



FEDERAL COURT OF AUSTRALIA



ANNUAL REPORT 2017-18





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ANNUAL REPORT 2017–18



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Alternative format

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The design of this year's annual report is based on smart phone/tablet technology and the access to information it gives the Court and the community – anywhere at any time. Key words are layered over the central image, providing depth, context and a sense of the Court's expansive digital operations. The theme of unlocking technology is displayed on the front and the back cover and hints at access behind the screen. The use of a central point and court corridor conveys movement and progress. The colour palette is from the Federal Court style guide and the use of white and soft blue gives the design a professional feel.



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5 September 2018

The Honourable Christian Porter MP
Attorney-General
Parliament House
CANBERRA ACT 2600

Dear Attorney-General

We have pleasure in submitting the annual report on the operations of the Federal Court of Australia for the financial year ending 30 June 2018.

The report is submitted in accordance with:

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

This report has been prepared in accordance with the Department of Finance's *Resource Management Guide No. 135: annual reports for non-corporate Commonwealth entities* (May 2018).

This is the Court's 29th annual report.

Yours sincerely

Handwritten signature of James Allsop AO in black ink.

The Honourable James Allsop AO
Chief Justice

Handwritten signature of Warwick Soden OAM in black ink.

Warwick Soden OAM
Chief Executive Officer and Principal Registrar

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ACRONYMS AND ABBREVIATIONS

ACCC	Australian Competition and Consumer Commission	ICJ	International Commission of Jurists Victoria
ACL	Australian Consumer Law	ILUA	Indigenous Land Use Agreement
ADR	Assisted Dispute Resolution	IT	Information Technology
ALRC	Australian Law Reform Commission	J	Justice
AM	Member of the Order of Australia	JCCD	Judicial Council on Cultural Diversity
ANAO	Australian National Audit Office	JJ	Justices
AO	Officer of the Order of Australia	MOU	Memorandum of Understanding
AOC	Australian Olympic Committee	NPA	National Practice Area
APS	Australian Public Service	OAM	Medal of the Order of Australia
ASIC	Australian Securities and Investments Commission	PBC	Prescribed Bodies Corporate
AustLII	Australasian Legal Information Institute	PC	Personal computer
BBSW	Bank Bill Swap Reference Rate	PGPA	Public Governance, Performance and Accountability
CEO	Chief Executive Officer	PJSI	Pacific Judicial Strengthening Initiative
CoA	Cause of Action	QC	Queen's Counsel
COAT	Council of Australian Tribunals	RFD	Reserve Force Decoration
FCA	Federal Court of Australia	RNTBC	Registered Native Title Bodies Corporate
FCC	Federal Circuit Court of Australia	SC	Senior Counsel
FCMAS	Federal Court Mediator Accreditation Scheme	SES	Senior Executive Service
FCoA	Family Court of Australia	SME	Small and Medium Enterprise
FOI	Freedom of Information	SRL	Self-represented Litigant
FWC	Fair Work Commission	STC	Sydney Theatre Company
GPN	General Practice Note	WHS	Work, Health and Safety

GLOSSARY

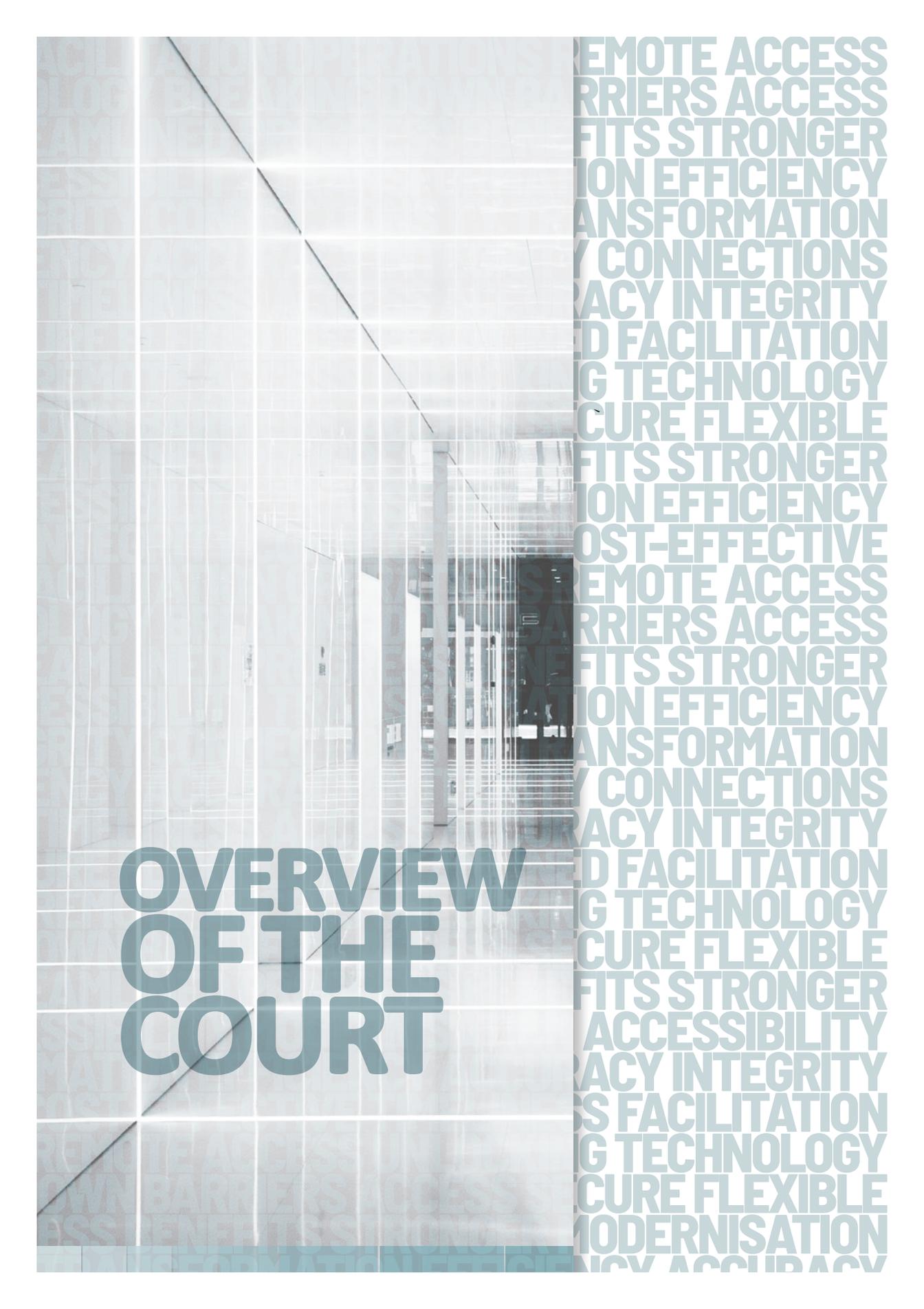
Administrative notices	See practice notes.
Alternative procedure agreement	A type of Indigenous land use agreement.
Appeal	An application to a higher court to review a decision of a lower court or tribunal. For example, an appeal from a decision of a Federal Circuit Court judge may be made to the Federal Court, and a decision of a single judge of the Federal Court may be the subject of an appeal to the Full Court of the Federal Court.
Appellate jurisdiction	The power given to a court to hear appeals in certain matters.
Applicant	The individual, organisation or corporation who/which applies to the Court to start legal proceedings against another person or persons. Also known as 'plaintiff' in admiralty and corporations matters and in some other courts. In the National Native Title Tribunal the applicant is the person or persons who make an application for a determination of native title or a future act determination.
Application	The document that starts most proceedings in the Federal Court.
Area agreement	A type of Indigenous land use agreement.
Body corporate agreement	A type of Indigenous land use agreement.
Cause of action	A term used in the Federal Court's case management system to classify proceedings commenced with the Court.
Compensation application	An application made by Indigenous Australians seeking compensation for loss or impairment of their native title.
Cross appeal	An application by a respondent in an appeal also seeking a review of the lower court or tribunal decision and made in response to the appeal. A cross appeal is not required if the respondent is simply seeking that the decision of the lower court or tribunal be upheld.

Cross claim	A claim made in a proceeding by one party against a co-party, such as the first respondent (or defendant) against the second respondent (or defendant). However, if the claim in the proceeding is by one party against an opposing party, such as the respondent (or defendant) against the applicant (plaintiff), it is called a counter claim. A cross claim has to be closely connected to what is in dispute in the original claim or a counter claim.
Directions	Orders made by the Court or a judge in relation to the conduct of a proceeding. Before the trial or hearing of a matter a judge may give directions so that the parties involved will be properly ready. The directions usually set down a list of steps to be taken by the parties and the deadline for those steps. The steps usually involve filing of material and defining the issues that require a decision by the Court.
Discovery	A process by which the parties involved in a legal proceeding must inform each other of documents they have in their possession and which relate to the matters in dispute between the parties.
Docket system	A system by which each case is allocated to a particular judge who will then see the case through to completion. In the Federal Court the system is called the Individual Docket System (IDS).
Electronic court file	An electronic court file is a digital version of the Court file including all documents filed with the Court or created by the Court.
Exhibit	A document or item produced in court for the purpose of becoming part of the evidence in a proceeding.
Filing of documents	The process of the Court accepting a document or documents lodged by a party to a proceeding.
First instance	A proceeding heard in the Court's original jurisdiction.
Full Court	Three or more judges sitting together to hear a proceeding.
Future act	A proposed activity on land and/or waters that may affect native title.
Future act determination application	An application requesting the National Native Title Tribunal to determine whether a future act can be done (with or without conditions).
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.

Good faith negotiations (native title)	All negotiation parties must negotiate in good faith in relation to the doing of future acts to which the right to negotiate applies (<i>Native Title Act 1993</i> s 31(1) (b)). See the list of indicia put forward by the 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 (s 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. Members are classified as presidential and non-presidential. Some members are full-time and others are part-time appointees.
National Practice Area	Subject matter areas in which the Court's work is organised and managed.
Native title determination	A decision by an Australian court or other recognised body that native title does or does not exist. A determination is made either when parties have reached an agreement after mediation (consent determination) or following a trial process (litigated determination).
Native title claimant application/claim	An application made for the legal recognition of native title rights and interests held by Indigenous Australians.
Native title representative body	Representative Aboriginal/Torres Strait Islander Body also known as native title representative bodies are recognised and funded by the Australian Government to provide a variety of functions under the <i>Native Title Act 1993</i> . These functions include assisting and facilitating native title holders to access and exercise their rights under the Act, certifying applications for determinations of native title and area agreements (ILUA), resolving intraindigenous disputes, agreement-making and ensuring that notices given under the Native Title Act 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 Act have been made.
On country	Description applied to activities that take place on the relevant area of land, for example mediation conferences or Federal Court hearings taking place on or near the area covered by a native title application.
Original jurisdiction	The authority or legal power of the Court to hear a case in the first instance.
Parties	People involved in a court case. Applicants, appellants, respondents and defendants are generally called 'parties'.
Practice notes and administrative notices	The Court publishes practice notes and administrative notices. Practice notes are issued by the Chief Justice on advice of the judges of the Court. Administrative notices are issued by each District Registrar at the request, or with the agreement, of the judges in the District Registry to which the notice relates.

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 <i>Native Title Act 1993</i> that is applied to native title claimant applications. If an application meets all the conditions, it is included in the Register of Native Title Claims, and the claimants then gain the right to negotiate, together with certain other rights, while their application is under way.
Regulations	The Federal Court of Australia Regulations 2004 which prescribe the filing and other fees that must be paid in relation to proceedings in the Federal Court.
Respondent	The individual, organisation or corporation against whom/which legal proceedings are commenced. Also known as a ‘defendant’ in admiralty and corporations matters and in some courts. In an appeal it is the party who/which did not commence the appeal.
Rules	Rules made by the judges which set out the procedures for conducting a proceeding. The current rules of the Federal Court are the Federal Court Rules, Federal Court (Corporations) Rules 2000 (for proceedings under the <i>Corporations Act 2001</i>) and Federal Court (Bankruptcy) Rules 2016 (for proceedings under the <i>Bankruptcy Act 1966</i>).
Self-represented litigant	A party to a proceeding who does not have legal representation and who is conducting the proceeding on his or her own behalf.
Setting down fee	A fee that must be paid when a date is set for hearing a matter. It includes the first day’s hearing fee and, usually, has to be paid at least 28 days before the hearing.



OVERVIEW OF THE COURT

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TRANSFORMATION
Y CONNECTIONS
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PART

1

2	OBJECTIVES
2	PURPOSE
2	ESTABLISHMENT
2	FUNCTIONS AND POWERS
3	THE COURT'S OUTCOME AND PROGRAM STRUCTURE
5	ABOUT THE FEDERAL COURT
10	FEDERAL COURT REGISTRIES

OVERVIEW OF THE COURT

OBJECTIVES

The objectives of the Court are to:

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

PURPOSE

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

ESTABLISHMENT

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

jurisdiction formerly exercised in part by the High Court of Australia and the whole jurisdiction of the Australian Industrial Court and the Federal Court of Bankruptcy. The Court is a superior court of record and a court of law and equity. It sits in all capital cities and elsewhere in Australia from time to time.

FUNCTIONS AND POWERS

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

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

THE COURT'S OUTCOME AND PROGRAM STRUCTURE

Table 1.1: Outcome 1: Federal Court of Australia

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.	Budget 2017-18 (\$'000)	Actual 2017-18 (\$'000)	Variation (\$'000)
Program 1.1 – Federal Court of Australia			
Administered expenses	600	1,771	-1,171
Departmental appropriation	66,353	68,470	-2,117
Expenses not requiring appropriation in the budget year	13,747	16,119	-2,372
Total for Program 1.1	80,700	86,360	-5,660
Total expenses for Outcome 1	80,700	86,360	-5,660
Average staffing level (number)	329	317	

Table 1.2: Outcome 2: Family Court of Australia

Outcome 2: Apply and uphold the rule of law for litigants in the Family Court of Australia through the resolution of family law matters according to law, particularly more complex family law matters, and through the effective management of the administrative affairs of the Court.	Budget 2017-18 (\$'000)	Actual 2017-18 (\$'000)	Variation (\$'000)
Program 2.1 – Family Court of Australia			
Administered expenses	400	302	98
Departmental appropriation	31,965	31,057	908
Expenses not requiring appropriation in the budget year	12,318	10,372	1,946
Total for Program 2.1	44,683	41,731	2,952
Total expenses for Outcome 2	44,683	41,731	2,952
Average staffing level (number)	107	81	

Table 1.3: Outcome 3: Federal Circuit Court of Australia

Outcome 3: Apply and uphold the rule of law for litigants in the Federal Circuit Court of Australia through more informal and streamlined resolution of family law and general federal law matters according to law, through the encouragement of appropriate dispute resolution processes and through the effective management of the administrative affairs of the Court.	Budget 2017–18 (\$'000)	Actual 2017–18 (\$'000)	Variation (\$'000)
Program 3.1 – Federal Circuit Court of Australia			
Administered expenses	1,783	2,970	-1,187
Departmental appropriation	89,825	90,966	-1,141
Expenses not requiring appropriation in the budget year	2,526	2,690	-164
Total for Program 3.1	94,134	96,626	-2,492
Total expenses for Outcome 3	94,134	96,626	-2,492
Average staffing level (number)	516	503	

Table 1.4: Outcome 4: Commonwealth Courts Corporate Services

Outcome 4: Improved administration and support for the resolution of matters according to law for litigants in the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate services.	Budget 2017–18 (\$'000)	Actual 2017–18 (\$'000)	Variation (\$'000)
Program 4.1 – Commonwealth Courts Corporate Services			
Administered expenses			
Departmental appropriation	66,650	62,396	4,254
Expenses not requiring appropriation in the budget year	53,402	58,074	-4,672
Total for Program 4.1	120,052	120,470	-418
Total expenses for Outcome 4	120,052	120,470	-418
Average staffing level (number)	125	122	

ABOUT THE FEDERAL COURT

Judges of the Court

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

Judges of the Court are appointed by the Governor-General by commission and may not be removed except by the Governor-General on

an address from both Houses of Parliament in the same session.

All judges must retire at the age of 70.

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

At 30 June 2018, there were 49 judges of the Court. They are listed below in order of seniority with details about any other commissions or appointments held on courts or tribunals. Of the 49 judges, there were three whose work as members of other courts or tribunals occupied all, or most, of their time.

Table 1.5: Judges of the Federal Court (as at 30 June 2018)

Judge	Location	Other Commissions/Appointments
Chief Justice The Hon James Leslie Bain ALLSOP AO	Sydney	
The Hon Anthony Max NORTH	Melbourne	Industrial Relations Court of Australia – Judge Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Susan Coralie KENNY	Melbourne	Administrative Appeals Tribunal – Deputy President
The Hon Andrew Peter GREENWOOD	Brisbane	Administrative Appeals Tribunal – Deputy President Copyright Tribunal – President Australian Competition Tribunal – Part-time Deputy President
The Hon Steven David RARES	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Berna Joan COLLIER	Brisbane	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	Supreme Court of Norfolk Island – Chief Justice Supreme Court of the Australian Capital Territory – Additional Judge

Judge	Location	Other Commissions/Appointments
The Hon Richard Ross Sinclair TRACEY AM RFD	Melbourne	Defence Force Discipline Appeal Tribunal – President
The Hon John Eric MIDDLETON	Melbourne	Australian Competition Tribunal – Part-time President Administrative Appeals Tribunal – Deputy President Australian Law Reform Commission – Part-time Commissioner
The Hon John Alexander LOGAN RFD	Brisbane	Administrative Appeals Tribunal – Deputy President Defence Force Discipline Appeal Tribunal – Deputy President National and Supreme Courts of Papua New Guinea – Judge
The Hon Geoffrey Alan FLICK	Sydney	
The Hon Neil Walter McKERRACHER	Perth	
The Hon John Edward REEVES	Brisbane	Supreme Court of the Northern Territory – Additional Judge
The Hon Nye PERRAM	Sydney	Copyright Tribunal – Deputy President Administrative Appeals Tribunal – Deputy President
The Hon Jayne Margaret JAGOT	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Administrative Appeals Tribunal – Deputy President Copyright Tribunal – Deputy President
The Hon Lindsay Graeme FOSTER	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Australian Competition Tribunal – Part-time Deputy President
The Hon Michael Laurence BARKER	Perth	Administrative Appeals Tribunal – Deputy President
The Hon John Victor NICHOLAS	Sydney	
The Hon David Markey YATES	Sydney	Australian Competition Tribunal – Part-time Deputy President

Judge	Location	Other Commissions/Appointments
The Hon Mordecai BROMBERG	Melbourne	
The Hon Anna Judith KATZMANN	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Alan ROBERTSON	Sydney	Administrative Appeals Tribunal – Deputy President Australian Competition Tribunal – Part-time Deputy President
The Hon Bernard Michael MURPHY	Melbourne	
The Hon Iain James Kerr ROSS AO	Melbourne	Fair Work Australia – President Supreme Court of the Australian Capital Territory – Additional Judge
The Hon John Edward GRIFFITHS	Sydney	
The Hon Duncan James Colquhoun KERR Chev LH	Hobart	
The Hon Kathleen FARRELL	Sydney	Australian Competition Tribunal – Part-time Deputy President
The Hon Jennifer DAVIES	Melbourne	Administrative Appeals Tribunal – Deputy President Australian Competition Tribunal – Deputy President
The Hon Debra Sue MORTIMER	Melbourne	
The Hon Darryl Cameron RANGIAH	Brisbane	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Richard Conway WHITE	Adelaide	Administrative Appeals Tribunal – Deputy President
The Hon Michael Andrew WIGNEY	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon Melissa Anne PERRY	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Jacqueline Sarah GLEESON	Sydney	
The Hon Jonathan Barry Rashleigh BEACH	Melbourne	

Judge	Location	Other Commissions/Appointments
The Hon Brigitte Sandra MARKOVIC	Sydney	
The Hon Mark Kranz MOSHINSKY	Melbourne	
The Hon Robert James BROMWICH	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Natalie CHARLESWORTH	Adelaide	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	
The Hon Roger Marc DERRINGTON	Brisbane	
The Hon David Graham THOMAS	Brisbane	Administrative Appeals Tribunal – President
The Hon Sarah Catherine DERRINGTON	Brisbane	Australian Law Reform Commission – President
The Hon Simon Harry Peter STEWARD	Melbourne	
The Hon Katrina Frances BANKS-SMITH	Perth	
The Hon Craig Grierson COLVIN	Perth	
The Hon Thomas Michael THAWLEY	Sydney	

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

- 22 June 2017 to 27 July 2017 – The Honourable Justice North.
- 28 September 2017 to 4 October 2017 – The Honourable Justice North.
- 15 October 2017 to 19 October 2017 – The Honourable Justice Dowsett.
- 26 June 2018 to 24 July 2018 – The Honourable Justice Greenwood.

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

Appointments and retirements during 2017–18

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

- The **Honourable Sarah Catherine Derrington** was appointed on 10 January 2018.
- The **Honourable Simon Harry Peter Steward** was appointed on 1 February 2018.
- The **Honourable Katrina Frances Banks-Smith** was appointed on 12 February 2018.
- The **Honourable Craig Grierson Colvin** was appointed on 13 February 2018.
- The **Honourable Thomas Michael Thawley** was appointed on 14 February 2018.

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

- The **Honourable Justice John Gilmour** resigned his commission with effect from 23 March 2018.
- The **Honourable Justice Tony Pagone** resigned his commission as a judge of the Court with effect from 31 March 2018.
- The **Honourable Justice John Alfred Dowsett AM** retired upon reaching the compulsory retirement age for federal judges on 26 April 2018.
- The Honourable **Justice Antony Nicholas Siopis** resigned his commission with effect from 4 May 2018.

Other appointments during the year are as follows:

- **Justice Foster** was reappointed as a part-time Deputy President of the Australian Competition Tribunal on 29 August 2017.
- **Justice Davies** was appointed as a part-time Deputy President of the Australian Competition Tribunal on 29 August 2017.
- **Justice Charlesworth** was appointed as a judge to the Supreme Court of the Australian Capital Territory on 14 November 2017.
- **Justice Logan** was reappointed to the National and Supreme Courts of Papua New Guinea on 6 December 2017.
- **Justice Collier** was reappointed to the National and Supreme Courts of Papua New Guinea on 6 December 2017.

FEDERAL COURT REGISTRIES

Chief Executive Officer and Principal Registrar

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

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* (s 18Q of the Federal Court of Australia Act).

Principal and District Registries

The Principal Registry of the Court, located in Sydney, is responsible for the overall administrative policies and functions of the Court's registries and provides support to the judges' committees.

The National Operations Registrar, located in Melbourne, is responsible for the implementation of the National Court Framework and its ongoing functions.

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

- The Queensland District Registry provides registry services to the Copyright Tribunal and the Defence Force Discipline Appeal Tribunal.
- The Victorian District Registry is the Principal Registry for the Defence Force Discipline Appeal Tribunal, the Copyright Tribunal and the Australian Competition Tribunal.
- The Northern Territory, Queensland, South Australia and Western Australia District Registries are registries for the High Court.
- The Tasmania District Registry provides registry services for the Australian Competition Tribunal, the Defence Force Discipline Appeal Tribunal and the Copyright Tribunal.
- The New South Wales District Registry provides registry services to the Copyright Tribunal and the Competition Tribunal of Australia.
- The South Australian District Registry provides registry services for the Australian Competition Tribunal, the Copyright Tribunal of Australia and the Defence Force Discipline Appeal Tribunal.
- The Western Australian District Registry provides registry services for the Industrial Relations Court of Australia, the Australian Competition Tribunal and the Defence Force Discipline Appeal Tribunal.
- The registries of the Court are also registries for the FCC in relation to non-family law matters.

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

Officers of the Court

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

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

The registrars must take an oath or make an affirmation of office before undertaking their duties (s 18Y of the Federal Court of Australia Act). Registrars perform statutory functions assigned to them by the Federal Court of Australia Act, Federal Court Rules 2011, Federal Court (Bankruptcy) Rules 2016, Federal Court (Corporations) Rules 2000, Federal Court (Criminal Proceedings) Rules 2016, and the Admiralty Act and Admiralty Rules 1988. These include issuing process, taxing costs and settling appeal indexes. They also exercise various powers delegated by judges under the Federal Court of Australia Act, *Bankruptcy Act 1966*, *Corporations Act 2001* and *Native Title Act 1993*. A number of staff in each registry also perform functions and exercise delegated powers under the *Federal Circuit Court of Australia Act 1999*. Appendix 4 lists the registrars of the Court.

Staff of the Court

The officers and staff of the Court (other than the Registrar and some Deputy Sheriffs and Marshals) are appointed or employed under the Public Service Act.

On 30 June 2018 there were 1181 staff employed by the entity under the Public Service Act. Staff providing services specifically to the Federal Court total 432. Generally, judges have two personal staff members. More details on court staff can be found in Part 4 (Management of the Court) and Appendix 9 (Staffing profile).

A photograph of a modern office hallway with glass walls and a grid overlay. The hallway is brightly lit, and the grid lines are white and semi-transparent. The text 'THE YEAR IN REVIEW' is prominently displayed in the lower-left quadrant.

THE YEAR IN REVIEW

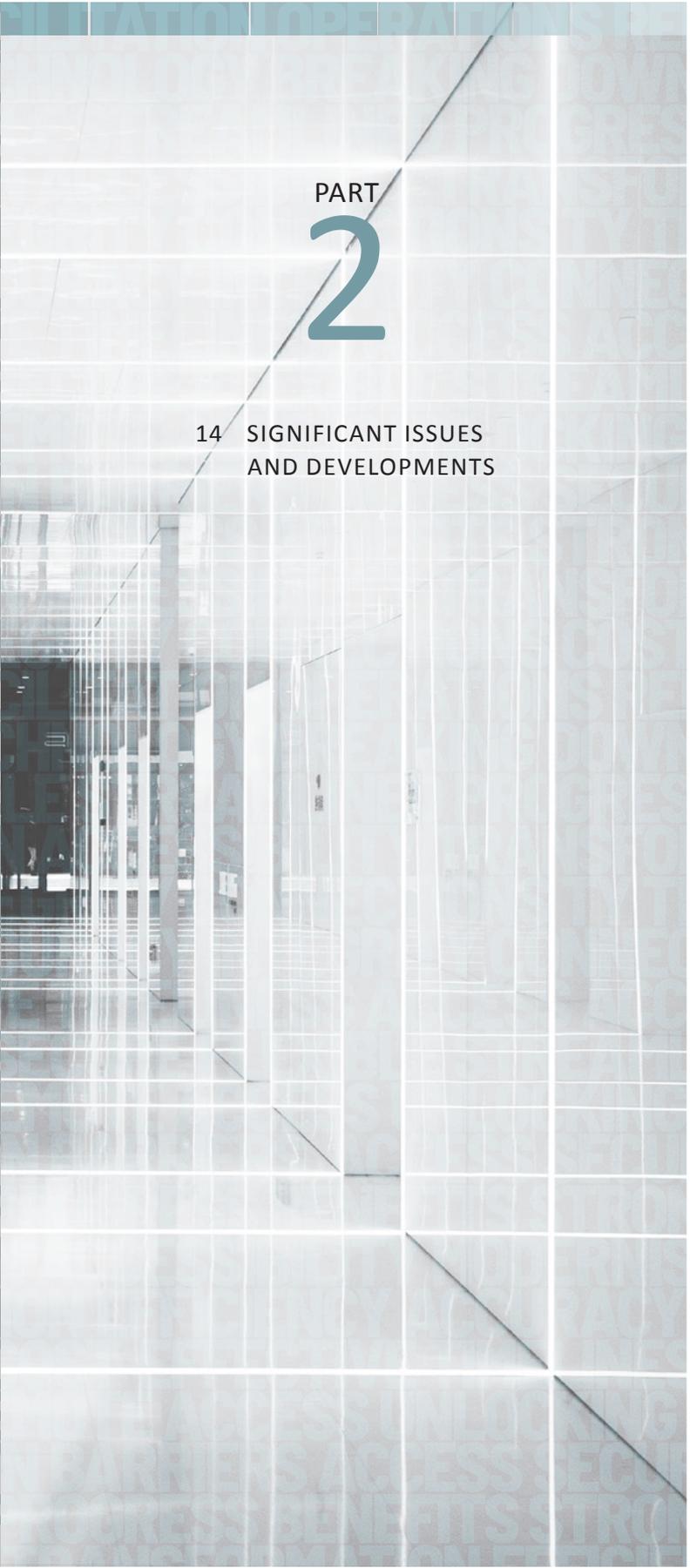
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PART

2

14 SIGNIFICANT ISSUES
AND DEVELOPMENTS



THE YEAR IN REVIEW

During 2017–18, the Court continued to achieve its objective of promptly, courteously and effectively deciding disputes according to law, in order to fulfil its role as a court exercising the judicial power of the Commonwealth under the Constitution.

The Court's forward-thinking approach to managing its work and its commitment to the relentless improvement of practices, processes and technology has provided ongoing recognition of its leading role as a modern and innovative court.

The Court maintained its commitment to achieving performance goals for its core work, while also developing and implementing a number of key strategic and operational projects.

SIGNIFICANT ISSUES AND DEVELOPMENTS

Extension of the National Court Framework

The National Court Framework is a fundamental reform to the Court and the way it operates.

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

The Court began the process of implementing the National Court Framework reforms in 2015. These reforms have been successfully implemented in respect of the judicial work of the Court, including organising and managing the Court's work by reference to nine National Practice Areas (NPAs), the introduction of a national allocation system for judicial work and national duty judge arrangements, as well as nationally consistent and simplified practice through a suite of national practice notes.

The National Court Framework reforms are now being extended to apply to the important legal work undertaken by the Judicial Registrars of the Court. Implementation of the extended reforms commenced in mid-2017, with a focus on restructuring the allocation and management of Judicial Registrar work. The key aims of these new arrangements are to ensure the effective, orderly and expeditious discharge of registrar work nationally and to more effectively support the judges of the Court and all court users. This will be achieved by fostering consistent national practice in all areas of registrar work and fully utilising the specialised knowledge and skills of Judicial Registrars.

National practice notes – Developments

A key component of the National Court Framework was the review of the Court's practice documents to ensure nationally consistent and simplified practice. Following extensive consultation with the legal profession, other court users and internal consultation, a suite of 27 national practice notes (including the Central Practice Note, NPA Practice Notes and General Practice Notes) were issued by the Chief Justice. Many of the practice notes were issued on the basis of a 12-month review period to allow for further consultation with the legal profession and other court users. This review period formally closed in October 2017.

The Court, through its National Practice Committee, has considered the feedback received and reissued the Interest on Judgments Practice Note and is in the process of preparing minor amendments to a number of other practice notes. It has also commenced the process of considering, in more detail, its practice and procedure in the area of digital practices, appeals and its Other Federal Jurisdiction NPA.

The Court has also advised court users that, despite the close of the formal review period, the Court continues to welcome feedback in respect of its practice notes and policy and practice generally.

Organisational review

The Court commissioned the Nous Group to undertake an organisational review to consider how it may be structured to best support its core work. A key purpose of the organisational review was to extend the National Court Framework reforms and the application of core National Court Framework principles to other areas of the Court's work.

A review of the structure was necessary because the environment in which the Court operates is a digital one, having moved away from paper-based processes in 2014.

The initial phase of the review focused on the most effective way to support the work of the Court's judges and registrars and to do so on a national basis. During the year, consultation continued in respect of the more administratively focused aspects of the Court's operations.

The review builds on the initial phase of the implementation of the legal structure and considers structural options as to how the Court might best deliver client, digital and in-court support. The structure needs to be one that is financially viable with an agile technology and people infrastructure to ensure it can respond to change, whether anticipated or not.

Necessary to this will be a workforce strategy that aligns the skills of our people with the broader strategy, focusing on serving the needs of those who use the Court (e.g. litigants, citizens, business users, visitors, witnesses, legal professionals and, importantly, registrars and judges).

Discussions with staff and their representatives about these potential reforms have commenced and will continue through the implementation phase.

Digital innovation

Digital Court Program

The Digital Court Program continues to be a priority for the Federal Court of Australia (FCA), the Family Court of Australia (FCoA) and the Federal Circuit Court of Australia (FCC) and the program is on track to streamline core business systems and create flexibility and operational efficiency across the three federal courts and the tribunals that the FCA supports. The merging of the corporate service functions of the courts on 1 July 2016 enabled the FCA to embark on this substantial program of works.

The mandate of the Digital Court Program is to design a new digital court platform that supports current and future needs of the federal courts, including the Family Court of Western Australia.

The Digital Court Program includes the development and implementation of electronic filing, a digital court file for family law, and improvements to the courts' existing case management system – a new document management system for the courts' digital information. The Digital Court Program is part of the courts' transformative agenda that will see the digitalisation of much of the courts forms, files and administrative processes.

The program provides the courts with an opportunity to leverage the advantages that technology provides. The wider community has an expectation that courts extend access to justice through the delivery of digital services, and the courts are committed to meeting this expectation by delivering modern useable digital platforms. The implementation of electronic filing for family law is a very important step on this digital journey.

The first case management system release was successfully launched in April 2018. Enhancements to eFiling are on target for release in September 2018. Additionally, the first phase of the delivery of a digital court file for family law is on target for rollout in October 2018.

Subsequent releases providing further functionality to the case management system, Digital Court File and eFiling are in planning stages, with an assessment of dependencies and timeframes underway for delivery in 2019 and 2020.

Digital Practice Committee

The Court established a Digital Practice Committee (formerly the Digital Hearings Committee) consisting of judges and registrars responsible for driving the implementation of digital practices throughout the Court. One of the committee's goals is to oversee the Court's objective to create an environment where actions, which are commenced digitally, are also case managed and heard digitally.

Working digitally

The Court has adopted a new approach to the working environment by utilising a variety of new and existing technologies. This new approach is called 'working digitally'.

The Court identified that in order to drive digital innovations and meet community expectations, the judges, registrars and staff needed to be fully equipped with the digital tools to connect, collaborate and work in a digital environment. This cultural change will improve efficiencies across the organisation and its benefits would be reaped by litigants and the profession.

The 'working digitally' approach is the foundation to the next steps of digital innovation, including digital hearings.

Digital hearings

The Court is advanced in implementing a common digital hearing procedure to be available to any judge who wishes to use it for any hearing (except for the mega trials which would continue to use external advisers). The procedure is focused on being cost effective and easily accessible to all litigants.

The Court will engage in external consultation and apply a measured and considered pilot approach to ensure that the technology and requirements meet the needs of the Court, the legal profession and the litigants before it becomes available nationally.

Artificial intelligence and big data

In 2017, the Court established an Artificial Intelligence Committee. This committee is looking at the potential to use artificial intelligence and machine learning technologies to interrogate the Court's 'big data' and use what it learns to enhance access to justice and assist in resolving disputes as quickly, inexpensively and efficiently as possible.

The Court is developing a pilot project that will use artificial intelligence and machine learning technologies to make recommendations to parties in relation to property settlements and division of assets in the family law jurisdiction following the breakdown of a relationship. By applying this technology, the application will learn, understand and apply precedents and like cases to make just and equitable recommendations.

The growth of the pilot will provide a mechanism for early dispute resolution by empowering couples to reduce areas of dispute. The Court understands that the wider community expects technology to be used to increase access to justice by establishing less costly and quicker dispute resolution methods, and the Court believes this is one way of meeting that expectation.

Workload

In 2017–18, the total number of filings (including appeals) in the Court increased by 4 per cent to 5921. Filings in the Court's original jurisdiction (excluding appeals) remained consistent at 4659.

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

Combined filings of the FCA and the FCC in general federal law increased by 11 per cent to 15,892.

The Court's registries also undertake registry services for the FCC. The workload of the FCC has continued to grow over the last five years. It should be noted that the FCA registrars continue to hear and determine a substantial number of cases in the FCC.

In the Bankruptcy jurisdiction, FCA registrars dealt with, and disposed of, 2712 FCC bankruptcy matters, which equates to 92 per cent of the FCC's bankruptcy caseload.

Among the total disposals (8180), 45.8 per cent of the FCC's general federal law workload is dealt with by registrars, and 54.2 per cent is dealt with by judges.

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

Performance

The Court has two targets for timely completion of cases:

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

During the reporting year, the Court completed 92.6 per cent of cases in less than 18 months. As shown in Figure A5.5 and Table A5.5 in Appendix 5, over the last five years, the Court has consistently exceeded its benchmark of 85 per cent, with the average over the five years being 93.3 per cent.

2. Judgments to be delivered within three months

The Court has a goal of delivering reserved judgments within a period of three months. Success in meeting this goal depends upon the complexity of the case and the pressure of other business upon the Court.

During 2017–18, the Court handed down 2028 judgments for 1743 court files (some files involve more than one judgment being delivered – e.g. interlocutory decisions – and sometimes one judgment will cover multiple files).

This is a significant increase from last year by 312 judgments. The data indicates that 82 per cent of appeals (both Full Court and single judge) were delivered within three months and 79 per cent of judgments at first instance were delivered within three months of the date of being reserved.

Financial management and organisational performance

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

The financial figures outlined in this report are for the consolidated results of the FCA, the National Native Title Tribunal, the FCoA, the FCC and the Commonwealth Courts Corporate Services (Corporate Services).

The financial statements show an operating surplus of \$2.760 million before depreciation costs of \$16.253 million. The entity had an approved deficit for the year of \$2.5 million, which was not required, with actual results being \$5.260 million better than expected and is as a result of the entity closely monitoring costs to ensure savings were achieved wherever possible, consistent with the overall strategy of better positioning itself to manage within a financially constrained environment.

The next three-year budget cycle continues to challenge the entity to make further savings. From 2018–19 the entity is aiming to achieve a balanced budget. With over 60 per cent of the entity's costs relating to property and judicial costs, which are largely fixed, the ability to reduce overarching costs is limited.

In 2017–18 the entity received \$14 million in additional funding under the modernisation fund over a three-year period. This funding is enabling the entity to develop the Digital Court Program and support the courts' ongoing digital transformation and improve service delivery.

Merger of corporate services

Throughout 2017–18, work continued on consolidating the merger of corporate services, focusing on ensuring the evolving needs of judges and staff across all the courts and tribunals are satisfied, while delivering on required efficiencies to meet reduced appropriations.

A key focus during the year was on finalising a new single enterprise agreement for the entity. This was approved on 5 June 2018 by 96 per cent of staff who participated in the ballot. In addition, work continued on consolidating information technology (IT) systems and amalgamating projects targeted at simplifying the combined court environment to deliver more contemporary practices and efficiency improvements at a reduced cost.

Work on consolidating the content management systems for the websites and intranets commenced during the year. This project will reduce the number of web and intranet systems used by the courts and the National Native Title Tribunal from four to one. It is expected that the new system will be procured before the end of 2018, with progressive migration to the new system commencing in early 2019.

This project will bring a number of benefits, including more contemporary digital information services, more responsive systems to meet the demands of the increases in types of devices used by the community, and lower costs through a consolidated system for search, maintenance and support.

Several prominent accommodation projects are underway:

- Work was undertaken on addressing the serious accommodation problems in the Newcastle registry. The Court has now undertaken a feasibility study for the expansion of the Newcastle registry into the adjoining building, which will address many of the shortcomings of the current accommodation.
- Work has commenced on establishing a dedicated registry in Rockhampton, with the appointment of a permanent judge to that location.
- A detailed scoping and developing statement of requirements for full security equipment upgrades through all registries was undertaken in 2017–18, with rollout scheduled in 2018–19.

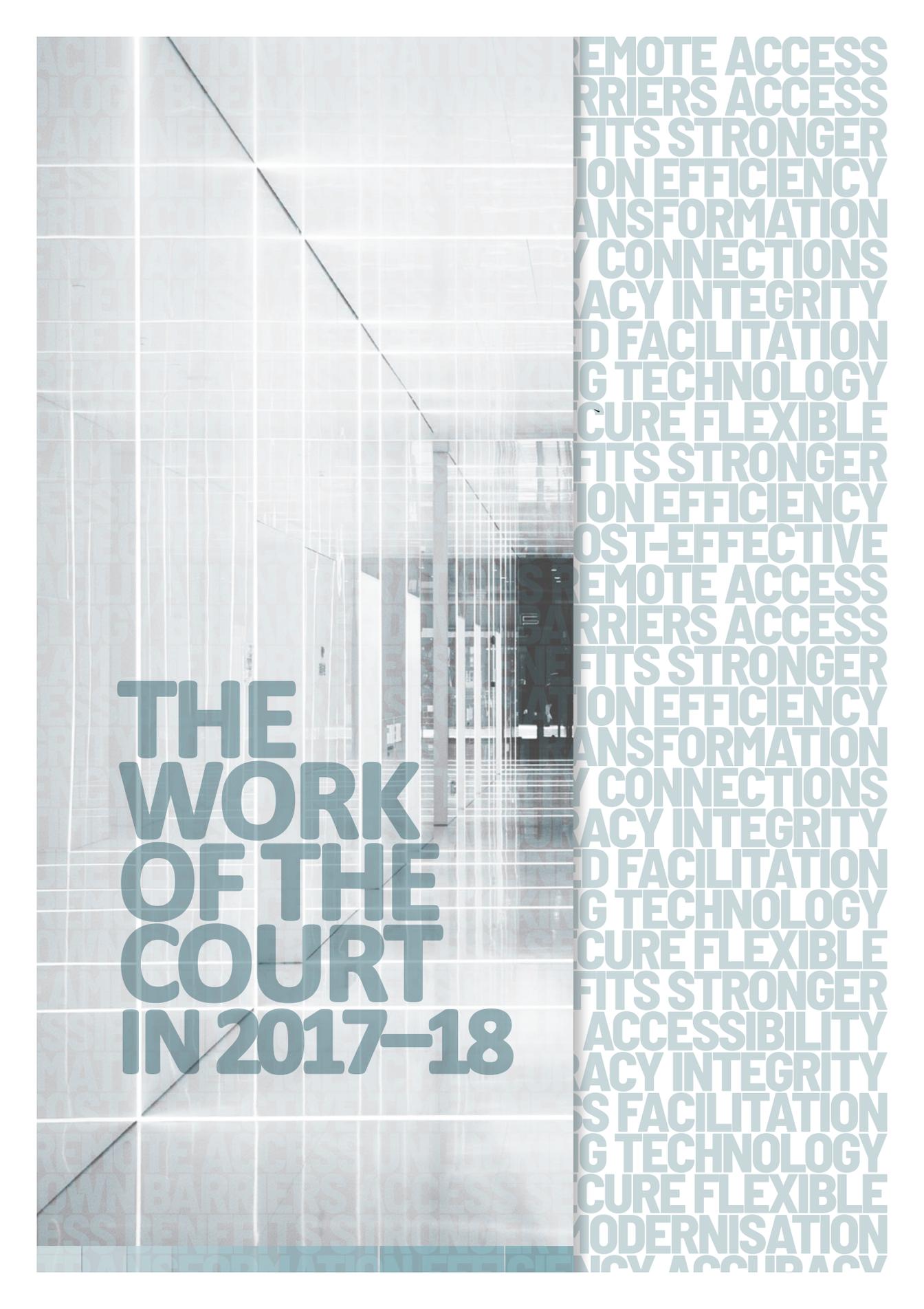
Other key projects commenced or finalised during the year include:

- data centre consolidation
- rollout of new personal computer (PC) hardware across all courts and tribunals
- implementation of a new standard operating environment
- finalisation of a consolidated risk management framework across the entity
- review of all emergency plans across the entity
- updated and consolidated business continuity plan, and
- rollout of updated eLearning modules across the entity.

A report on the delivery of corporate services in 2017–18 can be found in Part 4 (Management of the Court).



Warwick Soden
Chief Executive Officer and Principal Registrar
Federal Court of Australia



THE WORK OF THE COURT IN 2017–18

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PART

3

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- 24 CHANGES TO THE COURT'S JURISDICTION IN 2017-18
- 27 WORKLOAD OF THE FCA AND FCC
- 37 IMPROVING ACCESS TO THE COURT AND CONTRIBUTING TO THE AUSTRALIAN LEGAL SYSTEM

THE WORK OF THE COURT IN 2017–18

This part of the report details the Federal Court of Australia’s (FCA) performance and workload during the year, as well as its management of cases and performance against its stated workload goals. Aspects of the work undertaken by the Court to improve access to the Court for its users, including changes to its 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 s 39B of the *Judiciary Act 1903*.

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

The Court has jurisdiction under the Judiciary Act to hear applications for judicial review of decisions by officers of the Commonwealth. Many cases also arise under the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act) which provides for judicial review of most administrative decisions made under Commonwealth enactments on grounds relating to the legality, rather than the merits, of the decision.

The Court also hears appeals on questions of law from the Administrative Appeals Tribunal. This jurisdiction falls under the Administrative and Constitutional Law and Human Rights National Practice Area (NPA) which also includes complaints about unlawful discrimination no longer being dealt with by the Australian Human Rights Commission and matters concerning the Australian Constitution. Figure A5.9.1 in Appendix 5 (Workload statistics) on page 148 shows the matters filed in this practice area over the last five years.

The Court hears taxation matters on appeal from the Administrative Appeals Tribunal. It also exercises a first instance jurisdiction to hear objections to decisions made by the Commissioner of Taxation. Figure A5.9.7 on page 151 shows the taxation matters filed over the last five years.

The Court shares first instance jurisdiction with the Supreme Courts of the states and territories in the complex area of intellectual property (copyright, patents, trademarks, designs and circuit layouts). All appeals in these cases, including appeals from the Supreme Courts, are to a Full Federal Court. Figure A5.9.5 on page 150 shows the intellectual property matters filed over the last five years.

Another significant part of the Court's jurisdiction derives from the *Native Title Act 1993*. The Court has jurisdiction to hear and determine native title determination applications and to be responsible for their mediation, to hear and determine revised native title determination applications, compensation applications, claim registration applications, applications to remove agreements from the Register of Indigenous Land Use Agreements and applications about the transfer of records. The Court also hears

appeals from the National Native Title Tribunal and matters filed under the ADJR Act involving native title. The Court's native title jurisdiction is discussed on page 33. Figure A5.9.6 on page 151 shows native title matters filed over the last five years.

A further important area of jurisdiction for the Court derives from the *Admiralty Act 1988*. The Court has concurrent jurisdiction with the Supreme Courts of the states and territories to hear maritime claims under this Act. Ships coming into Australian waters may be arrested for the purpose of providing security for money claimed from ship owners and operators. If security is not provided, a judge may order the sale of the ship to provide funds to pay the claims. During the reporting year, the Court's Admiralty Marshals made six arrests. See Figure A5.9.2 on page 149 for the number of Admiralty and Maritime Law matters filed in the past five years.

