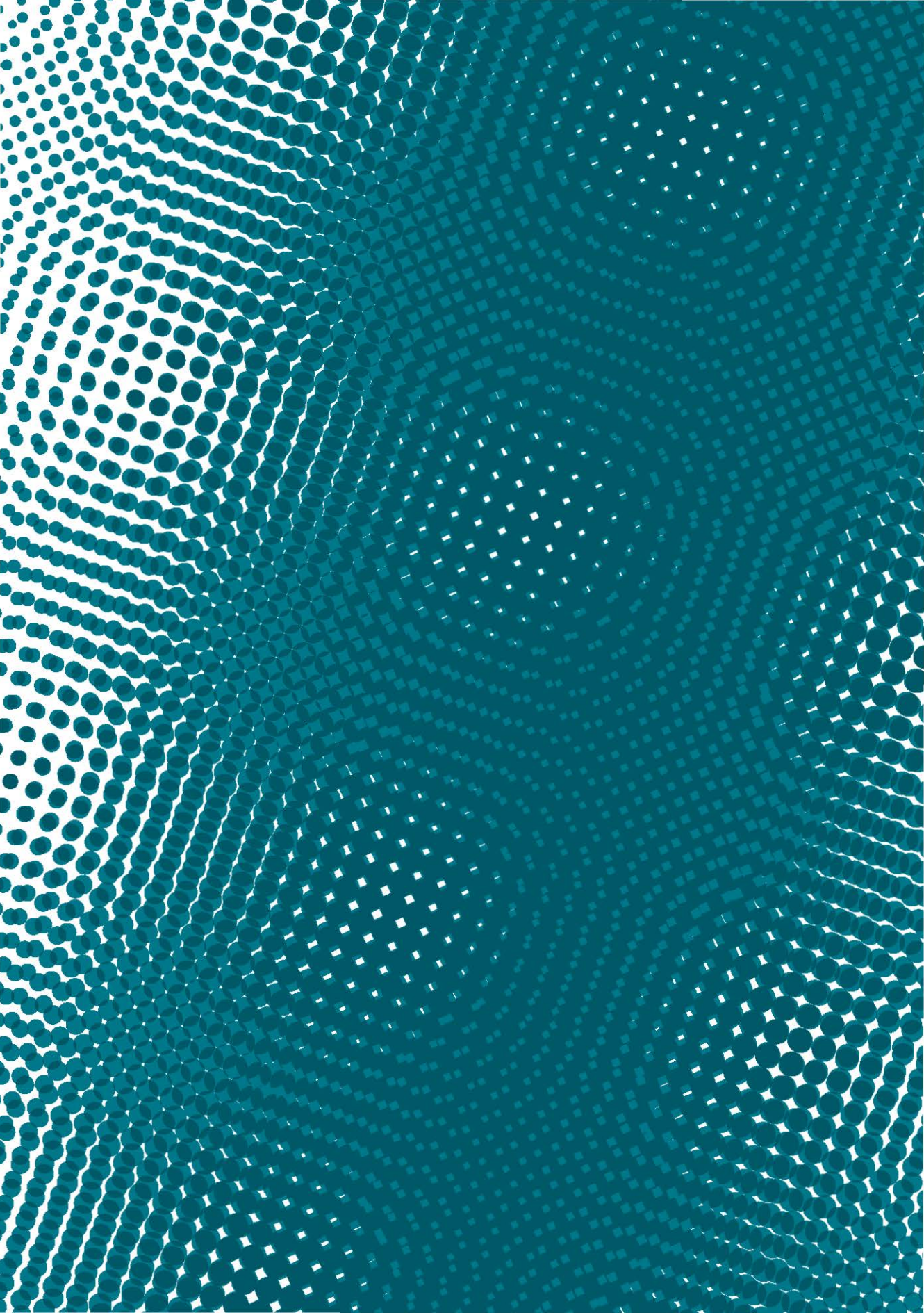
FEDERAL COURT OF AUSTRALIA

ANNUAL REPORT 2014–2015



Portability
Paper > Digital
Efficiency
Case management
Storing
THE WAY WE WORK

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CHIEF JUSTICE'S CHAMBERS
FEDERAL COURT OF AUSTRALIA
Law Courts Building
Queens Square, Sydney NSW 2000
Telephone: +61 2 9230 8438
Facsimile: +61 2 9230 8697

16 September 2015

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

Dear Attorney-General

I have the pleasure in submitting, in accordance with section 18S of the *Federal Court of Australia Act 1976*, a report of the management of the administrative affairs of the Court during the financial year 2014–2015 and the financial statements in respect of that financial year. The report also includes information about the Court, its composition, jurisdiction and workload.

This is the Court's twenty–sixth annual report.

Yours sincerely

J L B Allsop
Chief Justice

PART I
OVERVIEW OF THE FEDERAL COURT OF AUSTRALIA

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.

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.

FUNCTIONS AND POWERS

The Court's original jurisdiction is conferred by over 150 statutes of the Parliament. A list of these Acts is available in the jurisdiction section of the Court's website www.fedcourt.gov.au.

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

THE COURT'S OUTCOME AND PROGRAMME STRUCTURE

The Court's outcome and programme structure appears in Part 4 on page 48.

This report uses the outcome and programme structure to outline the Court's work and performance during 2014–15. Part 3 reports on these issues in detail.

JUDGES OF THE COURT

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

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

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

At 30 June 2015 there were forty-six judges of the Court. They are listed below in order of seniority with details about any other commissions or appointments held on courts or tribunals. Of the forty-six judges, there were two whose work as members of other courts or tribunals occupied all, or most, of their time.

JUDGES OF THE COURT (AS AT 30 JUNE 2015)

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

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Annabelle Claire BENNETT AO	**Sydney**	Supreme Court of the ACT – Additional Judge Administrative Appeals Tribunal – Presidential Member Copyright Tribunal – President
The Hon Antony Nicholas SIOPIS	**Perth**	Administrative Appeals Tribunal – Presidential Member
The Hon Richard Franci EDMONDS	**Sydney**	Supreme Court of the ACT – Additional Judge Administrative Appeals Tribunal – Presidential Member
The Hon Andrew Peter GREENWOOD	**Brisbane**	Administrative Appeals Tribunal – Presidential Member
The Hon Steven David RARES	**Sydney**	Supreme Court of the ACT – Additional Judge
The Hon Berna Joan COLLIER	**Brisbane**	Australian Law Reform Commission – Part-time Commissioner Supreme and National Courts of Papua New Guinea – Judge Administrative Appeals Tribunal – Presidential Member
The Hon Anthony James BESANKO	**Adelaide**	Supreme Court of the ACT – Additional Judge Supreme Court of Norfolk Island – Chief Justice
The Hon Christopher Neil JESSUP	**Melbourne**	
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 Deputy President Administrative Appeals Tribunal – Presidential Member Australian Law Reform Commission – Part-time Commissioner
The Hon Robert John BUCHANAN	**Sydney**	Supreme Court of the ACT – Additional Judge Supreme Court of Norfolk Island – Judge
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 – Presidential Member Defence Force Discipline Appeal Tribunal – Member Supreme and National Courts of Papua New Guinea – Judge

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
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 Australian Law Reform Commission – Part-time Commissioner Administrative Appeals Tribunal – Presidential Member
The Hon Jayne Margaret JAGOT	**Sydney**	Supreme Court of the ACT – Additional Judge Administrative Appeals Tribunal – Presidential Member Copyright Tribunal – Deputy President
The Hon Lindsay Graeme FOSTER	**Sydney**	Supreme Court of the ACT – Additional Judge Australian Competition Tribunal – Part-time Deputy President
The Hon Michael Laurence BARKER	**Perth**	Administrative Appeals Tribunal – Presidential Member
The Hon John Victor NICHOLAS	**Sydney**	
The Hon David Markey YATES	**Sydney**	
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 – Presidential Member
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**	Administrative Appeals Tribunal – President

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Lucy Kathleen FARRELL	**Sydney**	Australian Competition Tribunal – Part-time Deputy President
The Hon Tony PAGONE	**Melbourne**	Administrative Appeals Tribunal – Presidential Member
The Hon Jennifer DAVIES	**Melbourne**	Administrative Appeals Tribunal – Presidential Member
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 – Presidential Member
The Hon Michael Andrew WIGNEY	**Sydney**	Supreme Court of the ACT – Additional Judge
The Hon Melissa Anne PERRY	**Sydney**	Supreme Court of the ACT – Additional Judge
The Hon Jacqueline Sarah GLEESON	**Sydney**	
The Hon Jonathan Barry Rashleigh BEACH	**Melbourne**	
The Hon James Joshua EDELMAN	**Brisbane**	

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

2–6 October 2014	The Hon Justice Mansfield AM
1 January 2015 – 2 February 2015	The Hon Justice NORTH
21–24 March 2015	The Hon Justice NORTH
30–31 March 2015	The Hon Justice NORTH
10–15 May 2015	The Hon Justice NORTH

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

APPOINTMENTS AND RETIREMENTS DURING 2014–15

During the year, one judge was appointed to the Court:

The **Honourable James Joshua Edelman** (resident in Brisbane) was appointed on 20 April 2015.

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

The **Honourable Justice Peter Michael Jacobson** retired upon reaching the compulsory retirement age for federal judges on 5 January 2015.

The **Honourable Michelle Marjorie Gordon** resigned her commission as a judge of the Court with effect from 8 June 2015.

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

- **Justice Tracey** reappointed as President of the Defence Force Discipline Appeal Tribunal on 17 August 2014.
- **Justices Collier and Logan** were reappointed as judges in Papua New Guinea on 6 December 2014.
- **Justice Rangiah** was appointed as a judge to the Supreme Court of the Australian Capital Territory on 15 December 2014.
- **Justice Besanko** was appointed the Chief Justice of the Supreme Court of Norfolk Island on 26 February 2015.
- **Justice Gilmour** was appointed a judge of the Supreme Court of Norfolk Island on 26 February 2015.
- **Justices Pagone and White** were appointed to the Administrative Appeals Tribunal as Presidential Members on 29 May 2015.
- **Justice Perram** was appointed as Deputy President of the Copyright Tribunal on 8 June 2015.

FEDERAL COURT REGISTRIES

REGISTRAR

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

PRINCIPAL AND DISTRICT REGISTRIES

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

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

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

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

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

OFFICERS OF THE COURT

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

(a) a District Registrar for each District Registry

(b) Deputy Registrars and Deputy District Registrars

(c) a Sheriff and Deputy Sheriffs

(d) Marshals under the *Admiralty Act 1988*

The registrars must take an oath or make an affirmation of office before undertaking their duties (section 18Y of the Federal Court of Australia Act). Registrars perform statutory functions assigned to them by the Federal Court of Australia Act, Federal Court Rules 2011, Federal Court (Bankruptcy) Rules 2005 and the Federal Court (Corporations) Rules 2000. These include issuing process, taxing costs and settling appeal indexes. They also exercise various powers delegated by judges under the *Bankruptcy Act 1966, Corporations Act 2001 and Native Title Act 1993*. A number of staff in each registry also perform functions and exercise delegated powers under the *Federal Circuit Court of Australia Act 1999*. Appendix 4 on page 134 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 2014 there were 464 staff employed under the Public Service Act. Generally, judges have two personal staff members. More details on court staff are set out in Part 4 and Appendix 9.

PART 2
THE YEAR IN REVIEW

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THE YEAR IN REVIEW

INTRODUCTION

During the year, exercising the judicial power of the Commonwealth under the Constitution, the Court continued to achieve its objective of promptly, courteously and effectively deciding disputes according to law. The Court's forward thinking approach to managing its work and its ongoing commitment to relentless improvement is transforming the way it works as an organisation; bringing continuing recognition of its leading role as a modern and innovative court.

During 2014–15, the Court maintained its commitment to achieving performance goals for its core work, while also developing and implementing a number of key strategic and operational projects. These are discussed separately below.

SIGNIFICANT ISSUES AND DEVELOPMENTS

ELECTRONIC COURT FILE

In the course of the reporting year, the Court fully implemented Electronic Court Files (ECFs) nationally. The ECF project was a significant initiative under the Court's successful eServices Strategy. The overall objective of the eServices Strategy is for the Court to take advantage of technological opportunities and advances to achieve benefits for both the Court and its users.

ECFs are digital files of all documents filed with, or created by, the Court. They are used by judges, registrars and staff. They are the Court's official record of the proceedings and completely replace the paper court files used previously.

The Federal Court is the first Australian court to implement ECFs and is a global leader in the practice of managing electronic court documents. The goal for the Court from the initial inception of ECFs was to create a seamless and effortless flow of electronic documents to the Court, within the Court and to appropriate parties outside of the Court. With the introduction of ECFs, the Court has achieved this goal through strategic planning, a 'proof of concept' method for system development, a consultative approach and by holding a strong vision of the future.

ECFs were brought online incrementally state by state from July 2014 until November 2014. The Court placed significant emphasis on education and training, both within the Court and externally for the Court's users, to support the introduction of ECFs. Within the Court, 360 people including judges, registrars and staff were trained in using the new system. Externally, more than 1000 members of the legal sector attended 'Working with the Court Electronically' information and training sessions, across all the registries prior to or just after ECFs being introduced. The fruition of these sessions saw the number of people registering to use eLodgment increase by forty-three per cent. The total number of active eLodgers has grown to over 10,000 with nearly ninety per cent of documents now being lodged electronically by litigants. With the Court's support, Court users have taken up the Court's eLodgment service in large numbers and are seeing the benefits of this service in their workplace.

In May 2015, the Court received one of the inaugural National Archives Awards for Digital Excellence for ECFs. The Court won the medium-sized agency category and was chosen from numerous applications from Commonwealth Government Departments and Agencies. The Court's award application, which outlines many of the benefits of ECFs to the Court and its users, can be seen at Appendix 10.

Amongst other words of commendation from the Award Panel judges, specific focus was given to the Court accomplishing this project within its budget with no additional capital funding. The panel stated ECFs represented a major productivity gain for the Australian legal system.

With more than 9500 ECFs now created, digital files continue to transform the way in which the Court works. The Court has begun an eTrials project to examine the needs of judges and litigants when working electronically in the courtroom. The project will aim to make courtroom electronic document management smoother and faster than working with paper. This project will find a flexible, user-friendly mechanism that allows all participants to take full advantage of the benefits of electronic documents and files but still keep up with the fast-paced activities in the courtroom.

The introduction of ECFs was also an enabling step to commence the implementation of the National Court Framework reforms.

NATIONAL COURT FRAMEWORK

The Court's case management approach is being transformed by major and fundamental reforms called the National Court Framework (NCF). The reforms are designed to address the needs of litigants who seek highly skilled, expeditious and inexpensive dispute resolution. The Court's entire workload is now being organised and managed with reference to National Practice Areas – allowing it to meet the expectations of a truly national and international court.

The National Practice Areas (NPAs) are:

- Administrative and Constitutional Law and Human Rights
- Admiralty and Maritime
- Commercial and Corporations
  - Commercial Contracts, Banking, Finance and Insurance
  - Corporations and Corporate Insolvency
  - General and Personal Insolvency
  - Economic Regulator, Competition and Access
  - Regulator and Consumer Protection
  - International Commercial Arbitration
- Criminal Cartel Trials
- Employment and Industrial Relations
- Intellectual Property
  - Patents and associated Statutes
  - Trade Marks
  - Copyright and Industrial Designs
- Native Title
- Taxation

Detailed descriptions of these NPAs (and sub areas) – as well as further information about the principles of the NCF reforms – are available on the Court's website at www.fedcourt.gov.au/law-and-practice/national-court-framework.

A group of National Coordinating Judges who will have a thorough understanding of matters and jurisprudence in their NPA will manage each practice area. They will develop coherent and consistent practice, be responsible for judicial education, liaise with the profession and monitor workload and performance.

The key features of the NCF reforms are:

- a nationally consistent allocation mechanism with the docket system an important element of the allocation process
- flexible case management to take account of the character of the matter and the needs of the parties
- nationally consistent practice and procedure, replacing individualised registry and chambers arrangements
- a new duty system.

Following the announcement of the reforms late last year, the first NPA – Commercial and Corporations – commenced on 16 February 2015. This practice area accounts for almost forty per cent of the Court's workload. The Court consulted widely regarding the reforms for this NPA conducting information sessions at all its registries over a six-week period.

To support the NCF reforms, the Court is creating a suite of comprehensive and real time business intelligence tools. These tools provide activity reporting as well as the ability to observe filing trends and monitor the Court's performance. The central goal of this work is to provide the right operational information to the Court at the right time so rapid and informed decision making can take place. By mid-2015 the Court completed a process of retrospectively characterising matters by NPA. This work was done to allow trending and uniformity in the Court's data for a new reporting scheme. This year the Court will start reporting on its workload by NPA and this information is contained in Appendix 5 on page 157.

The NCF reforms have also initiated the Court Registry Blueprint Project which focuses on realigning registrar and registry practices to better support the NCF. In March 2015, the Court commenced work on reviewing its practices and procedures with each stream of work lead by a District Registrar. The project aims to standardise these practices nationally. Court users will be given ample notice of any changes via the website and through other practice forums.

Work on introducing the NCF reforms continues with the full implementation expected to take place by the end of 2015.

PERFORMANCE AGAINST TIME GOALS

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

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

During the reporting year, the Court completed ninety-two per cent of cases in less than eighteen months, which is in keeping with the previous year. As shown in Figure A5.5 and Table A5.5 in Appendix 5 on page 145-6, over the last five years the Court has consistently exceeded its benchmark of eighty-five per cent, with the average over the five years being ninety-one per cent.

Time goal 2: Judgments to be delivered within three months

The Court has a goal of delivering reserved judgments within a period of three months. Success in meeting this goal depends upon the complexity of the case and the pressure of other business upon the Court. During 2014–15 the Court handed down 1530 judgments for 1264 court files (some files involve more than one judgment being delivered e.g. interlocutory decisions and sometimes, one judgment will cover multiple files). The data indicates that eighty-seven per cent of appeals (both full court and single judge) were delivered within three months (a slight increase from 2013–14) and eighty per cent of judgments at first instance were delivered within three months of the date of being reserved (the same as 2013–14).

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

Most matters commenced in the Federal Court from decisions arising under the Migration Act are appeals and related applications.

The majority of these cases are heard and determined by a single judge exercising the appellate jurisdiction of the Court. The Court's goal

for disposing of migration appeals and related applications is three months from the date of commencement. The Court applies a number of initiatives to assist in achieving the goal, including special arrangements to ensure that all appeals and related applications are listed for hearing in the Full Court and Appellate sitting periods as soon as possible after filing. Additional administrative arrangements are also made to streamline the pre-hearing procedures.

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

In the period covered by this report, 367 migration matters (including appeals and related actions, cross appeals and interlocutory applications) from the Federal Circuit Court (FCC) or the Court were filed and finalised. This is a thirty-six per cent increase in the number of migration matters finalised compared with 270 in 2013–14.

Notwithstanding that in the reporting year the number of appellate migration matters filed increased by seventy-two per cent from 393 2013–14 (as seen in Table 3.4) to 677 in 2014–15, the Court has been able to achieve its goal for disposing of most migration matters in a timely and efficient manner.

Of the 367 migration matters finalised, the average time from filing to final disposition was 108 days and the median time from filing to final disposition was 103 days. The time taken to hear and dispose of some matters was impacted by the significant increase in migration filings and due to decisions pending in the Court or the High Court.

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. Those matters will now be listed in the Federal Court or will be remitted to the Federal Circuit Court for hearing.

WORKLOAD

In 2014–15 the total number of filings (including appeals) in the Federal Court decreased by thirteen per cent to 4355. Filings in the Court's original jurisdiction (excluding appeals) decreased by twenty per cent. The decrease in filings is again attributed to a decline in corporations matters including winding up applications, the majority of which are dealt with by registrars. Filings in areas such as Native Title increased slightly in the reporting period.

Further information about the Court's workload, including the management of appeals is available in Part 3 commencing on page 20.

The Federal Court's registries also undertake registry services for the Federal Circuit Court (FCC). The workload for the FCC has continued to grow over the last five years. In 2014–15 the combined filings were 13,317 increasing from 5885 since the Federal Magistrates Court (as it was then known) was established in 2000. It should be noted that Federal Court registrars hear and determine a substantial number of cases in the FCC. In the bankruptcy jurisdiction, Federal Court registrars dealt with, and disposed of, 3399 FCC bankruptcy matters which equates to ninety-two per cent of the FCC's bankruptcy caseload.

FINANCIAL MANAGEMENT AND ORGANISATIONAL PERFORMANCE

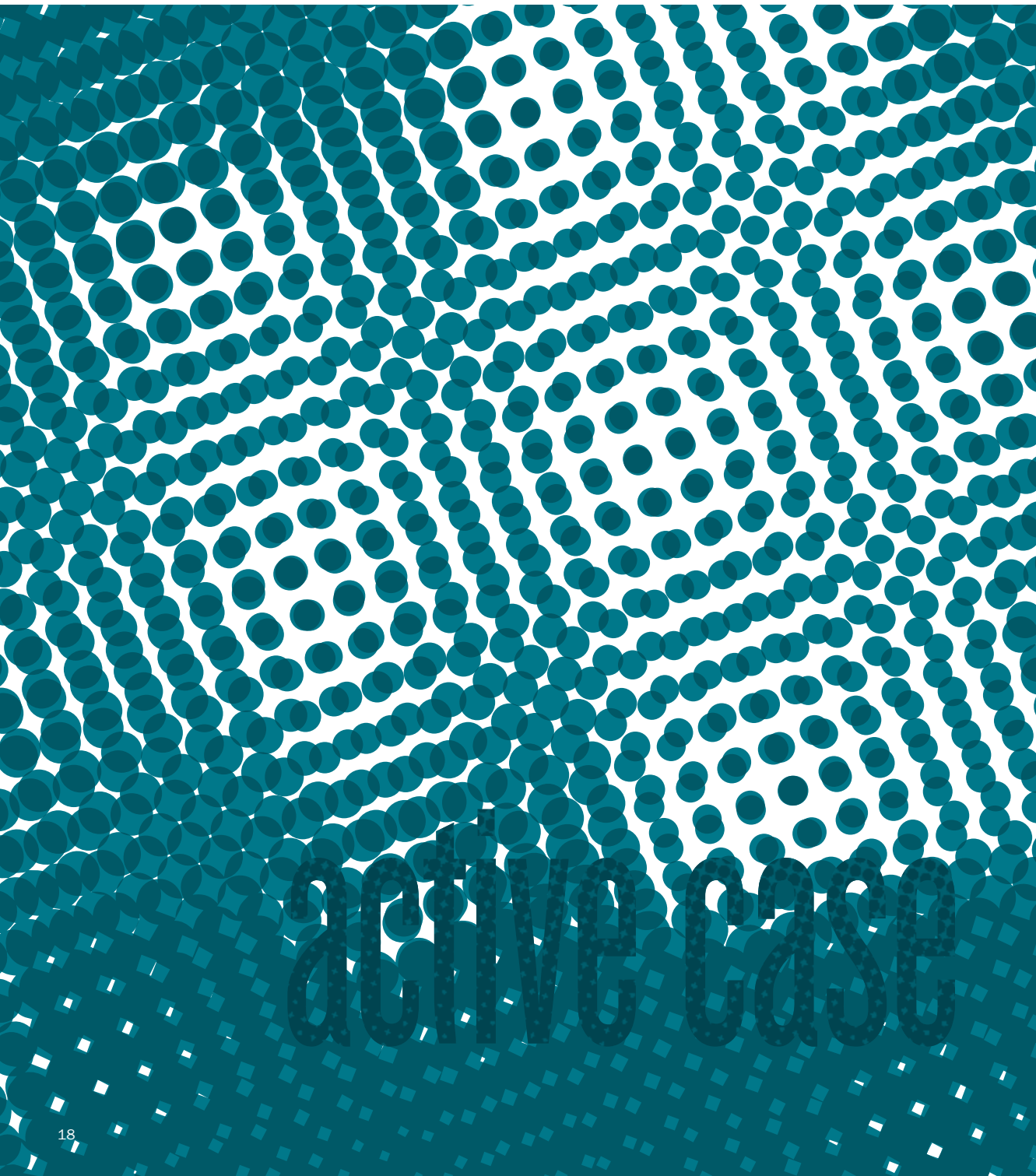
The financial figures outlined in this report are for the consolidated results of both the Federal Court and the National Native Title Tribunal (NNTT). A summary of the NNTT's expenditure is included in Table 5.4 on page 72.

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

During the financial year expenditure was closely monitored to ensure that savings were realised wherever possible. As a result, the Court achieved an operating surplus before depreciation of $0.490 million. Notwithstanding the ability to achieve a surplus in 2014–15, in the next three-year budget cycle the Court will continue to manage limited parameter adjustment funding increases together with escalating costs.

The Government announced the merger of the Corporate Services of the Federal Court, the Family Court and the Federal Circuit Court from July 2016. It is therefore not possible to predict the Court's budgetary position beyond 2015–16 at this time. The Court is endeavouring to achieve a balanced budget for 2015–16. The fixed nature of sixty per cent of the Court's costs (such as judges and their direct staff) severely limits the Court's ability to reduce overarching costs. These fixed costs also mean that, in effect, the efficiency dividend is primarily applied to the non-fixed costs.

PART 3
THE WORK OF THE COURT IN 2014–15



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THE WORK OF THE COURT IN 2014–15

INTRODUCTION

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

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

MANAGEMENT OF CASES AND DECIDING DISPUTES

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

THE COURT'S JURISDICTION

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

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

Cases arising under Part IV (restrictive trade practices) and Schedule 2 (the Australian Consumer Law) of the *Competition and Consumer Act 2010* constitute a significant part of the workload of the Court. These cases often raise important public interest issues involving such matters as mergers, misuse of market power, exclusive dealing or false advertising. See Figure A5.8 on page 148

for comparative statistics regarding consumer law matters. Since late 2009 the Court has also had jurisdiction in relation to indictable offences for serious cartel conduct.

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.

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 A5.13 on page 153 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 A5.14 on page 154 shows the intellectual property matters filed over the last five years.

Another significant part of the Court's jurisdiction derives from the *Native Title Act 1993*. The Court has jurisdiction to hear and determine native title determination applications and to be responsible for their mediation, to hear and determine revised native title determination applications, compensation applications, claim registration applications, applications to remove agreements from the Register of Indigenous Land Use Agreements and applications about the transfer of records. The Court also hears appeals from the National Native Title Tribunal (NNTT) and matters filed under the ADJR Act involving native title. The Court's native title jurisdiction is discussed on page 30. Figure A5.11 on page 151 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 A5.10 on page 150 for a comparison of Admiralty Act matters filed in the past five years.

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. See Figure A5.7 on page 147 for a comparison of corporations matters filed in the last five years.

The Court exercises jurisdiction under the *Bankruptcy Act 1966*. It has power to make sequestration (bankruptcy) orders against persons who have committed acts of bankruptcy and to grant bankruptcy discharges and annulments. The Court's jurisdiction includes matters arising from the administration of bankrupt estates. See Figure A5.6 on page 146 for a comparison of bankruptcy matters filed in the last 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 A5.12 on page 152.

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 29. 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 28. Figure A5.15 on page 155 shows the appeals filed in the Court since 2010–11.

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.

CHANGES TO THE COURT'S JURISDICTION IN 2014–15

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

- *Albury-Wodonga Development Corporation (Abolition) Act 2014*
- *Australian River Co. Limited Act 2015*
- *Biosecurity Act 2015*
- *Copyright Amendment (Online Infringement) Act 2015*
- *Enhancing Online Safety for Children Act 2015*
- *Health Workforce Australia (Abolition) Act 2014*
- *Intellectual Property Laws Amendment Act 2015*
- *Law Enforcement Legislation Amendment (Powers) Act 2015*
- *Private Health Insurance (Prudential Supervision) Act 2015*
- *Public Governance and Resources Legislation Amendment Act (No. 1) 2015*
- *Regulatory Powers (Standard Provisions) Act 2014*
- *Tribunals Amalgamation Act 2015*

AMENDMENTS TO THE FEDERAL COURT OF AUSTRALIA ACT

During the reporting year there was one amendment to the Federal Court Act made by the *Federal Courts Legislation Amendment Act 2015*, which came into effect on 26 February 2015, and one amendment by the *Acts and Instruments (Framework Reform) Act 2015*, which will come into effect on 5 March 2016 or earlier by Proclamation.

The Federal Courts Legislation Amendment Act inserted section 55A to provide police officers and court sheriffs with express power to use such reasonable force as is necessary and reasonable in the circumstances to enter premises to execute an arrest warrant. As a result it removes doubt about the use of such force.

The section includes a number of limitations and safeguards:

- subsection 55A(2) requires that force to enter premises can only be used if the police officer or sheriff reasonably believes the arrestee is on the premises;
- subsection 55A(3) prevents the power being used to enter a dwelling house between 9.00 pm one day and 6.00 am the next day unless the police officer or sheriff reasonably believes that it would not be practicable to make the arrest there or elsewhere at another time;
- subsection 55A(4)(a) – (c) requires that, in the course of arresting the arrestee, the police officer or sheriff must not use more force, or subject the arrestee to greater indignity, than is necessary and reasonable to make the arrest or prevent the arrestee's escape; and the police officer or sheriff must not do anything that is likely to cause the death of, or grievous bodily harm to, the arrestee unless the police officer or sheriff reasonably believes that doing that thing is necessary to protect the life or prevent serious injury to another person (including the police officer or sheriff); and
- subsections 55A(5) – (7) require that the police officer or sheriff must inform the arrestee of the grounds of arrest at the time of the arrest unless, in the circumstances, the arrestee should know the substance of the grounds for the arrest or otherwise the arrestee's actions make it impracticable for the police officer or sheriff to inform the arrestee of those grounds.

In addition, the Amendment Act made the following technical amendments to the Act for clarity and removal of doubt, as well as consequential to the passage of the *Public Interest Disclosure Act 2013* (but overlooked in the consequential amendments which were made at that time):

- subsection 24(1AA): by inserting references to paragraphs 24(1)(d) and (e) to expand the scope of the subsection so that appeals cannot be brought from a judgment of the FCC, if the judgment is a minor procedural decision;
- paragraphs 24(1AA)(b) and (d): by replacing these with a single new paragraph 24(1AA)(d) which consolidates and clarifies that there is no right to appeal to the Court from decisions granting or *refusing* to grant the relevant interlocutory application;

- paragraph 24(1D)(ca): by inserting a new paragraph to ensure that leave to appeal must be granted before an appeal in relation to a summary judgment of the FCC under section 17A of the *Federal Circuit Court of Australia Act 1999* can be brought;
- paragraphs 33(4A)(b) and (d): by replacing these with a single new paragraph 33(4A)(b) which consolidates and clarifies that there is no right to appeal to the High Court from decisions granting or *refusing* to grant the relevant interlocutory applications;
- paragraphs 33(4B)(b) to (h): by replacing these with new paragraphs 33(4B)(c) and (d) which consolidate and clarify that there is no right to appeal to the High Court from decisions granting or *refusing* to grant the relevant interlocutory applications;
- subsection 43(1): by replacing the subsection with a new subsection which includes a reference to the costs limitations in section 18 of the Public Interest Disclosure Act and to improve readability.

The Acts and Instruments (Framework Reform) Act will, on commencement, rename the existing *Legislative Instruments Act 2003* as the *Legislation Act 2003*. As a consequence the Framework Reform Act will at the same time amend section 59 of the Federal Court of Australia Act to update references to the renamed Act.

FEE REGULATIONS

By virtue of the biennial adjustment provision (section 2.20) of the Federal Court and Federal Circuit Court Regulation 2012, most filing and other fees were increased from 1 July 2014 by 5.5%. Otherwise the operation of the Regulation remained unchanged during the reporting period.

The Regulation was however amended, with effect from 1 July 2015, by the Federal Courts Legislation Amendment (Fees) Regulation 2015 and the Tribunals Legislation Amendment (Amalgamation) Regulation 2015 to increase most fees by 10%, restructure the categories of fees for all but some bankruptcy filings and examinations, to add some additional types of applications on which fees are not payable and to correctly refer to a renamed Division of the Administrative Appeals Tribunal.

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

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.

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 (see rule 2.11). The Chief Justice may approve a form for the purposes of the Federal Court Rules (see sub rule 1.52(2)).

Six of the Court's approved forms were amended by the Chief Justice during the reporting year:

Each of the existing approved forms for a subpoena to produce documents and a subpoena to give evidence and produce documents, namely:

- *Form 43B* *Subpoena to produce documents*
- *Form 43C* *Subpoena to give evidence and produce documents*
- *Form 55B* *Subpoena to produce documents (International Arbitration Act 1974)*
- *Form 55C* *Subpoena to give evidence and produce documents (International Arbitration Act 1974)*
- *Form 98B* *Subpoena to produce documents (New Zealand)*
- *Form 98C* *Subpoena to give evidence and produce documents (New Zealand)*

were replaced.

The replacement approved forms were amended to include at note 9A(b) information that where the issuing party has consented for a copy, instead of the original of any document that the subpoena requires be produced, that copy may be in any of the following electronic formats (all of which are supported by the Electronic Court File):

'.doc and .docx – Microsoft Word documents

.pdf – Adobe Acrobat documents

.xls and .xlsx – Microsoft Excel spreadsheets

.jpg – image files

.rtf – rich text format

.gif – graphics interchange format

.tif – tagged image format'.

PRACTICE NOTES

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

During the reporting year the Chief Justice issued:

- the following revised Practice Notes:
  - Practice Note CM 3 – Consent Orders in proceedings Involving a Federal Tribunal
  - Practice Note CM 20 – Ex Parte Applications for Substituted Service in Bankruptcy Proceedings and Applications for Examination Summonses under Section 81 Bankruptcy Act 1966 and Sections 586A and 596B Corporations Act 2001
  - Practice Note GEN 1 – Court Sittings and Registry Hours
  - Practice Note GEN 2 – Documents
  - Practice Note GEN 3 – Use of Court Forms
- one new Practice Note:
  - Practice Note CM 23 – Electronic Court File and preparation and lodgment of documents
- one new interim Practice Note:
  - Practice Note NCF1 – National Court Framework and Case Management

In addition, Administrative Notices can be issued to provide guidance on arrangements such as for duty judges and listings.

During the reporting year, the Chief Justice issued National Administrative Notice: NAT 1 which outlined the new case management approach and allocations system that was rolled out through the National Court Framework from February 2015. It also revoked, wholly or in part, a number of existing Registry Administrative Notices.

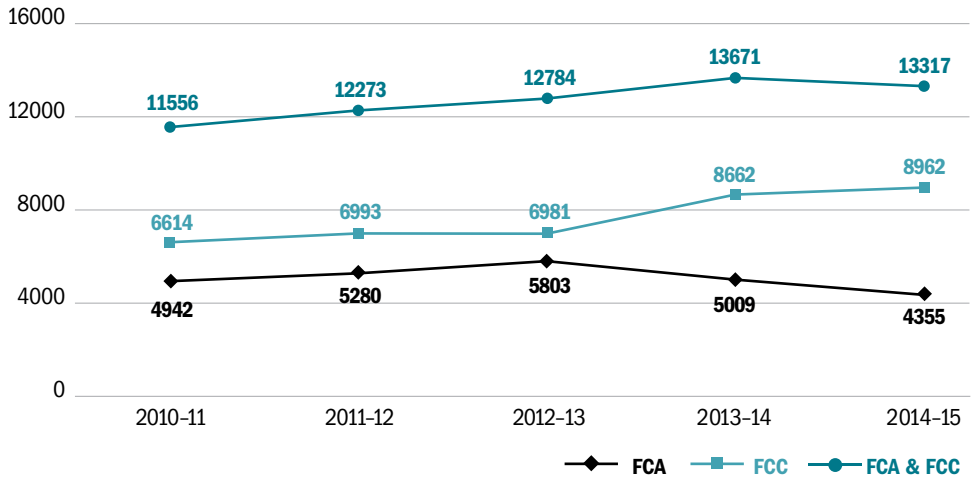
OTHER RULES

During the reporting year amendments were made to the Federal Court (Bankruptcy) Rules 2005 by the Federal Court (Bankruptcy) Amendment (Examination Summons and Other Measures) Rules 2015 and to the Federal Court (Corporations) Rules 2000 by the Federal Court (Corporations) Amendment (Examination Summons) Rules 2015. These amendments commenced on 2 May 2015.

The Federal Court (Bankruptcy) Amendment (Examination Summons and Other Measures) Rules amended:

- rule 6.13 to replicate, in an electronic environment, the requirement that an affidavit supporting an application for the issue of a summons for the examination of an examinable person under section 81 of the Bankruptcy Act *1966* to be filed in a sealed envelope; and
- paragraph 5 of the form of Creditor's Petition (Form 6) to update the name of the regulator agency under the Bankruptcy Act to 'Australian Financial Security Authority' reflecting a change made in late 2013.

Figure 3.1 – Filings to 30 June 2015 Federal Court of Australia (FCA) and Federal Circuit Court (FCC)



The Federal Court (Corporations) Amendment (Examination Summons) Rules amended rule 11.3 to replicate, in an electronic environment, the requirement that an affidavit supporting an application for the issue of a summons for the examination of officers and provisional liquidators of a corporation which is in administration or has been wound up and others with relevant knowledge of the affairs of such a corporation under sections 596A and 596B of the *Corporations Act 2000* be filed in a sealed envelope.

WORKLOAD OF THE FEDERAL COURT AND FEDERAL CIRCUIT COURT

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

Figure 3.1 above shows a slight decrease in the combined filings of the two courts since 2013–14.

In 2014–15, a total of 13 317 matters were filed in the two courts. There is an ongoing trend of a decrease in FCA filings related in part to existing fee arrangements. This is expected to change with the introduction of new fee arrangements on 1 July 2015. The growth in FCC filings still had an impact on the Federal Court's registries, which process the documents filed for both courts and provide the administrative support for each matter to be heard and determined by the relevant court.

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 will be further enhanced by the reforms of the National Court Framework.

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

Disposition of matters other than native title
In 1999–2000 the Court set a goal of eighteen months from commencement as the period within which it should dispose of at least eighty-five per cent of its cases (excluding native title cases). The time goal was set having regard to the growing number of long, complex and difficult cases, the impact of native title cases on the Court's workload, and a decrease in the number of less complex matters. It is reviewed regularly by the Court in relation to workload and available resources. The Court's ability to continue to meet its disposition targets is dependent upon the timely replacement of judges.

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

During the five-year period from 1 July 2010 to 30 June 2015, 92.4 per cent of cases (excluding native title matters) were completed in less than eighteen months, 87.7 per cent in less than twelve months and 76.4 per cent in less than six months (see Figure A5.4 on page 145). Figure A5.5 on page 145 shows the percentage of cases (excluding native title matters) completed within eighteen months over the last five reporting years. The figure shows that in 2014–15, over ninety-two per cent of cases were completed within eighteen months.

Delivery of judgments
In the reporting period, 1530 judgments were delivered. Of these, 565 judgments were delivered in appeals (both single judge and full court) and 965 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.

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

Appendix 7 on page 167 includes a summary of decisions of interest delivered during the year and illustrates the Court's varied jurisdiction.

WORKLOAD OF THE COURT IN ITS ORIGINAL JURISDICTION

Incoming work
In the reporting year, 3445 cases were commenced in, or transferred to, the Court's original jurisdiction. See Table A5.2 on page 140.

Matters transferred to and from the Court
Matters may be remitted or transferred to the Court under:

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

During the reporting year, 69 matters were remitted or transferred to the Court:

- 8 from the High Court
- 15 from the Federal Circuit Court
- 20 from the Supreme Courts
- 26 from other courts

Matters may be transferred from the Court under:

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

During 2014–15, five matters were transferred from the Court:

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

Matters completed
Figure A5.2 on page 144 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 3916.

Current matters

The total number of current matters in the Court's original jurisdiction at the end of the reporting year was 2862 (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 2015 is set out in Table 3.1 below.

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

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

	UNDER 6 MONTHS	6–12 MONTHS	12–18 MONTHS	18–24 MONTHS	OVER 24 MONTHS	SUB-TOTAL
Cause of Action						
Administrative Law	65	17	5	3	8	98
Admiralty	7	3	3	7	10	30
Bankruptcy	53	26	18	14	14	125
Competition Law	0	6	2	2	7	17
Trade Practices	34	47	25	16	70	192
Corporations	622	120	40	32	63	877
Human Rights	5	10	2	4	6	27
Workplace Relations	5	1	0	0	3	9
Intellectual Property	66	32	27	12	48	185
Migration	16	10	2	0	0	28
Miscellaneous	61	26	11	6	12	116
Taxation	39	21	22	18	51	151
Fair Work	54	59	19	11	17	160
Total	1027	378	176	125	309	2015
% of Total	**51.0%**	**18.8%**	**8.7%**	**6.2%**	**15.3%**	**100.0%**
Running Total	1027	1405	1581	1706	2015	
Running %	**51.0%**	**69.8%**	**78.5%**	**84.7%**	**100.0%**	

Table 3.1 shows that at 30 June 2015 there were 309 first instance matters over eighteen months old compared with 132 in 2014 (not including native title matters). The increase in matters in this category is due to the number of large and complex taxation and intellectual property matters. The length of time it takes to finalise these matters is indicative of their complexity both for the parties in preparing the matters for hearing and the judge in hearing and deciding the case. Reforms introduced under the National Court Framework will make further inroads to reducing the pending caseload.

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

	UNDER 6 MONTHS	6–12 MONTHS	12–18 MONTHS	18–24 MONTHS	OVER 24 MONTHS	SUB-TOTAL
Native Title Action	29	19	12	24	289	373
% of Total	7.8%	5.1%	3.2%	6.4%	77.5%	100.0%
Running Total	**29**	**48**	**60**	**84**	**373**	
Running %	7.8%	12.9%	16.1%	22.5%	100.0%	

The number of native title matters over eighteen months old increased slightly. The number of native title matters between 12–18 months and 18–24 months old decreased slightly. Further information about the Court's native title workload can be found on page 30.

The Court will continue to focus on reducing its pending caseload and the number of matters over eighteen months old. A collection of graphs and statistics concerning the workload of the Court is contained in Appendix 5 commencing on page 138.

THE COURT'S APPELLATE JURISDICTION

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

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

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

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

In the 2015 calendar year, Full Court and appellate sitting periods have been scheduled for Sydney, Melbourne, Brisbane, Perth, Adelaide, Canberra and Darwin. Once an appeal is ready to be heard, it can usually be listed for the next scheduled Full Court and appellate sittings in the capital city where the matter was heard at first instance.

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

In 2014–15 the Court specially fixed 34 Full Court or appellate matters for early hearing outside of the four scheduled sitting periods. Hearing these matters involved a total of 26 sitting days.

THE APPELLATE WORKLOAD

During the reporting year 1101 appellate proceedings were filed in the Court. They include 910 appeals and related actions, 25 cross appeals and 166 interlocutory applications such as applications for security for costs in relation to an appeal, for a stay of an appeal, to vary or set aside orders or various other applications.

The FCC is a significant source of appellate work accounting for approximately seventy per cent (775 of the 1101) appeals and related actions, cross appeals and other interlocutory applications filed in 2014–15. The majority of these proceedings continue to be heard and determined by single judges exercising the Court's appellate jurisdiction. Further information on the source of appeals and related actions is set out in Figure A5.16 on page 156.

The above figures indicate that there was an overall increase of twenty-four per cent in the Court's appellate workload in 2014–15: 1101 matters compared with 890 matters 2013–14.

During the reporting year the number of appellate migration matters filed increased by seventy-two per cent from 393 in 2013–14 to 677 in 2014–15 and the number of appellate non-migration matters filed decreased by approximately fourteen per cent from 497 in 2013–14 to 424.

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

In the reporting year 770 appeals and related actions, 17 cross appeals and 157 interlocutory applications were finalised. At 30 June 2015, there were 584 current matters including 474 appeals and related actions, 28 cross appeals and 82 interlocutory applications.

The comparative age of matters pending in the Court's appellate jurisdiction (including native title appeals) at 30 June 2015 is set out in Table 3.3 below.

At 30 June 2015 there were thirteen matters that are eighteen months or older. These matters are either awaiting the outcome of decisions in the Federal Court (eg following the conclusion of High Court proceedings in one matter) or the matters involve further litigation and/or the pursuit of a negotiated outcome in a complex native title appeal. It is also noted that a large number of migration appeals and application have been held in abeyance pending the outcomes of decisions of the Full Federal Court and the High Court.

Table 3.3 – Age of current appeals and related actions, cross appeals and interlocutory appellate applications as at 30 June 2015

CURRENT AGE	UNDER 6 MONTHS	6–12 MONTHS	12–18 MONTHS	18–24 MONTHS	OVER 24 MONTHS	SUB-TOTAL
Appeals and related actions, cross appeals and interlocutory appellate applications	462	79	30	9	4	584
% of Total	79.1%	13.5%	5.1%	1.5%	0.7%	100%

MANAGING MIGRATION APPEALS

In 2014–15 twelve migration cases filed in the Court's appellate jurisdiction related to judgments of single judges of the Court exercising the Court's original jurisdiction and 665 migration cases related to judgments of the FCC. These 677 cases include 648 appeals, cross appeals and related actions and twenty-nine interlocutory applications.

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

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

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

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

APPELLATE PROCEEDINGS	2010 –11	2011 –12	2012 –13	2013 –14	2014 –15
Migration Jurisdiction	269	338	333	393	677
% of total	32%	43%	42%	44%	61%
Total Appellate Proceedings	837	797	787	890	1101

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

THE COURT'S NATIVE TITLE JURISDICTION

During the reporting year the Court resolved fifty-two native title determination applications. Seventeen applications were resolved by consent determination, three applications were resolved following a litigated hearing and a further thirty-two matters were otherwise resolved including by discontinuance or dismissal. It is important to note that when parties agree to resolve an application by means other than a determination, the application is usually dismissed or discontinued as part of that overall settlement. For example, in New South Wales six related Gundungurra applications were discontinued during the reporting period following the registration of an Indigenous Land Use Agreement reached following negotiations between the claimants and the State of New South Wales.

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

Fifty-two new applications were filed during the reporting period. Thirty of these were native title determination applications. Significantly, twenty-one were non-claimant applications, the vast majority of which were filed in Queensland. One new compensation application was filed in South Australia.

At the end of the reporting period the Court's native title caseload consisted of 347 of which 314 were claimant applications, twenty-seven were non-claimant applications and six were compensation applications.

The Court has continued to utilise a number of strategies to achieve the orderly resolution of matters, as quickly, inexpensively and effectively as possible. These strategies include working with the parties to identify priority applications for resolution thus ensuring that appropriate resources are applied to those applications. Once priority matters are identified judges and registrars of the Court apply intensive case management to identify the genuine issues in dispute between the parties and the most effective means of resolving those disputes. In some instances issues are resolved through continued case management, in others the identified issues are referred to mediation which may be conducted by a registrar or a specialist native title mediator from the Court's published list of native title mediators. In some instances particular issues in an application are referred to a judge for hearing and adjudication.

There are currently seventy-seven matters on the Court's priority list. It is anticipated that approximately half of these matters will be resolved in 2015–16.

During the reporting year a number of systemic issues continued to affect the timely resolution of native title applications. The magnitude and complexity of collating and analysing tenure documents continued to be a significant challenge for the parties. During the reporting period the Court continued to work with the parties to try to address these challenges including by offering to convene user forums and case management conferences to discuss innovative means of addressing tenure, enlisting the assistance of the National Native Title Tribunal's geospatial expertise, convening monthly case management conferences in particular applications to identify tenure disputes and resolve them, using orders of the Court to ensure the early resolution of identified tenure disputes and providing guidance through judgments of the Court in particular applications on the expectations of the Court in relation to the task of tenure analysis.

In New South Wales the Court convened a user group meeting to discuss the practical issues arising for the resolution of native title applications from the interaction of the Commonwealth native title legislation and the NSW land rights legislation. The forum provided a useful opportunity to bring together representatives of native title claimants and local Aboriginal land councils to identify the issues faced by both groups and strategies for more cooperative resolution of those issues. Following the forum the National Native Title Tribunal, which had also been invited to attend, has continued to work with the groups to address the challenges that can cause delay of native title applications.

ASSISTED DISPUTE RESOLUTION

The Court's Assisted Dispute Resolution (ADR) program was established in 1987 with the referral of a small number of proceedings to mediation. Since that time the *Federal Court of Australia Act* and Federal Court Rules have been amended to specifically provide for the referral of a proceeding or particular issues in a proceeding to any one of a suite of ADR options. In practice, referrals to ADR and, in particular, mediation are a routine way in which the Court facilitates the quick, inexpensive and efficient resolution of disputes.

