

FEDERAL COURT OF AUSTRALIA

22 23

ANNUAL REPORT



FEDERAL COURT
OF AUSTRALIA



Cover image

The Commonwealth Law Courts in Melbourne was the first manifestation of a progressive vision for the court buildings of Australia developed by the then Chief Justice of the Federal Court of Australia, The Honourable Michael Black AC, QC.

The building was completed in 1998 after a decade of planning. It was designed by the Melbourne branch of the architectural firm Hassell, with Paul Katsieris as the design architect on the project. It has won a number of awards, including the Marion Mahony Award and a Commendation Award from the Royal Australian Institute of Architects.

The architects were asked to create a dignified but not intimidating building that reflected the importance, transparency and accessibility of the justice system.

The L-shaped building is 17 storeys high and covers more than 35,000 sq m. It was designed to resemble two buildings, with a courts section and a 'tower' section for offices. These are divided by a north-south gallery that serves as a light well, and are linked by footbridges.

The building design, with its focus on geometric forms and the choice of materials used in its construction, was influenced by modernism. The exterior is composed of layers of differently sized windows and projections that produce a stacked effect.

In an attempt to mitigate anxiety or a sense of intimidation in members of the public entering the courts, access to the body of the building is through a series of smaller spaces that open out to 'reveal' the interior.

The building is named after Sir Owen Dixon OM PC GCMG KCMG KC.

Federal Court of Australia annual report 2022–23

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Contact us

Contact officer for annual report

National Communication Manager

Phone: +61 2 6113 9470

Email: janelle.olney@fedcourt.gov.au

Website address: www.fedcourt.gov.au

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Alternative format

This annual report is available electronically at <https://www.transparency.gov.au/>

Acknowledgments

This report reflects the efforts of many people. Special thanks go to the Court staff involved in contributing and coordinating material, as well as the following specialist contractors:

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CHAMBERS OF CHIEF JUSTICE MORTIMER
FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY
305 William Street Melbourne VIC 3000

19 September 2023

The Hon Mark Dreyfus KC MP
Attorney-General of the Commonwealth of Australia
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Attorney-General

We have pleasure in submitting the annual report on the operations of the Federal Court of Australia for the financial year ending 30 June 2023.

The report is submitted in accordance with:

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

This report has been prepared in accordance with the Department of Finance's *Resource Management Guide No. 135: annual reports for non-corporate Commonwealth entities* (May 2023).

This is the Court's 34th annual report.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'DM', representing The Honourable Debra Mortimer.

The Honourable Debra Mortimer
Chief Justice

A handwritten signature in blue ink, appearing to read 'Alison Legge', representing Alison Legge.

Alison Legge
Acting Chief Executive Officer and Principal Registrar

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Acronyms and abbreviations

AAL	Australian Academy of Law
AASB	Australian Accounting Standards Board
AAT	Administrative Appeals Tribunal
ACCC	Australian Competition and Consumer Commission
ACICA	Australian Centre for International Commercial Arbitration
ADR	assisted dispute resolution
AIJA	Australasian Institute of Judicial Administration
AM	Member of the Order of Australia
ANAO	Australian National Audit Office
AO	Officer of the Order of Australia
APP	Australian Privacy Principles
APS	Australian Public Service
ARIPO	African Regional Intellectual Property Organization
AustLI	Australasian Legal Information Institute
CC	Creative Commons
CEO	Chief Executive Officer
CIArb	Chartered Institute of Arbitrators Australia
CoA	cause of action
CPN	Central Practice Note
DPI	Director Public Information
EV	Electric vehicle
FCA	Federal Court of Australia
FCFCOA	Federal Circuit and Family Court of Australia
FCMAS	Federal Court Mediator Accreditation Scheme
FIPA	Fellow Institute of Public Accountants
FOI	freedom of information
GPN	General Practice Note
ILUA	Indigenous Land Use Agreement
IP	intellectual property
IPS	Information Publication Scheme
IT	information technology
J	Justice
JJ	Justices
MLAANZ	Maritime Law Association of Australia and New Zealand
MOU	Memorandum of Understanding
NPA	National Practice Area
NRS	National Relay Service
OAM	Medal of the Order of Australia
PNG	Papua New Guinea
PGP Act	Public Governance, Performance and Accountability Act
PJSI	Pacific Judicial Strengthening Initiative
QC	Queen's Counsel
QUT	Queensland University of Technology
RAP	Reconciliation Action Plan
RFD	Reserve Force Decoration
RNTBC	Registered Native Title Bodies Corporate
SC	Senior Counsel
SES	Senior Executive Service
SME	small and medium enterprise
SRL	self-represented litigant
UNCCA	UNCITRAL National Coordination Committee for Australia
WIPO	World Intellectual Property Organization

Glossary

Administrative notices

See practice notes.

Alternative procedure agreement

A type of Indigenous land use agreement.

Appeal

An application to a higher court to review a decision of a lower court or tribunal. For example, an appeal from a decision of a Federal Circuit and Family Court (Division 2) judge may be made to the Federal Court, and a decision of a single judge of the Federal Court may be the subject of an appeal to the Full Court of the Federal Court.

Appellate jurisdiction

The power given to a court to hear appeals in certain matters.

Applicant

The individual, organisation or corporation who/ which applies to the Court to start legal proceedings against another person or persons. Also known as 'plaintiff' in admiralty and corporations matters and in some other courts. In the National Native Title Tribunal, the applicant is the person or persons who make an application for a determination of native title or a future act determination.

Application

The document that starts most proceedings in the Federal Court.

Area agreement

A type of Indigenous land use agreement.

Body corporate agreement

A type of Indigenous land use agreement.

Cause of action

A term used in the Federal Court's case management system to classify proceedings commenced with the Court.

Compensation application

An application made by Indigenous Australians seeking compensation for loss or impairment of their native title.

Cross appeal

An application by a respondent in an appeal also seeking a review of the lower court or tribunal decision and made in response to the appeal. A cross appeal is not required if the respondent is simply seeking that the decision of the lower court or tribunal be upheld.

Cross claim

A claim made in a proceeding by one party against a co-party, such as the first respondent (or defendant) against the second respondent (or defendant). However, if the claim in the proceeding is by one party against an opposing party, such as the respondent (or defendant) against the applicant (plaintiff), it is called a counter claim. A cross claim has to be closely connected to what is in dispute in the original claim or a counter claim.

Directions

Orders made by the Court or a judge in relation to the conduct of a proceeding. Before the trial or hearing of a matter a judge may give directions so that the parties involved will be properly ready. The directions usually set down a list of steps to be taken by the parties and the deadline for those steps. The steps usually involve filing of material and defining the issues that require a decision by the Court.

Discovery

A process by which the parties involved in a legal proceeding must inform each other of documents they have in their possession and which relate to the matters in dispute between the parties.

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.

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

A decision by the National Native Title Tribunal 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.

Future act determination application

An application requesting the National Native Title Tribunal to determine whether a future act can be done (with or without conditions).

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* (Cth) section 31(1) (b)). See the list of indicia put forward by the National Native Title Tribunal 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 (section 136B(4)).

Hearing

That part of a proceeding where the parties present evidence and submissions to the Court.

Indigenous Land Use Agreement (ILUA)

A voluntary, legally binding agreement about the use and management of land or waters, made between one or more native title groups and others (such as miners, pastoralists, governments).

Interlocutory application

Interlocutory proceedings are for dealing with a specific issue in a matter – usually between the filing of the application and the giving of the final hearing and decision. An interlocutory application may be for interim relief (such as an injunction) or in relation to a procedural step (such as discovery).

Judgment

The final order or set of orders made by the Court after a hearing, often accompanied by reasons, which set out the facts and law applied in the case. A judgment is said to be 'reserved' when the Court postpones the delivery of the judgment to a later date to allow time to consider the evidence and submissions. A judgment is said to be 'ex tempore' when the Court gives the judgment orally at the hearing or soon after.

Jurisdiction

The extent of legal authority or power of the Court to apply the law.

Litigants

Individuals, organisations or companies who/which are the parties to a proceeding before the Court.

Mediation (or Assisted Dispute Resolution)

A process in which an impartial third party (the mediator) assists the parties in an attempt to bring about an agreed settlement or compromise, without requiring a decision of the Court.

Milestone agreement

An agreement on issues, such as a process or framework agreement, that leads towards the resolution of a native title matter but does not fully resolve it.

National Court Framework

The National Court Framework is a number of reforms to the Court's case management approach.

National Native Title Register

The record of native title determinations.

National Native Title Tribunal Member

A person who has been appointed by the Governor-General as a member of the Tribunal under the *Native Title Act 1993* (Cth). Members are classified as presidential and non-presidential. Some members are full-time and others are part-time appointees.

National Practice Area

Subject matter areas in which the Court's work is organised and managed.

Native title claimant application/claim

An application made for the legal recognition of native title rights and interests held by Indigenous Australians.

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 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* (Cth). These functions include assisting and facilitating native title holders to access and exercise their rights under the *Native Title Act 1993* (Cth), certifying applications for determinations of native title and area agreements, resolving intra-Indigenous disputes, agreement-making and ensuring that notices given under the *Native Title Act 1993* (Cth) 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 National Native Title Tribunal that certain applications under the *Native Title Act 1993* (Cth) 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 and defendants are generally called 'parties.'

Practice notes

Practice notes are issued by the Chief Justice on advice of the judges of the Court.

Prescribed body corporate

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.

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* (Cth) 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 2011*, *Federal Court (Corporations) Rules 2000* (for proceedings under the *Corporations Act 2001*) and *Federal Court (Bankruptcy) Rules 2016* (for proceedings under the *Bankruptcy Act 1966* (Cth)).

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.



Part 1: Overview of the Court

Objectives

The objectives of the Federal Court of Australia (Federal 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 fulfill 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.

Establishment

The Federal Court was created by the *Federal Court of Australia Act 1976* (Cth) 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.

Purpose

As outlined in the Court's Corporate Plan, the purpose of the Federal Court as an independent court of law is to decide disputes according to the law as quickly, inexpensively and efficiently as possible.

The purpose of the Federal Court entity is to provide corporate services in support of the operations of the Federal Court, the Federal Circuit and Family Court of Australia (Division 1 and Division 2) and the National Native Title Tribunal.

Functions and powers

The Court's jurisdiction is broad, covering almost all civil matters arising under Australian federal law and some summary and indictable criminal matters. Central to the Court's civil jurisdiction is section 39B(1A) of the *Judiciary Act 1903* (Cth). This jurisdiction includes cases created by a federal statute, and extends to matters in which a federal issue is properly raised as part of a claim or of a defence and to matters where the subject matter in dispute owes its existence to a federal state.

The Court has a substantial and diverse appellate jurisdiction. It hears appeals from decisions of single judges of the Court and from the Federal Circuit and Family Court of Australia (Division 2) 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 (*Report on Court performance*).

The Court's Outcome and Program Structure

TABLE 1.1: OUTCOME 1: FEDERAL COURT OF AUSTRALIA

FEDERAL COURT OF AUSTRALIA	BUDGET 22-23 (\$'000)	ACTUAL 22-23 (\$'000)	VARIATION (\$'000)
OUTCOME 1: Apply and uphold the rule of law for litigants in the Federal Court of Australia and parties in the National Native Title Tribunal through the resolution of matters according to law and through the effective management of the administrative affairs of the Court and Tribunal.			
Program 1.1 – Federal Court of Australia			
Administered Expenses			
Special appropriations	600	509	91
Departmental appropriation ¹	67,119	65,986	1,133
Expenses not requiring appropriation in the budget year	18,366	22,578	-4,212
Total for Program 1.1	86,085	89,073	-2,988
Total expenses for outcome 1	86,085	89,073	-2,988
Average staffing level (number)	281	255	

¹ Departmental appropriation combines ordinary annual services (Appropriation Act Nos 1 and 3) and retained revenue receipts under section 74 of the *Public Governance, Performance and Accountability Act 2013* (Cth).

TABLE 1.2: OUTCOME 2: FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (DIVISION 1)

FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (DIVISION 1)	BUDGET 22-23 (\$'000)	ACTUAL 22-23 (\$'000)	VARIATION (\$'000)
OUTCOME 2: Apply and uphold the rule of law for litigants in the Federal Circuit and Family Court of Australia (Division 1) through the resolution of family law matters according to law, particularly more complex family law matters and through the effective management of the administrative affairs of the Court.			
Program 2.1 – Federal Circuit and Family Court of Australia (Division 1)			
Administered Expenses			
Special appropriations	100	53	47
Departmental appropriation ²	46,379	48,446	-2,067
Expenses not requiring appropriation in the budget year	12,320	15,434	-3,114
Total for Program 2.1	58,799	63,933	-5,134
Total expenses for outcome 2	58,799	63,933	-5,134
Average staffing level (number)	155	172	

² Departmental appropriation combines ordinary annual services (Appropriation Act Nos 1 and 3) and retained revenue receipts under section 74 of the *Public Governance, Performance and Accountability Act 2013* (Cth).

TABLE 1.3: OUTCOME 3: FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (DIVISION 2)

FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (DIVISION 2)	BUDGET 22-23 (\$'000)	ACTUAL 22-23 (\$'000)	VARIATION (\$'000)
OUTCOME 3: Apply and uphold the rule of law for litigants in the Federal Circuit and Family Court of Australia (Division 2) through more informal and streamlined resolution of family law and general federal law matters according to law, through the encouragement of appropriate dispute resolution processes and through the effective management of the administrative affairs of the Court.			
Program 3.1 – Federal Circuit and Family Court of Australia (Division 2)			
Administered Expenses			
Ordinary annual services (Appropriation Act No.1)	926	785	141
Special appropriations	200	87	113
Departmental appropriation ¹	94,256	88,827	5,429
Expenses not requiring appropriation in the budget year	2,393	2,171	222
Total for Program 3.1	97,775	91,870	5,905
Total expenses for outcome 3	97,775	91,870	5,905
Average staffing level (number)	360	362	

¹ Departmental appropriation combines ordinary annual services (Appropriation Act Nos 1 and 3) and retained revenue receipts under section 74 of the *Public Governance, Performance and Accountability Act 2013* (Cth).

TABLE 1.4: OUTCOME 4: COMMONWEALTH COURTS CORPORATE SERVICES

COMMONWEALTH COURTS CORPORATE SERVICES	BUDGET 22-23 (\$'000)	ACTUAL 22-23 (\$'000)	VARIATION (\$'000)
OUTCOME 4: Improved administration and support for the resolution of matters according to law for litigants in the Federal Court of Australia, the Federal Circuit and Family Court (Division 1) and the Federal Circuit and Family Court (Division 2) and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate and registry services.			
Program 4.1 – Commonwealth Courts Corporate Services			
Departmental expenses			
Departmental appropriation ¹	78,570	80,376	-1,806
Expenses not requiring appropriation in the budget year	59,296	59,868	-572
Total for Program 4.1	137,866	140,244	-2,378
Program 4.2 – Commonwealth Courts Registry Services			
Departmental expenses			
Departmental appropriation ¹	30,895	30,037	858
Total for Program 4.2	30,895	30,037	858
Total expenses for outcome 4	168,761	170,281	-1,520
Average staffing level (number)	490	443	

¹ Departmental appropriation combines ordinary annual services (Appropriation Act Nos 1 and 3) and retained revenue receipts under section 74 of the *Public Governance, Performance and Accountability Act 2013* (Cth).

About the Federal Court

Judges of the Court

At 30 June 2023, there were 54 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.

TABLE 1.5: JUDGES OF THE FEDERAL COURT (AS AT 30 JUNE 2023)

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
Chief Justice The Hon Debra Sue MORTIMER	Melbourne	
The Hon Susan Coralie KENNY AM	Melbourne	<ul style="list-style-type: none"> Administrative Appeals Tribunal Deputy President Australian Electoral Commission – Chairperson
The Hon Steven David RARES	Sydney	<ul style="list-style-type: none"> Supreme Court of the Australian Capital Territory – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon Berna Joan COLLIER	Brisbane	<ul style="list-style-type: none"> National and Supreme Courts of Papua New Guinea – Judge Administrative Appeals Tribunal – Deputy President Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Anthony James BESANKO	Adelaide	<ul style="list-style-type: none"> Supreme Court of Norfolk Island – Chief Justice Supreme Court of the Australian Capital Territory – Additional Judge
The Hon John Alexander LOGAN RFD	Brisbane	<ul style="list-style-type: none"> Defence Force Discipline Appeal Tribunal – President National and Supreme Courts of Papua New Guinea – Judge
The Hon Nye PERRAM	Sydney	<ul style="list-style-type: none"> Copyright Tribunal President
The Hon John Victor NICHOLAS	Sydney	
The Hon David Markey YATES	Sydney	
The Hon Mordecai BROMBERG	Melbourne	
The Hon Anna Judith KATZMANN	Sydney	<ul style="list-style-type: none"> Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Bernard Michael MURPHY	Melbourne	
The Hon Kathleen FARRELL	Sydney	<ul style="list-style-type: none"> Australian Competition Tribunal – Deputy President
The Hon Darryl Cameron RANGIAH	Brisbane	<ul style="list-style-type: none"> Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Michael Andrew WIGNEY	Sydney	<ul style="list-style-type: none"> Supreme Court of the Australian Capital Territory – Additional Judge Supreme Court of Norfolk Island – Judge

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Melissa Anne PERRY	Sydney	<ul style="list-style-type: none"> Defence Force Discipline Appeal Tribunal – Member Administrative Appeals Tribunal – Deputy President
The Hon Jonathan Barry Rashleigh BEACH	Melbourne	
The Hon Brigitte Sandra MARKOVIC	Sydney	
The Hon Mark Kranz MOSHINSKY	Melbourne	<ul style="list-style-type: none"> Australian Law Reform Commission – Acting President (from 9 January 2023 – 30 June 2023) Australian Competition Tribunal – Deputy President
The Hon Robert James BROMWICH	Sydney	<ul style="list-style-type: none"> Supreme Court of the Australian Capital Territory – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon Natalie CHARLESWORTH	Adelaide	<ul style="list-style-type: none"> Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Stephen Carey George BURLEY	Sydney	
The Hon David John O'CALLAGHAN	Melbourne	
The Hon Michael Bryan Joshua LEE	Sydney	<ul style="list-style-type: none"> Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Roger Marc DERRINGTON	Brisbane	
The Hon David Graham THOMAS	Brisbane	<ul style="list-style-type: none"> Administrative Appeals Tribunal – Deputy President
The Hon Sarah Catherine DERRINGTON	Brisbane	<ul style="list-style-type: none"> Australian Competition Tribunal – Deputy President
The Hon Katrina Frances BANKS-SMITH	Perth	<ul style="list-style-type: none"> Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Craig Grierson COLVIN	Perth	<ul style="list-style-type: none"> Administrative Appeals Tribunal – Deputy President Australian Law Reform Commission – Part-time Commissioner
The Hon Thomas Michael THAWLEY	Sydney	<ul style="list-style-type: none"> Administrative Appeals Tribunal – Deputy President Copyright Tribunal – Deputy President Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Michael Francis WHEELAHAN	Melbourne	<ul style="list-style-type: none"> Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Angus Morkel STEWART	Sydney	<ul style="list-style-type: none"> Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Michael Hugh O'BRYAN	Melbourne	<ul style="list-style-type: none"> Supreme Court of the Australian Capital Territory – Additional Judge Australian Competition Tribunal President

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Darren John JACKSON	Perth	
The Hon John Leslie SNADEN	Melbourne	
The Hon Stewart Maxwell ANDERSON	Melbourne	<ul style="list-style-type: none"> • Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Wendy Jane ABRAHAM	Sydney	<ul style="list-style-type: none"> • Supreme Court of the Australian Capital Territory – Additional Judge • Supreme Court of Norfolk Island – Judge
The Hon John HALLEY	Sydney	<ul style="list-style-type: none"> • Australian Competition Tribunal – Deputy President
The Hon Elizabeth CHEESEMAM	Sydney	
The Hon Helen Mary Joan ROFE	Melbourne	<ul style="list-style-type: none"> • Copyright Tribunal – Deputy President
The Hon Kylie Elizabeth DOWNES	Brisbane	<ul style="list-style-type: none"> • Australian Competition Tribunal – Deputy President
The Hon Scott Anthony GOODMAN	Sydney	
The Hon Patrick O'SULLIVAN	Adelaide	<ul style="list-style-type: none"> • Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Shaun Brendan McELWAIN	Hobart	
The Hon Michael James FEUTRILL	Perth	
The Hon Fiona MEAGHER	Brisbane	
The Hon Timothy McEVOY	Melbourne	
The Hon Lisa HESPE	Melbourne	<ul style="list-style-type: none"> • Administrative Appeals Tribunal – Deputy President
The Hon Elizabeth RAPER	Sydney	
The Hon Geoffrey Ross KENNETT	Sydney	<ul style="list-style-type: none"> • Administrative Appeals Tribunal – Deputy President
The Hon Catherine Gail BUTTON	Melbourne	
The Hon Ian McNeil JACKMAN	Sydney	
The Hon Adam HATCHER		<ul style="list-style-type: none"> • President, Fair Work Commission
The Hon Emilios KYROU AO		<ul style="list-style-type: none"> • President, Administrative Appeals Tribunal

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

- 1–27 July 2022 – Justice Kenny

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 (*Report on Court performance*) and Appendix 8 (*Judges' activities*).

Appointments and retirements during 2022–23

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

- Chief Justice Mortimer was appointed on 7 April 2023
- Justice Kennett was appointed on 19 December 2022
- Justice Button was appointed on 16 January 2023
- Justice Jackman was appointed on 6 February 2023
- Justice Hatcher was appointed on 19 February 2023 (President of the Fair Work Commission), and
- Justice Kyrou was appointed on 8 June 2023 (President of the Administrative Appeals Tribunal)

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

- The Honourable Justice Greenwood retired with effect on 19 July 2022
- The Honourable Justice Jagot resigned with effect on 16 October 2022 to take up an appointment with the High Court of Australia
- The Honourable Justice Ross AO retired with effect on 18 November 2022
- The Honourable Justice Middleton retired with effect on 25 December 2022, and
- The Honourable Chief Justice Allsop AC retired with effect on 6 April 2023.

Other appointments during the year are as follows:

- Justice Perram was appointed as Acting President of the Copyright Tribunal of Australia on 16 October 2022
- Justice O'Sullivan was appointed Additional Judge of the ACT Supreme Court on 1 November 2022
- Justice Collier was appointed Acting President of the AAT on 1 December 2022
- Justice O'Bryan was appointed Acting President of the Australian Competition Tribunal for the period of 26 December 2022 to 25 March 2023
- Justice Kenny AM was appointed Acting President of the AAT on 13 December 2022 for the period of 16 December to 16 March 2023
- Justice Perram was appointed as President of the Copyright Tribunal of Australia on 15 December 2022
- Justice O'Bryan was appointed Deputy President of the Copyright Tribunal of Australia on 15 December 2022
- Justice Thawley was appointed Deputy President of the Copyright Tribunal of Australia on 15 December 2022
- Justice Rofe was appointed Deputy President of the Copyright Tribunal of Australia on 15 December 2022
- Justice O'Bryan was appointed as Acting President of the Australian Competition Tribunal on 26 December 2022
- Justice Moshinsky was appointed Acting President of the ALRC on 9 January 2023
- Justice Hatcher was appointed as President of the Fair Work Commission on 19 February 2023
- Justice Kenny was reappointed Acting President of the AAT on 9 March 2023 for the period from 16 March to 30 April 2023
- Justice Collier was reappointed Acting President of the AAT on 9 March 2023 from 1 May 2023
- Justice O'Bryan was appointed President of the Australian Competition Tribunal on 26 March 2023
- Justice Moshinsky was appointed Deputy President of the Australian Competition Tribunal on 16 March 2023 commencing on 26 March 2023
- Justice Sarah Derrington was appointed Deputy President of the Australian Competition Tribunal on 16 March 2023
- Justice Halley was appointed Deputy President of the Australian Competition Tribunal on 16 March 2023
- Justice Downes was appointed Deputy President of the Australian Competition Tribunal on 16 March 2023
- Justice Hespe was appointed Deputy President of AAT commencing on 25 May 2023
- Justice Kennett was appointed Deputy President of AAT commencing on 25 May 2023
- Justice Kyrou was appointed President of the AAT commencing on 9 June 2023

Executive

Chief Executive Officer and Principal Registrar

The CEO and Principal Registrar is appointed by the Governor-General on the nomination of the Chief Justice and has the same powers as the Head of a statutory agency of the Australian Public Service in respect of the officers and staff of the Court employed under the *Public Service Act 1999* (Cth) (section 18ZE of the *Federal Court of Australia Act 1976* (Cth)).

Ms Sia Lagos was appointed the CEO and Principal Registrar on 15 May 2020.

Officers of the Court

Officers of the Court are appointed by the CEO and Principal Registrar under section 18N of the *Federal Court of Australia Act 1976* (Cth) and are:

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

The registrars must take an oath, or make an affirmation of office before undertaking their duties (section 18Y of the *Federal Court of Australia Act 1976* (Cth)). Registrars perform statutory functions pursuant to the *Federal Court of Australia Act 1976* (Cth), *Federal Court Rules 2011*, *Federal Court (Bankruptcy) Rules 2016*, *Federal Court (Corporations) Rules 2000*, *Federal Court (Criminal Proceedings) Rules 2016*, and the *Admiralty Act 1988* (Cth) and *Admiralty Rules 1988*.

These include issuing process, taxing costs and settling appeal indexes. They also exercise various powers delegated by judges under the *Federal Court of Australia Act 1976* (Cth), *Bankruptcy Act 1966* (Cth), *Corporations Act 2001* (Cth) and *Native Title Act 1993* (Cth). A number of staff in each registry also perform functions and exercise delegated powers under the *Federal Circuit and Family Court of Australia Act 2021* (Cth). More information can be found in Appendix 4 (*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 1999* (Cth).

At 30 June 2023, the Federal Court entity engaged 1,469 employees under the *Public Service Act 1999* (Cth). This figure includes 824 ongoing and 645 non-ongoing employees. More details on court staff can be found in Part 4 (*Management and accountability*) and Appendix 9 (*Staffing profile*).

Part 2: The year in review



Over the past year, the Court has continued to transform and refine its operations to support the needs of judges, stakeholders and the community. This year in review reports on court appointments and retirements, and provides an overview of the key initiatives to modernise systems and practice which provide the foundation for ongoing innovation and reform within the Federal Court.

The Court

On 7 April 2023 Justice Mortimer was appointed as the new Chief Justice of the Federal Court upon the retirement of former Chief Justice Allsop AC. Chief Justice Mortimer's appointment follows her service as a judge of the Court since 2013. She is the first female to be appointed Chief Justice since the Court was established in 1976 and only the fifth Chief Justice of the Court.

The Court has welcomed the appointment of five new judges in 2022–23. Justice Kennett was appointed on 19 December 2022, Justice Button was appointed on 16 January 2023, Justice Jackman was appointed on 6 February 2023, Justice Hatcher was appointed on 19 February 2023 as a judge of the Court and President of the Fair Work Commission and Justice Kyrou was appointed on 8 June 2023 as a judge of the Court and President of the Administrative Appeals Tribunal.

The Court farewelled Justice Greenwood who retired on 19 July 2022, Justice Jagot who took up an appointment on 17 October 2022 as a Justice of the High Court of Australia, Justice Ross AO who retired on 18 November 2022 and Justice Middleton who retired on 25 December 2022.

Significant issues and developments

Continued extension of the National Court Framework – Registrars

The Court continues to implement and extend the National Court Framework (NCF) to all matters across the Court including the work undertaken by judicial registrars.

The allocation of judicial registrar work is now undertaken on a national basis with national systems and processes (such as a national duty registrar system and national practice guides) to support and enhance the work undertaken. In 2022–23, further NCF developments included the establishment of a national Corporations List with dedicated registrars, support staff and contact points for the profession. This initiative enables a more efficient use of the judicial registrar resources and provides a more streamlined approach for practitioners, particularly those operating in more than one jurisdiction.

The past year has also seen the establishment of dedicated registrar assistance for matters involving self-represented applicants with a view to improving access to justice across the Court. A registrar-led Vulnerable Applicants Working Group (working with community legal groups) has also been established by the Court.

The Court continues to draw on the skills and expertise of its judicial registrars in each of the national practice areas by providing mediation and case management support to judges on a national basis.

Workload

In 2022–23, the total number of overall filings in the Court, comprising first instance, appellate and Registrar matters increased by eight per cent to 3,399. The number of filings which were commenced in, or transferred to, the Court's original jurisdiction increased by 15 per cent. The increase in filings can be attributed to a significant increase in the filing of matters pursuant to the *Corporations Act 2001* (Cth), particularly applications seeking the winding up of companies.

During the reporting year, 750 appellate proceedings were filed in the Court. They include 560 appeals and related actions (522 filed in the appellate jurisdiction and 38 matters filed in the original jurisdiction), 11 cross appeals and 179 interlocutory applications including applications for a stay, an injunction, expedition, security for costs and various other applications.

The Federal Circuit and Family Court of Australia (Division 2) continues to be a significant source of appellate work accounting for approximately 50 per cent of the appeals and related actions filed in 2022–23. The majority of these proceedings are being heard and determined by single judges exercising the Court's appellate jurisdiction.

There was an overall decrease in the total number of appeals filed in 2022–23 which was 522 compared with 649 in 2021–22. This decrease was attributable to a 24 per cent decrease in migration appeals, as well as decreases in the Commercial and Corporations and Native Title practice areas. These decreases were partially offset by increases in the areas of Administrative and Constitutional Law, Admiralty and Maritime and Employment and Industrial Relations.

In the reporting year, 691 appeals and related actions were finalised. Of these, 172 matters were filed and finalised. At 30 June 2023, there were 793 appeals currently before the Court, with 557 of these being migration appeals and related actions.

In 2022–23, 47 migration appeals and applications were filed in the Court's appellate jurisdiction related to judgments of single judges of the Court exercising the Court's original jurisdiction. A further 232 migration matters were filed in relation to judgments of the Federal Circuit and Family Court of Australia (Division 2).

Although the number of migration appellate filings decreased by 24 per cent since the last reporting year, 54 per cent of the Court's total appellate workload concerned decisions made under the *Migration Act 1958* (Cth).

The Court continues to apply procedures to streamline the preparation and conduct of these appeals and applications and to facilitate the expeditious management of the migration workload. The Court reviews all migration matters to identify cases raising similar issues or 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.

There was a 19 per cent increase in the number of matters referred to mediation when compared with the previous reporting period. Increases have been in native title (169 per cent), administrative and constitutional law and human rights (69 per cent), defamation (39 per cent) and employment and industrial relations (35 per cent). Commercial and corporations and intellectual property mediation referrals remained consistent with the referrals in 2021–22.

All registries recorded an increase in mediation referrals from 2021–2022 with Queensland increasing by 44 per cent, Western Australia by 35 per cent, South Australia by 26 per cent and Victoria by 23 per cent.

Further information about the Court's workload, including the management of appeals, is included in Part 3 (*Report on Court performance*) and Appendix 5 (*Workload statistics*).

Performance

The Court has two performance indicators for timely resolution of cases:

- Eighty-five per cent of cases to be completed within 18 months of commencement

During the reporting year, the Court completed 79 per cent of cases in less than 18 months. Whilst the Court was not able to achieve its benchmark in 2022–23, figure A5.4 shows that 86 per cent of cases (excluding native title matters) were completed within 18 months over the last five reporting years.

- 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 other issues affecting the Court.

During 2022–23, the Court handed down 1,723 judgments for 1,541 court matters (noting that some matters involve more than one judgment being delivered – e.g. interlocutory decisions – and sometimes one judgment will cover multiple matters). Overall, 76 per cent of appeals (both Full Court and single judge) were delivered within three months; 79.3 per cent of judgments at first instance were delivered within three months of the matter being reserved; and 78.4 per cent of total judgments were delivered within three months.

Financial management and organisational performance

From 1 July 2016, the *Courts Administration Legislation Amendment Act 2016* (Cth) established the amalgamated Entity, known as the Federal Court of Australia.

The financial figures outlined in this report are for the consolidated results of the Federal Court, the National Native Title Tribunal, the Federal Circuit and Family Court (Division 1), the Federal Circuit and Family Court (Division 2), the Commonwealth Courts Corporate Services and the Commonwealth Courts Registry Services.

The financial statements for 2022–23 show an ordinary operating surplus of \$4.862 million before depreciation costs of \$37.067 million and taking into account principal repayments of lease liabilities of \$19.921 million. The Entity was budgeting a break-even position for the year, with the surplus stemming from delays in judicial appointments (and resultant savings in employee expenses) and the time taken to recruit staff to fill newly funded positions. The Courts operate under strict budgetary controls ensuring that the Entity operates within the appropriation.

The next three-year budget cycle continues to challenge the Entity to make further savings. With over 60 per cent of the Entity's costs relating to property and judicial costs, which are largely fixed, the ability to reduce costs is limited.

In 2017–18, the Entity received \$14 million in additional funding under the Modernisation Fund over a three-year period. This funding enabled the Entity to deliver a digital court file for family law and supported the Courts' ongoing digital transformation. With funding ceasing in 2020–21, the Entity continues the digital transformation project through reallocation of internal resources.

A number of new Government measures appropriated additional funding to the Entity for 2022–23 and forward years. In 2022–23, \$17.921 million was provided for improving women's safety. These funds were used to expand the successful Lighthouse pilot program to 15 family law registries nationally. There was also \$0.700 million provided to expand the jurisdiction in small claims industrial relations matters.

Embracing a digital future

Digital Court Program

The Digital Court Program continues to be a key priority for the Courts, streamlining core business systems to enhance flexibility and operational efficiency. The progressive implementation of a new application suite, CourtPath, is the current primary focus of this program.

CourtPath is being developed in partnership with judges, registrars and court staff. The program is modernising critical document, workflow and case management tools to deliver sustainable improvements to workflows and support efficient case handling.

Internal staff are delivering CourtPath, following user-centred design principles to ensure it is intuitive to use while providing timely, accurate and secure access to critical materials. It uses familiar, predictable design patterns seen in many modern applications to minimise the need for user training.

Work progressed throughout 2022–23 to expand the system to cater for all file types across the Courts in line with the program roadmap. Consolidation into a single platform will streamline court activity and reduce costs associated with maintaining multiple legacy platforms.

Cyber security

Cyber security remains critical to safeguard operations and protect court users and internal and external stakeholders. Throughout the reporting year, a commitment to safeguarding sensitive information, critical infrastructure and data, has been the key priority, delivering outcomes in line with the Court's strategic cyber security objectives.

Key initiatives have included advanced threat protection for all court devices, integrated vulnerability identification, ongoing development of a cyber-aware culture and enhanced incident response.

Internal cyber security capability was enhanced throughout 2022–23, including the expansion of the Governance Risk and Compliance, Cyber Architecture and Cyber Engineering teams.

The Court continues to strengthen cyber security maturity in line with the Australian Cyber Security Centre recommendations, Protective Security Policy Framework and Essential Eight compliance and regulatory requirements. Work remains ongoing to strengthen data protection, improve vulnerability

management, optimise identity and access management and update governance risk and compliance processes, policies, standards and procedures.

Digital practice

To support the Court's digital practice, assist judges, chambers and court staff and increase the efficiency of proceedings, digital practice officers were introduced in 2021. This team has delivered significant improvements in core court operations including expansion of video conferencing capability, hearing solutions, digital courtrooms and live-streaming of high profile matters along with efficiency improvements via better use of existing digital tools.

Video conferencing remains an integral part of court proceedings, allowing broader access to justice. During 2022–23, 36 additional courtrooms were enabled with video conferencing. Seventy five per cent of courtrooms now have video conferencing capability.

Courtroom technology has been installed and upgraded to provide a more consistent experience for parties attending in-person, virtually or in hybrid proceedings. Key improvements include a modern infrared hearing solution in all courtrooms to support attendees with hearing impairments; simpler audio, video and content sharing; and upgraded video conferencing hardware for 15 courtrooms, increasing the number of screens and cameras available.

To enable judges to sit in remote hearings, two digital courtrooms were introduced in the Court's premises at Queens Square in Sydney.

The Federal Court has an ongoing commitment to open justice by live streaming proceedings. In 2022–23, 232 court proceedings were live-streamed, including high public interest matters such as *Ben Roberts-Smith v Fairfax Media Publications*, *Bruce Lehrmann v Network Ten Pty Limited*, *Loretta Kikuyu v Minister for Health NSW & Anor* and *Australian Vaccination-Risks Network Incorporated v Secretary, Department of Health*. Additionally, court and judicial events were live streamed including judicial welcome and farewell ceremonies, seminars and lectures such as Ngara Yuru Lecture, UNCCA UN Lecture, Employment and Industrial Relations Seminar, William Ah Ket Scholarship, the Native Title Stakeholders Forum and the Silk Bows.

Wellbeing

The Court has maintained its focus on supporting employee wellbeing and implemented a number of initiatives to support employees who may be facing professional or personal challenges. All employees can access a free and confidential counselling service via the Court's employee assistance provider, as well as the option of attending seminars on topics such as building resilience.

The Court engaged the employee assistance provider to deliver wellbeing and vicarious trauma training to flood-affected employees, while also maintaining sessions focused on building resilience to support overall employee wellbeing. The Court also offers discounted gym membership and online and in-person yoga sessions.

Diversity and inclusion

The Court is committed to a diverse and inclusive workplace in which its workforce reflects the broad communities in which the Court's employees work. The Court focuses on creating a safe and supportive environment in which employees can bring their true selves to work, as well as ensuring recruitment and other processes are strictly merit-based. Consistently with the Court's commitment to a gender diverse workforce, currently females hold 61 per cent of positions at Senior Executive Service classifications and 74 per cent of positions at Executive Level classifications.

An important element of diversity and inclusion is ensuring employees are treated with dignity, courtesy and respect at all times in the workplace. The Court has a zero tolerance approach to inappropriate workplace behaviour and has updated its anti-discrimination, bullying and harassment policies to ensure they remain current and reflect best practice. The policies provide a formal process for employees to raise a concern if they experience inappropriate behaviour in the Court.

The Court facilitated annual refresher training to all employees to reinforce policies and initial training delivered in 2022–23. This mandatory training is to ensure employees understand expected standards of behaviour in the workplace and know how they can raise a concern if they witness or experience inappropriate behaviour. The Court has recorded these training sessions to enable them to be delivered to all new employees.

The Court has focused on creating employment opportunities for Aboriginal and Torres Strait Islanders, with its Aboriginal and Torres Strait Islander employment rate increasing from 2.3 per cent in 2021–22 to 2.5 per cent in 2022–23. The Court is currently working on its next Reconciliation Action Plan (RAP) at the Innovate level, which it is aiming to launch in 2024. Innovate is the second level of the RAP framework (Reflect, Innovate, Stretch and Elevate) and is focused on developing and strengthening relationships with Aboriginal and Torres Strait Islander peoples, engaging staff and stakeholders in reconciliation, and developing and piloting innovative strategies to empower Aboriginal and Torres Strait Islander peoples.

I would like to take this opportunity to thank the judges and staff for their continued commitment and dedication to the Court, the legal profession and court users.



Sia Lagos

Chief Executive Officer and Principal Registrar
Federal Court of Australia



Part 3: Report on Court performance

The work of the Court in 2022–23

This chapter of the annual report details the Federal Court's performance and workload during the financial 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 practice and procedure, 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 section 39B of the *Judiciary Act 1903* (Cth).

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

The Court has jurisdiction under the *Judiciary Act 1903* (Cth) 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* (Cth) 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 has jurisdiction to hear and determine a question of law referred to it by the Administrative Appeals Tribunal pursuant to section 45(2) of the *Administrative Appeals Tribunal Act 1975* (Cth).

This jurisdiction falls under the Administrative and Constitutional Law and Human Rights National Practice Area, which also includes complaints about unlawful discrimination and matters concerning the Australian Constitution. Figure A5.9.1 in Appendix 5 (*Workload statistics*) shows the matters filed in this practice area over the last five years.

In addition to hearing appeals in taxation matters from the Administrative Appeals Tribunal, the Court also exercises a first instance jurisdiction to hear objections to decisions made by the Commissioner of Taxation. Figure A5.9.7 in Appendix 5 (*Workload statistics*) shows the number of 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 Court of the Federal Court. Figure A5.9.5 shows the number of intellectual property matters filed over the last five years.

The Court also has jurisdiction under the *Native Title Act 1993* (Cth). The Court has jurisdiction to hear and determine native title determination applications and is responsible for their mediation. It also hears and determines 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. In addition, the Court also hears appeals from the National Native Title Tribunal and matters filed under the *Administrative Decisions (Judicial Review) Act 1977* (Cth) involving native title. The Court's native title jurisdiction is discussed in this part. Figure A5.11 in Appendix 5 (*Workload statistics*) shows the number of native title matters filed over the last five years.

A further important area of jurisdiction for the Court derives from the *Admiralty Act 1988* (Cth).

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 four arrests. See Figure A5.10 in Appendix 5 (*Workload statistics*) for the number of Admiralty and Maritime Law matters filed in the past five years.

The Court has jurisdiction under the *Fair Work Act 2009* (Cth), *Fair Work (Registered Organisations) Act 2009* (Cth) and related industrial legislation. Workplace relations and fair work matters filed over the last five years are shown in Figure A5.12 in Appendix 5 (*Workload statistics*).

The Court's jurisdiction under the *Corporations Act 2001* (Cth) and the *Australian Securities and Investments Commission Act 2001* (Cth) covers a diverse range of matters, from the appointment of registered liquidators and the winding up of companies, to applications for orders in relation to fundraising, corporate management and misconduct by company officers. The jurisdiction is exercised concurrently with the Supreme Courts of the states and territories.

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

Cases arising under Part IV (restrictive trade practices) and Schedule 2 (the Australian Consumer Law) of the *Competition and Consumer Act 2010* (Cth) constitute a significant part of the workload of the Court. These cases often raise important public interest issues involving such matters as mergers, misuse of market power, exclusive dealings or false advertising. These areas fall under the Commercial and Corporations National Practice Area. Figure A5.7 in Appendix 5 (*Workload statistics*) provides statistics on this practice area.

The Court has jurisdiction to hear defamation matters, civil aviation, negligence and election-related disputes. These cases fall under the Other Federal Jurisdiction National Practice Area.

Since late 2009, the Court has also had jurisdiction in relation to indictable offences for serious cartel conduct. This jurisdiction falls under the Federal Crime and Related Proceedings National Practice Area together with summary prosecutions and criminal appeals and other related matters.

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 and Family Court of Australia (Division 2) 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 Federal Circuit and Family Court of Australia (Division 2) concerning decisions under the *Migration Act 1958* (Cth). The Court's migration jurisdiction is discussed in this part.

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 also discussed in this part.

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 section 39B of the *Judiciary Act 1903* (Cth), are listed on the Court's website at www.fedcourt.gov.au.

Changes to the Court's jurisdiction in 2022–23

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

- *National Anti-Corruption Commission Act 2022* (Cth)
- *Home Affairs Act 2023* (Cth), and
- *Creative Australia Act 2023* (Cth).

Amendments to the Federal Court of Australia Act

During the reporting year the *Federal Court of Australia Act 1976* (Cth) was amended by the *Courts and Tribunals Legislation Amendment (2021 Measures No.1) Act 2022* (Cth). These amendments provided clarification on the exercise of the Court's jurisdiction through remote hearings by way of video link, audio link or other appropriate means.

Fee regulation

The Federal Court and Federal Circuit and Family Court Regulations 2022 commenced on 1 April 2023 and were subsequently amended by the Fair Work and Other Legislation Amendment (Secure Jobs, Better Pay) Regulations 2023.

The fee for filing applications under section 539 of the *Fair Work Act 2009* (Cth) in certain circumstances is fixed at the same rate as prescribed under subsection 395(2) of that Act. That fee is adjusted on 1 July of each year for changes in the consumer price index by regulation 3.07 of the Fair Work Regulations 2009.

Federal Court Rules

The judges are responsible for making the Rules of Court under the *Federal Court of Australia Act 1976* (Cth). 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 responsive to the needs of modern litigation. 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.

The *Federal Court Legislation Amendment Rules 2022* came into effect on 13 January 2023 and were repealed on 30 March 2023. The amendments provided updates to references to rules, regulations and the Federal Circuit and Family Court of Australia. They also clarified the transfer of proceedings to and from the Federal Circuit and Family Court of Australia (Division 2). Schedule 1 amended the *Federal Court Rules 2011*.

The rule amendments reflected harmonisation consistent with recommendations from the Council of Chief Justices and improved the rules relating to examinations by a medical expert and limiting non-party access to documents.

The rule amendments also made changes to the access regime for non-parties prior to the first directions hearing or hearing (whichever is earlier).

The amendments also provided for an increase in the Costs Allowable for Work Done and Services Performed as set out in Schedule 3 of the *Federal Court Rules 2011*, consistent with recommendations from the Joint Costs Advisory Committee.

Other rules

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

The *Federal Court (Corporations) Rules 2000* govern proceedings in the Federal Court under the *Corporations Act 2001* and the *Australian Securities and Investments Commission Act 2001*, as well as proceedings under the *Cross-Border Insolvency Act 2008* (Cth) which involve a debtor other than an individual. Schedule 4 of the *Federal Court Legislation Amendment Rules 2022* amended the *Federal Court (Corporations) Rules 2000*.

The *Federal Court (Bankruptcy) Rules 2016* govern proceedings in the Federal Court under the *Bankruptcy Act 1966* (Cth), as well as proceedings under the *Cross-Border Insolvency Act 2008* (Cth) involving a debtor who is an individual. Schedule 3 of the *Federal Court Legislation Amendment Rules 2022* amended the *Federal Court (Bankruptcy) Rules 2016*.

The *Federal Court (Criminal Proceedings) Rules 2016* govern all criminal proceedings in the Federal Court, including summary criminal proceedings, indictable primary proceedings and criminal appeal proceedings. Schedule 2 of the Federal Court

Legislation Amendment Rules 2022 amended the *Federal Court (Criminal Proceedings) Rules 2016*.

The *Admiralty Rules 1988* govern proceedings in the Federal Court under the *Admiralty Act 1988* (Cth). There were no changes to the *Admiralty Rules 1988* in 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 an approved form. The Chief Justice may approve a form for the purposes of the *Federal Court Rules 2011*, the *Federal Court (Bankruptcy) Rules 2016* and the *Federal Court (Criminal Proceedings) Rules 2016*.

On 11 January 2023, Chief Justice Allsop approved three forms: one new form, Form 26A – *Notice to person served outside Australia*; and approved two updated forms, Form 43B – *Subpoena to produce documents* and Form 43C – *Subpoena to give evidence and produce documents*. Both updated forms were issued on 11 January 2023 and reflect the amendments introduced by the *Federal Court Legislation Amendment Rules 2022*.

On 18 January 2023, Chief Justice Allsop approved two forms: one new form, Form 14A – *Originating application by prospective applicant to ascertain description of respondent*, which is a form for the purposes of rule 7.24(1) of the *Federal Court Rules 2011*, and an amended form, Form 14 – *Originating application by prospective applicant for order for discovery*, which reflects the amendments introduced by the *Federal Court Legislation Amendment Rules 2022*. Both forms were issued on 18 January 2023.

Practice notes

Practice notes are used to provide information to parties and their lawyers involved in proceedings in the Court on particular aspects of the Court's practice and procedure.

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 and the Court's inherent power to control its own processes. All practice notes are available on the Court's website.

On 5 July 2022, the Court published the General and Personal Insolvency Sub-area Practice Note (GPI-1) which sets out arrangements for the management of matters under the *Bankruptcy Act 1966* (Cth) within the National Court Framework.

On 10 August 2022, the Court published the Central Practice Note: National Court Framework and Case Management (CPN-1) which sets out the fundamental principles concerning the National Court Framework of the Federal Court, together with key principles of case management procedure.

On 17 August 2022, the Court published the eBooks Practice Note (GPN-eBOOKS). This practice note identifies the Court's requirements in respect of court books, appeal books and books of authorities, and other documents such as affidavits, which are proposed to be provided in electronic format.

On 17 August 2022, the Court re-issued the Content of appeal books and preparation for hearing (APP 2) Practice Note.

On 21 September 2022, the Court published the List of Authorities and Citations Practice Note (GPN-AUTH) which provides guidance for the use of Lists and eBooks of Authorities in all hearings (including appeals), unless or to the extent that the Court otherwise orders. It applies to all parties providing Lists and eBooks of Authorities as ordered or otherwise, including those parties that are not represented by a lawyer.

On 3 November 2022, the Court published the Referee and Assessor Practice Note (GPN-REF). This practice note provides guidance on the Court's practice and procedure relating to orders of referral and orders for the appointment of an assessor, including the standard terms of such orders.

On 9 November 2022, the Court published the Commercial and Corporations Practice Note (C&C-1) which sets out the arrangements for the management of commercial and corporations' cases within the National Court Framework.

On 10 February 2023, the Court published the Access to Documents and Transcripts Practice Note (GPN-ACCS) which provides guidance in respect of requests for access to documents contained in the court file relating to a proceeding in the Court, and in respect of access to transcripts of a proceeding.

On 24 March 2023, the Court published Working with Interpreters Practice Note (GPN-INTERP). This practice note applies to all civil and criminal proceedings commenced after its commencement and to any existing proceedings which the Court directs should be subject to this Practice Note in whole or in part.

As at 19 June 2023, the Case Management of Full Court and Appellate Matters (APP 1) Practice Note is under review by Chief Justice Mortimer.

Guides

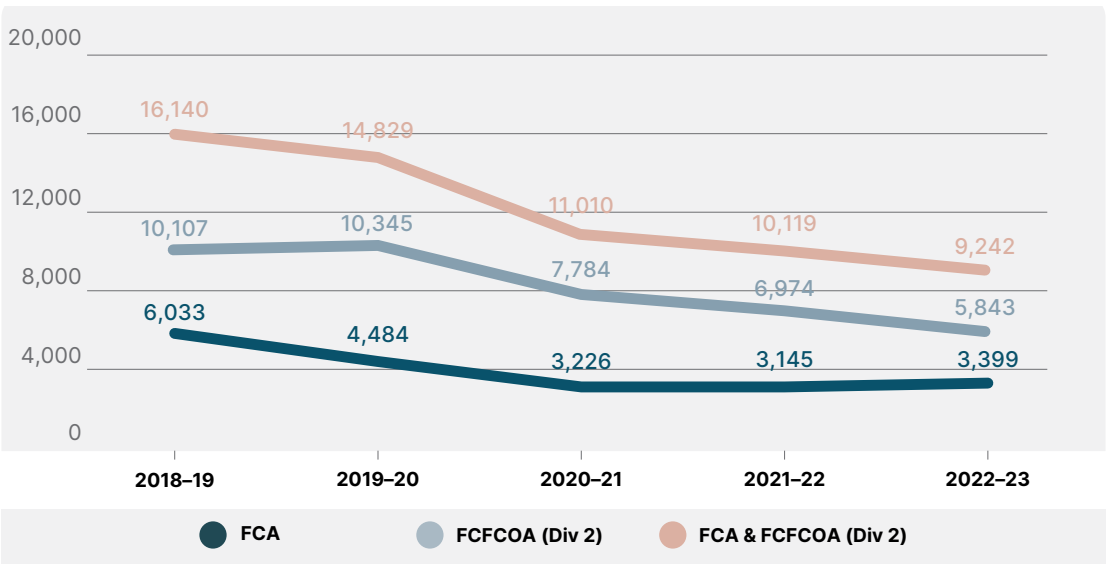
The Federal Court issues national guides. These guides cover a variety of subject areas, such as appeals, migration, human rights and insolvency matters. Other guides cover a range of practical and procedural matters, such as communicating with chambers and registry staff, clarifying the role and duties of expert witnesses, and providing guidance on the preparation of costs summaries and bills of costs. All guides are available on the Court's website.

Workload of the Federal Court and Federal Circuit and Family Court of Australia (Division 2)

The Federal Court has concurrent jurisdiction with the Federal Circuit and Family Court of Australia (Division 2) 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 Federal Circuit and Family Court of Australia (Division 2) in its general federal law jurisdiction.

In 2022–23, a total of 9,242 matters were filed in the two courts. The number of filings has an impact on the Federal Court's registries, as the staff members of the Federal Court's registries process the documents filed for both the Federal Court and Federal Circuit and Family Court (Division 2). The registries also provide the administrative support for each matter to be heard and determined by the relevant court.

FIGURE 3.1: FILINGS TO 30 JUNE 2023 – FEDERAL COURT OF AUSTRALIA AND FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (DIVISION 2)



Case flow management of the Court's jurisdiction

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 practice and procedure designed to assist with the efficient disposition of cases according to law. This is further enhanced by the reforms of the National Court Framework.

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

Disposition of matters other than native title

In 1999–2000, the Court set a goal of 18 months from commencement as the period within which it should dispose of at least 85 per cent of its cases (excluding native title cases). The time goal was set having regard to the growing number of long, complex and difficult cases, the impact of native title cases on the Court's workload and a decrease in the number of less complex matters. The time goal is reviewed regularly by the Court in relation to workload and available resources. The Court's ability to continue to meet its disposition targets is dependent upon the timely replacement of judges.

Notwithstanding the time goal, the Court expects that most cases will be disposed of well within the 18 month period, with only particularly large and/or difficult cases requiring more time. Indeed, many cases are urgent and need to be disposed of quickly after commencement. The Court's practice and procedure facilitates early disposition when necessary.

During the five-year period from 1 July 2018 to 30 June 2023, 86 per cent of cases (excluding native title matters) were completed in 18 months or less; 77 per cent in 12 months or less; and 56 per cent in six months or less. See Figure A5.4 in Appendix 5 (*Workload statistics*). Figure A5.5 shows the percentage of cases (excluding native title matters) completed within 18 months over the last five reporting years.

Delivery of judgments

In the reporting period, the Court handed down 1,723 judgments for 1,541 court files. Of these, 492 judgments were delivered in appeals (both single judge and Full Court) and 1,231 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 decisions in the matters that proceed to trial in the Court will be reserved by the trial judge at the conclusion of the trial.

The judgment is delivered at a later date and is often referred to as a 'reserved judgment.' The nature of the Court's appellate work also means a substantial proportion of appeals require reserved judgments.

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

Workload of the Court in its original jurisdiction

Incoming work

In the reporting year, 3,399 cases were commenced in, or transferred to, the Court's original jurisdiction – an increase of eight per cent from last financial year. See Table A5.1.

Matters transferred to and from the Court

Matters may be remitted or transferred to the Court under:

- *Judiciary Act 1903* (Cth), section 44
- Cross-vesting Scheme Acts
- *Corporations Act 2001* (Cth), and
- *Federal Circuit and Family Court of Australia Act 2021* (Cth).

During the reporting year, 134 matters were remitted or transferred to the Court:

- 5 from the High Court
- 4 from the Federal Circuit and Family Court of Australia (Division 2)
- 27 from the Supreme Courts, and
- 98 from other courts.

Matters may be transferred from the Court under:

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

During 2022–23, no matters were transferred from the Court.

Matters completed

Figure A5.2 in Appendix 5 (*Workload statistics*) 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 3,230.

Current matters

The total number of current matters in the Court's original jurisdiction at the end of the reporting year was 3,984 (see Table A5.1).

TABLE 3.1: AGE OF CURRENT MATTERS (EXCLUDING APPEALS AND RELATED ACTIONS AND NATIVE TITLE MATTERS)

CAUSE OF ACTION	UNDER 6 MONTHS	6-12 MONTHS	12-18 MONTHS	18-24 MONTHS	OVER 24 MONTHS	SUB-TOTAL
Administrative law	39	27	10	5	16	97
Admiralty	9	11	5	2	11	38
Bankruptcy	108	37	30	22	21	218
Competition law	6	7	4	3	14	34
Trade practices	42	44	20	24	94	224
Corporations	420	131	68	71	182	872
Human rights	12	47	7	9	29	104
Workplace relations	0	0	0	0	1	1
Intellectual property	55	40	13	30	71	209
Migration	75	57	13	44	64	253
Miscellaneous	103	94	49	56	123	425
Taxation	21	32	27	35	65	180
Fair work	67	84	38	35	58	282
Criminal	1	3	0	0	9	13
TOTAL	958	614	284	336	758	2,950
Percentage of total	32.5%	20.8%	9.6%	11.4%	25.7%	100%

TABLE 3.2: AGE OF CURRENT MATTERS (EXCLUDING APPEALS)

CAUSE OF ACTION	UNDER 6 MONTHS	6-12 MONTHS	12-18 MONTHS	18-24 MONTHS	OVER 24 MONTHS	SUB-TOTAL
Native title action	25	21	15	9	171	241
Percentage of total	10.4%	8.7%	6.2%	3.7%	71.0%	100%
RUNNING TOTAL	10.4%	19.1%	25.3%	29.0%	100%	

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 2023 is set out in Table 3.1.

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

Further information about the Court's native title workload can be found later in this part.

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

The Court's appellate jurisdiction

The appellate workload of the Court constitutes a significant part of its overall workload. While most appellate matters arise from decisions of single judges of the Court or the Federal Circuit and Family Court of Australia (Division 2), some are in relation to decisions by state and territory courts exercising certain federal jurisdiction.

For reporting purposes, matters filed in the original jurisdiction of the Court but referred to a Full Court for hearing are treated as appellate matters.

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 and complexity of such matters, the nature and complexity of issues raised on appeal, legislative changes increasing or reducing the jurisdiction of the Court and decisions of the Full Court or High Court (for example, regarding the interpretation or constitutionality of legislative provisions).

Subject to sections 25(1), 25(1AA) and 25(5) of the *Federal Court of Australia Act 1976* (Cth), appeals from the Federal Circuit and Family Court of Australia (Division 2) 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

and matters will generally be listed in the next available sitting in the capital city where the matter was heard at first instance. After a period of hearings by remote access technology due to the COVID-19 pandemic, most appellate matters returned to in-person hearings during the reporting year. There were also 14 Full Courts that the Chief Justice convened to be heard as special fixtures outside of the four scheduled sittings periods.

The appellate workload

During the reporting year, 750 appellate proceedings were filed in the Court. They include 560 appeals and related actions (522 filed in the appellate jurisdiction and 38 matters filed in the original jurisdiction), 11 cross appeals and 179 interlocutory applications such as applications for security for costs in relation to an appeal, a stay, an injunction, expedition or various other applications.

The Federal Circuit and Family Court of Australia (Division 2) continues to be a significant source of appellate work accounting for approximately 50 per cent of the appeals and related actions filed in 2022–23. The majority of these proceedings are heard and determined by single judges exercising the Court's appellate jurisdiction.

Further information on the source of appeals and related actions is set out in Table A5.3 in Appendix 5 (*Workload statistics*). There was an overall decrease in the total number of appeals filed in 2022–23 (522), from 649 in 2021–22. This decrease was attributable to a 24 per cent decrease in migration appeals, as well as decreases in the areas of commercial and corporations and native title. These decreases were partially offset by increases in the areas of administrative and constitutional law, admiralty and maritime and employment and industrial relations.

In the reporting year, 691 appeals and related actions were finalised. Of these, 172 matters were filed and finalised in the reporting year. At 30 June 2023, there were 793 appeals currently before the Court, with 557 of these being migration appeals and related actions.

The comparative age of matters pending in the Court's appellate jurisdiction (including native title appeals) at 30 June 2023 is set out in Table 3.3.

Of the appellate and related matters pending at present, just over 25 per cent are less than six months old and just under 50 per cent are less than 12 months old. At 30 June 2023, there were 411 matters that were over 12 months old (see Table 3.3).

Managing migration appeals

In 2022–23, 47 migration appeals and applications were filed in the Court’s appellate jurisdiction related to judgments of single judges of the Court exercising the Court’s original jurisdiction. A further 232 migration matters were filed in relation to judgments of the Federal Circuit and Family Court of Australia (Division 2).

Table 3.4 shows the number of appellate proceedings involving the *Migration Act 1958* (Cth) as a proportion of the Court’s overall appellate workload since 2018–19.

Although the number of migration appellate filings has decreased by 24 per cent since the last reporting year, 54 per cent of the Court’s total appellate workload concerned decisions made under the *Migration Act 1958* (Cth).

The Court continues to apply a number of procedures to streamline the preparation and conduct of these appeals and applications and

to facilitate the expeditious management of the migration workload. The Court reviews all migration matters to identify cases raising similar issues and where there is a history of previous litigation. This process allows for similar cases to be managed together resulting in more timely and efficient disposal of matters.

Migration appellate proceedings that are to be heard by a Full Court are generally listed for hearing in the next scheduled Full Court and appellate sitting period. In circumstances where a matter requires an expedited hearing or where judicial commitments preclude a listing during the sitting period, a matter may be referred to a specially convened Full Court. In the 2022–23 reporting year, the Chief Justice specially convened four Migration Full Courts outside of the four scheduled sitting periods.

The majority of migration appellate matters are heard by single judges and these were listed for hearing throughout the reporting year.

TABLE 3.3: AGE OF CURRENT APPEALS, CROSS APPEALS AND INTERLOCUTORY APPELLATE APPLICATIONS AT 30 JUNE 2023

CAUSE OF ACTION	UNDER 6 MONTHS	6–12 MONTHS	12–18 MONTHS	18–24 MONTHS	OVER 24 MONTHS	SUB-TOTAL
Appeals and related actions	200	182	107	88	216	793
Percentage of total	25.2%	23.0%	13.5%	11.1%	27.2%	100%
RUNNING TOTAL	200	382	489	577	793	

TABLE 3.4: APPELLATE PROCEEDINGS CONCERNING DECISIONS UNDER THE MIGRATION ACT AS A PROPORTION OF ALL APPELLATE PROCEEDINGS (INCLUDING CROSS APPEALS AND INTERLOCUTORY APPLICATIONS)

APPEALS AND RELATED ACTIONS	2018–19	2019–20	2020–21	2021–22	2022–23
Migration jurisdiction	1,140	749	547	367	279
Percentage	80.6%	72.6%	67.1%	56.5%	53.4%
TOTAL APPEALS AND RELATED ACTIONS	1,415	1,031	815	649	522

The Court's native title jurisdiction

Statistics

In 2022–23, the Court resolved 49 native title applications. Of these applications, 36 were claimant applications, nine were non-claimant applications, and four were compensation applications. Two further applications to review the decision by the Native Title Registrar to refuse to accept a claimant application for registration were also received.

Of the total finalised applications, 27 were resolved by consent of the parties or were unopposed, four were finalised following litigation and 18 were discontinued or dismissed. At the end of the reporting period, there were 188 current applications. A breakdown of these figures is at Table 3.5.

TABLE 3.5: NATIVE TITLE APPLICATIONS FILED AND RESOLVED, 2022–23

		Total	Native title applications	Non-claimant applications	Compensation applications	Revised determination applications	Other
Filed within the period		45	26	15	1	3	4
Resolved within the period		49	36	9	4	0	2
Method of resolution	Resolved by consent or unopposed	27	26	1	0	0	1
	Finalised following litigation	4	3	1	0	0	0
	Discontinued or dismissed	18	7	7	4	0	1
Active matters at end of period		188	134	37	12	5	2

Mediation and case management

The Court continues to focus on targeted case management by specialist judges and registrars, and on mediation predominantly conducted by registrars. The Court also maintains a panel of specialist accredited mediators who can be called upon to mediate from time to time, including by way of co-mediation. The Court continues to employ co-mediation or facilitation with an Indigenous facilitator.

The objective of both mediation and case-management processes is to identify the genuine issues in dispute between the parties and the most effective means of resolving those disputes. This process accords with the Court's responsibilities under the *Native Title Act 1993* (Cth) and its overarching purpose under sections 37M and 37N of the *Federal Court of Australia Act 1976* (Cth) to facilitate the just resolution of disputes according to the law as quickly, inexpensively and efficiently as possible.

During the reporting period, the Court conducted over 200 mediations and over 400 case management hearings.

Applications involving Indigenous parties

Native title registrars and legal case managers are becoming increasingly involved in applications with Indigenous parties that are outside the native title practice area. This involvement includes in case management to assist in progressing matters quickly, inexpensively and efficiently, mediations and logistics support with hearings that occur in remote locations.

Matters in which such assistance was provided include the following:

- a class action filed by persons in the Torres Strait asserting the Commonwealth has failed to act on climate change and cut emissions, which will force their communities to migrate to new areas (*Pabai Pabai v Commonwealth* (VID622/2021))
- an action brought by several Tiwi Islanders over the approval of plans by Santos to drill in the Barossa gas field (*Dennis Murphy Tipakalippa v National Offshore Petroleum Safety and Environmental Management Authority & Anor* (VID306/2022))
- a class action for compensation of unpaid wages brought against the State of Western Australia (*Street v State of Western Australia* (WAD237/2020))
- various matters brought under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) (CATSI Act) (*Whaleboat v Mer Gedkem Le* (QUD38/2022); *Jim Golden-Brown & Anor v National Aboriginal and Torres Strait Islander Corporation – Transport and Community Services (NATSIC) & Ors* (QUD193/2021)), and
- an action brought by the Robe River Kuruma People against Citic Pacific Mining for an alleged breach of a compensation deed (*Gloria Lockyer on behalf of the Robe River Kuruma People & Anor v Citic Pacific Mining Management Pty Ltd & Ors* (WAD116/2022)).

Access requests

Requests to access native title documents held by the Court continue to be made by Indigenous persons and organisations, researchers and legal practitioners. These requests are time consuming and involve the consideration of release of sensitive material. To assist in facilitating responses to these requests (and for the purpose of archiving), the Court has continued to progress the digitisation of files (including retained audio-visual material) as well as the detailed indexing of the remaining paper files.

Stakeholder engagement

The Native Title Unit has continued to engage with various third party stakeholders, including by hosting a Native Title Forum for Queensland practitioners, presenting as speakers at conferences, sitting on advisory groups, such as the Expert Technical Advisory Group on native title legislative amendments, and continuing to be part of the Native Title Coordination Committee, hosted by the National Native Title Council.

Overview of significant litigation and outcomes

Claimant and non-claimant applications

New South Wales

In December 2022, a consent determination was delivered in Lismore recognising the Widjabul Wia-bal people as the native title holders for areas in the Northern Rivers.

In June 2023, a separate question was heard in a non-claimant application brought by Dungog Shire Council. The separate question asked whether the applicant has power under the *Local Government Act 1993* (NSW) and/or *Crown Land Management Act 2016* (NSW) to bring the application. Judgment is reserved.

Five new non-claimant applications were filed, namely the Birubi Operations Pty Ltd (NSD1033/2022), Armidale LALC (NSD1011/2022), Attorney General NSW (Allambie Heights) (NSD319/2023), Lormine Pty Ltd (NSD493/2023), and Dungog Land Manager (NSD613/2023).

Northern Territory

Two on-country consent determinations were held in the reporting period, the first being the Rocklands Consent Determination on 8 September 2022 in Camooweal and the second being the Karinga Lakes Consent Determination on 5 April 2023 in Imanpa.

Mediation remains ongoing in the claims that overlap the town of Katherine.

Queensland

Cape York, Torres Strait and Carpentaria Region

In the Torres Strait, judgment was delivered in the Warral and Ului matter in February 2023 (*Nona on behalf of the Badulgal, Mualgal and Kaurareg Peoples (Warral & Ului) v State of Queensland (No 5)* [2023] FCA 135) finding that native title exists in all of the claim area.

On 30 November 2022, a consent determination was delivered in *David on behalf of the Torres Strait Regional Seas Claim v State of Queensland* [2022] FCA 1430. This determination recognises the native title of the Kulgalgal, the Kemer Kemer Meriam, the Kaurareg People, the Gudang Yadhaykenu People and the Ankamuthi People in various waters and islands of the Torres Strait and northern Cape York in the context of the Northern Cape and Torres Strait proceedings.

In Cape York, the Cape York United matter will be resolved by a series of local determinations under section 87A of the *Native Title Act 1993* (Cth). In the reporting period, eight consent determinations were made through July–October 2022. It is estimated that the matter will not be fully disposed of until 2024–25.

Northern Region

Connection in the Wakaman People cluster of matters, which comprises three claimant applications and three non-claimant applications, was accepted by the State of Queensland following Court facilitated mediation. This claim is expected to proceed to a consent determination by the end of 2023.

Southern Region

A hearing on connection was held in November 2022 on country in the Barada Kabalbara Yetimarala native title applications (QUD13/2019 and QUD15/2019), followed by subsequent Court facilitated mediation. The applicants are now progressing towards a consent determination.

Following mediation and a conference of experts, the application for native title by the Wongkumara People, which is partially overlapped by a claim by the Yandruwandha Yawarrawarrka People (QUD133/2021), is now progressing towards a determination by consent, which is anticipated to occur in April 2024.

An appeal was filed by the Clermont Belyando and Jangga #3 applicants in relation to the judgment in *Malone v State of Queensland (The Clermont-Belyando Area Native Title Claim) (No 5)* [2021] FCA 1639 finding that there is no native title in the claim area. The appeal was heard by the Full Court in May 2023. Judgment is reserved.

The overlapped portion of the Danggan Balun (Five Rivers) People claim (QUD331/2017) and the neighbouring Tweed River Bundjalung People claim (NSD876/2020) has resolved by agreement following case management and mediation. The remaining portions remain in mediation.

A consent determination of native title was listed for the Gamilaraay People (QUD290/2017) in September 2022, however, an overlapping claim was brought by the Bigambul People in August 2022 (QUD281/2022). Following several mediations and an interlocutory hearing for summary dismissal, on 11 May 2023, judgment was handed down in *Mann on behalf of the Bigambul People #2 v State of Queensland* [2023] FCA 450 dismissing the Bigambul People #2 proceeding.

Six non-claimant applications have been filed by Russel Estates Pty Ltd (QUD307/2022), Davies (QUD303/2022), Gunther Family Holdings (QUD53/2023), Cornford (QUD131/2023), Propsting (QUD153/2023), and Moonyanco Pty Ltd (QUD290/2023) and there were five determinations of non-claimant applications: Appleton (QUD29/2022), Stanbroke Pty Ltd (QUD22/2021), Magowra Pastoral Company (QUD407/2021), Moller (QUD146/2022), and South Terrick Pty Ltd (QUD117/2022).

