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

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 for departmental items, including the application of Australian Accounting Standards.

Events after the Reporting Period

Departmental

There was no subsequent event that had the potential to significantly affect the ongoing structure and financial activities of the Federal Court of Australia.

Administered

There was no subsequent event that had the potential to significantly affect the ongoing structure and financial activities of the Federal Court of Australia.

APPENDIX 1

1. Financial Performance

This section analyses the financial performance of the Federal Court of Australia for the year ended 30 June 2017.

1.1 Expenses

	2017	2016
	\$'000	\$'000
Note 1.1A: Judicial and Employee Benefits		
Judges remuneration	61,386	21,890
Judges notional superannuation	25,554	14,314
Total judicial benefits	86,940	36,204
Wages and salaries	85,570	34,940
Employee superannuation	18,553	5,983
Leave and other entitlements	8,433	3,409
Separation and redundancies	1,614	1,716
Total employee benefits	114,170	46,048
Total judicial and employee benefits	201,110	82,252

Accounting Policy

Accounting policies for employee related expenses are contained in the People and Relationships section.

	2017	2016
	\$'000	\$'000
Note 1.1B: Suppliers		
Goods and services supplied or rendered		
IT services	6,282	4,447
Consultants & contractors	5,494	3,470
Property operating costs	8,607	2,056
Courts operation and administration	12,922	-
Travel	8,103	3,812
Library purchases	4,281	4,377
Other	7,099	3,874
Total goods and services supplied or rendered	52,788	22,036
Goods supplied	3,752	2,773
Services rendered	49,036	19,263
Total goods and services supplied or rendered	52,788	22,036
Other suppliers		
Operating lease rentals	61,073	25,531
Workers compensation expenses	1,195	687
Total other suppliers	62,268	26,218
Total suppliers	115,056	48,254

Leasing Commitments

The Federal Court in its capacity as lessee has 12 property leases. Contingent rent is payable for two of those properties on the basis of future movements in the CPI. There are fixed increases in rent on each of those leases ranging between 2.5% and 4% annually. Six of those leases have an option to renew at the end of the lease period.

	2017 \$'000	2016 \$'000
Commitments for minimum lease payments in relation to non-cancellable operating leases are payable as follows:		
Within 1 year	8,050	576
Between 1 to 5 years	20,127	116
More than 5 years	2,681	-
Total lease commitments	30,858	692

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. In operating leases, the lessor effectively retains substantially all such risks and benefits.

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.

	2017 \$'000	2016 \$'000
Note 1.1C: Finance Costs		
Finance leases	88	6
Unwinding of discount - make good	3	-
Total finance costs	91	6

Accounting Policy

All borrowing costs are expensed as incurred.

	2017 \$'000	2016 \$'000
Note 1.1D: Write-Down and Impairment of Assets		
Impairment of inventories	13	-
Impairment on financial instruments	4	3
Impairment of plant and equipment	80	161
Impairment on intangible assets	84	63
Total write-down and impairment of assets	181	227

APPENDIX 1

1.2 Own-Source Revenue and Gains

	2017	2016
	\$'000	\$'000
Note 1.2A: Sale of Goods and Rendering of Services		
Sale of goods	2	5
Rendering of services	3,982	1,865
Total sale of goods and rendering of services	3,984	1,870

Rendering of services includes the provision of services to other agencies in both Australia and overseas. This includes \$1.499m received from New Zealand Ministry of Foreign Affairs and Trade (MFAT). Total cash received from MFAT during the financial year relating to current and future reporting periods totalled \$3.143m.

	2017	2016
	\$'000	\$'000
Note 1.2B: Other Revenue		
Other	390	-
Total other revenue	390	-

Accounting Policy

Revenue from the sale of goods is recognised when:

- the risks and rewards of ownership have been transferred to the buyer;
- the entity retains no managerial involvement or effective control over the goods;
- the revenue and transaction costs incurred can be reliably measured; and
- it is probable that the economic benefits associated with the transaction will flow to the Federal Court of Australia.

Revenue from rendering of services is recognised by reference to the stage of completion of contracts at the reporting date.

The revenue is recognised when:

- the amount of revenue, stage of completion and transaction costs incurred can be reliably measured; and
- the probable economic benefits associated with the transaction will flow to the Federal Court of Australia.

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

	2017 \$'000	2016 \$'000
Note 1.2C: Other Gains		
Resources received free of charge	39,603	20,338
Liabilities assumed by other agencies	25,554	14,314
Other	9,656	-
Total other gains	74,813	34,652

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 those 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, Queen Square. The increase over the prior year is due to the amalgamation of Corporate Services. Free resources are now recognised for space used by the Family Court and Federal Circuit Court in Commonwealth Law Courts Buildings in addition to space used by the Federal Court of Australia.

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

Other gains were the receipt of assets free of charge in the Law Courts Building, Sydney.

	2017 \$'000	2016 \$'000
Note 1.2D: Revenue from Government		
Appropriations		
Departmental appropriation	245,343	94,225
Total revenue from Government	245,343	94,225

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 related 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.

APPENDIX 1

2. Income and Expenses Administered on Behalf of Government

This section analyses the activities that the Federal Court of Australia 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

	2017	2016
	\$'000	\$'000
Note 2.1A: Suppliers		
Services rendered		
Supply of primary dispute resolution services	682	-
Total suppliers	682	-
Note 2.1B: Write-Down and Impairment of Assets		
Other	2,810	532
Total write-down and impairment of assets	2,810	532
Note 2.1C: Other Expenses		
Refunds of fees	746	456
Total other expenses	746	456

2.2 Administered – Income

	2017	2016
	\$'000	\$'000
Note 2.2A: Fees and Fines		
Revenue		
Non-Taxation Revenue		
Fees	79,984	16,619
Fines	1,222	766
Total fees and fines	81,206	17,385

Accounting Policy

All administered revenues are revenues relating to the course of ordinary activities performed by the Federal Court of Australia, the Federal Circuit Court and the Family Court of Australia on behalf of the Australian Government. As such administered revenues are not revenues of the Courts. Fees are charged for access to the Courts' services. Administered fee revenue is recognised when the service occurs. The services are performed at the same time as or within two days of the fees becoming due and payable. Revenue from fines is recognised in the period in which the invoice for the fine is raised. Fees and Fines are recognised at their 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.

3. Financial Position

This section analyses the Federal Court of Australia 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

	2017	2016
	\$'000	\$'000
Note 3.1A: Cash and Cash Equivalents		
Cash at bank	1,658	1,320
Cash on hand	17	-
Total cash and cash equivalents	1,675	1,320
	2017	2016
	\$'000	\$'000
Note 3.1B: Trade and Other Receivables		
Goods and services receivables		
Goods and services	750	2,463
Total goods and services receivables	750	2,463
Appropriations receivable		
Appropriation receivable - operating	62,893	47,129
Appropriation receivable - departmental capital budget	8,124	3,215
Total appropriations receivable	71,017	50,344
Other receivables		
Statutory receivables (GST)	731	828
Total other receivables	731	828
Total trade and other receivables (gross)	72,498	53,635
Less impairment allowance	(7)	(7)
Total trade and other receivables (net)	72,491	53,628

Credit terms for goods and services were within 30 days (2016: 30 days).

Accounting Policy

Receivables

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

APPENDIX 1

Reconciliation of the Impairment Allowance Account:

Movements in relation to 2017

	Goods and services \$'000	Other receivables \$'000	Total \$'000
Opening balance	7	-	7
Increase/(decrease) recognised in net surplus	-	-	-
Closing balance	7	-	7

Movements in relation to 2016

	Goods and services \$'000	Other receivables \$'000	Total \$'000
Opening balance	3	-	3
Increase/(decrease) recognised in net surplus	4	-	4
Closing balance	7	-	7

	2017 \$'000	2016 \$'000
Note 3.1C: Other Financial Assets		
Accrued revenue	30	-
Total other financial assets	30	-

Accounting Policy

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

3.2 Non-Financial Assets

Note 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 and intangibles for 2017

	Buildings - Leasehold Improvements	Plant and equipment	Computer software ¹	Total
	\$'000	\$'000	\$'000	\$'000
As at 1 July 2016				
Gross book value	16,328	11,702	8,352	36,382
Accumulated depreciation, amortisation and impairment	(2,561)	(4,063)	(5,069)	(11,693)
Total as at 1 July 2016	13,767	7,639	3,283	24,689
Additions				
Purchase	2,005	4,330	2,284	8,619
Internally developed	-	-	-	-
Finance lease	-	602	-	602
Donation/Gift	7,263	2,368	-	9,631
Restructuring	25,205	9,344	5,809	40,358
Revaluations and impairments recognised in other comprehensive income	(803)	1,777	-	974
Depreciation and amortisation	(5,623)	(5,363)	(2,739)	(13,725)
Disposals				
Other	-	(80)	(84)	(164)
Total as at 30 June 2017	41,814	20,617	8,553	70,984
Total as at 30 June 2017 represented by				
Gross book value	42,290	23,517	26,431	92,238
Accumulated depreciation and impairment	(476)	(2,900)	(17,878)	(21,254)
Total as at 30 June 2017	41,814	20,617	8,553	70,984

1. The carrying amount of computer software includes \$3.702 million purchased software and \$4.851 million internally generated software.

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

No property, plant and equipment and intangibles are expected to be sold or disposed of within the next 12 months.

Revaluations of non-financial assets

All revaluations were conducted in accordance with the revaluation policy. On 30 June 2017, 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

Capital commitments for property, plant and equipment are \$0.161 million (2016: \$0.435 million). Plant and equipment commitments were primarily contracts for purchases of furniture and IT equipment.

Accounting Policy

Property, plant and equipment

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

APPENDIX 1

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.

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to 'make good' provisions in property leases taken up by the Federal Court of Australia where there exists an obligation to restore the property to its original condition. These costs are included in the value of the Federal Court of Australia's leasehold improvements with a corresponding provision for the 'make good' recognised.

Revaluations

Following initial recognition at cost, property plant and equipment are 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 heading of 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 revaluation 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 Federal Court of Australia 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:

	2017	2016
Leasehold improvements	10 to 20 years or lease term	10 to 20 years or lease term
Plant and equipment – excluding library materials	3 to 100 years	3 to 100 years
Plant and equipment – library materials	5 to 10 years	5 to 10 years

Impairment

All assets were assessed for impairment at 30 June 2017. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment 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 Federal Court of Australia 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 further future economic benefits are expected from its use or disposal.

Intangibles

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

Software is amortised on a straight-line basis over its anticipated useful life of 5 years (2016: 5 years).

	2017 \$'000	2016 \$'000
<u>Note 3.2B: Inventories</u>		
Inventories held for distribution	49	-
Total inventories	49	-

During 2016-17, \$13,106 of inventory held for distribution was recognised as an expense (2016: Nil).

Accounting Policy

Inventories held for sale are valued at the lower of cost and net realisable value.

Inventories held for distribution are valued at cost, adjusted for any loss of service potential.

Costs incurred in bringing each item of inventory to its present location and condition are assigned as follows:

- a) raw materials and stores - purchase cost on a first-in-first-out basis; and
- b) finished goods and work in progress - cost of direct materials and labour plus attributable costs that can be allocated on a reasonable basis.

Inventories acquired at no cost or nominal consideration are initially measured at current replacement cost at the date of acquisition.

	2017 \$'000	2016 \$'000
<u>Note 3.2C: Other Non-Financial Assets</u>		
Prepayments	2,145	653
Total other non-financial assets	2,145	653

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

APPENDIX 1

3.3 Payables

	2017	2016
	\$'000	\$'000
Note 3.3A: Suppliers		
Trade creditors and accruals	6,450	500
Operating lease rentals	1,460	-
Total suppliers	7,910	500

Settlement was usually made within 30 days.

	2017	2016
	\$'000	\$'000
Note 3.3B: Other Payables		
Salaries and wages	677	150
Superannuation	114	901
Separations and redundancies	372	890
Unearned income	925	573
Other	876	-
Total other payables	2,964	2,514

3.4 Interest Bearing Liabilities

	2017	2016
	\$'000	\$'000
Note 3.4A: Leases		
Finance leases	3,219	307
Total leases	3,219	307
Minimum leases payments expected to be settled		
Within 1 year	754	120
Between 1 to 5 years	2,465	187
More than 5 years	-	-
Total leases	3,219	307

In 2017, three finance leases existed in relation to building and property, plant and equipment assets. The leases were non-cancellable and for fixed terms averaging 6 years, with a maximum of 8 years. The interest rate implicit in the leases averaged 2.54% (2016: 2.13%). The lease assets secured the lease liabilities. The Federal Court of Australia 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

	2017	2016
	\$'000	\$'000
Note 3.5A: Other Provisions		
Provision for restoration obligations	2,107	84
Provision for unused office space	905	-
Total other provisions	3,012	84

	Provision for restoration \$'000	Provision for unused office space \$'000	Total \$'000
As at 1 July 2016	84	-	84
Opening balance adjustment refer to note 8.1A	2,863	-	2,863
New provision	-	905	905
Change in provisions	(842)	-	(842)
Amounts used	-	-	-
Other movements	2	-	2
Total as at 30 June 2017	2,107	905	3,012

The Federal Court of Australia currently has 8 agreements for the leasing of premises which have provisions requiring the Federal Court of Australia to restore the premises to their original condition at the conclusion of the lease. The Federal Court of Australia has made a provision to reflect the present value of this obligation.

APPENDIX 1

4. Assets and Liabilities Administered on Behalf of Government

This section analyses assets used to generate financial performance and the operating liabilities incurred as a result. The Federal Court of Australia does not control but administers these assets 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

	2017	2016
	\$'000	\$'000
Note 4.1A: Cash and Cash Equivalents		
Cash on hand or on deposit	8	66
Total cash and cash equivalents	8	66
Note 4.1B: Trade and Other Receivables		
Goods and services receivables	6,937	3,360
Total goods and services receivables	6,937	3,360
Other receivables		
Statutory receivable (GST)	13	-
Total other receivables	13	-
Total trade and other receivables (gross)	6,950	3,360
Less impairment allowance account:		
Goods and services	(2,944)	(780)
Total impairment allowance	(2,944)	(780)
Total trade and other receivables (net)	4,006	2,580
Reconciliation of the Impairment Allowance Account:		
Movements in relation to 2017		
	Goods and services	Total
	\$'000	\$'000
As at 1 July 2016	780	780
Restructure	489	489
Amounts recovered and reversed	(10)	(10)
Amounts written off	(742)	(742)
Increase recognised in net contribution by services	2,427	2,427
Total as at 30 June 2017	2,944	2,944
Movements in relation to 2016		
	Goods and services	Total
	\$'000	\$'000
As at 1 July 2015	498	498
Amounts written off	(230)	(230)
Amounts recovered and reversed	(8)	(8)
Increase recognised in net contribution by services	520	520
Total as at 30 June 2016	780	780

Accounting Policy

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. Credit terms for goods and services were within 30 days (2016: 30 days).

4.2 Administered – Payables

	2017	2016
	\$'000	\$'000
Note 4.2A: Suppliers		
Trade creditors and accruals	-	-
Total supplier payables	-	-
 Note 4.2B: Other Payables		
Unearned income	662	-
Accrued expenses	-	6,459
Total other payables	662	6,459

APPENDIX 1

5. Funding

This section identifies the Federal Court of Australia funding structure.

5.1 Appropriations

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

Annual Appropriations for 2017

	Annual Appropriation ¹ \$'000	Adjustments to Appropriation \$'000	Total appropriation \$'000	Appropriation applied in 2017 (current and prior years) \$'000	Variance ² \$'000
Departmental					
Ordinary annual services	245,343	16,334	261,677	255,726	5,951
Capital Budget	13,048	868	13,916	9,157	4,759
Other services					
Equity	150	-	150	-	150
Loans	-	-	-	-	-
Total departmental	258,541	17,202	275,743	264,883	10,860
Administered					
Ordinary annual services					
Administered items	894	-	894	682	212
Payments to Corporate Commonwealth entities	-	-	-	-	-
Other services					
Administered assets and liabilities	-	-	-	-	-
Payments to Corporate Commonwealth entities	-	-	-	-	-
Total administered	894	-	894	682	212

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.

Annual Appropriations for 2016

	Annual Appropriation ¹ \$'000	Adjustments to Appropriation \$'000	Total appropriation \$'000	Appropriation applied in 2016 (current and prior years) \$'000	Variance ² \$'000
Departmental					
Ordinary annual services	94,225	2,571	96,796	(96,286)	510
Capital Budget	4,968	-	4,968	(2,693)	2,275
Other services	-	-	-	-	-
Equity	-	-	-	-	-
Loans	-	-	-	-	-
Previous years' outputs	-	-	-	-	-
Total departmental	99,193	2,571	101,764	(98,979)	2,785
Administered					
Ordinary annual services	-	-	-	-	-
Administered items	-	-	-	-	-
Payments to Corporate Commonwealth entities	-	-	-	-	-
Other services	-	-	-	-	-
Administered assets and liabilities	-	-	-	-	-
Payments to Corporate Commonwealth entities	-	-	-	-	-
Total administered	-	-	-	-	-

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.

APPENDIX 1

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

	2017 \$'000	2016 \$'000
Departmental		
Appropriation Act (No. 1) 2015-16	-	50,149
Appropriation Act (No. 3) 2015-16	-	195
Appropriation Act (No. 1) 2016-17	59,948	-
Appropriation Act (No. 1) 2016-17 - Capital budget	7,611	-
Appropriation Act (No. 2) 2016-17 - Equity injection	150	-
Appropriation Act (No. 3) 2016-17	2,945	-
Supply Act 1 2016-17 - Capital budget	363	-
Cash at bank	1,670	1,320
Total departmental	72,687	51,664
Administered		
Appropriation Act (No 1) 2016-17	212	-
Total administered	212	-

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

	Appropriation applied	
	2017 \$'000	2016 \$'000
Authority		
Public Governance, Performance and Accountability Act 2013, Section 77, Administered	755	465
Total	755	465

5.2 Special Accounts

Note 5.2A: Special Accounts ('Recoverable GST exclusive')

	Services for other entities and Trust Moneys Special Account ¹		Federal Court Of Australia Litigants Fund Special Account ²		Family Court and Federal Circuit Court Litigants Fund Special Account ³	
	2017	2016	2017	2016	2017	2016
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Balance brought forward from previous period	820	-	29,809	14,554	411	486
Increases	211	1,644	13,050	24,365	2,595	640
Total increases	211	1,644	13,050	24,365	2,595	640
Available for payments	1,031	1,644	42,859	38,919	3,006	1,126
Decreases						
Departmental	1,031	824	-	9,110	-	-
Total departmental	1,031	824	-	9,110	-	-
Administered	-	-	19,981	-	2,037	715
Total administered	-	-	19,981	-	2,037	715
Total decreases	1,031	824	19,981	9,110	2,037	715
Total balance carried to the next period	-	820	22,878	29,809	969	411
Balance represented by:						
Cash held in entity bank accounts	-	820	22,878	29,809	969	-
Cash held in the Official Public Account	-	-	-	-	-	411
Total balance carried to the next period	-	820	22,878	29,809	969	411

1. Appropriation: *Public Governance Performance and Accountability Act* section 78. Establishing Instrument: *FMA Determination 2012/11*. Purpose: To disburse amounts held in trust or otherwise for the benefit of a person other than the Commonwealth.

2. Appropriation: *Public Governance Performance and Accountability Act* section 78. Establishing Instrument: *PGPA Act Determination (Establishment of FCA Litigants' Fund Special Account 2017)*. Purpose: The purpose of the Federal Court of Australia Litigants' 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.

3. Appropriation: *Public Governance Performance and Accountability Act* section 78. Establishing Instrument: *Determination 2013/06*.

The Finance Minister has issued a determination under Subsection 20(1) of the FMA ACT 1997 (repealed) establishing the Federal Court of Australia Litigants' Fund Special Account when the Federal Circuit Court of Australia and Family Court of Australia merged on 1 July 2014. The legislation allows for the continued existence of the Special Account despite the repeal of the FMA Act. Purpose: Litigants Fund Special Account

- (a) for amounts received in respect of proceedings of the Family Court of Australia or the Federal Circuit Court of Australia (formerly the Federal Magistrates Court of Australia);
- (b) for amounts received in respect of proceedings that have been transferred from another court to the Family Court of Australia or to the Federal Circuit Court of Australia (formerly the Federal Magistrates Court of Australia);
- (c) for amounts received from the Family Court of Australia Litigants' Fund Special Account or the Federal Magistrates Court Litigants' Fund Special Account;
- (d) to make payments in accordance with an order (however described) made by a court under the Family Law Act 1975, the Family Court of Australia, or a Judge of that Court;
- (e) to make payments in accordance with an order (however described) made by a court under the Federal Circuit Court of Australia Act 1999 (formerly the Federal Magistrates Act 1999), the Federal Circuit Court of Australia (formerly the Federal Magistrates Court of Australia), or a Judge (formerly Federal Magistrate) of that Court;
- (f) to repay amounts received by the Commonwealth and credited to this Special Account where an Act of Parliament or other law requires or permits the amount to be repaid; and
- (g) to reduce the balance of this Special Account without making a real or notional payment.

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APPENDIX 1

5.3 Net Cash Appropriation Arrangements

	2017 \$'000	2016 \$'000
Total comprehensive income/(loss) less depreciation/amortisation expenses previously funded through revenue appropriations	9,909	8
Plus: depreciation/amortisation expenses previously funded through revenue appropriation	(13,725)	(4,013)
Total comprehensive income/(loss) - as per the Statement of Comprehensive Income	(3,816)	(4,005)

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

	2017	2016
	\$'000	\$'000
Note 6.1A: Employee Provisions		
Leave	26,406	12,434
Judges leave	31,963	11,294
Separations and redundancies	-	386
Total employee provisions	58,369	24,114

Accounting Policy

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits expected within twelve months of the end of the 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 Federal Court of Australia'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 liability for annual leave and long service leave has been determined by reference to the work of an actuary as at 30 June 2017. 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 Federal Court of Australia 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 Federal Court of Australia'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 entity makes employer contributions to the employees' 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.

Judges' Pension

Under the *Judges' Pension Act 1968*, Federal Court and Family Court Judges are entitled to a non-contributory pension upon retirement after 6 years service (Federal court Judges) and 10 years service (Family Court Judges). As the liability for these pension payments is assumed by the Australian Government, the entity has not recognised a liability for unfunded superannuation liability. The Federal Court of Australia does, however, recognise a revenue and corresponding expense 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 \$25.554 million (2016: \$14.314 million). The contribution rate has been provided by the Australian Government Actuary.

APPENDIX 1

6.2 Key Management Personnel Remuneration

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity. The entity has determined the key management personnel to be the Chief Executive Officers, Executive Director, the Chief Justices and Chief Judge. Key management personnel remuneration is reported in the table below:

	2017 \$'000
Short-term employee benefits	3,446
Post-employment benefits	1,121
Other long-term employee benefits	484
Termination benefits	-
Total key management personnel remuneration expenses	5,051

The total number of senior management personnel that are included in the above table are 11.

6.3 Related Party Disclosures

Related party relationships:

The entity is an Australian Government controlled entity within the Attorney-General's portfolio. Key Management Personnel includes the Executive and other Australian Government entities.

Transactions with related parties:

Given the breadth of Government activities, related parties may transact with the government sector in the same capacity as ordinary citizens. Such transactions include the payment or refund of taxes, receipt of a Medicare rebate or higher educational loans. These transactions have not been separately disclosed in this note.

Significant transactions with related parties can include:

- the payments of grants or loans;
- purchases of goods and services;
- asset purchases, sales transfers or leases;
- debts forgiven; and
- guarantees.

Giving consideration to relationships with related entities, and transactions entered into during the reporting period by the entity, it has been determined that there are no related party transactions to be separately disclosed.

7. Managing Uncertainties

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

7.1 Contingent Liabilities and Assets

Note 7.1A: Contingent Liabilities and Assets

Quantifiable Contingencies

The Federal Court of Australia has no quantifiable contingent assets or liabilities as at 30 June 2017 (2016: none).

Unquantifiable Contingencies

The Federal Court of Australia has no unquantifiable contingent assets or liabilities as at 30 June 2017 (2016: none).

Accounting Policy

Contingent liabilities and contingent assets are not recognised in the statement of financial position but are reported in the notes. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than remote.

Note 7.1B: Administered Contingent Assets and Liabilities

The Courts have no quantifiable or unquantifiable administered contingent liabilities or assets as at 30 June 2017 (2016: none).

APPENDIX 1

7.2 Financial Instruments

	2017	2016
	\$'000	\$'000
Note 7.2A: Categories of Financial Instruments		
Financial Assets		
Loans and receivables		
Cash and cash equivalents	1,675	1,320
Trade and other receivables	743	2,456
Total financial assets	2,418	3,776
Financial Liabilities		
Financial liabilities measured at amortised cost		
Trade creditors	7,910	500
Finance leases	3,219	307
Total financial liabilities	11,129	807

Accounting Policy

Financial Assets

The Federal Court of Australia 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.

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 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).

The fair value of financial instruments approximates its carrying value.