Since 2008, when the Court adopted the National Mediator Accreditation Scheme, the vast majority of Court ordered mediations are conducted by court registrars who are also accredited mediators. In the native title jurisdiction the Court maintains a list, available on its website, of specialist mediators who have current experience in the resolution of complex Indigenous land management disputes.

In this reporting period the Court has continued to collect comprehensive statistical information about referrals to mediation made by the Court and the outcome of mediations conducted by its accredited mediator Registrars.

As in previous years, the data provided must be considered in light of the following factors. Firstly, mediations and other ADR processes conducted during this reporting period may relate to referrals to mediation or other ADR processes made in the previous reporting period. Secondly, not all mediation referrals made in a reporting period will be carried out to conclusion in the same reporting period. 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 provided on referrals to mediations and mediations conducted does not include information about ADR processes that the parties to a proceeding may have engaged in prior to the proceeding being commenced in the Court. Additionally, information about when parties to a proceeding have engaged in private ADR processes without an order of the Court is not included. Similarly the statistics do not include instances where the Court has ordered expert witnesses to confer with each other to identify areas where their opinions are in agreement and disagreement without the assistance of a Court Registrar.

Table 3.5 – ADR referrals in 2014–15 by type and registry

	NSW	VIC	WA	QLD	NT	SA	TAS	ACT	TOTAL
Mediation	156	195	36	42	7	31	5	13	485
Conference of Experts	–	–	2	2	–	–	–	–	4
TOTAL	**156**	**195**	**38**	**44**	**7**	**31**	**5**	**13**	**489**

Note: There were no arbitration, early neutral evaluation, court appointed experts or referees referrals over the year.

Table 3.6 – Mediation referrals in 2014–15 by Cause of Action (CoA) and registry

COA	NSW	VIC	WA	QLD	NT	SA	TAS	ACT	TOTAL
Administrative Law	1	7	1	–	–	–	–	–	9
Admiralty	2	–	2	–	–	–	–	–	4
Appeals	–	–	–	–	–	–	–	–	–
Bankruptcy	4	5	–	2	–	1	–	–	12
Competition Law	2	8	–	–	–	1	–	–	11
Consumer Law	29	40	3	6	2	3	3	7	93
Corporations	48	30	13	5	–	5	–	3	104
Costs	21	–	1	–	–	–	–	–	22
Human Rights	3	12	–	–	–	1	1	–	17
Industrial	13	56	7	14	2	16	1	3	112
Intellectual Property	30	29	1	3	–	–	–	–	63
Migration	–	–	–	–	–	–	–	–	–
Native Title	–	1	4	11	3	4	–	–	23
Taxation	3	7	4	1	–	–	–	–	15
TOTAL	**156**	**195**	**36**	**42**	**7**	**31**	**5**	**13**	**485**

A collection of statistics concerning the workload of the Court in this area is contained in Appendix 5 commencing on page 161.

MANAGEMENT OF CASES AND DECIDING DISPUTES BY TRIBUNALS

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

A summary of the functions of each tribunal and the work undertaken by it during the reporting year is set out in Appendix 6 commencing on page 164.

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

INTRODUCTION

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

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

An outline of the judges' work in this area is included in Appendix 8 commencing on page 184.

eSERVICES STRATEGY

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

One of the objectives of the Court's eServices strategy is to create an environment where actions are commenced, case managed and heard electronically. A significant component of this objective was achieved by the introduction of Electronic Court Files (ECFs) in July 2014. Matters commencing with the Court since its deployment are now handled entirely electronically. The Court's official record for such matters is the Electronic Court File. More information about ECFs can be found in Part 2 of this report at page 14.

The Court has continued to promote the use of its electronic filing application, eLodgment. This application was further enhanced in preparation for the ECF and will continue to be enhanced in future years. In 2014–15 the number of active users of eLodgment increased by forty-three per cent to 10,582 and over 100 000 documents were electronically lodged, a sixty-six-per cent annual increase. In June 2015, ninety per cent of documents filed with the Court were done so electronically.

The growth in eLodgment users can be attributed to the Court's approach promoting and improving the eLodgment system. The Court was consulted with the users about enhancements made to the system ensuring that any changes improved usability. The Court also conducted a national education and training program that targeted both practitioners and their support staff. The eLodgment training for legal support staff was 'hands on' using an exact replica of the eLodgment system. The training eLodgment system helped prospective users acquire all the knowledge they needed to use the system efficiently and with proficiency.

During the reporting year 711 matters were conducted in eCourtroom. The majority of these were applications for sub service heard by the Court's registrars. These matters are ordinarily dealt with entirely in eCourtroom saving the parties time and cost in attending Court and the Court costs in setting up courtrooms. Most matters in eCourtroom are completed within two weeks of the eCourtroom commencing.

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

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

PRACTICE AND PROCEDURE REFORMS

The National Practice Committee is responsible for developing and refining the Court's practice and procedure. During the reporting year, the Committee dealt with a range of matters including:

- The Productivity Commission's Inquiry into access to justice arrangements
- The Australian Law Reform Commission's inquiry into legal barriers for people with disabilities
- Assistance available for self represented litigants
- Class actions
- Vexatious litigants
- Arrest Warrants
- Practice and procedural issues arising from the implementation of the Electronic Court File
- Ongoing monitoring of the impact of increased filing, setting down and hearing fees
- Legislative changes to improve court efficiency and to remove doubt in a range of technical areas of the Court's work.

The Committee also considered proposed legislative changes and reform in the areas of intellectual property; regulatory powers; counter-terrorism; registration of delegated legislation and Commonwealth instruments; and international arbitration.

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 National Court Framework
- impact of fee increases/changes in the Federal Court
- Electronic Court Files
- Case Management Handbook
- Self Representation Service and
- Productivity Commission inquiry into access to justice arrangements.

ASSISTANCE FOR SELF REPRESENTED LITIGANTS

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

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

Tables 3.7, 3.8 and 3.9 below provide some broad statistics about the number of self represented litigants appearing in the Court as applicants in a matter (respondents are not recorded). As the recording of self represented litigants is not a mandatory field in the Court's case management system statistics shown in the Tables are indicative only. In the reporting year, 579 people who commenced proceedings in the Court were identified as self represented. The majority were appellants in migration appeals.

Table 3.7 – Actions commenced by Self Represented Litigants (SRLs) during 2014–15 by Registry

	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	TOTAL
SRLs	1	302	1	38	53	0	159	25	579
%Total	**0%**	**52%**	**0%**	**7%**	**9%**	**0%**	**27%**	**4%**	**100%**

The 579 SRLs in 2014–15 were applicants in 564 proceedings, as a proceeding can have more than one applicant. The following table breaks down these proceedings by major CoA.

Table 3.8 – Proceedings commenced by SRLs in 2014–15 by CoA

COA	TOTAL ACTIONS	% OF TOTAL
Administrative Law	43	8%
Admiralty	0	0%
Appeals and related actions	415	73%
Bankruptcy	20	4%
Bills of Costs	0	0%
Competition Law	0	0%
Consumer Protection	6	1%
Corporations	17	3%
Cross Claim	0	0%
Fair Work	17	3%
Human Rights	9	2%
Industrial	0	0%
Intellectual property	2	0%
Migration	18	3%
Miscellaneous	12	2%
Native Title	1	0%
Taxation	4	1%
Total	**564**	**100%**

The number of proceedings that were SRL initiated appeal and related actions has increased from 63 per cent in 2013–14 to 74 per cent in 2014–15.

Table 3.9 – Appeals commenced by SRLs in 2014–15 by type of appeal

COA	TOTAL ACTIONS	% OF TOTAL
Administrative Law	3	1%
Admiralty	0	0%
Bankruptcy	21	5%
Competition Law	1	0%
Consumer Protection	5	1%
Corporations	1	0%
Fair Work	4	1%
Human Rights	4	1%
Industrial	2	0%
Intellectual Property	1	0%
Migration	368	89%
Miscellaneous	2	0%
Taxation	1	0%
Native Title	2	0%
Totals	**415**	**100%**

Signing of financial counsellor's memorandum of understanding

In September 2014 a twelve-month pilot program was implemented in the Court and FCC in Melbourne to provide funding for a financial counsellor to attend all bankruptcy lists to provide assistance to self represented litigants. The project between the Court, FCC, Consumer Action Law Centre and University of Melbourne aimed to assist self represented litigants in understanding the nature of bankruptcy. The project has received overwhelmingly positive feedback from creditors' solicitors and has proven to reduce the number of hearings required to finalise bankruptcy matters. The financial counsellor's memorandum of understanding was signed on 23 March 2015.

INTERPRETERS

The Court is aware of the difficulties faced by litigants who have little or no understanding of the English language. The Court will not allow a party or the administration of justice to be disadvantaged by a person's inability to secure the services of an interpreter. It has therefore put in place a system to provide professional interpreter services to people who need those services but cannot afford to pay for them. In general, the Court's policy is to provide these services for litigants who are unrepresented and who do not have the financial means to purchase the services, and for litigants who are represented but are entitled to an exemption from payment of court fees, under the Federal Court and Federal Circuit Court Regulation (see below).

COURT FEES AND EXEMPTION

Fees are charged under the Federal Court and Federal Circuit Court Regulation for filing documents; setting a matter down for hearing; hearings and mediations; taxation of bills of costs; and for some other services in proceedings in the Court. During the reporting year the rate of the fee that was payable depended on whether the party liable to pay was a publicly listed company; a corporation or a public authority; or a person, small business or not-for-profit association for all matters. As a result of amendments to the Regulation which will take effect from 1 July 2015, in future that rate for all but some bankruptcy filings and exemptions will depend on whether the party liable to pay is a corporation or otherwise.

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

- Human Rights applications (other than an initial filing fee of $55)
- some Fair Work applications (other than an initial filing fee of $68.60 [with effect from 1 July 2015])
- 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) [with effect from 1 July 2015]
- 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.

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

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

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

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

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

More comprehensive information about filing and other fees that are payable, how these are calculated (including definitions used, for example 'not-for-profit association', 'public authority', 'publicly listed company' and 'small business') and the operation of the exemption from paying the fee is available on the Court's website, www.fedcourt.gov.au.

WEBSITE

The Federal Court website is the main source of public information and a gateway to the Court's suite of online services such as eLodgment, eCourtroom and the Commonwealth Courts Portal. It provides access to a range of information including court forms and fees, guides for court users, daily court listings and judgments. In recent years it has also been used to publish selected court documents in representative proceedings and cases of high public interest; these were previously only available to interested parties by visiting the registry in which the matter was filed. The website generated close to 2.5 million hits during the reporting period.

The Federal Court website is the foundation of information campaigns and other court initiatives and projects. In the 2014–15 reporting year it was used extensively to communicate changes to court users in the lead up to the launch of the Electronic Court Files and later the National Court Framework (NCF). Currently there is development under way in order to accommodate procedural changes introduced as part of the NCF.

Other development work includes major upgrades to the software and search engine, and modifications to comply with Web Content Accessibility Guidelines (WCAG) 2.0 accessibility standards, for the use of people with disabilities. This work is ongoing.

There are two subscription services offered on the Court website: Practice News, which communicates changes to the Court's practice and procedure and the Daily Court Lists, which provides details of hearings listed the next business day. There are currently 9634 subscribers to these services, an increase of over 50 per cent from the previous year. This indicates that Court users value the information sent by the Court to them. The Court also provided RSS feeds (Rich Site Summary feeds) for judgments and news items.

REQUESTS FOR INFORMATION

In 2014–15 approximately 600 emails were received by the Court through the website's email account: query@fedcourt.gov.au. This is an increase of thirty-three per cent over the previous year. The query account was used as a contact for the Court's initiatives as well as requests received from students, researchers and members of the public who are interested in the role of the Court, its jurisdiction, practice and procedure and at times particular cases of interest. Staff ensure they respond to the queries in a comprehensive and timely fashion.

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

PUBLISHED INFORMATION

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

FREEDOM OF INFORMATION

Information Publication Scheme

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

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

ACCESS TO JUDGMENTS

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

INFORMATION FOR THE MEDIA AND TELEVISED JUDGMENTS

The Court's Director Public Information handles enquiries about cases and issues relating to its work from media throughout Australia.

These are often about the timely provision of judgments and guidance on how to access court files.

During the reporting period the *Essendon v Australian Sports Doping Authority* and *James Hird v Australian Sports Doping Authority* were the highest profile matters dealt with by the Court and led to an extraordinarily high level of media interest.

As a result, the Court established a special online file – accessible via its website – on to which documents were placed as they became available. This was similar to the first online file established in the *Ashby v Slipper* matter in 2012. By the conclusion of the hearing this file had been accessed on more than 26,000 occasions.

In addition, the Court allowed a live television feed of the first directions, trial openings and delivery of judgment. This feed was carried extensively on radio, television and online. Both initiatives were intended to assist in the public's understanding of the Court's role.

During the reporting year, the Court also undertook a series of initiatives in the broader media to promote the implementation of the National Court Framework and the introduction and success of the Electronic Court File.

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 2014–15 members of the Court were involved in:

National Court Framework – National Practice Area consultation and information forums
Registries across the country hosted Commercial and Corporations and Administrative and Constitutional Law and Human Rights National Practice Areas forums in the months of March, April & May 2015. The forums ware well attended by Court users and provided an opportunity for the Court to seek input from the profession regarding the practice of the Court and its case management initiatives. The forums were presented by the National Coordinating Judges of each of the relevant practice areas.

Admiralty and maritime law seminar
An admiralty and maritime law seminar was held in NSW Registry on 16 April 2015 video conferenced to other registries across the country. The seminar included topics such as organised crime in international waters as well as cross border insolvency and shipping. The seminar was well attended and received mainstream media coverage.

Judges in Conversation Series
The Victoria Registry has hosted a number of Judges in Conversation seminars, which are organised by the University of Melbourne.

On 22 July 2014, Justice Murphy discussed the topic of 'Expert Evidence' with Prof David Caudill of Villanova University, Pennsylvania, US. The conversation dealt with the practical uses of expert evidence inside and outside the courtroom. Justice Murphy and Prof Caudill also considered specific instances of expert evidence, conduct and regulation that have prompted change and reform or controversy in Australia and elsewhere.

On 3 December 2014, Justice Bromberg and Prof Keith Ewing spoke about the basis for treating the right to strike as a human right. Prof Ewing has been a Professor of Public Law at King's College, University of London since 1989. He is the President of the Institute of Employment Rights and Vice-President of the International Centre of Trade Union Rights.

Working with the Bar
NSW hosted the NSW Silks ceremony on 28 October 2014 and the Registry held the Australian Bar Appellate Advocacy Course. The NSW Registry also hosted a number of NSW Bar Moot Courts and Readers Courses during the year.

The Court also hosted Moot Court Competitions for the Victorian Bar Readers. In October 2014 and again in April 2015, the Court welcomed the new Victorian Bar Readers for an afternoon tea with judges and court staff.

The judges in South Australia regularly assisted with the SA Bar Readers Court by presenting on the Court and on written advocacy.

Federal Court Users Groups
Federal Court registries hosted users' group meetings which are attended by judges and senior staff of the Court. User group meetings 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.

The Victorian Court User Committee is a forum for communication between the Court and the legal profession in Victoria. It meets quarterly and is chaired by Justice Tracey. The NSW Registry held several user group meetings across a number of areas of law such as Bankruptcy, Native Title and Migration. In Queensland the District Registrar attends the Insolvency Law Practitioners (Law Council of Australia) monthly meetings. All registries were involved in 'Working with the Court electronically' presentations to practitioners and their support staff. The South Australia registry regularly held the Federal Court Liaison Committee Meetings with Justices Mansfield, Besanko and White attending and the Bankruptcy User Group Meeting with Registrar Bochner.

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

- in Sydney – the Ross Parsons Corporate Law Address, ADR Seminar (Law Council of Australia), Whitmore Lecture (Council of Australian Tribunals), Australian Association of Constitutional Law Lecture, Tristan Jepson Memorial Foundation Lecture, Australian Academy of Law AGM, International Arbitration Lecture, Richard Cooper Memorial Lecture, Australian Association of Constitutional Law Lectures, AMTAC Address, Mahla Pearlman Oration;
- in Brisbane – the new registry showcase hosted by the District Registrar, 'In Dispute with the ATO: What to expect' Seminar, BAQ Professional Development Seminar 'Alternate Dispute Resolution';
- in Perth – the Court holds a successful intellectual property seminar series
- in Adelaide – International Women's Insolvency & Restructuring Confederation (IWIRC) – Public Examinations, National Judicial College of Australia – Judgment writing training, Australian Law Librarian's Conference Workshop, Law Librarian's Seminar – 'Sharing information using Yammer' and
- in Hobart – Law Society of Tasmania – Advocacy Convention 2014, Administrative Appeals National Moot Competition and the Workplace Relations Mock Hearing.

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

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

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

The court hosted a number of school visits and educational tours to the Court across its registries.

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

COMPLAINTS ABOUT THE COURT'S PROCESSES

During the reporting year, twelve complaints were made to the Court in relation to its procedures, rules, forms, timeliness or courtesy to users. 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.

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

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

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

An outline of the judges' work in this area is included in Appendix 8 commencing on page 184.

NATIONAL STANDARD ON JUDICIAL EDUCATION

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

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

The Standard provides that judicial officers identify up to five days a year on which they could participate in professional development activities. During 2014–15 the Court offered the following activities:

- a 1.5 day Public Law Conference;
- an evening information session, conducted by videoconference to each Registry, for the Court's Admiralty judges and marshals.
- two education events were scheduled in August 2014 and March 2015 to coincide with the Court's biannual judges' meetings.

Education sessions included:

- *the Court's Electronic Court File;*
- *the Court's new National Court Framework;*
- *Central banks, the setting of interest rates, payment systems and the law surrounding insolvencies and system wide financial failures;*
- *a national and global economic review;*
- *an overview of recent High Court decisions in public law;*
- *Electronic issues: moving towards electronic trials.*
- judges were also offered the opportunity to attend the Supreme Court and Federal Court Judges' Conference held in Darwin, 5–9 July 2014.

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 184. In the period 1 July 2014 to 30 June 2015 on average the Standard was met.

WORK WITH INTERNATIONAL JURISDICTIONS

INTRODUCTION

The Court's International Programs Unit collaborates with neighbouring judiciaries predominantly across the Asia Pacific Region to promote international judicial development and cooperation. This engagement is driven by the understanding that long-term linkages with courts in other countries are beneficial to the development of governance, access to justice and the rule of law both in Australia and overseas. In 2014–15, the Court's international engagement continued, with the coordination of a number of activities and hosting of several international visits.

MEMORANDUM OF UNDERSTANDING WITH THE SUPREME COURT OF INDONESIA

Several activities took place this year with the Mahkamah Agung Republik Indonesia (Supreme Court of Indonesia) under the new Memorandum of Understanding (MOU) signed in June 2014.

Supporting the Supreme Court's institutional reform imperatives as a part of wider efforts to increase access to justice, the Court collaborated on issues related to class actions, alternative dispute resolution, business process re-engineering and change management.

The aim of the cooperation in relation to class actions is to support the Supreme Court to develop a model Regulation on Class Actions. Justice Murphy has provided assistance to develop the Regulation and has shared knowledge with and provided advice to the Supreme Court's Research Team undertaking comparative analyses of class action systems. Assistance has also been provided to develop a training curriculum to facilitate the introduction of the new Regulation.

During September and October several Supreme Court judges and registrars visited the Principal and New South Wales Registries meeting with Chief Justice Allsop, Justices Bennett, Edmonds, Rares, Perram, Yates, Perry, and Gleeson and Principal Registrar Soden. The Internship Program continued in the Victorian Registry with Interns observing the operation of the Court's Electronic Court File.

In November, Principal Registrar Soden and District Registrar Lagos visited Jakarta, Indonesia to discuss business process re-engineering, mediation and case management processes. Principal Registrar Soden presented to over 200 attendees at a Mediation and Case Management seminar, explaining how collaboration between government, the court and the public can improve mediation success. District Registrar Lagos also gave a presentation on mediation reform to the leadership of the Supreme Court. During the visit, a meeting with the Supreme Court Working Group on Business Process Reengineering and Case Management was held to review the progress on the case management audit and the outcomes of the Internship Program. The Interns presented a comprehensive report to the Supreme Court's leadership and the Federal Court delegation at this meeting.

Developments within the Supreme Court in 2014–15 facilitated by their involvement in the Australia Indonesia Partnership for Justice – of which the Court is a partner – include streamlined case processing procedures for small claims and traffic offences, judge to judge dialogues on competition law and money laundering in corruption cases and curriculum for court and court annexed mediation.

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

Collaboration between the Supreme and National Courts of Papua New Guinea (PNG) and the Court continued to flourish under a new five-year Memorandum of Understanding (MOU) signed between the judiciaries in December.

The second MOU, signed by Chief Justice Injia and Chief Justice Allsop in Sydney builds upon the success of the first to continue promoting judicial development, understanding of each country's respective laws, judicial culture and international legal standards.

Under the MOU, a number of activities took place this year. In August, representatives from the Supreme and National Courts' management team met with Deputy Registrar Mathieson to discuss the proposed restructure of PNG's apex courts.

During September and October the Corporate Services section of the Principal Registry hosted a delegation of finance and human resources representatives from the Supreme and National Courts. This visit provided the opportunity to observe accounting, budgeting and finance processes, as well as human resource management procedures.

In October, a delegation led by Justice Mogish, along with Deputy Registrar Karaut and various registry staff visited the Queensland registry. The delegation was hosted by Justice Logan and District Registrar Baldwin who provided demonstrations and facilitated discussion about the registry's case management processes.

In April, Chief Information Officer Reilly travelled to Port Moresby, PNG to participate in an information technology recruitment panel. Building on previous reviews and recommendations provided by the Court, Mr. Reilly also offered advice about means to improve the information technology environment.

In June, Deputy Registrar Mathieson and Mr Reilly hosted the Supreme and National Courts' Registrar and his management team to discuss upcoming activities under the MOU, including visits to be hosted by the registries in South Australia and New South Wales in the second half of 2015.

MEMORANDUM OF UNDERSTANDING WITH THE SUPREME COURT OF VANUATU

The Court has a Memorandum of Understanding with the Supreme Court of Vanuatu which provides the platform upon which the Courts collaborate on judicial development issues. An Annex to the Memorandum sets out the areas that the Courts will collaborate on, which focuses on case management.

PACIFIC JUDICIAL DEVELOPMENT PROGRAM

The second phase of the Pacific Judicial Development Program (PJDP) funded by the New Zealand Ministry of Foreign Affairs and Trade ended on 30 June. Since 2010, the Court has managed support to 14 judiciaries comprising: Cook Islands, Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu.

The PJDP has continued its efforts to support the strengthening of governance and the rule of law across the Pacific region by enhancing the professional competence of judicial and court officers along with the processes and systems they use. In the final leadership meetings in April, the region's Chief Justices discussed the achievements over the past five years as captured by the PJDP Programme Completion Report. The Chief Justices acknowledged that the PJDP has contributed to courts in the region administering justice better.

The PJDP's five key results are:

Citizens Live in Fairer Societies With Better Access to Justice: Citizens in Pacific Island Countries are more empowered to access and use the courts to redress injustice, and the courts are more responsive to the needs of the public seeking justice – in Pacific Island Countries where PJDP has provided support, citizens are now better informed about accessing justice services and can exercise their legal rights in court more easily. Judicial and court officers have been empowered to provide a fair trial and provide reasons for their decisions; offer more creative and restorative approaches to justice where appropriate; and meet the justice needs of marginalised groups, particularly unrepresented litigants, victims of violence, and children.

Judicial Leaders are directing the Delivery of More Substantive Justice Outcomes: Courts are more proactively managing improvements, with Chief Justices networking across the region to drive, plan and administer justice locally – PJDP has focused on building knowledge, understanding and capacity to apply the rule of law on the part of key judicial actors as well as the community. This is significant given that three-quarters of judicial officers in the Pacific have no formal legal education. Improvements are evidenced by 94 per cent of judicial and court officers indicating that they are more competent and confident in performing their roles/duties after participating in PJDP activities.

The Public is Enabled to Demand Judicial Integrity, Transparency and Accountability: Improvements in professionalism, integrity and conduct have built public trust in the courts. The 15 'Cook Island Performance Indicators' and regular annual reporting equip courts and the public with knowledge and capacity to drive continuing improvements in judicial quality – PJDP has achieved a considerable amount in this sphere through diagnostic work along with the development and implementation of internationally recognised performance measures, standards and principles of timeliness.

Courts Administer and Deliver Justice More Efficiently: Courts are increasingly disposing of cases and reducing backlogs according to established time standards. Improved efficiency, and public awareness of this, is strengthening public trust and consolidating confidence in courts – by measuring and reporting on performance, courts are becoming more transparent. Courts are also becoming more proactive in dealing with delay and backlogged cases. Through these advances in timeliness, courts are conducting proceedings more competently, consistently and efficiently.

Continuing Improvements are Transforming Court Performance: Courts are more able to build capacity through experienced local trainers conducting sustainable judicial development across the region – the quality, relevance and sustainability of professional competence building are improved through local trainers who are proactive, self-sufficient and professional in addressing competence needs. This is evidenced by 79% of judicial and court officers reporting that the quality of locally-led training activities has improved.

In addition to a range of capacity and institutional strengthening activities which produced measurable change, a resource library of 14 toolkits is available on the PJDP website covering key areas of judicial and court development activities including: Access to Justice; Public Information; Enabling Rights; Judges' Orientation; Training-of-Trainers; Judicial Conduct; Family Violence/Youth Justice; Time Goals; Reducing Backlog and Delay; Judicial Decision-making; Judicial Complaints Handling; Annual Court Reporting; Project Management; and Judicial Development Committees. The toolkits are available on the PJDP website at www.paclii.org/pjdp/pjdp-toolkits.html

JUDICIAL INDEPENDENCE IN THE MALDIVES

During 3–5 December, the Queensland Registry hosted a Symposium on Judicial Independence for members of the Supreme Court of the Maldives. The Symposium was funded by the Commonwealth Secretariat and organised by that body in consultation with the Court. It was also attended by members of the PNG Judiciary. PNG Chief Justice Sir Salamo Injia was one of the presenters. Facilitated by Justice Logan, the Symposium provided an opportunity for the Maldivian attendees to discuss with senior judges and retired judges – including the Hon J E J Spender, a retired judge of the Court, from other Commonwealth jurisdictions the meaning of judicial independence, both in theory and in practice. The rule of law, and judicial independence, as enshrined in what are known as the Latimer House Principles, are fundamental values of The Commonwealth.

VISITORS TO THE COURT

During the course of the year, the Court hosted visitors from:

France: Chief Justice Allsop and Principal Registrar Soden hosted Justice Byk from the Court of Appeal in Paris on Bastille Day, 14 July. Justice Byk met in Sydney with New South Wales judges from the Court and judges of the Court of Appeal from the Supreme Court of New South Wales. His Honour later delivered a public lecture on bioethics.

Tunisia: Between 14–25 July Judge Bey of the Administrative Tribunal of Tunis visited Sydney to attend the Administrative Appeals Tribunal and the NSW Registry. As part of a comprehensive program Judge Bey observed the Court's administrative law jurisdiction through attendance at mediations and court hearings, as well as discussions with judges and registrars in NSW and Victoria (by videolink) on areas of interest including litigants in person, ADR mechanisms, and procedures for injunctions. Judge Bey met with Justices North, Bennett, Buchanan, Jagot, Katzmann, Pagone, Mortimer, Perry and Gleeson.

Zimbabwe: During 25–27 August, registrars from the Zimbabwean Judicial Services Commission were hosted by the New South Wales Registry. The delegation learnt about best practice in court administration, registry operations, and the use of technology to inform the development of court policies.

Bangladesh: On 23 September the New South Wales Registry welcomed a delegation from the Bangladeshi judiciary. The delegation toured the registry and discussed court processes in order to increase their understanding of the Australian legal system.

United States of America: On 10 November Judge Sutton from the 6th Circuit Court of Appeals attended a formal lunch hosted by Chief Justice Allsop. Judge Sutton discussed current issues in commercial litigation in United States Federal Courts.

Namibia: On 25 February the Victoria Registry hosted a delegation from the High Court and Supreme Court of the Republic of Namibia. The delegates included Deputy Chief Justice Damaseb and Registrar Schickerling who discussed reforms to the Namibian High Court rules and judicial case management system.

Canada: Chief Justice Noel from the Federal Court of Appeals of Canada visited the New South Wales registry on 1 April and was hosted by Justice Bennett.

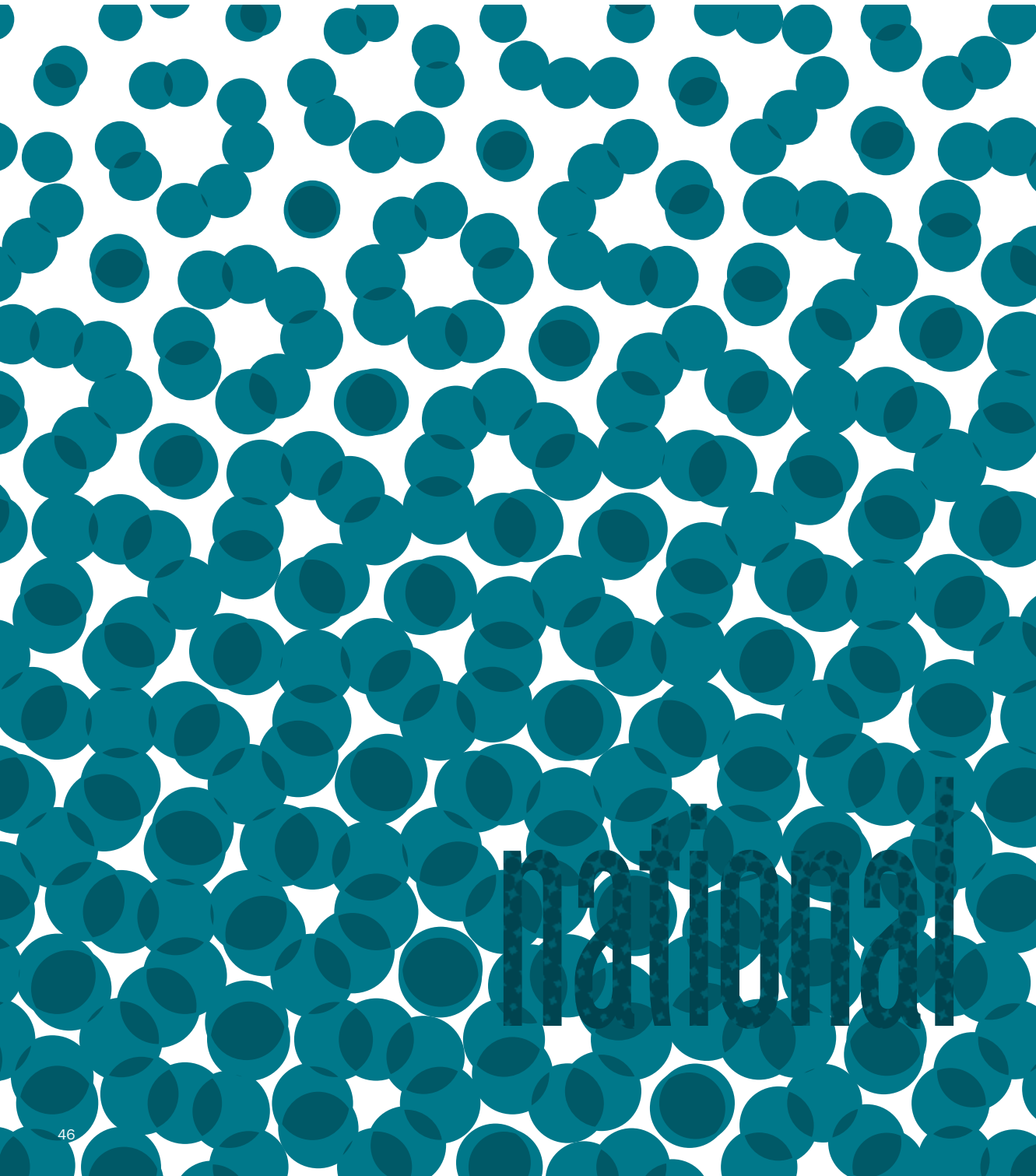
ASEAN Nations: On 4 May, the Court hosted delegates from Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Thailand, and Vietnam, as part of the Australia and New Zealand ASEAN Competition Law Implementation Program hosted by the Australian Competition and Consumer Commission (ACCC). Justice Mansfield presented to the delegates regarding the Australian court system, while Justice Bennett informed them about the role of the International Development and Cooperation Committee.

United States of America: On 1 June students from Santa Clara Law School attended the New South Wales Registry where Deputy District Registrar Morgan discussed the Australian Court System and the Court's refugee/migration jurisdiction. The students also attended the Federal Circuit Court (FCC) and met with Judge Smith. The students had the opportunity to observe a migration hearing at the FCC.

Kenya: On 16 June the Principal Registry hosted a delegation from the Kenyan Judicial Services Commission as part of their study tour to Australia. Principal Registrar Soden met with the delegation and discussed the Court's jurisdiction and administration and management processes, including backlog reduction.

Thailand: As part of a two-week program run by the University of New South Wales, the Court hosted a 34 member delegation from the Courts of Thailand which was led by Chief Justice Yaepithuck of the Thon Buri Civil Court on 18 June. Chief Justice Allsop and Principal Registrar Soden met with the delegation to discuss the Court's structure including the docket system and the Court's focus on national consistency in court administration. Deputy Registrar Mathieson, Chief Information Officer, Mr Reilly and Business Analyst, Ms Little provided the delegation information about case management and the Electronic Court File.

PART 4
MANAGEMENT OF THE COURT



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MANAGEMENT OF THE COURT

FEDERAL COURT GOVERNANCE

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

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

FEDERAL COURT REGISTRY MANAGEMENT STRUCTURE

As outlined in Part 1 of this report, the Court's administration is supported by a national registry structure, with a Principal Registry responsible for managing national issues and provision of the corporate services functions of the Court, and a District Registry in each State and Territory which supports the work of the Court at a local level. A diagram of the management structure of the Court is set out in Appendix 3 on page 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 introduction of Electronic Court Files, implementation of the National Court Framework, management of the Court's finances and cost savings initiatives.

CORPORATE FUNCTIONS

The Corporate Services Group in the Principal Registry is responsible for supporting the Court's and National Native Title Tribunal (NNTT) corporate functions. The following outlines the major corporate services issues during the reporting year. Specific references to the NNTT are also included in individual sections where required.

FINANCIAL MANAGEMENT

The Finance Committee, which is made up of judges from each of the registries, as well as the Registrar, oversees the financial management of the Court. The Corporate Services Branch supports the Committee. During 2014–15 the Committee met on two occasions.

FINANCIAL ACCOUNTS

During 2014–15 revenues from ordinary activities totalled $128.613 million.

Total revenue, in the main, comprised:

- An appropriation from Government of $92.419 million
- $20.128 million of resources received free of charge, including for accommodation occupied by the Court in Sydney
- $12.740 million of liabilities assumed by other government agencies, representing the notional value of employer superannuation payments for the Court's judges
- $3.326 million from the sale of goods and services.

Pre-depreciation expenses of $128.123 million in 2014–15 comprised: $78.328 million in judges' and employees' salaries and related expenses; $28.621 million in property related expenses; $20.513 million in other administrative expenses; and $0.661 million write-down of non-current assets.

- The net operating result from ordinary activities for 2014–15 was a surplus of $0.490 million prior to depreciation expenses. This was primarily as a result of less than expected expenditure on:
  - judges' remuneration
  - the Australian Competition Tribunal
  - property operating costs
  - library publications
- Some of the lower than expected expenditure was offset by higher than expected expenditure on:
  - domestic travel
  - contractors
  - information technology

When depreciation expenses of $4.702 million are included, the Court's expenses for 2014–15 totalled $132.836 million.

The above result includes a $0.412 surplus in relation to the NNTT, primarily as a result of lower than expected employee costs.

Equity decreased from $51.708 million in 2013–14 to $0.412 million in 2014–15.

Table 4.1 – Expenses and resources for Outcome 1

	BUDGET 14–15 ($'000)	ACTUAL 14–15 ($'000)	VARIATION ($'000)
Outcome 1: Through its jurisdiction, the Court will apply and uphold the rule of law to deliver remedies and enforce rights and in so doing, contribute to the social and economic development and wellbeing of all Australians			
Programme 1.1 – Federal Court Business			
Administered Expenses	–	968	-0.968
Departmental Appropriation	95.152	95.266	-0.114
Expenses not requiring appropriation in the budget year	37.693	37.570	0.123
Total for Programme 1.1	**132.845**	**132.836**	**0.009**
Total expenses for outcome 1	**132.845**	**133.804**	**-0.959**
	2013–14	2014–15	
Average staffing level (number)	413	395	

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

AUDIT AND RISK MANAGEMENT

The Principal Registrar certifies that:

- Fraud control plans and fraud risk assessments have been prepared that comply with the Commonwealth Fraud Control Guidelines.
- Appropriate fraud prevention, detection, investigation and reporting procedures and practices that comply with the Commonwealth Fraud Control Guidelines are in place.
- The Court has taken all reasonable measures to appropriately deal with fraud relating to the Court and there have been no cases of fraud during 2014–15 to be reported to the Australian Institute of Criminology.

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

- An Audit Committee that met four times during 2014–15. The committee comprises an independent chairperson, four judges and the NSW District Registrar. The Principal Registrar, the Executive Director – Corporate Services and Chief Financial Officer and representatives from the internal audit service provider and the Australian National Audit Office (ANAO) attend committee meetings as observers.
- Internal auditors, O'Connor Marsden and Associates, who conducted three internal audits during the year to test the Court's systems of internal control.
- A Fraud Control Plan.
- Quarterly self-controlled assessments completed by senior managers.
- Internal compliance certificates completed by senior managers.
- Annual audit performed by ANAO who issued an unmodified audit certificate attached to the annual financial statements.

EXTERNAL SCRUTINY

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

PURCHASING

The Court's procurement policies and procedures, expressed in the Court's Chief Executive Instructions, are based on 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.

In compliance with its obligations under the Commonwealth Procurement Rules to achieve value for money in its purchase of goods and services, and reflecting the scale, scope and risk of a particular procurement, the Court applies procurement practices that provide small and medium-sized enterprises the appropriate opportunity to compete for its business.

CONSULTANTS

During 2014–15, ten (10) new consultancy contracts were entered into involving total actual expenditure of $547,781. In addition, one (1) ongoing consultancy contract was active during the 2014–15 year which involved total actual expenditure of $88,000.

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

Table 4.2 – Expenditure trends for consultancy contracts 2012–13 to 2014–15

FINANCIAL YEAR	NEW CONTRACTS ACTUAL EXPENDITURE	ONGOING CONTRACTS ACTUAL EXPENDITURE
2014–15	$547,781	$88,000
2013–14	$360,198	$930,591
2012–13	$2,114,473	$268,400

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 and associated Finance Circulars and guidance documentation published by the Department of Finance published by the Department of Finance.

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

Consultancy services are sought where either:

(a) skills are not available in the agency; or

(b) specialised or professional skills are needed; or

(c) independent research or assessment is needed.

Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website, www.tenders.gov.au.

COMPETITIVE TENDERING AND CONTRACTING

During 2014–15, 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 2014–15, there were no contracts or standing offers exempted by the Chief Executive Officer from publication in the contract reporting section on AusTender.

ADVERTISING AND MARKETING SERVICES

A total of $21,579 was paid for recruitment advertising services in 2014–15. Payments to Adcorp on advertising for notification of native title applications, as required under the *Native Title Act 1933*, totalled $148,040 over the reporting year.

The Court did not undertake any advertising campaigns or use market research, polling, direct mail organisations or media advertising agencies in 2014–15.

HUMAN RESOURCES

During the reporting year, the Court's Human Resources Section continued to provide strategic, policy and operational support to the Court's registries and the NNTT. Human Resources staff supported the Court by providing advice on the full range of human resource activities including:

- managing organisational changes and the implementation of organisational reviews
- recruitment and selection activities
- workforce planning and organisation development
- learning and development
- workplace diversity
- workplace relations
- policy development
- remuneration policy
- payroll services
- workplace health and safety.

The Court's approach to human resources issues is characterised by transparency and consultation. Consistent with this, the Court's National Consultative Committee (NCC) continued to operate as necessary through the year. In large part, most of the NCC's responsibilities were taken over in 2014–15 by the Court's Enterprise Bargaining Negotiation Team, which includes the Community and Public Sector Union (CPSU) and Bargaining Representatives. The Court's other consultative forums such as Regional Consultative Committees and the Work Health and Safety Committee continued to operate. Minutes from all committees are placed on the Court's intranet where they can be readily accessed by staff.

STAFFING PROFILE

At 30 June 2015, the Court employed 464 employees under the *Public Service Act 1999*, comprising 232 ongoing full-time employees, 43 ongoing part-time employees and 189 non-ongoing employees. The high number of non-ongoing employees is due to the nature of the employment of judges' associates, who are typically employed for twelve months, as well as the employment of casual court officers. APS staffing restrictions have also had the effect of increasing the number of non-ongoing employees in the Court. The Court had an average staffing level of 395 during the reporting period.

For the 2014–15 Annual Report, the Court is required to report annually on the rate of Indigenous employment. As at 30 June 2015, the Court employed 10 employees who identify as Indigenous, of which nine were engaged in ongoing positions and one in a non-ongoing position.

More detailed staffing statistics can be found in Appendix 9 commencing on page 197.

WORKPLACE BARGAINING

During the reporting period, the Court relied on determinations under s 24 of the Public Service Act for setting the employment conditions of Senior Executive Service (SES) employees and Flexibility Agreements under the Court's Enterprise Agreement for non-SES employees. The Court now has no employees on Australian Workplace Agreements.

The Court's 2011–2014 Enterprise Agreement expired on 30 June 2014 and Court management has been negotiating with the Community and Public Sector Union (CPSU) and Bargaining Representative for a replacement agreement during 2014–15.

The Court's bargaining position has been approved by the Attorney-General and the Australian Public Service Commission (as required under APS workplace bargaining policy) and the Court anticipates putting a new draft Agreement to a ballot of staff early in the 2015–16 year.

Performance pay

No performance bonus payments were made in 2014–15.

Work health and safety

The Court continued to promote a proactive approach to work health and safety management. Court management engaged with the Court's Work Health and Safety (WHS) Committee to promote health and safety in the workplace. A particular area of focus continued to be ensuring that the Court complies with its responsibilities under the *Work Health and Safety Act 2011* (WHS Act). Specific measures included:

- Arranging regular meetings of the National WHS Committee and other consultative forums such as the National Consultative Committee and Regional Consultative Committees, all of which have a significant WHS focus.
- Undertaking WHS Audits and follow-up audits.

- Providing annual health checks and influenza shots for all staff, consistent with Enterprise Agreement provisions.
- Providing access to eyesight testing and reimbursement for spectacles where needed for screen-based work.
- Providing access to the Court's Employee Assistance Program.
- Providing training to Admiralty Marshals in boarding and disembarking vessels, consistent with a risk assessment of the role.
- Continuing to arrange medical fitness assessments of all court staff undertaking Admiralty Marshal duties, consistent with a risk assessment of the role.
- Encouraging health and fitness-related activities (eg participation in community-based fitness events) by providing funding via the Court's Health and Fitness policy.

During the reporting year, no provisional improvement notices were issued under s 90 of the WHS Act nor were any enforcement notices issued under Part 10. There were no incidents under ss 83–86 of the WHS Act (whereby any employee may cease to work due to a reasonable concern that to carry out the work would expose the employee to serious risk). There were no incidents that required a notice under s 38 of the WHS Act.

The Court continued to manage its workers compensation cases proactively throughout the reporting period and will be commencing a review of a number of longstanding cases in 2015–16.

WORKPLACE DIVERSITY

The Court remains strongly committed to diversity in the workplace and continued to use a range of flexible employment conditions to accommodate the needs of staff.

These measures have assisted the Court in attracting and retaining employees in key areas, for example legal staff. The Court's human resource policies foster a workplace that is free from discrimination and harassment and is characterised by high levels of employee engagement and consultation.

The Court continued to build upon strategies in its Workplace Diversity plan. The Court also continued to participate in the Australian Network on Disability's 'Stepping Into Law' program and will be actively working with the Network with the aim of engaging disabled law graduates under the program in 2015–16.

NNTT diversity initiatives such as NNTT's Indigenous Advisory Group and Reconciliation Action Plan continued to operate and are open to all staff. There is also ongoing promotion and support of staff activities for Reconciliation week and NAIDOC celebrations.

The Indigenous Advisory Group (IAG) met during the early part of the reporting period but, as with all staff forums, was suspended pending the implementation of the President's Review. More information on the President's Review can be found on page 62. Initial work had commenced on reviewing the Tribunal's Reconciliation Action Plan 2013–15, which will be actively progressed in 2015–16 in consultation with staff.

Workforce planning

2014–15 saw the implementation of the Court's Electronic Court File project which has seen significant parts of the Court's work transform from being paper-based to being managed electronically. Given this background, a particular area of focus involved ensuring that Court employees continue to develop the skills needed to work in a digital environment as well as ensuring that the Court's organisation structures and work practices develop in a way that complements its technology initiatives. Work has begun in transforming and realigning registrar and registry practices, supporting the continued delivery of high quality court services.

Retention strategies

The Court has a range of strategies in place to attract and retain staff including flexible employment conditions and flexibility agreements under the Enterprise Agreement. The Court continued to refine and modify these through 2014–15 as required to meet specific issues and cases. A particular focus in this area has been to ensure that employees involved in initiatives such as the Electronic Court File Project and National Court Framework are appropriately trained and recognised to ensure the retention of key staff.

Work life balance
The Court's Enterprise Agreement and a range of other human resources policies, provide flexible working arrangements to help employees balance their work and other responsibilities, including young families and ageing parents. The conditions available include access to part-time work, job sharing, flexible leave arrangements and purchased leave.

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. The award recognises the work of individual staff and teams and is presented by the Chief Justice each February to mark the anniversary of the Court's Foundation Day, 7 February 1977. This year's award was presented to the members of the Court's Electronic Court File (ECF) team: Maura Winston – Project Leader, Tina Boudlis, Mark Bryant, Jacinta Connery, Henry Elisher, Andrew Gilbert, Yvonne Little, Tim Luxton, Pawel Mazur, Bree McAullay, Lauren McCormick, Megan O'Brien, Margreet Shehata, Matt Shorrock, Thomas Stewart and Judy Taylor for their work in developing and successfully implementing the Court's ECF project.

As the NNTT is undergoing on organisational restructure, consultation is being undertaken with NNTT staff to develop and implement a relevant program to recognise internal achievements. In the reporting period, Anthony Gordon was recognised for 20 years service to the NNTT and Tracey Jeffries was awarded with the Indigenous Study Award.

Training and development undertaken and its impact
During 2014–15 the Court and NNTT offered a range of development opportunities to assist employees develop and improve their skills and knowledge, assist them in meeting operational requirements and ensure they have the capabilities needed now and for the future.

The focus for the Court was on competency based training in the Information Technology area, to complement the introduction of the Court's ECF project. This training included small group face to face information sessions, classroom based teaching, eLearning modules and peer mentoring (on the job training). The Court also provided training across all registries on its Skype for Business application.

The NNTT continued to provide staff with a range of training forums to enhance their personal and professional development. Aside from staff attending various external training programs, the NNTT regular speaker's series covered such topics as anti-discrimination, Aboriginal use of English, Aboriginal kinship, the challenges of prescribed bodies corporates (PBCs), managing conflict and legal writing and reasoning. In addition, a program of internal training was undertaken to ensure all staff have an understanding of native title and the statutory functions of the NNTT.

A digital records and information management training plan has been developed and implemented in NNTT and the Court. This incorporates NAA eLearning modules, agency specific awareness training and Electronic Document and Record Management System (EDRMS) end user training. Professional training for records and information management staff continues on an ongoing basis.

Employees also attended legal specialist conferences, seminars and workshops to be kept up to date on topics relevant to their work, as well as management and leadership training to reinforce professional skills. As part of their ongoing training, in-house mediators attended refresher workshops to maintain their accreditation.