South Australia

Seven matters were finalised by consent determination hearings during the reporting period.

On 8 December 2022, Justice Charlesworth delivered consent determinations for three claims made on behalf of the Wirangu people in Streaky Bay (Wirangu Part A claims (SAD64/2022, SAD228/2019, SAD84/2021). The first of the Wirangu claims was lodged in 1997 (and renamed SAD64/2022 as part of the Court's digitisation project). The determination area covered by these claims is more than 5,000 square kilometres of the Western Eyre Peninsula.

Part B of claims made on behalf of the Wirangu people (SAD64/2022, SAD228/2019, SAD84/2021) and on behalf of the Nauo people (SAD63/2018) were resolved by consent in a decision delivered by Justice O'Bryan in Elliston on 10 February 2022. This determination recognised native title rights and interests held by both the Wirangu and Nauo people on the Western Eyre Peninsula.

On 14 March 2023, Justice Charlesworth handed down a consent determination at the Point Pearce Aboriginal School on the Yorke Peninsula in South Australia (SAD88/2022). This determination recognises the Narungga People as native title holders for an area which encompasses the entire Yorke Peninsula, covering approximately 11,938 square kilometres.

Further claims made on behalf of the Nauo people (SAD65/2022 and SAD185/2021) were resolved by consent determinations delivered by Justice O'Bryan on 15 May 2023 at Coffin Bay. The area the subject of these determinations covers almost 8000 square kilometres on the Eyre Peninsula. The determinations include the towns of Sheringa, Palkagee, Kiana, Coffin Bay, along with the Coffin Bay and Lincoln national parks. The Nauo claim the subject of SAD65/2022 was originally lodged 28 years ago, but was renamed as part of the Court's digitisation project.

Victoria

The first consent determination in Victoria in 12 years was made in the Eastern Maar proceedings on 28 March 2023 over the majority of the area claimed. Settlement was also reached over all remaining areas of the Eastern Maar claim, except an area identified as 'Area C'. A hearing commenced in May 2023 in regard to Area C to determine whether the Gunditjmara people, who filed a new claim over the area in October 2022, also hold native title rights and interests over the area.

A preservation of evidence hearing was conducted in the Boonwurrung matter in December 2022.

The first non-claimant application in Victoria was filed on 13 April 2023 (VID247/2023) by Tom Groggin Station Pty Ltd in relation to an area around the Alpine National Park (Parish of Kosciusko).

Western Australia

Pilbara

On 6 August 2022, a consent determination was delivered in the Yinhawangka Gobawarra, Jurruru and Jurruru #2 matters following an on-country hearing in July 2019, judgment in 2020 and further mediation.

In October 2022, trial programming orders were made over an area with overlapping claims made by Mullewa Wadjari, Nanda and Wajarri Yamatji. Hearing of lay evidence is expected to commence in early 2024.

On 29 May 2023, judgment was handed down in *The Nyamal Palyku Proceeding (No 7)* [2023] FCA 528. This judgment considered two competing interlocutory applications. The first was an application by the Nyamal applicants that asserted no legally binding agreement was reached through the mediation process the parties had engaged in. The second was by the Palyku applicants that there was a binding agreement and the Palyku applicants sought to proceed with its claim on the basis of the agreed terms. The Court found that there was a binding and enforceable agreement reached that committed the parties to seek a consent determination in the terms agreed. The parties are to file a minute of consent determination by 16 October 2023.

Goldfields

On 5 July 2022, a consent determination was delivered in *Harrington-Smith on behalf of the Darlot Native Title Claim Group v State of Western Australia (No 2)* [2022] FCA 764 over an area bounded by the Tjiwarl and Kultju determinations of native title to the north-west and north.

On 27 March 2023, judgment was handed down on a separate question in *Strickland on behalf of the Maduwongga Claim Group v State of Western Australia* [2023] FCA 270. The native title application was subsequently dismissed on 28 April 2023.

A preservation of evidence hearing was conducted on 21–23 February 2023 in Kalgoorlie in the Marlinyu Ghoorlie (WAD647/2017) and Karratjibbin (WAD382/2017) matters.

Central Desert

An eight-day hearing of lay evidence was conducted in relation to the overlap of the Part B of Yugunga-Nya and Gingirana #4 claim areas in August 2022.

An overlap between Nharnuwangga, Wajarri and Ngarla People #2 and Gingirana #3 proceedings was resolved through mediation, with the proceedings to go to a consent determination in the next reporting year.

A minute of consent determination was filed on 16 May 2023 in Martu #3 (WAD170/2021) and will be determined on the papers on a date to be fixed after 16 May 2023.

Kimberley

A determination of native title was made on 19 December 2022 in the Purnululu, Purnululu #2 and Gajangana Jaru matters (*Drill on behalf of the Purnululu Native Title Claim Group v State of Western Australia (No 2)* [2022] FCA 1538). An on-country celebration was held in May 2023.

On 1 July 2022, the Indigenous Land and Sea Corporation was determined as an agent Prescribed Body Corporate for the Birriman-gan common law holders for an initial five-year period or until the common law holders nominate a Prescribed Body Corporate.

Preservation evidence was heard on country in November 2022 in the Koongie Elvire claim (WAD45/2019).

Southwest

There are no active applications in this area.

Compensation applications

The McArthur River Project Compensation Claim (NTD25/2020) was heard in Borrooloola and Darwin over three weeks from 5–23 June 2023. The compensation application focuses in particular on the entitlement to compensation for the grant, validation and re-grant of mineral titles and the authorisation of mining activities. This is the third compensation claim in the Northern Territory, the second being the Gove Peninsula claim (NTD43/2019) which was heard by the Full Federal Court in Darwin from 24–28 October 2022. The Full Federal Court handed down its judgment finding in favour of the Applicant in relation to all questions posed in the demurrer. The Commonwealth has since filed a special leave application seeking to appeal the decision to the High Court.

On 13 April 2022, the application brought by the State of Queensland and the Pitta Pitta Aboriginal Corporation RNTBC seeking to have a compensation claim brought by Florence Melville and Others on behalf of the Pitta Pitta People (*Melville on behalf of the Pitta Pitta People v State of Queensland* [2022] FCA 387) was dismissed. The appeal by the Pitta Pitta Aboriginal Corporation RNTBC was heard by the Full Court in August 2022 and dismissed. The application has now been referred to Registrar mediation and case management.

The Antakirinja Matu-Yankunytjatjara Aboriginal Corporation Registered Native Title Bodies Corporate filed a compensation application on 22 April 2022. The applicant seeks compensation for the effects of specified compensable acts on the continued existence, enjoyment and exercise of native title rights and interests in land and waters located in and around Coober Pedy, South Australia – the claim area was the subject of the Antakirinja Matu- Yankunytjatjara native title determination on 11 May 2011 (SAD6007/1998). This matter remains in mediation.

In December 2022, the Yindjibarndi Ngurra Aboriginal Corporation Registered Native Title Bodies Corporate compensation application (WAD37/2022) was programmed for hearing and concurrently referred to mediation. Preservation evidence was taken on country in March 2023. Lay evidence is listed for hearing on country, in August 2023 for two weeks. The matter remains in mediation.

The hearing of the Malarngowem Aboriginal Corporation Registered Native Title Bodies Corporate compensation application (WAD203/2021) has been vacated and mediation continues. The application is over an area of land in the Halls Creek

area, more particularly the portion of an exploration licence that falls within the external boundary of the native title determination WAD43/2019 Malarngowem. The parties are due to report to the Court in late 2023.

The applicants and State reached an agreement in-principle to settle the three Tjiwarl native title compensation proceedings in May 2022. In December 2022, a Body Corporate Indigenous Land Use Agreement known as the Tjiwarl Palyakuwa (Agreement) was authorised, and on 21 February 2023 the agreement was registered by the National Native Title Tribunal. On 22 May 2023, conclusive registration of the agreement was completed, which settles all liability of the State in the proceedings. In June 2023, leave was granted for the applicants to discontinue two of the proceedings. Negotiations and mediation between the applicant and mining respondents continues and full and final settlement of the proceedings is expected by the end of 2023.

The compensation applications filed by Bruce Smith on behalf of the Wati Tjilpi Ku on behalf of the Yilka Sullivan Edwards People (WAD266/2020) and Archie Tucker on behalf of Wirrilimarra (WAD157/2020) were dismissed in August 2022 and November 2022 respectively.

Assisted dispute resolution

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

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

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

Since the 2010–11 reporting period, the Court has maintained comprehensive statistical information about referrals to ADR and the outcomes of ADR processes held during the relevant reporting period. Mediation referrals are summarised in Table 3.6. As in previous years, the data should be considered in light of various factors. Firstly, referrals to mediation or other types of ADR may occur in a different reporting period to the conduct of that mediation or ADR process. Secondly, not all referrals to mediation or the conduct of mediation occur in the same reporting period as a matter was filed. This means that comparisons of mediation referrals or mediations conducted as a proportion of the number of matters filed in the Court during the reporting period are indicative only. Thirdly, the data presented on referrals to ADR during the reporting period does not include information about ADR processes that may have been engaged in by parties before the matter is filed in the Court, or where a private mediator is used during the course of the litigation. Similarly, the statistics provided in Table 3.6 do not include instances where judges of the Court order areas where their opinions are in agreement and disagreement without the supervision of a registrar.

During the COVID 19 period, the Court significantly increased the number of mediations conducted

by remote technology due to travel and other restrictions. Since then, the Court has reverted to conducting mediations in-person, but continues to convene mediations using remote technology where appropriate.

Although first instance filings in the Court decreased during the reporting period, there was a 19 per cent increase in the number of matters referred to mediation when compared to the previous reporting period. Increases have been in native title (169 per cent), administrative and constitutional law and human rights (69 per cent), other federal jurisdiction NPA (defamation) (39 per cent) and employment and industrial relations (35 per cent). Commercial and corporations and intellectual property mediation referrals remained consistent with the figures reported during the 2021–22 reporting period.

All registries recorded an increase in mediation referrals with Queensland increasing by 44 per cent, Western Australia by 35 per cent, South Australia by 26 per cent and Victoria by 23 per cent when compared with the 2021–22 figures.

A collection of statistics concerning the workload of the Court by NPA is contained in Appendix 5 (*Workload statistics*).

TABLE 3.6: MEDIATION REFERRALS IN 2022–23 BY NATIONAL PRACTICE AREA AND REGISTRY

NATIONAL PRACTICE AREA	NSW	VIC	QLD	WA	SA	NT	TAS	ACT	TOTAL
Administrative and constitutional law and human rights	19	12	10	6	1	0	0	6	54
Admiralty and maritime	1	3	0	0	0	0	0	0	4
Commercial and corporations	79	62	35	16	8	0	7	7	214
Employment and industrial relations	60	47	20	22	3	2	0	3	157
Federal crime and related proceedings	0	0	0	0	0	0	0	0	0
Intellectual property	22	29	4	2	2	0	0	0	59
Migration	1	0	0	1	0	0	0	0	2
Native title	2	1	21	9	2	0	0	0	35
Other federal jurisdiction	15	13	0	2	1	0	1	0	32
Taxation	2	3	1	0	0	0	0	1	7
TOTAL	201	170	91	58	17	2	8	17	564

Improving access to the Court and contributing to the Australian legal system

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 practice and procedure. 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 and the Australasian 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 (*Judges' activities*).

Special measures relating to COVID-19

The Court discontinued its special measures relating to COVID-19 in 2023 reflecting the winding down of government restrictions in response to the COVID-19 pandemic.

Hearings for detainees

For litigants in immigration detention, the prospect of conducting online hearings by remote access technology can present particular challenges. It is the Court's policy that detainees who are unrepresented will be referred for pro bono legal assistance and the Court continues to work with national and state Bar Associations to facilitate this. Where legal representation is not available, hearings involving detainees may be conducted by remote access technology by link to the relevant detention facility, or in-person if the Judge hearing the matter or the Court otherwise considers it is in the interests of the administration of justice to do so. In such a case, a judge may order the attendance of the detainee in Court.

eLodgment process in protecting visa proceedings

The Court has implemented a process for the application of pseudonyms to certain protection visa proceedings. Litigants and legal representatives are encouraged to contact the registry to obtain a pseudonym before filing, which can then be used in the eLodgment system.

Liaison with the Law Council of Australia

The Court maintained a liaison with the Law Council of Australia, through the Federal Court/ Law Council of Australia Liaison Committee.

This meeting is held twice a year, with liaison on specific issues between representatives of the Law Council of Australia and the Chief Justice, leading judges from relevant National Practice Areas and senior staff occurring between those meetings.

Assistance for self-represented litigants

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

During the reporting year, the Attorney-General's Department continued to provide funding to LawRight, Justice Connect, JusticeNet SA and Legal Aid Western Australia to provide basic legal information and advice to SRLs in the Federal Court and the Federal Circuit and Family Court.

These services involved providing assistance to draft or amend pleadings or prepare affidavits, giving advice on how to prepare for a hearing, advising on how to enforce a court order and dissuading parties from commencing or continuing unmeritorious proceedings. While the services are independent of the courts, facilities are provided within court buildings to enable meetings to be held with clients.

Tables 3.7, 3.8 and 3.9 provide broad statistics about the number of SRLs appearing in the Court as applicants in a matter (respondents are not recorded). As the recording of SRLs is not a mandatory field in the Court's case management system, and the representation status of a party during the course of a proceeding may vary from time to time, statistics shown in the tables are indicative only. In the reporting year, 413 proceedings were commenced in the Court by litigants identified as self-represented. A significant proportion were appellants in migration appeals.

TABLE 3.7: ACTIONS COMMENCED BY SRLS DURING 2022–23 BY REGISTRY

ACTIONS COMMENCED	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	TOTAL
SRLs	5	133	4	67	34	2	119	49	413
PERCENTAGE OF TOTAL	1%	32%	1%	16%	8%	<1%	29%	12%	100%

Due to rounding, percentages may not always appear to add up to 100 per cent.

TABLE 3.8: PROCEEDINGS COMMENCED BY SRLS IN 2022–23 BY CAUSE OF ACTION

CAUSE OF ACTION	TOTAL ACTIONS	PERCENTAGE OF TOTAL
Administrative law	42	10%
Admiralty	0	0%
Appeals and related actions	229	55%
Bankruptcy	38	9%
Bills of costs	0	0%
Competition law	0	0%
Consumer protection	0	0%
Corporations	8	2%
Cross claims	0	0%
Fair work	17	4%
Human rights	0	0%
Industrial	0	0%
Intellectual property	0	0%
First instance Migration	75	18%
Miscellaneous	4	1%
Native title	0	0%
Taxation	0	0%
TOTAL	413	100%

Due to rounding, percentages may not always appear to add up to 100 per cent.

TABLE 3.9: APPEALS COMMENCED BY SRLS IN 2022–23 BY TYPE OF APPEAL

CAUSE OF ACTION	TOTAL ACTIONS	PERCENTAGE OF TOTAL
Administrative law	32	14%
Admiralty	0	0%
Bankruptcy	12	5%
Competition law	1	<1%
Consumer protection	1	<1%
Corporations	2	1%
Fair work	11	5%

CAUSE OF ACTION	TOTAL ACTIONS	PERCENTAGE OF TOTAL
Human rights	0	0%
Industrial	0	0%
Intellectual property	0	0%
Migration	167	72%
Miscellaneous	2	1%
Taxation	0	0%
Native title	1	<1%
TOTAL	229	100%

Direct financial counselling project in bankruptcy proceedings

For some time the Court has, in conjunction with the Federal Circuit and Family Court of Australia (Division 2), been able to maintain a program of targeted financial counselling assistance to SRLs in bankruptcy proceedings. With the assistance of Consumer Action in Melbourne (since 2014), Uniting Communities in Adelaide (2018) and Financial Rights Legal Service in Sydney (March 2022) a financial counsellor attends the courtroom in every bankruptcy list.

During the COVID-19 pandemic, a financial counsellor was made available either by telephone or via Microsoft Teams. Since the return to in-person bankruptcy lists the financial counsellors are present in the courtroom. The presiding registrar is able to refer an SRL to the financial counsellor for an immediate confidential discussion so that the SRL better understands his or her options when faced with the prospect and consequences of bankruptcy.

In all three registries, SRLs may also be provided with the details of financial counselling services ahead of the first court return date and referrals can be made by registry staff when assisting an SRL by telephone or over the counter.

In the Adelaide registry, some creditor's solicitors have also directly provided the financial counselling contact details to SRLs. This has facilitated the settlement of several matters before the filing of a creditor's petition or before the first return date before the Court.

The financial counselling services in Sydney have been enabled by a generous grant from the Financial Counselling Foundation.

In the previous reporting years, all registries experienced reduced numbers of filings due to changes to the *Bankruptcy Act 1966* (Cth) because of COVID-19. As a result, there were proportionally less referrals to financial counsellors. Filings have since increased in all registries, though not yet to pre-pandemic numbers.

Registrars in Sydney, Melbourne and Adelaide have reported favourably on the financial counselling program, and view it as having significant advantages for SRLs, creditors and the presiding registrars.

Interpreters

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

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

Court fees and exemption

Fees are charged under the Federal Court and Federal Circuit and Family Court Regulations 2022 for filing documents; setting a matter down for hearing; hearings and mediations; taxation of bills of costs; and for some other services in proceedings in the Court.

During the reporting year, the rate of the fee that was payable depended on whether the party liable to pay was a publicly listed company (for bankruptcy filing and examination fees only); a corporation; a public authority (for bankruptcy filing and examination fees only); a person; a small business; or a not-for-profit association.

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

- human rights applications (other than an initial filing fee of \$55)
- some fair work applications (other than an initial filing fee of \$83.30)
- 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* (Cth) for the issue of a subpoena requiring the attendance before or production of documents to an arbitrator (or both)
- an application for an extension of time
- a proceeding in relation to a case stated or a question reserved for the consideration or opinion of the Court
- a proceeding in relation to a criminal matter
- setting-down fees for an interlocutory application
- a proceeding in relation to a matter remitted to the Federal Court by the High Court under section 44 of the *Judiciary Act 1903* (Cth), and
- a proceeding in relation to a referral to the Court of a question of law by a tribunal or body.

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 representative body to bring proceedings in the Federal Court under Part 11 of the *Native Title Act 1993* (Cth) 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, or
- is receiving youth allowance, Austudy or ABSTUDY benefits.

A person who has a general exemption from paying a fee 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, or other body, that had been granted Legal Aid or funding under the *Native Title Act 1993* (Cth) has 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 e.g. 'not-for-profit association,' 'public authority,' 'publicly listed company' and 'small business') and the operation of the exemption from paying the fee is available on the Court's website. Details of the fee exemptions during the reporting year are set out in Appendix 1 (*Financial statements*).

Freedom of information

Information Publication Scheme

Entities subject to the *Freedom of Information Act 1982* (Cth) are required to publish information to the public as part of the Information Publication Scheme (IPS). This requirement is in Part II of the *Freedom of Information Act 1982* (Cth) 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 Federal Court has published, on its website at www.fedcourt.gov.au/ips, materials relating to the Information Publication Scheme. This includes the Court's current Information Publication Scheme plan as well as information about the Court's organisational structure, functions, appointments, annual reports, consultation arrangements and

freedom of information contact officer as well as information routinely provided to the Australian Parliament.

The availability of some documents under the *Freedom of Information Act 1982* (Cth) will be affected by section 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 do not relate to matters of an administrative nature; they may, however, be accessible by way of an application for inspection of court documents under the Federal Court Rules.

Information for the media and televised judgments

The Director, Public Information (DPI) handles media inquiries which usually involve access to court files and requests for judgments. The role also includes dealing with issues that can require high-level contact and coordination.

The DPI is dependent on the close cooperation and support of registries, judges' chambers, web team and those responsible for external webcasting.

In some cases of public interest, the Court establishes online files on to which material is placed once approved. In the reporting year, the following cases are some for which online files were created:

- NSD103/2023 *Lehrmann v Network Ten*, NSD 104/2023 *Lehrmann v News Life*, NSD316/2023 *Lehrmann v ABC*: page views 13,453
- NSD673/2023 *Murdoch v Private Media*: page views 8,189
- VID44/2023 *Rugg v Commonwealth*: page views 10,098

As reported last year, the Roberts-Smith case was one of the longest running in the Court's history, lasting 110 hearing (trial) days. Judgment was delivered on 1 June 2023 and broadcast on the Court's YouTube channel. This attracted almost 12,000 peak views but this does not account for third-party media streams permitted to carry the broadcast.

A summary of the judgment – attracting 11,052 page views – was published shortly after delivery while the judgment attracted 10,626 pages views. The total number of page views for the Roberts-Smith online file was 22,956.

Community relations

The Court engages in a wide range of activities with the legal profession. Seminars and workshops on issues of practice and procedure in particular areas of the Court's jurisdiction are also regularly held. Registries host advocacy sessions and bar moot courts and moot competitions and assist with readers' courses.

User groups

User groups have been formed along National Practice Area lines to discuss issues related to the operation of the Court, its practice and procedure, to act as a reference group for discussion of developments and proposals, and as a channel to provide feedback to the Court on particular areas of shared interest. During the reporting year, user groups met both nationally and locally in a number of practice areas, including Admiralty, Defamation, Employment and Industrial Relations, Commercial and Corporations, Native Title, Human Rights and Class Actions.

Legal community

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

- Western Australia – three Federal Court jurisdiction seminars on the topics of Commercial and Corporations, Human Rights and Class Actions. The registry also hosted the Western Australia Courts Summer Clerkship Program, a Silks Ceremony, a court welfare service professional development day and a meeting with Chief Justice Mortimer and the local bar and law society.
- Victoria – the Melbourne Law School mooting competition in August and September 2022; the Monash Law Student's Society Women's moot competition in October 2022; the University of New England law school courts in September 2022 and May 2023; the Federal Court/ Australian Law Reform Commission seminar in December 2022; and a Commercial Bar Association event in March 2023.
- South Australia – the Essential Trial Advocacy course from 27 June 2022 until 1 July 2022 and the Bar Readers' course on 24–25, 28 October 2022, and 5–8 December 2022.

- New South Wales – Mahla Pearlman Oration, Whitmore Lecture, Australasian Institute of Judicial Administration, the Australian Academy of Law, the Standing International Forum of Commercial Courts, UNCCA, and the Francis Forbes Society for Australian Legal History.
- Queensland – an Employment and Industrial Relations seminar; an Australian Law Reform Commission webinar; an Australian Institute of Administrative Law presentation; Griffith Law School visiting committee meeting; a Native Title stakeholder forum; a Full Court sitting to mark the appointment of new Kings Counsel; and the William Ah Ket Scholarship Award Ceremony.

More information about the Court's public engagement activities can be found in Part 4 (*Commonwealth Courts Registry Services*).

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 Law Society meetings and other public meetings, and
- held positions on advisory boards or councils or committees.

An outline of the judges' work in this area is included in Appendix 8 (*Judges' activities*).

National standard on judicial education

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

- participation by members of the Court in judicial professional development activities

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

The standard provides that judicial officers identify up to five days a year on which they could participate in professional development activities.

During 2022–23 the Court offered the following activities:

- four education sessions were scheduled at the Judges' meeting held on 1–2 December 2022 (in Sydney)
- four education sessions were scheduled at the Judges' meeting held on 29–31 March 2023 (in Sydney), and
- a stand-alone session on trade marks legislation and recent trade marks case law was provided on 16 May 2023.

Education sessions offered at the Judges' meetings in 2022–23 included:

- Workshops on the following national practice areas:
 - Employment and industrial relations
 - Intellectual property
- 'On Listening' – the art of listening to the stories of witnesses
- Voice, Treaty, Truth – Developments and Perspectives
- Self-represented litigants in our Courts
- Judges' forum – open discussion on practical issues confronting judges in their judicial role
- Guest speaker session with the Hon Mary Gaudron, and
- Simplifying complex litigation.

In addition to the above, judges undertook other education activities through participation in seminars and conferences. Some of these are set out in Appendix 8 (*Judges' activities*).

In the period from 1 July 2022 to 30 June 2023, the Federal Court of Australia met the National Standard for Professional Development for Australian Judicial Officers.

Work with international jurisdictions

With international travel recommencing, the Federal Court welcomed the opportunity to reconnect in-person with judges and officers from our partner courts across Asia and the Pacific.

Pacific

In partnership with the Papua New Guinea Centre for Judicial Excellence (PNG CJE), the Court conducted a number of activities under its Pacific Judicial Integrity Program (2022–2025). Funded by the Department of Foreign Affairs and Trade, the Program offers training, mentoring and other professional development activities to support judicial and court officers to respectively, preside over and manage fraud and corruption-related cases.

Twelve Pacific island judiciaries are participating in the Program including Fiji, the Federated States of Micronesia, Kiribati, Nauru, Palau, Papua New Guinea, Republic of Marshall Islands, Samoa, Solomon Islands, Tokelau, Tonga and Vanuatu.

Over the past year, the Program has benefited from the generous assistance of a number of judges and registrars from Australia and across the Pacific with particular expertise in the most prevalent types of fraud and corruption cases. The groups of experts informed the design of a specialist training program for judges on hearing fraud and corruption-related cases and for registry officers to manage and report on them.

The pilot training program was conducted for 29 judges from nine countries in Port Moresby in November 2022. The three-day workshop focused on the interpretation and application of substantive law, along with related practices and procedures. While many fundamental tenets and general principles of law and practice were found to be universally applicable, the comparative analysis of the region's norms and approaches offered a wealth of insight and experience that participants found useful.

The pilot training program for registry staff was delivered to 27 people in Brisbane in March 2023. Focusing on how these complex types of cases can be managed efficiently while following due process, the workshop also included how case management systems and processes can be strengthened to promote further transparency and accountability.

Both programs have since been refined and converted into multi-module online courses. The course for judges was delivered to 18 judges from nine countries over five weeks during May and June. The weekly sessions included presentations from and discussions with several of the expert judges who delivered the in-person workshop. A four-part live online course will soon be conducted for registry staff and both courses will be further converted into self-paced, asynchronous courses and available online.

Given the breadth of skills and knowledge required to preside over fraud and corruption cases, a mentoring program was also launched this year. Matching specific challenges and levels of expertise with appropriate judicial expertise from Australia and the Pacific, the six month pilot will soon be reviewed. Thereafter, the mentoring program will be launched more broadly across the region.

Supreme and National Courts of Papua New Guinea

Justices Logan and Collier continued their judicial appointments in-person in Papua New Guinea (PNG), sitting in the Supreme Court. This is pursuant to a longstanding arrangement with the PNG Judiciary which complements the Memorandum. At the request of the PNG Chief Justice, the tempo of their visits to PNG for this purpose increased over the reporting year, following a sad series of deaths in office of PNG resident judges in 2021. When on duty in PNG in March 2023, Justice Logan also delivered, at the University of PNG, on behalf of the PNG CJE and as part of the Sir Buri Kidu Lecture series, a lecture entitled, *'Revenue Law and Practice in Papua New Guinea'* and participated in a related panel discussion on that topic with Justice Gavara-Nanu of the PNG judiciary and PNG's Commissioner of Taxation. In September 2022, as he has done since 2013, Justice Logan undertook, using personal leave, volunteer duty at the PNG Legal Training Institute in support of a week-long commercial litigation workshop delivered by a volunteer training team from the Queensland Bar.

Justice Collier has also sat in the National Court of Justice in PNG in civil matters in provincial areas. Justice Collier assisted in hosting Chief Justice Kiefel of the High Court of Australia, Chief Justice Bowskill of the Supreme Court of Queensland, and Justice Jarrett of the Federal Circuit and Family Court of Australia (Division 1) in their visits to PNG in 2022 and 2023.

The Court's Queensland Manager, Library and Information Services, Angela Allen continued to support counterparts in the National and Supreme Court. This includes conducting and supporting legal research, providing resources and assisting with plans and preparation for their upcoming move to the new Courts' Complex.

Supreme Court of Indonesia

Continuing to share judicial knowledge and experience has further strengthened and reinforced the long-standing cooperation between the Supreme Court of Indonesia and Federal Court which enters its 19th year since the signing of its first Memorandum of Understanding. During the past year the Court has supported the Supreme Court's Commercial Judges Certification Training Program. The following presentations were given as part of the Certification Training Program:

- 14 July: Justice Burley gave a presentation on the *'International Treaties concerning Intellectual Property'*.
- 22 July: Justice Markovic gave a presentation on *'Personal and Corporate Insolvency in Australia'*.
- 28 September: Justice Burley gave a presentation on *'Philosophy and History of the IPR Protection'*.

The Court also hosted a visit by a delegation from the Supreme Court from 24 to 26 October 2022. The delegation was led by Justice Syamsul Maarif SH and Dr. Aria Suyudi SH, with a number of judges also participating virtually. During the visit, a number of presentations were given, including Justice O'Bryan on Competition Law, Former Chief Justice Allsop and Justice Stewart on Enforcement of Arbitration Orders, Justice Burley on Intellectual Property Law and Justice Markovic on Bankruptcy Law.

World Intellectual Property Organization

Through Justice Burley, the Court is collaborating with the World Intellectual Property Organization (WIPO) to develop resources for the conduct of Intellectual Property trials around the world. With the assistance of two judicial registrars, Justice Burley edited an *'Intellectual Property Bench Book'* for judges hearing related cases in the Philippines and Viet Nam. Judges from each of those countries were contributing authors.


The Bench Book was released in Geneva in November 2022 as part of the WIPO Intellectual Property Judges' Forum. Justice Burley gave a presentation at the Forum as part of a panel discussing *'Patents and New Technologies'* and moderated a panel on *'Intellectual Property Case Management Strategies'*. His Honour also gave a presentation to authors from the African Regional Intellectual Property Organization (ARIPO) for the commencement of their work on an ARIPO bench book. Justice Burley continues to work on the development of a parallel Bench Book for Indonesia.

The Court also assisted in the preparation of the Australian chapter in a further WIPO publication directed to patent procedure in various countries around the world.

Visits from international delegations

The Court welcomed several delegations discussing a broad range of substantive law, practice and procedure. The Court remains grateful for these opportunities to foster and build mutually beneficial relationships with existing and new partners. Visiting delegations included:

- Chief Justice Gesmundo, Supreme Court of the Philippines and a delegation of judges, senior court staff and executive officers
- Judges from the Supreme People's Court of Vietnam
- Competition Court Judges from ASEAN member states
- Senior officers from the Supreme Court of Singapore
- Executive Officers from the Ministry of Justice, Cambodia, and
- Senior Officers from the Anti-Corruption and Civil Rights Commission of the Republic of South Korea.



Part 4: Management and accountability

Governance

Since 1990, the Federal Court has been self-administering, with a separate budget appropriation and reporting arrangement to the Parliament.

Under the *Federal Court of Australia Act 1976* (Cth), the Chief Justice is responsible for managing the Court's administrative affairs. The Chief Justice is assisted by the CEO and Principal Registrar.

The *Federal Court of Australia Act 1976* (Cth) also provides that the Chief Justice may delegate any of his or her administrative powers to judges, and that the CEO and Principal Registrar may exercise powers on behalf of the Chief Justice in relation to the Court's administrative affairs.

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

Judges' committees

There are a number of committees of judges of the Court. These committees 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 Operations and Finance Committee, chaired by the Chief Justice, assists the Chief Justice with the management of the administration of the Court.

The Chief Justice is also assisted by standing committees that focus on a number of specific issues. In addition, other ad hoc committees and working parties are established from time to time to deal with particular issues.

All of the committees are supported by senior court staff.

For more information about committees, see Appendix 14.

Judges' meetings

A national Judges' meeting was held on 2 December 2022 and 30 March 2023. The meetings also include a judicial education component.

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* (Cth) or as a non-corporate entity under the *Public Governance, Performance and Accountability Act 2013* (Cth).

Commonwealth Courts Corporate Services

Overview

The Commonwealth Courts Corporate Services (Corporate Services) includes security, communications, finance, human resources, library, information technology (IT), procurement and contract management, property, judgment publishing, risk oversight and management, and business intelligence.

Corporate Services is managed by the Federal Court CEO and Principal Registrar who consults with heads of jurisdiction and the other CEOs in relation to the performance of this function.

Details relating to corporate services and consultation requirements are set out in an MOU.

Corporate Services generates efficiencies by consolidating resources, streamlining processes and reducing duplication. The savings gained from reducing the administrative burden on each of the Courts are reinvested to support the core functions of the Courts.

Objectives

The objectives of Corporate Services are to:

- provide accurate, accessible and up-to-date information and advice
- standardise systems and processes to increase efficiency
- build an agile and skilled workforce ready to meet challenges and changes, and
- create a national technology framework capable of meeting the needs of the Courts into the future.

Purpose

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

During 2022–23, the work of Corporate Services focused on supporting the evolving needs of judges and staff across all the courts and tribunals, while delivering on required efficiencies to meet reduced appropriations.

The following outlines the work of Corporate Services, including major projects and achievements, during 2022–23.

The work of Corporate Services in 2022–23

Financial management

As the Accountable Authority, the CEO and Principal Registrar of the Federal Court has overarching responsibility for the financial management of the three courts and Corporate Services, together forming the Federal Court of Australia entity.

The Federal Court has an Operations and Finance Committee, which is made up of judges from the Court as well as the CEO and Principal Registrar.

This committee meets periodically and oversees the financial management of the Court, with Corporate Services providing support.

Financial accounts

During 2022–23, revenue from ordinary activities totalled \$403.612 million.

Total revenue comprised:

- an appropriation from government of \$315.438 million
- \$43.811 million of resources received free of charge, predominantly for accommodation occupied by the Court in Commonwealth Law Courts buildings and the Law Courts Building in Sydney
- \$37.786 million of liabilities assumed by other government agencies, representing the notional value of employer superannuation payments for the Courts' judges
- \$2.007 million from the sale of goods and services and other revenue and gains, and
- \$4.570 million in increases in the revaluation reserve.

Total expenses as per the financial statements are \$411.326 million. This comprises \$117.415 million in judges' salaries and related expenses, \$155.084 million in employees' salaries and related expenses, \$99.619 million in property operating and other administrative expenses, \$37.067 million in depreciation expenses and \$2.141 million for the and financial instruments and financing costs.

The net operating result from ordinary activities for 2022–23, as reported in the financial statements, is a deficit of \$12.284 million including depreciation expenses and the accounting impacts of AASB 16 Leases. Depreciation expenses in 2022–23 of

\$37.067 million includes depreciation on right of use assets recognised under AASB 16 Leases. To reflect the underlying operating result of the Federal Court of Australia entity, in line with Department of Finance guidelines, depreciation expenses of \$37.067 million are excluded and principal payments of lease liabilities of \$19.921 million are included. This effectively reverses the impact of AASB 16 Leases on the underlying result and shows a net surplus from ordinary activities of \$4.862 million for 2022–23.

The surplus is an improvement on the budgeted break-even position due to judicial vacancies in both Courts and the slower than expected appointment of a number of newly funded positions.

Other comprehensive income of \$4.570 million arising from the independent revaluation of the Court's assets was received in 2022–23. When this is taken into account the overall result of the Court is a net surplus of \$9.432 million.

The next three-year budget cycle continues to challenge the entity to make further savings. With over 60 per cent of the entity's costs relating to property and judicial costs, which are largely fixed, the ability to reduce overarching costs is limited.

Equity increased from \$137.476 million in 2021–22 to \$144.413 million in 2022–23.

Program statements for each of the Court's programs can be found in Part 1.

Advertising and market research

As required under section 311A of the *Commonwealth Electoral Act 1918* (Cth), the Court must provide details of all amounts paid for advertising and marketing services. A total of \$294,312 was paid for recruitment advertising services in 2022–23. Payments for advertising the notification of native title applications, as required under the *Native Title Act 1993* (Cth), totalled \$97,503 over the reporting year.

The Court did not conduct any advertising campaigns in the reporting period.

Grant programs

The Federal Court made no grant payments in 2022–23.

Corporate governance

Audit and risk management

The CEO and Principal Registrar of the Federal Court 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, and
- the entity has taken all reasonable measures to appropriately deal with fraud relating to the entity. There were no instances of fraud reported during 2022–23.

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

- a single Audit Committee overseeing the entity that met four times during 2022–23. The committee comprises an independent chairperson, three judges from the Federal Court, one judge from the Federal Circuit and Family Court and one additional external member. The CEO and Principal Registrars for each of the Courts, the Executive Director Strategy and Corporate Services, the Chief Financial Officer and representatives from the internal audit service provider and the Australian National Audit Office (ANAO) attend committee meetings as observers
- internal auditors, RSM Bird Cameron, conducted three internal audits during the year to test the entity's systems of internal control
- a risk management framework including a Risk Management Policy, a Risk Management Plan and a Fraud Control Plan
- internal compliance certificates completed by senior managers, and
- annual audit performed by the ANAO who issued an unmodified audit certificate attached to the annual financial statements.

TABLE 4.1: AUDIT COMMITTEE, 30 JUNE 2023

Member name	Qualifications, knowledge, skills or experience (include formal and informal as relevant)	Number of meetings attended	Total number of meetings held	Total annual remuneration (GST inc.)	Additional Information (including role on committee)
Ian Govey AM	<ul style="list-style-type: none"> Bachelor of Laws (Hons), Bachelor of Economics. Fellow, Australian Academy of Law. Chair, Banking Code Compliance Committee. Chair, Federal Court of Australia Audit Committee. Deputy Chair, Commonwealth Director of Public Prosecutions Audit Committee. Director, Australian Centre for International Commercial Arbitration (ACICA). Director, Australasian Legal Information Institute (AustLII). Deputy Chair, ACT Community Services Directorate Audit Committee. <p>Previously:</p> <ul style="list-style-type: none"> CEO, Australian Government Solicitor. SES positions in the Australian Public Service, including Deputy Secretary of the Commonwealth Attorney-General's Department. 	4	4	\$22,400	Chair
Justice Nicholas	<ul style="list-style-type: none"> Bachelor of Laws, Bachelor of Arts. <p>Previously:</p> <ul style="list-style-type: none"> A barrister practising in the areas of commercial law, intellectual property law and trade practices law. Appointed Senior Counsel in 2001. Appointed as a Judge to the Federal Court of Australia in 2009. 	4	4	\$0	
Justice Murphy	<ul style="list-style-type: none"> LLB, B Juris. Senior Partner of law firm (1990–95). Chairman of national law firm (2005–11) with responsibilities including financial forecasts, budgeting and risk management. Board Member, Vice President and President, KidsFirst (formerly Children's Protection Society) (2005–present) with responsibilities including financial forecasts, budgeting and risk management. 	1	4	\$0	

Member name	Qualifications, knowledge, skills or experience (include formal and informal as relevant)	Number of meetings attended	Total number of meetings held	Total annual remuneration (GST inc.)	Additional Information (including role on committee)
Justice Farrell	<ul style="list-style-type: none"> • BA LLB (Hons) University of Sydney. • Deputy President, Australian Competition Tribunal. • Fellow, Australian Academy of Law. • Honorary life member, Business Law Section, Law Council of Australia. <p>Previously:</p> <ul style="list-style-type: none"> • President, Takeovers Panel (2010–12). • Member, Takeovers Panel (2001–10). • Chairman, Business Law Section, Law Council of Australia (2008–09). • Member, Executive, Business Law Section (2004–13). • Chair, Corporations Committee (2000–03). • Representative, Law Council, ASX Corporate Governance Council (2001–12). • Partner, Freehill Hollingdale and Page (1984–1992, 1994–2000). • Consultant, Freehills (2000–12). • National Coordinator, Enforcement, Australian Securities Commission (1992–93). • Acting member, Australian Securities Commission (1993). • Non-executive director and member of the audit committee for profit companies and government entities in the electricity generation, international banking, clothing manufacture and retail sectors (over periods between 1995–2010). • Non-executive director and member of the audit committee of not-for-profit entities the Securities Institute of Australia, the Australian Institute of Management, the National Institute of Dramatic Art and the Fred Hollows Foundation (over periods 1995–2017). • Fellow, Australian Institute of Management. • Fellow, Australian Institute of Company Directors. 	3	4	\$0	Justice Farrell resigned from the Committee prior to the 4th meeting.

Member name	Qualifications, knowledge, skills or experience (include formal and informal as relevant)	Number of meetings attended	Total number of meetings held	Total annual remuneration (GST inc.)	Additional Information (including role on committee)
Justice Harper	<ul style="list-style-type: none"> BA (Hons), LLB, PhD (Uni Syd). Member, Family Court Finance Committee. Member, Family Court Conduct Committee. 	2	4	\$0	
David Donovan	<ul style="list-style-type: none"> FCPA. Masters of Commerce; Graduate Certificate Professional Accounting. Fellow of the Institute of Public Accountants (FIPA). Director – Financial Reporting and Treasury at the Department of Employment and Workplace Relations. <p>Previously:</p> <ul style="list-style-type: none"> Chief Finance Officer Commonwealth Government Digital Transformation Agency and the Administrative Appeals Tribunal Employed across financial roles at the CSIRO, Department of Human Services and the National Health Performance Authority. 	3	4	\$0	External Member

The direct electronic address of the charter determining the functions of the audit committee for the entity can be found at

https://www.fedcourt.gov.au/about/corporate-information/audit-committee-charter/_nocache.

Compliance report

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

Correction of errors in the 2021–22 annual report

There are no errors to report.

Security

Financial year 2022–23 saw the Courts and the Tribunal dealing with a range of matters which challenge the safety and security of people who attend the Entity facilities for work or are members of the community attending the Courts or Tribunal to access their services.

During 2022–23, \$7,240,325 was expended for court security services, including the presence of security officers, weapons screening, CCTV and other facility security measures. This figure includes funding spent on security equipment maintenance and equipment upgrades.

During the reporting year, work began on the Future Security Service project. The project will allow an approach to the market for a range of security services to replace existing arrangements as this becomes necessary.

There were a number of matters before the Courts which required heightened security requirements necessary for the safety of the Court or to address confidentiality and safety requirements sought by parties. Facilities which meet the Commonwealth's physical and information security requirements for the most sensitive matters were completed in Sydney and are now available for use.

The Sheriff and Marshal and deputies continue to work closely with the Commonwealth's lead security agencies and the Australian Federal Police, as well as the police services of the states and territories on a range of security matters. The most frequent interactions arise from their role in the execution of orders emanating from Family Law Act matters, including the recovery of children, the arrest of persons and the prevention of parties leaving Australia when ordered by a Court not to do so.

A targeted education program for staff was undertaken, with the aim of strengthening the security culture and improving staff awareness. This included information about tailgating, wearing of passes, device security, logging a security incident report, maintaining secure online profiles and other important security reminders. The security information on the intranet was also reviewed and updated.

Purchasing

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

Information on consultancy services

The Court's policy on the selection and engagement of all consultants is based on the Australian Government's procurement policy framework as expressed in the Commonwealth Procurement Policy and guideline documentation published by the Department of Finance.

The main function for which consultants are engaged relate to the delivery of specialist and expert services, primarily in connection with the Court's IT infrastructure, international programs, finance, property, security and business elements of the Court's corporate services delivery.

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

skills unavailability within the Court or when there is need for specialised and/or independent research or assessment.

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

Consultants

During 2022–23, no new consultancy contracts were entered into. One ongoing consultancy contract was active during 2022–23, which involved total actual expenditure of \$179,000.

Table 4.2 outlines expenditure trends for consultancy contracts for 2022–23.

Competitive tendering and contracting

During 2022–23, 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 2022–23, there were no contracts or standing offers exempted by the CEO and Principal Registrar from publication in the contract reporting section on AusTender.

Exempt contracts

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

Procurement initiatives to support small business

The Court supports small business participation in the Commonwealth Government procurement market. Small and medium enterprises (SMEs) and small business participation statistics are available on the Department of Finance's website at <https://www.finance.gov.au/procurement/statistics-on-commonwealth-purchasing-contracts/>

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

**TABLE 4.2: EXPENDITURE ON REPORTABLE CONSULTANCY CONTRACTS,
CURRENT REPORTING PERIOD (2022–23)**

	Number	Expenditure \$'000 (GST inc.)
New contracts entered into during the reporting period	0	\$0
Ongoing contracts entered into during a previous reporting period	1	\$179
Total	1	\$179

**TABLE 4.3: EXPENDITURE ON REPORTABLE NON-CONSULTANCY CONTRACTS,
CURRENT REPORTING PERIOD (2022–23)**

	Number	Expenditure \$'000 (GST inc.)
New contracts entered into during the reporting period	243	\$19,383
Ongoing contracts entered into during a previous reporting period	302	\$45,916
Total	545	\$65,300

**TABLE 4.4: ORGANISATIONS RECEIVING A SHARE OF REPORTABLE CONSULTANCY CONTRACT
EXPENDITURE CURRENT REPORTING PERIOD (2022–23)**

Name of Organisation	Organisation ABN	Expenditure \$'000 (GST inc.)
Nous Group Pty Ltd	66086210344	\$179

**TABLE 4.5: ORGANISATIONS RECEIVING A SHARE OF REPORTABLE NON-CONSULTANCY CONTRACT
EXPENDITURE CURRENT REPORTING PERIOD (2022–23)**

Name of Organisation	Organisation ABN	Expenditure \$'000 (GST inc.)
MSS Security Pty Limited	29 100 573 966	\$7,447
ENGIE Services AV Technologies	61 007 012 544	\$7,288
Built Pty Limited	24 083 928 045	\$5,739
Shape Australia Pty Limited	70 003 861 765	\$4,650
Thomas Reuters (Professional) Australia Limited	64 058 914 668	\$3,867

Asset management

Commonwealth Law Court buildings

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

From 1 July 2012, the Commonwealth Law Court buildings have been managed in collaboration with the building 'owners', the Department of Finance, under revised 'Special Purpose Property' principles. Leasing and building management arrangements are governed by whether the space is designated as special purpose accommodation (courtrooms, chambers, public areas) or usable office accommodation (registry areas).

An interim Memorandum of Understanding (MOU) was signed by the Court with Department of Finance for 2018–19 which continues to roll over monthly while the Court and Department of Finance negotiate a long-term agreement. The longer-term lease agreement MOU is being finalised and is expected to come into effect during the 2023–24 financial year.

Registries – leased

Corporate Services also manages some 15 registry buildings across the nation, located in leased premises. Leased premises locations include Albury, Alice Springs, Cairns, Dandenong, Dubbo, Launceston, Lismore, Newcastle, Rockhampton, Sydney, Townsville and Wollongong. There are also arrangements for the use of ad hoc accommodation for circuiting in 25 other regional locations throughout Australia.

Regional registries – co-located

The Courts co-locate with a number of state court jurisdictions, leasing accommodation from their state counterparts. The Court has Federal Court and Federal Circuit and Family Court registries in Darwin. The registries are co-located in the Northern Territory Supreme Court building under the terms of a Licence to Occupy between the Court and the Northern Territory Government.

Queens Square, Sydney

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

Projects and capital works delivered in 2022–23

The majority of capital works delivered in 2022–23 were projects addressing the urgent and essential business needs of the Courts. Projects undertaken or commenced include the following:

- Completed construction for additional jury courtrooms and judges' chambers in the Queens Square Law Courts building in Sydney.
- Completed construction works for the new Launceston registry including two courtrooms, judges' chambers, registry, mediation suite, safe room and child services.
- Closure of the Brisbane Street Launceston registry, relocating court services to the newly constructed tenancy at Henty House.
- Completed rebranding of the Federal Circuit and Family Court of Australia across all properties.
- Completed detailed design for fitout works on level 4 at the Perth Commonwealth Law Courts. The joint project between the Family Court of Western Australia and the Federal Courts will be managed by the Federal Courts and include three courtrooms, conference, mediation suites, chambers, and support staff areas to meet the growing needs of the community. Construction is estimated to commence in early 2023–24 and be completed by the end of the financial year.
- Commenced concept design works to modify the Dandenong registry to increase the accommodation capacity for Registrars and Legal Case Manager facilities. Detailed design works will commence in early 2023–24, with construction estimated to be completed by the end of the financial year.
- Commenced concept design for new registrar accommodation in the Adelaide Commonwealth Law Courts. Detailed design works will commence in early 2023–24, with construction estimated to be completed by the end of the financial year.

- Commenced concept design in alignment with lease renewal to modify the Wollongong registry to improve court functions, patron comfort and lifecycle renewal. Detailed design works will commence in early 2023–24, with construction estimated to be completed by the end of the financial year.
- Commenced design of metering upgrades at 80 William Street as required under the lease and for improved data capture. Works are anticipated to be completed early 2024.
- Completed tendering for the design and construction of new judicial and registrar accommodation at the Melbourne Commonwealth Law Courts. Construction is due to commence in early 2023–24 with construction to be completed by the end of the financial year.
- Worked with the building owner, the Department of Finance, who completed painting works in the Perth Commonwealth Law Courts with planning underway for painting works in other Commonwealth Law Courts buildings including Melbourne, Parramatta and Adelaide.
- Assisted the Department of Finance to complete the upgrade of carpet throughout Melbourne Commonwealth Law Courts.
- Worked with the building owner, the Department of Finance, to progress key compliance, infrastructure, Disability Discrimination Act and lifecycle upgrades across a number of Commonwealth Law Courts, which will continue into the 2023–24 financial year.
- Worked with the building owner in the design phase and consultation for approximately 30 projects. The Courts also worked with the owner to assist with the completion of 32 projects which were delivered by the building owner over the reporting period at the Commonwealth Law Courts.

Environmental management

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

The Court, together with other jurisdictions in shared premises, ensures all activities are undertaken in an environmentally sustainable way, and has embedded ecologically sustainable development principles through its policies, procurement and contracting arrangements.

Monitoring of actual impacts on the environment

The Court has an impact on the environment in a number of areas, primarily in the consumption of resources. Tables 4.6 and 4.7 list environmental impact/usage data where available.

Measures to minimise the Court's environmental impact: Environmental management system

The Court's environmental management system has many of the planned key elements now in place. They include:

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

Other measures

During 2022–23, the Court worked within its environmental management system to minimise its environmental impact through a number of specific measures, either new or continuing.

Energy

- Replacement of conventional florescent and halogen lighting with energy saving LED lighting.
- Replacement of appliances with energy efficient models.
- Review of electricity contracts to ensure value for money.
- Incorporation of energy efficient equipment into projects.
- Worked with landlords to install photo voltaic systems in our premises in Parramatta Commonwealth Law Courts and Dandenong.

Information technology

- E-waste was recycled or reused where possible, including auctioning redundant but still operational equipment.
- Fully recyclable packaging was used where possible.

TABLE 4.6: THE COURT'S PAPER USAGE DATA, 2018–19 TO 2022–23

DETAILS	2018–19	2019–20	2020–21	2021–22	2022–23
Paper usage – office paper (reams)					
FCFCOA	27,049	28,651	21,917	15,654	11,076
FCA	8,787	5,866	4,734	5,215	4,222
TOTAL	35,836	33,812	26,651	20,869	15,298

Paper

- Matters commencing with the Courts are now handled entirely electronically. Over 115,689 electronic court files have been created, comprising almost 1,590,920 electronic documents, effectively replacing the use of paper in court files. This is an increase of 8,584 electronic court files and 166,977 electronic court documents from 2021–22.
- Family law eFiling also continues to be expanded, with over 96.68 per cent of divorce applications now being electronically filed. This is an increase of 1.0 per cent from 2021–22.
- Clients are encouraged to use the online Portal, and staff are encouraged to send emails rather than letters where feasible.
- Secure paper (e.g. confidential) continued to be shredded and recycled for all court locations.
- Non-secure paper recycling was available at all sites.
- Printers are initially set to default double-sided printing and monochrome.
- 100 per cent recycled paper (5,652 reams) comprises 37 per cent of total paper usage with part recycled paper content reams accounting for a further 19 per cent of total paper usage.
- The overall reams total 2022–23 has decreased by 5,571 reams (27 per cent). This is due to the increased use of electronic filing and communication were feasible, and ongoing working from home arrangements.

Waste/cleaning

Provision for waste co-mingled recycling (e.g. non-secure paper, cardboard, recyclable plastics, metals and glass) forms a part of cleaning contracts, with regular waste reporting included in the contract requirements for the privately leased sites.

Printer toner cartridges continued to be recycled at the majority of sites.

Recycling facilities for staff personal mobile phones were permanently available at key sites.

Secure paper and e-waste recycling was available at all sites.

Property

Fit-outs and refurbishments continued to be conducted in an environmentally responsible manner including:

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

Travel

Although some staff travel is unavoidable, the entity will continue to support the use of video conferencing and other lessons learned on the practice of remote communications where feasible and practicable.

Additional ecologically sustainable development implications

In 2022–23, the Court did not administer any legislation with ecologically sustainable development implications, nor did it have outcomes specified in an Appropriations Act with such implications.

Australian Public Service Net Zero 2030

As part of the reporting requirements under section 516A of the *Environment Protection and Biodiversity Conservation Act 1999*, and in line with the Government's APS Net Zero 2030 policy, all non-corporate Commonwealth entities and corporate Commonwealth entities are required to publicly report on the emissions from their operations, commencing with public reporting of 2022–23 emissions in entity annual reports.

Entities will be able to consistently measure and report on their emissions using tools and guidance developed by the APS Net Zero Unit in the Department of Finance. To ensure consistency across the APS, reporting entities are required to use the emissions reporting tool provided by Finance to calculate their emissions.

Greenhouse gas emissions reporting has been developed with methodology that is consistent with the Whole-of-Australian Government approach as part of the APS Net Zero 2030 policy.

TABLE 4.7: GREENHOUSE GAS EMISSIONS INVENTORY, FEDERAL COURT OF AUSTRALIA

Emission source	Scope 1 kg CO ₂ -e	Scope 2 kg CO ₂ -e	Scope 3 kg CO ₂ -e	Total kg CO ₂ -e
Electricity (location based approach)		646,305	68,620	714,925
Natural gas				
Fleet vehicles	467,730		117,954	585,684
Domestic flights			1,182,653	1,182,653
Other energy				
Total kg CO₂-e	467,730	646,305	1,369,227	2,483,263

CO₂-e = Carbon Dioxide Equivalent

The Department of Finance reports the electricity and natural gas usage for the Commonwealth Law Courts building consumption on behalf of the Courts.

For the reporting year 2022–23, the courts utilised ten hybrid vehicles and seven Electric Vehicles (EV). Data for the km travelled was not available at the time of this report.

Management of human resources

Staffing

At 30 June 2023, the Court engaged 1,469 employees under the *Public Service Act 1999* (Cth). This figure includes 824 ongoing and 645 non-ongoing employees.

The engagement of a large number of non-ongoing employees is due to the nature of engagement of judges' associates. Associates are typically employed for a specific term of 12 months and transition to other employment once their non-ongoing employment ends. This practice is reflected in the Courts' retention figures.

All employees of the Federal Court and the Federal Circuit and Family Court were designated to be employees of the Federal Court of Australia by the *Courts Administration Legislation Amendment Act 2016* (Cth). Employees are also engaged by the Federal Court to support the operation of the National Native Title Tribunal.

More information is provided in Appendix 9 (*Staffing profile*).

Employee wellbeing

The Court maintained its focus on supporting employee wellbeing and implemented a number of initiatives to support employees who may be facing professional or personal challenges. All employees can access a free and confidential counselling service via our Employee Assistance Provider, as well as the option of attending seminars on topics such as building resilience.

The Court engaged the Employee Assistance Provider to deliver wellbeing and vicarious trauma training to flood-affected employees, while also maintaining sessions focused on building resilience to support overall employee wellbeing. The Court also continued the weekly online yoga session at no cost to all staff.

Diversity and inclusion

The Court is committed to a diverse and inclusive workplace, which includes ensuring its workforce reflects the broader communities in which our employees work. The Court focuses on ensuring it creates a safe and supporting environment in which employees can bring their true selves to work, as well as ensuring recruitment and other processes are strictly merit-based. From a gender diversity perspective, females now fill 61 per cent of positions at Senior Executive Service classifications and 74 per cent of positions at Executive Level classifications.

An important element of diversity and inclusion is ensuring employees are treated with dignity, courtesy and respect at all times in the workplace. The Court has adopted a zero tolerance approach to inappropriate workplace behaviour and recently updated its anti-discrimination, bullying and harassment policies to ensure they remain current and at best practice standards. The policies now also provide for a formal process for employees to raise a concern if they experience inappropriate behaviour by a judge.

The Court facilitated the annual refresher training to all employees to reinforce the policies and initial training delivered in 2022–23. This mandatory training is to ensure employees understand expected standards of behaviour in the workplace, as well as ensuring all employees know how they can raise a concern if they experience inappropriate behaviour. The Court recorded this training to ensure all new employees are similarly aware of the Court's policies and expectations in this regard.

Reconciliation Action Plan

The inaugural Federal Court entity Reconciliation Action Plan (RAP) for 2020–21 was launched in September 2020. There are four levels of RAP – Reflect, Innovate, Stretch and Elevate – which suit organisations at the different stages of their reconciliation journey. The Court's reconciliation journey began with a Reflect RAP in which it shared its vision for reconciliation as well as laid the foundation for future RAPs.

The Court has focused on creating employment opportunities for Aboriginal and Torres Strait Islanders, with its Aboriginal and Torres Strait Islander employment rate increasing from 2.3 per cent in 2021–22 to 2.5 per cent in 2022–23. The Court is currently working on its next RAP at the Innovate level, which it is aiming to launch in 2024.

Disability reporting mechanism

Australia's Disability Strategy 2021–2031 is the overarching framework for inclusive policies, programs and infrastructure that support people with disabilities to participate in all areas of Australian life. The strategy sets out where practical changes will be made to improve the lives of people with disability in Australia. It acts to ensure the principles underpinning the United Nations Convention on the Rights of Persons with Disabilities are incorporated into Australia's policies and programs that affect people with disability, their families and carers. All levels of government have committed to deliver more comprehensive and visible reporting under the Strategy. A range of reports on the progress

of the Strategy's actions and outcome areas will be published and available at <https://www.disabilitygateway.gov.au/ads>.

Disability reporting is included in the Australian Public Service Commission's State of the Service reports and the APS Statistical Bulletin. These reports are available at <http://www.apsc.gov.au>

Employment arrangements

The Remuneration Tribunal determines the remuneration of the CEO and Principal Registrars for the Federal Court, the Federal Circuit and Family Court and the Registrar of the National Native Title Tribunal, as they are holders of statutory offices.

The Courts' Senior Executive Service (SES) employees are covered by separate determinations made under section 24(1) of the *Public Service Act 1999* (Cth). The Federal Court of Australia Enterprise Agreement 2018–2021 covers most non-SES employees. A Determination supplements the enterprise agreement, with the Determination setting out the pay increases employees are eligible to receive during the 2021–22 to 2023–24 financial years. The Court made the Determination in accordance with the *Public Sector Workplace Relations Policy 2020*.

Individual flexibility arrangements are provided for in the enterprise agreement and are used to negotiate employment arrangements that appropriately reflect individual circumstances. Employees and the Court may come to an agreement to vary such things as salary and other benefits. Some transitional employment arrangements remain, including those described in Australian Workplace Arrangements and common law contracts.

At 30 June 2023, there was one employee on an Australian workplace agreement.

In addition, there were:

- 290 employees on individual flexibility arrangements
- 18 on section 24 determinations, and
- 1,160 (including casual employees) covered by the enterprise agreement.

In addition to salary, certain employees have access to a range of entitlements including leave, study assistance, salary packaging, guaranteed minimum superannuation payments, membership of professional associations and other allowances.

The Court has a range of strategies in place to attract, develop, recognise and retain key staff, including flexible work conditions and individual flexibility agreements available under the enterprise agreement.

Work health and safety

The Court has a strong focus on providing employees with a safe and hazard free workplace. This is underpinned by the Court's commitment to consulting employees on safety related matters, with the Court having a formal Health and Safety Committee in place that meets on a quarterly basis.

In line with the Court's focus on employee wellbeing, the Court adopts early intervention strategies to support staff returning to work and performing their full range of duties following injury or illness. This applies irrespective of whether an injury is work related.

The Court's strong safety performance is reflected in the worker's compensation premium amount that has decreased 36 per cent in 2023–24 to \$0.48 million. For 2022–23 it was \$0.75 million and in 2021–22 it was \$1.4 million. The Court's indicative premium rate is similarly decreasing 0.50 per cent compared to 0.70 per cent last financial year and 0.84 per cent across the scheme (Commonwealth agencies).

Information technology

The Information Technology (IT), Digital Practice and Cybersecurity teams focus on creating and maintaining technology that is simple, follows contemporary industry standards and meets the evolving needs of judges, staff, external clients, practitioners and other stakeholders across the Courts and Tribunals.

The IT team supports equitable, transparent access to justice via secure, responsive digital services delivered by a modern, cost-effective IT function as a trusted part of the Courts and Tribunals.

Work continued on consolidating and modernising IT systems to simplify the combined court environment and deliver efficiency improvements and more contemporary practices to reduce the cost of delivery.

Achievements for 2022–23 included:

- **Lighthouse expansion project:** The protection of vulnerable parties and children in family law proceedings is supported by risk screening, triage, and case pathways into appropriate case management streams. The initial pilot was successful and from 28 November 2022, Lighthouse has been expanded to all family law registries. Matters seeking parenting and financial orders are now included, rather than parenting matters only.
- **Wi-Fi expansion:** The expansion of court and public Wi-Fi to all registries was completed.
- **Network simplification and improvements:** Aged equipment was decommissioned, data centres were consolidated, reducing reliance on legacy hardware and improving security. Remote networking, web security upgrades and significant application upgrades were completed.
- **Supporting expansion of registries:** Successful establishment of the new Launceston registry, and upgrades in Wollongong and Brisbane to support additional staff.
- **Security improvements:** End point protection for all devices and migration to more modern cloud-based solutions including email, finance and web connectivity.
- **Information Management System:** Rationalisation of three separate document management solutions into a single enterprise platform was completed.

- **IT Strategic Plan:** Significant effort against the IT Strategic Plan was completed, including modernisation of IT architecture standards, enhancement of internal support capability and refinement of roadmap to support cloud migration and key organisational outcomes.

Digital Court Program

The Digital Court Program continues as a key priority for the Courts, streamlining core business systems to enhance flexibility and operational efficiency. The program is modernising critical document, workflow and case management tools to support the delivery of quality, timely court services to the Australian community. The progressive implementation of a new application suite, CourtPath, is the current primary focus of this program.

The first release of CourtPath launched in October 2022, delivering immediate benefits and efficiencies to family law court files and case management. CourtPath is developed in partnership with judges, registrars and court staff to deliver sustainable improvements to workflows and support efficient case handling.

Internal staff are delivering CourtPath, following user-centred design principles to ensure it is intuitive to use while providing timely, accurate and secure access to critical materials. It uses familiar, predictable design patterns seen in many modern applications to minimise the need for user training.

Work progressed throughout 2022–23 to expand the system to cater for all file types across the Courts in line with the program roadmap. Consolidation into a single platform will streamline court activity and reduce costs associated with maintaining multiple legacy platforms.

Cyber security

As the Entity operates in an evolving digital environment, investment in cyber security remains critical to safeguard operations and protect clients and stakeholders. Throughout the reporting year, our commitment to safeguarding sensitive information, critical infrastructure, and data has been top priority, delivering key outcomes in line with the strategic roadmap. Key initiatives included advanced threat protection for all court devices, integrated vulnerability identification, ongoing development of a cyber-aware culture and enhanced incident response with a client-centric approach.

Internal cyber security capability has been enhanced throughout 2022–23, including the expansion of the Governance Risk and Compliance, Cyber Architecture and Cyber Engineering teams.

The Courts continue to strengthen cyber security maturity in line with the Australian Cyber Security Centre recommendations, Protective Security Policy Framework and Essential Eight compliance and regulatory requirements.

Key cybersecurity areas of focus:

- **Endpoint Protection:** Following initial implementation in 2021–22, endpoint protection was enhanced and operationalised. Advanced threat protection significantly strengthened defence against emerging threats by proactively identifying and preventing malicious activities. This has improved resilience against sophisticated threats, security posture and data protection.
- **Vulnerability management:** Automated and continuous scanning of systems enables identification, prioritisation and mitigation of vulnerabilities across our network. Providing better visibility of vulnerabilities enables deployment of resources to address the most critical issues before they could be exploited and prioritisation of consolidation activities to reduce vulnerability footprint.
- **Incident response:** An updated incident response framework and processes enables swift and effective response to cyber incidents. Client-centric focus ensures prompt response, transparent communication and minimal disruption during cyber incidents.
- **Cyber Awareness Strategy:** The judiciary and staff are the first line of defence against cyber threats. Human error, negligence or lack of awareness can inadvertently expose the Entity to cyber security risks. Improving cyber awareness among judges, registrars and staff has been a key focus. Through awareness campaigns, regular communication, cyber tip cards, posters, and workshops, we have effectively raised awareness about cyber threats, best practices, and the importance of adhering to security policies and procedures. Although there has been an uplift, cyber-aware culture will remain a strong focus in 2023–24.
- **Governance risk and compliance:**
 - Improving third-party risk management, to ensure that all vendors and partners adhere to relevant controls.
 - Rigorous management of general and privileged account access, including reduction in inactive accounts.

- Risk Management Framework review and IT risk consolidation – aligning risks, compliance controls and mitigation with projects.

In addition to the initiatives mentioned above, work continues to strengthen data protection, improve vulnerability management, optimise identity and access management and update governance risk and compliance processes, policies, standards, and procedures.

Digital Practice

To support the Court's digital practice, assist judges, chambers and court staff and increase efficiency of proceedings, Digital Practice Officers were introduced in 2021. This team has delivered significant improvements in core court operations including expansion of video conferencing capability, hearing solutions, digital courtrooms and live-streaming of high profile matters along with efficiency improvements via better use of existing digital tools.

Video conferencing remains an integral part of court proceedings, allowing broader and timely access to justice. During 2022–23, 36 additional courtrooms were enabled with video conferencing, taking the total to 75 per cent of all courtrooms having video conferencing capability.

Courtroom technology upgrades

Courtroom technology has been installed and upgraded to provide a more consistent experience for parties attending in-person, virtually or in hybrid proceedings. Key improvements include a modern infrared hearing solution in all courtrooms to support attendees with hearing impairments, simpler audio, video and content sharing, and upgraded video conferencing hardware for 15 courtrooms, increasing the number of screens and cameras available.

To enable judges to sit in remote hearings, two digital courtrooms were introduced in Sydney Queens Square, reducing the space required compared to conventional courtrooms, while still providing an official courtroom environment.

Process improvements and digitisation

Family law subpoena viewing appointments can now be booked online, streamlining the process for practitioners and litigants and ensuring documents and resources are available at the required times.

Efficient use of digital solutions is supported by ongoing training and support for staff, particularly focused on video conferencing and maximising use of key software such as Adobe Acrobat.

Access to justice – Live streaming

The Federal Court has an ongoing commitment to providing access to justice by live streaming proceedings. In 2022–23, 232 court proceedings were live-streamed, including high public interest matters such as *Ben Roberts-Smith v Fairfax Media Publications*, *Bruce Lehrmann v Network Ten Pty Limited*, *Loretta Kikuyu v Minister for Health NSW & Anor*. Additionally, court and judicial events were live streamed including judicial welcome and farewell ceremonies, seminars and lectures such as Ngara Yuru Lecture, UNCCA UN Lecture, Employment and Industrial Relations Seminar, William Ah Ket Scholarship, the Native Title Stakeholders Forum and the Silk Bows.

The Court will continue to livestream events such as these to strengthen ties with the community and profession.

Websites

The Court and Tribunal websites are the main sources of public information and a gateway to a range of online services such as the Commonwealth Courts Portal, eLodgment, eFiling and eCourtroom.

The National Communications team is responsible for managing and maintaining the following Court and Tribunal websites:

- Federal Court of Australia: www.fedcourt.gov.au
- Federal Circuit and Family Court of Australia: www.fcfcoa.gov.au
- National Native Title Tribunal: www.nntt.gov.au
- Australian Competition Tribunal: www.competitiontribunal.gov.au
- Defence Force Discipline Appeal Tribunal: www.defenceappeals.gov.au
- Copyright Tribunal: www.copyrighttribunal.gov.au

The websites provide access to a range of information including court forms and fees, publications, practice notes, guides for court users, daily court lists and judgments.

In the reporting year, over 15,106,032 total hits to the sites were registered:

- Federal Court website: 5,321,005
- Federal Circuit and Family Court of Australia: 8,872,731
- National Native Title Tribunal website: 912,296.

The following enhancements were made to the websites during the reporting period:

- A feedback form has been published on all pages of the Federal Court website.
- A new site for the Pacific Judicial Integrity Program was launched.
- The processes for publishing General Federal Law court lists to the websites were improved.
- Nine new Federal Court online files were established, bringing the total to 37 since the first file was published in 2012. Online files are created in cases of high public interest and contain all court documents approved for public access by the Judge.
- The family violence and Lighthouse content on the Federal Circuit and Family Court of Australia website was expanded.
- A new 'enquiries hub' was launched on the Federal Circuit and Family Court of Australia website. Court users can either self-serve by browsing frequently asked questions or submit a detailed enquiry through a tailored web form.

Social media

The Federal Court of Australia actively engages in the following social media channels:

- LinkedIn
- Twitter
- YouTube

The Court leverages the social channels to inform the public about the role and work of the Court, including:

- legislation and rule changes
- latest news
- high profile cases and significant decisions
- media releases
- selected job vacancies
- emergency notifications
- online service outages, and
- registry closures.

Our accounts are monitored during business hours, Monday to Friday, and intermittently out of hours.

In addition to using social media to inform the public of the work of the Court, social media is leveraged to maintain contact with our audience and build

trust with our community. It is recognised that social media is an essential mechanism to reach the public and prospective followers to effectively present the Court, build trust and maintain the Court's brand, and we will continue to build this into our strategy.