	2017	2016
	\$'000	\$'000
Note 7.2B: Net Gains or Losses on Financial Liabilities		
Financial liabilities measured at amortised cost		
Interest expense	88	6
Net gains/(losses) on financial liabilities measured at amortised cost	88	6

7.3 Administered – Financial Instruments

	2017	2016
	\$'000	\$'000
Note 7.3A: Categories of Financial Instruments		
Financial Assets		
Loans and receivables		
Cash and cash equivalents	8	66
Other receivables	4,006	2,580
Carrying amount of financial assets	4,014	2,646
Financial Liabilities		
At amortised cost		
Suppliers	-	-
Carrying amount of financial liabilities	-	-

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

AASB 2015-7 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. A valuation was made by an external valuer in 2017. The Federal Court of Australia reviews the method used by the valuer annually.

Note 7.4A: Fair Value Measurement

	Fair value measurements at the end of the reporting period	
	2017	2016
	\$'000	\$'000
Non-financial assets		
Leasehold improvements - Level 3	41,814	13,767
Plant and equipment – Level 2	7,873	4,959
Plant and equipment – Level 3	12,744	2,680

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 or a change in the market for particular items.

APPENDIX 1

8. Other Information

This section provides other disclosures relevant to the Federal Court of Australia financial information environment for the year.

8.1 Restructuring

Note 8.1A: Departmental Restructuring

On 1 July 2016, the Family Court and Federal Circuit Court merged with the Federal Court of Australia. As a part of the amalgamation process the assets and liabilities of the Family Court and Federal Circuit Court were transferred into the Federal Court and are reflected in the Courts' accounts for 2016-17. The 2015-16 comparatives included in these financial statements are the comparatives for the Federal Court of Australia. For prior year comparative information for the Family Court and Federal Circuit Court please refer to the annual reports available at www.familycourt.gov.au and www.federalcircuitcourt.gov.au.

	Family Court and Federal Circuit Court to the Federal Court of Australia 1 July 2016
FUNCTIONS ASSUMED	\$'000
Assets Recognised	
Financial Assets	
Cash and cash equivalents	1,336
Trade and other receivables:	12,856
Total Financial Assets	14,192
Non-financial Assets	
Land and building	25,205
Property, plant and equipment	9,344
Computer software	5,809
Inventories	64
Other Non-financial assets	1,917
Total non-financial assets	42,339
Total Assets Recognised	56,531
Liabilities recognised	
Payables	
Suppliers	2,731
Other payables	3,717
Total payables	6,448
Interest bearing liabilities	
Leases	2,879
Total interest bearing liabilities	2,879
Provisions	
Employee provision	34,594
Other provisions	2,863
Total provisions	37,457
Total liabilities recognised	46,784
Net assets assumed¹	9,747

1. In respect of the function assumed, the assets and liabilities were transferred to the Federal Court of Australia for no consideration.

Note 8.1B: Administered Restructuring

	Family Court and Federal Circuit Court to the Federal Court of Australia 1 July 2016
FUNCTIONS ASSUMED	\$'000
Assets recognised	
Cash and cash equivalents	166
Trade and other receivables	7,025
Total assets recognised	7,191
Liabilities recognised	
Suppliers	-
Unearned income	453
Total liabilities recognised	453
Net assets assumed	6,738

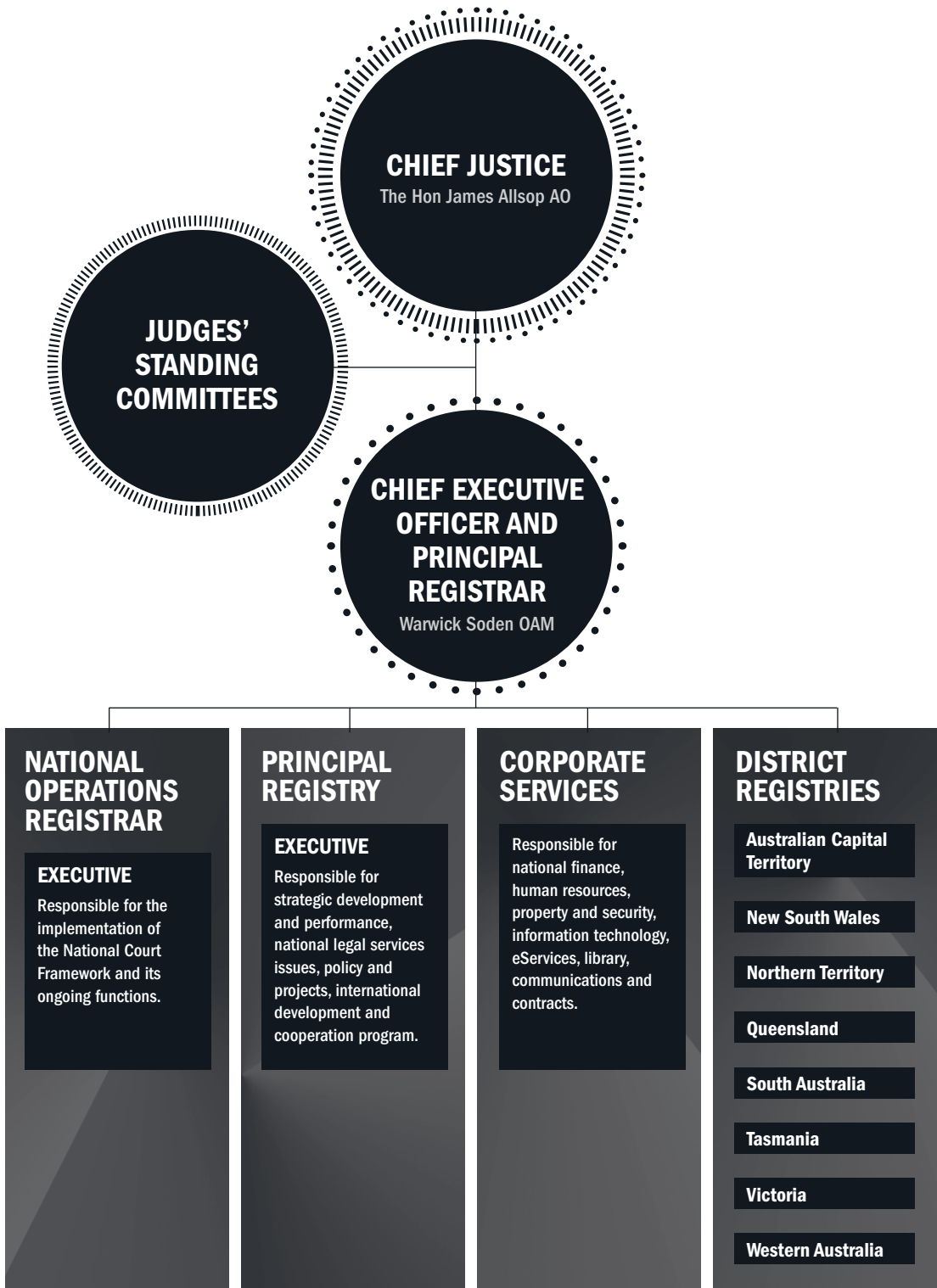
1. The net administered assets assumed from The Family Court and Federal Circuit Court were \$6,738,151.
2. In respect of the function assumed, the net book values of assets and liabilities were transferred to the Court for no consideration.

APPENDIX 2

	ACTUAL AVAILABLE APPROPRIATIONS FOR 2016-17 \$'000	PAYMENTS MADE 2016-17 \$'000	BALANCE REMAINING \$'000
ORDINARY ANNUAL SERVICES ¹			
Departmental appropriation			
Departmental appropriation ²	320 614	249 597	71 017
s 74 relevant agency receipts	4 374	4 374	–
Total	324 988	253 971	71 017
Administered expenses			
Outcome 3	894	682	212
Total	894	682	212
Total ordinary annual services	325 882	254 653	71 229
Special Appropriations limited by criteria/entitlement			
<i>Public Governance, Performance and Accountability Act 2013, s 77</i>	900	746	154
Total	900	746	154
Total net resourcing for Court	326 782	255 399	71 383

1 Appropriation Act (No.1), Appropriation Act (No 2) and Appropriation Act (No. 3) 2016-17. This also includes prior year departmental appropriation.

2 Includes a Departmental Capital Budget of \$13.048m and an equity injection of \$0.150m.



APPENDIX 4

REGISTRY	NAME	APPOINTMENTS UNDER OTHER ACTS
PRINCIPAL REGISTRY		
Chief Executive Officer and Principal Registrar	Warwick Soden OAM	
National Operations Registrar	Sia Lagos (based in Melbourne)	• A Registrar, Federal Circuit Court
Deputy Principal Registrar	John Mathieson (based in Sydney)	• Sheriff • A Registrar, Federal Circuit Court • A Deputy Sheriff, Federal Circuit Court
Registrars	Ann Daniel (based in Perth)	• A Registrar, Federal Circuit Court
	Christine Fewings (based in Brisbane)	• A Registrar, Federal Circuit Court
	David Priddle (based in Melbourne)	• A Registrar, Federal Circuit Court
	Katie Stride (based in Brisbane)	• A Registrar, Federal Circuit Court
	Tessa Herrmann (based in Perth)	• A Registrar, Federal Circuit Court
Deputy National Appeals Registrar	Lauren McCormick (based in Melbourne)	• A Registrar, Federal Circuit Court
NEW SOUTH WALES		
District Registrar	Michael Wall	• A Registrar, Federal Circuit Court • Deputy Registrar, Defence Force Discipline Appeal 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
	Chuan Ng	• A Registrar, Federal Circuit Court • Deputy Registrar, Supreme Court of Norfolk Island
	Thomas Morgan	• A Registrar, Federal Circuit Court
	James Cho	• A Registrar, Federal Circuit Court

REGISTRY	NAME	APPOINTMENTS UNDER OTHER ACTS
VICTORIA		
District Registrar	Daniel Caporale	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court • Deputy Registrar, Australian Competition Tribunal • Deputy Registrar, Defence Force Discipline Appeal Tribunal
	Rupert Burns	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court
	Phillip Allaway	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court
	David Pringle	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court • Deputy National Operations Registrar
	David Ryan	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court
QUEENSLAND		
District Registrar	Heather Baldwin	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court • Deputy Registrar, Defence Force Discipline Appeal Tribunal • Registrar, Copyright Tribunal
Deputy District Registrars	Murray Belcher	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court
	Katie Lynch	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court • Deputy Registrar, Australian Competition Tribunal
	Scott Tredwell	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court
	Michael Buckingham	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court
WESTERN AUSTRALIA		
District Registrar	Martin Jan PSM	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court • Deputy Registrar, Australian Competition Tribunal • Deputy Registrar, Defence Force Discipline Appeal Tribunal
Deputy District Registrars	Elizabeth Stanley	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court
	Russell Trott	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court • Deputy Registrar, Australian Competition Tribunal

APPENDIX 4

REGISTRY	NAME	APPOINTMENTS UNDER OTHER ACTS
SOUTH AUSTRALIA		
District Registrar	Nicola Colbran	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court • Deputy Registrar, Australian Competition Tribunal
Deputy District Registrar	Nicholas Parkyn	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court
TASMANIA		
District Registrar	Aneita Browning	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court • Deputy Registrar, Administrative Appeals Tribunal • Conference Registrar, Administrative Appeals Tribunal
AUSTRALIAN CAPITAL TERRITORY		
District Registrar	Michael Wall (based in Sydney)	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court • Deputy Registrar, Defence Force Discipline Appeal Tribunal
Deputy District Registrars	Geoffrey Segal (based in Sydney)	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court • Deputy Registrar, Australian Competition Tribunal
	Anthony Tesoriero (based in Sydney)	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court
	Kim Lackenby	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court • Deputy Registrar, Australian Competition Tribunal
	Chuan Ng (based in Sydney)	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court
	Thomas Morgan (based in Sydney)	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court
	James Cho (based in Sydney)	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court
NORTHERN TERRITORY		
District Registrar	Nicola Colbran (based in Adelaide)	<ul style="list-style-type: none"> • A Registrar, Federal Circuit Court • Deputy Registrar, Australian Competition Tribunal

APPENDIX 5

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 16 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 A5.4 on page 141 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 A5.4.

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. A further two NPAs were introduced during 2016–17. This information can be found in Figure A5.9 onwards.

APPENDIX 5

Table A5.1: Summary of workload statistics – original and appellate jurisdictions – filings of major CoAs (including appellate and related actions)

CAUSE OF ACTION	2012-13	2013-14	2014-15	2015-16	2016-17
Total CoAs (including appeals and related actions)					
Filed	5803	5009	4355	6001	5695
Finalised	5513	5564	3886	5832	5627
Current	3022	2467	2936	3105	3173
Corporations (including appeals and related actions)					
Filed	3897	2905	2210	3687	3216
Finalised	3499	3390	1859	3488	3377
Current	1041	556	907	1106	945
Bankruptcy (including appeals and related actions)					
Filed	216	281	260	292	348
Finalised	212	257	249	264	327
Current	110	134	145	173	194
Native Title (including appeals and related actions)					
Filed	61	58	64	65	70
Finalised	82	110	75	135	93
Current	465	413	402	332	309
Total CoAs (including appeals and related actions excluding Corporations, Bankruptcy and Native Title)					
Filed	1629	1765	1821	1957	2061
Finalised	1720	1807	1703	1945	1830
Current	1406	1364	1482	1494	1725

Table A5.2: Summary of workload statistics – excluding appeals and related actions – filings of major CoAs (excluding appeals and related actions)

CAUSE OF ACTION	2012-13	2013-14	2014-15	2015-16	2016-17
Total CoAs (excluding appeals and related actions)					
Filed	5169	4281	3445	5008	4650
Finalised	4884	4876	3138	4883	4742
Current	2729	2134	2441	2566	2474
Corporations (excluding appeals and related actions)					
Filed	3849	2876	2185	3652	3194
Finalised	3459	3351	1837	3462	3351
Current	1015	540	888	1078	921
Bankruptcy (excluding appeals and related actions)					
Filed	174	219	205	231	286
Finalised	163	198	186	218	269
Current	83	104	123	136	153
Native Title (excluding appeals and related actions)					
Filed	50	44	55	58	53
Finalised	75	100	68	123	82
Current	458	402	389	324	295
Total CoAs (excluding appeals and related actions and excluding bankruptcy and native title)					
Filed	1096	1142	1000	1067	1117
Finalised	1187	1227	1047	1080	1040
Current	1173	1088	1041	1028	1105

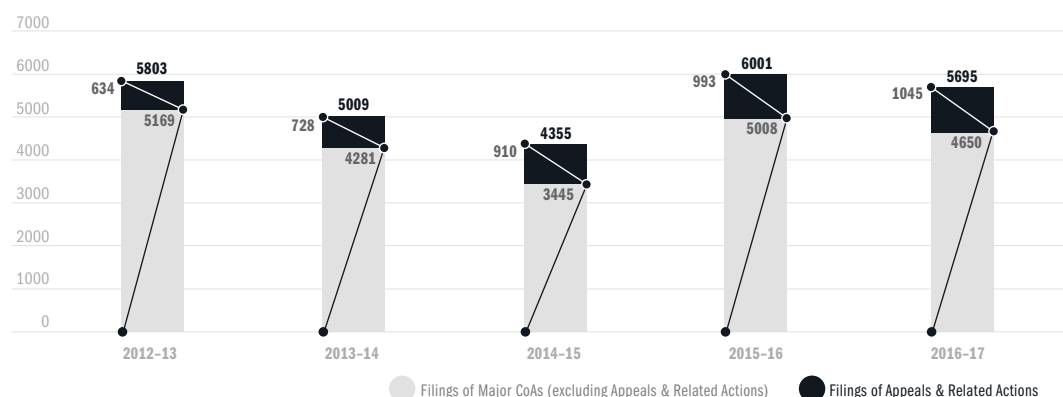
APPENDIX 5

Table A5.3: Summary of workload statistics – appeals and related actions only – filings of appeals and related actions

CAUSE OF ACTION	2012-13	2013-14	2014-15	2015-16	2016-17
Total appeals and related actions					
Filed	634	728	910	993	1045
Finalised	629	688	748	949	885
Current	293	333	495	539	699
Corporations appeals and related actions					
Filed	48	29	25	35	22
Finalised	40	39	22	26	26
Current	26	16	19	28	24
Migration appeals and related actions					
Filed	278	370	648	653	763
Finalised	255	356	463	681	584
Current	108	122	307	279	458
Native Title appeals and related actions					
Filed	11	14	9	7	17
Finalised	7	10	7	12	11
Current	7	11	13	8	14
Total appeals and related actions (excluding Corporations, Migration and Native Title appeals and related actions)					
Filed	297	315	228	298	243
Finalised	327	283	256	230	264
Current	152	184	156	224	203

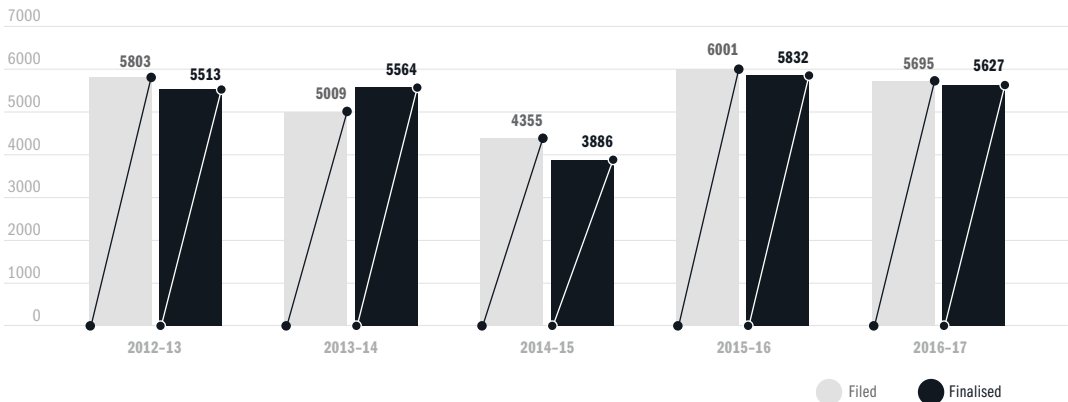
Table A5.4: Summary of supplementary workload statistics – filings of supplementary causes of action

	2012-13	2013-14	2014-15	2015-16	2016-17
Total CoAs (excluding appeals and related actions)					
Cross appeals (original jurisdiction)	0	0	0	0	0
Cross claims	165	177	134	135	147
Interlocutory applications	1673	1541	1513	1530	1502
Native Title (NT) Joinder of party applications	628	405	982	781	346
Appeals and related actions					
Cross appeals	16	25	25	19	20
Interlocutory applications	138	135	172	192	219
Total actions (including appeals and related actions)					
Cross appeals	16	25	25	19	20
Cross Claims	165	177	134	135	147
Interlocutory applications	1811	1676	1685	1722	1721
Native Title (NT) Joinder of party applications	628	405	982	781	346
Totals	1992	1878	1844	1876	1888

Figure A5.1: Matters filed over the last five years

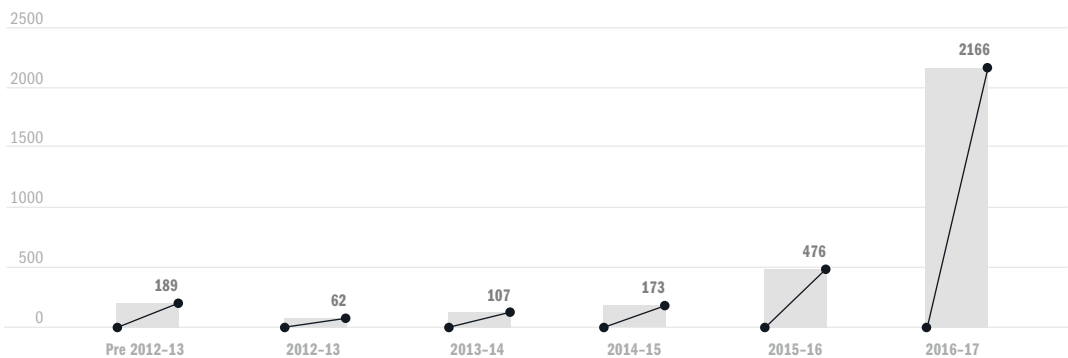
APPENDIX 5

Figure A5.2: Matters filed and finalised over the last five years



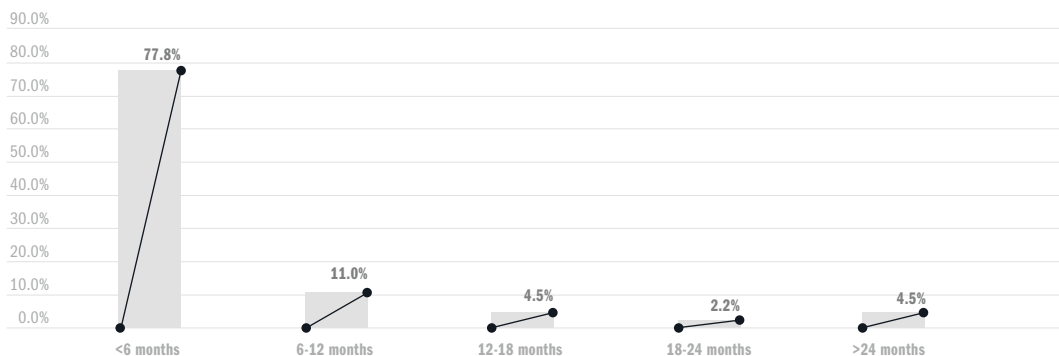
The number finalised refers to those matters finalised in the relevant financial year, regardless of when they were originally filed.

Figure A5.3: Age and number of current matters at 30 June 2017



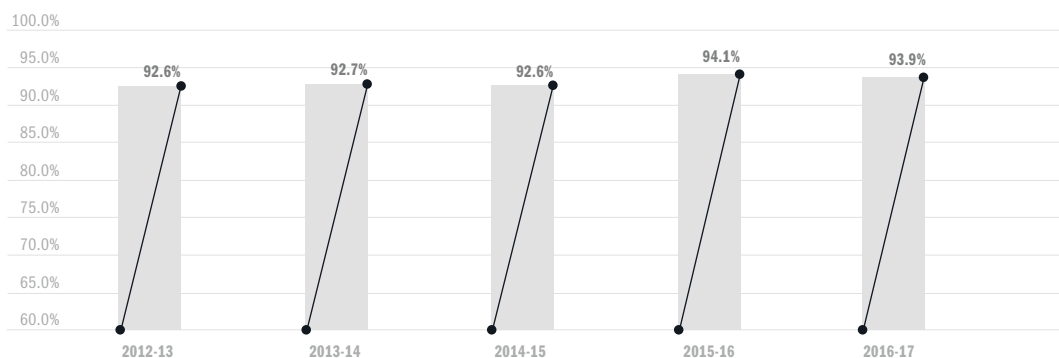
A total of 3173 matters remain current at 30 June 2017. There were 189 applications still current relating to periods before 2012-13. Six per cent of cases prior to 2012-13 are native title matters.

Figure A5.4: Time span to complete – matters completed (excluding native title) over the last five years



A total of 25,974 matters were completed during the five-year period ending 30 June 2017, 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 85% benchmark (excluding native title) over the last five years



The Court has a benchmark of 85 per cent of cases (excluding native title) being completed within 18 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 spans for completion are shown in Table A5.5.