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

Disability reporting mechanisms
The Commonwealth Disability Strategy has been overtaken by a new National Disability Strategy 2010–2020 which sets out a ten-year national policy framework to improve the lives of people with disability, promote participation and create a more inclusive society. The first annual report of the National Disability Insurance Scheme was published in October 2014: see www.ndis.gov.au

AGENCY MULTICULTURAL PLAN

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

Actions contained in the Plan that were progressed in the 2014–15 include:

- review of the Court's interpreter and translation policy.
- review of the Court's guidelines for the use of interpreters in Court.
- the development of an informal working group between the Court and the Federal Circuit Court to review and consider policies and procedures.
- the development of a plain-English version of the affidavit and migration form guides for translation into relevant languages.

PROPERTY MANAGEMENT

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

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

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

The Commonwealth Law Court buildings are managed under revised 'Special Purpose Property' principles. Leasing arrangements are now governed by whether the space is designated as special purpose accommodation (courtrooms, chambers, public areas) or usable office accommodation (registry areas). An interim Memorandum of Understanding was signed by the Court with the Department of Finance for 2014–15 with negotiations continuing for a long-term agreement.

The following property works were undertaken during the reporting year:

Stage 2 Brisbane Federal Court registry upgrade works
Stage 2 involved completion of the refurbishment of the registry fulfilling Australian Government Property Data Collection (PRODAC) requirements and guidelines. The technology infrastructure was upgraded and the workspaces were modernised to be open, light filled and comfortable. This work was completed in the first quarter of 2014–15 financial year.

The construction of the Brisbane National Native Title Office and its relocation to within the Brisbane Commonwealth Law Courts Building
This project involved constructing a new office for the NNTT within the Brisbane CLC Building. The office was constructed compliant with the PRODAC requirements and guidelines. The meeting spaces were designed to be multipurpose to accommodate mediations, conferences and training. Flexible storage was provided to accommodate the changing needs of the Tribunal.

SECURITY

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

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

On 25 June 2015 the *Civil Law and Justice Legislation Amendment Act 2015* was passed by the Parliament. Following that amending act receiving Royal Assent, amendments to the *Court Security Act 2013* will commence to provide for the retention and disposal of unclaimed items seized by court security officers and to clarify the processes which must be followed for the variation and revocation of court security orders made under the Court Security Act.

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, seeks to reduce the impact of its operations on the environment through the following measures:

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

RECORDKEEPING AND INFORMATION MANAGEMENT

With the successful introduction of digital record keeping for the Court's case management files in 2014 the Court has now turned its attention to digitalising the administrative records of the Court. The Court has made substantial advances in the last year in meeting the National Archives of Australia compliance obligation for agencies to move to digital records keeping by the end of 2015. All registries of the Court are now capturing administrative records digitally within the Court's Electronic Documents Records Management System (EDRMS) Recfind.

The Court and NNTT submitted the first 'Check Up' report on digital records management to the National Archives of Australia in 2014. This report is the first in a three-year reporting cycle and was a joint report from the Court and the NNTT.

An archive project to digitise the papers and documents of the first chief justice of the Federal Court, Chief Justice Sir Nigel Bowen, is well advanced. Talks are now underway with the National Archives of Australia to transfer the original papers as well as a digital copy to National Archives for the nation's history.

A general records authority covering the administration of the Federal Court, Federal Circuit Court and Family Court is well advanced.

The NNTT is progressing to digital records and information practices in line with the Digital Transition Policy for efficiency purposes and improved governance. Electronic Documents Records Management System (EDRMS) licences have been acquired for all staff allowing an EDRMS implementation and end user training across the agency. Staff have commenced capturing both administrative and core business records digitally reducing the need for paper and associated costs.

INFORMATION TECHNOLOGY

The Court continues optimising its technology resources to pursue future efficiencies and support its operations. The Court's Information Technology group has worked in close collaboration with judges, registrars and staff of the Court to deliver a range of ICT program areas that support the Court's objectives. Work on some of the program areas will continue into 2015–16.

Electronic Court File Support

The Electronic Court File (ECF) was launched in the South Australian Registry in July 2014 and was introduced on a registry by registry basis across the Court over the remainder of calendar year 2014. Post introduction, the Court began an improvement program involving a release of application enhancements and ongoing support of judges, registrars and staff in using ECFs within their day-to-day activities for the Court.

Courtroom Technology

Reflecting the Court's increasing reliance on technology in the courtroom context, a program of modernisation and improvement of courtroom technology hardware was commenced in 2014–15. This will continue into 2015–16 and beyond.

Key aspects of this modernisation program include:

- upgrade of courtroom video conferencing facilities to modern high definition capable equipment.
- preparations for the deployment of an internet protocol based video conference network.
- deployment of screens, printers, and other PC equipment to courtrooms to allow access to ECFs.

IT Infrastructure Modernisation

The Court continues to modernise its IT environment through normal lifecycle replacement of aged infrastructure as well as new initiatives to improve Court business process efficiency. This year was largely a consolidation of work conducted in 2013–14 and included:

- migration to new Secure Internet Gateway arrangement.
- migration to new virtualised server infrastructure and retirement of aged physical server fleet.
- upgrade of active directory network infrastructure to the current Microsoft version.
- upgrade of email infrastructure to the current Microsoft version.
- preparation for the deployment of new laptop fleet and related standard operating environment.

IT security

The Court is implementing strategies identified by the Australian Signals Directorate to mitigate cyber Intrusions. The Cyber Security Operations Centre estimates a significant number of cyber intrusion techniques are mitigated by implementing these strategies.

The Court has completed the annual security assessment against the mandatory requirements detailed within the Protective Security Policy Framework (PSPF), and will report against these requirements to the Auditor-General.

Specific activities delivered this year include establishing a regular IT Security Awareness presentation to be held throughout the year, standardising the IT security briefing provided to new staff, deployment of email protective marking system recommended by the Information Security Manual and an automated IT security vulnerability scanning process.

Deployment of Microsoft Skype for Business as an internal video conferencing and collaboration application

In the first half of 2015, the Court deployed Microsoft Skype for Business across all its registries and chambers for internal use. Skype for Business allows judges and staff to make video calls, conduct online meetings or use text chat. It is integrated with the Court's email and document software allowing staff to share files, conduct presentations or share their desktop during an online meeting. The uptake of Skype has been significant and it has been used to delivery internal training, conduct cross-functional team meetings and to message between staff in the courtroom and registry making the Court more responsive and delivering travel and time savings.

IT Support Service Portal

In February 2015, the Heat service portal site was launched, giving judges, registrars and staff across the registries a single access point for IT help and service requests. The Heat site arranges IT support in simple, logical areas displaying any requests from judges and staff, the Court's service catalogue and its technology knowledge bank.

LIBRARY AND INFORMATION SERVICES

The Court continues to maintain a national library network that provides a comprehensive library service to judges and staff of the Court as well as the Family Court of Australia, the Federal Circuit Court of Australia, and the NNTT. Collections and services are provided in Tasmania and the Northern Territory by staff in the Victorian and South Australian libraries respectively.

Australian Courts Consortium

A consortium formed by the Federal Court and High Court to share a library management system has been expanded to include the Supreme Court of Victoria and the New South Wales Department of Justice. The libraries have worked cooperatively to create a joint library management system (using SirsiDynix) that allows the sharing of catalogues, collections, knowledge and expertise. The arrangement is governed by a memorandum of understanding which establishes a management committee with representatives from each court and agency.

Redesigned library interface

Entry into the Australian Courts Consortium has allowed the Federal Court Library to redesign its user interface providing a single access point to the library catalogue and electronic resources for all library clients, regardless of whether they are accessing the service from the Federal Court, Family Court, Federal Circuit Court, or National Native Title Tribunal networks.

Sydney library services

Library services within the Court's premises in Sydney are provided under a memorandum of understanding with the New South Wales Department of Justice. A new heads of agreement is being negotiated.

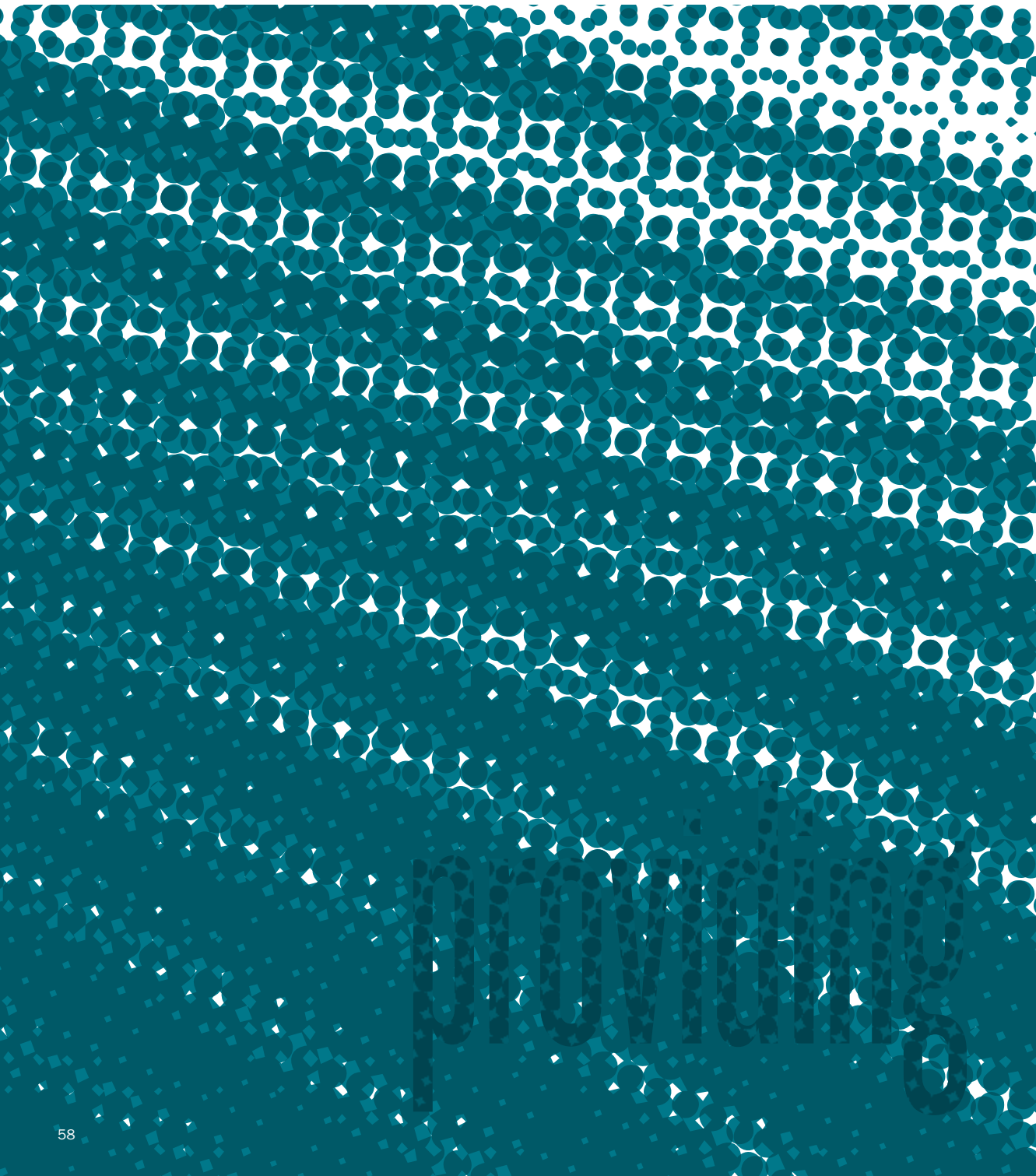
Services to the South Pacific

The Federal Court continues to provide assistance to law libraries in the South Pacific, in particular the libraries of the Supreme Court of Tonga, Supreme Court of Vanuatu and the High Court of Kiribati. Federal Court library staff coordinate the collection and binding of duplicate law reports and arrange for the shipment of these reports and other legal texts to the various court libraries.

PART 5

REPORT OF THE NATIONAL NATIVE TITLE TRIBUNAL

National Native Title Tribunal



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1 July 2014 to 30 June 2015

REPORT OF THE NATIONAL NATIVE TITLE TRIBUNAL

OVERVIEW OF THE TRIBUNAL

ESTABLISHMENT

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

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

a) to provide for the recognition and protection of native title

b) to establish a mechanism for determining claims to native title

c) to establish ways in which future dealings affecting native title (future acts) may proceed.

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

FUNCTIONS AND POWERS

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

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

The President may delegate to a member, or members, all or any of the President's powers under the Act, and may arrange through the Registrar of the Federal Court (Federal Court Registrar) 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 Registrar, who is empowered by the Act to delegate his responsibilities under the Act to the Native Title Registrar, Deputy Registrar and staff assisting the Tribunal. The President may direct the Federal Court Registrar regarding the exercise of his power to assist the President in managing the administrative affairs of the Tribunal.

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

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

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

THE PRESIDENT, MEMBERS AND THE NATIVE TITLE REGISTRAR

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

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

Table 5.1 – Current Tribunal Statutory Office-Holders

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

Stephanie Fryer-Smith's appointment as Native Title Registrar concluded on 19 October 2014 and Andrew Luttrell was appointed for five years commencing on 3 November 2014. John Mathieson, Deputy Registrar, Federal Court was acting Native Title Registrar in the interim period.

OFFICE LOCATIONS

The Tribunal provides services and native title assistance in all Australian States and Territories from offices in Perth, Sydney, Melbourne, Brisbane and Cairns.

The office of the President is located in Perth, and since November 2014 the Native Title Registrar has been located in Brisbane.

STRATEGIC VISION

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

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

THE YEAR IN REVIEW

During the year under review, the key priority for the President was to adjust the focus of the Tribunal on achieving the organisation's strategic vision. This was achieved through internal innovation and change; participation in reforms to the native title system; ensuring the organisation is externally focused; and assisting clients meet the needs of the contemporary native title environment.

These are discussed separately below.

SIGNIFICANT DEVELOPMENTS

President's Review
The foundation stone to delivering internal innovation and change was the President's Review (Review). Growth Partners International were commissioned to undertake an organisational review of the Tribunal, with the objective to revitalise and re-energise the Tribunal; to have skilled people performing at the best of their ability; and to build the reputation of the Tribunal among clients.

The Review was not undertaken as a cost-cutting exercise, rather, was intended to provide an opportunity for staff to contribute and solidify their place in a much improved, more highly regarded version of the Tribunal.

The Review was a means of:

- reinforcing and strengthening the relationship the Tribunal has with the Federal Court
- contributing to an overall more streamlined approach to the native title system – for internal and external clients
- giving proper meaning and effect to the Tribunal's new vision '*Shared country, shared future*'
- acting as a catalyst to re-engage and motivate the staff of the Tribunal
- creating urgency, mobilising and energising new ideas about how we can be more effective in the native title space.

The Review was completed in the previous reporting period, with recommendations presented to staff in January 2015 when consultation commenced.

The second half of the reporting period was occupied with:

- the establishment of the Tribunal Board of Management
- creating a change team to work with the Board of Management to effect organisational change
- the development of a new organisational structure
- recruitment to key senior positions
- delivering an introductory training program for staff.

At the end of the reporting period, the first phase of the President's Review had been implemented. This included:

- the appointment of a single Deputy Registrar, assuming the responsibility for Corporate Services and the general administration of the Tribunal. The Deputy Registrar, based in Perth, reports directly to the President and Federal Court Registrar on administrative matters
- the appointment of two Practice Directors to manage the practice teams and allocation of workflow. One Practice Director is based in Perth and the other in Sydney/Canberra.

Phase two of the Review, finalising the structure and further consultation with staff was scheduled to commence in July 2015, with planned completion October 2015.

Participation in reforms to the native title system
Members of the Tribunal were actively involved in a number of native title forums during the reporting period including:

1. President Webb and Member Cooms were among advisers to the Australian Law Reform Commission review and attended several meetings during the course of the year (August and February) as well as attending the launch of the Australian Law Reform Commission's 126th report *Connection to Country: Review of the Native Title Act 1993* (Cth) in June 2015
2. President Webb and Member Cooms were also participants in the Australian Human Rights Commission Indigenous Leaders Roundtable on Property Rights held in Broome in May 2015
3. during the reporting period, Member Cooms was invited by the Hon Minister Scullion to be a member of the Expert Indigenous Working Group. Minister Scullion, who is leading a Council of Australian Governments (COAG) investigation into Indigenous land administration and use, invited the Group to guide the work of the investigation. More information is available at: http://www.dpmc.gov.au/indigenous-affairs/about/jobs-land-and-economy-programme/coag-land-investigation.

Recognition
President's Medal Award Winner 2014
Each year the Law Council of Australia presents the President's Medal – a prestigious award recognising an individual for their outstanding contribution to the legal profession nationally. The President, Raelene Webb QC, was a co-winner of the 2014 award, presented in late November 2014.

Member Cooms was appointed as an Adjunct Professor to Griffith University and the University of the Sunshine Coast in early 2015.

Client and stakeholder engagement
Building on the work of the previous year, a key strategic priority during the reporting period was to engage as fully as possible with clients and stakeholders in order to provide maximum support and assistance to participants in the native title system.

As part of the Tribunal's commitment to developing and maintaining close engagement with clients and stakeholders, the President and the Native Title Registrar undertook a series of meetings around the country following Mr Luttrell's appointment.

There was increased demand for the President, Raelene Webb QC, to speak and present at conferences and seminars. In an exciting first for the Tribunal, the President was invited to speak at the World Bank Land and Poverty conference in Washington DC in March 2015. The conference is an annual global event run by The World Bank Development Economic Research Group, and the theme for 2015 was 'Linking Land Tenure and Use for Shared Prosperity'.

The President's paper, *Historic Tenure Certainty Project: A tool for sharing the knowledge, sharing the future*, was delivered during the session 'Strengthening indigenous rights'. The paper was about a collaborative project that the Tribunal is developing with the South Australian Government and South Australia Native Title Services. This project was an expansion of a fledging concept to develop tenure portals, a tool to help people benefit from shared knowledge.

This paper reflects the dominant theme of many of the President's papers and presentations, namely to find innovative ways to share information, work towards a shared future with benefits for all, and respond positively to challenges as they arise.

Following the presentation in Washington DC, the President was invited to present public lectures at three Canadian universities: Thomson Rivers University, Kamloops BC, University of North British Columbia, Prince George BC and University of Saskatchewan in Saskatoon.

In addition, the President delivered keynote addresses at this year's NSW Minerals Council annual forum 'NSW Mining – Beyond the Rocks – Compliance, Community, Environment', in Sydney and the AMEC annual convention in Perth – *Exploring the future of mining.*

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

During the reporting period, Member Helen Shurven gave a number of presentations, including at several LEADR conferences. Member Shurven also published several papers on mediation.

Among a number of other external engagements, Member Dr Valerie Cooms attended the *Torres Strait Sea Forum Summit* in Cairns to present a session on addressing disadvantage through Prescribed Body Corporates (PBCs) and Tribunal assistance to PBCs. In attendance were the Chairs of all the PBCs in the Torres Strait.

Member James McNamara delivered and participated in a number of workshops as well as delivering information and training presentations to Indigenous, sectoral and academic audiences. Copies of papers and presentations are available at www.nntt.gov.au/News-and-Publications/Pages/Forms-and-Publications.aspx.

ASSISTING CLIENTS MEET THE NEEDS OF THE CONTEMPORARY NATIVE TITLE ENVIRONMENT

An important aspect of the Tribunal's client engagement has been to assist clients meet the needs of the contemporary native title processes. This took the form of a number of initiatives during the reporting period.

Tenure Portals

The mapping product prototype developed in the previous year was used as the basis for further tenure portals in the reporting period. A key feature to the development of the tenure portals is the collaborative approach to capturing, sharing and analysing spatial information.

A number of collaborative efforts were entered into during the reporting period with State governments and Native Title Representative Bodies, responsive to clients' needs.

The tenure portals were the subject of several papers and presentations delivered during the reporting period, see Annexure at page 74.

National Future Act Workshops

- **Brisbane:** On 16 September 2014, a workshop convened with King & Wood Mallesons, Gilkerson Legal and supported by the Queensland Government was delivered to clients entitled *Exploration: Native Title and Aboriginal Cultural Heritage*.
- **Sydney:** On 27 and 28 October 2014, in conjunction with King & Wood Mallesons, a two-day Future Act Workshop was held. The two-day workshop provided delegates with an understanding of how future act processes operate in New South Wales. The program provided an overview of the grant of coal and mineral titles in New South Wales, the relationship between native title future act processes and Aboriginal cultural heritage, the obligations of parties in the future act process and what Negotiation in Good Faith means. The program also explored Tribunal Arbitration, Tribunal Mediation, future act agreement making and the progress of registration of Indigenous Land Use Agreements.
- **Perth:** On 27 February 2015, in conjunction with Allens, two half-day workshops were delivered. The practical workshops focused on the operation of two key statutory provisions relevant to future act determinations under the Act.
- **Sydney:** On 15 April 2015, in conjunction with Allens, two half-day workshops were delivered. These focused upon providing native title and grantee parties with an understanding of preparing evidence for arbitral hearings conducted by the Tribunal.

Prescribed Bodies Corporate

Responding to an increase in requests, the Tribunal delivered training on native title issues and governance to a number of Prescribed Bodies Corporate.

In addition, a range of information and award sessions were delivered to state government departments in Western Australia and Queensland within the reporting period.

New Tribunal Website

In July 2014, the Tribunal launched its new website, with a fresh design and structure to improve navigation and to place greater focus on the work and functions of the Tribunal and Native Title Registrar.

The updated website was also designed to ensure the future compatibility of the Tribunal's website with the Federal Court's IT operating system and to provide a suitable platform for the delivery of more diverse online services.

New features of the website include online access to the National Native Title Register and the Register of Native Title Claims (the Register of Indigenous Land Use Agreements was already accessible online), improved search pages for native title applications and future act applications, and up to date statistics on native title applications and processes.

During the course of the reporting period, a number of upgrades were made to the Tribunal's website to make further details about native title applications available through online searches. A new public notices search page was also released.

THE WORK OF THE TRIBUNAL IN 2014–15

GENERAL OVERVIEW

Services and native title assistance are delivered to all Australian States and Territories from offices in Perth, Sydney, Melbourne, Brisbane and Cairns. In the sections below, detailed information about statutory functions and trends, together with quantitative data for deliverables achieved by the Tribunal and the Native Title Registrar respectively, is set out on pages 65 – 69.

FUNCTIONS OF THE TRIBUNAL

FUTURE ACTS

Overview

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

Table 5.2 – Number of applications lodged with the Tribunal in 2014–15

FUTURE ACT	NSW	NT	QLD	SA	VIC	WA	TOTAL
Objections to expedited procedure	0	0	95	0	0	971	1066
Future act determination applications	1	0	6	0	1	16	24
Total	**1**	**0**	**101**	**0**	**1**	**987**	**1090**

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

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 (a 'section 29' notice).

Expedited procedure objection applications and inquiries

A government party might assert, pursuant to s 29 (7) of the Act, 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 does not apply to the proposed future act, it may lodge an expedited procedure objection application (objection application) with the Tribunal.

A total of 1066 objection applications were lodged during the reporting period, approximately 91 per cent of which were lodged in Western Australia. This number is consistent with a reduction in the number of notices given during the reporting period asserting that the expedited procedure applied. Despite this downward trend, the ratio of objections lodged to notices has remained relatively consistent, with approximately 32 per cent of notices attracting an objection compared to 34 per cent in the 2013–14 period.

Similar to the last reporting period, although fewer objection applications were lodged, a higher number were finalised (a total of 1322). This outcome represents a continued decrease in the number of active applications at the end of a reporting period (551 2014–15: 815 2013–14). Of these almost 400 objection applications were finalised during the reporting period due to the withdrawal of the tenement applications by the proponent.

The number of objection applications proceeding to inquiry and determination before a Tribunal member decreased during the reporting period. A total of 68 determinations in respect of objection applications were made during the reporting period, a third less than the number of the previous year. This trend reflects closer management of the objection process by members, including the increase in the use of s 150 conferences to facilitate a timely outcome.

During the reporting period, the Tribunal referred a question of law to the Federal Court under s 145 of the *Native Title Act* in relation to an expedited procedure objection application. The outcome is detailed at External Scrutiny on page 73.

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 that 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, 149 new requests for Tribunal mediation assistance in negotiating future acts were made; almost double that of the previous reporting period.

A contributing factor to the increase in work was as a result of the State of Queensland requesting the Tribunal to provide assistance in relation to approximately 60 small mining claims which were previously covered by an ILUA which expired in 2013.

Despite the increase in mediation assistance requests, a similar number of mediations to the past year were concluded in the reporting period, with a larger than usual volume continuing in the next period. Changes in the economic environment of the resources sector impacted some companies involved in mediations which had a flow-on effect to the resolution of mediations as companies re-evaluated their projects.

The Act prescribes a minimum six months negotiation period 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, twenty-four applications were lodged. This was a decrease in the number of applications which had been lodged in the previous year and reflects the challenges faced by the resources sector during the reporting period.

The Act requires that negotiations about a proposed future act must occur in good faith. If there has been a failure to negotiate in good faith by a party, other than a native title party, the Tribunal has no power to make a determination on the application. If any party asserts that negotiations in good faith have not occurred, the Tribunal will hold a preliminary inquiry to establish whether or not that is the case. During the reporting period, the Tribunal made 'good faith' determinations in respect of eight proposed future acts. In two cases, the Tribunal determined that the parties had negotiated in good faith; in the other six the Tribunal found that good faith negotiations had not occurred. The parties to those matters were then required to negotiate further before the matter could be brought back to the Tribunal for arbitration.

Thirty-six future act determination applications were finalised during the reporting period, sixteen of those by determination. The remaining twenty future act determination applications were withdrawn or dismissed. Nine were withdrawn due to agreement being reached.

During the reporting period, some determinations were unavoidably delayed in their resolution. Lodged late in the 2013–14 reporting period, seven matters were on hand and allocated to Member Dan O'Dea when his untimely passing occurred. These matters went on to be resolved within the 2014–15 reporting period once a new member had been appointed.

In the reporting period, two proceedings arising from a Tribunal decision have been filed with the court in relation to the matter of *Adrian Burragubba v James R McNamara & Ors*: QUD343/2015 (notice of appeal from determination of the Tribunal) and QUD344/2015 (application for judicial review). These were ongoing at the end of the reporting period.

OTHER INQUIRIES

In September 2013, the Hon Justice John Dowsett of the Federal Court directed the Tribunal to hold a native title application inquiry pursuant to Subdivision AA of Division 5, Part 6 of the Act. This was the first time that an order has been made for the Tribunal to hold such an inquiry.

The President completed the inquiry in the reporting period and provided her report to the Court.

MEDIATION

Mediation activity took place during the reporting period, with the President convening a number of mediation meetings in relation to a South Australian native title claim.

As at the end of the reporting period, fifteen applications filed pursuant to s 61 of the Act remain subject to mediation orders with the Tribunal. The fifteen matters involve land and waters located in the south-west of Western Australia, which area constitutes the South-West Settlement Area, including three compensation applications. The President is the appointed mediator.

ASSISTANCE IN NEGOTIATING INDIGENOUS LAND USE AGREEMENTS

During the reporting period the President and Member James McNamara provided assistance in negotiating four ILUAs in far north Queensland, pursuant to s 24BF (body corporate agreements) and s 24 CF (area agreements) respectively of the Act.

RECONSIDERATION OF REGISTRATION TEST

Three requests to reconsider a registration test decision were received and actioned in the reporting period. These requests related to applications filed in Western Australia, Queensland and New South Wales. Three decisions were made; two were that the Native Title Registrar should not accept an application for registration, and one decision that the Native Title Registrar should accept the application for registration.

FUNCTIONS OF THE NATIVE TITLE REGISTRAR

Table 5.3 – Number of applications referred to or lodged with the Native Title Registrar for registration in 2014–15

NATIVE TITLE DETERMINATION APPLICATIONS	NSW	NT	QLD	SA	VIC	WA	TOTAL
Claimant (new)	2	10	12	1	1	3	29
Claimant (amended)	2	1	8	2	0	12	25
Non-Claimant	3	1	17	0	0	0	21
Compensation (new)	0	0	0	1	0	0	1
Compensation (amended)	0	0	0	0	0	1	1
Revised Native Title Determination	0	0	0	0	0	0	0
Total	**7**	**12**	**37**	**4**	**1**	**16**	**77**

CLAIMANT AND AMENDED APPLICATIONS: ASSISTANCE AND REGISTRATION

Sections 190A – 190C of the Act confer upon the Native Title Registrar the responsibility of considering 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 Registrar provides the Native Title Registrar with a copy of claimant applications and accompanying documents which have been filed in the Federal Court.

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

During the reporting period, the Native Title Registrar received twenty-nine claimant applications, five fewer than in the previous reporting period, and twenty-five amended applications, which was eleven less than the year before. The majority of new applications were filed in the Northern Territory and Queensland; the majority of amended applications were filed in Western Australia and Queensland.

Sixty-six applications were considered for registration during the reporting period; thirty-two were accepted, and seventeen not accepted, for registration following consideration of the claim in the application pursuant to s 190A of the Act. Seventeen amended applications were considered and accepted for registration pursuant to the test prescribed by s 190A(6A) of the Act.

Excluding decisions made under s 190A(6A), 90 per cent of the applications were considered for registration within six months of receipt. The average time taken to test an application was less than three months.

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

INDIGENOUS LAND USE AGREEMENTS: ASSISTANCE AND REGISTRATION

Under the Act, parties to an ILUA (whether a body corporate agreement, area agreement or an alternative procedure agreement) must apply to the Native Title Registrar in order for it 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 native title in relation to any of the land or waters in the area covered by the ILUA.

The majority of ILUAs currently on the Register of Indigenous Land Use Agreements were made in Queensland. This trend continued in the reporting period as 72 per cent of all agreements registered were made in Queensland and, consistent with previous years, many provided for the exercise of native title rights and interests over pastoral leases.

Other registered ILUAs deal with native title related matters in connection with local government matters, mining, State-protected areas and community infrastructure such as social housing.

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

During the reporting period a total of 100 ILUAs (fifty-one body corporate agreements and forty-nine area agreements) were lodged with the Native Title Registrar for registration. In the case of area agreements, this was nineteen less than in the previous reporting period; in the case of body corporate agreements, this was sixteen less than in the previous reporting period.

Sixty-five of the 100 applications to register ILUAs covered land and waters in Queensland.

Forty-seven body corporate and seventy area agreement ILUAs were accepted for registration and entered upon the Register of Indigenous Land Use Agreements during the reporting period. There were no decisions to not accept an ILUA for registration. The number of registration decisions is similar to that of the previous reporting period, although there were fewer decisions in relation to body corporate agreements and more decisions in relation to area agreements in contrast to the previous year.

The average time taken to register an area agreement was less than five months; the average time taken to register a body corporate agreement was less than three months.

During the reporting period, assistance in the form of comments on draft ILUAs was provided on fifty-three occasions.

NOTIFICATION

During the reporting period a total of fifty-one native title determination applications were notified, compared with thirty-six in the previous reporting period. Thirty-two claimant applications were notified, compared with twenty-seven in the previous year. Eighteen non-claimant applications were notified; three times the number of the previous reporting period. This follows the increased activity for the filing of non-claimant applications in Queensland. One compensation application was notified during the reporting period.

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

OTHER FORMS OF ASSISTANCE

Assistance in relation to applications and proceedings
Section 78(1) of the Act provides for the Native Title Registrar to give such assistance as s/he thinks reasonable to help people prepare applications and to help them at any stage of the proceeding; it also provides that the Native Title Registrar may help other people in relation to a proceeding. During the reporting period assistance was provided pursuant to s 78 of the Act on 278 occasions. Consistent with previous years, a significant number of the requests were for the provision of geospatial products.

Assistance in relation to ILUA applications
During the reporting period mapping assistance and related information pursuant to s 24BG(3) and s 24CG(4) respectively of the Act, in order to assist parties to prepare applications to register ILUAs, was provided on 178 occasions.

Searches of registers
Pursuant to s 78(2) of the Act, 1446 searches of registers and other records were conducted to assist applicants and respondents during the reporting period. This activity was similar to the previous reporting period.

THE REGISTER OF NATIVE TITLE CLAIMS

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

As at 30 June 2015 there were a total of 270 claimant applications on the Register of Native Title Claims. This number represents a decrease of 18 applications from the previous reporting period.

THE NATIONAL NATIVE TITLE REGISTER

Under s 192(2) of the Act, the Native Title Registrar must establish and keep a National Native Title Register, which records approved determinations of native title. During the reporting period, a total of 24 determinations of native title were registered on the National Native Title Register, a significant decrease from the 64 registered in the previous reporting period.

As at 30 June 2015, a total of 315 determinations of native title have been registered: 254 determinations that native title exists, and 61 determinations that native title does not exist.

A map of registered native title determinations as at 30 June 2015 is set out in Map 1.

THE REGISTER OF INDIGENOUS LAND USE AGREEMENTS

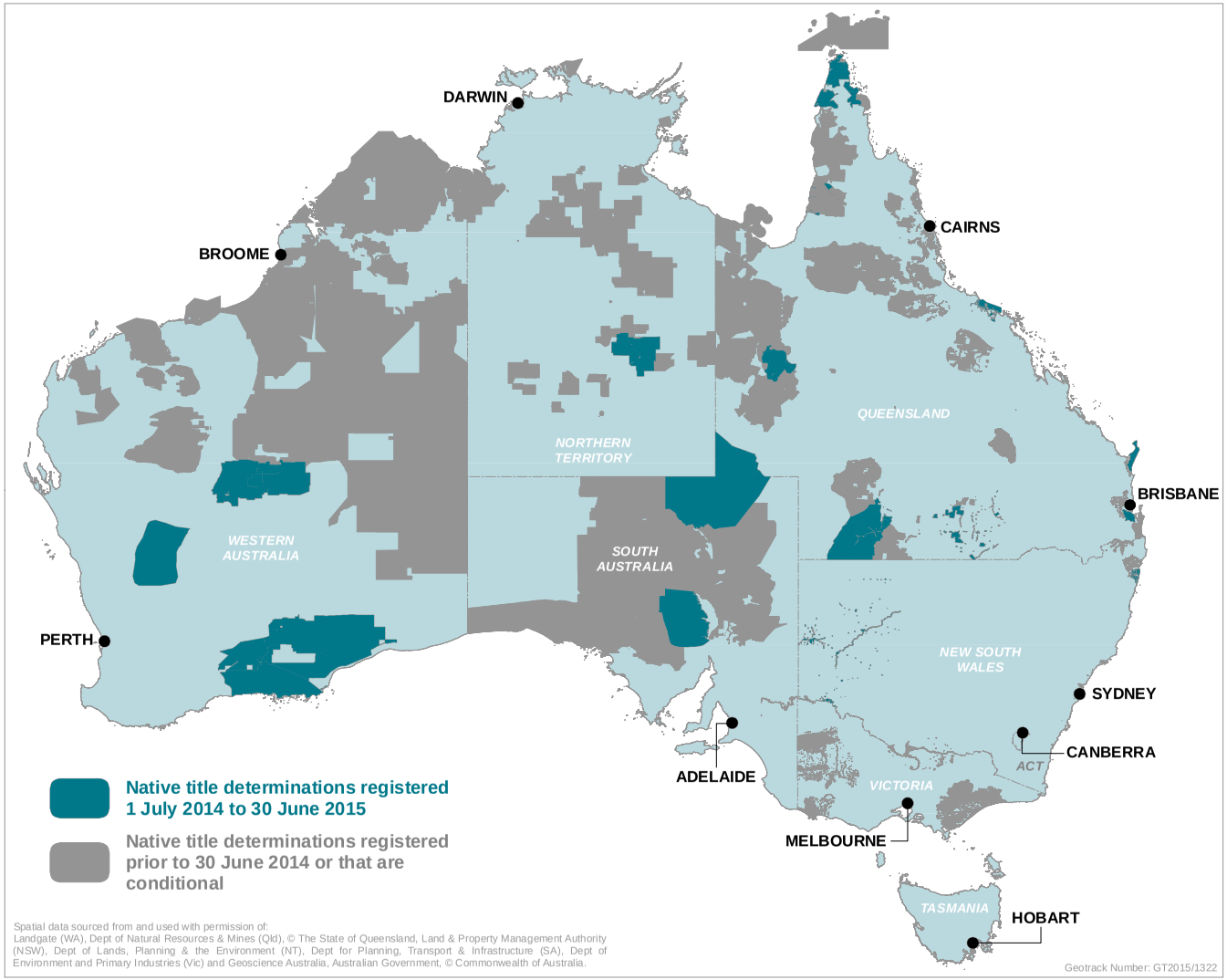
Under s 199A(2) of the Act, the Native Title Registrar must establish and keep a Register of Indigenous Land Use Agreements, on which area agreement, body corporate and alternative procedure ILUAs are registered. During the reporting period, 117 new ILUAs were registered, and three were removed from the Register. At 30 June 2015, there was a total of 998 ILUAs registered on the Register of Indigenous Land Use Agreements.

MAPS

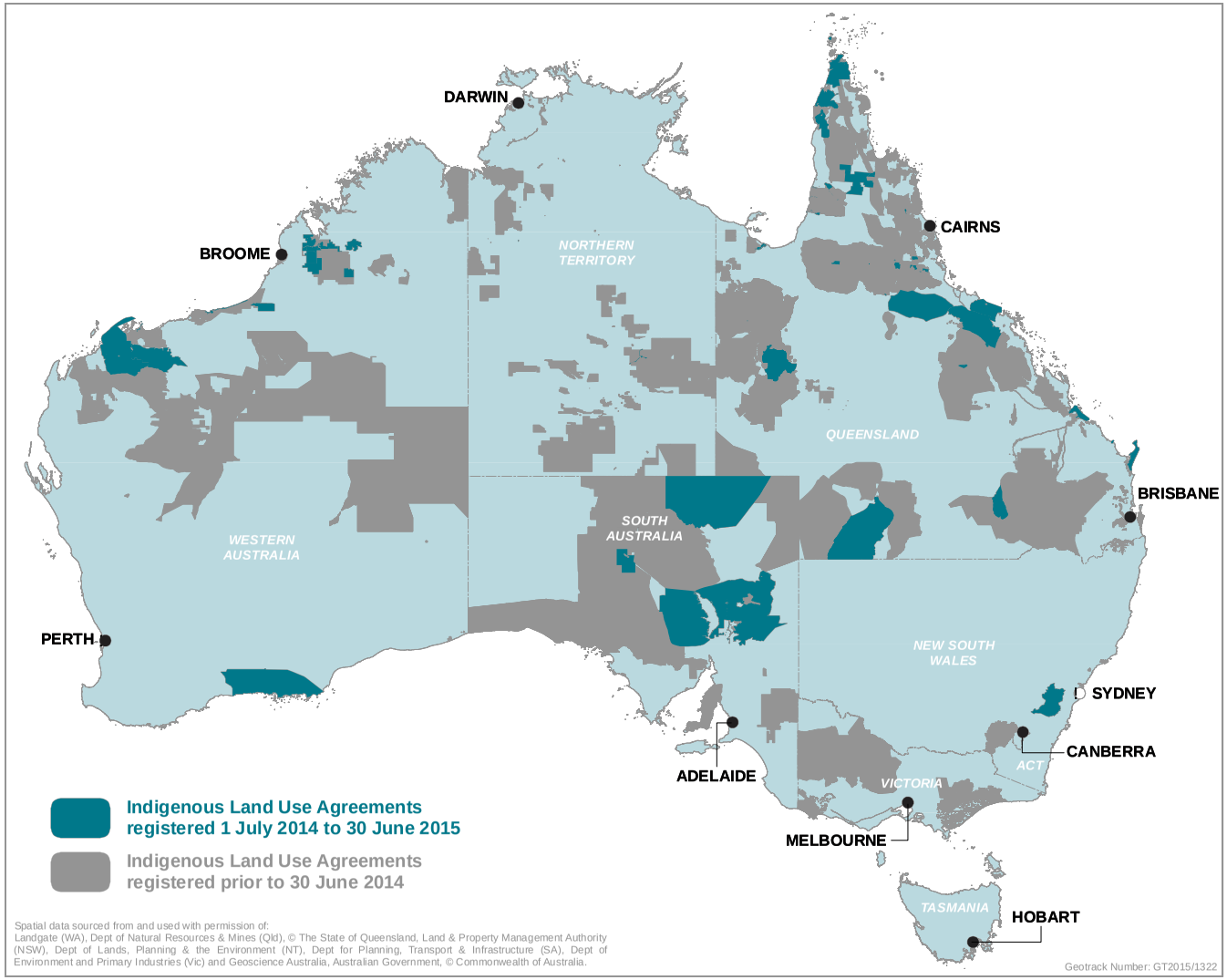
The 315 registered determinations as at 30 June 2015 covered a total area of about 2,240,304 sq km or 29.1 per cent of the land mass of Australia and approximately 99,114 sq km of sea (below the high water mark). Five conditional consent determinations (four in Queensland and one in Western Australia) were still awaiting registration, and one determination in Queensland was in the process of being registered at 30 June 2015. Upon registration, these applications will increase the area to about 2,301,516 sq km or 29.9 per cent of the land mass of Australia and approximately 99,497 sq km of sea: see Map 1.

Registered ILUAs covered about 2,118,482 sq km or 27.5 per cent of the land mass of Australia and approximately 12,301 sq km of sea: see Map 2.

Map 1: Map of registered native title determinations as at 30 June 2015



Map 2: Map of Indigenous Land use Agreements as per the Register of Indigenous Land Use Agreements at 30 June 2015



MANAGEMENT OF THE TRIBUNAL

TRIBUNAL GOVERNANCE

The Tribunal commenced the implementation of a new governance structure to align and give effect to key recommendations from the President's Review.

The key governance group, the Tribunal Board of Management, was established in November 2014. The Board is accountable for setting the strategic direction of the Tribunal and ensuring effective and efficient service delivery to clients.

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

The President and Members also met in Members' Meetings.

As stated previously, phase one of the President's Review has been completed and phase two was in progress at the end of the reporting period. This includes the identification of any other governance groups necessary to support and deliver the Board's directives to achieve the Tribunal's strategic direction.

FINANCIAL REVIEW

The Federal Court's appropriation includes funding for the operations of the Tribunal. This funding is set out as sub-program 1.1.2 in the Court's Portfolio Budget Statements. $11,089 million was allocated for the Tribunal's operations in 2014–15.

The financial figures at Appendix 1 are the consolidated results for both the Court and the Tribunal. A summary of the Tribunal's income and expenditure for 2014–15 is set out in the following Operating Statement.

Table 5.4 – Financial Operating Statement

Operating statement for year ending 30 June 2015

PROGRAM 1.1.2 : NATIONAL NATIVE TITLE TRIBUNAL		AMENDED BUDGET $'000	ACTUAL $'000	VARIATION $'000
Revenue	Revenue from Government	10,890	10,890	0
	Service receipts	0	5	5
	Total revenue	10,890	10,895	5
Expenses	Tribunal staff and office holders	9,768	9,183	585
	Supplies and services	1,122	1,295	-173
Total Expenses		**10,890**	**10,478**	**412**
Operating Result		0	412	412

The Tribunal managed its financial resources carefully throughout the reporting period and at 30 June 2015 recorded a surplus of $.412 million most of which related to savings in staff salaries.

EXTERNAL SCRUTINY

JUDICIAL DECISIONS

During the reporting period, the Tribunal referred a question of law to the Federal Court under s 145 of the Native Title Act 1993 in relation to an expedited procedure objection application. This special case was only the second referral made under s 145 in the history of the Tribunal, with the first made by Member O'Dea in September 2009.

The Federal Court delivered judgment in the matter on 5 June 2015. The case concerned circumstances where a State government had advised the Tribunal that they proposed to excise an area of land from the area to be granted in relation to a s 29 notice the subject of a right to negotiate application before the Tribunal. The Court clarified that such advice is merely an indication of a course of action proposed to be adopted, and the Tribunal must place appropriate weight on the assertion of such intention as is required in the circumstances.

It is also clear from the decision that the Tribunal is not limited in its inquiry to an area of a proposed grant in relation to which an objector has registered or determined native title rights and interests, but rather must consider the s 237 criteria as against the entire tenement area, having regard to all the evidence put before it.

For more information please read the full judgment: *Hale on behalf of the Bunuba #2 Native Title Claim Group v State of Western Australia* [2015] FCA 560.

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

ACCOUNTABILITY TO CLIENTS

The Tribunal maintains a Client Service Charter 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. Tribunal Members are not subject to the APS Code of Conduct, 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 Tribunal maintains a website at www.nntt.gov.au. During the reporting period, further online functionality of Tribunal services was expanded in relation to statistical and geospatial information.

AUSTRALIAN HUMAN RIGHTS COMMISSION

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

IN MEMORIAM

The members and staff of the Tribunal were deeply saddened by the untimely passing of Senior In-House Counsel, Lisa Wright, an employee since 1998 who passed away in December 2014.