The Court has jurisdiction under the *Fair Work Act 2009*, *Fair Work (Registered Organisations) Act 2009* and related industrial legislation (including matters to be determined under the *Workplace Relations Act 1996* in accordance with the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*. Workplace relations and fair work matters filed over the last five years are shown in Figure A5.9.4 on page 150.

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

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

Cases arising under Part IV (restrictive trade practices) and Schedule 2 (the Australian Consumer Law) of the *Competition and Consumer Act 2010* constitute a significant part of the workload of the Court. These cases often raise important public interest issues involving such matters as mergers, misuse of market power, exclusive dealings or false advertising. These areas fall under the Commercial and Corporations NPA. Figure A5.9.3 on page 149 provides statistics on this practice area.

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

The Court has a substantial and diverse appellate jurisdiction. It hears appeals from decisions of single judges of the Court and from the Federal Circuit Court of Australia (FCC) in non-family law matters and from other courts exercising certain federal jurisdiction.

In recent years, a significant component of its appellate work has involved appeals from the FCC concerning decisions under the *Migration Act 1958*. The Court's migration jurisdiction is discussed later in Part 3 on page 32.

The Court also exercises general appellate jurisdiction in criminal and civil matters on appeal from the Supreme Court of Norfolk Island. The Court's appellate jurisdiction is discussed on page 31.

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

CHANGES TO THE COURT'S JURISDICTION IN 2017–18

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

- *Australian Astronomical Observatory (Transition) Act 2018*
- *Building Energy Efficiency Disclosure Act 2010*
- *Coal Mining Industry (Long Service Leave) Administration Act 1992*
- *Coal Mining Industry (Long Service Leave) Payroll Levy Collection Act 1992*
- *Great Barrier Reef Marine Park Amendment (Authority Governance and Other Matters) Act 2018*
- *Horse Disease Response Levy Collection Act 2011*
- *Marriage Law Survey (Additional Safeguards) Act 2017*
- *National Redress Scheme for Institutional Child Sexual Abuse Act 2018*
- *Petroleum and Other Fuels Reporting Act 2017*
- *Product Emissions Standards Act 2017*
- *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*
- *Security of Critical Infrastructure Act 2018*, and
- *Weapons of Mass Destruction (Prevention of Proliferation) Act 1995*.

Amendments to the Federal Court of Australia Act

During the reporting year, some minor amendments to the Federal Court Act, made by the *Courts Administration Legislation Amendment Act 2016* (Amendment Act), took effect from 1 January 2018.

Fee regulation

While there were no changes to most filing and other fees in the reporting year, the Federal Parliament enacted the Court and Tribunal Legislation Amendment (Fees and Juror Remuneration) Regulations 2018, which takes effect from 1 July 2018. That amendment regulation amends the Federal Court and Federal Circuit Court Regulation 2012 (the fees regulation).

The effect of the amendment is to, from 1 July 2018, increase most prescribed filing and court fees by the biennial adjustment, which was due from that date under s 2.20 of the regulations, as well as by a further 3.9 per cent. Furthermore, the frequency of the indexation of court fees under s 2.20 of the regulation will no longer take place biennially. From 1 July 2019, most prescribed filing and court fees will increase annually, so that fees keep pace with inflation.

The fee for filing applications under s 539 of the *Fair Work Act 2009* in certain circumstances is fixed at the same rate as prescribed under subsection 395(2) of the *Fair Work Act 2009*. 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.

Otherwise, the operation of the regulation remained unchanged during the reporting period.

Federal Court Rules

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

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

There were no changes to the Federal Court Rules during the reporting year.

Other rules

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

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

During the reporting year, the Federal Court (Corporations) Rules 2000 were amended by the Federal Court (Corporations) Amendment (Insolvency Law Reform) Rules 2017 so that the Federal Court (Corporations) Rules 2000 reflected the changes to insolvency administration effected by the reforms implemented by the *Insolvency Law Reform Act 2016*.

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

During the reporting year, the Federal Court (Bankruptcy) Rules 2016 were amended by the Federal Court (Bankruptcy) Amendment (Insolvency and Other Measures) Rules 2017 so that the Federal Court (Bankruptcy) Rules 2016 too reflected the changes to insolvency administration effected by the *Insolvency Law Reform Act 2016* reforms.

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.

There were no changes to the Federal Court (Criminal Proceedings) Rules 2016 in the reporting year.

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

No new forms were approved by the Chief Justice for the purposes of the Federal Court Rules 2011, the Federal Court (Bankruptcy) Rules 2016 and the Federal Court (Criminal Proceedings) Rules 2016 during the reporting year.

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 under rules 2.11, 2.12 and 2.21 of the Federal Court Rules, rule 1.07 of the Federal Court (Bankruptcy) Rules, rule 1.14, 1.15 and 4.20 of the Federal Court (Criminal Proceedings) Rules and the Court's inherent power to control its own processes. All practice notes are available on the Court's website.

In general, practice notes are issued to:

- complement particular legislative provisions or rules of court
- set out procedures for particular types of proceedings, and
- notify parties and their lawyers of particular matters that may require their attention.

A key component of the National Court Framework reforms has been the review of all of the Court's practice documents to ensure nationally consistent and simplified practice. Under the National Court Framework, the Court's practice documents have

been consolidated and refined from 60 practice notes and administrative notices to 27 national practice notes.

The Court's practice notes fall into four primary categories:

- *Central Practice Note*: This is the core practice note for court users and addresses the guiding National Court Framework case management principles applicable to all National Practice Areas (NPAs).
- *NPA Practice Notes*: Interlocking with the Central Practice Note, these practice notes raise NPA-specific case management principles and are an essential guide to practice in an NPA.
- *General Practice Notes*: These apply to all or many cases across NPAs, or otherwise address important administrative matters. A number of General Practice Notes set out particular arrangements or information concerning a variety of key areas, such as class actions, expert evidence, survey evidence, costs, subpoenas and accessing court documents.
- *Appeals Practice Note*: The Court has made considerable changes to the management of appeals and related applications and has commenced work on developing the key features of a comprehensive Appeals Practice Note. The Court will continue that work, including undertaking external consultation and, in the interim, Appeals Practice Note APP 2 (Content of Appeal Books and Preparation for Hearing) continues to apply.

Since the issuing of the Court's national practice notes, the 12-month review period applicable to the General Practice Notes concluded in October 2017. The Court, through its National Practice Committee, has considered the feedback received; it has reissued the Interest on Judgments Practice Note and is in the process of preparing minor amendments to a number of other practice notes. The Court is also continuing to develop its practice and procedure in the area of digital practices and the Other Federal Jurisdiction NPA. The Court has also advised court users that it continues to welcome feedback in respect of its policy and practice, including practice notes.

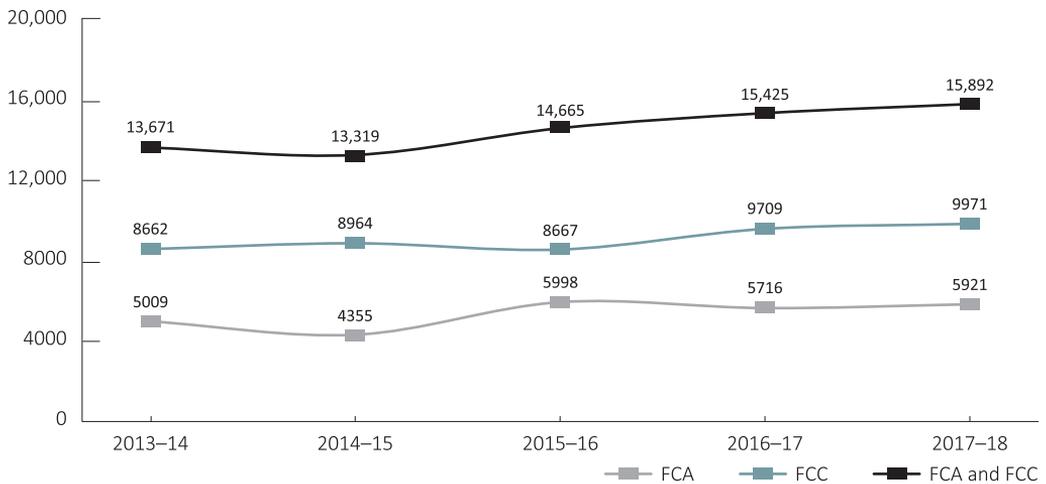
Guides

The FCA also 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 FCA AND FCC

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

Figure 3.1: Filings to 30 June 2018 – Federal Court of Australia (FCA) and Federal Circuit Court of Australia (FCC)



In 2017–18, a total of 15,892 matters were filed in the two courts. Any growth in filings has an impact on the Federal Court’s registries, as they process the documents filed for both courts. The registries also provide the administrative support for each matter to be heard and determined by the relevant court. The Court was able to accommodate this increase easily due to the technology and systems it has set up, most notably electronic court files for all files and lodgment, to aid efficient case processing.

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. It is reviewed regularly by the Court in relation to workload and available resources. The Court’s ability to continue to meet its disposition targets is dependent upon the timely replacement of judges.

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

During the five-year period from 1 July 2013 to 30 June 2018, 93.3 per cent of cases (excluding native title matters) were completed in less than 18 months, 88 per cent in less than 12 months and 76 per cent in less than six months (see Figure A5.4 on page 143). Figure A5.5 on page 143 shows the percentage of cases (excluding native title matters) completed within 18 months over the last five reporting years.

Delivery of judgments

In the reporting period, the Court handed down 2028 judgments for 1743 court files. Of these, 719 judgments were delivered in appeals (both single judge and Full Court) and 1152 in first instance cases. These figures include both written judgments and judgments delivered orally on the day of the hearing, immediately after the completion of evidence and submissions. This was a slight increase from the number of judgments delivered in 2016–17.

The nature of the Court’s workload means that a substantial proportion of the matters coming before the Court will go to trial and the decision of the trial judge will be reserved at the conclusion of the trial.

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

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

Workload of the Court in its original jurisdiction

Incoming work

In the reporting year, 5921 cases were commenced in, or transferred to, the Court's original jurisdiction. See Table A5.1 on page 138.

Matters transferred to and from the Court

Matters may be remitted or transferred to the Court under:

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

During the reporting year, 124 matters were remitted or transferred to the Court:

- four from the High Court
- 26 from the FCC
- 34 from the Supreme Courts, and
- 60 from other courts.

Matters may be transferred from the Court under:

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

During 2017–18, no matters were transferred from the Court.

Matters completed

Figure A5.2 on page 142 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 5603.

Current matters

The total number of current matters in the Court's original jurisdiction at the end of the reporting year was 3483 (see Table A5.1).

Age of pending workload

The comparative age of matters pending in the Court's original jurisdiction (against all major causes of action, other than native title matters) at 30 June 2018 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.

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	53	23	5	4	3	88
Admiralty	15	6	5	4	2	32
Bankruptcy	99	36	14	9	24	182
Competition law	2	0	2	3	4	11
Trade practices	55	33	39	18	46	191
Corporations	644	84	49	43	83	903
Human rights	25	10	10	3	5	53
Workplace relations	1	2	0	2	0	5
Intellectual property	69	43	26	11	46	195
Migration	96	24	18	6	1	145
Miscellaneous	90	59	22	11	31	213
Taxation	47	27	4	3	28	109
Fair work	125	52	22	12	23	234
Total	1321	399	216	129	296	2361
Percentage of total	56%	16.9%	9.1%	5.5%	12.5%	100%
Running total	1321	1720	1936	2065	2361	
Running percentage	56%	72.9%	82%	87.5%	100%	

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

	Under 6 months	6–12 months	12–18 months	18–24 months	Over 24 months	Sub total
Native title action	42	38	16	15	183	294
Percentage of total	14.3%	12.9%	5.4%	5.1%	62.2%	100%
Running total	42	80	96	111	294	
Running percentage	14.4%	27.2%	32.7%	37.8%	100%	

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

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

The Court's appellate jurisdiction

The appellate workload of the Court constitutes a significant part of its overall workload. While most appellate matters arise from decisions of single judges of the Court or the FCC, some are in relation to decisions by state and territory courts exercising certain federal jurisdiction. Appellate matters may also include matters filed in the original jurisdiction of the Court but referred to a Full Court for hearing.

The number of appellate proceedings commenced in the Court is dependent on many factors including the number of first instance matters disposed of in a reporting year, the nature of matters filed in the Court and whether the jurisdiction of the Court is enhanced or reduced by legislative changes or decisions of the High Court of Australia on the constitutionality of legislation. Subject to ss 25(1), (1AA) and (5) of the Federal Court Act, appeals from the FCC, and courts of summary jurisdiction exercising federal jurisdiction, may be heard by a Full Court of the FCA or by a single judge in certain circumstances. All other appeals must be heard by a Full Court, which is usually constituted by three, and sometimes five, judges.

The Court publishes details of the four scheduled Full Court and appellate sitting periods to be held in February, May, August and November of each year. Each sitting period is up to four weeks in duration. Appellate matters will generally be listed in the next available Full Court and appellate sitting in the capital city where the matter was heard at first instance.

In the reporting year, Full Court and appellate matters were scheduled for hearing in all eight capital cities. When appeals are considered to be sufficiently urgent, the Court will convene a special sitting of a Full Court outside of the four scheduled sitting periods. In 2017–18, the Court specially fixed 26 Full Court or appellate matters, involving 18 sets of proceedings, for hearing outside of the four scheduled sitting periods. Hearing these matters involved a total of 25 sitting days or part thereof compared with 23 special hearing fixtures involving 28 sitting days in 2016–17.

The appellate workload

During the reporting year, 1514 appellate proceedings were filed in the Court. They include 1335 appeals and related actions (1262 filed in the appellate jurisdiction and 73 matters filed in the original jurisdiction), 17 cross appeals and 162 interlocutory applications such as applications for security for costs in relation to an appeal, a stay, an injunction, expedition or various other applications.

The FCC is a significant source of appellate work accounting for over 76 per cent (1023 of the 1335) of the appeals and related actions filed in 2017–18. The majority of these proceedings continue to be heard and determined by single judges exercising the Court's appellate jurisdiction.

Further information on the source of appeals and related actions is set out in Table A5.3 in Appendix 5 (Workload statistics). The number of migration appeals and related actions filed in 2017–18 increased by over 30 per cent, from 764 in 2016–17 to 1019 for the current reporting year. This contributed to an overall increase of more than 20 per cent in the Court's appellate workload overall in 2017–18.

In the reporting year, 1229 appeals and related actions were finalised. Of these, 553 matters were filed and finalised in the reporting year. At 30 June 2018, there were 875 appeals (comprising 827 filed in the appellate jurisdiction and 48 matters filed in the original jurisdiction) currently before the Court.

The comparative age of matters pending in the Court's appellate jurisdiction (including native title appeals) at 30 June 2018 is set out in Table 3.3.

Of the appellate and related matters pending at present, 75 per cent are less than six months old and almost 90 per cent are less than 12 months old. At 30 June 2018, there were only 91 matters that were over 12 months old, 86 filed in the appellate jurisdiction (see Table 3.3) and five matters filed in the original jurisdiction. It is also noted that a large number of migration appeals and applications have been held in abeyance pending the outcomes of decisions of the Full Court of the FCA and the High Court.

Table 3.3: Age of current appeals, cross appeals and interlocutory appellate applications at 30 June 2018

	Under 6 months	6–12 months	12–18 months	18–24 months	Over 24 months	Total
Appeals and related actions	625	116	43	28	15	827
% of total	75.6%	14%	5.2%	3.4%	1.8%	100%
Running total	625	741	784	812	827	
Running %	75.6%	89.6%	94.8%	98.2%	100%	

Managing migration appeals

In 2017–18, 44 migration appeals were filed in the Court’s appellate jurisdiction related to judgments of single judges of the Court exercising the Court’s original jurisdiction. A further 973 migration matters were filed in relation to judgments of the FCC and two from another source.

Table 3.4 shows the number of appellate proceedings involving the Migration Act as a proportion of the Court’s overall appellate workload since 2013–14.

Over the last four years, approximately 70 per cent of the Court’s appellate workload concerned decisions made under the *Migration Act 1958*. Since the last reporting year, the number of migration appellate filings has increased by over 30 per cent, resulting in a proportion of approximately 80 per cent of all appellate proceedings filed involving decisions under the Migration Act.

The Court continues to apply a number of procedures to streamline the preparation and conduct of these appeals and applications and to facilitate the expeditious management of the migration workload.

The Court reviews all migration matters to identify cases raising similar issues and where there is a history of previous litigation. This process allows for similar cases to be managed together resulting in more timely and efficient disposal of matters. Then, all migration-related appellate proceedings (whether to be heard by a single judge or by a Full Court) are listed for hearing in the next scheduled Full Court and appellate sitting period. Fixing migration-related appellate proceedings for hearing in the four scheduled sitting periods has provided greater certainty and consistency for litigants. It has also resulted in a significant number of cases being heard and determined within the same sitting period. Where any migration-related appellate proceeding requires an expedited hearing, the matter is allocated to a single judge or referred to a specially convened Full Court.

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

Appeals and related actions	2013–14	2014–15	2015–16	2016–17	2017–18
Migration jurisdiction	370	648	653	764	1019
%	50.8%	71.2%	65.8%	73.0%	80.7%
Total appeals and related actions	728	910	993	1046	1262

The Court's native title jurisdiction

Statistics and trends

In 2017–18, the Court resolved a total of 71 native title applications (commenced under s 61 of the *Native Title Act 1993*), consisting of 50 native title applications, 20 non-claimant applications and one compensation application.

Of the finalised applications, 34 were resolved by consent of the parties, two were finalised following litigation and a further 35 applications were either discontinued or dismissed.

Seventy-six new applications were filed under s 61 of the Native Title Act during the reporting period. Of these new matters, 44 are native title determination applications and 32 are non-claimant applications. No further compensation or variation applications have been filed over the past reporting year as potential applicants await the findings of the High Court in the appeal from the Full Federal Court decision in *Alan Griffiths and Lorraine Jones on behalf of the Ngaliwuru and Nungali Peoples v Northern Territory of Australia* [2016] FCA 900 (Griffiths). The High Court hearing has been set down for September 2018.

At the end of the reporting year, there were 289 native title applications, comprising 229 determination applications, 54 non-claimant applications, six compensation applications and one variation application.

There were a number of additional applications managed by the native title practice area not brought under s 61 of the Native Title Act and a further number of native title appeals. In total, there were 103 native title matters disposed of during the reporting year, with 100 new matters filed and a pending caseload at the end of the reporting year of 309 matters. It is evident that these other matters are beginning to constitute a significant component of the native title work of the Court and that while resolution rates have increased over the past three years, so have the number of new matters.

Some other trends are:

- the increase in non-claimant applications,¹ and
- slight increase in matters of more than two years duration.²

The Court introduced a new allocation system during the reporting year and is currently reviewing the currency and relevance of the Priority List in consultation with regular parties to native title matters. There are currently 40 consent determinations and 13 native title claim hearings forecast for the 2018–19 financial year, with the bulk of those projected matters in Western Australia.

The Court continues to focus on directed case management by specialist registrars and judges and on mediation of whole or part matters, predominantly conducted by registrars. The objective of both 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 overarching purpose of the Native Title Act and ss 37M and 37N of the *Federal Court of Australia Act 1976* to facilitate the just resolution of disputes according to the law as quickly, inexpensively and effectively as possible. While full native title trials are reducing, there remain a significant number of litigated separate questions and interlocutory proceedings.

- 1 In the 2016–17 financial year, 14 non-claimant applications were filed as opposed to 32 in the current reporting year. These applications are predominantly filed in Queensland and New South Wales, many of which arise due to the requirements of the *Aboriginal Land Rights Act 1983* (NSW) and the desire of pastoralists to convert leases to freehold in Queensland enabled by recently enacted legislation.
- 2 In the 2016–17 financial year, 54.9% of native title applications were more than two years old and 62.2% were more than two years old in the current reporting year despite targeted case management aimed at resolving older matters. This is perhaps reflective of many of the existing matters being over areas of significant inter-Indigenous dispute, including Part B applications, concerning issues that could not be resolved at the time the Part A application was determined by consent.

Mediation may be conducted on-country, with large groups to deal with intra and inter-Indigenous disputes, between claimant and non-claimant applicants and between applicant and regional agencies of a state as some examples. The complexity of disputes is increasing in nature and the intensity of current court facilitation is demonstrated by the increase of listings from 120 mediations and 554 case management hearings in 2016–17 to 148 mediations and 789 case management hearings in 2017–18.

Significant litigation

There were a number of significant matters decided during the reporting year.

Agius v State of South Australia (No.6) [2018] FCA 358

This determination, by Justice Mortimer, is a significant consent determination as it is the only positive determination of native title over an Australian capital city (Adelaide).

Pearson on behalf of the Tjauwara Unmuru Native Title Holders v State of South Australia (Tjauwara Unmuru Native Title Compensation Claim) [2017] FCA 1561

This matter was a consent determination for a compensation application over extinguished areas within a determined area. The compensation figure was kept confidential.

Manado (on behalf of the Bindunbur Native Title Claim Group) v State of Western Australia [2017] FCA 1367

Justice North provided a judgment determining which of two competing groups hold native title over an area including James Price Point, which is now subject of appeal.

Warrie (formerly TJ) (on behalf of the Yindjibarndi People) v State of Western Australia [2017] FCA 803; Warrie (formerly TJ) (on behalf of the Yindjibarndi People) v State of Western Australia (No 2) [2017] FCA 1299

Whether or not the native title included the right of exclusive possession, occupation and use and the application of s 47B of the Native Title Act were the primary issues in dispute in the hearing of the Yindjibarndi #1 claim. The determination reflecting the judge's findings that exclusive possession native title had been established (contrary to a previous determination that only found for non-exclusive native title) has been appealed by Fortescue Metals Group Ltd (FMG) (but not the State of Western Australia). The appeal is listed in the August 2018 sittings, and will be heard by a five judge bench, including on the basis it is anticipated to include a challenge to the Full Court's previous decisions in *Banjima v WA (2015) 231 CLR 456* and *Griffiths v Northern Territory (2007) 165 FCR 391*.

Gordon (on behalf of the Kariyarra Native Title Claim Group) v State of Western Australia [2018] FCA 430

This judgment concerned a separate question put to hearing as to the persons holding the communal rights comprising the native title claimed by the applicants for three claims lodged on behalf of the Kariyarra people. Justice North found that all of the persons included in the claim group description, including the Indigenous respondents, held the communal rights comprising the native title claimed by the applicants. Those six respondents lodged an application for extension of time and leave to appeal against His Honour's decision.

Finlay on behalf of the Kuruma Marthudunera Peoples v State of Western Australia [2018] FCA 548

This was ultimately a consent determination that native title exists over most of Part B of the Kuruma Marthudunera claim as the parties were able to reach a compromise and settle the proceedings following the hearing of lay evidence and without completing the remainder of the trial.

Western Bundjalung People v Attorney General of New South Wales [2017] FCA 992

The consent determination over an area surrounding Tabulum followed a lengthy period of negotiation including of the first Indigenous Land Use Agreement (ILUA) negotiated in New South Wales as part of the settlement in support of a positive native title determination. The decision is also notable for its consideration of the proper role of the first respondent contained in the reasons of Justice Jagot.

Yaegl People #2 v Attorney General of New South Wales [2017] FCA 993

This was another aged New South Wales matter in which a determination of native title was made over an area at Yamba, including the first New South Wales determination over an offshore area. The determined offshore area included a reef area, which is a sacred site for the Yaegl People known as the *Dirrungun*.

QUD244/16 Gebadi & Ors v Woosup & Ors – heard in July 2017 by Greenwood J. Gebadi v Woosup (No 2) [2017] FCA 1467

The two people comprising the applicant were found to have breached fiduciary duties owed to the claim group by entering into a mining agreement without authority and in relation to Mr Woosup, by taking the financial benefits from that agreement for himself personally. Mr Woosup was ordered to repay the monies to the group and on failure to do so was arrested and charged with fraud in June 2018.

QUD120/17 Conlon & Ors v QGC Pty Ltd & Ors Pty Ltd – heard December 2017 by Rares J. Conlon v QGC Pty Ltd (No 2) [2017] FCA 1641

This proceeding involved consideration of whether a registered ILUA had been validly varied by an amendment deed dated 16 February 2015 that was signed by only nine of the 14 persons who comprised the native title party named in the ILUA and had not been authorised in accordance with s 251A of the Native Title Act. Justice Rares found that the deed was not effective to vary the ILUA and had no contractual force or effect. Subsequently, an application was filed by QGC to pay the proceeds payable under the ILUA into court for the Court to determine the appropriate beneficiaries.

Cultural recognition and professional development

A number of native title practice area judges and registrars attended the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) Native Title conference in Broome during the commemoration week in June, including Mabo Day. Justice Barker presented a paper titled *Not so ‘fragile’ a thing: The evolving character of native title, 1993 to 2018*.

To celebrate NAIDOC week, a number of different morning teas and group art projects were conducted in the Court and National Native Title Tribunal registries and a biographical series about female Indigenous leaders was featured on the intranet in recognition of the 2018 NAIDOC week theme.

Assisted dispute resolution

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

In recognition of the Court’s unique model of mediation and commitment to a quality professional development program, the Court became a Recognised Mediator Accreditation Body in September 2015 and implemented the Federal Court Mediator Accreditation Scheme (FCMAS). The FCMAS incorporates the National Mediator Accreditation Standards and the majority of court-ordered mediations are conducted by registrars who are trained and accredited by the Court under the FCMAS. In the native title jurisdiction, while native title registrars now conduct most mediations of native title matters, the Court maintains a list on its website of appropriately qualified professionals if there is a need to engage an external mediator or co-facilitate mediation.

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

Mediation referrals are summarised in Table 3.5. 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 3.5 do not include instances where judges of the Court order experts to confer with each other to identify areas where their opinions are in agreement and disagreement without the supervision of a Registrar.

As shown in Table 3.5, the main practice areas where mediation referrals are made are commercial and corporations and employment and industrial relations. Although the reporting of these statistics is by reference to NPA rather than cause of action, as in past years, the mediation referrals by matter type is broadly consistent with past years.

Table 3.5: Mediation referrals in 2017–18 by National Practice Area (NPA) and registry

NPA	NSW	VIC	QLD	WA	SA	NT	TAS	ACT	Total
Administrative and constitutional law and human rights	12	13	6	2	3	2	0	1	39
Admiralty and maritime	4	1	0	1	0	0	0	0	6
Commercial and corporations	54	71	17	28	11	0	4	3	188
Employment and industrial relations	30	74	15	8	8	1	5	7	148
Federal crime and related proceedings	0	8	0	0	0	0	0	0	8
Intellectual property	35	28	6	2	4	0	0	1	76
Migration	0	0	0	1	0	0	0	0	1
Native title	10	2	2	12	4	0	0	0	30
Other federal jurisdiction	20	2	3	1	0	0	0	0	26
Taxation	0	0	2	3	0	0	0	0	5
Total	165	199	51	58	30	3	9	12	527

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

Management of cases and deciding disputes by tribunals

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

A summary of the functions of each tribunal and the work undertaken by it during the reporting year is set out in Appendix 6 (Work of tribunals).

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

Introduction

The following section reports on the Court's work during the year to improve the operation and accessibility of the Court, including reforms to its 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 Australian Institute of Judicial Administration, and in other law reform, community and educational activities.

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

Practice and procedure reforms

The National Practice Committee is responsible for developing and refining policy and significant principles regarding the Court's practice and procedure. It is comprised of the Chief Justice,

national NPA coordinating judges and the national appeals coordinating judges, and is supported by a number of registrars of the Court.

During the reporting year, the committee dealt with a range of matters including:

- considering feedback received in respect of practice notes, including the General Practice Notes (that were issued on the basis of a '12-month review period')
- developing the updated Interest on Judgments Practice Note (GPN-INT) with respect to interest up to judgment arising under s 547 of the *Fair Work Act 2009* (Cth). The updated Interest on Judgments Practice Note was issued on 18 September 2017
- amending a number of practice notes based on feedback received
- commencing the development of new practice notes in the areas of appeals and the Other Federal Jurisdiction NPA, and
- management responsibilities and support for each NPA, including considering the development of national arrangements for liaison with the profession.

In addition, the National Practice Committee has worked closely with the Digital Practice Committee of the Court so as to continue to ensure the development of leading policy and practice in the area of digital and technological practice within the Court.

Liaison with the Law Council of Australia

Members of the National Practice Committee meet with the Law Council's Federal Court Liaison Committee to discuss matters concerning the Court's practice and procedure, as required. There were no formal meetings of the available members of the two committees during the reporting year.

Representatives of the Court met, in person and by telephone, with the convenor and other representatives of the Law Council's Federal Court Liaison Committee on a number of occasions during the reporting year to discuss updates to the Case Management Handbook and electronic hearings.

Assistance for self-represented litigants

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

During the reporting year, the Attorney-General's Department 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 FCA and FCC.

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

to be held with clients. The service is also assisted by volunteer lawyers from participating law firms.

Each of the organisations delivering this service provides the Court with quarterly and annual reports setting out statistics and case studies of SRLs they have been able to assist. The organisations also provide the Court with information on the NPAs that SRLs sought assistance on and examples of the issues where help was provided.

Tables 3.6, 3.7 and 3.8 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, statistics shown in the tables are indicative only. In the reporting year, 677 people who commenced proceedings in the Court were identified as self-represented. The majority were appellants in migration appeals.

Table 3.6: Actions commenced by self-represented litigants (SRLs) during 2017–18 by registry

	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Total
SRLs	3	434	3	69	21	0	68	79	677
% of total	0%	64%	0%	10%	3%	0%	10%	12%	100%

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

Table 3.7: Proceedings commenced by self-represented litigants in 2017–18 by cause of action

Cause of action	Total actions	% of total
Administrative law	34	5%
Admiralty	0	0%
Appeals and related actions	480	74%
Bankruptcy	13	2%
Bills of costs	0	0%
Competition law	0	0%
Consumer protection	5	1%
Corporations	7	1%
Cross claim	0	0%

Cause of action	Total actions	% of total
Fair work	16	2%
Human rights	9	1%
Industrial	0	0%
Intellectual property	2	0%
Migration	56	9%
Miscellaneous	14	2%
Native title	14	2%
Taxation	2	0%
Total	652	100%

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

Table 3.8: Appeals commenced by self-represented litigants in 2017–18 by cause of action

Cause of action	Total actions	% of total
Administrative law	4	1%
Admiralty	0	0%
Bankruptcy	8	2%
Competition law	0	0%
Consumer protection	6	1%
Corporations	2	0%
Fair work	6	1%
Human rights	4	1%
Industrial	1	0%
Intellectual property	2	0%
Migration	441	92%
Miscellaneous	2	0%
Native title	4	1%
Taxation	0	0%
Total	480	100%

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

Interpreters

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

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

Court fees and exemption

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

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

- human rights applications (other than an initial filing fee of \$55)
- some fair work applications (other than an initial filing fee of \$70.60)
- appeals from a single judge to a Full Court in human rights and some fair work applications
- an application by a person to set aside a subpoena
- an application under s 23 of the *International Arbitration Act 1974* for the issue of a subpoena requiring the attendance before or production of documents to an arbitrator (or both)

- an application for an extension of time
- a proceeding in relation to a case stated or a question reserved for the consideration or opinion of the Court
- a proceeding in relation to a criminal matter, and
- setting-down fees for an interlocutory application.

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

- has been granted Legal Aid
- has been granted assistance by a registered body to bring proceedings in the Federal Court under Part 11 of the *Native Title Act 1993* or has been granted funding to perform some functions of a representative body under s 203FE of that Act
- is the holder of a health care card, a pensioner concession card, a Commonwealth seniors health card or another card certifying entitlement to Commonwealth health concessions
- is serving a sentence of imprisonment or is otherwise detained in a public institution
- is younger than 18 years
- is receiving youth allowance, Austudy or ABSTUDY benefits.

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

A corporation that had been granted Legal Aid or funding under the *Native Title Act 1993* 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

As required by subsection 8(2) of the *Freedom of Information Act 1982* (FOI Act), the FCA 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 FOI contact officer as well as information routinely provided to the Australian Parliament.

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

Access to judgments

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

Information for the media and televised judgments

The Director, Public Information deals with media enquiries from around the country and internationally. Most of these relate to specific cases and, to a lesser degree, issues the Court is routinely called upon for comment.

Dealings with the media overwhelmingly relate to requests for judgments and information on how to access files. This requires close liaison with, and the support of, registries and judges’ chambers.

The Director, Public Information is responsible for briefing new associates about how the Court deals with the media, arranges camera access in cases of public interest, and contacts journalists when mistakes have been made.

In cases of extensive public interest, the Court has established online files where all documents deemed accessible are placed. This removes the need for individual applications to registry and makes it easier for journalists and court staff.

In the reporting year, these files were created for the following matters:

- AUSTRAC v Commonwealth Bank, and
- Geoffrey Rush v Nationwide News.

Televised judgments were arranged for:

- Guy v Crown, and
- Wotton v State of Queensland.

Community relations

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

In 2017–18, members of the Court were involved in seminars relating to intellectual property, admiralty, arbitration, commercial law, tax, insolvency and class actions.

Working with the Bar

The New South Wales registry hosted the New South Wales silks ceremony on 20 October 2017. The Victorian registry hosted a silks ceremony in November 2017, with over 80 guests attending. The Victorian registry also hosted the Victorian Bar Advocacy assessments and courses throughout the year.

Registries across the country hosted advocacy sessions as well as a number of bar moot courts and moot competitions and assisted with readers' courses during the year.

User groups

User groups have been formed along NPA lines to discuss issues related to the operation of the Court, its practice and procedure, 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 class actions, admiralty, corporations, bankruptcy, migration and native title. In addition, the Court established the national Employment and Industrial Relations NPA user group, which has met twice in the reporting period.

Legal community

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

- **Brisbane** – the Professor Michael Whincop Memorial Lecture, National Seminar for the International Fiscal Association, New Silks Ceremony in December 2017, and Richard Cooper Memorial Lecture.
- **Melbourne** – the Richard Cooper Memorial Lecture, Australian Maritime and Transport Arbitration Commission (AMTAC) address, and Australian and New Zealand Association of Psychiatry, Psychology and Law (ANZAPPL) lecture.
- **Perth** – the registry hosted two intellectual property seminars and a United Nations day lecture.
- **Sydney** – the Richard Cooper Memorial Lecture, Tristan Jepson Memorial Foundation Lecture, Lehane Lecture, Public Information Officers' Conference, Australian Association of Constitutional Law (AACL) lecture, AMTAC address, and Mahla Pearlman Oration.

Education

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

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

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

The Court's support for and work with universities continued through the year. The New South Wales registry hosted four moot courts for the University of New England. The Queensland registry hosted two university moot competitions and had visits from school groups from Sheldon College and Southern Cross Catholic College. The Victorian registry hosted a number of moot courts for Monash, Melbourne, New England, La Trobe, Victoria and Deakin universities. The Melbourne registry also hosted a careers information session for University of Melbourne law students.

The Tasmanian registry hosted 40 University of Tasmania law students in January 2018, as part of Advocacy summer school. Justice Kerr delivered a lecture about court etiquette and appellate advocacy and District Registrar Browning welcomed the students and gave a lecture on court practice and procedure. The students returned two days later to use the Court facilities for their assessment moots in which they appeared before members of the judiciary and the profession. Also in January 2018, another university group, studying labour law with local barrister Mark Rinaldi, attended the Court and listened to a presentation about dispute resolution practices.

Indigenous Law Students Clerkship Program

The FCA participated in the inaugural New South Wales Bar Association and Ngara Yura Indigenous Law Students' Clerkship Program, together with the Supreme Court of New South Wales and the New South Wales Bar Association. The program offered three paid clerkship positions to Indigenous law students, who each spent a week with barristers from Forbes Chambers, a week with the Supreme Court and a week with the FCA (including the FCC and the National Native Title Tribunal). The program operates like a vacation clerkship with a law firm in that it aims to provide valuable experience for more senior law students who are considering a career in law.

The program commenced on 5 February 2018. The three Indigenous students (Kate Sinclair, Tyrone Kelly and Ryan Barratt) were all from the University of New South Wales. Ms Sinclair is a Darug woman who has worked recently as a paralegal at Gilbert + Tobin. Mr Kelly is a Yuin man from the La Perouse Aboriginal community. Mr Barratt is a Coastal Darug man and has worked for the New South Wales Department of Planning and Environment as a student legal officer since November 2016.

Each of the clerks was able to observe a range of criminal and civil proceedings in state and federal Courts. They worked closely with individual judges, court officers and chamber staff. The program was a great success. One of the clerks described the experience as being like none other because it provided 'a unique insight into the courts and the life of a barrister'. Another commented on the enjoyment of 'learning about the process of writing judgments and observing the human aspect of the court system'. Another spoke of the advantage of having had an opportunity to attend the Indigenous Family List and of seeing an area of the law that not many students experienced.

Each of the students was presented with a certificate of participation at a ceremony held in the Federal Court on 21 February 2018. The certificates were presented by Chief Justice Allsop, Chief Justice Bathurst and Arthur Moses SC.

The Federal Court will be involved in a similar program next year in conjunction with the New South Wales Bar Association, the Supreme Court of New South Wales and the Judicial Commission of New South Wales.

Overseas delegations

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

- **New South Wales** – in May 2018 the New South Wales registry hosted a delegation from Sri Lanka.
- **Victoria** – in April 2018, the Victorian registry hosted a delegation of judges from the Supreme Court of Sri Lanka. Justice Kenny and Registrar Luxton addressed the group.
- **Western Australia** – in December 2017, the Western Australian registry hosted a delegation from the Supreme People's Court of Vietnam.

Complaints

During the reporting year, complaints were made to the Court in relation to its procedures, rules, forms, timeliness or courtesy to users. For the purpose of collecting data about complaints, several discrete reports made by a complainant about a single issue or a set of related issues were recorded as a single complaint. There were 11 complaints in the reporting year. This figure is up from seven complaints recorded last year. This figure does not include complaints about the merits of a decision by a judge, which may only be dealt with by way of appeal, or complaints about the merits of a decision of a registrar, which may only be dealt with by way of review.

Information about the Court's feedback and complaints processes can be found at www.fedcourt.gov.au/feedback-and-complaints.

Involvement in legal education programs and legal reform activities (contribution to the legal system)

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

- presented papers, gave lectures and chaired sessions at judicial and other conferences, judicial administration meetings, continuing legal education courses and university law schools

- participated in Bar reading courses, Law Society meetings and other public meetings, 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 (e.g. judicial officers being unable to be released from court, lack of funding).

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

During 2017–18 the Court offered the following activities:

- ad hoc seminars, including:
 - *The economics, reality and practice of derivatives; the documentation of derivatives; and law, litigation and derivatives cases* presented by P.R.I.M.E. Finance in October 2017
 - *Insolvency Law Reform Act: key changes; and Safe Harbour and Ipso facto reforms* on 27 November 2017
 - *Is there a duty to avoid risk?* – Migration law seminar presented by Professor James Hathaway on 9 May 2018
 - Seminars in the National Commercial Law Series, run by Monash University in conjunction with the FCA and the Victorian Bar.

- eight education sessions at the judges' meeting in August 2017
- eight education sessions at the judges' meeting in March 2018
- the opportunity for judges to attend the Supreme Court and FCA judges' conference held in Sydney on 22–24 January 2018.

Education sessions offered at the judges meetings in 2017–18 included:

- workshops on the following NPAs:
 - native title
 - taxation
 - admiralty and maritime
 - commercial and corporations
 - administrative and constitutional law and human rights – migration
 - intellectual property, and
 - employment and industrial relations.
- working digitally and electronic court file refresher
- the significance of the divided brain
- the appellate system of the Court
- Chinese perspectives on the operation of the law
- pecuniary penalties
- judicial health and wellbeing
- judgment writing
- the history and philosophy of incorporation
- case management and its purpose, and
- expert event study evidence in shareholder class actions.

In addition, judges undertook other education activities through participation in seminars and conferences. Some of these are included in Appendix 8 (Judges' activities).

In 2017–18, the FCA met the National Standard for Professional Development for Australian Judicial Officers.

Work with international jurisdictions

The Court's International Programs Unit collaborates with neighbouring judiciaries, predominantly across the Asia Pacific region, to promote governance, access to justice, and the rule of law. In 2017–18, the Court coordinated a number of activities and hosted several international visits.

Supreme Court of the Union of Myanmar

Further to a memorandum of understanding (MOU) signed between the courts in June 2016, the FCA has collaborated on several activities with the Supreme Court of the Union of Myanmar:

- In August 2017, the Court participated in a judicial colloquium on commercial law held at the Supreme Court of the Union. The colloquium was a collaboration between the Asian Development Bank and the University of New South Wales. Justice White and National Judicial Registrar Nicola Colbran participated in workshops which were attended by judicial officers from both the Supreme Court and District Courts of Myanmar.
- Following the 2016 Leadership and Change Management Workshop, held at the Supreme Court of the Union in Naypyidaw, the FCA's CEO and Principal Registrar delivered a further leadership and change management program for senior judges in December 2017.
- Following the April 2017 workshop on data collection analysis and annual report preparation, the FCA's Solutions Architect (Business Intelligence) delivered a further workshop in December 2017 on data collection analysis and reporting and assisted with the preparation and delivery of annual reports. The workshop was attended by judges and staff from the Information Technology division of the Supreme Court.
- In February 2018, Justice Yates and the CEO and Principal Registrar met with Justice Phyo Mouk of the Supreme Court to discuss the role of FCA judges and the Court's case management system.

Supreme Court of Indonesia

- In July 2017, a new trilateral MOU was signed between the FCA, Family Court of Australia, and the Supreme Court of the Republic of Indonesia. Speeches were given by the Chief Justices of the three courts during the ceremony. The courts will continue to collaborate on priority areas within the Supreme Court's strategic reform plan.

National and Supreme Courts of Papua New Guinea

- In November 2017, under the Pacific Judicial Strengthening Initiative (PJSI), a human rights workshop was facilitated for all National Court judges and District Court magistrates. The purpose of the workshop was to highlight the roles, responsibilities and relevance of judges and magistrates to apply human rights across all areas of the Court's work. These were the first court workshops to be held on the subject of human rights in Papua New Guinea.
- The PJSI provided ongoing assistance to the Centre for Judicial Excellence to build its capacity to provide domestic judicial training, and later transitioning to a regional provider.

Supreme Court of Vanuatu

- In July 2017, the CEO and Principal Registrar was invited by Chief Justice Lunabek of Vanuatu's Supreme Court to provide advice about improving the efficacy of the management of cases within the Supreme Court. The resulting Aide Memoire incorporates several recommendations that are being discussed and implemented.

Regional collaborations

The PJSI aims to build fairer societies by supporting the courts in 14 Pacific Island countries to develop more accessible, just, efficient and responsive justice services. The PJSI is funded by the New Zealand Ministry of Foreign Affairs and Trade and comprises various projects across five thematic areas – namely that change is driven locally (leadership); clients understand and are confident to exercise rights (access to justice); officers are delivering excellent service (professionalism); courts are delivering fair results (substantive justice); and cases are disposed of efficiently (procedural justice).

Leadership

- In September 2017 a Judicial Leadership Workshop was facilitated in Tonga by Deputy Principal Registrar John Mathieson and PJSI Technical Director Dr Livingston Armytage. The workshop focused on judicial leadership in the South Pacific, the impact of drivers of change facing the courts, and leadership approaches and tools in guiding courts successfully through challenges and change.
- In April 2018, the third Chief Justices' Leadership Forum and fourth PJSI Executive Committee Meeting were held in New Zealand. Chief Justices and/or their representatives from 13 Pacific Island countries considered the PJSI's progress and plans.

Access to justice

- In February 2018, a regional workshop 'Promoting Substantive Justice' was held in Port Vila. The workshop aimed to build the capacity of participating Pacific Island countries to improve the quality of substantive justice.
- In March 2018, a visit to the Marshall Islands aimed to improve access to justice and enable rights through community outreach and engagement. Following well-attended community consultations, a workshop was held in Majuro for judicial and clerical officers and members of the public.

Professionalism

- In August 2017, an orientation course was delivered in the Marshall Islands. Tasked with ensuring judicial and court officers operate professionally, and with the competence to provide quality procedural and substantive justice, a faculty of nine judicial and clerical officers, including Country Court of Victoria Judge Jane Patrick, led the training for 26 participants.
- In November 2017, a regional Judicial Officer orientation course was conducted in the Solomon Islands. The aim of the course was to induct 28 lay court actors, mainly adjudicators, in the fundamentals of judicial knowledge, skills and attitudes in order to perform their roles competently. An intensive two-day training-of-trainers workshop was held to build the competence and confidence of the regional faculty members to plan, deliver and manage judicial training on an ongoing local basis.
- Following collaboration with the University of the South Pacific, a new Certificate of Justice was launched in 2018. The course is a one-year, four-unit certificate designed for lay adjudicators and court administrators. The certificate provides participants with foundational legal training where they are unable to commit to the Bachelor of Laws, or do not meet its entry requirements.
- In May 2018, an orientation course was conducted in Samoa with the Lands and Titles Court, with 24 participants actively engaged in discussions to:
 - share and develop professional experience to further promote understanding of the judicial role and conduct on and off the bench
 - develop effective techniques of courtroom control
 - understand the principles and practices of procedural fairness in criminal and civil proceedings
 - explain the special interests of parties coming to court including juveniles, victims of crimes including sexual and gender-based violence, people with disabilities and those with language barriers, and
 - strengthen judicial identity and develop a regional professional resource network.

- In June 2018 an orientation course was held in the Solomon Islands, facilitated by the Solomon Islands Chief Justice, Dr Livingston Armytage from the PJSI, Justice Mortimer from the FCA, and Magistrate Greg Benn of the Western Australian Magistrates Court. The course built the capacity of local judges to act as trainers and covered a wide range of topics including case and courtroom management, judicial ethics, procedural fairness, dealing with vulnerable parties and witnesses, civil and criminal procedure issues and judicial wellbeing.