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Table A5.5: Finalisation of major CoAs in accordance with 85% benchmark (including appeals and related actions and excluding native title matters) over the last five years

PERCENTAGE COMPLETED	2012-13	2013-14	2014-15	2015-16	2016-17
Under 18 months	5033	5067	3537	5374	5204
% of total	92.6%	92.7%	92.6%	94.1%	93.9%
Over 18 months	405	397	281	335	341
% of total	7.4%	7.3%	7.4%	5.9%	6.1%
Total CoAs	5438	5464	3818	5709	5545

Figure A5.6: Bankruptcy Act matters (excluding appeals) filed over the last five years

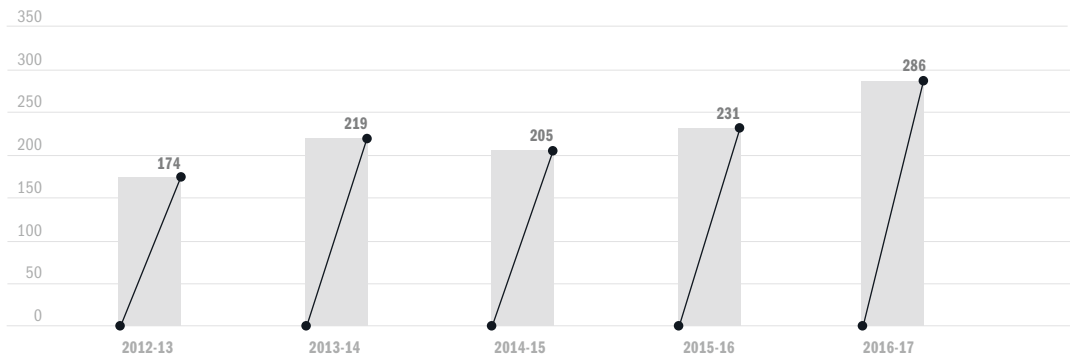


Figure A5.6.1: Current Bankruptcy Act matters (excluding appeals) by year of filing

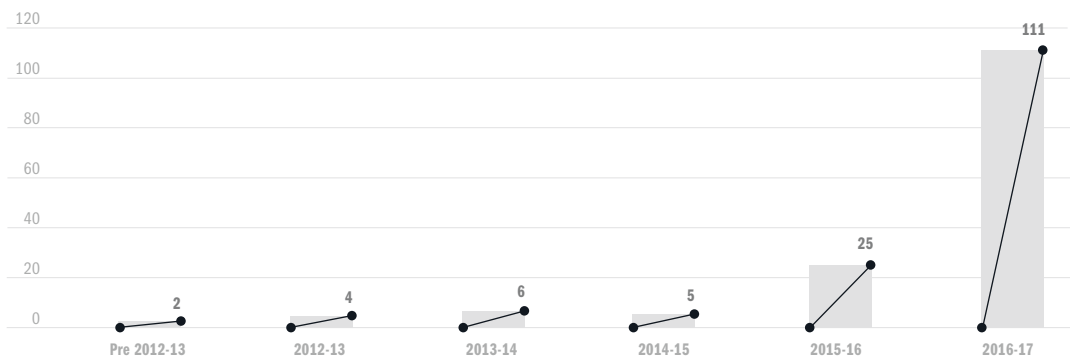
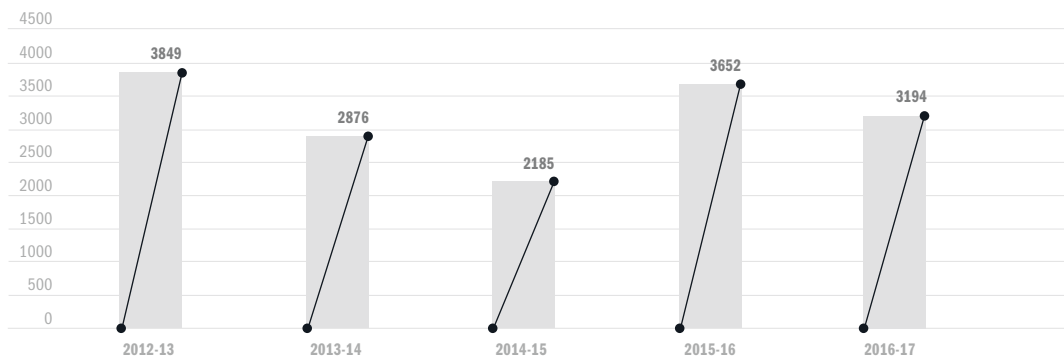
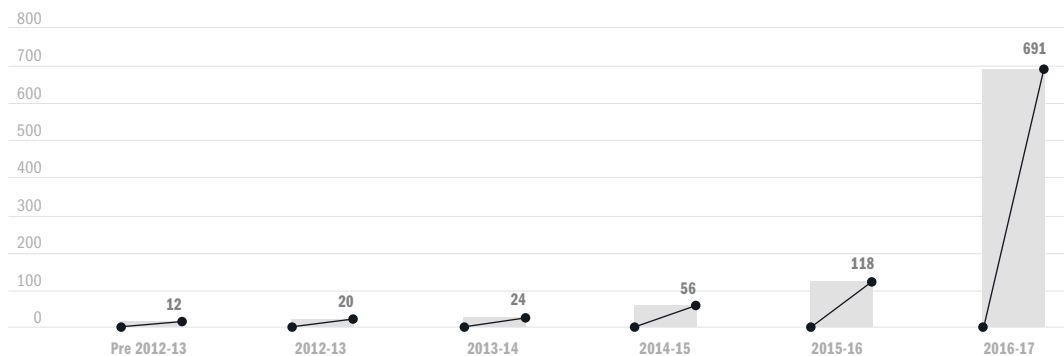


Figure A5.7: Corporation Act matters (excluding appeals) filed over the last five years**Figure A5.7.1: Current Corporation matters (excluding appeals) by year of filing**

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Figure A5.8: Consumer law matters (excluding competition law and appeals) filed over the last five years

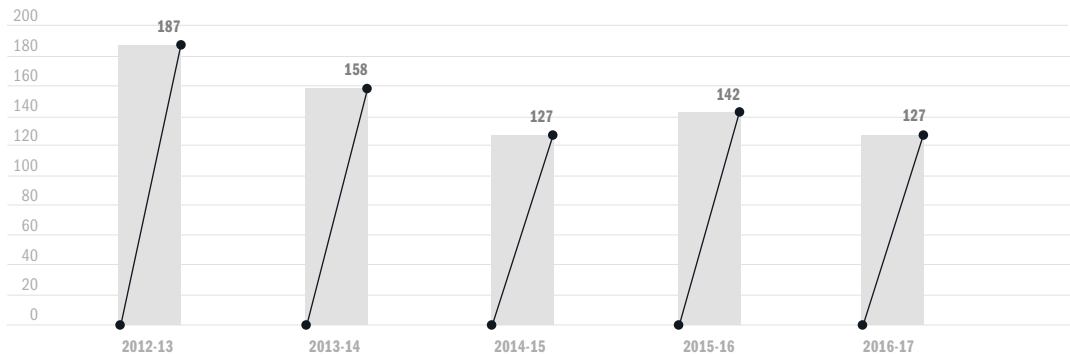
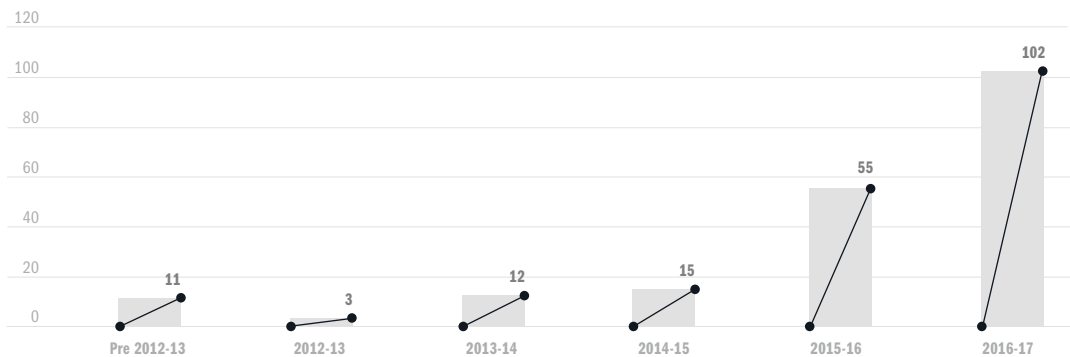


Figure A5.8.1: Current consumer law matters (excluding competition law and appeals) by year of filing



NATIONAL COURT FRAMEWORK

Figure A5.9: Filings, finalisations and pending

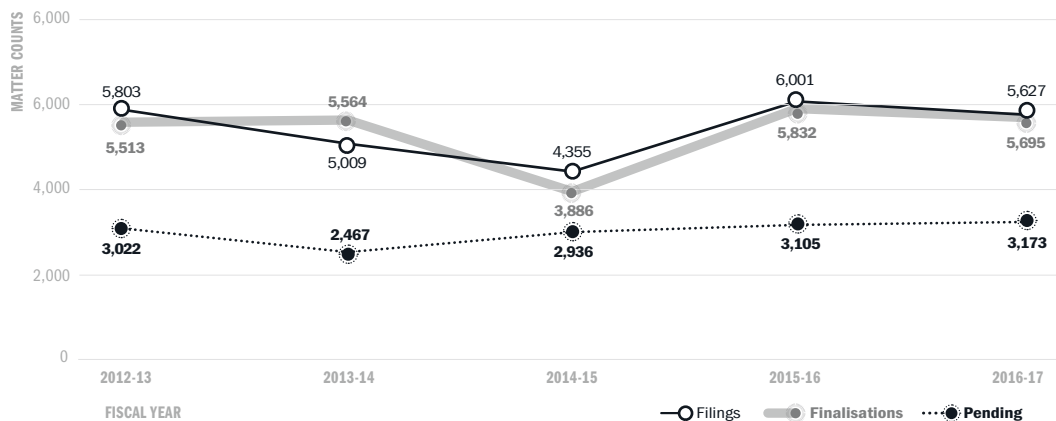
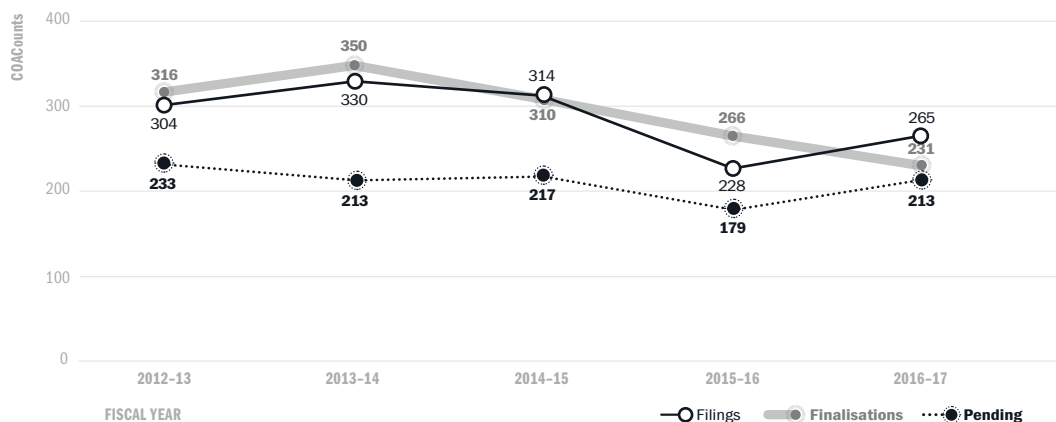


Figure A5.9.1: All filings, finalisations and pending by Administrative and Constitutional Law and Human Rights NPA



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Figure A5.9.2: All filings, finalisation and pending by Admiralty and Maritime NPA

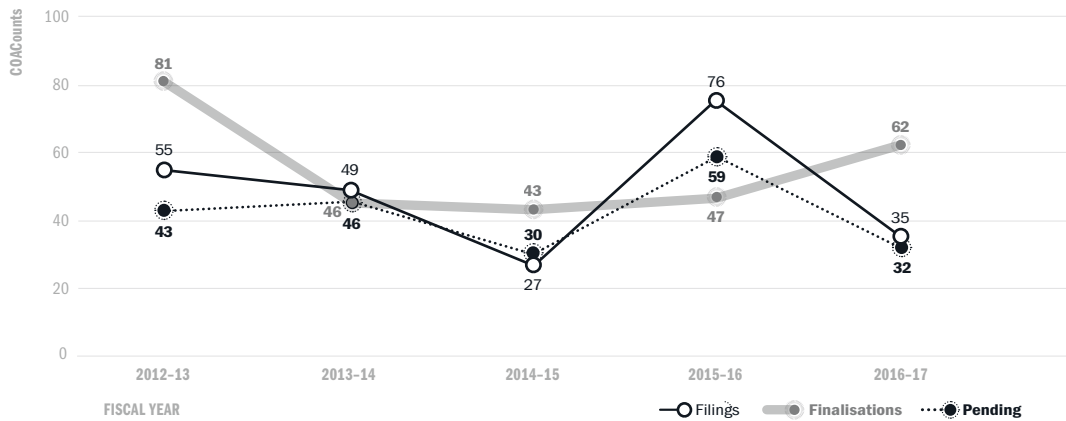


Figure A5.9.3: All filings, finalisation and pending by Commercial and Corporations NPA

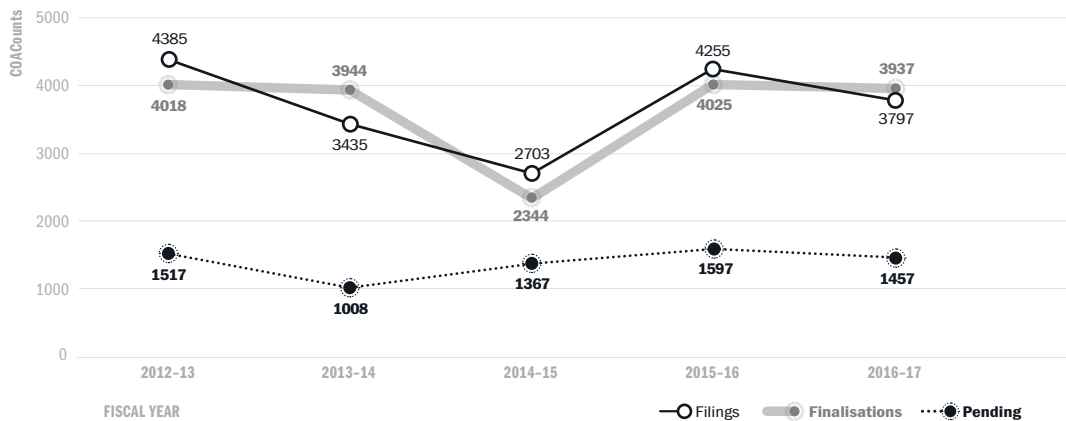
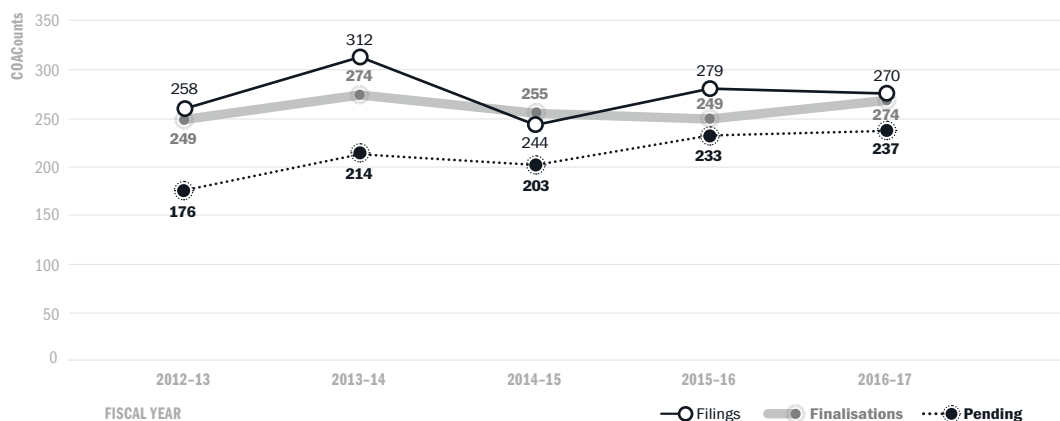
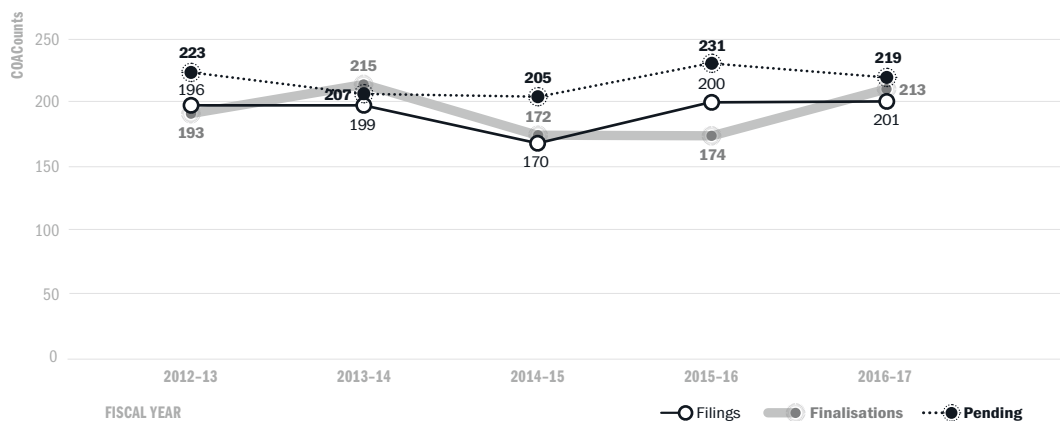


Figure A5.9.4: All filings, finalisation and pending by Employment and Industrial Relations NPA**Figure A5.9.5: All filings, finalisation and pending by Intellectual Property NPA**

APPENDIX 5

Figure A5.9.6: All filings, finalisation and pending by Native Title NPA

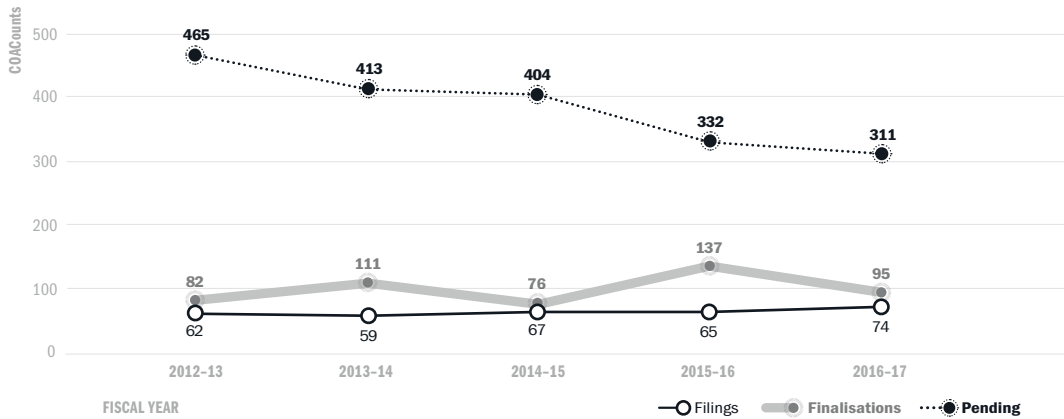
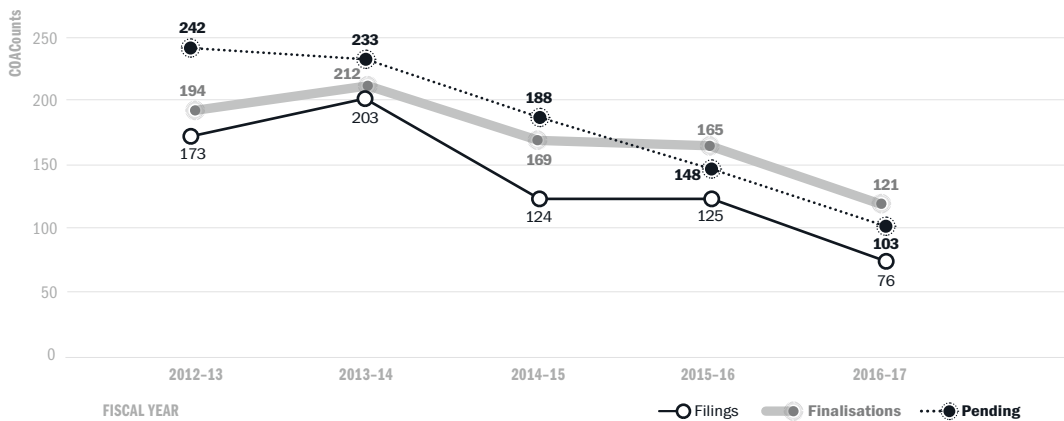


Figure A5.9.7: All filings, finalisation and pending by Taxation NPA



In 2016–17 the Court introduced two new practice areas: other federal jurisdiction and federal crime and related proceedings.

Table A5.6: Other federal jurisdiction, filings, finalisations and pending, 2016–17

Filings	27
Finalisation	4
Pending	23

Table A5.7: Federal crime and related proceedings, filings, finalisations and pending, 2016–17

Filings	6
Finalisation	1
Pending	5

APPENDIX 6

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:

- 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
- review of 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
- review of determinations by the ACCC in relation to notices issued under s 93 of the Act in relation to exclusive dealing
- review of determinations by the ACCC granting or refusing clearances for company mergers and acquisitions
- authorisation of company mergers and acquisitions which would otherwise be prohibited under the Act
- review of 'reviewable regulatory decisions' (most commonly, network revenue and pricing determinations) of the Australian Energy Regulator under the limited merits review regime: *National Electricity Law*, s 71B(1) and *National Gas Law*, s 245 and certain parallel State legislation, and
- review of certain decisions of the ACCC and the Minister in relation to international liner cargo shipping.

The Tribunal can affirm, set aside or vary the decision under review.

PRACTICE AND PROCEDURE

A review by the Tribunal is usually conducted by way of a public hearing, but may in some instances be conducted on the papers. 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.

On 23 September 2016, the President replaced eight existing practice directions with a new practice direction covering all matters before the Tribunal. The treatment of confidential documents has been made consistent across all matters. Also, electronic filing is now the default method of filing. Other changes were made to simplify and clarify the Tribunal's processes.

MEMBERSHIP AND STAFF

The Tribunal is comprised of presidential members and lay members who are qualified by virtue of their knowledge of, or experience in, industry, commerce, economics, law or public administration. Pursuant to s 31 of the Act, a presidential member must be a judge of a Federal Court, other than the High Court or a court of an external Territory.

On 1 July 2016 Justice Middleton replaced Justice Mansfield as President of the Tribunal. Also on 1 July 2016, Justice Andrew Greenwood, Justice David Yates and Justice Alan Robertson were appointed Deputy Presidents of the Tribunal, joining Justice Lindsay Foster and Justice Kathleen Farrell. There are seven lay members of the Tribunal: Robyn Davey, Grant Latta AM, Professor David Round AM, Rodney Shogren, Ray Steinwall, Dr Darryn Abraham and Professor Kevin Davis.

The Tribunal is supported by a Registrar and Deputy Registrars appointed by the Treasurer. On 28 September 2016, Tim Luxton was appointed as Registrar. On 20 December 2016, Nicola Colbran, Martin Jan, Katie Lynch, Geoffrey Segal and Russell Trott were appointed as Deputy Registrars.

ACTIVITIES

Nine matters were current at the start of the reporting year. During the year, three matters were commenced and four were finalised.

No complaints were made to the Tribunal about its procedures, rules, forms, timeliness or courtesy to users during the reporting year.

DECISIONS OF INTEREST

- *Application by ATCO Gas Australia Pty Ltd* 2016 ACompT 10 (13 July 2016)
- *Application by Sea Swift Pty Limited* 2016 ACompT 9 (28 July 2016)
- *Application by SA Power Networks* 2016 ACompT 11 (28 October 2016)
- *Application by Tabcorp Holdings Limited* 2017 ACompT 1 (22 June 2017)

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, and
- 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.

MEMBERSHIP AND STAFF

The Tribunal consists of a President and such number of Deputy Presidents and other members as are appointed as Deputy President by the Governor-General. Justice Greenwood is the President of the Tribunal, Justice Perram is a Deputy President and Justice Jagot was reappointed as a Deputy President on 8 December 2016 for a period of five years. The Registrar of the Tribunal is an officer of the Federal Court. The Registrar of the Tribunal is Heather Baldwin. Details are set out in Appendix 4.

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ACTIVITIES

At the commencement of reporting period, there was one current matter and no new matters have been commenced.

No complaints were made to the Tribunal about its procedures, rules, forms, timeliness or courtesy to users during the reporting year.

DECISIONS OF INTEREST

No decisions have been published in the reporting period.

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 title to the Act, the reference to the Australian Military Court was 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 14(1) of the Act, the sittings of the Tribunal were held at places determined on the following dates, subject to the availability of business: 28–29 July 2016, 27–28 October 2016, 15–16 December 2016, 9–10 February 2017, 27–28 April 2017 and 1–2 June 2017.

Otherwise, the procedure of the Tribunal is within its discretion.

MEMBERSHIP AND STAFF

The Tribunal consists of a President, Justice Tracey, a Deputy President, Justice Logan, 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.

ACTIVITIES

There were five 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

ADMINISTRATIVE AND CONSTITUTIONAL LAW AND HUMAN RIGHTS NPA

Wotton v State of Queensland (No 5) 2016 FCA 1457

(5 December 2016, Mortimer J)

On 19 November 2004, a 36-year old Aboriginal man named Cameron Doomadgee (known posthumously as Mulrunji), died in police custody on Palm Island. The investigation of Mulrunji's death and the police response to community unrest in its aftermath was the subject of this racial discrimination class action brought by Lex Wotton, his wife Cecilia and his mother Agnes on behalf of the Aboriginal community living on Palm Island.

It was claimed the Queensland Police Service ('QPS') conducted themselves differently because they were dealing with an Aboriginal community and the death of an Aboriginal man. It was alleged that the QPS, in its investigation, management of community concerns and tensions in the week following the death, and response to subsequent protests and fires, engaged in unlawful racial discrimination contrary to the *Racial Discrimination Act 1975*. The allegations were denied by the State of Queensland and the Commissioner of the Police Service on behalf of the QPS.

Following a contested trial, Mortimer J determined that most of the claims should succeed. In particular, Mortimer J found that QPS failed to communicate effectively with the Palm Island community and defuse tensions within that community relating to the death in custody of Mulrunji, and the subsequent police investigation. Mortimer J also found that the use of Special Emergency Response Teams to search for suspects and arrest them, and the way in which the searches and entries into houses were conducted, was disproportionate and unnecessary, and constituted acts involving distinctions and restrictions based on race.

Mortimer J made a number of declarations of contraventions of s 9(1) of the *Racial Discrimination Act 1975*, a declaration concerning the application of s 18A of that Act and orders for compensation by way of damages. Damages of \$220,000 were awarded to the three lead applicants. An appeal from Mortimer J's decision was filed, but discontinued prior to the first listing.

ADMINISTRATIVE AND CONSTITUTIONAL LAW AND HUMAN RIGHTS NPA

Prior v Wood 2017 FCA 193

(3 March 2017, Dowsett J)

It was alleged that three students at the Queensland University of Technology infringed s 18C of the *Racial Discrimination Act 1975* by posting offensive comments on a Facebook page after being asked to leave an Indigenous computer lab. One of the students denied involvement, while the other two students admitted that they made the posts, but denied that the posts were reasonably likely to offend, insult, humiliate or intimidate. The proceeding was dismissed summarily by the Federal Circuit Court.