ANNEXURE

PRESIDENT'S PRESENTATIONS 1 JULY 2014 TO 30 JUNE 2015

DATE	TITLE	EVENT	ORGANISERS
14 October 2014	Chair seminar, Native Title – An Introduction to Future Act Procedures	The Native Title Act: An Introduction to Future Act Procedures	Law Society of WA
27 October 2014	Panel Discussion Member	Aurora Native Title Law Program, Adelaide	Aurora
13 February 2015	The interaction of the Native Title Act 1993 (Cth) and the Aboriginal Land Rights Act 1983 (NSW) — issues for the resolution of native title determination applications	NSW Native Title User Group Meeting, Sydney	Federal Court of Australia
27 February 2015	Evidence & Future Act Inquiries	Evidence Workshop, Perth	Allens/National Native Title Tribunal
25 March 2015	*Linking Land Tenure & Use for Shared Prosperity*	World Bank Land & Poverty Conference Washington DC	World Bank, Washington DC
31 March 2015	National Native Title Tribunal of Australia – Sharing the Knowledge, Sharing the Future	Public Lecture, Thomson Rivers University	University of Thomson Rivers, Kamloops, Canada
1 April 2015	Participant, Comparative & Indigenous rights	Thomson Rivers University, International Law Course (by video to Oklahoma, Saskatoon, & Waikato (NZ))	University of Thomson Rivers, Kamloops, Canada
2 April 2015	National Native Title Tribunal of Australia – Sharing the Knowledge, Sharing the Future	Speaker at Global Fridays series, UNBC	University of North British Columbia, Prince George, Canada

DATE	TITLE	EVENT	ORGANISERS
10 April 2015	National Native Title Tribunal of Australia – Sharing the Knowledge, Sharing the Future	Faculty/Graduate Student seminar, University of Saskatchewan	University of Saskatchewan, Saskatoon, Canada
16 April 2015	Evidence & Future Act Inquiries	Evidence Workshop, Sydney	Allens/National Native Title Tribunal
18 May 2015	Future Acts, Native Title Claims/PBC's	Presentation & Workshop	Kimberley Land Council and KRED Enterprises, Broome
2 June 2015	*Women & The Bar – be passionate & hold your nerve*	*Seminar, Women at the Bar – be passionate & hold your nerve, Hobart*	Tasmania Bar Association in conjunction with Tasmanian Women Lawyers
12 June 2015	Legalwise 5th Annual Native Title Conference	*Historic Tenure Capture – Obstacle or Opportunity, Perth*	Legalwise Seminars
17 June 2015	Working with native title in New South Wales	*NSW Mining – Beyond the Rocks – Compliance, Community, Environment, Sydney*	NSW Minerals Council
18 June 2015	Historic Tenure and Native Title – Sharing the Knowledge, Sharing the Future	National Native Title Conference 2015, Port Douglas Qld	*AIATSIS*
23 June 2015	*Challenges in the Native Title System*	AMEC Convention 2015, Perth	Association of Mining & Exploration Companies Inc

PART 6
APPENDICES

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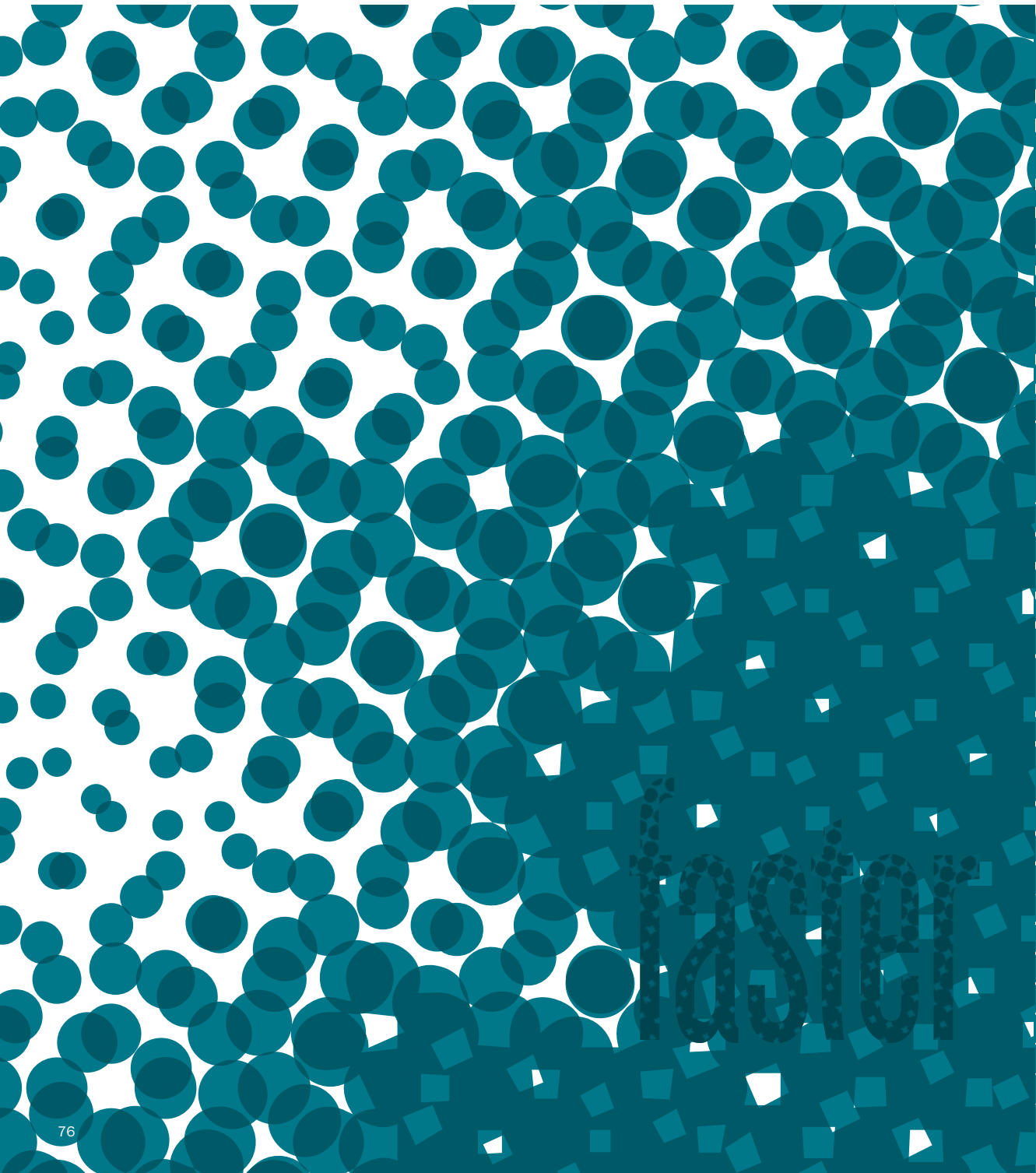

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INDEPENDENT AUDITOR'S REPORT

INDEPENDENT AUDITOR'S REPORT

To the Attorney General

I have audited the accompanying annual financial statements of the Federal Court of Australia for the year ended 30 June 2015, which comprise:

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

Registrar's Responsibility for the Financial Statements

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

Auditor's Responsibility

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

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

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

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

Independence

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

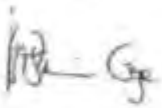
Opinion

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

(a) comply with Australian Accounting Standards and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and

(b) present fairly the financial position of the Federal Court of Australia as at 30 June 2015 and its financial performance and cash flows for the year then ended.

Australian National Audit Office



Kristian Gage
Audit Principal
Delegate of the Auditor-General
Canberra
1 September 2015

STATEMENT BY THE REGISTRAR AND CHIEF FINANCE OFFICER

FEDERAL COURT OF AUSTRALIA

STATEMENT BY THE ACCOUNTABLE AUTHORITY AND CHIEF FINANCIAL OFFICER

In our opinion, the attached financial statements for the year ended 30 June 2015 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 Court will be able to pay its debts as and when they fall due.

Signed .....

Warwick Soden
Registrar
Accountable Authority

01 September 2015

Signed .....

Peter Bowen

Chief Financial Officer

01 September 2015

FEDERAL COURT OF AUSTRALIA

STATEMENT OF COMPREHENSIVE INCOME

FOR THE PERIOD ENDED 30 JUNE 2015

	NOTES	2015 $'000	2014 $'000
NET COST OF SERVICES			
Expenses			
Judge benefits	4A	**33,366**	34,105
Employee benefits	4A	**44,962**	46,023
Suppliers	4B	**49,128**	47,730
Depreciation and amortisation	4C	**4,702**	4,691
Finance costs	4D	**17**	45
Write-down and impairment of assets	4E	**661**	133
Total expenses		**132,836**	132,727
Own-Source Income			
Own-source revenue			
Sale of goods and rendering of services	5A	**3,323**	3,673
Total own-source revenue		**3,323**	3,673
Gains			
Gain on sale of assets		**3**	–
Other gains	5B	**32,868**	32,712
Total gains		**32,871**	**32,712**
Total own-source income		**36,194**	36,385
Net cost of services		**(96,642)**	(96,342)
Revenue from Government	5C	**92,419**	93,213
(Deficit) attributable to Australian Government		**(4,223)**	(3,129)
OTHER COMPREHENSIVE INCOME			
Items not subject to subsequent reclassification to net cost of services			
Changes in asset revaluation surplus		**–**	5,490
Total other comprehensive income		**–**	**5,490**
Total comprehensive income/(loss)		**(4,223)**	2,361

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

FEDERAL COURT OF AUSTRALIA

STATEMENT OF FINANCIAL POSITION

AS AT 30 JUNE 2015

	NOTES	2015 $'000	2014 $'000
ASSETS			
Financial Assets			
Cash and cash equivalents	7A	**603**	576
Trade and other receivables	7B	**49,348**	46,387
Total financial assets		**49,951**	46,963
Non-Financial Assets			
Land and buildings	8A	**15,007**	16,320
Property, plant and equipment	8B	**7,022**	7,489
Intangibles	8C	**3,938**	4,883
Other non-financial assets	8E	**1,159**	956
Total non-financial assets		**27,126**	29,648
Total Assets		**77,077**	76,611
LIABILITIES			
Payables			
Suppliers	9A	**2,070**	1,407
Other Payables	9B	**2,455**	2,772
Total payables		**4,525**	4,179
Interest Bearing Liabilities			
Leases	10	**42**	409
Total interest bearing liabilities		**42**	409
Provisions			
Judge and employee provisions	11A	**20,614**	20,061
Other provisions	11B	**84**	254
Total provisions		**20,698**	20,315
Total Liabilities		**25,265**	24,903
Net Assets		**51,812**	51,708
EQUITY			
Contributed equity		**42,861**	38,534
Reserves		**7,074**	7,074
Retained surplus		**1,877**	6,100
Total Equity		**51,812**	51,708

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

FEDERAL COURT OF AUSTRALIA

STATEMENT OF CHANGES IN EQUITY

FOR THE PERIOD ENDED 30 JUNE 2015

	RETAINED EARNINGS		ASSET REVALUATION SURPLUS		CONTRIBUTED EQUITY/ CAPITAL		TOTAL EQUITY	
	2015 $'000	2014 $'000	2015 $'000	2014 $'000	2015 $'000	2014 $'000	2015 $'000	2014 $'000
Opening balance	**6,100**	9,229	**7,074**	1,584	**38,534**	35,368	**51,708**	46,181
Comprehensive Income								
Other Comprehensive Income	**–**	–	**–**	5,490	**–**	–	**–**	5,490
(Deficit) for period	**(4,223)**	(3,129)	**–**	–	**–**	–	**(4,223)**	(2,147)
Total comprehensive income	**(4,223)**	(3,129)	**–**	5,490	**–**	–	**(4,223)**	2,361
Transactions with owners								
Contributions by owners								
Departmental Capital Budget	**–**	–	**–**	–	**4,327**	3,166	**4,327**	3,166
Total transactions with owners	**–**	–	**–**	–	**4,327**	3,166	**4,327**	3,166
Closing balance as at 30 June	**1,877**	6,100	**7,074**	7,074	**42,861**	38,534	**51,812**	51,708
Closing balance attributable to the Australian Government	**1,877**	6,100	**7,074**	7,074	**42,861**	38,534	**51,812**	51,708

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

FEDERAL COURT OF AUSTRALIA

CASH FLOW STATEMENT

FOR THE PERIOD ENDED 30 JUNE 2015

	NOTES	2015 $'000	2014 $'000
OPERATING ACTIVITIES			
Cash received			
Appropriations		**92,443**	96,437
Sale of goods and rendering of services		**3,408**	3,272
Receipts from Government		**341**	35
Net GST received		**677**	106
Total cash received		**96,869**	99,850
Cash used			
Judges and employees		**65,881**	67,550
Suppliers		**28,416**	27,799
Borrowing costs		**17**	46
Section 74 receipts transferred to OPA		**3,300**	3,546
Total cash used		**97,614**	98,941
Net cash from / (used by) operating activities	12	**(745)**	909
INVESTING ACTIVITIES			
Cash received			
Proceeds from sales of property, plant and equipment		**4**	–
Total cash received		**4**	–
Cash used			
Purchase of property, plant and equipment		**2,267**	2,482
Purchase of intangibles		**364**	2,725
Total cash used		**2,631**	5,207
Net cash (used by) investing activities		**(2,627)**	(5,207)
FINANCING ACTIVITIES			
Cash received			
Appropriations – contributed equity		**3,766**	4,998
Total cash received		**3,766**	4,998
Cash used			
Payment of finance lease liabilities		**367**	403
Total cash used		**367**	403
Net cash from financing activities		**3,399**	4,595
Net increase / (decrease) in cash held		**27**	297
Cash at the beginning of the reporting period		**576**	279
Cash at the end of the reporting period	7A	**603**	576

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

FEDERAL COURT OF AUSTRALIA

SCHEDULE OF COMMITMENTS

AS AT 30 JUNE 2015

	2015 $'000	2014 $'000
BY TYPE		
Commitments receivable		
Net GST recoverable on commitments	**137**	251
Total commitments receivable	**137**	251
Commitments payable		
Capital commitments		
Property, plant and equipment[1]	**–**	123
Total capital commitments	**–**	123
Other commitments		
Operating leases[2]	**1,141**	2,318
Other[3]	**369**	314
Total other commitments	**1,510**	2,632
Total commitments payable	**1,510**	2,755
Net commitments by type	**1,373**	2,504
BY MATURITY		
Commitments receivable		
Within 1 year	**111**	111
Between 1 and 5 years	**26**	85
Total commitments receivable	**137**	251
Commitments payable		
Capital commitments		
Within 1 year	**–**	123
Total capital commitments	**–**	123
Operating lease commitments		
Within 1 year	**857**	1,386
Between 1 and 5 years	**284**	932
Total operating lease commitments	**1,141**	2,318
Other commitments		
Within 1 year	**369**	311
Between 1 and 5 years	**–**	3
Total other commitments	**369**	314
Net Commitments by Maturity	**1,373**	2,504

NB: Commitments are GST inclusive where relevant.

FEDERAL COURT OF AUSTRALIA

SCHEDULE OF COMMITMENTS

AS AT 30 JUNE 2015

1. Plant and equipment commitments are primarily contracts for the purchase of furniture and fittings.

Nature of leases/General description

2. Operating leases included are effectively non-cancellable and comprise:

Leases for judicial and other accommodation.

These commitments are mainly for rental of special purpose court buildings which are occupied by the Court's registries. The court buildings are owned by the Commonwealth of Australia, except for the New South Wales court building, which is owned by Law Courts Limited, a joint venture between the NSW State and Commonwealth Governments. In the Northern Territory, space is leased from the Northern Territory Government. The Court also leases commercial premises in Cairns for the National Native Title Tribunal. As at 30 June 2015, the Court had no signed leases for the Commonwealth Law Courts Buildings and therefore has no commitment for future expenditure for these premises.

Agreements for the provision of motor vehicles to judges and senior officers.

From February 2013 vehicles are leased from sgFleet under contractual terms. These vehicles are leased under individual operating leases.

3. Other commitments - The Court has entered into commitments for the provision of information technology and library goods and services.

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

FEDERAL COURT OF AUSTRALIA

ADMINISTERED SCHEDULE OF COMPREHENSIVE INCOME

FOR THE PERIOD ENDED 30 JUNE 2015

	NOTES	2015 $'000	2014 $'000
NET COST OF SERVICES			
Expenses			
Refund of Court Fees and Fines	16	**568**	411
Write-down and impairment of assets	16	**400**	426
Total expenses		**968**	837
Income			
Revenue			
Non-taxation Revenue			
Fees (filing and hearing fees)	17	**17,158**	19,135
Fines	17	**486**	739
Other revenue	17	**102**	195
Total non-taxation revenue		**17,746**	20,069
Total revenue		**17,746**	20,069
Net contribution by services		**16,778**	19,232
OTHER COMPREHENSIVE INCOME		**–**	–
Total comprehensive income		**16,778**	19,232

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

FEDERAL COURT OF AUSTRALIA

ADMINISTERED SCHEDULE OF ASSETS AND LIABILITIES

FOR THE PERIOD ENDED 30 JUNE 2015

	NOTES	2015 $'000	2014 $'000
ASSETS			
Financial assets			
Cash and cash equivalents	18A	**59**	29
Receivables	18B	**2,838**	1,926
Total assets administered on behalf of Government		**2,897**	1,955
LIABILITIES			
Payables			
Other payables	19A	**1,168**	132
Total payables		**1,168**	132
Total liabilities administered on behalf of Government		**1,168**	132
Net assets		**1,729**	1,823
ADMINISTERED RECONCILIATION SCHEDULE			
Opening assets less liabilities as at 1 July		**1,823**	2,639
Net contribution by services			
Income		**17,746**	20,069
Expenses		**(968)**	(837)
Transfers to/from the Australian Government:			
Administered assets and liabilities appropriations		**580**	420
Transfers to OPA		**(17,452)**	(20,468)
Closing assets less liabilities as at 30 June		**1,729**	1,823

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

FEDERAL COURT OF AUSTRALIA

ADMINISTERED CASH FLOW STATEMENT

FOR THE PERIOD ENDED 30 JUNE 2015

	NOTES	2015 $'000	2014 $'000
OPERATING ACTIVITIES			
Cash received			
Fees		**16,874**	19,514
Fines		**486**	739
Other		**102**	195
Total cash received		**17,462**	20,448
Cash used			
Refund of court fees and fines		**560**	411
Total cash used		**560**	411
Net cash from operating activities		**16,902**	20,037
Net increase in cash held	**20**	**16,902**	20,037
Cash at the beginning of the reporting period		**29**	40
Cash from Official Public Account			
Appropriations		**580**	420
		580	420
Cash to Official Public Account		**(17,452)**	(20,468)
		(17,452)	(20,468)
Cash at the end of the reporting period	**18A**	**59**	29
Schedule of Administered Commitments as at 30 June 2015			
There were no Administered commitments as at 30 June 2015. (2014: nil)			

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

FEDERAL COURT OF AUSTRALIA

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

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NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

1.1 OBJECTIVES OF THE COURT

The Federal Court of Australia is an Australian Government controlled entity. The Court is a not for profit entity. The objectives of the Court are to:

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

The Court is structured to meet one Outcome:

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

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

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

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

The Australian Government continues to have regard to developments in case law, including the High Court's most recent decision in *Williams v Commonwealth* [2014] HCA 23, as they contribute to the larger body of law relevant to the development of Commonwealth programs. In accordance with its general practice, the Government will continue to monitor and assess risk and decide on any appropriate actions to respond to risks of expenditure not being consistent with constitutional or other legal requirements.

1.2 BASIS OF PREPARATION OF THE FINANCIAL STATEMENTS

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

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

- Financial Reporting Rule (FRR) for reporting periods ending on or after 1 July 2014; and
- Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

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

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

Unless alternative treatment is specifically required by an Accounting Standard or the FRR, assets and liabilities are recognised in the statement of financial position when and only when it is probable that future economic benefits will flow to the Court or a future sacrifice of economic benefits will be required and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under executory contracts are not recognised unless required by an accounting standard. Liabilities and assets that are unrecognised are reported in the schedule of commitments and the schedule of contingencies.

Unless alternative treatment is specifically required by an accounting standard, income and expenses are recognised in the Statement of Comprehensive Income when and only when the flow, consumption or loss of economic benefits has occurred and can be reliably measured.

1.3 SIGNIFICANT ACCOUNTING JUDGEMENTS AND ESTIMATES

No accounting assumptions or estimates have been identified that have a significant risk of causing a material adjustment to carrying amounts of assets and liabilities within the next accounting period.

1.4 CHANGES IN AUSTRALIAN ACCOUNTING STANDARDS

Adoption of new Australian Accounting Standard requirements

The Court has elected to early adopt AASB2015-7 which provides relief for not-for-profit public sector entities from making certain specified disclosures about the fair value measurement of assets measured at fair value and categorised within Level 3 of the fair value hierarchy.

All other standards that were issued prior to the sign-off date and are applicable to the current reporting period did not have a material effect, and are not expected to have a future material effect, on the entity's financial statements.

Future Australian Accounting Standard requirements

New standards, amendments to standards, and interpretations that are applicable to future periods have been issued by the Australian Accounting Standards Board.

ACCOUNTING STANDARD	SUMMARY OF CHANGES	EFFECTIVE DATE	POSSIBLE IMPACT
AASB 15 Revenue from Contracts with Customers	AASB 15:- establishes principles for reporting information about the nature, amount, timing and uncertainty of revenue and cash flows arising from an entity's contracts with customers, with revenue recognised as 'performance obligations' are satisfied; and- will apply to contracts of Not For Profit entities that are exchange transactions. AASB 1004 Contributions will continue to apply to non-exchange transactions until the Income for Not For Profit project is completed.	1 Jan 2017	Depending on the nature of the transaction the new Standard may have a significant impact on the timing of the recognition of revenue. Final outcome will need to be considered once the related Income for Not For Profit project is completed.

1.5 REVENUE

Revenue from the sale of goods is recognised when:

a) the risks and rewards of ownership have been transferred to the buyer;

b) the Court retains no managerial involvement or effective control over the goods;

c) the revenue and transaction costs incurred can be reliably measured; and

d) it is probable that the economic benefits associated with the transaction will flow to the Court.

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:

a) The amount of revenue, stage of completion and transaction costs incurred can be reliably measured; and

b) The probable economic benefits associated with the transaction will flow to the Court.

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 balance date. Allowances are made when collection of the debt is no longer probable.

Revenue from Government

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

1.6 GAINS

Resources Received Free of Charge

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

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government entity as a consequence of a restructure of administrative arrangements.

Sale of Assets

Gains from disposal of non-current assets are recognised when control of the asset has passed to the buyer.

1.7 TRANSACTIONS WITH THE GOVERNMENT AS OWNER

Equity Injections

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

Other Distributions to owners

The FRR require that distributions to owners be debited to contributed equity unless it is in the nature of a dividend.

1.8 JUDGE AND EMPLOYEE BENEFITS

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits due within twelve months of balance date are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

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. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of the Court is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that applied at the time the leave is taken. This includes the Court'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 long service leave provision is based on the Court's estimated liability at balance date. Court staff employed under the *Public Service Act 1999* accrue 3 months long service leave after 10 years service, and proportionally thereafter. The estimate of the present liability takes into account attrition rates and pay increases through promotion and inflation. Judges accrue 6 months long leave after 5 years of service. In recognition of the nature of Judges' tenure, a provision is accrued from the first year of service.

Separation and Redundancy

Provision is made for separation and redundancy benefit payments. The Court 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

Staff of the Court are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS) or the PSS accumulation plan (PSSap). Some staff members elect to have contributions made to another superannuation fund of their choice.

The CSS and PSS are defined benefit schemes for the Commonwealth. 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 schedule and notes.

The Court 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 Court accounts for the contributions as if they were contributions to defined contribution plans. For those staff members who have elected to have contributions made to a scheme of their choice, the Court makes payments of at least the amount required under Commonwealth legislation.

The liability for superannuation recognised as at 30 June represents outstanding contributions for the final fortnight of the year.

Judges' Pension

Under the *Judges' Pension Act 1968*, Federal Court Judges are entitled to a non-contributory pension upon retirement after 6 years service. Where entitlements are not available under the Judges Pension Act 1968, entitlements are available under the *Superannuation (Productivity Benefit) Act 1988*. As the liability for these pension payments is assumed by the Australian Government, the Court has not recognised a liability for unfunded superannuation liability. The Court does, however, recognise an expense and a corresponding revenue item, "Liabilities assumed by other agencies", in respect of the notional amount of the employer contributions to Judges' pensions for the reporting period amounting to $12,739,899 (2013-14: $12,567,170). The contribution rate has been provided by the Australian Government Actuary.

1.9 LEASES

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 benefits incidental to ownership of leased non current 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 recognised at the same time and for the same amount.

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

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

1.10 FAIR VALUE MEASUREMENT

The Court deems transfers between levels of the fair value hierarchy to have occurred when advised by an independent valuer of a change in the market for particular items.

1.11 CASH

Cash means notes and coins held and any deposits in bank accounts with an original maturity of 3 months or less that are readily convertible to known amounts of cash and subject to insignificant risk of changes in value. Cash is recognised at its nominal amount.

1.12 FINANCIAL ASSETS

Loans and receivables

Trade receivables, loans and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as 'loans and receivables'. The Court does not have any loans at 30 June 2015. Receivables are recognised at their nominal amount.

Impairment of financial assets

Financial assets are assessed for impairment at each balance date.

- Financial assets carried at cost – If there is objective evidence that an impairment loss has been incurred, the amount of the impairment loss is the difference between the carrying amount of the asset and the present value of the estimated future cash flows discounted at the current market rate for similar assets.

1.13 FINANCIAL LIABILITIES

Supplier and other payables

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

1.14 CONTINGENT LIABILITIES AND CONTINGENT ASSETS

Contingent liabilities and contingent assets are not recognised in the statement of financial position but are reported in the relevant schedules and 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.

1.15 ACQUISITION OF ASSETS

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and revenues 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.

1.16 PROPERTY, PLANT AND EQUIPMENT

Asset Recognition Threshold

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

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

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

Revaluations

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

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

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

Depreciation

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

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

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

	2015	2014
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 are assessed for impairment at 30 June. Where indications of impairment exist, the asset's recoverable amount is estimated and an adjustment made if the asset's recoverable amount is less than its carrying amount.

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

Derecognition

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

1.17 INTANGIBLES

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

Software is amortised on a straight line basis over its anticipated useful life of 5 years (2013-14: 5 years).

All software assets were assessed for indications of impairment at 30 June 2015.

1.18 TAXATION

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

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

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

1.19 RESOURCES PROVIDED FREE OF CHARGE

For the period 1 July 2014 to 30 June 2015, the Court provided $9,865,653 worth of resources free of charge to the Federal Circuit Court. (2014: $9,770,598).

1.20 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 below, administered items are accounted for on the same basis and using the same policies as the Court, including the application of Australian Accounting Standards.

Administered Cash Transfers to and from Official Public Account (OPA)

Revenue collected by the Court for use by the Government rather than the Court 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 Court on behalf of the Government and reported as such in the schedule of administered cash flows and in the administered reconciliation schedule.

Revenue

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

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

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

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

NOTE 2: 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 Court.

ADMINISTERED

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

NOTE 3: NET CASH APPROPRIATION ARRANGEMENTS

	2015 $'000	2014 $'000
Total comprehensive income (loss) less depreciation / amortisation expenses previously funded through revenue appropriations[1]	**479**	7,052
Plus: depreciation/ amortisation expenses previously funded through revenue appropriation	**(4,702)**	(4,691)
Total comprehensive income (loss) as per the Statement of Comprehensive Income	**(4,223)**	2,361

1. From 2010-11, the Government introduced net cash appropriation arrangements, where revenue appropriations for depreciation/amortisation expenses ceased. Entities now receive a separate capital budget provided through equity appropriations. Capital budgets are to be appropriated in the period when cash payment for capital expenditure is required.

NOTE 4: EXPENSES

NOTE 4A: JUDGE AND EMPLOYEE BENEFITS

	2015 $'000	2014 $'000
Judge remuneration	**20,626**	21,538
Judge notional superannuation	**12,740**	12,567
	33 ,366	34,105
Employee wage & salaries	**34,753**	35,419
Employee superannuation	**5,664**	6,099
Leave and other entitlements	**3,699**	3,436
Employee separation and redundancies	**846**	1,069
	44,962	46,023
Total judge and employee benefits	**78,328**	80,128

NOTE 4B: SUPPLIERS

	2015 $'000	2014 $'000
Goods and services supplied or rendered		
Property operating costs	**2,352**	2,506
Library purchases	**4,180**	4,080
Information technology expenditure	**4,472**	4,003
Travel expenditure	**3,698**	3,553
Contractors and consultants	**3,399**	2,524
Other goods and services	**4,186**	3,875
Total goods and services supplied or rendered	**22,287**	20,541
Goods and services supplied or rendered in connection with		
Provision of goods - external parties	**2,975**	2,777
Rendering of services - related entities	**1,001**	1,482
Rendering of services - external parties	**18,311**	16,282
Total goods and services supplied or rendered	**22,287**	20,541
Other suppliers		
Operating lease rentals in connection with external parties:		
Minimum lease payments	**26,270**	26,715
Workers compensation premiums	**571**	474
Total other supplier expenses	26,841	27,189
Total supplier expenses	49,128	47,730

NOTE 4C: DEPRECIATION AND AMORTISATION

	2015 $'000	2014 $'000
Depreciation:		
Buildings	**1,623**	2,022
Property, plant and equipment	**1,425**	1,588
Total depreciation	**3,048**	3,610
Amortisation:		
Intangibles	**1,314**	692
Leased plant and equipment	**340**	389
Total amortisation	**1,654**	1,081
Total depreciation and amortisation	**4,702**	4,691

NOTE 4D: FINANCE COSTS

	2015 $'000	2014 $'000
Finance leases	**17**	45
Total finance costs	**17**	45

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

NOTE 4E: WRITE-DOWN AND IMPAIRMENT OF ASSETS

	2015 $'000	2014 $'000
Financial assets		
Impairment on financial instruments	**3**	4
Non-financial assets		
Impairment of property, plant & equipment	**658**	109
Revaluation decrements		
Property, plant and equipment	**–**	20
Total write-down and impairment of assets	**661**	133

NOTE 5: OWN-SOURCE INCOME

Own-Source Revenue

NOTE 5A: SALE OF GOODS AND RENDERING OF SERVICES

	2015 $'000	2014 $'000
Rendering of services in connection with		
Related parties	**852**	863
External parties	**2,471**	2,810
Total sale of goods and rendering of services	**3,323**	3,673

Gains

NOTE 5B: OTHER GAINS

	2015 $'000	2014 $'000
Liabilities assumed by other agencies	**12,740**	12,567
Resources received free of charge	**20,128**	20,145
	32,868	32,712

Resources received free of charge includes an amount of $9,291,420 (2013-14: $9,291,420) in respect of rent and outgoings associated with the accommodation occupied by the Court in the Law Courts Building located in Sydney, New South Wales. This building is owned by Law Courts Limited, a joint venture between the NSW State and Commonwealth Governments.

It also includes an amount in respect of rent and outgoings for Commonwealth Law Courts Buildings throughout Australia. The Court receives free rental and some outgoings for areas in Commonwealth Law Courts Buildings occupied by court rooms and judicial accommodation. These resources are provided by the Department of Finance. This arrangement commenced on 1 July 2012.

An amount of $104,000 for audit services provided by the Australian National Audit Office is also included.

NOTE 5C: REVENUE FROM GOVERNMENT

	2015 $'000	2014 $'000
Appropriations:		
Departmental appropriations	**92,419**	93,213
Total revenue from Government	**92,419**	93,213

NOTE 6: FAIR VALUE MEASUREMENTS

The following tables provide an analysis of assets and liabilities that are measured at fair value. The different levels of the 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.

NOTE 6A: FAIR VALUE MEASUREMENTS

		FAIR VALUE MEASUREMENTS AT THE END OF THE REPORTING PERIOD USING		
	FAIR VALUE $000	LEVEL 1 INPUTS $000	LEVEL 2 INPUTS $000	LEVEL 3 INPUTS $000
Leasehold Improvements	**15,007**	**–**	**–**	15,007
Plant and Equipment	**7,022**	**–**	**4,035**	2,987
	22,029	**–**	**4,035**	17,994

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.

There have been no transfers between the levels of the hierarchy during the year. The Court's policy for determining when transfers between levels are deemed to have occurred can be found in note 1.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

NOTE 7: FINANCIAL ASSETS

NOTE 7A: CASH AND CASH EQUIVALENTS

	2015 $'000	2014 $'000
Cash on hand or on deposit	**603**	576
Total cash and cash equivalents	**603**	576

NOTE 7B: TRADE AND OTHER RECEIVABLES

	2015 $'000	2014 $'000
Goods and services receivables in connection with		
Related parties	**45**	–
External parties	**358**	765
Total goods and services receivable	**403**	765
Appropriations receivable		
Existing programs - operating	**47,236**	43,959
Existing programs - capital	**1,315**	755
Total appropriations receivable	**48,551**	44,714
Other receivables		
GST receivable from the Australian Taxation Office	**397**	911
Total other receivables	**397**	911
Total trade and other receivables (gross)	**49,351**	46,390
Less impairment allowance		
Goods and services	**3**	3
Total impairment allowance	**3**	3
Total trade and other receivables (net)	**49,348**	46,387
Receivables are aged as follows:		
Not overdue		
Overdue by:	**49,339**	46,370
Less than 30 days	**–**	2
31 to 60 days	**5**	2
61 to 90 days	**1**	1
More than 90 days	**6**	15
Total receivables (gross)	**49,351**	46,390
Total other receivables	**397**	911

All receivables are expected to be recovered within 12 months. Credit terms are net 30 days (2014: 30 days).

Reconciliation of the impairment allowance account:		
Opening balance	**3**	3
Amounts written off	**–**	(3)
Increase recognised in net surplus	**–**	3
Closing balance	**3**	3

The impairment allowance is all aged over 90 days.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

NOTE 8: NON-FINANCIAL ASSETS

NOTE 8A: LAND AND BUILDINGS

	2015 $'000	2014 $'000
Leasehold improvements		
Fair value	**16,403**	16,523
Accumulated depreciation	**(1,396)**	(203)
Total leasehold improvements	**15,007**	16,320
Total land and buildings	**15,007**	16,320

No indications of impairment were found for land and buildings

NOTE 8B: PROPERTY, PLANT AND EQUIPMENT

	2015 $'000	2014 $'000
Property, plant and equipment		
Fair value	**10,193**	8,948
Accumulated depreciation	**(3,171)**	(1,459)
Total property, plant and equipment	**7,022**	7,489
Total property, plant and equipment	**7,022**	7,489

All revaluations are conducted in accordance with the valuation policy stated in Note 1. In 2013-14, formal valuations were conducted by an independent valuer, Australian Valuation Solutions.

No indications of impairment were found for infrastructure, plant and equipment.

NOTE 8C: INTANGIBLE ASSETS

	2015 $'000	2014 $'000
Computer software at cost		
Internally developed – in progress	**135**	3,026
Internally developed – in use	**5,848**	2,763
Purchased – in use	**1,854**	1,680
Accumulated amortisation	**(3,899)**	(2,586)
Total intangibles	**3,938**	4,883

No indication of impairment was found for intangibles.

NOTE 8D: ANALYSIS OF INFRASTRUCTURE, PROPERTY, PLANT, AND EQUIPMENT

TABLE A – Reconciliation of the opening and closing balances of property, plant, and equipment (2014-15)

ITEM	LEASEHOLD IMPROVEMENT – TOTAL LAND AND BUILDINGS $'000	INFRASTRUCTURE, PLANT AND EQUIPMENT $'000	COMPUTER SOFTWARE – INTANGIBLES $'000	TOTAL $'000
As at 1 July 2014				
Gross book value	**16,523**	**8,948**	**7,469**	**32,940**
Accumulated depreciation/amortisation	**(203)**	**(1,459)**	**(2,586)**	**(4,248)**
Net book value 1 July 2013	**16,320**	**7,489**	**4,883**	**28,692**
Additions:				
Purchase	**932**	**1,335**	**369**	**2,636**
Impairments recognised in net cost of services	**(622)**	**(36)**	**–**	**(658)**
Depreciation/amortisation expense	**(1,623)**	**(1,765)**	**(1,314)**	**(4,702)**
Disposals:				
Other disposals	**–**	**(1)**	**–**	**(1)**
Net Book value 30 June 2015	**15,007**	**7,022**	**3,938**	**25,967**
Net book value as of 30 June 2015 represented by:				
Gross book value	**16,403**	**10,193**	**7,837**	**34,433**
Accumulated depreciation/amortisation	**(1,396)**	**(3,171)**	**(3,899)**	**(8,466)**
	15,007	**7,022**	**3,938**	**25,967**

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

TABLE A – Reconciliation of the opening and closing balances of property, plant, and equipment (2013-14)

ITEM	LEASEHOLD IMPROVEMENT – TOTAL LAND AND BUILDINGS $'000	PROPERTY, PLANT AND EQUIPMENT $'000	COMPUTER SOFTWARE – INTANGIBLES $'000	TOTAL $'000
As at 1 July 2013				
Gross book value	16,064	11,396	4,745	32,205
Accumulated depreciation/amortisation	(4,065)	(3,430)	(1,894)	(9,389)
Net book value 1 July 2013	**11,999**	**7,966**	**2,851**	**22,816**
Additions:				
By purchase	1,555	927	2,724	5,206
Revaluations recognised in comprehensive income	4,822	668	–	5,490
Revaluations recognised in net cost of services	–	(20)	–	(0)
Impairments recognised in net cost of services	(34)	(75)	–	(109)
Depreciation/amortisation expense	(2,022)	(1,977)	(692)	(4,691)
Disposals:				
Other disposals	–	(42)	–	(42)
Net Book value 30 June 2014	**16,320**	**7,489**	**4,883**	**28,692**
Net book value as of 30 June 2014 represented by:				
Gross book value	16,523	8,948	7,469	32,940
Accumulated depreciation/amortisation	(203)	(1,459)	(2,586)	(4,248)
	16,320	**7,489**	**4,883**	**28,692**

NOTE 8E: OTHER NON-FINANCIAL ASSETS

	2015 $'000	2014 $'000
Prepayments	**1,159**	956
Total other non-financial assets	**1,159**	956
Total other non-financial assets are expected to be recovered in:		
No more than 12 months	**1,154**	941
More than 12 months	**5**	15
Total other non-financial assets	**1,159**	956

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

NOTE 9: PAYABLES

NOTE 9A: SUPPLIERS

	2015 $'000	2014 $'000
Operating Lease Rentals	**29**	–
Trade creditors and accruals	**2,041**	1,407
Total supplier payables	**2,070**	1,407

All supplier payables are expected to be settled within 12 months.
All supplier payables are in connection with external parties.
Settlement is usually made net 30 days.

NOTE 9B: OTHER PAYABLES

	2015 $'000	2014 $'000
Salaries and wages	**1,302**	1,371
Unearned Income	**99**	75
Separation and redundancies	**19**	274
Superannuation	**1,035**	1,052
Total other payables	**2,455**	2,772

All other payables are expected to be settled within 12 months.

NOTE 10: INTEREST BEARING LIABILITIES

NOTE 10: LEASES

	2015 $'000	2014 $'000
Finance leases	**42**	409
Total finance leases	**42**	409
Leases expected to be settled		
Within one year:		
Minimum lease payments	**42**	385
Deduct: future finance charges	**–**	(17)
Between one and five years:		
Minimum lease payments	**–**	42
Deduct: future finance charges	**–**	(1)
Finance leases recognised on the balance sheet	**42**	409

All other payables are expected to be settled within 12 months.

Finance leases are for certain IT equipment assets and some office equipment. The leases are non-cancellable and for fixed terms averaging four years, with a maximum of five years. The interest rate implicit in the leases averaged 4.22% (2014: 4.31%). The leased assets secure the lease liabilities. The Court guarantees the residual values of all assets leased. There are no contingent rentals.

NOTE 11: PROVISIONS

NOTE 11A: JUDGE & EMPLOYEE PROVISIONS

	2015 $'000	2014 $'000
Long Leave (Judges)	**10,919**	10,033
Leave	**9,695**	10,028
Total judge and employee provisions	**20,614**	20,061
Employee provisions are expected to be settled in:		
No more than 12 months	**5,221**	4,913
More than 12 months	**15,393**	15,148
Total judge and employee provisions	**20,614**	20,061

NOTE 11B: OTHER PROVISIONS

	2015 $'000	2014 $'000
Provision for restoration	**84**	254
Total other provisions	**84**	254
Other provisions are expected to be settled in:		
No more than 12 months	**84**	170
More than 12 months	**–**	84
Total other	**84**	254
Provision for Restoration		
Carrying Amount 1 July	**254**	252
Additional Provisions Made	**–**	2
Amounts Used	**(170)**	–
Closing Balance 30 June	**84**	254

The Court has made provision to restore leased premises in Cairns to its original state at the end of the lease periods.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

NOTE 12: CASH FLOW RECONCILIATION

	2015 $'000	2014 $'000
Reconciliation of cash and cash equivalents as per Statement of Financial Position to Cash Flow Statement		
Report cash and cash equivalents as per:		
Cash Flow Statement	**603**	576
Statement of Financial Position	**603**	576
Difference	–	–
Reconciliation of net cost of services to net cash from operating activities		
Net (cost of) services	**(96,642)**	(96,342)
Revenue from Government	**92,419**	93,213
Adjustments for non-cash items		
Depreciation/amortisation	**4,702**	4,691
Net write down of non-financial assets	**658**	129
Gain on disposal of assets	**(3)**	–
Movements in assets and liabilities		
Assets		
(Increase) in net operating receivables	**(2,405)**	(516)
(Increase) in prepayments	**(204)**	(434)
Liabilities		
Increase/(decrease) in suppliers payables	**663**	(488)
Increase/ (decrease) in judge and employee provisions	**553**	151
Increase/(decrease) in other provisions	**(170)**	2
Increase/(decrease) in other payables	**(316)**	503
Net cash from/(used by) operating activities	**(745)**	909

NOTE 13: SENIOR MANAGEMENT PERSONNEL REMUNERATION

NOTE 13A: SENIOR EXECUTIVE REMUNERATION EXPENSE FOR THE REPORTING PERIOD

	2015 $'000	2014 $'000
Short term employee benefits:		
Salary (including annual leave taken)	**2,746,588**	2,587,063
Performance bonus		27,500
Motor vehicle and other allowances	**274,998**	238,482
Total Short-term employee benefits	**3,021,586**	2,853,045
Post-employment benefits:		
Superannuation	**471,057**	415,163
Total Post-employment benefits	**471,057**	415,163
Other long term employee benefits		
Annual leave	**231,903**	217,646
Long service leave	**74,622**	71,304
Total other long term benefits	**306,525**	288,950
Termination benefits		
Redundancy payments	**148,840**	–
Total Termination Benefits	**148,840**	–
Total senior executive remuneration expenses	**3,948,008**	3,557,158

The total number of senior management personnel that are included in the above table are 16 (2014: 13)

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

NOTE 14: FINANCIAL INSTRUMENTS

NOTE 14A CATEGORIES OF FINANCIAL INSTRUMENTS

	2015 $'000	2014 $'000
Loans and receivables		
Loans and receivables		
Cash on hand or on deposit	**603**	576
Trade receivables	**403**	762
Carrying amount of financial assets	**1,006**	1,338
Financial Liabilities		
At amortised cost:		
Finance leases	**42**	409
Trade creditors	**2,070**	1,407
Carrying amount of financial liabilities	**2,112**	1,816

NOTE 14B FAIR VALUE OF FINANCIAL INSTRUMENTS

ITEM	CARRYING AMOUNT 2015 $'000	FAIR VALUE 2015 $'000	CARRYING AMOUNT 2014 $'000	FAIR VALUE 2014 $'000
FINANCIAL LIABILITIES				
Other Liabilities				
Finance leases	**42**	**42**	409	409
Total	**42**	**42**	409	409

Fair value for Finance leases which was determined for disclosure purposes was calculated based on the present value of future principal and interest cash flows, discounted at 4.22% at the reporting date. (2014: 4.31%)

NOTE 14C NET GAINS OR LOSSES ON FINANCIAL LIABILITIES

	2015 $'000	2014 $'000
Loans and receivables		
Interest expense	**17**	45
Net losses on financial liabilities measured at amortised cost	**17**	45

NOTE 14D CREDIT RISK

The Court is exposed to minimal credit risk as loans and receivables are cash and trade receivables. The maximum exposure to credit risk is the risk that arises from potential default of a debtor. This amount is equal to the total amount of trade receivables (2015: $406,000 and 2014: $765,000). The Court has assessed the risk of default on payment and has allocated $3,000 in 2015 (2013: $3,000) to an impairment allowance account.

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

The Court holds no collateral to mitigate credit risk.

CREDIT QUALITY OF FINANCIAL INSTRUMENTS NOT PAST DUE OR INDIVIDUALLY DETERMINED AS IMPAIRED.

	NOT PAST DUE NOR IMPAIRED 2015 $'000	NOT PAST DUE NOR IMPAIRED 2014 $'000	NOT PAST DUE NOR IMPAIRED 2015 $'000	NOT PAST DUE NOR IMPAIRED 2014 $'000
Loans and receivables				
Cash	**603**	576	**–**	**–**
Trade receivables	**391**	745	**12**	20
Total	**994**	1,321	**12**	20

Ageing of financial assets that are past due but not impaired for 2015

	0 TO 30 DAYS $'000	31 TO 60 DAYS $'000	61 TO 90 DAYS $'000	90+ DAYS $'000	TOTAL $'000
Loans and receivables					
Trade receivables	–	5	1	3	**9**
Total	**–**	**5**	**1**	**3**	**9**

All amounts assessed as impaired are aged greater than 90 days.

Ageing of financial assets that are past due but not impaired for 2014

	0 TO 30 DAYS $'000	31 TO 60 DAYS $'000	61 TO 90 DAYS $'000	90+ DAYS $'000	TOTAL $'000
Loans and receivables					
Trade receivables	2	2	1	12	**17**
Total	**2**	**2**	**1**	**12**	**17**

NOTE 14E LIQUIDITY RISK

The Court's financial liabilities are payables, loans from government, finance leases and other interest bearing liabilities. The exposure to liquidity risk is based on the notion that the Court will encounter difficulty in meeting its obligations associated with financial liabilities. This is highly unlikely as the Court is appropriated funding from the Australian Government and the Court manages its budgeted funds to ensure it has adequate funds to meet payments as they fall due. In addition, the Court has policies in place to ensure timely payments were made when due and has no past experience of default.

MATURITIES FOR NON-DERIVATIVE FINANCIAL LIABILITIES 2015.

	WITHIN 1 YEAR 2015 $'000	1 TO 5 YEARS 2015 $'000	TOTAL 2015 $'000
Other liabilities			
Payables – Suppliers	**2,070**		**2,070**
Finance leases	**42**	**–**	**42**
Total	**2,112**	**–**	**2,112**

MATURITIES FOR NON-DERIVATIVE FINANCIAL LIABILITIES 2014

	WITHIN 1 YEAR 2015 $'000	1 TO 5 YEARS 2015 $'000	TOTAL 2015 $'000
Other liabilities			
Payables - Suppliers	1,407	–	1,407
Finance leases	367	42	409
Total	**1,774**	**42**	**1,816**

Interest Rate Risk

The only interest-bearing item on the statement of financial position is the 'Finance lease'. All bear interest at a fixed interest rate and will not fluctuate due to changes in the market interest rate.

NOTE 15: FINANCIAL ASSETS RECONCILIATION

	2015 $'000	2014 $'000
Total financial assets as per statement of financial position	**49,951**	46,963
Less: non-financial instrument components		
Appropriations receivable	**48,551**	44,714
GST receivable	**396**	911
Carrying amount of financial assets	**48,948**	45,625
Total financial assets as per financial instruments note	**1,003**	1,338

NOTE 16: ADMINISTERED – EXPENSES

	2015 $'000	2014 $'000
Expenses		
Refund of Court Fees and fines	**568**	411
Fees and fines – write down	**10**	188
Fees and fines – provision for doubtful debts	**390**	238
Total expenses administered on behalf of government	**968**	837

NOTE 17: ADMINISTERED - INCOME

	2015 $'000	2014 $'000
Non-Taxation revenue		
Fees (filing and hearing fees)	**17,158**	19,135
Fines	**486**	739
Other	**102**	195
Total revenue administered on behalf of government	**17,746**	20,069

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

NOTE 18: ADMINISTERED – FINANCIAL ASSETS

NOTE 18A: CASH AND CASH EQUIVALENTS

	2015 $'000	2014 $'000
Cash on hand or on deposit	**59**	29
Total cash and cash equivalents	**59**	29

NOTE 18B: RECEIVABLES

	2015 $'000	2014 $'000
Fees (filing and hearing fees)	**3,336**	2,190
Less: Impairment allowance account	**(498)**	(264)
Total receivables (net)	**2,838**	1,926
All receivables are expected to be recovered within 12 months.		
Receivables are aged as follows:		
Not overdue	**1,114**	520
Overdue by:		
- Less than 30 days	**1,000**	628
- 30 to 60 days	**313**	256
- 60 to 90 days	**235**	100
- More than 90 days	**674**	686
Total receivables (gross)	**3,336**	2,190

The total of the impairment allowance is aged over 90 days.

Receivables are with entities external to the Australian Government. Credit terms are net 30 days (2014: 30 days).

	2015 $'000	2014 $'000
Reconciliation of the impairment allowance account:		
Opening balance	**264**	80
Increase/decrease recognised in net cost of services	**405**	238
Amounts recovered and reversed	**(16)**	–
Amounts written off	**(155)**	(54)
Closing balance	**498**	264

NOTE 19: ADMINISTERED – PAYABLES

NOTE 19A: SUPPLIERS

	2015 $'000	2014 $'000
Other payables	**1,168**	132
Total suppliers	**1,168**	132

NOTE 20: ADMINISTERED – CASH FLOW RECONCILIATION

	2015 $'000	2014 $'000
Reconciliation of cash and cash equivalents as per Administered Schedule of assets and liabilities to administered cash flow statement		
Cash and cash equivalents as per:		
Schedule of administered cash flows	**59**	29
Schedule of administered assets and liabilities	**59**	29
Difference	**–**	–
Reconciliation of net cost of services to net cash from operating activities:		
Net contribution by services	**16,778**	19,232
Changes in assets/liabilities		
(Increase)/decrease in net receivables	**(912)**	977
Increase/(decrease) in payables	**1,036**	(172)
Net cash from operating activities	**16,902**	20,037

NOTE 21: ADMINISTERED FINANCIAL INSTRUMENTS

NOTE 21A CATEGORIES OF FINANCIAL INSTRUMENTS

	2015 $'000	2014 $'000
Financial assets		
Loans and receivables		
Cash	**59**	29
Trade receivables	**2,838**	1,926
Carrying amount of financial assets	**2,897**	1,955

NOTE 21B CREDIT RISK

The administered activities of the Court are not exposed to a high level of credit risk as the majority of financial assets are receivables. The Court has policies and procedures that guide employees who perform debt recovery functions.

The maximum exposure to credit risk is outlined in the table below

	2015 $'000	2014 $'000
Financial assets		
Loans and receivables		
Receivables	**3,336**	2,190
Total	**3,336**	2,190

The Court has assessed the risk of default on payment and has allocated $498,000 to an allowance for doubtful debts account. (2014: $264,000)

CREDIT QUALITY OF FINANCIAL INSTRUMENTS NOT PAST DUE OR INDIVIDUALLY DETERMINED AS IMPAIRED.