Substantive justice

- In November 2017, a Human Rights Toolkit and a Gender and Family Violence Toolkit were launched. The Human Rights Toolkit provides insight into how human rights principles are relevant and applied across all aspects of courts' work. The Gender and Family Violence Toolkit provides guidance enabling courts to measurably improve the accessibility and responsiveness of their services to the victims of violence against women.
- Also in November 2017, a visit to Nauru familiarised court actors with the gendered nature of domestic violence and the underlying causes, as well as key concepts in recently introduced legislation.
- In June 2018, a visit to Kiribati aimed to increase the knowledge and skills of court actors to understand the relevance of human rights activities and encourage the application of human rights standards in their respective roles within the courts.

Procedural justice

- In August 2017, a visit to Palau reviewed progress with respect to collecting and reporting on case data enabling public accountability and transparency. All Pacific Island countries continue to be supported to collect data against the Cook Island indicators, along with data disaggregated by gender, family violence and youth-related court.
- In April 2018, an Efficiency Toolkit was endorsed by the region's judicial leaders and will soon be piloted.
- Also in April 2018, the region's judicial leaders endorsed an information and communications technology (ICT) road map and a court performance planning and measurement strategy paper. The road map includes recommendations about the process for courts to become more technology-focused and capable. Ongoing remote support in planning, monitoring, evaluation and reporting on court performance is being provided to a number of partner courts.

Australian Competition and Consumer Commission

In April 2018, an MOU was signed between the FCA and the Australian Competition and Consumer Commission. The MOU provides the framework for the FCA to contribute to increasing legal certainty, promoting efficiency and fostering consistency and predictability among Association of Southeast Asian Nations (ASEAN) member states. Pursuant to the MOU, the FCA has contributed technical analysis and guidance to better identify, interpret and evaluate legal and economic concepts in making and reviewing decisions under competition laws. The analysis and guidance was provided by Justice Middleton and National Judicial Registrar Catherine Forbes.

Visitors to the Court

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

Bangladesh: In July 2017, the FCA in Sydney hosted a delegation of judges from Bangladesh. The CEO and Principal Registrar provided an overview of the Court's jurisdiction and structure, case management, electronic filing and the recent review of court management. The delegation later observed various family law hearings in the FCC. Judge Cameron then held discussions with the delegation on case management, listings and court administration.

Papua New Guinea: In September 2017, the Court in Sydney hosted a five-person delegation from Papua New Guinea's National and Supreme Courts to discuss the technical requirements to establish an eFiling system and the application, rules, process and procedures of eFiling in a court case management environment. In May 2018, the Queensland FCA library hosted a four-member delegation from the National and Supreme Courts of Papua New Guinea. The purpose of the visit was to provide advice, support and training to the delegation about library management and associated systems.

Vietnam: In December 2017, the FCA in Perth hosted a delegation of nine judges from the Supreme Peoples' Court of Vietnam and other provincial courts of Vietnam. The delegation was welcomed by National Judicial Registrar Russell Trott, and Director of Court Services Nick Pannell. The delegation inspected the Court's mediation suite and discussed mediation practice and procedure. The delegation also toured the Court building and observed three case management hearings in court, presided by Justice McKerracher, including a native title matter. The visit concluded with the delegates meeting Justice Siopis and Justice McKerracher and other FCA staff.

Myanmar: In February 2018, Justice Yates and the CEO and Principal Registrar met with Justice Phyo Mouk of the Supreme Court of the Union of Myanmar to learn more about the role of judges in the Australian Federal Court System, and, in particular, the Court's system of case management.

Japan: In February 2018, Justice Kenny and Acting District Registrar Luxton hosted a visit to the Court by Judge Yuri Takemura, Yokohama District Court, Tokyo.

Korea: In February 2018, Justice Kenny and Acting District Registrar Luxton hosted a visit to the Court by Judge Yun-Kyung Bae, Suwon District Court.

Sri Lanka: In April 2018, Justice Kenny and Acting District Registrar Luxton hosted a delegation of visiting judges from the Sri Lankan Court of Appeal. In May 2018, Chief Justice Allsop delivered a lecture on maritime arbitration to delegates from the Sri Lankan Attorney General's Department during their visit to the Court, as part of an International Commercial Arbitration Program.

Thailand: In May 2018, Justice Jagot welcomed a delegation of 30 members from the Thai judiciary. In June 2018, Justice Yates hosted a second delegation of 31 judges. The visit to the Court included discussions on consumer law, case management, court procedure and electronic filing.



MANAGEMENT OF THE COURT

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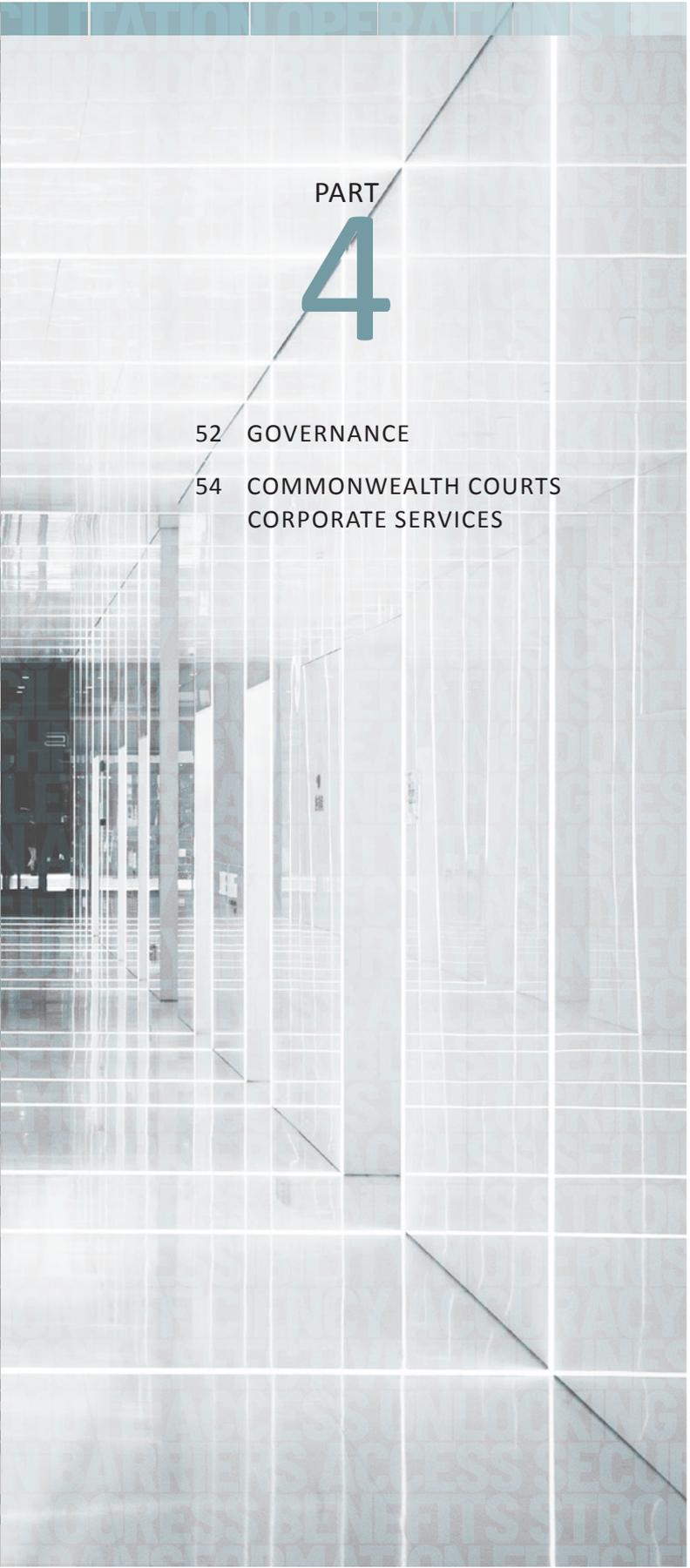
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PART

4

52 GOVERNANCE

54 COMMONWEALTH COURTS
CORPORATE SERVICES



MANAGEMENT OF THE COURT

GOVERNANCE

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

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

The Act also provides that the Chief Justice may delegate any of his or her administrative powers to judges, and that the 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 which facilitates the collegiate involvement of the judges of the Court. Judges also participate in the management of the Court through formal meetings of all judges. The registries and the judges' committees are discussed in more detail in this part.

Federal Court registry management structure

The Court is supported by a national registry structure, with a Principal Registry responsible for managing national issues; National Operations for the implementation of the National Court Framework and its ongoing function; a District Registry in each state and territory which supports the work of the Court at a local level; and Corporate Services for the provision of the corporate services functions to the FCA, Family Court of Australia (FCoA), Federal Circuit Court of Australia (FCC) and National Native Title Tribunal.

A diagram of the management structure of the Court is at Appendix 3.

Judges' committees

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

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

An overarching National Practice Committee provides advice to the Chief Justice and judges on practice and procedure reform and improvement. There are also a small number of standing committees that focus on specific issues within the framework of the Court's practice and procedure. All of the committees are supported by registry staff. The committees provide advice to the Chief Justice and to all judges at the bi-annual judges' meetings.

Judges' meetings

There were two meetings of all judges of the Court during the year, which dealt with matters such as reforms of the Court's practice and procedure, and amendments to the Rules of Court. Business matters discussed included the new practice notes under the National Court Framework, the organisational review, the corporate services merger, the progress of digital hearings, management of the Court's finances and cost savings initiatives.

Security

The safety of all people who attend or work in court premises is a high priority for the courts. Almost \$5.5 million was expended for court security services including the presence of security officers, weapons screening, staff training and other security measures. This excludes funding spent on security equipment maintenance and equipment upgrades. The Court has also committed during 2018–19 to upgrade its security equipment and systems to continue to maintain effective security across its sites.

External scrutiny

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

COMMONWEALTH COURTS CORPORATE SERVICES

Overview

In the 2015–16 Budget, the Australian Government announced that the corporate services of the FCoA and the FCC would be amalgamated with the FCA into a single administrative body with a single appropriation.

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

The Corporate Services body is managed by the FCA 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 a memorandum of understanding (MOU).

The amalgamated Corporate Services body 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.

Establishment

The *Courts Administration Legislation Amendment Act 2016* established the amalgamated body, known as the Federal Court of Australia, from 1 July 2016. This approach preserves each court's functional and judicial independence, while improving their financial sustainability.

Objectives

The objectives of Corporate Services are to:

- provide accurate, accessible and up-to-date information and advice
- standardise systems and process to increase efficiency
- build an agile and skilled workforce ready to meet the 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 FCA, FCoA, FCC and National Native Title Tribunal.

Corporate Services is expected to generate savings of \$14.129 million in operating costs over a five-year period (i.e. 2016–17 to 2020–21), with most of the savings realised in 2019–20 and 2020–21.

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

Throughout 2017–18, work continued on consolidating the merger of corporate services, focusing on ensuring the evolving needs of judges and staff across all the courts and tribunals were satisfied while delivering on required efficiencies to meet reduced appropriations.

Work continued on consolidation of IT systems and amalgamation projects targeted at simplifying the combined court environment to deliver more contemporary practices and efficiency improvements to reduce the cost of delivery.

Because much of the system consolidation work was finalised in the previous year in both the Finance and Human Resources areas, a focus during the year has been on reviewing and updating policies and procedures to ensure that there is a consistent and structured approach across the entity, simplifying policies where appropriate.

A particular focus has been on the development of an updated risk management framework to support the overall entity, with an updated suite of risk management documents and business continuity plans developed.

Efficiencies delivered by Corporate Services in 2017–18 include:

- Reduced cost of services to the courts by \$2.338 million, based on a reduction in appropriation from \$63.963 million in 2016–17 to \$61.625 million in 2017–18, and a further reduction in costs of \$2.017 million is required in 2018–19 to meet a reduced appropriation of \$59.608 million, excluding the modernisation fund.
- Reduction in staffing by a further 15 per cent on 2016–17 levels. This excludes staffing associated with the Digital Court Program. Corporate Services staff have reduced by 35 per cent over the last three years and is on target to achieve the target reduction for 2020–21.

The following outlines the major Corporate Services projects and achievements during the reporting year.

The work of Corporate Services in 2017–18

Financial management

Each of the three courts (the FCA, FCoA and FCC) has a Finance Committee which is made up of judges from the relevant court as well as the CEO and Principal Registrar.

These committees meet quarterly and oversee the financial management of their respective courts, with the Corporate Services supporting each of these committees.

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

Financial accounts

During 2017–18 revenue from ordinary activities totalled \$326.651 million.

Total revenue, in the main, comprised:

- an appropriation from Government of \$252.620 million
- \$41.821 million of resources received free of charge, for accommodation occupied by the Court in Commonwealth Law Courts buildings and the Law Courts Building in Sydney
- \$27.111 million of liabilities assumed by other government agencies, representing the notional value of employer superannuation payments for the courts' judges, and
- \$5.099 million from the sale of goods and services and other revenue and gains.

Pre-depreciation expenses of \$323.891 million in 2017–18 comprised \$96.705 million in judges' salaries and related expenses, \$110.690 million in employees' salaries and related expenses, \$61.598 million in property-related lease expenses, \$54.407 million in other administrative expenses, and \$0.492 million for the write-down of non-current assets and financing costs.

The net operating result from ordinary activities for 2017–18 was a surplus of \$2.760 million before depreciation expenses.

The surplus is an improvement on the approved deficit of \$2.5 million and is a result of the entity closely monitoring costs to ensure savings were achieved wherever possible to better position itself to manage within a financially constrained environment.

The next three-year budget cycle continues to challenge the entity to make further savings. From 2018–19 the entity is expected to achieve a balanced budget. With over 60 per cent of the entity's costs relating to property and judicial costs, which are largely fixed, the ability to reduce overarching costs is limited. When depreciation expenses of \$16.253 million are included, the Court's expenses for 2017–18 totalled \$340.144 million.

Equity decreased from \$71.900 million in 2016–17 to \$70.658 million in 2017–18.

Program statements for each of the Court's programs can be found on page 3.

Advertising and marketing services

As required under s 311A of the *Commonwealth Electoral Act 1918*, the Court must provide details of all amounts paid for advertising and marketing services. A total of \$88,313 was paid for recruitment advertising services in 2017–18. Payments for advertising the notification of native title applications, as required under the *Native Title Act 1993*, totalled \$129,531 over the reporting year.

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

Grant programs

The FCA made no grant payments in 2017–18.

Corporate governance

Audit and risk management

The CEO and Principal Registrar of the FCA 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 and there have been no cases of fraud during 2017–18 to be reported to the Australian Institute of Criminology.

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

- a single Audit Committee overseeing the entity that met four times during 2017–18. The committee comprises an independent chairperson, three judges from the FCA, one judge from the FCoA, one judge from the FCC and one additional external member. The CEO and Principal Registrars for each of the courts, the Executive Director Corporate Services, the Chief Financial Officer and representatives from the internal audit service provider and the Australian National Audit Office (ANAO) attend committee meetings as observers
- internal auditors, O'Connor Marsden and Associates, who conducted five 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.

Compliance report

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

Correction of errors in the 2016–17 annual report

The Court has no matters to report.

Purchasing

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

Information on consultancy services

The Court's policy on the selection and engagement of all contractors is based on the Australian Government's procurement policy framework as expressed in the Commonwealth Procurement Rules (January 2018) and associated Resource Management Guides and guidance documentation published by the Department of Finance.

The main function for which consultants were engaged related to the delivery of specialist and expert services, primarily in connection with the Court's 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 2017–18, nine new consultancy contracts were entered into, involving total actual expenditure of \$561,213. In addition, 11 ongoing consultancy contracts were active during 2017–18 which involved total actual expenditure of \$541,545.

Table 4.1 outlines expenditure trends for consultancy contracts over the four most recent financial years.

Table 4.1: Expenditure trends for consultancy contracts 2014–15 to 2017–18

Financial year	New contracts – actual expenditure	Ongoing contracts – actual expenditure
2017–18: FCA + FCoA/FCC	\$561,213	\$541,545
2016–17: FCA + FCoA/FCC	\$451,846	\$175,520
2015–16: FCA results only	\$840,278*	\$98,313*
2014–15: FCA results only	\$532,381*	\$88,000*

* FCA results only: pre-dates the amalgamation of the Commonwealth Courts Corporate Services.

Competitive tendering and contracting

During 2017–18, 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 2017–18, 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*.

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 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.

The Court recognises the importance of ensuring that SMEs are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury's website at www.treasury.gov.au.

To ensure SMEs are paid on time, the Court uses the following initiatives or practices:

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

Asset management

Commonwealth Law Court buildings

The Court occupies Commonwealth Law Court 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 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 MOU was signed by the Court with Department of Finance for 2017–18, as has been the annual practice since 2012, with negotiations yet to be reached on a long-term agreement.

Regional registries – leased

Corporate Services also manages some 13 regional registry buildings across the nation, located in leased premises. Leased premises locations include Albury, Cairns, Canberra, Dandenong, Dubbo, Launceston, Newcastle, Sydney, Townsville and Wollongong. There are also arrangements for 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 following arrangements are in place:

- the Court's Darwin registries (there is a separate registry for the FCoA, FCC and FCA) are co-located in the Northern Territory Supreme Court building under the terms of a Licence to Occupy between the Court and the Northern Territory Government, and

- the Court has an FCoA and FCC registry in Rockhampton, and formerly circuitised to this premises six weeks per year, under the terms of a Licence to Occupy between the Court and the Queensland Government. Since the Commonwealth Attorney-General announced a new full-time judicial appointment there in early 2016, negotiations with the Queensland Government regarding full-time accommodation options for the judge and registry has progressed. The Court is currently investigating the use of a Queensland Government vacant building within the legal precinct as a new dedicated registry for the region.

Queens Square, Sydney

The Federal Court in Sydney is located in the Law Courts Building in Queens Square, co-tenancing with 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 2017–18

The majority of capital works delivered in 2017–18 were projects addressing the urgent and essential business needs of the courts. Projects undertaken or commenced included:

- several public area furniture upgrades where items had reached end of life
- detailed scoping and developing statement of requirements for full security equipment upgrade through all registries
- stage 1 feasibility study for the expansion of the Newcastle registry into the adjoining building
- scoping and detailed design for a new mediation suite in Darwin
- scoping and concept design work on the establishment of a dedicated registry in Rockhampton with the appointment of a permanent judge to the location, and
- scoping and detailed design for expanded accommodation for the National Native Title Tribunal within the Commonwealth Law Courts in Brisbane.

Environmental management

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

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

- an Environmental Policy, which articulates the Court's commitment to raising environmental awareness and minimising the consumption of energy, water and waste in all accommodation
- a National Environmental Initiative Policy, which is intended to encourage staff to adopt water and energy savings practices. It provides clear recycling opportunities and guidance, encourages public transport and active travel to and from the workplace, and
- salary initiatives, offered for staff to purchase rainwater tanks, solar panels and hot water systems, to encourage active participation in environmental initiatives at all levels. Next year this initiative will be further developed to ensure broader and more active uptake across all court jurisdictions where possible.

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. Table 4.2 lists environmental impact/usage data where available (noting data is for the Full Court jurisdictions over the last two financial years, whereas before the amalgamation, all courts reported separately, and only FCoA and FCC figures were reported previous to the 2016–17 financial year).

Table 4.2: The Court's environmental impact/usage data, 2017-18

	2013-14 FCFCC only	2014-15 FCFCC only	2015-16 FCFCC only	2016-17 FCFCC and FCA	2017-18 FCFCC and FCA
Energy usage – privately leased sites (stationary)*	6237 GJ	5383 GJ	5722 GJ	5315 GJ	5483 GJ
Transport vehicles – energy usage	6035 GJ	5871 GJ	6002 GJ	112,721 L/ 970,500 km Petrol + 59,776 L/ 650,750 km Diesel + 4749 L/ 83,420 km dual fuel = 6535 GJ or 436.3 tonnes CO ₂	146,216 L/ 1,251,442 km Petrol + 54,250 L/ 553,917 km Diesel + 6099 L/ 61,559 km dual fuel = 7095 GJ or 502.9 tonnes CO ₂
Transport flights (estimated)	3,461,665 km 962 tonnes CO ₂	2,843,969 km 783** tonnes CO ₂	3,829,597 km Emissions report unavailable from new travel provider	FCFCC 3,247,252 km 532 tonnes CO ₂ FCA 6,421,353 km 909 tonnes CO ₂ Total 9,668,605 km 1442 tonnes CO ₂	FCFCC 2,818,008 km, 296 tonnes CO ₂ FCA 5,361,515 km 479 tonnes of CO ₂ Total 8,179,523 km 775 tonnes of CO ₂
Paper usage (office paper)	23,964 reams	30,385 reams	33,872 reams	FCFCC 29,576 reams FCA 6403 reams Total 35,979 reams	FCFCC 27,192 reams FCA 7825 reams Total 35,017 reams

FCFCC (Family Court and Federal Circuit Court).

* Note: The Department of Finance reports for the Commonwealth Law Courts; these figures are for the leased sites only.

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

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

The Court’s environmental management system 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 2017–18, the Court worked within its environmental management system to minimise its environmental impact through a number of specific measures, either new or continuing.

Energy

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

Information technology

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

Paper

- An electronic court file was introduced for the FCA and the FCC (general federal law) in 2014. Matters commencing with the courts are now handled entirely electronically. Over 59,000 electronic court files have been created, comprising almost 575,000 electronic documents – effectively replacing the use of paper in court files.
- Family law eFiling also continues to be expanded, with over 70 per cent of divorce applications now being electronically filed.
- 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 set to default double-sided printing and monochrome.

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.
- Fluorescent light globes continued to be recycled for all sites.

Property

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

- recycling demolished materials where possible
- maximising reuse of existing furniture and fittings
- engaging consultants with experience in sustainable development where possible and including environmental performance requirements in relevant contracts (design and construction)
- maximising the use of environmentally friendly products such as recycled content in furniture and fittings, low VOC (volatile organic compound) paint and adhesives, and energy efficient appliances, lighting and air conditioning
- installing water and energy efficient appliances, and
- project management – 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

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

Additional ecologically sustainable development implications

In 2017–18, 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.

Management of human resources

Staffing profile

At 30 June 2018, the Court employed 1181 employees under the *Public Service Act 1999* (this includes casual employees).

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

Employees are assigned to each jurisdiction as follows:

- FCA – 432 (includes 52 casual employees)
- National Native Title Tribunal – 59 (no casual employees)
- FCoA – 90 (includes three casual employees), and
- FCC – 600 (includes 30 casual employees).

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

At 30 June 2018, the Court employed 24 employees who identify as Indigenous. The breakdown in each jurisdiction is as follows:

- FCA – seven
- National Native Title Tribunal – four
- FCoA – zero, and
- FCC – 13.

More detailed information can be found in Appendix 9 (Staffing profile).

Employee consultation

The Court's approach to change management and human resources issues is characterised by transparency and consultation. The National Consultative Committees of the FCA, FCoA and FCC were combined in 2016 and the committee met three times throughout the year.

The Court's other Consultative Committees and Work Health and Safety Committee continued to operate. Minutes of all committees are placed on the courts' intranets where they are readily accessed by staff.

Enterprise agreement and workplace bargaining

The courts' two 2011–2014 enterprise agreements expired on 30 June 2014 and court management continued to hold negotiations with the Community and Public Sector Union and bargaining representatives for a replacement agreement during the year.

On 5 June 2018, the proposed agreement was approved by employees through a voting process whereby 888 employees voted to approve the agreement out of 927 who cast a valid vote. A total of 1183 employees were eligible to vote. The agreement was consistent with the Australian Government Public Sector Workplace Bargaining Policy.

The Court received approval of the new agreement from the Fair Work Commission on 31 July 2018 and the new agreement is due to commence on 7 August 2018.

During the reporting period, the Court relied on determinations under s 24 of the Public Service Act for setting the employment conditions of all substantive Senior Executive Service (SES) employees (see Table A9.10 in Appendix 9).

The enterprise agreements and s 24 determinations provide a range of monetary and non-monetary benefits to the Court's employees. Employees may choose to participate in salary sacrifice arrangements including for motor vehicles through novated lease, and for making additional superannuation contributions.

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

- motor vehicles
- car parking
- superannuation
- access to salary sacrificing arrangements
- computers, including home-based computer access
- membership of professional associations
- mobile phones
- study assistance
- leave flexibilities
- workplace responsibility allowances (e.g. first aid, fire warden, community language), and
- airline club memberships.

At 30 June 2018, the Court had:

- 16 employees on Australian workplace agreements (this number has increased from last year due to ongoing review of employee files as a result of the merging of the courts' corporate service functions)
- 13 employees on common law contracts
- 36 employees on individual flexibility arrangements
- 23 employees on determination s 24 arrangements, and
- 1164 employees covered by an enterprise agreement.

No performance bonus payments were made in 2017–18.

Work health and safety

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

Specific measures included:

- regular meetings of the national Work Health and Safety Committee, with three meetings held during the reporting year
- work health and safety workplace inspections and follow-up audits
- 139 ergonomic assessments for staff, conducted by external providers, with 50 conducted internally by trained health and safety representatives

- annual influenza vaccinations for all staff, with 737 employees taking up the vaccination offer
- access to eyesight testing and reimbursement for spectacles where needed for screen-based work
- access to free confidential counselling services through the Court's Employee Assistance Program
- access to professional debriefing following trauma/critical incidents in the workplace, as part of the Employee Assistance Program, and
- health and fitness related activities (e.g. participation in community-based fitness events) by providing funding via the Court's health and fitness policy. A weekly yoga class is held at the Sydney registry for staff to attend in their lunchbreak.

Agency and scheme workers' compensation average premium rates

The Court's workers' compensation premium for 2017–18 was 0.73 per cent of payroll costs.

Table 4.3: Premium rate summary for the Court's and the overall scheme since 2014–15

	2014–15	2015–16	2016–17	2017–18
Latest premium rates	1.18%	1.00%	1.02%	0.73%
Overall scheme premium rate	1.93%	1.85%	1.72%	1.23%

During the reporting year, the Court had:

- three potentially notifiable incidents were reported to Comcare under s 38 of the WHS Act. All three were notified as a precautionary measure, however did not meet the definition under the Act of a serious injury or illness
- one provisional improvement notice issued under s 90 of the WHS Act (the notice was withdrawn and the matter closed)
- no enforcement notices issued under Part 10 of the WHS Act, and
- no incidents under ss 83–86 of the WHS Act (ceasing of work due to a reasonable concern of exposure to serious risk).

Workforce planning

A critical component of the full implementation of the Court's National Court Framework and the Digital Court Program has been workforce planning to ensure that organisation structures and work practices are realigned and standardised across the Court, and that staff develop greater legal competency and strong skills for working in a digital environment, to support the work of judges and registrars and deliver high-quality and efficient services to clients.

As part of the re-orientation of positions within the Court during the year, there was an increase in advertised recruitment activity, movement of current staff, and initial, medium and long-term training and development to build capability to support the National Court Framework and its ongoing operation.

Retention strategies

The Court has a range of strategies in place to attract, develop, recognise and retain key staff, including flexible work conditions and individual flexibility agreements available under the enterprise agreements. The Court continued to refine and customise these through 2017–18 as required to meet specific issues and cases.

Work-life balance

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

Reward and recognition

The Court encourages and recognises exceptional performance through its annual National Excellent Service Award, which is presented by the Chief Justice each year to mark the anniversary of the Court's Foundation Day – 7 February 1977. The award recognises the work of individual staff and/or teams who consistently demonstrate a high level of commitment to service, integrity and professionalism.

The winner of the 2017 National Excellent Service Award was Stephen Williams, Court Services Coordinator. Stephen provides assistance with facilities management for the Queens Square Court building and coordinates national judicial ceremonies, meetings, conferences and events for the Court.

Training and development

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

The study assistance policy continued to operate and provided 28 employees with leave and/or financial assistance to pursue approved tertiary studies during 2017–18. The Court supports staff to gain tertiary qualifications in disciplines identified as important by the courts, the National Native Title Tribunal and the APS. The policy's objectives are to foster a highly skilled and committed workforce and to enhance the skills and employment prospects of staff.

Diversity

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

Disability reporting mechanism

Since 1994, non-corporate Commonwealth entities have reported on their performance as policy adviser, purchaser, employer, regulator and provider under the Commonwealth Disability Strategy. In 2007–08, reporting on the employer role was transferred to the APS State of the Service reports and the APS Statistical Bulletin. These reports are available at www.apsc.gov.au. From 2010–11, entities have no longer been required to report on these functions.

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

Information technology

The work of the Information Technology (IT) section in 2017–18 was focused on creating a technology environment that is simple, follows contemporary industry standards and meets the evolving needs of judges and staff across all of the courts and tribunals.

Achievements for 2017–18 follow.

Hybrid cloud

A key element of the Court's IT strategy is the development of a hybrid cloud architecture for the delivery of court applications. Many of the Court's applications are available in a software-as-a-service cloud model. Where security, performance and other considerations are met by the cloud model, these applications have been migrated to the cloud. Additionally, a tenancy has been established on the Microsoft Azure infrastructure-as-a-service platform. This is initially being used for development and test environments in support of the Digital Court Program.

Data centre consolidation

A project is underway to migrate server workloads from the former Family Court data centres in Canberra to a consolidated data centre in Sydney. To support this, new server and storage hardware has been built in the data centre. In keeping with the hybrid cloud strategy, this has been set up using a Microsoft tool set to allow workloads to be moved between the data centre and the Azure cloud environment. The migration of workloads from Canberra is being scheduled around key milestones of the Digital Court Program and is expected to be completed in 2018.

Secure internet gateway

As part of the data centre consolidation, the Court has commenced a project to consolidate the two secure internet gateway services of the former court entities into a single service. The first phase of this project was to align policy and configuration between the two gateways. The final phase is to physically relocate equipment from Canberra to the Sydney data centre and this is expected to be completed in 2018.

DevOps

As part of the Digital Court Program, the Court and its software development vendor have established a set of continuous integration and deployment (CI/CD) tools. These tools integrate with the Microsoft software development platform in use in the Digital Court Program and allow new software to be deployed to servers in a largely automated process. This is expected to improve the efficiency of software development in the program.

Test automation

As part of the DevOps tool set, the Court has deployed a number of test automation tools. This enables transaction on court systems to be automated, removing the need for data entry by test staff. In one test case, the time to execute was reduced from 90 minutes to five minutes. It is expected that this technology will allow the development teams to test software faster, more frequently and more extensively. A library of test cases is being developed and will be maintained as applications change in the future.

PC hardware

The Court has rolled out a new personal computer (PC) hardware model, with judges being provided a tablet-style PC, staff requiring mobility provided with an ultra-book laptop, and other staff provided with a slim-line desktop. The new model also provides dual monitors for all judges and staff, and support for Skype for Business videoconferencing using web cams. Touchscreen monitors have been deployed in court and chambers to provide judges with the ability to manipulate documents using a touch user interface.

New standard operating environment

As part of the new PC hardware rollout, the operating environment of the PCs has been modernised and standardised across the courts. The new operating environment runs on the latest versions of Windows, Office and Adobe. It is supported by a set of Microsoft software deployment and configuration tools. This has removed the last portions of the Family Court Novell environment and the Court is now fully standardised on Microsoft active directory and related platforms.

Artificial intelligence

In 2017, the Court established an Artificial Intelligence Committee. This committee is looking at the potential to use artificial intelligence and machine learning technologies to interrogate the Court's 'big data' and use what it learns to enhance access to justice and assist in resolving disputes as quickly, inexpensively and efficiently as possible.

The Court is developing a pilot project that will use artificial intelligence and machine learning technologies to make recommendations to parties in relation to property settlements and division of assets in the family law jurisdiction following the breakdown of a relationship. By applying this technology, the application will learn, understand and apply precedents and like cases to make just and equitable recommendations.

The growth of the pilot will provide a mechanism for early dispute resolution by empowering couples to reduce areas of dispute. The Court understands that the wider community expects technology to be used to increase access to justice by establishing less costly and quicker dispute resolution methods, and the Court believes this is one way of meeting that expectation.

Consolidated web platform

This project will reduce the number of content management systems used by the courts and the National Native Title Tribunal from four to one. It is expected that the new system will be procured before the end of 2018, with progressive migration to the new system commencing in early 2019. This project will bring a number of benefits, including more contemporary digital information services, more responsive systems to meet the demands of the increases in types of devices used by the community, and lower costs through a consolidated system for search, maintenance and support.

Websites

Federal Court

The FCA website is the main source of public information and a gateway to the Court's suite of online services such as eLodgment, eCourtroom and the Commonwealth Courts Portal (the Portal). It provides access to a range of information including court forms and fees, guides for court users, daily court lists and judgments.

In the reporting year, there were almost four million hits to the site. The most popular pages are consistently the daily court lists, online services and judgments.

In January 2018, the website was modified to include a new section of content targeted at jurors and potential jurors. The work was undertaken in preparation for the FCA's first jury trial which subsequently settled.

Family Court and Federal Circuit Court

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

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

- improvements to the homepage to make it easier for users to find the 'How do I' pages
- a focus on accessibility and providing more documents in accessible formats
- introduction of a Live Chat landing page to help users self-serve, and
- enhanced interactivity in pages across the websites.

Page views and the most accessed areas:

- **FCoA website:** 5,562,130 page views by 1,380,582 users – a decrease of 2 per cent from the previous year. The most popular pages were forms, divorce, court lists and property and finances after separation.
- **FCC website:** 5,116,602 page views by 910,351 users – an increase of 8 per cent on the previous year. The most popular pages were applying for divorce, court lists, forms, proof of divorce, and registering for the Portal and eFiling an application for divorce.

Digital strategy

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

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

One of the objectives of the digital strategy is to create an environment where actions are commenced, case managed and heard digitally. A significant component of this objective was achieved with the introduction of electronic court files in July 2014 for the FCA and FCC (general federal law). Matters commencing with the courts since the deployment of this system are now handled entirely electronically. The Court's official record for such matters is the electronic court file and, to date, over 56,000 electronic court files have been created.

The family law eFiling functions continue to be expanded with 70 per cent of divorce applications now being electronically filed. This, accompanied with the ability for staff to scan and upload documents to the case management system, has provided the FCC with a fully electronic divorce file.

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

In 2017–18, the number of active users of eLodgment increased to 20,375 and over 160,000 documents were electronically lodged. By June 2017, 98.8 per cent of documents filed with the Court were done so electronically.

Similarly, the following statistics highlight the significant growth in the number of Portal users as at 30 June 2018:

- 9186 firms are now registered (up from 7953 at 30 June 2017)
- lawyer registrations have increased to 19,259 (up from 16,527 at 30 June 2017), and
- total registered users is now at 409,116 (up from 317,248 at 30 June 2017).

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

During the reporting year, 535 general federal law matters were conducted in eCourtroom. The majority of these were applications for sub-service heard by the Court's registrars. These matters are ordinarily dealt with entirely in eCourtroom, saving the parties time and cost in attending court, and the Court costs in setting up courtrooms. Most matters in eCourtroom are completed within two weeks of the eCourtroom commencing.

The systems had a number of enhancements made in the reporting year. These included:

General federal law

- Automatic acceptance process for Bankruptcy Creditors Petitions and Corporations Winding Up applications, providing a quick return of documents for service that include a date for hearing.
- Updates to the fee structure to accommodate the biennial fee increase.

Family law

- Development of a streamlined write off functionality to ensure the Court meets audit requirements.
- Update to allow Divorce Orders to be printed on demand by clients.
- Further enhancements to the sign and seal functionality for orders.
- Updates to the fee structure to accommodate the biennial fee increase.

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

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

Recordkeeping and information management

Corporate coverage

Records management covers the records of the FCA, FCoA, FCC, National Native Title Tribunal, Australian Competition Tribunal, Copyright Tribunal of Australia and Defence Force Discipline Appeal Tribunal.

Records management system

A new records management system (Open Text Content Suite) has been selected to replace the three electronic document and records management systems inherited from the corporate services amalgamation. Legacy records will be migrated to the new system. The Court now has the same product for both the digital court file and corporate records.

Working digitally

The Court continues to implement and embrace a transition to working digitally. All personnel records are now created digitally and a scanning project is underway to scan the personnel physical files.

New records (disposal) authority

A consultant has been engaged to create a new records authority for the entity. The new authority will replace the present seven authorities covering the courts and tribunals.

National Archives reporting

The National Archives of Australia's annual check-up report saw improvements in all reporting areas: governance and people, digital assets and processes, and metadata and standards. The Court is well advanced in achieving the digital benchmarks for federal agencies by 2020.

Information Governance Committee

The Information Governance Committee continues to monitor the information governance for the entity. The committee endorsed the role of Chief Information Governance Officer with the chair of the committee presently acting in the role. Awareness of the information governance framework will be part of the staff induction program.

Records Policy Committee

The committee continues to recommend policy changes to establish common practices across all court registries. Membership was extended to include additional representation from the FCoA and FCC.

Native title files and preservation pilot project

A set of principles has been established governing the access of native title court files and native title tribunal files. Discussion on the principles will be held with Indigenous bodies.

Audiovisual presentation project

An audit of native title audiovisual resources is being conducted to identify resources held in analogue formats. These resources will be converted to digital formats so they will be accessible into the future.

Tribunals

Access policies have been approved allowing the files of the Competition Tribunal and significant Copyright Tribunal files to be transferred to the National Archives for public access.

National contracts

The Court has negotiated a national records management services contract covering all the courts and tribunals until 2020. A national copyright agreement has also been negotiated covering the courts and tribunals until 2021.

Archives and image gallery

The archives and image gallery continues to be a valuable source of information on the Court's history, including information on judges' ceremonies, transcripts, speeches, articles and portraits, photos of court buildings, court artworks, newsletters and significant other resources.

Library services

The library provides a comprehensive library service to judges and staff of the FCA, FCoA and FCC, and Members and staff of the National Native Title Tribunal.

The library collection consists of print and electronic materials and is distributed nationally, with qualified librarians in each state capital except Hobart, Canberra and Darwin. Services to Tasmania, the Australian Capital Territory and the Northern Territory are provided by staff in the Victorian, New South Wales and South Australian libraries, respectively.

In Sydney, FCA judges and staff are supported by the New South Wales Law Courts Library under a Heads of Agreement between the FCA and New South Wales Department of Justice. The hardcopy collections in Canberra and Darwin have recently been rationalised with a focus on key working tools.

Although primarily legal in nature, the FCA library collection includes material on Indigenous history and anthropology to support the native title practice areas, and material on children and families to support the family consultants.

Details of items held in the collection are publicly available through the Library Catalogue and Native Title Infobase which are accessible from the FCA website. The library's holdings are also added to Libraries Australia and are available through Trove.

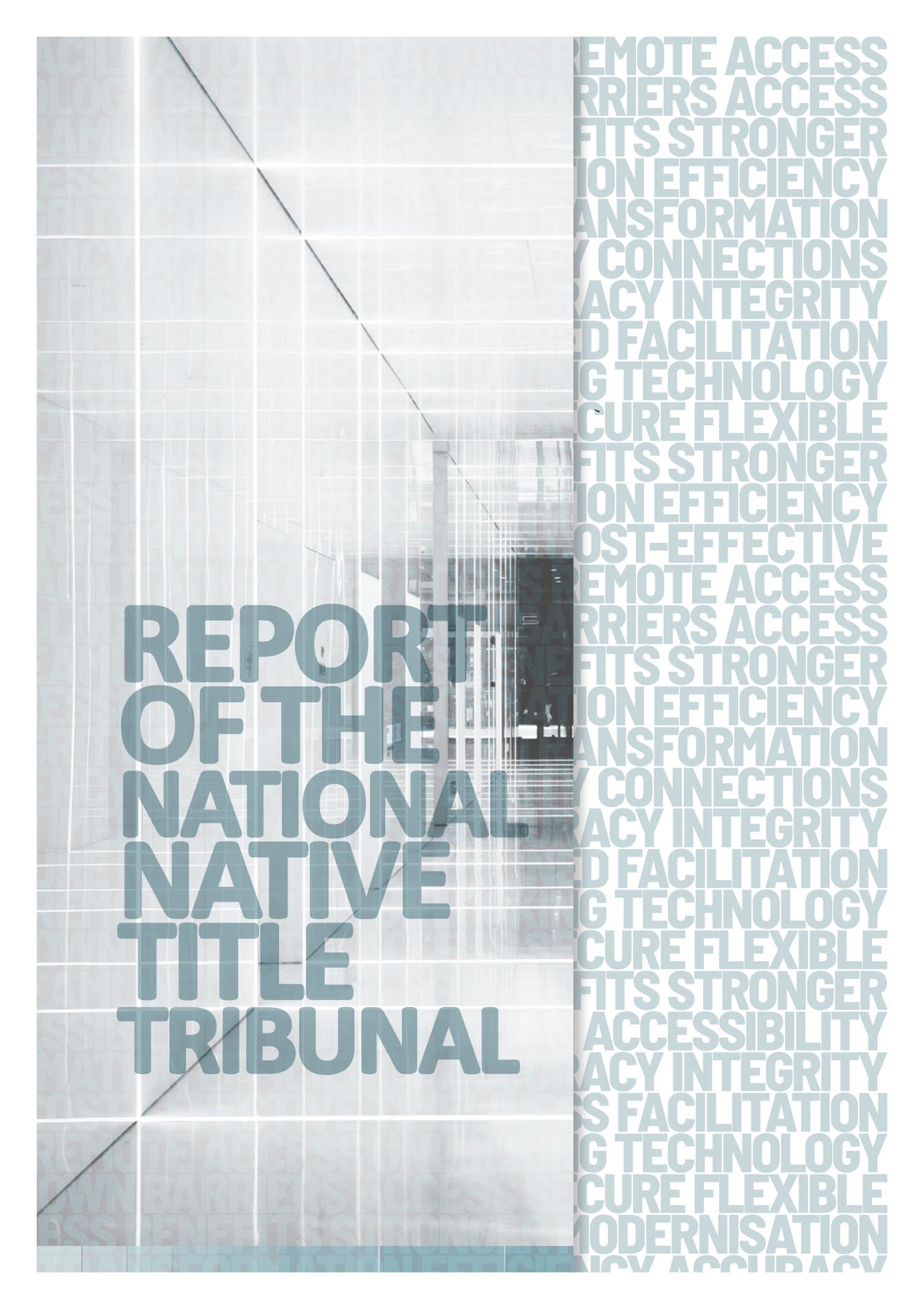
The FCA library continues to be a member of the New South Wales Department of Justice Consortium for the purchase of LexisNexis and CCH products and services and the Australian Courts Consortium for a shared library management system using SirsiDynix software.

Significant projects completed over the last 12 months include the creation of the FCoA Archives and significant redevelopment of the Family Consultants' Core Knowledge Database.

Assistance to the Asia Pacific region

The FCA library in Brisbane hosted a delegation of staff from the Papua New Guinea National and Supreme Courts in May 2018.

The FCA library in Melbourne is preparing law reports to send to the Supreme Court of Tonga.



REPORT OF THE NATIONAL NATIVE TITLE TRIBUNAL

REMOTE ACCESS
BARRIERS ACCESS
FITS STRONGER
ION EFFICIENCY
TRANSFORMATION
Y CONNECTIONS
RACY INTEGRITY
D FACILITATION
G TECHNOLOGY
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ACCESSIBILITY
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S FACILITATION
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CURE FLEXIBLE
MODERNISATION
ICY ACCURACY

PART

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REPORT OF THE NATIONAL NATIVE TITLE TRIBUNAL

OVERVIEW OF THE TRIBUNAL

In March 2018, the current Native Title Registrar was appointed. In April 2018, the current President of the National Native Title Tribunal was appointed. Since those appointments, the Tribunal has sought to focus more clearly upon its statutory functions (core business), having regard to proposed amendments to the *Native Title Act 1993* (Cth) (the Act). Such focus has involved identification of areas in which resources may be redeployed in order to achieve increased efficiency, thus developing a capacity to undertake new responsibilities which may result from the anticipated amendments.

ESTABLISHMENT

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

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

FUNCTIONS AND POWERS

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

- mediating in native title proceedings, upon referral by the Federal Court of Australia (FCA)
- 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
- 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 FCA)
- conducting native title application inquiries as directed by the FCA, and
- conducting special inquiries under Ministerial direction.

The President is responsible for managing the administrative affairs of the Tribunal. The President is assisted by the Chief Executive Officer (CEO) and Principal Registrar of the FCA. The CEO and Principal

Registrar may delegate his or her responsibilities under the Act to the Native Title Registrar, Deputy Registrar or staff assisting the Tribunal. Deputy Registrars and staff assisting the Tribunal are made available for that purpose by the FCA.

The Act gives the Registrar specific responsibilities, including:

- assisting people to prepare applications and to help them, and other persons in matters relating to proceedings in the Tribunal
- considering whether claimant applications should be registered on the Register of Native Title Claims
- giving notice of applications to individuals, organisations, governments and the public in accordance with the Act
- registering ILUAs that meet the registration requirements of the Act, and
- maintaining the Register of Native Title Claims, the National Native Title Register and the Register of ILUAs.

THE PRESIDENT, MEMBERS AND THE NATIVE TITLE REGISTRAR

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

The following particulars are provided concerning statutory office-holders:

Table 5.1: Current Tribunal statutory office holders

Name	Title	Appointed	Term	Location
The Hon John Dowsett AM	President	27 April 2018	Five years	Brisbane
Helen Shurven	Member	Reappointed 29 November 2017	Five years	Perth
James McNamara	Member	31 March 2014	Five years	Brisbane
Christine Fewings	Native Title Registrar	14 March 2018	Five years	Brisbane

OFFICE LOCATIONS

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

THE YEAR IN REVIEW

From the end of March 2018 until the end of April 2018, Tribunal activities were somewhat limited as the result of the retirement of the former President and the departure of other senior personnel. May and June 2018 were largely devoted to planning a reorganisation of the Tribunal, including discussions with staff concerning such reorganisation and its implementation.

Service delivery

During the year the Tribunal developed a new online mapping application, showing the areas covered by determinations that native title exists, and in respect of which registered native title bodies corporate (RNTBC) have been appointed. This application is available from the Tribunal website.

The Tribunal has also extended the availability of web map services to members of the public. Users of existing mapping software can now display information in their own web applications, derived from the Tribunal. The same information can also be used in compatible desktop geographic information system (GIS) software.

In April 2018, the Tribunal added interactive maps to the search result pages on its website. When a visitor searches for a claim, determination or ILUA, the search result will include a map of the area concerned. The interactive map enables the user to zoom in and out, change the map background, and add layers to show other claims and determinations.

In response to requests from stakeholders, the Native Title Registrar approved the publication online of historical claim boundaries.