Our approach to the Court's social media channels growth is organic. The Court is focused on creating and sharing engaging and informative content that is relevant to our audience. Our channels are the source of truth for the Court, with content designed to direct followers to the website for further information and reduce the need to contact the National Enquiry Centre.

The Court cannot provide legal advice and information published on our social accounts is not intended to be legal advice.

LinkedIn

The Court's LinkedIn profile, <https://www.linkedin.com/company/federal-court-of-australia> is primarily used to share updates with the legal profession, highlight external engagements, the contribution the Court makes to the legal profession, and advertise select employment vacancies.

During the reporting period, the Court's LinkedIn account gained 9,921 followers, representing a 138.6 per cent increase. There were 73 posts published which attracted 428,963 impressions, an engagement rate of 5.77 per cent (per impression) and a total of 17,771 post clicks.

The account has seen an increase of 173 per cent in monthly visits and 76 more company page views.

Thirty eight per cent of our audience views LinkedIn from a mobile device only, 5 per cent from desktop only and 57 per cent use a combination of devices.

The top industry demographic of the Court's LinkedIn followers is largely dominated by law practice, followed by legal services, government administration, higher education, non-profit organisation management, judiciary and financial services.

The top 10 occupations of our followers include: lawyer, legal administrative professional, business strategist, administrative employee, customer service specialist, executive director, consultant, salesperson, student and university professor.

As at 30 June 2023, our followers were located nationally within Australia, largely in Sydney (30.7 per cent), Melbourne (22.9 per cent), Brisbane (10.2 per cent), Perth (5.3 per cent) Adelaide (4 per cent) and Canberra (3.4 per cent), with a few profiles indicating they reside overseas.

Twitter

The Court's Twitter profile, [@fedcourtau](https://twitter.com/fcfcoa) is primarily used to share updates to the profession, legislation and rule changes, court events, livestream notifications, judgments of interest, online file publications, and the Court's contribution to the legal profession.

As at 30 June 2023, the Court's Twitter account had 3,015 followers. During the reporting period, the account gained 566 followers and lost 151 followers. The Court is not seeking to actively grow our Twitter following as this channel is used for one-way communication to share information, not to actively engage with the account's audience.

There were 88 Tweets published, 82 of which contained images/and or graphics. The Tweets attracted 228,719 impressions and an engagement rate of 4.99 per cent and a total of 8,978 post clicks.

YouTube

The Court's YouTube account is used to livestream court events and share educational material for the public to view online. The Court's YouTube account is <https://www.youtube.com/@FedCourtAus>. YouTube livestreams and videos are cross promoted across the Court's other social channels (LinkedIn and Twitter).

As at 30 June 2023, the Court's YouTube channel had 18,700 followers. During the reporting period, 232 court proceedings and many other events were livestreamed, some of which are outlined below:

TABLE 4.8: SELECTION OF COURT PROCEEDINGS AND EVENTS LIVESTREAMED IN 2022–23

Event	Total views
Ben Roberts-Smith v Fairfax Media Publication PTY LTD (ACN 003357 720) & Ors – NSW1485/2018	37,812
Australian Vaccination-Risks Network Incorporated v Secretary, Department of Health – NSD469/2022	17,127
Lachlan Keith Murdoch v Private Media PTY LTD ACN 102 933 362 & Ors – NSD673/2022	3,609
Riley Gall v Domino's Pizza Enterprises Limited – VID685/2019	6,636
Santos Na Barossa v Dennis Murphy Tipakalippa – VID55/2022	1,398
McD Asia Pacific LLC & Anor v Hungry Jack's PTY LTD – NSD967/2020	526
ASIC v Union Standard – NSD2064/2019	5,675
Fisher v Commonwealth of Australia – VID545/2021	1,011
Loretta Kikuyu v Minister for Health NSW & Anor	2,827
Dailymail.com Australia PTY LTD v Erin Molan – NSD767/2022	612
Pabai Pabai v Commonwealth of Australia – VID622/2021	1,806
Michael Robert Luke & Ors v Aveo Group Limited – VID996/2017	1,444
Bruce Lehrmann v Network Ten PTY LIMITED ACN 052 515 250 & Anor - NSD103/2023 Bruce Lehrmann v News Life Media PTY LIMITED & Anor – NSD104/2023	21,211
Ford Motor Company v Biljana Capic – NSD1321/2021	2,929
Commisioner of Taxation v David Nicholas Iannuzzi – NSD1510/2017	653
Australian Securities and Investment Commission v Australia New Zealand Banking Group – VID1153/2018	1,960
Roxanne Tickle v Giggle for Girls – NSD1148/2022	2,470
Clinton Earl McKenzie v Commonwealth Superannuation Corporation – NSD670/2021	487
Act 1 of 2022 Applications by Telstra Limited and TPG Telecom Limited	1,819
Australian Securities and Investment Commission v Isignthis Limited & Anor – VID773/2020	2,948
Yindjibarndi Ngurra Aboriginal Corporation RNTBC (ICN 8721) and State of Western Australia & Ors – WAD37/2022	260
Commissioner of Taxation v Rawson Finances – NSD1329/2014	109
Save the Children Australia v Minister for Home Affairs – VID403/2023	227
Farewell ceremonial sitting for the Honourable Justice Middleton	1,924
Welcome ceremony for the Honourable Justice Kennett	146
Welcome ceremony for the Honourable Justice Jackman	290
Farewell ceremonial sitting for the Honourable Chief Justice Allsop AC	761
Welcome ceremony for the Honourable Chief Justice Mortimer	1,643
Welcome ceremony for the Honourable Justice Kyrou AO	171

Access to judgments

When a judgment of the Federal Court of Australia or Federal Circuit and Family Court of Australia is delivered, a copy is made available to the parties and published on court websites.

In the reporting year, 1,783 settled judgments were received and published by the Judgments Publication Office. This figure includes 197 Full Court decisions.

The Judgments Publication Office also received and published a number of decisions from the Supreme Court of Norfolk Island (three), Competition Tribunal (two), the Copyright Tribunal (four) and the Defence Force Discipline Appeal Tribunal (three).

The Court also provides copies of judgments to a number of free legal information websites including AustLII and JADE, legal publishers, media and other subscribers. Judgments of public interest are published within an hour of delivery and other judgments within a few days, with the exception of family law and child support decisions which must first be anonymised. The Federal Court provides email notifications of judgments via a subscription service on the Court website.

Recordkeeping and information management

Corporate coverage

Information management is a corporate service function providing information and records management services to support effective and compliant information and records management for the Federal Court of Australia, the Federal Circuit and Family Court of Australia (Division 1), the Federal Circuit and Family Court of Australia (Division 2), National Native Title Tribunal, Australian Competition Tribunal, Copyright Tribunal of Australia and Defence Force Discipline Appeal Tribunal.

Information governance

Records authorities

The new combined Courts' Records Authority was issued in November 2022. The records authority determines retention and authorises the disposal of records covering the Federal Court, the Federal Circuit and Family Court of Australia (Division 1) and the Federal Circuit and Family Court of Australia (Division 2). The records authority covers the following:

- court case management
- court service delivery and support, and
- court ceremonies management.

Committees

The Information Governance Committee met quarterly during the reporting year to monitor information governance obligations that affect the Entity. The committee continued to work on meeting the outcomes of the government's *Building Trust in the Public Record* policy.

Information management system

A project to consolidate the three legacy records management systems into a single information management system was completed in June 2023. The project saw the migration of over 1.2 million records into the new information management system. The Information Management Team will work on improving the management of the Courts' corporate records during 2023–24.

Working digitally

The Court continues to progress towards working digitally by default. This is a reportable target set by the National Archives of Australia. Progress towards this target was demonstrated by:

- implementing an information management system that enables staff to save and retrieve their documents from within office applications and to save their emails directly
- increasing the volume of information assets being saved in the new information management system enabling them to be found and reused, and
- ensuring new managers and staff are aware of the Entity's information framework and their information management responsibilities via induction and online training.

National Archives reporting

The National Archives annual check-up 2022–23, reporting on digital benchmark targets, saw an improvement of 0.23 per cent on the Entity's 2021–22 overall information management maturity index results. The implementation of the new information management system will enable the entity to steadily achieve the whole-of-government outcomes.

Transfers to National Archives

No transfers to National Archives were undertaken in 2022–23.

Library and information services

The Federal Court library provides a comprehensive library and information service to support the high-level information requirements of the judges, registrars and staff of the Federal Court of Australia, the Federal Circuit Court and Family Court of Australia (Division 1 and Division 2), and members and staff of the National Native Title Tribunal.

The library collection includes both print and online materials, with hardcopy collections maintained by qualified librarians in Adelaide, Brisbane, Melbourne, Sydney and Perth, and online resources available via the Courts' intranets. Smaller collections to meet the needs of resident and visiting judges are also maintained in other locations.

In Sydney, Federal Court judges and staff are supported by the New South Wales Law Courts library under a historical Heads of Agreement between the Federal Court of Australia and New South Wales Department of Communities and Justice. The terms of this agreement are flexible and renegotiated each year to meet changing requirements.

Although primarily legal in nature, the library collection also includes material related to Indigenous history and anthropology to support the native title practice areas, and to children and families to support the child court experts working within the Federal Circuit and Family Court of Australia.

Details of items held in the collection are publicly available through the Library Catalogue and Native Title InfoBase and accessible from the Federal Court of Australia website. The library's holdings are also added to Libraries Australia and Trove which allows inter-library loan access both nationally and internationally through other participating libraries.

The library is a foundation member of the Australian Courts Consortium for a shared library management system using SirsiDynix software. The Consortium allows the sharing of resources, collections, knowledge and expertise between libraries. SirsiDynix library management system provides the infrastructure for the Library website and catalogue.

Library services continue to evolve with ever increasing access to online resources being made available by publishers and ongoing changes to the availability and requirement for hardcopy resources by library users.

Assistance to the Asia Pacific region

The Brisbane library continues to provide advice and support to the National and Supreme Courts of Papua New Guinea.

Duplicate library resources are offered to other libraries on an ongoing basis with a number of requests for material from Fijian law libraries being received and supplied.

Commonwealth Courts Registry Services

Overview of Registry Services

The registry services functions for the Federal Court, Federal Circuit and Family Court (Division 1) and Federal Circuit and Family Court (Division 2) are amalgamated into a program under Outcome 4 (Program 4.2) known as the Commonwealth Courts Registry Services (also known as Court and Tribunal Services).

This provides an opportunity to shape the delivery of administrative services and stakeholder support across the entity in a more innovative and efficient manner. A focus on maximising registry operational effectiveness through streamlined structures and digital innovations will significantly contribute to the future financial sustainability of the Courts.

A national approach ensures that the quality and productivity of registry services is the very best it can be. The focus on building consistency in registry practice across all Court locations and expert knowledge will continue to support the National Court Framework and the important work of the judges and registrars.

Objectives

The objectives of Registry Services are to:

- provide a high level of support for the judiciary and court users through a national practice-based framework
- maximise operational effectiveness through streamlined structures and digital innovations
- develop an organisational structure that promotes flexibility and responsiveness to new opportunities and demands, and
- support the Courts to take full advantage of the benefits of the Digital Court Program.

Purpose

The purpose of Registry Services is to provide efficient and effective services to the Commonwealth courts and tribunals and its users.

Registry services management structure

The **Executive Director, Strategy and Corporate Services** has overarching responsibility for the delivery of registry services and leads the design and delivery of improved case management and administrative services across the Courts and the Tribunal. The Executive Director, Strategy and Corporate Services reports to the CEO and Principal Registrar of the Federal Court of Australia.

Directors Court Operations, formerly known as Directors Court Services, report to the Executive Director, Strategy and Corporate Services. They lead and manage the Courts' registry operations and resources in their respective regions, as well as contribute to continuous business improvement across three national streams: client services, digital services and court operations. Directors Court Operations work collaboratively with national service managers and other directors to lead and manage multi-disciplinary teams delivering a range of customer-driven professional and business support services to ensure national service excellence. The development and maintenance of key relationships with Aboriginal and Torres Strait Islander peoples, culturally diverse community groups and support services is an important responsibility of the role and ensures that all Court services recognise the needs of our client groups.

Managers Court Operations, formerly known as Managers Court Services, report to the Director Court Operations in their respective region and are responsible for leading and managing the Courts' registry operations and resources in their location in accordance with the Courts' strategic and operational plans and national service standards. Liaising with the judiciary of all Courts in their location, together with the Directors Court Operations, they ensure that the judiciary are well supported in chambers and in court, and that the delivery of court services is consistent, responsive to client needs and provided in a courteous, timely and efficient manner.

Location-based Team Leaders, Registry Services Team Leaders, Chambers Coordinators and Strategic Support Hub Team Leaders report to the Manager Court Operations, or in the absence of a Manager Court Operations, the Director Court Operations in their respective region. They are responsible for delivering high-quality case management, courtroom and chambers support to judicial officers (including training and development of associates) and registry services to clients, legal practitioners, registrars, Court Child Experts and

community groups that support court users. They have oversight of judicial and registry services in their location and provide information on appropriate avenues for addressing client needs and recommending appropriate options for effective resourcing and services for the Courts.

The **Director Strategic Support Hub** (SSH) reports to the Executive Director, Strategy and Corporate Services. The Director SSH is responsible for the strategic and operational management of the Courts' Enquiry Centre dispersed nationally, as well as national filed document processing and the national support pool for Deputy Registrars in family law. The Director SSH also has responsibility for managing the team handling first-level enquiries related to family law matters received via phone, email and live chat and various teams involved in processing documents in family law and providing event and document support to deputy registrars in family law.

In collaboration with the Directors Court Operations, and national and local managers, the Director SSH is an important driver and contributor to the identification of business and process enhancements linked to the delivery of improved customer interactions with the Courts and meeting service level standards associated with enquiries and document handling.

Court and Tribunal registries

The key functions of Court and Tribunal registries are to:

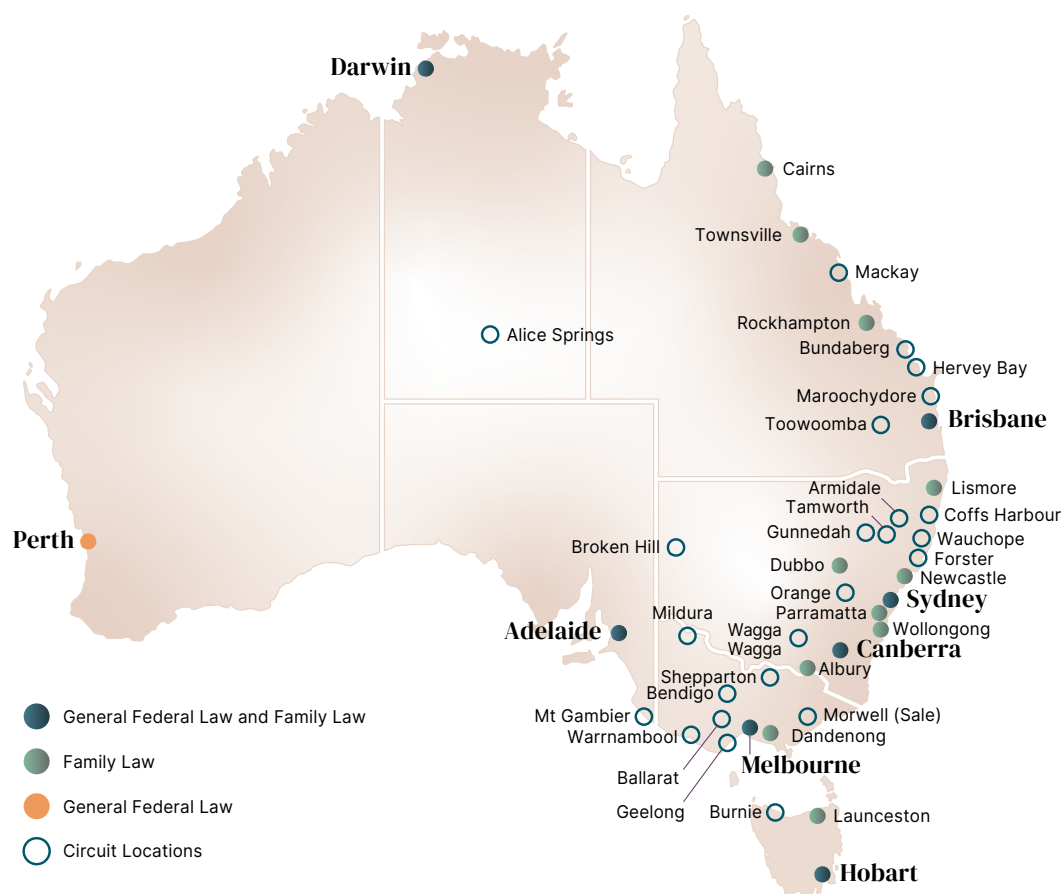
- provide information and advice about court procedures, services and forms, as well as referral options to community organisations that enable clients to take informed and appropriate action
- ensure that available information is accurate and provided in a timely fashion to support the best outcome for clients
- encourage and promote the filing of documents and management of cases online through the Portal
- enhance community confidence and respect by responding to clients' needs and assisting with making the court experience a more positive one
- monitor and control the flow of cases through file management and quality assurance
- schedule and prioritise matters for court events to achieve the earliest resolution or determination, and
- manage external relationships to assist with the resolution of cases.

The service delivery principles of Registry Services are to provide services that are:

- **Safe and easy to access:** all processes and services are streamlined so that they prioritise user safety and ease of access.
- **Consistent and equitable:** the level of service available to users is consistent irrespective of the location.
- **Timely and responsive:** services should meet the needs of each user and be delivered in a timeframe considered to be reasonable.
- **Reliable and accurate:** Courts and Tribunals must have full confidence that the information provided by staff can be relied upon by the user.

Registry Services locations

FIGURE 4.1: REGISTRY SERVICES LOCATION MAP



The work of Registry Services in 2022–23

Registry Services has three main performance criteria:

1. All information and service provided by registry services is high quality, timely and meets the needs of clients

At least a 90 per cent customer enquiry satisfaction rating.

2. Timely processing of documents

75 per cent of documents processed within two working days.

3. Efficient registry services

All registry services provided within the agreed funding and staffing level.

Snapshot of 2022–23 performance against targets

TABLE 4.9: SNAPSHOT OF REGISTRY SERVICES PERFORMANCE AGAINST TARGETS, 2022–23

Performance measure	Result 2022–23	Status
All information and service provided by registry services is high quality, timely and meets the needs of clients		
At least a 90 per cent customer enquiry satisfaction rating.	The customer enquiry satisfaction rate was 73.8 per cent.	Performance measure not achieved
Timely processing of documents		
75 per cent of documents processed within two working days	82 per cent of documents were processed within two working days.	Performance measure achieved
Efficient registry services		
All registry services provided within the agreed funding levels	All registry services were provided within the agreed funding levels.	Performance measure achieved

Registry Services staff manage enquiries, document lodgments, subpoenas and safety plans. The number of safety plans activated in 2022–23 was 2,849 across all registry locations. Safety plan numbers have risen due to the increase in face-to-face services in some registries. In addition to face-to-face services, supporting the electronic hearings and additional registrar resources has continued to be a significant additional workload for Registry Services.

Throughout the year, Registry Services staff continued to process urgent enquiries and applications and provided support for difficult issues for a diverse range of clients with different needs both professionally and courteously. This included supporting vulnerable clients and ensuring people from non-English speaking backgrounds are suitably supported.

Financial management

In 2022–23, the Registry Services budget allocation was \$30,822,000, with an under-spend of 2.5 per cent. Savings were achieved through lower employee costs due to staff vacancies.

Document processing

Registry Services has one performance target relating to the timely processing of family law documents.

- 75 per cent of documents processed within two working days.

During the year, Registry Services processed 82 per cent of all documents received within two working days.

TABLE 4.10: DOCUMENTS PROCESSED WITHIN TWO WORKING DAYS

JURISDICTION	DOCUMENTS RECEIVED	DOCUMENTS PROCESSED WITHIN TWO DAYS	PERCENTAGE
All	143,944	118,118	82%
General federal law	45,935	41,022	89%
Family law	98,009	77,096	79%

Enquiries

Family law enquiries

Registry Services staff manage counter enquiries in 18 locations across the country. Court users may send enquiries directly to family law court locations via email. The Enquiry Centre also acts as a triage point for email enquiries and refers any enquiries to specific locations that cannot be answered at the first point of contact. These enquiries are usually case-specific or require some form of local knowledge or decision.

General federal law enquiries

Since June 2021, general federal law phone enquiries have been received via a central phone number managed by the Enquiry Centre and registry staff. The Enquiry Centre also continues to maintain the live chat and central email channels in general federal law.

Some registries also provide additional services to support other Courts and Tribunals:

- The New South Wales District Registry provides registry services to the Copyright Tribunal, the Defence Force Discipline Appeal Tribunal, the Australian Competition Tribunal, the National Native Title Tribunal and the Supreme Court of Norfolk Island.
- The Queensland registry provides registry services to the Copyright Tribunal and the High Court of Australia.
- The South Australian registry provides registry services to the High Court of Australia.
- The Victorian registry provides registry services to the Australian Competition Tribunal.
- The Western Australian registry provides registry services to the Australian Competition Tribunal, the Copyright Tribunal of Australia and the Defence Force Discipline Appeal Tribunal.

Client satisfaction

Client satisfaction is measured by a post-call survey of people who have called the Courts' Enquiry Centre. During the reporting year, the Enquiry Centre surveyed 1,735 court users, achieving a satisfaction rating of 73.8 per cent.

During the reporting period, connectivity disruptions affecting the call centre software intermittently affected clients' access to frontline services and may have affected performance against this target. Additionally, difficulties in recruiting and retaining staff affected resourcing levels across client services as not all vacancies were able to be successfully filled, resulting in some backlogs and delays.

Note: the achievement of a 90 per cent satisfaction rating means the clients surveyed selected 4/5 or 5/5 as a satisfaction measure of their most recent interaction with the Court.

Local registry consultation

Registry Services staff engage regularly with numerous external groups such as local family law pathways networks, family advocacy and support services, Legal Aid, bar associations and law societies, local practitioners and practitioners' associations, community legal centres, family relationship centres, community organisations and support groups, child protection agencies, family violence committees and organisations, state courts, universities and police services.

Registries also work with other organisations who provide information to litigants requiring assistance with general federal law, such as the Consumer Action Law Centre, Justice Connect, LawRight, and providers of financial counselling and advice on migration matters.

Some local engagement activities that occurred during the reporting period included:

- The Australian Capital Territory registry hosted a briefing session with New Zealand government members on 29 November 2022.
- The Northern Territory registry hosted an annual practitioners meeting.
- The New South Wales registry hosted a meeting with the Law Council of Australia in October 2022; a joint lunch for Federal Court and New South Wales Supreme Court judges in March 2023; and a meeting between Chief Justice Mortimer and the local Bar and Law Society in May 2023.

- The Queensland registry hosted a University of Queensland exhibition moot in September 2022 and a show moot in June 2023; a NAIDOC Week morning tea with judges and local Indigenous leaders; a meeting with Chief Justice Mortimer, registry staff and the local profession in May 2023; and a Federal and Supreme Court luncheon in June 2023.
- The South Australian registry hosted 40 participants for the Essential Trial Advocacy course from 27 June 2022 until 1 July 2022; and the Bar Readers' course on 24, 25 and 28 October 2022, and 5–8 December 2022. The registry also held quarterly Pathways meetings and several practitioners' meetings with judges and co-located officers and stakeholders. The registry also hosts monthly *'Walk in their shoes'* tours for domestic violence volunteer services.
- The Victorian registry hosted the Melbourne Law School mooting competition in August and September 2022; the University of New England Law School moot courts in September 2022 and May 2023; the Monash Law Students Society women's moot competition in October 2022; a Federal Court/Australian Law Reform Commission seminar in December 2022; and a Commercial Bar Association event for 130 people in March 2023. On 25 May 2023, registry facilities were made available for an event to farewell Victorian Governor, The Hon Linda Dessau AC CVO with 110 guests in attendance.
- The Tasmanian registry hosted a meeting with Chief Justice Mortimer and 50 members of the Tasmanian legal profession and bar.
- The Western Australia registry hosted the Courts Summer Clerkship Program in November and December 2022, and a silks ceremony in March 2023. In May 2023, the registry hosted a court welfare service professional development day, as well as a meeting between Chief Justice Mortimer, the Western Australia Bar Association, the Law Society and staff.
- The Strategic Support Hub met monthly with representatives from the Family Relationship Advice line.
- The Newcastle registry held six Registry Services/ Lawyer Liaison meetings during the reporting period. Staff also presented to the Hunter Valley Family Law Practitioners Association about the role of Court Children's Service in May 2023.
- The Wollongong registry hosted an annual judicial dinner on 8 May 2023, with practitioners, stakeholders and court staff in attendance.
- The Parramatta registry hosted the Greater West Family Law Practitioners Association Twilight Seminars on 2 August 2022, 26 October 2022, 14 March 2023 and 22 June 2023, and held local lawyers meetings four times in the reporting year.

Public education and engagement

The Court engages in a range of strategies to enhance public understanding of its work, and the Court's registries are involved in educational activities with schools and universities and, on occasion, with other organisations that have an interest in the Court's work. Court facilities were also made available for many events, some of which included:

- Mahla Pearlman Oration (July 2022)
- Australian Academy of Law event (August 2022)
- Michael Whincop Memorial Lecture (August 2022)
- Melbourne Law School Mooting Competition (September 2022)
- SiFoCC Conference (October 2022)
- Richard Cooper Memorial Lecture (October 2022)
- Minds Count Annual Lecture (October 2022)
- UNCCA UN Day Lecture (October 2022)
- Monash Law Students Society Womens Moot Competition (October 2022)
- Francis Forbes Society and Ngara Yura Committee (November 2022)
- NSW Young Lawyers, Confidence in the Courtroom (November 2022)
- Forbes Society AGM (November 2022)
- New England Law School Moot (September 2022 and December 2022)
- Federal Court/ Australian Law Reform Commission Seminar (December 2022)
- Advanced Trial Advocacy Intensive (January 2023)

In addition, registry facilities were used for many Federal Circuit and Family Court of Australia activities, some of which are detailed below:

- The Lionel Bowen Building hosted a legal profession function for a Case Management update and National Arbitration List on 24 May 2023.

- Inaugural Western Sydney University Seminar (February 2023)
- Case Management and Complex Civil Litigation Book Launch, *'The Australian Class Action – A 30 Year Perspective'* (March 2023)
- Council of CJs of Australia and NZ meeting (March 2023)
- Australasian Institute of Judicial Administration Court Librarians' Conference (March 2023)
- Trial Practice and Appellate Moot for the Victorian Bar (March 2023)
- Appellate Advocacy Moot for the Victorian Bar (April 2023)
- Law Courts Limited Board Meeting (April 2023)
- Whitmore Lecture (May 2023)
- University New England Moot (May 2023)
- ABC Documentary Film (June 2023)

Overseas delegations

During the year, the Court has hosted numerous visiting delegations from overseas courts. These included:

- Vietnam
- Indonesia
- South Korea
- New Zealand
- Philippines
- Singapore
- Cambodia

The Queensland registry, in conjunction with the Pacific Judicial Integrity Program, also hosted Associates and Registrars from across 12 Partner Courts in the Pacific for a workshop on 'Managing and Reporting on Fraud and Corruption Cases' in March 2023. Other activities in relation to liaison with overseas courts and stakeholders can be found in Appendix 8 (*Judges' Activities*).

Strategic Support Hub (previously known as National Enquiry Centre)

In 2022–23 the National Enquiry Centre was expanded and renamed the Strategic Support Hub (SSH). The Courts implemented structural changes targeting the development of national teams to assist with the processing of documents and management of enquiries as well as the existing national support pool assisting deputy registrars in family law.

In May 2023, the SSH added to the existing work of the Enquiry Centre taking on new areas of responsibility with a significant change to the processing of documents in family law. This involved the implementation of a national team working on the processing of divorce and consent order applications nationally.

These changes, and further changes planned for 2023–24, represent a significant shift in the way documents are processed in family law, moving from a location-based registry model to a national dispersed team undertaking this work.

As well as the expansion into document processing and registrar support work, the SSH is responsible for the Enquiry Centre of the Court. The Enquiry Centre provides a single point of entry for phone, email and live chat enquiries to the Federal Court of Australia and the Federal Circuit and Family Court of Australia (Division 1 and Division 2). The majority of the work of the SSH in 2022–23 continued to focus on family law, as well as continuing to undertake the management of general federal law enquiries received by phone and live chat.

In 2022–23, the Courts continued to advertise two 1300 numbers split between general federal and family law jurisdictions. These enquiries are managed by enquiries staff trained in family law and general federal law processes and procedures with assistance from registry staff as needed to supplement resourcing levels.

Live chat enquiries continue to be available to be initiated via the Federal Court of Australia, the Federal Circuit and Family Court of Australia, and the Commonwealth Court's Portal websites. Live chat enquiries are entirely managed by enquiries staff working in the SSH team. Additionally, the Enquiry Centre manages email enquiries received via the 'enquiries,' 'portal support' and 'portal registration' email addresses and submitted via web form.

The Enquiry Centre continues to have responsibility for the triage and delivery of requests for historic divorce orders, as well as managing the administration of resourcing the Courts' family law and general federal law after-hours service.

During 2022–23, the SSH undertook the following projects:

- the implementation of a web form for the submission of email enquiries, and
- implementation of a national document processing team working on divorce and consent order applications.

The introduction of a new web form for the submission of email enquiries has assisted with the collection of data from clients making email enquiries. This has removed the need for multiple email exchanges in a high proportion of the emails submitted via the web form, thereby improving the efficiency of handling of email enquiries. This project also saw the development of an 'enquiries hub' to assist clients with frequently asked questions and provide guidance and information to clients to help with early resolution of their enquiries. Further formal analysis of the project outcomes is yet to be completed.

In May 2023, a national divorce and consent orders processing team commenced, centralising the processing and checking of divorce and consent order applications. Over 9,000 documents were processed in the first seven days. This includes approximately 1,900 new divorce and consent order applications, and thousands of supplementary and supporting documents. In the weeks after commencement, extensive work was undertaken to standardise the approach for reviewing documents and providing consistent responses to common errors and issues. Further, cross training of staff in the Enquiry Centre and filing teams has taken place with the aim that a larger multi-skilled team will now be able to work across the existing work of the Enquiry Centre as well as divorce and consent order document processing.

Whilst still in the early stages of operation, initial results suggest that overall efficiencies have been gained in timeliness of processing these applications, consistency of approach, reducing associated enquires and improving service delivery to clients.

TABLE 4.11: ENQUIRY CENTRE PERFORMANCE, 2022–23

TYPE OF COMMUNICATION	VOLUME
Total calls presented	175,668
Total calls actioned	107,694
Calls (average wait time) ¹	13:49 mins
Calls (average handle time) ¹	8:12 mins
Total live chats presented	116,419
Total live chats actioned	81,243
Live chats (average queue time) ¹	7:08 mins
Live chats (average handle time)	14:51 mins
Total emails received ¹	85,812
Total emails sent ²	37,834

1 based on calls/chats presented, includes calls/chats that may have abandoned prior to connecting to an NEC staff member.

2 based on actual weekly data to 30 October 2022 and weekly average estimate for remainder of the reporting year.

Phone calls

In 2022–23, phone calls to the Enquiry Centre decreased. This may be attributable in part to greater familiarity with the process and rules changes made as a result of the commencement of the *Federal Circuit and Family Court of Australia Act 2021* (Cth) in 2021, however the implementation of the enquiries web form may also have assisted with providing clients with access to information assisting clients before calling the Courts. Though only in place for a short period, the new Divorce and Consent Order processing team that deals with high volume applications, may also have assisted in enquiry reduction in June as a nationally consistent approach and guidelines were implemented and backlogs of processing work in some registries were worked through.

Waiting times to connect with an agent decreased from 16:13 minutes in 2021–22 to 13:49 minutes. It is worth noting, however, that this improvement is mainly driven by calls to the general federal law enquiry line and service on the family law enquiry line has not significantly improved this year. The longer wait time, particularly in family law, continues to be a significant contributor to high abandonment rate for queued calls.

Average handle time for phone calls remains relatively steady year to year with a mild increase of less than one minute on average.

Live chat

The data reported for live chats in 2022–23 indicates the first time in over three years that live chats have decreased, down from over 151,000 in 2021–22 to just over 116,000 in 2022–23. Live chats remains the most efficient channel for enquiries to the Enquiry Centre, with staff able to manage several chats simultaneously. Whilst this shift in family law queues may also be attributable to familiarity and increased comfort with 2021 changes, this trend was also evident to a lesser degree across the general federal law chat queues.

Average queue times for chat enquiries across family and general federal law remained stable and significantly less than the queue time for phone queries.

Email

The estimate of emails received by the Enquiry Centre in 2022–23 decreased overall following the trend visible across all enquiry channels. Only partial actual reporting data is available in relation to email due to the removal of email management from the contact centre software in mid-November 2022 to increase efficiency in processing. It is estimated the Enquiry Centre received 85,812 emails this year, significantly less than the previous reporting year. This is based on actual data reported up to 30 October 2022 and a weekly estimate for the remainder of the reporting year. Once again, this decrease can be attributed to the stabilisation in process and procedure post the Federal Circuit and Family Court of Australia commencement and the implementation of the Courts' enquiries web form.

Registry Services initiatives in 2022–23

New subpoena booking management system

In October 2022, in partnership with the Digital Practice Team, a pilot was undertaken aimed at enhancing the subpoena booking process for staff and clients and automating the previous manual process. Using Microsoft Bookings clients are able to select and book a suitable time to access subpoenaed material and files.

Following the success of the pilot, additional sites were added during 2022–23, and the system is now available for use in Adelaide, Brisbane, Cairns, Canberra, Dandenong, Dubbo, Hobart, Launceston, Lismore, Melbourne, Newcastle, Parramatta, Sydney LBB and Townsville. Additional discovery to expand to all remaining sites took place during the reporting year with further work planned next financial year.

Court lists – general federal law

Improvements to the General Federal Law court list publication for the Federal Circuit and Family Court of Australia were introduced in July 2022. The changes were modelled on work completed for the Federal Court of Australia earlier in the year, with the aim to streamline and align processes between the two courts.

Registry services restructure

In August 2022 Phase 1 of the Registry Services restructure was announced following a period of consultation and feedback. This decision split the implementation and announcement of the Registry Services restructure into two parts.

Phase 1:

- Implementing the model dealing with national processes including document processing in family law and general federal law, enquiries, knowledge management and information and management of listing and events support regionally.
- Adopting a changed management model in NSW/ACT, SA/NT and WA

Phase 2:

- Adopting a changed management model in QLD and VIC/TAS. A final decision on the management structure proposed for these regions was not finalised as part of the August announcement and Phase 2 was ultimately put on hold in March 2023.

During the reporting year, significant recruitment and changes took place to standardise the classification level of staff performing similar duties across jurisdictions, as well as fill key roles within the model. The Enquiry Centre was absorbed into the newly created SSH, with additional duties encompassing document processing and registrar support. Additional structural changes saw the implementation of regional management of listings and event support, changes to the management of judicial chambers staff in some locations and the creation of a knowledge and information coordinator to assist with the development and management of an operation manual for Court and Tribunal staff.

In May 2023, the national divorce and consent orders processing team was implemented successfully with a further team covering all other family law documents planned for early in 2023–24. Further steps to expand the national processing team into general federal law documents are not planned until February 2024.

As part of the implementation of the SSH, the Courts have also introduced a training and development team responsible for providing a consistent induction and onboarding experience for new recruits for the Courts. Further development of the scope and responsibilities of this team are planned in 2023–24.

Registry Services training

Training was offered to staff on a range of subjects during the year, both in-person, online and through the Court's eLearning platform.

Topics included:

- Judicial education
- Co-location, FASS
- Expense8
- Respectful workplace behaviours
- Resilience
- Courtpath
- Work, Health and Safety
- Warden
- Critical and creative thinking
- Flexible thinking in workplace
- Mental health in the workplace for managers
- Adobe Acrobat
- Associates Induction
- File inspections
- Justice Connect
- Financial hardship, applications and witnessing affidavits
- Migration refresher
- Leaderships skills
- New court procedures and practices
- Information security awareness
- Emergency procedures
- Byte sized learning for managers
- Family Advocacy and Support Service and co-located officers, and
- After hours training for Client Services staff assisting Judges/Registrars.



Part 5: Report of the National Native Title Tribunal

Overview

Establishment

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

The *Native Title Act 1993* (Cth) creates an Australia-wide native title scheme, the objectives of which include:

- providing for the recognition and protection of native title
- establishing a mechanism for determining claims to native title, and
- establishing ways in which future dealings affecting native title (future acts) may proceed.

The *Native Title Act 1993* (Cth) 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.

The President, Members and the Native Title Registrar

The President, other Members of the Tribunal and the Native Title Registrar are appointed by the Governor-General for specific terms of no longer than five years. The *Native Title Act 1993* (Cth) sets out the qualifications for appointment to, and respective responsibilities of, these offices.

Table 5.1 outlines Tribunal statutory office holders at 30 June 2023.

Office locations

The Tribunal maintains offices in Brisbane, Cairns, Melbourne, Perth and Sydney.

Functions and powers

Under the *Native Title Act 1993* (Cth), the Tribunal, comprising the President and Members, has specific functions in relation to:

- mediating in native title proceedings, upon referral by the Federal Court
- determining 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
- determining applications concerning proposed future acts
- assisting people to negotiate Indigenous Land Use Agreements (ILUAs), and helping to resolve any objections to registration of ILUAs
- assisting with negotiations for the settlement of applications that relate to native title
- providing assistance to representative bodies in performing their dispute resolution functions
- providing assistance to common law holders and prescribed bodies corporate
- reconsidering decisions of the Native Title Registrar not to accept a native title determination application (claimant application) for registration
- conducting reviews concerning native title rights and interests (upon referral by the Federal Court)
- conducting native title application inquiries as directed by the Federal Court
- conducting special inquiries under Ministerial direction, and
- presiding at conferences in connection with inquiries.

TABLE 5.1: TRIBUNAL STATUTORY OFFICE HOLDERS, 30 JUNE 2023

NAME	TITLE	APPOINTED	TERM	LOCATION
The Hon. JA Dowsett AM QC	Acting President	27 April 2018; 27 April 2023	Five years; three months	Brisbane
Nerida Cooley	Member	11 February 2019	Five years	Brisbane
Glen Kelly	Member	10 March 2021	Five years	Perth
Lisa Eaton	Member	16 December 2022	Five years	Perth
Alex Ripper	Acting Native Title Registrar	27 February 2023	Five months	Perth

The President

The President is responsible for the management of the business of the Tribunal, including its administrative affairs, and the allocation of duties, powers and functions. The President is assisted by the CEO and Principal Registrar of the Federal Court. The CEO and Principal Registrar may delegate her responsibilities under the *Native Title Act 1993* (Cth) to the Native Title Registrar, or staff assisting the Tribunal. Staff assisting the Tribunal are made available for that purpose by the Federal Court.

The Members

The President and Members perform the functions of the Tribunal, with the support of the Native Title Registrar and staff. The Members also perform educational functions and assist the President in communicating with stakeholders.

The Native Title Registrar

The Native Title Registrar:

- assists people to prepare applications and to help them, and other persons in matters relating to proceedings in the Tribunal
- considers whether claimant applications should be registered on the Register of Native Title Claims
- gives notice of applications to individuals, organisations, governments and the public in accordance with the *Native Title Act 1993* (Cth)
- registers ILUAs that meet the registration requirements of the *Native Title Act 1993* (Cth)
- maintains the Register of Native Title Claims, the National Native Title Register and the Register of ILUAs, and
- maintains a publicly available record of section 31 agreements.

The Native Title Registrar is also actively involved in the mediation and educational functions of the Tribunal.

Staff capacity

The Tribunal will continue to manage and monitor its workloads in the next reporting period to ensure that it is appropriately resourced in future years. Strategic planning and review will underpin this process, looking to the next decade of native title.

A relaxation of social distancing and travel restrictions imposed by COVID-19 has resulted in an increase in-person attendance at seminars and workshops, with online attendance remaining a significant feature of staff training throughout the reporting period. The Tribunal continues to consider how to strengthen staff capacity to respond to increased, and more direct contact with native title holders and prescribed bodies corporate.

Cultural acknowledgment

The Tribunal has continued to foster understanding and respect for Indigenous culture. The Reconciliation Action Plan for the Federal Court of Australia and the National Native Title Tribunal actively supports and acknowledges our obligations under the Reflect Reconciliation Action Plan 2019–20. Work has commenced on the Innovate Reconciliation Action Plan.

The Tribunal continues to participate in the celebrations involving all components of the Federal Court entity in the acknowledgment and celebration of Sorry Day, Reconciliation Week and NAIDOC week.

The Tribunal's year in review

The 2022–23 financial year has been a period of consolidation for the work of the Tribunal, building on the establishment of a consistent national practice for the management of future act applications in the previous reporting period and the introduction of the new post-determination assistance function. Significant work was undertaken during the reporting period to upgrade the Tribunal's case management system to ensure continued support and stability.

The Tribunal's engagement with stakeholders included contributions to the AIATSIS summit held in Perth. This year the Tribunal presented a paper on 'Supporting PBCs Through Dispute Resolution', which discussed the Tribunal's approach to its post-determination assistance function under section 60AAA of the *Native Title Act 1993* (Cth) and staffed an exhibition stall to assist stakeholders with enquiries about the Tribunal's services, deliver demonstrations of the Tribunal's online mapping and spatial data services, which is commonly known as Native Title Vision, and produce on-demand mapping products.

Various stakeholder engagement and training sessions were conducted both in person and virtually on the Tribunal's online mapping and spatial data services. Sessions were provided for law firms, prescribed bodies corporate, and state and Commonwealth agencies (Federal Court, AIATSIS and the Queensland Parliamentary Library).

The Tribunal's custodial spatial data continues to be freely available for third parties to use in their own systems, either by downloading the data, or by taking advantage of web map services. More information is available on the Tribunal's website.

The Tribunal's work in 2022–23

Future Acts

A primary function of the Tribunal is the resolution, by mediation or arbitration, of disputes relating to proposed future acts (generally, the grant of exploration and mining tenements) on land over which native title has been determined to exist, or over which there is a claim by a native title party as defined in sections 29 and 30 of the *Native Title Act 1993* (Cth).

Expedited procedure

Under section 29(7) of the *Native Title Act 1993* (Cth), the Commonwealth government, or a state or territory government as the case may be, may assert that a proposed future act is an act that attracts the expedited procedure (i.e. that it is an act which will have minimal impact on native title). Where a future act attracts the expedited procedure, it does not give rise to procedural rights to negotiate that would otherwise vest in native title parties. If a native title party considers that the expedited procedure should not apply to the proposed future act, it may lodge an expedited procedure objection application (objection application) with the Tribunal.

A total of 1,290 objection applications were lodged during the reporting period, compared to 1,765 previously reported. The number of active objections at the end of the reporting period was 792, compared with 979 at the end of June 2022. During the reporting period, the Tribunal finalised 1,478 objection applications compared to 1,551 in the previous period.

Approximately 582 objections were withdrawn following agreement between the native title party and the relevant proponent. A further 323 objection applications were finalised by withdrawal of the tenement applications. Seventy-two objection applications were subject to a Tribunal determination or dismissal during the reporting period. The expedited procedure was determined to apply in 16 cases, and on 22 occasions, the expedited procedure was determined not to apply.

As demonstrated in Table 5.2, Western Australia produces many more objection applications than does Queensland. This is due, at least in part, to policies adopted by the relevant state departments concerning the use of the expedited procedure.

Future act determinations

If the expedited procedure does not apply, or is not asserted by the state, the parties must negotiate in good faith about the proposed future act. Any party may request Tribunal assistance in mediating among the parties in order to reach agreement. There were 23 requests for mediation made in the reporting period.

The *Native Title Act 1993* (Cth) prescribes a minimum six-month negotiation period. After that time, any party to the negotiation may lodge a future act determination application if no agreement has been reached. During the reporting period, 26 applications were lodged. If there has been a failure to negotiate in good faith by any party, other than a native title party, the Tribunal has no power to determine the application. If any party asserts that negotiations in good faith have not occurred, the Tribunal will hold an inquiry to establish whether that is the case. During the reporting period, there were two decisions of the Tribunal that one of the relevant negotiation parties had not negotiated in good faith.

Seventeen future act determination applications were finalised during the reporting period. In one application, the Tribunal determined that the future act may be done subject to conditions. In another eight applications, the Tribunal issued a determination that the future act may be done, seven of which were made on the basis that parties had reached agreement but were unable to formalise a section 31 agreement. The remaining applications were either withdrawn or dismissed.

Post-determination assistance

Since 1998, the Tribunal has had the power to assist, on request, an Aboriginal/Torres Strait Islander representative body in performing its dispute resolution functions, subject to entering into a costs agreement. This function is commonly referred to as

's203BK assistance,' after the provision of the *Native Title Act 1993* (Cth) from which the power derives.

On 25 March 2021, the *Native Title Legislation Amendment Act 2021* (Cth) gave the Tribunal a new set of powers relating to post-determination disputes by introducing section 60AAA into the *Native Title Act 1993* (Cth). Section 60AAA provides that a registered native title body corporate or common law holder of native title may ask the Tribunal to provide assistance 'in promoting agreement about matters relating to native title or the operation of this Act' between:

- the registered native title body corporate and another registered native title body corporate
- the registered native title body corporate and one or more common law holders, or
- common law holders.

Throughout 2022–23, the Tribunal has continued to review and evaluate its policies, procedures and guidelines to support the new function established by section 60AAA. Generally, once the Tribunal receives a request for assistance, an officer will conduct preliminary conferencing with each of the relevant parties to understand the nature of the dispute, who should be involved, and what form the assistance should take. Depending on the matter, preliminary conferencing is followed by facilitation or information exchange, or it may move straight into mediation or another dispute resolution process.

In 2022–23, the Tribunal has conducted preliminary conferencing in relation to 21 requests received under section 60AAA. The Tribunal has conducted facilitation or information exchange in two matters and has provided mediation assistance in another. The Tribunal also received two requests for dispute resolution assistance under section 203BK from Aboriginal/Torres Strait Islander representative bodies.

TABLE 5.2: NUMBER OF APPLICATIONS LODGED WITH THE TRIBUNAL IN 2022–23

FUTURE ACT	NT	QLD	WA	TOTAL
Objections to expedited procedure	39	58	1,193	1,290
Future act determination applications	1	5	20	26
TOTAL	40	63	1,213	1,316

The Registers

The Native Title Registrar maintains three registers as follows:

The Register of Native Title Claims

Under section 185(2) of the *Native Title Act 1993* (Cth), 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 sections 190A–190C of the *Native Title Act 1993* (Cth). As at 30 June 2023, there were 110 claimant applications on this register.

The National Native Title Register

Under section 192(2) of the *Native Title Act 1993* (Cth), the Native Title Registrar must establish and keep a National Native Title Register, recording approved determinations of native title.

As at 30 June 2023, a total of 584 determinations had been registered, including 108 determinations that native title does not exist.

Map 1 Determinations Map (page 81) shows native title determinations as at 30 June 2023, including those registered and those not yet in effect.

The Register of Indigenous Land Use Agreements

Under section 199A(2) of the *Native Title Act 1993* (Cth), the Native Title Registrar must establish and keep a Register of Indigenous Land Use Agreements, in which area agreement, body corporate and alternative procedure ILUAs are registered. At 30 June 2023, there were 1,448 ILUAs registered on the Register of Indigenous Land Use Agreements.

Map 2 Indigenous Land Use Agreement Map (page 82) shows registered Indigenous Land Use Agreements as at 30 June 2023.

Claimant and amended applications

Sections 190A–190C of the *Native Title Act 1993* (Cth) require the Native Title Registrar to decide whether native title determination applications (claimant applications) and applications for certain amendments to claimant applications, should be accepted for registration on the Register of Native Title Claims. To that end, the CEO and Principal Registrar of the Federal Court provides the Native Title Registrar with a copy of each new or amended claimant application and accompanying documents that have been filed in the Federal Court.

The Native Title Registrar considers each application against the relevant requirements of the *Native Title Act 1993* (Cth). The Native Title Registrar may also undertake preliminary assessments of such applications, and draft applications, by way of assistance provided pursuant to section 78(1)(a) of the *Native Title Act 1993* (Cth). Where the Registrar does not accept a claim for registration, the relevant applicant may seek reconsideration by the Tribunal. Alternatively, the applicant may seek judicial review in the Federal Court.

During the reporting period, the Native Title Registrar received 25 new claimant applications, an increase of 10 compared to the previous year. In addition to new claims, the Native Title Registrar received 30 amended claimant applications, 11 more than the previous year.

There was an increase in the volume of registration testing in the reporting period. There were 42 applications considered for registration, eight more than the previous year. Of the 42 decisions, 30 were accepted for registration and 12 were not accepted. During the reporting period, eight applications were subjected to preliminary assessment before filing with the Federal Court. Three applications to the Federal Court, seeking judicial review of a decision to not accept an application for registration among other things, were made during the reporting period. One application was discontinued and the remaining two are currently being considered.

Non-claimant, compensation and revised determination applications

There was a decrease in the number of new non-claimant applications filed in the Federal Court during this reporting period, with five New South Wales applications, seven Queensland applications and one Victorian application filed in the Federal Court. There was a slight increase in revised determination applications with one application each in Queensland and Western Australia being referred to the Native Title Registrar in the reporting period, compared with only one in the previous year. The Native Title Registrar received one compensation application, a decrease compared to the previous year. That application was made in Northern Territory.

Indigenous land use agreements

Under the *Native Title Act 1993* (Cth), parties to an ILUA (whether a body corporate agreement, area agreement or alternative procedure agreement) may apply to the Native Title Registrar for inclusion on the Register of ILUAs. Each registered ILUA, in addition to taking effect as a contract among the parties, binds all persons who hold, or may hold, native title in relation to any of the land or waters in the area covered by the ILUA.

A total of 1,448 ILUAs are currently on the Register of ILUAs, the majority of which are in Queensland. Broadly, the ILUAs deal with a wide range of matters including the exercise of native title rights and interests over pastoral leases, local government activity, mining, state-protected areas and community infrastructure such as social housing.

TABLE 5.3: NUMBER OF APPLICATIONS REFERRED TO OR LODGED WITH THE NATIVE TITLE REGISTRAR IN 2022–23

NATIVE TITLE DETERMINATION APPLICATIONS	NSW	NT	QLD	SA	VIC	WA	TOTAL
Claimant (new)	0	12	9	0	2	2	25
Non-claimant	5	0	6	0	1	0	12
Compensation	0	1	0	0	0	0	1
Revised native title determination	0	0	1	0	0	1	2
TOTAL	5	13	16	0	3	3	40

TABLE 5.4: NUMBER OF APPLICATIONS LODGED WITH THE NATIVE TITLE REGISTRAR IN 2022–23

INDIGENOUS LAND USE AGREEMENTS	NSW	NT	QLD	SA	VIC	WA	TOTAL
Area agreements	1	0	4	1	0	0	6
Body corporate agreements	0	0	7	0	1	12	20
TOTAL	1	0	11	1	1	12	26

During the reporting period, the Native Title Registrar received 26 ILUAs, 15 fewer than in the previous year. Twenty-one body corporate and 13 area agreement ILUAs were accepted for registration and entered in the Register. One ILUA is currently in notification.

Notifications

The Native Title Registrar carries out a key function in respect of notification of native title determination applications and ILUAs. During the reporting period, 25 native title determination applications were notified, compared with 38 in the previous year. These applications comprised of 10 claimant applications, 12 non-claimant applications, 2 revised determination applications and one compensation application.

A total of 25 ILUAs were notified during the period.

Assistance

Section 78(1) of the *Native Title Act 1993* (Cth) authorises the Native Title Registrar to give such assistance as they think reasonable to people preparing applications and at any stage in subsequent proceedings. That section also provides that the Native Title Registrar may help other people in relation to those proceedings.

During the reporting period, such assistance was provided on 160 occasions. As in previous years, the requests comprised of provision of geospatial products and review of draft native title determination applications.

Under sections 24BG(3), 24CG(4) and 24DH(3) of the *Native Title Act 1993* (Cth), the Native Title Registrar may provide assistance in the preparation of ILUA registration applications. Often, this assistance takes the form of comments upon the draft ILUA and the application for registration, as well as mapping assistance. During the reporting period, assistance was provided on 35 occasions. Such assistance must be distinguished from the assistance given by the Tribunal in the negotiation of such agreements. See sections 24BF, 24CF and 24DG of the *Native Title Act 1993* (Cth).

Pursuant to section 78(2) of the *Native Title Act 1993* (Cth), 2,156 searches of registers and other records were conducted during the reporting period, a slight increase in requests from the previous year.

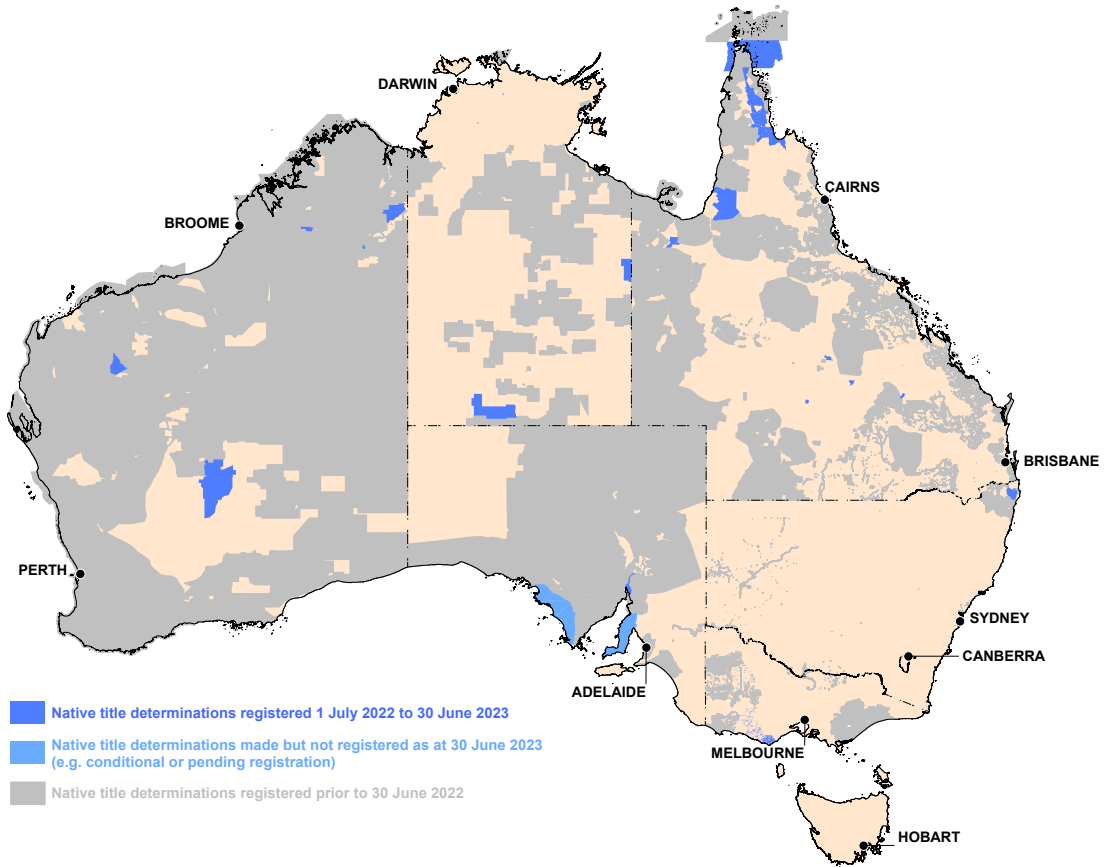
National progress

The 584 registered determinations as at 30 June 2023 cover a total area of 3,865,290 square kilometres or 50.3 per cent of the land mass of Australia and approximately 175,455 square kilometres of sea (below the high water mark).

Four conditional consent determinations, (*Wilson, on behalf of the Wirangu People v State of South Australia (No 2)* [2022] FCA 1460, *Wilson on behalf of the Wirangu People and Weetra on behalf of the Nauo People v State of South Australia* [2023] FCA 60, *Sansbury v State of South Australia (Narungga Nation Native Title Claim)* [2023] FCA 196, and *Weetra-Height on behalf of the Nauo People v State of South Australia* [2023] FCA 454) are still awaiting ILUA registration. Upon registration, these determinations will increase the areas determined to about 3,890,133 square kilometres or 50.6 per cent of the land mass of Australia and approximately 176,058 square kilometres of sea (see Map 1).

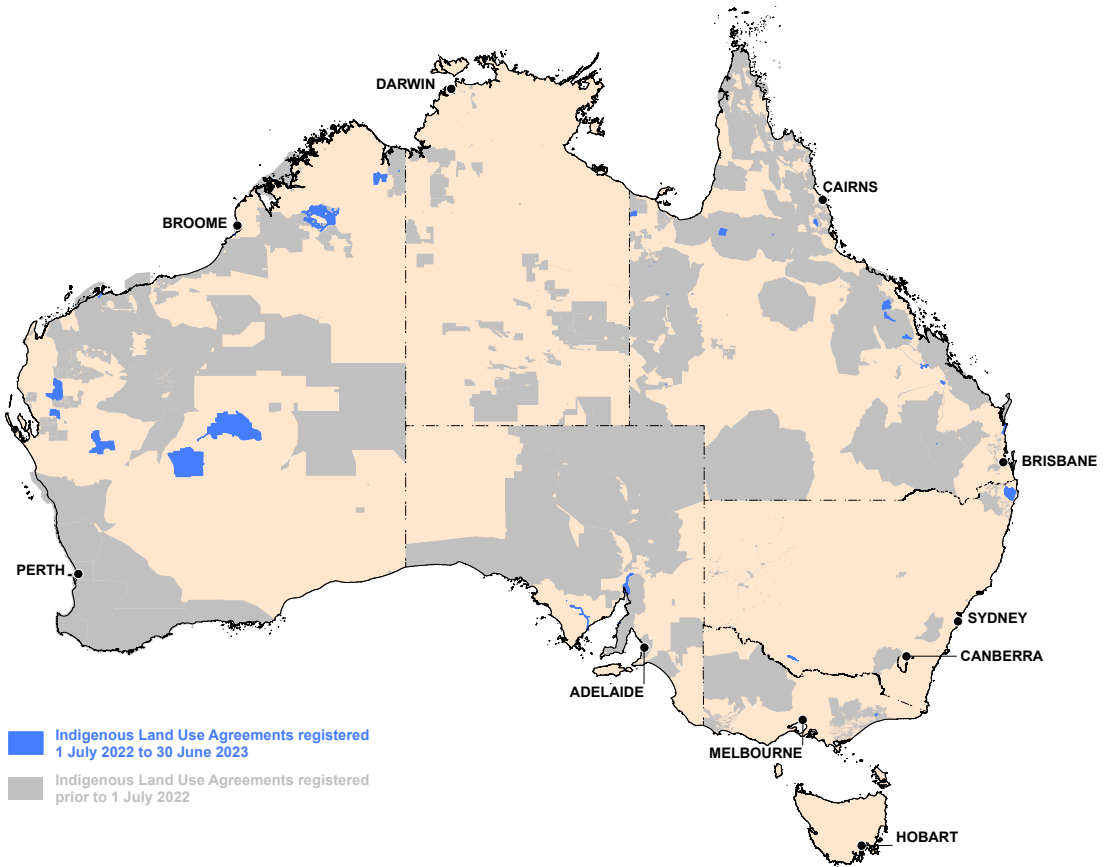
Registered ILUAs cover about 2,744,396 square kilometres or 35.7 per cent of the land mass of Australia and approximately 51,429 square kilometres of sea (see Map 2).

MAP 1: DETERMINATIONS MAP



Spatial data sourced from and used with permission of: Landgate (WA), Dept of Resources (QLD), Dept of Customer Service (NSW), Dept of Infrastructure, Planning & Logistics (NT), Dept of Planning, Transport & Infrastructure (SA), Dept of Environment, Land, Water & Planning (VIC), and Geoscience Australia, Australian Government. Reference to ACT also includes Jervis Bay Territory. © Commonwealth of Australia.

MAP 2: INDIGENOUS LAND USE AGREEMENTS MAP



Spatial data sourced from and used with permission of: Landgate (WA), Dept of Resources (QLD), Dept of Customer Service (NSW), Dept of Infrastructure, Planning & Logistics (NT), Dept of Planning, Transport & Infrastructure (SA), Dept of Environment, Land, Water & Planning (VIC), and Geoscience Australia, Australian Government. Reference to ACT also includes Jervis Bay Territory. © Commonwealth of Australia.

Management of the Tribunal

The President, in consultation with the Members, the Native Title Registrar and Team Managers, sets the strategic direction for the Tribunal. The relatively small size of the Tribunal militates in favour of informal, rather than formal consultation. On the other hand, its geographical dispersal increases reliance on the use of electronic means of communication.

Financial review

The Federal Court's appropriation includes funding for the operation of the Tribunal. This funding is set out as sub-program 1.1.2 in the Court's Portfolio Budget Statements. \$8.209 million was allocated for the Tribunal's operations in 2022–23.

Appendix 1 shows the consolidated financial results for both the Court and the Tribunal.

Table 5.5 presents the financial operating statement, summarising the Tribunal's revenue and expenditure for 2022–23.

TABLE 5.5: FINANCIAL OPERATING STATEMENT

YEAR ENDING 30 June 2023	BUDGET (\$'000)	ACTUAL (\$'000)	VARIANCE (\$'000)
Appropriation			
Total revenue	8,209	8,207	-2
Total expenses	8,209	7,321	888
Surplus / Deficit	0	886	886

External scrutiny

Freedom of Information

During the reporting period, four requests were received under the *Freedom of Information Act 1982* (Cth) for access to documents. The Tribunal publishes a disclosure log on its website, as required by the *Freedom of Information Act 1982* (Cth). The disclosure log lists 10 documents released in response to one freedom of information access request processed during the reporting period.

Accountability to clients

The Tribunal maintains a Client Service Charter (Commitment to Service Excellence) to ensure that service standards meet client needs. During the reporting period there were no complaints requiring action under the Charter.

Statutory office holders

The *Native Title Act 1993* (Cth) deals, in a general way, with issues concerning the behaviour and capacity of Members. While the Native Title Registrar is subject to the Australian Public Service Code of Conduct, this does not apply to Tribunal Members, except where they may be, directly or indirectly, involved in the supervision of staff.

There is a voluntarily code of conduct for Members, however it is in need of review. This process will be undertaken in the course of 2023–24. During the reporting period, there were no complaints concerning Members.

Online services

The Tribunal maintains a website at www.nntt.gov.au. The website enables online searching of the National Native Title Register, the Register of Native Claims, and the Register of Indigenous Land Use Agreements. Native title spatial information and data can also be accessed online through Native Title Vision. As a result of the amendments to the *Native Title Act 1993* (Cth), the Tribunal also established a publicly available record of section 31 agreements.

Australian Human Rights Commission

Under section 209 of the *Native Title Act 1993* (Cth), the Commonwealth Minister may, by written notice, direct the Aboriginal and Torres Strait Islander Social Justice Commissioner to report to the Commonwealth Minister about the operation of the *Native Title Act 1993* (Cth) or 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.



Part 6: Appendices

Appendix 1: Financial Statements



INDEPENDENT AUDITOR'S REPORT

To the Attorney-General

Opinion

In my opinion, the financial statements of the Federal Court of Australia (the Entity) for the year ended 30 June 2023:

- (a) comply with Australian Accounting Standards – Simplified Disclosures and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Entity as at 30 June 2023 and its financial performance and cash flows for the year then ended.

The financial statements of the Entity, which I have audited, comprise the following as at 30 June 2023 and for the year then ended:

- Statement by the Chief Executive Officer and Chief Financial Officer of the Federal Court of Australia;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement;
- Administered Schedule of Comprehensive Income;
- Administered Schedule of Assets and Liabilities;
- Administered Reconciliation Schedule;
- Administered Cash Flow Statement; and
- Notes to the financial statements, comprising a summary of significant accounting policies and other explanatory information.

Basis for opinion

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

Accountable Authority's responsibility for the financial statements

As the Accountable Authority of the Entity, the Chief Executive Officer is responsible under the *Public Governance, Performance and Accountability Act 2013* (the Act) for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards – Simplified Disclosures and the rules made under the Act. The Chief Executive Officer is also responsible for such internal control as the Chief Executive Officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Chief Executive Officer is responsible for assessing the ability of the Entity to continue as a going concern, taking into account whether the Entity's operations will cease as a result

GPO Box 707, Canberra ACT 2601
38 Sydney Avenue, Forrest ACT 2603
Phone (02) 6203 7300

of an administrative restructure or for any other reason. The Chief Executive Officer is also responsible for disclosing, as applicable, matters related to going concern and using the going concern basis of accounting, unless the assessment indicates that it is not appropriate.

Auditor's responsibilities for the audit of the financial statements

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

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

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

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

Australian National Audit Office



Racheal Kris
Senior Director

Delegate of the Auditor-General

Canberra
12 September 2023

Federal Court of Australia (the Entity)

The Federal Court of Australia listed entity (the Entity) is a non-corporate Commonwealth listed entity for the purposes of the *Public Governance Performance and Accountability Act 2013 (PGPA Act)*. It is established under Section 18ZB of the *Federal Court of Australia Act 1976 (Cth)*.


Appropriations made by the Federal Parliament for the purposes of the Federal Court of Australia, the Federal Circuit and Family Court of Australia (Division 1 and Division 2) (previously the Family Court of Australia and the Federal Circuit Court of Australia), as well as the National Native Title Tribunal, are made to the Entity, which is accountable for the financial management of those appropriations.


Federal Court of Australia (the Entity)

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

In our opinion, the attached financial statements for the period ended 30 June 2023 comply with subsection 42(2) of the Public Governance, Performance and Accountability Act 2013 (PGPA Act), and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

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


Signed.....
Alison Legge
Acting Chief Executive Officer and Principal Registrar
7th September 2023


Signed
Attilio Martiniello
Chief Financial Officer
7th September 2023

Statement of Comprehensive Income
for the period ended 30 June 2023

		2023	2022	Original Budget
	Notes	\$'000	\$'000	\$'000
NET COST OF SERVICES				
Expenses				
Judicial benefits	1.1A	117,415	109,460	118,957
Employee benefits	1.1A	155,082	138,928	154,343
Suppliers	1.1B	99,621	92,769	94,312
Depreciation and amortisation	3.2A	37,067	34,692	36,980
Finance costs	1.1C	2,139	1,030	1,452
Impairment loss on financial instruments	1.1D	2	8	-
Write-down and impairment of assets	1.1E	-	1,046	-
Total expenses		411,326	377,933	406,044
Own-source income				
Own-source revenue				
Revenue from contracts with customers	1.2A	1,555	1,466	1,781
Resources received free of charge	1.2B	43,811	43,811	42,765
Other revenue	1.2B	436	615	-
Total own-source revenue		45,802	45,892	44,546
Other gains				
Liabilities assumed by other agencies		37,786	36,057	29,529
Other gains		16	7	-
Total gains	1.2C	37,802	36,064	29,529
Total own-source income		83,604	81,956	74,075
Net (cost of)/contribution by services		(327,722)	(295,977)	(331,969)
Revenue from Government	1.2D	315,438	298,390	315,438
Surplus/(Deficit) on continuing operations		(12,284)	2,413	(16,531)
OTHER COMPREHENSIVE INCOME				
Items not subject to subsequent reclassification to net cost of services				
Changes in asset revaluation reserve		4,570	-	-
Total comprehensive income / (loss)		(7,714)	2,413	(16,531)

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

Statement of Comprehensive Income

for the period ended 30 June 2023

Budget Variances Commentary

Statement of Comprehensive Income

Judicial benefits

Judicial benefits are lower than budgeted due to judicial vacancies throughout 2022-2023.

Suppliers

Supplier expenses are greater than budget due to inflationary pressures increasing information technology and airfare costs.

Revenue from contracts with customers

The Entity received lower revenue than was anticipated in relation to its International Programs work. Reimbursements from the Administrative Appeals Tribunal were also lower than budgeted.

Liabilities assumed by other agencies

The gain received in relation to notional judicial superannuation costs was higher than budget due to an increase in the actuarial assessment of the value of these benefits as per the Judges Pension Long Term Cost Report 2020 done by the Department of Finance.

Statement of Financial Position
as at 30 June 2023

		2023	2022	Original Budget
	Notes	\$'000	\$'000	\$'000
ASSETS				
Financial assets				
Cash and cash equivalents	3.1A	1,191	1,607	2,127
Trade and other receivables	3.1B	138,328	146,179	146,093
Total financial assets		139,519	147,786	148,220
Non-financial assets¹				
Buildings	3.2A	169,537	154,363	147,910
Plant and equipment	3.2A	36,235	28,759	29,276
Computer software	3.2A	10,860	9,625	8,860
Inventories	3.2B	-	3	3
Prepayments		5,534	3,959	3,959
Total non-financial assets		222,166	196,709	190,008
Total assets		361,685	344,495	338,228
LIABILITIES				
Payables				
Suppliers	3.3A	5,941	7,145	6,546
Other payables	3.3B	4,488	5,390	3,748
Total payables		10,429	12,535	10,294
Interest bearing liabilities				
Leases	3.4A	138,554	130,127	126,212
Total interest bearing liabilities		138,554	130,127	126,212
Provisions				
Employee provisions	6.1A	63,002	60,603	62,372
Other provisions	3.5A	5,287	3,754	3,754
Total provisions		68,289	64,357	66,126
Total liabilities		217,272	207,019	202,632
Net assets		144,413	137,476	135,596
EQUITY				
Contributed equity		167,955	153,304	167,955
Reserves		17,414	12,844	12,844
Accumulated deficit		(40,956)	(28,672)	(45,203)
Total equity		144,413	137,476	135,596

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

1. Right-of-use assets are included in Buildings, Plant and Equipment.

Statement of Financial Position

as at 30 June 2023

Budget Variances Commentary

Statement of Financial Position

Trade and other receivables

Appropriation receivable is lower than budgeted due primarily to capital spending on projects which were delayed in 2021-2022.