	NOT PAST DUE NOR IMPAIRED 2015 $'000	NOT PAST DUE NOR IMPAIRED 2014 $'000	NOT PAST DUE NOR IMPAIRED 2015 $'000	NOT PAST DUE NOR IMPAIRED 2014 $'000
Loans and receivables				
Cash	**59**	29	**–**	–
Trade receivables	**1,114**	520	**2,222**	1,670
Total	**1,173**	549	**2,222**	1,670

Ageing of financial assets that are past due but not impaired for 2015

	0 TO 30 DAYS $'000	31 TO 60 DAYS $'000	61 TO 90 DAYS $'000	90+ DAYS $'000	TOTAL $'000
Loans and receivables					
Receivables	1,000	313	235	176	**1,724**
Total	1,000	313	235	176	**1,724**

All amounts assessed as impaired are aged greater than 90 days.

Ageing of financial assets that are past due but not impaired for 2014

	0 TO 30 DAYS $'000	31 TO 60 DAYS $'000	61 TO 90 DAYS $'000	90+ DAYS $'000	TOTAL $'000
Loans and receivables					
Receivables	628	256	100	422	**1,406**
Total	628	256	100	422	**1,406**

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

NOTE 22: ADMINISTERED FINANCIAL ASSETS RECONCILIATION

	2015 $'000	2014 $'000
Total financial assets as per administered schedule of assets and liabilities	**2,897**	1,955
Less: non-financial instrument components	**–**	–
Carrying amount of financial assets	**2,897**	1,955
Total financial assets as per financial instruments note	**2,897**	1,955

NOTE 23: APPROPRIATIONS

NOTE 23A: ANNUAL APPROPRIATIONS ('RECOVERABLE GST EXCLUSIVE')

ANNUAL APPROPRIATIONS FOR 2015

	APPROPRIATION ACT		PGPA ACT				
	ANNUAL APPROPRIATION $'000	APPROPRIATIONS REDUCED [A]	SECTION 30 $'000	SECTION 31 $'000	TOTAL APPROPRIATION $'000	APPROPRIATION APPLIED IN 2015 (CURRENT AND PRIOR YEARS) $'000	VARIANCE $'000
DEPARTMENTAL							
Ordinary Annual Services	96,746	–	3,412	–	100,158	(97,313)	2,845
Total departmental	**96,746**	**–**	**3,412**	**–**	**100,158**	**(97,313)**	**2,845**

Notes:
(a): Appropriations reduced under Appropriation Act (No 1) 2014-15: section 10. Departmental appropriations do not lapse at year end. However, the responsible minister may decide that part or all of an appropriation is not required and request that the Finance Minister reduce that appropriation. The reduction in the appropriation is effected by the Finance Minister's determination and is disallowable by Parliament.

ANNUAL APPROPRIATIONS FOR 2014

	APPROPRIATION ACT		FMA ACT				
	ANNUAL APPROPRIATION $'000	APPROPRIATIONS REDUCED [A]	SECTION 30 $'000	SECTION 31 $'000	TOTAL APPROPRIATION $'000	APPROPRIATION APPLIED IN 2013 (CURRENT AND PRIOR YEARS) $'000	VARIANCE $'000
DEPARTMENTAL							
Ordinary Annual Services	96,379	–	35	3,272	99,686	(101,004)	(1,318)
Other Services							
Equity	–	–	–	–		–	
Total departmental	**96,379**	**–**	**35**	**3,272**	**99,686**	**(101,004)**	**(1,318)**

Notes:
(a): Appropriations reduced under Appropriation Act (No 1) 2012-13: section 10. Departmental appropriations do not lapse at year end. However, the responsible minister may decide that part or all of an appropriation is not required and request that the Finance Minister reduce that appropriation. The reduction in the appropriation is effected by the Finance Minister's determination and is disallowable by Parliament.

NOTE 23B: DEPARTMENTAL CAPITAL BUDGETS ('RECOVERABLE GST EXCLUSIVE')

	2015 CAPITAL BUDGET APPROPRIATIONS			CAPITAL BUDGET APPROPRIATIONS APPLIED IN 2015 (CURRENT AND PRIOR YEARS)	
	APPROPRIATION ACT			$'000	
	ANNUAL CAPITAL BUDGET $'000	APPROPRIATIONS REDUCED	TOTAL CAPITAL BUDGET APPROPRIATION $'000	PAYMENTS FOR NON-FINANCIAL ASSETS[2] $'000	VARIANCE $'000
DEPARTMENTAL					
Ordinary Annual Services Departmental Capital Budget[1]	**4,327**	**–**	**4,327**	**(2,998)**	**1,329**

Notes:
1. Departmental Capital Budgets are appropriated through Appropriation Acts (No. 1,3,5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts. For more information on ordinary annual services appropriations, please see Table A: Annual appropriations.

2. Payments made on non-financial assets include purchase of assets, expenditure on assets which have been capitalised, and the capital repayment component of finance leases.

	2014 CAPITAL BUDGET APPROPRIATIONS			CAPITAL BUDGET APPROPRIATIONS APPLIED IN 2013 (CURRENT AND PRIOR YEARS)	
	APPROPRIATION ACT			$'000	
	ANNUAL CAPITAL BUDGET $'000	APPROPRIATIONS REDUCED	TOTAL CAPITAL BUDGET APPROPRIATION $'000	PAYMENTS FOR NON-FINANCIAL ASSETS[2] $'000	VARIANCE $'000
DEPARTMENTAL					
Ordinary Annual Services Departmental Capital Budget[1]	3,166	–	3,166	(5,609)	(2,443)

Notes:
1 Departmental Capital Budgets are appropriated through Appropriation Acts (No. 1,3,5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts. For more information on ordinary annual services appropriations, please see Table A: Annual appropriations.

2. Payments made on non-financial assets include purchase of assets, expenditure on assets which have been capitalised, and the capital repayment component of finance leases.

NOTE 23C: UNSPENT DEPARTMENTAL ANNUAL APPROPRIATIONS ('RECOVERABLE GST EXCLUSIVE')

AUTHORITY	2015 $'000	2014 $'000
Appropriation Act (No 2) 2012-13	**4**	19
Appropriation Act (No 1) 2013-14	**–**	44,904
Appropriation Act (No 3) 2013-14	**–**	367
Appropriation Act (No 1) 2014-15	**48,547**	–
Cash at bank	**603**	576
Total	**49,114**	45,866

NOTE 24: SPECIAL ACCOUNTS

NOTE 24A: SPECIAL ACCOUNTS (RECOVERABLE GST EXCLUSIVE)

	SERVICES FOR OTHER ENTITIES AND TRUST MONEYS SPECIAL ACCOUNT[1]		FEDERAL COURT OF AUSTRALIA LITIGANTS FUND[2]	
	2015 $'000	2014 $'000	2015 $'000	2014 $'000
Balance brought forward from previous period	**–**	48	**22,853**	37,952
Increases:				
Other receipts	**46**	402	**10,152**	38,207
Total increases	**46**	402	**10,152**	38,207
Available for payments	**46**	450	**33,005**	76,159
Decreases:				
Payments made to others	**46**	450	**18,451**	53,306
Total decreases	**46**	450	**18,451**	53,306
Total balance carried to the next period	**–**	–	**14,554**	22,853

1. Appropriation: *Public Governance, Performance and Accountability Act, 2013*, section 78
   Establishing Instrument: FMA Determination 2012/11
   Purpose: To disburse amounts held on trust or otherwise for the benefit of a person other than the Commonwealth.
2. Appropriation: *Public Governance, Performance and Accountability Act, 2013*, section 78
   Establishing Instrument: FMA determination 2004/07
   Purpose: The purposes of the Federal Court of Australia Litigant's Fund Special Account, in relation to which amounts may be debited from the Special Account are:

a) In accordance with:
(i) An order of the Federal Court of Australia or a Judge of that Court under Rule 2.43 of the Federal Court Rules; or
(ii) A direction of a Registrar under that Order; and
b) In any other case in accordance with the order of the Federal Court of Australia or a Judge of that Court.

NOTE 25: REPORTING OF OUTCOMES

NOTE 25A: NET COST OF OUTCOME DELIVERY

The Court has one Output and Outcome:

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

	OUTCOME 1	
OUTCOME 1	2015 $'000	2014 $'000
Departmental		
Expenses	**132,825**	132,727
Own-source Income	**36,194**	36,385
Administered		
Expenses	**968**	837
Income	**17,746**	20,069
Net cost/(contribution) of outcome delivery	**79,853**	77,110

NOTE 26: BUDGETARY REPORTS AND EXPLANATIONS OF MAJOR VARIANCES

The following tables provide a comparison of the original budget as presented in the 2014-15 Portfolio Budget Statements (PBS) to the 2014-15 final outcome as presented in accordance with Australian According Standards for the entity. The Budget is not audited.

NOTE 26A DEPARTMENTAL BUDGETARY REPORTS

STATEMENT OF COMPREHENSIVE INCOME FOR THE PERIOD ENDED 30 JUNE 2015

	ACTUAL $'000	BUDGET ESTIMATE $'000	VARIANCE $'000
NET COST OF SERVICES			
Expenses			
Judge benefits	**33,366**	34,656	(1,190)
Employee benefits	**44,962**	46,546	(1,584)
Suppliers	**49,127**	46,930	2,197
Depreciation and amortisation	**4,702**	4,696	6
Finance costs	**17**	17	–
Write-down and impairment of assets	**661**	–	661
Total expenses	**132,836**	132,845	9
Own-Source Income			
Own-source revenue			
Sale of goods and rendering of services	**3,323**	2,733	590
Total own-source revenue	**3,323**	2,733	590
Gains			
Gain from sale of assets	**3**	–	3
Other gains	**32,868**	32,997	(129)
Total gains	**32,871**	32,997	(126)
Total own-source income	**36,194**	35,730	464
Net cost of services	**(96,642)**	(97,115)	473
Revenue from Government	92,419	92,419	–
(Deficit)	(4,223)	(4,696)	473
OTHER COMPREHENSIVE INCOME			
Items not subject to subsequent reclassification to net cost of services			
Changes in asset revaluation surplus	–	–	–
Total other comprehensive income	**–**	–	–
Total comprehensive income	**(4,223)**	(4,696)	473

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

STATEMENT OF STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2015

This statement should be read in conjunction with the accompanying notes

	ACTUAL $'000	BUDGET ESTIMATE $'000	VARIANCE $'000
ASSETS			
Financial Assets			
Cash and cash equivalents	**603**	**279**	324
Trade and other receivables	**49,348**	48,306	1,042
Total financial assets	**49,951**	48,585	1,366
Non-Financial Assets			
Land and buildings	**15,007**	10,350	4,657
Property, plant and equipment	**7,022**	5,856	1,166
Intangibles	**3,938**	4,153	(219)
Other non-financial assets	**1,159**	625	534
Total non-financial assets	**27,126**	20,984	6,142
Total Assets	**77,077**	69,569	7,508
LIABILITIES			
Payables			
Suppliers	**2,070**	1,895	175
Other Payables	**2,455**	–	2,455
Total payables	**4,525**	1,895	2,630
Interest Bearing Liabilities			
Leases	**42**	59	(17)
Total interest bearing liabilities	**42**	59	(17)
Provisions			
Judge and employee provisions	**20,614**	22,104	(1,490)
Other provisions	**84**	471	(387)
Total provisions	**20,698**	22,575	(1,877)
Total Liabilities	**25,265**	24,529	736
Net Assets	**51,812**	45,040	6,772
EQUITY			
Contributed equity	**42,861**	42,861	–
Reserves	**7,074**	1,584	5,490
Retained surplus	**1,877**	595	1,282
Total Equity	**51,812**	45,040	6,772

STATEMENT OF CHANGES IN EQUITY FOR THE PERIOD ENDED 30 JUNE 2015

	RETAINED EARNINGS			ASSET REVALUATION SURPLUS			CONTRIBUTED EQUITY/ CAPITAL			TOTAL EQUITY		
	ACTUAL $'000	BUDGET ESTIMATE $'000	VARIANCE	ACTUAL $'000	BUDGET ESTIMATE $'000	VARIANCE	ACTUAL $'000	BUDGET ESTIMATE $'000	VARIANCE	ACTUAL $'000	BUDGET ESTIMATE $'000	VARIANCE
Opening balance	**6,100**	5,291	809	**7,074**	1,584	5,490	**38,534**	38,534	–	**51,708**	45,409	**6,299**
Comprehensive Income												
Other Comprehensive Income	–	–		–	–		–	–		–	–	
(Deficit) for period	**(4,223)**	(4,696)	**473**							**(4,223)**	(4,696)	**473**
Total comprehensive income	**(4,223)**	(4,696)	**473**							**(4,223)**	(4,696)	**473**
Transactions with owners												
Contributions by owners												
Departmental Capital Budget							4,327	4,327		4,327	4,327	–
Total transactions with owners	–	–		–	–		**4,327**	4,327	–	**4,327**	4,327	–
Closing balance as at 30 June	**1,877**	595	**1,282**	**7,074**	1,584	**5,490**	**42,861**	42,861	–	**51,812**	45,040	**6,772**
Closing balance attributable to the Australian Government	**1,877**	595	**1,282**	**7,074**	1,584	**5,490**	**42,861**	42,861	–	**51,812**	45,040	**6,772**

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

CASH FLOW STATEMENT FOR THE PERIOD ENDED 30 JUNE 2015

	ACTUAL $'000	BUDGET ESTIMATE $'000	VARIANCE $'000
OPERATING ACTIVITIES			
Cash received			
Appropriations	**92,442**	**92,280**	162
Sale of goods and rendering of services	**3,408**	2,733	675
Receipts from Government	**341**	–	341
Net GST received	**677**	–	677
Total cash received	**96,869**	95,013	1,856
Cash used			
Judges and employees	**65,881**	67,473	(1,592)
Suppliers	**28,416**	27,523	893
Borrowing costs	**17**	17	–
Net GST paid	**–**	–	–
Section 31 receipts transferred to OPA	**3,299**	–	3,299
Total cash used	**97,614**	95,013	2,601
Net cash from / (used by) operating activities	**(745)**	–	(745)
INVESTING ACTIVITIES			
Cash received			
Proceeds from sales of property, plant and equipment	**4**	–	4
Total cash received	**4**	–	4
Cash used			
Purchase of property, plant and equipment	**2,267**	3,236	(969)
Purchase of intangibles	**364**	732	(368)
Total cash used	**2,631**	3,968	(1,337)
Net cash (used by) investing activities	**(2,627)**	(3,968)	1,341
FINANCING ACTIVITIES			
Cash received			
Appropriations – contributed equity	**3,767**	4,327	(560)
Total cash received	**3,767**	4,327	(560)
Cash used			
Payment of finance lease liabilities	**367**	359	8
Total cash used	**367**	359	8
Net cash from financing activities	**3,399**	3,968	(569)
Net increase / (decrease) in cash held	**27**	–	27
Cash at the beginning of the reporting period	**576**	279	297
Cash at the end of the reporting period	**603**	279	324

NOTE 26B: DEPARTMENTAL MAJOR BUDGET VARIANCES FOR 2015

EXPLANATIONS OF MAJOR VARIANCES	AFFECTED LINE ITEMS (AND STATEMENT)
There is a variance in the carrying amount of non-financial assets and the asset revaluation reserve. This is due to a revaluation increment of $5.980m charged to the Court, following an independent revaluation of the Court's assets after the presentation of the 2014-15 Portfolio Budget Statements	Statement of Financial Position – Land and Buildings; Property, Plant and Equipment and Equity – Reserves
There is a variance in the allocation of expenses in the income statement. This is due to judicial and staff vacancies and leave being greater than budgeted for, leading to expenses for these areas being lower than budgeted. This was offset by higher expense in suppliers, with the highest contributor being contract staff and other information technology expenses.	Statement of Comprehensive Income – Judge benefits, Employee benefits, Suppliers. Cashflow Statement – Judges and Employees, Suppliers.
There is a variance in the allocation of liabilities in the statement of financial position. The amount reported under other payables was allocated to employee provisions in the budget.	Statement of Financial Position – Judge and Employee Provisions, Other Payables.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS

NOTE 26C ADMINISTERED BUDGETARY REPORTS

ADMINISTERED SCHEDULE OF COMPREHENSIVE INCOME FOR THE PERIOD ENDED 30 JUNE 2015

	ACTUAL $'000	BUDGET ESTIMATE $'000	VARIANCE $'000
NET COST OF SERVICES			
Expenses			
Refund of Court Fees and Fines	**568**	–	568
Write-down and impairment of assets	**400**	–	400
Total expenses	**968**	–	968
Income			
Revenue			
Non-taxation Revenue			
Fees (filing and hearing fees)	**17,158**	15,644	1,514
Fines	**486**	–	486
Other revenue	**102**	95	7
Total non-taxation revenue	**17,746**	15,739	2,007
Total revenue	**17,746**	15,739	2,007
Net contribution by services	**16,778**	15,739	1,039
OTHER COMPREHENSIVE INCOME		–	
Total comprehensive income	**16,778**	15,739	1,039

ADMINISTERED SCHEDULE OF COMPREHENSIVE INCOME FOR THE PERIOD ENDED 30 JUNE 2015

	ACTUAL $'000	BUDGET ESTIMATE $'000	VARIANCE $'000
ASSETS			
Financial assets			
Cash and cash equivalents	**59**	40	19
Receivables	**2,838**	**2,891**	(53)
Total assets administered on behalf of Government	**2,897**	**2,931**	(34)
LIABILITIES			
Payables			
Other payables	**1,168**	–	1,168
Total payables	**1,168**	–	1,168
Total liabilities administered on behalf of Government	**1,168**	–	1,168
Net assets	**1,729**	2,931	(1,202)

ADMINISTERED CASH FLOW STATEMENT FOR THE PERIOD ENDED 30 JUNE 2015

	ACTUAL $'000	BUDGET ESTIMATE $'000	VARIANCE $'000
OPERATING ACTIVITIES			
Cash received			
Fees	**16,874**	15,644	1,230
Fines	**486**	–	486
Other	**102**	95	7
Total cash received	**17,462**	15,739	1,723
Cash used			
Refund of court fees and fines	**560**	–	560
Total cash used	**560**	–	560
Net cash from operating activities	**16,902**	15,739	1,163
Net increase in cash held	**16,902**	15,739	1,163
Cash at the beginning of the reporting period	**29**	40	(11)
Cash from Official Public Account			
Appropriations	**580**	–	580
	580	–	580
Cash to Official Public Account	**(17,452)**	(15,739)	(1,713)
	(17,452)	(15,739)	(1,713)
Cash at the end of the reporting period	**59**	40	19

NOTE 26C ADMINISTERED BUDGETARY REPORTS

EXPLANATIONS OF MAJOR VARIANCES	AFFECTED LINE ITEMS (AND STATEMENT)
Revenue collections are higher than budgeted for. This is due to a greater number of court lodgements than were anticipated.	Administered Schedule of Comprehensive Income – Fees (filing and hearing fees).

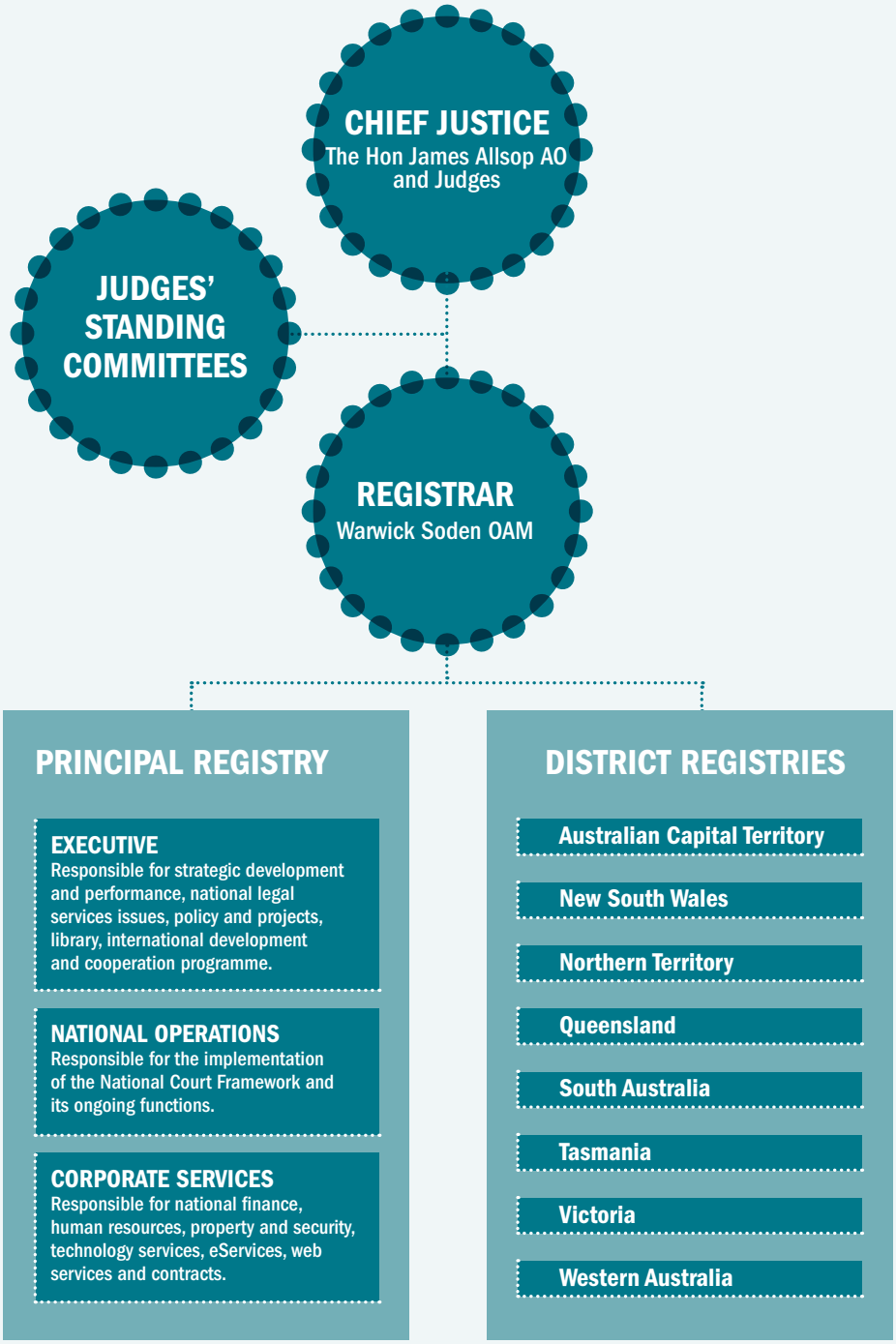
APPENDIX 2

AGENCY RESOURCE STATEMENT

	ACTUAL AVAILABLE APPROPRIATIONS FOR 2014–15 $'000	PAYMENTS MADE 2014–15 $'000	BALANCE REMAINING $'000
ORDINARY ANNUAL SERVICES[1]			
Departmental appropriation			
Prior year departmental appropriation	45,290	45,290	–
Departmental appropriation[2]	96,746	48,195	48,551
s 31 relevant agency receipts	3,323	3,323	–
Total	**145,359**	**96,808**	**48,551**
Total ordinary annual services	**145,359**	**96,808**	**48,551**
OTHER SERVICES			
Departmental non-operating			
Previous year's outputs			–
Total			**–**
Total other services			**–**
Total available annual appropriations	**145,359**	**96,808**	**48,551**
Total appropriations excluding special accounts	**145,359**	**96,808**	**48,551**
1. Appropriation Bill (No.1) 2014-15 and Appropriation Bill (No. 2) 2014-15 2. Includes a Departmental Capital Budget of $4.327m.			
Total resourcing	**145,359**	**96,808**	**48,551**
Total net resourcing for Court	**145,359**	**96,808**	**48,551**

APPENDIX 3

FEDERAL COURT MANAGEMENT STRUCTURE



APPENDIX 4

REGISTRARS OF THE COURT

REGISTRY	NAME	APPOINTMENTS UNDER OTHER ACTS
PRINCIPAL REGISTRY		
Registrar	Warwick Soden OAM	
National Operations Registrar	Sia Lagos (based in Melbourne)	A Registrar, Federal Circuit Court
Deputy Registrars	John Mathieson (based in Sydney)	Sheriff A Registrar, Federal Circuit Court A Deputy Sheriff, Federal Circuit Court
	Angela Josan (based in Melbourne)	
	Ian Irving (based in Sydney)	A Registrar, Federal Circuit Court
	June Eaton (based in Perth)	A Registrar, Federal Circuit Court
	Ann Daniel (based in Perth)	
	Christine Fewings (based in Brisbane)	
	David Priddle (based in Melbourne)	A Registrar, Federal Circuit Court
NSW SOUTH WALES		
District Registrar	Michael Wall	A Registrar, Federal Circuit Court Registrar, Copyright Tribunal 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
	Paddy Hannigan	A Registrar, Federal Circuit Court
	Chuan Ng	A Registrar, Federal Circuit Court Deputy Registrar, Supreme Court of Norfolk Island
	Thomas Morgan	A Registrar, Federal Circuit Court

REGISTRY	NAME	APPOINTMENTS UNDER OTHER ACTS
VICTORIA		
District Registrar	Daniel Caporale	Deputy Sheriff A Registrar, Federal Circuit Court Deputy Registrar, Supreme Court of Norfolk Island Registrar, Defence Force Discipline Appeal Tribunal
Deputy District Registrars	Timothy Luxton	A Registrar, Federal Circuit Court Deputy Registrar, Defence Force Discipline Appeal Tribunal
	Rupert Burns	A Registrar, Federal Circuit Court
	Phillip Allaway	A Registrar, Federal Circuit Court
	David Pringle	A Registrar, Federal Circuit Court Deputy National Operations Registrar
	David Ryan	A Registrar, Federal Circuit Court
QUEENSLAND		
District Registrar	Heather Baldwin	A Registrar, Federal Circuit Court Deputy Registrar, Defence Force Discipline Appeal Tribunal
Deputy District Registrars	Murray Belcher	A Registrar, Federal Circuit Court
	Katie Lynch	A Registrar, Federal Circuit Court Deputy Registrar, Australian Competition Tribunal
	Scott Tredwell	A Registrar, Federal Circuit Court

APPENDIX 4
REGISTRARS OF THE COURT

REGISTRY	NAME	APPOINTMENTS UNDER OTHER ACTS
WESTERN AUSTRALIA		
District Registrar	Martin Jan PSM	A Registrar, Federal Circuit Court Deputy Registrar, Australian Competition Tribunal Deputy Registrar, Defence Force Discipline Appeal Tribunal
Deputy District Registrars	Elizabeth Stanley	A Registrar, Federal Circuit Court
	Russell Trott	A Registrar, Federal Circuit Court
SOUTH AUSTRALIA		
District Registrar	Katrina Bochner	A Registrar, Federal Circuit Court Registrar, Australian Competition Tribunal
Deputy District Registrar	Nicholas Parkyn	A Registrar, Federal Circuit Court
TASMANIA		
District Registrar	Catherine Scott	District Registrar, Administrative Appeals Tribunal A Registrar, Federal Circuit Court

REGISTRY	NAME	APPOINTMENTS UNDER OTHER ACTS
AUSTRALIAN CAPITAL TERRITORY		
District Registrar	Michael Wall (based in Sydney)	A Registrar, Federal Circuit Court Registrar, Copyright Tribunal Deputy Registrar, Defence Force Discipline Appeal Tribunal
Deputy District Registrars	Geoffrey Segal (based in Sydney)	A Registrar, Federal Circuit Court Deputy Registrar, Australian Competition Tribunal
	Anthony Tesoriero (based in Sydney)	A Registrar, Federal Circuit Court
	Kim Lackenby	A Registrar, Federal Circuit Court Deputy Registrar, Australian Competition Tribunal
	Paddy Hannigan (based in Sydney)	A Registrar, Federal Circuit Court
	Chuan Ng (based in Sydney)	A Registrar, Federal Circuit Court Deputy Registrar, Supreme Court of Norfolk Island
	Thomas Morgan (based in Sydney)	A Registrar, Federal Circuit Court
NORTHERN TERRITORY		
District Registrar	Katrina Bochner (based in Adelaide)	A Registrar, Federal Circuit Court Registrar, Australian Competition Tribunal

APPENDIX 5
WORKLOAD STATISTICS

The statistics in this appendix provide comparative historical information on the work of the Court, including in certain areas of the Court's jurisdiction.

When considering the statistics it is important to note that matters vary according to the nature and complexity of the issues in dispute.

It should also be noted that the figures reported in this report may differ from figures reported in previous years. The variations have occurred through refinements or enhancements to the Casetrack database which necessitated the checking or verification and possible variation of data previously entered.

Casetrack records matters in the Court classified according to sixteen main categories, described as 'causes of action' (CoA). A cause of action is used to characterise proceedings. The Court presently reports on filings by major CoA. This is 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 142 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. Most tables and figures from A5.1 to A5.16 in this Appendix and throughout the report are based on major CoA.

In 2015, the National Court Framework reforms were introduced. The Court will begin to report on matters by seven main National Practice Areas (NPAs). This information can be found in Figure A5.17 onwards. A NPA for Criminal Cartel Trials has been identified in readiness for the Court's first filing in this area. From 2015–16, the Court will end reporting by CoA for Federal Court matters excluding Migration filings.

Table A5.1 – Summary of Workload Statistics – Original and Appellate Jurisdictions Filings of Major CoAs (including Appellate and Related Actions)

CAUSE OF ACTION	2010–11	2011–12	2012–13	2013–14	2014-15
Total CoAs (including Appeals & Related Actions)					
Filed	4942	5280	5803	5009	4355
Finalised	4593	5754	5518	5590	3916
Current	3193	2719	3004	2423	2862
Corporations (including Appeals & Related Actions)					
Filed	2839	3327	3897	2905	2211
Finalised	2526	3754	3503	3399	1858
Current	1069	642	1036	542	895
Bankruptcy (including Appeals & Related Actions)					
Filed	217	185	216	281	260
Finalised	206	191	214	258	244
Current	111	105	107	130	146
Native Title (including. Appeals & Related Actions)					
Filed	83	98	61	58	64
Finalised	77	99	82	117	77
Current	480	479	458	399	386
Total CoAs (including Appeals & Related Actions & excluding Corporations, Bankruptcy & Native Title)					
Filed	1803	1670	1629	1765	1820
Finalised	1784	1710	1719	1816	1737
Current	1533	1493	1403	1352	1435

APPENDIX 5
WORKLOAD STATISTICS

Table A5.2 – Summary of Workload Statistics – Filings of Major CoAs excluding Appeals and Related Actions

CAUSE OF ACTION	2010–11	2011–12	2012–13	2013–14	2014-15
Total CoAs (excluding Appeals & Related Actions)					
Filed	4304	4664	5169	4281	3445
Finalised	3989	5083	4889	4900	3150
Current	2851	2432	2712	2093	2388
Corporations (excluding Appeals & Related Actions)					
Filed	2798	3284	3849	2876	2186
Finalised	2485	3702	3463	3360	1836
Current	1043	625	1011	527	877
Bankruptcy (excluding Appeals & Related Actions)					
Filed	144	131	174	219	205
Finalised	133	131	165	198	182
Current	72	72	81	102	125
Native Title (excluding Appeals & Related Actions)					
Filed	73	87	50	44	55
Finalised	68	85	75	106	71
Current	474	476	451	389	373
Total CoAs (including Appeals & Related Actions & excluding Corporations, Bankruptcy & Native Title)					
Filed	1289	1162	1096	1142	999
Finalised	1303	1165	1186	1236	1061
Current	1262	1259	1169	1075	1013

Table A5.3 – Summary of Workload Statistics – Appeals and Related Actions only
Filings of Appeals and Related Actions

CAUSE OF ACTION	2010–11	2011–12	2012–13	2013–14	2014-15
Total Appeals & Related Actions					
Filed	638	616	634	728	910
Finalised	604	671	629	690	766
Current	342	287	292	330	474
Corporations Appeals & Related Actions					
Filed	41	43	48	29	25
Finalised	41	52	40	39	22
Current	26	17	25	15	18
Migration Appeals & Related Actions					
Filed	253	243	278	370	647
Finalised	266	240	255	355	464
Current	83	86	109	124	307
Native Title Appeals & Related Actions					
Filed	10	11	11	14	9
Finalised	9	14	7	11	6
Current	6	3	7	10	13
Total Appeals & Related Actions (excluding Corporations, Migration & Native Title Appeals & Related Actions)					
Filed	334	319	297	315	229
Finalised	288	365	327	285	274
Current	227	181	151	181	136

APPENDIX 5
WORKLOAD STATISTICS

Table A5.4 – Summary of supplementary workload statistics-fillings of supplementary CoAs (cross appeals and cross claims), interlocutory applications or Native Title joinder of party applications

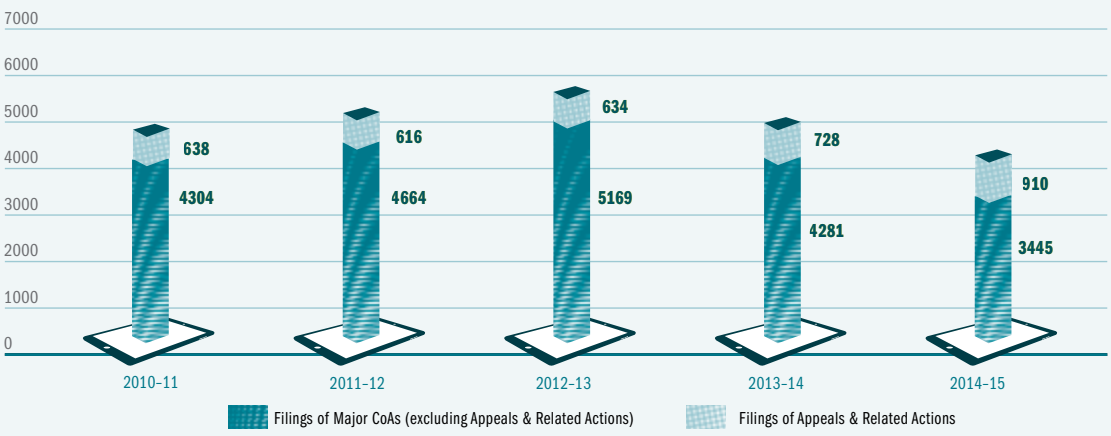
FILINGS OF SUPPLEMENTARY ACTIONS	2010–11	2011–12	2012–13	2013–14	2014-15
Total Actions (excluding Appeals & Related Actions)					
Cross Appeals (original jurisdiction)	3	0	0	0	0
Cross Claims	242	186	165	177	134
Interlocutory Applications	1892	1693	1673	1541	1495
Native Title (NT) Joinder of party applications	628	405	982	781	346
Appeals & Related Actions					
Cross Appeals	38	11	16	25	25
Interlocutory Applications	247	179	138	135	172
Total Actions (including Appeals & Related Actions)					
Cross Appeals	41	11	16	25	25
Cross Claims	242	186	165	177	134
Interlocutory Applications	2139	1872	1811	1676	1667
NT Joinder of party applications	628	405	982	781	346
Totals	**3050**	**2474**	**2974**	**2659**	**2172**

FINALISATIONS OF SUPPLEMENTARY ACTIONS	2010–11	2011–12	2012–13	2013–14	2014-15
Total Actions (excluding Appeals & Related Actions)					
Cross Appeals (original jurisdiction)	7	1	2	1	0
Cross Claims	193	165	216	134	164
NT Joinder of party applications	628	405	982	781	346
Appeals & Related Actions					
Cross Appeals	26	35	6	23	17
Total Actions (including Appeals & Related Actions)					
Cross Appeals	33	36	8	24	17
Cross Claims	193	165	216	134	164
NT Joinder of party applications	628	405	982	781	346
Totals	**854**	**606**	**1206**	**939**	**527**

Table A5.4 continued

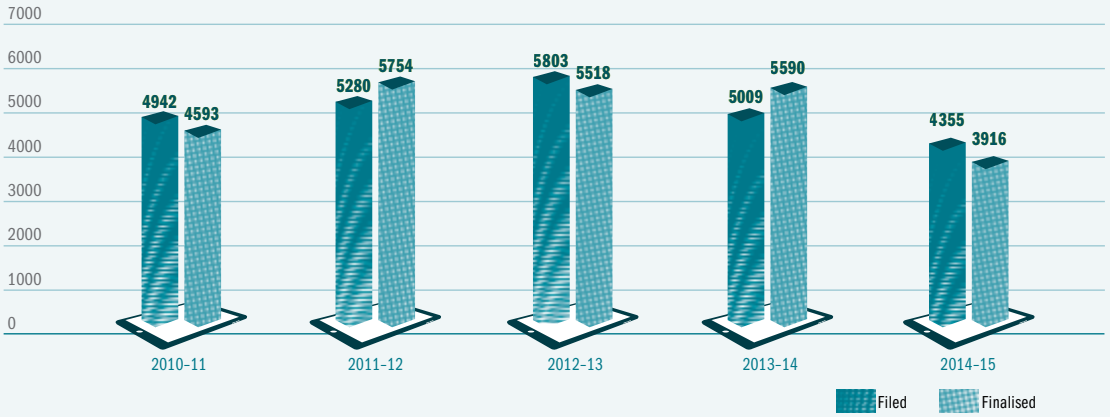
CURRENT CROSS APPEALS & CROSS CLAIMS AS AT 30 JUN 2015	
Appeals & Related Actions	
Cross Appeals	28
Total Supplementary Actions (excluding Appeals & Related Actions)	
Cross Appeals (original jurisdiction)	0
Cross Claims	288
Total Supplementary Actions (including Appeals & Related Actions)	
Cross Appeals	28
Cross Claims	288
Totals	**316**

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



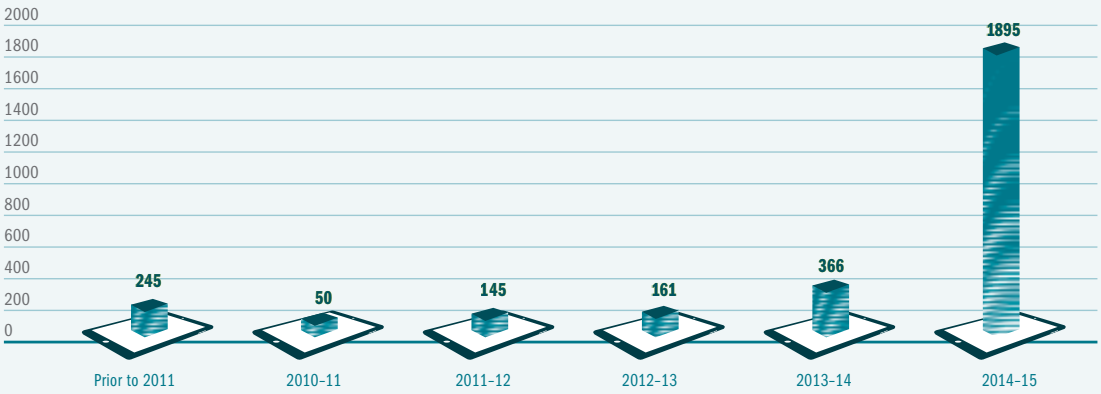
APPENDIX 5
WORKLOAD STATISTICS

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 numbers of current matters at 30 June 2015

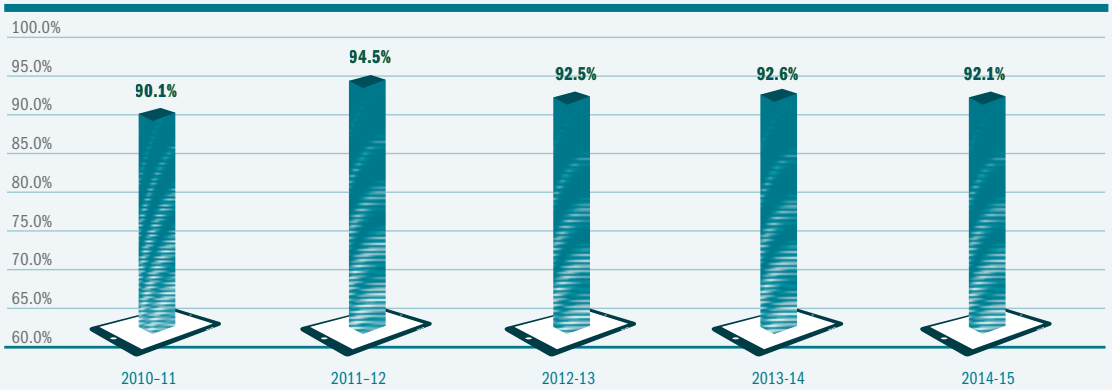


A total of 2862 matters remain current at 30 June 2015. There were 245 applications still current relating to periods before those shown in Figure A5.3. 84 per cent of cases prior to 2011 are native title matters.

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

A total of 24 966 matters were completed during the five-year period ending 30 June 2015, 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 eighty–five per cent of cases (excluding native title) being completed within eighteen months of commencement. Figure A5.5 sets out the Court's performance against this time goal over the last five years. The total number of matters (including appeals but excluding Native Title) completed for each of the last five years and the time span for completion are shown below in Table A5.5.

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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)

PERCENTAGE COMPLETED	2010-11	2011-12	2012-13	2013-14	2014-15
Under 18 months	4076	5357	5036	5079	3540
% of Total	90.10%	94.50%	92.50%	92.60%	92.10%
Over 18 months	449	312	407	405	305
% of Total	9.90%	5.50%	7.50%	7.40%	7.90%
Total CoAs	**4525**	**5669**	**5443**	**5484**	**3845**

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

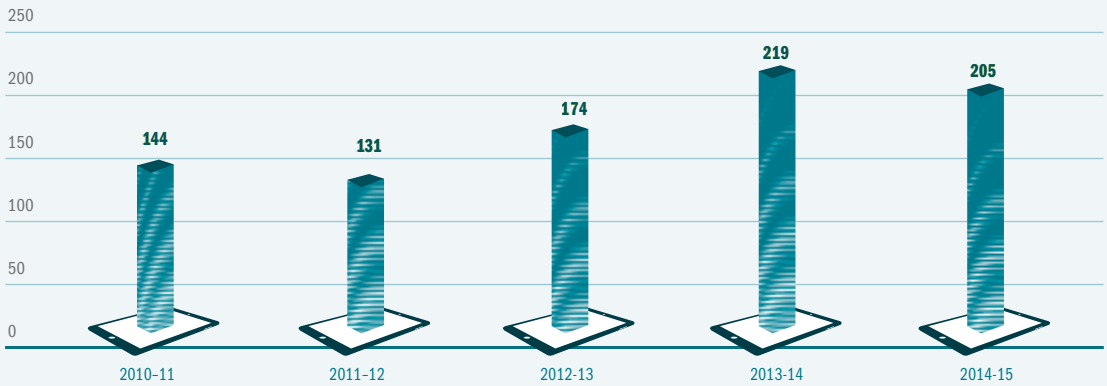
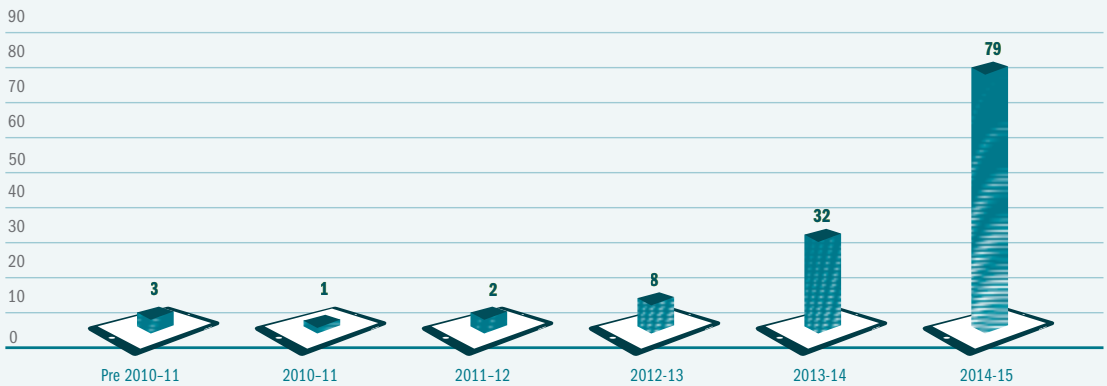


Figure A5.6.1 – Current Bankruptcy Act matters (excluding appeals) by year of filing



A total of 125 Bankruptcy Act matters remain current as at 30 June 2015.

Figure A5.7 – Corporations Act matters (excluding appeals) filed over the last five years

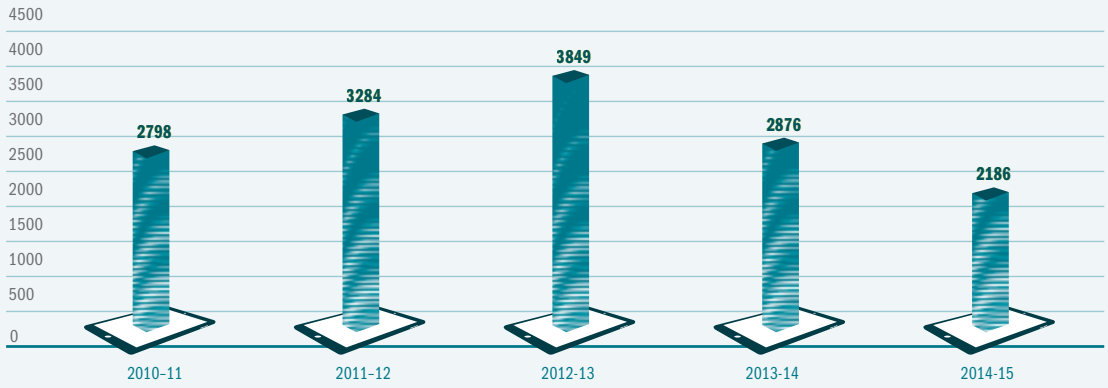
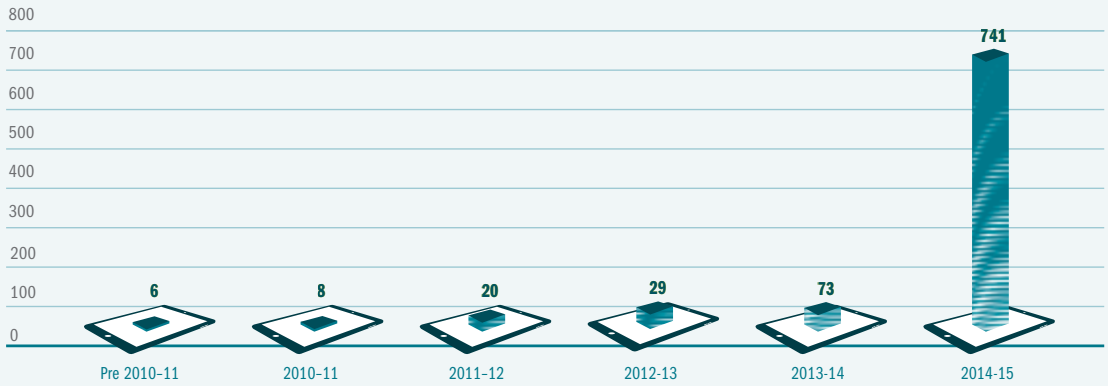


Figure A5.7.1 – Current Corporations Act matters (excluding appeals) by year of filing



A total of 877 Corporations Act matters remain current as at 30 June 2015.