Stakeholder engagement

The Office of the Registrar of Indigenous Corporations, the Tribunal and the Torres Strait Regional Authority have formalised arrangements to improve cooperation and information sharing to assist Torres Strait RNTBCs with governance, native title training and dispute resolution. The aim is to build stronger and more capable RNTBCs.

Continuing with its initiative to support and strengthen Prescribed Bodies Corporate (PBC), the Tribunal convened meetings of the PBC Support Forum in Perth, Adelaide and Melbourne. This unique inter-agency forum brings together government and non-government bodies to identify ways in which to deliver more targeted support to PBCs. After taking the lead on this forum for the past two years, the Tribunal will continue to actively contribute under the leadership of the National Native Title Council.

During the year, the Tribunal delivered native title information sessions tailored to the needs of relevant client groups. On 26 October 2017, Member McNamara and former Director of Research and Business Development, Dr Pamela McGrath, delivered a workshop to Queensland local governments. Attended by representatives from 11 regions and the Local Government Association of Queensland, the aim of the workshop was to foster better understanding of native title issues and potential information needs of local government.

At the request of the Kimberley Land Council, the Tribunal undertook professional legal development training for lawyers in Western Australia's Native Title Representative Bodies. The program was launched in Broome in December 2017 and repeated in Perth in March 2018. Over 80 of Western Australia's native title lawyers attended. The Tribunal has received expressions of interest in the provision of similar training in other states.

External factors

In December 2017 the Commonwealth Attorney-General's Department released an options paper entitled *Reforms to the Native Title Act 1993* (Cth). Submissions concerning the proposals closed on 28 February 2018. The options paper draws on previous reviews and focuses on achieving improved efficiency and transparency in the operation of the Act. Some of the proposed amendments will affect the role of the Tribunal and/or that of the Native Title Registrar. These amendments will affect s 31 agreements and ILUAs, confer improved powers to facilitate native title outcomes and improve transparency and accountability of PBCs in relation to membership and funds management, with additional support from the Office of the Registrar of Indigenous Corporations, the Tribunal and the FCA.

Court decisions

During the reporting period, several High Court and FCA decisions have affected the Tribunal's work.

In *Charles v Sheffield Resources Limited* [2017] FCAFC 218 (Sheffield), the Full Court of the FCA held that a good faith issue may be raised at any time during the Tribunal's future act determination process. The Full Court remitted the matter to the Tribunal for rehearing.

In *Forrest v Wilson* [2017] HCA 30, the High Court held certain mining lease applications to be invalid because such applications were not accompanied by mineralisation reports as required by the relevant Western Australian legislation. The Western Australian Government has identified 40 pending applications that are invalid by virtue of the High Court's decision. Another 14 applications may be invalid. Of these applications, seven are currently in the Tribunal's future act process.

In *BHP Billiton Nickel West Pty Ltd v KN (deceased) (TJIWAL and TJIWAL #2)* [2018] FCAFC 8, the Full Court of the FCA considered whether the term 'lease' in s 47B(1)(b)(i) of the Act included an exploration licence issued pursuant to Western Australian legislation. Section 47B of the Act provides that historical extinguishment of native title over an area can be disregarded if, at the time at which the native title claim is lodged, that area is occupied by the claim group and is not covered by a freehold estate, lease or reservation. The trial judge found that the term 'lease' included a mining lease, but did not include an exploration licence. The Full Court held that the term 'lease' included an exploration licence. This finding may have significant consequences for native title applicants as exploration licences typically cover much larger areas than do mining leases. For example, in 2016, approximately 2.4 million hectares of Western Australia were covered by mining leases, while 31 million hectares were covered by exploration licences. Hence it seems likely that it will be more difficult for native title applicants to establish rights to exclusive possession.

Cultural understanding and respect

In conjunction with the FCA, the Tribunal is developing an Indigenous employment strategy. It is also supporting the FCA's development of a new Reconciliation Action Plan.

Other steps designed to foster an understanding of and respect for Indigenous culture include:

- maintaining the Indigenous Advisory Group
- classifying all Tribunal positions as identified positions, so that all employees will have effective communications skills and an understanding of the issues affecting Indigenous Australian peoples
- meeting the Australian Public Service Commission guidelines, particularly in ensuring that Aboriginal and Torres Strait Islander selection criteria are in all job descriptions
- ensuring that, where possible, recruitment panels include an Indigenous panel member (at level of position or above) and requiring recommended applicants to provide Indigenous referees
- ensuring practices and procedures within the Tribunal are delivered in a manner that is consistent with the requirements of the Act, it being beneficial legislation for Indigenous Australian peoples, and
- creating more culturally acceptable spaces for Indigenous Australian peoples in office redevelopment plans.

Creating efficiencies

The Tribunal has revised and improved a number of business processes, including concurrent processing of registration testing, the use of plain English in all documentation, and regular reporting to the FCA in relation to notification and registration timeframes.

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

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

THE TRIBUNAL'S WORK IN 2017–18

General overview

Information about statutory functions and trends and quantitative data relating to services provided by the Tribunal and the Registrar is detailed below.

FUNCTIONS OF THE TRIBUNAL

Future acts

Overview

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

As outlined in Table 5.2, the disproportionate numbers of objection applications between Western Australia and Queensland are, in part, due to differing attitudes between the relevant state departments concerning future act negotiations.

Expedited procedure objection applications and inquiries

Under s 29(7) of the Act, a government party may assert that the proposed future act is an act that

attracts the expedited procedure (i.e. that it is an act that will have minimal impact on native title) and, as such, does not give rise to procedural rights to negotiate which 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 928 objection applications were lodged during the reporting period. The ratio of objection applications lodged to notices issued remained at a similar level to that in the preceding reporting period, with approximately 26 per cent of notices attracting objection applications. However, fewer objection applications were lodged.

The number of active applications at the end of the reporting period was 527, roughly comparable with figures across the last few years. More than 400 objections were withdrawn after agreement was reached between the native title party and the relevant proponent. A further 245 objection applications were finalised by the withdrawal of the tenement applications by the proponents.

Forty-eight determinations of objection applications were made during the reporting period, a small increase from the previous year. The expedited procedure was determined to apply on 39 occasions, and on nine occasions, the expedited procedure was determined not to apply.

Table 5.2: Number of applications lodged with the Tribunal in 2017–18

Future act	QLD	WA	Total
Objections to expedited procedure	64	864	928
Future act determination applications	16	13	29
Total	80	877	957

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

If a proposed future act does not attract the expedited procedure, the parties seek to negotiate agreement to the proposed future act. Any party may request Tribunal assistance in mediating among parties in order to reach agreement. During the reporting period, there were 21 new requests for Tribunal mediation assistance.

The Act prescribes a minimum six-month negotiation period. After that time, any party to the negotiation may lodge a future act determination application. During the reporting period, 29 applications were lodged, eight more than in the previous reporting period.

The Act requires that the parties negotiate in good faith concerning the proposed future act. If there has been a failure to negotiate in good faith by a party, other than a native title party, the Tribunal has no power to determine the application. If any party asserts that negotiations in good faith have not occurred, the Tribunal will hold a preliminary inquiry to establish whether or not that is the case. During the reporting period, there were five 'good faith' determinations. In one case, the Tribunal

determined that good faith negotiations had not occurred. The parties were required to negotiate further before the matter could be brought back to the Tribunal for arbitration.

Thirty-eight future act determination applications were finalised during the reporting period, a 40 per cent increase compared with the prior reporting period. In nine cases, the Tribunal determined that the future act might be done. In ten cases, it determined that the act might be done, subject to conditions. The remaining future act determination applications were either withdrawn or dismissed. Three applications were withdrawn following agreement between the parties.

Mediation

Section 203BK(3) of the Act provides that a representative Aboriginal/Torres Strait Islander body may seek the assistance of the Tribunal in dispute resolution, subject to there being agreement for payment for such assistance. In the reporting period, the Tribunal provided such assistance in four cases.

During the reporting period, no assistance in negotiating an agreement under s 86F of the Act was provided.

FUNCTIONS OF THE NATIVE TITLE REGISTRAR

Table 5.3: Number of applications referred to or lodged with the Native Title Registrar for registration in 2017–18

Native title determination applications	NSW	NT	QLD	SA	VIC	WA	Total
Claimant (new)	7	9	9	3	0	15	43
Non-claimant	13	0	17	0	0	0	30
Compensation (new)	0	0	0	0	0	0	0
Compensation (amended)	0	0	0	0	0	0	0
Revised native title determination	0	0	0	0	0	0	0
Total	20	9	26	3	0	15	73

Claimant and amended applications: assistance and registration

Sections 190A–190C of the Act require the 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 provides the Registrar with a copy of each new or amended claimant application and accompanying documents filed in the FCA.

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

During the reporting period, the Registrar received 43 new claimant applications, almost double the number received in the previous reporting period. Most new applications and amended applications were filed in Queensland and Western Australia.

Fifty-two applications were considered for registration during the reporting period. Thirty-three were accepted for registration, and 19 were not accepted.

During the reporting period, 10 applications were subjected to preliminary assessment.

Indigenous land use agreements: assistance and registration

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

During the reporting period, assistance was provided on 107 occasions, generally in the form of mapping assistance and the provision of related information.

Under the Act, parties to an ILUA (whether a body corporate agreement, area agreement or alternative procedure agreement) must apply to the Registrar for registration 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 1220 ILUAs are currently on the Register of ILUAs, the majority of which are in Queensland. Many provide for the exercise of native title rights and interests over pastoral leases. Others deal with a wide range of native title related matters, including local government issues, mining, state-protected areas and community infrastructure such as social housing.

A total of 50 ILUAs were considered for registration during the reporting period. Twenty-nine body corporate and 19 area agreement ILUAs were accepted for registration and entered in the register. One body corporate ILUA and one area agreement ILUA were not accepted for registration.

The average time taken to register an area agreement increased as compared to the average time in the last reporting period.

Assistance in negotiating Indigenous land use agreements

During the reporting period the Tribunal received one request for assistance in negotiating an ILUA pursuant to s 24BF (body corporate agreements) of the Act.

Notification

During the reporting period, 59 native title determination applications were notified, compared with 51 in the previous reporting period. Of the 59, 34 were claimant applications, 24 were non-claimant applications, and one was a revised determination.

A total of 55 ILUAs were notified during the period.

Other forms of assistance

Assistance in relation to applications and proceedings

Section 78(1) of the Act authorises the Registrar to give such assistance as he or she thinks reasonable to people preparing applications and at any stage in subsequent proceedings. That section also provides that the Registrar may help other people in relation to those proceedings. During the reporting period, such assistance was provided on 195 occasions.

As in previous years, many of the requests were for the provision of geospatial products.

Searches of registers

Pursuant to s 78(2) of the Act, 1653 searches of registers and other records were conducted during the reporting period, an increase of about 300 on the number in the previous reporting period.

The Register of Native Title Claims

Under s 185(2) of the Act the Registrar has responsibility for establishing and keeping a Register of Native Title Claims. This register records the details of claimant applications that have met the statutory conditions for registration prescribed by ss 190A–190C of the Act. As at 30 June 2018, there was a total of 188 claimant applications on this register.

The National Native Title Register

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

As at 30 June 2018, a total of 418 determinations had been registered, including 69 determinations that native title does not exist.

Map 1 shows registered native title determinations as at 30 June 2018.

The Register of Indigenous Land Use Agreements

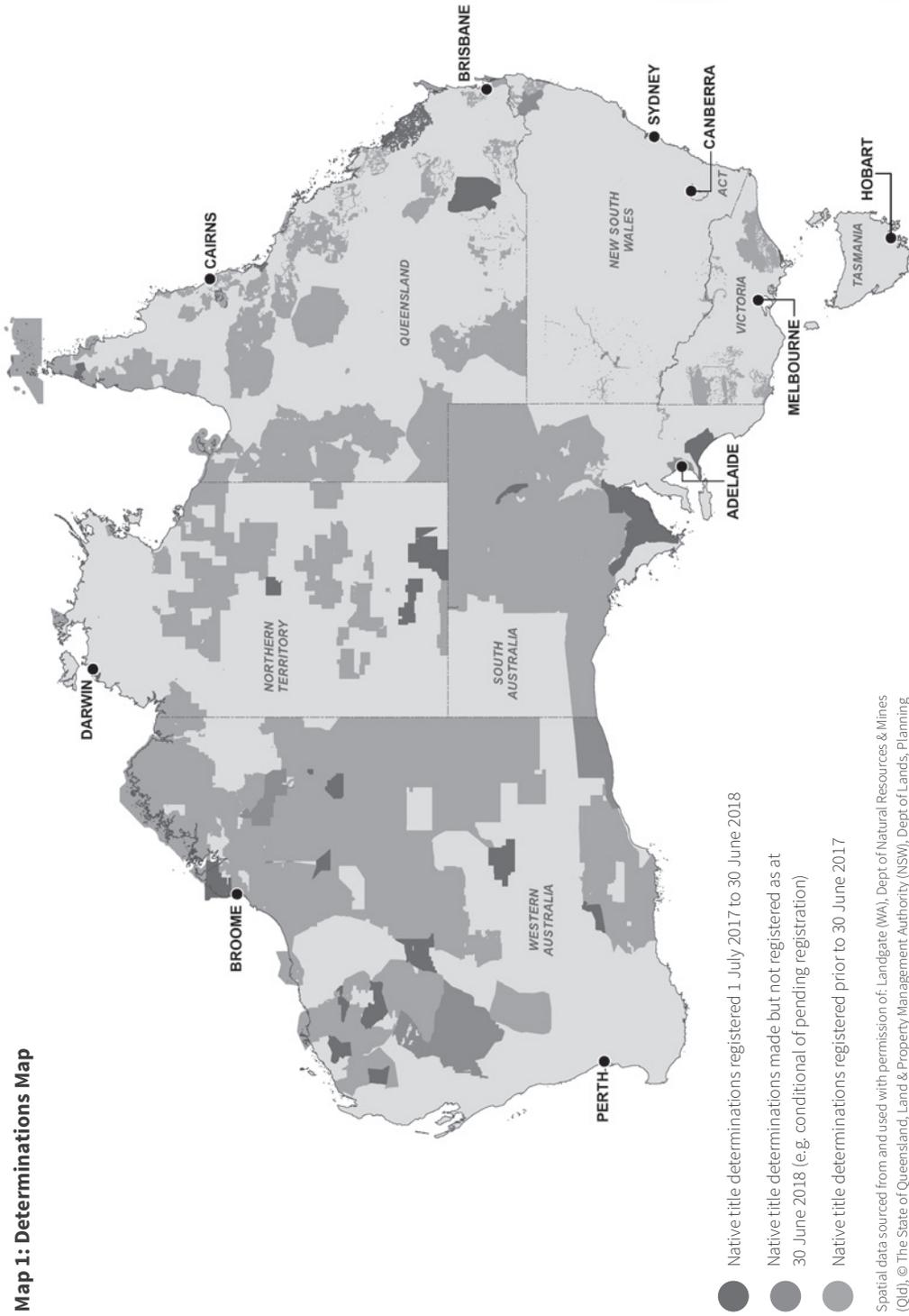
Under s 199A(2) of the Act, the Registrar must establish and keep a Register of Indigenous Land Use Agreements, in which area agreements and body corporate and alternative procedure ILUAs are registered. At 30 June 2018, there were 1220 ILUAs registered on the Register of Indigenous Land Use Agreements.

MAPS

The 428 registered determinations as at 30 June 2018 covered a total area of about 3,067,526 square kilometres or 37.8 per cent of the land mass of Australia and approximately 103,788 square kilometres of sea (below the high water mark) (see Map 1).

Registered ILUAs cover about 2,325,827 square kilometres or 30.2 per cent of the land mass of Australia and approximately 29,764 square kilometres of sea (see Map 2).

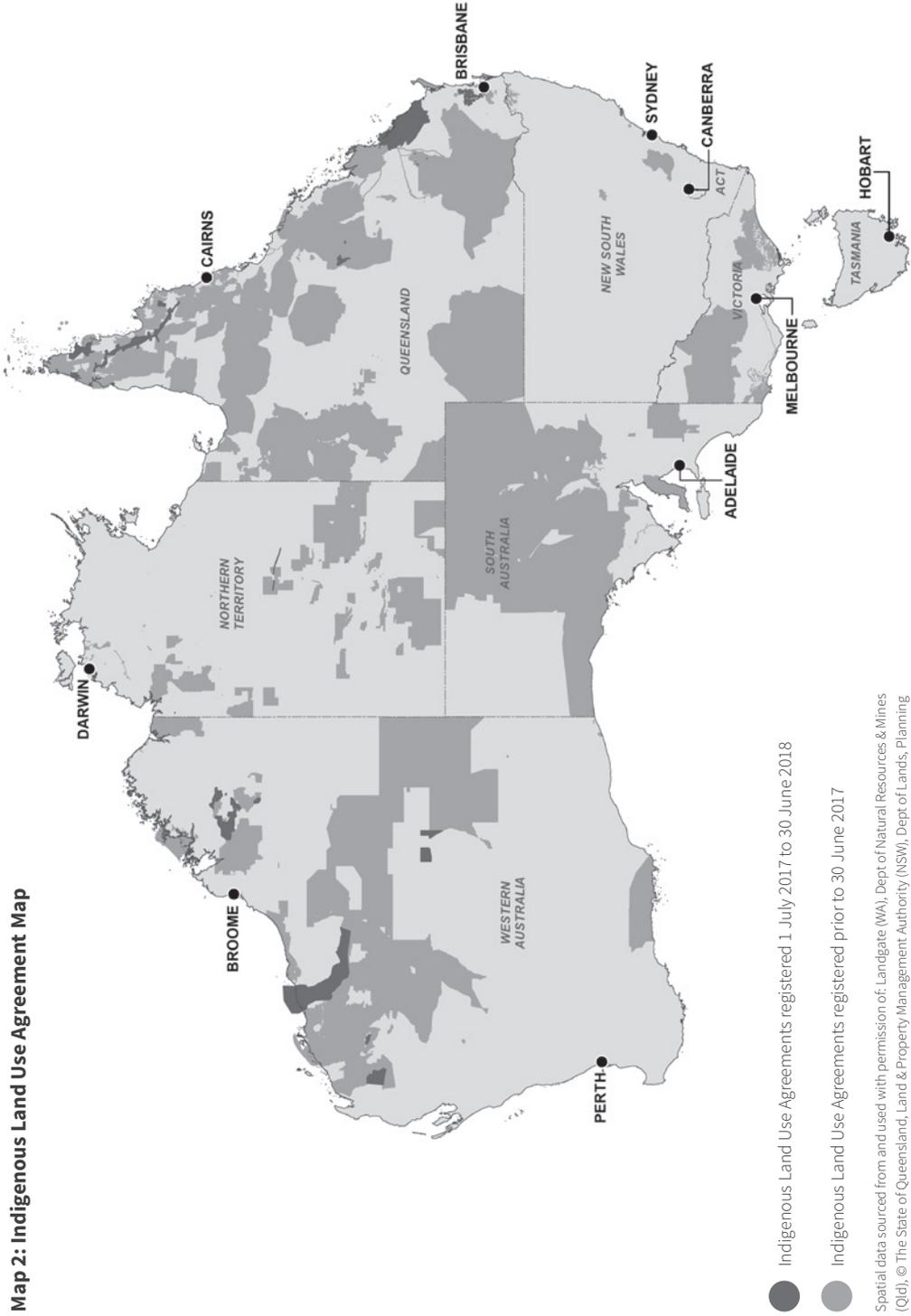
Map 1: Determinations Map



- Native title determinations registered 1 July 2017 to 30 June 2018
- Native title determinations made but not registered as at 30 June 2018 (e.g. conditional of pending registration)
- Native title determinations registered prior to 30 June 2017

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

Map 2: Indigenous Land Use Agreement Map



- Indigenous Land Use Agreements registered 1 July 2017 to 30 June 2018
 - Indigenous Land Use Agreements registered prior to 30 June 2017
- Spatial data sourced from and used with permission of: Landgate (WA), Dept of Natural Resources & Mines (Qld), © The State of Queensland, Land & Property Management Authority (NSW), Dept of Lands, Planning & the Environment (NT), Dept for Planning, Transport & Infrastructure (SA), Dept of Environment and Primary Industries (Vic) and Geoscience Australia, Australian Government, © Commonwealth of Australia.

MANAGEMENT OF THE TRIBUNAL

Tribunal governance

The President has statutory responsibility for the administration of the Tribunal. The President and Registrar set the strategic direction of the Tribunal and are responsible for its performance. During the reporting period, the President and other Members met regularly.

Financial review

The FCA's appropriation includes funding for the operations of the Tribunal. This funding is set out as sub-program 1.1.2 in the Court's Portfolio Budget Statements. \$10.193 million was allocated for the Tribunal's operations in 2017–18.

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

Table 5.4 presents the financial operating statement, summarising the Tribunal's revenue and expenditure for 2017–18.

Table 5.4: Financial operating statement

Year ending 30 June 2018	Actual (\$'000)	Budget (\$'000)	Variance (\$'000)
Appropriation	10,193	10,193	0
Service receipts	7	8	-1
Total revenue	10,199	10,200	-1
Staff expenses	9,169	9,207	38
Supplier expenses	799	992	193
Total expenses	9,968	10,199	231
Surplus/Deficit	231	1	230

EXTERNAL SCRUTINY

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.

Members' Code of Conduct

Members of the Tribunal are subject to various statutory provisions relating to behaviour and capacity. While the Registrar is subject to the 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.

Tribunal Members have voluntarily adopted a code of conduct, procedures for dealing with alleged breaches of the code and an expanded conflict of interest policy. During the reporting period, there were no complaints under these documents.

Online services

The Tribunal maintains a website at www.nntt.gov.au. During the reporting period, online functionality was expanded in relation to statistical and geospatial information.

Australian Human Rights Commission

Under s 209 of the Act, the Aboriginal and Torres Strait Islander Social Justice Commissioner must report annually on the operation of the act and its effect on the exercise and enjoyment of human rights by Aboriginal peoples and Torres Strait Islanders.

The Tribunal continues to assist the Commissioner as requested.

ANNEXURE

President's presentations

Former President Raelene Webb: presentations 1 July 2017 to 30 March 2018

Date	Title	Event	Organisers
20 July 2017	Native title re-imagined: the perspective of Justice Kirby	Annual Michael Kirby Lecture	Southern Cross University, Gold Coast campus
23 August 2017	The National Native Title Tribunal	Judges NT Education Day	Federal Court of Australia
6 September 2017	Leading with purpose and influence	Continuing professional development legal training	Legalwise
16–18 October 2017	Stronger partners, stronger futures	Co-designing the future workshop	Department of Premier and Cabinet, South Australia
14 November 2017	The evolution of native title law: swings and roundabouts	Continuing professional development legal training	Legalwise Seminars
18–23 March 2018	Management of native title – treaties and land governance – whose land is it anyway? Australia's next 'wicked' problem	Annual conference on land and poverty 2018, Washington DC	World Bank

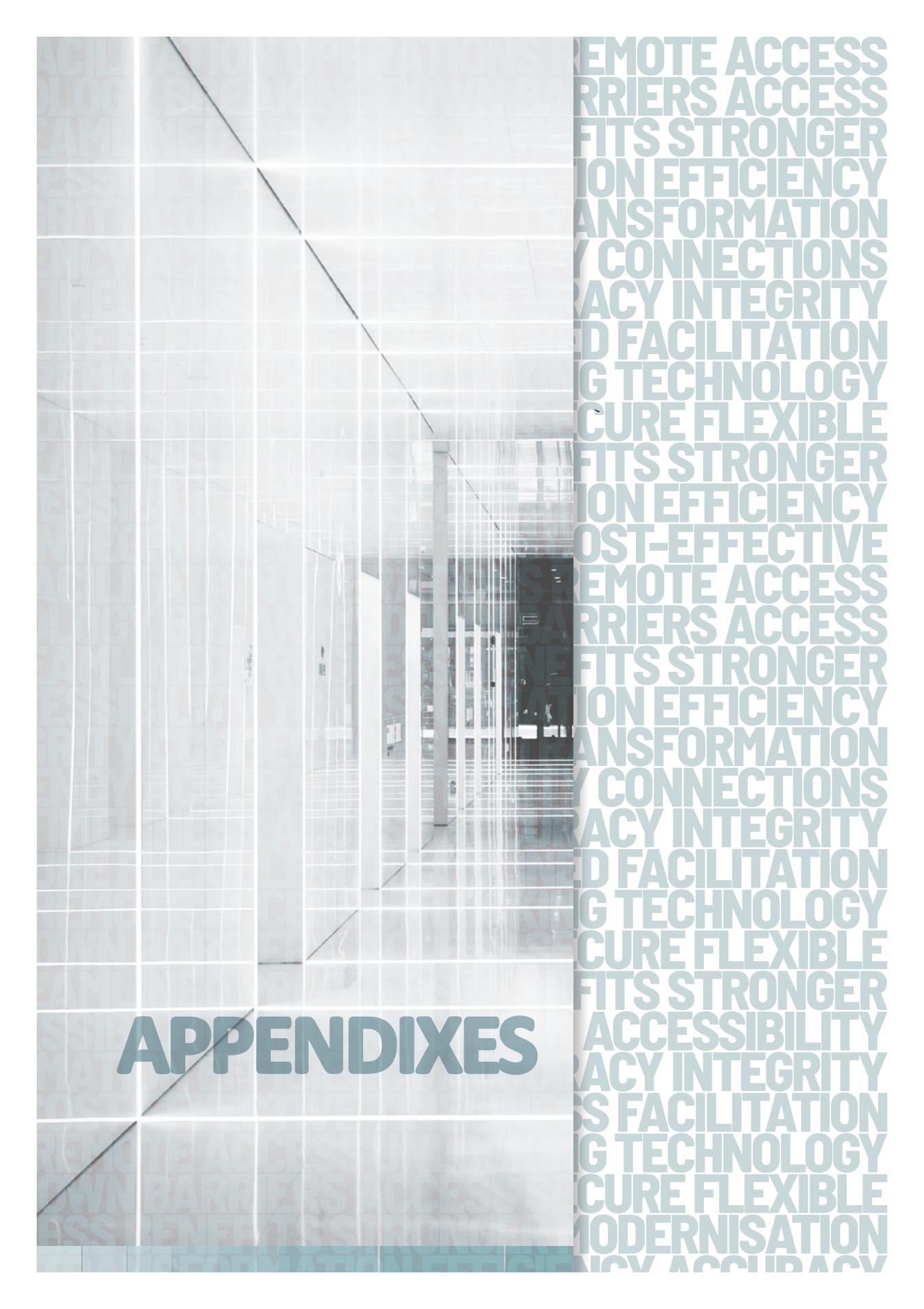
Members' presentations

Member Helen Shurven: presentations 1 July 2017 to 30 June 2018

Date	Title	Event	Organisers
July 2017	Future acts	Internal training for staff	National Native Title Tribunal
February 2018	Mediation	Internal training for staff	National Native Title Tribunal
23 March 2018	Native title workshops	Training for representative bodies	National Native Title Tribunal
30 May 2018	The National Native Title Tribunal	Law student workshop	Murdoch University
21 June 2018	Mediation in native title	Continuing professional development seminar	Legalwise

Member James McNamara: presentations 1 July 2017 to 30 June 2018

Date	Title	Event	Organisers
10 April 2018	Native title	Workshop	Blue Mountains City Council
13 April 2018	Native title and local government	Workshop	Gilkerson Legal
20 June 2018	Native title	Canberra workshop	Clean Energy Regulator
21 June 2018	Native title	Canberra workshop	Department of Environment and Energy

A photograph of a modern office hallway with glass walls and a grid overlay. The hallway is brightly lit, and the grid lines are white and semi-transparent. The text 'APPENDIXES' is written in a bold, dark teal font at the bottom left. On the right side, there is a vertical column of repeated text in a light teal font, listing various terms related to digital transformation and accessibility.

APPENDIXES

REMOTE ACCESS
BARRIERS ACCESS
FITS STRONGER
ION EFFICIENCY
TRANSFORMATION
Y CONNECTIONS
RACY INTEGRITY
D FACILITATION
G TECHNOLOGY
CURE FLEXIBLE
FITS STRONGER
ION EFFICIENCY
OST-EFFECTIVE
REMOTE ACCESS
BARRIERS ACCESS
FITS STRONGER
ION EFFICIENCY
TRANSFORMATION
Y CONNECTIONS
RACY INTEGRITY
D FACILITATION
G TECHNOLOGY
CURE FLEXIBLE
FITS STRONGER
ACCESSIBILITY
RACY INTEGRITY
S FACILITATION
G TECHNOLOGY
CURE FLEXIBLE
MODERNISATION
ICY ACCURACY

PART

6

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APPENDIX 1

Independent Auditor's Report



INDEPENDENT AUDITOR'S REPORT

To the Attorney-General

Opinion

In my opinion, the financial statements of the Federal Court of Australia for the year ended 30 June 2018:

- (a) comply with Australian Accounting Standards – Reduced Disclosure Requirements and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Federal Court of Australia as at 30 June 2018 and its financial performance and cash flows for the year then ended.

The financial statements of the Federal Court of Australia, which I have audited, comprise the following statements as at 30 June 2018 and for the year then ended:

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

Basis for Opinion

I conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Federal Court of Australia in accordance with the relevant ethical requirements for financial statement audits conducted by the Auditor-General and his delegates. These include the relevant independence requirements of the Accounting Professional and Ethical Standards Board's APES 110 *Code of Ethics for Professional Accountants* (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 Federal Court of Australia the Chief Executive Officer is responsible under the *Public Governance, Performance and Accountability Act 2013* for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards – Reduced Disclosure Requirements and the rules made under that Act. The Chief Executive Officer is also responsible for such internal control as the Chief Executive Officer determines is necessary to enable the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

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

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

Independent Auditor's Report

Auditor's Responsibilities for the Audit of the Financial Statements

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

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

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

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

Australian National Audit Office



Colin Bienke
Senior Director
Delegate of the Auditor-General
Canberra
5 September 2018

Statement by the Accountable Authority and Chief Financial Officer

Federal Court of Australia

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

In our opinion, the attached financial statements for the period ended 30 June 2018 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.....	Signed.....
Mr Warwick Soden OAM	Ms Kathryn Hunter
Chief Executive Officer/Principal Registrar	Chief Finance Officer
5 th September 2018	5 th September 2018

Statement of Comprehensive Income

Statement of Comprehensive Income for the period ended 30 June 2018

	Notes	2018 \$'000	2017 \$'000	Original Budget \$'000
NET COST OF SERVICES				
Expenses				
Judicial benefits	1.1A	96,705	90,798	93,388
Employee benefits	1.1A	110,690	110,312	113,025
Suppliers	1.1B	116,005	115,056	115,885
Depreciation and amortisation	3.2A	16,253	13,725	14,431
Finance costs	1.1C	131	91	57
Write-Down and impairment of assets	1.1D	360	181	-
Total expenses		340,144	330,163	336,786
Own-Source income				
Own-source revenue				
Sale of goods and rendering of services	1.2A	4,586	3,984	3,944
Other revenue	1.2B	507	390	259
Total own-source revenue		5,093	4,374	4,203
Other gains				
Resources received free of charge		41,821	39,603	38,826
Liabilities assumed by other entities		27,111	25,554	26,236
Other gains		6	9,656	-
Total gains	1.2C	68,938	74,813	65,062
Total own-source income		74,031	79,187	69,265
Net cost of services		(266,113)	(250,976)	(267,521)
Revenue from Government	1.2D	252,620	245,343	250,590
Deficit on continuing operations		(13,493)	(5,633)	(16,931)
OTHER COMPREHENSIVE INCOME				
Items not subject to subsequent reclassification to net cost of services				
Changes in asset revaluation surplus		(211)	1,817	-
Total other comprehensive income		(211)	1,817	-
Total comprehensive loss		(13,704)	(3,816)	(16,931)

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

Budget Variances Commentary

Statement of Comprehensive Income

Judicial benefits

Judicial benefits are higher than the original budget due to a judicial remuneration increase effective 1 July 2017.

Employee benefits

Employee benefits are lower than budget due to staff vacancies during the year.

Depreciation and amortisation

Depreciation is higher than budgeted due to the receipt in 2016-17 of \$9.6m of assets in the Sydney Queens Square building that was not known at the time of budgeting. Depreciation for these assets was not part of the original budget.

Statement of Comprehensive Income

Statement of Comprehensive Income for the period ended 30 June 2018

Sale of goods and rendering of services

The Family and Federal Circuit Courts received funding for additional registrars of \$594k that was not expected at the time of the budget.

Other revenue

There was additional funding of \$240k received from DFAT to run a program under the Partnership for Justice program. This was not expected at the time of the budget.

Other gains

There was an increase in the resources received free of charge for the Sydney Queens Square building of \$1.7m due to an external revaluation of this benefit. Rent received free of charge in the Commonwealth Law Courts Buildings increased by 1.3% once the MOU with the Department of Finance was finalised. Liabilities assumed by other entities relates to judicial pension schemes. This is higher than budget due to a judicial remuneration increase.

Statement of Financial Position

Statement of Financial Position as at 30 June 2018

	Notes	2018 \$'000	2017 \$'000	Original Budget \$'000
ASSETS				
Financial assets				
Cash and cash equivalents	3.1A	1,353	1,675	2,716
Trade and other receivables	3.1B	78,993	72,491	59,651
Accrued revenue		14	30	-
Total financial assets		80,360	74,196	62,367
Non-financial assets				
Buildings	3.2A	38,056	41,814	33,711
Plant and equipment	3.2A	14,445	20,617	17,643
Computer software	3.2A	10,417	8,553	9,247
Inventories	3.2B	39	49	63
Prepayments		2,563	2,145	2,608
Total non-financial assets		65,520	73,178	63,272
Total assets		145,880	147,374	125,639
LIABILITIES				
Payables				
Suppliers	3.3A	7,722	7,910	3,968
Other payables	3.3B	2,268	2,964	1,273
Total payables		9,990	10,874	5,241
Interest bearing liabilities				
Leases	3.4A	2,506	3,219	2,341
Total interest bearing liabilities		2,506	3,219	2,341
Provisions				
Employee provisions	6.1A	59,915	58,369	64,540
Other provisions	3.5A	2,811	3,012	2,969
Total provisions		62,726	61,381	67,509
Total liabilities		75,222	75,474	75,091
Net assets		70,658	71,900	50,548
EQUITY				
Contributed equity		83,232	70,770	122,345
Reserves		8,680	8,891	29,938
Accumulated deficit		(21,254)	(7,761)	(101,735)
Total equity		70,658	71,900	50,548

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

Statement of Financial Position

Statement of Financial Position

as at 30 June 2018

Budget Variances Commentary

Statement of Financial Position

Trade and other receivables

The budgeted figure assumed that appropriation receivable would decrease in line with approved losses of \$5.5m in 2016-17 and \$2.5m in 2017-18. Actual results in those years led to an improvement of approximately \$10.8m for this item. Capital receivable is also approximately \$8m higher than budgeted due to slower than forecast capital expenditure. GST receivable is \$1.2m higher than in June 2017, due to high rent payments occurring in June 2018.

Buildings, Plant and equipment, Computer software

Subsequent to the budget figures being completed, the Court received \$9.6m of assets, free of charge, in relation to the Queens Square building. A revaluation of assets as at 30 June 2017 also resulted in an increase in asset value of \$974k. These increases were offset with lower than budgeted expenditure on Buildings, Plant and equipment over the last two financial years. Computer software is higher than expected due to additional expenditure in relation to the Court's digital court program.

Suppliers payable

Other trade creditors of \$2.5m were not expected at the time of the budget.

Other payables

Other payables includes \$622k in accrued severance payments, due to restructuring within the Court, that was not expected at the time of the budget.

Employee provisions

The budget for the provisions was completed prior to the actuarial assessment of provisions as at 30 June 2017. The budget took a conservative approach to possible liabilities.

Statement of Changes in Equity

Statement of Changes in Equity for the period ended 30 June 2018

	Notes	2018 \$'000	2017 \$'000	Original Budget \$'000
CONTRIBUTED EQUITY				
Opening balance				
Balance carried forward from previous period		70,770	47,825	109,883
Adjusted opening balance		70,770	47,825	109,883
Transactions with owners				
Contributions by owners				
Equity injection		-	150	-
Departmental capital budget		12,462	13,048	12,462
Restructuring	8.1A	-	9,747	-
Total transactions with owners		12,462	22,945	12,462
Closing balance as at 30 June		83,232	70,770	122,345
ACCUMULATED DEFICIT				
Opening balance				
Balance carried forward from previous period		(7,761)	(2,128)	(84,804)
Adjusted opening balance		(7,761)	(2,128)	(84,804)
Comprehensive income				
Deficit for the period		(13,493)	(5,633)	(16,931)
Other comprehensive income		-	-	-
Total comprehensive loss		(13,493)	(5,633)	(16,931)
Closing balance as at 30 June		(21,254)	(7,761)	(101,735)
ASSET REVALUATION RESERVE				
Opening balance				
Balance carried forward from previous period		8,891	7,074	29,938
Adjusted opening balance		8,891	7,074	29,938
Comprehensive income				
Other comprehensive income		(211)	1,817	-
Total comprehensive income/(loss)		(211)	1,817	-
Closing balance as at 30 June		8,680	8,891	29,938

Statement of Changes in Equity

Statement of Changes in Equity for the period ended 30 June 2018

	Notes	2018 \$'000	2017 \$'000	Original Budget \$'000
TOTAL EQUITY				
Opening balance				
Balance carried forward from previous period		71,900	52,771	55,017
Adjusted opening balance		71,900	52,771	55,017
Comprehensive income				
Deficit for the period		(13,493)	(5,633)	(16,931)
Other comprehensive income / (loss)		(211)	1,817	-
Total comprehensive income/(loss)		(13,704)	(3,816)	(16,931)
Transactions with owners				
Contributions by owners				
Equity injection		-	150	-
Departmental capital budget		12,462	13,048	12,462
Restructuring		-	9,747	-
Total transactions with owners		12,462	22,945	12,462
Closing balance as at 30 June		70,658	71,900	50,548

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

Accounting Policy

Equity Injections

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

Restructuring of Administrative Arrangements

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

Budget Variances Commentary

Statement of Changes in Equity

Accumulated deficit, Reserves and Contributed equity

Equity resulting from restructuring in 2016-17 was budgeted against each individual equity component. This was subsequently all included in Contributed equity. The improved financial results of the Court compared to budget in 2016-17 and 2017-18 have led to a better than expected total equity position.

Cash Flow Statement

Cash Flow Statement for the period ended 30 June 2018

	Notes	2018 \$'000	2017 \$'000	Original Budget \$'000
OPERATING ACTIVITIES				
Cash received				
Appropriations		254,012	245,913	253,090
Sales of goods and rendering of services		4,715	3,613	3,944
GST received		6,170	8,376	-
Other		267	390	259
Total cash received		265,164	258,292	257,293
Cash used				
Employees		178,993	177,436	180,322
Suppliers		82,712	76,302	76,971
Borrowing costs		78	88	-
Section 74 receipts transferred to OPA		3,708	5,472	-
Total cash used		265,491	259,298	257,293
Net cash used by operating activities		(327)	(1,006)	-
INVESTING ACTIVITIES				
Cash received				
Proceeds from sales of property, plant and equipment		6	25	-
Total cash received		6	25	-
Cash used				
Purchase of property, plant and equipment		3,923	6,335	11,267
Purchase of intangibles		4,608	2,284	-
Total cash used		8,531	8,619	11,267
Net cash used by investing activities		(8,525)	(8,594)	(11,267)
FINANCING ACTIVITIES				
Cash received				
Contributed equity		9,244	9,156	12,462
Total cash received		9,244	9,156	12,462
Cash used				
Repayment of borrowings		714	537	1,195
Total cash used		714	537	1,195
Net Cash from financing activities		8,530	8,619	11,267
Net decrease in cash held		(322)	(981)	-
Cash and cash equivalents at the beginning of the reporting period		1,675	1,320	2,716
Cash and cash equivalents at the beginning of the reporting period - restructuring		-	1,336	-
Cash and cash equivalents at the end of the reporting period	3.1A	1,353	1,675	2,716

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

Cash Flow Statement

Cash Flow Statement for the period ended 30 June 2018

Budget Variances Commentary

Statement of Cash Flow Statement

Cash received – rendering of services

The court received additional cash revenue in relation to funding for additional registrars and international programs. Approximately \$1m of revenue in relation to international programs work was received in advance and is reflected in the balance sheet as unearned revenue.

Cash used – suppliers

New IT equipment was purchased outright instead of being leased as was expected at the time of the budget. The budget underestimated supplier costs and overestimated employee costs.

Cash used for investing activities

Budgeted amounts for cash spent on the purchase of property, plant and equipment and intangibles is not split in the budget. Asset purchases were lower than expected for property, plant and equipment.

Contributed equity

Asset purchases were lower than expected in relation to property, plant and equipment.

Repayment of borrowing

New equipment leases anticipated at the time of the budget were not entered into.

Administered Schedule of Comprehensive Income

Administered Schedule of Comprehensive Income for the period ended 30 June 2018

	Notes	2018 \$'000	2017 \$'000	Original Budget \$'000
NET COST OF SERVICES				
Expenses				
Suppliers	2.1A	777	682	883
Write-down and impairment of assets	2.1B	3,730	2,810	1,000
Other expenses	2.1C	536	746	900
Total expenses		5,043	4,238	2,783
Income				
Revenue				
Non-taxation revenue				
Fees and fines	2.2A	107,890	81,206	75,464
Total non-taxation revenue		107,890	81,206	75,464
Total revenue		107,890	81,206	75,464
Total income		107,890	81,206	75,464
Net contribution by services		102,847	76,968	72,681
Total comprehensive income		102,847	76,968	72,681

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

Budget Variances Commentary

Administered Schedule of Comprehensive Income

Fees and fines

The variance to budget is due to the receipt of \$26.8 million in fines that was not budgeted for. In particular, a single fine of \$25m was paid to the Court.

Suppliers

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

Write-down and impairment of assets

The variance to budget is due to the uncertainty in estimating fees that may become impaired during the period.

Other expenses

Other expenses relates 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

Administered Schedule of Assets and Liabilities as at 30 June 2018

	Notes	2018 S'000	2017 S'000	Original Budget S'000
ASSETS				
Financial Assets				
Cash and cash equivalents	4.1A	136	8	649
Trade and other receivables	4.1B	4,599	4,006	3,898
Total assets administered on behalf of Government		4,735	4,014	4,547
LIABILITIES				
Payables				
Suppliers		-	-	40
Other payables	4.2A	513	662	9
Total liabilities administered on behalf of Government		513	662	49
Net assets		4,222	3,352	4,498

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

Budget Variances Commentary

Administered Schedule of Assets and Liabilities

Cash and cash equivalents

There is inherent uncertainty in estimating the cash balance on any particular day.

Trade and other receivables

The variance to budget is due to the uncertainty in estimating the number of unpaid fees.

Other payables

The variance is due to an increase in revenue received in advance for fees relating to future events than originally estimated.

Administered Reconciliation Schedule

Administered Reconciliation Schedule for the period ended 30 June 2018

	2018 S'000	2017 S'000
Opening assets less liabilities as at 1 July	3,352	(3,813)
Net contribution by services		
Income	107,890	81,206
Expenses		
Payments to entities other than corporate Commonwealth entities	(5,043)	(4,238)
Transfers (to)/from the Australian Government		
Appropriation transfers from Official Public Account		
Annual appropriations		
Payments to entities other than corporate Commonwealth entities	777	682
Special appropriations (unlimited) s77 PGPA Act repayments		
Payments to entities other than corporate Commonwealth entities	553	755
GST increase to appropriations s74 PGPA Act		
Payments to entities other than corporate Commonwealth entities	78	67
Appropriation transfers to OPA		
Transfers to OPA	(103,385)	(78,045)
Restructuring	-	6,738
Closing assets less liabilities as at 30 June	4,222	3,352

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

Administered Cash Flow Statement for the period ended 30 June 2018

	Notes	2018 S'000	2017 S'000
OPERATING ACTIVITIES			
Cash received			
Fees		76,600	76,535
Fines		26,827	1,223
GST received		86	66
Total cash received		103,513	77,824
Cash used			
Suppliers		855	749
Refunds of fees		536	746
Other		17	12
Total cash used		1,408	1,507
Net cash from operating activities		102,105	76,317
Net increase in cash held		102,105	76,317
Cash and cash equivalents at the beginning of the reporting period - restructuring		-	166
Cash and cash equivalents at the beginning of the reporting period		8	66
Cash from Official Public Account for:			
Appropriations		1,408	1,504
Total cash from official public account		1,408	1,504
Cash to Official Public Account for:			
Transfer to OPA		(103,385)	(78,045)
Total cash to official public account		(103,385)	(78,045)
Cash and cash equivalents at the end of the reporting period	4.1A	136	8

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

Overview

Overview

The Basis of Preparation

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

The Financial Statements have been prepared in accordance with:

- a) *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015* (FRR); and
- b) Australian Accounting Standards and Interpretations – Reduced Disclosure Requirements issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

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

New Accounting Standards

All new accounting standards 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 Court's financial statements.

Taxation

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

Reporting of Administered activities

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

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

Events after the Reporting Period

Departmental

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

Administered

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

2017 Comparative Disclosures

Departmental

Further analysis on Employee Benefits performed during 2018 highlighted some inconsistencies with the 2017 comparative information. In order to provide the reader of the financial statements with consistent comparative data the following adjustments have been made in the disclosure of Employee Benefits:

- \$3.620m of Judicial Super Contributions defined contributions benefits were reclassified as Judicial Benefits which were previously included in Superannuation under employee benefits.
- \$0.237m of Judicial entitlements was reclassified from employee benefits.
- \$4.066m of long service leave and annual leave taken during the year was reclassified from Wages and Salaries to Leave and other entitlements.

Notes to the Financial Statements

1. Financial Performance

This section analyses the financial performance of the Federal Court of Australia for the year ended 30 June 2018.