Non-Financial Assets

Non financial assets are higher than budgeted as a result of new lease agreements that were entered into, and the impact of the asset revaluation undertaken in 2022-2023.

Leases

Lease liabilities are higher than budgeted due to the signing of new lease agreements.

Statement of Changes in Equity
for the period ended 30 June 2023

		2023	2022	Original
	Notes	\$'000	\$'000	Budget
				\$'000
CONTRIBUTED EQUITY				
Opening balance				
Balance carried forward from previous period		153,304	131,770	153,304
Comprehensive income				
Other comprehensive income		-	-	-
Total comprehensive income/(loss)		-	-	-
Transactions with owners				
Distributions to owners				
Contributions by owners				
Equity injection - appropriation		-	7,525	-
Departmental capital budget		14,651	14,009	14,651
Total transactions with owners		14,651	21,534	14,651
Closing balance as at 30 June		167,955	153,304	167,955
RETAINED EARNINGS/(ACCUMULATED DEFICIT)				
Opening balance				
Balance carried forward from previous period		(28,672)	(28,258)	(28,672)
Comprehensive income				
Surplus/(Deficit) for the period		(12,284)	2,413	(16,531)
Other comprehensive income		-	-	-
Total comprehensive income/(loss)		(12,284)	2,413	(16,531)
Transactions with owners				
Distributions to owners				
Expired appropriation 2018-19		-	(2,827)	-
Closing balance as at 30 June		(40,956)	(28,672)	(45,203)
ASSET REVALUATION RESERVE				
Opening balance				
Balance carried forward from previous period		12,844	12,844	12,844
Adjusted opening balance		12,844	12,844	12,844
Comprehensive income				
Other comprehensive income		4,570	-	-
Total comprehensive income/(loss)		4,570	-	-
Closing balance as at 30 June		17,414	12,844	12,844

Statement of Changes in Equity
for the period ended 30 June 2023

	Notes	2023 \$'000	2022 \$'000	Original Budget \$'000
TOTAL EQUITY				
Opening balance				
Balance carried forward from previous period		137,476	116,356	137,476
Comprehensive income				
Surplus/(Deficit) for the period		(12,284)	2,413	(16,531)
Other comprehensive income		4,570	-	-
Total comprehensive income/(loss)		(7,714)	2,413	(16,531)
Transactions with owners				
Distributions to owners				
Quarantined funds		-	(2,827)	-
Contributions by owners				
Equity injection - appropriation		-	7,525	-
Departmental capital budget		14,651	14,009	14,651
Total transactions with owners		14,651	18,707	14,651
Closing balance as at 30 June		144,413	137,476	135,596

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

Accounting Policy

Equity Injections

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

Budget Variances Commentary

Statement of Changes in Equity

Accumulated deficit

The impact of the asset revaluation along with the lower than expected deficit has resulted in an improved equity position compared with budget.

Cash Flow Statement
for the period ended 30 June 2023

		2023	2022	Original Budget
	Notes	\$'000	\$'000	\$'000
OPERATING ACTIVITIES				
Cash received				
Appropriations		313,635	290,611	315,524
Sales of goods and rendering of services		1,242	1,306	1,781
GST received		9,265	7,757	-
Other		436	674	-
Total cash received		324,578	300,348	317,305
Cash used				
Employees		232,530	217,595	243,771
Suppliers		68,924	59,661	52,019
Interest payments on lease liabilities		2,213	1,529	1,452
Section 74 receipts transferred to OPA		1,422	1,988	-
Total cash used		305,089	280,773	297,242
Net cash from/(used by) operating activities		19,489	19,575	20,063
INVESTING ACTIVITIES				
Cash received				
Proceeds from sales of property, plant and equipment		16	7	-
Total cash received		16	7	-
Cash used				
Purchase of property, plant and equipment		21,047	13,389	13,745
Purchase of intangibles		4,824	2,684	-
Total cash used		25,871	16,073	13,745
Net cash from/(used by) investing activities		(25,855)	(16,066)	(13,745)
FINANCING ACTIVITIES				
Cash received				
Contributed equity		26,076	16,788	14,651
Total cash received		26,076	16,788	14,651
Cash used				
Repayment of borrowings		205	715	
Principal payments of lease liabilities		19,921	19,209	20,449
Total cash used		20,126	19,924	20,449
Net cash from/(used by) financing activities		5,950	(3,136)	(5,798)
Net increase / (decrease) in cash held		(416)	373	520
Cash and cash equivalents at the beginning of the reporting period		1,607	1,234	1,607
Cash and cash equivalents at the end of the reporting period	3.1A	1,191	1,607	2,127

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

Cash Flow Statement*for the period ended 30 June 2023***Budget Variances Commentary****Statement of Cash Flow Statement***Cash used for investing activities and Contributed equity*

Asset purchases were higher than expected due to finalisation of software development projects and completion of building projects which had been delayed in the prior year.

Administered Schedule of Comprehensive Income
for the period ended 30 June 2023

		2023	2022	Original
	Notes	\$'000	\$'000	Budget
				\$'000
NET COST OF SERVICES				
Expenses				
Suppliers	2.1A	785	373	926
Impairment loss on financial instruments	2.1B	2,397	1,532	3,550
Other expenses - refunds of fees	2.1C	649	839	900
Total expenses		3,831	2,744	5,376
Income				
Revenue				
Non-taxation revenue				
Fees and Fines	2.2A	87,907	106,770	99,663
Total non-taxation revenue		87,907	106,770	99,663
Total revenue		87,907	106,770	99,663
Total income		87,907	106,770	99,663
Net contribution by services		84,076	104,026	94,287
Total comprehensive income		84,076	104,026	94,287

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

Budget Variances Commentary

Administered Schedule of Comprehensive Income

Fees and fines

Administered revenues relate to activities performed by the Entity on behalf of the Australian Government. The variance from the prior year is primarily due to a single large fine that was received in the prior year.

Other expenses

Other expenses relate to the refund of fees. The variance to budget is due to the uncertainty in estimating the amount of fees that may require refund during the period.

Administered Schedule of Assets and Liabilities
as at 30 June 2023

		2023	2022	Original
	Notes	\$'000	\$'000	Budget
				\$'000
ASSETS				
Financial Assets				
Cash and cash equivalents	4.1A	128	136	136
Trade and other receivables	4.1B	1,266	870	870
Total assets administered on behalf of Government		1,394	1,006	1,006
LIABILITIES				
Payables				
Suppliers	4.2A	61	15	15
Other payables	4.2B	472	454	454
Total liabilities administered on behalf of Government		533	469	469
Net assets/(liabilities)		861	537	537

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

Budget Variances Commentary

Administered Schedule of Assets and Liabilities

There is inherent uncertainty in estimating the cash balance and the balance of receivables, payables and suppliers on any particular day.

Administered Reconciliation Schedule
for the period ended 30 June 2023

	2023	2022
	\$'000	\$'000
Opening assets less liabilities as at 1 July	537	733
Net contribution by services		
Income	87,907	106,770
Expenses		
Payments to entities other than corporate Commonwealth entities	(3,831)	(2,744)
Transfers (to)/from the Australian Government		
Appropriation transfers from Official Public Account		
Annual appropriations		
Payments to entities other than corporate Commonwealth entities	739	416
Special appropriations (unlimited) s77 PGPA Act repayments		
Payments to entities other than corporate Commonwealth entities	741	839
GST increase to appropriations s74 PGPA Act		
Payments to entities other than corporate Commonwealth entities	74	42
Appropriation transfers to OPA		
Transfers to OPA	(85,306)	(105,519)
Closing assets less liabilities as at 30 June	861	537
The above schedule should be read in conjunction with the accompanying notes.		

Accounting Policy

Administered cash transfers to and from the Official Public Account

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

Administered Cash Flow Statement
for the period ended 30 June 2023

		2023	2022
	Notes	\$'000	\$'000
OPERATING ACTIVITIES			
Cash received			
Fees		81,930	79,791
Fines		3,304	25,712
GST received		64	46
Total cash received		85,298	105,549
Cash used			
Suppliers		813	458
Refunds of fees		649	839
Other		92	-
Total cash used		1,554	1,297
Net cash from operating activities		83,744	104,252
Net increase in cash held		83,744	104,252
Cash from Official Public Account for:			
Appropriations		1,554	1,297
Total cash from official public account		1,554	1,297
Cash to Official Public Account for:			
Transfer to OPA		(85,306)	(105,519)
Total cash to official public account		(85,306)	(105,519)
Cash and cash equivalents at the beginning of the reporting period		136	106
Cash and cash equivalents at the end of the reporting period	4.1A	128	136
The above statement should be read in conjunction with the accompanying notes.			

Overview

The Federal Court of Australia listed entity (the Entity) is a non-corporate Commonwealth listed entity for the purposes of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). It is established under Section 18ZB of the *Federal Court of Australia Act 1976* (Cth).

Appropriations made by the Federal Parliament for the purposes of the Federal Court of Australia, the Federal Circuit and Family Court of Australia (Division 1) (previously the Family Court of Australia) and the Federal Circuit and Family Court of Australia (Division 2) (previously the Federal Circuit Court of Australia) (all of which are courts established pursuant to Chapter III of the Commonwealth Constitution), as well as the National Native Title Tribunal, are made to the Entity, which is accountable for the financial management of those appropriations.

The objectives of the Entity include the provision of corporate services in support of the operations of the Federal Court of Australia, Federal Circuit and Family Court of Australia (Division 1), the Federal Circuit and Family Court of Australia (Division 2) and the National Native Title Tribunal.

The Basis of Preparation

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

The financial statements have been prepared in accordance with:

- a) *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015* (FRR); and
- b) Australian Accounting Standards and Interpretations – including simplified disclosures for Tier 2 entities under AASB 1060 issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position. The financial statements are presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

New Accounting Standards

All new/revised/amending accounting standards and or interpretations that were issued prior to the sign-off date and are applicable to the current reporting period did not have a material effect on the Entity's financial statements.

Taxation

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

Reporting of Administered activities

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

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

Events after the Reporting Period

Departmental

There were no subsequent events that had the potential to significantly affect the ongoing structure and financial activities of the Entity.

Administered

There were no subsequent events that had the potential to significantly affect the ongoing structure and financial activities of the Entity.

1. Financial Performance

This section analyses the financial performance of the Federal Court of Australia (the Entity) for the year ended 30 June 2023.

1.1 Expenses

	2023	2022
	\$'000	\$'000
Note 1.1A: Judicial and Employee Benefits		
Judges remuneration	75,051	69,095
Judicial superannuation defined contribution	4,578	4,308
Judges notional superannuation	37,786	36,057
Total judge benefits	117,415	109,460
Wages and salaries	113,905	104,125
Superannuation		
Defined contribution plans	15,680	13,540
Defined benefit plans	4,879	4,914
Leave and other entitlements	18,759	13,772
Separation and redundancies	1,859	2,577
Total employee benefits	155,082	138,928
Total judge and employee benefits	272,497	248,388

Accounting Policy

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

	2023	2022
	\$'000	\$'000
Note 1.1B: Suppliers		
Goods and services supplied or rendered		
Audit fees (paid)	194	51
IT services	8,353	6,969
Consultants	853	1,092
Contractors	1,797	1,716
Property operating costs	11,741	10,801
Courts operation and administration	12,327	11,947
Travel	8,772	3,522
Library purchases	4,852	4,740
Other	6,042	6,412
Total goods and services supplied or rendered	54,931	47,250
Goods supplied	4,394	4,830
Services rendered	50,537	42,420
Total goods and services supplied or rendered	54,931	47,250
Other suppliers		
Short-term leases	122	265
Property resources received free of charge	43,686	43,686
Workers compensation expenses	882	1,568
Total other suppliers	44,690	45,519
Total suppliers	99,621	92,769

The Entity has short-term lease commitments of \$13,574 as at 30 June 2023.

The above lease disclosures should be read in conjunction with the accompanying notes 1.1C, 3.2A and 3.4A.

Accounting Policy**Short-term leases and leases of low-value assets**

The Entity has elected not to recognise right-of-use assets and lease liabilities for short-term leases of assets that have a lease term of 12 months or less and leases of low-value assets (less than \$10,000).

	2023	2022
	\$'000	\$'000
<u>Note 1.1C: Finance Costs</u>		
Interest on lease liabilities - buildings	2,157	1,512
Interest on lease liabilities - plant and equipment	56	17
Unwinding of discount - make good	(74)	(499)
Total finance costs	2,139	1,030

The above lease disclosures should be read in conjunction with the accompanying notes 1.1B, 3.2A and 3.4A.

Accounting Policy

All borrowing costs are expensed as incurred.

	2023	2022
	\$'000	\$'000
<u>Note 1.1D: Impairment Loss on Financial Instruments</u>		
Impairment on financial instruments	2	8
Total impairment loss on financial instruments	2	8

	2023	2022
	\$'000	\$'000
<u>Note 1.1E: Write-Down and Impairment of Other Assets</u>		
Impairment of inventories	-	25
Impairment of plant and equipment	-	162
Impairment on buildings	-	859
Total write-down and impairment of other assets	-	1,046

1.2 Own-Source Revenue and Gains

	2023	2022
	\$'000	\$'000
<u>Own-Source Revenue</u>		
<u>Note 1.2A: Revenue from contracts with customers</u>		
Rendering of services	1,555	1,466
Total revenue from contracts with customers	1,555	1,466
Disaggregation of revenue from contracts with customers		
Court administration services	394	364
NZ Aid funded program revenue	-	573
Government related services	1,161	529
Total	1,555	1,466

	2023	2022
	\$'000	\$'000
Note 1.2B: Other Revenue		
Resources received free of charge		
Rent in Commonwealth Law Courts buildings	43,686	43,686
Remuneration of auditors	125	125
Other	436	615
Total other revenue	44,247	44,426

Accounting Policy

Revenue from the sale of goods is recognised when control has been transferred to the buyer. Revenue is recognised by the Entity under *AASB 15* when the following occurs:

- a contract is identified and each party is committed to perform its obligations;
- the rights and payment terms can be identified; and
- it is probable that the Entity will collect the consideration under the contract when goods or services have been provided.

The Entity identifies its performance obligations in each contract and determines when they have been satisfied. Revenue is recognised at the time performance obligations have been met.

The following is a description of the principal activities from which the Entity generates its revenue:

Court administration services. Revenue is recognised when the goods or services are provided to the customer.

Government related services. Revenue is recognised at the time the service is provided.

Services provided to the New Zealand Government. The Entity has defined performance obligations under the contract with New Zealand, with clearly identified milestones identified in the contract. Revenue is recognised when those performance obligations have been reached.

The transaction price is the total amount of consideration to which the Entity expects to be entitled in exchange for transferring promised goods or services to a customer. The consideration promised in a contract with a customer may include fixed amounts, variable amounts or both. The Entity has not been required to apply the practical expedient on AASB 15.121. There is no consideration from contracts with customers that is not included in the transaction price.

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any impairment allowance account. Collectability of debts is reviewed at the end of the reporting period. Allowances are made when the collection of the debt is no longer probable.

Resources Received Free of Charge

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

	2023	2022
	\$'000	\$'000
Note 1.2C: Other Gains		
Liabilities assumed by other agencies	37,786	36,057
Other	16	7
Total other gains	37,802	36,064

Accounting Policy**Liabilities assumed by other agencies**

Liabilities assumed by other agencies refers to the notional cost of judicial pensions as calculated by actuaries on behalf of the Department of Finance.

	2023	2022
	\$'000	\$'000
Note 1.2D: Revenue from Government		
Appropriations		
Departmental appropriations	<u>315,438</u>	<u>298,390</u>
Total revenue from Government	<u>315,438</u>	<u>298,390</u>

Accounting Policy

Revenue from Government

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

2. Income and Expenses Administered on Behalf of Government

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

2.1 Administered – Expenses

	2023	2022
	\$'000	\$'000
Note 2.1A: Suppliers		
Services rendered		
Supply of primary dispute resolution services	785	373
Total suppliers	785	373
Note 2.1B: Impairment loss on financial instruments		
Impairment of financial instruments	2,397	1,532
Total impairment loss on financial instruments	2,397	1,532
Note 2.1C: Other Expenses		
Refunds of fees	649	839
Total other expenses	649	839

2.2 Administered – Income

	2023	2022
	\$'000	\$'000
Note 2.2A: Fees and Fines		
Revenue		
Non-taxation revenue		
Hearing fees	5,705	6,766
Filing and setting down fees	78,898	74,292
Fines	3,304	25,712
Total fees and fines	87,907	106,770

Accounting Policy

All administered revenues are revenues relating to the course of ordinary activities performed by the Federal Court of Australia, the Federal Circuit and Family Court of Australia (Division 1) and the Federal Circuit and Family Court of Australia (Division 2) on behalf of the Australian Government. As such administered revenues are not revenues of the Entity. Fees are charged for access to the Entity's services. Administered fee revenue is recognised when the service occurs.

Revenue from fines is recognised when a fine is paid to the Entity on behalf of the Government. Fees and fines are recognised at their nominal amount due less any impairment allowance. Collectability of debts is reviewed at the end of the reporting period. Impairment allowances are made based on historical rates of default.

3. Financial Position

This section analyses the Federal Court of Australia (the Entity) assets used to conduct its operations and the operating liabilities incurred as a result. Employee related information is disclosed in the People and Relationships section.

3.1 Financial Assets

	2023 \$'000	2022 \$'000
Note 3.1A: Cash and Cash Equivalents		
Cash at bank	1,189	1,591
Cash on hand	2	16
Total cash and cash equivalents	1,191	1,607
	2023 \$'000	2022 \$'000
Note 3.1B: Trade and Other Receivables		
Goods and services receivables		
Goods and services	515	259
Total goods and services receivables	515	259
Appropriation receivables		
Appropriation receivables - operating	121,376	118,152
Appropriation receivables - departmental capital budget	15,301	26,726
Total appropriation receivables	136,677	144,878
Other receivables		
GST receivable	1,136	1,043
Total other receivables	1,136	1,043
Total trade and other receivables (gross)	138,328	146,180
Less impairment loss allowance	-	(1)
Total trade and other receivables (net)	138,328	146,179

Credit terms for goods and services were within 30 days (2022: 30 days)

Reconciliation of the Impairment Allowance Account:

Movements in relation to 2023

	Goods and services \$'000	Other receivables \$'000	Total \$'000
As at 1 July 2022	1	-	1
Amounts written off	(1)	-	(1)
Amounts recovered and reversed	-	-	-
Total as at 30 June 2023	-	-	-

Movements in relation to 2022

	Goods and services \$'000	Other receivables \$'000	Total \$'000
As at 1 July 2021	1	-	1
Amounts written off	-	-	-
Increase/decrease recognised in net surplus	-	-	-
Total as at 30 June 2022	1	-	1

Accounting PolicyFinancial assets

Trade receivables, loans and other receivables that are held for the purpose of collecting the contractual cash flows where the cash flows are solely payments of principal and interest, that are not provided at below-market interest rates, are subsequently measured at amortised cost using the effective interest method adjusted for any loss allowance.

Impairment loss allowance

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

3.2 Non-Financial Assets**Note 3.2A: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment and Intangibles**

	Buildings - Leasehold Improvements	Plant and equipment	Computer software ¹	Total
	\$'000	\$'000	\$'000	\$'000
As at 1 July 2022				
Gross book value	225,181	40,914	33,939	300,034
Accumulated depreciation, amortisation and impairment	(70,818)	(12,155)	(24,314)	(107,287)
Total as at 1 July 2022	154,363	28,759	9,625	192,747
Additions				
Purchase or internally developed	11,373	9,674	4,824	25,871
Right-of-use assets	27,681	3,141	-	30,822
Revaluations and impairments recognised in other comprehensive income	3,568	2,764	-	6,332
Depreciation and amortisation	(6,633)	(5,833)	(3,589)	(16,055)
Depreciation on right-of-use assets	(18,832)	(2,180)	-	(21,012)
Disposals	(1,983)	(90)	-	(2,073)
Total as at 30 June 2023	169,537	36,235	10,860	216,632
Total as at 30 June 2023 represented by				
Gross book value	238,774	40,817	36,921	316,512
Accumulated depreciation and impairment	(69,237)	(4,582)	(26,061)	(99,880)
Total as at 30 June 2023	169,537	36,235	10,860	216,632
Carrying amount of right-of-use assets	128,663	4,098	-	132,761

Revaluations of non-financial assets

All revaluations were conducted in accordance with the revaluation policy. A full revaluation of all building and plant and equipment assets was performed by an independent valuer as at 30 June 2023.

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

Capital commitments for property, plant and equipment are \$2.588 million (2022: \$4.047million). Plant and equipment commitments were primarily contracts for purchases of furniture and IT equipment.

Accounting Policy

Property, plant and equipment

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

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

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 costing less than \$2,000, which are expensed in the year of acquisition.

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

Lease Right of Use (ROU) Assets

Leased ROU assets are capitalised at the commencement date of the lease and comprise the initial lease liability amount, initial direct costs incurred when entering into the lease less any lease incentives received. These assets are accounted for by Commonwealth lessees as separate asset classes to corresponding assets owned outright, but included in the same column as where the corresponding underlying assets would be presented if they were owned.

On initial adoption of AASB 16 the Entity has adjusted the ROU assets at the date of initial application by the amount of any provision for onerous leases recognised immediately before the date of initial application. Following initial application, an impairment review is undertaken for any right of use lease asset that shows indicators of impairment and an impairment loss is recognised against any right of use lease asset that is impaired. Lease ROU assets continue to be measured at cost after initial recognition in Commonwealth agency, General Government Services and Whole of Government financial statements.

Revaluations

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

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

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

The Entity's assets were independently valued during 2022-23.

Accounting Policy (continued)**Depreciation**

Depreciable property, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the Entity 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:

	2023	2022
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

The depreciation rates for ROU assets are based on the commencement date to the earlier of the end of the useful life of the ROU asset or the end of the lease term.

Impairment

All assets were assessed for impairment at 30 June 2023. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

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

Derecognition

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

Intangibles

The Entity's intangibles comprise externally and internally developed software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses. Software is amortised on a straight-line basis over its anticipated useful life of 5 years (2022: 5 years).

	2023	2022
	\$'000	\$'000
Note 3.2B: Inventories		
Inventories held for distribution	-	3
Total inventories	-	3

During 2022-23, \$3,318 of inventory was recognised as an expense (2022: \$25,184).

Accounting Policy

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

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

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

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

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

3.3 Payables

	2023	2022
	\$'000	\$'000

Note 3.3A: Suppliers

Trade creditors and accruals	5,941	7,145
Total suppliers	5,941	7,145

Settlement was usually made within 30 days.

Note 3.3B: Other Payables

Salaries and wages	3,417	2,502
Superannuation	552	425
Separations and redundancies	365	1,513
Unearned income	-	83
Other	154	867
Total other payables	4,488	5,390

3.4 Interest Bearing Liabilities

	2023	2022
	\$'000	\$'000

Note 3.4A: Leases

Lease Liabilities		
Buildings	134,347	126,898
Plant and equipment	4,207	3,229
Total leases	138,554	130,127

Maturity analysis - contractual undiscounted cash flows

Within 1 year	19,734	17,592
Between 1 to 5 years	85,397	73,653
More than 5 years	33,423	38,882
Total leases	138,554	130,127

Total cash outflow for leases for the year ended 30 June 2023 was \$19.921m (2022: \$19.209m)

The Entity in its capacity as lessee has leases in the nature of office buildings and motor vehicles leases. All buildings, for both commercial and special purpose Court building leases, include annual fixed rent increases and CPI rent increases where applicable. Eight of those leases have an option to renew at the end of the lease period. Motor vehicle leases relates to the provision of motor vehicles to Judges and Senior Executive Officers. There are no renewal options available to the Entity.

The above lease disclosures should be read in conjunction with the accompanying notes 1.1B, 1.1D and 3.2A.

Accounting Policy

For all new contracts entered into, the Entity considers whether the contract is, or contains a lease. A lease is defined as 'a contract, or part of a contract, that conveys the right to use an asset (the underlying asset) for a period of time in exchange for consideration'.

Once it has been determined that a contract is, or contains a lease, the lease liability is initially measured at the present value of the lease payments unpaid at the commencement date, discounted using the interest rate implicit in the lease, if that rate is readily determinable, or the department's incremental borrowing rate.

Subsequent to initial measurement, the liability will be reduced for payments made and increased for interest. It is remeasured to reflect any reassessment or modification to the lease. When the lease liability is remeasured, the corresponding adjustment is reflected in the right-of-use asset or profit and loss depending on the nature of the reassessment or modification.

3.5 Other Provisions

	2023	2022
	\$'000	\$'000
Note 3.5A: Other Provisions		
Provision for restoration obligations	5,287	3,754
Total other provisions	5,287	3,754
	Provision for restoration	Total
	\$'000	\$'000
As at 1 July 2022	3,754	3,754
Additional provisions made	1,761	1,761
Amounts used	(154)	(154)
Unwindings of discount or change in discount rate	(74)	(74)
Total as at 30 June 2023	5,287	5,287

4. Assets and Liabilities Administered on Behalf of Government

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

4.1 Administered – Financial Assets

	2023	2022
	\$'000	\$'000
Note 4.1A: Cash and Cash Equivalents		
Cash on hand or on deposit	128	136
Total cash and cash equivalents	128	136

Credit terms for goods and services receivable were in accordance with the Federal Courts Legislation Amendment (Fees) Regulation 2015 and the Family Law (Fees) Regulation 2012.

Note 4.1B: Trade and other receivables

Goods and services receivables	6,316	5,463
Total goods and services receivables	6,316	5,463
Other receivables		
GST receivable	11	2
Total other receivables	11	2
Total trade and other receivables (gross)	6,327	5,465
Less impairment loss allowance account:		
Goods and services	(5,061)	(4,595)
Total impairment loss allowance	(5,061)	(4,595)
Total trade and other receivables (net)	1,266	870

Accounting Policy

Trade and other receivables

Collectability of debts is reviewed on an ongoing basis and at the end of the reporting period. The Entity use its best endeavours to ensure Court Fees are paid in a timely manner. However, due to the nature of the fees some debts are inherently difficult to collect and result in an impairment loss allowance. The impairment loss allowance is calculated based on the Entity's historical rate of debt collection. Credit terms for services were within 30 days (2022: 30 days).

4.2 Administered – Payables

	2023	2022
	\$'000	\$'000
Note 4.2A: Suppliers		
Trade creditors and accruals	61	15
Total supplier payables	61	15

The contracted liabilities are associated with family dispute resolution services.

Note 4.2B: Other Payables

Unearned income	472	454
Total other payables	472	454

5. Funding

This section identifies the Federal Court of Australia's (the Entity) funding structure.

5.1 Appropriations

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

Annual Appropriations for 2023

	Annual Appropriation ¹ \$'000	Adjustments to Appropriation ² \$'000	Total appropriation \$'000	Appropriation applied in 2023 (current and prior years) \$'000	Variance ³ \$'000
Departmental					
Ordinary annual services	315,438	1,422	316,860	313,958	2,902
Capital Budget	14,651	-	14,651	21,390	(6,739)
Other services					
Equity Injections	-	-	-	4,687	(4,687)
Total departmental	330,089	1,422	331,511	340,035	(8,524)
Administered					
Ordinary annual services					
Administered items	926	-	926	739	187
Total administered	926	-	926	739	187

1. Departmental Capital Budgets are appropriated through Appropriation Acts (No. 1) and Supply Acts (No. 2 and 3). Section 51 of the *PGPA Act* quarantined funds of \$1,102k for withdrawn criminal jurisdiction 2021-22 and \$4,230k for appropriations that were reappropriated between Entity outcomes during 2021-22.

2. Adjustments to appropriation have included receipts collected under Section 74 of the *PGPA Act*.

3. The variance in the expenditure for ordinary annual services is due to timing differences of payments.

Annual Appropriations for 2022

	Annual Appropriation ¹ \$'000	Adjustments to Appropriation ² \$'000	Total appropriation \$'000	Appropriation applied in 2022 (current and prior years) \$'000	Variance ³ \$'000
Departmental					
Ordinary annual services	303,722	1,988	305,710	292,821	12,889
Capital Budget	14,009	-	14,009	14,236	(227)
Other services					
Equity Injections	7,525	-	7,525	2,552	4,973
Total departmental	325,256	1,988	327,244	309,609	17,635
Administered					
Ordinary annual services					
Administered items	925	-	925	416	509
Total administered	925	-	925	416	509

1. Departmental Capital Budgets are appropriated through Appropriation Acts (No. 1, 3). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts, Section 51 of the *PGPA Act* quarantined funds of \$1,102k for withdrawn criminal jurisdiction 2021-22 and \$4,230k for appropriations that were reappropriated between Entity outcomes during 2021-22.

2. Adjustments to appropriation have included receipts collected under Section 74 of the *PGPA Act* and Section 51 quarantined funds.

3. The variance in the expenditure for ordinary annual services is due to timing differences of payments.

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

	2023	2022
	\$'000	\$'000
Departmental		
Appropriation Act (No. 1) (2022-23)	55	-
Appropriation Act (No. 1) - Departmental Capital Budget (DCB) (2020-21)	-	5,027
Appropriation Act (No. 1) - Departmental Capital Budget (DCB) (2021-22)	-	14,009
Appropriation Act (No. 1) - Departmental Capital Budget (DCB) (2022-23)	2,461	-
Appropriation Act (No. 1) – Operating (2020-21)	2,036	2,036
Appropriation Act (No. 1) - Operating (2021-22)	5,332	122,247
Appropriation Act (No. 1) - Operating (2022-23)	15,858	-
Appropriation Act (No. 2) - Equity Injections (2020-21)	103	165
Appropriation Act (No. 2) - Equity Injections (2021-22)	-	4,531
Appropriation Act (No. 3) - Operating (2021-22)	-	1,236
Appropriation Act (No. 4) - Equity Injections (2021-22)	2,901	2,994
Supply Act (No. 1) - Departmental Capital Budget (DCB) (2022-23)	2,725	-
Supply Act (No. 3) - Departmental Capital Budget (DCB) (2022-23)	7,111	-
Supply Act (No. 3) - Operating (2022-23)	105,464	-
Cash at bank	1,191	1,607
Total departmental	145,236	153,853
Administered		
Appropriation Act (No 1)	187	509
Total administered	187	509

1. \$103k unspent appropriation will lapse on 1 July 2023.

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

	Appropriation applied	
	2023	2022
	\$'000	\$'000
Authority		
Public Governance, Performance and Accountability Act 2013, Section 77, Administered	741	839
Total special appropriations applied	741	839

5.2 Special Accounts

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

	Departmental		Administered			
	Services for other entities and Trust Moneys Special Account ¹		Federal Court Of Australia Litigants Fund Special Account ²		Family Court and Federal Circuit Court Litigants Fund Special Account ³	
	2023	2022	2023	2022	2023	2022
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Balance brought forward from previous period	20	10	46,189	44,980	2,372	5,349
Increases	3,943	86	73,510	37,313	1,659	2,452
Total increases	3,943	86	73,510	37,313	1,659	2,452
Available for payments	3,963	96	119,699	82,293	4,031	7,801
Decreases						
Departmental	3,841	76	-	-	-	-
Administered	-	-	49,799	36,104	2,502	5,429
Total decreases	3,841	76	49,799	36,104	2,502	5,429
Total balance carried to the next period	122	20	69,900	46,189	1,529	2,372
Balance represented by:						
Cash held in entity bank accounts	122	20	69,900	46,189	1,529	2,372
Cash held in the Official Public Account	-	-	-	-	-	-
Total balance carried to the next period	122	20	69,900	46,189	1,529	2,372

- 1) Appropriation: *Public Governance Performance and Accountability Act* Section 78. Establishing Instrument: *PGPA Act Determination (Federal Court of Australia SOETM Special Account 2022)*. Purpose: For paragraph 78(1)(c) of the Act, the purposes of the special account, in relation to which amounts may be debited from the special account, are:
 - a) to disburse an amount held on trust or otherwise for the benefit of a person other than the Commonwealth;
 - b) to disburse an amount in connection with services performed for, on behalf of or together with, a Commonwealth entity, Commonwealth company, government, organisation, body or person;
 - c) to disburse an amount in connection with joint activities performed for, on behalf of, or together with, a Commonwealth entity, Commonwealth company, government, organisation, body or person;
 - d) to disburse an amount in connection with an agreement between the Commonwealth and another government;
 - e) to repay an amount where a court order, Act or other law requires or permits the repayment of an amount received; and
 - f) to reduce the balance of the special account (and, therefore, the available appropriation for the special account) without making a real or notional payment.
- 2) Appropriation: *Public Governance Performance and Accountability Act* Section 78. Establishing Instrument: *PGPA Act Determination (Establishment of FCA Litigants' Fund Special Account 2017)*. Purpose: The purpose of the Federal Court of Australia Litigants' Fund Special Account in relation to which amounts may be debited from the Special Account are:
 - a) In accordance with:
 - (i) An order of the Federal Court of Australia or a Judge of that Court under Rule 2.43 of the Federal Court Rules; or
 - (ii) A direction of a Registrar under that Order; and
 - b) In any other case in accordance with the order of the Federal Court of Australia or a Judge of that Court.

- 3) Appropriation: *Public Governance Performance and Accountability Act* Section 78. Establishing Instrument: Determination 2013/06. The Finance Minister has issued a determination under Subsection 20(1) of the FMA ACT 1997 (repealed) establishing the Federal Court of Australia Litigants' Fund Special Account when the Federal Circuit Court of Australia and Family Court of Australia merged on 1 July 2014. Purpose: Litigants Fund Special Account :
- for amounts received in respect of proceedings of the Federal Circuit and Family Court of Australia (Division 1) or the Federal Circuit and Family Court of Australia (Division 2);
 - for amounts received in respect of proceedings that have been transferred from another court to Federal Circuit and Family Court of Australia (Division 1) or the Federal Circuit and Family Court of Australia (Division 2);
 - for amounts received from the Family Court of Australia Litigants' Fund Special Account or the Federal Magistrates Court Litigants' Fund Special Account;
 - to make payments in accordance with an order (however described) made by a court under the Family Law Act 1975, the Federal Circuit and Family Court of Australia (Division 1), or a Judge of that Court;
 - to make payments in accordance with an order (however described) made by a court under the Federal Circuit Court of Australia Act 1999 (formerly the Federal Magistrates Act 1999), the Federal Circuit and Family Court of Australia (Division 2), or a Judge of that Court;
 - to repay amounts received by the Commonwealth and credited to this Special Account where an Act of Parliament or other law requires or permits the amount to be repaid; and
 - to reduce the balance of this Special Account without making a real or notional payment.
- 4) The closing balance of the Services for Other Entities and Trust Moneys Special Account includes amounts held in trust of \$122,000 in 2023 and \$20,000 in 2022. The closing balance of the Federal Court of Australia Litigants Fund Special Account² includes amounts held in trust of \$69.900m in 2023 and \$46.189m in 2022. The closing balance of the Family Court and Federal Circuit Court Litigants Fund Special Account³ includes amounts held in trust of \$1.529m in 2023 and \$2.372m in 2022.

Note 5.2B: Trust Money Special Accounts

The Court holds funds in bank accounts on behalf of parties to Court matters. These amounts are held for the benefit of litigants and are only payable by order of the Court. The funds held in this note relate to the Special Accounts listed in Note 5.2A above.

	2023	2022
	\$'000	\$'000
Litigants Fund Accounts		
As at 1 July	48,580	50,338
Receipts	79,113	39,851
Payments	(56,142)	(41,609)
Total as at 30 June	71,551	48,580
Total monetary assets held in trust	71,551	48,580

5.3 Net Cash Appropriation Arrangements

	2023	2022
	\$'000	\$'000
Total comprehensive income/(loss) - as per the Statement of Comprehensive Income	(7,714)	2,413
Plus: depreciation/amortisation of assets funded through appropriations (departmental capital budget funding and/or equity injections)	16,055	14,580
Plus: depreciation of right-of-use assets	21,012	20,112
Less: lease principal repayments	(19,921)	(19,209)
Net Cash Operating Surplus/ (Deficit)	9,432	17,896

6. People and Relationships

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

6.1 Employee Provisions

	2023	2022
	\$'000	\$'000
Note 6.1A: Employee Provisions		
Leave	33,340	31,793
Judges leave	29,662	28,810
Total employee provisions	63,002	60,603

Accounting Policy

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits expected within twelve months of the end of the reporting period are measured at their nominal amounts.

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

Leave

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

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

The liability for annual leave and long service leave has been determined by reference to the work of an actuary as at 30 June 2023. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

Separation and redundancy

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

Superannuation

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

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

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

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

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

Judges' pension

Under the *Judges' Pension Act 1968*, Federal Court and Federal Circuit and Family Court of Australia (Division 1) Judges are entitled to a non-contributory pension upon retirement after attaining the age of 60 and completing at least 10 years service. As the liability for these pension payments is assumed by the Australian Government, the Entity has not recognised a liability for unfunded superannuation liability. The Entity does, however, recognise a revenue and corresponding expense item, "Liabilities assumed by other agencies", in respect of the notional amount of the employer contributions to Judges' pensions for the reporting period amounting to \$37.79 million (2022: \$36.06 million). The contribution rate has been provided by the Department of Finance following an actuarial review.

6.2 Key Management Personnel Remuneration

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the Entity, directly or indirectly, including any director (whether executive or otherwise) of that Entity. The Entity has determined the key management personnel to be the Chief Justices and the Chief Executive Officers of the Federal Court of Australia, Federal Circuit and Family Court of Australia (Division 1), the Federal Circuit and Family Court of Australia (Division 2), the President and Registrar of the National Native Title Tribunal and the Executive Director of Corporate Services.

Note 6.2A: Key Management Personnel Remuneration

	2023 \$'000	2022 \$'000
Short-term employee benefits	2,879	3,079
Post-employment benefits	1,087	1,084
Other long-term employee benefits	137	150
Total key management personnel remuneration expenses	4,103	4,313

The total number of key management personnel that are included in the above table is 8 (2022: 8).

1. The above key management personnel remuneration excludes the remuneration and other benefits of the Portfolio Minister. The Portfolio Minister's remuneration and other benefits are set by the Remuneration Tribunal and are not paid by the Entity.
2. The above key management personnel remuneration includes remuneration for the Chief Justice of the Federal Court of Australia and the Chief Justice of the Federal Circuit and Family Court of Australia, totalling \$2.885m. The Chief Justices are not officials of the Entity but are responsible for managing the administrative affairs of the Courts under the *Federal Court of Australia Act 1976* and the *Federal Circuit and Family Court of Australia Act 2021*.

6.3 Related Party Disclosures

Related party relationships:

The Entity is an Australian Government controlled entity within the Attorney-General's portfolio. Related parties to the Entity are Key Management Personnel including the Portfolio Minister and Executive and other Australian Government entities.

Transactions with related parties:

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

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

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

The Entity has no transactions with related parties to disclose as at 30 June 2023 (2022: none).

7. Managing Uncertainties

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

7.1 Contingent Liabilities and Assets

Note 7.1A: Contingent Liabilities and Assets

Quantifiable Contingencies

The Federal Court of Australia (the Entity) has no quantifiable contingent assets or liabilities as at 30 June 2023 (2022: none).

Unquantifiable Contingencies

The Federal Court of Australia (the Entity) has no unquantifiable contingent assets or liabilities as at 30 June 2023 (2022: none).

Accounting Policy

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

Note 7.1B: Administered Contingent Assets and Liabilities

The Entity has no quantifiable or unquantifiable administered contingent liabilities or assets as at 30 June 2023 (2022: none).

7.2 Financial Instruments

	2023	2022
	\$'000	\$'000
Note 7.2A: Categories of Financial Instruments		
Financial assets		
Financial assets at amortised cost		
Cash and cash equivalents	1,191	1,607
Trade and other receivables	515	258
Total financial assets at amortised cost	1,706	1,865
Total financial assets	1,706	1,865
Financial Liabilities		
Financial liabilities measured at amortised cost		
Trade creditors	5,941	7,145
Total financial liabilities	5,941	7,145

Accounting Policy

In accordance with AASB 9 Financial Instruments, the Entity classifies its financial assets in the following categories:

- a) financial assets at fair value through profit or loss;
- b) financial assets at fair value through other comprehensive income; and
- c) financial assets measured at amortised cost.

The classification depends on both the Entity's business model for managing the financial assets and contractual cash flow characteristics at the time of initial recognition.

Financial assets are recognised when the Entity becomes a party to the contract and, as a consequence, has a legal right to receive or a legal obligation to pay cash and derecognised when the contractual rights to the cash flows from the financial asset expire or are transferred upon trade date.

Financial Assets at Amortised Cost

Financial assets included in this category need to meet two criteria:

- 1. the financial asset is held in order to collect the contractual cash flows; and
- 2. the cash flows are solely payments of principal and interest (SPPI) on the principal outstanding amount.

Amortised cost is determined using the effective interest method.

Effective Interest Method

Income is recognised on an effective interest rate basis for financial assets that are recognised at amortised cost.

Impairment of financial assets

Financial assets are assessed for impairment at the end of each reporting period based on Expected Credit Losses, using the general approach which measures the loss allowance based on an amount equal to lifetime expected credit losses where risk has significantly increased, or an amount equal to 12-month expected credit losses if risk has not increased.

The simplified approach for trade, contract and lease receivables is used. This approach always measures the loss allowance as the amount equal to the lifetime expected credit losses.

A write-off constitutes a derecognition event where the write-off directly reduces the gross carrying amount of the financial asset.

Accounting Policy (continued)**Financial Liabilities**

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

Financial Liabilities at Amortised Cost

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

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

7.3 Administered – Financial Instruments

	2023	2022
	\$'000	\$'000

Note 7.3A: Categories of Financial Instruments**Financial assets at amortised cost**

Cash and cash equivalents	128	136
Other receivables	1,266	870
Total financial assets at amortised cost	1,394	1,006
Total financial assets	1,394	1,006

2023	2022
\$'000	\$'000

Note 7.3B: Net Gains or Losses on Financial Liabilities**Financial liabilities measured at amortised cost**

Interest expense	2,213	1,529
Net gains/(losses) on financial liabilities measured at amortised cost	2,213	1,529

7.4 Fair Value Measurement

Accounting Policy

AASB 2015-7 provides relief for not for profit public sector entities from making certain specified disclosures about the fair value measurement of assets measured at fair value and categorised within Level 3 of the fair value hierarchy.

Valuations are performed regularly so as to ensure that the carrying amount does not materially differ from fair value at the reporting date. A valuation was made by an external valuer in 2023. The Entity reviews the method used by the valuer annually.

Note 7.4A: Fair Value Measurement

	Fair value measurements at the end of the reporting period	
	2023	2022
	\$'000	\$'000
Non-financial assets		
Leasehold improvements	40,874	32,566
Plant and equipment	32,137	25,533

The Entity's assets are held for operational purposes and not held for the purposes of deriving a profit. The current use of these assets is considered to be the highest and best use.

There have been no transfers between the levels of the hierarchy during the year. The Court deems transfers between levels of the fair value hierarchy to have occurred when advised by an independent valuer or a change in the market for particular items.

8. Other Information

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

8.1 Current/ non-current distinction for assets and liabilities

	2023	2022
	\$'000	\$'000
Note 8.1A: Current/non-current distinction for assets and liabilities		
Assets expected to be recovered in:		
No more than 12 months		
Cash and cash equivalents	1,191	1,607
Trade and other receivables	138,326	146,178
Prepayments	5,102	3,950
Inventories	-	3
Total no more than 12 months	144,619	151,738
More than 12 months		
Trade and other receivables	2	1
Buildings	169,537	154,363
Plant and equipment	36,235	28,759
Computer software	10,860	9,625
Prepayments	432	9
Total more than 12 months	217,066	192,757
Total assets	361,685	344,495
Liabilities expected to be settled in:		
No more than 12 months		
Suppliers	5,941	7,145
Other payables	4,406	5,306
Leases	19,734	17,592
Employee provisions	16,393	16,142
Other provisions	955	1,128
Total no more than 12 months	47,429	47,313
More than 12 months		
Other payables	82	84
Leases	118,820	112,535
Employee provisions	46,609	44,461
Other provisions	4,332	2,626
Total more than 12 months	169,843	159,706
Total liabilities	217,272	207,019

	2023	2022
	\$'000	\$'000
<u>Note 8.1B: Administered - Current/non-current distinction for assets and liabilities</u>		
Assets expected to be recovered in:		
No more than 12 months		
Cash and cash equivalents	128	136
Trade and other receivables	1,266	870
Total no more than 12 months	1,394	1,006
Total more than 12 months	-	-
Total assets	1,394	1,006
Liabilities expected to be settled in:		
No more than 12 months		
Suppliers	61	15
Other payables	472	454
Total no more than 12 months	533	469
More than 12 months		
Total more than 12 months	-	-
Total liabilities	533	469

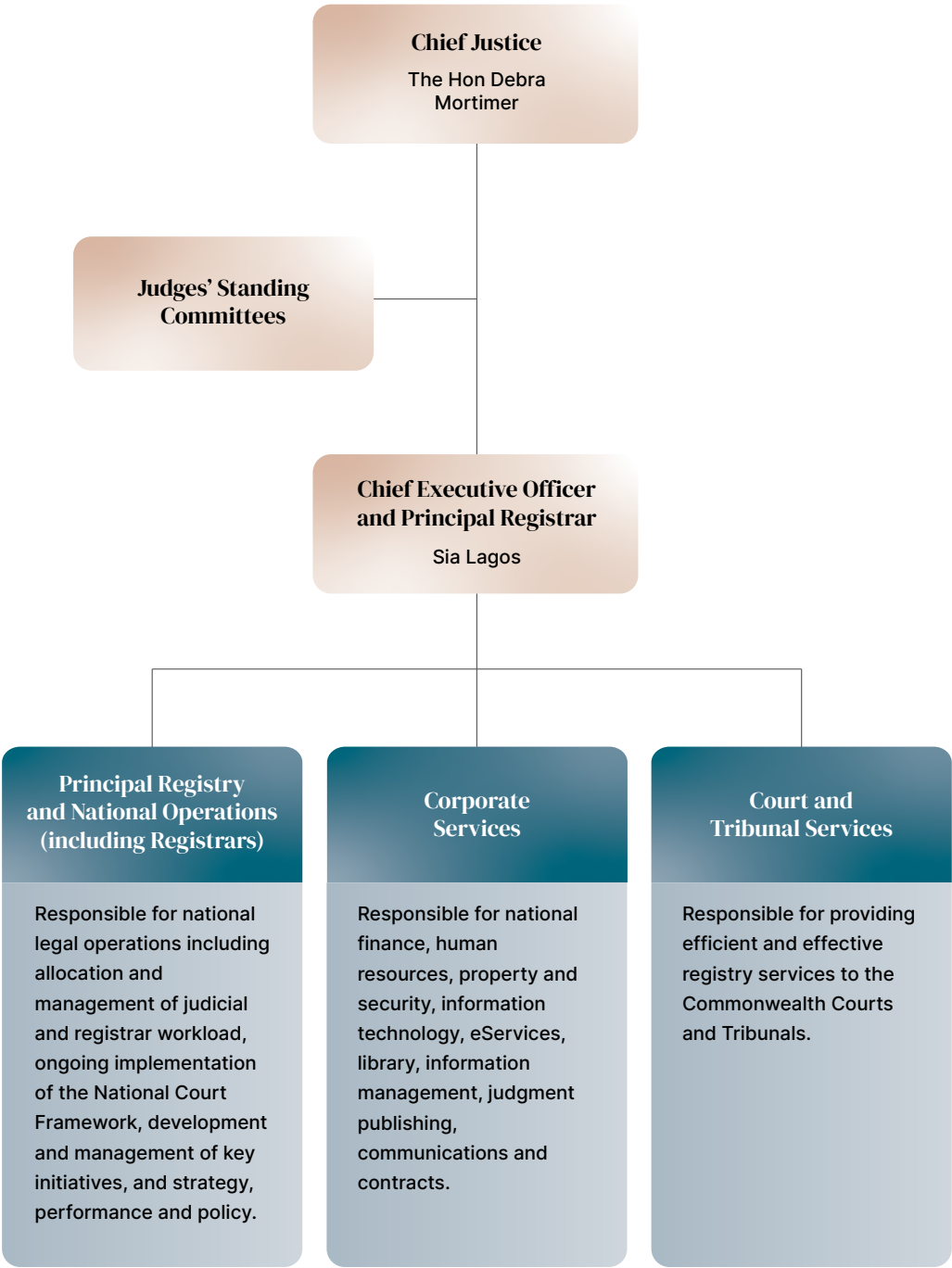
Appendix 2: Entity Resource Statement

	Actual available appropriations for 2022–23 \$'000	Payments made 2022–23 \$'000	Balance remaining (\$'000)
ORDINARY ANNUAL SERVICES ¹			
Departmental appropriation			
Departmental appropriation ¹	477,996	340,128	137,868
Total	477,996	340,128	137,868
Administered expenses			
Outcome 3	927	739	188
Total	927	739	188
Total ordinary annual services	478,923	340,867	138,056
Special Appropriations limited by criteria / entitlement			
<i>Public Governance, Performance and Accountability Act 2013, s77</i>	900	741	159
Total	900	741	159
Total net resourcing and payments for Court	479,823	341,608	138,215

¹ Includes a Departmental Capital Budget of \$12.297m and equity injections of \$3.004m

Appendix 3: Organisational Chart

Federal Court organisational structure as at 30 June 2023



Appendix 4: Registrars of the Court, 30 June 2023

Executive

NAME	TITLE	LOCATION	APPOINTMENTS
Sia Lagos	Chief Executive Officer and Principal Registrar	Melbourne, VIC	<ul style="list-style-type: none"> Chief Executive Officer and Principal Registrar, Federal Court of Australia

Office of the General Counsel

NAME	TITLE	LOCATION	APPOINTMENTS
Scott Tredwell	General Counsel	Brisbane, QLD	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia Deputy Sheriff, Federal Court of Australia Deputy Sheriff, Federal Circuit and Family Court of Australia Deputy Marshal, Federal Circuit and Family Court of Australia
Rohan Muscat	National Registrar	Sydney, NSW	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia

National Operations – Legal

Principal Judicial Registrar

NAME	TITLE	LOCATION	APPOINTMENTS
Catherine Forbes	A/g Principal Judicial Registrar and National Operations Registrar	Melbourne, VIC	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia

Senior National Judicial Registrars

NAME	TITLE	LOCATION	APPOINTMENTS
Rowan Davis	Senior National Judicial Registrar	Melbourne, VIC	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Paul Farrell	Senior National Judicial Registrar and District Registrar	Sydney, NSW	<ul style="list-style-type: none"> District Registrar (NSW District Registry), Federal Court of Australia District Registrar (ACT District Registry), Federal Court of Australia Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Alison Legge	Senior National Judicial Registrar and National Operations Registrar	Melbourne, VIC	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Jennifer Priestley	Senior National Judicial Registrar and National Operations Registrar	Sydney, NSW	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia

National Judicial Registrars and District Registrars

NAME	TITLE	LOCATION	APPOINTMENTS
Nicola Colbran	National Judicial Registrar and District Registrar	Adelaide, SA	<ul style="list-style-type: none"> District Registrar (SA District Registry), Federal Court of Australia District Registrar (NT District Registry), Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia Deputy Registrar, Australian Competition Tribunal Deputy Registrar, Defence Force Discipline Appeal Tribunal
Tim Luxton	National Judicial Registrar and District Registrar	Melbourne, VIC	<ul style="list-style-type: none"> District Registrar (VIC District Registry), Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia Registrar, Australian Competition Tribunal Registrar, Defence Force Discipline Appeal Tribunal

NAME	TITLE	LOCATION	APPOINTMENTS
Peter Schmidt	National Judicial Registrar and District Registrar	Brisbane, QLD	<ul style="list-style-type: none"> District Registrar (QLD District Registry), Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Susie Stone	Acting National Judicial Registrar and District Registrar	Hobart, TAS	<ul style="list-style-type: none"> District Registrar (TAS District Registry), Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia Deputy Registrar, Defence Force Discipline Appeal Tribunal
Russell Trott	National Judicial Registrar and District Registrar	Perth, WA	<ul style="list-style-type: none"> District Registrar (WA District Registry), Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia Deputy Registrar, Australian Competition Tribunal Deputy Registrar, Defence Force Discipline Appeal Tribunal

National Judicial Registrars

NAME	TITLE	LOCATION	APPOINTMENTS
Phillip Allaway	National Judicial Registrar	Melbourne, VIC	<ul style="list-style-type: none"> Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia Deputy Registrar, Defence Force Discipline Appeal Tribunal
Matthew Benter	National Judicial Registrar	Perth, WA	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Rupert Burns	National Judicial Registrar	Melbourne, VIC	<ul style="list-style-type: none"> Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Jacinta Ellis	National Judicial Registrar	Melbourne, VIC	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Simon Haag	National Judicial Registrar	Sydney, NSW	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia

NAME	TITLE	LOCATION	APPOINTMENTS
Susan O'Connor	National Judicial Registrar	Sydney, NSW	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Katie Stride	National Judicial Registrar – Native Title	Brisbane, QLD	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia

Judicial Registrars

NAME	TITLE	LOCATION	APPOINTMENTS
Sydney Birchall	Judicial Registrar	Sydney, NSW	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Michael Buckingham	Judicial Registrar	Brisbane, QLD	<ul style="list-style-type: none"> Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Jodie Burns	Judicial Registrar – Federal Criminal Jurisdiction	Melbourne, VIC	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Christian Carney	Judicial Registrar – Migration	Melbourne, VIC	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Robyn Curnow	Judicial Registrar	Melbourne, VIC	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Samuel Cummings	Judicial Registrar	Adelaide, SA	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Ann Daniel	Judicial Registrar – Native Title	Perth, WA	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Alicia Ditton	Judicial Registrar – Federal Criminal Jurisdiction	Sydney, NSW	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia Deputy Registrar, Norfolk Island Supreme Court

NAME	TITLE	LOCATION	APPOINTMENTS
Amelia Edwards	Judicial Registrar	Melbourne, VIC	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Simon Grant	Judicial Registrar – Native Title	Brisbane, QLD	<ul style="list-style-type: none"> Registrar, Federal Court of Australia
Ivan Ingram	Judicial Registrar – Native Title	Brisbane, QLD	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Kim Lackenby	Judicial Registrar	Canberra, ACT	<ul style="list-style-type: none"> Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia Deputy Registrar, Defence Force Discipline Appeal Tribunal
Katie Lynch	Judicial Registrar	Brisbane, QLD	<ul style="list-style-type: none"> Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia Deputy Registrar, Australian Competition Tribunal
Laurelea McGregor	Judicial Registrar – Native Title	Perth, WA	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Thomas Morgan	Judicial Registrar	Sydney, NSW	<ul style="list-style-type: none"> Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Nicholas Parkyn	Judicial Registrar	Adelaide, SA	<ul style="list-style-type: none"> Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Joanne Wilson	Judicial Registrar	Melbourne, VIC	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia

National Registrars

NAME	TITLE	LOCATION	APPOINTMENTS
Sophie Bird	National Registrar	Melbourne, VIC	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Meredith Cridland	National Registrar	Sydney, NSW	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Thomas Downing	National Registrar	Melbourne, VIC	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Alison Hird	National Registrar	Melbourne, VIC	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Amy Lee	National Registrar	Sydney, NSW	<ul style="list-style-type: none"> Registrar, Federal Court of Australia
Lauren McCormick	National Registrar	Melbourne, VIC	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
David Priddle	National Registrar	Melbourne, VIC	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Tali Rubinstein	National Registrar	Sydney, VIC	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Stephanie Sanders	National Registrar	Melbourne, VIC	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia
Thomas Stewart	National Registrar	Melbourne, VIC	<ul style="list-style-type: none"> Registrar, Federal Court of Australia Registrar, Federal Circuit and Family Court of Australia

Appendix 5: Workload statistics

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 required the checking or verification and possible variation of data previously entered.

Casetrack records matters in the Court classified according to 16 main categories, described as 'causes of action' (CoAs). The classification of matters in this way causes an under representation of the workload because 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 picture possible 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 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.

The Court began reporting on matters by National Practice Areas (NPAs) in 2015–16. This information can be found in Figure A5.16.1 onwards.

TABLE A5.1: SUMMARY OF WORKLOAD STATISTICS – ORIGINAL AND APPELLATE JURISDICTIONS – FILINGS OF MAJOR COAS (INCLUDING APPELLATE AND RELATED ACTIONS)

CAUSE OF ACTION	2018–19	2019–20	2020–21	2021–22	2022–23
Total COAs (including appeals and related actions)					
Filed	6,033	4,484	3,226	3,145	3,399
Finalised	5,715	4,867	2,933	3,099	3,230
Current	3,859	3,476	3,769	3,815	3,984
Corporations (including appeals and related actions)					
Filed	2,804	1,812	738	813	1,299
Finalised	2,852	2,101	705	786	1,080
Current	907	618	651	678	897
Bankruptcy (including appeals and related actions)					
Filed	376	384	288	418	376
Finalised	360	375	315	383	363
Current	221	230	203	238	251
Native title (including appeals and related actions)					
Filed	115	57	55	54	48
Finalised	81	98	86	70	51
Current	339	298	267	251	248

CAUSE OF ACTION	2018–19	2019–20	2020–21	2021–22	2022–23
Total COAs (including appeals and related actions excluding corporations, bankruptcy and native title)					
Filed	2,738	2,231	2,145	1,860	1,676
Finalised	2,422	2,293	1,827	1,860	1,736
Current	2,392	2,330	2,648	2,648	2,588

TABLE A5.2: SUMMARY OF WORKLOAD STATISTICS – EXCLUDING APPEALS AND RELATED ACTIONS – FILINGS OF MAJOR COAs (EXCLUDING APPEALS AND RELATED ACTIONS)

CAUSE OF ACTION	2018–19	2019–20	2020–21	2021–22	2022–23
Total COAs (excluding appeals and related actions)					
Filed	4,618	3,453	2,411	2,496	2,877
Finalised	4,389	3,759	2,280	2,388	2,539
Current	2,920	2,614	2,745	2,853	3,191
Corporations (excluding appeals and related actions)					
Filed	2,768	1,791	704	784	1,274
Finalised	2,824	2,061	676	750	1,061
Current	867	597	625	659	872
Bankruptcy (excluding appeals and related actions)					
Filed	342	342	255	376	348
Finalised	326	339	274	343	328
Current	181	184	165	198	218
Native title (excluding appeals and related actions)					
Filed	112	54	48	44	48
Finalised	71	95	83	63	49
Current	337	296	261	242	241
Total COAs (excluding appeals and related actions excluding bankruptcy and native title)					
Filed	1,396	1,266	1,404	1,292	1,207
Finalised	1,168	1,264	1,247	1,232	1,101
Current	1,535	1,537	1,694	1,754	1,860

TABLE A5.3: SUMMARY OF WORKLOAD STATISTICS – APPEALS AND RELATED ACTIONS ONLY – FILINGS OF APPEALS AND RELATED ACTIONS

CAUSE OF ACTION	2018-19	2019-20	2020-21	2021-22	2022-23
Total appeals and related actions					
Filed	1,415	1,031	815	649	522
Finalised	1,326	1,108	653	711	691
Current	939	862	1,024	962	793
Corporations appeals and related actions					
Filed	36	21	34	29	25
Finalised	28	40	29	36	19
Current	40	21	26	19	25
Migration appeals and related actions					
Filed	1,140	749	547	367	279
Finalised	1,092	849	364	431	434
Current	693	593	776	712	557
Native title appeals and related actions					
Filed	3	3	7	10	0
Finalised	10	3	3	7	2
Current	2	2	6	9	7
Total appeals and related actions (excluding corporations, migration and native title appeals and related actions)					
Filed	236	258	227	243	218
Finalised	196	216	257	237	236
Current	204	246	216	222	204

TABLE A5.4: SUMMARY OF SUPPLEMENTARY WORKLOAD STATISTICS – FILINGS OF SUPPLEMENTARY CAUSES OF ACTION (INCLUDING APPEALS AND RELATED ACTIONS)

CAUSE OF ACTION	2018-19	2019-20	2020-21	2021-22	2022-23
Total COAs (including appeals and related actions)					
Cross appeals (original jurisdiction)	26	15	23	18	11
Cross claims	148	133	154	122	143
Interlocutory applications	1,943	1,900	1,916	2,089	2,032
Native title joinder of party applications	469	444	367	229	316
TOTALS	2,586	2,492	2,460	2,458	2,502

FIGURE A5.1: MATTERS FILED OVER THE LAST FIVE YEARS

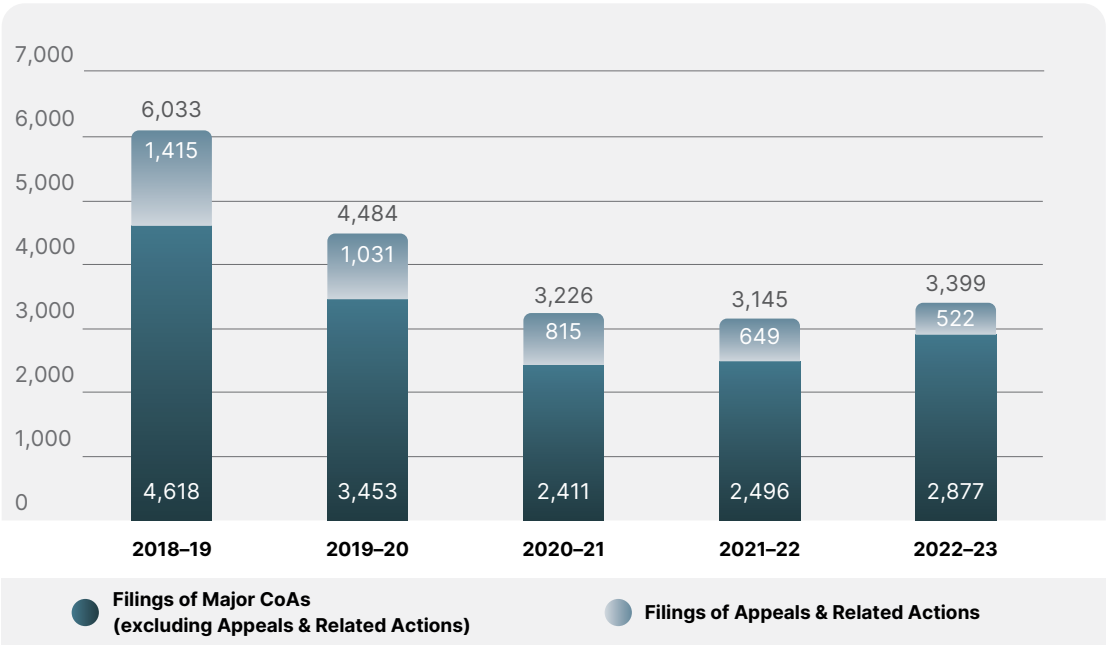
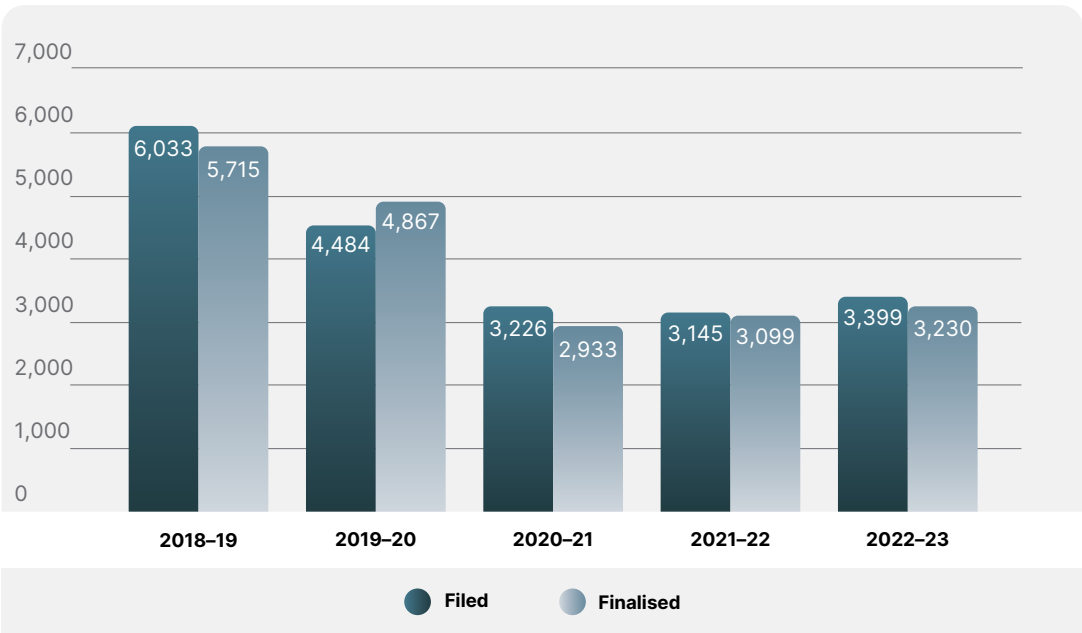
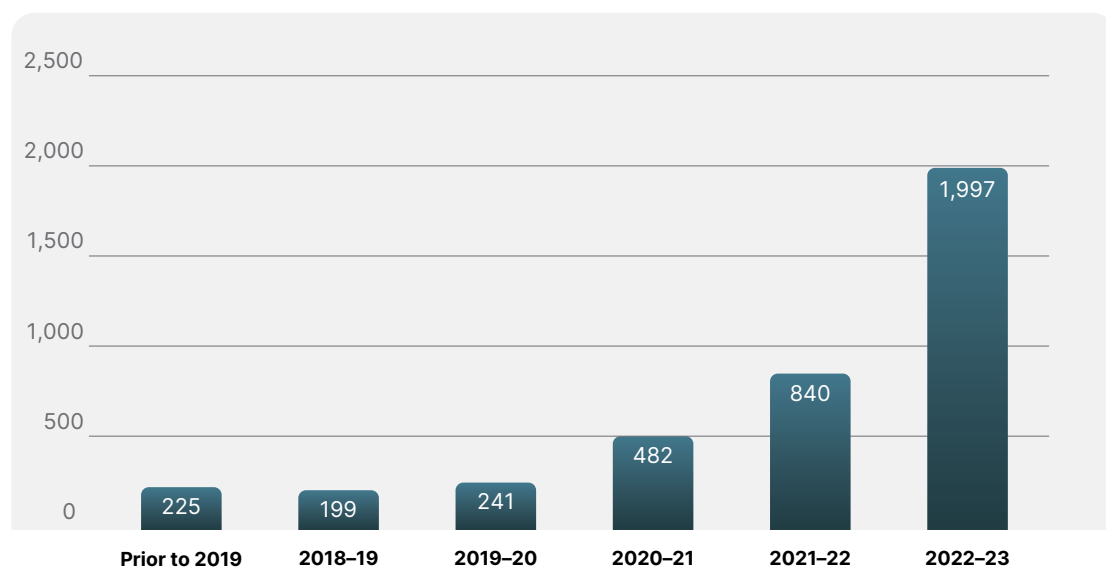


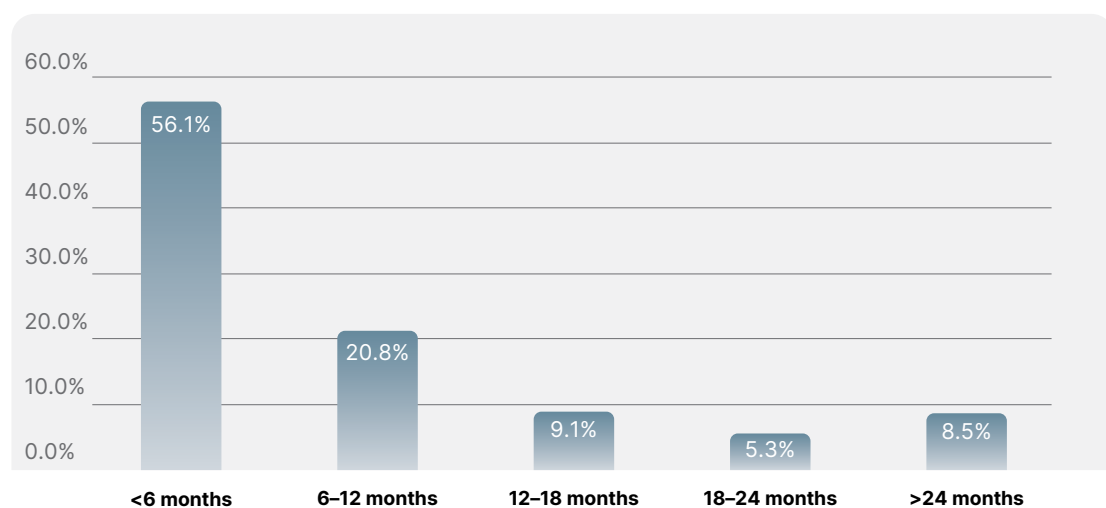
FIGURE A5.2: MATTERS FILED OVER THE LAST FIVE YEARS



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

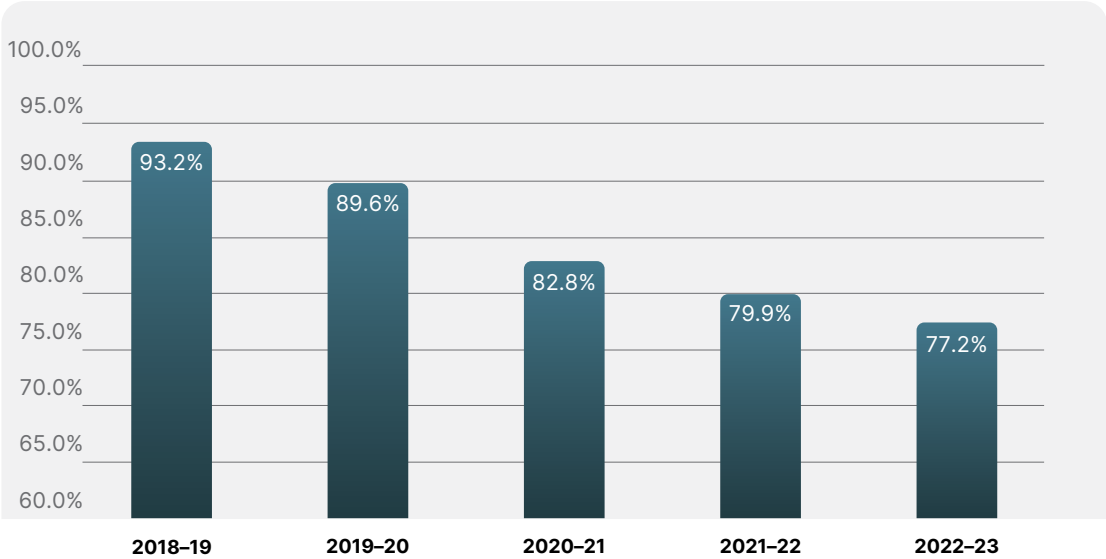
FIGURE A5.3: AGE AND NUMBER OF CURRENT MATTERS AT 30 JUNE 2023

A total of 3,984 matters remain current at 30 June 2023. There were 225 applications still current relating to periods before 2019, of which 85 matters are native title matters (38 per cent).