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

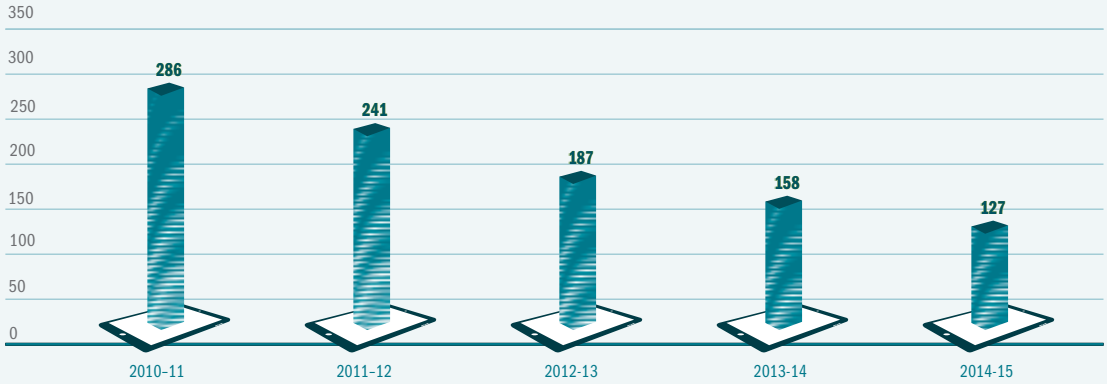
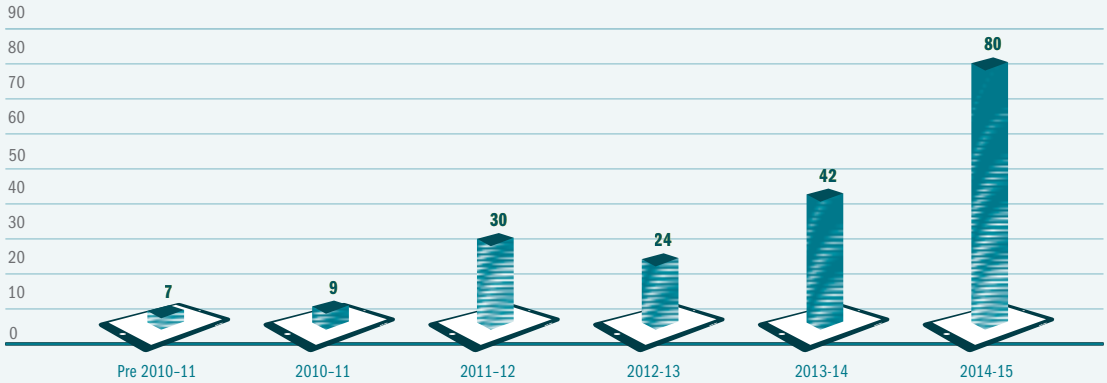
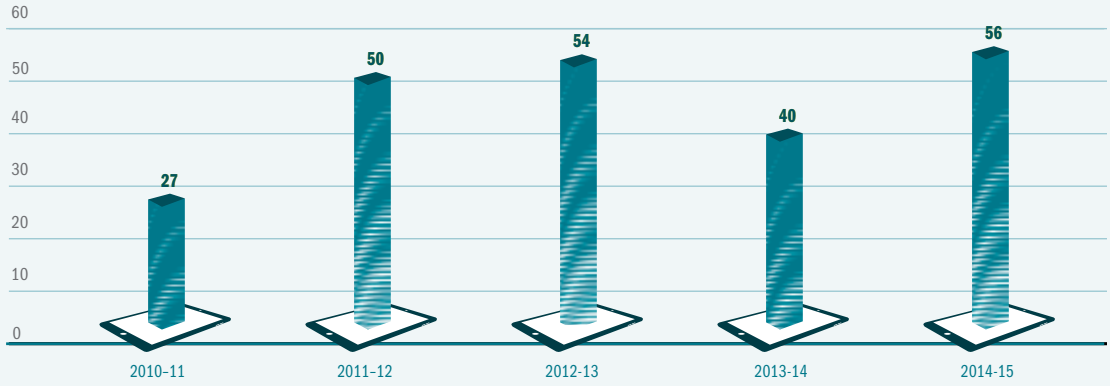


Figure A5.8.1 – Current Consumer Law matters (excluding competition law and appeals) by year of filing



A total of 192 Consumer Law matters remain current as at 30 June 2015.

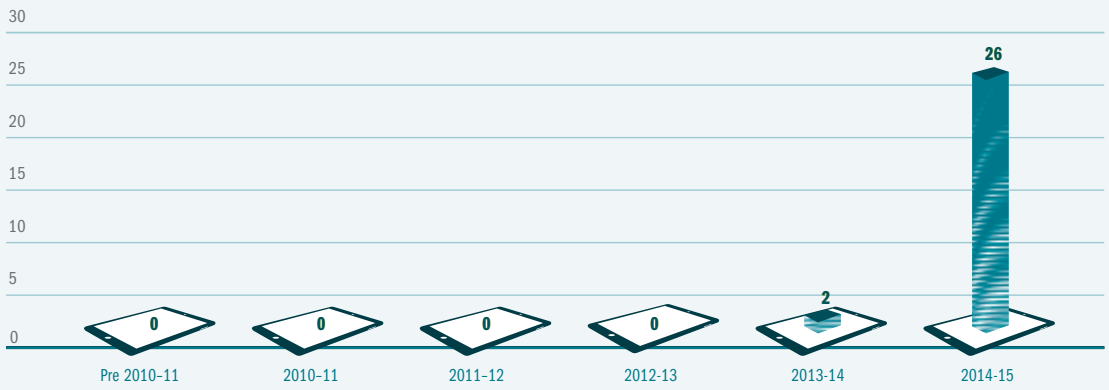
Figure A5.9 – Migration Act matters (excluding appeals) filed over the last five years



These figures include migration applications filed under the Judiciary Act, Administrative Decisions (Judicial Review) Act and Migration Act.

Since 1 December 2005, when the Migration Litigation Reform Act commenced, almost all first instance migration cases have been filed in the Federal Circuit Court.

Figure A5.9.1 – Current Migration Act matters (excluding appeals) by year of filing



A total of 28 Migration Act matters remain current as at 30 June 2015.

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Figure A5.10 – Admiralty Act matters (excluding appeals) filed over the last five years

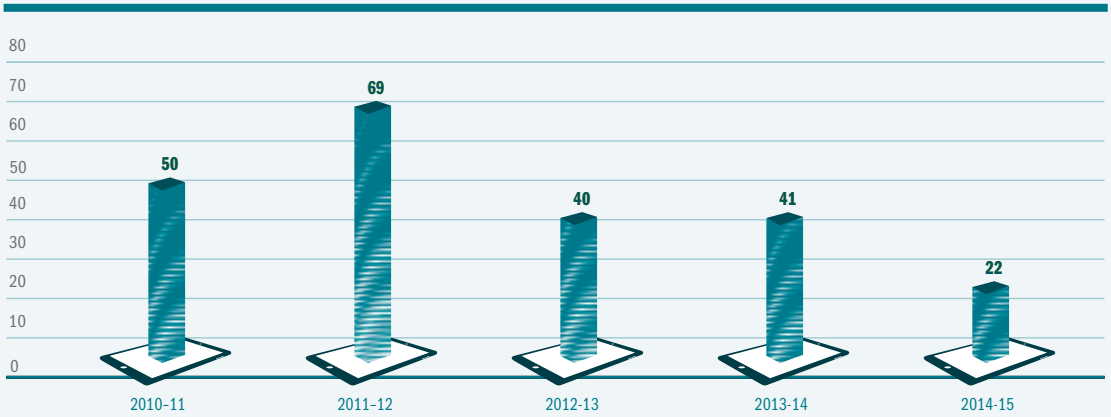
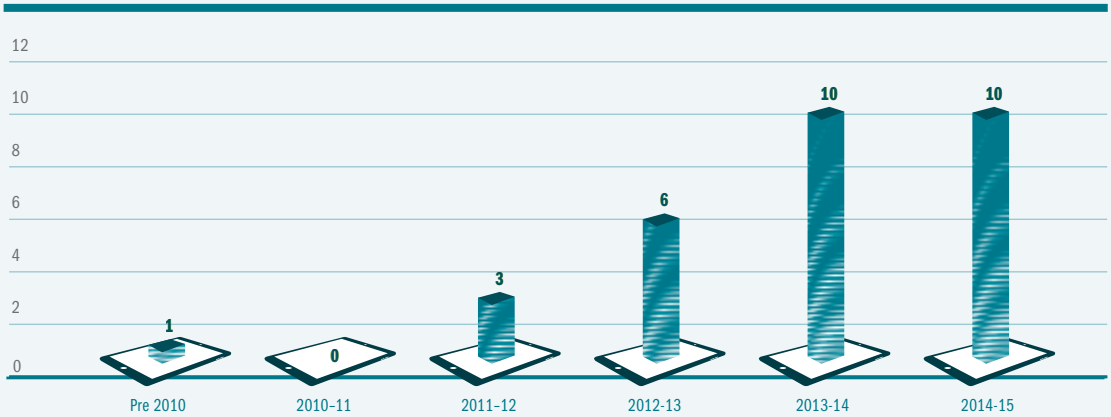


Figure A5.10.1 – Current Admiralty Act matters (excluding appeals) by year of filing



A total of 30 Admiralty Act matters remain current as at 30 June 2015.

Figure A5.11 – Native Title Act matters (excluding appeals) filed over the last five years

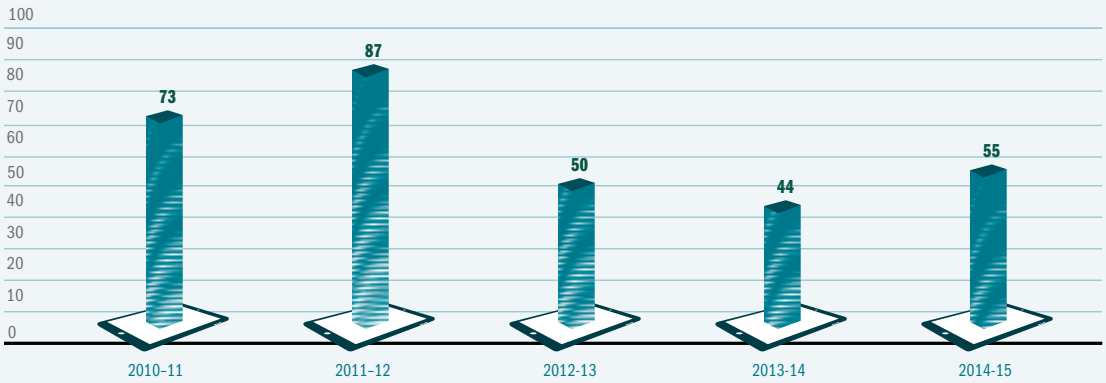
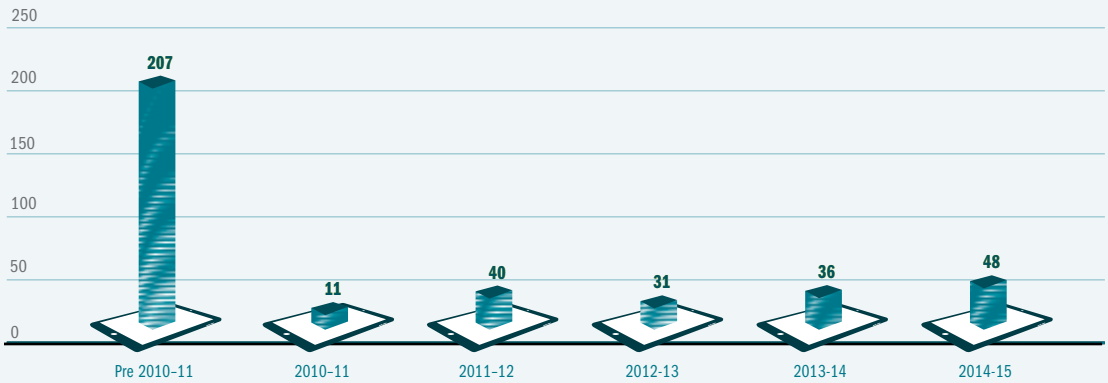


Figure A5.11.1 – Current Native Title Act matters (excluding appeals) by year of filing



A total of 373 Native Title matters remain current as at 30 June 2015.

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Figure A5.12 – Workplace Relations/Fair Work matters (excluding appeals) filed over the last five years

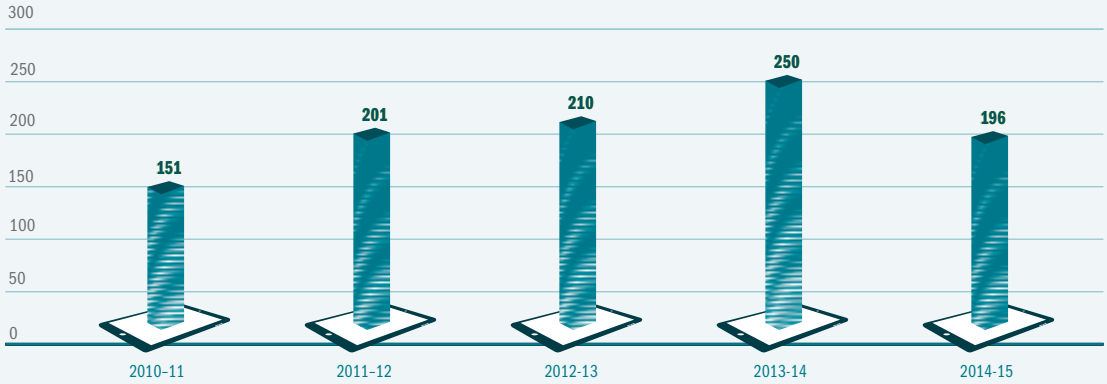
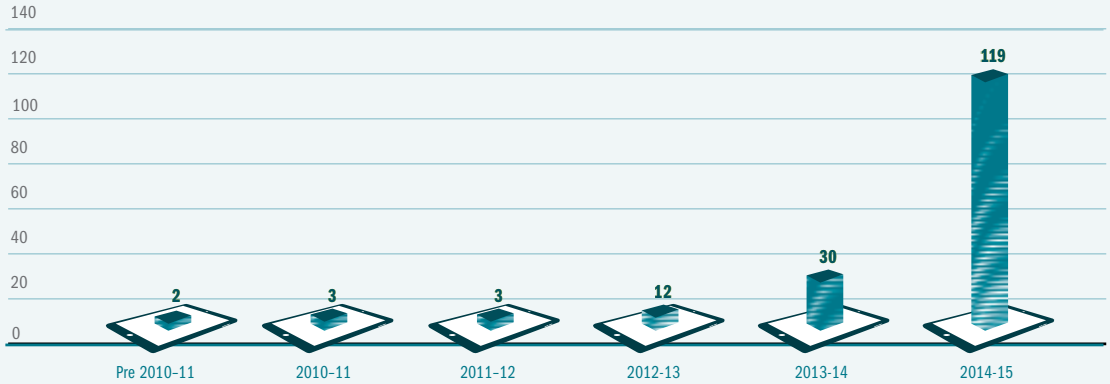


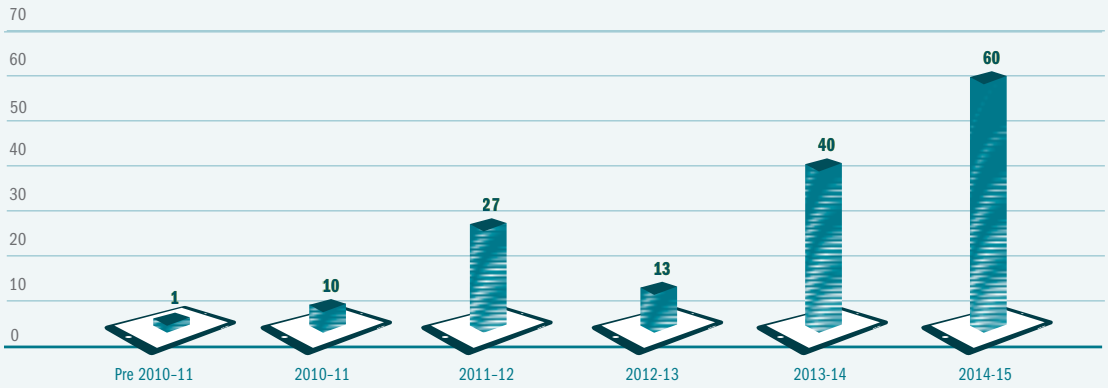
Figure A5.12.1 – Current Workplace Relations/Fair Work matters (excluding appeals) by year of filing



A total of 169 Workplace Relations/Fair Work cases remain current as at 30 June 2015.

Figure A5.13 – Taxation matters (excluding appeals) filed over the last five years

Figure A5.13.1 – Current Taxation matters (excluding appeals) by year of filing



A total of 151 Taxation cases remain current as at 30 June 2015.

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Figure A5.14 – Intellectual Property matters (excluding appeals) filed over the last five years

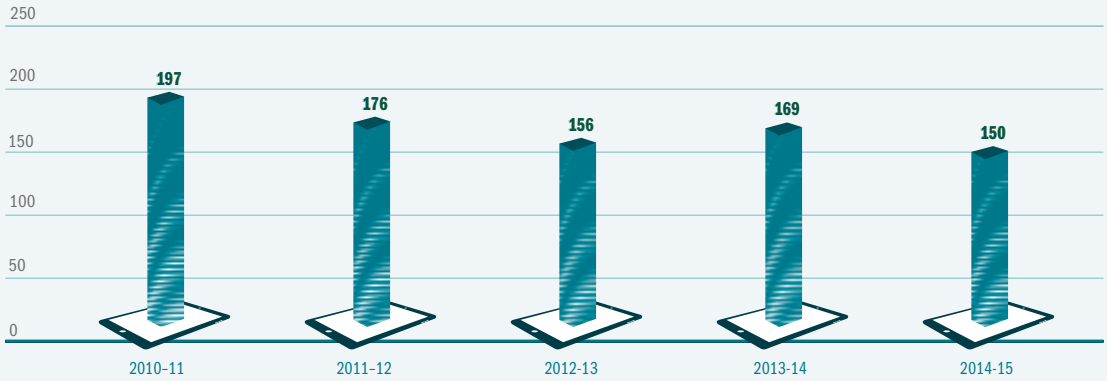
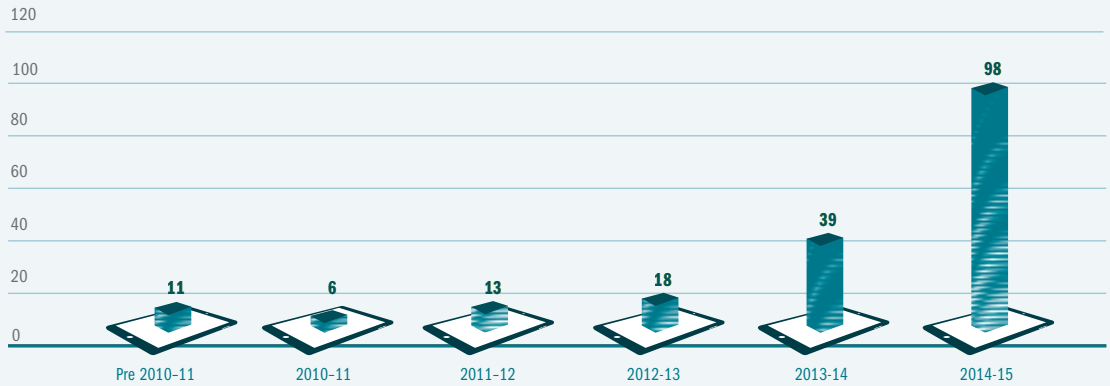


Figure A5.14.1 – Current Intellectual Property matters (excluding appeals) by year of filing



A total of 185 Intellectual Property cases remain current as at 30 June 2015.

Figure A5.15 – Appeals and Related Actions filed over the last five years

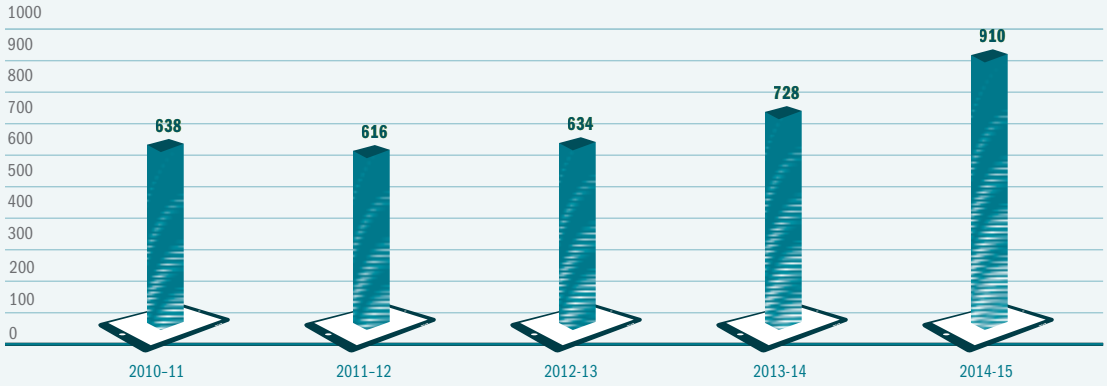
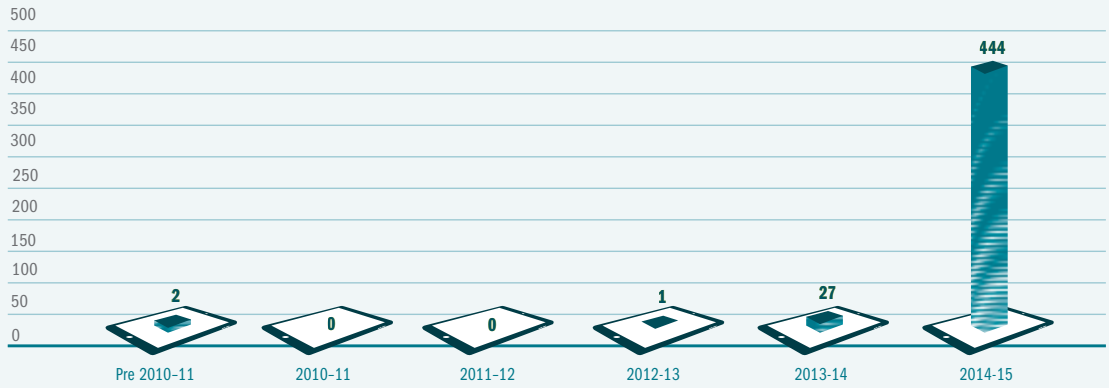


Figure A5.15.1 – Current Appeals and Related Actions by date filed



A total of 474 Appeals and Related Actions remain current as at 30 June 2015.

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Figure A5.16 – Source of Appeals and Related Actions over the last five years

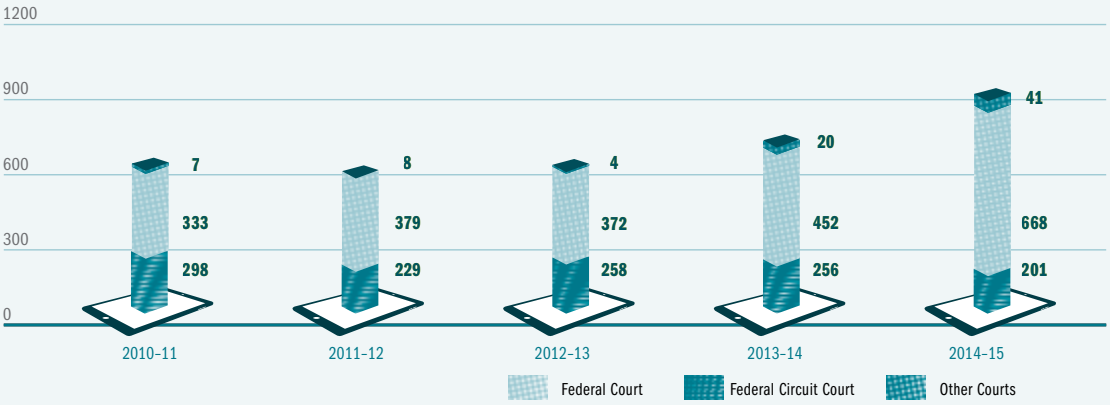


Table A5.6 – Appeals and Related Actions (excluding interlocutory applications)

SOURCE	2010–11		2011–12		2012–13		2013–14		2014–15	
Federal Court	298	46.7%	229	37.2%	258	40.7%	256	35.2%	201	22.1%
Federal Circuit Court	333	52.2%	379	61.5%	372	58.7%	452	62.1%	668	73.4%
Other	7	1.1%	8	1.3%	4	0.6%	20	2.7%	41	4.5%
Total by Period	**638**		**616**		**634**		**728**		**910**	

Note: The National Practice Area graphs (Figure A5.17 to Figure A5.17.7) represent the quarters of Fiscal years 2014 and 2015

Figure A5.17 – All filings, finalisation and pending by quarter by All National Practice Areas (NPAs)

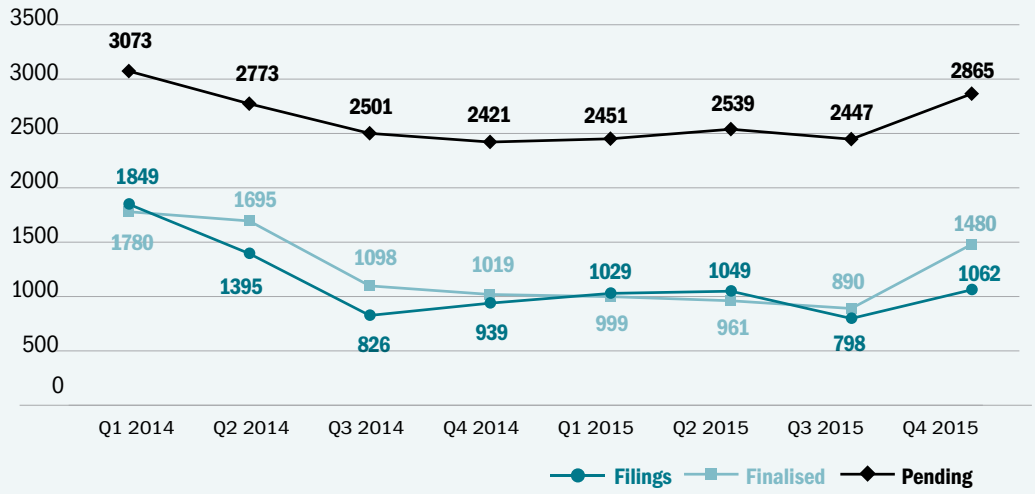
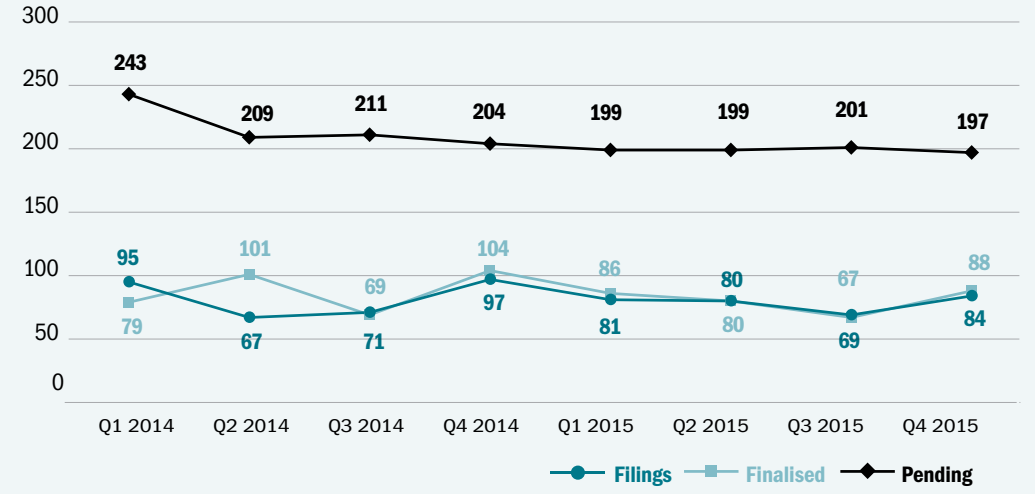


Figure A5.17.1 – All filings, finalisation and pending by quarter by Administrative and Constitutional Law and Human Rights NPA



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Note: The National Practice Area graphs (Figure A5.17 to Figure A5.17.7) represent the quarters of Fiscal years 2014 and 2015

Figure A5.17.2 – All filings, finalisation and pending by quarter by Admiralty and Maritime NPA

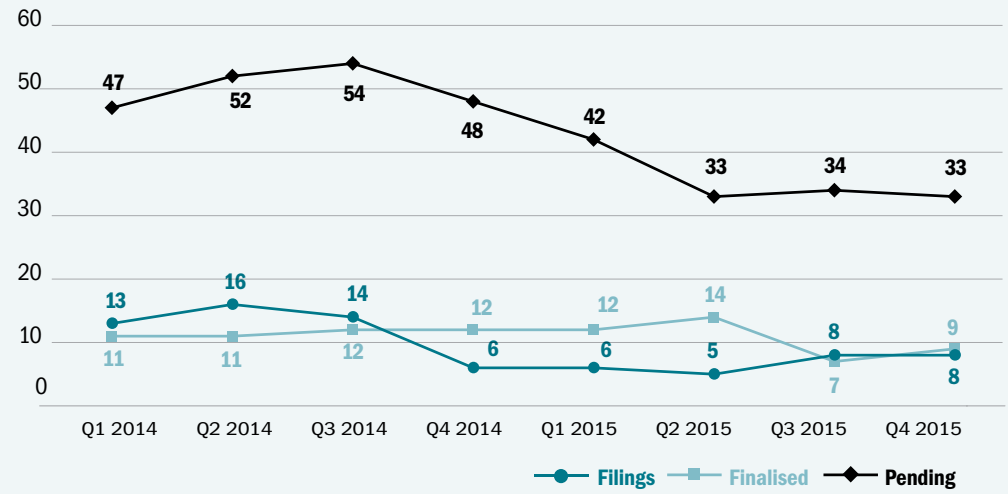
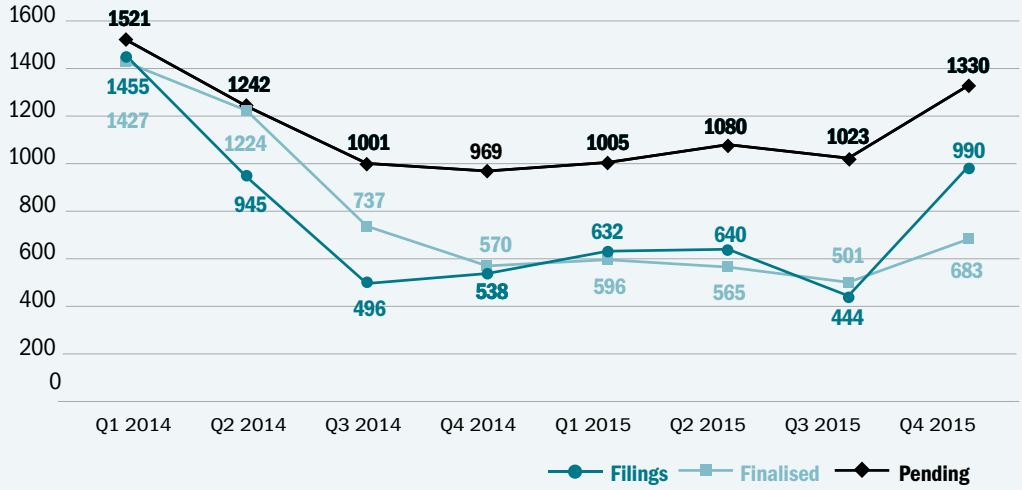


Figure A5.17.3 – All filings, finalisation and pending by quarter by Commercial and Corporations NPA



Note: The National Practice Area graphs (Figure A5.17 to Figure A5.17.7) represent the quarters of Fiscal years 2014 and 2015

Figure A5.17.4 – All filings, finalisation and pending by quarter by Employment and Industrial Relations NPA

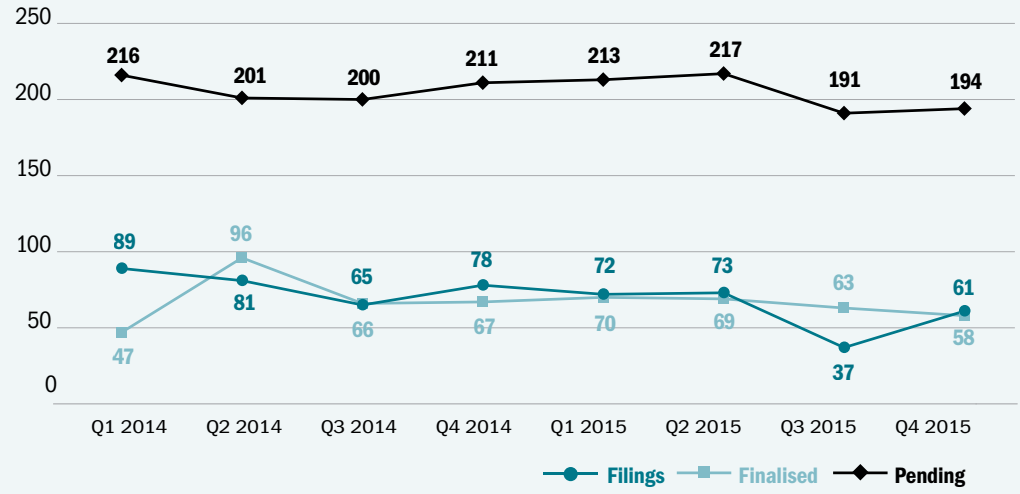
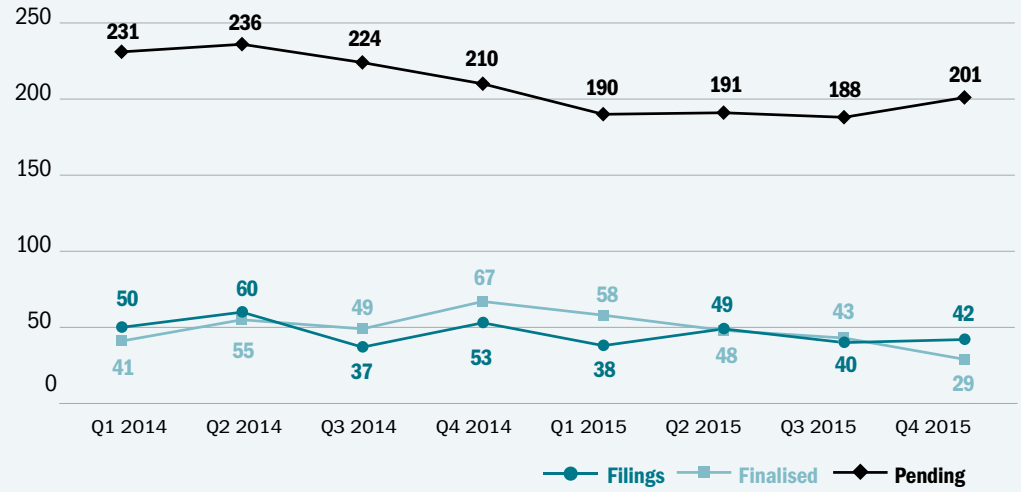


Figure A5.17.5 – All filings, finalisation and pending by quarter by Intellectual Property NPA



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Note: The National Practice Area graphs (Figure A5.17 to Figure A5.17.7) represent the quarters of Fiscal years 2014 and 2015

Figure A5.17.6 – All filings, finalisation and pending by quarter by Taxation NPA

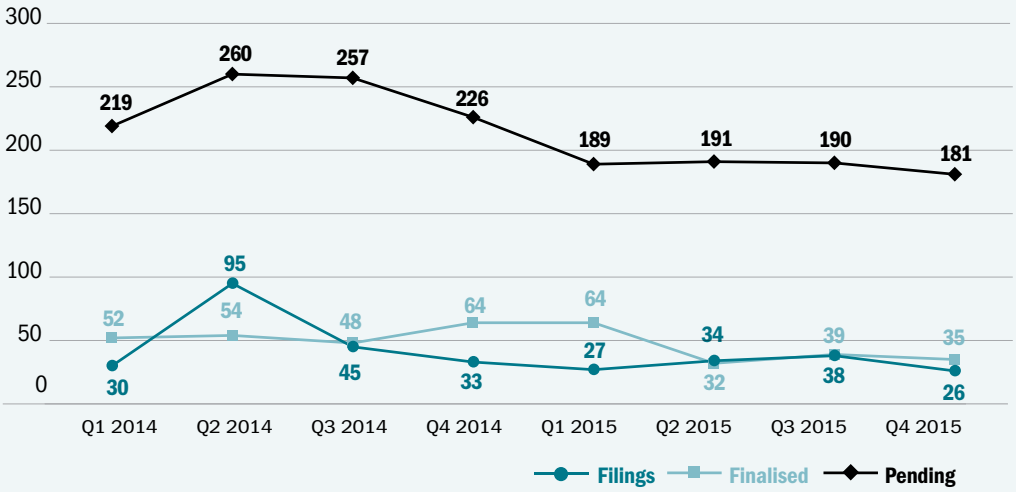
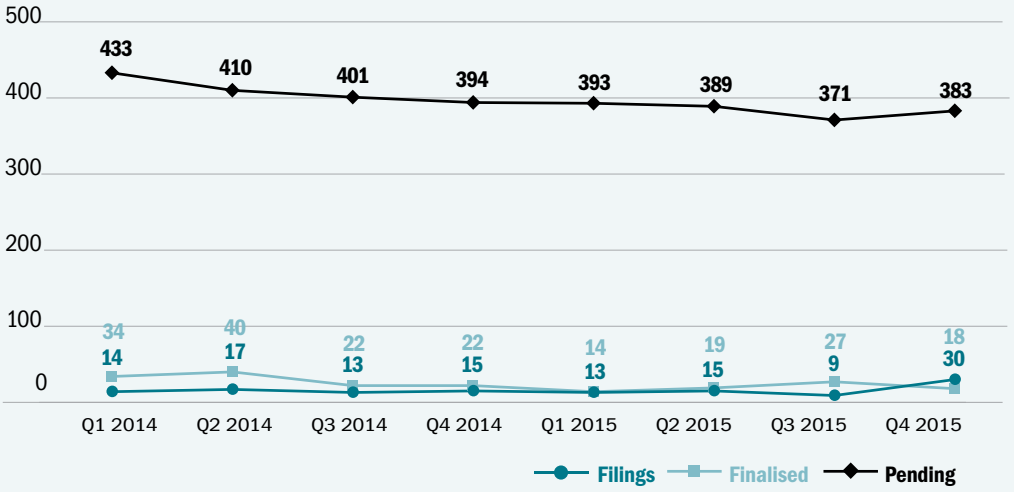


Figure A5.17.7 – All Filings, Finalisations and Pending by Quarter for Native Title NPA



ASSISTED DISPUTE RESOLUTION

Table A5.7 – Mediation referrals as a proportion of total filings by financial year

	2010-11	2011-12	2012-13	2013-14	2014-15
Referrals	610	583	602	559	485
Total Filings	4941	5277	5802	5009	4355
Proportion %	**12%**	**11%**	**10%**	**11%**	**11%**

Table A5.8 – Total filings and suitable filings (excluding non-mediation CoAs, e.g. migration appeals) by Registry in 2014–15

	NSW	VIC	WA	QLD	NT	SA	TAS	ACT	TOTAL
Applicable Filings	1223	671	157	259	34	161	27	74	2606
Total Filings	1500	794	534	906	61	370	48	142	4355
Proportion %	**82%**	**85%**	**29%**	**29%**	**56%**	**44%**	**56%**	**52%**	**60%**

Table A5.9 – Mediation referrals as a proportion of applicable filings, by Registry in 2014–15

	NSW	VIC	WA	QLD	NT	SA	TAS	ACT	TOTAL
Total Referrals	156	195	36	42	7	31	5	13	485
Applicable Filings	1223	671	157	259	34	161	27	74	2606
Proportion %	**13%**	**29%**	**23%**	**16%**	**21%**	**19%**	**19%**	**18%**	**19%**

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Table A5.10 – Internal and external mediation by CoA in 2014-15

COA	INTERNAL	EXTERNAL
Administrative Law	8	1
Admiralty	3	1
Appeals	–	–
Bankruptcy	12	–
Competition Law	10	1
Consumer Law	81	12
Corporations	79	25
Costs	22	–
Human Rights	17	–
Industrial	112	–
Intellectual Property	57	6
Migration	–	–
Native Title	12	11
Taxation	13	2
TOTAL	**426**	**59**

Table A5.11 – Internal and external mediation referrals as a proportion of applicable filings in 2014–15

	INTERNAL	EXTERNAL
Total Referrals	426	59
Applicable filings	2606	2606
Percentage	16%	2%

Table A5.12 – Mediation Outcomes by CoA in 2014–15

COA	RESOLVED	RESOLVED IN PART	NOT RESOLVED	TOTAL	PROPORTION RESOLVED/IN PART (%)
Administrative Law	3	–	3	6	50%
Admiralty	3	–	1	4	75%
Appeals	–	–	–	–	–
Bankruptcy	4	–	4	8	50%
Competition Law	3	–	6	9	33%
Consumer Law	24	5	23	52	56%
Corporations	34	3	22	59	63%
Costs	6	–	3	9	67%
Human Rights	8	–	4	12	67%
Industrial	43	2	70	115	39%
Intellectual Property	15	–	11	26	58%
Migration	–	–	–	–	–
Native Title	5	3	–	8	100%
Taxation	3	–	–	3	100%
TOTAL	**151**	**13**	**147**	**311**	**53%**

Table A5.13 – Mediation outcomes by Registry in 2014–15

	NSW	VIC	WA	QLD	NT	SA	TAS	ACT	TOTAL
Resolved	16	80	17	15	5	9	1	8	151
Resolved in part	3	3	1	2	–	2	1	1	13
Not Resolved	21	71	16	8	2	22	4	3	147
Total	40	154	34	25	7	33	6	12	311
Proportion Resolved/in part (%)	**48%**	**54%**	**53%**	**68%**	**71%**	**33%**	**33%**	**75%**	**53%**

Table A5.14 – Mediations held as a proportion of applicable filings, by Registry in 2014–15

	NSW	VIC	WA	QLD	NT	SA	TAS	ACT	TOTAL
Total held	40	154	34	25	7	33	6	12	311
Applicable filings	1223	671	157	259	34	161	27	74	2606
Proportion (%)	**3%**	**23%**	**27%**	**10%**	**21%**	**20%**	**22%**	**16%**	**12%**

APPENDIX 6
WORK OF TRIBUNALS

The following summarises the work of the Australian Competition Tribunal, the Copyright Tribunal and the Defence Force Discipline Appeal Tribunal during the reporting year.

AUSTRALIAN COMPETITION TRIBUNAL

FUNCTIONS AND POWERS

The Australian Competition Tribunal was established under the *Trade Practices Act 1965* and continues under the *Competition and Consumer Act 2010* (the Act) to hear applications for the review of:

- Determinations by the Australian Competition and Consumer Commission (ACCC) in relation to the grant or revocation of authorisations which permit conduct or arrangements that would otherwise be prohibited under the Act for being anti-competitive.
- Decisions by the Minister or the ACCC in relation to allowing third parties to have access to the services of essential facilities of national significance, such as electricity grids or gas pipelines.
- Determinations by the ACCC in relation to notices issued under s 93 of the Act in relation to exclusive dealing.
- Determinations by the ACCC granting or refusing clearances for company mergers and acquisitions.

The Tribunal also hears applications for authorisation of company mergers and acquisitions which would otherwise be prohibited under the Act.

The Tribunal also hears reviews of 'reviewable regulatory decisions' of the Australian Energy Regulator (AER): National Electricity Law, s 71B(1) and National Gas Law, s 245 and certain other parallel State legislation. These reviewable regulatory decisions include:

- a network revenue or pricing determination covering a regulatory period, or
- any other determination (including a distribution determination or transmission determination) or decision of the AER under the National Electricity Law or National Gas Law.

A review by the Tribunal is in some instances a review on the papers, with some qualifications, and in some instances it is a full merits review, with additional investigative powers. It can affirm, set aside or vary the decision under review. The Tribunal also has power to inquire into, and report to the Minister on, whether a non-conference ocean carrier has a substantial degree of market power on a trade route.

PRACTICE AND PROCEDURE

Hearings before the Tribunal normally take place in public. Parties may be represented by a lawyer. The procedure of the Tribunal is subject to the Act and regulations within the discretion of the Tribunal. The Competition and Consumer Regulations 2010 sets out some procedural requirements in relation to the making and hearing of review applications.

Proceedings are conducted with as little formality and technicality and with as much expedition as the requirements of the Act and a proper consideration of the matters before the Tribunal permit. The Tribunal is not bound by the rules of evidence.

MEMBERSHIP AND STAFF

The Tribunal consists of a President and such number of Deputy Presidents and other members as are appointed by the Governor-General. During 2014–15 there were no changes to the membership of the Tribunal.

The Registrar and Deputy Registrars of the Tribunal are all officers of the Federal Court. Their details are set out in Appendix 4 on page 134.

ACTIVITIES

Two matters were current at the start of the reporting year. During the year, eight matters were commenced and two were finalised. In one of those two matters (the application by ActewAGL Distribution) leave to withdraw the application was granted before the hearing. The eight new matters

filed with the Tribunal consist of the first matters filed under the new statutory arrangements in the National Gas Law and National Electricity Law as proposed by the Standing Council on Energy and Resources.

The Tribunal has instigated projects to introduce electronic lodgment of documents into the Tribunal and an electronic Tribunal file during 2014–15. The Tribunal has also undertaken work sentencing Tribunal files for archiving with National Archives of Australia in accordance with the relevant authority.

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 ActewAGL Distribution [2014] ACompT 2 (25 August 2014)

Application by Independent Contractors Australia [2015] ACompT 1 (21 January 2015)

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.
- 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.

The members of the Tribunal have commenced a consultation process with the Tribunal users with a view to issuing a practice direction in the latter half of 2015.

MEMBERSHIP AND STAFF

The Tribunal consists of a President and such number of Deputy Presidents and other members as are appointed by the Governor-General. Justice Perram has been reappointed as a Deputy President for five years effective from 8 June 2015. Professor John McMillan AO was appointed as a lay member of the Tribunal effective on 16 April 2015 for a period of three years.

The Registrar of the Tribunal is an officer of the Federal Court. Details are set out in Appendix 4 on page 134.

APPENDIX 6
WORK OF TRIBUNALS

ACTIVITIES

Five matters were pending at the commencement of the year, three matters were finalised and no new matters were filed. Two matters are currently pending.

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

DECISIONS OF INTEREST

President Justice Bennett in CT 2/2013 Pocketful of Tunes Pty Ltd v Commonwealth of Australia [2015] ACopyT 1 and on costs [2015] ACopyT 2.

DEFENCE FORCE DISCIPLINE APPEAL TRIBUNAL

FUNCTIONS AND POWERS

The Defence Force Discipline Appeal Tribunal was established under the *Defence Force Discipline Appeals Act 1955* (Cth) (the Act). Pursuant to s 20 of the Act, a convicted person may bring an appeal to the Tribunal against his or her conviction and/or against a punishment or court order made in respect of that conviction.

Following the decision of the High Court of Australia in *Lane v Morrison* (2009) 239 CLR 230, the Defence Force Discipline Appeals Act was amended by operation of the *Military Justice (Interim Measures) Act (No 1)* 2009 (Cth). In the main, references in the Act to the Australian Military Court were replaced with references to courts martial and Defence Force magistrates. Accordingly, appeals to the Tribunal now lie from decisions of courts martial and Defence Force magistrates, rather than from the Australian Military Court.

The Tribunal has the power to hear and determine appeals and questions of law.

PRACTICE AND PROCEDURE

Formal determination of sitting dates has been introduced. Under s 141(1) of the Act, the sittings of the Tribunal were held at places determined on the following dates, subject to the availability of business: 30-31 July 2014, 29-30 October 2014, 17-18 December 2014, 26-27 March 2015, 9-10 April 2015 and 25-26 June 2015.

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

MEMBERSHIP AND STAFF

The Tribunal consists of a President, a Deputy President and such other members as are appointed by the Governor-General.

The Registrar and Deputy Registrars of the Tribunal are officers of the Federal Court. Their details are set out in Appendix 4 on page 134.

ACTIVITIES

There were four matters before the Tribunal during the reporting year.

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

APPENDIX 7
SUMMARY OF DECISIONS OF INTEREST

CONSUMER LAW – Australian Consumer Law ss 18(1), 29(1)(a) and 33 – Misleading or deceptive conduct or conduct likely to mislead or deceive, false or misleading representations, conduct liable to mislead the public – Whether the use of the phrases 'baked today, sold today', 'freshly baked', 'baked fresh' and 'freshly baked in-store' is misleading where the complete baking process is not undertaken in-store on the day – Whether the relevant context for assessing misleading or deceptive conduct includes a cynical consumer culture

PRACTICE AND PROCEDURE – Admissibility of evidence – relevance – whether evidence of third party conduct is relevant – hearsay – whether statements made by third parties serve a non-hearsay purpose

Australian Competition and Consumer Commission v Coles Supermarkets Australia Pty Limited [2014] FCA 634
(18 June 2014 - Chief Justice Allsop)

Protecting consumers from misleading advertising is one of the many important roles played by the Court. This case highlights the need for advertisers to take care when using broad language, particularly when it is deliberately chosen to affect the buying decisions of members of the public.