1.1 Expenses

	2018	2017
	\$'000	\$'000
Note 1.1A: Judicial and Employee Benefits		
Judges remuneration	65,757	61,624
Judicial superannuation defined contribution	3,837	3,620
Judges notional superannuation	27,111	25,554
Total judicial benefits	96,705	90,798
Wages and salaries	80,410	81,504
Superannuation		
Defined contribution plans	8,721	8,253
Defined benefit plans	5,898	6,680
Leave and other entitlements	13,885	12,261
Separation and redundancies	1,776	1,614
Total employee benefits	110,690	110,312
Total judicial and employee benefits	207,395	201,110

Accounting Policy

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

	2018	2017
	\$'000	\$'000
Note 1.1B: Suppliers		
Goods and services supplied or rendered		
IT services	8,910	6,282
Consultants & contractors	3,458	5,494
Property operating costs	9,235	8,607
Courts operation and administration	13,432	12,922
Travel	7,513	8,103
Library purchases	4,253	4,281
Other	6,652	7,099
Total goods and services supplied or rendered	53,453	52,788
Goods supplied	5,790	3,752
Services rendered	47,663	49,036
Total goods and services supplied or rendered	53,453	52,788
Other suppliers		
Operating lease rentals	61,598	61,073
Workers compensation expenses	954	1,195
Total other suppliers	62,552	62,268
Total suppliers	116,005	115,056

Notes to the Financial Statements

Leasing Commitments

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

	2018	2017
	\$'000	\$'000
Commitments for minimum lease payments in relation to non-cancellable operating leases are payables as follows:		
Within 1 year	6,932	8,050
Between 1 to 5 years	16,112	20,127
More than 5 years	1,024	2,681
Total operating lease commitments	24,068	30,858

Accounting Policy

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

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

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

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

	2018	2017
	\$'000	\$'000
Note 1.1C: Finance Costs		
Finance leases	78	88
Unwinding of discount - make good	53	3
Total finance costs	131	91

Accounting Policy

All borrowing costs are expensed as incurred.

	2018	2017
	\$'000	\$'000
Note 1.1D: Write-Down and Impairment of Assets		
Impairment of inventories	15	13
Impairment on financial instruments	-	4
Impairment of plant and equipment	319	80
Impairment on intangible assets	26	84
Total write-down and impairment of assets	360	181

Notes to the Financial Statements

1.2 Own-Source Revenue and Gains

	2018	2017
	\$'000	\$'000
Own-Source Revenue		
Note 1.2A: Sale of Goods and Rendering of Services		
Sale of goods	1	2
Rendering of services	4,585	3,982
Total sale of goods and rendering of services	4,586	3,984
Rendering of services includes the provision of services to other agencies in both Australia and overseas. This includes \$1.3m received from New Zealand Ministry of Foreign Affairs and Trade (MFAT).		
Note 1.2B: Other Revenue		
Other	507	390
Total other revenue	507	390

Accounting Policy

Revenue from the sale of goods is recognised when:

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

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

The revenue is recognised when:

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

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

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any impairment allowance account. Collectability of debts is reviewed at the end of the reporting period. Allowances are made when collectability of the debt is no longer probable.

Notes to the Financial Statements

	2018	2017
	\$'000	\$'000
Note 1.2C: Other Gains		
Resources received free of charge	41,821	39,603
Liabilities assumed by other agencies	27,111	25,554
Assets received free of charge	-	9,631
Gain on sale of assets	6	25
Total other gains	68,938	74,813

Accounting Policy

Resources Received Free of Charge

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

The major resources received free of charge are the use of property in the Commonwealth Law Courts Buildings in each capital city and the Law Courts Building in Sydney.

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

Assets received free of charge in 2017 was in relation to the Law Courts Building, Sydney.

	2018	2017
	\$'000	\$'000
Note 1.2D: Revenue from Government		
Appropriations		
Departmental appropriation	252,620	245,343
Total revenue from Government	252,620	245,343

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.

Notes to the Financial Statements

2. Income and Expenses Administered on Behalf of Government

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

2.1 Administered – Expenses

	2018	2017
	\$'000	\$'000
Note 2.1A: Suppliers		
Services rendered		
Supply of primary dispute resolution services	777	682
Total suppliers	777	682
Note 2.1B: Write-down and Impairment of Assets		
Bad and doubtful debts	3,730	2,810
Total write-down and impairment of assets	3,730	2,810
Note 2.1C: Other Expenses		
Refunds of fees	536	746
Total other expenses	536	746

2.2 Administered – Income

	2018	2017
	\$'000	\$'000
Note 2.2A: Fees and Fines		
Fees	81,063	79,984
Fines	26,827	1,222
Total fees and fines	107,890	81,206

Accounting Policy

All administered revenues are revenues relating to the course of ordinary activities performed by the Federal Court of Australia, the Federal Circuit Court and the Family Court of Australia on behalf of the Australian Government. As such administered revenues are not revenues of the Courts. Fees are charged for access to the Courts' services. Administered fee revenue is recognised when the service occurs. The services are performed at the same time as or within two days of the fees becoming due and payable. Revenue from fines is recognised when a fine is paid to the Court 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 when collectability of the debt is judged to be less, rather than more, likely.

Notes to the Financial Statements

3. Financial Position

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

3.1 Financial Assets

	2018	2017
	\$'000	\$'000
Note 3.1A: Cash and Cash Equivalents		
Cash at bank	1,336	1,658
Cash on hand	17	17
Total cash and cash equivalents	1,353	1,675
	2018	2017
	\$'000	\$'000
Note 3.1B: Trade and Other Receivables		
Goods and services receivables		
Goods and services	488	750
Total goods and services receivables	488	750
Appropriations receivable		
Appropriation receivable - operating	65,209	62,893
Appropriation receivable - departmental capital budget	11,342	8,124
Total appropriations receivable	76,551	71,017
Other receivables		
Net Statutory receivables (GST)	1,961	731
Total other receivables	1,961	731
Total trade and other receivables (gross)	79,000	72,498
Less impairment allowance	(7)	(7)
Total trade and other receivables (net)	78,993	72,491

Credit terms for goods and services were within 30 days (2017: 30 days).

Accounting Policy

Receivables

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

Notes to the Financial Statements

Reconciliation of the Impairment Allowance Account:

Movements in relation to 2018

	Goods and services \$'000	Other receivables \$'000	Total \$'000
As at 1 July 2017	7	-	7
Amounts written off	-	-	-
Amounts recovered and reversed	(4)	-	(4)
Increase recognised in net surplus	4	-	4
Total as at 30 June 2018	7	-	7

Movements in relation to 2017

	Goods and services \$'000	Other receivables \$'000	Total \$'000
As at 1 July 2016	7	-	7
Amounts written off	-	-	-
Increase/decrease recognised in net surplus	-	-	-
Total as at 30 June 2017	7	-	7

Accounting Policy

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

Notes to the Financial Statements

3.2 Non-Financial Assets

Note 3.2A: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment and Intangibles
Reconciliation of the opening and closing balances of property, plant and equipment and intangibles for 2018

	Buildings - Leasehold Improvements	Plant and equipment	Computer software ¹	Total
	\$'000	\$'000	\$'000	\$'000
As at 1 July 2017				
Gross book value	42,290	23,517	26,431	92,238
Accumulated depreciation, amortisation and impairment	(476)	(2,900)	(17,878)	(21,254)
Total as at 1 July 2017	41,814	20,617	8,553	70,984
Additions				
Purchase	281	3,642	4,608	8,531
Reclassification ²	2,266	(2,248)	(18)	-
Depreciation and amortisation	(6,002)	(7,551)	(2,700)	(16,253)
Disposals	(303)	(15)	(26)	(344)
Total as at 30 June 2018	38,056	14,445	10,417	62,918
Total as at 30 June 2018 represented by				
Gross book value	45,844	22,837	27,340	96,021
Accumulated depreciation and impairment	(7,788)	(8,392)	(16,923)	(33,103)
Total as at 30 June 2018	38,056	14,445	10,417	62,918

1. The carrying amount of computer software includes \$4 million purchased software and \$6.4 million internally generated software.
2. The reclassification relates to assets that were held as at 30 June 2017.

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

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

Revaluations of non-financial assets

All revaluations were conducted in accordance with the revaluation policy. On 30 June 2017, an independent valuer conducted the revaluations and management conducted a review of the underlying drivers of the independent valuation.

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

Capital commitments for property, plant and equipment are \$0.12 million (2017: \$0.161 million). Plant and equipment commitments were primarily contracts for purchases of furniture and IT equipment.

Accounting Policy

Property, plant and equipment

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

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

Asset Recognition Threshold

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

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

which are expensed in the year of acquisition.

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to 'make good' provisions in property leases taken up by the Federal Court

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Notes to the Financial Statements

of Australia where there exists an obligation to restore the property to its original condition. These costs are included in the value of the Federal Court of Australia's leasehold improvements with a corresponding provision for the 'make good' recognised.

Revaluations

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

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

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

Depreciation

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

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

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

	2018	2017
Leasehold improvements	10 to 20 years or lease term	10 to 20 years or lease term
Plant and equipment – excluding library materials	3 to 100 years	3 to 100 years
Plant and equipment – library materials	5 to 10 years	5 to 10 years

Impairment

All assets were assessed for impairment at 30 June 2018. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

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

Derecognition

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

Intangibles

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

Software is amortised on a straight-line basis over its anticipated useful life of 5 years (2017: 5 years).

Notes to the Financial Statements

	2018	2017
	\$'000	\$'000
Note 3.2B: Inventories		
Inventories held for distribution	<u>39</u>	<u>49</u>
Total inventories	<u>39</u>	<u>49</u>

During 2017-18, \$14,513 of inventory held for distribution was recognised as an expense (2017: \$13,106).

Accounting Policy

Inventories held for sale are valued at the lower of cost and net realisable value.
 Inventories held for distribution are valued at cost, adjusted for any loss of service potential.
 Costs incurred in bringing each item of inventory to its present location and condition are assigned as follows:

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

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

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

Notes to the Financial Statements

3.3 Payables

	2018	2017
	\$'000	\$'000
Note 3.3A: Suppliers		
Trade creditors and accruals	6,313	6,450
Operating lease rentals	1,409	1,460
Total suppliers	7,722	7,910

Settlement was usually made within 30 days.

Note 3.3B: Other Payables

Salaries and wages	652	677
Superannuation	113	114
Separations and redundancies	622	372
Unearned income	83	925
Other	798	876
Total other payables	2,268	2,964

3.4 Interest Bearing Liabilities

	2018	2017
	\$'000	\$'000
Note 3.4A: Leases		
Finance leases	2,506	3,219
Total leases	2,506	3,219
Minimum leases payments expected to be settled		
Within 1 year	776	754
Between 1 to 5 years	1,730	2,465
Total leases	2,506	3,219

In 2018, two finance leases existed in relation to building and property, plant and equipment assets. The leases were non-cancellable and for fixed terms averaging 6 years, with a maximum of 8 years. The interest rate implicit in the leases averaged 2.54% (2017: 2.54%). The lease assets secured the lease liabilities. The Federal Court of Australia guaranteed the residual values of all assets leased.

Accounting Policy

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

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

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

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

Notes to the Financial Statements

3.5 Other Provisions

	2018 S'000	2017 S'000
Note 3.5A: Other Provisions		
Provision for restoration obligations	2,371	2,107
Provision for NSO unused office space	440	905
Total other provisions	2,811	3,012

	Provision for restoration S'000	Provision for NSO unused office space S'000	Total S'000
As at 1 July 2017	2,107	905	3,012
Change in provisions	264	-	264
Amounts used	-	(465)	(465)
Total as at 30 June 2018	2,371	440	2,811

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

Notes to the Financial Statements

4. Assets and Liabilities Administered on Behalf of Government

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

4.1 Administered – Financial Assets

	2018	2017
	\$'000	\$'000
Note 4.1A: Cash and Cash Equivalents		
Cash on hand or on deposit	136	8
Total cash and cash equivalents	136	8
Note 4.1B: Trade and Other Receivables		
Goods and services receivables	7,170	6,937
Total goods and services receivables	7,170	6,937
Other receivables		
Statutory receivable (GST)	6	13
Total other receivables	6	13
Total trade and other receivables (gross)	7,176	6,950
Less impairment allowance account:		
Goods and services	(2,577)	(2,944)
Total impairment allowance	(2,577)	(2,944)
Total trade and other receivables (net)	4,599	4,006

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*.

Reconciliation of the Impairment Allowance Account:

Movements in relation to 2018	Goods and services	Total
	\$'000	\$'000
As at 1 July 2017	2,944	2,944
Amounts recovered and reversed	(260)	(260)
Amounts written off	(2,443)	(2,443)
Increase recognised in net contribution by services	2,336	2,024
Total as at 30 June 2018	2,577	2,265
Movements in relation to 2017		
	Goods and services	Total
	\$'000	\$'000
As at 1 July 2016	780	780
Restructure	489	489
Amounts recovered and reversed	(10)	(10)
Amounts written off	(742)	(742)
Increase recognised in net contribution by services	2,427	2,427
Total as at 30 June 2017	2,944	2,944

Accounting Policy

Trade and other receivables

Collectability of debts is reviewed at the end of the reporting period. Allowances are made when collection of debts is judged to be less rather than more likely. Credit terms for goods and services were within 30 days (2017: 30 days).

Notes to the Financial Statements

4.2 Administered – Payables		
	2018	2017
	\$'000	\$'000
Note 4.2A: Other Payables		
Unearned income	513	662
Total other payables	513	662

Notes to the Financial Statements

5. Funding

This section identifies the Federal Court of Australia funding structure.

5.1 Appropriations

Note 5.1A: Annual Appropriations (‘Recoverable GST exclusive’)

Annual Appropriations for 2018

	Annual Appropriation ¹ \$'000	Adjustments to Appropriation ³ \$'000	Total appropriation \$'000	Appropriation applied in 2018 (current and prior years) \$'000	Variance ² \$'000
Departmental					
Ordinary annual services	252,620	3,708	256,328	254,333	1,995
Capital Budget	12,462	-	12,462	9,245	3,217
Total departmental	265,082	3,708	268,790	263,578	5,212
Administered					
Ordinary annual services Administered items	883	-	883	777	106
Total administered	883	-	883	777	106

1. Departmental Capital Budgets are appropriated through Appropriation Acts (No. 1, 3). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts.

2. The variance in the expenditure for ordinary annual services is due to timing differences of payments.

3. Receipts collected under Section 74 of the *FGPA Act*.

Notes to the Financial Statements

Annual Appropriations for 2017					
	Annual Appropriation ¹ \$'000	Adjustments to Appropriation ² \$'000	Total appropriation \$'000	Appropriation applied in 2017 (current and prior years) \$'000	Variance ³ \$'000
Departmental					
Ordinary annual services	245,343	16,334	261,677	255,726	5,951
Capital Budget	13,048	868	13,916	9,157	4,759
Other services					
Equity	150	-	150	-	150
Total departmental	258,541	17,202	275,743	264,883	10,860
Administered					
Ordinary annual services	894	-	894	682	212
Administered items	894	-	894	682	212
Total administered					

1. Departmental Capital Budgets are appropriated through Appropriation Acts (No. 1, 3). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts.
2. The variance in the expenditure for ordinary annual services is due to timing differences of payments. The underspend of capital appropriation is due to capital projects related to the amalgamation with the Family Court and Federal Circuit Court not taking place until after the amalgamation on 1 July 2016.
3. Receipts collected under Section 74 of the *FGPA Act*.

Notes to the Financial Statements

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

	2018	2017
	\$'000	\$'000
Departmental		
Appropriation Act (No. 1) 2016-17	-	59,948
Appropriation Act (No. 1) 2016-17 - Capital budget	-	7,611
Appropriation Act (No. 2) 2016-17 - Equity injection	150	150
Appropriation Act (No. 3) 2016-17	-	2,945
Supply Act 1 2016-17 - Capital budget	-	363
Appropriation Act (No. 1) 2017-18	63,180	-
Appropriation Act (No. 1) 2017-18 - Capital budget	11,192	-
Appropriation Act (No. 3) 2017-18	2,030	-
Cash at bank	1,353	1,670
Total departmental	77,905	72,687
Administered		
Appropriation Act (No 1) 2016-17	-	212
Appropriation Act (No 1) 2017-18	106	-
Total administered	106	212

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

	Appropriation applied	
	2018	2017
	\$'000	\$'000
Authority		
Public Governance, Performance and Accountability Act 2013, Section 77,		
Administered	553	755
Total	553	755

Notes to the Financial Statements

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	
	2018	2017	2018	2017	2018	2017
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Balance brought forward from previous period	-	820	22,878	29,809	969	411
Increases	161	211	27,250	13,050	1,615	2,595
Total increases	161	211	27,250	13,050	1,615	2,595
Available for payments	161	1,031	50,128	42,859	2,584	3,006
Decreases						
Departmental	139	1,031	-	-	-	-
Total departmental	139	1,031	-	-	-	-
Decreases						
Administered	-	-	27,903	19,981	1,510	2,037
Total administered	-	-	27,903	19,981	1,510	2,037
Total decreases	139	1,031	27,903	19,981	1,510	2,037
Total balance carried to the next period	22	-	22,225	22,878	1,074	969
Balance represented by:						
Cash held in entity bank accounts	22	-	22,225	22,878	1,074	969
Cash held in the Official Public Account	-	-	-	-	-	-
Total balance carried to the next period	22	-	22,225	22,878	1,074	969

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

2. Appropriation: *Public Governance Performance and Accountability Act* section 78. Establishing Instrument: *PGPA Act Determination (Establishment of FCA Litigants' Fund Special Account 2017)*. Purpose: The purpose of the Federal Court of Australia Litigants' Fund Special Account in relation to which amounts may be debited from the Special Account are:

a) In accordance with:

- (i) An order of the Federal Court of Australia or a Judge of that Court under Rule 2.43 of the Federal Court Rules; or
- (ii) A direction of a Registrar under that Order; and

b) In any other case in accordance with the order of the Federal Court of Australia or a Judge of that Court.

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

The Finance Minister has issued a determination under Subsection 20(1) of the FMA ACT 1997 (repealed) establishing the Federal Court of Australia Litigants' Fund Special Account when the Federal Circuit Court of Australia and Family Court of Australia merged on 1 July 2014.

Purpose: Litigants Fund Special Account

(a) for amounts received in respect of proceedings of the Family Court of Australia or the Federal Circuit Court of Australia (formerly the Federal Magistrates Court of Australia);

(b) for amounts received in respect of proceedings that have been transferred from another court to the Family Court of Australia or to the Federal Circuit Court of Australia (formerly the Federal Magistrates Court of Australia);

(c) for amounts received from the Family Court of Australia Litigants' Fund Special Account or the Federal Magistrates Court Litigants' Fund Special Account;

(d) to make payments in accordance with an order (however described) made by a court under the Family Law Act 1975, the Family Court of Australia, or a Judge of that Court;

(e) to make payments in accordance with an order (however described) made by a court under the Federal Circuit Court of Australia Act 1999 (formerly the Federal Magistrates Act 1999), the Federal Circuit Court of Australia (formerly the Federal Magistrates Court of Australia), or a Judge (formerly Federal Magistrate) of that Court;

(f) to repay amounts received by the Commonwealth and credited to this Special Account where an Act of Parliament or other law requires or permits the amount to be repaid; and

g) to reduce the balance of this Special Account without making a real or notional payment.

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Notes to the Financial Statements

5.3 Net Cash Appropriation Arrangements

	2018	2017
	\$'000	\$'000
Total comprehensive income less depreciation/amortisation expenses previously funded through revenue appropriations	2,549	9,909
Plus: depreciation/amortisation expenses previously funded through revenue appropriation	<u>(16,253)</u>	<u>(13,725)</u>
Total comprehensive loss - as per the Statement of Comprehensive Income	<u>(13,704)</u>	<u>(3,816)</u>

Notes to the Financial Statements

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

	2018	2017
	\$'000	\$'000
Note 6.1A: Employee Provisions		
Leave	27,119	26,406
Judges leave	32,796	31,963
Total employee provisions	59,915	58,369

Accounting Policy

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits expected within twelve months of the end of the reporting period are measured at their nominal amounts.

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

Leave

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

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

The liability for annual leave and long service leave has been determined by reference to the work of an actuary as at 30 June 2017. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

Separation and Redundancy

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

Superannuation

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

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

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

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

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

Judges' Pension

Under the *Judges' Pension Act 1968*, Federal Court and Family Court Judges are entitled to a non-contributory pension upon retirement 10 years service (Federal Court and Family Court Judges). As the liability for these pension payments is assumed by the Australian Government, the entity has not recognised a liability for unfunded superannuation liability. The Federal Court of Australia does, however, recognise a revenue and corresponding expense item, "Liabilities assumed by other agencies", in respect of the notional amount of the employer contributions to Judges' pensions for the reporting period amounting to \$27.111 million (2017: \$25.554 million). The contribution rate has been provided by the Department of Finance following an actuarial review.

Notes to the Financial Statements

6.2 Key Management Personnel Remuneration

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

	2018	2017
	\$'000	\$'000
Short-term employee benefits	3,784	3,446
Post-employment benefits	1,379	1,121
Other long-term employee benefits	389	484
Total key management personnel remuneration expenses¹	5,552	5,051

The total number of senior management personnel that are included in the above table are 15 (2017: 11).

1. The above key management personnel remuneration excludes the remuneration and other benefits of the Attorney-General. The Attorney-General's remuneration and other benefits are set by the Remuneration Tribunal and are not paid by the Court.

6.3 Related Party Disclosures

Related party relationships:

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

Transactions with related parties:

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

Significant transactions with related parties can include:

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

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

The Courts have no transactions with related parties to disclose as at 30 June 2018 (2017: none).

Notes to the Financial Statements

7. Managing Uncertainties

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

7.1 Contingent Liabilities and Assets

Note 7.1A: Contingent Liabilities and Assets

Quantifiable Contingencies

The Federal Court of Australia has no quantifiable contingent assets or liabilities as at 30 June 2018 (2017: none).

Unquantifiable Contingencies

The Federal Court of Australia has no unquantifiable contingent assets or liabilities as at 30 June 2018 (2017: none).

Accounting Policy

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

Note 7.1B: Administered Contingent Assets and Liabilities

The Courts have no quantifiable or unquantifiable administered contingent liabilities or assets as at 30 June 2018 (2017: none).

Notes to the Financial Statements

7.2 Financial Instruments

	2018	2017
	\$'000	\$'000
Note 7.2A: Categories of Financial Instruments		
Financial Assets		
Loans and receivables		
Cash and cash equivalents	1,353	1,675
Goods and services receivable less impairment	481	743
Total financial assets	1,834	2,418
Financial Liabilities		
Financial liabilities measured at amortised cost		
Trade creditors	7,722	7,910
Finance leases	2,506	3,219
Total financial liabilities	10,228	11,129

Accounting Policy

Financial Assets

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

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

Impairment of Financial Assets

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

Financial Liabilities

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

Other Financial Liabilities

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

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

The fair value of financial instruments approximates its carrying value.

	2018	2017
	\$'000	\$'000
Note 7.2B: Net Gains or Losses on Financial Liabilities		
Financial liabilities measured at amortised cost		
Interest expense	78	88
Net losses on financial liabilities measured at amortised cost	78	88

Notes to the Financial Statements

7.3 Administered – Financial Instruments

	2018	2017
	\$'000	\$'000
Note 7.3A: Categories of Financial Instruments		
Financial Assets		
Loans and receivables		
Cash and cash equivalents	136	8
Other receivables	4,599	4,006
Carrying amount of financial assets	4,735	4,014

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 2017. The Federal Court of Australia reviews the method used by the valuer annually.

Note 7.4A: Fair Value Measurement

	Fair value measurements at the end of the reporting period	
	2018	2017
	\$'000	\$'000
Non-financial assets		
Leasehold improvements	38,056	41,814
Plant and equipment	14,445	20,617

The Court's assets are held for operational purposes and not held for the purposes of deriving a profit. The current use of these assets is considered to be the highest and best use.

There have been no transfers between the levels of the hierarchy during the year. The Court deems transfers between levels of the fair value hierarchy to have occurred when advised by an independent valuer or a change in the market for particular items.

Notes to the Financial Statements

8. Other Information

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

8.1 Restructuring

Note 8.1A: Departmental Restructuring

On 1 July 2016, the Family Court and Federal Circuit Court merged with the Federal Court of Australia.

As a part of the merger process the assets and liabilities of the Family Court and Federal Circuit Court were transferred into the Federal Court and are reflected in the Courts' accounts for 2016-17 and 2017-18. As a result of merger occurring from 1 July 2016, there were no incomes or expenses transferred.

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

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

Notes to the Financial Statements

Note 8.1B: Administered Restructuring

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

1. In respect of the function assumed, the net book values of assets and liabilities were transferred to the Court for no consideration.

APPENDIX 2

AGENCY RESOURCE STATEMENT

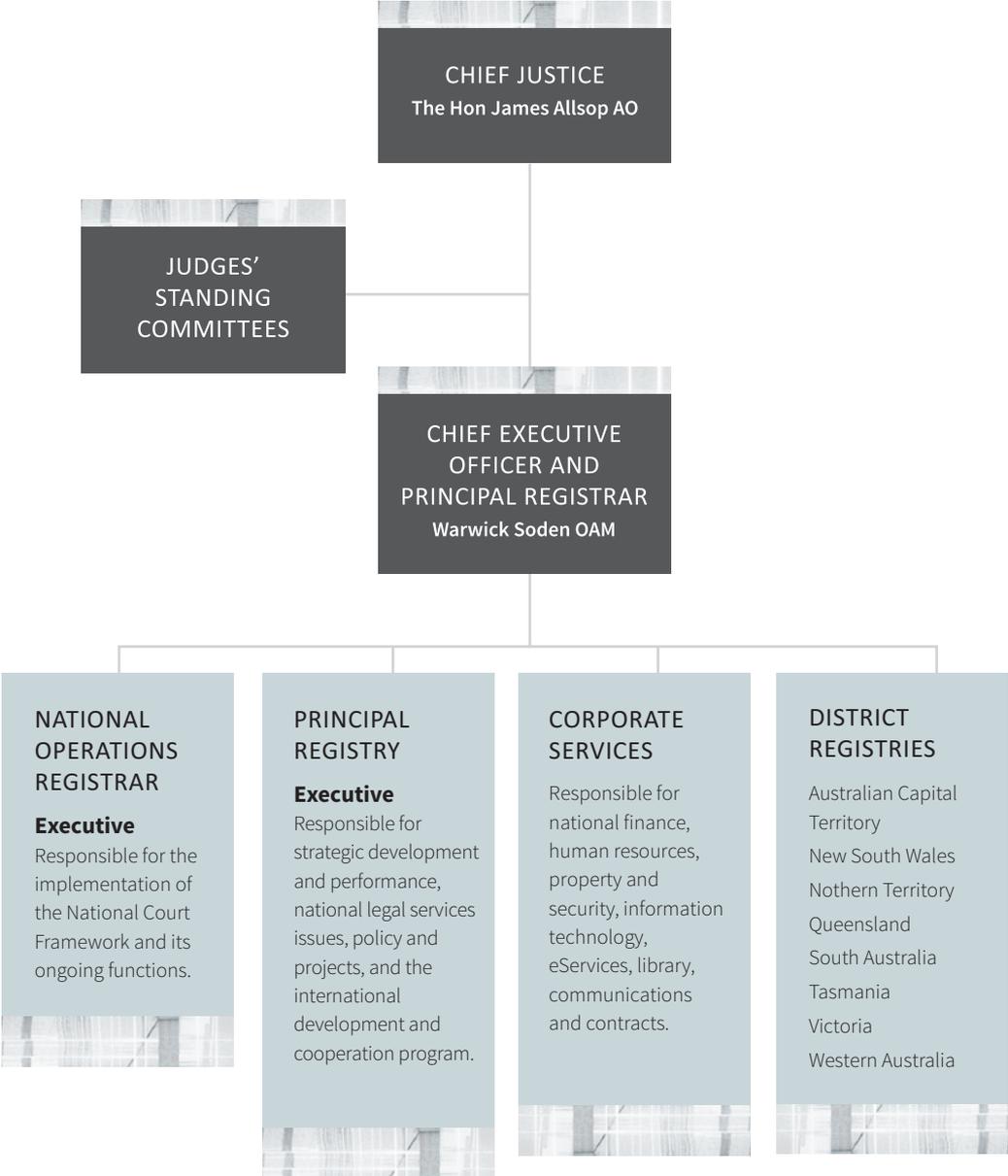
	Actual available appropriations for 2017-18 \$'000	Payments made 2017-18 \$'000	Balance remaining \$'000
Ordinary annual services¹			
Departmental appropriation			
Departmental appropriation ²	337,774	259,870	77,904
s 74 relevant agency receipts	5,093	5,093	
Total	342,867	264,963	77,904
Administered expenses			
Outcome 3	883	777	106
Total	883	777	106
Total ordinary annual services	343,750	265,740	78,010
Special appropriations limited by criteria/entitlement			
<i>Public Governance, Performance and Accountability Act 2013, s 77</i>	900	536	364
Total	900	536	364
Total net resourcing for court	344,650	266,276	78,374

1 Appropriation Act (No. 1), Appropriation Act (No. 2) and Appropriation Act (No. 3) 2017-18. This also includes prior-year departmental appropriation.

2 Includes a departmental capital budget of \$12.462 million.

APPENDIX 3

FEDERAL COURT MANAGEMENT STRUCTURE



APPENDIX 4

REGISTRARS OF THE COURT (AS AT 30 JUNE 2018)

Name	Title	Location	Other appointments
Warwick Soden OAM	Chief Executive Officer (CEO) and Principal Registrar	Sydney	<ul style="list-style-type: none"> Acting CEO and Principal Registrar, Family Court of Australia
Sia Lagos	Principal Judicial Registrar and National Operations Registrar	Melbourne	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia
David Pringle	Deputy Principal Judicial Registrar and Deputy National Operations Registrar	Melbourne	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia
Michael Wall	National Judicial Registrar and District Registrar	Sydney	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia Registrar, Copyright Tribunal Deputy Registrar, Defence Force Discipline Appeal Tribunal
John Mathieson	Deputy Principal Registrar	Sydney	<ul style="list-style-type: none"> Sheriff A Registrar, Federal Circuit Court of Australia A Deputy Sheriff, Federal Circuit Court of Australia
Catherine Forbes	National Judicial Registrar – Appeals	Melbourne	
Nicola Colbran	National Judicial Registrar and District Registrar	Adelaide	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia Deputy Registrar, Australian Competition Tribunal Deputy Registrar, Defence Force Discipline Appeal Tribunal
Phillip Allaway	National Judicial Registrar and District Registrar*	Melbourne	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia

Name	Title	Location	Other appointments
Murray Belcher	National Judicial Registrar and District Registrar*	Brisbane	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia
Russell Trott	National Judicial Registrar and District Registrar*	Perth	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia Deputy Registrar, Australian Competition Tribunal
Katie Stride	National Judicial Registrar – Native Title^	Brisbane	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia
Anthony Tesoriero	Judicial Registrar	Sydney	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia
Geoff Segal	Judicial Registrar	Sydney	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia Deputy Registrar, Australian Competition Tribunal Deputy Registrar, Defence Force Discipline Appeal Tribunal
Chuan Ng	Judicial Registrar	Sydney	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia Deputy Registrar, Supreme Court of Norfolk Island
Thomas Morgan	Judicial Registrar	Sydney	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia
Kim Lackenby	Judicial Registrar	Canberra	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia Deputy Registrar, Australian Competition Tribunal
Tim Luxton	Judicial Registrar	Melbourne	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia Deputy Registrar, Australian Competition Tribunal Deputy Registrar, Defence Force Discipline Appeal Tribunal
Rupert Burns	Judicial Registrar	Melbourne	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia

Name	Title	Location	Other appointments
David Ryan	Judicial Registrar	Melbourne	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia
Katie Lynch	Judicial Registrar	Brisbane	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia Deputy Registrar, Australian Competition Tribunal
Michael Buckingham	Judicial Registrar	Brisbane	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia
Elizabeth Stanley	Judicial Registrar	Perth	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia
Nicholas Parkyn	Judicial Registrar	Adelaide	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia
Ann Daniel	Judicial Registrar – Native Title	Perth	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia
Tessa Herrmann	Judicial Registrar – Native Title	Perth	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia
Simon Grant	Judicial Registrar – Native Title	Brisbane	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia
James Cho	Judicial Registrar	Sydney	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia
Scott Tredwell	Deputy District Registrar	Brisbane	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia
David Priddle	National Registrar	Melbourne	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia
Lauren McCormick	National Registrar	Melbourne	<ul style="list-style-type: none"> A Registrar, Federal Circuit Court of Australia
Alison Hird	National Registrar	Melbourne	
Caitlin Wu	National Registrar	Melbourne	
Stephanie Sanders	National Registrar	Melbourne	
Sophie Bird	National Registrar	Melbourne	
Jessica Der Matossian	Registrar, Digital Practice	Sydney	
Geoffrey Gray	Deputy Registrar	Canberra	<ul style="list-style-type: none"> Deputy Sheriff

* Acting National Judicial Registrar and District Registrar for relevant registry/registries as at 30 June 2018.

^ Acting National Judicial Registrar – Native Title as at 30 June 2018.

APPENDIX 5

WORKLOAD STATISTICS

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

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

It should also be noted that the figures reported in this report may differ from figures reported in previous years. The variations have occurred through refinements or enhancements to the Casetrack database which 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 on page 141 provides a breakdown of these matters. At this stage it is not possible to obtain information about finalisations of interlocutory applications (because they are recorded in the Court's case management system as a document filed rather than a specific CoA). Because of this, detailed reporting of these matters has been restricted to the information about appeals in Part 3 and Table A5.4.

In 2015, the National Court Framework reforms were introduced. The Court began reporting on matters by National Practice Areas (NPAs) in 2015–16. This information can be found in Figure A5.9 onwards.

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

Cause of action	2013–14	2014–15	2015–16	2016–17	2017–18
Total CoAs (including appeals and related actions)					
Filed	5009	4355	5998	5716	5921
Finalised	5573	3893	5842	5636	5603
Current	2464	2926	3085	3165	3483
Corporations (including appeals and related actions)					
Filed	2905	2210	3687	3224	3015
Finalised	3400	1871	3500	3387	2993
Current	539	878	1065	902	924
Bankruptcy (including appeals and related actions)					
Filed	281	260	292	353	332
Finalised	258	249	262	327	318
Current	137	148	178	204	218
Native title (including appeals and related actions)					
Filed	58	64	65	71	91
Finalised	110	74	134	95	98
Current	412	402	333	309	302
Total CoAs (including appeals and related actions excluding corporations, bankruptcy and native title)					
Filed	1765	1821	1957	2068	2483
Finalised	1805	1699	1946	1827	2194
Current	1376	1498	1509	1750	2039

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

Cause of action	2013–14	2014–15	2015–16	2016–17	2017–18
Total CoAs (excluding appeals and related actions)					
Filed	4281	3445	5008	4670	4659
Finalised	4886	3144	4895	4765	4450
Current	2128	2429	2542	2447	2656
Corporations (excluding appeals and related actions)					
Filed	2876	2185	3652	3202	2989
Finalised	3361	1849	3474	3361	2965
Current	524	860	1038	879	903
Bankruptcy (excluding appeals and related actions)					
Filed	219	205	231	289	304
Finalised	199	186	218	273	275
Current	105	124	137	153	182
Native title (excluding appeals and related actions)					
Filed	44	55	58	54	78
Finalised	100	67	122	84	79
Current	401	389	325	295	294
Total CoAs (excluding appeals and related actions and excluding bankruptcy and native title)					
Filed	1142	1000	1067	1125	1288
Finalised	1226	1042	1081	1047	1131
Current	1098	1056	1042	1120	1277

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

Cause of action	2013-14	2014-15	2015-16	2016-17	2017-18
Total appeals and related actions					
Filed	728	910	993	1046	1262
Finalised	687	749	947	871	1153
Current	336	497	543	718	827
Corporations appeals and related actions					
Filed	29	25	35	22	26
Finalised	39	22	26	26	28
Current	15	18	27	23	21
Migration appeals and related actions					
Filed	370	648	653	764	1019
Finalised	355	463	680	583	848
Current	123	308	281	462	633
Native title appeals and related actions					
Filed	14	9	7	17	13
Finalised	10	7	12	11	19
Current	11	13	8	14	8
Total appeals and related actions (excluding corporations, migration and native title appeals and related actions)					
Filed	315	228	298	243	204
Finalised	283	257	229	251	258
Current	187	158	227	219	165

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

	2013–14	2014–15	2015–16	2016–17	2017–18
Total CoAs (excluding appeals and related actions)					
Cross appeals (original jurisdiction)	0	0	0	0	0
Cross claims	177	134	135	146	116
Interlocutory applications	1541	1513	1530	1517	1627
Native title joinder of party applications	628	405	982	781	346
Appeals and related actions					
Cross appeals	25	25	19	20	17
Interlocutory applications	135	172	192	221	162
Total actions (including appeals and related actions)					
Cross appeals	25	25	19	20	17
Cross claims	177	134	135	146	116
Interlocutory applications	1676	1685	1722	1738	1789
Native title joinder of party applications	628	405	982	781	346
Totals	1878	1844	1876	1904	1922

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

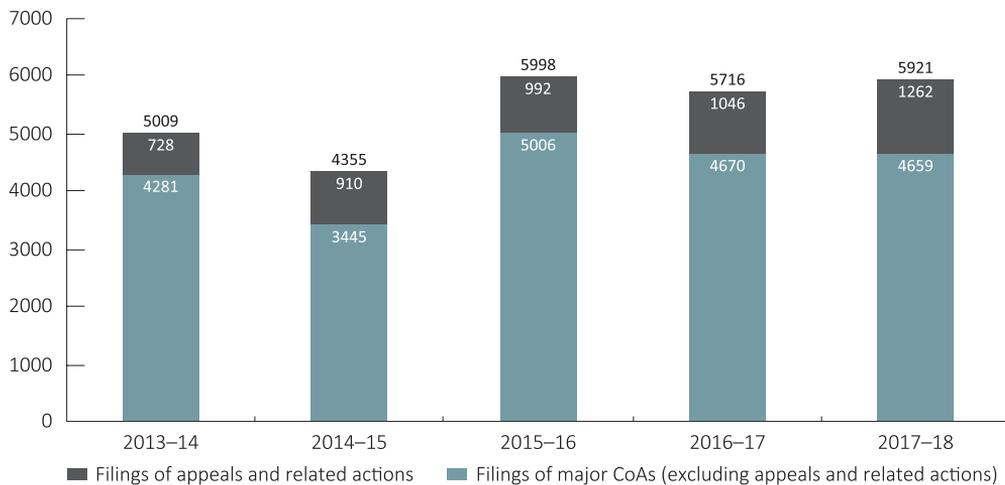
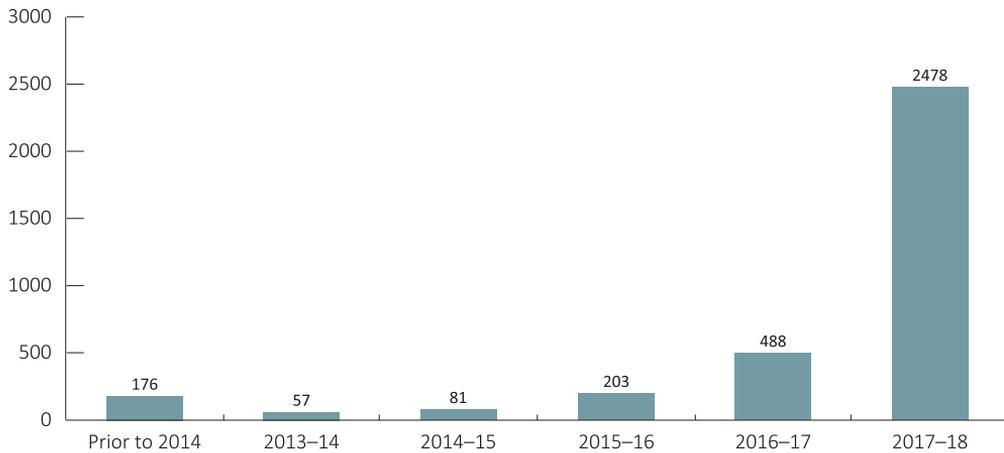


Figure A5.2: Matters filed and finalised over the last five years



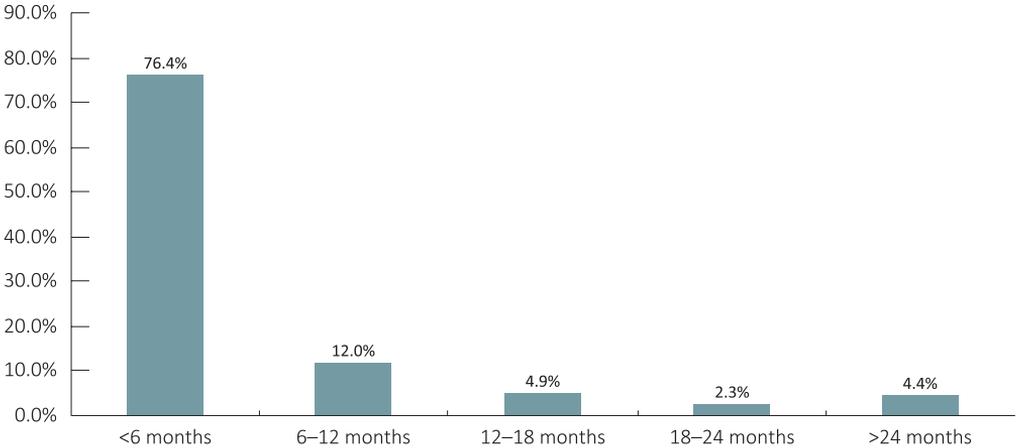
The number finalised refers to those matters finalised in the relevant financial year, regardless of when they were originally filed.

Figure A5.3: Age and number of current matters at 30 June 2018



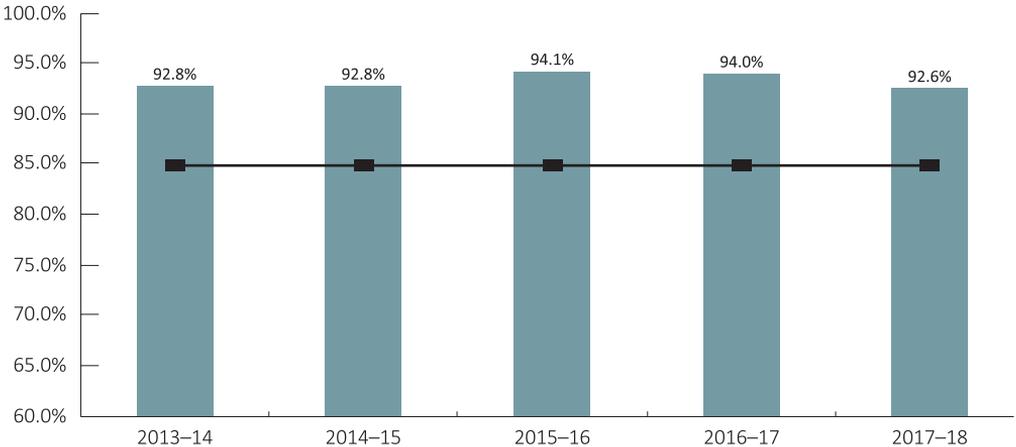
A total of 3483 matters remain current at 30 June 2018. There were 176 applications still current relating to periods before 2014, of which 122 matters are native title matters (7.2 per cent).