FIGURE A5.4: TIME SPAN TO COMPLETE – MATTERS COMPLETED (EXCLUDING NATIVE TITLE) OVER THE LAST FIVE YEARS

A total of 19,483 matters were completed during the five-year period ending 30 June 2023, excluding native title matters. The time span, from filing to disposition of these matters, is shown in Figure A5.4.

FIGURE A5.5: TIME SPAN TO COMPLETE AGAINST THE 85 PER CENT BENCHMARK (EXCLUDING NATIVE TITLE) OVER THE LAST FIVE YEARS



The Court has a benchmark of 85 per cent of cases (excluding native title) being completed within 18 months of commencement. Figure A5.5 sets out the Court's performance against this time goal over the last five years. The total number of matters (including appeals but excluding native title) completed for each of the last five years and the time spans for completion are shown in Table A5.5.

TABLE A5.5: FINALISATION OF MAJOR COAS IN ACCORDANCE WITH 85 PER CENT BENCHMARK (INCLUDING APPEALS AND RELATED ACTIONS AND EXCLUDING NATIVE TITLE MATTERS) OVER THE LAST FIVE YEARS

PERCENTAGE COMPLETED	2018-19	2019-20	2020-21	2021-22	2022-23
Under 18 months	5,262	4,277	2,359	2,427	2,455
Percentage of total	93.2%	89.6%	82.8%	79.9%	77.2%
Over 18 months	382	495	491	609	726
Percentage of total	6.8%	10.4%	17.2%	20.1%	22.8%
TOTAL COAs	5,644	4,772	2,850	3,036	3,181

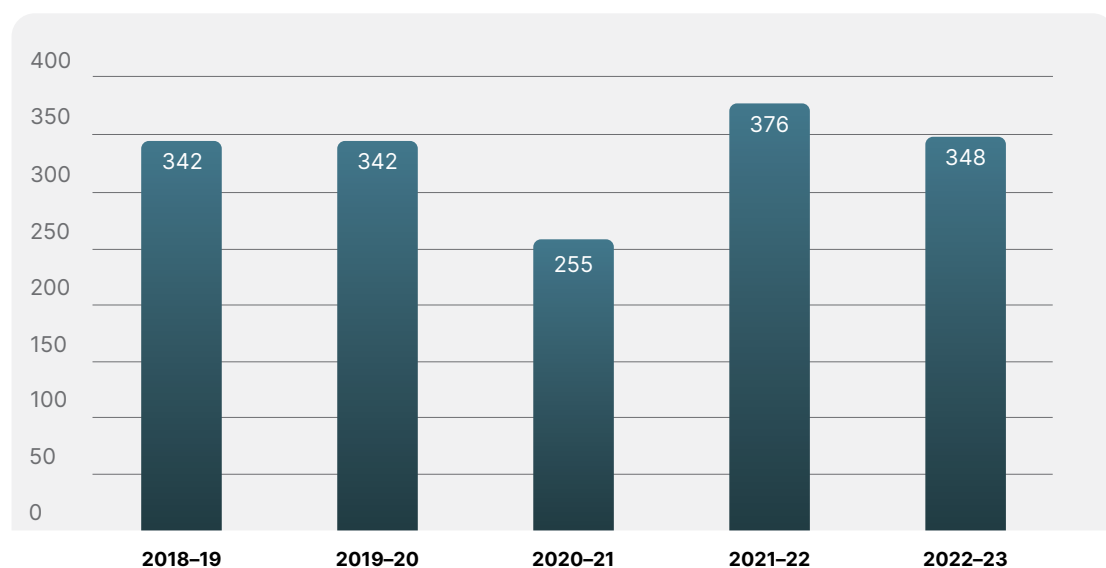
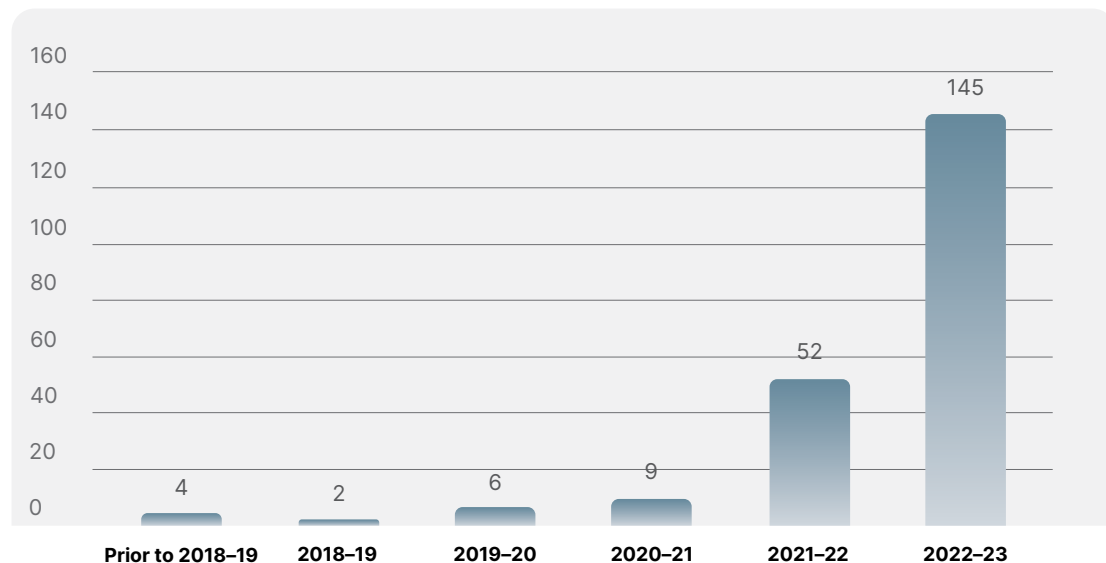
FIGURE A5.6: BANKRUPTCY ACT MATTERS (EXCLUDING APPEALS) FILED OVER THE LAST FIVE YEARS**FIGURE A5.6.1: CURRENT BANKRUPTCY ACT MATTERS (EXCLUDING APPEALS) BY YEAR OF FILING**

FIGURE A5.7: CORPORATION ACT MATTERS (EXCLUDING APPEALS) FILED OVER THE LAST FIVE YEARS

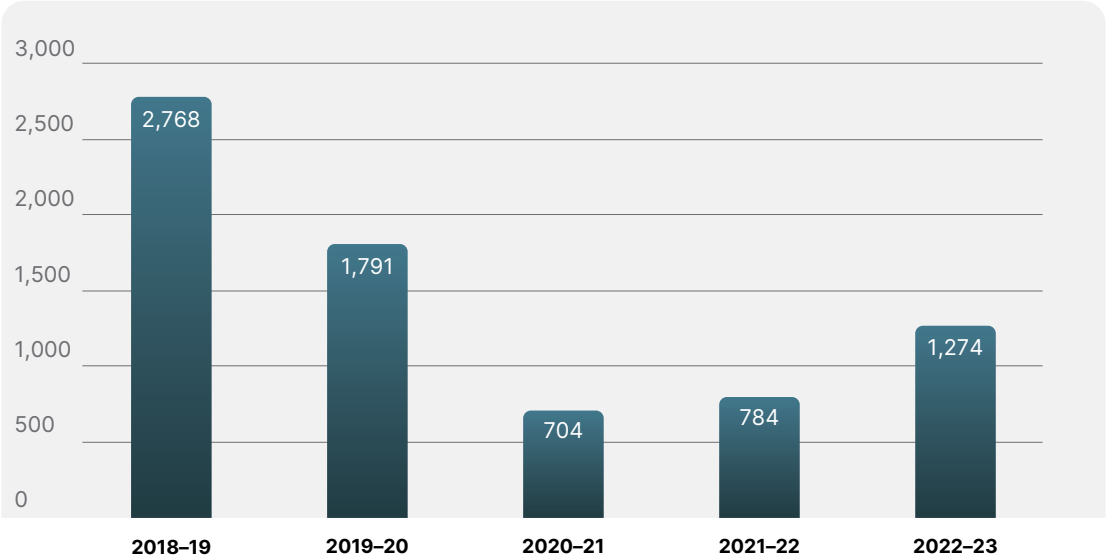


FIGURE A5.7.1: CURRENT CORPORATION MATTERS (EXCLUDING APPEALS) BY YEAR OF FILING

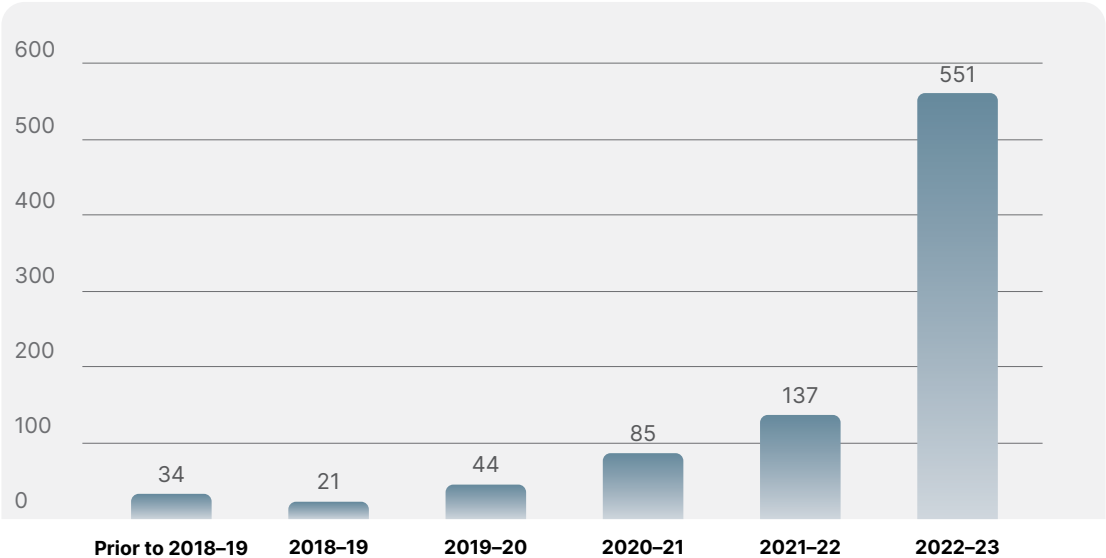


FIGURE A5.8: CONSUMER LAW MATTERS (EXCLUDING COMPETITION LAW AND APPEALS) FILED OVER THE LAST FIVE YEARS

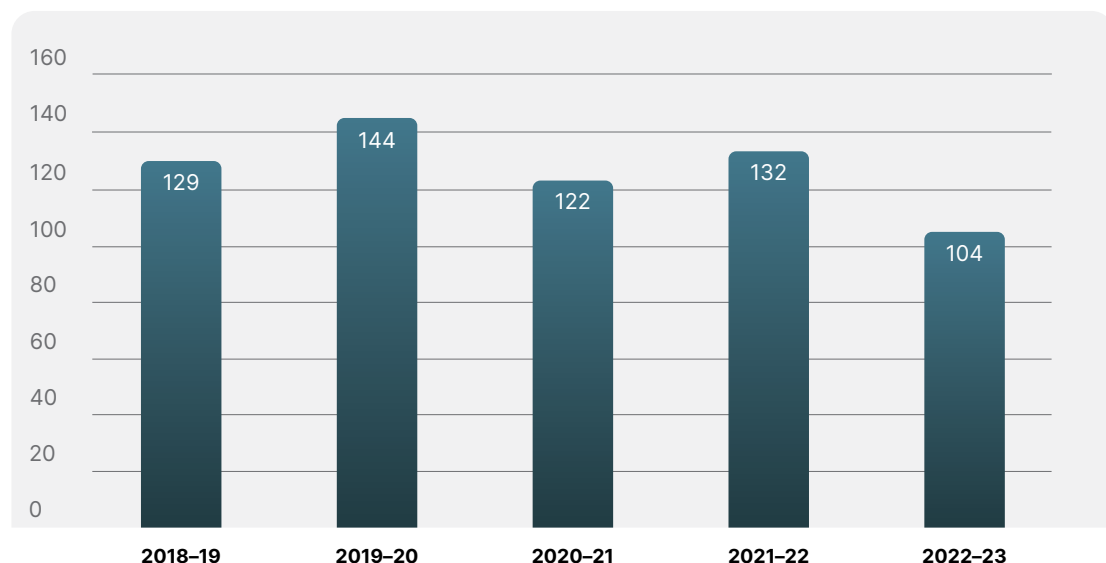


FIGURE A5.8.1: CURRENT CONSUMER LAW MATTERS (EXCLUDING COMPETITION LAW AND APPEALS) BY YEAR OF FILING

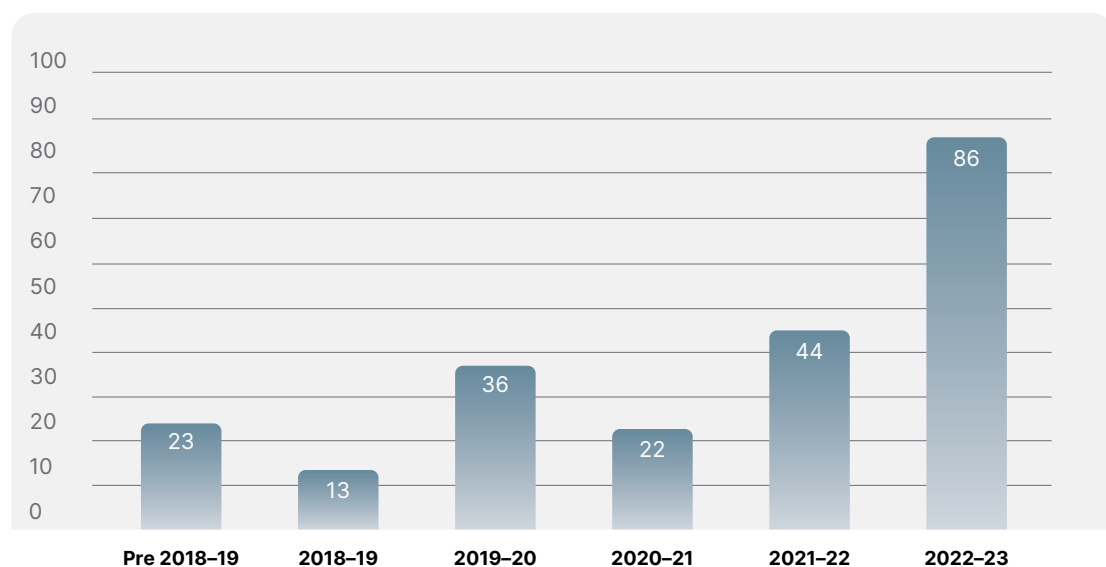


FIGURE A5.9: MIGRATION ACT MATTERS (EXCLUDING APPEALS) FILED OVER THE LAST FIVE YEARS

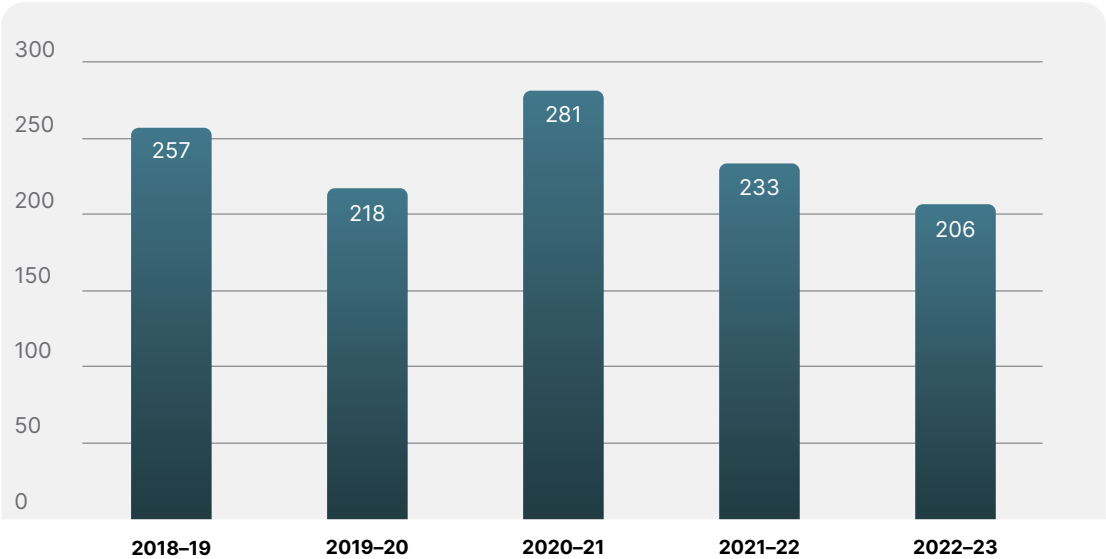


FIGURE A5.9.1: CURRENT MIGRATION MATTERS (EXCLUDING APPEALS) BY YEAR OF FILING

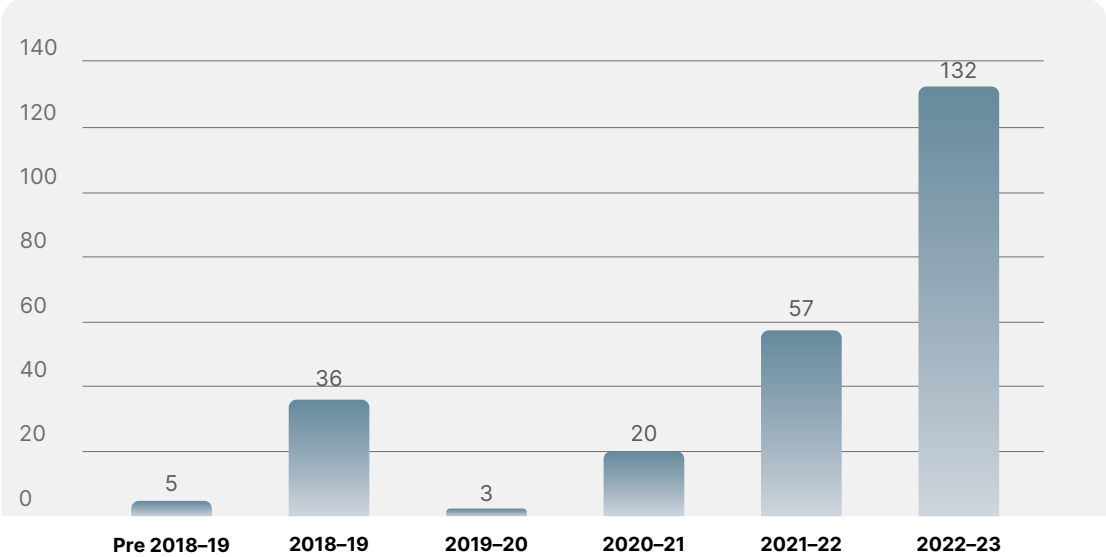


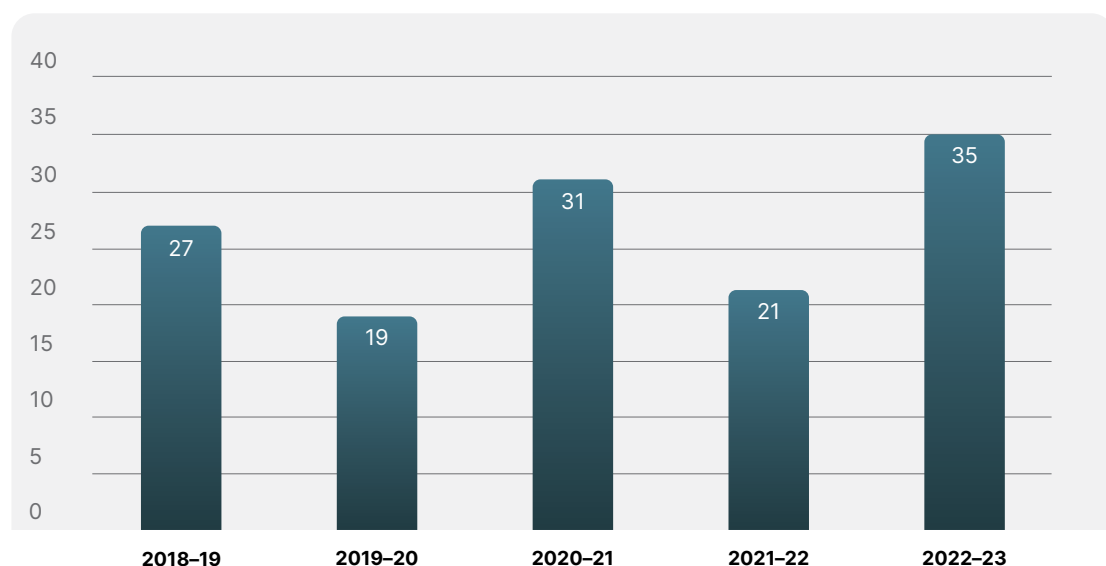
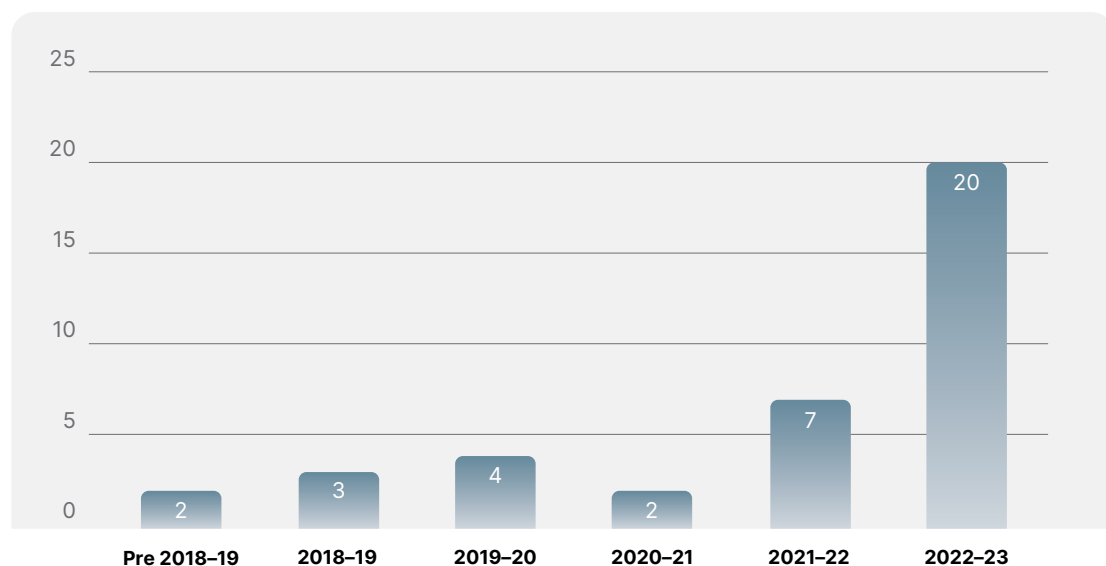
FIGURE A5.10: ADMIRALTY MATTERS (EXCLUDING APPEALS) FILED OVER THE LAST FIVE YEARS**FIGURE A5.10.1: CURRENT ADMIRALTY MATTERS (EXCLUDING APPEALS) BY YEAR OF FILING**

FIGURE A5.11: NATIVE TITLE ACT MATTERS (EXCLUDING APPEALS) FILED OVER THE LAST FIVE YEARS

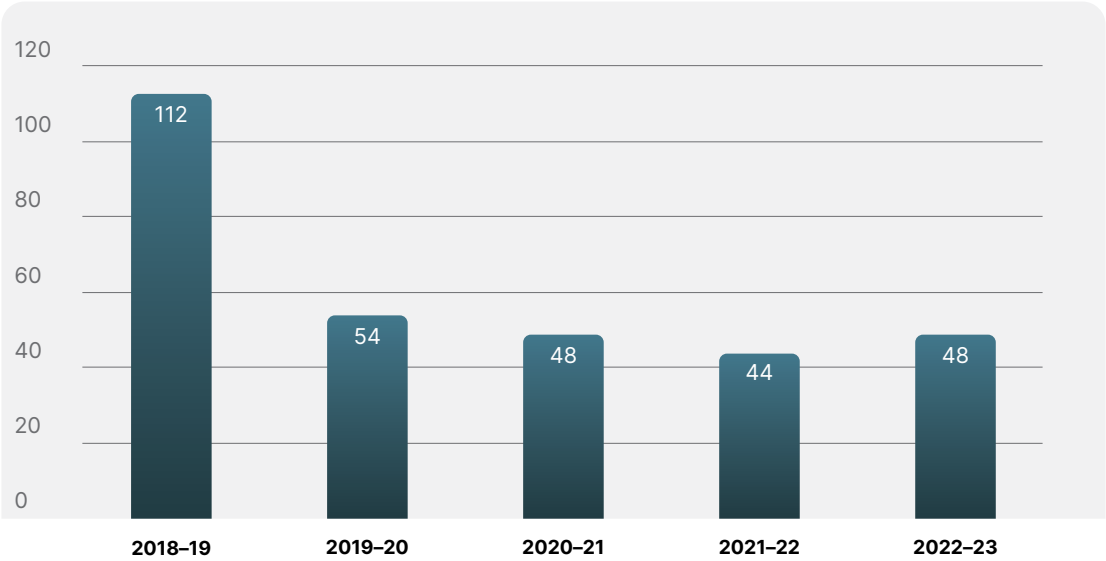


FIGURE A5.11.1: AGE OF CURRENT NATIVE TITLE MATTERS (EXCLUDING APPEALS) BY YEAR OF FILING

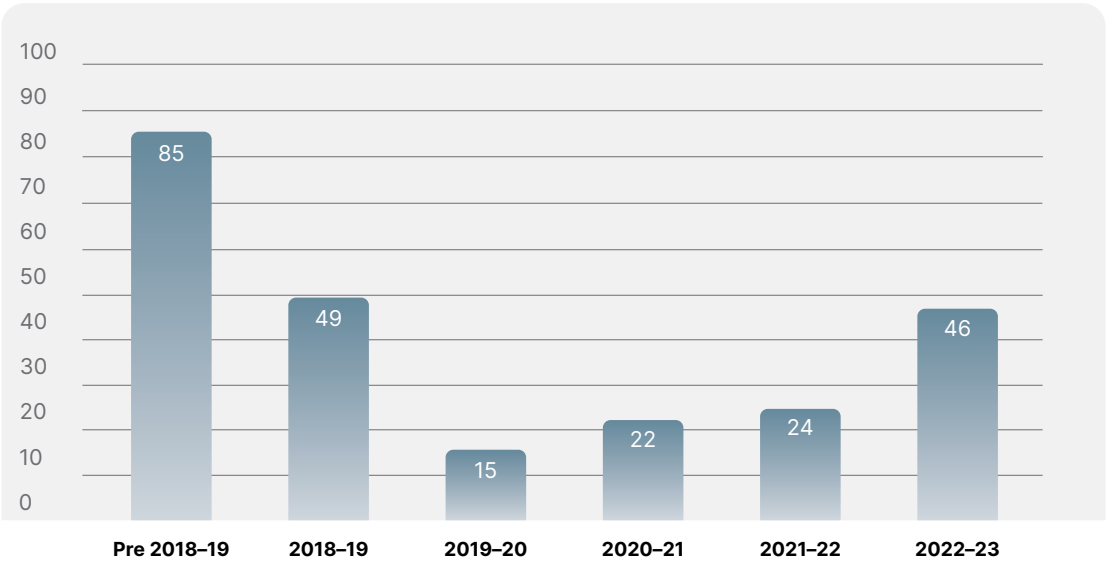


FIGURE A5.12: FAIR WORK/WORKPLACE RELATIONS MATTERS (EXCLUDING APPEALS) FILED OVER THE LAST FIVE YEARS

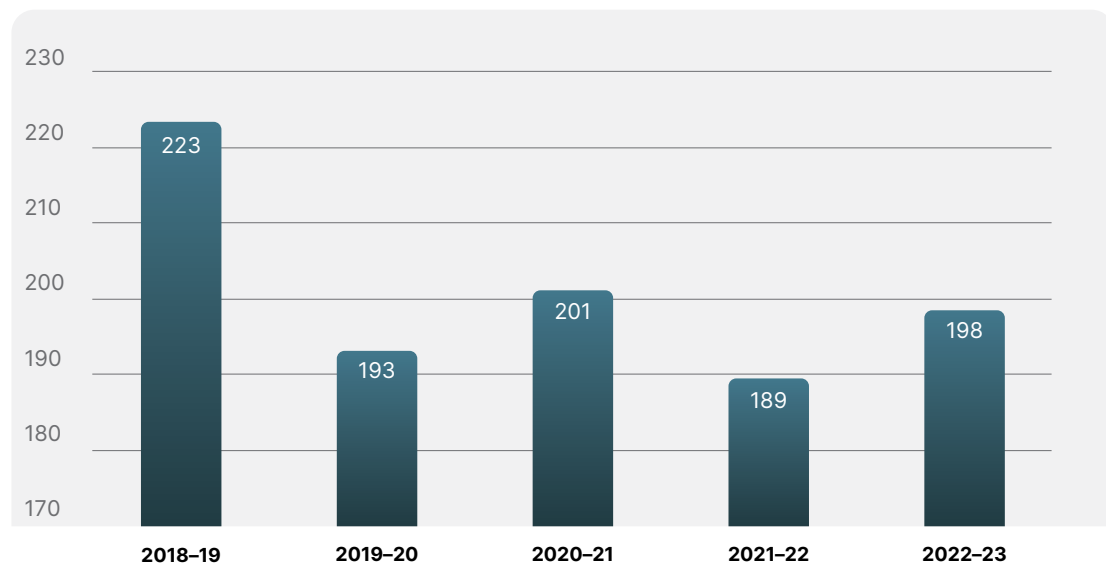


FIGURE A5.12.1: CURRENT FAIR WORK/WORKPLACE RELATIONS MATTERS (EXCLUDING APPEALS) BY YEAR OF FILING

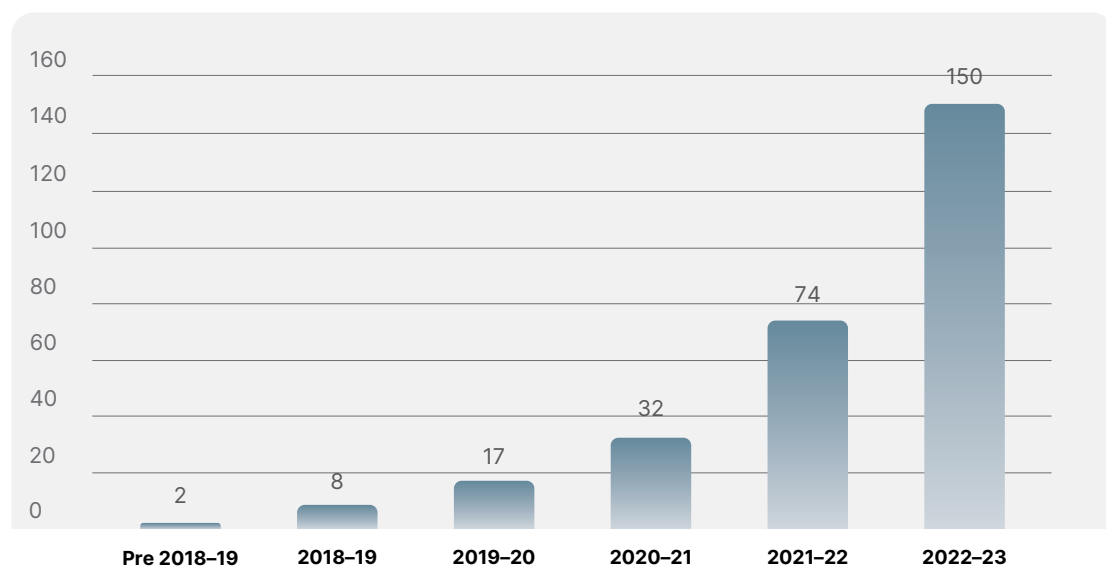


FIGURE A5.13: TAXATION MATTERS (EXCLUDING APPEALS) FILED OVER THE LAST FIVE YEARS

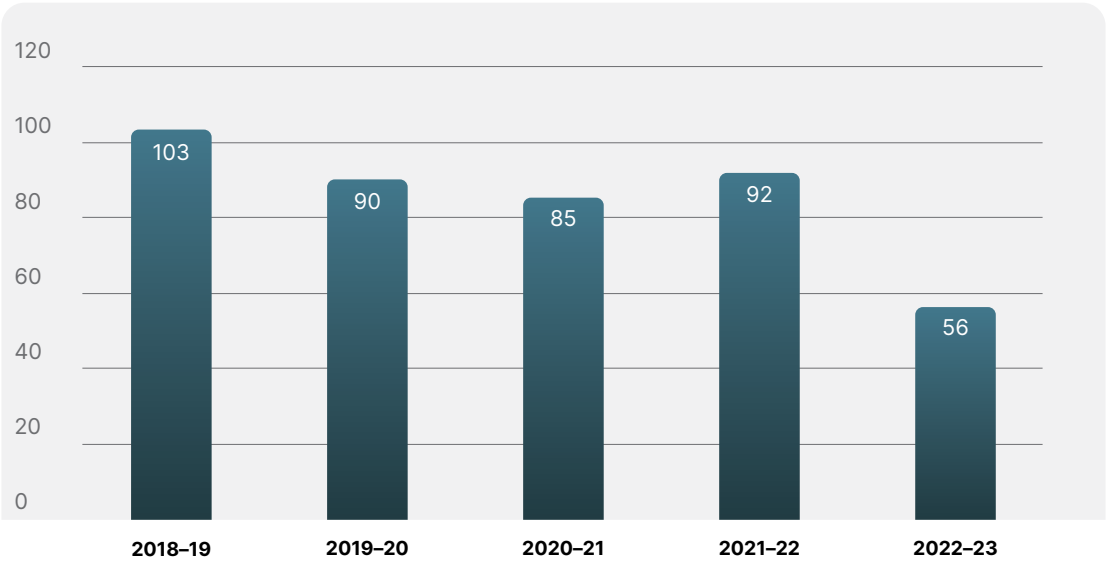


FIGURE A5.13.1: CURRENT TAXATION MATTERS (EXCLUDING APPEALS) BY YEAR OF FILING

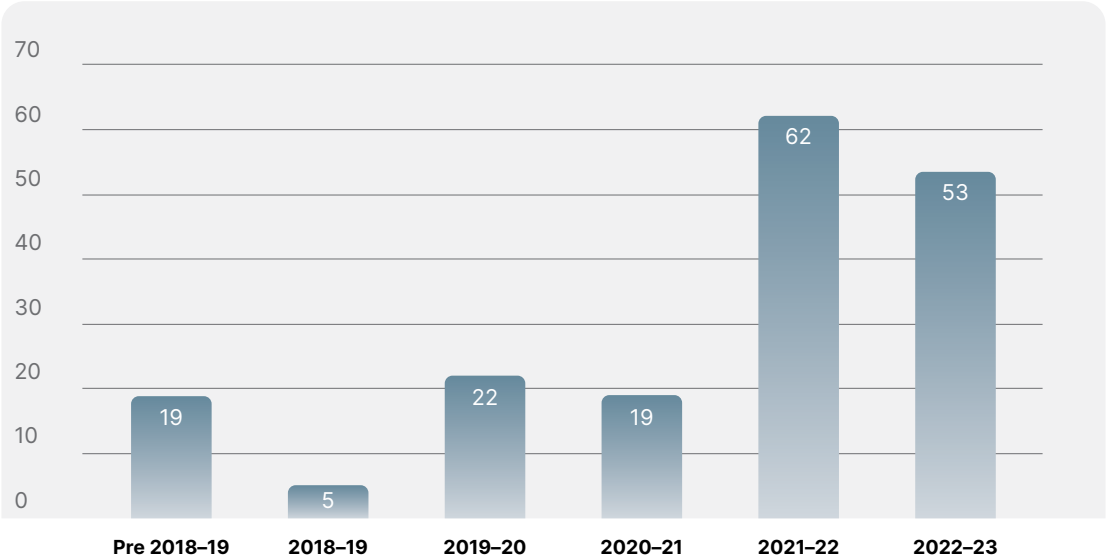


FIGURE A5.14: INTELLECTUAL PROPERTY MATTERS (EXCLUDING APPEALS) FILED OVER THE LAST FIVE YEARS

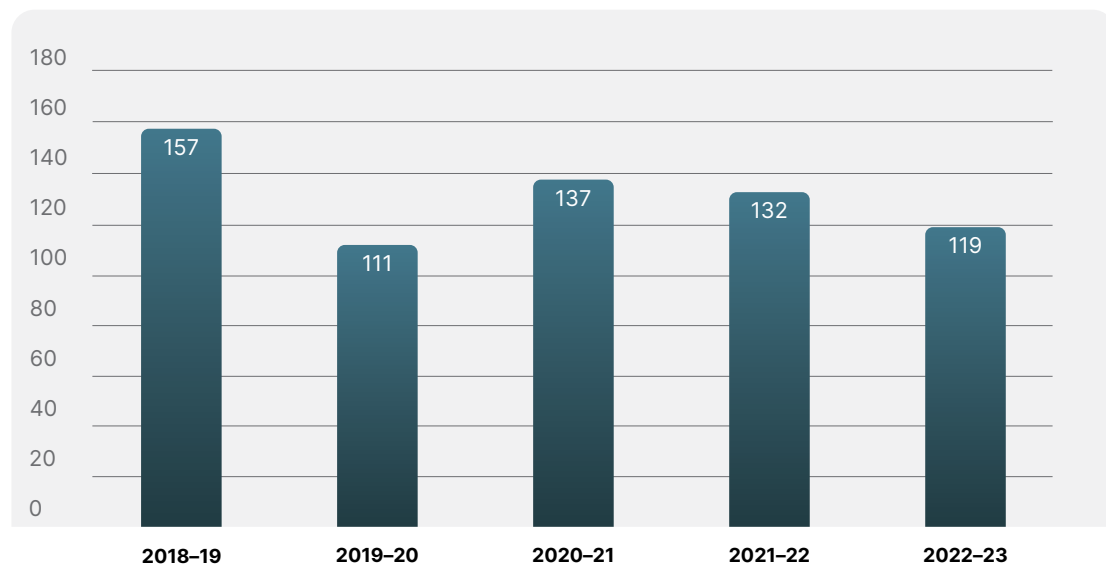


FIGURE A5.14.1: CURRENT INTELLECTUAL PROPERTY MATTERS (EXCLUDING APPEALS) BY YEAR OF FILING

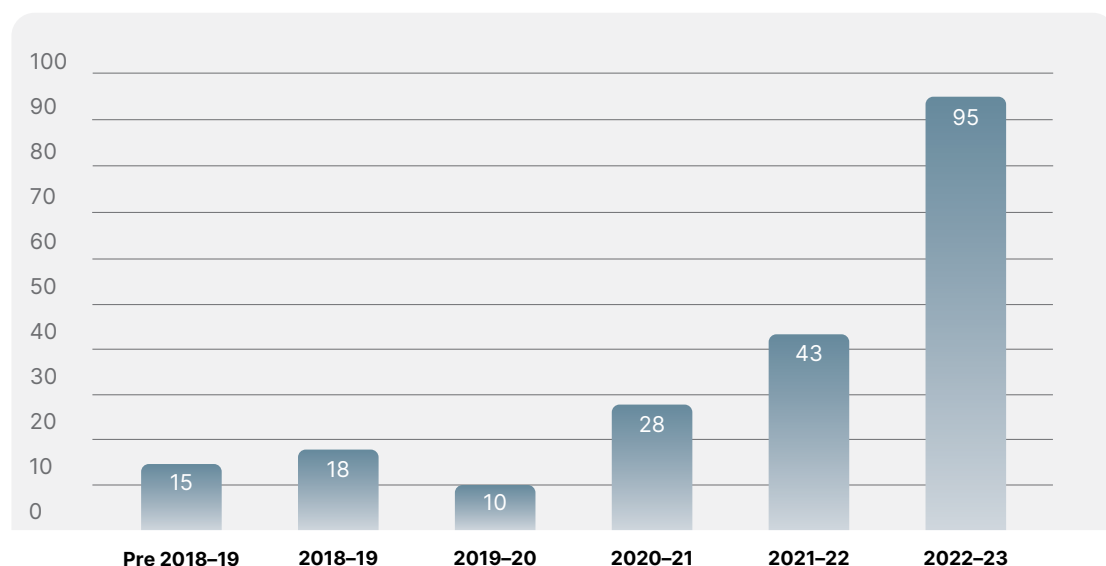


FIGURE A5.15: APPEALS AND RELATED ACTIONS FILED OVER THE LAST FIVE YEARS

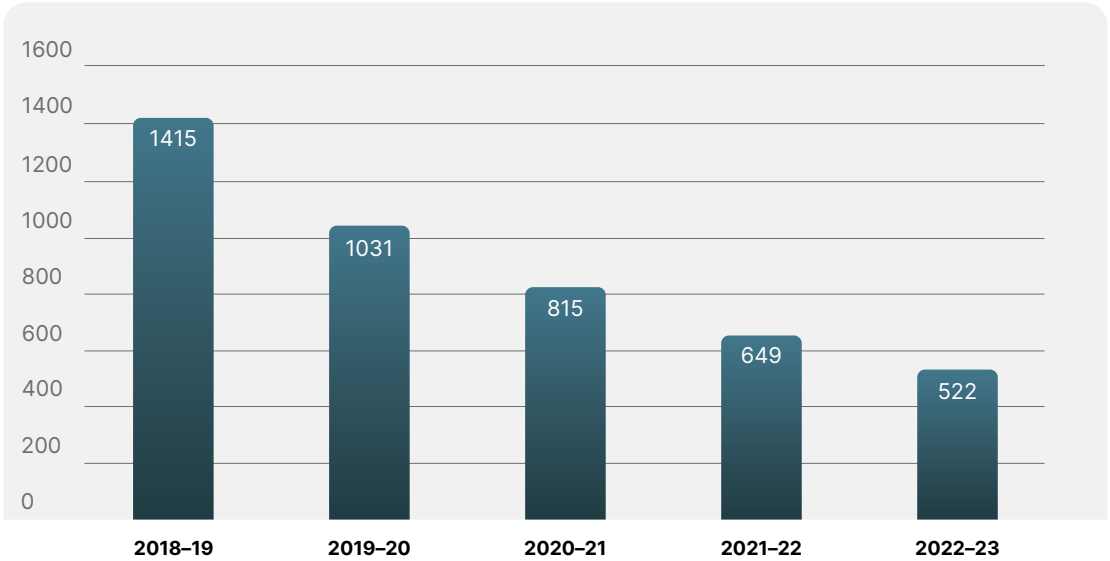
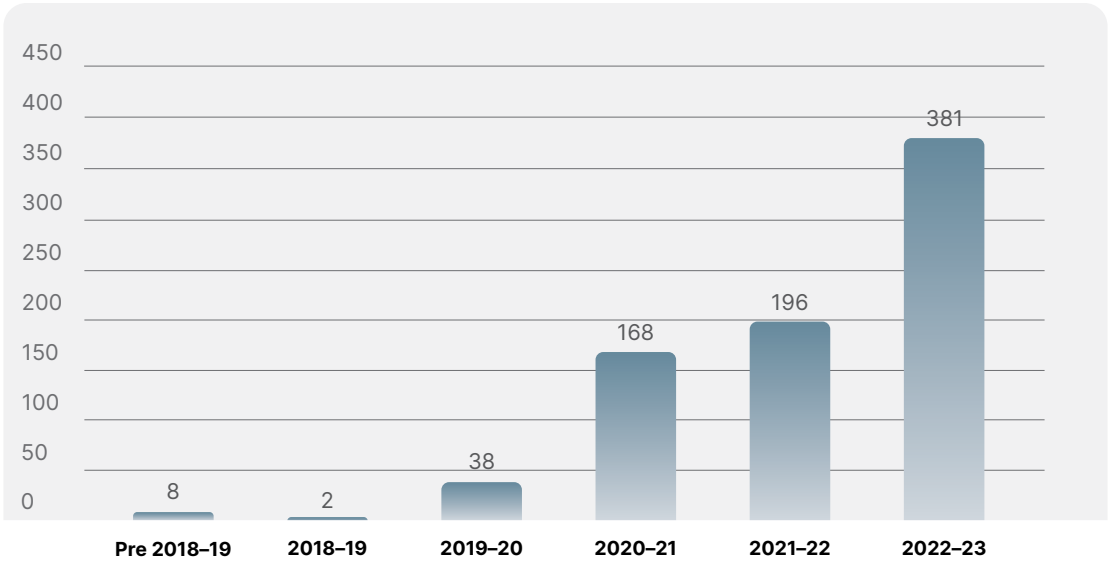


FIGURE A5.15.1: CURRENT APPEALS AND RELATED ACTIONS BY YEAR OF FILING



National Court framework

FIGURE A5.16.1: ALL FILINGS, FINALISATIONS AND PENDING BY ADMINISTRATIVE AND CONSTITUTIONAL LAW AND HUMAN RIGHTS NATIONAL PRACTICE AREAS (NPA)

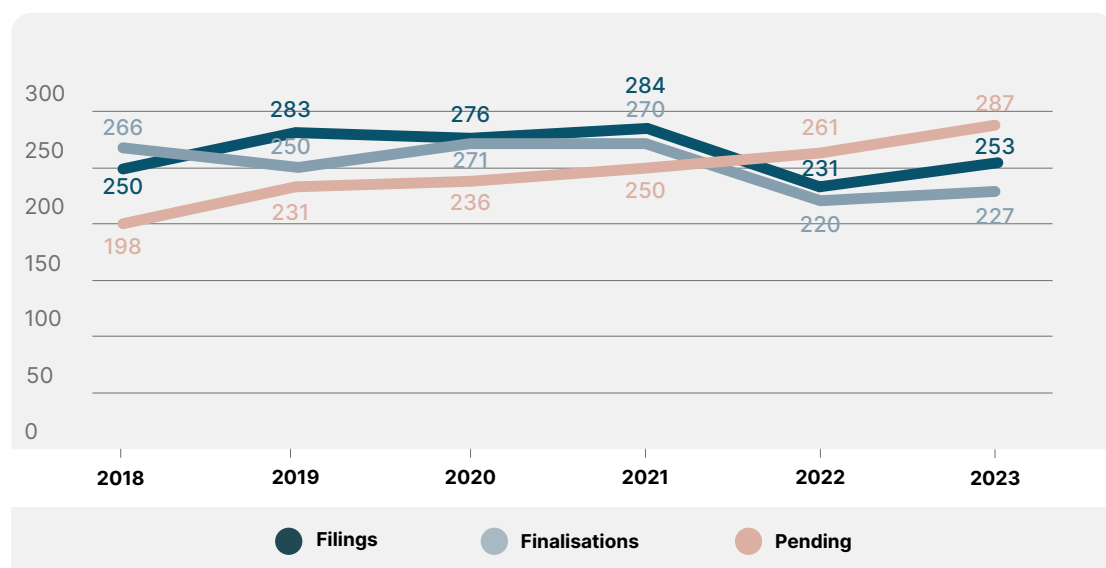


FIGURE A5.16.2: ALL FILINGS, FINALISATIONS AND PENDING BY ADMIRALTY AND MARITIME NPA

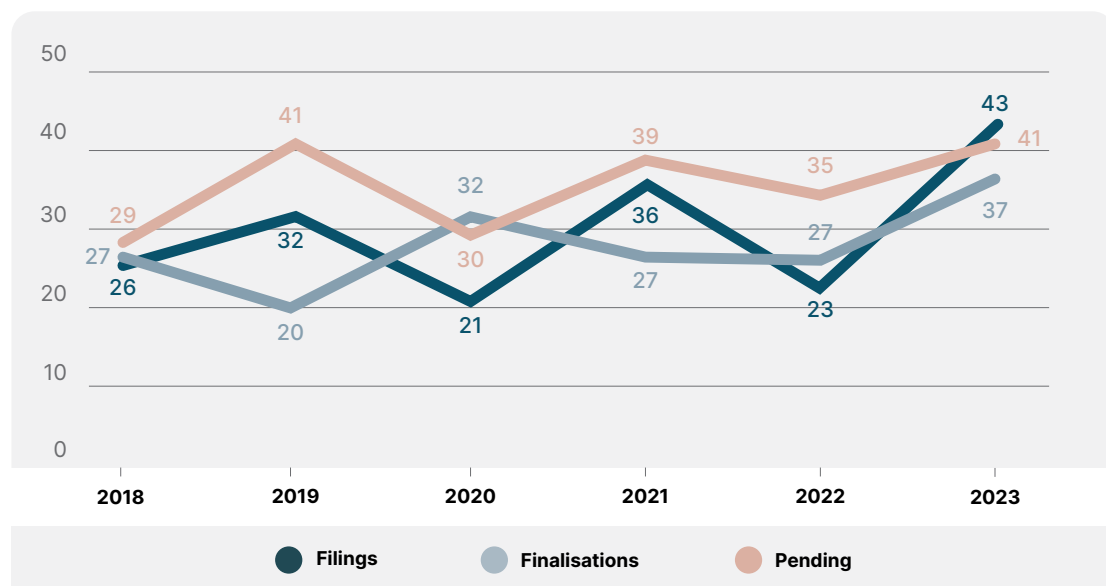


FIGURE A5.16.3: ALL FILINGS, FINALISATIONS AND PENDING BY COMMERCIAL AND CORPORATIONS NPA

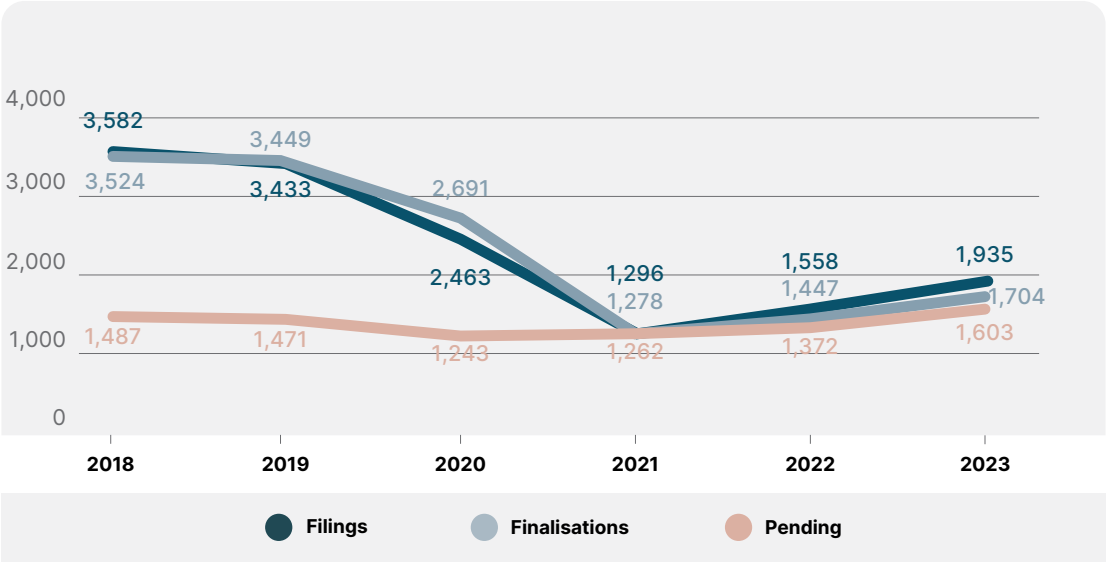


FIGURE A5.16.4: ALL FILINGS, FINALISATIONS AND PENDING BY EMPLOYMENT AND INDUSTRIAL RELATIONS NPA

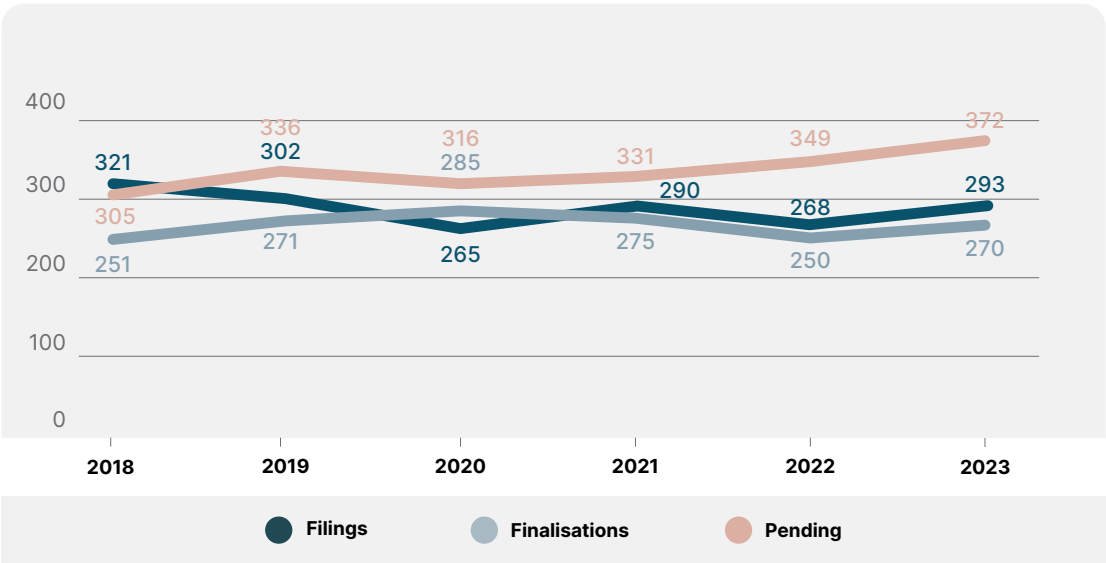


FIGURE A5.16.5: ALL FILINGS, FINALISATIONS AND PENDING BY INTELLECTUAL PROPERTY NPA

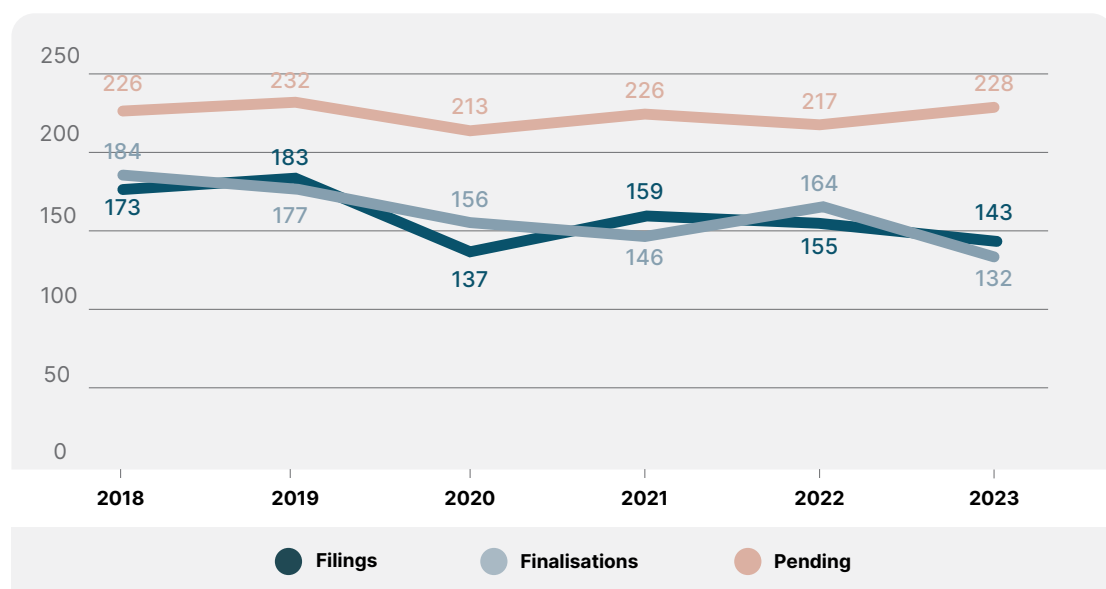


FIGURE A5.16.6: ALL FILINGS, FINALISATIONS AND PENDING BY NATIVE TITLE NPA

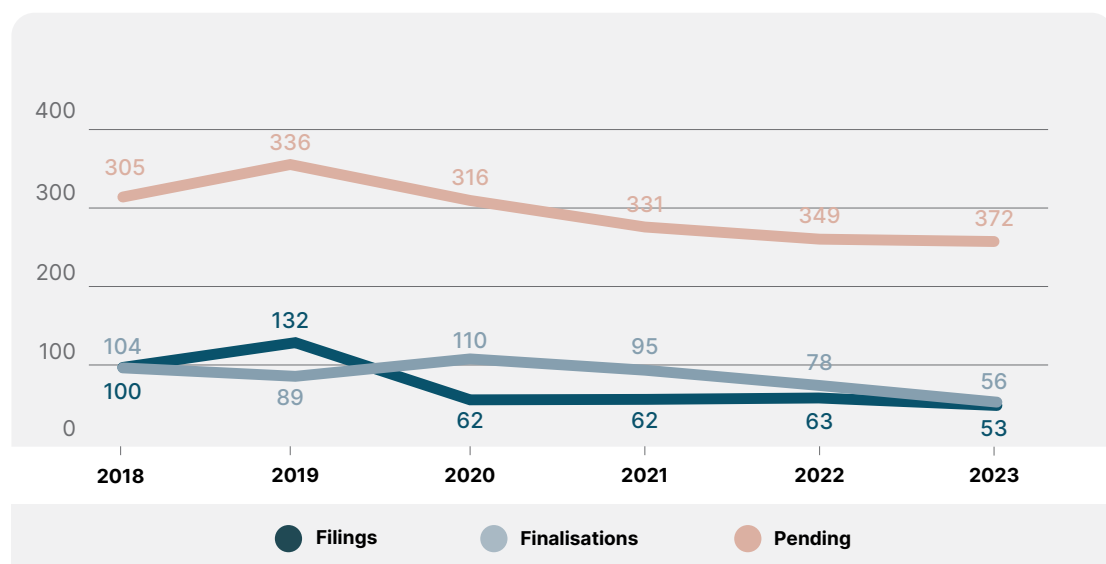


FIGURE A5.16.7: ALL FILINGS, FINALISATIONS AND PENDING BY TAXATION NPA

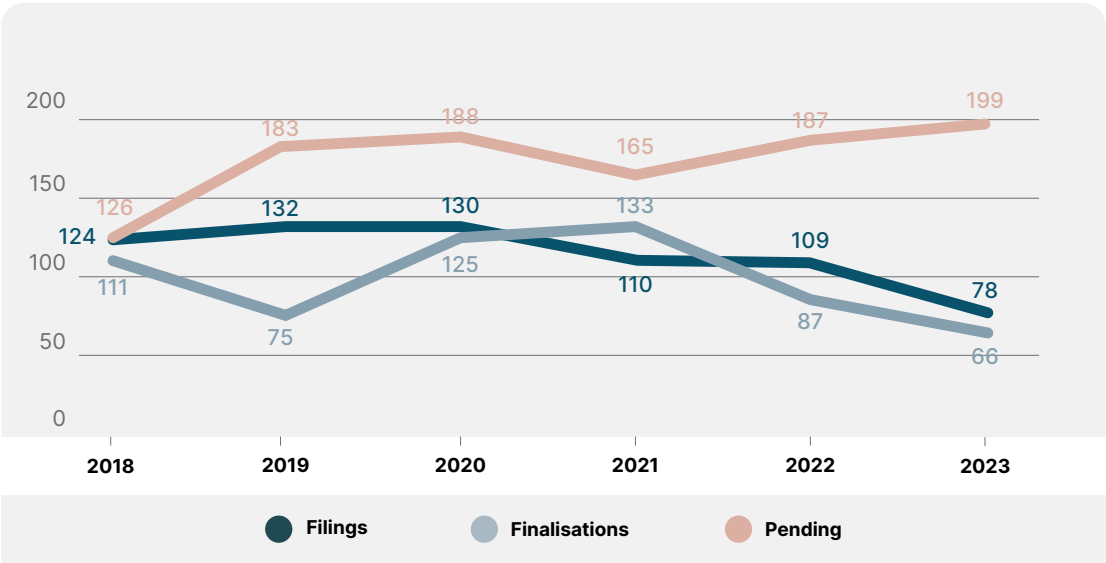


FIGURE A5.16.8: ALL FILINGS, FINALISATIONS AND PENDING, OTHER FEDERAL JURISDICTION NPA

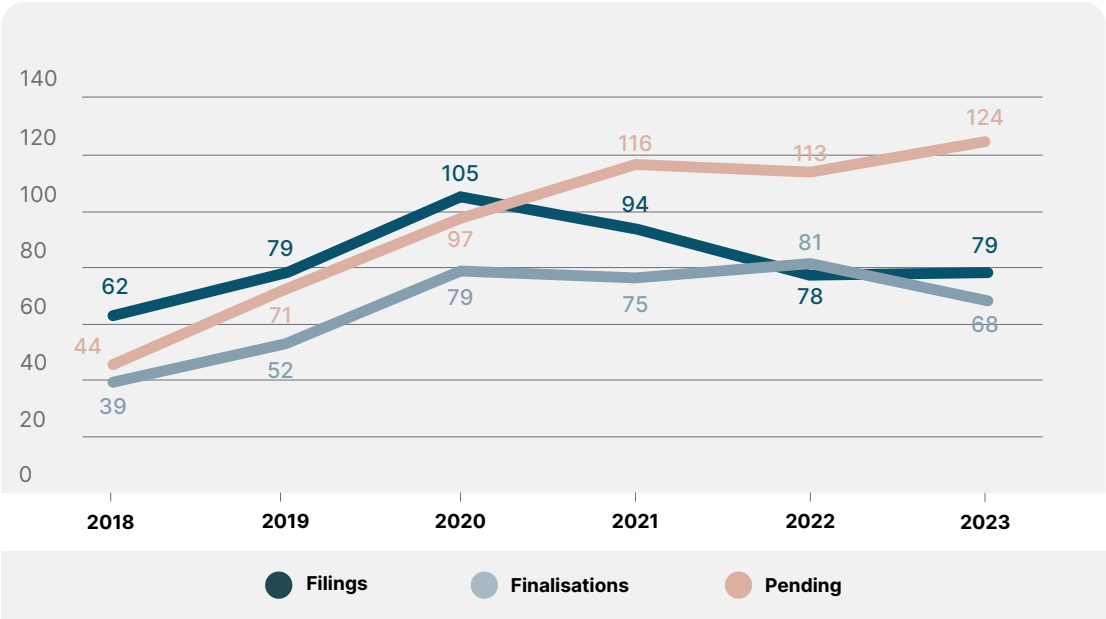


FIGURE A5.16.9: ALL FILINGS, FINALISATIONS AND PENDING, FEDERAL CRIME AND RELATED PROCEEDING NPA

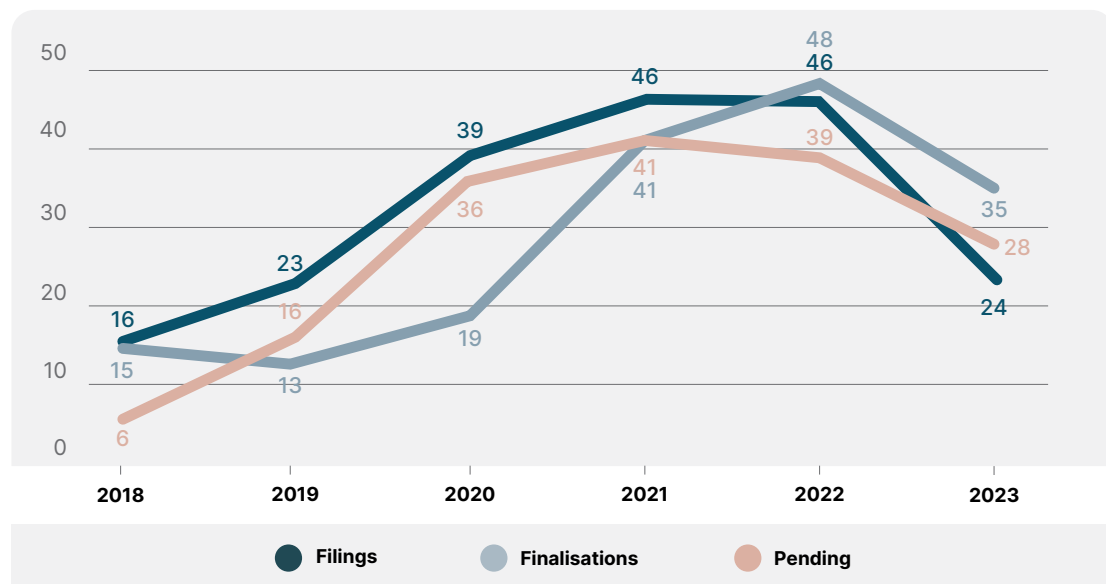
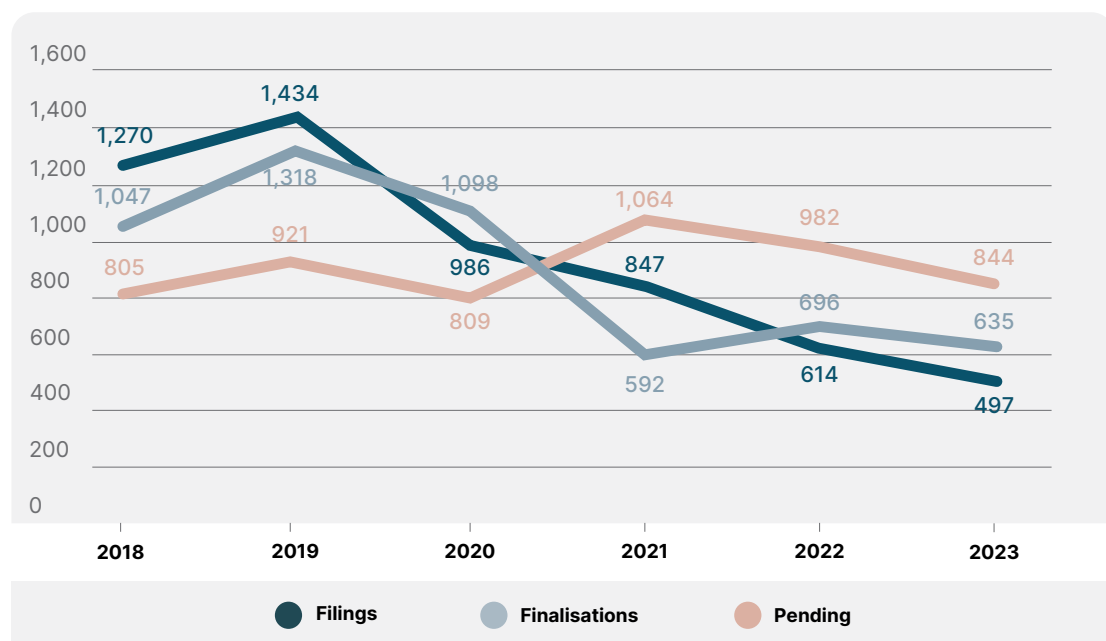


FIGURE A5.16.10: ALL FILINGS, FINALISATIONS AND PENDING, MIGRATION NPA



Appendix 6: Work of tribunals

Australian Competition Tribunal

Functions and powers

The Australian Competition Tribunal was established under the *Trade Practices Act 1965* (Cth) and continues under the *Competition and Consumer Act 2010* (Cth).

The Tribunal is a review body. A review by the Tribunal is a re-hearing or a re-consideration of a matter. The Tribunal may perform all the functions and exercise all the powers of the original decision-maker for the purposes of review. It can affirm, set aside or vary the original decision.

The Tribunal has jurisdiction under the *Competition and Consumer Act 2010* to hear a variety of applications, most notably:

- review of determinations by the Australian Competition and Consumer Commission (ACCC) granting or refusing clearances for company mergers and acquisitions;
- review of determinations by the ACCC in relation to the grant or revocation of authorisations that permit conduct and arrangements that would otherwise be prohibited under the Act for being anti-competitive;
- review of decisions by the Minister or the ACCC in relation to allowing third parties to have access to the services of essential facilities of national significance;
- review of determinations by the ACCC in relation to notices issued under section 93 of the Act in relation to exclusive dealing; and
- review of certain decisions of the ACCC and the Minister in relation to international liner cargo shipping.

The Tribunal can also hear a range of other, less common, applications arising under the *Competition and Consumer Act 2010*.

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

Practice and procedure

A review by the Tribunal is usually conducted by way of a public hearing, but may in some instances be conducted on the papers. Parties may be represented by a lawyer. The procedure of the Tribunal is, subject to the *Competition and*

Consumer Act 2010 and the *Competition and Consumer Regulations 2010* (the Regulations), within the discretion of the Tribunal.