In the Federal Court, Dowsett J dismissed an application for extension of time in which to apply for leave to appeal against the summary dismissal. Dowsett J said that in order to determine whether conduct infringes s 18C, one must ask, pursuant to s 18C(1)(a), whether the action in question is reasonably likely, in all the circumstances to offend, insult, humiliate or intimidate an identified person or group of people. One must then ask, pursuant to s 18C(1)(b) whether the act was done because of the race, colour or national or ethnic origin of the person or group.

The student who admitted making the first Facebook post wrote: 'Just got kicked out of the unsigned Indigenous computer room. QUT stopping segregation with segregation?'. Dowsett J said this post addressed the separation of different racial groups, not whether special arrangements of any kind were appropriate for the benefit of Indigenous people. Further, there was no basis for reading this post 'cumulatively' with the posts that followed it because s 18C imposed liability upon a person for his or her conduct, and not for the conduct of others.

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The other student who admitted making Facebook posts made references to white supremacism. Dowsett J said there could be little doubt that to people who do not identify as 'white', such a philosophy is offensive. However, Dowsett J found that the student was not suggesting that a group of white supremacists should be given some sort of benefit, but was rather seeking to employ the rhetorical device of irony. A reasonable person may have considered this to be inappropriate, given the nature of the topic, but, was unlikely to be offended, insulted, humiliated, or intimidated.

Dowsett J also saw no arguable error in the conclusion concerning the student who denied authorship of the Facebook post attributed to him. Once the student, by his affidavit, denied authorship and offered some evidence as to his investigation of the matter, Dowsett J said it was necessary to adduce some evidence of authorship to show that there was a matter in issue between the parties. It was not sufficient to rely on a mere assertion in a pleading to resist an application for summary judgment.

ADMINISTRATIVE AND CONSTITUTIONAL LAW AND HUMAN RIGHTS NPA

Minister for Immigration and Border Protection v Singh 2016 FCAFC 183 (19 December 2016, Kenny, Perram and Mortimer JJ)

Mr Singh's application for a skilled visa was rejected by a delegate of the Minister for Immigration and Border Protection and he sought a review of that decision in the Administrative Appeals Tribunal. While the review was pending, another delegate of the Minister issued a certificate under s 375A of the *Migration Act 1958* to the Tribunal. The effect of the certificate was to place limits on what the Tribunal could disclose to Mr Singh during the course of the review proceeding. Neither the existence of this certificate, nor the legal limitations to which it gave rise, were disclosed to him. In due course, Mr Singh's review application was rejected by the Tribunal.

Mr Singh's application for judicial review of the Tribunal's decision succeeded in the Federal Circuit Court and the Tribunal's decision was set aside and remitted to be determined according to law. The basis of the Federal Circuit Court decision was that the Tribunal had failed to afford Mr Singh procedural fairness, because it had not disclosed to him the existence of the certificate.

The certificate limited the disclosure of certain electronic files containing 'third party details' which were said not to be relevant, although no submission was made to the Full Court that the material subject to the certificate was irrelevant to the issues under review. The material the subject of the certificate was not before the Federal Circuit Court or before the Full Court.

The Full Court preferred a narrower reading of s 357A(2) of the *Migration Act 1958*, finding that it was not an impediment to Mr Singh's argument that general law notions of procedural fairness might require the disclosure of the certificate. The Full Court found that participation in review proceedings is circumscribed by the existence of a s 375A certificate which, even with particulars, denies access to relevant material. In that sense, the certificate has the immediate effect of diminishing an applicant's entitlement to participate fully in the review process. The Full Court found that to be a sufficient interest to enliven an obligation to afford Mr Singh procedural fairness upon the issue of the certificate. That obligation required the Tribunal to disclose to Mr Singh the certificate which had been issued. The Full Court dismissed the Minister's appeal.

ADMIRALTY AND MARITIME NPA

The Ship “Sam Hawk” v Reiter Petroleum Inc 2016 FCAFC 26

(28 September 2016, Allsop CJ, Kenny, Rares, Besanko and Edelman JJ)

Reiter Petroleum entered into a contract with the time charterers of *Sam Hawk* to procure the supply of bunkers (fuel) to the ship. The owner's agent gave a 'no liability' notice explaining that *Sam Hawk* and her owner did not accept any liability under the contract. However, the terms of the contract purported to permit Reiter Petroleum to assert a maritime lien against the owner wherever the ship was found and provided that the law of the United States of America would apply to determine the existence of the lien. Reiter Petroleum was not paid and submitted that it had a proceeding *in rem* on a maritime lien according to Canadian or United States law even though the time charterer had no interest in the ship and the owner was not a party to the contract.

The Full Court unanimously set aside an arrest warrant in respect of the ship *Sam Hawk*, finding that the Court did not have jurisdiction to entertain an action *in rem* on a maritime lien under s 15 of the *Admiralty Act 1988*. It was assumed for the purposes of the appeal that under Canadian or United States law Reiter Petroleum had rights *in rem* based on a maritime lien against *Sam Hawk*. The Full Court decided, however, that the question of whether a maritime lien attached to the ship could not be resolved by reference to an agreement between parties having no interest in the ship. Accordingly, the *lex causae* was not Canadian or United States law, but rather the law of Hong Kong (where *Sam Hawk* was flagged and registered), the law of Turkey (where the bunkers were supplied) or the law of Australia (where the ship was arrested). As there was no evidence of the law of Hong Kong or Turkey, it was presumed that it was the same as the *lex fori* and Australian law does not recognise a maritime lien arising from the supply of necessities, including bunkers, to a ship.

The majority of the Court said that the same outcome would be arrived at even if Canadian or United States law did apply as the *lex causae*. The majority of the Court followed the long established English approach of first identifying the foreign law right by reference to its *lex causae* and of then classifying and characterising that right by reference to the *lex fori*. Accordingly, a foreign right could only be characterised for the purposes of s 15 of the *Admiralty Act 1988* as a 'maritime lien' if it was, or was closely analogous to, a maritime lien which would be recognised by Australian law.

COMMERCIAL AND CORPORATIONS NPA/ CORPORATIONS AND CORPORATE INSOLVENCY SUB-AREA

Money Max Int Pty Ltd (Trustee) v QBE Insurance Group Limited 2016 FCAFC 148

(26 October 2016, Murphy, Gleeson and Beach JJ)

For the first time in Australia, common fund orders were made in a class action, without the consent of the respondent, and with the litigation funder's commission to be set at a later stage, subject to court approval.

The class action was brought against QBE Insurance Group Ltd ('QBE') on behalf of an open class of persons who acquired QBE shares in the months before their price dropped following an announcement of an expected loss in the 2013 financial year. By the time of the hearing, there were approximately 1290 'funded' class members who had entered into litigation funding agreements with International Litigation Funding Partners Pte Ltd (the 'Funder').

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Under the funding agreements, the Funder agreed to meet legal costs, adverse costs orders and security for costs, in consideration for a percentage commission of 32.5 per cent to 35 per cent on top of reimbursement of the legal costs paid by the funder. The Full Court considered an application under s 33ZF of the *Federal Court of Australia Act 1976*, seeking to apply litigation funding terms to all class members, including those who had not entered into an agreement with the Funder ('common fund orders'). The proposal involved a reduction of the Funder's commission to 30%, but with all class members required to contribute to the legal and litigation funding costs.

The Full Court considered that it had the power to make the common fund orders and that it was appropriate to make orders requiring all class members to pay the same pro rata share of legal costs and funding commission from any settlement or judgment. The Full Court did not set the funding commission at 30 per cent, as proposed. Instead, court approval of a reasonable rate was left to a later stage, such as the time of settlement approval or the distribution of damages.

The fact that class members' interests would be protected by judicial oversight of the funding commission was central to the Full Court's decision. There was also a 'floor condition' that no class member could be worse off under the common fund orders. Any class members concerned about the orders could opt out of the proceeding.

The Full Court observed that a common fund approach may be said to enhance access to justice by encouraging open class representative proceedings whilst inhibiting competing class actions and reducing the potential for conflicts of interest. The Full Court said that commercially realistic funding commission rates should avoid excessive charges to class members whilst recognising the important role of litigation funding in providing access to justice.

COMMERCIAL AND CORPORATIONS NPA/ ECONOMIC REGULATOR, COMPETITION AND ACCESS SUB-AREA

**Australian Competition and Consumer
Commission v Australia and New Zealand
Banking Group Limited 2016 FCA 1516**

(14 December 2016, Wigney J)

These proceedings concerned attempted cartel conduct by Australia and New Zealand Banking Group Limited ('ANZ') and by Macquarie Bank Ltd ('Macquarie') in contravention of s 44ZZRJ of the *Competition and Consumer Act 2010*.

The Australian Competition and Consumer Commission commenced proceedings against ANZ and Macquarie which effectively settled on the basis that the contraventions would be admitted and the matter would proceed on the basis of agreed facts. ANZ conceded that on ten occasions during 2011, its traders engaged in discussions with traders employed by other banks about the submissions that would be made concerning the Malaysian ringgit benchmark rate. Macquarie conceded that on eight occasions during 2011, its traders engaged in the same sorts of discussions, though Macquarie was not itself a submitting bank. The traders employed by ANZ and Macquarie attempted to get the traders employed by other banks to make either high submissions, or low submissions, as the case may be, and thereby manipulate the setting of the Malaysian ringgit benchmark rate. In so doing, they attempted to make arrangements which indirectly provided for the fixing of the price for Malaysian ringgit forward contracts.

The parties agreed on the amount of the pecuniary penalties that they would jointly propose to the Court. The agreed penalty in relation to each of ANZ's attempted contraventions was \$900,000, resulting in a total agreed penalty of \$9 million. The agreed penalty in relation to each of Macquarie's attempted contraventions was \$750,000, resulting in an agreed total penalty of \$6 million. The Court was not bound to impose the penalties agreed between the parties, but if the Court was satisfied

that the penalties were within the permissible range of appropriate penalties, in practice public policy and other considerations effectively compelled the Court to accept and impose the agreed penalties.

Wigney J noted that the attempted contraventions by ANZ and Macquarie were ‘very serious’, as cartel conduct had the capacity to significantly undermine the integrity and efficacy of the market in Malaysian ringgit forward contracts. The conduct of the traders employed by the banks was deliberate, systematic and covert. The banks bore corporate responsibility for this conduct because they failed to establish satisfactory training, compliance and surveillance systems in their Singapore offices. Wigney J found that the agreed penalties were towards the very bottom of the permissible range of appropriate penalties. Once it was accepted, however, that the agreed penalties were within the permissible range, it was consistent with both established and authoritative principle and practice to accept and impose the agreed penalties.

COMMERCIAL AND CORPORATIONS NPA/ ECONOMIC REGULATOR, COMPETITION AND ACCESS SUB-AREA

Australian Energy Regulator v Australian Competition Tribunal (No 2) 2017 FCAFC 79

Australian Energy Regulator v Australian Competition Tribunal (No 3) 2017 FCAFC 80 (24 May 2017, Besanko, Yates and Robertson JJ)

The Australian Energy Regulator (‘AER’) sought judicial review of determinations of the Australian Competition Tribunal. The Tribunal set aside decisions made by the AER in 2015 in relation to the revenue that Ausgrid, Endeavour Energy, Essential Energy, ActewAGL and Jemena Gas Networks (NSW) (together, the ‘providers’) could collect by way of network charges between 2014 and 2019. The network charges are a portion of

the electricity and gas bills paid by consumers in New South Wales and the Australian Capital Territory. The AER set lower revenues than proposed by the providers, in part because it concluded that costs above efficient levels should be funded by the providers and not by customers.

Judicial review was sought principally on the grounds that the Tribunal:

- failed to undertake its review function lawfully by failing to properly construe and apply the grounds of review under s 71C of the *National Electricity Law* and s 246 of the *National Gas Law*
- allowed the providers to raise matters not previously raised before the AER
- erred in its construction of new provisions in the *National Electricity Rules* and the *National Gas Rules* relating to the determination of the rate of return on capital, the value of imputation credits (gamma) and the operating expenditure criteria
- adopted reasoning that was irrational, unreasonable and/or uncertain, and
- purported to review a decision of a type that did not and could not fall within its jurisdiction in one matter involving Jemena Gas Networks.

The Full Court upheld the AER’s applications for judicial review in relation to the value of imputation credits, but otherwise dismissed the AER’s applications for judicial review. That means the AER will need to reconsider the allowance for operating expenditure and return on debt, and vary its final decision to the extent appropriate.

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COMMERCIAL AND CORPORATIONS NPA/ GENERAL AND PERSONAL INSOLVENCY SUB-AREA

Compton v Ramsay Health Care Australia Pty Ltd 2016 FCAFC 106

(17 August 2016, Siopis, Katzmann and Moshinsky JJ)

The respondent sought a sequestration order against the estate of Mr Compton, relying on his failure to comply with a bankruptcy notice. The bankruptcy notice sought payment of a debt arising from a judgment of the Supreme Court of New South Wales in relation to a guarantee provided by Mr Compton. In the Supreme Court proceedings, Mr Compton did not dispute the quantum of the debt. At first instance, the primary judge refused an application to 'go behind' the judgment to question whether there was in fact a debt owing. The primary judge determined that the discretion to go behind the judgment was not enlivened, on the basis that:

- Mr Compton had been represented by counsel during the Supreme Court proceedings
- there was evidence available in that court addressing the quantum owed, and
- there was a forensic decision made to restrict the issues to enforcement of the guarantee only, and not the quantum of liability.

The Full Court considered that the primary judge placed excessive weight on the conduct of the Supreme Court proceedings, rather than dealing with the central issue of whether any reason was shown for questioning whether there was in fact a debt outstanding. Although it is appropriate for parties to be held to the way in which they conduct the litigation in which the judgment is delivered, the Full Court stressed the need for all requirements set out in s 52 of the *Bankruptcy Act 1966* to be met. Specifically, s 52(1)(c) requires the Court to be satisfied that the debt is owing. The Court should look behind the judgment debt at the application of a party in circumstances where it can be shown that there is sufficient reason not to accept the judgment as conclusive proof of a debt that is, in truth and reality, due to the creditor.

The decision of the primary judge was set aside by the Full Court, and it was held that the question of whether the Court should 'go behind' the Supreme Court's judgment ought to be answered in the affirmative. An appeal to the High Court of Australia was dismissed.

COMMERCIAL AND CORPORATIONS NPA /INTERNATIONAL COMMERCIAL ARBITRATION SUB-AREA

In the Matter of Hydrox Holdings Pty Ltd 2016 FCA 1164

(27 September 2016, Foster J)

In 2009, Lowes and Woolworths formed a joint venture for the purpose of establishing and operating a chain of home improvement and hardware stores in Australia and New Zealand known as 'Masters'. Lowes held a one-third interest and Woolworths held a two-thirds interest in Hydrox Holdings Pty Ltd ('Hydrox'), the company through which the Masters joint venture was conducted. The Masters business was not successful and had always operated at a loss. As a result, disputes arose between Lowes and Woolworths. In the proceeding before Foster J, Lowes sought a declaration of oppressive conduct and claimed that Hydrox should be wound up compulsorily by the Court.

Woolworths sought a stay of the proceeding on the basis that under the joint venture agreement between the parties, disputes were required to be determined by arbitration if they were not otherwise resolved in accordance with the provisions of the agreement. Woolworths relied on s 7(2) of the *International Arbitration Act 1974*, article 8(1) of the *UNCITRAL Model Law on International Commercial Arbitration*, s 23 of the *Federal Court of Australia Act 1976* or the implied powers of the Court.

In considering whether to grant a stay, Foster J said that the Court must first identify the 'matter or matters' to be determined in the proceeding before asking whether those matters fall within the scope of the arbitration agreement and, if so, whether they are arbitrable. It was common ground that matters to be determined fell within the scope of the arbitration agreement.

Lowes argued that there was in substance only one matter involved in the proceeding, namely whether Hydrox should be wound up, and that matter was not arbitrable. Foster J disagreed, finding that there were several matters involved in the proceeding, including alleged deficiencies in the information provided to Lowes nominated directors, wrongful voting at Hydrox board meetings and wrongful termination of the joint venture agreement.

Foster J found that the dispute was, in substance, one between the shareholders of Hydrox and involved no substantial public interest element, nor any suggestion that Hydrox was insolvent. Foster J found that the mere fact that a winding up order was sought did not alter the characterisation of the real controversy between the parties as being an inter partes dispute. Accordingly, Foster J made orders staying the whole of the proceeding, save for the ultimate question of whether a winding up order should be made, pending arbitration.

COMMERCIAL AND CORPORATIONS NPA/REGULATOR AND CONSUMER PROTECTION SUB-AREA

Australian Competition and Consumer Commission v Reckitt Benckiser (Australia) Pty Ltd 2016 FCAFC 181

(16 December 2016, Jagot, Yates and Bromwich JJ)

The Australian Competition and Consumer Commission ('ACCC') commenced proceedings for contraventions of the *Australian Consumer Law* ('ACL') against Reckitt Benckiser, who marketed and sold products including four Nurofen Specific Pain Relief products. At first instance, Edelman J made orders including declarations that Reckitt Benckiser engaged in conduct that was misleading or deceptive in breach of s 18 of the ACL and in conduct liable to mislead the public as to the nature, the characteristics or the suitability for their purpose of the products within the meaning of s 33 of the ACL. Reckitt Benckiser conceded

that through its website and packaging it had represented that each of the four Nurofen Specific Pain Relief products was specifically designed to treat back pain, period pain, migraine pain and tension headaches, when in fact each product contained the same active ingredient and had the same formulation. In addition to ordering that all Nurofen Specific Pain Relief products be removed from retail sale and corrective notices be published, it was ordered that Reckitt Benckiser pay pecuniary penalties of \$1.7 million for its contraventions of s 33 of the ACL.

The Full Court allowed an appeal brought by the ACCC against the quantum of the penalty imposed on Reckitt Benckiser. The Full Court accepted the ACCC's submissions that the initial penalty was manifestly inadequate, having regard to the importance of the need for deterrence (both specific and general) and the substantial loss to consumers as a result of the contraventions. It was also found that Reckitt Benckiser's conduct caused the loss or serious distortion of genuine consumer choice and it had 'courted the risk of contraventions'. Although the Full Court considered it open to impose an even greater penalty, it ultimately ordered a revised penalty of \$6 million. This amount represents the highest ever corporate penalty to date for misleading conduct in contravention of the ACL.

COMMERCIAL AND CORPORATIONS NPA/REGULATOR AND CONSUMER PROTECTION SUB-AREA

Director of Consumer Affairs Victoria v Hocking Stuart (Richmond) Pty Ltd 2016 FCA 1184

(6 October 2016, Middleton J)

This proceeding was commenced by the Director of Consumer Affairs Victoria ('Consumer Affairs') against Hocking Stuart (Richmond) Pty Ltd ('Hocking Stuart'), a small real estate franchise business operating in Victoria.

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Consumer Affairs alleged that Hocking Stuart engaged in misleading or deceptive conduct and conduct involving making false and misleading representations, in connection with the supply of services regarding the sale of 11 residential properties in Richmond and Kew during 2014 and 2015. In particular, Consumer Affairs asserted that Hocking Stuart underquoted the price range for each of the 11 properties in its marketing and advertising material. This occurred both in online advertisements and in the publication of the Redbook, a real estate magazine of current properties for sale distributed to the general public.

Following mediation between the parties, Hocking Stuart admitted all allegations made by Consumer Affairs and consented to proposed orders including declarations, a non-punitive publication order, an adverse publicity order, a compliance program and costs. Middleton J was asked to determine the remaining dispute between the parties, namely whether a pecuniary penalty should be imposed, and if so, the amount of that penalty.

Middleton J ordered an aggregate penalty of \$330,000, taking into account a number of factors, including the nature, size and financial resources of Hocking Stuart. The notional maximum penalty was calculated at \$12.1 million; however, having regard to the fact that Hocking Stuart was a small local business, Middleton J found that the maximum penalty would be excessive and 'well beyond what any court would impose'. It was accepted that the adverse publicity garnered by the matter was sufficient to meet the goal of specific deterrence. Middleton J agreed that the misconduct should 'not be treated lightly', imposing a penalty of \$11,000 for each of the 11 contraventions, which exceeded the commissions earned by Hocking Stuart.

EMPLOYMENT AND INDUSTRIAL RELATIONS NPA

Construction, Forestry, Mining and Energy Union v Australian Building and Construction Commissioner 2016 FCAFC 184

(21 December 2016, Allsop CJ, North and Jessup JJ)

The Construction, Forestry, Mining and Energy Union ('CFMEU') and its employee and officeholder, Mr Myles, were found to have contravened s 348 of the *Fair Work Act 2009* (the 'Act') by organising a blockade of the main entrance to a Regional Rail Project site in Victoria, preventing deliveries of concrete to the site. Pursuant to s 546 of the Act, the CFMEU and Mr Myles were ordered to pay pecuniary penalties of \$60,000 and \$18,000, respectively. The primary judge made orders prohibiting the CFMEU from paying, either directly or indirectly, the pecuniary penalties imposed on Mr Myles. In doing so, the primary judge relied on s 545(1) of the Act, which allows for the making of 'any order the court considers appropriate'.

The Full Court considered whether the Court had the power to prohibit another person from indemnifying a contravener against the obligation to pay a penalty imposed under s 546 of the Act. The Full Court found that s 545(1) of the Act did not contain a power for the Court to make an indemnity prohibition order in the terms made by the primary judge. Allsop CJ said that 'such an imposition on the freedom of a person or organisation to conduct his, her or its own affairs, being intimately bound up with the penalty itself, should find its source of power in clear and express words of the statute'.

The Full Court also accepted that there had been a denial of procedural fairness because the primary judge saw as materially relevant to the penalty decision the partially public nature of the funds available to the CFMEU, but did not raise this consideration with the parties. Allsop CJ concluded that this had no more than a nominal effect on the primary judge's decision-making. The Full Court declined to set aside the primary judge's orders as to the quantum of penalties. Allsop CJ said those penalties were 'entirely appropriate', given the seriousness of the conduct of the CFMEU and Mr Myles.

The High Court of Australia has granted special leave to appeal.

FEDERAL CRIME AND RELATED PROCEEDINGS NPA

Lobban v Minister for Justice 2016 FCAFC 109

(22 August 2016, Siopis, Barker and Charlesworth JJ)

In 2011, Mr Lobban, a dual Australian-Canadian citizen, was arrested on a warrant issued under the *Extradition Act 1988* (the ‘**Act**’). In 2014, the Minister for Justice made a determination under s 22 of the Act to surrender Mr Lobban to the United States of America on the basis that Mr Lobban had committed extraditable offences. It was alleged that Mr Lobban had committed sexual offences from his home in Perth over the internet, contrary to the laws of Florida. Mr Lobban sought judicial review of the Minister’s surrender determination and applied for an order quashing the determination and a writ of mandamus for his release from custody. The application for judicial review was dismissed at first instance by McKerracher J.

On appeal before the Full Court, Mr Lobban was granted leave to rely on new grounds. The Full Court rejected Mr Lobban’s submission that, on the proper construction of Article V of the *Treaty on Extradition between Australia and the United States of America* (the ‘**Treaty**’), in the context of s 22(3) (e) and s 22(3)(f) of the Act, the fact that he was an Australian national required the Minister to refuse the extradition request unless the Minister came to a positive decision not to do so. It was found that Article V does not confer ‘stand alone importance’ to Mr Lobban’s Australian nationality.

Mr Lobban further contended that, because the United States had failed, by the date specified, to provide additional information requested by the Minister under Article XIII, he had become entitled to be released from custody and that the Minister lacked jurisdiction to determine the surrender under s 22(2) of the Act. In their joint judgment, Siopis and Barker JJ (Charlesworth J dissenting) noted that although s 22(2) of the Act calls for a surrender determination to be made ‘as soon as is reasonably practicable, having regard to the circumstances’, s 22 does not provide for the release of the eligible person from custody where the determination is delayed. Additionally, the failure to make a determination as soon as reasonably practicable does not deprive the decision-maker of jurisdiction to make that determination after the expiry of that time period.

The appeal was dismissed. A subsequent application for special leave to the High Court of Australia was refused with costs.

INTELLECTUAL PROPERTY NPA/COPYRIGHT AND INDUSTRIAL DESIGNS SUB-AREA

Roadshow Films Pty Ltd v Telstra Corporation Ltd 2016 FCA 1503

(15 December 2016, Nicholas J)

Australian internet companies were for the first time ordered to take reasonable steps to disable access to certain overseas websites facilitating copyright infringement, including SolarMovie, The Pirate Bay, Torrentz, TorrentHound and IsoHunt. The orders were sought by copyright owners, including various film companies and Foxtel. Operators of the relevant websites chose not to participate in the proceedings and the internet companies neither consented to nor opposed the grant of injunctive relief.

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This was the first decision on the application of the recently introduced s 115A of the *Copyright Act 1968*. Nicholas J said that s 115A provided a 'no fault' remedy against internet companies, applied only to online locations outside Australia and could apply even where it was impossible to identify those responsible for operating an online location. Nicholas J said that copyright infringement could be facilitated merely by making it easier for users to ascertain the existence or whereabouts of other online locations that themselves infringed or facilitated the infringement of copyright.

An application for special leave to appeal has been filed in the High Court of Australia.