The ACCC alleged that Coles Supermarkets (Coles) had engaged in misleading and deceptive conduct by use of the expressions 'Baked Today, Sold Today', 'Freshly Baked', 'Baked Fresh', 'Freshly Baked In-Store' and 'Coles Bakery' to advertise its 'par-baked' bread products which had been partially baked off-site, snap frozen, stored, transported to Coles, and then baked to completion in-store at a Coles Supermarket.

After a factual analysis involving reference to meanings and connotations of general marketing expressions, the Court held (in [2014] FCA 634) that Coles had contravened ss 18(1), 29(1)(a) and 33 of the Australian Consumer Law (Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (ACL) by advertising and representing that its par-baked bread had been 'Baked Today' when it was in fact partially or substantially baked previously by its supplier, and 'Freshly Baked' or 'Baked Fresh' when fresh dough was not baked, or the whole of the baking process was not done freshly. The phrase 'Coles Bakery', however, was not found to be misleading.

The Court (in [2015] FCA 330) subsequently imposed a penalty of $2.5 million on Coles, pursuant to s 224 for the four contravening courses of conduct under ss 29(1)(a) and 33, namely: packaging stating 'Baked Today, Sold Today'; packaging stating 'Freshly Baked In-Store'; packaging stating both 'Baked Today, Sold Today' and 'Freshly Baked In-Store'; and signage stating 'Freshly Baked' and 'Baked Fresh'. Undertaking an intuitive synthesis, that quantum was reached by taking account of the gravity of the offence and the 'earnings before interest and tax' of par-baked products in the relevant contravention period.

CONTRACT – breach of contract – contract for provision of financial services – implied warranties in s 12ED of *Australian Securities and Investments Commission Act 2001* (Cth) – damages for breach of contract

CORPORATIONS – financial products – breach of Australian financial services licence under s 912A of *Corporations Act 2001* (Cth) – meaning of derivative in s 761D(1) of *Corporations Act 2001* (Cth) – meaning of debenture in s 9 of *Corporations Act 2001* (Cth)

CORPORATIONS – misleading and deceptive statements – whether statements based on reasonable grounds and result of exercise of reasonable care and skill – effect of disclaimers – proportionate liability provisions

APPENDIX 7
SUMMARY OF DECISIONS OF INTEREST

CORPORATIONS – rescission – requirements of s 924A of *Corporations Act 2001* (Cth) – notice under s 925A of *Corporations Act 2001* (Cth) – whether notice given within a 'reasonable period'

DAMAGES – causation – remoteness – 'rule' in *Potts v Miller* [1940] HCA 43; (1940) 64 CLR 282 – contributory negligence – statutory damages – measure for damages – apportionment – proportionate liability

EQUITY – fiduciary obligations – informal advisory relationship arising from conduct – whether breach of fiduciary duty – equitable compensation – equitable contribution

INSURANCE – whether insured entity a party to contract of insurance – effect of s 48 of *Insurance Contracts Act 1984* (Cth) – duty of disclosure – construction of terms

PRACTICE AND PROCEDURE – entitlement to raise new matters on appeal

STATUTORY INTERPRETATION – whether investment permissible under s 625 of *Local Government Act 1993* (NSW) – whether product a security within the meaning of relevant Ministerial order

TORT – whether duty of care owed – negligent misstatement – indeterminate liability – vulnerability – causation – unlawful conduct – effect of disclaimers – contributory negligence

TRADE PRACTICES – misleading and deceptive conduct – whether conduct engaged in 'in this jurisdiction' – whether conduct in relation to financial product or financial services – 'mere conduit'

ABN AMRO Bank NV v Bathurst Regional Council [2014] FCAFC 65
(6 June 2014 – Justices Jacobson, Gilmour and Gordon)

The Full Court's decision largely confirmed the decision of Jagot J at first instance *(Bathurst Regional Council v Local Government Financial Services Pty Ltd (No 5)* [2012] FCA 1200), which is believed to be the first occasion that judgment has been entered against a ratings agency for misleading or deceptive conduct and negligence.

ABN AMRO Bank NV (ABN Amro) marketed and sold financial instruments (Rembrandt notes) to an intermediary (LGFS) which on-sold these instruments to regional councils (the Councils). The instruments were assigned an AAA credit rating by ratings agency Standard & Poors (S&P). The Councils suffered loss on their investments due to spread widening on underlying credit indices.

The case embraced a considerable number of issues. The Full Court upheld the following findings, amongst others, made by the primary judge:

- S&P, in assigning a AAA credit rating to the Rembrandt notes, acted negligently and engaged in misleading or deceptive conduct in contravention of the *Corporations Act 2001* (Cth) (CA) s 1041H, and the *Australian Securities and Investment Commission Act 2001* (Cth) s 12DA;
- ABN Amro, in making representations concerning the Rembrandt notes, engaged in misleading or deceptive conduct in contravention of these provisions.

Proportionate liability
The Full Court considered the applicability of the CA s 1041L, which concerns apportionable claims. Their Honours concluded that s 1041L specifically requires the claim for damages under s 1041I to be caused by conduct in contravention only of s 1041H; only conduct of that kind which is the subject of the claim meets the statutory definition of an 'apportionable claim.'

The majority in a differently constituted Full Court concluded otherwise just one week prior: *Wealthsure Pty Ltd v Selig* [2014] FCAFC 64. That decision was overturned by the High Court: *Selig v Wealthsure Pty Ltd* [2015] HCA 18. It reached the same conclusion as the Full Court in ABN AMRO: an 'apportionable claim' in this context is, relevantly, a claim based upon a contravention of s 1041H; it does not extend to claims based upon conduct of a different kind.

Meaning of 'debenture'
The Full Court held that the Rembrandt notes were not 'debentures' in assessing if LGFS' conduct fell within the scope of its financial services licence.

Their Honours construed the statutory definition of 'debenture' in light of a debenture's function in corporate fundraising and relevant regulatory provisions.

Their Honours reached this conclusion for a number of reasons, including that:

- a debt consisting of an obligation to redeem the Rembrandt notes contingent upon the performance of credit indices, rather than the operation of the business, is not a debt which is contemplated by the notion of a 'debenture'; and
- the condition that a 'debenture' be issued by the borrower company which undertakes to repay the debt was not satisfied; in substance ABN Amro issued and stood behind the notes, yet did not undertake the relevant debt obligations.

PRACTICE AND PROCEDURE – application for stay of proceedings – whether Australian proceedings should be stayed where various proceedings also underway in China – whether primary judge applied the 'natural and obvious forum' test rather than the 'clearly inappropriate forum' test – whether the primary judge adequately considered juridical advantage in assessing whether Australia is a clearly inappropriate forum – discussion of place of juridical advantage in the 'clearly inappropriate forum' test

ADMIRALTY – arrest of ship – collision occurring in a coastal state's exclusive economic zone – whether the governing law is the law of the coastal state under the regime created by the *United Nations Convention on the Law of the Sea*

ADMIRALTY – general maritime law – the source of general maritime law in domestic law systems

CMA CGM SA v Ship 'Chou Shan' [2014] FCAFC 90 (1 August 2014 - Chief Justice Allsop and Justices Besanko and Pagone)

The international nature of maritime law and commerce often gives rise to important jurisdictional and conflict of laws questions – particularly where one of the fora engaged provides a legitimate juridical advantage over another. In this case, the Court elucidated the applicable legal principles in dealing with the appellant's challenge to set aside orders staying proceedings instituted in Australia on *forum non conveniens* ground where parallel and competing proceedings had commenced in China.

'Chou Shan' and 'CMA CGM Florida' (Florida) collided in the East China Sea in the exclusive economic zone of China. Florida suffered damage from the collision causing oil and fuel leakage. Both ships immediately proceeded to ports in China. Subsequently, the Shanghai Maritime Safety Administration performed clean-up operations, and the respective owners of the ships were required to provide securities to Chinese authorities. On 9 April 2013, *in rem* proceedings were commenced in Australia by the owner and demise charterer of Florida against Chou Shan, claiming USD 60 million in damages plus incidentals from the collision. Meanwhile, the owner of Chou Shan (Rockwell), on 6 May 2013, applied to the Ningbo Maritime Court to establish a limitation fund in China (not a member state of any Limitation Conventions) which was subsequently accepted by that Court on 21 May 2013. On 22 May 2013, Chou Shan was arrested in Australia, and this court subsequently allowed Rockwell's stay application of the proceedings in Australia on *forum non conveniens* ground.

APPENDIX 7
SUMMARY OF DECISIONS OF INTEREST

On appeal, the Court held that as a matter of substance, the primary judge's examination of the suitability of the Chinese forum – the factors that connected the dispute with China – was both defensible and relevant to the assessment of whether Australia was the 'clearly inappropriate forum'. Although the primary judge may have discounted, perhaps heavily, the Florida interests' juridical advantage – the greater security or higher limitation available under the Australian law – in applying that test, a different conclusion was not warranted but for the importance of avoidance of multiple proceedings and the serious inconvenience arising from potentially inconsistent findings. The Court remarked, in *obiter*, that it may have preserved, contrary to recent UK decisions applying a different 'natural and obvious forum' test, the appellants' juridical advantage in Australia, subject to the conclusion of the Chinese proceedings had the appellants sought that recourse.

HUMAN RIGHTS – discrimination – sexual harassment – appeal against finding of sexual harassment by unwanted sexual intercourse – appellant challenged finding that sexual intercourse occurred – whether Judge failed to apply appropriately the standard of proof and to take account of the gravity of the finding – whether finding open on the facts found at trial

HUMAN RIGHTS – appellant challenged finding of sexual harassment occurring at a hotel and on a public street – consideration of the meaning of 'workplace' in s 28B(6) of the *Sex Discrimination Act 1984* (Cth)

DAMAGES – appeal against assessment of damages – whether Judge inappropriately had regard to punitive considerations in awarding damages

Vergara v Ewin [2014] FCAFC 100
(12 August 2014- Justices North, Pagone and White)

Ms Ewin was a chartered accountant employed by Living and Leisure Australia Ltd (LLA). In May 2009, Mr Vergara was contracted through a labour hire firm to work at LLA. The primary judge found that Mr Vergara had sexually harassed Ms Ewin in contravention of s 28B(6) of the *Sex Discrimination Act 1984* (Cth) and entered judgment against Mr Vergara for $210,563: *Ewin v Vergara* (No 3) [2013] FCA 1311. Mr Vergara appealed to the Full Court against aspects of the findings of sexual harassment and against the assessment of damages.

One of the findings of sexual harassment involved a finding that Mr Vergara had engaged in unwelcome sexual intercourse with Ms Ewin on 15 May 2009 when she was heavily intoxicated. Mr Vergara contended that the finding of sexual intercourse had not been open to the trial judge and alleged several deficiencies in the evidence. Justice White, with whom Justices North and Pagone agreed, rejected those contentions, concluding that the primary judge's findings were available and appropriate. The Court also rejected Mr Vergara's contentions that the trial judge had failed to take the parties' relationship into account, and that punishment had impermissibly been taken into account when assessing damages.

One ground of appeal related to three instances of harassment found to have occurred on 13 May 2009: the first at LLA's offices, the second at a nearby hotel, and the third on a public street. Section 28B(6) proscribed sexual harassment of one workplace participant by another at a place that was a workplace of both those persons. At the time, s 28B(7) defined 'workplace' as 'a place at which a workplace participant works or otherwise carries out functions in connection with being a workplace participant.' The trial judge was satisfied in the circumstances that both the hotel and the public street were workplaces within the statutory definition, as Mr Vergara and Ms Ewin were both carrying out a workplace function in 'dealing with' the sexual harassment which began at the office. Justice White found that the hotel and street could not be considered workplaces, but would not have ordered any reassessment of damages in light of that finding. Justices North and Pagone upheld the trial judge's finding.

PATENTS – Patent including claims for isolated nucleic acid – whether claims to composition comprising isolated nucleic acid are for a manner of manufacture for purposes of s 18(1)(a) of *Patents Act 1990* (Cth).

D'Arcy v Myriad Genetics [2014] FCAFC 115 (5 September 2014 - Justices Kenny, Bennett and Nicholas)

Myriad Genetics Inc (Myriad) is the current owner of an Australian patent which contains claims to a nucleic acid sequence (DNA or RNA), known as the human breast or an ovarian cancer disposing gene (BRCA1) that has been 'isolated'.

Ms D'Arcy challenged the validity of the patent on the basis that the claims are not to a manner of manufacture and are not to subject matter that is properly the subject of a patent under s 18(1) of the *Patents Act 1990* (Cth) (the Act). Ms D'Arcy submitted that isolated nucleic acid is not materially different to cellular nucleic acid and that naturally occurring DNA and RNA, even in isolated form, are products of nature that cannot form the bases of a valid patent.

The primary judge upheld the validity of the claims.

The relevant principles applied by the Full Court were set out in *National Research Development Corporation v Commissioner of Patents* (1959) 102 CLR 252 and affirmed in *Apotex Pty Ltd v Sanofi-Aventis Australia Pty Ltd* (2013) 304 ALR 1.

The Full Court held that the analysis should focus on the differences in structure and function effected by the intervention of man and not on the similarities. The isolated nucleic acid, the subject of the claims, has resulted in an artificially created state of affairs of economic benefit and is properly the subject of letters patent. The claims are to an invention within the meaning of s 18(1) of the Act.

The Full Court noted that the Supreme Court of the United States came to a decision that an isolated naturally occurring DNA segment fell within a 'products of nature' exception *(Association for Molecular Pathology v Myriad Genetics Inc* 133 S Ct 2107 (2013)). The Full Court held this approach to be inapposite in an Australian patent law context and found the reasoning of the majority decision in the US Court of Appeals for the Federal Circuit persuasive and in accordance with the approach in NRDC *(Association for Molecular Pathology v United States Patent and Trademark Office and Myriad Genetics* Inc 689 F (3d) 1303 (2012)).

Accordingly, the Full Court did not accept the basis on which Ms D'Arcy argued that the patent is invalid.

INTELLECTUAL PROPERTY – applicants in business of selling and developing software for use in mining industry – first respondent a former employee of the first applicant – first respondent left employment with first applicant and commenced employment with competitor company in similar role – first respondent copied applicants' material including product source code to an external hard drive prior to resigning – material accessed by first respondent while employed by applicants' competitor – infringement of copyright – breach of duty of confidence – breach of employment contract – breach of s 183(1) *Corporations Act 2001* (Cth) – whether compensatory damages claim substantiated by applicants – s 115(2) *Copyright Act 1968* (Cth) – appropriate amount of additional damages justified in circumstances of case – s 115(4) *Copyright Act 1968* (Cth) – need to deter similar infringements – conduct of the first respondent after infringement– first respondent an individual rather than corporation – no demonstrable financial benefit to first respondent from infringement – no compensable loss demonstrated by applicants

PRACTICE AND PROCEDURE – applicants seeking order for return of applicants' material in possession or control of first respondent or his current or former legal representatives – whether order specifying return of material in possession of legal representatives necessary or appropriate – only applicable if material not in control of first respondent – ability of first respondent to comply with order if material not in his control

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SUMMARY OF DECISIONS OF INTEREST

Leica Geosystems Pty Ltd v Koudstaal [2014] FCA 1129
(23 October 2014 – Justice Collier)

The applicants were members of the Leica Geosystems Mining group ('Leica'), who were in the business of selling software products and providing services to the mining industry. The respondent, previously a software engineer, concluded employment with the first applicant on 3 November 2011, to then commence employment with a competitor company on 7 November 2011.

It appeared that over a period between 11 October 2011 and 1 November 2011, and over the course of several hours on 2 and 3 November 2011, the respondent deliberately copied a large volume of the applicants' material to an external hard drive ('the Taken Material') which he removed from the premises of Leica when he finally left their employment. The applicants pressed four causes of action against the respondent, namely:

1. Copyright infringement under the *Copyright Act 1968* (Cth) ('Copyright Act');
2. Breach by the respondent of the equitable obligation of confidence;
3. Breach of the terms of his employment contract with Leica Australia; and
4. Breach of his statutory duties under s 183(1) of the *Corporations Act 2001* (Cth).

The applicants sought compensatory damages, additional damages pursuant to s 115(4) of the Copyright Act, declaratory orders, injunctions and orders for the return of the confidential information.

The Court held that the applicants had substantiated their claims against the respondent in respect of all four grounds. The respondent had copied the Taken Material without licence, consent or authority for his own purposes and removed it from the applicants; the applicants owned the material which constituted original literary or artistic works under the Copyright Act; the sheer volume and complexity of the Taken Material was such that it negated any finding that it could be taken as part of the respondent's general knowledge; the Termination Checklist signed by the respondent was breached in that it included an acknowledgment that he 'did not have in [his] possession any property (… electronic media) belonging to Leica …'; and copying the Taken Material was undertaken for an improper purpose.

The applicants were granted orders in respect of declarations; restraint and delivery of property in the respondent's possession and control; compensatory damages in the nominal amount of $1.00 pursuant to s 115(2) of the Copyright Act; additional damages in the amount of $50,000 pursuant to s 115(4) of the Copyright Act; and costs to be taxed if not otherwise agreed.

COSTS – claim for indemnity costs based on letter of compromise – applicability of Federal Court Rules 1979 – whether circumstances to justify departure from presumption of entitlement to indemnity costs – effect of Full Court's reassessment of appropriate range of damages

PRACTICE AND PROCEDURE – application for pre-judgment interest

Richardson v Oracle Corporation Australia Pty Ltd [2014] FCAFC 139
(27 October 2014 - Justices Kenny, Besanko and Perram)

Mr Tucker sexually harassed Ms Richardson while they were both employed by Oracle. The primary judge found Oracle vicariously liable for Mr Tucker's unlawful conduct and ordered it to pay Ms Richardson $18,000 by way of damages as compensation, under the *Australian Human Rights Commission Act 1986* (Cth).

Key issues on appeal included whether the primary judged erred:

- in assessing general damages by way of compensation;
- by rejecting Ms Richardson's claim for economic loss resulting from her resignation from Oracle, and in calculating economic loss; and
- in relation to causation and indirect discrimination.

The Full Court upheld certain of Ms Richardson's grounds of appeal, and significantly increased the award of damages against Oracle to $130,000.

The chief reason for this increase was the Full Court's finding that general damages awarded by the primary judge were 'manifestly inadequate', even though the amount was not out of step with some past awards. Justice Kenny (with whom Justices Besanko and Perram agreed), held that whether the damages were manifestly inadequate was 'not to be determined here by reference to some previously accepted 'range' in sexual harassment cases'. Her Honour had regard to the nature and extent of Ms Richardson's injuries and prevailing community standards, including a greater value accorded to loss of enjoyment of life and compensation for pain and suffering, and fixed general damages at $100,000. This included compensation for injury caused to Ms Richardson's sexual relationship, which the primary judge had not allowed.

The Full Court also upheld Ms Richardson's claim for economic loss resulting from her resignation, finding that though Ms Richardson was not forced to leave, there was a sufficient causal link between Mr Tucker's unlawful conduct and Ms Richardson's economic loss (fixed at $30,000).

The Full Court rejected Ms Richardson's contention that by reason of the manner in which Oracle had conducted its investigation into her complaint, it had indirectly discriminated against her on the ground of her sex. The Full Court also rejected challenges to the primary judge's failure to award damages for psychological injury as a result of Oracle's investigation and the litigation, and to the principles applied by the primary judge in assessing damages under the relevant statutory provision.

MIGRATION – Involuntary removal of unlawful non-citizen from Australia – Where applicant had filed application for extension of time to appeal at time of removal – Where person holding applicant in immigration detention owes statutory duty under s 256 of the *Migration Act 1958* (Cth) to provide reasonable facilities for the obtaining of legal advice for applicant to bring legal proceedings for injunctive relief in order to prevent removal – Whether applicant had reasonable time and reasonable access to obtain legal advice

PRACTICE & PROCEDURE – Application for extension of time - Whether to grant applicant leave to file notice of appeal against orders of a judge of the Federal Circuit Court - Where applicant had no reasonable explanation for delay in filing notice of appeal

SZSPI v Minister for Immigration and Border Protection [2014] FCAFC 140
(28 October 2014 – Chief Justice Allsop and Justices Mansfield and Besanko)

The Applicant, a Tamil, arrived in Australia by boat from Sri Lanka. His Application for a Protection obligation evaluation was refused and an application to the Federal Circuit Court for judicial review of the decision of the independent protection assessor failed. When the Applicant's temporary safe haven visa expired, he lodged an Application for Extension of Time to Appeal to the Federal Court 20 days out of time. The Applicant was subsequently detained in immigration detention and removed from Australia following being given three working-days' notice that he would be deported, and before his application to the Federal Court was finalised. He could not be located following his return to Sri Lanka to appear in the hearing.

The central question the Full Court examined was whether the Department of Immigration and Border Protection (the Department) had breached its obligations under section 153 of the *Migration Act 1958* by removing the Applicant before he had the opportunity for his matter to be heard by the Court. This was considered by examining the Department's Procedures Advice Manual (PAM3: Act – Compliance and Case Resolution: Returns and Removals: Removal from Australia) which states that no removal is to occur if there is an unfinalised matter … or if the person was seeking judicial review. The

exception to this, which the Respondent successfully persuaded the Court applied in the circumstances of this case, was if the Litigation Branch advised the Department that it had reasonable prospects of defending an injunction application (to prevent removal).

In light of this, the Court also considered whether the Applicant had been given the full benefit of section 256 of the Migration Act. It provides that, as a minimum, a person in detention should be given reasonable time and the relevant facilities to make any relevant applications. Consideration was given to the Applicant's access to a migration agent and whist commenting that the case was not without its troubling aspects, the court was not satisfied that the Applicant was not given a reasonable opportunity to seek injunctive relief. The Court noted that determining what is 'reasonable' will always depend on the circumstances of the individual case, and held that, in the Applicant's absence from Australia, the application was moot and should be dismissed.

TRADE PRACTICES – challenge to validity of notices issued pursuant to s 155 of the *Competition and Consumer Act 2010* (Cth) – whether notices identify a matter that constitutes or may constitute a contravention of the Act – alleged anti-competitive contract, arrangement or understanding in contravention of s 45 – alleged cartel conduct under ss 44ZZRG or 44ZZRK – contract, arrangement or understanding entered into in context of the *Mining Act 1992* (NSW) – definition of 'services' under s 4(1) of the *Competition and Consumer Act 2010* (Cth) – nature of services specified in the s 155 notices

TRADE PRACTICES – definition of 'services' – whether identified services conducted in trade and commerce – competitive tender process

Obeid v Australian Competition and Consumer Commission [2014] FCAFC 155
(20 November 2014- Chief Justice Allsop and Justices Mansfield and Middleton)

The Full Court upheld the validity of examination notices issued by the Australian Competition and Consumer Commission (ACCC) under section 155 of the *Competition and Consumer Act 2010* (CC Act) in the course of an investigation by the ACCC of possible cartel conduct in contravention of the CC Act. That investigation followed the publication of a report by the New South Wales (NSW) Independent Commission Against Corruption (ICAC) into the conduct of a number of individuals, including the appellants, in regard to the award of mining exploration licences to companies which ICAC found were controlled by the appellants' family and their associates.

The appellants' argued, both on appeal and at first instance, that the 'services' specified in the examination notices were not 'in trade or commerce' but the exercise of a statutory power. As a consequence they argued that, as no cartel conduct could arise, valid examination notices could not be issued.

The Full Court found that, in the process adopted, the Minister on behalf of the State of NSW was engaging in trade or commerce in providing on a commercial basis the right to explore the State's coal reserves to maximise financial gain or revenue to the State. It also found that each of the appellants engaged in trade or commerce in seeking the consent of the Minister and an exploration licence. As a result it found that, within the meaning of the CC Act, the bids submitted in the tender process were in relation to the supply or acquisition of 'services'.

The Court also found that the appellant's argument that the relevant parts of the cartel provisions in the CC Act could apply only if the bid is made after a contract, arrangement or understanding came into existence could not be sustained. It noted that the operation of those parts must be read in context and that there was nothing in their text or context, or in their purpose or object, to restrict their operation in that way.

CONSTITUTIONAL LAW – whether Country Fire Authority, established by the *Country Fire Authority Act 1958* (Vic), a trading corporation within Commonwealth Constitution s 51(xx)

CONSTITUTIONAL LAW – whether *Fair Work Act 2009* (Cth) beyond the legislative power of the Commonwealth in its application to clauses 26, 27, 28 and 122 of the Country Fire Authority United Firefighters' Union of Australia Operational Staff Enterprise Agreement 2010 by reason of the principle in *Melbourne Corporation v The Commonwealth* [1947] HCA 26; (1947) 74 CLR 31 and *Re Australian Education Union, Ex parte Victoria* [1995] HCA 71; (1995) 184 CLR 188

INDUSTRIAL LAW – whether clauses 13, 14 and 16 of the Country Fire Authority/United Firefighters' Union of Australia Operational Staff Enterprise Agreement 2010 (Agreement) objectionable terms for the purposes of s 12 of the *Fair Work Act 2009* and by reason of ss 253(1)(b) and 356 of that Act of no effect – whether consultation clauses not 'consultation terms' as required by s 205 of the *Fair Work Act 2009* and of no effect so that the Model Consultation Term prescribed by the Fair Work Regulations 2009 (Cth) taken to be a term of the Agreement – whether subclauses 15.1.2 and 15.1.3 of the Agreement were invalid dispute resolution clauses and invalid and of no effect – whether subclause 38.3 of the Agreement invalid and of no effect

United Firefighters' Union of Australia v Country Fire Authority [2015] FCAFC 1
(8 January 2015 - Justices Perram, Robertson and Griffiths)

There were two major issues in this appeal. The first was whether the Country Fire Authority of Victoria (CFA) was a 'trading corporation'. The second was whether the *Fair Work Act 2009* (Cth) was beyond legislative power in its application to certain clauses of the CFA/United Firefighters' Union Operational Staff Enterprise Agreement 2010 by reason of the implied limitations on Commonwealth legislative powers in *Melbourne Corporation* (1947) 74 CLR 31 and *Re Australian Education Union* (1995) 184 CLR 188.

The Full Court held that the primary judge was correct to conclude that the CFA was a trading corporation. The issue was one of characterisation and was a matter of fact and degree. An important question was whether the corporation's trading activities formed a sufficiently significant proportion of its overall activities to merit its description as a trading corporation. Answering that question did not simply involve the application of a formula or equation nor the substitution of percentages or other measures of monetary value as between the activities found to be trading activities and the activities not so found.

As to the second issue, the Full Court held that the United Firefighters' Union's appeal succeeded on the basis that the implied limitation was not applicable to Commonwealth statutory provisions which operated by reference to the State or its agencies having voluntarily entered into an agreement which was then given statutory force, but only on condition that the parties had made the agreement which was subsequently approved by the then Fair Work Authority. The relevant legislative provisions did not single out any State or its agencies and the provisions did not impose a special disability or burden on the exercise of the powers and fulfilment of the functions of the state of Victoria or the CFA which curtailed the State's capacity to function as a government. There was no suggestion that the CFA had been compelled to enter into the Agreement by, for example, industrial action.

ADMINISTRATIVE LAW – Where special Australian Crime Commission investigation constituted under a determination made pursuant to the *Australian Crime Commission Act 2002* (Cth) – Where determination provides that other government agencies including officers of the Australian Taxation Office are participants in the special investigation – Where taxpayer summonsed for examination through exercise of compulsory powers under s 28

APPENDIX 7
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of the *Australian Crime Commission Act 2002* (Cth) – Whether summons issued for improper purpose – Whether gathering of intelligence can form any part of the purpose of holding s 28 examination – Where purpose of summons is to ask questions about federally relevant criminal activity covered by special investigation determination – Where evidence of purpose of persons other than decision-maker irrelevant – Whether dissemination of information to other participants in the special investigation is an improper purpose - Whether decision to hold s 28 examination made under dictation

ADMINISTRATIVE LAW – Whether examination under s 28 of the *Australian Crime Commission Act 2002* (Cth) held 'in private' where officers from the Australian Taxation Office present – Whether requirement that taxpayer be entitled to an opportunity to comment on presence of officers from the Australian Taxation Office at the s 28 examination - Effect of failure to give an opportunity to comment on presence of persons who are not a 'member of the staff of the ACC' – Whether presence of officers from the Australian Taxation Office at the Australian Crime Commission examination was not authorised because they were associated with the possible prosecution of the examinee

TAXATION – Where Commissioner in process of assessing objections by taxpayer and associated entities – Whether power to issue notice under s 264 of the *Income Tax Assessment Act 1936* (Cth) after objection lodged – Whether s 14ZYA of the *Taxation Administration Act 1953* (Cth) confers exclusive power to gather information after taxation objection lodged – Whether s 264 notice limited to gathering information for raising assessments before objection

TAXATION – Where Australian Taxation Office conducting special operation auditing taxpayers transferring payments to or from tax havens endorsed by special Australian Crime Commission investigation – Where transcript of Australian Crime Commission examination of taxpayer disseminated to officers of the Australian Taxation Office under s 59(7) of the *Australian Crime Commission Act 2002* (Cth) – Whether requirement to afford the taxpayer an opportunity to be heard before dissemination of the examination transcript to the Australian Taxation Office – Whether use of examination transcript in deciding whether to issue notice under s 264 of the *Income Tax Assessment Act 1936* (Cth) or conducting s 264 interview authorised – Whether use of examination transcript in connection with s 264 interview contravenes non-publication directions made under the *Australian Crime Commission Act 2002* (Cth) – Whether non-publication direction ought to have precluded use in connection with s 264 interview in order to avoid prejudice to a fair trial if the taxpayer is charged

TAXATION – Whether power to restrain exercise of compulsive powers to require evidence on the subject-matter of offences applies only where the examinee has been charged – Whether decision-maker issuing s 264 notice bound to have regard to detriment suffered as a result of the exercise of the power in s 264 – Whether decision to hold s 264 interview unreasonable

LHRC v Deputy Commissioner of Taxation (No 3) [2015] FCA 52
(6 February 2015 - Justice Perry)

This decision considers the extent of cooperation that may lawfully be undertaken between the Australian Crime Commission (ACC) and Australian Taxation Office (ATO) in the context of a special investigation under the *Australian Crime Commission Act 2002*.

A director of an investment bank and trustees of his family trusts sought to insulate a tax audit of their affairs from an earlier examination of the director pursuant to compulsive powers as part of the ACC special investigation, Project Wickenby. The relief sought was intended to ensure that those conducting any interview of the director under s 264

of the *Income Tax Assessment Act 1936* did not have knowledge of the substance of the ACC examination. The applicants sought to achieve this by challenging the examination, the dissemination of transcript to the ATO, the examiner's non-publication directions, and the issue of the s 264 notice.

In dismissing the applicants' case, Perry J considered the purposes for which a summons may issue under s 28(1A) of the ACC Act finding that, while a special investigation is primarily concerned with ascertaining facts, that does not preclude the gathering of intelligence. The Court also held that the applicants' submissions were premised on a false dichotomy between the investigation of *'federally relevant criminal activity'* in the nature of tax fraud or evasion and the gathering of evidence on the receipt of undisclosed income for the issue of amended assessments.

The decision also explores the circumstances in which ATO and other officers may lawfully attend, and assist with, an ACC examination. Limitations sought to be placed upon the power to issue a s 264 notice, including that it did not apply to the determination of a taxation objection, were rejected on the ground that objections comprise part of the assessment process.

Finally, the Court held that the use of information provided at an examination in deciding whether to issue a s 264 notice did not, in the circumstances, including that the director had not been charged, interfere with the accusatorial system of criminal justice. The use of that information in connection with the s 264 interview was a lawful derivative use.

INDUSTRIAL LAW – appeal from the County Court of Victoria – employment terminated – whether primary judge erred in concluding that employee's misconduct (whether considered separately or cumulatively) did not justify summary dismissal – whether primary judge failed to give adequate weight to certain facts – whether primary judge's process of reasoning miscarried

CONTRACTS – employment contract – when termination of contract effective – whether contract terminated on payment in lieu of notice or whether terminated for cause – whether employer entitled to rely on serious misconduct as grounds for dismissal where such conduct not known to or raised by the employer at the time contract terminated

COSTS – consideration of the construction and application of s 570 of the *Fair Work Act 2009* (Cth) in circumstances where a plaintiff pursued claims in a state court under the Fair Work Act and common law in the same proceeding – whether offer of compromise unreasonably refused

Melbourne Stadiums v Sautner [2015] FCAFC 20 (26 February 2015 – Justices Tracey, Gilmour, Jagot, White and Beach)

This was an appeal from the County Court of Victoria. It concerned an employment contract between Mr Sautner and Melbourne Stadiums Limited (MSL) and the basis upon which that contract was terminated. The contract could be terminated on notice, immediately by providing remuneration in lieu of notice or immediately, without payment, for cause.

On 3 June 2013, MSL purported to immediately terminate the contract by informing Mr Sautner that he would be paid six months' remuneration in lieu of notice. MSL subsequently became aware that Mr Sautner had engaged in misconduct, including using MSL tickets to obtain goods and services for personal benefit. MSL asserted that it was entitled to terminate the contract for serious misconduct.

Mr Sautner argued that his conduct did not justify summary dismissal. Although finding in Mr Sautner's favour, the trial judge considered that if the conduct had justified summary dismissal MSL would have been entitled to terminate for cause under the principle articulated in *Shepherd v Felt & Textiles of Australia Limited* (1931) 45 CLR 359 that a servant's dismissal may be justified upon grounds upon which his master did not act and of which he was unaware when he discharged him.

On appeal, the Court held that the misconduct justified summary dismissal. The majority found that the purported termination on 3 June was ineffective as the specific wording of the clause required actual payment of remuneration in lieu of notice and this never occurred. Accordingly, MSL was entitled to summarily dismiss Mr Sautner as the contract was still on foot at the time the misconduct was discovered. The majority considered that if the contract had been terminated on 3 June, MSL would not have been entitled under the *Shepherd* principle to resuscitate a lawfully terminated agreement and to re-terminate it upon some ground not known at the time of termination.

Justice White held in dissent that MSL had repudiated the contract and that Mr Sautner had accepted the repudiation. His Honour considered that under the *Shepherd* principle MSL could have justified its failure to give effect to the contract by reliance on Mr Sautner's earlier breaches, even though MSL was unaware of that conduct at the time.

The Court held that, subject to s 570(2) of the *Fair Work Act 2009* (Cth), both the trial judge and this Court on appeal, were precluded, by s 570(1), from making any costs orders notwithstanding the fact that Mr Sautner had relied on causes of action in common law and under the Fair Work Act.

CORPORATIONS – basis of obligations to make continuous disclosure – whether first defendant breached obligations of continuous disclosure – whether first defendant obliged to disclose payment of dividends from capital – whether accounts gave a true and fair view – whether first defendant obliged to disclose if accounts did not – whether first defendant insolvent at specified date – whether first defendant obliged to disclose if it was – whether dividend funded from asset revaluation

Grant-Taylor v Babcock & Brown [2015] FCA 149 (4 March 2015 - Justice Perram)

The plaintiffs acquired shares in Babcock & Brown at various times prior to the suspension of trading in the company's stock and sued for alleged breaches of market disclosure obligations sourced in the *Corporations Act 2001* (Cth) and the ASX listing rules. These obligations necessitated disclosure of information if it was not generally available and was such that a reasonable person would expect it to have a material effect on the company's share price.

The alleged non-disclosure concerned:

(i) failure to reveal payment of dividends otherwise than from capital;
(ii) failure of the financial accounts to reflect a true and fair view of the company's position;
(iii) failure to reveal the company's insolvency; and
(iv) failure to reveal payment of dividends from borrowings following asset revaluations.

As to (i), this issue arose because of the Babcock & Brown group's corporate structure (in which the operating entity would declare dividends which were then passed through to the shareholders of the listed entity) and the timing of receipt of the monies by the listed entity from an accounting perspective. Thus the issue surrounding the dividend payments was the result of the application of accounting standards. Moreover, this information could be gleaned from the financial reports. Accordingly it was held that disclosure of this fact would not materially affect the price of the company's shares.

As to (ii), it was held that for accounts to give a 'true and fair' view they must be both free of incorrect facts or omissions of material facts ('true') and contain opinions which are reasonable in the context in which they appear ('fair'). Therefore the accounts were not 'true and fair' because they did not reflect the fact that there had been an unlawful capital reduction, yet, as above, this would not materially impact the share price.

As to (iii), the company could not disclose its insolvency as nobody within the company believed it to be insolvent at the time at which disclosure was said to be required.

As to (iv), there was no evidence of this, hence no obligation to disclose it could arise.

BANKING AND FINANCIAL INSTITUTIONS – CONSUMER PROTECTION – whether various stipulations for fees are penalties at law or equity, or genuine pre-estimate of damage or compensation – whether the relevant stipulations were for breach of term of contract, collateral or accessory in the nature of security for, and in terrorem of the primary stipulations, or for a further contractual right or accommodation – the relevance of the 'tests' in *Dunlop Pneumatic Tyre Company Limited v New Garage and Motor Company Limited* [1914] *UKHL 1*; [1915] AC 79 to the construction and characterisation of the provisions – whether the fees were extravagant or unconscionable – whether the charging of the fees constituted unconscionable conduct, unjust transactions or unfair contract terms under *Australian Securities and Investments Commission Act 2001* (Cth), *National Consumer Credit Protection Act 2009* (Cth), and *Fair Trading Act 1999* (Vic)

LIMITATION OF ACTIONS – whether recovery statute-barred – construction of s 27(c) of the *Limitation of Actions Act 1958* (Vic) – whether it applied to a mistake of law

Paciocco v Australia and New Zealand Banking Group Limited [2015] FCAFC 50
(8 April 2015 - Chief Justice Allsop and Justices Kenny and Besanko)

Following the High Court's restatement of the law of penalties in *Andrews v Australia and New Zealand Banking Group Ltd* (2012) 247 CLR 205, Mr Paciocco and a company controlled by him, Speedy Development Group Pty Ltd (SDG), brought a representative proceeding under Pt IVA of the *Federal Court of Australia Act 1976* (Cth) to set aside bank fees charged by the Australian and New Zealand Banking Group Limited (ANZ). Owing to the complex nature and the sheer magnitude of the dispute, this matter was of real public interest, and arguably, continues to be so.

The question before the court, broadly captured, was whether the various fees charged by ANZ (late payment fees, over limit fee and non-payment or dishonour fees) were penalties, or otherwise unconscionable or unfair under the *Australian Securities and Investments Commission Act 2001* (Cth), the National Credit Code under the *National Consumer Credit Protection Act 2009* (Cth), or the *Fair Trading Act 1999* (Vic). On 5 February 2014, the primary judge held that the credit card late payment fees were penalties at law and in Equity as they were payable upon breach or as security for or *in terrorem* of the satisfaction of the primary stipulation, and crucially, not a genuine pre-estimate of damage or loss as the fees were extravagant and unconscionable when compared with the actual loss suffered by ANZ. ANZ appealed this finding, and in turn, the applicants, cross-appealed on the finding by the primary judge that the other fees were otherwise legitimate.

The Full Court determined that the assessment of extravagance, exorbitance and unconscionability must be done as at the time of entry into the contract. The assessment is therefore forward looking or *ex ante*, as it is the prospective assessment of compensation commensurable with the interest of the obligee protected by the bargain. The Court held that the primary judge erred in assessing the greatest conceivable loss *ex post*, based on actual loss suffered by ANZ, as opposed to an assessment as at the date of the contract – albeit unbeknownst to the parties at the time. In assessing the greatest conceivable loss, the Court took into account costs arising as a result of non-payment, including costs for maintaining regulatory capital, costs related to running a collections department and provisioning costs. Proper assessment showed that the fees were not extravagant, exorbitant or unconscionable. The Court ultimately held that the late payment fee provisions could not be a penalty at law or in Equity.

As to the cross-appeal, the Court upheld the primary judge's finding that the remaining fees were not penalties as they were for additional services rendered by ANZ. In respect of the statutory grounds of unconscionability and unfairness, the Court affirmed the primary judge's reasoning for the decision where there was lack of any proven predation on the weak or poor; lack of real

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vulnerability requiring protection; lack of financial or personal compulsion or pressure to enter or maintain accounts; clarity of disclosure; the lack of secrecy, trickery or dishonesty; and the ability of people to avoid the fees or terminate the accounts. The Court discussed the proper approach as a matter of judicial technique to dealing with and evaluating value-laden expressions in the statutes such as unconscionable

ADMIRALTY – arrest of surrogate ship – general maritime claim by purchaser of vessel alleged to be defective against shipbuilder under s 4(3)(n) of *Admiralty Act 1988* (Admiralty Act) – whether purchaser could arrest nearly completed vessel in shipyard of shipbuilder – whether s 19(a) of Admiralty Act satisfied – surrogate vessel under construction not a 'ship' for purposes of s 19(a) – ship on delivery not owned by 'relevant person' – cause of action said to arise between launch and delivery of ship based on terms implied into construction contract for first vessel not reasonably arguable – upon striking out of that claim, no cause of action by purchaser against shipbuilder when shipbuilder owner of ship

Virtu Fast Ferries Ltd v The Ship 'Cape Leveque' [2015] FCAFC 58
(30 April 2015 – Chief Justice Allsop and Justices Mansfield and McKerracher)

This unique admiralty and maritime claim was dealt with by the Court at first instance and on appeal.

The Appellant, Virtu Fast Ferries Ltd (Virtu), filed a writ *in rem* under the *Admiralty Act 1988* (the Act) against the ship *Cape Leveque* when that ship was under construction in the shipyard of the second respondent, Austal Ships Pty Ltd (Austal), and about 96 per cent complete. *Cape Leveque* was being built for the Commonwealth of Australia (Commonwealth) under a multi-vessel ship building contract. Two-thirds of the total sum payable under that contract had been paid by the Commonwealth and the completed ship was due to be delivered, subject to resolution of the proceeding, 6 days after the hearing of the appeal.

Virtu's action for the arrest of the *Cape Leveque* as a surrogate for the ship *Jean de la Valette* was to provide security for a claim that the *Jean de la Valette*, which had been built by Austal and delivered to Virtu in 2010, was not properly constructed and had significant cracking. Virtu had commenced arbitration under the construction contract in London in 2013 and this was still proceeding.

Austal filed an interlocutory application seeking the strike out of the writ. Central to the determination of that application was whether Virtu could bring an action on a general maritime claim against *Cape Leveque* under section 19 of the Act. That section provides that a proceeding on such a claim may be commenced against a surrogate ship, only if:

(a) a relevant person in relation to the claim was, when the cause of action arose, the owner or charter of, or in possession or control of, a ship; and
(b) that person is, when the proceedings was commenced, the owner of the surrogate ship.

The primary judge (Rares J) dismissed the writ under subsection 19(b) deciding that the Commonwealth and not Austal was the owner of *Cape Leveque* at the time of the writ.

On appeal, the Full Court examined only Virtu's prospects of success of making out its assertions under subsection 19(a). Both parties accepted that prior to her launch *Jean de la Valette* was not a 'ship' as defined by the Act and that after her delivery to Virtu subsection 19(a) was not available to support the writ. The Full Court concluded that, consequentially, it was necessary to consider, firstly, if subsection 19(a) is available to support the arrest of a surrogate ship for a cause of action arising before her launch and, secondly, whether Virtu's claim against Austal properly includes a cause of action between her launch and her delivery to Virtu.

After considering the language used in subsection 19(a) and other relevant provisions of the Act, the Full Court found that it would be inconsistent to read the reference in subsection 19(a) to 'ship' to mean anything other than a 'ship' as defined. As a result the operation of the subsection did not extend to a vessel under construction when the cause of action arose.

The Full Court rejected the Appellant's contention that causes of action arose after launch and before delivery of the *Jean de la Valette* as Austal 'knew or ought to have known' that the ship had latent defects finding that there was no contractual or other obligation to make such disclosure and no evidentiary basis for the Appellant's assertions.

The appeal was dismissed. The Full Court noted the proceeding dealt only with the claim against the surrogate ship and the arbitration concerning *Jean de la Valette* would continue in London.

INDUSTRIAL LAW – *Building and Construction Industry Improvement Act 2005* (Cth) – unlawful industrial action – admitted contraventions – civil penalties – exercise of judicial discretion in sentencing – agreed penalties and submissions as to penalty – effect of *Barbaro v The Queen*

Director, Fair Work Building Industry Inspectorate v Construction, Forestry, Mining and Energy Union [2015] FCAFC 59
(1 May 2015- Justices Dowsett, Greenwood and Wigney)

The Director, Fair Work Building Industry Inspectorate brought proceedings against the Construction, Forestry, Mining and Energy Union (CFMEU) and Communications, Electoral, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU) alleging that they contravened the *Building and Construction Industry Improvement Act 2005* (Cth) by engaging in unlawful industrial action. CFMEU and CEPU both admitted to multiple contraventions.

The parties sought to adopt the practice, countenanced by earlier decisions of the Court, whereby the parties in civil penalty proceedings would make submissions as to penalty, often jointly, contending either for a particular figure or a range within which the penalty should fall. The question for the Court was whether the High Court's decision in *Barbaro v The Queen* [2014] HCA 2, 305 ALR 323 had the effect of forbidding that approach.

The Court held that the fixing of an appropriate penalty is a matter for the Court in the exercise of its discretion. Submissions as to penalty range or amount, agreed or otherwise, are impermissible expressions of opinion and are irrelevant to the process of instinctive synthesis involved in sentencing and in fixing such penalties, parties cannot, by agreement, bind or limit the Court's discretion in their imposition.

The High Court granted special leave to appeal on 18 June 2015.

ADMINISTRATIVE LAW – appeal from a decision of the Federal Court of Australia on application for judicial review of a declaration of unacceptable circumstances by the Takeovers Panel under s 675A of the *Corporations Act 2001* (Cth) – whether primary judge erred in finding that the Takeovers Panel provided adequate reasons in the declaration of unacceptable circumstances – whether primary judge erred in finding that the Takeovers Panel had sufficient evidence to make a declaration of unacceptable circumstances with respect to a subsequent shareholding acquisition.

CORPORATIONS – whether primary judge erred in construing 'unacceptable circumstances' under s 657A as ongoing – meaning of, and distinction between, 'circumstances' and 'effects' under s 675A – whether the primary judge erred in finding contravention of s 606 of the *Corporations Act 2001* (Cth) – meaning of 'voting power' under ss 606 and 610 – whether the deed poll and its covenant which limited the exercise of voting rights affects the statutory scheme.

Queensland North Australia Pty Ltd v Takeovers Panel [2015] FCAFC 68
(22 May 2015 - Justices Dowsett, Middleton and Gilmour)

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Queensland North Australia Pty Ltd (QNA) acquired shares, through a managed investment scheme, in The Presidents Club Limited ('TPC') which operates the now Palmer Coolum Resort. The Takeovers Panel found that the acquisitions contravened s 606 of the Corporations Act. The Panel also made a declaration of 'unacceptable circumstances' under s 657A. The primary judge affirmed the decision of the Panel. The Full Court allowed the appeal.

(i) *'Unacceptable Circumstances'*

The time within which an application for the declaration to be made, and when the Panel can make a declaration is limited to specified periods 'after the circumstances occur': ss 657B, 657C of the *Corporations Act 2001.* The question arose as to whether the application and declaration were out of time. TPC submitted that the relevant unacceptable circumstances were 'ongoing' so that neither limitation period had expired at any relevant time.

The Court drew a distinction between the 'circumstances' and their 'effects'. The 'effect' of the 'circumstances' rendered them 'unacceptable'. However, those 'effects' did not constitute part of the 'circumstances' which were capable of being declared 'unacceptable'. In this case, QNA's acquisition of shares was the relevant 'circumstance'; the 'effect' was a breach of s 606. That effect was 'continuing', but the 'circumstances' were not. Hence, the time period had expired and it was necessary to extend the time for making an application.

(ii) *'Voting Power'*

A deed poll and its covenant which limits the exercise of voting rights does not affect the meaning of 'voting power' under ss 606 and 610 of the Corporations Act. The Court held that 'voting power' is the number of votes controlled by reference to the constitution of the relevant company. The words 'votes attached' refer to the votes conferred under the company's constitution.