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



A total of 26,095 matters were completed during the five-year period ending 30 June 2018, 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	2013–14	2014–15	2015–16	2016–17	2017–18
Under 18 months	5077	3550	5384	5219	5113
% of total	92.8%	92.8%	94.1%	94.0%	92.6%
Over 18 months	396	276	336	333	411
% of total	7.2%	7.2%	5.9%	6.0%	7.4%
Total CoAs	5473	3826	5720	5552	5524

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

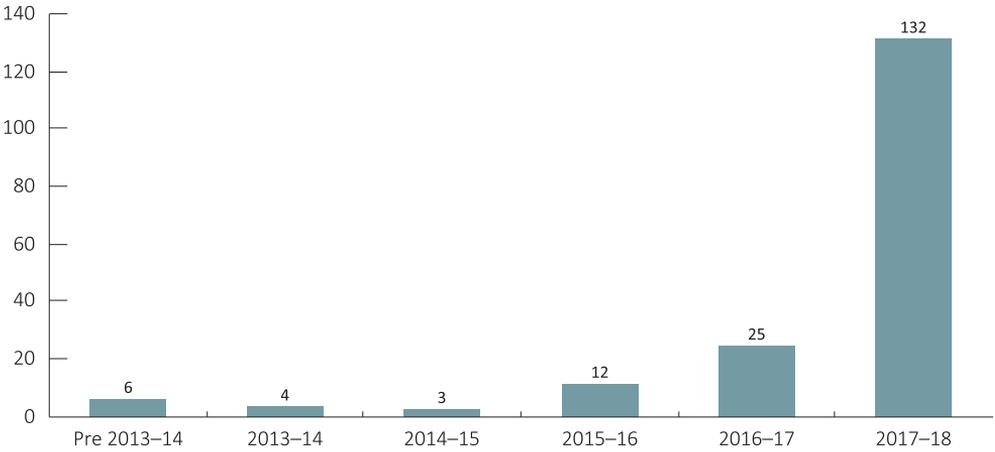


Figure A5.7: Corporation Act matters (excluding appeals) filed over the last five years

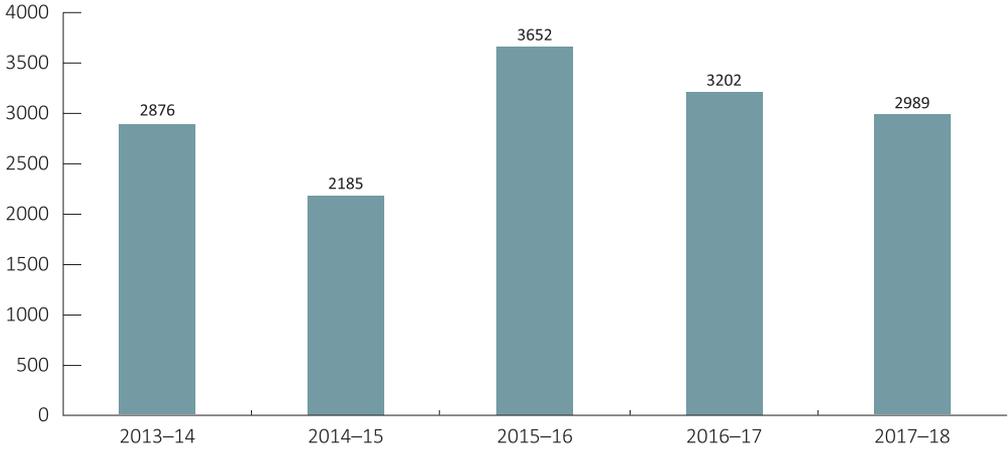


Figure A5.7.1: Current corporation matters (excluding appeals) by year of filing

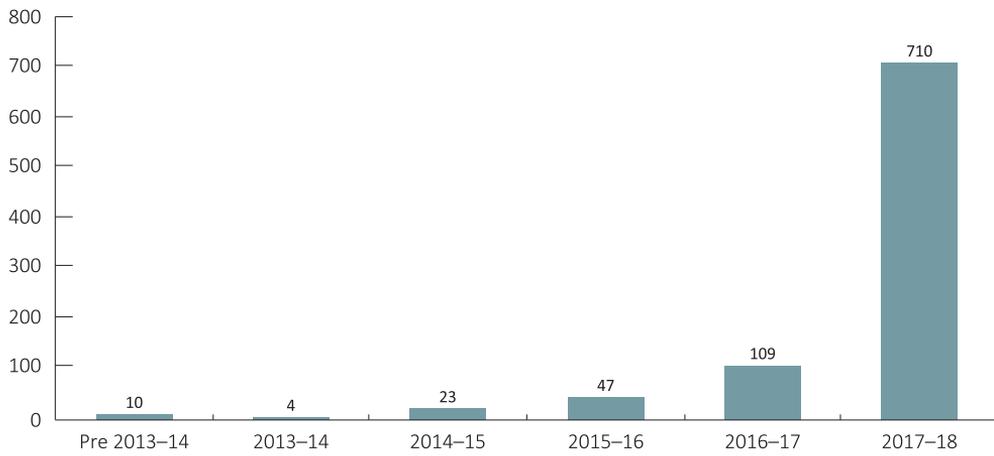
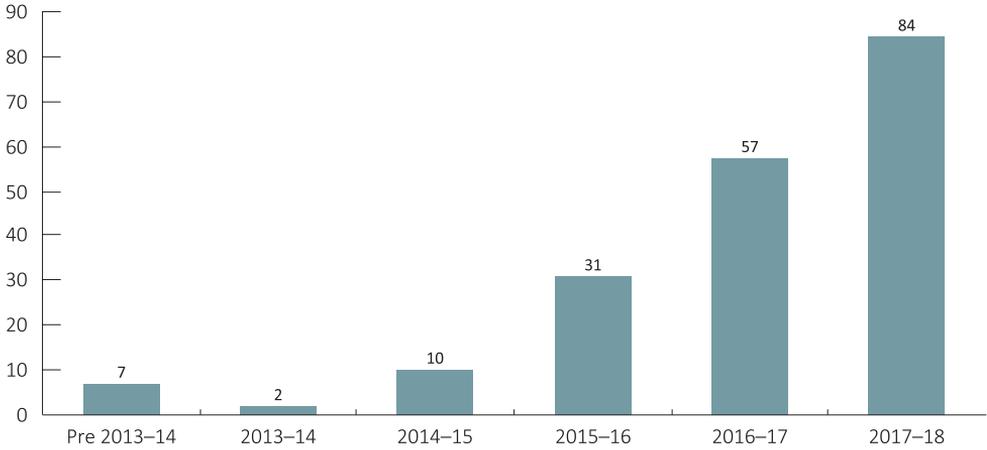


Figure A5.8: Consumer law matters (excluding competition law and appeals) filed over the last five years



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



National Court Framework

Figure A5.9: Filings, finalisations and pending

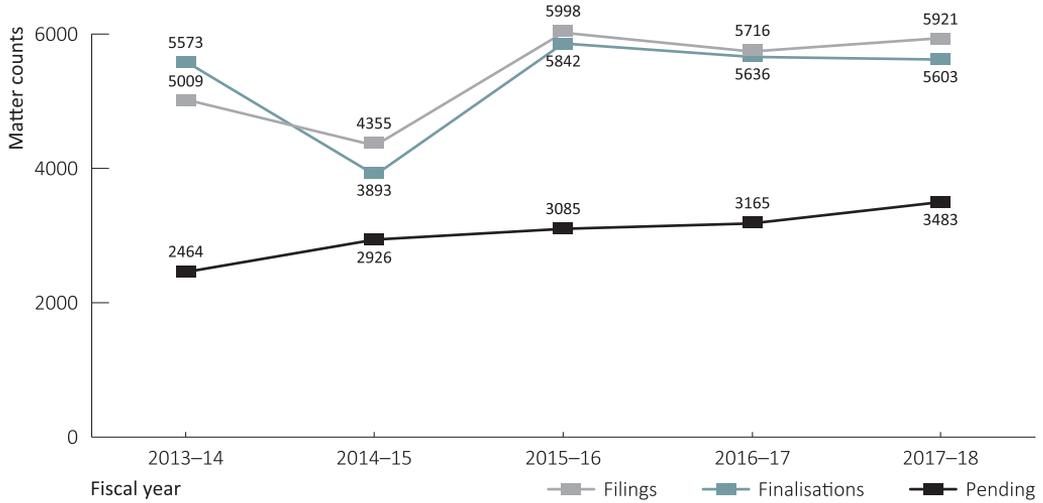


Figure A5.9.1: All filings, finalisations and pending by Administrative and Constitutional Law and Human Rights National Practice Areas (NPA)

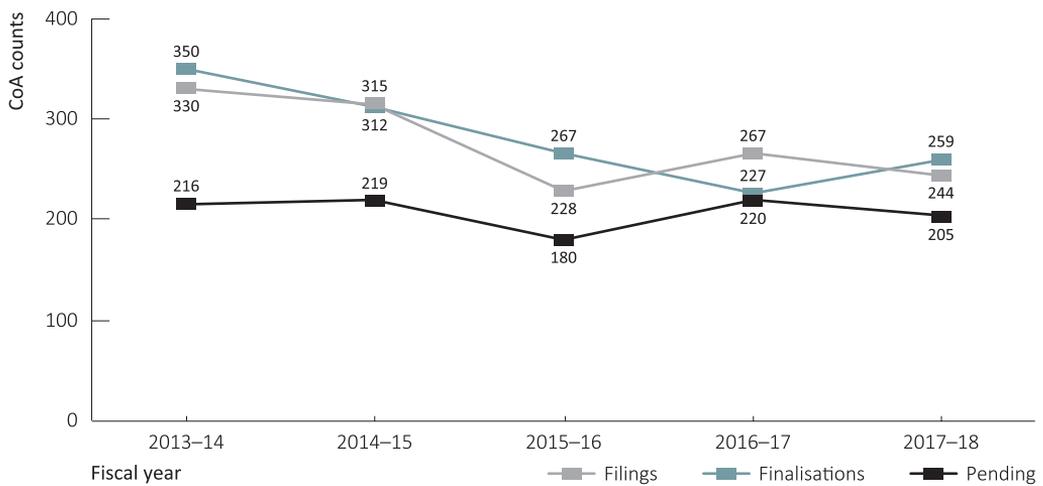


Figure A5.9.2: All filings, finalisation and pending by Admiralty and Maritime NPA

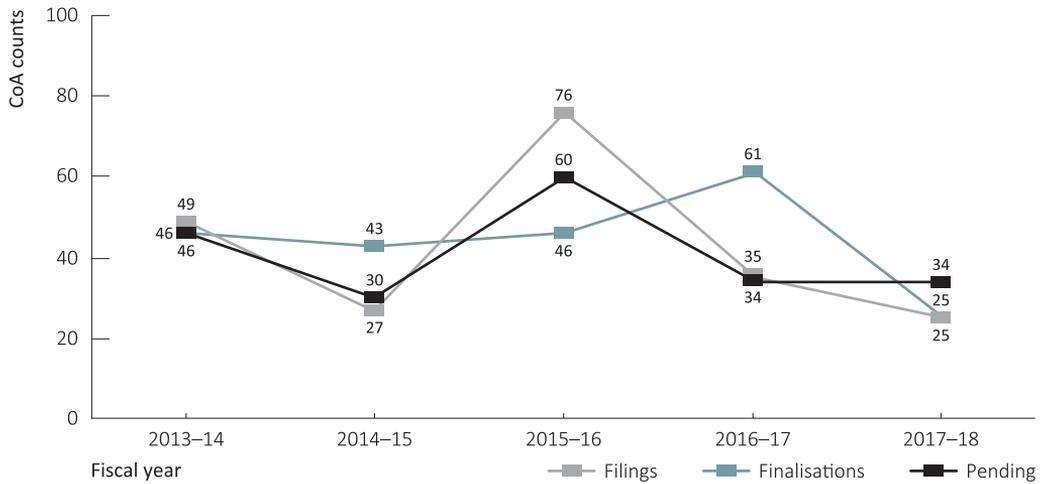


Figure A5.9.3: All filings, finalisation and pending by Commercial and Corporations NPA

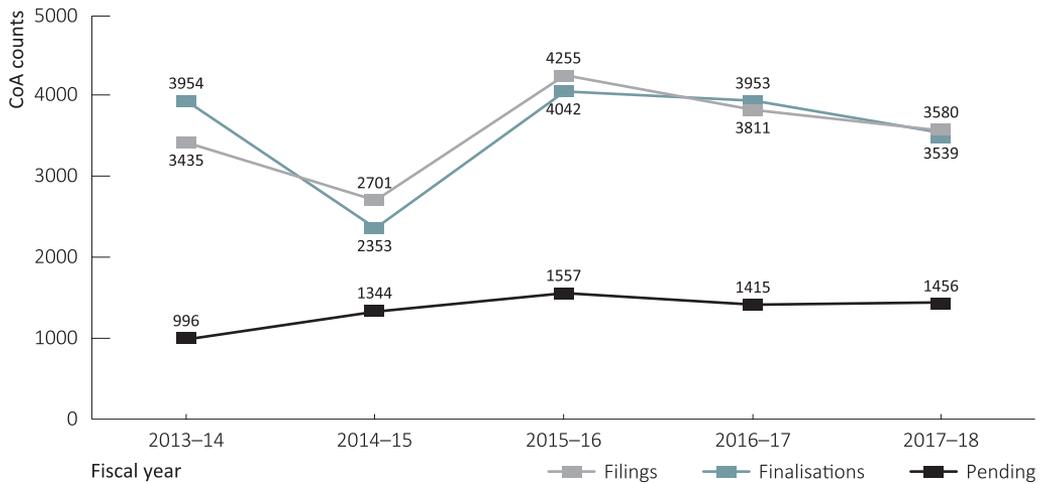


Figure A5.9.4: All filings, finalisation and pending by Employment and Industrial Relations NPA

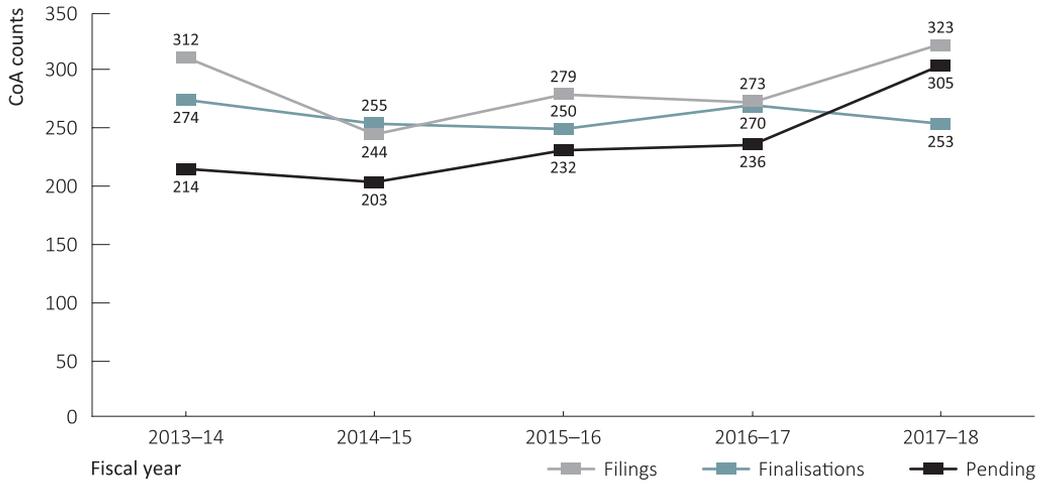


Figure A5.9.5: All filings, finalisation and pending by Intellectual Property NPA

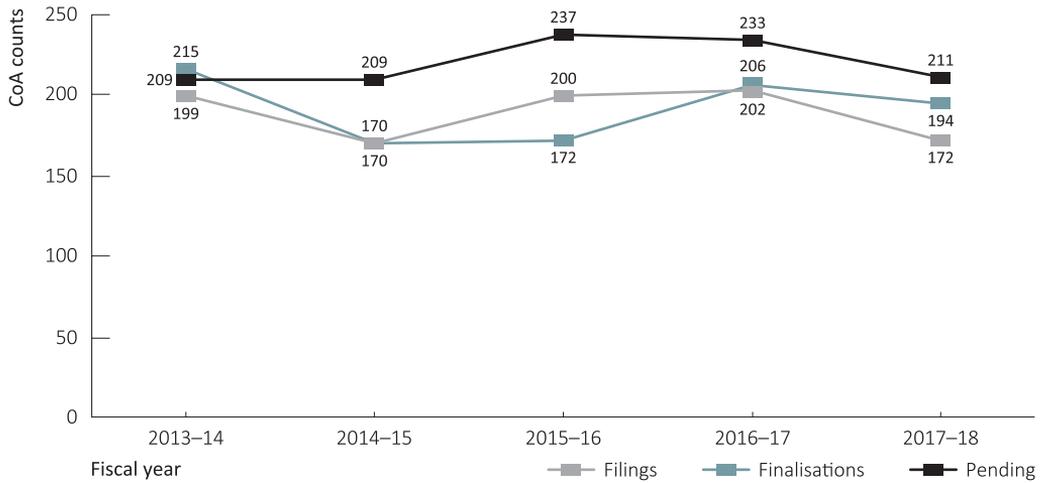


Figure A5.9.6: All filings, finalisation and pending by Native Title NPA

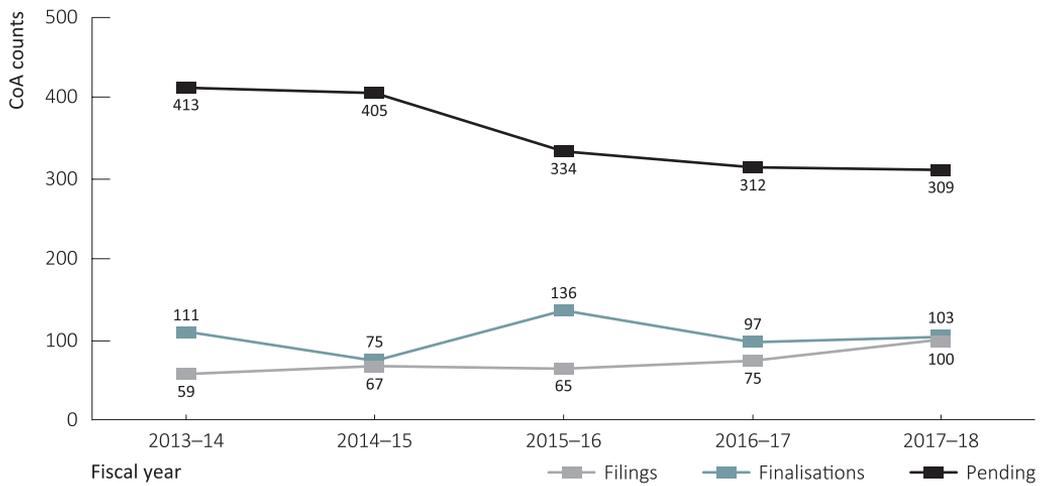
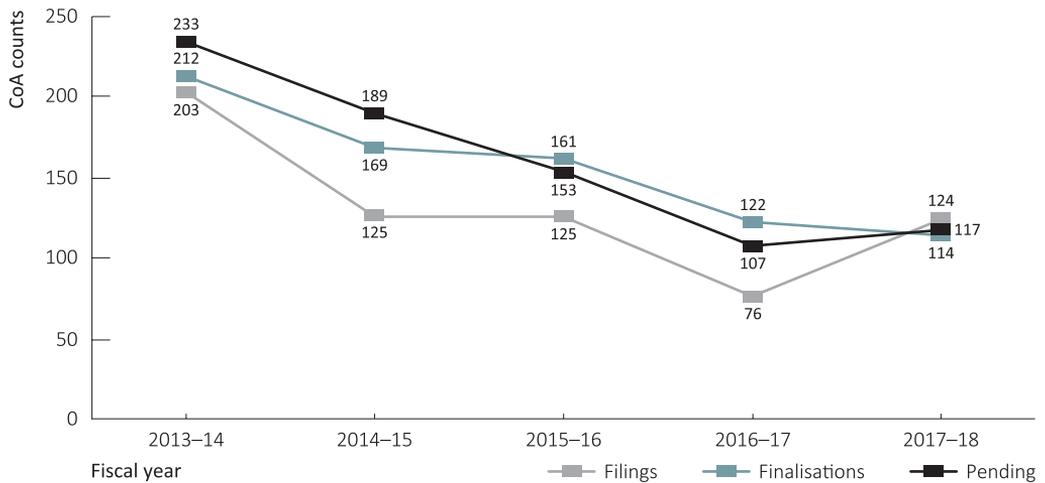


Figure A5.9.7: All filings, finalisation and pending by Taxation NPA



In 2016-17 the Court introduced two new NPAs: Other Federal Jurisdiction NPA and Federal Crime and Related Proceedings NPA.

Figure A5.9.8: Other Federal Jurisdiction NPA, filings, finalisations and pending, 2017-18

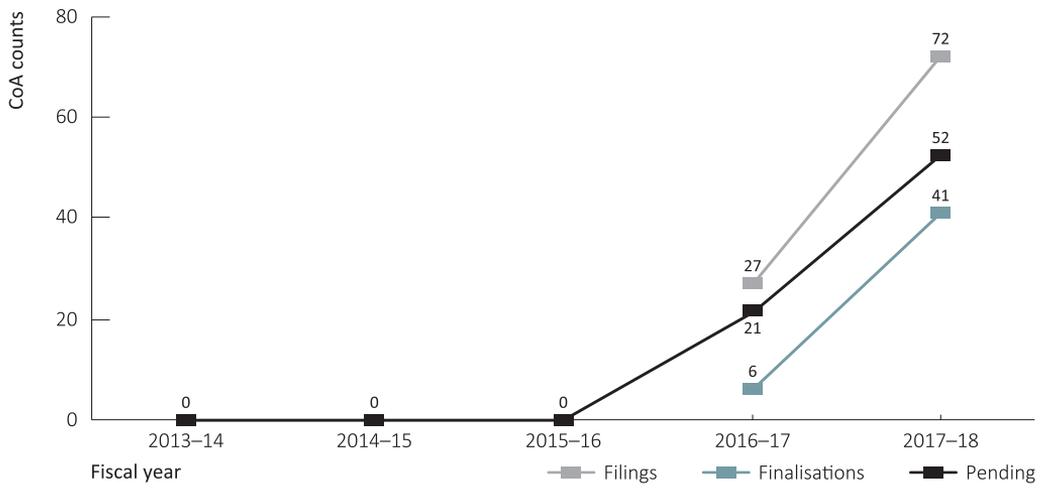
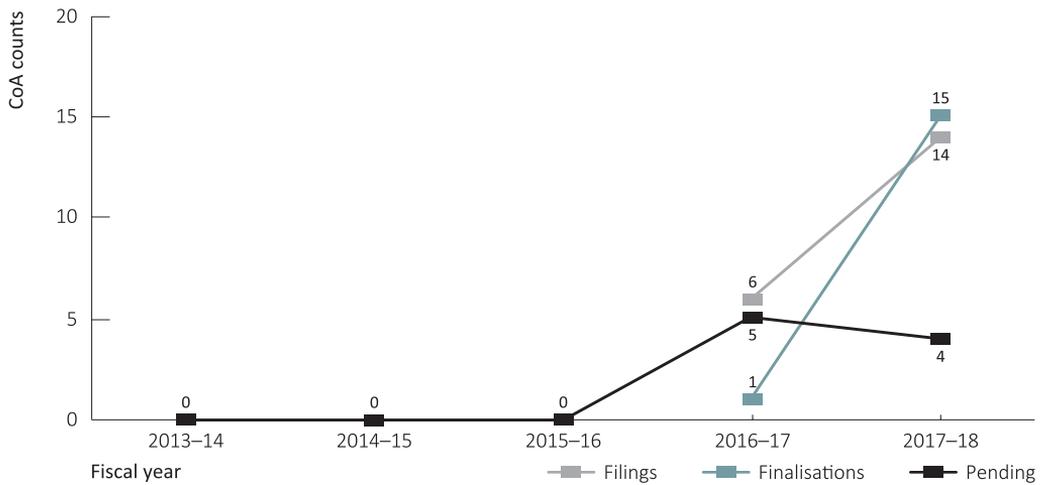


Figure A5.9.9: Federal Crime and Related Proceeding NPAs, filings, finalisations and pending, 2017-18



APPENDIX 6

WORK OF TRIBUNALS

Australian Competition Tribunal

Functions and powers

The Australian Competition Tribunal was established under the *Trade Practices Act 1965* and continues under the *Competition and Consumer Act 2010* (the Act) to hear applications for:

- review of determinations by the Australian Competition and Consumer Commission (ACCC) granting or refusing clearances for company mergers and acquisitions
- review of determinations by the ACCC in relation to the granting 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 s 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 Act.

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

The jurisdiction of the Tribunal changed in two ways in the year ending 30 June 2018. Firstly, review by the Tribunal of decisions of the Australian Energy Regulator and the Economic Regulation Authority of Western Australia was abolished by operation of the *Competition and Consumer Amendment (Abolition of Limited Merits Review) Act 2017* (Cth). Such review (known as Limited Merits Review) concerned decisions made pursuant to the National Electricity Law and National Gas Law.

Secondly, merger authorisation applications will no longer be able to be made to the Tribunal. Such applications will be able to be made only to the ACCC. The Tribunal will, however, continue to have power to review merger authorisation determinations made by the ACCC. These changes were effected by operation of the *Competition and Consumer Amendment (Competition Policy Review) Act 2017* (Cth).

Practice and procedure

A review by the Tribunal is usually conducted by way of a public hearing, but may in some instances be conducted on the papers. Parties may be represented by a lawyer. The procedure of the Tribunal is subject to the Act and regulations within the discretion of the Tribunal. The Competition and Consumer Regulations 2010 sets out some procedural requirements in relation to the making and hearing of review applications.

Proceedings are conducted with as little formality and technicality and with as much expedition as the requirements of the Act and a proper consideration of the matters before the Tribunal permit. The Tribunal is not bound by the rules of evidence.

Membership and staff

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

Justice John Middleton is the President of the Tribunal. On 29 August 2017, Justice Jennifer Davies was appointed as a Deputy President of the Tribunal, joining Justice Lindsay Foster, Justice Kathleen Farrell, Justice Andrew Greenwood, Justice Alan Robertson and Justice David Yates.

There are seven lay members of the Tribunal: Robyn Davey, Grant Latta AM, Professor David Round AM, Rodney Shogren, Ray Steinwall, Dr Darryn Abraham and Professor Kevin Davis.

The Tribunal is supported by a Registrar and Deputy Registrars appointed by the Treasurer. Tim Luxton is the Registrar, and Nicola Colbran, Katie Lynch, Geoffrey Segal and Russell Trott are the Deputy Registrars.

Activities

Ten matters were current at the start of the reporting year. During the year, two matters were commenced and 11 were finalised.

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

Decisions of interest

- *Applications by Tabcorp Holdings Limited* [2017] ACompT 5 (22 November 2017)
- *Applications by CitiPower Pty Ltd and Powercor Australia Ltd* [2017] ACompT 4 (17 October 2017)
- *Application by AusNet Electricity Services Pty Ltd* [2017] ACompT 3 (17 October 2017)
- *Application by ActewAGL Distribution* [2017] ACompT 2 (17 October 2017)

Copyright Tribunal

Functions and powers

The Copyright Tribunal was established under the *Copyright Act 1968* to hear applications dealing with four main types of matters:

- to determine the amounts of equitable remuneration payable under statutory licensing schemes
- to determine a wide range of ancillary issues with respect to the operation of statutory licensing schemes, such as the determination of sampling systems
- to declare that the applicant (a company limited by guarantee) be a collecting society in relation to copying for the services of the Commonwealth or a state, and
- to determine a wide range of issues in relation to the statutory licensing scheme in favour of government.

The *Copyright Amendment Act 2006*, assented to on 11 December 2006, has given the Tribunal more jurisdiction, including to hear disputes between collecting societies and their members.

Practice and procedure

Hearings before the Tribunal normally take place in public. Parties may be represented by a lawyer. The procedure of the Tribunal is subject to the Copyright Act and regulations and is 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. Justice Andrew Greenwood is the President of the Tribunal. Justice Nye Perram and Justice Jayne Jagot are Deputy Presidents. The current members of the Tribunal are Dr Rhonda Smith (reappointed from 12 December 2017), Mr Charles Alexander (appointed from 30 November 2017), Ms Sarah Leslie (appointed from 1 March 2018) and Ms Michelle Groves (appointed from 16 April 2018). Appointments are usually for a period of five years.

The Registrar of the Tribunal is an officer of the Federal Court of Australia (FCA). The Registrar of the Tribunal during the reporting period was Michael Wall.

Activities

Four matters have been commenced in the Tribunal during the reporting period.

1. CT1 of 2017 – *Copyright Agency Limited v State of New South Wales*, being an application brought under s 153K of the *Copyright Act 1968*, filed on 17 November 2017.
2. CT2 of 2017 – *Meltwater Australia Pty Ltd v Copyright Agency Limited*, being an application brought under s 157(3) of the *Copyright Act 1968*, filed on 28 November 2017.
3. CT1 of 2018 – *Stream Pty Ltd v Copyright Agency Limited*, being a further application brought under s 157(3) of the *Copyright Act 1968*, filed on 21 May 2018.
4. CT2 of 2018 – *Isentia Pty Ltd v Copyright Agency Limited*, being a further application brought under s 157(3) of the *Copyright Act 1968*, filed on 20 June 2018.

All four matters are ongoing.

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

Decisions of interest

On 5 January 2018 the Tribunal made its final orders in CT 1 of 2012 – *Reference by Phonographic Performance Company of Australia Limited*. The orders varied the current licensing scheme but deferred the implementation of the varied scheme until after the determination or discontinuance of an (amended) application for review brought before the FCA (NSD 945/2016 – *Phonographic Performance Company of Australia Limited v Copyright Tribunal of Australia & Anor*).

Defence Force Discipline Appeal Tribunal

Functions and powers

The Defence Force Discipline Appeal Tribunal was established under the *Defence Force Discipline Appeals Act 1955* (Cth) (the Act). Pursuant to s 20 of the Act, a convicted person 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

Tribunal hearings were conducted as follows:

- 26 and 27 April 2018, in Brisbane
- 15 December 2017, in Adelaide
- 3 November 2017, in Brisbane
- 8 September 2017, in Melbourne.

The procedure of the Tribunal is within its discretion.

Membership and staff

The Tribunal is comprised of the President, the Deputy President and other members.

Justice Richard Tracey AM RFD is the President, and Justice John Logan RFD is the Deputy President. The other members of the Tribunal are Justice Paul Brereton AM RFD, Justice Graham Hilley RFD and Justice Greg Garde AO RFD.

The Registrar and Deputy Registrars of the Tribunal are officers of the FCA. Their details are set out in Appendix 4.

Activities

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

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

Decisions of interest

- *Herbert v Chief of Air Force* [2018] ADFDAT 1 (27 April 2018)
- *O'Neill v Chief of Army* [2017] ADFDAT 6 (3 November 2017).

APPENDIX 7

DECISIONS OF INTEREST

Administrative and Constitutional Law and Human Rights NPA

ARJ17 v Minister for Immigration and Border Protection [2018] FCAFC 98

(22 June 2018, Rares, Flick and Rangiah JJ)

A blanket policy of prohibiting mobile phones and SIM cards in detention centres and of removing such items from all detainees for the duration of their detention was found to be invalid in this case.

Rares J found that a positive law was required to authorise such a policy. The policy was not authorised by the power to ‘maintain’ detention centres, because this power was addressed to upkeep of facilities. It was also not authorised by the search power because this power could not be relied upon to confiscate mobile phones that were not concealed or secreted. The power to ‘detain’ authorised ‘reasonably necessary’ action and use of force by authorised officers, however, it was not ‘reasonably necessary’ to deprive all detainees of their mobile phones, particularly where unmonitored landline telephones and computer internet access would still be provided to effect the same or very similar communication opportunities with persons outside a detention centre.

Rangiah J found that the policy was a ‘blanket’ one that required authorised officers to confiscate and retain mobile phones and SIM cards, regardless of particular circumstances. Accordingly, the policy was invalid for the additional reason that it was inconsistent with the discretionary powers conferred upon authorised officers to personally and independently make discretionary judgements based upon the particular circumstances that they face.

Flick J agreed with both Rares and Rangiah JJ, in finding that there was not a sufficiently unambiguous source of legislative power to support the policy and it was inconsistent with the discretionary powers otherwise vested in an ‘authorised officer’. Even if some statutory source of power could be found, any exercise of such a power would necessarily have to be proportionate to the power conferred. An assessment of proportionality would require taking into account a variety of considerations peculiar to individual detention centres and personal to individual detainees.

Administrative and Constitutional Law and Human Rights NPA

DAO16 v Minister for Immigration and Border Protection [2018] FCAFC 2

(15 January 2018, Kenny, Kerr and Perry JJ)

The appellant ('DAO16') appealed from a decision of the Federal Circuit Court of Australia (FCC) dismissing an application for judicial review of the Administrative Appeals Tribunal's decision to affirm a decision of the delegate of the Minister for Immigration and Border Protection not to grant DAO16 a protection visa.

DAO16, a citizen of India, claimed he was gay and feared harm in India by reason of his sexuality. This claim was rejected by the Tribunal. It found that DAO16 had falsely claimed to be in a genuine homosexual relationship with a Mr R and that this finding had so 'poisoned the well' that no corroborating evidence could be accepted. Specifically, the Tribunal rejected the evidence of multiple witnesses relied upon by DAO16 as fabricated because most witnesses were associated with Mr R and/or had some connection with protection visa applicants. The Tribunal found that DAO16 was 'prepared to do whatever he considers necessary to assist him to obtain a permanent visa'.

The FCC rejected the contention that the Tribunal had failed to take evidence into account and held that the Tribunal had not engaged in any illogical process of reasoning or made findings unsupported by the evidence.

The Full Court allowed the appeal, holding that the Tribunal's decision demonstrated 'extreme illogicality' and 'lack[ed] an intelligible foundation'. It held that the Tribunal's finding that DAO16's relationship with Mr R was fabricated did not provide a logical or rational basis for rejecting the corroborative evidence of four witnesses in respect of whom there was no evidence of any connection with Mr R or other protection visa applicants. The Full Court held that the Tribunal's reasons did not disclose any attempt to analyse and explain why the evidence of these independent witnesses was

found to be fabricated. The Full Court expressed grave concerns as to the reasonableness of the Tribunal's decision in other respects including that many findings were underpinned by unexpressed and unwarranted assumptions not based in any evidence. The Full Court also found that the FCC failed to consider fundamental aspects of the appellant's case including the challenge to the Tribunal's treatment of the evidence of the 16 witnesses.

Administrative and Constitutional Law and Human Rights NPA

Hocking v Director-General of National Archives of Australia [2018] FCA 340

(16 March 2018, Griffiths J)

In 1978, a bundle of correspondence between the then Governor-General of Australia, Sir John Kerr, and The Queen (or The Queen's Private Secretary) was placed into the custody of the National Archives of Australia ('the Archives'). The bundle, known as AA1984/609, included letters, telegrams and attachments exchanged between Sir John and The Queen between 1974 and 1977. In accordance with the instrument of deposit, AA1984/609 was to remain sealed until after 8 December 2037, and after this date, was not to be accessed without consultation with the Private Secretary of the day and the Governor-General's Official Secretary of the day.

The applicant, an academic, requested access to the records in AA1984/609 pursuant to the *Archives Act 1983* ('the Act'). The request was refused by the Archives, on the basis that the records did not fall within the definition of 'Commonwealth records' as defined in s 3 of the Act. The records did not constitute 'the property of the Commonwealth', nor 'the property of the official establishment of the Governor-General'.

The applicant sought judicial review of the Archives' decision. The primary question before the Court was whether the records in AA1984/609 were Commonwealth records. If they were in fact Commonwealth records, the Act provided for public access 30 years after the records came into existence. If the records were not

Commonwealth records, public access was governed by the instrument of deposit. Griffiths J noted that determination of the proceeding depended on the statutory construction of the Act, taking into account its legislative history. Griffiths J concluded that the applicant had not established any reviewable error on the part of the Archives, and that the Archives did not err in finding that the records were properly considered Sir John's personal property.

The primary judge found that private and personal correspondence between Sir John and The Queen has traditionally been regarded as the personal property of the correspondents. Sir John, in providing periodic briefings to The Queen, was not exercising the executive power of the Commonwealth.

In addition, Griffiths J found that the records were not 'the property of the official establishment of the Governor-General'. Although this is not defined in the Act, the Court concluded that the concept referred to persons assisting the Governor-General's performance of official duties, and not necessarily to the position of the Governor-General itself. Griffiths J dismissed the application for judicial review.

An appeal to the Full Court is currently listed for hearing in November 2018.

Admiralty and Maritime NPA

***Zetta Jet Pte Ltd v The Ship "Dragon Pearl"* (No 2) [2018] FCAFC 132**

(16 August 2018, Allsop CJ, Moshinsky and Colvin JJ)

Zetta Jet Pte Ltd and Mr King (a trustee appointed to Zetta Jet under United States insolvency law) alleged that Zetta Jet was the owner in equity of the vessel *Dragon Pearl*. The *Dragon Pearl* was arrested in October 2017, and held by the Admiralty Marshal pending determination of the Court proceedings. Those proceedings were dismissed, as was a subsequent appeal.

Following the dismissal of the appeal, the vessel was purchased by Linkage Access Limited ('Linkage') for US\$1. Zetta Jet and Mr King brought new proceedings against Linkage to arrest the vessel. Although the application for a warrant was denied, the *in rem* claim against the *Dragon Pearl* remained outstanding.

In the course of a third set of proceedings, Zetta Jet and Mr King sought interlocutory injunctions to restrain the removal of the *Dragon Pearl* from Australian waters, or alienation of title in the vessel pending a trial. In support of the interlocutory injunctions, Mr King claimed that he had applied for recognition as a foreign representative of Zetta Jet under the UNCITRAL Model Law on Cross-Border Insolvency and that he intended to apply for relief under s 588FF of the *Corporations Act 2001* in relation to the alleged uncommercial transaction by which the *Dragon Pearl* was transferred to Linkage.

In reply, Linkage submitted that a *res judicata* arose in relation to claims *in rem* by Zetta Jet and Mr King against the vessel by reason of the dismissal of the original proceedings. Linkage proceeded to seek summary dismissal of the second *in rem* proceeding, which was granted by the primary judge, who accepted the *res judicata* submissions. An injunction was also refused.

Zetta Jet and Mr King sought leave to appeal. The Full Court found that leave ought to be granted, but concluded that the primary judge did not err in ordering summary dismissal of the *in rem* proceedings and denying the claim to injunctive relief based upon *res judicata* principles.

However, the Full Court also found that the primary judge did not separately address the significance for the application for injunctive relief of the foreshadowed claim for relief under s 588FF of the *Corporations Act 2001*. Accordingly, the Full Court allowed the appeal as to the dismissal of the interlocutory injunction application and remitted the matter to the primary judge to consider whether the uncommercial transaction claim is a sufficient ground on which to order an injunction.

Commercial and Corporations NPA | Commercial Contracts, Banking, Finance and Insurance Sub-Area

***Hancock Prospecting Pty Ltd v Rinehart* [2017] FCAFC 170**

(27 October 2017, Allsop CJ, Besanko and O’Callaghan JJ)

Two grandchildren of Mr Langley Hancock commenced proceedings against 15 respondents, including their mother, siblings and various entities in the Hancock Group. It was alleged that following the death of their grandfather, their mother took control of all entities in the Hancock Group and, in breach of her duties as a fiduciary and as a trustee, engineered a situation that gave her children a lesser interest in the family’s valuable mining assets than had been agreed.

The Full Court considered an interlocutory application seeking a stay of the Court proceedings and an order referring the parties to arbitration. It was alleged that the applicants had previously given up any right to bring any of the claims made and had in any event agreed that any such claims would be made in confidential arbitral proceedings. The Full Court found that the arbitration contemplated in this case was a ‘commercial arbitration’. It was not necessary to demonstrate a pre-existing commercial relationship between the parties. A family or domestic dispute and the arbitration to resolve it could be characterised as a commercial dispute.

The Full Court also found that arbitration clauses should be interpreted liberally where the words permitted that to be done. The correct general approach was that parties did not intend to have their disputes heard in two places. The Full Court construed the words ‘any dispute under this deed’ to mean the whole dispute or controversy. Construing the word ‘dispute’ in a way that brought the substantive defence, but not the substantive reply into the purview of the arbitration clause would be contrary to principle because it would provide for dispute resolution in two places.

The Full Court ordered a stay of the whole of the proceedings pending any arbitral reference or until further order, finding that claims against non-parties to the arbitration agreements were also fundamentally adjectival to those involving the parties to the arbitration agreements.

The High Court of Australia granted special leave to appeal and the appeal is currently listed for hearing on 12 October 2018.

Commercial and Corporations NPA | Corporations and Corporate Insolvency Sub-Area

***Jones (Liquidator) v Matrix Partners Pty Ltd, in the matter of Killarnee Civil & Concrete Contractors Pty Ltd (in liq)* [2018] FCAFC 40**

(21 March 2018, Allsop CJ, Siopis and Farrell JJ)

The Full Court in this case considered a liquidator’s application for directions and declarations in relation to a voluntary winding up of a company that had carried on business as the trustee of a trading trust. The questions considered by the Full Court have been the subject of significant academic debate and conflicting decisions over the course of several decades.

The Full Court was unanimous in holding that assets of the trading trust were not assets in the winding up of the trustee company. A liquidator therefore did not have power under the *Corporations Act 2001* to sell those assets and required separate permission from the Court to do so. The Full Court was also unanimous in finding that proceeds from the sale of trust assets were not available to pay all creditors of the insolvent corporate trustee and had to be used only to pay trust creditors.

Allsop CJ and Farrell J agreed, for different reasons, that the proceeds of realisation of trust assets should be distributed in accordance with the priority regime in the *Corporations Act 2001*. Allsop CJ found that the priority regime applied because the proprietary interest of the trustee in the assets otherwise held on trust in support of the right of indemnity by

way of exoneration was ‘property of the company’ for the purposes of the *Corporations Act 2001*. Farrell J accepted as binding the recent decision of the Victorian Court of Appeal in *Re Amerind*. Farrell J also observed, and Allsop CJ agreed that, if the distribution was to be in accordance with equitable principle, then there was a sound basis for concluding that Equity would follow the statute by providing for the priority of employees.

Siopis J distinguished *Re Amerind* and did not agree that ‘property of the company’ for the purposes of the priority regime included a trustee’s right of indemnity by way of exoneration. Siopis J agreed with the majority that it would be open for a court exercising equitable jurisdiction to direct that monies realised from the sale of trust assets should be distributed to trust creditors other than *pari passu*. In this case, however, Siopis J was not satisfied that directions in those terms should be made as the liquidator had not applied for appointment as a receiver in respect of the sale of trust assets.

Commercial and Corporations NPA | Economic Regulator, Competition and Access Sub-Area

Australian Securities and Investments Commission v Westpac Banking Corporation (No 2) [2018] FCA 751

(24 May 2018, Beach J)

Pecuniary penalty proceedings were brought by the Australian Securities and Investments Commission (‘ASIC’) against Westpac Banking Corporation (‘Westpac’) concerning its trading in prime bank bills in the bank bill market between 6 April 2010 and 6 June 2012 with the alleged purpose of influencing the setting of the bank bill swap reference rate (‘BBSW’). The BBSW is a key benchmark interest rate in Australian financial markets. Its purpose and function is to provide an independent and transparent reference rate for the pricing and revaluation of Australian dollar derivative instruments, securities and commercial loans.

ASIC claimed that Westpac breached its financial services licensee obligations and had engaged in market manipulation, market rigging, unconscionable conduct, misleading or deceptive conduct and misrepresentation. ASIC contended that during the relevant period, Westpac had developed and pursued a practice of trading prime bank bills with the sole or dominant purpose of influencing the level at which the BBSW was set in a way that was favourable to its BBSW rate set exposure to the disadvantage of counterparties (‘Rate Set Trading Practice’).

Beach J rejected ASIC’s allegation of a Rate Set Trading Practice during the relevant period, but accepted that on four occasions Westpac traders did trade in bank bills with the dominant purpose of influencing the level at which BBSW was set in a way that was favourable to Westpac’s BBSW rate set exposure. Beach J was not satisfied that this amounted to market manipulation or market rigging, although Westpac was found to have engaged in unconscionable conduct under the *Australian Securities and Investments Commission Act 2001*. Beach J found that Westpac’s conduct on the four identified occasions was against commercial conscience as informed by the normative standards and their implicit values enshrined in the text, context and purpose of the *Australian Securities and Investments Commission Act 2001* specifically and the *Corporations Act 2001* generally. Beach J also concluded that by reason of inadequate procedures and training, Westpac contravened its financial services licensee obligations.

Commercial and Corporations NPA | General and Personal Insolvency Sub-Area

Luck v University of Southern Queensland **[2018] FCAFC 102**

(29 June 2018, Logan, Mortimer and Charlesworth JJ)

A creditor's petition lapses 12 months after its presentation or at the expiration of a period fixed by the bankruptcy court. In this case a petition presented in April 2015 was due to lapse in April 2016 unless validly extended. In March 2016, a registrar of the FCC made a consent order adjourning the further hearing of that petition to May 2016 ('consent order'). It was not brought to the registrar's attention and the registrar was not aware that the petition would lapse prior to this date. In May 2016, the registrar made an order under the 'slip rule' correcting the consent order by extending the life of the creditor's petition ('correcting order'). The Full Court was asked to consider whether the life of the creditor's petition was thus validly extended retrospectively.

The majority of the Full Court agreed that a registrar could rely on the 'slip rule' to make the retrospective correcting order, so the life of the creditor's petition was validly extended. Registrars were expressly given the power to extend the life of a creditor's petition, but not to use the 'slip rule'. Registrars could, however, exercise a power that was 'related to' an expressly delegated power.

Mortimer J found that the exercise of the power under the 'slip rule' in this case 'related to' the expressly delegated power to extend the life of a creditor's petition. The two powers were not 'separate and distinct' because the power under the 'slip rule' was derivative, not free-standing. Mortimer J also found that it was possible to retrospectively extend the life of a creditor's petition under the slip rule because what in law occurred when the slip rule was employed was that the exercise of power was located at the time the omission or failure occurred, here in March 2016. Logan J agreed generally with the reasons for judgment of Mortimer J.

Charlesworth J agreed that the appeal should be dismissed, but on a different legal basis. The reasoning of Charlesworth J differed from the majority in that she found that the registrar could not rely on the slip rule in this case. This was because in March 2016, the registrar had not actually formed an intention to extend the life of the petition and Charlesworth J considered this to be a necessary precondition to the registrar's use of the slip rule.

An application for special leave to appeal is currently pending in the High Court of Australia.

Commercial and Corporations NPA | Regulator and Consumer Protection Sub-Area

Australian Olympic Committee, Inc v Telstra Corporation Limited [2017] FCAFC 165

(25 October 2017, Greenwood, Nicholas and Burley JJ)

In advance of the 2016 Summer Olympic Games, Telstra commenced a marketing campaign, promoting the availability of live events streamed from the Olympics by Seven Network. The Australian Olympic Committee ('AOC') contended that Telstra's campaign used protected Olympic expressions, including 'Olympic' and 'Olympic Games', in breach of the *Olympic Insignia Protection Act 1987* (Cth) ('OIP Act'). The AOC also alleged that the Telstra campaign breached the Australian Consumer Law ('ACL') by conveying a false representation, or by having a tendency to cause people erroneously to assume, that Telstra or its products or services had some form of affiliation or sponsorship like arrangement with the Olympic Games, the Olympic movement, the AOC or another Olympic body.

The primary judge concluded that Telstra's campaign did not evoke a connection with a relevant Olympic body, either for the purpose of the OIP Act claim or the ACL claim. It was not enough for the AOC to prove that the campaign was Olympic themed. The primary judge found that Telstra effectively promoted its sponsorship arrangement with the Seven Network by

conveying an impression that its customers could get premium access to Seven Network's coverage of the Olympic Games on their mobile devices.

The Full Court observed that it was not helpful that the grounds of appeal were broadly expressed and amounted to little more than assertions that the primary judge fell into error by not deciding in accordance with the AOC's case. The Full Court emphasised that on appeal, the primary judge's views on the effect of the advertisements and the representations and suggestions they conveyed should be given considerable weight unless those views were shown to be affected by some relevant error of law or fact. The Full Court found it was plainly open to the primary judge to reject the contention that a viewer would consider a disclaimer that Telstra was not an 'official sponsor of the Olympic Games', as an assertion that it was an unofficial sponsor. After reviewing the evidence at trial afresh, the Full Court concluded that no error had been demonstrated by the AOC and dismissed the appeal.

Commercial and Corporations NPA | Regulator and Consumer Protection Sub-Area

Valve Corporation v Australian Competition and Consumer Commission [2017] FCAFC 224

(22 December 2017, Dowsett, McKerracher and Moshinsky JJ)

Valve is a United States based company that operates an online game distribution network with more than two million Australian subscriber accounts. It was alleged that Valve made misrepresentations in its refund policies, including by claiming that it had no obligation to offer refunds or to comply with Australian consumer guarantees. Valve claimed that its refund policies were not misleading because it was not bound by Australian consumer guarantees. This was because the relevant supplies were made pursuant to contracts that were governed by United States law. Valve also contended that the representations were not made in Australia and that it did not carry on business in Australia.

The primary judge found that some of the alleged representations were made and were misleading. The primary judge imposed a pecuniary penalty of \$3 million and ordered other relief, including corrective advertising and a compliance program. The Full Court dismissed Valve's appeal and also a cross-appeal from the decision of the primary judge.