The primary purpose of a relevant online location had to be copyright infringement or the facilitation of copyright infringement. Nicholas J was not satisfied that certain 'inactive sites' satisfied this requirement as there was no evidence to show that those particular sites had ever infringed or facilitated the infringement of copyright. Relief was granted, however, in respect of inactive websites that were shown to have previously facilitated copyright infringement. Nicholas J reasoned that taking a website off-line temporarily should not allow a website operator to avoid the operation of s 115A.

Nicholas J was satisfied that it was appropriate to grant injunctive relief. As a consequence, internet users who attempt to access the disabled websites will be redirected to a 'landing page' that will inform them that access to the website has been disabled because the Court determined that it infringes or facilitates the infringement of copyright. Nicholas J did not allow the internet companies to recoup their set-up costs from the applicants, but did allow an amount of \$50 per domain name in compliance costs. In the event that the applicants wanted to have additional online locations disabled in the future, Nicholas J said that an application would need to be made to the Court. The list of disabled websites could not be added to by the copyright owners giving written notice to the internet companies without any further order of the Court.

INTELLECTUAL PROPERTY NPA/TRADE MARKS SUB-AREA

Accor Australia & New Zealand Hospitality Pty Ltd v Liv Pty Ltd 2017 FCAFC 56

(7 April 2017, Greenwood, Besanko and Katzmann JJ)

This matter is of interest as it deals with trade mark infringement in the context of evolving technology. The Full Court decided that the use of registered trade marks as keywords in a website's source data without prior authority can constitute trade mark infringement, despite the fact that the source data is unlikely to be visible to the average consumer or internet user.

The first appellant ('**Accor**') acted as an on-site letting agent for apartment owners in the 'Harbour Lights' apartment complex in Cairns, operating its letting business as a '4½ star hotel'. Apartment owners who wanted to let their Harbour Lights apartments were not obliged to use Accor and could use another letting agent or arrange the letting themselves. Liv Pty Ltd ('**Liv**'), was an off-site letting agent for apartments in the same complex and a competitor of Accor. By way of licence, Accor was granted exclusive rights to use the trade mark 'HARBOUR LIGHTS' for accommodation letting and rental services.

At first instance, it was alleged that Liv engaged in multiple instances of trade mark infringement by using 'HARBOUR LIGHTS' in connection with its letting services. One allegation of infringement related to words embedded in the source data of a website controlled by Liv. The source data said: 'Harbour Lights Apartments in Cairns offer luxury private waterfront apartment accommodation for holiday letting and short-term rental'. The primary judge found that the source data was 'visible to those who know what to look for' and used the words 'Harbour Lights Apartments' as a badge of origin to distinguish Liv's services from others. As a matter of inference, the primary judge found that those words must have been included in the source data to optimise search engine results for Liv's benefit.

On appeal, the Full Court accepted that infringement could occur even if the source data was not likely to be viewed by the general public. The Full Court noted that source data 'is not displayed on the screen but is used by a search engine ... to determine the search results to be listed'. The Full Court declined to disturb the findings made at first instance, agreeing that Liv used the words 'Harbour Lights Apartments' as a business name in the source data.

An application for special leave to appeal has been filed in the High Court of Australia.

NATIVE TITLE NPA

McGlade v Native Title Registrar 2017 FCAFC 10

(2 February 2017, North, Barker and Mortimer JJ)

This decision is of significant interest to numerous stakeholders, including government, resources and pastoral bodies party to Indigenous Land Use Agreements ('ILUAs'). The key question before the Full Court was whether an ILUA is valid and capable of being registered by the National Native Title Tribunal ('NNTT') where it is signed by some, but not all, members of the registered claimant group.

The State of Western Australia and the Noongar People had negotiated various ILUAs in relation to existing and future native title claims. However, the registration of those ILUAs with the NNTT was opposed by some members comprising the registered claimants. The applicants, being various members of the registered claimants who did not sign the ILUAs, argued the proposed ILUAs did not meet the requirements for registration under the *Native Title Act 1993* (the 'Act'). The pre-existing position was considered by the Full Court. In *QGC Pty Limited v Bygrave (No 2)* 2010 FCA 1019 the Court found that s 24CD of the Act did not require all individuals comprising the registered claimant to sign the ILUA, as long as the registered claimant was authorised by the claim group to sign. This practice was in force for numerous years, and the NNTT registered agreements in accordance with this approach.

The Full Court decided to overturn *Bygrave* because under s 24CD(1) of the Act, all persons in the native title group must be parties to the agreement. Under s 24CD(2)(a), the 'native title group' consists of all registered native title claimants. The Full Court had regard to the definition of 'registered native title claimants' set out in s 253 of the Act being persons whose 'names appear ... as the applicant in relation to a claim to hold native title'. The Full Court concluded that on a proper construction of the Act all individual members of the registered claimants were required to sign in order for the ILUA to be capable of registration.

The *Native Title Amendment (Indigenous Land Use Agreements) Act 2017* received royal assent on 22 June 2017. This Act aims to resolve the uncertainty regarding the validity of ILUAs registered with NNTT without the signature of all members of the registered claimants.

TAXATION NPA

Chevron Australia Holdings Pty Ltd v Commissioner of Taxation 2017 FCAFC 62 **(21 April 2017, Allsop CJ, Perram and Pagone JJ)**

This decision is the first Full Court guidance on the application of the new cross-border transfer pricing provisions. Chevron Australia Holdings Pty Ltd ('CAHPL') sought to establish that the income tax and penalty assessments issued to it for the 2004 to 2008 income years were excessive. The assessments reduced the allowable interest deductions that CAHPL could claim in respect of a cross-border loan from its US subsidiary on the basis that the interest paid by CAHPL exceeded the arm's length consideration. To support the assessments, the Commissioner relied on the transfer pricing provisions in Subdivision 815-A of the *Income Tax Assessment Act 1997*, those formerly found in Division 13 of Part III of the *Income Tax Assessment Act 1936*, and on Article 9 of the *Convention between the Government of Australia and the Government of the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income*.

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The Full Court found that CAHPL was precluded from challenging the validity of the assessments, including on the basis that the person who purported to make the underlying determinations lacked the authority to do so. The Full Court also found that CAHPL had not shown the assessments to be excessive.

In coming to this conclusion, Allsop CJ said that the ascertainment of arm's length consideration under Division 13 contemplates a company in the position of CAHPL with its attributes, including membership of the Chevron group, dealing at arm's length with an independent lender. Meanwhile, Subdivision 815-A allows for the adjustment of conditions to reflect the conditions which the parties would have attained had the transaction been structured in accordance with commercial reality. Allsop CJ considered Chevron group policy of borrowing at the lowest rate and with a parent company guarantee in finding that there would have been a borrowing cost conformable with Chevron Corporation's AA rating and not with the lower credit rating of CAHPL.

Pagone J found that the task of ascertaining the arm's length consideration was fundamentally a factual inquiry into what might reasonably be expected if the actual agreement had been unaffected by the lack of independence and the lack of arm's length dealing. The words 'might reasonably be expected' in Division 13 called for a prediction based upon evidence, like the prediction contemplated by the general anti-avoidance provisions. Subdivision 815-A required a comparison between the actual conditions and those expected to operate between 'independent enterprises'. It was reasonable to conclude that CAHPL's borrowing would have been supported by security, such as a parent company guarantee, but there was insufficient evidence in relation to any fee that might have been payable by CAHPL for such a guarantee.

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JUDGES' ACTIVITIES

CHIEF JUSTICE ALLSOP

DATE	ACTIVITY
1 August 2016	Hosted a reception for Justice Christian Byk of the Paris Court of Appeal. Justice Byk represents France at the UNESCO Intergovernmental Bioethics Committee. He is the general editor of the <i>International Journal of Bioethics and the New Law</i> , and the <i>Health and Society Review</i> . He is also Secretary General of the International Association of Law, Ethics and Science.
2 August 2016	Attended a meeting with Justice Kenny and Professor Nicholson from the Asian Law Centre, Melbourne Law School.
3 August 2016	Attended the Melbourne Law School event 'Judges in Conversation' series. The Chief Justice was in conversation with Professor William Swadling, University of Oxford to discuss the topic 'Trusts – constructive, resulting and the importance of definition and doctrinal approach'.
8 August 2016	Travelled to Amity College in Prestons and gave a lecture to legal studies students and teachers.
13 August 2016	Gave the keynote address at the NSW Bar Association ADR Masterclass conference entitled 'The Future of ADR: Domestic and International' hosted by the Federal Court, Sydney.
7 September 2016	Attended the Australian Maritime and Transport Arbitration Commission 10th Anniversary Annual Address entitled 'Maritime Arbitration – Old and New' hosted by the Federal Court, Sydney.
8 September 2016	Attended the annual Richard Cooper Memorial Lecture entitled 'The South China Sea Arbitration: the influence of law on sea power?' presented by Associate Professor Douglas Guilfoyle.
12–16 September 2016	Attended the Pacific Judicial Conference in Port Moresby, Papua New Guinea and presented two lectures – one on 'Judicial Case Management – Is Case Docketing the Way to Go?' chaired by the Honourable Justice Goodwin Poole and another on 'Frameworks for Judicial Cooperation and Assistance: Memorandums of Understanding' chaired by the Honourable Chief Justice Sir Salamo Injia.
20–22 September 2016	Took part in a delegation visiting Chief Justice Qiang, President of the Supreme People's Court of the People's Republic of China in Beijing.
4 October 2016	Gave a lecture in the New South Wales Young Lawyers International Negotiation and Dispute Resolution Series at the Law Society of New South Wales entitled 'International Disputes – A View from the Bench'.
5 October 2016	Spoke to a delegation of eight members visiting from Nepal. The purpose of the visit was to learn about case management efficiency, transparency of court processes and decisions and the Federal Court's international court-to-court engagement.

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DATE	ACTIVITY
6 October 2016	Was the keynote speaker at a lecture entitled 'Law and Society' at Affinity Intercultural Foundation Sydney. He spoke to 60–80 distinguished guests.
13 October 2016	Gave the Keynote Address entitled 'Class Actions' at the Law Council Class Actions Seminar.
13 October 2016	Attended and opened the 2016 Tristan Jepson Memorial Foundation Annual lecture.
17 October 2016	Attended the 'CPD In Session' Launch hosted by the Victorian Bar.
18 October 2016	Met with John Pesutto MP, State Member for Hawthorn, Shadow Attorney-General to discuss international arbitration issues.
20 October 2016	Delivered the Hochelaga Lecture at the University of Hong Kong entitled 'Values in Law: How principles, norms and ideals influence and shape the rules and conduct of law'.
21–22 October 2016	Attended the Fifth Judicial Seminar on Commercial Litigation in Hong Kong. The theme for this year's seminar was 'Modern developments in commercial law and practice'.
27 October 2016	Attended the Australian Bar Association National Conference in Melbourne and was invited to be part of a panel of Chief Justices from Commonwealth, State and Territory Superior Courts. The topic for the session was – 'National and International Developments of Modern Litigation and Courts Practice'.
4 November 2016	Was interviewed by <i>The Australian Legal Review</i> who wrote an article entitled 'Brave New World – How innovation and technology are disrupting the traditional law model'.
10 November 2016	Introduced the Honourable Robert French AC at the Federation Press book launch of <i>Cowen and Zines's Federal Jurisdiction in Australia</i> , 4th Edition by Geoffrey Lindell hosted by the Federal Court, Sydney.
14 November 2016	Met with the Director General of the World Intellectual Property Organization (WIPO) Geneva, Switzerland, Mr Francis Gurry in Sydney chambers.
16 November 2016	Was guest speaker at Western Sydney University Open Forum at Parramatta. The title of his speech was 'The impact of technology on the future of the Federal Court'.
22 November 2016	Welcomed delegates to the 4th International Arbitration Conference being held at the Federal Court Sydney as part of Sydney Arbitration Week.
23 November 2016	Attended the 15th Annual Clayton Utz International Arbitration Lecture at the Federal Court, Ceremonial Court Room, Sydney.

DATE	ACTIVITY
5 December 2016	Attended the swearing out ceremony for the Honourable Chief Justice French in High Court, Canberra.
15 December 2016	Attended the Brisbane sittings for the announcement of 2016 Queen's Counsel appointments in Queensland.
30 January 2017	Attended the High Court in Canberra for the swearing in of the new Chief Justice, the Honourable Susan Kiefel and Justice Edelman.
6 February 2017	Hosted a dinner at the Federal Court for judges, retired judges and invited guests in celebration of the 40th Anniversary of the Federal Court of Australia.
7 February 2017	Held a Special Sitting in No. 1 Ceremonial Courtroom for the 40th anniversary of the Court's first sitting.
9 February 2017	Attended and gave a reading at The Great Synagogue Law Service to mark the beginning of the 2017 law term held at The Great Synagogue, Sydney.
9 February 2017	Hosted a joint ANU College of Law and The Federation Press book launch at the Federal Court Sydney Conference Room for the books <i>Finn's Law: An Australian Justice</i> edited by Tim Bonyhady and <i>Fiduciary Obligations: 40th Anniversary Republication with Additional Essays</i> by Paul Finn.
20 February 2017	Presented with Chief Justice Warren Session 2 entitled 'Judicial Conduct In and Out of Court' at the National Judicial College of Australia Orientation Program held in Melbourne.
1 March 2017	Attended a Credential Visit from the Law Society of New South Wales at the Federal Court, Sydney.
6 March 2017	Hosted an Indigenous Law Students meet and greet at the Federal Court in Sydney.
9 March 2017	Attended and launched the new book <i>25 Years of Class Actions</i> to mark the 25th anniversary of the commencement of the Australian class action regime. The launch was held at Herbert Smith Freehills' Melbourne office.
16 March 2017	Attended the Sydney launch of the book <i>25 Years of Class Actions</i> to mark the 25th anniversary of the commencement of the Australian class action regime. The launch was held at Herbert Smith Freehills' Sydney office.
17 March 2017	Delivered the welcome opening address to the Institute members attending the luncheon meeting of the International Insolvency Institute at Henry Davis York, Sydney.
17 March 2017	Sat as the presiding judge at the final of the inaugural Ian Fletcher Insolvency Law Moot which was held at the Federal Court, Sydney.

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DATE	ACTIVITY
18 March 2017	As part of the Biennial Joint INSOL/UNCITRAL/World Bank Multinational Judicial Colloquium, chaired a session entitled 'Lessons from recent cases'.
25 March 2017	Gave the closing session at the Sydney CPD Conference in Sydney. The session was entitled 'Written Submissions and their role in advocacy'.
27 March 2017	Attended the Melbourne Law School first event in the 2017 'Judges in Conversation' series, held at the Federal Court, Melbourne. The Chief Justice was in conversation with Professor Paul Craig, Professor of English Law, St John's College, Oxford to discuss the topic 'The Changing Face of Judicial Review: a UK/Australia Comparison'.
27 March 2017	Spoke on 'Federal Court's National Court Framework' at the Innovation and Excellence in Courts 2017 Conference in Melbourne.
29 March 2017	Spoke at the Hellenic Australian Lawyers Seminar in Brisbane. The paper presented was entitled 'Rules and Values in Law: Greek Philosophy; the limits of text; restitution; and neuroscience – anything in common?'
10–11 April 2017	Attended the Council of Chief Justices meeting in Brisbane.
4–5 May 2017	Attended the Standing International Forum of Commercial Courts meeting in London.
13 May 2017	Attended a State dinner for Chinese judges at Government House, Sydney.
19 May 2017	Presented a lecture to University of Sydney Law school undergraduate students in legal history entitled 'Aspects of the history of restitution and the relationship between rule, principle and value'.
7 June 2017	Attended the Affinity Intercultural Foundation's 2017 Friendship and Dialogue Ramadan Iftar Dinner at Parliament House and delivered the Vote of Thanks.
8 June 2017	Attended the <i>Australian Law Journal</i> 90th Anniversary Celebration in the Banco Court, NSW Supreme Court.
16 June 2017	Was guest speaker at the Commercial Law Association of Australia Lunchtime Series. The topic he spoke on was 'The Statutory introduction of unconscionability in trade and commerce: the new business conscience'.

JUSTICE DOWSETT

Justice Dowsett:

- is a member of the Programs Advisory Committee of the National Judicial College of Australia and Chair of the Dialogues on Being a Judge Programme
- is an Honorary Fellow and Community Ordinary Member of The College of Law
- is Chair of The University of Queensland Law School Advisory Board
- has been appointed as an Adjunct Professor in The University of Queensland.

DATE	ACTIVITY
8 August 2016	Attended a function of thanks to the WA Pro Bono Lawyers hosted by the justices of the WA registry of the Court.
2 September 2016	Attended a meeting in Canberra of the Programmes Advisory Committee, National Judicial College of Australia.
8 September 2016	Hosted the Richard Cooper Memorial Lecture, 'The South China Sea Arbitration: The influence of law on sea power', held in Brisbane.
14 September 2016	Presented the address, 'Native Title Practice in the Federal Court – A Queensland Perspective', to the New South Wales Native Title User Group, held in Sydney.
5 December 2016	Attended the ceremonial sittings of the High Court of Australia to farewell the retiring Chief Justice of Australia, the Honourable Robert French AC.
15 December 2016	Attended the ceremonial sittings in Brisbane to mark the appointment of new Queens' Counsel.
30 January 2017	Attended the ceremonial sittings of the High Court of Australia for the swearing-in of the Honourable Susan Kiefel AC as Chief Justice of Australia and the swearing-in of the Honourable Justice James Edelman as a Justice of that Court.
3 February 2017	Attended the ceremonial sittings of the Supreme Court of Queensland to mark the 25th anniversary of the establishment of the Queensland Court of Appeal.
15 February 2017	Attended the Supreme Court of Queensland for the launch of LawRight, a community legal assistance organisation, by the Honourable Catherine Holmes, Chief Justice of Queensland.
13 March 2017	Attended the official opening of the new accommodation for the TC Beirne School of Law at The University of Queensland.
16 March 2017	Attended at the Supreme Court of Queensland for the Oration 'Judicial method in the 21st century' presented by the Honourable Susan Kiefel AC, Chief Justice of Australia.

APPENDIX 8

DATE	ACTIVITY
29 March 2017	Attended a seminar held in Brisbane and hosted by the Hellenic Australian Lawyers Qld Chapter, where the Hon James Allsop AO, Chief Justice of the Federal Court of Australia, presented 'Rules and Values in Law: Greek Philosophy; the Limits of Text; Restitution; and Neuroscience – Anything in Common?'
10 May 2017	Was a guest at the 2017 Law Awards ceremony of The TC Beirne School of Law.

JUSTICE KENNY

Justice Kenny is:

- presidential member of the Administrative Appeals Tribunal
- member of the Council of the Australian Institute of Judicial Administration
- foundation fellow of the Australian Academy of Law
- college fellow of St Hilda's College, University of Melbourne
- chair, Asian Law Centre Advisory Board, Melbourne University Law School
- member of the Editorial Board of the Journal of the Intellectual Property Society of Australia and New Zealand.

DATE	ACTIVITY
5 October 2016	Chaired a session on <i>Consumer and Small Business Protection</i> in National Commercial Law series.
14 October 2016	Chaired a Selection Committee for Sir Robert Menzies and Sir Ninian Stephen Scholarships in Law and International Law.
29 November 2016	Joined Professor Ratna Kapur and Justice Mortimer in conversation on 'Human Rights and the Politics of the Veil', in Judges in Conversation series.
4 April 2017	Met with Judge Duncan, US Court of Appeals (Fourth Circuit) to discuss information sharing with the Committee on International Judicial Relations.

JUSTICE SIOPIS

DATE	ACTIVITY
8 August 2016	Gave a speech at a function of thanks to the WA Pro Bono Lawyers hosted by the Justices of the WA registry of the Court.
9 August 2016	Accepted on behalf of the Federal Court, the presentation of a photograph of Women Lawyers of Western Australia.
5 April 2017	Chaired a Chartered Institute of Arbitrators (Australia) Limited International Arbitration Series seminar entitled 'International Arbitration and Precedents: Friends or Foes?'

JUSTICE GREENWOOD

Justice Greenwood is:

- member of the Advisory Council appointed to advise the Head of the TC Beirne School of Law at the University of Queensland on matters in relation to the Law School
- member of the Advisory Board of the Global Integrity Summit, a body established by Griffith University to conduct an annual summit examining the role of ethical foundations and integrity in ensuring global economic institutions operate with due regard to integrity obligations
- adjunct professor in Competition Law and Intellectual Property at the University of Queensland Law School
- member of the Advisory Board of the Griffith Law School
- federal jurisdiction lecturer at the University of Queensland Law School both at undergraduate and masters level
- Speaker at the Bar Associations' continuing legal education program on topics, including Federal Court practice and Native Title.

DATE	ACTIVITY
19 August 2016	Conducted a workshop for the Queensland Law Society addressing approaches to dealing with ethical problems reflected in a series of workshop problems.
7 September 2016	Gave the Opening Address to the International Personal Insolvency Conference held at the Queensland University of Technology on the topic of 'Barwick, Bankruptcy and the Human Dimension'.
27 April 2017	Gave an address to launch an annual series of lectures on Administrative Law to the Australian Institute of Administrative Law.
6 May 2017	Chaired a session at the Hodgekiss Competition Law Conference held in Sydney.

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JUSTICE RARES

Justice Rares:

- was President of the Judicial Conference of Australia from October 2014, until his retirement as President in October 2016
- is a member of the Board of Management of the Council of the Australasian Institute of Judicial Administration and a member of its Education Committee
- is Chair of the Consultative Council of Australian Law Reporting
- is Presiding Member of the Admiralty Rules Committee established under the *Admiralty Act 1988* (Cth)
- is a member of the Comité Maritime International's International Working Group on Offshore Activities.

DATE	ACTIVITY
28–30 September 2016	Attended the Maritime Law Association of Australia and New Zealand 43rd National Conference, Queensland.
7–9 October 2016	Attended the Judicial Conference of Australia 2016 Colloquium, Canberra.
28–30 November 2016	Attended the National University of Singapore Colloquium on the Arrest Conventions 1952 and 1999 in Singapore and presented a paper entitled 'Declining Jurisdiction Following Arrest'.
1 December 2016	Presented a joint lecture with Justice Wigney on complex litigation to students from the University of New South Wales.
23 February 2017	Presented a paper 'Using the "Hot Tub" – How Concurrent Expert Evidence Aids Understanding Issues' for the University of New South Wales Continuing Legal Education Mandatory Rule 6.1 Seminar.
19 March 2017	Participated in the Judicial Colloquium Maritime Insolvency Law Panel on cross-border insolvency at the INSOL Tenth World Quadrennial Congress in Sydney.
6 May 2017	Attended the 2017 Competition Law Conference in Sydney and chaired a session, 'The Next Chapter in Australia's Misuse of Market Power Law: Killing the Tiger While it is Young?'
30 May 2017	Participated as a judge for Public International Law Grand Final Moot, University of Sydney.
1–2 June 2017	Chaired the annual general meeting of the Consultative Council of Australian Law Reporting in Hobart and announced the 'Law Reports Linking Principles', an interlinking protocol to improve access to law reports for the Australian public and legal profession.

JUSTICE COLLIER

DATE	ACTIVITY
18 August 2016	Participated as a judge at 'The Great Debate for Women in Insolvency and Restructuring', Queensland.
11–16 September 2016	Participated at the Pacific Judicial Conference, Papua New Guinea 2016.
26–27 October 2016	Participated on panels at the Administrative Appeals Tribunal, Migration and Refugee Division, Master Class Workshops in Sydney and Melbourne.
3 November 2016	Spoke to a Chinese Government Delegation on 'Judicial Review and Administrative proceedings, Trade Remedies and Investigations in Australia'.
22 March 2017	Attended the Griffith University, Law Futures Centre Advisory Board meeting and launch of the Centre.
27–28 March 2017	Participated in the Papua New Guinea Judiciary Court Craft Workshop.
1–2 June 2017	Presented at the New Zealand Law Society Corporate Governance Intensive in Wellington and Auckland.

JUSTICE TRACEY

Justice Tracey is:

- member of the Advisory Board of the Centre of Public Law at the Law School of the University of Melbourne
- member of the Juris Doctor Program Advisory Board of the Graduate School of Business and Law at the RMIT University.

DATE	ACTIVITY
1 April 2017	Appointed Colonel Commandant of the Australian Army Legal Corps.

APPENDIX 8

JUSTICE MIDDLETON

Justice Middleton is:

- President of the Australian Competition Tribunal
- continuing Presidential Member of the Administrative Appeals Tribunal
- part-time Commissioner of the Australian Law Reform Commission
- Council Member of the University of Melbourne
- Chairman of the University of Melbourne Foundation
- member of the American Law Institute
- member of the Judicial Liaison Committee for Australian Centre for Commercial International Arbitration
- Board member of the Victorian Bar Foundation
- Fellow of the Australian Academy of Law
- Member of the Editorial Board of the Journal of the Intellectual Property Society of Australia and New Zealand.

DATE	ACTIVITY
19 July 2016	Adjudicated public speaking competition of the Australian Insurance Law Association for the Ron Shorter Memorial Award.
28 July 2016	Guest speaker at Chartered Institute of Arbitrators Australia Business Lunch talking on 'Some Reflections of a 'Statutory Decision-Maker' on Consensual International Commercial Arbitration'.
25-26 August 2016	Chaired panel at Federal Court of Australia and Law Council of Australia Conference on Corporations Law in Sydney on 'Corporate Social Responsibility'.
20-21 October 2016	Attended the 8th Australasian Institute of Judicial Administration Appellate Judges' Conference in Melbourne.
27-28 October 2016	Presented on a panel at the 2016 Australian Bar and Victoria Bar National Conference in Melbourne on 'Corporate Responsibility and Risk Management and Directors Duties'.
11 November 2016	Attended The Australian Legal Week Lunch representing Chief Justice Allsop AO in Sydney.
6 April 2017	Attended the 15th Year Anniversary of Wotton & Kearney (solicitors specialising in insurance litigation).