ADMINISTRATIVE LAW

– appeal from the Administrative Appeals Tribunal (Tribunal) – scope of s 44 of the *Administrative Appeals Tribunal Act 1975* (Cth) – whether grounds of appeal to primary judge stated question or questions of law – whether appeal competent – whether question of law may include so-called mixed question of fact and law – whether in exercising its appellate jurisdiction on an appeal from a judge of the Court, the Court may deal with question or questions of law not previously raised before the primary judge

INCOME TAX

– income tax assessments under ss 167(b), 167(c) and 170(1) of the *Income Tax Assessment Act 1936* (Cth) – appeal from the Administrative Appeals Tribunal (Tribunal) – whether amended notice of appeal raised questions of law – whether Tribunal's reasoning process was illogical, irrational or lacking a basis in findings or inferences of fact supported on logical grounds and thus made a decision it was not authorised to make – whether Tribunal misconstrued the burden of proof in *Taxation Administration Act 1953* (Cth), s 14ZZK – whether Tribunal erred in law in concluding that payments made to associates were ordinary income within *Income Tax Assessment Act 1997* (Cth) s 6.5 – whether Tribunal erred in law by applying Part III Division 7A as amended by the *Tax Laws Amendment (2010 Measures No 2) Act 2010* (Cth) where transitional provision provided that the amendments applied to payments made, loans made and debts forgiven on or after 1 July 2009

Haritos v Commissioner of Taxation [2015] FCAFC 92 (30 June 2015 – Chief Justice Allsop and Kenny, Besanko, Robertson and Mortimer)

A Full Court constituted by five judges considered whether an appeal on a 'question of law' under s 44 of the *Administrative Appeals Tribunal Act 1975* (Cth) may include a so-called mixed question of fact and law, and whether a new question of law, not raised before the primary judge, may be raised on appeal to the Full Court. In summary it concluded:

(1) The subject-matter of the Court's jurisdiction under s 44 of the AAT Act is confined to a question or questions of law. The ambit of the appeal is confined to a question or questions of law.

(2) The statement of the question of law with sufficient precision is a matter of great importance to the efficient and effective hearing and determination of appeals from the Tribunal.

(3) The Court has jurisdiction to decide whether or not an appeal from the Tribunal is on a question of law. It also has power to grant a party leave to amend a notice of appeal from the Tribunal under s 44.

(4) Any requirements of drafting precision concerning the form of the question of law do not go to the existence of the jurisdiction conferred on the Court by s 44(3) to hear and determine appeals instituted in the Court in accordance with s 44(1), but to the exercise of that jurisdiction.

(5) In certain circumstances it may be preferable, as a matter of practice and procedure, to determine whether or not the appeal is on a question of law as part of the hearing of the appeal.

(6) Whether or not the appeal is on a question of law is to be approached as a matter of substance rather than form.

(7) A question of law within s 44 is not confined to jurisdictional error but extends to a non-jurisdictional question of law.

(8) The expression 'may appeal to the Federal Court of Australia, on a question of law, from any decision of the Tribunal' in s 44 should not be read as if the words 'pure' or 'only' qualified 'question of law'. Not all so-called 'mixed questions of fact and law' stand outside an appeal on a question of law.

(9) In certain circumstances, a new question of law may be raised on appeal to a Full Court.

(10) Earlier decisions of this Court to the extent to which they hold contrary to these conclusions, especially to conclusions (3), (4), (6) and (8), should not be followed to that extent and are overruled. Those cases include *Birdseye v Australian Securities and Investments Commission* [2003] FCA 232; 76 ALD 321, *Australian Securities and Investments Commission v Saxby Bridge Financial Planning Pty Ltd* [2003] FCAFC 244, 133 FCR 290, *Etheridge, HBF Health Funds and Hussain v Minister for Foreign Affairs* [2008] FCAFC 128; 169 FCR 241.

In relation to whether a new question of law may be raised on appeal to the Full Court, the Full Court held that in an appropriate case the Court may permit amendment to the questions of law arising on appeal from a primary judge hearing an appeal under s 44. The Full Court considered the differences between how the questions of law were put before the primary judge and how they were put before the Full Court was not a matter of jurisdiction but a matter of discretion, including the discretion as to costs.

APPENDIX 8
JUDGES' ACTIVITIES

CHIEF JUSTICE ALLSOP
2014

10 Jul 2014	Attended the Anglo-Australasian Lawyers Society Breakfast Seminar with The Hon. Justice Beazley AO, President Court of Appeal, Supreme Court of NSW.
14 Jul	Attended lecture by Justice Christian Byk of the Court of Appeals in Paris, Federal Court Sydney Registry Court 1 entitled 'New frontiers of the human body'.
24 Jul	Attended the Australian Centre for Private Law Symposium, TC Beirne School of Law topic 'Misstatement Liabilities and Pure Economic Loss: 50 years on from *Hedley Byrne v Heller*' at Bar Association of Queensland, Brisbane.
28 Jul	Attended the book launch by invitation from Ross McInnes, Partner Clayton Utz who co-author 'Annotated Class Actions Australia'. Chief Justice Allsop wrote the Foreword for the text and made a short speech on the evening.
29 Jul	Attended the Supreme Court of NSW Annual Corporate Law Conference.
4 Aug	Attended the John Lehane Memorial Lecture, Supreme Court of NSW.
5 Aug	Presented a paper 'Taxation and the Federal Court: Past, Present and Future' at the Melbourne Law School Annual Tax Lecture, 2014 in Melbourne.
16 Aug	Attended and delivered the keynote address on 'The Future of Mediation' at NSW Bar Association Conference – Advanced Mediation Workshop in Sydney.
28 Aug	Delivered keynote opening, Federal Court Conference, Melbourne 'Administrative Justice and Its Availability' – Keynote speaker was Justice Dennis Davis, Western Cape High Court.
5-6 Sep & 12-13 Sep	Lecturing at Sydney University, Comparative & Admiralty & Maritime Law.
9 Sep	Presented a paper entitled 'Judicial Case Management and the problem of costs' at Lord Dyson lecture on 'The Jackson Reforms to Civil Justice in the UK' hosted by University of NSW, Faculty of Law at Herbert Smith Freehills.
9 Sep	Attended the AACL Seminar held in Federal Court where Professor Jeremy Gans presented a paper on 'The Constitutionality of Shadow Criminal Laws: Where (If Anywhere) will the High Court draw the line?'.
3-6 Oct	Attended the 27th LawAsia Conference in Bangkok.
10-11 Oct	Attended as panellist at the 12th Annual Competition & Consumer Workshop, Adelaide.
14 Oct	Chaired the annual JH Plunkett Lecture at NSW Bar Association, Sydney.
17 Oct	Attended and was keynote speaker with Chief Justice Warren AC at Victorian Bar & Law Institute of Victoria (LIV) conference. Keynote address 'A Judicial perspective on current developments and challenges in conducting litigation in the Federal and Supreme Courts'.
20 Oct	Attended the Twilight seminar 'Administrative Law Update' presented by Justices John Basten and Mark Leeming in the Supreme Court of NSW.

23-24 Oct	Attended Judicial Leadership Programme.
23 Oct	Attended the Academy of Law (AAL) third annual Patron's Address which was delivered by the Honourable Chief Justice Sundaresh Menon, Chief Justice, Supreme Court of Singapore in Banco Court.
27 Oct	Attended and presented with Justice Middleton 'New Developments of the Federal Court' to corporate counsel and members of the Victorian Bar at Owen Dixon East Chambers.
31 Oct	Attended The Chartered Institute of Arbitrators (Australia) Limited (CIArb) seminar to re-launch the NSW Chapter of CIArb Australia.
8 Nov	Attended and spoke on 'Case Management and the Profession's Responsibilities' at Salvos Legal 2014 Lecture Series – 'Hail to the Chiefs'.
10 Nov	Attended and spoke at AMTAC Seminar – Sydney Arbitration Week entitled 'Enforcement of Foreign Awards'.
11 Nov	Attended and presented a keynote speech 'International Commercial Arbitration – the Courts and the Rule of Law in the Asia Pacific Region' at 2nd Annual Global Arbitration Review (GAR) Live Sydney Event.
12 Nov	Attended and presented on the topic 'Alternative forms of dispute resolution within the maritime sector' at Maritime 2014: Ship to Shore Conference in Melbourne.
14 Nov	Attended and opened the National Judicial College of Australia (NJCA) Jury Management Program in Melbourne.
27 Nov	Attended the Richard Cooper Memorial Lecture, Federal Court, Sydney.
28 Nov	The Chief Justice was a guest speaker and presented a paper 'Some Observations as to why Toongabbie Legal Centre is important' at 7th Annual Dinner of the Toongabbie Legal Centre.

2015

4 Feb 2015	Attended the Opening to Law Term dinner at Parliament House, Sydney.
9 Feb	Attended and was guest speaker at the book launch of *The Law of Misleading and Deceptive Conduct* by Colin Lockhart.
25 Feb	Presented at the inaugural seminar involving the Federal Court of Australia, Supreme Court of Victoria, Monash Law Faculty, Victorian Bar, CommBar, Law Institute of Victoria and Judicial College of Victoria entitled 'Australia – a vital commercial hub in the Asia Pacific region', Monash University Law Chambers.
27 Feb	Presented the keynote speech 'The international maritime security regime – the general maritime law – reality, not theory' at the MLAANZ NSW 2015 Biennial Mini Conference, Bowral.
21-22 Mar	Attended Judicial Colloquium on Insolvency at INSOL International Annual Regional Conference, San Francisco. Presented paper entitled 'The role of the Model Law in promoting effective cross-border insolvencies'.

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23-34 Mar	Attended INSOL International Annual Regional Conference, San Francisco and presented part of panel session entitled 'Nationalism never dies: universalism, treaties and comity'.
30-31 Mar	Attended Council of Chief Justices meeting in Auckland, New Zealand.
17 Apr	Presented a joint paper with Justice Basten at Judges and the Academy 2015 Seminar program entitled 'Judging and Community Values' at Monash University Law Chambers, Melbourne.
25 Apr	Participated in a panel session with Gregory Nell SC and Ron Salter at the CIArb Diploma course in International Commercial Arbitration entitled 'International Maritime Arbitration' at The Australian International Dispute Centre.
11-15 May	Presented at International Congress of Maritime Arbitrators (ICMA) XIX Hong Kong Seminar entitled 'The Indemnity of Charterparties'.
12 May	Presented paper at International Council for Commercial Arbitration (ICCA) Judicial Forum entitled 'Role of the judge in international arbitration – from the perspective of the judge' at Offices of HKIAC, Hong Kong.
18 May	Attended the Australian Academy of Law's Patron's Address 'Magna Carta and the Development of the Common Law' delivered by Professor Paul Brand.
19 May	Attended the Australian Centre for International Commercial Arbitration function for their 30th Anniversary at the Australian International Disputes Centre.
27 May	Spoke at the celebration of the CIArb Centenary Event in Brisbane.
28 May	Gave the dinner speech at the UNCITRAL Delegates Dinner, Canberra.
29 May	Attended the UNCITRAL Australia Seminar co-hosted by the Commonwealth Attorney-General's Department, the UNCITRAL National Coordination Committee for Australia and the UNCITRAL Regional Centre for Asia and the Pacific held at the Attorney-General's Department, Canberra.
3 Jun	Judged the Grand Final of the Federal Constitutional Law Moot at the New Law School, University of Sydney.
18 Jun	Spoke at the Australian Government Solicitor Sydney Alumni function in Sydney
24 Jun	Spoke at the 2015 Australian Insurance Law Association (AILA) twilight seminar series entitled 'Section 54 Resolved? What has this got to do with Non-Disclosure and Policy drafting'.
2014-15	Justice **MARSHALL** was appointed as • A member of the External Professional Advisory Committee at the Law Faculty of Monash University • Deputy Chair of the Advisory Board to the Australian Intercultural Society (AIS) and • An adjunct professor in the School of Law at the University of Western Sydney.
28 Jul 2014	Participated in a wellbeing discussion panel for JD students at RMIT University.
9 Oct	Guest speaker at the annual dinner for the Law Institute of Victoria Workplace Relations Accredited Specialists.

22 Oct	Participated as part of a panel for the Victorian Bar Readers course in the topic of 'Wellbeing and the Law'.
6 Feb 2015	Gave a keynote speech at the Wellbeing for Law Network Forum at the ANU College of Law, Canberra on the topic: 'Depression: An issue in the study of law'.
9 Feb	Was published in the on-line magazine *Turkish Review* on the topic of a recent decision of the Constitutional Court of Turkey. The title of the article was: "Pouring salt into a wound".
19 Mar	Spoke at a reception for newly admitted solicitors, Law Institute of Victoria.
25 Mar	Launched a new on-line magazine for Melbourne University Law Students: *Equilibrium*.
31 Mar	Presided over the Deakin University Junior Moot Final.
27 Apr	Presided over the Monash University Junior Moot Final.
28 Apr	Spoke at the Victorian Bar Readers Course Seminar on wellbeing issues.
28 Apr	Delivered a keynote address at the Defence Legal Workshop, New South Wales.
29 Apr	Facilitated an Affinity Intercultural Foundation event where Bryant CJ of the Family Court spoke on the issue of commercial surrogacy.
12 May	Participated in a panel session hosted by Monash University Law Faculty on 'Wellbeing in the Law 2015'.
14 May	Keynote speaker at a breakfast forum held by the Queensland Law Society entitled: 'In Focus: Mental Health in the Legal Profession'.
14 May	Keynote speaker at the Sydney University Law Society Mental Health panel.
29 May	Participated in a half-day workshop conducted by the Wellbeing and the Law Foundation and the Black Dog Institute.
3 Jun	Conducted a tour of the Court by students from 17 different countries attending Melbourne for the International Festival of Language and Culture on 7 June 2015.
16 Jun	Attended an address by the Victorian Attorney-General, The Honourable Martin Pakula hosted by Hellenic Australian Lawyers on 'The Legal Profession in a Multicultural Society'.
19 Jun	Participated in a panel at the Australian Government Legal National Conference in Canberra on the topic 'Mental Health in Our Workplace'.
3 Aug 2014	Justice **MANSFIELD** presented a session on the Federal Court to the South Australian Bar Reader's Course and Reading Program.
13-14 Sep	Chaired a panel session entitled 'Merger Authorisations in the Australian Competition Tribunal – The Experience' at the Law Council of Australia (Business Law Section) Competition and Consumer Workshop.
10-11 Oct	Attended the annual University of South Australia Competition and Consumer Workshop held in Adelaide.

APPENDIX 8
JUDGES' ACTIVITIES

17-18 Oct	Attended the SA Bar Association's Fifth Annual Conference.
24 Oct	Opened the IPSANZ Advanced Intellectual Property Law Conference and also participated as Chair for the panel session entitled: 'Collision Course: The Looming Conflict Between IP and Competition Laws'.
20 Jan 2015	Spoke to students of the Native Title Summer School under the Federal Court's 'Native Title Case Management Programme and Court Directed Mediation – Recent Developments'.
28 Apr	Presented a session entitled 'Practical Issues from the Judiciary on Anti-Trust Enforcement' at the Pre-International Competition Network Forum as part of the 11th IBA Competition Mid-Year Conference.
11 Jun	Spoke on the role of government lawyers to the Attorney-General's Department Alumni Program members in Adelaide.
2014-15	Justice **DOWSETT** continues in his capacities as a: • member of the Programs Advisory Committee of the National Judicial College of Australia and • Community Member of the Board of the College of Law (Sydney). During 2014, Justice Dowsett assumed the Chair of the newly created University of Queensland Law School Advisory Board.
7-9 July 2014	Attended the Conference of Supreme and Federal Court Judges.
27-29 Aug	At the Federal Court Judges' Workshop and Business Meeting held in Melbourne Justice Dowsett presented a paper on the topic 'Civil Penalties and *Barbaro v The Queen*'.
28 Oct	Attended the ceremonial sittings of the Federal Court of Australia in Sydney at which the new Senior Counsel for New South Wales announced their appointments.
27 Nov	Attended the Richard Cooper Memorial Lecture on the topic 'International Law and the South China Sea: Atolls and Arbitration', delivered by Dr Christopher Ward.
17 Dec	Delivered the keynote address at a dinner conducted by the Bar Association of Queensland to mark the appointment of new Queen's Counsel in Queensland.
18 Dec	Presided at the ceremonial sittings of the Federal Court of Australia in Brisbane, at which the new Queen's Counsel for Queensland announced their appointments.
30 Jan 2015	Attended the official launch of the Queensland Chapter of the Hellenic Australian Lawyers Association Incorporated.
22 May	Attended an Oration in honour of the late Alexander Christy Freeleagus, held at the Supreme Court of Queensland, and hosted by the Hellenic Australian Lawyers Association Incorporated.
27 May	Attended a function hosted by the Queensland Chapter of the Chartered Institute of Arbitrators (Australia), held to celebrate the centenary of the Institute.

2014-15	Justice **KENNY** is a: • 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 and • member of the External Professional Advisory Committee, Monash University Law School.
Jul 2014	Launched *Not-for-Profit Law: Theoretical and Comparative Perspectives* (Cambridge University Press, 2014) edited by Matthew Harding, Ann O'Connell and Miranda Stewart.
Sep	Launched *Constitutionalism in Asia: Cases and Materials* (Hart Publishing, 2014) by Wen-Chen Chang, Li-ann Thio, Kevin YL Tan and Jiunn-rong Yeh at the Melbourne Law School.
Oct	Presented a paper on 'The Administrative Review Council and transformative reform', at the 2014 Public Law Weekend: Public Law in the Age of Statutes: A conference in Honour of Emeritus Professor Dennis Pearce AO.
Oct	A member of the Selection Committee for Menzies Scholarships in Law.
30-31 Oct	Presented on 'The Admiralty Jurisdiction and the Role of the Marshal' at the Admiralty Marshals' Workshop in Sydney.
July 2015	Published a paper 'Federal Courts and Australian National Identity' (2015) 38 *Melbourne University Law Review* 996
2014-15	Justice **BENNETT** continued to be: • Chair of the National Health and Medical Research • Council Arbitrator of the Court of Arbitration for Sport • A member of the Law Academic Advisory Committee for the School of Law of The Chinese University of Hong Kong and • A member of Chief Executive Women.
19-21 Sept 2014	Speaker at the 28th Annual IPSANZ – Intellectual Property Society of Australia and New Zealand Conference. Her Honour presented the Judges' Session and spoke on 'Patent Snippets'.
16-17 Jan 2015	Speaker at an Intellectual Property Policy Seminar hosted by the Indian Society of International Law in New Delhi, India on 'Intellectual Property for Industrial Development and Science Innovations / Role of Patents in Medical Science Innovations and Access to Health Care and also Current Issues in IP Protection / Standard Essential Patents'.
23-25 Mar	Presided over a four-day arbitration hearing in Lausanne Switzerland. The Interim Award was delivered on 27 July 2015.

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JUDGES' ACTIVITIES

8-9 Apr	Participated as a member of the Faculty of Law at the 23rd Annual Fordham Conference held at Robinson College, Cambridge University UK. Her Honour was a speaker/panellist at various sessions including a presentation on 'Patentable Subject Matter'.
22-24 May	Delivered the opening Keynote Address on 'Federal Court Reforms / National Court Framework' at the College of Law's 2015 Specialist Legal Conference.
27 May	Attended an IP teaching workshop at Jiao Tong University Law School and spoke on the 'Intersection of Protection under Trade Mark, Copyright, Design and Unfair Competition Laws' and 'Emerging IP Issues from Comparative Law Perspective Case Law Developments in Australia' at the invitation of the University of Washington.
28-29 May	Attended a judicial conference hosted by East China University for Political Science and Law [ECUPSL] and spoke at two sessions on 'Standard Essential Patents – The Australian Experience' and 'Law Application to Regulating Online Competitive Behaviours – Australian Approach'.
5-9 Jul	Justice **SIOPIS** attended the Supreme Court and Federal Court Judges Conference.
28 Jul	Attended the Australian Academy of Law Lecture given by the Hon Michael Kirby AC CMG in Perth.
23 Sep	Attended the formal launch of the Women Lawyers of Western Australia 2014 Gender Bias Taskforce Review Report held at the Supreme Court of WA.
11 Feb 2015	Gave a paper entitled 'At the Coalface: Reflections on Practitioner Conduct in Industrial Disputes' at a seminar held by the Law Society of Western Australia in association with the Australian Labour Law Association.
20 Feb	Chaired a presentation at the University of Western Australia's Law Summer School given by Professor Paul Craig of Oxford University entitled 'Foundations of Administrative Law: Remembering the Past When Configuring the Future'.
11 Mar	Gave a presentation at a Western Australian Bar Association seminar on the Federal Court's National Court Framework.
5 Jun	Met with the committee and members of the Women Lawyers of Western Australia Inc about the implementation of the report of the Gender Bias Taskforce.
2 Jul 2014	Justice **EDMONDS** gave an address entitled 'Managing Tax Controversy' at a PricewaterhouseCoopers Tax Controversy Function in Sydney, New South Wales.
18 Oct	Participated in, and gave the after dinner speech at, the Law Council of Australia Taxation Workshop in Brisbane.
20 Nov	Presented a paper entitled 'Conducting Tax Litigation in the Federal Court' to the Young Lawyers Taxation Law Section of the Law Society of New South Wales.
20 Jan 2015	Gave one of the Keynote Plenary Addresses at the 27th Annual Conference of the Australasian Tax Teachers' Association in Adelaide, South Australia, entitled, 'Structural Tax Reform: What should be brought to the table?'

2014-15	Justice **RARES** is: • President of the Judicial Conference of Australia since October 2014, having previously served as vice-President from 2013 • a member of the Board of Management of the Australasian Institute of Judicial Administration and • a member of the Steering Committee of the National Judicial Orientation Program. He is also: • the Chairman of the Consultative Council of Australian Law Reporting • the Presiding Member of the Admiralty Rules Committee established under the *Admiralty Act 1988 (Cth)* and • a member of the Comité Maritime International's International Working Group on Offshore Activities.
8 Jul 2014	Presided at the 2014 final of the International Maritime Law Arbitration Moot in Hong Kong.
8-12 Sep	Attended the annual conference of the Maritime Law Association of Australia and New Zealand in Queenstown, New Zealand.
10-12 Oct	Elected President of the Judicial Conference of Australia at its 2014 Colloquium.
15 Oct	Presented a paper titled 'Judicial review of administrative decisions – should there be a 21st century rethink?' at the University of New South Wales Administrative Law Masterclass CLE in Sydney.
21 Nov	Presented a paper titled 'Competition, Fairness and the Courts' at the Judges and the Academy Seminar in Melbourne.
13 Feb 2015	Chaired a Contracts Masterclass of the Commercial Law Association in Sydney.
13-14 Mar	Presented a paper titled 'Community engagement, public education and awareness' at the AIJA Cultural Diversity and the Law Conference in Sydney.
22 Apr	Presented a paper titled 'The modern place of arbitration' at a celebration of the centenary of the Chartered Institute of Arbitrators in Sydney.
15 May	Chaired the 35th annual general meeting and open conference of the Consultative Council of Australian Law Reporting in Melbourne.
7-9 Jun	Attended and co-chaired a session of the Comité Maritime International 2015 Colloquium in Istanbul, Turkey, and delivered introductory remarks to the session on 'The Way Ahead'.
21-23 Jun	Attended and presented at the National Judicial Orientation Program.
26 Jun	Presented a paper titled 'Is access to justice a right or a service?' at the Access to Justice – Taking Next Steps Symposium at Monash University.
2014-15	Justice **COLLIER** continues to be: • a member of the Advisory Board to the Bankruptcy and Insolvency Law Scholarship Unit at the Adelaide Law School and • on the editorial board of *The Conveyancer and Property Lawyer Journal*.

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July 2014	Judged the grand final of the King & Wood Mallesons Championship Moot during the Australian Law Students' Association Conference.
Oct	Participated on a judging panel for the Women Lawyers Association of Queensland's 36th Annual Awards.
Mar 2015	Spoke at the International Women's Insolvency and Restructuring Confederation Industry Leaders Panel.
Apr	Co-addressed a seminar entitled 'Court Etiquette: common courtesy at all times', at the School of Law, University of Papua New Guinea.
2014-15	Justice **TRACEY** was a member of the: • Law Course Steering Committee of the Australian Catholic University • Advisory Board of the Centre of Public Law at the Law School of the University of Melbourne and • Juris Doctor Program Advisory Board of the Graduate School of Business and Law at the RMIT University.
7-9 Jul 2014	Attended the Supreme and Federal Courts Judges' Conference chairing one of the sessions.
31 Jul	Gave a lecture at the Law School of the Australian Catholic University on 'Case Management in the Federal Court'.
22 Aug	Delivered the 5th Sir Harry Gibbs Oration for the Samuel Griffiths Society on the topic 'The Constitution Goes to War'.
28-31 Oct	Attended and addressed a Conference hosted by the New Zealand Judge Advocate General.
17 Apr 2015	Presided at the final of the Victoria University Law School's Mooting Competition.
29 May	Delivered a paper entitled 'A Century of Military Discipline – Australian Style' at the North Queensland Bar Association Conference.
2014-15	Justice **MIDDLETON** continues to be a: • 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 Judicial Liaison Committee for Australian Centre for Commercial International Arbitration • Board member of the Victorian Bar Foundation • Fellow of the Australian Academy of Law and • member of the Editorial Board of The Journal of the Intellectual Property Society of Australia and New Zealand.

17 Sep 2014 & 16 Mar 2015	Delivered a paper in conjunction with Mr David O'Callaghan QC to the Victorian Bar Readers' Course on 'Written Advocacy'.
17 Oct	Spoke at the Victorian Bar and Law Institute of Victoria Joint Conference.
23 Oct	Delivered a speech at the Intellectual Property Society of Australia and New Zealand – Annual Judges' Dinner.
Jan 2015	At the request of the Commonwealth Secretariat, Justice **LOGAN** participated in a Symposium at the Faculty of Law at the St. Augustine campus of The University of the West Indies concerning the possible accession of Trinidad and Tobago to the Caribbean Court of Justice. His Honour presented a paper on the Australian experience of ending appeals to the Judicial Committee of the Privy Council.
13 Nov 2014	Justice **JAGOT** at the invitation of the World Commission on Environmental Law, sponsored by the Australian Environment and Planning Law Group in the Legal Practice Section of the Law Council of Australia, delivered a paper on 'The Judiciary and Protected Areas – How are conservation objectives for protected areas and the recognition of Indigenous peoples' traditional ownership and management of protected land being recognised and reconciled, and what does the judiciary have to do with such recognition and reconciliation?'
13 Feb 2015	In her capacity as the Native Title list judge and together with the NSW Aboriginal Land Council, held the Native Title User Group.
16 Mar	A spoke at the 2015 College of Law Breakfast Series on the topic of 'Professional Ethics, Court Etiquette and Witness Preparation'
5-9 Jul 2014	Justice **FOSTER** attended the Supreme and Federal Court Judges' Conference.
18-19 Sep	Attended the Law Council of Australia 2014 International Trade Law Symposium.
30 Sep	Chaired the panel which judged The Chartered Institute of Arbitrators (Australia) Limited International Arbitration Moot Final 2014
12 Nov	Attended a seminar in Sydney on the topic 'Dealing with Allegations of Corruption and Illegality in International Arbitration'.
13 Nov	Attended the International Arbitration Conference in Sydney.
29 Apr-1 May 2015	Attended the International Competition Network Annual Meeting in Sydney.
5 May	Judged the Sir John Peden Contract Law Moot, held between the University of Sydney and Macquarie University.
25 Jun	Delivered the keynote speech at the third annual Civil Regulators Forum held at the National Portrait Gallery in Canberra. His Honour spoke on the topic 'Duties to the Court—Practical Issues for Solicitors on the Record and their Instructing Clients'.
21 Sept-3 Oct 2014	Justice **BROMBERG** participated in a judicial exchange program organised by the International Association of Supreme Administrative Jurisdictions (IASAJ) as a resident guest of the Supreme Court of Israel.
23 Oct	Gave a speech at a dinner held by the Young Presidents Association.

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JUDGES' ACTIVITIES

Nov	Appointed President of the Victorian Branch of the International Commission of Jurists Victoria (ICJ).
3 Dec	Participated in the 'Judges in Conversation Series' at the Federal Court in Melbourne run in conjunction with the Melbourne Law School on the topic of 'Right to Strike'.
2 Feb 2015	Hosted the ICJ's Opening of the 2015 Legal Year in his capacity as President of the ICJ.
20 May	Provided a lecture on 'Freedom of Speech' to students studying Philosophical Foundations of Law at the Melbourne University Law School.
16 Jun	Addressed students at the University of Melbourne Law School on the topic of Equality and Discrimination at Work.
2014-15	Justice **KATZMANN** is a: • Director of the Tristan Jepson Memorial Foundation • Director of Neuroscience Research Australia (NeuRA) and • member of the Advisory Committee of the Gilbert + Tobin Centre of Public Law.
Jul 2014	Attended the Supreme and Federal Court Judges' Conference.
12 Sep	Assisted with judging course participants in the Australian Bar Association Appellate Advocacy Course in Sydney.
26 Nov	Delivered the keynote address at the launch of and wrote the Foreword to Issue 37(3), *University of NSW Law Journal*. The theme of the issue was 'Contemporary Issues Facing the Australian Legal Profession'.
21 Feb 2015	Presented a session at the NSW Public Defenders Conference alongside Dr Robert Fisher entitled 'Another Inconvenient Truth – Mental Ill-Health in the Legal Profession: What is wrong and how it can be fixed?'.
2014-15	Justice **ROBERTSON** remains: • a Director of the Australian Academy of Law and • Chair of its Membership Committee
28-29 Aug 2014	Chaired the session 'The contemporary approach to jurisdictional error' and presented a paper at the Administrative Law Conference at the Federal Court of Australia, Melbourne organised by the Court and the Law Council of Australia. The paper will be published in 2015 by The Federation Press in *Administrative Justice and its Availability* (ed. Justice Debra Mortimer).
15-17 Sep	Presented a paper 'Is Judicial Review Qualitative?' at the Public Law Conference, Faculty of Law, University of Cambridge, 'Process and Substance in Public Law'. This paper is to be published in 2015 as a chapter in *Public Law Adjudication in Common Law Systems: Process and Substance* by Hart Publishing.

10-11 Oct	At the 12th Annual University of South Australia: Competition and Consumer Workshop Justice Robertson presented a paper, 'Statutory undertakings: Their history, use and utility and the perspective of the Court', now published in (2015) 22 *Competition & Consumer Law Journal* 181-196.
17 Nov	Gave the introduction to the Inaugural Spigelman Oration at the New South Wales Bar Association's Public Law Section seminar.
20-26 Jul 2014	Justice **GRIFFITHS** presented a paper entitled 'Recognition of Foreign Administrative Acts in Australia' at The XIXth International Congress of Comparative Law – Vienna, Austria.
28-29 Aug	Attended Law Council of Australia – Federal Court Public Law Conference: 'Administrative justice and its availability' Chaired Fifth Session – 'Constitutional writ review and the ADJR Act: ships in the night'.
2 Sep	Attended Affinity Panel seminar 'Understanding the Sectarian Dimension of the Conflicts in Syria & Iraq'.
12 Sep	Participated in the Australian Bar Association – Advocacy Training Council – Appellate Advocacy.
7 May 2015	NSW Bar Association – Bar Readers Course – Presided over readers' practice interlocutory applications.
12 May	Gave commentary on Professor Ann Twomey's paper on 'Indigenous Constitutional Recognition' at Australian Association of Constitutional Law Seminar in Sydney.
Second Semester 2014	Justice **MORTIMER** co-taught Current Issues in Administrative Law with Laureate Professor Cheryl Saunders, in the Masters Program at Melbourne Law School.
8 Aug 2014	At the Supreme Court of Victoria Human Rights Conference presented a paper in a session entitled 'Obligations of public authorities under s38 of the Charter, including a consideration of the remedies available under s39'.
28-29 Aug	Facilitated and arranged the Administrative Law Conference which was held in conjunction with the Federal Court and the Law Council of Australia.
1 Sep	Gave the opening address to the new members of the Bar Readers' program.
16 Sep	Presented a session of the Aurora Project's Native Title Legal Masterclass on 'Litigation Craft: what makes a good case and/or test case.'
19 Sep	Judged the final of the Monash Law School's Human Rights moot.
20-21 Oct	Attended and was a plenary session speaker at the 10th Annual Conference of the International Association of Refugee Law Judges held in Tunis, Tunisia. Addressed the conference on 'Recent Developments Related to Interception, Interdiction and Offshore Processing: impact on RSD and case Law'.
6 Nov	Was a plenary session speaker at the Australian Government Solicitor's annual Administrative Law Forum on, 'Observations on Judicial Review Proceedings from the Federal Court's perspective'.

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7 Nov	Co-convened the first workshop between members of the judiciary in Victoria and litigation partners to implement the *'Equitable Briefing Initiative: Achieving equitable representation of Victorian women barristers in commercial litigation'*.
2 Feb 2015	Gave the keynote address at the International Commission of Jurists Community Opening of the Legal Year at the County Court of Victoria, in Melbourne.
28 Feb	Gave the 2015 Commencement speech at Trinity College, University of Melbourne.
1 Apr	Addressed the Melbourne Law School Juris Doctorate students on the topic of Discrimination Law as part of the subject, Law and Philosophy.
7-8 May	Was a plenary session speaker and participant at the international workshop, 'The Judiciary in Territorially and Culturally Compound Systems: Organisation and Functions' held in Trento, Italy.
20 May	Co-convened the second worksop between members of the judiciary in Victoria and litigation partners to implement the '*Equitable Briefing Initiative: Achieving equitable representation of Victorian women barristers in commercial litigation*'.
On 4 Jun	A key note speaker and panel member of the Victorian Equal Opportunities and Human Rights Commission and Human Rights Law Centre's panel discussion and Q and A session on the impact of the decision in *Christian Youth Camps v Cobaw* [2014] VSCA 75.
18 Jun	Was a plenary session panel presenter at the 5th National Access to Justice and Pro Bono Conference in Sydney presenting a paper on the role of the Magna Carta in a modern constitutional democracy.
2015	Justice **EDELMAN** serves as: • a patron of the *Oxford University Commonwealth Law Journal* • vice-patron of the Anglo-Australasian Lawyers Society (WA) • as a Board Member of the *Journal of Equity* and the *University of Western Australia Law Review* • the Editor in Chief of the *Curtin Law and Taxation Review* • a member of the Australian Academy of Law and the American Law Institute and • a member of the Advisory Committee on *Restatement of the Law (3rd): Torts, Economic Harm*. Justice EDELMAN is a: • Distinguished Fellow, Australian Centre for Private Law, T C Beirne School of Law, University of Queensland • Adjunct/Conjoint Professor at University of Western Australia and • Adjunct Professor, University of Queensland and University of New South Wales.

APPENDIX 9
STAFFING PROFILE

Note: The Federal Court Registrar and NNTT Registrar are holders of public office and are not included in this appendix.

Table A9.1 – Staffing overview by location

(actual occupancy as at 30 June 2015 – includes full-time and part-time staff)

LEVEL	PRIN	NSW	VIC	QLD	SA	WA	TAS	ACT	NT	NAT	NNTT	TOTAL
SES2	2	1	–	–	–	–	–	–	–	–	–	3
SES1	1	–	1	1	1	1	–	–	–	2	1	8
FCL2	–	6	4	2	1	2	–	–	–	3	1	19
FCL1	1	–	–	–	–	–	1	–	–	–	1	3
FCM2	8	1	1	1	–	1	–	–	–	1	4	17
FCM1	18	2	–	1	2	1	–	–	–	1	11	36
FCS6	21	25	16	6	3	7	–	1	1	11	24	115
FCS5	12	30	15	8	7	7	–	–	–	1	2	82
FCS4	5	15	15	11	8	6	4	1	3	3	23	94
FCS3	1	4	1	2	1	–	–	3	1	–	2	15
FCS2	1		1	–	–	–	–		–	–	13	15
FCS2 CCO	–	18	12	8	9	8	–	1	–	1	–	57
FCS1	–	–	–	–	–	–	–	–	–	–	–	–
Total	**70**	**102**	**66**	**40**	**32**	**33**	**5**	**6**	**5**	**23**	**82**	**464**

SES	Senior Executive Service officer	NAT	National. Includes the following staff: – Federal Court Native Title staff – Chambers of Chief Justice – Tribunals – Appeals
FCL	Federal Court Legal		
FCM	Federal Court Manager		
FCS	Federal Court Staff		
CCO	Casual Court Officer		
PR	Principal Registry	NNTT	National Native Title Tribunal

APPENDIX 9
STAFFING PROFILE

Table A9.2 – Staffing by gender, classification and location (as at 30 June 2015)

LEVEL	GENDER	PR	NSW	VIC	QLD	SA	WA	TAS	ACT	NT	NAT	NNTT	TOTAL
SES2	Male	1	1	–	–	–	–	–	–	–	–	–	2
	Female	1	–	–	–	–	–	–	–	–	–	–	1
SES1	Male	1	–	1	–	–	1	–	–	–	1	–	4
	Female	–	–	–	1	1	–	–	–	–	1	1	4
FCL2	Male	1	4	4	1	–	1	–	–	–	–	–	11
	Female	–	2	–	1	1	1	–	–	–	3	1	9
FCL1	Male	–	–	–	–	–	–	–	–	–	–	1	1
	Female	–	–	–	–	–	–	1	–	–	–	–	1
FCM2	Male	3	–	–	–	–	1	–	–	–	1	2	7
	Female	5	1	1	1	–	–	–	–	–	–	2	10
FCM1	Male	11	–	–	–	–	–	–	–	–	–	3	14
	Female	7	2	–	1	2	1	–	–	–	1	8	22
FCS6	Male	7	1	1	–	–	–	–	–	–	2	8	19
	Female	14	24	15	6	3	7	–	1	1	9	16	96
FCS5	Male	7	11	5	5	2	3	–	–	–	1	1	35
	Female	5	19	10	3	5	4	–	–	–	–	1	47
FCS4	Male	–	8	2	2	2	1	1	–	–	–	5	21
	Female	5	7	13	9	6	5	3	1	3	3	18	73
FCS3	Male	1	2	–	–	1	–	–	2	–	–	1	7
	Female	–	2	1	2	–	–	–	1	1	–	1	8
FCS2 (incl CCO)	Male	–	4	3	6	4	4	–	1	–	1	2	25
	Female	1	14	10	2	5	4	–	–	–	–	11	47
Total		**70**	**102**	**66**	**40**	**32**	**33**	**5**	**6**	**5**	**23**	**82**	**464**

Table A9.3 – Staffing by gender, classification and employment type (as at 30 June 2015)

		ONGOING		NON-ONGOING		INTERMITTENT	
LEVEL	GENDER	FULL-TIME	PART-TIME	FULL-TIME	PART-TIME	INTERMITTENT/ IRREGULAR	TOTAL
SES2	Male	1	–	1	–	–	2
	Female	1	–	–	–	–	1
SES1	Male	4	–	–	–	–	4
	Female	4	–	–	–	–	4
FCL2	Male	9	1	1	–	–	11
	Female	6	1	–	2		9
FCL1	Male	1	–	–	–	–	1
	Female	–	1	–	–	–	1
FCM2	Male	6	–	1	–	–	7
	Female	6	1	2	1	–	10
FCM1	Male	10	1	3	–	–	14
	Female	15	5	1	1	–	22
FCS6	Male	14	–	5	–	–	19
	Female	63	15	18	–	–	96
FCS5	Male	11	–	24	–	–	35
	Female	11	2	33	1	–	47
FCS4	Male	8	1	11	1	–	21
	Female	43	13	14	2	1	73
FCS3	Male	5	–	–	2	–	7
	Female	4	2	1	–	1	8
FCS2	Male	1	–	–	1	–	2
	Female	9	–	3	–	1	13
FCS2/CCO	Male	–	–	–	–	23	23
	Female	–	–	–	–	34	34
Total		**232**	**43**	**118**	**11**	**60**	**464**

SES	Senior Executive Service officer
FCL	Federal Court Legal
FCM	Federal Court Manager
FCS	Federal Court Staff
CCO	Casual Court Officer

APPENDIX 9
STAFFING PROFILE

Table A9.4 – Salary ranges by classification level under Enterprise Agreement or Determination (as at 30 June 2015)

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
		$124 838
		$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
		$146 011
SENIOR EXECUTIVE POSITIONS		
Senior Executive Service Band 1	SES Band 1	$182 438
Senior Executive Service Band 2	SES Band 2	$215 000

Table A9.5 – Senior Executive Service (SES) (as at 30 June 2015)

PRINCIPAL REGISTRY		SES LEVEL
Executive Director, Corporate Services Branch	Mario Torresan	Senior Executive Band 2
Deputy Registrar	John Mathieson	Senior Executive Band 1
National Operations Registrar	Sia Lagos	Senior Executive Band 2
Acting Deputy Registrar, Native Title	Ian Irving	Senior Executive Band 1
Deputy Registrar, Native Title	June Eaton	Senior Executive Band 1
NEW SOUTH WALES DISTRICT REGISTRY		
District Registrar	Michael Wall	Senior Executive Band 2
VICTORIA DISTRICT REGISTRY		
District Registrar	Daniel Caporale	Senior Executive Band 1
QUEENSLAND DISTRICT REGISTRY		
District Registrar	Heather Baldwin	Senior Executive Band 1
SOUTH AUSTRALIA DISTRICT REGISTRY		
District Registrar	Katrina Bochner	Senior Executive Band 1
WESTERN AUSTRALIA DISTRICT REGISTRY		
District Registrar	Martin Jan PSM	Senior Executive Band 1
NATIONAL NATIVE TITLE TRIBUNAL		
Acting Deputy Registrar	Debbie Fletcher	Senior Executive Band 1

APPENDIX 10

FEDERAL COURT OF AUSTRALIA – ELECTRONIC COURT FILE

APPLICATION FOR THE NATIONAL ARCHIVES AWARD FOR DIGITAL EXCELLENCE

AWARD CATEGORY: AGENCIES OF 200–1000 STAFF

New digital court files contribute to the economic and social wellbeing of Australians by enhancing access to justice.

The Federal Court interprets and exercises the general law of the Commonwealth of Australia with an original jurisdiction conferred by 150 statutes of the Parliament. It sits in all capital cities and elsewhere in Australia as required. The Court's registry also provides services to the Federal Circuit Court (formerly the Federal Magistrate's Court). Together they receive more than 12,000 filings and action in excess of 125,000 documents each year.

An electronic court file (ECF) is a fully-digital file of all documents filed with or created by the Court. It is used by Judges, registrars and staff. It is the Court's official record of the proceedings and completely replaces the paper court files used previously. Some matters proceed from initial filing to disposition without any documents printed.

The Federal Court is the first Australian court to implement ECFs and is a leader globally in the practice of management and archiving of electronic court documents.

BACKGROUND

In 2001 the Federal Court introduced the capability for external parties to electronically file documents using an eLodgment system. In 2005, the Court pioneered making electronic versions of filed documents available to registered parties via a secure website. However, within the Court, these documents were printed and placed on a paper court file, which resulted in high printing, storage, retrieval, handling and courier costs for the Court.

A paper court file could only reside with one person at a time, so multiple paper copies of the same document were created, particularly in Appeals where three Judges usually hear the matter. Paper documents could be misfiled or lost and it was incumbent on the person working with the file to manually record the addition of new documents and every change of location of the file.

The introduction of electronic court files has now created a seamless and effortless flow of electronic documents to the Court, within the Court and to those appropriate parties outside the Court.

BENEFITS

ECFs have delivered significant time savings and a more efficient working environment. Registry staff no longer handle large volumes of paper files and documents, freeing up thousands of administrative hours across all registries. Documents become available to the Court within moments as more than 90 per cent of documents lodged via eLodgment are automatically entered into ECFs. Paper documents submitted by litigants are scanned and uploaded via eLodgment kiosks at the registry. Orders made by the Court are electronically stamped instantaneously and made available to external parties through the Federal Law Search website leading to cost savings for litigants.

Additionally Judges and registrars can access ECFs in Court and can view documents on the court file across multiple screens. They have access to a powerful search tool to provide quick access to the right information. They can create working copies of documents and append private notes, assisting in their drafting of judgments and orders. An ECF with its many documents can be 'offlined' to a laptop for transportation to remote locations, as is often required with Native Title hearings.

Documents are encoded in a secure PDF format and all activities within the ECF are recorded, giving confidence that it is a complete, secure and trustworthy source of information. Administratively, the Court is able to see a real time summary of active files across all registries.

ECFs also enable efficiencies in the retention, disposal and storage of documents through the use of metadata. Retention and disposal codes are assigned to documents when they are lodged in a Court matter and to all originating forms and documents. This assists sentencing when a matter is finalised and ready for closure as this metadata remains attached throughout that document's lifecycle, eliminating the need for rekeying.

Finalised cases are managed via the National Records Manager's List site, with Native Title files and those selected for their precedential, historical and social significance sent to the National Archives where they are retained and preserved as part of our nation's memory. Other documents are retained permanently within the Court as part of the Court Record or disposed of after a set period according to their assigned retention code. All documents retained permanently are saved in PDF A1-A file format to ensure long term retrieval and access.

IMPLEMENTATION AND CONSULTATION

The project was sponsored by the court's CEO and Registrar Warwick Soden and governed by a board of the Court's senior staff. The Chief Justice and Judges of the Court worked closely with the project to ensure that the necessary procedural and practice changes were made and provided advice at key points of the project. The project was implemented using existing Federal Court resources with no additional funding sought. It has been developed using off-the-shelf technology, Microsoft SharePoint, which was customised to suit the Court's requirements. Development also included making SharePoint interoperable with the Court's legacy systems such as the case management database.

Commencing in 2011, the Federal Court engaged in extensive user consultations during the project's design phase to ensure ECFs would improve efficiency without disrupting existing Court workflows. The Court used its successful 'proof of concept' approach to ensure that the technology and requirements met the Court's needs before development began. The Court's Records Authority was developed with a digital environment in mind so the key requirement of embedding retention codes was made simple. Significant time was also spent defining naming conventions and writing descriptors for documents, leading to greater consistency and accountability across the Court's operations.

ECFs were brought online incrementally state by state from July 2014 until November 2014. During that time 360 people were trained, including Judges and staff, on using ECFs, records management and accurate metadata creation. Externally, more than 1000 members of the legal sector attended 'Working with the Court Electronically' information and training sessions, across all the registries prior to ECFs being introduced.

IMPACT

More than 4000 electronic court files have now been created containing 30,000 documents. The development of the ECFs is a pivotal step in the implementation of the Federal Court's National Court Framework. Matters can now be heard by skilled and expert Judges, regardless of their geographical location. There is greater uniformity in processes and files can be accessed simultaneously between the Court's different locations. ECFs are streamlining the way in which the court operates thus 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.

Finally, court records provide an important snapshot of Australia's evolving social and legal history. Successful electronic handling and management ensures their long-term preservation, so future generations can understand the legal questions and concerns of the day and the Court's interaction with, and influence within, the Australian community.

APPENDIX II

COMPLIANCE WITH ANNUAL REPORT REQUIREMENTS

This is a guide to the report's compliance with the requirements for Annual Reports as approved by the Joint Committee of Public Accounts and Audit under subsections 63(2) and 70(2) of the *Public Service Act 1999*.

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GLOSSARY

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. There are sixteen main causes of action and five supplementary causes of action.
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.

GLOSSARY

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.
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 (*Native Title Act 1993* s 31(1)(b)). See the list of indicia put forward by the NNTT of what may constitute good faith in its Guide to future act decisions made under the Right to negotiate scheme at 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. The Federal Court has jurisdiction under more than 150 Acts of the Commonwealth Parliament and has original and appellate jurisdiction.
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	A subject matter area 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.

GLOSSARY

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 *Native Title Act 1993*. These functions include assisting and facilitating native title holders to access and exercise their rights under the Act, certifying applications for determinations of native title and area agreements (ILUA), resolving intra-indigenous disputes, agreement-making and ensuring that notices given under the NTA are brought to the attention of the relevant people.
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.
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.
Practice Notes	Provide guidance on practice and procedure required or followed by the Court nationally to supplement what might be contained in statutes or the Court's Rules.
Administrative Notices	Provide guidance on practice and procedure required or followed by the Court in the District Registry to which the notice relates to supplement what might be contained in statutes or the Court's Rules.
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 *Native Title Act 1993* that is applied to native title claimant applications. If an application meets all the conditions, it is included in the Register of Native Title Claims, and the claimants then gain the right to negotiate, together with certain other rights, while their application is under way.
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 *Corporations Act 2001*) and Federal Court (Bankruptcy) Rules 2005 (for proceedings under the *Bankruptcy Act 1966*).
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.

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CONTACT OFFICER FOR ANNUAL REPORT

Megan O'Brien
Principal Registry

Phone: (02) 9230 8720
Fax: (02) 9223 1906
Email: Megan.O'Brien@fedcourt.gov.au

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