The Full Court did not accept that Australian consumer guarantee provisions could not cover supplies pursuant to contracts governed by foreign law. The Full Court found it would be inconsistent with the statutory scheme to so limit the scope of operation of Australian consumer guarantees.

The Full Court also found that, in substance, the representations were made in Australia. They were addressed to customers in Australia and this is where they were accessed and read. The representations could be taken to have been made in Australia even if Valve was based in the United States and the representations were also available to be accessed by consumers in other countries.

The Full Court found no error in the primary judge's conclusion that Valve was carrying on business in Australia. Not only did Valve engage in transactions with a large number of Australian consumers, it owned servers in Australia upon which content was 'deposited' when requested by its Australian customers. There was a series or a repetition of acts in Australia that formed part of the conduct of Valve's business.

The Full Court did not consider the penalty of \$3 million to be manifestly excessive and found no error in relation to the other relief that had been ordered by the primary judge.

Employment and Industrial Relations NPA

***Shop, Distributive and Allied Employees Association v The Australian Industry Group* [2017] FCAFC 161**

(11 October 2017, North, Tracey, Flick, Jagot and Bromberg JJ)

As part of its four yearly review of modern awards as prescribed by s 156 of the *Fair Work Act 2009* ('the Act'), the Fair Work Commission ('FWC') made determinations to vary multiple awards by reducing the Sunday and holiday penalty rates and other employee entitlements from 1 July 2017. The FWC considered that the penalty rates, as they then were, did not achieve the modern awards objective set out in s 134(1) of the Act, as they did not provide a fair and relevant minimum safety net.

Two unions, the Shop, Distributive and Allied Employees Association and United Voice ('the applicants'), sought judicial review of the FWC's determinations in this Court, submitting that the FWC lacked power under s 156 of the Act to make a determination to vary the award without having first satisfied itself that there had been a material change in circumstances since the previous review. The Full Court rejected this ground, finding that the FWC's power is not conditional upon it being satisfied that a material change has occurred.

The applicants also argued that the FWC misunderstood the nature of the inquiry required under s 134 of the Act, ultimately misconstruing 'relevant' in the phrase 'fair and relevant minimum safety net' as meaning that the award must be suited to contemporary circumstances, instead of by reference to only the factors at s 134(1)(a)-(h), which the applicants contended were exhaustive. The Full Court considered the phrase 'fair and relevant' to be a composite phrase, and held that while those matters in s 134(1)(a)-(h) inform the evaluation of what is a 'fair and relevant minimum safety net of terms and conditions', the FWC is not confined to consideration of those matters only.

In reaching its decision, the Full Court reiterated that its task is limited to reviewing the FWC's decision-making processes for jurisdictional error, and does not extend to assessing the correctness or the merits of the FWC's conclusions.

Having concluded that the FWC's decision, read as a whole, does not disclose any jurisdictional error, the Full Court ordered that each of the applications be dismissed.

Federal Crime and Related NPA

***SMEC Holdings Pty Ltd v Commissioner of the Australian Federal Police* [2018] FCA 609**

(30 April 2018, Bromwich J)

In February 2018, four search warrants were issued for execution at addresses in Melbourne and in the Australian Capital Territory in the course of an Australian Federal Police investigation targeted at SMEC Holdings Pty Ltd ('SMEC'). SMEC and several of its employees or officers brought four proceedings seeking judicial review, challenging the issue of the search warrants, their validity on their face and their execution. Interlocutory applications for discovery were also filed. While the parties were able to reach a consent position in relation to discovery pertaining to the execution of the search warrants, the Commissioner continued to oppose orders for discovery in relation to the material before the officers issuing the search warrants.

The central question was whether the applicants had established a sufficient basis for the Court to exercise its discretion to order the Commissioner to discover the material that was before the issuing officers. Among other assertions, the applicants argued that the issuing officers could not have been satisfied, on the basis of the information before them, that there were reasonable grounds to suspect that items described in the warrant, and located at the premises, would afford evidence of the offences. The applicants also claimed that the warrants were invalid, in circumstances where the applicants asserted they did not commit the offences specified in the warrants.

Bromwich J observed that, under s 3E of the *Crimes Act 1914*, an application for the issue of a search warrant only has to meet a 'low threshold requirement' and so it is difficult to establish that a search warrant has been invalidly issued, by reason of insufficient material before the issuing officer.

Bromwich J further noted that obtaining and executing a search warrant does not constitute any allegation, at that stage, that offences have been committed. It is clear, on the face of each of the four search warrants, that they were obtained on the grounds of no more than a suspicion by the warrant applicant that offences had occurred. Accordingly, claiming one's innocence is not of significant value. Such a claim cannot establish that the suspicion is unreasonably held, nor can it be a sound basis for inferring a lack of sufficient grounds for the issue of a search warrant.

Orders for discovery in relation to the execution of the search warrants were made by consent. The interlocutory applications for discovery were otherwise dismissed.

Intellectual Property NPA | Copyright Sub-Area

***Career Step, LLC v TalentMed Pty Ltd (No 2)* [2018] FCA 132**

(28 February 2018, Robertson J)

Career Step, a company based in the United States, brought claims against TalentMed, an Australian company, for copyright infringement under the *Copyright Act 1968* ('the Act'). Career Step provided an online educational course for those training to be medical transcriptionists. Career Step claimed that TalentMed copied portions of its course, provided under licence, to develop its own materials to offer a competing course to students.

In response, TalentMed and its two directors (together 'the respondents') asserted that Career Step had failed to establish subsistence or ownership of copyright in the work relied upon. The respondents further submitted that TalentMed had not infringed copyright in any alleged work, and neither director was accessorially liable.

Robertson J concluded that TalentMed's first version of its course 'took a substantial part of Career Step's copyright in the work' and that such copyings were not generic, although this was not found in relation to TalentMed's second iteration. It was also accepted that the directors authorised the copying.

Robertson J rejected the respondents' contention that Career Step had failed to evidence the pleaded copyright work, which was found to be the course content, including text containing information, case studies, graphs, diagrams, quizzes and exams, developed by employees and contractors of Career Step operating together. Robertson J accepted Career Step's submission that the course content constituted an original literary work, and more specifically, a work of joint ownership in accordance with the definition in s 10 of the Act. Robertson J was not satisfied that a work consisting of modules could not be a single work. Robertson J found that it was not necessary for each of the writers to contribute to each of the modules before a claim to joint ownership could be established. It was sufficient that the authors, as members of the group constituted for a common purpose, had been identified.

Robertson J also found that ownership lay with Career Step. This was because, by virtue of s 35(6) of the Act, Career Step as employer became the owner of copyright in the work product of the employees, and by s 196 of the Act, became the owner of copyright in the work product of the contractors by virtue of assignments. Declarations reflecting the respondents' infringement were made.

Intellectual Property NPA | Patents and Associated Statutes Sub-Area

***Warner-Lambert Company LLC v Apotex Pty Limited (No 2)* [2018] FCAFC 26**

(23 February 2018, Jagot, Yates and Burley JJ)

Apotex challenged, on grounds of insufficiency and false suggestion, the validity of Pfizer's patent for a new therapeutic use of Lyrica (pregabalin) in pain therapy. The primary judge found the patent was sufficient and that a false suggestion was not material to its grant. The primary judge also found threatened infringement by Apotex.

The Full Court found no error in the primary judge's conclusions in relation to sufficiency. The Full Court accepted that the invention was a broad one directed to a new therapeutic use, not more specific matters such as dosage. The character of the invention was important when considering the description that will be sufficient. The relevant question was whether the specification described the invention fully, not what else was necessary for regulatory approval. There was a difference between whether a person skilled in the art could perform the invention based on the description in the specification and whether a clinician would choose to do so.

The primary judge did not agree that the description of the invention left a person skilled in the art with too much work to do, reasoning that if the steps required to be taken to work the invention were readily apparent and routine, then the test for sufficiency would be satisfied. The Full Court saw no error in this approach, nor in the finding of fact that the work required in the present case was routine for the person skilled in the art.

The Full Court found it was plainly open to the primary judge to conclude that the false suggestion was not a material factor that led to the grant of the patent. The Full Court found that the relevant claims would not lack fair basis even if the reference to testing that included the false suggestion had been omitted.

The Full Court also agreed with the primary judge that there was no reason to read down the definition of 'exploit' to found any territorial limitation.

The relevant act of infringement was not the use of the method outside the patent area but the exploitation (by importation and sale) in Australia of a product made using the patented method. Thus a Swiss-style claim could be infringed by a threat to import and supply medicaments made outside of the patent area by a third party.

Intellectual Property NPA | Trade Marks Sub-Area

***Aldi Foods Pty Ltd v Moroccanoil Israel Ltd* [2018] FCAFC 93**

(22 June 2018, Allsop CJ, Perram and Markovic JJ)

Since 2007, Moroccanoil has produced and distributed 'high-end' hair and skin care products containing argan oil from Morocco. Moroccanoil sought to register this word as a trade mark in relation to hair care products in 2011. In the same year, Aldi became aware that argan oil products were 'on-trend' and decided to produce their own range of argan oil hair care products under the brand 'Protane Naturals'. Aldi opposed the registration of the Moroccanoil trade mark and Moroccanoil claimed that the manner in which Aldi sold its argan oil products constituted misleading or deceptive conduct.

The primary judge found that the packaging of Aldi's products misleadingly conveyed that they were substantially comprised of natural ingredients and that their claimed benefits resulted from argan oil. The primary judge also found that the way in which the word 'Moroccanoil' had been used by Moroccanoil made it capable of distinguishing Moroccanoil's goods. The primary judge found that the trade mark could therefore proceed to registration.

The Full Court unanimously allowed the trade mark appeal, finding that the wordmark 'Moroccanoil' really just meant 'oil from Morocco' and was not inherently adapted to distinguish, nor capable of distinguishing by reason of use, Moroccanoil's products from those of other traders selling argan oil based hair care products.

The Full Court was also unanimous in finding that the word ‘Naturals’ on the packaging of the Aldi products did not convey to the ordinary reasonable consumer that the products were comprised of substantially natural ingredients. The primary judge fell into error by asking the wrong question, namely whether the ingredients in the products could be described as ‘natural’.

In relation to the claimed benefits of the Aldi products, Perram J did not consider the labelling to suggest that the claimed benefits were derived from the presence of argan oil, but found this difference of opinion did not bespeak error for the purposes of appellate review. Allsop CJ and Markovic J both agreed with the primary judge.

Allsop CJ and Perram J also made some important observations about the nature of appellate review. In particular, they criticised a test of ‘plainly and obviously wrong’ as lacking the necessary nuance and setting the standard of appellate review higher than it should be.

Native Title NPA

***Starkey on behalf of the Kokatha People v State of South Australia* [2018] FCAFC 36**

(16 March 2018, Reeves, Jagot and White JJ)

These appeals concern competing and entirely overlapping native title claims over the same claim area, known as Lake Torrens. Native title had been found to exist in favour of each of the appellants, the Kokatha People, the Adnyamathanha People and the Barngarla People, over separate areas of land surrounding Lake Torrens. The Full Court by majority held that all three appeals should be dismissed.

All of the native title applicants were unsuccessful before the primary judge. The primary judge found that the claimed rights and interests of the Kokatha People were contemporary in origin. The primary judge also found that neither the Adnyamathanha People nor the Barngarla People were able to establish a continual substantially uninterrupted connection with the claim area, in accordance with the traditional laws and customs held with respect to the area at sovereignty.

Reeves J found that the deficiency in the appeal by the Kokatha People was that their lay evidence did not take the Kokatha People’s connection to Lake Torrens anywhere near sovereignty. Reeves J rejected submissions that the primary judge erred in his findings, including in relation to their rights and interests in the claim area, the significant objects shown in an evidence session and ethnographic surveys. Reeves J found that ‘nothing has been advanced ... to show why his Honour was wrong’.

Reeves J also rejected the appeal by the Adnyamathanha People. Reeves J found that the primary judge did not misapply the test for connection under the *Native Title Act 1993*, finding that ‘occupation’ was not mistakenly used in the Western sense. Reeves J did not accept that the primary judge erred by misusing the effect of the previous three consent determinations of the area around Lake Torrens. Reeves J also dismissed the appeal by the Barngarla People, finding that many grounds were confined to challenging findings the primary judge made, which were to a substantial degree based upon the witnesses’ credibility.

White J agreed with the reasons given by Reeves J. White J emphasised that the Full Court should ‘recognise the advantages of the primary judge arising ... from his Honour having seen and heard the evidence given’.

In a dissenting judgment, Jagot J found the appeals should have been allowed. In considering the primary judge’s treatment of the prior determinations of native title, Jagot J noted ‘the Kokatha determination did not establish ... that the Adnyamathanha and the Barngarla Peoples did not have rights and interests under their traditional laws and customs by which they had a connection with the Kokatha determination area pre-sovereignty or at any time thereafter until the date of the determination itself’. Jagot J also accepted that the primary judge erred in consideration of some evidence, so would have allowed the Kokatha appeal.

An application for special leave to appeal is currently pending in the High Court of Australia.

Other Federal Jurisdiction NPA

***Rush v Nationwide News Pty Limited (No 2)* [2018] FCA 550**

(20 August 2018, Wigney J)

This matter concerns defamation claims brought by Mr Rush against Nationwide News Pty Ltd and its journalist, Mr Moran (together ‘the respondents’). During the course of proceedings, the respondents filed two interlocutory applications, both of which were opposed by Mr Rush. Wigney J dismissed both applications.

In the first interlocutory application the respondents sought leave to file a further amended defence, which proposed two ‘substantive and substantial’ amendments to the current defence. The first amendment proposed to reinsert parts of the qualified privilege defence, previously struck out by Wigney J in an earlier judgment. The respondents submitted that the proposed paragraphs were ‘directly relevant background context’, and material to the mitigation of damages, rather than as particulars of the qualified privilege defence, in accordance with the principles outlined in *Burstein’s Case*. The second amendment also proposed to reinsert paragraphs previously struck out as particulars of the pleaded qualified privilege defence. Wigney J found that the paragraphs that the respondents sought to be reintroduced into their defence did not fall within the principles in *Burstein’s Case*. Rather, the paragraphs comprised little more than hearsay statements about allegations that had been made about Mr Rush, or rumour or innuendo, or facts about this that did not bear at all on Mr Rush’s reputation. In relation to the second proposed amendment, Wigney J noted that he had already found, in an earlier judgment, those paragraphs to be irrelevant to their defence of qualified privilege. Finally, Wigney J noted that the respondents had not yet offered a satisfactory reason for their delay in seeking leave to amend.

In the second interlocutory application, the respondents sought leave to file a cross-claim out of time, naming the Sydney Theatre Company (‘the STC’) as a cross-respondent and alleging that the STC also defamed Mr Rush. Wigney J considered that the proposed cross-claim against a source, while novel, was ‘weak and at best highly tenuous’. In addition, granting leave to file the cross-claim would mean unacceptable delays. For these reasons, Wigney J concluded that both interlocutory applications ought to be refused.

Taxation NPA

***Commissioner of Taxation v Tamarama Fresh Juices Australia Pty Ltd* [2017] FCAFC 154**

(25 September 2017, Middleton, Gilmour and Jagot JJ)

The liquidators of various companies formerly controlled by the Binetter family commenced proceedings against Nudie entities and other companies claiming equitable compensation effectively equivalent to the tax liabilities of the companies in liquidation. The Nudie entities were granted leave to issue a subpoena to the Commissioner of Taxation, which required the production of ‘protected information’ as defined in the *Taxation Administration Act 1953*.

Protected information is not required to be disclosed by the Commissioner of Taxation unless disclosure of it is ‘necessary for the purpose of carrying into effect the provisions of a taxation law’. The primary judge found that disclosure of the protected information was necessary in this case because the real purpose of the liquidator proceedings was to recover unpaid tax. The disclosure would be conducive to the recovery of the correct or true amount of tax and would be in the interests of justice.

The Full Court disagreed, finding that the disclosure required by the subpoena could not be said to be 'necessary for the purpose of carrying into effect the provisions of a taxation law' merely because the Commissioner of Taxation was the only external creditor of the companies in liquidation and compensation sought by the liquidators was equivalent to the taxation liabilities which the companies in liquidation owed to the Commissioner.

The Full Court accepted that the issue was to be resolved as one of substance over form. The Full Court also accepted that the Commissioner of Taxation was attempting to secure revenue and was acting in the administration of a taxation law. However, the Full Court ultimately found that the purpose of the disclosure was not to give effect to a provision of a taxation law. The connection between the disclosure and the carrying into effect of a provision of a taxation law was too tenuous and remote. The Full Court noted that the required exercise was evaluative, not discretionary and was not informed by considerations of fairness or justice. The Full Court concluded that the subpoena issued to the Commissioner of Taxation should be set aside.

APPENDIX 8

JUDGES' ACTIVITIES

Chief Justice Allsop

Chief Justice Allsop is:

- teaching part-time in maritime law at the University of Queensland
- an Honorary Bencher of the Middle Temple
- a member of the American Law Institute
- a fellow of the Australian Academy of Law
- an Adjunct Professor in the School of Law at the University of Queensland
- President of Francis Forbes Society for Australian Legal History, and
- Patron of the Australian Insurance Law Association.

Date	Activity
31 July 2017	Attended the signing of the memorandum of understanding between the Family Court of Australia, the Federal Court of Australia and the Supreme Court of the Republic of Indonesia, hosted by the Supreme Court in Melbourne
12 August 2017	Chaired the opening session at the Australian Academy of Law and Australian Law Journal Conference entitled 'The Future of Australian Legal Education', and gave the keynote address – 'Why Lawyers Need a Broad Social Education', held at the Federal Court, Sydney
14 August 2017	Attended the New South Wales Bar Association seminar on 'Asian Immigration and the Development of American Constitutional and Common Law', presented by Professor Frank H. Wu and chaired by Malcolm Oakes SC
16 August 2017	Chaired the seminar co-presented by the Federal Court of Australia and the Chartered Institute of Arbitrators (Australia) Limited entitled 'Achieving Greater Efficiency in International Arbitrations', held at the Federal Court, Sydney
19 August 2017	Guest at the Australia and New Zealand Association of Psychotherapy Ltd seminar entitled 'The Divided Brain and Human Meaning' presented by Dr Iain McGilchrist (UK), author of 'The Master and His Emissary: The Divided Brain and the Making of the Western World', held at University of Sydney

Date	Activity
25 August 2017	Gave an address at the Federal Circuit Court Plenary on general federal law matters and bankruptcy, Melbourne
29 August 2017	Attended the eighth John Lehane Memorial Lecture on the topic 'Is Equity Fair?' given by Lord Justice David Richards, hosted by Allens Linklaters, held at the Federal Court, Sydney
31 August 2017	Gave the welcome address at the Richard Cooper Memorial Lecture entitled 'Maritime Liens and Priorities in Canada' presented by the Honourable Mr Justice Sean Harrington, Federal Court of Canada
2–3 September 2017	Lectured at University of Queensland
6 September 2017	Attended and gave the welcome address at the Australian Maritime and Transport Arbitration Commission (AMTAC) annual address entitled 'Maritime Arbitration – Its Place in the Global Economy', held at the Federal Court, Sydney and broadcast to Adelaide, Brisbane, Melbourne and Perth
8 September 2017	Opening speaker at the 40th Anniversary of the Federal Court of Australia Conference hosted by the Centre for Commercial Law and Centre for International and Public Law, Australian National University, held at the Federal Court, Sydney. Spoke on the topic of 'The Role of the Federal Court within the Australian Judicial System'
8 September 2017	Attended and introduced the Honourable Susan Kiefel AC, Chief Justice of Australia at the book launch of 'Advocacy and Judging – Selected Papers of Murray Gleeson AC, QC' edited by Hugh Dillon, hosted by The Federation Press and held at the Federal Court, Sydney
9–10 September 2017	Lectured at University of Queensland
11 September 2017	Met with Brody Warren, Legal Officer at the Permanent Bureau of the Hague Conference on Private International Law, to review the draft of the Guide to Good Practice – Evidence Video-Link Project
11 September 2017	Attended an official dinner, along with Justice Perram and Justice Perry, at the invitation of His Excellency Consul-General (Ambassadorial Rank) of the People's Republic of China in Sydney
13 September 2017	Attended the 'Conversation on Current Issues in the Practice of Employment and Industrial Law' series hosted by the Honourable Justice Mordy Bromberg and presented by the Federal Court of Australia, the Industrial Bar Association of Victoria Bar and the Workplace Relations Section of the Law Institute of Victoria, held at the Federal Court, Melbourne and broadcast to the Federal Court in all states
25 September 2017	Attended the Australian Academy of Law's Patron Address – 'The International Court of Justice as a Working Court' delivered by His Excellency Judge James Crawford AC, SC, FBA, Judge of the International Court of Justice, held at the Federal Court, Sydney

Date	Activity
27 September 2017	Attended the ceremonial sitting of the Supreme Court of Victoria to mark the retirement of the Honourable Marilyn Warren AC as Chief Justice of Victoria
29 September – 1 October 2017	Met with the Honourable Muhammad Hatta Ali, Chief Justice of the Supreme Court of Indonesia in Jakarta. Participated in meeting with Indonesian judges to discuss court organisation and the future regional justice system and met with the Australian Indonesian Partnership for Economic Governance team
1–4 October 2017	Travelled to Singapore and met with the Honourable Sundaresh Menon SC, Chief Justice of Singapore. Gave a talk to law clerks on how the law has changed in Australia over his years of practice; contemporary pressures faced by courts, including areas such as diversity, independence and funding; the role of judicial assistants in Australia; and advice for the young lawyer. Gave the Singapore Academy of Law Distinguished Speaker Lecture on the topic of ‘The Doctrine of Penalties in Modern Contract Law’ with panel discussion moderated by the Honourable Judge of Appeal, Justice Andrew Phang. Visited the School of Law, Singapore Management University, the Faculty of Law, National University of Singapore and the Law Society of Singapore
5 October 2017	Attended the Maritime Law Association of Australia and New Zealand 44th National Conference entitled ‘The Four Seasons of Shipping’ held in Melbourne
6 October 2017	Attended the ceremonial sitting to farewell the Honourable Diana Bryant AO, Chief Justice of the Family Court of Australia, held in Melbourne
9 October 2017	Attended and presented on the topic of ‘Admiralty Division of the Federal Court’ at the reception and tour of the Federal Court of Australia jointly conducted by the Australian Maritime and Transport Arbitration Commission (AMTAC) and the Federal Court of Australia, Sydney
10 October 2017	Gave the opening remarks at the International Bar Association Annual Conference session on Intellectual Property Litigation Reform, held at the Federal Court, Sydney
16–19 October 2017	Participated in various events held as part of the Hong Kong Arbitration Week. Attended the 2nd UNCITRAL Asia Pacific Judicial Summit – Judicial Roundtable on International Trade Law and presented at the session entitled ‘Transparency vs Confidentiality’; was speaker at the Alternative Dispute Resolution (ADR) in Asia Conference: Arbitration in a Changing World on the topic of ‘Artificial Intelligence and Industrialisation of Arbitration’; attended the Arbitration Charity Ball
20 October 2017	Presided over the special sitting of the Full Court for the announcement of the appointment of Senior Counsel for the State of New South Wales
20 October 2017	Attended a joint ceremonial sitting of the Full Court of the Family Court of Australia and the Federal Circuit Court of Australia on the occasion of the swearing in of the Honourable Chief Justice John Pascoe AC CVO as Chief Justice of the Family Court of Australia and His Honour Chief Judge William Alstergren as Chief Judge of the Federal Circuit Court of Australia, held in Sydney

Date	Activity
20 October 2017	Co-hosted with the Chief Justice of New South Wales the conference entitled 'Artificial Intelligence, Big Data and the Quantum Leap' which was a gathering of Australian legal sector leaders and prominent academics to consider the possibilities arising and the potential policy/organisational issues that will flow from the inevitable developments in technology, held at the Supreme Court of New South Wales
23 October 2017	Delivered the welcome at the Australian Academy of Law Symposium held at the Federal Court in Melbourne
24 October 2017	At the invitation of His Excellency the Governor of South Australia, the Honourable Hieu Van Le AC and Mrs Lan Le, attended a dinner at Government House for the Council of Chief Justices
25 October 2017	Attended the Council of Chief Justices meeting in Adelaide
25 October 2017	Gave the opening remarks at the annual cocktail function of the Commercial Bar Association of Victoria, held at the Federal Court in Melbourne
1 November 2017	Introduced the Honourable William Gummow AC QC on His Honour's presentation entitled 'Reflections on the Life and Times of Sir Maurice Byers CBE QC' at the Maurice Byers Centenary Conference held at the New South Wales Bar Association
1 November 2017	Delivered the 2017 Sir Maurice Byers Annual Lecture held at the New South Wales Bar Association entitled 'The Law as an Expression of the Whole Personality'
3 November 2017	Attended the ceremonial sitting of the Federal Circuit Court in Melbourne to welcome Patrizia Mercuri as a Judge of the Federal Circuit Court of Australia
16 November 2017	Attended the Victorian Bar cocktail party in honour of the retiring President, Jennifer Batrouney QC, retiring members of the 2016–17 Bar Council and other members of the Bar who have assisted the Bar Council
21 November 2017	Attended the Australian Association of Constitutional Law event – A discussion of recent High Court decisions on Chapter III: <i>Graham v Minister for Immigration and Border Protection</i> ; <i>Knight v Victoria</i> ; and <i>Rizeq v Western Australia</i> , held at the Federal Court, Sydney
29 November 2017	Attended the ceremonial sitting of the Federal Circuit Court in Melbourne to welcome Justice William Alstergren, Chief Judge of the Federal Circuit Court of Australia
29 November 2017	Participated, via teleconference, in the first meeting of the Advisory Committee for the Asian Principles of Restructuring Project organised through the Asian Business Law Institute based in Singapore
30 November 2017	Attended the ceremonial sitting at the Supreme Court of Victoria in relation to the appointment of Senior Counsel in Victoria
30 November 2017	Presided over the ceremonial sitting of the Federal Court in Melbourne for the announcement of the appointment of Senior Counsel in Victoria

Date	Activity
14 December 2017	Presided over the ceremonial sitting of the Federal Court in Brisbane for the announcement of the appointment of Senior Counsel in Queensland
18 January 2018	Participated, via teleconference, in the first meeting of the Steering Committee for the Asian Principles of Restructuring Project organised through the Asian Business Law Institute based in Singapore
20–24 January 2018	Introduced the Honourable Susan Kiefel AC, Chief Justice, High Court of Australia as the First Speaker at the Supreme and Federal Courts Judges' Annual Conference held in Sydney. Participated as commentator on the paper presented by Professor Vivienne Bath, Professor of Chinese and International Business Law, Director of the Centre for Asian and Pacific Law, Director of Research, China Studies Centre, University of Sydney at the session entitled 'International Trade and Investment Law: The Implications for Australia and Asia of Changing US Policies'
25 January 2018	Attended the swearing in of Professor Sarah Derrington in Brisbane
29 January 2018	At the invitation of Chief Judge Alstergren, attended the ceremonial sitting of the Federal Circuit Court of Australia to swear-in and welcome Dr Christopher Kendall, in Perth
1 February 2018	Presided over the ceremonial sitting held in Melbourne to swear-in and welcome Mr Simon Steward QC to the Federal Court of Australia
5 February 2018	Presented at the High Court of Australia for the new Silks to take their bows and attended the dinner to welcome the new Silks held at the High Court of Australia, Canberra
6 February 2018	Spoke to Associates of the Federal, Supreme and County Courts at the invitation of Young's List, Victorian Bar, held at the RACV City Club, Melbourne
8 February 2018	Addressed the Western Australian Bar Association on the topic 'The Bar's Role in Dispute Resolution', held at the Federal Court in Perth
9 February 2018	Presided over the ceremonial sitting to farewell the Honourable Justice John Gilmour, held at the Federal Court in Perth
9 February 2018	Unveiled a plaque installed on the ground floor of the Federal Court in Perth
13 February 2018	Conducted the private swearing in of the Honourable Justice Katrina Banks-Smith and Mr Craig Colvin SC in Perth
14 February 2018	Conducted the swearing in of Mr Thomas Thawley SC in Sydney
21 February 2018	Hosted end-of-clerkship drinks for Indigenous clerks with attendees including Attorney General Speakman, and representatives of the Federal Court, Federal Circuit Court, Supreme Court of New South Wales, Native Title Tribunal and the Bar, held at the Federal Court in Sydney

Date	Activity
22 February 2018	Attended a luncheon hosted by Chief Justice Bathurst of the Supreme Court of New South Wales in honour of Adam Harris, President, and Jason Baxter, Chief Operating Officer, with the International Association of Restructuring, Insolvency and Bankruptcy Practitioners, held at the Supreme Court of New South Wales
24 February 2018	Gave the keynote address entitled 'The Law as an Expression of the Whole Personality' at the South Australian Bar Association Conference held at the Adelaide Hills Convention Centre
28 February 2018	Presided over the ceremonial sitting to welcome Justice Katrina Banks-Smith and Justice Craig Colvin to the Federal Court, held in Perth
1 March 2018	Presided over the ceremonial sitting to welcome the new Western Australian Silks, held at the Federal Court in Perth
15 March 2018	Hosted a dinner for Dr Péter Darák, President, Curia of Hungary, held in Melbourne
16 March 2018	Participated in the panel discussion on the topic of 'Expansion of Regulatory Power and its Reviewability' at the Bar Association's continuing professional development event held at the Federal Court, Sydney
19 March 2018	In conjunction with the CEO and Principal Registrar of the Federal Court, hosted a Law Society Credential Visit with Doug Humphreys OAM (President), Michael Tidball (CEO), Pauline Wright (Immediate Past President), Elizabeth Espinosa (Senior Vice President), Richard Harvey (Junior Vice President) and Juliana Warner (Treasurer)
9 April 2018	Attended the Council of Chief Justices meeting in Canberra
16–18 April 2018	Gave the opening keynote address at the International Council for Commercial Arbitration Congress held in Sydney on the topic 'Commercial and Investor-State Arbitration: The Importance of Recognising Their Differences'
20 April 2018	Attended the Federal Court and Supreme Court of Queensland dinner to farewell the Honourable Justice John Dowsett AM, held in Brisbane
26 April 2018	Presided over the ceremonial sitting to farewell the Honourable Justice John Dowsett AM as a judge of the Federal Court of Australia, held in Brisbane
30 April 2018	Presided over the ceremonial sitting to farewell the Honourable Anthony Siopis as a judge of the Federal Court of Australia, held in Perth

Date	Activity
2 May 2018	Attended a talk about the Swiss legal system given by a visiting judge from the Swiss Federal Administrative Court, Judge Michael Beusch (PhD, Dr. iur, attorney at law), co-hosted by the Federal Court and held in Melbourne
3 May 2018	Delivered the opening address at the Aviation Law Association of Australia and New Zealand 37th Annual Conference held in Sydney on the topic 'Jurisdiction Shopping in Aviation Litigation'
4 May 2018	As part of the University of New South Wales' International Commercial Arbitration Program for Sri Lankan Delegates, gave a lecture on the role of Australian courts in Australia's international arbitration regime. The delegation comprised 10 senior members of the Sri Lankan Attorney General's Department who were identified by Australia Awards. The program is part of a Commonwealth Government initiative arranged through the Department of Foreign Affairs and Trade Awards program aiming to build legal capacity in the important field of International Commercial Arbitration. The lecture took place at the Federal Court in Sydney
9 May 2018	Hosted the address given to judges by Professor James Hathaway, a leading international scholar in refugee law and author of 'The Law of Refugee Status' (2014), held at the Federal Court in Melbourne and broadcast to all other states
10 May 2018	Gave the welcoming address to readers of the New South Wales Bar Practice course attending the 'Federal Court Day', a day in the course which highlights practice and procedure in both the Federal Court and the Federal Circuit Court
23 May 2018	Attended the lecture delivered by the Honourable Chief Justice Geoffrey Ma Tao-li of the Court of Final Appeal, Hong Kong held at the Melbourne Law School. This event was organised in collaboration with the Supreme Court Library of Queensland and the Gilbert + Tobin Centre of Public Law, University of New South Wales
1 June 2018	Launched the memorandum of understanding signed by the Australian Bar Association and Chartered Institute of Arbitrators Australia which aims to advance arbitration and mediation work opportunities for Australian counsel and develop a more unified local dispute resolution profession. The signing and launch were held at the Federal Court, Melbourne
6 June 2018	Attended the annual dinner with Sydney Intellectual Property Judges organised by the Law Council Intellectual Property Committee
12 June 2018	Gave a judicial education address on the subject of appeals to judges of the Federal Circuit Court, held in Melbourne and broadcast to all other states
14 June 2018	Attended the Chartered Institute of Arbitrators seminar on Transparency, Efficiency, Enforceability and Diversity, chaired by the Honourable Justice Sarah Derrington, held in Brisbane and broadcast to all states

Justice Kenny

Justice Kenny is:

- a member of the Council of the Australian Institute of Judicial Administration
- a Foundation Fellow of the Australian Academy of Law
- a College Fellow of St Hilda's College, University of Melbourne
- Chair, Asian Law Centre Advisory Board, Melbourne Law School, and
- a member of the Editorial Board of the *Journal of the Intellectual Property Society of Australia and New Zealand*.

Date	Activity
4 August 2017	Contributed to a focus group for the Sir Ninian Stephen Scholarship in International Law
6–9 October 2017	Presented the 2017 Loseby Lecture in Hanoi and Ho Chi Minh City, Vietnam, 'Why and How are Independent and Impartial Courts Crucial to Investments and Business in a Country?'
8–14 November 2017	Co-taught with Associate Professor James Stellios 'Constitutional Rights and Freedoms', in the Masters Program at Melbourne Law School
4 December 2017	Delivered the occasional address at the Conferring of Degrees Ceremony, University of Melbourne
12 February 2018	Hosted (with Acting District Registrar Luxton and Judge Wilson, FCC), a visit by Judge Yun-Kyung Bae (Suwon District Court, Korea) and Judge Yuri Takemura (Yokohama District Court, Tokyo, Japan)
27 April 2018	Hosted (with Acting District Registrar Luxton and the Director Court Services) a delegation of visiting judges from the Court of Appeal in Sri Lanka under the auspices of the Melbourne Law School
25 May 2018	Published the chapter on 'Evolution' in the Oxford Handbook of the Australian Constitution (Oxford University Press, 2018) edited by Cheryl Saunders and Adrienne Stone

Justice Greenwood

Justice Greenwood is:

- Adjunct Professor in Competition Law and Intellectual Property in the TC Beirne School of Law, University of Queensland, and
- Member, Advisory Council, TC Beirne School of Law, University of Queensland.

Date	Activity
19 August 2017	Presented at the TC Beirne School of Law, University of Queensland on the topic of 'Aspects of Federal Jurisdiction'
8 September 2017	Spoke at the Conference to mark the 40th Anniversary of the Federal Court of Australia on Aspects of the Court's Jurisdiction in Intellectual Property
14 September 2017	Spoke at the Bar Association of Queensland's Bar Practice Course on Practice in the Federal Court of Australia
25 October 2017	Participated in an 'Ask the Judges Forum' organised by the Bar Association of Queensland
1 December 2017	Delivered a chapter on the History of Origins and Development of the Federal Court's Jurisdiction in Intellectual Property to the editors for a collection of papers on the Federal Court
13 February 2018	Presented on the topic of 'Pleadings' at a forum sponsored by the Bar Association of Queensland
6 March 2018	Spoke at the Bar Association of Queensland's Bar Practice Course on Aspects of Federal Jurisdiction and Practice in the Federal Court
27 March 2018	Spoke at the International Competition Law Symposium on the topic of 'Optimal Enforcement of Anti-Cartel Law Practice and Practice'
14 May 2018	Spoke on the topic of Civil Procedure and Practice in the Federal Court, University of Queensland Law School
29 May 2018	Presented at the Administrative Appeals Tribunal's National Conference on the topic of 'The Art of Decision-Making'

Justice Rares

Justice Rares is:

- a Deputy President and a member of the Board of Management of the Council of the Australasian Institute of Judicial Administration
- Chair of the Consultative Council of Australian Law Reporting
- Presiding Member of the Admiralty Rules Committee established under the *Admiralty Act 1988* (Cth), and
- a member of the Comité Maritime International's International Working Group on Offshore Activities.

Date	Activity
4–6 October 2017	Attended the Maritime Law Association of Australia and New Zealand 44th National Conference and presented a paper entitled 'Ships that Changed the Law – the Torrey Canyon Disaster', Melbourne
6–8 October 2017	Attended the Judicial Conference of Australia 2017 Colloquium, Hobart
9 October 2017	Presented as a panel member in the International Bar Association Conference session entitled 'Avoiding that Sinking Feeling: Navigating Shipping Insolvencies', Sydney
14 October 2017	Attended the annual general meeting of the Australasian Institute of Judicial Administration and was elected a Deputy President
20 October 2017	Presented a paper entitled 'Social Media – Challenges for Lawyers and the Courts' at the Australian Young Lawyers' Conference, Sydney
3–6 November 2017	Attended the 6th Annual World Congress of Ocean and delivered a paper entitled 'Ship Arrests, Maritime Liens and Cross-Border Insolvency', Shenzhen, China
29 November 2017	Presented a paper at the Land Court of Queensland's Concurrent Evidence Procedures Forum, Brisbane
5 December 2017	Delivered commentary on the 2017 United Nations Day Lecture, Sydney
20–24 January 2018	Attended the Supreme and Federal Court Judges' Conference, Sydney
16 February 2018	Delivered the opening address at the Sydney Law School Conference on Commercial Issues in Private International Law, University of Sydney
8 March 2018	Presented the Commercial Law Section of the New South Wales Bar Association seminar '10 Years of the Cross-Border Insolvency Act', Sydney
5 May 2018	Chaired a session at the 2018 Competition Law Conference, Sydney
9 May 2018	Delivered a paper on authorised law reporting to welcome representatives of the Incorporated Council for Law Reporting for England and Wales to Australia, Sydney

Date	Activity
24–26 May 2018	Attended the Australasian Institute of Judicial Administration Annual Conference and gave the vote of thanks to the Honourable Chief Justice Kiefel AC for delivering the keynote address, Brisbane
30 May–1 June 2018	Chaired the annual general meeting of the Consultative Council of Australian Law Reporting, Wellington, New Zealand
22 June 2018	Presented a paper entitled ‘Commercial Issues: Private International Law’ for the Commercial Law Association’s June Judges Series, Sydney
26 June 2018	Presented a joint lecture with Professor Martin Davies on maritime law for the Melbourne Law School’s Judges in Conversation series, Melbourne

Justice Collier

Justice Collier is:

- Chairperson of the Design, Delivery and Evaluation Committee of the Papua New Guinea Centre for Judicial Excellence
- a member of the Griffith University Law School’s Law Futures Centre Advisory Board, and
- a member of the Corporations Committee of the Business Law Section at the Law Council of Australia.

Date	Activity
26–27 August 2017	Presented a paper at the Bar Association of Queensland’s Employment and Industrial Relations Conference on the Gold Coast entitled ‘Recent Developments and Impending Changes in Practice and Procedures in the Federal Court’
8 September 2017	Attended the Law Council of Australia’s Insolvency Law Workshop in Sydney
27 November 2017	Presented a paper entitled ‘Judicial Review of Public and Private Employment Contracts in Papua New Guinea’ at the Supreme Court of Papua New Guinea’s Underlying Law Conference in Port Moresby in Her Honour’s capacity as a Judge of that Court
29 November 2017	Presented a paper entitled ‘The Personal Property Securities Legislation – Experiences from Australia and New Zealand’ at the Personal Property Securities Act Workshop in Port Moresby in Her Honour’s capacity as a Judge of the Supreme and National Courts of Papua New Guinea
28 April 2018	Participated as a panellist at the Sir Salamo Injia Lecture Series delivered by the Honourable Robert French AC hosted by the University of Papua New Guinea’s School of Law and the Papua New Guinea Centre for Judicial Excellence
6 June 2018	Presented a speech at the Department of Foreign Affairs and Trade’s Women in the Law Series in Canberra

Justice Tracey

Justice Tracey is:

- Colonel Commandant of the Australian Army Legal Corps (AALC)
- a member of the Advisory Board of the Centre of Public Law at the Law School of the University of Melbourne, and
- a member of the Juris Doctor Program Advisory Board of the Graduate School of Business and Law at RMIT University.

Date	Activity
2 November 2017	Gave a paper to an AALC Conference in Brisbane titled 'The High Court and Military Justice – Some Reminiscences'

Justice Middleton

Justice Middleton is:

- part-time Commissioner of the Australian Law Reform Commission
- Council Member of the University of Melbourne
- Chair of the University of Melbourne Foundation and Trust Committee
- a member of the American Law Institute
- Fellow of the Australian Academy of Law, and
- Member of the Editorial Board of the *Journal of the Intellectual Property Society of Australia and New Zealand*.

Date	Activity
3 July 2017	Chaired a session at the Australian Bar Association 2017 International Conference entitled 'Corporate Decision Making and Taxation – Client Perspectives on a Changing Taxation Environment' in London, United Kingdom
6 July 2017	Panel member at the Australian Bar Association 2017 International Conference on a session entitled 'The Art of Advocacy: A Client's Perspective' in Dublin, Ireland
6 October 2017	Panel member at the International Conference of the Association Internationale des Juristes du Droit de la Vigne et du Vin (AIDV) (International Wine Law Association), on 'Wine Law in Practice: Compliance, Negotiation and Dispute Settlement' in Bordeaux, France
7 March 2018	Chaired the National Commercial Law Seminar held at the Federal Court of Australia in Melbourne
11 April 2018	Delivered a paper at a seminar organised by the Supreme Court of Victoria and Monash University on Arbitration at Monash Law Chambers in Melbourne
3 May 2018	Delivered a paper in conjunction with Professor Noah Messing to the Victorian Bar Readers' Course on Written Advocacy
31 May 2018	Presented a paper entitled 'What will the Australian Competition Tribunal do now without Limited Merits Review?' held at the Federal Court of Australia in Melbourne

Justice McKerracher

Justice McKerracher is:

- a member of the Executive and the Governing Council of the Judicial Conference of Australia, and
- Chair of UNCCA (UNCITRAL National Coordination Committee for Australia).

Date	Activity
31 August 2017	Addressed a Native Title forum
8–9 September 2017	Attended and delivered a paper in Sydney at the Australian National University 40th Anniversary of the Federal Court Conference on 40 years of Admiralty Law in the Federal Court
5–7 October 2017	Attended the Judicial Conference of Australia Colloquium in Hobart
18 October 2017	Chaired the United Nations Day address in Perth
29 November 2017	Chaired an intellectual property twilight seminar
27 February 2018	Attended the Chartered Institute of Arbitrators – arbitration seminar in Melbourne
17 March 2018	Attended the Judicial Conference of Australia Governing Council meeting in Canberra
24–25 May 2018	Attended the UNCCA May seminar in Canberra
6 June 2018	Delivered an annual address to the Western Australian Bar Association Bar Readers' Course on Federal Jurisdiction
20 June 2018	Judged Murdoch University's 2018 International Maritime Law Arbitration Moot at Murdoch University

Justice Jagot

Justice Jagot is Chair of the Council of Chief Justices' Harmonisation of Rules Committee.

Date	Activity
13–15 October 2017	Presented at the University of South Australia Australian Competition and Consumer Commission (ACCC) Competition Law and Economics Workshop, titled 'Economic Concepts in Judicial Matters'
20 October 2017	Spoke at the Environmental Planning Law Association Conference on the topic of 'Environment and Planning Law – Recent Cases of Interest in the FCA'
20 October 2017	Gave the opening address at the Young Lawyers Conference in Sydney on the topic of 'The Rule of Law and Reconciliation'
23–24 October 2017	Participated in the National Judicial Orientation Program, and chaired sessions on 'Lifestyle Choices' and 'Judgment Writing', as well as presenting on how to manage time effectively with available resources
27–28 October 2017	Attended the Law Council of Australia's Tax Workshop at the Sunshine Coast, participating in a discussion on the management of disputes
22 February 2018	Delivered the 2018 Bannerman Lecture on the topic of 'The Common Law and Competition Law'
17 May 2018	Hosted a delegation of Thai Judges and discussed practical issues in Australian consumer law

Justice Foster

Date	Activity
22 August 2017	Spoke on the topic of 'Enforcement of Arbitral Proceedings' at King & Wood Mallesons' presentation on International Arbitration
13–14 October 2017	As part of a Judicial Perspectives Session at the University of South Australia/ACCC Competition Law and Economics Workshop, spoke on developments in the European Union, particularly the implications of Brexit on competition law and policy
21 February 2018	Co-presented with Justice James Stevenson, New South Wales Supreme Court, at The College of Law's 2018 Judges' Series on the topic of 'Lawyer-Client Privilege in Litigation'
14 March 2018	Presented at the IAMA/Resolution Institute's seminar on 'Public Policy Exceptions to the Enforcement of Arbitration Awards'
5 May 2018	Gave the keynote speech at the 2018 Competition Law Conference: 'Concerted Practices: A Contravention without a Definition'

Justice Barker

Date	Activity
31 August 2017	Convened the Western Australian Native Title Users Group meeting
26 October 2017	Presented a paper entitled 'Do Judges Make Law?' at the Honourable David Malcolm Memorial Lecture, University of Notre Dame
17–19 November 2017	Senior Coach for junior practitioners at the 2018 Piddington Advocacy Weekend on Rottnest Island
2 March 2018	Presented at the Piddington Society and Fremantle Community Legal Centre's Fremantle Law Conference 'The Constitution, the Interpretation of Statutes and the Practice of Democracy in Australia'
4–7 June 2018	Presented at the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) Native Title Conference in Broome: 'Not so 'Fragile' – the Evolving Character of Native Title, 1993 to 2018'

Justice Yates

Justice Yates is a member of the Editorial Board of the *Journal of the Intellectual Property Society of Australia and New Zealand*.

Date	Activity
14 September 2017	Addressed law students at University of Sydney at the Law and Business Alumni Discussion Forum
11 October 2017	Judged the University of New South Wales Senior Mooting Grand Final 2017
15 October 2017	Participated in a panel presentation on trade secrets at the International Association for the Protection of Intellectual Property (AIPPI) World Congress (Sydney)
17 October 2017	Participated in the University of Melbourne Judges in Conversation series: Interview with Professor Jane Ginsburg on 'What Future for Authors in Copyright?'
28 June 2018	Delivered a presentation to a delegation of Thai Judges on Australian Consumer Law and the Practice of the Court in Consumer Law Cases

Justice Bromberg

Justice Bromberg is:

- the Federal Court's representative for the Judicial Officers Aboriginal Cultural Awareness Committee (JOACAC)
- Coordinator for the Federal Court's Victorian Bar's Indigenous Clerkship Program
- President of the International Commission of Jurists, Victoria (ICJ), and
- National Vice-President of ICJ, Australia.