The Regulations set out some procedural requirements in relation to the making and hearing of review applications. Other procedural requirements are set out in the Tribunal's Practice Direction.

Proceedings are conducted with as little formality and technicality and with as much expedition as the requirements of the *Competition and Consumer Act 2010* 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 is comprised of presidential members and lay members who are qualified by virtue of their knowledge of, or experience in, industry, commerce, economics, law or public administration. Pursuant to section 31 of the *Competition and Consumer Act 2010*, a presidential member must be a judge of a Federal Court, other than the High Court or a court of an external territory.

Justice Michael O'Bryan is the President of the Tribunal. The Deputy Presidents of the Tribunal are Justice Kathleen Farrell, Justice Mark Moshinsky, Justice Sarah Derrington AM, Justice John Halley and Justice Kylie Downes. Justice John Middleton AM retired as President on 25 December 2022.

Professor Caron Beaton-Wells, Ms Diana Eilert, Dr Jill Walker, Mr Daniel Andrews and Mr Ray Steinwall are the Members of the Tribunal. Dr Darryn Abraham and Professor Ken Davis AM retired as Members on 31 March 2023.

The Tribunal is supported by a Registrar (Tim Luxton) and Deputy Registrars (Nicola Colbran, Katie Lynch, Geoffrey Segal and Russell Trott).

Activities

One matter was current at the start of the reporting year. During the year, one new matter was commenced and two matters were determined.

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

Decisions of interest

- Applications by Telstra Corporation Limited and TPG Telecom Limited [2023] ACompT 2 (21 June 2023).
- Applications by Telstra Corporation Limited and TPG Telecom Limited [2023] ACompT 1 (17 March 2023).
- Applications for review of Honeysuckle Health Buying Group authorisation determination (No 2) [2022] ACompT 4 (29 July 2022).

Copyright Tribunal

Functions and powers

The Copyright Tribunal was established under the *Copyright Act 1968* (Cth) to hear applications dealing with four main types of matters:

1. to determine the amounts of equitable remuneration payable under statutory licensing schemes
2. to determine a wide range of ancillary issues with respect to the operation of statutory licensing schemes, such as the determination of sampling systems
3. to declare that the applicant (a company limited by guarantee) be a collecting society in relation to copying for the services of the Commonwealth or a state, and
4. to determine a wide range of issues in relation to the statutory licensing scheme in favour of government.

By virtue of the *Copyright Amendment Act 2006* (Cth), assented to on 11 December 2006, the Tribunal also has jurisdiction 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 within the discretion of the Tribunal.

The *Copyright Regulations 2017* came into effect in December 2017 (replacing the *Copyright Tribunal (Procedure) Regulations 1969*). Part 11 of the regulations relates to the Copyright Tribunal and includes provisions concerning its practice and procedure.

Proceedings are conducted with as little formality and technicality, and as quickly as the requirements of the Act, and a proper consideration of the matters before the Tribunal, permit. The Tribunal is not bound by the rules of evidence.

Membership and staff

The Tribunal consists of a President and such number of Deputy Presidents and other members as appointed by the Governor-General.

On 15 December 2022, Justice Nye Perram was appointed as President of the Tribunal for a period of seven years. Justice Perram had been acting in that role following the retirement of Justice Andrew Greenwood on 19 July 2022. Also on 15 December 2022, Justice Tom Thawley, Justice Michael O'Bryan and Justice Helen Rofe were appointed as Deputy Presidents of the Tribunal for a period of five years.

On 8 June 2023, Mr Michael Fraser AM, Ms Fiona Phillips and Ms Alida Stanley were appointed as non-judicial members of the Tribunal for a period of three years. The appointments of the previous non-judicial members Dr Rhonda Smith, Ms Sarah Leslie and Ms Michelle Groves expired during the reporting period.

The Registrar of the Tribunal is an officer of the Federal Court. The Registrar of the Tribunal during the reporting period was Katie Lynch.

Activities and cases of interest

Two matters were commenced in the Tribunal during the reporting period:

- CT2 of 2022 – *Free TV Australia Ltd (ACN 101 842 184) v Phonographic Performance Company of Australia Limited (ACN 000 680 704)*, being an application brought under section 157 of the Copyright Act 1968, filed on 22 December 2022
- CT1 of 2023 – *Reference brought by Phonographic Performance Company of Australia Ltd (ACN 00 680 704)*, being an application brought under section 154 of the Copyright Act 1968, filed on 18 May 2023.

The following matters were commenced in the Tribunal before the reporting period and remain ongoing:

- CT1 of 2021 – *Australasian Performing Right Association Limited ABN 42 000 016 099 and Australasian Mechanical Copyright Owners' Society Limited ABN 78 001 678 851*, being a reference under section 154 of the Copyright Act 1968, filed 26 March 2021.

- CT2 of 2021 – *Copyright Agency Limited ABN 53 001 228 799 v Department of Education (Queensland) and the bodies listed in Schedule A*, being an application brought under section 113P and section 153A of the Copyright Act 1968, filed 18 May 2021.
- CT1 of 2022 – *The DLA Group Pty Limited ACN 003 329 039 v The State of Western Australia*, being an application brought under section 183(5) of the Copyright Act 1968, filed on 20 April 2022.

The following matters were finalised during the reporting period:

- CT4 of 2018 – *Copyright Agency Limited ABN 53 001 228 799 on its own behalf and as agent for the parties listed in Schedule A v The Universities listed in Schedule B* was finalised by consent orders on 20 February 2023 following the filing of a notice of discontinuance in the application for judicial review: *NSD486/2022 – The University of Adelaide & Ors v Copyright Agency Limited & Anor*.
- CT2 of 2017 – *Meltwater Australia Pty Ltd v Copyright Agency Limited ABN 53 001 228 799* and CT2 of 2018 – *Isentia Pty Ltd v Copyright Agency Limited ABN 53 001 228 799* (which were heard together): see decision of the Tribunal in *Application by Isentia Pty Limited* [2021] ACopyT 2 (15 October 2021).

On 23 September 2023 the Federal Court dismissed the application for judicial review: proceeding *NSD1212/2021 – Copyright Agency Limited v Isentia Pty Ltd ACN 002 533 851 & Ors*. On the same day the applicant and first respondent consented to the discontinuance of the whole of the proceeding against the first respondent.

Defence Force Discipline Appeal Tribunal

Functions and powers

The Defence Force Discipline Appeal Tribunal was established as a civilian tribunal under the *Defence Force Discipline Appeals Act 1955* (Cth). Pursuant to section 20 of the *Defence Force Discipline Appeals Act 1955*, a convicted person or a prescribed acquitted person may bring an appeal to the Tribunal against his or her conviction or prescribed acquittal. Such appeals to the Tribunal lie from decisions of courts martial and of Defence Force magistrates.

Practice and procedure

Subject to the *Defence Force Discipline Appeals Act 1955*, the procedure of the Tribunal is within its discretion. In practice, appeals are conducted in a similar way to an appeal before a state or territory Court of Appeal/Court of Criminal Appeal or the United Kingdom's Court Martial Appeal Court. Counsel robe on the hearing of an appeal but, because the Tribunal does not exercise the judicial power of the Commonwealth, the members of the Tribunal do not.

Membership and staff

The Tribunal is comprised of the President, the Deputy President and other members.

The President of the Tribunal is Justice John Logan RFD. The Deputy President is Justice Paul Brereton AM RFD. The other members of the Tribunal are Justice Melissa Perry, Justice Peter Barr and Justice Michael Slattery AM AM (Mil) RAN.

The Tribunal is supported by a Registrar (Tim Luxton) and Deputy Registrars (Phillip Allaway, Nicola Colbran, Kim Lackenby, Geoffrey Segal, Susie Stone and Russell Trott).

Activities

No matters were filed during the reporting year. Two matters were determined during the year.

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

Decisions of interest

- *Kantibye v Chief of Army* [2022] ADFDAT 4 (21 October 2022).
- *Kearns v Chief of Army* [2022] ADFDAT 3 (12 August 2022).

Appendix 7: Decisions of interest

ADMINISTRATIVE AND CONSTITUTIONAL LAW AND HUMAN RIGHTS NPA

Santos NA Barossa Pty Ltd v Tipakalippa [2022] FCAFC 193

(2 December 2022; Kenny, Mortimer (as her Honour then was) and Lee JJ)

Santos NA Barossa Pty Ltd is the operator of and a joint venture partner in the Barossa Project (an offshore gas and condensate project located in an area of the Timor Sea north of the Tiwi Islands). Drilling operations at the Barossa project commenced on 18 July 2022. Mr Tipakalippa, an elder of the Munupi clan, sought judicial review of the decision of the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) under the *Offshore Petroleum and Greenhouse Gas (Environment) Regulations 2009* (Cth) to approve the Barossa Development Drilling and Completions Environment Plan in respect of the sinking of eight wells as part of the Project. Mr Tipakalippa contended that the Regulations required him and other members of the Munupi clan, as well as other clans on the Tiwi Islands, to be consulted because the Project is taking place in and capable of having an impact on sea country and sea country resources to which they have traditional connections, such that they have ‘interests’ that may be affected. Reg 11A of the Regulations relevantly provides that in the course of preparing an environment plan, a ‘titleholder’ (in this case, Santos) must consult each ‘relevant person’, being a person ‘whose functions, interests or activities may be affected by the activities to be carried out under the environment plan’. The primary judge held that NOPSEMA could not have been reasonably satisfied that the Plan demonstrated that the consultation required by the Regulations was carried out, and set aside NOPSEMA’s decision.

The Full Court unanimously dismissed Santos’ appeal from the decision of the primary judge. Justices Kenny and Mortimer (as her Honour then was) considered the construction of the phrase ‘functions, interests or activities’ in reg 11A of the Regulations, and found that it should be broadly construed because this approach best promotes the object of the Regulations, namely to ensure that such offshore activity is carried out consistently with the principles of ecologically sustainable development set out section 3A of the *Environment Protection and Biodiversity Conservation Act 1999*. Their

Honours found that the consultation required by reg 11A of the Regulations is designed to give effect to that object, and rejected the proposition that the connection of traditional owners with sea country cannot be an interest for the purposes of reg 11A. Their Honours observed that the material put before NOPSEMA showed that Mr Tipakalippa and the Munupi clan had a traditional connection to at least part of the sea in the environment that might be affected by the activities and to its marine resources, and that there was a potential for Santos’ proposed drilling activities to have a potentially significant adverse effect on those marine resources. Their Honours concluded that Mr Tipakalippa and the Munupi clan have interests that may be affected by the activities to be carried out by Santos under the Plan and were required by reg 11A to be consulted by Santos.

In reaching this conclusion, Justices Kenny and Mortimer rejected Santos’ contention that this construction makes reg 11A unworkable. Their Honours saw no particular difficulty with the proposition that First Nations peoples with traditional connection to sea and marine resources which may be affected by activities under the Plan are readily ascertainable.

Their Honours further considered the approach to be taken to consultation where interests are held communally, noting that the method of consultation will need reasonably to reflect the characteristics of the interests affected by the titleholder’s proposed activity. Their Honours observed that properly notified and conducted meetings may well suffice, drawing on the authorities in relation to processes (such as authorisation meetings) under the *Native Title Act 1993* (Cth).

Justices Kenny and Mortimer concluded that Santos proceeded on an incorrect understanding of the proper construction of reg 11A and the phrase ‘functions, interests or activities’, such that it could not demonstrate to NOPSEMA that it had undertaken consultation as required by reg 11A, and that NOPSEMA likewise proceeded on a misunderstanding of reg 11A.

In a separate judgment, Justice Lee agreed that the appeal should be dismissed. His Honour considered the concepts of a ‘function’ and ‘activity’ for the purposes of reg 11A, finding that ‘function’ is best seen as an existing power or duty pertaining to an office or role and ‘activity’ has its ordinary English meaning, namely a thing that a person or group does. In construing the word ‘interests’, his Honour rejected Santos’ submission that the term has a meaning directed to ‘legal interests’ and

noted that the concept must be broad enough to obtain available input into the possible risks and environmental impacts.

Justice Lee agreed with Justices Kenny and Mortimer that Mr Tipakalippa did establish that he and the traditional owners of the Tiwi Islands were relevant persons whose interests may be affected by the activities to be carried out under the Plan, because of the existence of their traditional, customary connection to at least part of the sea in the environment that might be affected by the activities and to its marine resources. His Honour held that cultural or spiritual interests of the kind described in material within the Plan were sufficiently ascertainable by Santos, given the numerous references in that material to areas of Aboriginal cultural significance and identity. His Honour rejected any suggestion that by consulting with the Tiwi Land Council, Santos discharged its obligation to consult with each of the traditional owners of the Tiwi Islands, and concluded that Mr Tipakalippa had established that it was not open to NOPSEMA to be satisfied that Santos had carried out the required consultations.

ADMINISTRATIVE AND CONSTITUTIONAL LAW AND HUMAN RIGHTS (MIGRATION) NPA

AIO21 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs [2022] FCAFC 114

(6 July 2022; Kenny, O’Callaghan and Thawley JJ)

In 2016, while AIO21 was serving a sentence of imprisonment, the Minister determined that he did not pass the character test and mandatorily cancelled his protection visa in accordance with section 501(3A) of the *Migration Act 1958* (Cth). AIO21 applied for revocation of the cancellation decision, and a delegate of the Minister decided not to revoke the cancellation, a decision that was subsequently affirmed by the Administrative Appeals Tribunal.

AIO21 sought judicial review of the Tribunal’s decision in the Federal Court but he was unsuccessful in that application and a subsequent appeal. He then made a second application to the Federal Court, seeking an extension of time to review the same Tribunal decision, but on different grounds to his previous application. The Minister applied for summary dismissal on the basis that a further judicial review application was precluded by reason of *res judicata*, *Anshun* estoppel and as an abuse of process. While AIO21 was granted an extension of time to bring his application, it was

ultimately dismissed by the primary judge, as was the Minister’s application for summary dismissal, a decision that became the subject of this appeal and cross-appeal to the Full Court.

The Full Court considered whether the primary judge had erred in concluding that the Tribunal did not fail to comply with a Ministerial Direction that requires international non-refoulement obligations to be taken into account in deciding whether to revoke the cancellation of a visa. A non-refoulement obligation is a duty not to forcibly return a person to a place where they will be at risk of a specific type of harm.

AIO21 submitted that the Tribunal did not consider for itself, afresh, whether non-refoulement obligations were owed but had simply adopted ‘wholesale’ the findings of an International Treaties Obligations Assessment (ITOA) report concerning him. He contended that the Tribunal failed to consider whether the circumstances in his home country which gave rise to him being recognised as a refugee had fundamentally or durably altered such that the cessation clause in Article 1C of the *Convention Relating to the Status of Refugees* was engaged. Under Article 1C, the Convention will cease to apply if the circumstances giving rise to a person’s refugee status cease to exist.

The Full Court agreed with the primary Judge that the Tribunal had not erred. The Full Court found that while the Tribunal had taken the ITOA into account, it had not done so at the exclusion of AIO21’s evidence or its own consideration of the requirements of the Ministerial Direction. The Full Court concluded that the weight to be given to the ITOA was a matter for the Tribunal. The Full Court further found that the Tribunal was not required to take international non-refoulement obligations unenacted in Australia into account as a mandatory consideration when considering if there was another reason to revoke a cancellation.

As the Full Court had found the Tribunal did not err in its decision, it did not find it strictly necessary to address the cross-appeal. Nevertheless, the Full Court agreed with the primary judge’s conclusion that AIO21 was not barred by the *res judicata* doctrine from making a second judicial review application on different grounds, as different grounds of jurisdictional error can be seen as separate causes of action or claims arising out of the one decision. The Full Court also found no error in the primary judge’s reasoning that the appellant’s circumstances, including his age, medical conditions, family connections and time spent in Australia, justified that his application not be barred by the *Anshun* principle. The Full Court agreed with

the primary judge's view that in light of the above findings, the application could not be considered an abuse of process.

Both the appeal and the cross-appeal were dismissed with costs. The High Court has refused a special leave application.

***Minister for Immigration, Citizenship and Multicultural Affairs v Lieu, by her Litigation Representative Nguyen* [2023] FCAFC 57**

(13 April 2023; Mortimer CJ, Anderson and Hespe JJ)

The issue in this appeal was whether Mr Lieu was the parent of Ms Lieu for the purposes of recognising her citizenship by birth.

In 2017 Ms Nguyen applied to the Department of Home Affairs for evidence that her daughter Ms Lieu was an Australian citizen by birth, on the basis that her father Mr Lieu is an Australian citizen. A delegate of the Minister for Immigration, Citizenship and Multicultural Affairs requested Ms Nguyen provide further material evidencing that Mr Lieu was the father of her daughter, including an invitation to submit a DNA test. Ms Nguyen supplied a number of materials, including photographs, statutory declarations, copies of her daughter's Medicare card, her birth certificate and a newborn child Centrelink declaration made by Mr Lieu, but explained to the delegate that she was unable to provide a DNA test, as she had since lost contact with Mr Lieu.

The delegate refused the application on the grounds that they did not have sufficient evidence to be satisfied that Mr Lieu was the father of Ms Lieu. After an internal review, Ms Nguyen applied to the Federal Court, where the primary judge made orders setting aside the decision of the delegate. This appeal was then made on behalf of the Minister for Immigration, Citizenship and Multicultural Affairs.

At the commencement of the hearing of the appeal, the Full Court alerted the parties to a previous citizenship case that considered the meaning of the word parent as not just a matter of biology but of social and legal factors too, including acknowledging a child as one's own and treating him or her as one's own. The Minister accepted that the same construction of parentage applied to this matter and a genetic link was not required for a person to be a parent.

Before the primary judge, Ms Lieu contended that the delegate had misunderstood the statutes governing the issue of Birth Certificates, Medicare cards and child support payments and how these documents relate to the assessment of parentage. The delegate had stated that such documents

were 'self-declared' making the evidence of less probative value. Before the Full Court, the Minister contended that the delegate was not bound by such statutes, but the reasoning of the delegate showed consideration of the documents, including whether they provided independent evidence of parentage. The Minister submitted that the amount of weight afforded to the documents was a matter for the delegate and his decision was not legally unreasonable.

Mortimer CJ agreed with the primary judge that the delegate misunderstood, or failed to appreciate, the significance of the documents supplied, as the documents were products of government processes dependent on the existence of a relationship of parent and child. Mortimer CJ considered that if a person declares to various government authorities or agencies that they are a parent, this self-declaration is capable of independently tending to prove the person assumed the role of a parent.

Mortimer CJ observed that it was evident from the delegate's reasoning that he had formed an adverse view of Ms Nguyen's honesty and had erred by inappropriately focusing upon whether there was the biological link between father and daughter and whether there was a genuine relationship between Ms Nguyen and Mr Lieu. Though acknowledging the stringent threshold of legal unreasonableness, Mortimer CJ agreed with the primary judge that the decision of the delegate was legally unreasonable. In particular, Mortimer CJ concluded that without significantly probative evidence of dishonesty, and thorough reasoning, it is irrational to assume that Ms Nguyen would have been party to fraudulent conduct at the time she was giving birth, as she inferred the delegate had done.

In a separate judgment, Anderson and Hespe JJ agreed with Mortimer CJ's conclusion. They found that the delegate did not understand and apply previous case law that held that parentage is not just a matter of biology, resulting in a misunderstanding of the significance of the 'self-declared' documents and whether the relationship between Ms Nguyen and Mr Lieu was 'genuine and continuing' at the time of birth. The 'self-declared' documents were of probative value precisely because they were 'self-declared'. Anderson and Hespe JJ found that the delegate's reasoning so departed from the underlying premise of the statutory task that he was required to perform that it constituted legal unreasonableness and this was sufficient to determine the appeal.

The Full Court upheld the decision of the primary judge and dismissed the appeal made by the Minister.

ADMIRALTY AND MARITIME NPA

Carmichael Rail Network Pty Ltd v BBC Chartering Carriers GmbH & Co KG (The BCC Nile) [2022] FCAFC 171

(12 October 2022; Rares, Sarah C Derrington and Stewart JJ)

In these proceedings, the Full Court, exercising original jurisdiction, determined two interrelated interlocutory applications dealing with Australia's marine cargo liability regime. This occasioned for the first time judicial consideration of the construction of section 11(2) of the *Carriage of Goods by Sea Act 1991* (Cth) (COGSA).

In the first application, the plaintiff, Carmichael Rail Network Pty Ltd (Carmichael Rail) sought an anti-suit injunction against the first defendant, BBC Chartering Carriers (BBC), in circumstances where BBC had commenced arbitral proceedings in London against Carmichael Rail under a bill of lading (BOL) in relation to damage done to goods whilst on board the *BBC Nile*. In the second application, BBC sought a stay of the whole of Carmichael Rail's claim against it in favour of arbitration in London.

Under the terms of the BOL issued by BBC to Carmichael Rail (as consignee) disputes were to be determined in London by arbitration on LMAA terms.

The Full Court considered, first, whether the choice of law and jurisdiction clause in the BOL were rendered void by virtue of section 10(1)(b)(ii) of COGSA read with art 3(8) of the modified Hague-Visby Rules in Schedule 1A of COGSA (Australian Rules). The Full Court did not accept Carmichael Rail's submission that the choice of law and arbitration clauses in the BOL were void by reason of art 3(8).

The Full Court held that, as both parties agreed that the Australian Rules apply to the BOL, it was appropriate for the Court to make a declaration that the Australian Rules apply to the BOL, regardless of where or under what law the dispute is ultimately determined.

To further ensure that BBC will not be able to lessen its liability in the London arbitration from that which it would be under the Australian Rules, the Full Court required an undertaking by BBC as to the applicability in the London arbitration of the Australian Rules as applied under Australian law as a condition of the stay of the domestic proceeding.

The Full Court then considered whether section 11(2) of COGSA invalidated the foreign choice of law and jurisdiction clause in respect of inter-State carriage.

The Full Court considered the legislative history and purpose of sections 10 and 11 of COGSA and held

that there was no doubt that inter-State contracts for carriage of goods by sea were not caught by the invalidating provisions in COGSA in relation to choice of law and jurisdiction. While there was no evident rationale as to why the reference to 'bill of lading' in section 11 excluded inter-State carriage, the Full Court did not consider it possible to discern legislative intention to expand the reference to 'bill of lading' to include inter-State carriage and declined to read additional words into section 11 to fill the apparent gap.

Accordingly, the Full Court refused Carmichael Rail's application for an anti-suit injunction against BBC and granted BBC's application for a stay in favour of arbitration in London.

The High Court has granted leave to appeal on limited grounds.

COMMERCIAL AND CORPORATIONS (COMMERCIAL CONTRACTS, BANKING, FINANCE AND INSURANCE) NPA

MetLife Insurance Limited v Australian Financial Complaints Authority Limited [2022] FCAFC 173

(27 October 2022; Middleton, Jackson and Halley JJ)

In this appeal, the Full Court considered the proper construction of section 1053(1) of the *Corporations Act 2001* (Cth), and the scope of the authority of the Australian Financial Complaints Authority Limited (AFCA), an external dispute resolution body, to determine complaints relating to superannuation.

By way of background, in 2018, Mr Edgecombe complained to AFCA (Complaint) in respect of an adverse decision of MetLife Insurance Limited concerning a total and permanent disability claim made under an insurance policy issued by MetLife to the trustee of Mr Edgecombe's superannuation fund. After initially accepting an objection from MetLife on the basis that the Complaint was out of time under AFCA's Complaint Resolution Scheme Rules, AFCA exercised its discretion to accept the Complaint and proceeded to determine it adversely to MetLife.

MetLife commenced proceedings in the Court, seeking a declaration that AFCA's determination was not binding on MetLife because AFCA lacked authority to determine the Complaint. MetLife submitted that the Complaint was a 'complaint relating to superannuation' within the meaning section 1053 of the Act, but it did not satisfy any of sub-ss 1053(1)(a)–(j). Section 1053(1) of the Act provides that a person may make a complaint relating to superannuation under the AFCA scheme only if the complaint is a complaint about certain matters as set out in sub-ss (a)–(j). Rather than reading the phrase 'only if' as defining an exclusive class of

superannuation disputes that could be brought under the AFCA Scheme, the primary judge found that section 1053(1) of the Act should be read as providing that a person may make a complaint *as a complaint* relating to superannuation under the AFCA Scheme only if the complaint is a complaint of the kind listed. Accordingly, the primary judge found that AFCA did have the necessary authority to determine the Complaint.

The Full Court unanimously allowed the appeal, finding that the grammatical and ordinary sense of the words in the chapeau to section 1053(1) of the Act is that a complaint that relates to superannuation can only be made to AFCA if it falls within the types of complaints specified in sub-ss 1053(1)(a)–(j). The Full Court held that, textually, there is no room for a construction that a complaint ‘relating to superannuation’ that falls outside sub-ss 1053(1)(a)–(j) may be made under AFCA’s general jurisdiction. The Full Court also rejected AFCA’s contention that the construction advanced by MetLife would have the result that complaints that could previously be dealt with under the former external dispute resolution schemes could no longer be dealt with under the AFCA Scheme. The Full Court found that the Complaint could have been made under the AFCA Scheme pursuant to subs 1053(1)(a) as a complaint against a superannuation trustee that had made a decision that is alleged to be unfair or unreasonable, namely a decision not to pursue MetLife for indemnity. The view of the Full Court was reinforced by the extrinsic materials, including the revised Explanatory Memorandum, which evidenced a legislative intention to implement a discrete procedure to deal with complaints relating to superannuation.

Finally, the Full Court dealt with grounds 1 and 2 of AFCA’s amended notice of contention, to the effect that the primary judge should have accepted its alternative argument that the Complaint was not a complaint relating to superannuation. The Full Court rejected AFCA’s submission, and agreed with the primary judge that Mr Edgecombe’s claim arose solely from his status as a member of the superannuation fund and could only be based upon that status. The Full Court also rejected the remaining grounds of AFCA’s notice of contention.

COMMERCIAL AND CORPORATIONS (ECONOMIC REGULATOR, COMPETITION AND ACCESS) NPA

Australian Competition and Consumer Commission v NSW Ports Operations Hold Co Pty Ltd [2023] FCAFC 16

(23 February 2023; Allsop CJ, Yates and Beach JJ)

These proceedings stem from events in 2013 in which the State of New South Wales engaged in

privatisation of various NSW ports and entered into port commitment deeds with the NSW Ports Consortium.

In these two appeals, heard together, the Full Court considered whether NSW Ports was entitled to derivative Crown immunity and whether compensation provisions in the deeds were anti-competitive in contravention of section 45 of the *Competition and Consumer Act 2010* (Cth) (CCA). In three judgments, the Full Court unanimously ruled that the appeals failed.

Considering the appeal on Crown immunity, the Chief Justice held, in agreement with the conclusions of the primary judge, that the impugned conduct was not in the course of the ‘carrying on of a business’ by the Crown such as to engage section 2B of the CCA. Rather, it was related to effecting the State of NSW’s privatisation decision to the maximum value.

The Chief Justice further considered whether the application of section 45 of the CCA to NSW Ports would have the result of excluding the operation of Crown immunity. The Chief Justice held that section 2B and its application when the conduct of the State is not engaged in the course of a business means that the immunity of the State extends to prevent section 45 applying to NSW Ports, if for section 45 so to apply, legal or other rights of the State would be divested.

Considering the appeal on purpose, the Chief Justice noted that it is the subjective purpose(s) of the State and NSW Ports that is relevant and, in considering those matters, the distinction between purpose and effects is significant and entail separate inquiries.

The Chief Justice held that the primary judge was correct to find that the State’s purpose was to ensure that bidders did not discount their bids because of the risk of a future change of Government policy. The impugned provisions did not evince any intention or assumption of less competitive behaviour by NSW Ports.

Considering the appeal grounds in relation to the likely effects, the Chief Justice held that the primary judge’s construction of the relevant clauses and her conclusion that they did not have an anti-competitive effect were correct.

Justice Yates agreed with the reasons of the Chief Justice.

Justice Beach took a different view to the other members of the Full Court on the question of derivative Crown immunity, however, reached similar conclusions on the competition appeal grounds.

In his Honour's view, the ACCC succeeded in establishing that derivative Crown immunity was not relevantly engaged and accordingly section 45 applied. This was because the State, by reason of section 45(2), never had an unconstrained right to contract with the NSW Ports consortium where to do so placed the consortium in breach of section 45 and where the State had not otherwise sought to invoke section 51.

COMMERCIAL AND CORPORATIONS (REGULATOR AND CONSUMER PROTECTION) NPA

Mayfair Wealth Partners Pty Ltd v Australian Securities and Investments Commission [2022] FCAFC 170

(10 October 2022; Jagot, O'Bryan and Cheeseman JJ)

In this case, the Full Court considered an appeal from orders made by the primary judge consequential on liability and penalty judgments handed down in 2021 concerning findings of misleading and deceptive conduct by the Mayfair parties in the promotion of investment products.

The Mayfair parties, defendants in the proceedings below, did not appear at the liability hearing. The Full Court found that this was a deliberate decision, made by the director of the Mayfair companies, to not appear before the primary judge for perceived forensic advantage.

The Full Court dismissed the appeal grounds relating to evidentiary issues, holding that the primary judge did not err in admitting evidence to which no objection had been taken, and did not err in making factual findings based on the evidence where no argument was made that the finding should not be made. The Full Court noted that the need for adherence to the principle of finality is acute in respect of evidentiary appeal grounds. The appellants were and are bound by their conduct below and the consequences which flowed. It was not apparent, the Full Court observed, how the primary judge could be said to have committed error in relation to contestable evidentiary issues which could and should have been tested below.

The Full Court rejected the appeal grounds in relation to the primary judge's findings in the liability judgment that the various representations were made and were misleading. The Full Court found that the appellant's contentions were without merit and that the primary judge's findings were supported by the evidence.

In respect of the appeal grounds in relation to the penalty judgment, the Full Court considered the construction and effect of the applicable penalty provisions. The Full Court held that the primary judge was correct in his findings of contraventions and assessment of witnesses. Noting that each penalty case turns on its own facts, the Full Court held that while the primary judge's discretionary assessment of penalty was higher than that suggested by ASIC, it was open to his Honour and not manifestly excessive.

The Full Court accepted one limited ground and set aside an injunction made by the primary judge. The injunction was held by the Full Court to be too broad with insufficient nexus between the specific words which the appellants were restrained from using and contravening conduct.

The Full Court otherwise dismissed the appeal. The High Court has refused a special leave application.

Toyota Motor Corporation Australia Limited v Williams [2023] FCAFC 50

(27 March 2023; Moshinsky, Colvin and Stewart JJ)

Between 2015 and 2020, Toyota supplied to customers in Australia motor vehicles in the Prado, Fortuner and HiLux ranges which were fitted with a particular model of diesel combustion engine together with a diesel exhaust after-treatment system (DPF system). The DPF system was defective because it was not designed to function effectively during all reasonably expected conditions of normal operation and use of the vehicles.

In the representative proceeding arising from the supply of vehicles with this defect, the primary judge found that there was failure by Toyota to comply with the consumer guarantee of acceptable quality in section 54 of the ACL in respect of all the relevant vehicles, even those in which the defect had not manifested, and determined section 54 liability on a common basis. On the basis that reduction in value was to be assessed by reference to the time at which the vehicle was supplied and without reference to subsequent events, and as such that reduction in value damages could be assessed for all group members of the relevant cohort on a common basis, the primary judge held that failure to comply with the acceptable quality guarantee resulted in a reduction in value of all relevant vehicles of 17.5 per cent.

On appeal, Toyota challenged the primary judge's findings on liability, the primary judge's construction of the relevant provisions and conceptual approach to reduction in value damages, and the primary judge's approach to the quantification of those damages.

The Full Court dismissed the appeal grounds relating to liability. The Full Court held that the primary judge did not err in determining section 54 liability on a common basis and his Honour had applied the correct – objective – statutory test. The primary judge was also correct to find that a defect in the DPF system is properly regarded as a defect in the vehicles which rendered the vehicles to be of unacceptable quality.

The Full Court upheld the appeal grounds in relation to the primary judge's approach to the assessment, and quantification, of reduction in value damages. Although the Full Court agreed that, as a general proposition, the point in time for assessing damages for any reduction in the value of goods pursuant to section 272(1)(a) of the ACL is the time of supply, the Full Court held that departure from the general proposition may be warranted in the particular circumstances of a case because of the statutory focus on compensation for loss or damage actually suffered. The overarching consideration demanded by the statute is that the amount of compensation for any reduction in value be appropriate.

In this case, there was a possibility of repair of the defect at no cost and the nature of the defect was such that the vehicle could be used despite the defect. Those factors meant that considerable utility was afforded to consumers of the affected vehicles notwithstanding the defect, the appreciation of which is reinforced by the fact that from 2020, a complete fix was available and the expert evidence was that there was no ongoing reduction in value. In view of those circumstances, it was an error to assess the value of the affected vehicles without regard to the availability of the fix. If the fix is not taken into account, the possibility of over-compensation and unfairness is real.

In relation to the appeal grounds challenging the primary judge's quantitative assessment of the reduction in value of the relevant vehicles, the Full Court found that the primary judge erred in placing reliance on certain expert evidence such that the 17.5 per cent assessment cannot stand, but otherwise dismissed the appellant's contentions.

The Full Court set aside orders made below and the matter was remitted to the primary judge for re-assessment of reduction in value damages.

FEDERAL CRIME AND RELATED PROCEEDINGS NPA

DTO21 v Australian Crime Commission [2022] FCAFC 190

(30 November 2022; Wigney, Bromwich and Abraham JJ)

In this case, the appellant was serving an indeterminate prison sentence that had been imposed by the primary judge for contempt of the respondent. After the appellant had served some four months of his sentence, he exercised his liberty to apply, and the proceeding was re-listed before the primary judge to hear the application.

The appellant appealed from the primary judge's second decision, which effectively replaced the indeterminate prison sentence that his Honour had imposed with a fixed term sentence of 12 months, effectively backdated to when the appellant was first taken into custody.

In the first ground of appeal, the appellant contended that the primary judge erred in finding that there was a continued prospect of the appellant purging his contempt.

Bromwich and Abraham JJ considered authorities on contempt sentencing relied upon by the appellant and observed that one of the tasks of a sentencing judge in a case of this kind is making a prediction as to the future likelihood of the purging of contempt. Their Honours noted in relation to this prediction that there is no evidentiary requirement for proof of that future likelihood being realised as an ascertainable fact.

In their Honours' view, where a contemnor has received an indeterminate sentence and asserts they will not purge their contempt, the task of the sentencing judge as to the element of coercion is to ascertain whether the provision of information, or other conduct sought, is still required and if so, whether the previously made prediction remains sound. The primary judge was without error in approaching his Honour's task.

Wigney J agreed generally with Bromwich and Abraham JJ's reasons, however, was inclined to a different view on coercion as a relevant consideration. In his Honour's view, there is a real issue, not resolved by the authorities, as to the extent to which coercion is a relevant consideration in fixing a determinate sentence to punish a contemnor in respect of their contempt. His Honour was inclined to the view that except in two minor respects, coercion is not a relevant consideration in

such cases. His Honour was not satisfied, however, that the primary judge had impermissibly taken coercion into account in imposing the 12-month fixed term sentence.

The Full Court rejected the appellant's second ground which contended that the primary judge erred in failing to consider a suspended sentence to be an option. Their Honours found that the primary judge did have regard to this option but rejected it.

The Full Court rejected the appellant's final ground which contended that the fixed sentence was manifestly excessive. Their Honours held that the comparative sentences in cases relied upon by the appellant were distinguishable and in any event the sentence imposed by the primary judge was not outside the range produced by those cases and did not manifest error.

The Full Court was unanimous in the view that the appeal should be dismissed.

EMPLOYMENT AND INDUSTRIAL RELATIONS NPA

D&D Traffic Management Pty Ltd v The Australian Workers' Union [2022] FCAFC 113

(8 July 2022; Katzmann, Thawley and Goodman JJ)

In these proceedings, the Full Court considered an application for judicial review of decisions made by the Fair Work Commission (FWC) not to approve the *D&D Traffic Management & Other Work Enterprise Agreement 2020* (Agreement). In doing so, the Full Court considered the definition of 'shiftwork' and whether particular clauses of the *Building and Construction General On-Site Award 2010* (Award) apply to casual employees.

D&D Traffic Management Pty Ltd (D&D) is a traffic management company that employs 'traffic controllers', predominantly on a casual basis, and provides services to the civil construction industry. An application to have the Agreement approved by the FWC pursuant to s 186 of the *Fair Work Act 2009* (Cth) was dismissed because the FWC was not satisfied that the Agreement passed the 'better off overall test' under s 193(1) of the Act when compared to the Award. The FWC concluded that, where employees were not shiftworkers within the 'shiftwork' definition in cl 34.2(a) of the Award, the Award provided for the payment of overtime which would exceed the amount payable in respect of night shift work pursuant to cl 8(c) of the Agreement. A Full Bench of the FWC subsequently refused D&D permission to appeal.

D&D sought judicial review on the basis that the FWC misconceived the statutory task or failed to carry out the statutory task required by sections 186 and 193 of the Act, and breached an implied condition to exercise the power in sections 186 and 193 reasonably. In particular, D&D claimed that the Commission misconstrued certain provisions of the Award, including the 'spread of hours' clause (cl 33.1) and the definition of 'shiftwork' (cl 34.2(a)).

The Full Court considered the statutory function of the FWC in approving enterprise agreements as outlined in Division 4 of Part 2–4 of the Act and noted that the 'basic rule' established by section 186 of the Act is that the FWC must approve an agreement where the requirements set out in sections 186 and 187 are met, provided the FWC is *satisfied* that the agreement passes the better off overall test as defined in section 193. The Full Court held that states of satisfaction are judicially reviewable and that, while misconstruction of the Award is capable of giving rise to jurisdictional error, whether misconstruction does in fact have that result depends on the particular circumstances.

In this case, the Full Court found that the FWC had not misconstrued its statutory function or the task required, or materially misconstrued the Award. It rejected D&D's contention that cl 33.1 of the Award (which provides for ordinary working hours of 38 per week between 7am and 6pm Monday to Friday) does not apply to casual employees, finding that cl 33.4 (which requires that the daily ordinary hours of a casual employee not exceed 8) does not apply to the exclusion of cl 33.1.

The Full Court then considered the definition of 'shiftwork' (in cl 34.2(a) of the Award) as 'any system of work in which operations are being continued by the employment of a group of employees upon work on which another group had been engaged previously'. The Full Court rejected D&D's contention (not put to the FWC) that, even if an employee is not performing 'shiftwork' within that definition, the employee is nonetheless a shiftworker if they work a period of time being a 'day shift', 'afternoon shift' or 'night shift'. The Full Court concluded that D&D had failed to identify any error in the FWC's construction of shiftwork, and that the definition does not include a situation where employees carry out work at location A and other workers then carry out work at location B, as such work is not carried out 'upon work' on which another group had previously been engaged.

In dismissing the application, the Full Court noted that even if error had been established, the fact that the case put to the Court was in almost all respects

not put to the FWC would militate against relief being granted, observing that a judicial review proceeding is not the occasion to advance a new case.

The Full Court also noted that D&D did not seek judicial review of the Full Bench decision refusing permission to appeal. The Full Court observed that such refusal was amenable to judicial review and that it was generally not in the interests of the administration of justice for the Court to permit an applicant to circumvent the limits on appeals imposed by the Act by quashing first instance decisions of the FWC in a manner inconsistent with conclusions reached by the Full Bench.

Airservices Australia v Civil Air Operations Officers' Association of Australia [2022] FCAFC 172

(19 October 2022; Bromberg, O'Callaghan and Snaden JJ)

Airservices Australia, an Australian Government statutory authority, and the Civil Air Operations Officers' Association of Australia entered into the *Airservices Australia (Air Traffic Control and Supporting Air Services) Enterprise Agreement 2017 – 2020* (the EA) in 2007. A dispute subsequently arose in 2018 when Airservices made a decision to withdraw from use a set of guidelines, contemplated by cl 19.18 of the EA, which regulate the use of 'grey-day' rosters in the rostering of air-traffic control employees. The 'grey-day' rosters allowed for employees to be rostered on stand-by for a grey-day shift with the expectation that they were required to be available to attend work if they were called to do so, but were otherwise paid their ordinary rate of pay for the nominal shift regardless of whether or not the employee was required to attend for duty. Civil Air notified the Fair Work Commission (FWC) of the dispute and, at arbitration, the FWC decided that Airservices had failed to comply with an obligation to consult with certain of its employees prior to withdrawing the guidelines and failed to maintain the status quo after being notified of the dispute. Civil Air commenced proceedings in this Court seeking declarations in relation to the failure to consult and maintain the status quo and pecuniary penalties. The primary judge rejected Airservices' submission that the Court lacked jurisdiction to decide the proceeding because there was no subsisting justiciable controversy between the parties by reason of the FWC's decision, and found that the decisions of Airservices were in contravention of section 50 of the *Fair Work Act* (FW Act). The primary judge made declarations and ordered that Airservices pay pecuniary penalties of \$72,450.

In the proceedings before it, the Full Court considered whether there was a 'matter arising under' the FW Act such as to give the Court jurisdiction under section 562, and whether the primary judge erred by making the declarations and imposing penalties, whether in the imposed amounts or at all. On the question of jurisdiction, O'Callaghan J, with whom Bromberg and Snaden JJ agreed on this point, concluded that the Court did have jurisdiction to determine the matter. In doing so, his Honour found that while the FWC may exercise arbitral powers in limited circumstances, a dispute about whether a party is liable for a contravention of section 50 of the FW Act is not a dispute that is capable of being referred to arbitration by the FWC and the FWC does not have the power to make orders in relation to contraventions of the civil remedy provisions of the FW Act. The Full Court was also unanimous in the view that the primary judge did not err in granting declaratory relief.

On the issue of penalties, O'Callaghan J and Snaden J, by way of a concurring judgment, found that the penalties imposed by the primary judge were manifestly excessive because the penalties were wholly outside the range of sentencing options available and because the penalties imposed were not necessary to provide a deterrent effect. Justice O'Callaghan found that it was appropriate for the Full Court to re-exercise the discretion to impose a pecuniary penalty and reset the penalty at 20 per cent of the maximum amount for each of the contraventions; that is \$12,600 for each penalty totalling \$25,200, being a just and proportionate amount to the contravening conduct when the surrounding circumstances are taken into account.

Justice Bromberg respectfully disagreed with the reasons of O'Callaghan J and the concurring judgment of Snaden J on the question of penalties. His Honour concluded that mid-range penalties were appropriately imposed by the primary judge in recognition that the relevant breaches of the EA were serious and occurred in circumstances where prior similar offending had occurred and Airservices continued to display a failure to appreciate the seriousness of its conduct.

CFMMEU v OS MCAP Pty Ltd [2023] FCAFC 51

(28 March 2023; Collier, Thomas and Raper JJ)

In these proceedings, the Full Court considered the meaning of a 'request' to work on a public holiday within the meaning of sections 114(2) of the *Fair Work Act 2009*.

OS MCAP Pty Ltd (OS) engages employees to provide production and maintenance services to mining companies, including at the Daunia Mine site located in central Queensland, on a roster that provides services on a continuous basis. Approximately 85 OS employees worked a standard 12.5 hour shift at the Mine on Christmas Day and Boxing Day 2019, without any additional remuneration. At a number of meetings between OS management and employees in August and September 2019, OS told the employees that it could only accommodate six employees for each roster panel being absent on Christmas Day and Boxing Day. The employees who would be permitted to take leave were subsequently randomly selected.

The Construction, Forestry, Maritime, Mining and Energy Union commenced proceedings against OS, contending that it had breached the National Employment Standards, specifically section 114 of the Act, by *requiring* employees to work on public holidays, and thereby contravened section 44 of the Act. Section 114(1) affords employees protection not to be required to work on a public holiday, section 114(2) permits an employee to request an employee to work on a public holiday and section 114(3) provides that such a request can be refused if it is not reasonable or the refusal is reasonable. The primary judge concluded that section 114(2) was not intended to apply only to a request in the sense of a question leaving the employee with a choice whether to work, but was also intended to apply to a *requirement* by an employer.

On appeal, the Full Court considered the bounds of the protection afforded and what constitutes a *request* under the Act. The Full Court reiterated that the intention of s 114(1) is that an employee is entitled to be absent from their employment for either part or a whole day that is a public holiday unless the exceptions under section 114(2) to (3) apply. In light of this, the Full Court found that the ordinary meaning of the word *request*, in the context of section 114, envisages a situation where an employer can ask an employee to work on a public holiday, in circumstances where such a request is reasonable, and a discussion or negotiation may then take place. The Full Court considered what a request must constitute under the Act and determined that a request must be made in the form of a question leaving the employee with a choice to either accept or refuse the request.

As OS MCAP had not requested that the employees work on the public holiday but imposed a requirement that could not be refused by an employee, the Full Court found that OS had

contravened section 44 of the Act in respect of each of the employees that OS required to work at the Mine on 25 and 26 December 2019, by its contravention of section 114 of the Act requiring those employees to work on those dates, which were public holidays. In doing so, the Full Court sought to reinforce the purpose underlying section 114 of the Act, to provide an employee with recourse to correct a power imbalance that may exist between an employer and employee.

In reaching its decision, the Full Court observed that in situations where a request is refused by an employee and that refusal is unreasonable, an employer may require an employee to work on a public holiday, and that ‘reasonableness’ should be determined on a case-by-case basis with reference to the criteria set out in section 114(4) of the Act.

An Application for Special Leave to the High Court of Australia was filed on 26 April 2023.

INTELLECTUAL PROPERTY (TRADE MARKS) NPA

Energy Beverages LLC v Cantarella Bros Pty Ltd [2023] FCAFC 44

(22 March 2023; Yates, Stewart and Rofe JJ)

The Full Court determined two matters where leave to appeal was sought in respect of appeals from decisions of delegates of the Registrar of Trade Marks in opposition proceedings.

First, the delegate found that Energy Beverages (EB) had not used the MOTHERLAND mark (registered in class 32) and directed that it be removed. EB was unsuccessful in its appeal and then sought leave to appeal to the Full Court.

The Full Court was not persuaded that clear prima facie error on the part of the primary judge, in his conclusion that MOTHERLAND had not been used as a trade mark, had been established. Their Honours found EB only used MOTHER as a trade mark in respect of energy drinks. MOTHERLAND was only used as the name of a fictional theme park and was not used as a trade mark to indicate the trade source of the drink. Leave to appeal was refused.

Second, the delegate found EB to be unsuccessful in its opposition against Cantarella’s MOTHERSKY application in class 30 (coffee, coffee beans and chocolate) and 41 (coffee roasting and coffee grinding) before the delegate. The delegate directed the MOTHERSKY mark proceed to registration. EB was then unsuccessful in its appeal before a single judge.

On appeal, the Full Court upheld EB's contentions that:

1. the goods of the MOTHERSKY application are 'similar goods' to the goods covered by the 'blocking' MOTHER mark (which at its broadest claimed non-alcoholic beverages in class 32), and
2. MOTHERSKY is deceptively similar to MOTHER when used in respect of the goods for which the registration of MOTHERSKY is sought.

As the case below and on appeal advanced by the parties was that the MOTHERSKY application was not limited to pure coffee products but extended to coffee as a beverage, the Full Court found the primary judge did not give due recognition to the full scope of goods as 'coffee'. Cantarella's contention that effectively coffee beverages are class 30 goods only, not class 32 goods, was not accepted by the Full Court. The Court noted the goods were classified in classes for administrative convenience, and the nomination of a class is not decisive as to the scope of the mark's registration. The parties' evidence supported the notion that 'coffee' as a beverage fell within the scope of 'non-alcoholic beverages'. In this way, the MOTHERSKY application and the earlier MOTHER registration claimed goods of the same description.

Although recognising the deceptive similarity analysis was one on which reasonable minds may differ, the Full Court found there were two matters which led to the conclusion that the primary judge's assessment was affected by appealable error. The comparison was made against the background that the MOTHERSKY goods were not the same goods or not goods of the same description as the MOTHER mark, which the Full Court found was in error. The Full Court, relying on the High Court's reasoning in *Self Care IP Holdings Pty Ltd v Allergan Australia Pty Ltd* [2023] HCA 8, then identified that the analysis should have also considered the ways in which, notionally, the competing marks could be used within the scope of the proposed registration of the MOTHERSKY mark and the scope of the actual registration of the MOTHER mark.

As the primary judge's analysis of deceptive similarity was found to be affected by error, the Full Court undertook the trade mark comparison task afresh. On the Full Court's comparison, their Honours were persuaded that MOTHERSKY is deceptively similar to MOTHER when used in respect of 'coffee' beverages. The Full Court noted MOTHER was inherently distinctive when used in respect of non-alcoholic beverages and that distinctiveness was not lost through the addition of the suffix 'sky' when used in

respect of coffee beverages, and that the primary judge erred in reaching the opposite conclusion. Special leave applications have been filed in the High Court.

INTELLECTUAL PROPERTY (COPYRIGHT AND INDUSTRIAL DESIGN) NPA

Campaigntrack Pty Ltd v Real Estate Tool Box Pty Ltd [2022] FCAFC 112

(6 July 2022; Greenwood, Cheeseman and McElwaine JJ)

Campaigntrack Pty Ltd provides online marketing services to the real estate industry through the software system known as Campaigntrack. Biggin & Scott Corporate Pty Ltd is the franchisor of a group of real estate agencies in Victoria that used the DreamDesk platform, an alternative cloud based marketing system developed by Mr David Semmens. In July 2016, Campaigntrack acquired ownership of the copyright in DreamDesk, with the intention of shutting it down so that clients could be persuaded to use Campaigntrack. Mr Semmens then developed another real estate marketing software system known as Real Estate Toolbox, with the support of Biggin & Scott, and in October 2016, Biggin & Scott began to use Toolbox in place of DreamDesk.

Campaigntrack commenced proceedings against parties including Biggin & Scott, two of its directors and Mr Semmens for infringement of its copyright rights, misuse of confidential information and breaches of contract. Campaigntrack claimed that Toolbox was developed by copying substantial parts of the source code of DreamDesk.

The primary judge dismissed the proceedings against each respondent other than Mr Semmens, essentially on the basis that the respondents lacked actual or constructive knowledge and did not authorise the infringing acts within the meaning of section 36(1)–(1A) of the *Copyright Act 1968* (Cth). On appeal, the Full Court considered whether the claims against the other respondents (other than the misuse of confidential information claims, which were abandoned during the course of argument) should have been upheld.

A majority of the Full Court allowed the appeal in part. Justice Greenwood generally agreed with the reasons of McElwaine J, and in a separate judgment, noted the significance of a letter sent by Campaigntrack's solicitors to one of the respondents on 29 September 2016 in which concerns were raised about improper use of the DreamDesk source code. His Honour held that the primary

judge's conclusion that on and from 29 September 2016, the respondents had no reason to suspect that Toolbox embodied substantial parts of the DreamDesk source code could not stand in the face of the evidence. His Honour emphasised that it was no answer for the respondents to say that they trusted Mr Semmens, and that from 29 September 2016, it was not open to them to deny the conduct put to them without proper investigation. By reason of their indifference to the complaints put to them, the respondents authorised the infringement of the DreamDesk works.

Similarly, McElwaine J held that liability could attach to the respondents if it is open to infer that from an identifiable point in time, they knew or should reasonably have known that an infringing act was or was likely to be done by Mr Semmens and then failed to take reasonable steps to avoid the doing of the act. In this context, the letter of 29 September 2016 was important. His Honour held that the letter, which came to the attention of Biggin & Scott, unambiguously expressed Campaigntrack's concern that there had been improper access and duplication of the DreamDesk source code. Justice McElwaine found that this letter, and the course of correspondence that followed, put the respondents on notice of a potential claim of copyright infringement and reasonably should have caused them to make specific inquiries of Mr Semmens in order to be satisfied that he had not copied and was not intending to copy the DreamDesk source code. Steps taken by the respondents, including the appointment of an independent forensic IT expert in November 2016, were taken too late and displayed indifference to the rights of Campaigntrack.

Justice Cheeseman dissented on the issue of authorisation, finding that the primary judge did not fail to draw the correct inference from the primary facts that he found. Her Honour observed that the primary judge made multiple unchallenged trust findings – that is, findings that there was a subsisting relationship of trust between the respondents and Mr Semmens – in the context of an assessment of the whole of the evidence. Her Honour found that the primary judge was aware of and considered the 29 September 2016 letter, and inferred that the absence of an express finding in relation to that letter is because the primary judge considered it to be immaterial when viewed in the context of, amongst other things, the continuing relationship of trust and the commercial history between the parties.

The Full Court dismissed other grounds of appeal, including those in respect of Campaigntrack's breach of contract claims. The matter was remitted to the primary judge for an inquiry as to damages or profits.

The High Court granted special leave to appeal on 17 February 2023, and the appeal is set for 1 August 2023.

NATIVE TITLE NPA

Pitta Pitta Aboriginal Corporation RNTBC v Melville on behalf of the Pitta Pitta People [2022] FCAFC 154

(9 August 2022; Jagot, Rangiah and Charlesworth JJ)

This Full Federal Court judgment relates to an application for leave to appeal from the orders of Justice Mortimer (as Her Honour then was) in *Melville on behalf of the Pitta Pitta People v State of Queensland [2022] FCA 387*. Justice Mortimer dismissed the application by the Pitta Pitta Aboriginal Corporation RNTBC that sought to summarily dismiss or strike out the compensation application purportedly brought on behalf of the Pitta Pitta People. The basis of the interlocutory application was that the compensation claim had not been properly authorised under section 251B of the *Native Title Act 1993* (Cth) and/or the Pitta Pitta People did not have standing under section 61 of the Act to make the compensation application. Justice Mortimer dismissed the application on the basis that such issues were unsuitable for summary determination on a strike out application.

The Full Court dismissed the application for leave on the basis that there was no error of principle apparent in the reasoning of the primary judge capable of vitiating the discretionary decision not to summarily dismiss the compensation application. The Full Court further determined that the primary judge rightly recognised that, in this case, the construction issues relevant to standing and authorisation involved disputed or not fully resolved (or resolvable at the summary dismissal stage) issues of fact.

Yunupingu on behalf of the Gumatj Clan or Estate Group v Commonwealth of Australia [2023] FCAFC 75

(22 May 2023; Mortimer CJ, Moshinsky and Banks-Smith JJ)

This decision by the Full Federal Court is in relation to a compensation claim made by Yunupingu on behalf of the Gumatj Clan or Estate Group under section 61 of the *Native Title Act 1993* (Cth). The claim seeks payment of compensation for the alleged effects on native title of certain acts done after the Northern Territory became a territory of the Commonwealth in 1911, but prior to the coming into force of the *Northern Territory Self-Government Act 1978* (Cth). The claim area is located in the Gove Peninsula, in north-eastern Arnhem Land in the Northern Territory.

Following a lengthy process, the parties ultimately agreed that some of the central issues in the compensation application should be dealt with separately through a demurrer process, whereby the applicant would file a statement of claim in the compensation proceeding (as well as in the native title claim that was brought at the same time). In response, it was agreed that the Commonwealth would file an interlocutory application in the compensation proceeding, seeking orders to facilitate a hearing of a demurrer against the applicant's claims for compensation.

Due to the significance of the issues raised, the former Chief Justice made a direction under section 20(1A) of the *Federal Court of Australia Act 1976* (Cth) in respect of the hearing of the demurrer by a Full Court.

The Full Court answered four separate questions in the compensation proceeding. It answered all questions in the applicant's favour. Two questions are of particular note as they raise important constitutional issues. In relation to the first of these, the Commonwealth submitted that its legislative power in relation to territories in section 122 of the Constitution is not limited by the 'just terms' requirement in section 51(xxxi). The Commonwealth relied on *Teori Tau v Commonwealth* [1969] HCA 62; 119 CLR 564 in support of its argument and submitted that the later case of *Wurridjal v Commonwealth* [2009] HCA 2; 237 CLR 309 did not overrule *Teori Tau*. In relation to the second, the Commonwealth submitted that, because native title is always liable to be extinguished by the grant of inconsistent property rights, it is 'inherently defeasible' and so not property that is protected by the 'just terms' requirement in the Constitution. The

Commonwealth focused in particular on the reasons of Gummow J in *Newcrest Mining (WA) Limited v Commonwealth* [1997] HCA 38; 190 CLR 513 at 613.

The Full Court rejected the Commonwealth's arguments. In relation to the first issue, it held that *Wurridjal* did in fact overrule *Teori Tau* and therefore that the Commonwealth's legislative power over territories is subject to section 51(xxxi). In regard to the second issue, the Full Court concluded that native title rights are proprietary in nature, they constitute property for the purposes of section 51(xxxi) and an act that extinguishes such rights is capable of amounting to an acquisition of property. The Court also decided an important extinguishment issue about the effect of the grant of a lease in 1938 to the Methodist Missionary Society of Australia, which covered all of the claim area. The Court held, in the applicant's favour, that the grant of the lease had not extinguished the non-exclusive native title contended to exist over the claim area.

On 20 June 2023, the Commonwealth filed an application for special leave in the High Court.

TAXATION NPA

Philip Morris Ltd v Comptroller-General of Customs [2022] FCAFC 185

(24 November 2022; Logan, Thawley and Hespe JJ)

From 1 July 2019, import duty became payable on all tobacco products imported into Australia by Philip Morris. A drawback of import duty could be claimed for tobacco products that were destined for export to third countries. Previously, such products were held in bonded warehouses and no import duty was payable.

The Comptroller-General of Customs rejected ten claims for drawback of import duty made by Philip Morris on tobacco products exported from Australia from July to September 2019.

The Tribunal found the claims were properly rejected because Philip Morris did not give the Australian Border Force notice in writing a reasonable time before the relevant exports of its intention to claim drawback on those exports. The Tribunal found there was no discretion to pay drawbacks where the notice requirement was not complied with.

Philip Morris claimed the Tribunal erred in finding that it did not give the requisite notice of its intention to claim drawbacks, including because export declaration notices submitted by Philip Morris understood against all of the circumstances including the history of dealings between the parties and the purposes of the legislative scheme, would

reasonably be understood as giving notice in writing of an intention to claim drawbacks.

The Full Court noted that export declaration notices could be given for goods produced in or imported into Australia and did not expressly state that Philip Morris intended to claim drawback on the exportation. The Full Court found the Tribunal did not err in reaching its conclusion that the export declaration notices did not convey an intention to claim drawback on the exportation and that no such notice had been given.

The Full Court explained that one of the principal purposes of the notice requirement was to alert the Comptroller-General of Customs of the existence of an intention to claim drawback, so that before goods were exported, any verification measures or inquiries could be undertaken. The Full Court found Philip Morris had not demonstrated any irrational or legally unreasonable finding of fact or conclusion in the Tribunal's reasons.

The Full Court also found that the Tribunal did not err in law by holding that there was no power or discretion to pay drawback of import duty notwithstanding failure to comply with the notice requirement. On the proper construction, there was no residual discretion to pay drawbacks, if there was a failure to comply with the notice requirement.

The Full Court unanimously dismissed the application by Philip Morris.

OTHER FEDERAL JURISDICTION NPA

Carnival plc v Karpik (The Ruby Princess) [2022] FCAFC 149

(2 September 2022; Allsop CJ, Rares and Derrington JJ)

Class action proceedings were brought against Carnival plc, as time charterer and operator of the *Ruby Princess*, and its subsidiary, Princess Cruise Lines Ltd, as owner of cruise ship *Ruby Princess*, in respect of loss or damage allegedly suffered by passengers and relatives of passengers onboard the vessel in March 2020. During the vessel's voyage from Sydney to Sydney via New Zealand, an outbreak of COVID-19 occurred, as a result of which a number of passengers allegedly contracted the disease and fell ill or died, or sustained distress or psychiatric injury.

The primary judge determined certain separate questions relating to the terms of the contract under which Mr Patrick Ho undertook the voyage. A contract issue was whether what became known as the 'US Terms and Conditions' formed part of Mr Ho's passage contract. The US Terms and Conditions

contained an exclusive jurisdiction clause in favour of the United States District Courts in California and a class action waiver clause, raising the issue whether Mr Ho's claim (and those of other passengers who contracted on the same terms) should be stayed as an abuse of process. The primary judge found that the US Terms and Conditions were not incorporated into Mr Ho's passage contract, but on the assumption that the US Terms and Conditions did apply, his Honour found that the class action waiver clause was unenforceable because it was an 'unfair term' contrary to the *Australian Consumer Law* (ACL). The primary judge found that the exclusive jurisdiction clause was not an unfair term, but would have exercised the discretion to refuse to enforce it.

A majority of the Full Court allowed the appeal. All three judges agreed that the US Terms and Conditions were incorporated into Mr Ho's passage contract and that the primary judge erred in finding to the contrary. However, the Full Court diverged on the enforceability of the class action waiver clause.

Chief Justice Allsop and Derrington J held that the class action waiver clause was enforceable. Chief Justice Allsop agreed with the reasons of Derrington J, but emphasised that the question whether the class action waiver clause was unfair, for the purposes of sections 23 and 24 of the ACL, must be considered by reference to the whole of the contract, including the enforceable foreign exclusive jurisdiction clause. His Honour found that when the whole contract is considered, the parties agreed for the United States courts to have exclusive jurisdiction and for there to be a waiver of class action participation. His Honour concluded that the loss of the procedural advantage to Mr Ho of the Australian class action is what he freely bargained for under the proper law of the contract by the exclusive jurisdiction clause. Chief Justice Allsop also agreed with Derrington J that there is no defeat of any statutory purpose of Part IVA of the *Federal Court of Australia Act 1976* (FCA Act) by permitting parties, in the free exercise of the right to contract, to agree not to participate in class actions.

Justice Derrington found that the class action waiver clause was not an 'unfair term'. His Honour concluded that:

- the class action waiver clause merely limits the manner in which Mr Ho might pursue his claim and did not result in a significant imbalance in the parties' rights and obligations

- Princess had a legitimate interest in avoiding the burden of class actions being brought against it, and in dealing with claims made against it in the forum with which it was familiar, and
- even if Mr Ho does suffer detriment from being required to enforce his claim individually, it was not possible to give weight to that detriment, and Princess did everything reasonably necessary to bring the class action waiver to his attention such that it was 'transparent' within the meaning of section 24(2) of the ACL.

Justice Derrington found that there is no basis on which it could be concluded that the class action waiver clause was 'unfair' within the meaning of sections 23 and 24 of the ACL. His Honour also considered and rejected the submission that the class action waiver clause was contrary to the operation of Part IVA of the FCA Act, finding that there is no public policy in Part IVA which is inconsistent with a person's right to agree not to pursue a claim as a member of a class action.

In his dissenting judgment, Rares J held that Part IVA of the FCA Act does not enable persons to contract out of being group members before the commencement of a representative proceeding. His Honour observed that the Parliament chose an opt out, rather than opt in, model for representative proceedings under Part IVA of the FCA Act, and held that to allow persons to contract out of Part IVA would undermine that legislative choice. His Honour found that a representative proceeding would not achieve the intended efficiency or equity if it could be stymied by a pre-commencement agreement to opt out, concluding that the class action waiver clause is unenforceable. Similarly, his Honour held that because a person cannot contract prospectively out of being a group member in a representative proceeding, enforcement of the exclusive jurisdiction clause would also be contrary to the public policy of the FCA Act, and that clause is also unenforceable.

The Full Court ordered that the proceedings in respect of Mr Ho's claims against Carnival/Princess be stayed, with the matter remitted to the primary judge for determination of the extent to which the Full Court's reasons for decision affect the claims of other members.

The High Court granted special leave to appeal on 17 March 2023, and the appeal is set for 3–4 August 2023.

Roberts-Smith v Fairfax Media Publications Pty Ltd (No 41) [2023] FCA 555

(2 June 2023, Besanko J)

Mr Ben Roberts-Smith VC MG, a former member of the Special Air Service Regiment (SASR), undertook six tours of Afghanistan in the period between 2003 and 2013 and received numerous awards and medals. Mr Roberts-Smith commenced three defamation proceedings against Fairfax Media Publications Pty Ltd, The Age Company Pty Limited, The Federal Capital Press of Australia Pty Limited and three journalists employed by Fairfax (respondents) in respect of three groups of articles published in June and August 2018 in various newspapers and on various websites. The articles contained allegations about the conduct of SASR soldiers in Afghanistan, and some of the articles referred to Mr Roberts-Smith by name and contained allegations concerning his conduct as a soldier in Afghanistan and an allegation of domestic violence. By the conclusion of the trial, there was no dispute that the articles, even those that did not refer to him by name, identified Mr Roberts-Smith. The three proceedings were heard together. Orders were made pursuant to the *National Security Information (Criminal and Civil Proceedings) Act 2004* (Cth) with the effect that evidence was given in both open and closed Court, and certain matters were dealt with in closed reasons.

Justice Besanko considered what imputations were conveyed by the articles, and whether the defences of substantial truth and contextual truth pursuant to sections 25 and 26 of the *Defamation Act 2005* (NSW) were available to the respondents. In respect of the disputed imputations, his Honour found that certain of the articles, known as the 'Group 2 articles', conveyed imputations that Mr Roberts-Smith committed murder by pressing an inexperienced SASR soldier to execute an elderly, unarmed Afghan in order to 'blood the rookie' and by machine-gunning a man with a prosthetic leg. His Honour found that a further group of articles, the 'Group 3 articles', conveyed imputations that Mr Roberts-Smith was guilty of the criminal or other misconduct alleged, including that Mr Roberts-Smith authorised the execution of an unarmed Afghan and engaged in an act of domestic violence.

In respect of the defence of substantial truth, which required the respondents to establish that every material part of the relevant imputations is true, Justice Besanko made extensive findings of fact concerning events in Afghanistan and the allegations of domestic violence. His Honour found, amongst other things, that:

- during a mission to a compound known as Whiskey 108, a man known as EKIA 56 was executed by Person 4 in a tunnel courtyard at the direction of Mr Roberts-Smith and that a man known as EKIA 57 was executed by Mr Roberts-Smith
- during a mission to a village named Darwan, Mr Roberts-Smith kicked a man known as Ali Jan off a small cliff, agreed with Person 11 that Ali Jan would be shot, and was party to an agreement with Person 11 to murder Ali Jan, and
- during a mission to the District of Chinartu, Mr Roberts-Smith ordered Person 12 to shoot an Afghan male under detention, and was complicit in and responsible for murder.

On that basis, Besanko J found that the respondents had established the substantial truth of a number of the imputations conveyed by the articles. While Besanko J found that the respondents' case was not established in respect of some other imputations (including because his Honour was not satisfied that the alleged domestic violence assault occurred), his Honour found that those imputations do no further harm to Mr Roberts-Smith's reputation, and that the imputations found to be substantially true are so serious that Mr Roberts-Smith has no reputation capable of being further harmed. Accordingly, his Honour dismissed the proceedings.

Mr Roberts-Smith has filed Notices of Appeal in each of the three proceedings.

Appendix 8: Judges' activities 2022–23

The Hon Chief Justice Debra Mortimer

- Senior Fellow, Melbourne Law School
- Member, Advisory Board, Centre for Comparative Constitutional Studies
- Member, Australian Academy of Law
- Member, International Association of Refugee Law Judges
- Member, Board of Advisors of the Public Law Review

DATE	ACTIVITY
11 November 2022	Presented a session ' <i>At What Cost? Public Interest Litigation and Accessibility in Australian Courts</i> ' at the Environment and Planning Law Association 2022 Conference. This session was chaired by Rob White.
23–25 January 2023	Attended the Supreme and Federal Courts Judges' Conference and presented a session ' <i>Section 501 Deportations from Australia to New Zealand</i> ' alongside Dr Jarrod Gilbert. This session was convened by Justice Jenny Blokland, New Zealand.
3 February 2023	Moderated a session at the Brisbane Native Title Forum titled ' <i>Native Title Mediation – Developing Approaches</i> '.
10 February 2023	Presented a session at the 2023 Constitutional Law Online Conference ' <i>The State and Federal Courts on Constitutional Law in the 2022 term</i> ' chaired by Associate Professor Janina Boughey. This conference was organised by the Gilbert + Tobin Centre of Public Law at the Faculty of Law and Justice, University of New South Wales.
21 March 2023	Attended the Victorian Bar Pro Bono Awards 2023 ceremony and presented the Debbie Mortimer S.C Award.

Activities since appointment as Chief Justice

DATE	ACTIVITY
24 April 2023	Attended the Council of Chief Justices of Australia and New Zealand, Brisbane.
1–3 May 2023	Visited the Western Australia Registry with Principal Registrar, Sia Lagos, to meet with the Judges, staff and members of the profession.
4–5 May 2023	Visited the South Australia Registry with Principal Registrar, Sia Lagos, to meet with the Judges, staff and members of the profession.
8–12 May 2023	Visited the New South Wales Registry with Principal Registrar, Sia Lagos, to meet with the Judges, staff and members of the profession.
15–18 May 2023	Visited the Queensland Registry with Principal Registrar, Sia Lagos, to meet with the Judges, staff and members of the profession.
22 May 2023	Visited the Northern Territory Registry to meet with the staff and members of the profession.
29 May–2 June 2023	Met with Judges, staff and members of the profession at the Victorian Registry.
13 June 2023	Presided over the welcome ceremony for Justice Kyrou AO, Melbourne.
21 June 2023	Hosted Chief Justice Gesmundo of the Supreme Court of the Philippines and other judicial officers and staff, Melbourne.
26 June 2023	Recorded an interview with Dr Chantal Bostock, Senior Lecturer at the University of New South Wales in relation to the importance of administrative law in Australia.

DATE	ACTIVITY
28 June 2023	Attended a Victorian Bar dinner in honour of the Hon Mark Dreyfus KC.
30 June 2023	Visited the Tasmanian Registry with Principal Registrar, Sia Lagos, to meet with the Judges, staff and members of the profession.