JUSTICE MCKERRACHER

In 2016–17, Justice McKerracher chaired a series of Intellectual Property twilight Seminars.

DATE	ACTIVITY
7–8 October 2016	Participated in the Judicial Conference of Australia Colloquium and the Governing Council Meeting in Canberra; elected to Governing Council and Executive Council.
31 October 2016	Met with four Judges of the Supreme People's Court of China (SPC) in Beijing to further discussions in Admiralty matters concerning the SPC and the FCA.
4–6 November 2016	Participated in the 5th Annual World Congress of Ocean–2016 (WCO–2016) in Qingdao, China and delivered a presentation on 'Recent Developments in Maritime Law'.
25 January 2017	Chaired a session at the Supreme Court and Federal Courts Judges' Conference on Native Title.
1 February 2017	Gave an interview for the National Native Title Tribunal 25th Anniversary.
10 February 2017	Attended the Native Title Anthropologist Day Conference.
18 March 2017	Attended the Judicial Conference of of Australia's Governing Council Meeting in Melbourne.
24 May 2017	Delivered annual address on Federal Jurisdiction to the Western Australian Bar Association Bar Readers' Course.
25 May 2017	Attended the WABA Equitable Briefing Policy Launch at the Federal Court of Australia, Perth.
3 June 2017	Attended the Judicial Conference of of Australia's Governing Council Meeting in Sydney.

APPENDIX 8

JUDGES' ACTIVITIES

JUSTICE PERRAM

Justice Perram is:

- chair of the Australian Law Reform Commission (ALRC) Audit Committee
- member of the ALRC Advisory Committee
- chair of the Chief Justices' Harmonisation of Rules Committee, until his resignation of that position from 12 April 2017.

DATE	ACTIVITY
5 August 2016	Attended 58th Annual Dinner of the Challis Taxation Group.
10–11 October 2016	Attended Inaugural Meeting of the Judicial Insolvency Network hosted by the Supreme Court of Singapore in Singapore.
18 November 2016	Delivered paper on Statutory interpretation to Statutory Interpretation Symposium held at La Trobe University in Melbourne.
17 February 2017	Delivered a paper on Digital Currencies at Western Australian Law Society's Summer School in Perth.
7 June 2017	Attended the Law Council's Intellectual Property Section Annual dinner in Sydney.

JUSTICE JAGOT

DATE	ACTIVITY
14 September 2016	Presented at the Judicial Conference of Australia Colloquium entitled 'Judgment Writing – From Negative to Positive Capability'.
8 October 2016	Hosted the Tristan Jepson Memorial Annual Lecture – 'Leadership and Cultural Change in the Legal Profession' with Lt David Morrison AO.
27 October 2016	Panel member at the Australian Bar Association and Victorian Bar Association Conference, Issues in IP Law.
12 April 2017	Appointed Chair of the Council of Chief Justices' Harmonisation of Rules Committee.

JUSTICE FOSTER

DATE	ACTIVITY
13 August 2016	Member of panel discussion following the session 'Arbitration – The State of Domestic and International Arbitration' at the biennial NSW Bar Association's ADR Masterclass.
23 August 2016	Chaired The Chartered Institute of Arbitrators (Australia) Limited seminar, 'Using Costs Orders to Control the Expense of International Commercial Arbitration'.
26 August 2016	Chaired the session 'Penalties and Enforceable Undertakings' at the joint Federal Court of Australia/Law Council of Australia Conference on Corporations Law.
30 August 2016	Judged the final of The Chartered Institute of Arbitrators (Australia) Limited Mooting Competition.
1 September 2016	Was the Keynote Speaker at the Government Law Group Seminar – 'Duties to the Court'.
20–22 October 2016	Attended and presented at the Fifth Judicial Seminar on Commercial Litigation in Hong Kong. The theme of the seminar was 'Modern developments in commercial law and practice' and its target was judges with day-to-day responsibility for managing commercial litigation.
23 November 2016	Provided commentary on the address by Dr Michael Hwang SC, International Arbitrator, on 'The UNCITRAL Model Law on Arbitration – a model for legal convergence in the Asia Pacific?' at the 12 Wentworth Selborne Chambers and Australian Branch of the International Law Association luncheon seminar.
4–5 May 2017	Attended the inaugural meeting of the Standing International Forum of Commercial Courts in London – a forum for the commercial court judiciary worldwide to share experiences and to hold discussions – hosted by the Lord Chief Justice of England and Wales.

JUSTICE BARKER

DATE	ACTIVITY
27 October 2016	Presented at the Australian Bar Association and Victoria Bar Association conference: 'New and emerging trends in native title valuation cases' in Melbourne.
10 February 2017	Co-organised and presented: '25 years of native title anthropology', joint initiative FCA, NNTT and the Centre for Native Title Anthropology at ANU in Perth.
14 March 2017	Gave the address at the Joint Australian Labour Law Association and Law Society of WA seminar 'Ethics in Workplace Disputes' in Perth.
29 March 2017	Presented at Constitutional Dialogue of international study group: 'Non-territorial autonomy for minority groupings' in Perth.

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JUSTICE YATES

Justice Yates is:

- a member of the Editorial Board of *The Journal of the Intellectual Property Society of Australia and New Zealand*.

DATE	ACTIVITY
9–11 September 2016	Attended and addressed the 30th Annual Conference conducted by the Intellectual Property Society of Australia and New Zealand Inc.
22 November 2016	Attended the 4th International Arbitration Conference held in Sydney.
6 May 2017	Attended the 2017 Competition Law Conference held in Sydney.

JUSTICE BROMBERG

Justice Bromberg is:

- president of the International Commission of Jurists Victoria (ICJ)
- national vice-president of ICJ Australia
- the Federal Court's representative for the Judicial Officers Aboriginal Cultural Awareness Committee (JOACAC)
- coordinator of the Victorian Bar's Indigenous Clerkship Program.

DATE	ACTIVITY
19 July 2016	Presented on 'Underpayments: Directors and Ancillaries Liability' at a seminar conducted by the Victorian Bar.
23–25 January 2017	Attended the Supreme and Federal Courts' Judges Conference, Perth.
30 January 2017	Hosted the ICJ's Opening of the 2017 Legal Year in his capacity as President of the ICJ.
31 March 2017	Spoke at the Victorian Bar's 10th Anniversary of the Bar's involvement in the Indigenous Clerkship Program.

JUSTICE KATZMANN

DATE	ACTIVITY
19 October 2016	Chaired a session at the Law Society Seminar entitled 'Practical considerations in the new industrial order'.
24 January 2017	Attended the Supreme and Federal Court Judges' Conference in Perth.

JUSTICE ROBERTSON

Justice Robertson is:

- deputy president of the Australian Academy of Law.

DATE	ACTIVITY
21–22 July 2016	Gave the keynote address to the Australian Institute of Administrative Law National Administrative Law Conference, Brisbane.
27 August 2016	Presented to the Supreme Court of New South Wales Annual Conference 2016 at Bowral on 'Apprehended Bias – The Baggage'.
12–14 September 2016	Attended the second Public Law Conference, University of Cambridge, 'The Unity of Public Law?'
14–15 October 2016	Attended the 14th Annual Competition Law and Economics Workshop, 'Anti-competitive effects: new ideas in law and economics', Adelaide.
21–25 January 2017	Attended the Supreme and Federal Court Judges' Conference, Perth.
5–7 April 2017	Gave two presentations at the 7th OECD/Korea Policy Centre Asia Pacific Workshop for Judges entitled 'Using Economics in Courts: The Judicial Perspective from Australia – Procedures and Principles and Case Examples', Manila, Philippines.
18–19 May 2017	Gave a presentation to the Land and Environment Court of New South Wales Annual Conference 2017, entitled 'Apprehended Bias', Parramatta.
7 June 2017	Judged the Grand Final Moot, 'Federal Constitutional Law', University of Sydney, Law School.
16 June 2017	Addressed the annual dinner of the New South Wales Civil and Administrative Tribunal.

APPENDIX 8

JUSTICE MURPHY

Justice Murphy was appointed President of the Children's Protection Society.

DATE	ACTIVITY
20 September 2016	Delivered a presentation on 'The Operation of the Part IVA Regime', to Pacioli Society of The University of Sydney.
17 February 2017	Delivered the keynote speech at the Law Institute of Victoria National Costs Law Conference in Melbourne.
22 March 2017	Delivered a presentation at '25 Years of Class Actions: 2017 Corporate Conduct and Class Actions Symposium' in Melbourne.
23 March 2017	Delivered the keynote speech on 'Current Issues after 25 Years of Part IVA', University of New South Wales Class Actions Conference in Sydney.

JUSTICE GRIFFITHS

DATE	ACTIVITY
26 August 2016	Presented a paper on 'A Career in Law "To be or not to be"' at NSW Supreme Court Tipstaves' and Researchers' Conference.
27 August 2016	Chaired Insolvency Law session at Law Council of Australia's Corporations Law Conference in Sydney.
16 September 2016	Presented a paper on 'Application of the Australian Consumer Law to government activities' at ANU Commercial Law and Government Conference, NSW State Library.
28 October 2016	Delivered the keynote address on 'Judicial Review of Administrative Action in Australia' at ANU Public Law Weekend.
23 January 2017	Delivered a paper on 'Procedural Fairness in the Courtroom' in Melbourne at Federal Circuit Court of Australia Judicial Education Program.
24 January 2017	Delivered a paper on 'Procedural Fairness in the Courtroom' in Sydney at Federal Circuit Court of Australia Judicial Education Program.
25 February 2017	Delivered the keynote address on 'Developments in Judicial Review Affecting Migration', at 2017 Immigration Law Conference in Sydney.
17 March 2017	Presented a paper on 'Court review of ATO discretions: departure prohibition orders as a case study' at Toongabbie Legal Centre – Tax and Equity Conference.
27 March 2017	Attended Seminar on 'Proportionality in Public Law: Canadian and Australian Perspectives'.
28 March 2017	Attended 'Judges in Conversation:' The Hon James Allsop AO in conversation with Professor Paul Craig.

JUSTICE KERR

DATE	ACTIVITY
31 May 2017	Judged finalists in the Australian Law Students Association National Essay Competition.

JUSTICE PAGONE

Justice Pagone is:

- board member of the Luke Batty Foundation
- president of the Asian, North American and Oceanian Group
- vice-president of the International Association of Judges
- editor-in-chief of Curtin Law and Taxation Review
- board member of the Graduate Union.

DATE	ACTIVITY
12 August 2016	Presented on 'Current Trends in Tax Disputes' at The Tax Institute, 49th Western Australia State Convention, Western Australia.
10 March 2017	Presented on 'Trustees, the Commissioner and the younger generation', Society of Trust and Estate Practitioners, Adelaide.

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JUDGES' ACTIVITIES

JUSTICE DAVIES

DATE	ACTIVITY
5–6 August 2016	Panel Member at the Annual Competition and Consumer Workshop, 'Access to remedies by SME's in competition cases', in Sydney.
26 August 2016	Chaired the session 'Managed Investment Schemes' at the joint Federal Court of Australia/Law Council of Australia Conference on Corporations Law.
8 September 2016	Guest speaker at the Tax Institute of Australia Litigation Master Class, 'Tax litigation from a judicial perspective'.
9–10 September 2016	Panel Member at the Law Council Workshop, 'Best use of Experts', in Sydney.
28 September 2016	Panellist at the International Fiscal Association Conference on Human Rights and Taxation Law.
29–30 September 2016	Panellist at the International Association of Tax Judges Conference on Human Rights and Taxation Law, 'Substantive Session on Recent Case Law'.
27 October 2016	Panel member at the Australian Bar Association National Conference, 'Role of Regulators in Enforcement and Litigation ACCC, ASIC' in Melbourne.
9–12 March 2017	Guest Speaker at the STEP 2017 Trusts Symposium on Equitable remedy of accounting for profits.
28 April 2017	Panel Member at the Australian Association of Women Judges/International Association of Women Judges Conference on 'Impacts of Judging on laws relating to tax, work and childcare'.
20 May 2017	Feedback from the Bench at the Moot for Women Barristers, Supreme Court of Victoria.
25 May 2017	Speaker at KPMG's Seminar on 'Effective Writing' at Yarra Valley.

JUSTICE MORTIMER

Justice Mortimer is a:

- senior fellow of the Melbourne Law School
- member of the Advisory Board of the Centre for Comparative Constitutional Studies (CCCS)
- member of the Australian Academy of Law (AAL)
- member of the International Association of Refugee Law Judges (IARLJ)
- member of the Monash University Faculty of Law External Professional Advisory Committee (EPAC)
- member of the Board of Advisors of the Public Law Review (PLR).

DATE	ACTIVITY
5 September 2016	Presented to the Australian Institute of Administrative Law (AIAL) a Forum Paper on 'Unreasonableness and irrationality as grounds of judicial review: Keep calm and carry on'.
20–21 October 2016	Panel member for the session 'Working on an intermediate court of appeal: comparing experiences' at the Australian Institute of Judicial Administration Appellate Judges' Conference.
26–28 October 2016	Gave a presentation on 'Judicial oversight mechanisms for immigration detention' to the IARLJ Conference, Pretoria, South Africa.
26–28 October 2016	Gave a presentation on 'Australia's regional offshore processing agreements – key cases' to IARLJ Conference, Pretoria, South Africa.
28 February 2017	Gave a speech to launch the book, <i>Equality and Discrimination law in Australia: an introduction</i> , written by Beth Gaze and Belinda Smith.
20 March 2017	Gave a presentation to Queen's College entitled 'When is discrimination okay?'
27 March 2017	Chaired and gave the Welcome Speech to introduce Madam Justice Julie Dutil's seminar on 'Proportionality in Public Law Chair'.
10 April 2017	Gave a presentation to Ferrier Hodgson entitled 'The Federal Court and Indigenous people'.
3 May 2017	Gave a presentation to the Migration Bar Association CPD Seminar 'Practical Information about conducting migration cases in efficient, fair and effective ways'.
20 May 2017	Adjudicated the 'Feedback from the Bench' moot for women barristers Victorian Court of Appeal and Victorian Women Barristers' Association.

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JUSTICE RANGIAH

Justice Rangiah is a:

- member of the Griffith University Law School Advisory Committee
- member of the University of Queensland's Pro Bono Advisory Committee.

DATE	ACTIVITY
25 January 2017	Presented a paper on 'Procedural Fairness in the Courtroom' to the Federal Circuit Court Conference in Brisbane.
31 March 2017	Delivered the keynote address at the University of Queensland's Justice and the Law Society's Gala.

JUSTICE WIGNEY

DATE	ACTIVITY
6 August 2016	Presented at the Law Council's Competition and Consumer Law Workshop – 'How to win a case – strategy and evidence'.
1 December 2016	Presented a joint lecture with Justice Rares on complex litigation to students from the University of New South Wales.
19–23 June 2017	Attended the Global Antitrust Institute Economics Institute for competition judges and enforcement officials

JUSTICE PERRY

Justice Perry is:

- an additional judge on the Supreme Court of the Australian Capital Territory
- Squadron Leader with the Royal Australian Air Force, Legal Specialist Reserves
- member of the Judicial Council on Cultural Diversity (JCCD) established by the Council of Chief Justices, as the representative of the Federal Court of Australia and chaired the specialist committee appointed by the JCCD which prepared the 'Recommended National Standards for Working with Interpreters in Courts and Tribunals' (2017)
- Honorary Visiting Research Fellow, Law School, University of Adelaide
- fellow of the Australian Academy of Law
- member of the Advisory Committee, Gilbert + Tobin Centre of Public Law, University of New South Wales
- member of the Law School External Advisory Board, University of Adelaide
- member of the Advisory Council, Centre for International and Public Law, Australian National University
- member of the Board of Advisors, Research Unit on Military Law and Ethics (RUMLAE), University of Adelaide
- section-editor (administrative law) with the *Australian Law Journal*
- mentor of the SABA Women's Mentoring Scheme.

DATE	ACTIVITY
Oct 2016–June 2017	Mentor, Asian Australian Lawyers Association Mentoring Programme.
November 2016– June 2017	Panel of Supervisors, PhD Student, ANU Faculty of Law.
November 2016–June 2017	Patron, NSW Chapter, Hellenic Australian Lawyers Association.
26 July 2016	Spoke to school students from St John the Evangelist, Nowra, visiting the Federal Court, Sydney Registry, about the Federal Court and the Rule of Law. Visit was instituted by the Rule of Law Institute of Australia.
3–4 August 2016	Chair, Judicial Council on Cultural Diversity fora in Melbourne and Sydney (part of the public consultation process for the (then) Draft National Standards for Working with Interpreters in Courts and Tribunals)
12–16 September 2016	Visiting Judicial Fellow, Flinders University Law School, Adelaide.
14 September 2016	Delivered the Challenges for Justice Public Seminar, Flinders University Law School, on 'Challenges for Justice in a Culturally and Linguistically Diverse Society'.
17 September 2016	Spoke at the opening of the 2016 Australia New Zealand Intersarsity Moot on 'Animal Law', hosted by Flinders University, Adelaide, and judged a preliminary round of the moot.

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DATE	ACTIVITY
28 September 2016	Presented on 'Automated Weaponry and Artificial Intelligence: Implications for the Rule of Law', Army Training Night, Military Law Centre, Victoria Barracks.
2 October 2016	Guest Speaker, Asian Australian Lawyers Association Mentoring Programme Launch, Sydney.
6 October 2016	Keynote address, Launch of <i>Federal Discrimination Law 2016</i> , hosted by the Australian Human Rights Commission, Sydney.
21 October 2016	Spoke at the NSW Bar Association Female Law Students Day.
11 November 2016	Closing address, Launch of the NSW Chapter, Hellenic Australian Lawyers Association.
15 November 2016	Presented on 'Challenges for Justice in a Culturally and Linguistically Diverse Society', CPD seminar, South Australian Bar Association.
16 November 2016	Presented on 'Automated Weapons, Artificial Intelligence and the Rule of Law', Research Unit in Military Law and Ethics, Law School, University of Adelaide.
22–25 January 2017	Presented on The JCCD Recommendations: 'Working with Interpreters in the Courts' and on 'Automated Weaponry and Artificial Intelligence: Implications for the Rule of Law' at the Supreme and Federal Court Judges' Conference, Perth.
21 February 2017	Authored the Foreword for the Flinders Law Students' Association 2017 Careers Guide.
25 February 2017	Presented on the Work of the Judicial Council on Cultural Diversity at the NSW Bar Association Conference, Newcastle.
28 February 2017	Hosted Assistant Fleet Legal Officer from the Royal Australian Navy Fleet Headquarters for professional development program observing civilian court proceedings.
16 March 2017	Presented on 'Challenges for Justice in a Culturally and Linguistically Diverse Society', Anglo-Australian Law Society Breakfast Seminar, Sydney.
9 June 2017	Presented on 'The Role of Interpreters as "Enablers of Justice"', Council of Australian Tribunals (COAT) National and COAT (NSW) Joint Conference 2017 – Tribunals: Enablers of Justice, Sydney.
27 June 2017	Introduced Professor Nicos C Alivizatos, who spoke on the subject of 'Authoritarian Democracy – Populism, Human Rights and the Rule of Law in Europe. Recent developments from a Greek perspective', Hellenic Club of Sydney in conjunction with the Hellenic Australian Lawyers Association.

APPENDIX 9

STAFFING PROFILE

From 1 July 2016, the *Courts Administration Legislation Amendment Act 2016* merged the corporate services of the FCoA and the FCC with the FCA into a single administrative entity – known as the Federal Court of Australia. Heads of Jurisdiction continue to be responsible for managing the administrative affairs of their respective courts (excluding corporate services), with assistance from a Chief Executive Officer and Principal Registrar.

All staff are employed by the Federal Court of Australia under the *Public Service Act 1999* regardless of which court or tribunal they work for or provide services to. The total staffing number for the combined entity is 1102 full-time and non-ongoing employees (this excludes casual employees).

Employees are assigned to each jurisdiction as follows:

Total staff providing services to the Federal Court of Australia:	373 (excludes casual employees)
Total staff providing services to the Family Court of Australia:	95 (excludes casual employees)
Total staff providing services to the National Native Title Tribunal:	74 (excludes casual employees)
Total staff providing services to the Federal Circuit Court of Australia:	560 (excludes casual employees).

The following provides details of employee numbers assigned to each jurisdiction. More detailed information is available in the *Family Court of Australia 2016–17 annual report* and the *Federal Circuit Court of Australia 2016–17 annual report*.

The Chief Executive Officer and Principal Registrars and the NNTT Registrar are holders of public office and are not included in this appendix.

APPENDIX 9

Table A9.1: Federal Court of Australia: staffing overview by location (actual occupancy as at 30 June 2017 and 2016 – includes full-time and part-time staff)

LEVEL	PRIN	NSW	VIC	QLD	SA	WA	TAS	ACT	NT	NAT	NNTT	TOTAL
	2017	2016	2017	2016	2017	2016	2017	2016	2017	2016	2017	2016
SES2	2	2	1	1	–	–	–	–	–	–	–	4
SES1	3	1	–	1	1	1	2	1	–	1	1	9
FCL2	1	2	5	6	4	5	3	2	1	1	2	25
FCL1	7	5	1	–	–	–	–	1	1	–	–	9
FCM2	13	7	1	–	1	1	1	–	–	–	–	15
FCM1	41	19	1	2	1	2	–	1	–	–	1	36
FCS6	43	22	25	23	16	15	9	8	1	1	1	117
FCS5	23	13	28	30	22	20	10	9	8	–	–	91
FCS4	13	5	7	9	9	15	4	11	3	9	4	83
FCS3	7	2	–	4	1	1	1	1	1	2	1	16
FCS2/CCO	1	–	18	29	12	11	8	12	5	7	8	68
FCS1	–	–	–	–	–	–	–	–	–	–	–	–
Total	154	80	87	104	68	70	37	46	23	31	35	477

SES	Senior Executive Service officer	NAT includes the following staff:	• Federal Court Native Title staff
FCL	Federal Court Legal		• Chambers of Chief Justice
FCM	Federal Court Manager		
FCS	Federal Court Staff		
CCO	Casual Court Officer	NNTT	National Native Title Tribunal
PR	Principal Registry		

Table A9.2: Family Court of Australia: staffing overview by location (actual occupancy as at 30 June 2017 includes full-time and part-time staff)

LEVEL	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	TOTAL
APS1									0
APS2									0
APS3	1	1							2
APS4	1	8		4	2	1	6		22
APS5	1	19		8	2	1	7		38
APS6	3						2		5
EL1	2						2		4
EL2	2	12		2	1		5		22
SES1									0
SES2				1			1		2
TOTAL	10	40	0	15	5	2	23	0	95

Note: Judicial officers and the Chief Executive Officer and Principal Registrar, who are holders of public office, and casual employees, are not included in the above table.

Table A9.3: Federal Circuit Court of Australia: staffing overview by location (actual occupancy as at 30 June 2017 and 2016 – includes full-time and part-time staff)

LEVEL	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	TOTAL
APS01	–	1	–	–	–	–	–	–	1
APS02	1	12	–	10	5	–	13	–	41
APS03	5	64	3	29	13	7	37	–	158
APS04	5	51	1	25	10	3	32	1	128
APS05	4	35	2	19	4	4	25	1	94
APS06	1	7	–	3	3	–	2	–	16
EL01	3	33	–	13	6	7	21	–	83
EL02	1	13	–	10	3	1	5	–	33
SES01	–	2	–	1	–	–	2	–	5
SES02	–	–	–	–	–	–	1	–	1
TOTAL	20	218	6	110	44	22	138	2	560

Note: Judicial officers and the Chief Executive Officer and Principal Registrar, who are holders of public office, and casual employees, are not included in the above table.