The Hon Justice Susan Kenny AM

- Chairperson, Australian Electoral Commission
- Presidential Member, Administrative Appeals Tribunal
- Member, Council of the Australasian Institute of Judicial Administration
- Foundation Fellow, Australian Academy of Law
- Principal Fellow, Melbourne Law School, University of Melbourne
- College Fellow, St Hilda's College, University of Melbourne
- Chair, Asian Law Centre Advisory Board, Melbourne Law School, University of Melbourne
- Member, Editorial Board, Journal of the Intellectual Property Society of Australia and New Zealand
- Advisory Board Member, University of Melbourne Ninian Stephen Law Program
- Convenor, Library Committee until May 2023
- Convenor, International Development and Cooperation Committee until May 2023
- Member, Judicial Education Committee
- Member, Public Communications Committee

DATE	ACTIVITY
1–27 July 2022	Acting Chief Justice of the Federal Court of Australia.
15 July 2022	Attended and delivered the Opening Address for the 2022 National Administrative Law Conference, Australian Institute of Administrative Law.
15 September 2022	Attended the Law Council of Australia Legal Issues Workshop (Referendum on First Nations Voice).
17 October 2022	Attended and presented at a meeting with United Nations Subcommittee on the Prevention of Torture (online).
16 December 2022–30 April 2023	Acting President of the Administrative Appeals Tribunal.
8 March 2023	Attended and spoke at the farewell ceremony for Chief Justice Allsop, Melbourne. Attended and spoke at a ceremony for Victorian Bar, Melbourne.
29–30 March 2023	Attended and spoke on the contribution of the Hon Mary Gaudron KC at the National Federal Court Judges' meeting.
31 March 2023	Attended and spoke at farewell ceremony for Chief Justice Allsop, Sydney.
7 April 2023	Attended and participated in swearing in of Chief Justice Mortimer, Melbourne.
20 April 2023	Judged Appellate Advocacy Moots, Readers' Course Oral Appellate Workshops, Victorian Bar.
31 May 2023	Attended and spoke at University of Melbourne Faculty of Arts Alumni Awards.
July 2022–30 June 2023	Attended scheduled meetings of the AIJA Council and AIJA Research Committee meetings.
July 2022–30 June 2023	Attended meetings and discussions relating to listed positions.

The Hon Justice Steven Rares

- Fellow, Australian Academy of Law
- Member, Australian Academy of Law, 2023 Conference Planning Committee
- Member, Comité Maritime International Working Group of Offshore Activities
- Member, Australasian Institute of Judicial Administration, Research Committee
- Member, Operations and Finance Committee
- Member, Public Communications Committee
- Member, Criminal Procedure Committee

DATE	ACTIVITY
1 July 2022–30 June 2023	Attended scheduled meetings of the Australasian Institute of Judicial Administration Research Committee.
1 July 2022–30 June 2023	Attended scheduled meetings of the Operations and Finance Committee.
1 July 2022–30 June 2023	Attended scheduled meetings of the Public Communications Committee.
1 July 2022–30 June 2023	Attended, as representative of the Australasian Institute of Judicial Administration, scheduled meetings of the Planning Committee for the ‘ <i>Enduring Courts in Changing Times</i> ’ Conference for bicentennials of the Supreme Courts of Tasmania and New South Wales to be held on 8–10 September 2023.
26 July 2022	Attended and delivered final determination on country for Kurtjar people at Delta Downs station in Far North Queensland (<i>Rainbow on behalf of the Kurtjar People v State of Queensland (No 3)</i> [2022] FCA 824).
28 July 2022	Attended and chaired in-person and online seminar in Sydney on ‘ <i>Recent Developments in Admiralty: Here and Abroad</i> ’ presented by SC Derrington and Stewart JJ.
29 July 2022	Sat as a judge of the Norfolk Island Supreme Court.
5 August 2022	Hosted a visit by a delegation from the Cambodian National Commission on Consumer Protection.
24 August 2022	Chaired a meeting of Court’s Defamation User Group with Lee and Wheelahan JJ.
13 October 2022	Attended Federal Court / Law Council of Australia Liaison Meeting.
26 October 2022	Attended and gave introductory address at United Nations Commission on International Trade Law National Coordination Committee for Australia United Nations Day Lecture 2022.
28 October 2022	Attended the Australasian Institute of Judicial Administration Annual General Meeting and Council dinner.
31 October–1 and 4 November 2022	Sat as a judge of the Norfolk Island Supreme Court.
19 December 2022	Visited significant cultural sites of the Widjabul Wia-bal people at and around Lismore, New South Wales, and delivered a consent determination judgment on country (<i>Widjabul Wia-bal v Attorney-General of New South Wales (Section 87 Agreement)</i> [2022] FCA 1521).
21–25 January 2023	Attended the Supreme and Federal Court Judges’ Conference in Christchurch, New Zealand.

DATE	ACTIVITY
28 February 2023	Attended and gave the keynote speech at the Maritime Law Association of Australia and New Zealand New South Wales Branch 2023 Mini Conference.
1 March 2023	Hosted a Joint Federal and Supreme Court Judges' Lunch with special guest, the Hon Edwin Cameron, former justice of the Constitutional Court of South Africa.
2 March 2023	Attended and gave an address launching <i>'Case Management and Complex Civil Litigation'</i> , 2 nd ed by Professor Michael Legg.
20 April 2023	Attended the farewell ceremony for the Hon John Dowsett AM KC as President of the National Native Title Tribunal, Brisbane.
16 June 2023	Made a titular member of the Comité Maritime International at its Montreal, Canada, Colloquium.
16 June 2023	Attended a lecture by the Hon RS French AC on the 30 th anniversary of the Australian Judicial Officers Association and, as former President, a dinner honouring the retiring President, the Hon Justice Glenn Martin AM.
23 June 2023	Attended and delivered a speech on <i>'The Significance of Context in Misleading and Deceptive Conduct Cases'</i> at the 10 th anniversary of the Commercial Law Association's June judges' lunchtime seminar series.

The Hon Justice John Logan RFD

- President, Defence Force Discipline Appeal Tribunal
- Judge, Supreme and National Courts of Justice of Papua New Guinea
- Member (ex officio), Queensland Bar Association South Pacific Legal Education Committee
- Member, Board of Governors, Cromwell College within the University of Queensland

DATE	ACTIVITY
22 July 2022	Delivered a paper at the Australian Institute of Administrative Law, National Administrative Law Conference in Canberra on <i>'Not a Suicide Pact? – Judicial Power and National Defence and Security in Practice'</i> .
29 August–2 September 2022	Volunteered (using personal leave) in the teaching team at the Commercial Litigation Workshop conducted by the Queensland Bar Association at the Papua New Guinea Legal Training Institute.
6–9 September 2022	Attended (at own expense) Society of Legal Scholars Conference, King's College, London, United Kingdom.
28 October 2022	Delivered a paper via web conference to the Advance Military Administrative Law Course, University of Adelaide Law School on <i>'Administrative Action and Military Discipline'</i> and panel member for related discussion.
22 February 2023	Delivered a paper at the Papua New Guinea Centre for Judicial Excellence/ University of Papua New Guinea – Sir Buri Kidu Continuing Professional Development Lecture Series on <i>'Revenue Law and Practice in Papua New Guinea'</i> .
5–9 March 2023	Attended (at own expense for travel and accommodation) and delivered a paper at the Commonwealth Lawyers' Conference in Goa, India on <i>'Judicial Accountability – New Developments and Threats'</i> ; also member of judging panel for final at the conference of CLA Moot Competition.
25 April 2023	Attended ANZAC Day Dawn Service, Commonwealth War Graves Cemetery, Bomana, Port Moresby, Papua New Guinea during PNG Supreme Court duty week.

The Hon Justice Nye Perram

- President, Copyright Tribunal of Australia
- Chair, Court Digital Practice Committee

DATE	ACTIVITY
13 October 2022	Participated in a liaison meeting between the Federal Court and the Law Council of Australia.
18 October 2022	Attended a meeting with the Right Honourable Sir Geoffrey Vos, Master of the Rolls and Head of Civil Justice in England and Wales, in relation to the digitalisation of justice and virtual hearings.
24 November 2022	Met with the Companies and Intellectual Property Authority of Botswana regarding intellectual property dispute resolution reforms in Botswana.
21 February 2023	Attended a book launch of <i>'Learning to Litigate'</i> by Neil Williams SC and Alison Hammond.
29 May 2023	Attended a seminar presented by Professor Jane Stapleton KC (Hon), FBA and hosted by the Honourable Justice Julie Ward, President of the New South Wales Court of Appeal, on <i>'Unnecessary and Insufficient Factual Causes'</i> .
June 2023	Authored an article on <i>'Some Observations on Jurisdictional Error'</i> (2023) 30 <i>Australian Journal of Administrative Law</i> 49.

The Hon Justice David Yates

- Member, Rules Committee
- Member, International Development and Cooperation Committee
- National Appeals Coordinating Judge
- Coordinating Judge, Intellectual Property National Practice Area
- Member, Editorial Board, Journal of the Intellectual Property Society of Australia and New Zealand

DATE	ACTIVITY
15 September 2022	Hosted Assistant Judge Saori Miyazaki, Takasaki Branch of Maebashi District Court, Japan.

The Hon Justice Mordecai Bromberg

- National Coordinating Judge, Federal Court Employment and Industrial Relations National Practice Area
- Registry Coordinating Judge (Victoria), Federal Court Employment and Industrial Relations National Practice Area
- Coordinator, Federal Court, Victorian Supreme Court and the Victorian Bar Indigenous Clerkship Program
- Chair, Federal Court Employment and Industrial Relations National Practice Area User Group
- Chair, Advisory Board, Centre for Employment and Labour Relations Law (Melbourne University)

DATE	ACTIVITY
29 September 2022	Chaired and presented at the Federal Court's Employment and Industrial Relations NPA Seminar on Current Issues in the Practice of Employment and Industrial Law.
3 October 2022	Adjudicated the semi-final of the Sir Harry Gibbs Constitutional Law Moot.

The Hon Justice Anna Katzmann

- Fellow, Australian Academy of Law
- Member, Advisory Committee, Gilbert + Tobin Centre of Public Law
- Court representative, organising committee, Supreme and Federal Court Judges' Conference
- Chair, Court Wellbeing Committee

DATE	ACTIVITY
3 August 2022	Attended the 2022 Mason Conversation featuring the Hon Murray Gleeson AC in conversation with Prof Rosalind Dixon.
3 October 2022	Presiding judge for the semifinal of the 2022 Baker McKenzie National Women's Moot, University of Sydney.
14 October 2022	Attended <i>'The future of judicial reform in Australia – An Academic and Judicial Symposium'</i> organised by the Gilbert + Tobin Centre of Public Law.
23–25 January 2023	Attended the Supreme and Federal Court Judges' Conference and chaired Session 8 on <i>'Russia and Ukraine: options for international civil and criminal accountability for aggression, war crimes and crimes against humanity'</i> , Christchurch, New Zealand.
10 February 2023	Attended the 2023 Constitutional Law Conference and chaired the first session on <i>'The High Court on Constitutional Law in the 2022 term'</i> .
15 February 2023	Participated in the workshop on Judicial Commissions organised by The Judicial Project, Gilbert + Tobin Centre of Public Law.
11–14 May 2023	Attended the International Association of Women Judges Conference, Marrakesh, Morocco.

The Hon Justice Bernard Murphy

- Principal Fellow, University of Melbourne
- Member, Law School Advisory Council, University of Melbourne
- Member, American Law Institute

DATE	ACTIVITY
27 July–2 August 2022	Taught the Class Actions Law Masters course at the University of Melbourne.
20 November 2022	Spoke at the 35 th LAWASIA Conference 2022 on <i>'International Trends, Class Actions, Litigation Funding and ADR'</i> .
22–25 January 2023	Attended the Supreme and Federal Court Judges Conference in Christchurch, New Zealand.
24 February 2023	Spoke at the Law Council of Australia 2023 Commonwealth Law Conference on <i>'Class Actions'</i> .
20 March 2023	Convened a Class Actions seminar for the profession in Perth.

The Hon Justice Darryl Rangiah

- Additional judge, Supreme Court of the Australian Capital Territory
- Member, Executive and Governing Council, Australian Judicial Officers Association;
- Member, Griffith University Law School Advisor Committee
- Member, University of Queensland Pro Bono Centre Committee

DATE	ACTIVITY
29 August 2022– 2 September 2022	Judge in Residence at Griffith University.
3 February 2023	Chaired the Queensland Native Title Forum.
24 February 2023	Addressed the Queensland Civil and Administrative Tribunal on <i>'Procedural fairness in Tribunals'</i> .
7 June 2023	Chaired a panel discussion at the AIATSIS conference, Perth.
19 June 2023	Addressed the FCFCOA conference on Employment Law, Alice Springs.

The Hon Justice Melissa Perry

- Additional Judge, Supreme Court of the Australian Capital Territory (until May 2023)
- Deputy President, Administrative Appeals Tribunal
- Member, Defence Force Discipline Appeal Tribunal
- Deputy Judge Advocate General, Air Force (appointed with effect from 10 February 2023)
- Air Commodore, Royal Australian Air Force, Legal Specialist Reserves (appointed with effect from 10 February 2023)
- Foundation Fellow, Australian Academy of Law
- Federal Court Representative (to May 2023), Judicial Council on Diversity and Inclusion (formerly the Judicial Council on Cultural Diversity and Diversity and Inclusion Justice Network)
- Chair (until May 2023), Specialist Committee established by the Judicial Council on Cultural Diversity, Recommended National Standards for Working with Interpreters in Courts and Tribunals (2nd ed, 2022)
- Patron, New South Wales Chapter, Hellenic Australian Lawyers Association
- Member, Advisory Committee, Gilbert + Tobin Centre of Public Law, University of New South Wales
- Member, Law School External Advisory Board, University of Adelaide
- Member, Advisory Council, Centre for International and Public Law, Australian National University
- Member, Board of Advisors, Research Unit on Military Law and Ethics, University of Adelaide
- Member, Advisory Board, University of New South Wales Allens Hub for Technology, Law and Innovation (from 2023)

DATE	ACTIVITY
6 July 2022	Presented a lunchtime seminar on advocacy to the Federal Court Associates at the Sydney registry.
14 July 2022	Panel member at the New South Wales launch of the National Recommended Standards for Working with Interpreters in Courts and Tribunals (2 nd ed).
26 July 2022	Speaker at the Memorial Service for His Excellency, Judge James Crawford AC, Great Hall, The University of Sydney.
3 August 2022	Presented on Interaction between International Human Rights Law and Military Discipline Law for the LTM-3 Discipline Law Course, University of Adelaide.
8 August 2022	Interviewed by Dr Sonya Willis, Senior Lecturer, Macquarie Law School, regarding her research addressing civil litigant vulnerability.
31 August 2022	Expert Reviewer, Australian National University College of Law's High Degree Research (PhD and MPhil) programs.

DATE	ACTIVITY
14 September 2022	Participated in a Legal Issues Workshop ' <i>Referendum on First Nations Voice</i> ', facilitated by the Indigenous Law Centre, based at the University of New South Wales Law and Justice, with the support of the Association of Australian Constitutional Law and the Law Council of Australia.
23 September 2022	Interview with the Law Society Journal, Law Society of New South Wales, on the National Recommended Standards for Working with Interpreters in Courts and Tribunals (2 nd Ed).
24 October 2022	Introductory remarks (via pre-recorded audio-visual message) at the annual John Perry AO QC Oration and Oxi Day Celebration, Hellenic Australian Lawyers Association, South Australian Chapter, Unification of Greek Communities and its Importance to Maintaining Hellenism in Australia for Future Generations.
24 February 2023	Delivered the keynote address ' <i>The Future of Administrative Discretions</i> ' at the Commonwealth Law Conference, held by the Law Council of Australia in Melbourne (published in Law Council of Australia, Federal Litigation and Dispute Resolution Section, Chapter III (Autumn Edition 2023)).
10 February 2023	Attended the Gilbert & Tobin Constitutional Law Conference.
22 February 2023	Promoted to Air Commodore, RAAF, with effect from 10 February 2023, at a ceremony held in Canberra by Chief of Air Force.
February 2023	Perry, ' <i>The Recommended National Standards for Working with Interpreters: Enhancing Access to Justice in Courts and Tribunals</i> ', (2023) 97 ALJR 121.
21 March 2023	Sworn-in as the Deputy Judge Advocate General, Air Force, with effect from 10 February 2023, at a ceremony hosted by the Federal Court of Australia, Queens Square, Sydney.
13 April 2023	Participated in a roundtable discussion on privacy, safety, security and human rights in the responsible design, use and regulation of technology, Human Technology Institute, UTS, with special guest former US Trade Commissioner, Julie Brill, Chief Privacy Officer and Corporate Vice President Global Privacy and Regulatory Affairs, Microsoft, Redmond, USA.

The Hon Justice Brigitte Markovic

- Chair, UNCITRAL National Coordination Committee for Australia
- Member, Steering Committee, National Judicial Orientation Program, organised by the National Judicial College of Australia
- Member, Program Advisory Committee, National Judicial College of Australia
- Member, Advisory Committee, Asian Business Law Institute – International Insolvency Institute joint project on the Asian Principles of Business Restructuring
- Convenor, Harmonised Bankruptcy Rules Monitoring Committee
- Member, International Insolvency Institute
- Member, INSOL
- Convenor, Judicial Workplace Conduct Committee
- Member, Operations and Finance Committee
- Member, Digital Practice Committee

DATE	ACTIVITY
22 July 2022	Presented to judges of the Indonesian Commercial Courts (the Federal Court of Australia and Supreme Court of Indonesia Memorandum of Understanding) on <i>'The concepts of insolvency, bankruptcy and debt restructuring in Australia'</i> (online).
25 October 2022	Presented with Chief Justice Allsop on <i>'Bankruptcy Laws'</i> to a delegation from the Supreme Court of Indonesia.
28 July 2022, 9 December 2022, 3 May 2023, 22 May 2023	Attended meetings of the National Judicial College of Australia, National Judicial Orientation Program and Program Advisory Planning Committee.
25 and 26 May 2023	Attended the UNCITRAL National Coordination Committee for Australia AGM and annual May Seminar.
9–11 June 2023	Attended the 4 th meeting of the Judicial Insolvency Network and the International Insolvency Institute's 23 rd Annual Conference, Amsterdam.

The Hon Justice Mark Moshinsky

- Member, Victorian events organising committee, Australian Academy of Law
- Member, advisory committee, Centre for Comparative Constitutional Law, Melbourne Law School
- Acting President, Australian Law Reform Commission (from 10 January to 9 July 2023)
- Part-time Member, Australian Law Reform Commission
- Deputy President, Australian Competition Tribunal

DATE	ACTIVITY
3 October 2022	Participated on the bench adjudicating the semi-final of the Sir Harry Gibbs Constitutional Law Moot.
8 October 2022	Presented a paper on <i>'Australian courts and extraterritorial laws'</i> at the Australian Judicial Officers Association Colloquium, Hobart.
6 December 2022	Spoke to the Bar Council of the Victorian Bar.
17 March 2023	Participated in a panel on <i>'Litigating a tax dispute'</i> at the Tax Institute's Financial Services Taxation Conference, Melbourne.

The Hon Justice Natalie Charlesworth

- Member, National Judicial College, Mentoring Committee
- Member, Children's Book Council
- Member, Legal Practitioners' Education and Admissions Council

DATE	ACTIVITY
14 October 2022	Attended the Law Council of Australia, Migration Law Seminar address <i>'Set aside, quashed and disapproved: judicial reflections on being wrong'</i> .
28 October 2022	Attended the South Australian Bar Association, Bar Readers Course.
6 December 2022	Attended the Intellectual Property Society of Australia and New Zealand Inc, address <i>'An injunction for Christmas'</i> .
23 January 2023	Participated in the Supreme and Federal Court Judges' Conference, panel session <i>'Our joint history'</i> .
8 March 2023	Attended the Adelaide University, Australian Institute for Machine Learning, International Women's Day panel session.

The Hon Justice Stephen Burley

- Member, Minds Count Foundation Board
- Member, Editorial Board, Journal of the Intellectual Property Society of Australia and New Zealand

DATE	ACTIVITY
14 July 2022	Spoke to the Indonesian Supreme Court on ' <i>International Treaties concerning Intellectual Property</i> ' as part of its Inspiration Class Session for the Certification of IPR Commercial Judges.
17 September 2022	Judged and presented the John McLaren Emerson QC Essay Prize as part of the 35 th Intellectual Property Society of Australia and New Zealand's Annual Conference, Melbourne.
28 September 2022	Spoke to the Indonesian Supreme Court on the ' <i>Philosophy and History of the IPR Protection</i> ' as part of its Inspiration Class Session for the Certification of IPR Commercial Judges.
19 October 2022	Spoke at the launch of the 7 th Edition of ' <i>Intellectual Property in Australia</i> '.
20 October 2022	Presented at the Copyright Symposium ' <i>Some Views from the Bench</i> ', with the Hon Dr Bennett AC SC and chaired by James Lawrence ' <i>Leading Australian copyright jurists reflect on judicial responses to the operation of copyright law in evolving technologies, including Artificial Intelligence. Where is the law heading? Is copyright law ready for technological singularity?</i> '
24–26 October 2022	Presented to the Supreme Court of Indonesia Delegation on ' <i>Intellectual Property: Case Management and the Current Legal Landscape</i> '.
14 November 2022	As Editor of the World Intellectual Property Organization's Intellectual Property Bench Book Series, gave a presentation to authors from the African Regional Intellectual Property Organization (ARIPO) for the commencement of their work on an ARIPO bench book.
16–18 November 2022	Presented at the World Intellectual Property Organization's 2022 Intellectual Property Judges Forum in the following panels: Session 3 Part of panel discussing ' <i>Patents and New Technologies</i> ' and Session 7 Moderator of panel on ' <i>IP Case Management Strategies</i> '.
13–14 April 2023	Guest speaker at the 30 th Annual Intellectual Property Law and Policy Conference at Fordham University on ' <i>Site blocking: will it break the internet?</i> ', New York.

The Hon Justice David O'Callaghan

- Chair, Library and Archives Committee

DATE	ACTIVITY
29 September 2022	Presented a Federal Court session at the Victorian Readers' Course.
6 October 2022	Participated as a Judge at the 2022 Victorian Readers' Course ' <i>Oral Appellate Advocacy Moots</i> '.
18 April 2023	Presented a Federal Court session at the Victorian Readers' Course.
20 April 2023	Participated as a Judge at the Victorian Readers' Course ' <i>Oral Appellate Advocacy Moots</i> '.
25 May 2023	Presented at the Judicial College of Victoria on ' <i>Judicial Ethics and Public Confidence</i> '.

The Hon Justice Michael Lee

- Section Editor, 'Class Actions' in the Australian Law
- Additional Judge, Supreme Court of the Australian Capital Territory
- Fellow, University of Melbourne

DATE	ACTIVITY
21 October 2022	Presented at the 4 th Full Meeting of the Standing International Forum of Commercial Courts <i>'Commercial (Third-Party) Litigation Funding'</i> .
15 November 2022	Gave the keynote address for the Association of Litigation Funders of Australia Class Action Conference <i>'Dusting Off the ALRC Report'</i> .
18 November 2022	Guest lecturer at the University of New South Wales <i>'Class Actions and Mega Litigation'</i> Course <i>'Case Management and Class Actions'</i> .
10 March 2023	Gave keynote address at the Commercial Law Association of Australia and Shine Lawyers Class Action Seminar <i>'Emerging Trends in Australian Class Action Litigation'</i> .
11 March 2023	Presented at the New South Wales Bar Association Regional Conference Series <i>'What does it mean to comply with Rules 43 and 58 of the Barristers Rules?'</i>
17 May 2023	Presented at the Harvard Club of Australia Professional Journeys Seminar <i>'Perspectives from a Leader in Legal Services'</i> .
26 May 2023	Presented at the Industrial Relations Commission Education Day <i>'Court Craft'</i> (Session 3).

The Hon Justice Roger Derrington

- Adjunct Professor, TC Beirne School of Law at the University of Queensland

DATE	ACTIVITY
17 November 2022	Spoke at the WA Lee Equity Lecture 2022 (University of Queensland) <i>'Snark Hunting: a search for tracing's underlying rationale'</i> .
12 March 2023	Taught the 2023 University of Queensland Interpretation Course: Statutory Interpretation: Lecture 13 Statutes and Administrative Law.
18. March 2023	Taught the 2023 University of Queensland Interpretation Course: Contractual Interpretation: Lecture 17 Contractual Context and Coherence.
19 May 2023	Presented at the North Queensland Law Association Conference <i>'Federal Court in the Tropics'</i> , Cairns.
1 June 2023	Judged the IMLAM Show Moot and hosted teams function.

The Hon Justice David Thomas

DATE	ACTIVITY
26 September 2022	Attended the Melbourne University Law Students' Society, Sir Harry Gibbs Constitutional Law Moot 2022.
8 March 2023	Attended the Queensland University of Technology practice moot for the 2023 Oxford International Intellectual Property Moot.

The Hon Justice Sarah Derrington

- President, Australian Law Reform Commission (until January 2023)
- Emeritus Professor, University of Queensland
- Vice-chairman, Council of the Australian Maritime College (until end 2022)
- Member, Council of the Australian National Maritime Museum
- Titular Member, Comité Maritime International and member of the International Working Group on Marine Insurance
- Fellow, Australian Academy of Law
- Fellow, Nautical Institute
- Fellow, Queensland Academy of Arts and Sciences
- Member, Admiralty Rules Committee
- Community Ordinary Member, The College of Law Ltd (until end 2022)

DATE	ACTIVITY
8 July 2022	Attended the Pacifica Congress Conference, and chaired the session <i>'Impact for Women Inc.'</i>
12 July 2022	Member of the judging panel of the Michael Coper Memorial Prize and presented the award for Michael Coper Memorial Prize.
18 July 2022	Attended the 2022 Law Year Church Service held in the Greek Orthodox Church of St George, Brisbane.
28 July 2022	Presented at the Federal Court of Australia Admiralty and Maritime Seminar <i>'Recent Developments in Admiralty: here and abroad'</i> , with Justice Stewart.
7–10 September 2022	Attended the Kimberley on Country Cultural Education Program.
29 September 2022	Opening remarks and chair of the Australian Law Reform Commission Judicial Impartiality Workshop (online and in person).
29 September 2022	Addressed the Nautical Institute Dinner (Queensland Branch).
13 October 2022	Delivered a speech at the MLAANZ Conference, <i>'Maritime law and class actions – Litigation funding and role of ATE insurance – Cruise liner class actions after COVID-19'</i> .
13 October 2022	Opening remarks and chair at the Current Legal Issues Seminar Series <i>'Religious Freedom, Religious Discrimination and the Role of the Law'</i> .
20 October 2022	Presented at the CMI Conference in Antwerp <i>'Current Issues for Maritime Courts'</i> .
4 November 2022	Addressed the Annual Professional Development Day for South Australian Judges <i>'Without Fear or Favour – the ALRC's Report'</i> .
2 December 2022	Presented at the National Judges' Education Day <i>'Proposed Reforms to Recusal Procedures'</i> .
7 December 2022	Attended the MLAANZ (Victorian Branch) and Federal Court of Australia Seminar <i>'The Convention on the Judicial Sale of Ships'</i> .
12 December 2022	Addressed the 2022 AALA William Ah Ket Scholarship Award Ceremony and judged essays submitted for the scholarship.
15 December 2022	Attended the ceremonial sitting for the announcement of appointment of King's Counsel for the State of Queensland.

DATE	ACTIVITY
January 2023	Published ' <i>Maritime Class Actions, Litigation Funding, and the Role of After-the-Event Insurance</i> ' in D. Rhidian Thomas (ed), <i>The Modern Law of Marine Insurance (Vol 5)</i> (informa law, 2023) 1–21.
3 February 2023	Chaired a panel discussion ' <i>Native Title Compensation – Emerging Issues</i> ' at the Queensland Native Title Forum.
February 2023	Published, with Samuel Walpole 'Culpable Ships' in Elise Bant (ed), <i>The Culpable Corporate Mind</i> (Hart Publishing, 2023) 351–371.
13 February 2023	Attended the 2023 Law Year Church Service held in St John's Anglican Cathedral, Brisbane.
15 February 2023	Participated in a Judicial Commission workshop, hosted by The Judiciary Project, Gilbert + Tobin Centre of Public Law (University of New South Wales Law).
24 February 2023	Spoke at the Queensland Civil and Administrative Tribunal Annual Conference ' <i>Without Fear or Favour</i> '.
February 2023	Published ' <i>I dissent; but why?</i> ' (2023) 15(1) <i>The Judicial Review</i> 85–98.
28 February 2023	Attended the MLAANZ New South Wales Branch mini conference.
17 March 2023	Attended the farewell sitting for Chief Justice Allsop, Federal Court, Brisbane.
30–31 March 2023	Attended the National Judicial Education Conference, Sydney.
17 April 2023	Attended the swearing-in ceremony of Chief Justice Mortimer, Federal Court, Sydney.
24 May 2023	Attended the University of Queensland Law Awards and presented the Perpetual Trophy for Student Leadership.
1 June 2023	Attended a seminar on Corporate Culpability and the launch of <i>The Culpable Corporate Mind</i> , University of Western Australia.
9 June 2023	Delivered a paper on judicial impartiality at COAT National Conference ' <i>Independence, Integrity and Impartiality in a Changing World</i> ', Sydney.

The Hon Justice Katrina Banks-Smith

- Chair, Law Advisory Board, University of Notre Dame Law School (Fremantle)
- Alternate Council Member, National Judicial College of Australia
- Fellow, Australian Academy of Law
- Member, Australian Judicial Officers Association
- Member, Australasian Institute of Judicial Administration
- Member, Law Society of Western Australia
- Member, Women Lawyers of Western Australia

DATE	ACTIVITY
1 July 2022	Attended the Women Lawyers of Western Australia Honours Dinner.
15 July 2022	Attended the swearing in of Mr Chris Dawson APM to the Office of Governor of Western Australia.
20 July 2022	Attended the 2022 Robert French AC Oration presented by Justice Colvin ' <i>There Runs the Quick Perspective of the Future: Where to from here?</i> '.

DATE	ACTIVITY
24 August 2022	Attended a Piddington Society event: A View from the Bench: Chief Justice James Allsop <i>'The place of the Federal Court in the Australian Court System'</i> .
26–28 August 2022	Coached and spoke at the Piddington Society's 2022 Advocacy Weekend.
3 September 2022	Attended the Francis Burt Chambers 60 th Anniversary Dinner.
9 September 2022	Chaired Session 2 at the 2022 Causation Conference <i>'Material Contribution'</i> and <i>'But For Tests of Causation'</i> .
14 September 2022	Chaired and presented at the Quayside Chambers' Appellate Advocacy Seminar <i>'Appellate advocacy and some reflections from sitting on the Full Federal Court'</i> .
15 September 2022	Attended a function hosted by the Perth Registry Federal Court Judges for the Judges of the Supreme Court of Western Australia.
5–7 October 2022	Coached at the National Judicial College of Australia's Writing Better Judgments Program, Hobart.
17 October 2022	Attended the swearing in of Justice Jayne Jagot to the High Court of Australia.
20–21 October 2022	Attended the Standing International Forum of Commercial Courts Meeting, Sydney.
25 October 2022	Attended the Federal Jurisdiction Seminar presented by the Judges and Registrars of the Western Australia Registry: Session 1 <i>'Commercial and Corporations National Practice Area'</i> .
24 November 2022	Attended the ceremonial welcome for Justice Robin Cohen to the Family Court of Western Australia.
8 December 2022	Attended the farewell ceremony for his Honour Justice Middleton AM.
21–25 January 2023	Attended the Supreme and Federal Court Judges Conference, New Zealand.
2 February 2023	Spoke at the Federal Jurisdiction Seminar presented by the Judges and Registrars of the Western Australia Registry: Session 2 <i>'Human Rights Practice Area: Common themes in migration proceedings – how can you get involved?'</i> .
9 February 2023	Attended the ceremonial farewell for Justice Jeremy Allanson from the Supreme Court of Western Australia.
23 February 2023	Attended the Francis Burt Chambers Luncheon for the Judges of the Supreme Court of Western Australia and the Perth Registry of the Federal Court.
24 February 2023	Spoke at the Piddington Insolvency Symposium.
2 March 2023	Panel Member at the Australian Restructuring Insolvency and Turnaround Association's WA Division Conference 2023 <i>'Views from the Bench'</i> .
8 March 2023	Attended the Business News 2023 International Women's Day breakfast.
9 March 2023	Gave the opening address for the Perth Book Launch of <i>'Modern Statutory Interpretation: Framework, Principles and Practice'</i> (Cambridge University Press, 2023).
14 March 2023	Attended a special sitting of the Perth Registry of the Federal Court of Australia for Western Australia's 2022 Senior Counsel appointees and Chief Justice Allsop's Farewell Address to the profession.
20 March 2023	Attended the Federal Jurisdiction Seminar presented by the Judges and Registrars of the WA Registry: Session 3 <i>'Class Actions: Participating effectively in class action litigation'</i> .
24 March 2023	Attended the Women Lawyers of Western Australia Honours Dinner.
31 March 2023	Attended the ceremonial farewell for Chief Justice Allsop from the Federal Court of Australia.

DATE	ACTIVITY
3 April 2023	Attended a function hosted by the Perth Registry Federal Court Judges for the Judges and Registrars of the Family Court of Western Australia and the Perth Judges of the Federal Circuit and Family Court of Australia.
17 April 2023	Attended the ceremonial welcome for Chief Justice Debra Mortimer.
26 May 2023	Attended a Sorry Day event hosted by the Family Court of Western Australia.
29 May 2023	Attended a special sitting of the Western Australia Supreme Court for the Western Australian Courts and Tribunals Reconciliation Statement.
1 June 2023	Attended the book launch for <i>'The Culpable Corporate Mind'</i> (Hart Publishing, Oxford).
26 June 2023	Attended the ceremonial farewell for Master Craig Sanderson from the Supreme Court of Western Australia.

The Hon Justice Craig Colvin

- Part-time Commissioner, Australian Law Reform Commission
- Deputy President, Administrative Appeals Tribunal
- Member, National Judicial College of Australia Writing Better Judgments Committee
- Member, National Judicial College of Australia Judicial Officers with Leadership Responsibility Program
- Member, Judicial Liaison Committee, Australian Centre for International Commercial Arbitration
- Fellow, Australian Academy of Law
- Member, Australian Judicial Officers Association
- Member, Australasian Institute of Judicial Administration

DATE	ACTIVITY
20 July 2022	Presented the 2022 Robert French AC Oration <i>'There Runs the Quick Perspective of the Future: Where to from here?'</i>
5–7 October 2022	Presented at the National Judicial College of Australia's Writing Better Judgments Program.
20–21 October 2022	Participated in the meeting of the Standing International Forum of Commercial Courts, Sydney
25 October 2022	Chaired the Federal Jurisdiction Seminar presented by the Judges and Registrars of the WA Registry: Session 1 <i>'Commercial and Corporations National Practice Area'</i> .
2 February 2023	Spoke at the Federal Jurisdiction Seminar presented by the Judges and Registrars of the WA Registry: Session 2 <i>'Human Rights Practice Area: Common themes in migration proceedings – how can you get involved?'</i>
16 February 2023	Chaired the Law Society of Western Australia's Seminar for their Summer CPD Programme <i>'A View from the Bench'</i> .
20 March 2023	Chaired the Federal Jurisdiction Seminar presented by the Judges and Registrars of the WA Registry: Session 3 <i>'Class Actions: Participating effectively in class action litigation'</i> .
2 May 2023	Presented a seminar on <i>'The role of the Barrister – ethics and the professional responsibilities'</i> for the 2023 Western Australian Bar Association's Bar Readers' Course.

The Hon Justice Michael Wheelahan

DATE	ACTIVITY
9 October 2022	Presented at Australian Judicial Officers 2022 Colloquium <i>'From Boomers to Gen Z: adjusting to technology inside and outside the courtroom post-Covid'</i> , Hobart.

The Hon Justice Angus Stewart

- Additional Judge, Australian Capital Territory Supreme Court
- Court representative, Australian Centre for International Commercial Arbitration Judicial Liaison Committee
- Member, Maritime Law Association of Australia and New Zealand
- Member, Maritime Law Association of South Africa
- Member, Australian Judicial Officers Association
- Member, Australian Association of Constitutional Law
- Member, New South Wales Bar Association

DATE	ACTIVITY
20 July 2022	Attended the Maritime Law Association of Australia and New Zealand (MLAANZ) New South Wales Maritime Highlights Panel Seminar and Dinner, Sydney.
28 July 2022	Presented with Sarah Derrington J to the FCA National Admiralty Seminar on <i>'Recent Developments in Admiralty – here and abroad'</i> , Sydney.
19–22 August 2022	Presented keynote address to Maritime Law Association of South Africa (MLASA) Annual Conference at Kleinmond, South Africa.
7–9 September 2022	Participated in Kimberley On Country Conference in Broome with other members of the judiciary.
14 October 2022	Co-chaired with Sarah Derrington J the Admiralty National User Group meeting at the MLAANZ Annual Federal Conference, Brisbane.
20 October 2022	Attended the Standing International Forum of Commercial Courts keynote address by Chief Justice Menon of Singapore on <i>'Commercial Courts playing their part as a foundation of national, international and transnational justice systems'</i> , Sydney.
24 October 2022	Presented with Allsop CJ a seminar on <i>'Enforcement of Arbitration Orders'</i> to a visiting delegation of judges of the Supreme Court of Indonesia.
26 October 2022	Participated in lunch with visiting delegation of judges of the Supreme Court of Indonesia.
1 November 2022	Panellist on the New South Wales Bar Association's New Barristers Committees annual Judicial Q&A (online).
8 November 2022	Panellist on the New South Wales Bar Association's Commercial Law Section's seminar on <i>'Reflective loss and the policy of the law'</i> , Sydney.
10 November 2022	Attended joint presentation for the Ngara Yura Committee of the Judicial Commission of New South Wales and the Francis Forbes Society for Australian Legal History on <i>'The impact of protectionist policies on First Nations people'</i> delivered by the Hon Lucy McCallum, Chief Justice of the ACT Supreme Court, Sydney.
17 November 2022	Attended 5th Annual ADR Address of the Supreme Court of New South Wales presented by the Hon Robert French AC, Sydney.
4 February 2023	Participated in the Ngara Yura Committee of the Judicial Commission of New South Wales Exchanging Ideas Symposium on <i>'Constitutional Reform, Nation Building and Treaty Making Processes'</i> , Sydney.

DATE	ACTIVITY
10 February 2023	Participated in the 2023 G+T Centre of Public Law Constitutional Law Conference. Sydney.
15 February 2023	Participated in workshop on ' <i>Judicial Commissions</i> ' hosted by The Judiciary Project, G+T Centre of Public Law (online).
17 February 2023	Attended Whitlam Institute seminar on ' <i>Whitlam's Legal Transformations: Spotlight on Legal Aid</i> ', Sydney.
17 February 2023	Attended the 2023 George Winterton Memorial Lecture by the Hon Susan Kiefel AC, Chief Justice of Australia, Sydney.
22 March 2023	Attended seminar hosted by the Australian Academy of Law titled ' <i>Is it Better to Review or Monitor Terror Law? The UK and Australian Positions Compared</i> ' at the Federal Court, Sydney.
19 April 2023	Attended the New South Wales Bar Association seminar titled ' <i>Context in Law, a Digression: Neuroscience, Text, Context and Purpose</i> ', Sydney.
27 April 2023	Attended the New South Wales Bar Association's 2023 Spigelman Oration, with Chief Justice Bell presenting on ' <i>Extraterritoriality in Australian Law</i> ', Sydney.
1 May 2023	Presented keynote address at Australian Centre for International Commercial Arbitration's event for corporate members.
29 May 2023	Attended seminar by Professor Jane Stapleton on ' <i>Unnecessary and Insufficient Factual Causes</i> ', hosted by Sydney Law School and King & Wood Mallesons, Sydney.

The Hon Justice Michael O'Bryan

- President, Australian Competition Tribunal
- Deputy President, Copyright Tribunal of Australia
- Federal Court representative, Victorian Judicial Officers Aboriginal Cultural Awareness Committee
- Federal Court representative, joint initiative with the Organisation for Economic Cooperation and Development and the Australian Competition and Consumer Commission to produce Primers for Association of Southeast Asian Nations Judges on Competition Law

DATE	ACTIVITY
21 September 2022	Presented at the 12 th OECD/KPC Competition Law webinar for Asia-Pacific Judges on ' <i>Merger control in Australia: The law and its administration</i> '.
4 October 2022	Attended the Judicial College of Victoria First Nations Twilight webinar ' <i>In conversation with Thomas Mayor</i> '.
24–25 October 2022	Delivered a presentation concerning competition law at a joint Federal Court of Australia and Supreme Court of Indonesia seminar.
5 December 2022	Attended the Australian Law Reform Commission's Inaugural Michael Kirby Lecture at the Federal Court of Australia, Melbourne.
3 February 2023	Attended the Federal Court of Australia Native Title Forum, Brisbane.
1 March 2023	Attended the Australian Academy of Law event ' <i>The Treaty Negotiation Framework for Victoria</i> ' at the Federal Court of Australia, Melbourne.
19 June 2023	Delivered a presentation to Melbourne University LLM students studying schemes of arrangement at the Federal Court of Australia, Melbourne.

The Hon Justice Darren Jackson

- Committee Member, Inter-jurisdictional Judicial Education Committee (Western Australia)
- Member, Australian Judicial Officers Association
- Fellow, Australian Academy of Law

DATE	ACTIVITY
20 July 2022	Attended the 2022 Robert French AC Oration presented by Colvin J ' <i>There Runs the Quick Perspective of the Future: Where to from here?</i> '
5 August 2022	Attended the ceremonial welcome of Justice Michael Berry to the Family Court of Western Australia.
9 August 2022	Attended Address by Michel Kirby AC CMG at the official opening of the Michael Kirby Chambers ' <i>A Commemoration of the 30th Anniversary of the Mabo decision and the life of the late Sir Gerard Brennan: The abiding lessons for Australian lawyers.</i> '
12 August 2022	Attended the ceremonial welcome for Justice Fiona Meagher to the Federal Court of Australia.
22 August 2022	Attended the Australian Academy of Law speeches in Sydney on Judicial Independence by Judge José Matos (President of the International Association of Judges) and Justice Jacqueline Gleeson of the High Court of Australia.
24 August 2022	Attended the ceremonial welcome of Justice Amanda Forrester to the Supreme Court of Western Australia.
26–28 August 2022	Coached at the Piddington Society's 2022 Advocacy Weekend.
31 August 2022	Attended the Western Australian Bar Association's Bar Readers' Course Function to mark the closing of the course and presentation of the Chief Justice's Prize.
3 September 2022	Attended the Francis Burt Chambers 60 th Anniversary Dinner.
10 September 2022	Panel Member at the Competition Law Committee of the Law Council of Australia Annual Conference.
15 September 2022	Attended function hosted by the Perth registry Federal Court Judges for the Judges of the Supreme Court of Western Australia.
5–7 October 2022	Attended the National Judicial College of Australia's Writing Better Judgments Program, Hobart.
25 October 2022	Spoke at the Federal Jurisdiction Seminar presented by the Judges and Registrars of the WA Registry: Session 1 ' <i>Commercial and Corporations National Practice Area.</i> '
10 November 2022	Presented for the Western Australian Bar Association Spring CPD Programme ' <i>The role of silence in misleading or deceptive conduct.</i> '
16 November 2022	Attended the 2022 Quayside Oration presented by Justice Jeremy Allanson ' <i>Writing Styles and Justice.</i> '
17 November 2022	Attended the ceremonial welcome of Justice Sam Vandongen to the Supreme Court of Western Australia.
18 November 2022	Attended the Western Australian Bar Association's Bar & Bench Dinner.
24 November 2022	Attended the ceremonial welcome of Justice Robin Cohen to the Family Court of Western Australia.
8 December 2022	Presented a seminar to the 2022 Courts Summer Clerkship Program ' <i>Workings of the Federal Court.</i> '

DATE	ACTIVITY
21–25 January 2023	Attended the Supreme and Federal Court Judges Conference in Christchurch, New Zealand.
2 February 2023	Chaired the Federal Jurisdiction Seminar presented by the Judges and Registrars of the WA Registry: Session 2 ' <i>Human Rights Practice Area: Common themes in migration proceedings – how can you get involved?</i> '
15 February 2023	Attended the Supreme Court of Western Australia's 2022 Senior Counsel appointments function.
23 February 2023	Attended the Francis Burt Chambers luncheon for the Judges of the Supreme Court of Western Australia and the Perth Registry of the Federal Court.
9 March 2023	Attended the Perth Book Launch of <i>Modern Statutory Interpretation: Framework, Principles and Practice</i> (Cambridge University Press, 2023).
14 March 2023	Attended a special sitting of the Perth Registry of the Federal Court of Australia for Western Australia's 2022 Senior Counsel appointees and Chief Justice Allsop's Farewell Address to the Profession.
20 March 2023	Attended the Federal Jurisdiction Seminar presented by the Judges and Registrars of the WA Registry: Session 3 ' <i>Class Actions: Participating effectively in class action litigation</i> '.
23 March 2023	Attended the ceremonial welcome for Justice Fiona Seaward to the Supreme Court of Western Australia.
31 March 2023	Attended the ceremonial farewell for Chief Justice Allsop from the Federal Court of Australia.
3 April 2023	Attended a function hosted by the Perth Registry Federal Court Judges for the Judges and Registrars of the Family Court of Western Australia and the Perth Judges of the Federal Circuit and Family Court of Australia.
17 April 2023	Attended the ceremonial welcome for Chief Justice Debra Mortimer.
3 May 2023	Presented a seminar on ' <i>Federal Jurisdiction</i> ' for the 2023 Western Australian Bar Association's Bar Readers' Course.
5 May 2023	Attended retirement dinner for Justice Graeme Murphy.
29 May 2023	Attended the Western Australian Courts and Tribunals Reconciliation Statement.
1 June 2023	Attended the book launch and dinner for <i>The Culpable Corporate Mind</i> (Hart Publishing, Oxford).
7 June 2023	Attended the ceremonial welcome for Justice Natalie Whitby to the Supreme Court of Western Australia.
8 June 2023	Attended the ceremonial welcome for Justice Steven Jones to the Family Court of Western Australia.
16 June 2023	Attended the ceremonial farewell for Justice Kenneth Martin from the Supreme Court of Western Australia.
26 June 2023	Attended the ceremonial farewell for Master Craig Sanderson from the Supreme Court of Western Australia.

The Hon Justice Wendy Abraham

DATE	ACTIVITY
14 November 2022	Attended meeting with Korean Anti-Corruption Commission.
11 May 2023	Presided over mock Federal Court Applications for the New South Wales Bar Practice Course.
21 June 2023	Attended meeting with delegation of Supreme Court of the Philippines.

The Hon Justice John Halley

- Deputy President, Australian Competition Tribunal

DATE	ACTIVITY
8 September 2022	Judged mock interlocutory hearings for the New South Wales Bar Association as part of the New South Wales Bar Practice Course.
13–18 November 2022	Attended the National Judicial Orientation program, Adelaide.
1 February 2023	Attended the Law Society of New South Wales' Opening of Law Term Dinner.
16 March 2023	Attended the ceremonial welcome sitting for the Honourable Justice Kennett as Judge of the Federal Court of Australia, Sydney.
21 March 2023	Attended the swearing-in ceremony for the Honourable Justice Perry as the Deputy Judge Advocate General, Air Force, Sydney.
23 March 2023	Attended the ceremonial welcome sitting for the Honourable Justice Jackman as Judge of the Federal Court of Australia, Sydney.
31 March 2023	Attended the ceremonial farewell sitting for the Honourable Chief Justice Allsop AC, Sydney.
17 April 2023	Attended the ceremonial welcome sitting for the Honourable Chief Justice Mortimer, Melbourne.
6 May 2023	Moderated the Competition Law Conference for speaker Professor Julie Clarke in a session on <i>'Proof of Purpose'</i> .
18 May 2023	Hosted a bar reader for the New South Wales Bar Association's <i>'Day with Judges'</i> as part of the New South Wales Bar Practice Course.
30 May 2023	Attended the ceremonial farewell sitting for the Honourable Justice Brereton AM RFD of the Court of Appeal of the Supreme Court of New South Wales, Sydney.
8 June 2023	Attended the swearing in of Dr Kristina Stern SC as a judge of the Court of Appeal of the Supreme Court of New South Wales.

The Hon Justice Elizabeth Cheeseman

- Council member, University of New South Wales Council

DATE	ACTIVITY
26 October 2022	Panellist on the 2022 Australian Restructuring, Insolvency and Turnaround Association panel <i>'Behind the Bench'</i> .
3 May 2023	Panellist on the 2023 Women in Funded Litigation panel <i>'Perspectives on the Bench'</i> .

The Hon Justice Helen Rofe

- Deputy President, Copyright Tribunal (since December 2022)
- National Coordinating Judge, Intellectual Property (Victoria)
- Member, Editorial Board, Journal of the Intellectual Property Society of Australia and New Zealand
- Member, Victorian Women Lawyers Association
- Member, Starts With Us Steering Committee
- Member, Judicial Education Committee
- Member, Public Communications Committee
- Member, Security Committee
- Member, Electronic Court File Replacement Judicial Engagement Committee

DATE	ACTIVITY
11 August 2022	Attended the Equitable Briefing Panel Discussion hosted by Clyde & Co
25 August 2022	Presented session on <i>'Conduct In and Out of Court'</i> for the September 2022 Victorian Bar Readers' Course.
1 September 2022	Presented on a panel launching the Victorian Women Lawyers 2022 Warren Moot.
2 September 2022	Attended the ceremonial welcome for Justice Hespe.
8 September 2022	Adjudicated the Janet Clarke Hall Oratory Competition, Melbourne University.
12 October 2022	Attended Supreme Court of Victoria function for 2020 and 2021 Senior Counsel appointments.
18 October 2022	Attended Francis Gurry Lecture on Intellectual Property, Melbourne Law School.
26 October 2022	Attended Judges' dinner hosted by the Intellectual Property Society of Australia and New Zealand.
27 October 2022	Presented on the panel for <i>'Judges view on expert evidence, now and in the future'</i> at Chartered Accountants of Australia and New Zealand's Annual Conference.
4 November 2022	Spoke at the opening of Emerson Chambers.
8 November 2022	Attended Federal Court and Law Council Intellectual Property Committee dinner.
9 November 2022	Attended a Federal Circuit and Family Court of Australia function for 2022 Victorian Senior Counsel.
13–18 November 2022	Attended National Judicial College of Australia Orientation Program, Glenelg, South Australia.
7 December 2022	Presented at <i>'A very IPRIA Christmas'</i> event hosted by the Intellectual Property Research Institute of Australia, Melbourne Law School.
8 December 2022	Attended the ceremonial farewell for Justice Middleton AM.
31 January 2023	Attended the ceremonial welcome for Justice Button.
27 February–3 March 2023	Participated in the Federal Court, Victorian Supreme Court and the Victorian Bar Indigenous Clerkship Program.
March 2023 onwards	Acted as a mentor in the Victorian Bar Indigenous Mentoring Program.
8 March 2023	Attended the ceremonial farewell for Chief Justice Allsop, Melbourne.
8 March 2023	Attended CommBar Annual Cocktail Party.

DATE	ACTIVITY
9 March 2023	Presented session on <i>'Conduct In and Out of Court'</i> for the March 2023 Victorian Bar Readers' Course.
28 March 2023	Attended CommBar, Supreme Court of Victoria and Federal Court gender equitable briefing roundtable.
31 March 2023	Attended the ceremonial farewell for Chief Justice Allsop, Sydney.
17 April 2023	Attended the ceremonial welcome for Chief Justice Mortimer.
28–29 April 2023	Presented at the Institute of Patent and Trademark Attorneys of Australia's Annual Conference 2023, Hobart.
4 May 2023	Chaired presentation <i>'Expert witness conferences and Joint Expert Reports, Mediations and other Registrar Work at the Federal Court of Australia'</i> alongside Senior National Judicial Registrar Legge and National Judicial Registrar O'Connor, hosted by the Intellectual Property Society of Australia and New Zealand.
8 June 2023	Attended Law Council and Federal Court's Intellectual Property User Group Meeting.

The Hon Justice Kylie Downes

- Chair, Rules Committee
- Member, Digital Practice Committee
- Member, Library Committee
- Chair, Committee for the Harmonisation of Rules of the Council of Chief Justices of Australia and New Zealand
- Deputy President, Australian Competition Tribunal

DATE	ACTIVITY
September 2022–January 2023	Participated as a member of <i>'root and branch'</i> review sub-committee chaired by Justice Perram.
November 2022–June 2023	Participated as a member of Electronic Court File Replacement (CourtPath) Judicial Engagement Group.
23 November 2022	Participated in meeting as (then) member of Operations and Finance Committee.
24 November 2022	Attended IPSANZ Annual Judges' Dinner.
23 February 2023	Presided over practice moot for The University of Queensland Willem C Vis International Commercial Arbitration Moot Team.
15 March 2023	Chaired meeting of Committee for the Harmonisation of Rules of the Council of Chief Justices of Australia and New Zealand.
April–June 2023	Participated as member of Schemes of Arrangement sub-committee chaired by Justice Banks-Smith.
8 June 2023	Participated in a meeting of Intellectual Property User Group chaired by Justice Nicholas.

The Hon Justice Patrick O'Sullivan

- Member, Australian Judicial Officer's Association
- Member, Criminal Procedure Committee
- Member, Public Communications Committee
- Additional Judge, Supreme Court of the Australian Capital Territory

DATE	ACTIVITY
21 July 2022	Attended the launch of the SABA Bar Readers Course and Reading Program.
5–7 October 2022	Attended the National Judicial College of Australia – Writing Better Judgments program, Hobart.
12–14 October 2022	Attended the MLAANZ 47 th National Conference – ‘Sustainability in Shipping’, Queensland.
17 October 2022	Presented a session at South Australian Bar Readers Course on <i>‘Managing Your Court, including judges and apprehended bias; opposing counsel; difficult clients; hostile, resentful or otherwise difficult witnesses’</i> .
30 November–2 December 2022	Attended Judges’ meeting, Sydney.
21–25 January 2023	Attended the <i>‘2023 Supreme and Federal Court Judges’ Conference’</i> , New Zealand.
24 February 2023	Attended Chief Justice Allsop's Adelaide farewell sitting.
16 March 2023	Attended the welcome sitting for Justice Kennett, Sydney.
29–31 March 2023	Attended Judges meeting and Chief Justice Allsop's farewell sitting, Sydney.
17 April 2023	Attended the welcome sitting for Chief Justice Mortimer, Melbourne.

The Hon Justice Shaun McElwaine

- Member, Judicial Wellbeing Committee
- Member, Admiralty and Maritime Committee
- Member, Public Communications Committee
- Member, Remuneration Committee

DATE	ACTIVITY
22 July 2022	Presented at the Law Society of Tasmania session on <i>‘What is a Matter Under Chapter III?’</i> , Hobart.
28 September 2022	Attended the Federal Court Commercial and Corporations National Practice Area User Group Meeting, Melbourne.
29 September 2022	Attended Federal Court Annual Employment and Industrial Relations Seminar, Melbourne.
7–9 October 2022	Attended 2022 Australian Judicial Officers Association Colloquium, Melbourne.
2 November 2022	Attended Tax Bar Association Annual Dinner, Melbourne.
5 December 2022	Attended Inaugural Michael Kirby Lecture, keynote address by the AG the Hon Mark Dreyfus KC MP, Melbourne.
3 February 2023	Attended the opening of Legal Year Ecumenical Service, Hobart.
3 April 2023	Attended the official opening of the Launceston Registry of the Federal Circuit Court and Family Court of Australia, Launceston.

DATE	ACTIVITY
20 April 2023	Presided in the Supreme Court of Victoria Readers' Course, Oral Appellate Advocacy Moots, Melbourne.
21 April 2023	Presented at the Law Society of Tasmania, session on ' <i>Case Management in the Federal Court</i> ', Hobart.

The Hon Justice Michael Feutrill

- Honorary Fellow, Law School, University of Western Australia
- Lecturer, International Commercial Arbitration, University of Western Australia
- Member, Western Australian Steering Committee, Australian Centre for International Commercial Arbitration

DATE	ACTIVITY
28 July 2022	Attended the Perth USAsia Centre's private roundtable with Sundaresh Menon, Chief Justice of Singapore.
7–9 September 2022	Attended the Kimberley on Country Cultural Education Program, Broome.
25 October 2022	Presented at the Perth Federal Jurisdiction CPD Seminar on ' <i>Commercial and Corporations National Practice Area</i> '.
6 December 2022	Participated as a panel member of the Western Australia Chapter of the Chartered Institute of Arbitrators (Australia) Limited sundowner seminar on ' <i>Commercial Arbitration in Western Australia Courts</i> '.
22 March 2023	Presented at a Quayside Chambers CPD Seminar on ' <i>How low can you go: ethics of arguability</i> '.
6 June 2023	Presented at the annual Western Australian Bar Association Bar Readers' Course on ' <i>Conflicts of Interest and Confidentiality</i> '.

The Hon Justice Timothy McEvoy

- Judicial Deputy President, Administrative Appeals Tribunal
- Visiting Professor, University of Virginia School of Law
- Member, American Law Institute
- Board Member, Oz Child
- Member, Australasian Institute of Judicial Administration
- Member, Australian Judicial Officers Association
- Member, Victorian Bar Inc.
- Member, Tasmanian Bar
- Member, Medico-Legal Society of Victoria

DATE	ACTIVITY
7–9 September 2022	Attended the Kimberley on Country Education Program, Broome.
1–2 December 2022	Attended the National Judges' Meeting, Sydney.
21–25 January 2023	Attended the Supreme and Federal Courts Judges' Conference, Christchurch, New Zealand.
29–31 March 2023	Attended the National Judges' Meeting, Sydney.

The Hon Justice Elizabeth Raper

- Member, New South Wales Bar Association
- Member, Australian Law Reform Commission, Advisory Committee, Religious Educational Institutions and Anti-Discrimination Laws
- Member, Judicial Council on Diversity and Inclusion
- Member, Court Accessibility User Group
- Adjunct Senior Lecturer, University of Sydney

DATE	ACTIVITY
19 October 2022	Attended the Federal Court New South Wales 2022 Silk Ceremony.
27–28 November 2022	Attended the New Zealand Law Society Continuing Legal Education Employment Law Conference (in Christchurch), and gave the keynote address with Chief Judge Inglis of the Employment Court of New Zealand discussing the employment relationship in a modern context and the contemporary developments of employment law.
17 February 2023	Attended the 2023 George Winterton Memorial Lecture given by Chief Justice Kiefel.
11 May 2023	Presided over mock interlocutory hearings for the New South Wales Bar Association Bar Readers Course.
29 May 2023	Gave a speech launching <i>Patterns of Exploitation: Understanding Migrant Worker Rights in Advanced Democracies</i> by Anna Boucher.

The Hon Justice Geoffrey Kennett

- Fellow, Australian Academy of Law
- Deputy President, Administrative Appeals Tribunal
- Federal Court representative, Court Accessibility User Group

DATE	ACTIVITY
9 March 2023	Attended a discussion on Legal Issues relating to the Aboriginal and Torres Strait Islander Voice hosted by the Australian Academy of Law, Sydney (online).
21 March 2023	Attended the swearing in of Air Commodore Her Honour Melissa Perry as Deputy Judge Advocate General, Air Force, Sydney.
11 May 2023	Presided over mock-court, hearing readers' interlocutory applications for the New South Wales Bar Practice Course.
30 May 2023	Attended the ceremonial sitting of the New South Wales Supreme Court to farewell the Honourable Justice Paul Brereton AM RFD, Sydney.
8 June 2023	Attended the swearing in of the Honourable Justice Kristina Stern as a Judge of the Supreme Court of New South Wales and a Judge of Appeal, Sydney.
21 June 2023	Sworn in as Deputy President of the Administrative Appeals Tribunal, Sydney.

Appendix 9: Staffing statistics

The Chief Executive Officer and Principal Registrar of the Federal Court of Australia, together with officers and staff identified under the *Federal Court of Australia Act 1976* (Cth), the *Federal Circuit and Family Court of Australia Act 2021* (Cth) and the *Native Title Act 1993* (Cth), constitute a single Statutory Agency for the purposes of the *Public Service Act 1999* (Cth).

Employees are engaged to work in support of the following courts or tribunal:

- Federal Court of Australia
- Federal Circuit and Family Court of Australia, and
- National Native Title Tribunal.

Employees are covered by the *Federal Court of Australia Enterprise Agreement 2018–2021*.

The Federal Court and the Federal Circuit and Family Court each maintain a distinct statutory identity, with separate functions and judicial independence.

The total staffing number for the combined entity as at 30 June 2023 is 1,469 employees. This includes 824 ongoing and 645 non-ongoing employees.

The following tables provide more information. The CEO and Principal Registrars and the National Native Title Tribunal Registrar are holders of public office and are not included in this appendix. Judges are also not included in any staffing numbers.

TABLE A9.1: ALL ONGOING EMPLOYEES, CURRENT REPORT PERIOD (2022–23)

LOCATION	MAN/MALE			WOMAN/FEMALE			NON-BINARY		PREFERS NOT TO ANSWER		USES A DIFFERENT TERM		TOTAL
	Full-time	Part-time	Total	Full-time	Part-time	Total	Full-time	Part-time	Full-time	Part-time	Full-time	Part-time	Total
NSW	70	4	74	169	34	203	0	0	0	0	0	0	277
QLD	36	1	37	97	22	119	0	0	0	0	0	0	156
SA	14	2	16	55	5	60	0	0	0	0	0	0	76
TAS	2	0	2	19	6	25	0	0	0	0	0	0	27
VIC	40	5	45	108	26	134	0	0	0	0	0	0	179
WA	17	1	18	40	5	45	0	0	0	0	0	0	63
ACT	12	1	13	22	4	26	0	0	0	0	0	0	39
NT	1	1	2	2	1	3	0	0	0	0	0	0	5
EXTERNAL TERRITORIES	0	0	0	0	0	0	0	0	0	0	0	0	0
OVERSEAS	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	192	15	207	512	103	615	0	0	0	0	0	0	822

TABLE A9.2: ALL NON-ONGOING EMPLOYEES, CURRENT REPORT PERIOD (2022-23)

LOCATION	MAN/MALE			WOMAN/FEMALE			NON-BINARY		PREFERS NOT TO ANSWER		USES A DIFFERENT TERM		TOTAL
	Full-time	Part-time	Total	Full-time	Part-time	Total	Full-time	Part-time	Full-time	Part-time	Full-time	Part-time	Total
NSW	49	15	64	124	48	172	0	0	0	0	0	0	236
QLD	29	7	36	64	19	83	0	0	0	0	0	0	119
SA	20	3	23	31	14	45	0	0	0	0	0	0	68
TAS	2	0	2	4	2	6	0	0	0	0	0	0	8
VIC	33	6	39	84	29	113	0	0	0	0	0	0	152
WA	5	4	9	14	7	21	0	0	0	0	0	0	30
ACT	7	0	7	13	4	17	0	0	0	0	0	0	24
NT	1	0	1	6	1	7	0	0	0	0	0	0	8
EXTERNAL TERRITORIES	0	0	0	0	0	0	0	0	0	0	0	0	0
OVERSEAS	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	146	35	181	340	124	464	0	0	0	0	0	0	645

TABLE A9.3: ALL ONGOING EMPLOYEES, PREVIOUS REPORT PERIOD (2021–22)

LOCATION	MALE			FEMALE			INDETERMINATE			TOTAL
	Full-time	Part-time	Total	Full-time	Part-time	Total	Full-time	Part-time	Total	
NSW	62	8	70	145	57	202	0	0	0	272
QLD	31	1	32	87	25	112	0	0	0	144
SA	8	3	11	45	8	53	0	0	0	64
TAS	4	0	4	12	6	18	0	0	0	22
VIC	35	5	40	99	26	125	0	0	0	165
WA	16	0	16	36	7	43	0	0	0	59
ACT	5	1	6	25	3	28	0	0	0	34
NT	0	0	0	4	1	5	0	0	0	5
EXTERNAL TERRITORIES	0	0	0	0	0	0	0	0	0	0
OVERSEAS	0	0	0	0	0	0	0	0	0	0
TOTAL	161	18	179	453	133	586	0	0	0	765

TABLE A9.4: ALL NON-ONGOING EMPLOYEES, PREVIOUS REPORT PERIOD (2021-22)

LOCATION	MALE			FEMALE			INDETERMINATE			TOTAL
	Full-time	Part-time	Total	Full-time	Part-time	Total	Full-time	Part-time	Total	
NSW	46	3	49	117	22	139	0	0	0	188
QLD	27	3	30	52	8	60	0	0	0	90
SA	7	1	8	27	7	34	0	0	0	42
TAS	1	0	1	2	2	4	1	0	1	6
VIC	28	1	29	81	11	92	0	0	0	121
WA	5	1	6	10	0	10	0	0	0	16
ACT	3	0	3	12	0	12	0	0	0	15
NT	0	1	1	2	1	3	0	0	0	4
EXTERNAL TERRITORIES	0	0	0	0	0	0	0	0	0	0
OVERSEAS	0	0	0	0	0	0	0	0	0	0
TOTAL	117	10	127	303	51	354	1	0	1	482

TABLE A9.5: AUSTRALIAN PUBLIC SERVICE ACT ONGOING EMPLOYEES, CURRENT REPORT PERIOD (2022-23)

CLASSIFICATION	MAN/MALE		WOMAN/FEMALE		NON-BINARY		PREFERS NOT TO ANSWER		USES A DIFFERENT TERM		TOTAL
	Full-time	Part-time	Full-time	Part-time	Full-time	Part-time	Full-time	Part-time	Full-time	Part-time	
SES 3	0	0	0	0	0	0	0	0	0	0	0
SES 2	2	0	5	0	0	0	0	0	0	0	7
SES 1	5	0	5	0	0	0	0	0	0	0	10
EL 2	43	1	70	15	0	0	0	0	0	0	129
EL 1	36	4	93	26	0	0	0	0	0	0	159
APS 6	33	1	91	16	0	0	0	0	0	0	141
APS 5	34	2	110	12	0	0	0	0	0	0	158
APS 4	38	5	139	30	0	0	0	0	0	0	212
APS 3	1	1	0	0	0	0	0	0	0	0	2
APS 2	0	0	1	4	0	0	0	0	0	0	5
APS 1	1	0	0	0	0	0	0	0	0	0	1
OTHER	0	0	0	0	0	0	0	0	0	0	0
TOTAL	193	14	514	103	0	0	0	0	0	0	824

TABLE A9.6: AUSTRALIAN PUBLIC SERVICE ACT NON-ONGOING EMPLOYEES, CURRENT REPORT PERIOD (2022-23)

CLASSIFICATION	MAN/MALE		WOMAN/FEMALE		NON-BINARY		PREFERS NOT TO ANSWER		USES A DIFFERENT TERM		TOTAL
	Full-time	Part-time	Full-time	Part-time	Full-time	Part-time	Full-time	Part-time	Full-time	Part-time	
SES 3	0	0	0	0	0	0	0	0	0	0	0
SES 2	0	0	1	0	0	0	0	0	0	0	1
SES 1	0	0	0	0	0	0	0	0	0	0	0
EL 2	11	2	25	24	0	0	0	0	0	0	62
EL 1	12	1	38	21	0	0	0	0	0	0	72
APS 6	7	1	19	6	0	0	0	0	0	0	33
APS 5	46	2	127	13	0	0	0	0	0	0	188
APS 4	68	4	128	16	0	0	0	0	0	0	216
APS 3	2	5	1	11	0	0	0	0	0	0	19
APS 2	0	20	1	33	0	0	0	0	0	0	54
APS 1	0	0	0	0	0	0	0	0	0	0	0
OTHER	0	0	0	0	0	0	0	0	0	0	0
TOTAL	146	35	340	124	0	0	0	0	0	0	645

TABLE A9.7: AUSTRALIAN PUBLIC SERVICE ACT ONGOING EMPLOYEES, PREVIOUS REPORT PERIOD (2021–22)

	MALE			FEMALE			INDETERMINATE			
CLASSIFICATION	Full-time	Part-time	Total	Full-time	Part-time	Total	Full-time	Part-time	Total	TOTAL
SES 3	0	0	0	0	0	0	0	0	0	0
SES 2	4	0	4	3	0	3	0	0	0	7
SES 1	3	0	3	6	0	6	0	0	0	9
EL 2	39	1	40	60	18	78	0	0	0	118
EL 1	33	4	37	85	41	126	0	0	0	163
APS 6	29	2	31	94	16	110	0	0	0	141
APS 5	22	3	25	104	12	116	0	0	0	141
APS 4	21	2	23	65	20	85	0	0	0	108
APS 3	7	4	11	28	23	51	0	0	0	62
APS 2	3	1	4	8	3	11	0	0	0	15
APS 1	0	1	1	0	0	0	0	0	0	1
OTHER	0	0	0	0	0	0	0	0	0	0
TOTAL	161	18	179	453	133	586	0	0	0	765

TABLE A9.8: AUSTRALIAN PUBLIC SERVICE ACT NON-ONGOING EMPLOYEES, PREVIOUS REPORT PERIOD (2021–22)

CLASSIFICATION	MALE			FEMALE			INDETERMINATE			TOTAL
	Full-time	Part-time	Total	Full-time	Part-time	Total	Full-time	Part-time	Total	
SES 3	0	0	0	0	0	0	0	0	0	0
SES 2	0	0	0	1	0	1	0	0	0	1
SES 1	0	0	0	0	0	0	0	0	0	0
EL 2	9	0	9	11	3	14	0	0	0	23
EL 1	27	1	28	4	12	16	0	0	0	44
APS 6	6	2	8	7	1	8	0	0	0	16
APS 5	30	3	33	102	10	112	0	0	0	145
APS 4	31	2	33	150	11	161	1	0	1	195
APS 3	13	2	15	26	12	38	0	0	0	53
APS 2	1	0	1	2	2	4	0	0	0	5
APS 1	0	0	0	0	0	0	0	0	0	0
OTHER	0	0	0	0	0	0	0	0	0	0
TOTAL	117	10	127	303	51	354	1	0	1	482

TABLE A9.9: AUSTRALIAN PUBLIC SERVICE ACT EMPLOYEES BY FULL-TIME AND PART-TIME STATUS, CURRENT REPORT PERIOD (2022-23)

CLASSIFICATION	ONGOING			NON-ONGOING			TOTAL
	Full-time	Part-time	Total	Full-time	Part-time	Total	
SES 3	0	0	0	0	0	0	0
SES 2	7	0	7	1	0	1	8
SES 1	10	0	10	0	0	0	10
EL 2	113	16	129	36	26	62	191
EL 1	129	30	159	50	22	72	231
APS 6	124	17	141	26	7	33	174
APS 5	144	14	158	173	15	188	346
APS 4	177	35	212	196	20	216	428
APS 3	1	1	2	3	16	19	21
APS 2	1	4	5	1	53	54	59
APS 1	1	0	1	0	0	0	1
OTHER	0	0	0	0	0	0	0
TOTAL	707	117	824	486	159	645	1,469

TABLE A9.10: AUSTRALIAN PUBLIC SERVICE ACT EMPLOYEES BY FULL-TIME AND PART-TIME STATUS, PREVIOUS REPORT PERIOD (2021–22)

CLASSIFICATION	ONGOING			NON-ONGOING			TOTAL
	Full-time	Part-time	Total	Full-time	Part-time	Total	
SES 3	0	0	0	0	0	0	0
SES 2	7	0	7	1	0	1	8
SES 1	9	0	9	0	0	0	9
EL 2	99	19	118	20	3	23	141
EL 1	118	45	163	31	13	44	207
APS 6	123	18	141	13	3	16	157
APS 5	126	15	141	132	13	145	286
APS 4	86	22	108	182	13	195	303
APS 3	35	27	62	39	14	53	115
APS 2	11	4	15	3	2	5	20
APS 1	0	1	1	0	0	0	1
OTHER	0	0	0	0	0	0	0
TOTAL	614	151	765	421	61	482	1,247

TABLE A9.11: AUSTRALIAN PUBLIC SERVICE ACT EMPLOYMENT TYPE BY LOCATION, CURRENT REPORT PERIOD (2022–23)

LOCATION	ONGOING	NON-ONGOING	TOTAL
NSW	277	236	513
QLD	157	119	276
SA	76	68	144
TAS	27	8	35
VIC	179	152	331
WA	63	30	93
ACT	39	24	63
NT	6	8	14
EXTERNAL TERRITORIES	0	0	0
OVERSEAS	0	0	0
TOTAL	824	645	1,469

TABLE A9.12: AUSTRALIAN PUBLIC SERVICE ACT EMPLOYMENT TYPE BY LOCATION, PREVIOUS REPORT PERIOD (2021–22)

LOCATION	ONGOING	NON-ONGOING	TOTAL
NSW	272	188	460
QLD	144	90	234
SA	64	42	106
TAS	22	6	28
VIC	165	121	286
WA	59	16	75
ACT	34	15	49
NT	5	4	9
EXTERNAL TERRITORIES	0	0	0
OVERSEAS	0	0	0
TOTAL	765	482	1,247

TABLE A9.13: AUSTRALIAN PUBLIC SERVICE ACT INDIGENOUS EMPLOYMENT, CURRENT REPORT PERIOD (2022–23)

EMPLOYMENT STATUS	TOTAL
Ongoing	22
Non-ongoing	15
TOTAL	37

TABLE A9.14: AUSTRALIAN PUBLIC SERVICE ACT INDIGENOUS EMPLOYMENT, PREVIOUS REPORT PERIOD (2021–22)

EMPLOYMENT STATUS	TOTAL
Ongoing	21
Non-ongoing	8
TOTAL	29

TABLE A9.15: AUSTRALIAN PUBLIC SERVICE ACT EMPLOYMENT ARRANGEMENTS, CURRENT REPORT PERIOD (2022–23)

EMPLOYMENT ARRANGEMENT	SES	NON-SES	TOTAL
Enterprise Agreement	0	1,160	1,160
Determination	18	0	18
Australian Workplace Agreement	0	1	1
Individual Flexibility Arrangement	0	290	290

TABLE A9.16: AUSTRALIAN PUBLIC SERVICE ACT EMPLOYMENT ARRANGEMENTS, PREVIOUS REPORT PERIOD (2021–22)

EMPLOYMENT ARRANGEMENT	SES	NON-SES	TOTAL
Enterprise Agreement	0	1,009	1,009
Determination	17	0	17
Australian Workplace Agreement	0	3	3
Individual Flexibility Arrangement	0	218	218
TOTAL	17	1,230	1,247

TABLE A9.17: AUSTRALIAN PUBLIC SERVICE ACT EMPLOYMENT SALARY RANGES BY CLASSIFICATION LEVEL (MINIMUM/MAXIMUM), CURRENT REPORT PERIOD (2022–23)

CLASSIFICATION	MINIMUM SALARY	MAXIMUM SALARY
SES 3	0	0
SES 2	\$276,506	\$350,000
SES 1	\$200,898	\$265,740
EL 2	\$122,007	\$309,649
EL 1	\$105,834	\$247,720
APS 6	\$82,689	\$122,601
APS 5	\$76,560	\$104,484
APS 4	\$68,643	\$84,888
APS 3	\$61,586	\$66,469
APS 2	\$54,069	\$59,959
APS 1	\$47,776	\$52,800
Other	0	0

TABLE A9.18: AUSTRALIAN PUBLIC SERVICE ACT EMPLOYMENT PERFORMANCE PAY BY CLASSIFICATION LEVEL, CURRENT REPORT PERIOD (2022–23)

CLASSIFICATION	NUMBER OF EMPLOYEES RECEIVING PERFORMANCE PAY	AGGREGATED (SUM TOTAL) OF ALL PAYMENTS MADE	AVERAGE OF ALL PAYMENTS MADE	MINIMUM PAYMENT MADE TO EMPLOYEES	MAXIMUM PAYMENT MADE TO EMPLOYEES
SES 3	0	0	0	0	0
SES 2	0	0	0	0	0
SES 1	0	0	0	0	0
EL 2	0	0	0	0	0
EL 1	0	0	0	0	0
APS 6	0	0	0	0	0
APS 5	0	0	0	0	0
APS 4	0	0	0	0	0
APS 3	0	0	0	0	0
APS 2	0	0	0	0	0
APS 1	0	0	0	0	0
Other	0	0	0	0	0
TOTAL	0	0	0	0	0

TABLE A9.19: DETAILS OF ACCOUNTABLE AUTHORITY DURING THE REPORTING PERIOD, CURRENT REPORT PERIOD (2022–23)

		Period as the accountable authority or member within the reporting period	
NAME	POSITION TITLE/ POSITION HELD	START DATE (1 JULY 2022 OR AFTER)	END DATE (30 June 2023 OR BEFORE)
Sia Lagos	Chief Executive Officer and Principal Registrar	1 July 2022	30 August 2022
Rowan Davis	Acting Chief Executive Officer and Principal Registrar	1 September 2022	7 October 2022
Sia Lagos	Chief Executive Officer and Principal Registrar	8 October 2022	30 June 2023

Appendix 10: Annual performance statement

Introductory statement

I, Sia Lagos, as the accountable authority of the Federal Court of Australia, present the 2022–23 annual performance statements for the entity, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (Cth) (PGPA Act).

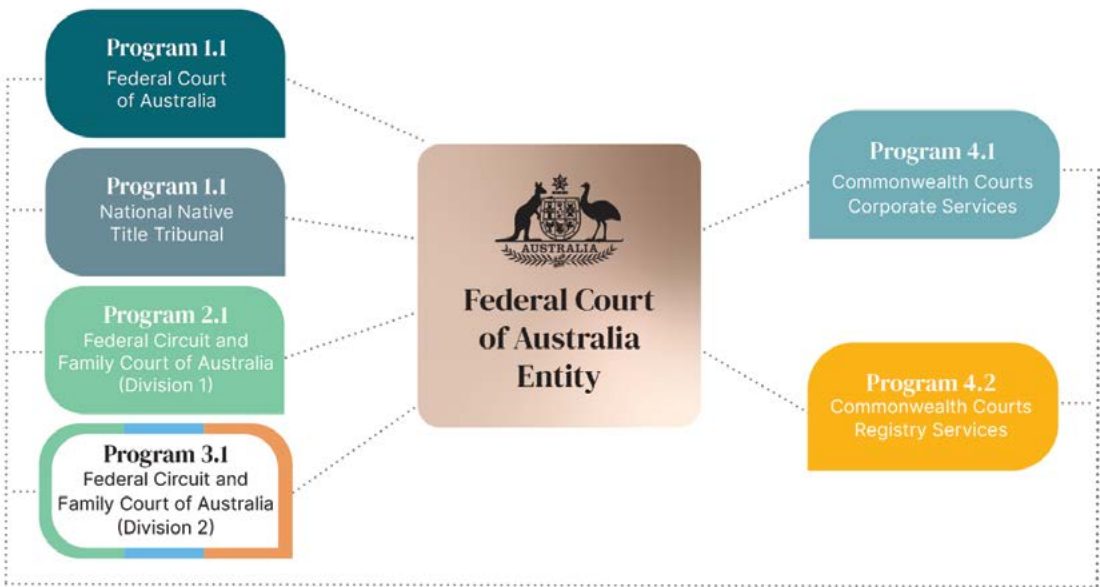
In my opinion, these annual performance statements are based on properly maintained records, accurately reflect the performance of the entity, and comply with subsection 39(2) of the PGPA Act (section 16F of the PGPA Rule).



Sia Lagos
















Chief Executive Officer and Principal Registrar






Federal Court of Australia



FEDERAL COURT OF AUSTRALIA

The relationship between the Federal Court's Portfolio Budget Statements, corporate plan and annual performance statement

OUTCOME 1	OUTCOME 2	OUTCOME 3	OUTCOME 4	
PORTFOLIO BUDGET STATEMENTS				
Apply and uphold the rule of law for litigants in the Federal Court of Australia and parties in the National Native Title Tribunal through the resolution of matters according to law and through the effective management of the administrative affairs of the Court and Tribunal.	Apply and uphold the rule of law for litigants in the Federal Circuit and Family Court of Australia (Division 1) through the just, safe, efficient and timely resolution of family law matters, particularly more complex family law matters including appeals, according to law, through the effective management of the administrative affairs of the Court.	Apply and uphold the rule of law for litigants in the Federal Circuit and Family Court of Australia (Division 2) through the just, safe, efficient and timely resolution of family law and general federal law matters according to law, through the encouragement of appropriate dispute resolution processes through the effective management of the administrative affairs of the Court.	Improved administration and support of the resolution of matters according to law for litigants in the Federal Court of Australia, the Federal Circuit and Family Court of Australia, and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate and registry services.	
				
Program 1.1 Federal Court of Australia	Program 2.1 Federal Circuit and Family Court of Australia (Division 1)	Program 3.1 Federal Circuit and Family Court of Australia (Division 2)	Program 4.1 Commonwealth Courts Corporate Services	Program 4.2 Commonwealth Courts Registry Services
				
Timely completion of cases <ul style="list-style-type: none">85% of cases completed within 18 months of commencement.Judgments to be delivered within three months.	Timely completion of cases <ul style="list-style-type: none">70–90% of final order applications resolved within 12 months.75% of all judgments to be delivered within three months.	Timely completion of cases <ul style="list-style-type: none">70–90% of final order family law applications resolved within 12 months.90% of general federal law applications (excluding migration) resolved within 12 months.75% of all judgments delivered within three months.	<ul style="list-style-type: none">Optimise technology to support judicial, registry and corporate services functions.Implement a Cyber Security Program.Efficient and effective corporate services.Gender equality — female representation in the senior executive service (SES) and executive level (EL) classifications.Indigenous representation — proportion of staff who identify as Indigenous.	All information and service provided by registry services is high quality, timely and meets the needs of clients <ul style="list-style-type: none">At least a 90% customer enquiry satisfaction rating. Timely processing of documents <ul style="list-style-type: none">75% of documents processed within two working days Efficient registry services <ul style="list-style-type: none">All registry services provided within the agreed funding levels
				

OUTCOME 1	OUTCOME 2	OUTCOME 3	OUTCOME 4	
CORPORATE PLAN (PURPOSE)				
To decide disputes according to the law as quickly, inexpensively and efficiently as possible	Through its specialist judges, registrars and staff, assist Australians to resolve their most complex family disputes and family law appeals by deciding such matters according to the law, promptly, courteously and effectively.	To provide timely access to justice and resolve disputes in all areas of law in an efficient and cost-effective manner, using appropriate dispute resolution processes.	To provide efficient and effective corporate services to the Commonwealth Courts and Tribunals.	To provide efficient and effective registry services to the Commonwealth Courts and Tribunals.
				
ANNUAL PERFORMANCE STATEMENT				
Analysis of performance	Analysis of performance	Analysis of performance	Analysis of performance	Analysis of performance
<ul style="list-style-type: none">Federal Court of Australia 2022–23 annual report: Part 3, Part 4 and Appendix 10.	<ul style="list-style-type: none">Federal Court of Australia 2022–23 annual report: Appendix 10.Federal Circuit and Family Court of Australia 2022–23 annual report: Part 3.	<ul style="list-style-type: none">Federal Court of Australia 2022–23 annual report: Appendix 10.Federal Circuit and Family Court 2022–23 annual report: Part 4.	<ul style="list-style-type: none">Federal Court of Australia 2022–23 annual report: Part 4 and Appendix 10.	<ul style="list-style-type: none">Federal Court of Australia 2022–23 annual report: Part 4 and Appendix 10.

OUTCOME 1 – Program 1.1: Federal Court of Australia

Apply and uphold the rule of law for litigants in the Federal Court of Australia and parties in the National Native Title Tribunal through the resolution of matters according to law and through the effective management of the administrative affairs of the Court and Tribunal.

Delivery

The exercise of the jurisdiction of the Federal Court of Australia and supporting the operations of the National Native Title Tribunal.

Performance measures

Timely completion of cases

- 85 per cent of cases completed within 18 months of commencement.
- Judgments to be delivered within three months.

Source

- Table 2.1.3: Performance measure for Outcome 1, *Federal Court of Australia Portfolio Budget Statements 2022–23*.
- *Federal Court of Australia Corporate Plan 2022–2023*.

Results

TIMELY COMPLETION OF CASES

Performance measure	Result 2022–23	Status
85 per cent of cases completed within 18 months of commencement.	79 per cent of cases were completed within 18 months of commencement.	Performance measure not achieved.
Judgments to be delivered within three months.	78.4 per cent of judgments were delivered in three months.	Performance measure achieved.

Analysis

For the 2022–23 financial year, the Federal Court of Australia had two performance measures that relate to the timely completion of cases. The Court achieved one out of two performance measures.

In 2022–23, the total number of overall filings in the Court, comprising first instance, appellate and registrar matters increased by eight per cent to 3,399. The number of filings which were commenced in, or transferred to, the Court's original jurisdiction increased by 15 per cent.

The increase in filings can be attributed to a significant increase in the filing of matters pursuant to the *Corporations Act 2001* (Cth), particularly applications seeking the winding up of companies.

During the reporting year, 750 appellate proceedings were filed in the Court. They include 560 appeals and related actions (522 filed in the appellate jurisdiction and 38 matters filed in the original jurisdiction), 11 cross appeals and 179 interlocutory applications such as applications for security for costs in relation to an appeal, a stay, an injunction, expedition or various other applications.

The Federal Circuit and Family Court of Australia (Division 2) continues to be a significant source of appellate work accounting for approximately 50 per cent of the appeals and related actions filed in 2022–23. The majority of these proceedings are heard and determined by single judges exercising the Court's appellate jurisdiction.

There was an overall decrease in the total number of appeals filed in 2022–23 (522) from 649 in 2021–22. This decrease was attributable to a 24 per cent decrease in migration appeals, as well as decreases in the areas of commercial and corporations and native title. These decreases were partially offset by increases in the areas of administrative and constitutional law, admiralty and maritime and employment and industrial relations.

In the reporting year, 691 appeals and related actions were finalised. Of these, 172 matters were filed and finalised in the reporting year. At 30 June 2023, there were 793 appeals currently before the Court, with 557 of these being migration appeals and related actions.

In 2022–23, 47 migration appeals and applications were filed in the Court's appellate jurisdiction related to judgments of single judges of the Court exercising the Court's original jurisdiction. A further 232 migration matters were filed in relation to judgments of the Federal Circuit and Family Court of Australia (Division 2).

Although the number of migration appellate filings has decreased by 24 per cent since the last reporting year, 54 per cent of the Court's total appellate workload concerned decisions made under the *Migration Act 1958* (Cth).

The Court continues to apply a number of procedures to streamline the preparation and conduct of these appeals and applications and to facilitate the expeditious management of the migration workload. The Court reviews all migration matters to identify cases raising similar issues and where there is a history of previous litigation. This process allows for similar cases to be managed together resulting in more timely and efficient disposal of matters.

There was a 19 per cent increase in the number of matters referred to mediation when compared to the previous reporting period. Increases have been in native title (169 per cent), administrative and constitutional law and human rights (69 per cent), other federal jurisdiction NPA (defamation) (39 per cent) and employment and industrial relations (35 per cent). Commercial and corporations and intellectual property mediation referrals remained consistent with the figures reported during the 2021–22 reporting period.

All registries recorded an increase in mediation referrals with Queensland increasing by 44 per cent, Western Australia by 35 per cent, South Australia by 26 per cent and Victoria by 23 per cent when compared with the 2021–22 figures.

The Court has two targets for timely completion of cases:

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

During the reporting year, the Court completed 79 per cent of cases in less than 18 months. The Court's ability to continue to meet its disposition targets is dependent upon the timely replacement of judges. Whilst the Court was not able to achieve its benchmark in 2022–23, figure A5.4 shows that 86 per cent of cases (excluding native title matters) were completed within 18 months over the last five reporting years.

- *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 other issues affecting the Court.

During 2022–23, the Court handed down 1,723 judgments for 1,541 court matters (some matters involve more than one judgment being delivered – e.g. interlocutory decisions – and sometimes one judgment will cover multiple matters). Overall, 76 per cent of appeals (both Full Court and single judge) were delivered within three months; 79.3 per cent of judgments at first instance were delivered within three months of the matter being reserved; and 78.4 per cent of total judgments were delivered within three months.

The Court continues to implement and extend the National Court Framework (NCF) to all matters across the Court including the work undertaken by Judicial Registrars.

The allocation of judicial registrar work is now undertaken on a national basis with national systems and processes (such as a national duty registrar system and national practice guides) to support and enhance the work undertaken. In 2022–23, further NCF developments included the establishment of a national Corporations List with dedicated registrars, support staff and contact points for the profession. This initiative enables a more efficient use of the judicial registrar resources and provides a more streamlined approach for practitioners, particularly those operating in more than one jurisdiction.

The past year has also seen the establishment of dedicated registrar assistance for matters involving self-represented applicants with a view to improving access to justice across the Court. A registrar-led Vulnerable Applicants Working Group (working with community legal groups) has also been established by the Court.

The Court continues to draw on the skills and expertise of its judicial registrars in each of the national practice areas by providing mediation and case management support to judges on a national basis.

A detailed analysis on the performance of the Federal Court can be found in Part 3 (*Report on Court performance*) and Appendix 5 (*Workload statistics*) of this report.

OUTCOME 2 – Program 2.1: Federal Circuit and Family Court of Australia (Division 1)

Apply and uphold the rule of law for litigants in the Federal Circuit and Family Court of Australia (Division 1) through the just, safe, efficient and timely resolution of family law matters, particularly more complex family law matters including appeals, according to law, through the effective management of the administrative affairs of the Court.

Delivery

The exercise of the jurisdiction of the Federal Circuit and Family Court of Australia (Division 1).

The Federal Circuit and Family Court of Australia (Division 1) is a separate Chapter III Court under the Australian Constitution and the performance criteria applicable to the Court is identified in the *2022–23 Federal Court of Australia Portfolio Budget Statements* and in the *Federal Court of Australia Corporate Plan 2022–2023*.

Performance measures

Timely completion of cases

- 70–90 per cent of final order applications resolved within 12 months.
- 75 per cent of all judgments delivered within three months.

Source

- Table 2.2.2: Performance measure for Outcome 2, *Federal Court of Australia Portfolio Budget Statements 2022–23*.
- *Federal Court of Australia Corporate Plan 2022–2023*.

Results

TIMELY COMPLETION OF CASES

Performance measure	Result 2022–23	Status
70–90 per cent of final order applications resolved within 12 months.	92 per cent of new pathway final order applications have been resolved within 12 months of filing.	Performance measure achieved.
75 per cent of all judgments to be delivered within three months.	91 per cent of judgments were delivered within three months.	Performance measure achieved.

Analysis

For the 2022–23 financial year, the Federal Circuit and Family Court of Australia (Division 1) had two performance measures that relate to the timely completion of cases. The Court achieved both performance measures.

In the 2022–23 financial year, 2,458 applications were filed in the Court's original jurisdiction, or transferred to the Court to enliven its original jurisdiction. The majority of applications filed were applications in a proceeding.

In 2022–23, the Court received 615 applications for final orders by way of transfer from the Federal Circuit and Family Court of Australia (Division 2) and finalised 1,450 applications. As a result, the number of pending applications for final orders decreased by 41 per cent compared to the number of applications pending at 30 June 2022. The clearance rate as at the end of the year was 236 per cent. As the Court

receives matters transferred from the Federal Circuit and Family Court of Australia (Division 2) rather than filings of new applications into its original jurisdiction, the clearance rate represents the ratio of transfers during the financial year to matters finalised during the financial year.

The decrease in the number of applications finalised is partially attributable to the fact that in previous years, applications that were filed in the then Family Court of Australia but were transferred to the Federal Circuit Court of Australia soon after filing because they were more appropriate to be heard by that court, were recorded as a finalisation. Further, as the Court is not receiving new filings (aside from by way of transfer), the Court is only finalising matters that were pending pre-1 September 2021, which are largely more complex or have been pending for some time and require judicial determination, hence a lower number of matters have been finalised.

In 2022–23, the Court received 1,588 applications for interim orders (also referred to as Applications in a Proceeding) and finalised 2,157 applications. As a result, the number of pending applications for interim orders decreased by 38 per cent compared to the number of applications pending at 30 June 2022. The clearance rate as at the end of the financial year was 136 per cent.

The Court receives a small volume of other types of family law applications, the largest being contravention applications. Since 1 September 2021, the Court has had a particular focus on the timely resolution of contravention applications following the creation of the National Contravention List. In 2022–23, the Court received 92 contravention applications and finalised 125 contravention applications, with a clearance rate of 136 per cent. The number of contravention applications pending decreased by 33 per cent compared to the number pending at 30 June 2022.

The Court is committed to ensuring that as far as possible, all applications are finalised in a timely way taking into account the particular needs of each matter, its complexity and the available court resources. Whilst the median time from filing to finalisation (or, the median age of matters at finalisation) has increased, this was expected. It reflects two important considerations: firstly, that the Court is not receiving new filings, only a small number of matters transferred up, and therefore there are no matters resolving early in the litigation pathway in this court as there previously were. Secondly, the Court is focusing on finalising ageing matters in the pending caseload, which effectively crystallises the delay experienced over previous financial years. Legacy cases make up the majority of the matters finalised in the Court in the reporting period. Given the median time to finalisation and median time to judgment are almost the same, it illustrates that the majority of those older cases remaining pending in the Court require a final hearing and judgment to be resolved. The Court anticipates that this figure may increase again before it decreases, as more of the ageing legacy cases are finalised.

Consistently with the previous two financial years, the Court has delivered 91 per cent of judgments within this three months, exceeding its performance measure target of 75 per cent delivered within three months. It is a focus of the Court to ensure that judgments are delivered in a timely way to ensure the efficient resolution of disputes and certainty of outcome for parties.

Consistently with the previous two financial years, the Court has delivered 83 per cent of reserved judgments within three months. There has also been a decrease in the percentage of judgments delivered at more than six months' old in this reporting period compared to previous reporting periods.

The Court performed admirably in its appellate jurisdiction in financial year 2022–23, with a number of outstanding results being achieved, including a significant reduction in the average time from filing to finalisation of an appeal (6.7 months two years ago to 3.5 months this year) and the average time from filing to delivery of judgment (9 months two years ago to 4.5 months this year), 100 per cent of appeals being finalised within 12 months, and the maintenance of a low pending caseload of appeals on hand.

In 2022–23 there were 352 appeal files filed and 342 finalised, with an overall clearance rate of 97 per cent. The Court has maintained a low number of pending appeals on hand, with less than half the number of appeals pending at 30 June 2023 compared to 2019, 2020 and 2021. Over the past three years, the average time to finalisation of an appeal has almost halved, to only 3.5 months, which is a significant achievement. For the purposes of reporting, an appeal file may include a notice of appeal, notice of cross-appeal or an application in an appeal, or more than one of these actions.

A detailed analysis on the performance of the Federal Circuit and Family Court of Australia (Division 1) can be found in Part 3 of the Federal Circuit and Family Court of Australia's 2022–23 Annual Report.

OUTCOME 3 – Program 3.1: Federal Circuit and Family Court of Australia (Division 2)

Apply and uphold the rule of law for litigants in the Federal Circuit and Family Court of Australia (Division 2) through the just, safe, efficient and timely resolution of family law and general federal law matters according to law, through the encouragement of appropriate dispute resolution processes through the effective management of the administrative affairs of the Court.

Delivery

The exercise of the jurisdiction of the Federal Circuit and Family Court of Australia (Division 2).

The Federal Circuit and Family Court of Australia (Division 2) remains a separate Chapter III Court under the Australian Constitution and the performance criteria applicable to the Court is identified in the 2022–23 Federal Court of Australia Portfolio Budget Statements and in the Federal Court Corporate Plan 2022–2023.

Performance measures

Timely completion of cases

- 70–90 per cent of final order family law applications resolved within 12 months.
- 90 per cent of general federal law applications (excluding migration) resolved within 12 months.
- 75 per cent of all judgments delivered within three months.

Source

- Table 2.3.2: Performance criteria for *Outcome 3, Federal Court of Australia Portfolio Budget Statements 2022–23*.
- *Federal Court of Australia Corporate Plan 2022–2023*.

Results

TIMELY COMPLETION OF CASES

Performance measure	Result 2022–23	Status
70–90 per cent of final order family law applications resolved within 12 months.	87 per cent of new pathway final order applications resolved within 12 months.	Performance measure achieved.
90 per cent of general federal law applications (excluding migration) resolved within 12 months.	82 per cent of general federal law applications were finalised within 12 months.	Performance measure not achieved.
75 per cent of all judgments delivered within three months.	77 per cent of general federal law judgments delivered within three months.	Performance measure achieved.

Analysis

For the 2022–23 financial year, the Court had three performance measures that relate to the timely completion of cases. The Court achieved two out of three performance measures.

Whilst the percentage of general federal law applications finalised within 12 months was slightly lower than the target, the vast majority of applications, at 82 per cent, were finalised within 12 months, which is a positive achievement and an improvement from the previous financial year. The clearance rate for general federal law applications was 96 per cent, and in migration, the clearance rate

was 108 per cent which is a notable achievement, particularly given the large migration caseload. Other measurements in the general federal law jurisdictions have improved, including a reduction in the average time from filing to finalisation of matters.

In the 2022–23 financial year, 96,142 family law applications were filed in the Court. The majority of applications filed were applications for divorce, followed by interim applications, now called applications in a proceeding, then applications for consent orders, and then applications for final orders. Prior to 1 September 2021, all applications for consent orders were filed in the then Family Court of Australia.

In 2022–23, the Court received 13,862 applications for final orders, an increase of 10 per cent on financial year 2021–22, and finalised 14,139 applications. As a result, the number of pending applications for final orders decreased by two per cent compared to the number of applications pending at 30 June 2022. The clearance rate as at the end of the year was 102 per cent.

The Court records at a high level only, whether applications for final orders seek parenting orders, financial orders, both parenting and financial orders, or some other relief. Of the applications filed in 2022–23, the majority of applications for final orders sought parenting orders only (49 per cent). This is in line with previous years, with a marginal increase in the percentage of matters seeking both parenting and financial orders.

In 2022–23, the Court received 18,473 applications for interim orders (also referred to as Applications in a Proceeding), a three per cent increase compared to the volume filed in 2021–22, and finalised 18,768 applications. As a result, the number of pending applications for interim orders decreased by three per cent compared to the number of applications pending at 30 June 2022. The clearance rate as at the end of the financial year was 102 per cent.

The highest number of filings the Court receives in the family law jurisdiction are applications for divorce. In 2022–23, the Court received 45,529 applications for divorce and finalised 46,389 applications, slightly less filings and finalisations than 2021–22. The Court's clearance rate for divorce applications was 102 per cent. Consequently, the number of applications for divorce pending in the Court decreased by nine per cent as compared to the number of applications pending at 30 June 2022. Applications for divorce are heard by Deputy Registrars, who can hear divorces where the application is made jointly, or if a sole application is uncontested. They are heard electronically by audioconference using Webex to ensure their efficient finalisation, as parties are no longer required to attend court in person.

In 2022–23, 15,782 applications for consent orders were filed in the Federal Circuit and Family Court of Australia (Division 2), and 15,974 applications were finalised.

The Court receives a small volume of other types of family law applications, mainly comprised of contravention and enforcement applications, applications to register other orders and applications to review the decision of a Registrar.

In 2022–23, the Court received 914 contravention applications and finalised 947 contravention applications, with a clearance rate of 104 per cent. The number of contravention applications pending decreased by seven per cent compared to the number pending at 30 June 2022, and at 30 June 2023, was the lowest in more than five years.

The median time from filing to finalisation has stayed consistent at 11 months this financial year compared to financial year 2021–22. The average time to finalisation has increased slightly by one month over the same time period, from 14 months to 15 months. This is to be expected given that the Court is particularly focused on finalising the oldest pending cases.

Between 2021–22 and 2022–23, the median time from filing to judgment has increased by just under one month. As noted above, the Court is focusing on finalising ageing matters in the pending caseload, which effectively crystallises the delay experienced over previous financial years. The Court anticipates that this figure may increase again before it decreases, as the last of the ageing legacy cases are finalised.

Consistently with the previous financial years, the Court has delivered 96 per cent of judgments within three months. It is a focus of the Court to ensure that judgments are delivered in a timely way to ensure, where appropriate, the efficient resolution of disputes and certainty of outcome for parties.

The Court aims to have a clearance rate of 100 per cent for applications in general federal law (excluding migration). In 2022–23, the Court achieved a clearance rate of 96 per cent. However, it is noted that the Court increased the number of finalisations in migration proceedings in 2022–23. Therefore, the reduced finalisation in general federal law matters is a result of the increase in finalisations in migration proceedings.

In the 2022–23 financial year, 2,378 applications were filed in the Court's general federal law jurisdiction. This is a slight decrease from the 2,465 filed in 2021–22, and is primarily the result of a decrease in the number of bankruptcy filings. Despite the decline in filings, bankruptcy is the highest volume area of the Court's general federal law jurisdiction (43 per cent of all filings). This is now closely followed by fair work applications (40 per cent).

The Court aims to resolve 90 per cent of general federal law applications within 12 months of filing. In 2022–23, the Court finalised 82 per cent of general federal law matters within 12 months. Whilst the

Court did not achieve this aim, this is an increase from the 81 per cent of matters finalised within 12 months in 2021–22 and the 77 per cent in 2020–21.

The Court also achieved a reduction in the average time from filing to finalisation in the 2022–23 financial year, with the average timeframe for finalisation being 7.7 months from filing which is a decrease from the 8.0 months the previous financial year and 8.6 months in the 2020–21 financial year.

In 2022–23, 3,467 migration applications were filed in the Court and 3,755 applications were finalised. Migration matters represented 59 per cent of the Court's filings in the general federal law jurisdiction. The nature of migration work leads to a larger number of written judgments than any other area of the Court's work. Migration judgments represent approximately 25 per cent of the Court's written judgments and approximately 45 per cent of the Court's judgments published on AustLII in 2022–23.

There was a decrease (23 per cent) in the number of migration applications filed during the reporting period. This is likely attributable to the impact of the COVID-19 pandemic. However, 3,467 migration filings is still a significant incoming caseload, and places pressure on judicial resources, particularly given a number of judges who predominantly heard matters in the migration jurisdiction retired during recent years.

In 2022–23, there was a 55 per cent increase in the number of migration applications finalised by the Court compared to the previous year. This is a significant increase, and assisted the Court to record a clearance rate above 100 per cent for the first time in migration in many years.

A detailed analysis on the performance of the Federal Circuit and Family Court of Australia (Division 2) can be found in Part 4 of the Federal Circuit and Family Court of Australia's 2022–23 Annual Report.

OUTCOME 4 Program 4.1: Commonwealth Courts Corporate Services

Improved administration and support of the resolution of matters according to law for litigants in the Federal Court of Australia, the Federal Circuit and Family Court of Australia, and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate and registry services.

Delivery

Provide efficient and effective corporate services for the Commonwealth Courts and tribunals.

Performance measures

- Optimise technology to support judicial, registry and corporate services functions.
- Implement a Cyber Security Program.
- Efficient and effective corporate services.
- Gender equality — 50 per cent female representation in the senior executive service (SES) and executive level (EL) classifications.
- Indigenous representation — proportion of staff who identify as Indigenous (three per cent).

Source

- Table 2.4.2: Performance criteria for Outcome 4, *Federal Court of Australia Portfolio Budget Statements 2022–23*.
- *Federal Court of Australia Corporate Plan 2022–2023*.

Results

TIMELY COMPLETION OF CASES

Performance measure	Result 2022–23	Status
Optimise technology to support judicial, registry and corporate services functions.	87 per cent of new pathway final order applications resolved within 12 months.	Performance measure achieved.
Implement a cyber security program.	Work continued on consolidating and modernising IT systems to simplify the combined court environment and deliver efficiency improvements and more contemporary practices to reduce the cost of delivery.	Performance measure achieved.
Efficient and effective corporate services.	Corporate Services did not operate within the agreed budget for the year.	Performance measure not achieved.
Gender equality — 50 per cent female representation in the senior executive service and executive level classifications.	Female representation in the SES was 61 per cent and the EL classifications was 74 per cent.	Performance measure achieved.
Indigenous representation — proportion of staff who identify as Indigenous (three per cent).	The percentage of staff who identify as Indigenous was 2.5 per cent.	Performance measure not achieved.

Analysis

For the 2022–23 financial year, Corporate Services had five performance measures, and achieved three out of five performance measures.

The work of Corporate Services is focused on supporting the evolving needs of judges and staff across all the Courts and Tribunal, while delivering on required efficiencies to meet reduced appropriations.

Corporate Services finished with an overall deficit of \$859,000 for 2022–23 against a break-even budget. The major factors that caused this result were:

- a reduction in the available budget following the October revised budget, and
- higher than expected costs for external contractors, insurance and information technology.

The Court is committed to a diverse and inclusive workplace, which includes ensuring its workforce reflects the broader communities in which our employees work. Corporate Services focuses on ensuring it creates a safe and supporting environment in which employees can bring their true selves to work, as well as ensuring recruitment and other processes are strictly merit-based. From a gender diversity perspective, females now fill 61

per cent of positions at Senior Executive Service classifications and 74 per cent of positions at Executive Level classifications.

Work has continued on creating employment opportunities for Aboriginal and Torres Strait Islanders, with its Aboriginal and Torres Strait Islander employment rate increasing from 2.3 per cent in 2021–22 to 2.5 per cent in 2022–23. The Court is currently working on its next RAP at the Innovate level, which it is aiming to launch in 2024.

Work continued on consolidating and modernising IT systems to simplify the combined court environment and deliver efficiency improvements and more contemporary practices to reduce the cost of delivery. The Digital Court Program continues as a key priority, streamlining core business systems to enhance flexibility and operational efficiency. The program is modernising critical document, workflow and case management tools to support the delivery of quality, timely court services to the Australian community. The progressive implementation of a new application suite, CourtPath is the current primary focus of this program. The first release of CourtPath launched in October 2022, delivering immediate benefits and efficiencies to family law court files and case management. CourtPath is developed in partnership with judges, registrars and court staff to deliver sustainable improvements to workflows and support efficient case handling.

Investment in cyber security remains critical to safeguard operations and protect clients and stakeholders. Throughout the reporting year, our commitment to safeguarding sensitive information, critical infrastructure, and data has been top priority, delivering key outcomes in line with the strategic roadmap. Key initiatives included advanced threat protection for all court devices, integrated vulnerability identification, ongoing development of a cyber-aware culture and enhanced incident response with a client-centric approach.

Internal cyber security capability has been enhanced throughout 2022–23, including Governance Risk and Compliance, Cyber Architecture and Cyber Engineering. The Courts continue to strengthen cyber security maturity in line with the Australian Cyber Security Centre recommendations, Protective Security Policy Framework and Essential 8 compliance and regulatory requirements.

Video conferencing remains an integral part of court proceedings, allowing broader and timely access to justice. During 2022–23, 36 additional courtrooms were enabled with video conferencing, taking the total to 75 per cent of all courtrooms having video conferencing capability.

The majority of capital works delivered in 2022–23 were projects addressing the urgent and essential business needs of the Courts. Some major projects completed during the year included:

- Construction for additional jury courtrooms and judges' chambers in the Queens Square Law Courts building in Sydney.
- Construction works for the new Launceston registry including two courtrooms, judges' chambers, registry, mediation suite, safe room and child services.
- Rebranding of the Federal Circuit and Family Court of Australia across all properties.
- Closure of the Brisbane Street Launceston registry, and relocation of court services to the newly constructed tenancy at Henty House.
- Detailed design for fitout works on level 4 at the Perth Commonwealth Law Courts which include three courtrooms, conference, mediation suites, chambers, and support staff areas to meet the growing needs of the community.
- Assisted the Department of Finance to complete the upgrade of carpet throughout Melbourne Commonwealth Law Courts.

Work commenced on several projects which are due for completion in 2023–24:

- Concept design works to modify the Dandenong registry to increase the accommodation capacity for Registrars and Legal Case Manager facilities.
- Concept design for new registrar accommodation in the Adelaide Commonwealth Law Courts.
- Concept design in alignment with lease renewal to modify the Wollongong registry to improve court functions, patron comfort and lifecycle renewal.
- Design of metering upgrades at 80 William Street as required under the lease and for improve data capture.
- Tendering for the design and construction of new judicial and registrar accommodation at the Melbourne Commonwealth Law Courts.

Work continued with the building owner, the Department of Finance, to progress key compliance, infrastructure, Disability Discrimination Act and lifecycle upgrades across a number of Commonwealth Law Courts, which will continue into the 2023–24 financial year.

A detailed analysis on the performance of Corporate Services can be found in Part 4 (*Management and accountability*).

OUTCOME 4 Program 4.2: Commonwealth Courts Registry Services

Improved administration and support of the resolution of matters according to law for litigants in the Federal Court of Australia, the Federal Circuit and Family Court of Australia, and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate and registry services.

Delivery

Providing efficient and effective registry services for the Commonwealth Courts and tribunals.

Performance measures

- All information and service provided by registry services is high quality, timely and meets the needs of clients (at least a 90 per cent customer enquiry satisfaction rating).
- Timely processing of documents (75 per cent of documents processed within two working days).
- Efficient registry services (all registry services provided within the agreed funding levels).

Source

- Table 2.4.2: Performance criteria for Outcome 4, *Federal Court of Australia Portfolio Budget Statements 2022–23*.
- *Federal Court of Australia Corporate Plan 2022–2023*.

Results

Performance measure	Result 2022–23	Status
All information and service provided by registry services is high quality, timely and meets the needs of clients		
At least a 90 per cent customer enquiry satisfaction rating.	The customer enquiry satisfaction rate was 73.8 per cent.	Performance measure not achieved.
Timely processing of documents		
75 per cent of documents processed within two working days.	82 per cent of documents were processed within two working days.	Performance measure achieved.
Efficient registry services		
All registry services provided within the agreed funding levels.	All registry services were provided within the agreed funding levels.	Performance measure achieved.

Analysis

Since 2019–20, the registry services functions for the Federal Court, the Federal Circuit and Family Court of Australia (Division 1) and the Federal Circuit and Family Court of Australia (Division 2) have been amalgamated into a separate program under Outcome 4: Program 4.2 Commonwealth Courts Registry Services.

This has provided the Court with the opportunity to shape the delivery of administrative services across all federal courts in a more innovative and efficient manner. A focus on maximising registry operational

effectiveness through streamlined structures and digital innovations will significantly contribute to the future financial sustainability of the Courts.

In 2022–23, Registry Services had three performance measures and achieved two out of three performance measures.

The Registry Services budget allocation for 2022–23 was \$30,822,000, with an under-spend of 2.5 per cent. Savings were achieved through lower employee costs due to staff vacancies.

Registry Services staff manage enquiries, document lodgments, subpoenas and safety plans. The number of safety plans activated in 2022–23 was 2,849 across all registry locations. Safety plan numbers have risen due to the increase in face-to-face services in some registries. In addition to face-to-face services, supporting the electronic hearings and additional registrar resources has continued to be a significant additional workload for Registry Services.

Throughout the year, Registry Services staff continued to process urgent enquiries and applications and provided support for difficult issues for a diverse range of clients with different needs both professionally and courteously. This included supporting vulnerable clients and ensuring people from non-English speaking backgrounds are suitably supported. In 2022–23 Registry Services processed 82 per cent of documents within two working days, exceeding the performance measure of 75 per cent.

Client satisfaction is measured by a post-call survey of people who have called the Courts' Enquiry Centre. During the reporting year, the Enquiry Centre surveyed 1,735 court users, achieving a satisfaction rating of 73.8 per cent. The achievement of a 90 per cent satisfaction rating means the clients surveyed selected 4/5 or 5/5 as a satisfaction measure of their most recent interaction with the Court.

During the reporting period, connectivity disruptions affecting the call centre software intermittently affected clients' access to frontline services and may have affected performance against this target. Additionally, difficulties in recruiting and retaining staff affected resourcing levels across client services as not all vacancies were able to be successfully filled, resulting in some backlogs and delays.

In 2022–23, phone calls to the Enquiry Centre decreased. This may be attributable in part to greater familiarity with the process and rules changes made as a result of the commencement of the *Federal Circuit and Family Court of Australia Act 2021* (Cth), however the implementation of the enquiries web form may also have assisted with providing clients with access to information assisting clients before calling the Courts. Though only in place for a short period, the new Divorce and Consent Order processing team that deals with high volume applications, may also have assisted in enquiry reduction in June as a nationally consistent approach and guidelines were implemented and backlogs of processing work in some registries were worked through.

The data reported for live chats in 2022–23 indicates the first time in over three years that live chats have decreased, down from over 151,000 in 2021–22 to just over 116,000 in 2022–23. Live chats remains the most efficient channel for enquiries to the Enquiry Centre, with staff able to manage several chats simultaneously. Whilst this shift in family law queues may also be attributable to familiarity and increased comfort with 2021 changes, this trend was also evident to a lesser degree across the general federal law chat queues.

Average queue times for chat enquiries across family and general federal law remained stable and significantly less than the queue time for phone queries.

In 2022–23 the National Enquiry Centre was expanded and renamed the Strategic Support Hub (SSH). The Courts implemented structural changes targeting the development of national teams to assist with the processing of documents and management of enquiries as well as the existing national support pool assisting deputy registrars in family law.

In May 2023, the SSH added to the existing work of the Enquiry Centre taking on new areas of responsibility with a significant change to the processing of documents in family law. This involved the implementation of a national team working on the processing of divorce and consent order applications nationally.

During 2022–23, the SSH undertook the following projects:

- the implementation of a web form for the submission of email enquiries, and
- implementation of a national document processing team working on divorce and consent order applications.

The introduction of the new web form for the submission of email enquiries has assisted with the collection of data from clients making email enquiries. This has removed the need for multiple email exchanges in a high proportion of the emails submitted via the web form, thereby improving the efficiency of handling of email enquiries. This project also saw the development of an 'enquiries hub' to assist clients with frequently asked questions and provide guidance and information to clients to help with early resolution of their enquiries. Further formal analysis of the project outcomes is yet to be completed.

In May 2023, a national divorce and consent orders processing team commenced, centralising the processing and checking of divorce and consent order applications. Over 9,000 documents were processed in the first seven days. This includes approximately 1,900 new divorce and consent order applications, and thousands of supplementary and supporting documents. In the weeks after commencement, extensive work was undertaken to standardise the approach for reviewing documents and providing consistent responses to common errors and issues. Further, cross training of staff in the Enquiry Centre and filing teams has taken place with the aim that a larger multi-skilled team will now be able to work across the existing work of the Enquiry Centre as well as divorce and consent order document processing.

A detailed analysis on the performance of Registry Services can be found in Part 4 (*Management and accountability*).

Appendix II: Executive remuneration

TABLE A11.1: INFORMATION ABOUT REMUNERATION FOR KEY MANAGEMENT PERSONNEL

Name	Position Title	Short-term benefits			Post-employment benefits	Other long-term benefits		Termination benefits	Total remuneration
		Base salary	Bonuses	Other benefits and allowances		Long service leave	Other long-term benefits		
Chief Justice Mortimer*	Chief Justice, Federal Court of Australia	\$123,227	\$0	\$4,760	\$111,643	\$11,841	\$0	\$0	\$251,471
Chief Justice Allsop AO*	Chief Justice, Federal Court of Australia	\$404,993	\$0	\$22,594	\$366,924	\$39,005	\$0	\$0	\$833,515
Chief Justice Alstergren AO	Chief Justice, Federal Circuit and Family Court (Division 1)	\$529,171	\$0	\$37,894	\$479,429	\$50,845	\$0	\$0	\$1,097,339
	Chief Judge, Federal Circuit and Family Court of Australia (Division 2)								
Sia Lagos	CEO and Principal Registrar, Federal Court of Australia	\$509,934	\$0	\$0	\$37,096	\$11,425	\$0	\$0	\$558,454
David Pringle	CEO and Principal Registrar, Federal Circuit and Family Court of Australia	\$400,459	\$0	\$0	\$25,292	\$8,972	\$0	\$0	\$434,723
John Dowsett	President, National Native Title Tribunal	\$479,003	\$0	\$0	\$27,486	\$7,728	\$0	\$0	\$514,217
Chris Fewings*	Native Title Registrar	\$213,495	\$0	\$0	\$17,223	\$3,428	\$0	\$0	\$234,145
Marnie Williams*	Executive Director Strategy and Corporate Services	\$144,835	\$0	\$9,086	\$22,305	\$3,354	\$0	\$0	\$179,580

* These positions reflect remuneration for only part of the reporting period.

Note: The above key management personnel remuneration includes remuneration for the Chief Justice of the Federal Court of Australia and the Chief Justice/ Chief Judge of the Federal Circuit and Family Court of Australia (Division 1 and Division 2), totaling \$2.182m. The Chief Justices are not officials of the Entity but are responsible for managing the administrative affairs of the Courts under the *Federal Court of Australia Act 1976* (Cth) and the *Federal Circuit and Family Court of Australia Act 2021* (Cth).

TABLE A11.2: INFORMATION ABOUT REMUNERATION FOR SENIOR EXECUTIVES

Total remuneration bands	Number of senior executives	Short-term benefits			Post-employment benefits	Other long-term benefits		Termination benefits	Total remuneration
		Average base salary	Average bonuses	Average other benefits and allowances		Average long service leave	Average other long-term benefits		
\$0–\$220,000	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$220,001–\$245,000	2	\$230,840	\$0	\$25,249	\$33,768	\$3,721	\$0	\$0	\$293,577
\$245,001–\$270,000	4	\$259,250	\$0	\$17,348	\$39,673	\$4,745	\$0	\$0	\$321,016
\$270,001–\$295,000	2	\$278,598	\$0	\$9,769	\$42,977	\$4,670	\$0	\$0	\$336,015
\$295,001–\$320,000	3	\$306,778	\$0	\$16,029	\$44,311	\$5,057	\$0	\$0	\$372,175
\$320,001–\$345,000	5	\$325,757	\$0	\$5,210	\$48,721	\$3,931	\$0	\$0	\$383,618
\$345,001–\$370,000	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$370,001–\$395,000	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$395,001–\$420,000	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$420,001–\$445,000	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$445,001–\$470,000	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$470,001–\$495,000	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$495,001–....	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

TABLE A11.3: INFORMATION ABOUT REMUNERATION FOR OTHER HIGHLY PAID STAFF

Total remuneration bands	Number of other highly paid staff	Short-term benefits			Post-employment benefits	Other long-term benefits		Termination benefits	Total remuneration
		Average base salary	Average bonuses	Average other benefits and allowances		Average long service leave	Average other long-term benefits		
\$240,000–\$245,000	2	\$136,276	\$0	\$0	\$19,898	\$854	\$0	\$0	\$157,028
\$245,001–\$270,000	3	\$256,682	\$0	\$6,067	\$36,696	\$2,514	\$0	\$0	\$301,960
\$270,001–\$295,000	2	\$273,415	\$0	\$0	\$42,547	\$4,633	\$0	\$0	\$320,595
\$295,001–\$320,000	1	\$311,619	\$0	\$0	\$44,046	\$3,002	\$0	\$0	\$358,666
\$320,001–\$345,000	4	\$328,616	\$0	\$0	\$48,713	\$3,466	\$0	\$0	\$380,794
\$345,001–\$370,000	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$370,001–\$395,000	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$395,001–\$420,000	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$420,001–\$445,000	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$445,001–\$470,000	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$470,001–\$495,000	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$495,001–...	0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Appendix 12: Information required by other legislation

TABLE A12.1: INFORMATION REQUIRED BY OTHER LEGISLATION

LEGISLATION	PAGE
<i>Commonwealth Electoral Act 1918</i> (Cth)	44
<i>Courts Administration Legislation Amendment Act 2016</i> (Cth)	14, 54
<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth)	51
<i>Federal Court of Australia Act 1976</i> (Cth)	i, 2, 10, 20, 23, 25, 27, 42, 88, 102, 173, 202, 231
<i>Freedom of Information Act 1982</i> (Cth)	36, 37, 48, 83
<i>Native Title Act 1993</i> (Cth)	viii, ix, 10, 18, 27, 29, 36, 44, 74-80, 83-84, 161, 172-173, 202
<i>Public Governance, Performance and Accountability Act 2013</i> (Cth)	i, 3-5, 42, 47-48, 216
<i>Public Service Act 1999</i> (Cth)	10, 42, 54-55, 202

Appendix 13: Court and registry locations

General Federal Law Registries (Federal Court and Federal Circuit and Family Court (Division 2)).

**These registries share counter services with the family law jurisdiction.*

Principal Registry

Law Courts Building
Queens Square
Sydney NSW 2000

Phone: (02) 9230 8567
Fax: (02) 9230 8824
Email: query@fedcourt.gov.au
Web: www.fedcourt.gov.au
Contact hours: 8.30am–5.00pm

Australian Capital Territory*

Nigel Bowen Commonwealth Law Courts
Cnr University Avenue and Childers Street
Canberra City ACT 2600

Phone: 1300 720 980
Fax: (02) 6267 0625
Email: actreg@fedcourt.gov.au
Counter hours: 9.00am–4.30pm
Contact hours: 8.30am–5.00pm

New South Wales

Law Courts Building
Level 17, Queens Square
Sydney NSW 2000

Phone: 1300 720 980
Fax: (02) 9230 8535
Email: nswreg@fedcourt.gov.au
Counter hours: 9.00am–4.30pm
Contact hours: 8.30am–5.00pm

Northern Territory*

Supreme Court Building
Level 3, State Square
Darwin NT 0800

Phone: 1300 720 980
Fax: (08) 8941 4941
Email: ntreg@fedcourt.gov.au
Counter hours: 9.00am–4.00pm
Contact hours: 8.45am–4.30pm

Queensland

Harry Gibbs Commonwealth Law Courts
Level 6, 119 North Quay
Brisbane Qld 4000

Phone: 1300 720 980
Fax: (07) 3248 1260
Email: qldreg@fedcourt.gov.au
Counter hours: 9.00am–4.00pm
Contact hours: 8.30am–5.00pm

South Australia

Roma Mitchell Commonwealth Law Courts Level 5,
3 Angas Street
Adelaide SA 5000

Phone: 1300 720 980
Fax: (08) 8219 1001
Email: sareg@fedcourt.gov.au
Counter hours: 9.00am–4.30pm
Contact hours: 8.30am–5.00pm

Tasmania*

Edward Braddon Commonwealth Law Courts
39–41 Davey St
Hobart TAS 7000

Phone: 1300 720 980
Fax: (03) 6232 1601
Email: tasreg@fedcourt.gov.au
Counter hours: 9.00am–4.30pm
Contact hours: 8.30am–5.00pm

Victoria

Owen Dixon Commonwealth Law Courts
Level 7, 305 William Street
Melbourne VIC 3000

Phone: 1300 720 980
Fax: (03) 8600 3351
Email: vicreg@fedcourt.gov.au
Counter hours: 9.00am–4.30pm
Contact hours: 8.30am–5.00pm

Western Australia

Peter Durack Commonwealth Law Courts
Level 6,
1 Victoria Avenue

Phone: 1300 720 980
Email: waregistry@fedcourt.gov.au
Counter hours: 8.30am–4.00pm
Contact hours: 8.30am–5.00pm
International: +612 7809 1037

Family law registries (Federal Circuit and Family Court)

Australian Capital Territory

Canberra*

Nigel Bowen Commonwealth Law Courts
Cnr University Avenue and Childers Street
Canberra ACT 2600

New South Wales

Albury

Level 1, 463 Kiewa Street
Albury NSW 2640

Dubbo

Cnr Macquarie and Wingewarra Streets
Dubbo NSW 2830

Lismore

Westlawn Building
Level 2, 29–31 Molesworth Street
Lismore NSW 2480

Newcastle

61 Bolton Street
Newcastle NSW 2300

Parramatta

Garfield Barwick Commonwealth Law Courts
1–3 George Street
Parramatta NSW 2123

Sydney

Lionel Bowen Commonwealth Law Courts
97–99 Goulburn Street
Sydney NSW 2000

Wollongong

Level 1, 43 Burelli Street
Wollongong NSW 2500

Northern Territory

Darwin*

Supreme Court Building State Square
Darwin NT 0800

Queensland

Brisbane

Harry Gibbs Commonwealth Law Courts
119 North Quay, Cnr North Quay and Tank Streets
Brisbane Qld 4000

Cairns

Commonwealth Government Centre Levels 3 and 4
104 Grafton Street
Cairns Qld 4870

Rockhampton

48 East Street
Rockhampton Qld 4700

Townsville

Level 2, Commonwealth Centre
143 Walker Street
Townsville Qld 4810

South Australia

Adelaide

Roma Mitchell Commonwealth Law Courts
3 Angas Street
Adelaide SA 5000

Tasmania

Hobart*

Edward Braddon Commonwealth Law Courts
39–41 Davey Street
Hobart TAS 7000

Launceston

ANZ Building
Level 3 Cnr Brisbane and George Streets
Launceston TAS 7250

Victoria

Dandenong

53–55 Robinson Street
Dandenong VIC 3175

Melbourne

Owen Dixon Commonwealth Law Courts
305 William Street
Melbourne VIC 3000

Appendix 14: Committees, 30 June 2023

COMMITTEE	COMMITTEE MEMBERS	STAFF REPRESENTATIVES
Audit	Justice Nicholas Justice Farrell Justice Murphy Justice Harper (FCFCOA) Ian Govey (Independent chair) David Donovan (External member)	<i>Sia Lagos (See PGPA)</i> <i>David Pringle (FCFCOA)</i> <i>Alex Ripper (NNTT)</i> <i>Scott Tredwell (S)</i> <i>Marnie Williams</i> <i>Matthew Davis</i>
Criminal Procedure	Justice Rares Justice Besanko Justice Rangiah Justice Wigney (C) Justice Beach Justice Bromwich Justice Banks-Smith Justice O'Bryan Justice Abraham Justice O'Sullivan	<i>Sia Lagos</i> <i>Rowan Davis (S)</i> <i>Alicia Ditton</i> <i>Jodie Burns</i>
Digital Practice	Chief Justice Mortimer Justice Perram (C) Justice Rangiah Justice Markovic Justice Bromwich Justice Charlesworth Justice Burley Justice Sarah C Derrington Justice Banks-Smith Justice Wheelahan Justice Downes	<i>Sia Lagos</i> <i>Rob Southwell (S)</i>
International Development and Cooperation	Chief Justice Mortimer Justice Kenny (C) Justice Collier Justice Logan Justice Bromberg Justice Yates Justice Burley Justice O'Callaghan	<i>Sia Lagos</i> <i>Helen Burrows (S)</i>

COMMITTEE	COMMITTEE MEMBERS	STAFF REPRESENTATIVES
Judicial Education	Chief Justice Mortimer Justice Kenny Justice Collier Justice Besanko Justice Perram Justice Katzmann Justice Farrell Justice Moshinsky Justice Burley Justice Sarah C Derrington Justice Banks-Smith (C) Justice O'Bryan Justice Jackson Justice Rofe	<i>Sia Lagos</i> <i>Claire Hammerton Cole (S)</i> <i>Andrea Jarratt</i> <i>Dimi Argyros</i>
Judicial Education Conference sub-committee	Justice Sarah C Derrington (C) Justice Banks-Smith	<i>Claire Hammerton Cole (S)</i> <i>Andrea Jarratt</i> <i>Dimi Argyros</i>
Judicial Wellbeing	Justice Katzmann (C) Justice Murphy Justice Charlesworth Justice Banks-Smith Justice Collier Justice McElwaine	<i>Sia Lagos</i> <i>Marnie Williams</i>
Judicial Workplace Conduct	Chief Justice Mortimer Justice Collier Justice Rangiah Justice Markovic (C) Justice Moshinsky Justice Bromwich Justice Charlesworth Justice Banks-Smith	<i>Sia Lagos</i> <i>Marnie Williams</i> <i>Jennifer Priestley</i> <i>Scott Tredwell</i> <i>Andrea Jarratt</i>
Library	Justice Kenny (C) Justice Collier Justice Besanko Justice Burley Justice O'Callaghan Justice Jackson Justice Cheeseman	<i>Georgia Livissianos (S)</i>

COMMITTEE	COMMITTEE MEMBERS	STAFF REPRESENTATIVES
National Practice	Chief Justice Mortimer (C) All National Coordinating and National Appeals Judges	<i>Sia Lagos</i> <i>Scott Tredwell</i> <i>Peter Schmidt (S)</i>
Operations and Finance	Chief Justice Mortimer (C) Justice Rares Justice Collier Justice Besanko Justice Perram Justice Nicholas Justice Murphy Justice Banks-Smith Justice Colvin Justice Downes	<i>Sia Lagos</i> <i>Marnie Williams (S)</i> <i>Matthew Davis</i>
Finance sub-committee	Justice Besanko Justice Nicholas Justice Murphy Justice Colvin	<i>Sia Lagos</i> <i>Marnie Willias (S)</i> <i>Matthew Davis</i>
Public Communications	Justice Kenny Justice Rares Justice Collier Justice Bromberg Justice Wigney Justice Perry Justice Lee Justice Sarah C Derrington (C) Justice Jackson Justice Rofo Justice Downes Justice O'Sullivan Justice McElwaine	<i>Janelle Olney</i> <i>Bruce Phillips</i> <i>Georgia Livissianos</i>
Remuneration	Justice Katzmann Justice Murphy Justice Wigney Justice Lee Justice McElwaine	<i>Sia Lagos</i>

COMMITTEE	COMMITTEE MEMBERS	STAFF REPRESENTATIVES
Rules	Justice Besanko Justice Yates Justice Rangiah Justice Colvin Justice Abraham Justice Downes (C)	<i>Scott Tredwell</i>
Security	Justice Perry Justice Jackson Justice Rofe Deputy Chief Justice McClelland (FCFCOA) (C) Judge Vasta (FCFCOA) Justice McNab (FCFCOA)	<i>Marnie Williams(S)</i> <i>Steve Fewster</i>



Part 7: Indexes

List of requirements

PGPA RULE REFERENCE	PART OF REPORT	DESCRIPTION	REQUIREMENT
17AD(g)	Letter of transmittal		
17AI	i	A copy of the letter of transmittal signed and dated by accountable authority on date final text approved, with statement that the report has been prepared in accordance with section 46 of the Act and any enabling legislation that specifies additional requirements in relation to the annual report.	Mandatory
17AD(h)	Aids to access		
17AJ(a)	ii	Table of contents (print only).	Mandatory
17AJ(b)	248	Alphabetical index (print only).	Mandatory
17AJ(c)	vi	Glossary of abbreviations and acronyms.	Mandatory
17AJ(d)	242	List of requirements.	Mandatory
17AJ(e)	IFC	Details of contact officer.	Mandatory
17AJ(f)	IFC	Entity's website address.	Mandatory
17AJ(g)	IFC	Electronic address of report.	Mandatory
17AD(a)	Review by accountable authority		
17AD(a)	11	A review by the accountable authority of the entity.	Mandatory
17AD(b)	Overview of the entity		
17AE(1)(a)(i)	2; 216	A description of the role and functions of the entity.	Mandatory
17AE(1)(a)(ii)	130	A description of the organisational structure of the entity.	Mandatory
17AE(1)(a)(iii)	3-5	A description of the outcomes and programmes administered by the entity.	Mandatory
17AE(1)(a)(iv)	218	A description of the purposes of the entity as included in corporate plan.	Mandatory
17AE(1)(aa)(i)	215	Name of the accountable authority or each member of the accountable authority	Mandatory
17AE(1)(aa)(ii)	215	Position title of the accountable authority or each member of the accountable authority	Mandatory
17AE(1)(aa)(iii)	215	Period as the accountable authority or member of the accountable authority within the reporting period	Mandatory
17AE(1)(b)	N/A	An outline of the structure of the portfolio of the entity.	Portfolio departments - mandatory
17AE(2)	N/A	Where the outcomes and programs administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, include details of variation and reasons for change.	If applicable, Mandatory

PGPA RULE REFERENCE	PART OF REPORT	DESCRIPTION	REQUIREMENT
17AD(c)	Report on the Performance of the entity		
Annual performance Statements			
17AD(c)(i); 16F	216	Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule.	Mandatory
17AD(c)(ii)	Report on Financial Performance		
17AF(1)(a)	43; 86-128	A discussion and analysis of the entity's financial performance.	Mandatory
17AF(1)(b)	129	A table summarising the total resources and total payments of the entity.	Mandatory
17AF(2)	N/A	If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results.	If applicable, Mandatory.
17AD(d)	Management and Accountability		
Corporate Governance			
17AG(2)(a)	44	Information on compliance with section 10 (fraud systems)	Mandatory
17AG(2)(b)(i)	44	A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared.	Mandatory
17AG(2)(b)(ii)	44	A certification by accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the entity are in place.	Mandatory
17AG(2)(b)(iii)	44	A certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity.	Mandatory
17AG(2)(c)	44	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance.	Mandatory
17AG(2)(d) – (e)	47	A statement of significant issues reported to Minister under paragraph 19(1)(e) of the Act that relates to non compliance with Finance law and action taken to remedy non compliance.	If applicable, Mandatory
Audit Committee			
17AG(2A)(a)	47	A direct electronic address of the charter determining the functions of the entity's audit committee.	Mandatory
17AG(2A)(b)	45-47	The name of each member of the entity's audit committee.	Mandatory
17AG(2A)(c)	45-47	The qualifications, knowledge, skills or experience of each member of the entity's audit committee.	Mandatory

PGPA RULE REFERENCE	PART OF REPORT	DESCRIPTION	REQUIREMENT
17AG(2A)(d)	45-47	Information about the attendance of each member of the entity's audit committee at committee meetings.	Mandatory
17AG(2A)(e)	45-47	The remuneration of each member of the entity's audit committee.	Mandatory
External Scrutiny			
17AG(3)	42	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny.	Mandatory
17AG(3)(a)	N/A	Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity.	If applicable, Mandatory
17AG(3)(b)	48	Information on any reports on operations of the entity by the Auditor General (other than report under section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman.	If applicable, Mandatory
17AG(3)(c)	44	Information on any capability reviews on the entity that were released during the period.	If applicable, Mandatory
Management of Human Resources			
17AG(4)(a)	54	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives.	Mandatory
17AG(4)(aa)	202-215	Statistics on the entity's employees on an ongoing and non ongoing basis, including the following: a. statistics on full time employees b. statistics on part time employees c. statistics on gender d. statistics on staff location	Mandatory
17AG(4)(b)	202-215	Statistics on the entity's APS employees on an ongoing and non ongoing basis; including the following: • Statistics on staffing classification level • Statistics on full time employees • Statistics on part time employees • Statistics on gender • Statistics on staff location • Statistics on employees who identify as Indigenous.	Mandatory
17AG(4)(c)	55; 214	Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the <i>Public Service Act 1999</i> .	Mandatory
17AG(4)(c)(i)	214	Information on the number of SES and non SES employees covered by agreements etc. identified in paragraph 17AG(4)(c).	Mandatory

PGPA RULE REFERENCE	PART OF REPORT	DESCRIPTION	REQUIREMENT
17AG(4)(c)(ii)	214	The salary ranges available for APS employees by classification level.	Mandatory
17AG(4)(c)(iii)	55	A description of non salary benefits provided to employees.	Mandatory
17AG(4)(d)(i)	215	Information on the number of employees at each classification level who received performance pay.	If applicable, Mandatory
17AG(4)(d)(ii)	215	Information on aggregate amounts of performance pay at each classification level.	If applicable, Mandatory
17AG(4)(d)(iii)	215	Information on the average amount of performance payment, and range of such payments, at each classification level.	If applicable, Mandatory
17AG(4)(d)(iv)	215	Information on aggregate amount of performance payments.	If applicable, Mandatory
Assets Management			
17AG(5)	50	An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities	If applicable, mandatory
Purchasing			
17AG(6)	48	An assessment of entity performance against the <i>Commonwealth Procurement Rules</i> .	Mandatory
Reportable consultancy contracts			
17AG(7)(a)	48-49	A summary statement detailing the number of new reportable consultancy contracts entered into during the period; the total actual expenditure on all such contracts (inclusive of GST); the number of ongoing reportable consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting period on those ongoing contracts (inclusive of GST).	Mandatory
17AG(7)(b)	48	A statement that “During [reporting period], [specified number] new reportable consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing reportable consultancy contracts were active during the period, involving total actual expenditure of \$[specified million].”	Mandatory
17AG(7)(c)	48	A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged.	Mandatory
17AG(7)(d)	48	A statement that “Annual reports contain information about actual expenditure on reportable consultancy contracts. Information on the value of reportable consultancy contracts is available on the AusTender website.”	Mandatory

PGPA RULE REFERENCE	PART OF REPORT	DESCRIPTION	REQUIREMENT
Reportable non-consultancy contracts			
17AG(7A)(a)	48-49	A summary statement detailing the number of new reportable non-consultancy contracts entered into during the period; the total actual expenditure on such contracts (inclusive of GST); the number of ongoing reportable non-consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting period on those ongoing contracts (inclusive of GST).	Mandatory
17AG(7A)(b)	48	A statement that <i>“Annual reports contain information about actual expenditure on reportable non-consultancy contracts. Information on the value of reportable non-consultancy contracts is available on the AusTender website.”</i>	Mandatory
17AD(daa)	Additional information about organisations receiving amounts under reportable consultancy contracts or reportable non-consultancy contracts		
17AGA	49	Additional information, in accordance with section 17AGA, about organisations receiving amounts under reportable consultancy contracts or reportable non-consultancy contracts.	Mandatory
Australian National Audit Office Access Clauses			
17AG(8)	48	If an entity entered into a contract with a value of more than \$100,000 (inclusive of GST) and the contract did not provide the Auditor General with access to the contractor's premises, the report must include the name of the contractor, purpose and value of the contract, and the reason why a clause allowing access was not included in the contract.	If applicable, Mandatory
Exempt contracts			
17AG(9)	48	If an entity entered into a contract or there is a standing offer with a value greater than \$10,000 (inclusive of GST) which has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters.	If applicable, Mandatory
Small business			
17AG(10)(a)	48	A statement that <i>“[Name of entity] supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance's website.”</i>	Mandatory
17AG(10)(b)	48	An outline of the ways in which the procurement practices of the entity support small and medium enterprises.	Mandatory

PGPA RULE REFERENCE	PART OF REPORT	DESCRIPTION	REQUIREMENT
17AG(10)(c)	48	If the entity is considered by the Department administered by the Finance Minister as material in nature—a statement that “[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury’s website.”	If applicable, Mandatory
Financial Statements			
17AD(e)	86-128	Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act.	Mandatory
Executive Remuneration			
17AD(da)	231-233	Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 2 3 of the Rule.	Mandatory
17AD(f)	Other Mandatory Information		
17AH(1)(a)(i)	N/A	If the entity conducted advertising campaigns, a statement that “During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity’s website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance’s website.”	If applicable, Mandatory
17AH(1)(a)(ii)	44	If the entity did not conduct advertising campaigns, a statement to that effect.	If applicable, Mandatory
17AH(1)(b)	44	A statement that “Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity’s website].”	If applicable, Mandatory
17AH(1)(c)	54	Outline of mechanisms of disability reporting, including reference to website for further information.	Mandatory
17AH(1)(d)	36	Website reference to where the entity’s Information Publication Scheme statement pursuant to Part II of FOI Act can be found.	Mandatory
17AH(1)(e)	47	Correction of material errors in previous annual report	If applicable, mandatory
17AH(2)	234	Information required by other legislation	Mandatory

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