APPENDIX 9

Table A9.4: Federal Court staffing by gender, classification and location (as at 30 June 2017 and 2016)

LEVEL	GENDER	PR	NSW	VIC	QLD	SA	WA	TAS	ACT	NT	NAT	NNIT	TOTAL
2017													
2016													
2017													
2016													
SES2	Male	-	-	1	1	-	-	-	-	-	-	-	2
	Female	2	-	-	-	-	-	-	-	-	-	-	2
SES1	Male	3	1	-	1	-	2	1	-	-	-	-	5
	Female	-	-	-	-	1	1	-	-	-	1	1	4
FCL2	Male	1	2	4	4	2	1	1	-	-	-	-	12
	Female	-	-	1	2	1	1	-	-	-	3	4	9
FCL1	Male	-	1	1	-	-	-	-	-	-	-	-	1
	Female	7	4	-	-	-	-	1	1	-	-	-	8
FCM2	Male	3	3	1	-	-	1	1	-	-	1	1	7
	Female	10	4	-	1	1	-	-	-	-	-	3	15
FCM1	Male	23	10	-	1	1	-	-	-	-	-	5	29
	Female	18	9	1	2	1	1	2	-	-	1	6	28
FCS6	Male	21	6	3	1	-	-	-	-	-	2	2	34
	Female	22	16	22	16	15	9	8	3	4	10	8	107
FCS5	Male	14	7	16	15	10	10	6	3	2	2	3	52
	Female	9	6	12	15	12	10	4	6	4	7	5	49
FCS4	Male	-	-	3	5	-	1	2	1	2	-	-	9
	Female	13	5	4	4	9	14	2	9	2	7	4	57

LEVEL	GENDER	PR	NSW	VIC	QLD	SA	WA	TAS	ACT	NT	NAT	NNTT	TOTAL
2017 2016 2017 2016 2017 2016 2017 2016 2017 2016 2017 2016 2017 2016													
FCS3	Male	2	2	1	1	1	1	1	1	2	1	1	7
	Female	5	3	1	1	1	1	1	1	1	1	2	9
FCS2 (inc CCO)	Male	4	7	5	3	6	8	2	4	4	4	4	27
	Female	1	1	14	22	7	8	2	4	3	3	3	49
Total		154	80	87	104	68	70	37	46	23	31	35	477

SES	Senior Executive Service officer	NAT includes the following staff:	• Federal Court Native Title staff
FCL	Federal Court Legal		• Chambers of Chief Justice
FCM	Federal Court Manager		
FCS	Federal Court Staff		
CCO	Casual Court Officer	NNTT	National Native Title Tribunal
PR	Principal Registry		

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Table A9.5: Family Court staffing by gender, classification and location (as at 30 June 2017)

LEVEL	GENDER	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	TOTAL
APS1	Female									0
	Male									0
APS2	Female									0
	Male									0
APS3	Female	1								1
	Male		1							1
APS4	Female		7		4	1	1	4		17
	Male	1	1			1		2		5
APS5	Female	1	18		7	2	1	7		36
	Male		1		1					2
APS6	Female	2						2		4
	Male	1								1
EL1	Female	2						2		4
	Male									0
EL2	Female	1	9		2	1		5		18
	Male	1	3							4
SES1	Female									0
	Male									0
SES2	Female									0
	Male				1			1		2
TOTAL		10	40	0	15	5	2	23	0	95

Note: Judicial officers and the Chief Executive Officer and Principal Registrar, who are holders of public office, and casual employees, are not included in the above table.

Table A9.6: Federal Circuit Court staffing by gender, classification and location (as at 30 June 2017)

LEVEL	GENDER	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	TOTAL
APS01	Female									0
	Male		1							1
APS02	Female	1	8		7	5		9		30
	Male		4		3			4		11
APS03	Female	4	44	2	20	8	6	30		114
	Male	1	20	1	9	5	1	7		44
APS04	Female	3	40	1	18	8	3	23		96
	Male	2	11		7	2		9	1	32
APS05	Female	4	26	2	18	4	3	21	1	79
	Male		9		1		1	4		15
APS06	Female	1	6		3	3		2		15
	Male		1							1
EL01	Female	3	28		11	5	7	18		72
	Male		5		2	1		3		11
EL02	Female	1	11		5	2		4		23
	Male		2		5	1	1	1		10
SES01	Female		1					2		3
	Male		1		1					2
SES02	Female									0
	Male							1		1
TOTAL		20	218	6	110	44	22	138	2	560

Note: Judicial officers and the Chief Executive Officer and Principal Registrar, who are holders of public office, and casual employees, are not included in the above table.

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Table A9.7: Federal Court staffing by gender, classification and employment type (as at 30 June 2017 and 2016)

LEVEL	GENDER	ONGOING				NON-ONGOING				INTERMITTENT/ IRREGULAR		TOTAL	
		FULL-TIME		PART-TIME		FULL-TIME		PART-TIME		2017	2016	2017	2016
		2017	2016	2017	2016	2017	2016	2017	2016				
SES2	Male	2	1	–	–	–	–	–	–	–	–	2	1
	Female	1	1	–	–	1	1	–	–	–	–	2	2
SES1	Male	4	3	–	–	1	–	–	–	–	–	5	3
	Female	4	2	–	–	–	1	–	–	–	–	4	4
FCL2	Male	9	10	2	2	–	1	–	1	1	–	12	14
	Female	5	7	2	2	1	2	1	–	–	–	9	11
FCL1	Male	–	2	–	–	1	–	–	–	–	–	1	2
	Female	7	5	–	1	1	–	–	–	–	–	8	6
FCM2	Male	6	4	–	–	1	2	–	–	–	–	7	6
	Female	9	5	2	2	–	2	4	1	–	–	15	9
FCM1	Male	25	10	1	1	1	3	1	1	1	–	29	15
	Female	19	13	5	5	3	2	–	–	1	1	28	21
FCS6	Male	32	18	–	–	1	–	–	–	1	–	34	18
	Female	76	71	19	16	9	7	3	4	–	1	107	99
FCS5	Male	15	12	1	–	36	30	–	–	–	–	52	42
	Female	18	12	7	3	29	34	–	–	–	–	54	49
FCS4	Male	6	7	–	1	3	5	–	–	–	–	9	13
	Female	26	38	15	17	13	11	3	3	–	1	57	70
FCS3	Male	2	4	–	–	1	–	–	2	1	1	4	7
	Female	7	7	–	–	3	2	–	–	–	–	10	9
FCS2	Male	–	–	–	–	1	–	–	–	–	–	1	0
	Female	1	6	–	–	–	–	1	–	1	2	3	8
FCLS2/ CCO	Male	–	–	–	–	–	–	–	–	20	27	20	27
	Female	–	–	–	–	–	–	–	–	31	41	31	41
Total		274	238	54	50	106	103	13	12	57	74	504	477

SES	Senior Executive Service officer
FCL	Federal Court Legal
FCM	Federal Court Manager
FCS	Federal Court Staff
CCO	Casual Court Officer

Table A9.8: Family Court staffing by gender, classification and employment type (as at 30 June 2017)

LEVEL	ATTENDANCE	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	TOTAL
APS1	Full-time									0
	Part-time									0
APS2	Full-time									0
	Part-time									0
APS3	Full-time		1							1
	Part-time	1								1
APS4	Full-time		8		4	2		4		18
	Part-time	1					1	2		4
APS5	Full-time	1	18		8	2	1	5		35
	Part-time		1					2		3
APS6	Full-time	2						2		4
	Part-time	1								1
EL1	Full-time	2						2		4
	Part-time									0
EL2	Full-time	2	8		2	1		4		17
	Part-time		4					1		5
SES1	Full-time									0
	Part-time									0
SES2	Full-time				1			1		2
	Part-time									0
TOTAL		10	40	0	15	5	2	23	0	95

Note: Judicial officers and the Chief Executive Officer and Principal Registrar, who are holders of public office, and casual employees, are not included in the above table.

APPENDIX 9

Table A9.9: Federal Circuit Court staffing by gender, classification and employment type (as at 30 June 2017)

LEVEL	ATTENDANCE	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	TOTAL
APS01	Full-time									0
	Part-time		1							1
APS02	Full-time		9		7	3		8		27
	Part-time	1	3		3	2		5		14
APS03	Full-time	5	49	3	22	12	5	25		121
	Part-time		15		7	1	2	12		37
APS04	Full-time	5	38	1	24	7	3	28	1	107
	Part-time		13		1	3		4		21
APS05	Full-time	4	32	2	18	4	4	23	1	88
	Part-time		3		1			2		6
APS06	Full-time	1	6		2	3		2		14
	Part-time		1		1					2
EL01	Full-time	2	20		11	3	4	9		49
	Part-time	1	13		2	3	3	12		34
EL02	Full-time	1	8		7	2	1	5		24
	Part-time		5		3	1				9
SES01	Full-time		2		1			2		5
	Part-time									0
SES02	Full-time							1		1
	Part-time									0
TOTAL		20	218	6	110	44	22	138	2	560

Note: Judicial officers and the Chief Executive Officer and Principal Registrar, who are holders of public office, and casual employees, are not included in the above table.

Table A9.10: Salary ranges by classification level under the Federal Court of Australia Enterprise Agreement 2011–2014 or Determination (as at 30 June 2017)

COURT DESIGNATION	AUSTRALIAN PUBLIC SERVICE (APS) CLASSIFICATION	SALARY
CLERICAL ADMINISTRATIVE POSITIONS		
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
LEGAL POSITIONS		
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
SENIOR EXECUTIVE POSITIONS		
Senior Executive Service Band 1	SES Band 1	\$182,438
		\$249,802
Senior Executive Service Band 2	SES Band 2	\$239,924
		\$269,324

APPENDIX 9

Table A9.11: Salary ranges by classification level under the *Federal Magistrates Court of Australia and Family Court of Australia Enterprise Agreement 2011–2014* or Determination (as at 30 June 2017)

APS CLASSIFICATION	SALARY RATES ON 1 JULY 2012	SALARY RATES ON 1 JULY 2013
APS 1	\$42,779	\$44,063
	\$43,937	\$45,256
	\$45,745	\$47,118
APS 2	\$46,841	\$48,247
	\$49,395	\$50,877
	\$51,945	\$53,504
APS 3	\$54,740	\$56,383
	\$56,129	\$57,813
	\$57,583	\$59,310
APS 4	\$61,356	\$63,197
	\$62,950	\$64,839
	\$64,562	\$66,499
APS 5	\$66,325	\$68,315
	\$68,404	\$70,457
	\$70,330	\$72,440
APS 6	\$72,036	\$74,198
	\$75,867	\$78,144
	\$82,285	\$84,754
EL 1	\$91,831	\$94,586
	\$95,497	\$98,362
	\$99,161	\$102,136
EL 2	\$108,424	\$111,677
	\$111,736	\$115,089
	\$120,081	\$123,684
	\$121,079	\$125,639
	\$124,095	\$127,818
	\$127,264	\$131,082

Table A9.12: Federal Court Senior Executive Service (as at 30 June 2017)

PRINCIPAL REGISTRY		SES LEVEL
Deputy National Operations Registrar	David PRINGLE	Senior Executive Band 1
Deputy Principal Registrar	John MATHIESON	Senior Executive Band 1
Director People Culture & Communications	Darrin MOY	Senior Executive Band 1
Executive Director Corporate Services	Catherine SULLIVAN	Senior Executive Band 2
National Operations Registrar	Sia LAGOS	Senior Executive Band 2
NEW SOUTH WALES DISTRICT REGISTRY		
District Registrar	Michael WALL	Senior Executive Band 2
VICTORIA DISTRICT REGISTRY		
District Registrar	Daniel CAPORALE	Senior Executive Band 2
QUEENSLAND DISTRICT REGISTRY		
District Registrar	Heather BALDWIN	Senior Executive Band 1
National Registrar-Native Title	Christine FEWINGS	Senior Executive Band 1
SOUTH AUSTRALIA DISTRICT REGISTRY		
District Registrar	Nicola COLBRAN	Senior Executive Band 1
WESTERN AUSTRALIA DISTRICT REGISTRY		
District Registrar	Martin JAN	Senior Executive Band 1
NATIONAL NATIVE TITLE TRIBUNAL		
Deputy Registrar	Debbie FLETCHER	Senior Executive Band 1

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Table A9.13: Family Court Senior Executive Service (as at 30 June 2017)

VICTORIA		SES LEVEL
Senior Registrar	John FITZGIBBON	Senior Executive Band 2
QUEENSLAND		SES LEVEL
Senior Registrar	Christopher SPINK	Senior Executive Band 2 (acting)

Table A9.14: Federal Circuit Court Senior Executive Service (as at 30 June 2017)

NEW SOUTH WALES		
Principal Child Dispute Services	Janet CARMICHAEL	Senior Executive Band 1
Regional Registry Manager	Simon KELSO	Senior Executive Band 1
VICTORIA		SES LEVEL
Executive Director, Operations	Steven AGNEW	Senior Executive Band 2
Deputy Principal Registrar	Adele BYRNE	Senior Executive Band 1 (acting)
Regional Registry Manager	Jane REYNOLDS	Senior Executive Band 1
QUEENSLAND		SES LEVEL
Regional Registry Manager	Jamie CREW	Senior Executive Band 1

Table A9.15: Federal Court Indigenous staff by location, gender and employment status

	NSW		NT		QLD		VIC		WA		TOTAL
	NON-ONGOING	ONGOING	NON-ONGOING	ONGOING	NON-ONGOING	ONGOING	NON-ONGOING	ONGOING	NON-ONGOING	ONGOING	
Federal Court											
Female	1	1	-	2	-	1	-	1	-	-	6
Male	-	-	-	-	-	-	-	-	-	-	0
NNTT											
Female	-	-	-	-	1	3	-	-	1	-	5
Male	-	-	-	-	-	-	-	-	-	-	0
TOTAL	1	1	0	2	1	4	0	1	1	-	11

Table A9.16: Family Court Indigenous staff by location, gender and employment status

EMPLOYMENT STATUS	GENDER	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	TOTAL
Ongoing	Female	-	1	-	-	-	-	-	-	1
	Male	-	-	-	-	-	-	-	-	0
Non-ongoing	Female	-	-	-	-	-	-	-	-	0
	Male	-	-	-	-	-	-	-	-	0
TOTAL		0	1	0	0	0	0	0	0	1

Table A9.17: Federal Circuit Court Indigenous staff by location, gender and employment status

EMPLOYMENT STATUS	GENDER	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	TOTAL
Ongoing	Female	-	3	-	1	1	-	-	-	5
	Male	-	1	-	-	-	-	-	-	1
Non-ongoing	Female	-	-	-	-	-	-	-	-	0
	Male	-	1	-	-	-	-	-	-	1
TOTAL		0	5	0	1	1	0	0	0	7

APPENDIX 10

INTRODUCTORY STATEMENT

I, Warwick Soden, as the accountable authority of the Federal Court of Australia, present the 2016–17 annual performance statements for the entity, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

In my opinion, these annual performance statements are based on properly maintained records, accurately reflect the performance of the entity, and comply with subsection 39(2) of the PGPA Act.



Warwick Soden

Chief Executive Officer and Principal Registrar
Federal Court of Australia

OUTCOME ONE

Apply and uphold the rule of law for litigants in the Federal Court of Australia and parties in the National Native Title Tribunal through the resolution of matters according to law and through the effective management of the administrative affairs of the Court and Tribunal

Program 1.1: Federal Court of Australia

OUTCOME TWO

Apply and uphold the rule of law for litigants in the Family Court of Australia through the resolution of family law matters according to law, particularly more complex family law matters and through the effective management of the administrative affairs of the Court

Program 2.1: Family Court of Australia

OUTCOME THREE

Apply and uphold the rule of law for litigants in the Federal Circuit Court of Australia through more informal and streamlined resolution of family law and general federal law matters according to law, through the encouragement of appropriate dispute resolution processes and through the effective management of the administrative affairs of the Court

Program 3.1: Federal Circuit Court of Australia

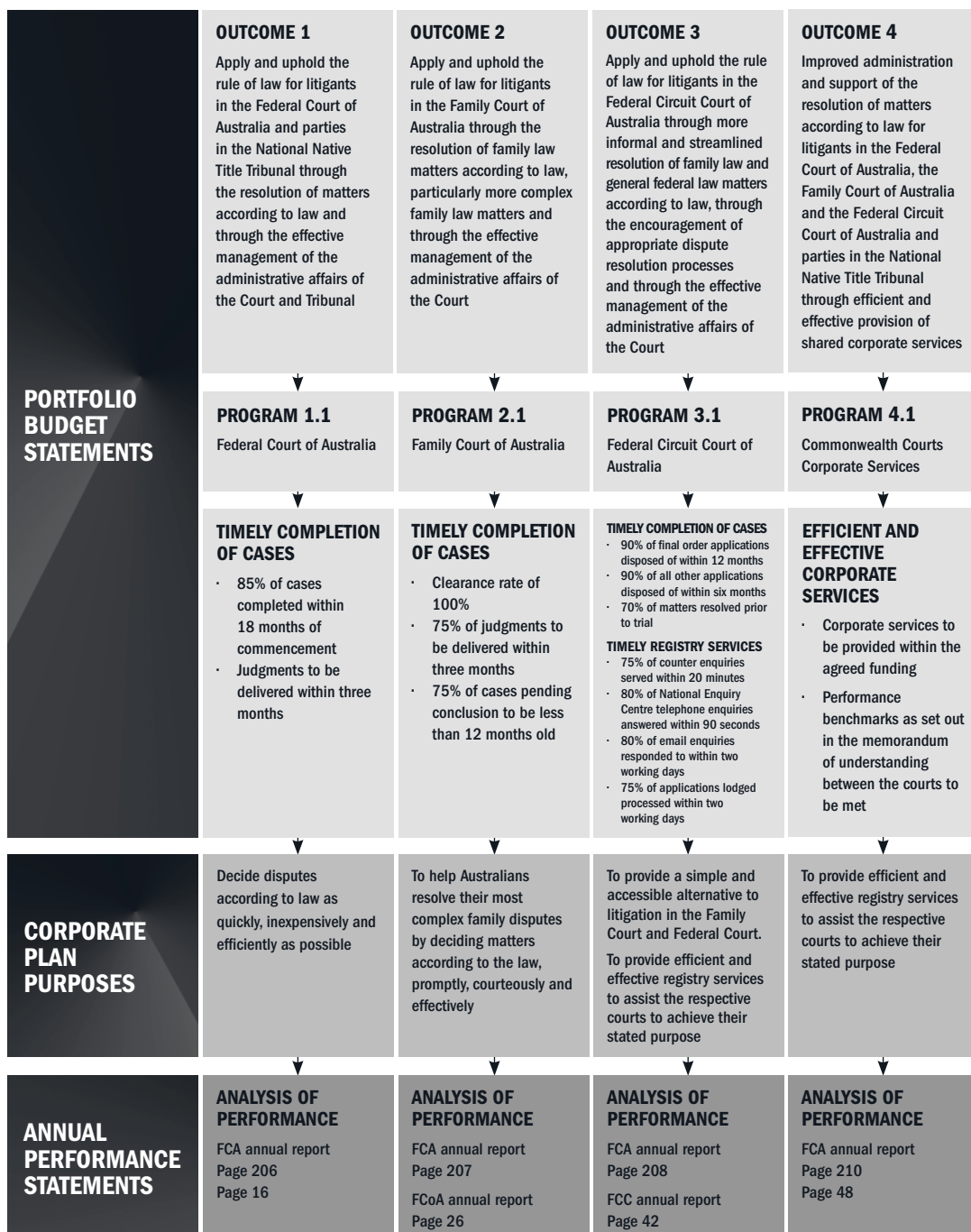
OUTCOME FOUR

Improved administration and support of the resolution of matters according to law for litigants in the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate services

Program 4.1: Commonwealth Courts Corporate Services

FEDERAL COURT OF AUSTRALIA

The relationship between the Federal Court's Portfolio Budget Statements, its corporate plan and annual performance statements



APPENDIX 10

OUTCOME ONE

PROGRAM 1.1: FEDERAL COURT OF AUSTRALIA

PURPOSE

- Decide disputes according to the law as quickly, inexpensively and efficiently as possible.

DELIVERY

- Exercising the jurisdiction of the Federal Court of Australia.
- Supporting the operations of the National Native Title Tribunal.

PERFORMANCE CRITERION

Timely completion of cases

- 85 per cent of cases completed within 18 months of commencement
- Judgments to be delivered within three months.

Criterion source

- Table 2.1.3: Performance criteria for Outcome 1, *Federal Court of Australia Portfolio Budget Statements 2016-17*
- *Federal Court of Australia Corporate Plan 2016-2020*.

RESULTS

TIMELY COMPLETION OF CASES		
TARGET	RESULT 2016-17	TARGET STATUS
85 per cent of cases completed within 18 months of commencement	94 per cent of cases were completed within 18 months of commencement	MET
Judgments to be delivered within three months	79 per cent of judgments were delivered in three months	MET

The Court met both targets in relation to timely completion of cases:

- **85 per cent of cases completed within 18 months of commencement**

In the reporting period, the Court disposed of 94 per cent 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 3.

- **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 2016-17, the Court handed down 1712 judgments for 1502 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 a slight decrease from last year by 64 judgments. The data indicates that 83 per cent of appeals (both full court and single judge) were delivered within three months and 79 per cent of judgments at first instance were delivered within three months of the date of being reserved (a slight decrease from 2015–16).

A detailed analysis on the performance of the Federal Court can be found in Part 3 (page 16) and Appendix 5 (page 137).

OUTCOME TWO

PROGRAM 2.1: FAMILY COURT OF AUSTRALIA

PURPOSE

- To help Australians resolve their most complex family disputes by deciding matters according to the law, promptly, courteously and effectively.

DELIVERY

- Exercising the jurisdiction of the Family Court of Australia.

The Family Court of Australia is a separate Chapter III court under the Australian Constitution and the performance criteria applicable to the Court are identified in the *2016–17 Federal Court of Australia Portfolio Budget Statements* and in the *Federal Court of Australia Corporate Plan 2016–2020*.

This program was previously part of the Family Court and Federal Circuit Court. The program has been transferred to the Federal Court of Australia with effect from 1 July 2016 by the *Courts Administration Legislation Amendment Act 2016*.

PERFORMANCE CRITERION

Timely completion of cases

- Clearance rate of 100 per cent
- 75 per cent of judgments to be delivered within three months
- 75 per cent of cases pending conclusion to be less than 12 months old.

Criterion source

- Table 2.2.2: Performance criteria for Outcome 2, *Federal Court of Australia Portfolio Budget Statements 2016–17*
- *Federal Court of Australia Corporate Plan 2016–2020*.

APPENDIX 10

RESULTS

TIMELY COMPLETION OF CASES		
TARGET	RESULT 2016–17	TARGET STATUS
Clearance rate of 100 per cent	The clearance rate was 98 per cent	NOT MET
75 per cent of judgments to be delivered within three months	81 per cent of judgments were delivered within three months	MET
75 per cent of cases pending conclusion to be less than 12 months old	68 per cent of cases pending conclusion were less than 12 months old	NOT MET

In 2016–17 the Family Court achieved one target under timely completion of cases and was unable to achieve two. A detailed analysis on the performance of the Family Court can be found in Part 3 of the *Family Court of Australia's 2016–17 Annual Report*.

OUTCOME THREE

PROGRAM 3.1: FEDERAL CIRCUIT COURT OF AUSTRALIA

PURPOSE

- To provide a simple and accessible alternative to litigation in the Family Court and Federal Court.
- To provide efficient and effective registry services to assist the respective courts to achieve their stated purpose.

DELIVERY

- Exercising the jurisdiction of the Federal Circuit Court of Australia.
- Providing an efficient and effective registry service to the public.

The Federal Circuit Court of Australia remains a separate Chapter III court under the Australian Constitution and the performance criteria applicable to the Court is identified in the *2016–17 Federal Court of Australia Portfolio Budget Statements and in the Federal Court Corporate Plan 2016–2020*.

This program was previously part of the Family Court and Federal Circuit Court. The program has been transferred to the Federal Court of Australia with effect from 1 July 2016 by the *Courts Administration Legislation Amendment Act 2016*.

PERFORMANCE CRITERION

Timely completion of cases

- 90 per cent of final order applications disposed of within 12 months
- 90 per cent of all other applications disposed of within six months
- 70 per cent of matters resolved prior to trial.

Timely registry services

- 75 per cent of counter enquiries served within 20 minutes
- 80 per cent of National Enquiry Centre telephone enquiries answered within 90 seconds
- 80 per cent of email enquiries responded to within two working days
- 75 per cent of applications lodged processed within two working days.

Criterion source

- Table 2.3.2: Performance criteria for Outcome 3, *Federal Court of Australia Portfolio Budget Statements 2016–17*
- *Federal Court of Australia Corporate Plan 2016–2020*.

RESULTS

TIMELY COMPLETION OF CASES		
TARGET	RESULT 2016–17	TARGET STATUS
90 per cent of final order applications disposed of within 12 months	68 per cent of final order applications were disposed of within 12 months	NOT MET
90 per cent of all other applications disposed of within six months	78 per cent of all other applications were disposed of within six months	NOT MET
70 per cent of matters resolved prior to trial	72 per cent of matters were resolved prior to trial	MET

TIMELY REGISTRY SERVICES		
TARGET	RESULT 2016–17	TARGET STATUS
75 per cent of counter enquiries served within 20 minutes	93 per cent of counter enquiries were served within 20 minutes	MET
80 per cent of National Enquiry Centre telephone enquiries answered within 90 seconds	20 per cent of National Enquiry Centre telephone enquiries were answered within 90 seconds	NOT MET
80 per cent of email enquiries responded to within two working days	100 per cent of email enquiries were responded to within two working days	MET
75 per cent of applications lodged processed within two working days	98 per cent of applications lodged were processed within two working days	MET

In 2016–17 the Federal Circuit Court achieved one target under timely completion of cases and was unable to achieve two. In the area of timely registry services, the Federal Circuit Court achieved three targets and was unable to achieve one. A detailed analysis on the performance of the Federal Circuit Court can be found in Part 3 of the *Federal Circuit Court of Australia's 2016–17 Annual Report*.

APPENDIX 10

OUTCOME FOUR

PROGRAM 4.1: COMMONWEALTH COURTS CORPORATE SERVICES

PURPOSE

- To provide efficient and effective corporate services to the Commonwealth courts and the National Native Title Tribunal.

DELIVERY

- Providing efficient and effective corporate services for the Commonwealth courts and the National Native Title Tribunal.

PERFORMANCE CRITERION

Efficient and effective corporate services

- Corporate services to be provided within the agreed funding
- Performance benchmarks as set out in the memorandum of understanding (MOU) between the courts to be met.

Criterion source

- Table 2.4.2: Performance criteria for Outcome 4, *Federal Court of Australia Portfolio Budget Statements 2016–17*
- *Federal Court of Australia Corporate Plan 2016–2020*.

RESULTS

EFFICIENT AND EFFECTIVE CORPORATE SERVICES		
TARGET	RESULT 2016–17	TARGET STATUS
Corporate services to be provided within the agreed funding	This target has been achieved with Corporate Services year end position being closely in line with allocated appropriation.	MET
Performance benchmarks as set out in the memorandum of understanding (MOU) between the courts.	Measures as identified through the consultative process for 2016–17 FY achieved.	MET

The key outcome measure for Corporate Services is improved administration and support for the resolution of matters according to law for litigants in the Federal Court, Family Court, Federal Circuit Court and parties in the NNTT, through efficient and effective provision of shared corporate services.

The ability of the Corporate Service's division to meet budget and projected average staffing numbers are the metrics that will be used to measure performance.

The MOU articulates high level principles which identify consultative processes that facilitate the identification of measures for which Corporate Services is assessed. At the commencement of the 2016–17 financial year, a cross court CEO's consultative committee was established as the major governance body around the provision of corporate services. During the reporting year, the committee met every two months, and more frequently when required. Issues discussed include budgets and capital budgets, the enterprise agreement, policy updates, the digital court program and the organisational review.

A detailed analysis on the performance of Corporate Services can be found in Part 4 on page 48.

APPENDIX 11

OUTCOME TABLES – FAMILY COURT OF AUSTRALIA (OUTCOME 2) AND FEDERAL CIRCUIT COURT OF AUSTRALIA (OUTCOME 3)

OUTCOME 2 – FAMILY COURT OF AUSTRALIA

	BUDGET 16-17 (\$'000)	ACTUAL 16-17 (\$'000)	VARIATION (\$'000)
Outcome 2: Apply and uphold the rule of law for litigants in the Family Court of Australia through the resolution of family law matters according to law, particularly more complex family law matters and through the effective management of the administrative affairs of the Court.			
Program 2.1 – Family Court of Australia			
Administered Expenses	30	43	-13
Departmental Appropriation	31,447	31,620	-173
Expenses not requiring appropriation in the budget year	10,609	10,316	293
Total for Program 2.1	42,086	41,979	107
Total expenses for outcome 2	42,086	41,979	107
Average staffing level (number)*	108	85	

* Please note that average staffing levels have been compared with budgeted figures rather than prior year figures. This is due to the merger of the Courts on 1 July 2016, which makes comparison with prior years not meaningful.

OUTCOME 3 – FEDERAL CIRCUIT COURT OF AUSTRALIA

	BUDGET 16-17 (\$'000)	ACTUAL 16-17 (\$'000)	VARIATION (\$'000)
Outcome 3: Apply and uphold the rule of law for litigants in the Federal Circuit Court of Australia through more informal and streamlined resolution of family law and general federal law matters according to law, through the encouragement of appropriate dispute resolution processes and through the effective management of the administrative affairs of the Court.			
Program 3.1 – Federal Circuit Court of Australia			
Administered Expenses	1,164	3,063	-1,899
Departmental Appropriation	89,784	88,441	1,343
Expenses not requiring appropriation in the budget year	602	557	45
Total for Program 3.1	91,550	92,061	-511
Total expenses for outcome 3	91,550	92,061	-511
Average staffing level (number)*	504	497	

APPENDIX 12

LEGISLATION	PAGE REFERENCE
<i>Administrative Appeals Tribunal Act 1975</i>	25
<i>Administrative Decisions (Judicial Review) Act 1977</i>	17, 25
<i>Admiralty Act 1988</i>	7, 17, 20, 157
<i>Australian Securities and Investments Commission Act 2001</i>	17, 20
<i>Bankruptcy Act 1966</i>	7, 17, 20, 25, 144, 160
<i>Budget Savings (Omnibus) Act 2016</i>	18
<i>Building and Construction Industry (Improving Productivity) Act 2016</i>	18
<i>Comcare and Seacare Legislation Amendment (Pension Age and Catastrophic Injury) Act 2017</i>	18
<i>Competition and Consumer Act 2010</i>	18, 152, 158
<i>Copyright Amendment (Disability Access and Other Measures) Act 2017</i>	18
<i>Copyright Amendment Act 2006</i>	153
<i>Corporations Act 2001</i>	7, 17, 20, 25
<i>Corporations Amendment (Auditor Registration) Act 2016</i>	18
<i>Corporations Amendment (Crowd-sourced Funding) Act 2017</i>	18
<i>Counter Terrorism Legislation Amendment Act (No 1) 2016</i>	18
<i>Courts Administration Legislation Amendment Act 2016</i>	13, 19, 55, 189, 207, 208
<i>Cross-Border Insolvency Act 2008</i>	20
<i>Education and Other Legislation Amendment Act (No. 1) 2017</i>	18
<i>Environment Protection and Biodiversity Conservation Act 1999</i>	52
<i>Extradition Act 1988</i>	163
<i>Fair Work (Registered Organisations) Act 2009</i>	17
<i>Fair Work (Registered Organisations) Amendment Act 2016</i>	18
<i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>	17
<i>Fair Work Act 2009</i>	17, 19, 162
<i>Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Act 2017</i>	18
<i>Federal Circuit Court of Australia Act 1999</i>	7, 19, 25

LEGISLATION	PAGE REFERENCE
<i>Federal Court of Australia (Consequential Provisions) Act 1976</i>	25
<i>Federal Court of Australia Act 1976</i>	iii, 1, 2, 6, 7, 29, 46, 158, 160
<i>Freedom of Information Act 1982</i>	36, 51
<i>Human Rights Legislation Amendment Act 2017</i>	18
<i>Income Tax Assessment Act 1936</i>	165, 166
<i>Insolvency Law Reform Act 2016</i>	18
<i>International Arbitration Act 1974</i>	35, 160
<i>Judiciary Act 1903</i>	1, 16-17, 25
<i>Jurisdiction of Courts (Cross-vesting) Act 1987</i>	25
<i>Migration Act 1958</i>	18, 28, 156
<i>Military Justice (Interim Measures) Act (No 1) 2009</i>	154
<i>National Cancer Screening Register Act 2016</i>	18
<i>National Vocational Education and Training Regulator Amendment (Annual Registration Charge) Act 2017</i>	18
<i>Native Title Act 1993</i>	7, 17, 19, 65, 68, 165
<i>Native Title Amendment (Indigenous Land Use Agreements) Act 2017</i>	18, 165
<i>Parliamentary Business Resources Act 2017</i>	18
<i>Parliamentary Entitlements Legislation Amendment Act 2017</i>	18
<i>Public Service Act 1999</i>	6, 7, 19, 48, 55, 56, 189
<i>Racial Discrimination Act 1975</i>	155
<i>Therapeutic Goods Amendment (2016 Measures No 1) Act 2017</i>	18
<i>Trade Practices Act 1965</i>	152
<i>Treasury Laws Amendment (Combating Multinational Tax Avoidance) Act 2017</i>	18
<i>Treasury Laws Amendment (Fair and Sustainable Superannuation) Act 2016</i>	18
<i>VET Student Loans Act 2016</i>	18
<i>Work Health and Safety Act 2011</i>	56
<i>Workplace Relations Act 1996</i>	17

APPENDIX 13

LIST OF REQUIREMENTS

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PAGE OF THIS REPORT
17AD(G)	LETTER OF TRANSMITTAL		
17AI	A copy of the letter of transmittal signed and dated by accountable authority on date final text approved, with statement that the report has been prepared in accordance with section 46 of the Act and any enabling legislation that specifies additional requirements in relation to the annual report	Mandatory	iii
17AD(H)	AIDS TO ACCESS		
17AJ(a)	Table of contents	Mandatory	i
17AJ(b)	Alphabetical index	Mandatory	220
17AJ(c)	Glossary of abbreviations and acronyms	Mandatory	225
17AJ(d)	List of requirements	Mandatory	214
17AJ(e)	Details of contact officer	Mandatory	230
17AJ(f)	Entity's website address	Mandatory	230
17AJ(g)	Electronic address of report	Mandatory	232
17AD(A)	REVIEW BY ACCOUNTABLE AUTHORITY		
17AD(a)	A review by the accountable authority of the entity	Mandatory	10
17AD(B)	OVERVIEW OF THE ENTITY		
17AE(1)(a)(i)	A description of the role and functions of the entity	Mandatory	1, 68, 204
17AE(1)(a)(ii)	A description of the organisational structure of the entity	Mandatory	133
17AE(1)(a)(iii)	A description of the outcomes and programmes administered by the entity	Mandatory	205
17AE(1)(a)(iv)	A description of the purposes of the entity as included in corporate plan	Mandatory	1
17AE(1)(b)	An outline of the structure of the portfolio of the entity	Portfolio departments – mandatory	NA
17AE(2)	Where the outcomes and programmes administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, include details of variation and reasons for change	If applicable, Mandatory	NA

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PAGE OF THIS REPORT
17AD(C)	REPORT ON THE PERFORMANCE OF THE ENTITY		
	ANNUAL PERFORMANCE STATEMENTS		
17AD(c)(i); 16F	Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule	Mandatory	204
17AD(c)(ii)	REPORT ON FINANCIAL PERFORMANCE		
17AF(1)(a)	A discussion and analysis of the entity's financial performance	Mandatory	65
17AF(1)(b)	A table summarising the total resources and total payments of the entity	Mandatory	132
17AF(2)	If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results	If applicable, Mandatory.	65
17AD(D)	MANAGEMENT AND ACCOUNTABILITY		
	CORPORATE GOVERNANCE		
17AG(2)(a)	Information on compliance with section 10 (fraud systems)	Mandatory	49
17AG(2)(b)(i)	A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared	Mandatory	49
17AG(2)(b)(ii)	A certification by accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the entity are in place	Mandatory	49
17AG(2)(b)(iii)	A certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity	Mandatory	49
17AG(2)(c)	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance	Mandatory	46

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PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PAGE OF THIS REPORT
17AG(2)(d) – (e)	A statement of significant issues reported to Minister under paragraph 19(1)(e) of the Act that relates to non compliance with Finance law and action taken to remedy non compliance	If applicable, Mandatory	47
EXTERNAL SCRUTINY			
17AG(3)	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny	Mandatory	48
17AG(3)(a)	Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity	If applicable, Mandatory	48
17AG(3)(b)	Information on any reports on operations of the entity by the Auditor General (other than report under section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman	If applicable, Mandatory	48
17AG(3)(c)	Information on any capability reviews on the entity that were released during the period	If applicable, Mandatory	NA
MANAGEMENT OF HUMAN RESOURCES			
17AG(4)(a)	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives	Mandatory	57-58
17AG(4)(b)	Statistics on the entity's APS employees on an ongoing and non ongoing basis; including the following: <ul style="list-style-type: none"> • Statistics on staffing classification level • Statistics on full time employees • Statistics on part time employees • Statistics on gender • Statistics on staff location • Statistics on employees who identify as Indigenous 	Mandatory	189-203
17AG(4)(c)	Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the <i>Public Service Act 1999</i>	Mandatory	56

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PAGE OF THIS REPORT
17AG(4)(c)(i)	Information on the number of SES and non SES employees covered by agreements etc. identified in paragraph 17AD(4)(c)	Mandatory	196-198
17AG(4)(c)(ii)	The salary ranges available for APS employees by classification level	Mandatory	199-200
17AG(4)(c)(iii)	A description of non salary benefits provided to employees	Mandatory	56
17AG(4)(d)(i)	Information on the number of employees at each classification level who received performance pay	If applicable, Mandatory	56
17AG(4)(d)(ii)	Information on aggregate amounts of performance pay at each classification level	If applicable, Mandatory	NA
17AG(4)(d)(iii)	Information on the average amount of performance payment, and range of such payments, at each classification level	If applicable, Mandatory	NA
17AG(4)(d)(iv)	Information on aggregate amount of performance payments	If applicable, Mandatory	NA
ASSETS MANAGEMENT			
17AG(5)	An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities	If applicable, mandatory	52
PURCHASING			
17AG(6)	An assessment of entity performance against the <i>Commonwealth Procurement Rules</i>	Mandatory	50
CONSULTANTS			
17AG(7)(a)	A summary statement detailing the number of new contracts engaging consultants entered into during the period; the total actual expenditure on all new consultancy contracts entered into during the period (inclusive of GST); the number of ongoing consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST)	Mandatory	51

APPENDIX 13

COMPLIANCE WITH ANNUAL REPORT REQUIREMENTS

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PAGE OF THIS REPORT
17AG(7)(b)	A statement that “ <i>During [reporting period], [specified number] new consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing consultancy contracts were active during the period, involving total actual expenditure of \$[specified million]</i> ”	Mandatory	50
17AG(7)(c)	A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged	Mandatory	50
17AG(7)(d)	A statement that “ <i>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.</i> ”	Mandatory	50
AUSTRALIAN NATIONAL AUDIT OFFICE ACCESS CLAUSES			
17AG(8)	If an entity entered into a contract with a value of more than \$100,000 (inclusive of GST) and the contract did not provide the Auditor General with access to the contractor’s premises, the report must include the name of the contractor, purpose and value of the contract, and the reason why a clause allowing access was not included in the contract	If applicable, Mandatory	51
EXEMPT CONTRACTS			
17AG(9)	If an entity entered into a contract or there is a standing offer with a value greater than \$10,000 (inclusive of GST) which has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters	If applicable, Mandatory	51
SMALL BUSINESS			
17AG(10)(a)	A statement that “ <i>[Name of entity] 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.</i> ”	Mandatory	51

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PAGE OF THIS REPORT
17AG(10)(b)	An outline of the ways in which the procurement practices of the entity support small and medium enterprises	Mandatory	51
17AG(10)(c)	If the entity is considered by the Department administered by the Finance Minister as material in nature—a statement that “[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury’s website.”	If applicable, Mandatory	51
FINANCIAL STATEMENTS			
17AD(e)	Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act	Mandatory	90-131
17AD(F)	OTHER MANDATORY INFORMATION		
17AH(1)(a)(i)	If the entity conducted advertising campaigns, a statement that “During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity’s website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance’s website.”	If applicable, Mandatory	NA
17AH(1)(a)(ii)	If the entity did not conduct advertising campaigns, a statement to that effect	If applicable, Mandatory	65
17AH(1)(b)	A statement that “Information on grants awarded to [name of entity] during [reporting period] is available at [address of entity’s website].”	If applicable, Mandatory	65
17AH(1)(c)	Outline of mechanisms of disability reporting, including reference to website for further information	Mandatory	58
17AH(1)(d)	Website reference to where the entity’s Information Publication Scheme statement pursuant to Part II of FOI Act can be found	Mandatory	36
17AH(1)(e)	Correction of material errors in previous annual report	If applicable, mandatory	38
17AH(2)	Information required by other legislation	Mandatory	212

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GLOSSARY

Administrative Notices	See Practice Notes.
Alternative procedure agreement	A type of Indigenous land use agreement.
Appeal	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.
Appellate jurisdiction	The power given to a court to hear appeals in certain matters.
Applicant	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.
Application	The document that starts most proceedings in the Federal Court.
Area agreement	A type of Indigenous land use agreement.
Body corporate agreement	A type of Indigenous land use agreement.
Cause of action	A term used in the Federal Court’s case management system to classify proceedings commenced with the Court.
Compensation application	An application made by Indigenous Australians seeking compensation for loss or impairment of their native title.
Cross appeal	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.
Cross claim	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.
Directions	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.
Discovery	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.

GLOSSARY

Docket system	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).
Electronic Court File	An electronic court file is a digital version of the Court file including all documents filed with the Court or created by the Court.
Exhibit	A document or item produced in court for the purpose of becoming part of the evidence in a proceeding.
Filing of documents	The process of the Court accepting a document or documents lodged by a party to a proceeding.
First instance	A proceeding heard in the Court's original jurisdiction.
Full Court	Three or more judges sitting together to hear a proceeding.
Future act	A proposed activity on land and/or waters that may affect native title.
Future act determination application	An application requesting the National Native Title Tribunal (NNTT) to determine whether a future act can be done (with or without conditions).
Future act determination	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.
Good faith negotiations (native title)	All negotiation parties must negotiate in good faith in relation to the doing of future acts to which the right to negotiate applies (<i>Native Title Act 1993</i> 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 www.nntt.gov.au . 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)).
Hearing	That part of a proceeding where the parties present evidence and submissions to the Court.
ILUA	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).
Interlocutory application	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).
Judgment	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.

Jurisdiction	The extent of legal authority or power of the Court to apply the law.
Litigants	Individuals, organisations or companies who/which are the parties to a proceeding before the Court.
Mediation (or Assisted Dispute Resolution)	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.
Milestone agreement	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.
National Court Framework	The National Court Framework is a number of reforms to the Court's case management approach.
National Native Title Register	The record of native title determinations.
National Native Title Tribunal Member	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.
National Practice Area	Subject matter areas in which the Court's work is organised and managed.
Native Title determination	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).
Native title claimant application/claim	An application made for the legal recognition of native title rights and interests held by Indigenous Australians.
Native title representative body	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 <i>Native Title Act 1993</i> . 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 intraindigenous disputes, agreement-making and ensuring that notices given under the NTA are brought to the attention of the relevant people.
Non-claimant application	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.
Notification	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.
On country	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.
Original jurisdiction	The authority or legal power of the Court to hear a case in the first instance.

GLOSSARY

Parties	People involved in a court case. Applicants, appellants, respondents, defendants, are generally called 'parties'.
PBC	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.
Practice Notes and Administrative Notices	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.
Proceeding	The regular and orderly progression of a lawsuit, including all acts and events between the time of Commencement and the judgment.
Register of Indigenous Land Use Agreements	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.
Register of Native Title Claims	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.
Registered native title claimant	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.
Registration test	A set of conditions under the <i>Native Title Act 1993</i> 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.
Regulations	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.
Respondent	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.
Rules	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 <i>Corporations Act 2001</i>) and Federal Court (Bankruptcy) Rules 2016 (for proceedings under the <i>Bankruptcy Act 1966</i>).
Self-represented Litigant	A party to a proceeding who does not have legal representation and who is conducting the proceeding on his or her own behalf.
Setting Down Fee	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.

ACRONYMS AND ABBREVIATIONS

ACCC	Australian Competition and Consumer Commission	IT	Information Technology
ACL	Australian Consumer Law	ITIL	Information Technology Infrastructure Library
ADR	Assisted Dispute Resolution	JCCD	Judicial Council on Cultural Diversity
AGD	Attorney-General's Department	NCF	National Court Framework
AIAL	Australian Institute of Administrative Law	NNTT	National Native Title Tribunal
ALRC	Australian Law Reform commission	NPA	National Practice Area
AM	Member of the Order of Australia	NTA	<i>Native Title Act 1993</i>
ANU	Australian National University	NTRBs	Native Title Representative Bodies
AO	Officer of the Order of Australia	ORIC	Office of the Registrar of Indigenous Corporations
CEO	Chief Executive Officer	PBC	Prescribed Bodies Corporate
CFMEU	Construction, Forestry, Mining and Energy Union	PICS	Pacific Island Countries
CLC	Commonwealth Law Courts	PJSI	Pacific Judicial Strengthening Initiative
COAT	Council of Australian Tribunals	QPS	Queensland Police Service
CPD	Continuing Professional Development	SES	Senior Executive Service
DoF	Department of Finance	SRL	Self-represented Litigant
DPI	Director of Public Information	WAN	Wide Area Network
EMS	Environmental Management System	WHS	Work, Health and Safety
ESD	Ecological Sustainable Development	WIPO	World Intellectual Property Organization
FCA	Federal Court of Australia		
FCC	Federal Circuit Court of Australia		
FCMAS	Federal Court Mediator Accreditation Scheme		
FCoA	Family Court of Australia		
GPN	General Practice Note		
HR	Human Resources		
IAG	Indigenous Advisory Group		
ICJ	International Commission of Jurists Victoria		
IEC	Initiative Executive Committee		

COURT AND REGISTRY LOCATIONS

GENERAL FEDERAL LAW REGISTRIES (Federal Court and Federal Circuit Court)

PRINCIPAL REGISTRY

**Law Courts Building Queens Square Sydney
NSW 2000**

Phone: (02) 9230 8567
Fax: (02) 9230 8824
Email: query@fedcourt.gov.au
Web: <http://www.fedcourt.gov.au>
Contact hours: 8.30am–5.00pm

AUSTRALIAN CAPITAL TERRITORY DISTRICT REGISTRY

**Nigel Bowen Commonwealth Law Courts Building
Childers Street, Canberra City ACT 2600**

Phone: (02) 6267 0666
Fax: (02) 6267 0625
Email: actman@fedcourt.gov.au
Counter hours: 9.00am–4.30pm
Contact hours: 8.30am–5.00pm

NEW SOUTH WALES DISTRICT REGISTRY Level 17 Law Courts Building Queens Square Sydney NSW 2000

Phone: (02) 9230 8567
Fax: (02) 9230 8535
Email: nswdr@fedcourt.gov.au
Counter hours: 9.00am–4.30pm
Contact hours: 8.30am–5.00pm

NORTHERN TERRITORY DISTRICT REGISTRY Level 3 Supreme Court Building State Square Darwin NT 0800

Phone: (08) 8941 2333
Fax: (08) 8941 4941
Email: ntreg@fedcourt.gov.au
Counter hours: 9.00am–4.00pm
Contact hours: 8.30am–5.00pm

QUEENSLAND DISTRICT REGISTRY Level 6 Harry Gibbs Commonwealth Law Courts Building

119 North Quay, Brisbane QLD 4000

Phone: (07) 3248 1100
Fax: (07) 3248 1260
Email: qldreg@fedcourt.gov.au
Counter hours: 9.00am–4.00pm
Contact hours: 8.30am–5.00pm

SOUTH AUSTRALIA DISTRICT REGISTRY

**Level 5 Roma Mitchell Commonwealth Law
Courts Building
3 Angas Street, Adelaide SA 5000**

Phone: (08) 8219 1000
Fax: (08) 8219 1001
Email: sareg@fedcourt.gov.au
Counter hours: 9.00am–4.30pm
Contact hours: 8.30am–5.00pm

TASMANIA DISTRICT REGISTRY

**Edward Braddon Commonwealth Law Courts Building
39-41 Davey St, Hobart TAS 7000**

Phone: (03) 6232 1615
Fax: (03) 6232 1601
Email: tasreg@fedcourt.gov.au
Counter hours: 9.00am–4.30pm
Contact hours: 8.30am–5.00pm

VICTORIA DISTRICT REGISTRY

**Level 7 Owen Dixon Commonwealth Law
Courts Building
305 William Street, Melbourne VIC 3000**

Phone: (03) 8600 3333
Fax: (03) 8600 3351
Email: vicreg@fedcourt.gov.au
Counter hours: 9.00am–4.30pm
Contact hours: 8.30am–5.00pm

WESTERN AUSTRALIA DISTRICT REGISTRY

**Level 6 Peter Durack Commonwealth Law
Courts Building
1 Victoria Avenue, Perth WA 6000**

Phone: (08) 9268 7100
Fax: (08) 9221 3261
Email: waregistry@fedcourt.gov.au
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FAMILY LAW REGISTRIES

(Family Court and Federal Circuit Court)

AUSTRALIAN CAPITAL TERRITORY

Canberra	Nigel Bowen Commonwealth Law Courts Cnr University Avenue and Childers St Canberra ACT 2600
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NEW SOUTH WALES

Albury	Level 1, 463 Kiewa Street Albury NSW 2640
Dubbo	Cnr Macquarie and Wingewarra Streets Dubbo NSW 2830
Lismore	Westlawn Building, Level 2 29–31 Molesworth Street Lismore NSW 2480
Newcastle	61 Bolton Street Newcastle NSW 2300
Parramatta	Garfield Barwick Commonwealth Law Courts 1–3 George Street Parramatta NSW 2123
Sydney	Lionel Bowen Commonwealth Law Courts 97–99 Goulburn Street Sydney NSW 2000
Wollongong	Level 1, 43 Burelli Street Wollongong NSW 2500

NORTHERN TERRITORY

Darwin	Supreme Court Building, State Square Darwin NT 0800
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COURT LOCATIONS

QUEENSLAND

Brisbane	Harry Gibbs Commonwealth Law Courts 119 North Quay Cnr North Quay and Tank Streets Brisbane QLD 4000
Cairns	Commonwealth Government Centre Levels 3 and 4, 104 Grafton Street Cairns QLD 4870
Rockhampton	Virgil Power Building, Ground Floor 46 East Street, Cnr Fitzroy Street Rockhampton QLD 4700
Townsville	Level 2, Commonwealth Centre 143 Walker Street Townsville QLD 4810

SOUTH AUSTRALIA

Adelaide	Roma Mitchell Commonwealth Law Courts 3 Angas Street Adelaide SA 5000
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TASMANIA

Hobart	Edward Braddon Commonwealth Law Courts 39–41 Davey Street Hobart TAS 7000
Launceston	ANZ Building, Level 3 Cnr Brisbane and George Streets Launceston TAS 7250

VICTORIA

Dandenong	53–55 Robinson Street Dandenong VIC 3175
Melbourne	Owen Dixon Commonwealth Law Courts 305 William Street Melbourne VIC 3000

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- Speak and Listen users phone 1300 555 727 then ask for your local registry's phone number as listed above
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- SMS relay text 0423 677 767 and ask for your local registry's phone number as listed above.
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