Date	Activity
4 September 2017	Gave the keynote speech for the William Cooper Legacy project
13 September 2017	Hosted and spoke at an Employment and Industrial Relations Seminar at the Federal Court in conjunction with the Industrial Bar Association of the Victorian Bar and the Workplace Relations Section of the Law Institute of Victoria on current issues in the practice of employment and industrial law
5 February 2018	Hosted the ICJ's opening of the 2018 Legal Year in His Honour's capacity as President of the ICJ
10 April 2018	Spoke at a panel seminar held at the Melbourne Law School on the topic of the 20th Anniversary of the Maritime Union of Australia (MUA) Patrick Stevedores Waterfront Dispute

Justice Katzmann

Justice Katzmann is:

- Director of the Tristan Jepson Memorial Foundation
- Chair of the Governing Council of Neuroscience Research Australia (NeuRA), and
- Member of the Advisory Committee of the Gilbert + Tobin Centre of Public Law.

Date	Activity
8–9 September 2017	Attended the Australian National University Centre for International and Public Law Conference to mark the 40th Anniversary of the Federal Court
9 September 2017	Opened the New South Wales Bar Association's 10th Anniversary Sports Law Conference
22–24 January 2018	Organised and attended the Supreme and Federal Court Judges' Conference in Sydney
2–6 May 2018	Attended the International Association of Women Judges' 14th Biennial International Conference in Buenos Aires, Argentina – 'Building Bridges Between Women Judges of the World'

Justice Robertson

Justice Robertson is Deputy President of the Australian Academy of Law.

Date	Activity
2–7 July 2017	Attended Australian Bar Association Conference in London and Dublin and gave a presentation entitled 'The Importance of Federal Jurisdiction'
11–13 August 2017	Chaired session at the Australian Academy of Law Conference, Sydney, 'The Future of Australian Legal Education', on 'Experiential Learning' and gave a presentation 'Looking to the Future of Legal Education'
8–9 September 2017	Presented at the Australian National University Centre for Commercial Law and the Centre for International and Public Law Conference to mark the 40th Anniversary of the Federal Court of Australia, 'How Does the Court Deal with Findings of Fact on Judicial Review?'
13–14 September 2017	Presented to TP Minds Asia, Singapore, on how the Court has approached transfer pricing issues
25 September 2017	Attended the sixth annual Patron's Address of the Australian Academy of Law and introduced the speaker His Excellency Judge James Crawford AC, SC, FCA on 'The International Court of Justice as a Working Court'
1 November 2017	Addressed the Maurice Byers Centenary Conference, New South Wales Bar Association Common Room, on 'Reflections on the Life and Times of Sir Maurice Byers CBE QC'
20–24 January 2018	Chaired session at the Supreme and Federal Court Judges' Conference, Sydney, entitled 'Reflections on the Executive Power of the Commonwealth: Recent Developments, Interpretational Methodology and Constitutional Symmetry'
7 March 2018	Gave a lecture in The College of Law 2018 Judges' Series in the Banco Court, Law Courts' Building, Sydney, on 'Affidavit Evidence'

Justice Murphy

Justice Murphy is:

- a member of the Melbourne Law School Advisory Council, and
- President of the Children’s Protection Society.

Date	Activity
24–30 July 2017	Lectured in class actions law, University of Melbourne
14 August 2017	Presented to the Judges of the Supreme Court of Queensland re case management in class actions in Brisbane
18 September 2017	Presented to Victorian Bar Readers as part of the Bar Readers’ Course in Melbourne
12 October 2017	Panel member of the ‘Class Actions in Australia: An Increased Area of Risk for Corporates’ seminar, Herbert Smith Freehills in Melbourne
18 October 2017	Chaired the quarter century of class actions in the Federal Court seminar at Monash University in Melbourne
25 October 2017	Met with the Victorian Law Reform Commission re Access to Justice – Litigation Funding and Group Proceedings in Melbourne
12 February – 30 June 2018	Panel member of the Judicial Expert Panel, Australian Law Reform Commission inquiry into litigation funding and class actions
15 March 2018	Spoke at the Minter Ellison Junior Lawyers Committee 2018 opening event in Melbourne
9 April 2018	Chaired the ‘Increased Regulation of Litigation Funding – a Timely Crackdown or a Regulatory ‘Solution’ in Search of a Problem?’ seminar at Monash University in Melbourne
17 April 2018	Presented to Victorian Bar Readers as part of the Bar Readers’ Course in Melbourne
6–8 June 2018	Attended the AIATSIS Native Title Conference in Broome

Justice Griffiths

Date	Activity
20 July 2017	Presented the keynote address at the 2017 Australian Institute of Administrative Law (AIAL) National Conference: ‘Access to Administrative Justice’
27 July 2017	Presented commentary at Australian Association of Constitutional Law on Craig Lenehan’s Paper ‘Culleton, Day and Constitutional Method’
8–9 September 2017	Presented paper with Professor James Stellios at the 40th Anniversary of the Federal Court: ‘The Federal Court and Constitutional Law’
14 March 2018	Presented paper on ‘Some Ethical Issues for Legal Practitioners’ at The College of Law 2018 Judges’ Series
15 March 2018	Presented plenary address for the Government In-House Counsel Day – Clayton Utz, Canberra ‘Certainty and Predictability in Judicial Review of Commonwealth Administrative Action – Too Much Fuzzy Law?’

Justice Davies

Date	Activity
3 July 2017	Panel member at the Australian Bar Association Conference London entitled 'Unilateral Measures in a Multinational World: Diverted Profits Taxes, Transfer Pricing Measures and their Effect on Business Decisions'
8 August 2017	Participated in Judges in Conversation with Professor Ben McFarlane from University College London
14 September 2017	Gave the keynote address at the National GST Intensive Conference
14 September 2017	Chair at the International Fiscal Association seminar
25 September 2017	Adjudicated the Sir Harry Gibbs Constitutional Law Semi-Final Moot
2 October 2017	Presented on legal writing to senior advisors at the Judges' Club of the Curia of Hungary
3 October 2017	Spoke to the tax law experts of the Curia of Hungary titled 'Challenging Tax Liabilities in Australia'
6–7 October 2017	Chair at the International Association of Tax Judges (IATJ) 8th Assembly, session on the 'Use of Foreign Case Law by Courts' in Helsinki
26 October 2017	Gave the keynote address at the Australian Restructuring Insolvency and Turnaround Association (ARITA) Conference in Melbourne
10–20 March 2018	Hosted visiting Judge, Dr Péter Darák, President of the Curia of Hungary
23 April–4 May 2018	Hosted visiting Judge, Judge Michael Beusch, Swiss Federal Administrative Court
30 April 2018	Panel member at International Fiscal Association workshop session 1 entitled 'Harmonisation in the Construction of Tax Treaties'
1 May 2018	Presented at the Tax Institute's Women in Tax lunch

Justice Mortimer

Justice Mortimer is a:

- Senior Fellow, Melbourne Law School
- Member, Advisory Board of the Centre for Comparative Constitutional Studies
- Member, Australian Academy of Law
- Member, International Association of Refugee Law Judges
- Member, Monash University Faculty of Law ‘External Professional Advisory Committee’, and
- Member, Board of Advisors of the Public Law Review.

Date	Activity
18 August 2017	Hosted students from Melbourne Law School at the Court as part of their Refugee Law Class studies, and provided a briefing to the students
8 September 2017	Presented at the Australian National University’s 40th Anniversary of the Federal Court of Australia on ‘Anti-discrimination: The History of the Federal Court’s Human Rights Jurisdiction’
1 October 2017	Contributed an article to the International Association of Refugee Law Judges (IARLJ) Regional Newsletter on ‘The Concept of Intention in the Complementary Protection Regime of Australia’s Migration Act: <i>SZTAL v Minister for Immigration and Border Protection</i> ; <i>SZTGM v Minister for Immigration and Border Protection</i> [2017] HCA 34’
25–31 October 2017	Co-taught the subject, with Laureate Professor Cheryl Saunders, ‘Current Issues in Administrative Law’ as part of the Melbourne Law Masters Program at Melbourne Law School
5 January 2018	Member of the John Gibson Award 2018 selection committee
22 February 2018	Published a chapter on ‘The Constitutionalization of Administrative Law’ in ‘The Oxford Handbook of the Australian Constitution’ by Oxford University Press
27 March 2018	Delivered the Melbourne University Law Review Annual Lecture on ‘Some Thoughts on Judgments in, and for, Contemporary Australia’
13 April 2018	Provided commentary on the presentation ‘The Principle of Legality – The Judges’ New Flexible Friend?’ at the Judges and the Academy seminar
5–7 June 2018	Attended the AIATSIS Conference in Broome, Western Australia
20–29 June 2018	Participated in the Pacific Judicial Strengthening Initiative (PJSI) in Honiara, Solomon Islands, and presented sessions on ‘Civil Cases (including Land)’, ‘Evidence’ and ‘Due Process and Fair Trial’

Justice Rangiah

Justice Rangiah continued as a member of the:

- Griffith University Law School Advisory Committee, and
- University of Queensland Pro Bono Advisory Committee.

Date	Activity
7 October 2017	Gave the address at the University of Queensland Law Society valedictorian dinner
16–20 October 2017	Attended Flinders University in Adelaide as a Visiting Fellow
21 June 2018	Gave the keynote address at the Native Title and Cultural Heritage Symposium, Brisbane
20 July 2018	Chaired a session at the Queensland Native Title User Group Meeting

Justice Wigney

Date	Activity
29 August 2017	Participated as one of the adjudicating judges of the Gaire Blunt Scholarship offered by the Business Law Section of the Law Council of Australia for papers on a topic in the field of competition law
29 August 2017	Attended the eighth John Lehane Memorial Lecture on the topic ‘Is equity fair?’ presented by Lord Justice David Richards at the Federal Court
3 October 2017	Interviewed and filmed for the New South Wales Bar Association ‘Wellbeing at the Bar’ video
19 December 2017	Came runner up, Bench and Bar Tennis Cup
17 May 2018	Participated as one of the panel speakers at the Women Lawyers Association of New South Wales seminar on Court and Tribunal etiquette, practice and procedure at the Law Society of New South Wales

Justice Perry

Justice Perry continued as:

- a Squadron Leader, Royal Australian Air Force, Legal Specialist Reserves
- a member of the Judicial Council on Cultural Diversity (JCCD) established by the Council of Chief Justices as the representative of the Federal Court of Australia and chaired the specialist committee which prepared the Recommended National Standards for Working with Interpreters in Courts and Tribunals (JCCD, 2017)
- an Honorary Visiting Research Fellow, Law School, University of Adelaide
- a fellow of the Australian Academy of Law
- a member of the Advisory Committee to the Gilbert + Tobin Centre of Public Law, University of New South Wales; the Law School Advisory Board, University of Adelaide; the Advisory Council, Centre for International and Public Law, Australian National University; and the Board of Advisors to the Research Unit on Military Law and Ethics, University of Adelaide
- the Section Editor (Administrative Law), Australian Law Journal
- Member, Panel of Supervisors, PhD Student, Law School, Australia National University
- Mentor, Asian Australian Lawyers Association Mentoring Programme
- Patron, New South Wales Chapter, Hellenic Australian Lawyers Association, and
- an Ambassador for One Disease (a non-profit organisation concerned with the elimination of preventable diseases in remote Indigenous communities).

Date	Activity
5 August 2017	Participated in a panel presentation on the Recommended National Standards for Working with Interpreters in Courts and Tribunals, FIT2017 Disruption and Diversification, XXI World Congress International Federation of Translators, 3–5 August 2017, Brisbane
7 September 2017	Session adjudicator, Readers 'Federal Court Day', New South Wales Bar Association
13 September 2017	Participated in a panel presentation, 'Cultural Diversity in the Law', Annual William Lee Address, Asian Australian Lawyers Association, New South Wales Branch, and the Law Society of New South Wales
20 October 2017	Presented at the JCCD Launch of the Recommended National Standards for Working with Interpreters in Courts and Tribunals, Old Parliament House, Canberra
8 November 2017	Spoke at the New South Wales Bar Association and Law Society of New South Wales Equitable Briefing Function for women barristers practising in public and administrative law and in environmental and planning law
10 November 2017	Presented on 'Cultural Diversity' at the Industrial Relations Commission of New South Wales Annual Conference 2017

Date	Activity
22 February 2018	Attended the consultation arranged by the JCCD and Migration Council with Harmony Alliance members regarding implementation of JCCD resources
23 February 2018	Chaired a session at the 2018 Constitutional Law Conference held by the Gilbert + Tobin Centre of Public Law, Sydney
14 March 2018	Presiding Judge, Jessup Practice Moot, Law School, University of Sydney
21 March 2018	Presented 'Recommended National Standards for Working with Interpreters in Courts and Tribunals: An Introduction', Federal Court Conference, Adelaide
21 March 2018	Presented the John Perry Prize for International Law, Adelaide Law School Prize-giving Ceremony
12 April 2018	Participated in a panel on 'Implementing the Recommended National Standards for Working with Interpreters in Courts and Tribunals', 8th Free Annual Legal Interpreting Symposium, University of New South Wales 2018
4 May 2018	Participated in a Q&A on native title and the Federal Court with students from Tranby National Indigenous Adult Education visiting the National Native Title Tribunal
21 May 2018	Judged the Public International Law Moot Grand Final 2018, Sydney University Law Society

Justice Markovic

Date	Activity
2 August 2017	Attended the New Barristers' Committee of New South Wales Bar Association to speak on a panel of judges for their annual 'Judicial Q&A'
24–25 August 2017	Participated in the Judicial Colloquium at the Singapore National Insolvency Conference on 'The Role of the Courts in Relation to Cross-Border Restructuring and Insolvency – Issues and Solutions'
13–16 September 2017	Presented on three panels at the Judicial Conference on Insolvency – Seoul Bankruptcy Court: 'Cross-Border Insolvency', 'Innovative Approaches to Individual Insolvencies' and 'Creative Methods to Reorganise Small-Medium Sized Enterprises'

Justice Moshinsky

Justice Moshinsky is:

- alternate director of the National Judicial College of Australia, and
- a Senior Fellow at the Melbourne Law School.

Date	Activity
19 July 2017	Contributed a chapter entitled 'Charter Remedies', in Groves M and Campbell C (eds), <i>Australian Charters of Rights – A Decade On</i> (The Federation Press, 2017)
July–October 2017	Co-taught a course on Separation of Powers in the Masters Program at the Melbourne Law School
12–13 October 2017	Attended a conference on legal education organised by the Australian Academy of Law
9 March 2018	Presented a paper at the 2018 Law Council of Australia Superannuation Conference, Canberra, on 'The Continuing Evolution of the 'Best Interests' Duty for Superannuation Trustees – From <i>Cowan v Scargill</i> to the Current Regulatory Framework'
30 April 2018	Participated in a panel discussion at a tax workshop organised by the International Fiscal Association, the Federal Court of Australia and the Melbourne Law School on the topic 'Tax and Ethics in International Tax – Front End and Back'
6 June 2018	Chaired a seminar on 'Law in the Digital World' organised by Monash University in conjunction with the Federal Court of Australia and the Victorian Bar

Justice Bromwich

Date	Activity
20 October 2017	Attended a special seminar on 'Artificial Intelligence, Big Data and the Quantum Leap' held in the Banco Court, Supreme Court of New South Wales
28 November 2017	Spoke on 'Managing Organisational Change' at a conference for the Heritage Division of the New South Wales Office of the Environment and Heritage
27 February 2018	Gave opening remarks on 'White-collar Crime' at a continuing professional development seminar for University of New South Wales Continuing Legal Education
5 May 2018	Chaired a session on 'Digital Platforms – Evolution in the Revolution' at the 2018 Competition Law Conference in Sydney

Justice Burley

Date	Activity
25–29 September 2017	Attended the International Congress of Maritime Arbitrators in Copenhagen
10 October 2017	Moderated 'It's time: Intellectual Property Litigation Reform' session at the Intellectual Property and Entertainment Law Committee of the International Bar Association at the 2017 International Bar Association Conference, Sydney
1 March 2018	Presented a lecture entitled 'Ongoing Patent Infringement: Is Injunctive Relief an Inevitable Outcome?' with Angus Lang of counsel at the Journal of Equity Conference in Sydney
21 May 2018	Presented to legal studies students at Turramurra High School

Justice Lee

Date	Activity
1 September 2017	Guest speaker at William Roberts Lawyers' luncheon speaking on class actions in Sydney
14 October 2017	Guest speaker at Marsdens Law Group annual office seminar 'Reflections of a New Judge' in Gerringong
20 October 2017	Presented the keynote address at the Commercial Law Association of Australia's Class Actions Conference entitled 'Multiplicity of Class Actions: A Judge's Perspective on Managing Competing Claims and Assessing Proposed Settlements' in Sydney
6 November 2017	Presented the keynote address at Corrs Chambers Westgarth's class actions event entitled 'Certification of Class Actions: A 'Solution' in Search of a Problem?' in Sydney
28 February 2018	Guest speaker at The College of Law '2018 Judges' Series' on the topic of 'Pleadings and Case Management' in Sydney
13 April 2018	Panel speaker at a conference held jointly by the Law Council of Australia, Sydney Law School and 9 Wentworth Chambers on Litigation Funding, Class Actions and International Dispute Resolution in Sydney
1 May 2018	Presented the keynote address at the Law Council's Australian Consumer Law Committee forum on the role that lawyers, courts and tribunals can play in enforcing Australian consumer protections laws

Justice Derrington

Justice Derrington is Chair of the Emmanuel College Council.

Date	Activity
10 September 2017	Presented a paper entitled 'Brexit, a Dead TPP and a Reformist Productivity Commission: Trends and Challenges for IP Law in a Changing World', at the Intellectual Property Society of Australia and New Zealand (IPSANZ) Conference, Gold Coast
13 March 2018	Judged the University of Queensland Phillip C Jessup Law Moot Competition
17 May 2018	Commentated at the Current Legal Issues (CLI) Seminar Series, Seminar 2 on Fiduciary Law and presented a paper entitled 'Commentary on Professor Lionel D Smith's Paper, "Prescriptive Fiduciary Duties"'

Justice Thomas

Justice Thomas is a Committee Member and Treasurer of the Council of Australasian Tribunals (COAT).

Date	Activity
7 August 2017	Met with outgoing Veterans' Review Board Principle Member and incoming President of the New South Wales Law Society, Mr Doug Humphreys
5 September 2017	Met with the President of the Australian Human Rights Commission, Emeritus Professor Rosalind Croucher AM (in Sydney)
5 October 2017	Member of the judging panel for the Administrative Appeals Tribunal (AAT) MOOT Competition 2017 Grand Final
11 October 2017	Met with the United Nations High Commissioner for Refugees (UNHCR) regional representative (in Sydney)
1 November 2017	Attended the Australian Government Leadership Network – New South Wales Connections Event and presented a paper entitled 'Appearing Before the AAT: Helping to Deliver Expeditious and Efficient Merits Review'
1 December 2017	Chaired the Law Council of Australia 'Hot Topics in Commonwealth Compensation'
9 February 2018	Attended the Law Council of Australia – AAT Liaison Committee Meeting
11 May 2018	Chaired the Law Council of Australia 'Hot Topics in Commonwealth Compensation'
18 May 2018	Presented an award at the AAT National Outcomes on Time ('Noot') 2018 Competition
6–8 June 2018	Attended and chaired a session at the COAT National Conference 2018

Justice Banks-Smith

Justice Banks-Smith is:

- Chair of the Notre Dame Law School Advisory Board, and
- a Member of the Perth Children’s Hospital Ethics Committee.

Date	Activity
23 February 2018	Attended Law Society Summer School
8 March 2018	Spoke at the International Women’s Day reception – Squire Patton Boggs
8 March 2018	Guest speaker at the Department of Public Prosecutions International Women’s Day reception
16 March 2018	Attended the 2018 Women Lawyers Honours Award night
7 May 2018	Chaired Notre Dame Law School Advisory Committee meeting
14 May 2018	Attended the Law Society Law Week Breakfast with the Attorney General
16 May 2018	Attended Lavan’s 120 years of providing legal services in Western Australia with the Honourable Chief Justice Wayne Martin AC
6 June 2018	Presented Law School prizes at Notre Dame University Graduation Function
12 June 2018	Presented a workshop at the Bar Readers’ Course on Ethics
19 June 2018	Attended dinner with the Chief Justice and Justices of the High Court of Australia
21 June 2018	Hosted a Piddington Society presentation by the Honourable Justice James Edelman at the Federal Court of Australia

APPENDIX 9

STAFFING PROFILE: FEDERAL COURT OF AUSTRALIA

From 1 July 2016, the *Courts Administration Legislation Amendment Act 2016* merged the corporate service functions of the Family Court of Australia (FCoA) and the Federal Circuit Court of Australia (FCC) with the Federal Court of Australia (FCA) into a single administrative entity – known as the Federal Court of Australia.

Heads of jurisdiction continue to be responsible for managing the administrative affairs of their respective

courts (excluding corporate services), with assistance from a Chief Executive Officer (CEO) and Principal Registrar.

All staff are employed by the Federal Court of Australia under the *Public Service Act 1999*, regardless of which court or tribunal they work for or provide services to. The total staffing number for the combined entity as at 30 June 2018 is 1181 employees. This includes full-time and non-ongoing fixed term employees and non-ongoing casual employees.

Employees are assigned to each jurisdiction as follows:

Total staff providing services to the Federal Court of Australia	432
Total staff providing services to the National Native Title Tribunal	59
Total staff providing services to the Family Court of Australia	90
Total staff providing services to the Federal Circuit Court of Australia	600

The following tables provide details of employee numbers assigned to each jurisdiction. The CEO and Principal Registrars and the National Native Title Tribunal Registrar are holders of public office and are not included in this appendix.

STAFFING OVERVIEW BY LOCATION

Table A9.1: Federal Court of Australia: staffing overview by location (actual occupancy as at 30 June 2017 and 30 June 2018 – includes full-time, part-time and casual staff)

Level	PRIN	NSW		VIC		QLD		SA		WA		TAS		ACT		NT		NAT		NNTT		Total		
		2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017
SES2	2	4	1	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	5
SES1	3	3	-	-	1	1	1	1	2	1	-	-	-	-	-	-	-	-	1	1	1	1	9	9
FCL2	1	2	5	4	3	2	1	1	1	1	-	-	-	-	-	-	-	-	3	3	3	-	21	17
FCL1	7	7	1	1	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	9	8
FCM2	13	16	1	1	1	1	-	-	1	1	-	-	-	-	-	-	-	1	1	1	4	3	22	25
FCM1	41	43	1	-	2	1	-	1	1	-	-	-	-	-	-	-	-	-	1	1	11	9	57	56
FCS6	43	50	25	16	14	9	13	3	4	10	8	-	-	1	-	1	1	6	6	6	27	25	141	146
FCS5	23	21	28	30	22	20	10	8	6	9	8	-	1	-	-	-	-	2	2	2	4	2	106	98
FCS4	13	12	7	10	9	4	3	3	5	4	4	2	2	1	1	2	2	1	2	1	20	17	66	67
FCS3	7	2	-	2	1	1	1	1	1	-	-	-	-	1	1	1	1	-	-	-	2	1	14	10
FCS2/ CCO	1	-	18	13	12	8	12	5	3	8	8	-	-	1	1	1	-	-	-	-	2	1	55	50
Total	154	160	87	88	68	63	37	42	23	22	35	31	3	4	3	4	4	4	15	16	74	59	504	491

CCO, Casual Court Officer; FCL, Federal Court Legal; FCM, Federal Court Manager; FCS, Federal Court Staff; NAT, Includes Federal Court Native Title staff and Chambers of the Chief Justice; NNTT, National Native Title Tribunal; PRIN, Principal Registry; SES, Senior Executive Service officer

Table A9.2: Family Court of Australia: staffing overview by location (actual occupancy as at 30 June 2017 and 30 June 2018 – includes full-time, part-time and casual staff)

Level	ACT		NSW		NT		QLD		SA		TAS		VIC		WA		Total		
	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	
APS1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
APS2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
APS3	1	-	1	1	-	-	-	-	-	-	-	-	-	-	-	-	2	1	1
APS4	1	1	8	9	-	-	4	5	2	2	1	2	6	4	-	-	22	23	
APS5	1	2	19	16	-	-	8	7	2	2	1	1	7	7	-	-	38	35	
APS6	3	1	-	1	-	-	-	-	-	-	-	-	2	-	-	-	5	2	
EL1	2	-	-	2	-	-	-	-	-	-	-	-	2	1	-	-	4	3	
EL2	3	1	12	12	-	-	2	3	1	1	-	-	5	6	-	-	23	23	
SES1	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1
SES2	-	-	-	-	-	-	1	1	-	-	-	-	1	1	-	-	2	2	
Total	11	6	40	41	0	0	15	16	5	5	2	3	23	19	0	0	96	90	

Note: Judicial officers and the CEO and Principal Registrar, who are holders of public office, are not included in this table.

Table A9.3: Federal Circuit Court of Australia: staffing overview by location (as at 30 June 2017 and 30 June 2018 – includes full-time, part-time and casual staff)

Level	ACT		NSW		NT		QLD		SA		TAS		VIC		WA		Total	
	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018
APS1	-	-	1	1	-	-	-	-	-	-	-	-	-	-	-	-	1	1
APS2	1	-	15	13	-	-	11	10	5	6	-	-	13	16	-	-	45	45
APS3	5	4	79	73	3	3	32	27	13	11	7	6	42	39	-	-	181	163
APS4	5	4	51	50	1	1	25	24	10	10	3	3	33	34	1	3	129	129
APS5	4	4	35	38	2	1	20	23	4	7	4	4	25	28	1	2	95	107
APS6	1	1	7	6	-	-	3	3	3	2	-	-	2	5	-	-	16	17
EL1	3	4	33	34	-	1	15	20	6	9	7	5	21	21	-	-	85	94
EL2	2	1	14	12	-	-	10	10	3	4	1	1	9	10	-	-	39	38
SES1	-	-	2	2	-	-	1	1	-	-	-	-	2	2	-	-	5	5
SES2	-	-	-	-	-	-	-	-	-	-	-	-	1	1	-	-	1	1
Total	21	18	237	229	6	6	117	118	44	49	22	19	148	156	2	5	597	600

Note: Judicial officers and the CEO and Principal Registrar, who are holders of public office, are not included in this table.

STAFFING BY GENDER, CLASSIFICATION AND LOCATION

Table A9.4: Federal Court of Australia: staffing by gender, classification and location (as at 30 June 2017 and 30 June 2018 – includes full-time, part-time and casual staff)

Level	Gender	PRIN		NSW		VIC		QLD		SA		WA		TAS		ACT		NT		NAT		NNTT		Total			
		2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018		
SES2	Male	-	1	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	2		
	Female	2	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	3	
SES1	Male	3	2	-	-	1	-	-	1	-	-	2	1	-	-	-	-	-	-	-	-	-	-	-	5	5	
	Female	-	1	-	-	-	-	1	1	-	-	-	-	-	-	-	-	-	-	-	1	1	1	1	4	4	
FCL2	Male	1	2	4	4	3	2	1	1	1	-	-	-	-	-	-	-	-	-	-	1	1	-	-	12	12	
	Female	-	-	1	1	-	-	1	1	-	-	1	1	-	-	-	-	-	-	-	3	2	3	-	-	9	5
FCL1	Male	-	-	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1
	Female	7	7	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	8	7
FCM2	Male	3	4	1	1	-	1	-	-	-	-	1	1	-	-	-	-	-	-	-	1	1	1	2	7	10	
	Female	10	12	-	-	1	1	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	3	1	15	15	
FCM1	Male	23	22	-	-	1	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	5	4	29	27	
	Female	18	21	1	-	1	1	-	1	1	-	-	-	-	-	-	-	-	-	-	1	1	6	5	28	29	
FCS6	Male	21	24	3	4	-	-	-	3	-	1	-	-	-	-	-	-	-	-	-	2	1	8	7	34	40	
	Female	22	26	22	21	16	14	14	9	10	3	3	10	8	-	-	1	-	1	1	4	5	19	18	107	106	
FCS5	Male	14	13	16	14	10	5	6	3	2	2	2	1	-	-	-	-	-	-	1	1	1	-	-	52	39	
	Female	9	8	12	16	12	15	4	5	6	4	7	7	-	1	-	-	-	-	1	1	3	2	54	59		
FCS4	Male	-	1	3	4	-	3	2	1	1	2	-	1	-	1	-	-	-	-	-	-	-	3	2	9	15	
	Female	13	11	4	6	9	6	2	2	2	3	4	3	2	1	1	1	1	2	2	1	2	17	15	57	52	
FCS3	Male	2	1	-	-	-	-	-	-	-	1	1	-	-	-	1	1	-	-	-	-	-	-	-	-	4	3
	Female	5	1	-	2	1	1	1	1	-	-	-	-	-	-	-	-	-	1	1	-	-	2	1	10	7	
FCS2 (inc CCO)	Male	-	-	4	4	5	4	6	8	2	2	4	5	-	-	-	-	-	-	-	-	-	-	-	-	21	23
	Female	1	-	14	9	7	8	2	4	3	1	4	3	-	-	1	1	-	-	-	-	-	2	1	34	27	
Total		154	160	87	88	63	68	63	42	23	22	35	31	3	3	4	3	4	4	4	15	16	74	59	504	491	

CCO, Casual Court Officer; FCL, Federal Court Legal; FCM, Federal Court Manager; FCS, Federal Court Staff; NAT, Includes Federal Court Native Title staff and Chambers of the Chief Justice; NNTT, National Native Title Tribunal; PRIN, Principal Registry; SES, Senior Executive Service officer

Table A9.5: Family Court of Australia: staffing by gender, classification and location (as at 30 June 2017 and 30 June 2018 – includes full-time, part-time and casual staff)

Level	Attendance	ACT		NSW		NT		QLD		SA		TAS		VIC		WA		Total		
		2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	
APS3	Female	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-
	Male	-	-	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1
APS4	Female	-	-	7	9	-	-	4	5	1	1	1	2	4	3	-	-	17	20	
	Male	1	1	1	-	-	-	-	-	1	1	-	-	2	1	-	-	5	3	
APS5	Female	1	2	18	14	-	-	7	6	2	2	1	1	7	7	-	-	36	32	
	Male	-	-	1	2	-	-	1	1	-	-	-	-	-	-	-	-	2	3	
APS6	Female	2	-	-	1	-	-	-	-	-	-	-	-	2	-	-	-	4	1	
	Male	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1	
EL1	Female	2	-	-	1	-	-	-	-	-	-	-	-	2	1	-	-	4	2	
	Male	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	1	
EL2	Female	1	-	9	10	-	-	2	3	1	1	-	-	5	6	-	-	18	20	
	Male	2	1	3	2	-	-	-	-	-	-	-	-	-	-	-	-	5	3	
SES1	Female	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	
	Male	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
SES2	Female	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Male	-	-	-	-	-	-	1	1	-	-	-	-	1	1	-	-	2	2	
Total		11	6	40	41	0	0	15	16	5	5	2	3	23	19	0	0	96	90	

Note: Judicial officers and the CEO and Principal Registrar, who are holders of public office, are not included in this table.

Table A9.6: Federal Circuit Court of Australia: staffing by gender, classification and location (as at 30 June 2017 and 30 June 2018 – includes full-time, part-time and casual staff)

Level	Attendance	ACT		NSW		NT		QLD		SA		TAS		VIC		WA		Total		
		2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	
APS1	Female	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Male	-	-	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1
APS2	Female	1	-	8	7	-	-	7	7	5	6	-	-	9	10	-	-	30	30	
	Male	-	-	7	6	-	-	4	3	-	-	-	-	4	6	-	-	15	15	
APS3	Female	4	4	54	55	2	2	22	24	8	8	6	6	5	34	33	-	130	131	
	Male	1	-	25	18	1	1	10	3	5	3	1	1	1	8	6	-	51	32	
APS4	Female	3	3	40	39	1	1	18	15	8	8	3	3	3	24	26	-	97	97	
	Male	2	1	11	11	-	-	7	9	2	2	-	-	-	9	8	1	1	32	32
APS5	Female	4	4	26	30	2	1	18	20	4	7	3	3	3	21	22	1	1	79	88
	Male	-	-	9	8	-	-	2	3	-	-	1	1	1	4	6	-	1	16	19
APS6	Female	1	1	6	4	-	-	3	3	3	-	-	-	2	4	-	-	15	12	
	Male	-	-	1	2	-	-	-	-	-	2	-	-	-	1	-	-	1	5	
EL1	Female	3	4	28	30	-	-	13	18	5	8	7	5	18	19	-	-	74	84	
	Male	-	-	5	4	-	1	2	2	1	1	-	-	3	2	-	-	11	10	
EL2	Female	1	1	12	10	-	-	5	5	2	3	-	-	7	7	-	-	27	26	
	Male	1	-	2	2	-	-	5	5	1	1	1	1	1	2	3	-	12	12	
SES1	Female	-	-	1	1	-	-	-	-	-	-	-	-	2	2	-	-	3	3	
	Male	-	-	1	1	-	-	1	1	-	-	-	-	-	-	-	-	2	2	
SES2	Female	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Male	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Total		21	18	237	229	6	6	117	118	44	49	22	19	148	156	2	5	597	600	

Note: Judicial officers and the CEO and Principal Registrar, who are holders of public office, are not included in this table.

STAFFING BY GENDER, CLASSIFICATION AND EMPLOYMENT TYPE

Table A9.7: Federal Court of Australia: staffing by gender, classification, and employment status and type (as at 30 June 2017 and 30 June 2018)

Level	Gender	Ongoing		Non-ongoing		Intermittent/ Irregular		Total
		Full-time	Part-time	Full-time	Part-time	2017	2018	
		2017	2018	2017	2018	2017	2018	2017
SES2	Male	2	-	-	-	-	-	2
	Female	1	-	1	-	-	-	2
SES1	Male	4	-	1	-	-	-	5
	Female	4	-	-	-	-	-	4
FCL2	Male	9	7	2	3	-	1	12
	Female	5	4	2	1	1	-	9
FCL1	Male	-	-	-	-	1	-	1
	Female	7	7	-	-	-	-	8
FCM2	Male	6	8	-	1	1	-	7
	Female	9	8	2	3	4	3	15
FCM1	Male	25	21	1	1	3	1	29
	Female	19	21	5	5	3	-	28
FCS6	Male	32	31	-	1	7	-	34
	Female	76	73	19	20	11	3	107
FCS5	Male	15	14	1	-	25	-	52
	Female	18	18	7	3	36	-	54
FCS4	Male	6	6	-	1	7	-	9
	Female	26	26	15	14	10	3	57
FCS3	Male	2	2	-	-	1	-	4
	Female	7	4	-	-	3	-	10
FCS2/ CCO	Male	-	-	-	-	-	20	21
	Female	1	-	-	-	-	32	34
Total		274	263	54	53	106	111	13
								57
								52
								504
								491

CCO, Casual Court Officer; FCL, Federal Court Legal; FCM, Federal Court Manager; FCS, Federal Court Staff; NAT, Includes Federal Court Native Title staff and Chambers of the Chief Justice; NINT, National Native Title Tribunal; PRIN, Principal Registry; SES, Senior Executive Service officer

Table A9.8: Family Court of Australia: staffing by gender, classification and employment status and type (as at 30 June 2017 and 30 June 2018)

Level	Gender	Full-time		Ongoing		Part-time		Full-time		Non-ongoing		Intermittent/ Irregular		Total	
		2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018	2017	2018
APS3	Male	1	-	-	-	-	-	-	1	-	-	-	-	-	1
	Female	-	-	1	-	-	-	-	-	-	-	-	-	-	-
APS4	Male	-	-	1	-	-	-	3	2	1	1	-	-	-	3
	Female	-	-	1	-	-	-	15	18	1	1	-	1	-	20
APS5	Male	2	3	-	-	-	-	-	-	-	-	-	-	-	3
	Female	30	27	3	3	3	3	1	1	-	1	-	-	-	32
APS6	Male	1	1	-	-	-	-	-	-	-	-	-	-	-	1
	Female	2	-	1	1	1	1	-	-	-	-	-	-	-	1
EL1	Male	-	1	-	-	-	-	-	-	-	-	-	-	-	1
	Female	2	2	-	-	2	2	-	-	-	-	-	-	-	2
EL2	Male	3	3	1	-	-	-	-	-	-	-	-	-	1	3
	Female	11	9	4	4	3	4	3	4	-	1	-	2	-	20
SES1	Male	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Female	-	-	-	-	-	-	-	1	-	-	-	-	-	1
SES2	Male	2	2	-	-	-	-	-	-	-	-	-	-	-	2
	Female	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total		54	48	12	8	27	27	27	27	2	4	0	3	1	90

Table A9.9: Federal Circuit Court of Australia: staffing by gender, classification and employment status and type (as at 30 June 2017 and 30 June 2018)

Level	Gender	Ongoing		Non-ongoing		Intermittent/ Irregular		Total
		Full-time	Part-time	Full-time	Part-time	2017	2018	
APS1	Male	-	1	-	-	-	-	1
	Female	-	-	-	-	-	-	-
APS2	Male	6	2	2	1	4	3	15
	Female	12	7	7	4	-	1	30
APS3	Male	32	1	11	-	7	4	51
	Female	66	32	12	4	16	15	130
APS4	Male	17	2	11	2	1	1	32
	Female	48	16	31	1	1	-	97
APS5	Male	10	-	5	-	1	1	19
	Female	57	6	16	-	1	-	88
APS6	Male	1	-	-	-	-	-	5
	Female	13	2	2	-	-	-	15
EL1	Male	9	2	1	-	-	-	10
	Female	37	26	36	6	2	1	74
EL2	Male	9	-	-	1	2	1	12
	Female	15	6	7	2	4	3	27
SES1	Male	2	-	-	-	-	-	2
	Female	3	-	-	-	-	-	3
SES2	Male	-	-	1	-	-	-	1
	Female	-	-	-	-	-	-	-
Total		337	103	123	21	37	30	597
			314	99	114	19	30	600

SENIOR EXECUTIVE SERVICE

Table A9.10: Federal Court of Australia: Senior Executive Service (as at 30 June 2018)

Principal Registry		SES level
National Court Framework (NCF) Registrar	Catherine KROL	SES Band 1
Deputy Principal Registrar	John MATHIESON	SES Band 1
Executive Director, People Culture and Communications	Darrin MOY	SES Band 1
National Director, Court and Tribunal Services	Louise ANDERSON	SES Band 2
National Operations Registrar	Sia LAGOS	SES Band 2
Deputy National Operations Registrar	David PRINGLE	SES Band 2
Executive Director, Corporate Services	Catherine SULLIVAN	SES Band 2
New South Wales District Registry		
District Registrar	Michael WALL	SES Band 2
Victoria District Registry		
District Registrar	Phillip ALLAWAY	SES Band 1
Queensland District Registry		
District Registrar	Murray BELCHER	SES Band 1
South Australia District Registry		
District Registrar	Nicola COLBRAN	SES Band 1
Western Australia District Registry		
District Registrar	Russell TROTT	SES Band 1
National Native Title Tribunal		
Deputy Registrar	Lisa EATON	SES Band 1
Native Title		
National Registrar – Native Title	Catriona STRIDE	SES Band 1

Table A9.11: Family Court of Australia: Senior Executive Service (as at 30 June 2018)

Victoria		SES level
Senior Registrar	John FITZGIBBON	SES Band 2
Australian Capital Territory		SES level
Deputy Principal Registrar	Virginia WILSON	SES Band 1

Table A9.12: Federal Circuit Court of Australia: Senior Executive Service (as at 30 June 2018)

New South Wales		SES level
Principal Child Dispute Services	Janet CARMICHAEL	SES Band 1
Regional Registry Manager	Simon KELSO	SES Band 1
Victoria		SES level
Executive Director, Operations	Steven AGNEW	SES Band 2
Deputy Principal Registrar	Adele BYRNE	SES Band 1
Regional Registry Manager	Jane REYNOLDS	SES Band 1
Queensland		SES level
Regional Registry Manager	Jamie CREW	SES Band 1

INDIGENOUS STAFFING

Table A9.13: Federal Court of Australia: Indigenous staff by location, gender and employment status

Employment status	Gender	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Total
Ongoing	Female	-	1	2	6	-	-	1	-	10
	Male	-	-	-	-	-	-	-	-	-
Non-ongoing	Female	-	-	-	-	-	-	-	-	-
	Male	-	1	-	-	-	-	-	-	1
Total		0	2	2	6	0	0	1	0	11

Table A9.14: Family Court of Australia: Indigenous staff by location, gender and employment status

Employment status	Gender	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Total
Ongoing	Female	-	-	-	-	-	-	-	-	-
	Male	-	-	-	-	-	-	-	-	-
Non-ongoing	Female	-	-	-	-	-	-	-	-	-
	Male	-	-	-	-	-	-	-	-	-
Total		0								

Table A9.15: Federal Circuit Court of Australia: Indigenous staff by location, gender and employment status

Employment status	Gender	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Total
Ongoing	Female	-	6	-	1	1	-	-	-	8
	Male	-	-	-	-	-	-	-	-	-
Non-ongoing	Female	-	2	-	-	-	-	1	-	3
	Male	-	1	-	-	-	-	-	-	1
Casual	Female	-	-	-	-	-	-	-	-	-
	Male	-	-	-	1	-	-	-	-	1
Total		0	9	0	2	1	0	1	0	13

WORKFORCE TURNOVER

Table A9.16: Federal Court of Australia: workforce turnover (excludes NNTT employees)

Termination reason	Ongoing	Casual	Non-ongoing	Total
Dismissed	1	–	1	2
Expiration of contract	–	13	57	70
Inter-department transfer	6	–	1	7
Involuntary redundancy	1	–	–	1
Resigned	10	9	17	36
Retire – Age – 60 to 65 years	3	–	–	3
Retire – Age – 60 years	1	–	–	1
Voluntary redundancy	6	–	–	6
Total	28	22	76	126

Table A9.17: Federal Court of Australia (NNTT): workforce turnover

Termination reason	Ongoing	Casual	Non-ongoing	Total
Abandoned employment	–	–	1	1
Deceased	1	–	–	1
Expiration of contract	–	–	1	1
Inter-department transfer	3	–	1	4
Involuntary redundancy	7	–	–	7
Resigned	3	–	2	5
Retire – Age – 60 years	–	–	1	1
Voluntary redundancy	2	–	–	2
Total	16	0	6	22

Table A9.18: Family Court of Australia: workforce turnover

Termination reason	Ongoing	Casual	Non-ongoing	Total
Expiration of contract	1	2	8	11
Resigned	4	–	6	10
Retire – Age – 60 to 65 years	1	–	–	1
Retire – Age – before 60 years	2	–	–	2
Voluntary redundancy	3	–	–	3
Total	11	2	14	27

Table A9.19: Federal Circuit Court of Australia: workforce turnover

Termination reason	Ongoing	Casual	Non-ongoing	Total
Dismissed	–	1	1	2
Expiration of contract	–	6	14	20
Inter-department transfer	4	–	–	4
Resigned	32	3	37	72
Retire – Age – 60 to 65 years	6	–	–	6
Retire – Age – 60 years	2	–	–	2
Retire – Age – before 60 years	1	–	–	1
Retire – Age – over 65 years	2	–	–	2
Voluntary redundancy	1	–	–	1
Total	48	10	52	110

AUSTRALIAN WORKPLACE AGREEMENTS

Table A9.20: Federal Court of Australia: Australian Workplace Agreements (AWA) minimum salary ranges by classification

Classification	Salary range (\$)
FCS 2 (APS Level 2)	–
FCS 3 (APS Level 3)	–
FCS 4 (APS Level 4)	–
FCS 5 (APS Level 5)	–
FCS 6 (APS Level 6)	–
FCM 1 (EL 1)	\$103,389 to \$127,642
FCM 2 (EL 2)	–
FCL 1 (Legal from APS Level 3 to EL 1)	–
FCL 2 (Legal EL 2)	\$160,395
SES 1 (SES Band 1)	\$182,000
SES 2 (SES Band 2)	\$295,000

FCL, Federal Court Legal; FCM, Federal Court Manager; FCS, Federal Court Staff; SES, Senior Executive Service officer

Table A9.21: Family Court of Australia: Australian Workplace Agreements (AWA) minimum salary ranges by classification

Classification	Salary range (\$)
APS 2	–
APS 3	–
APS 4	–
APS 5	–
APS 6	–
EL 1	–
EL 2	\$140,260 to \$188,665
SES 1	–
SES 2	\$211,851

Table A9.22: Federal Circuit Court of Australia: Australian Workplace Agreements (AWA) minimum salary ranges by classification

Classification	Salary range (\$)
APS 2	-
APS 3	-
APS 4	-
APS 5	-
APS 6	-
EL 1	\$102,136
EL 2	\$125,639 to \$152,190
SES 1	\$175,000 to \$175,495
SES 2	\$200,495

SALARY RANGES BY CLASSIFICATION LEVEL

Table A9.23: Federal Court of Australia: salary ranges by classification level under the Federal Court of Australia Enterprise Agreement 2011–2014 or Determination (as at 30 June 2018)

Court Designation	Australian Public Service Classification	Salary
Clerical Administrative Positions		
Federal Court Staff Level 1	Australian Public Service Level 1	\$43,108
		\$47,641
Federal Court Staff Level 2	Australian Public Service Level 2	\$48,786
		\$54,100
Federal Court Staff Level 3	Australian Public Service Level 3	\$55,568
		\$59,975
Federal Court Staff Level 4	Australian Public Service Level 4	\$61,936
		\$67,247
Federal Court Staff Level 5	Australian Public Service Level 5	\$69,080
		\$73,248
Federal Court Staff Level 6	Australian Public Service Level 6	\$74,610
		\$85,705
Federal Court Manager Level 1	Executive Level 1	\$95,493
		\$103,131
Federal Court Manager Level 2	Executive Level 2	\$110,087
		\$129,018
Legal Positions		
Federal Court Legal 1	From Australian Public Service Level 3	\$62,389
	To Executive Level 1	\$121,285
Federal Court Legal 2	Executive Level 2	\$140,503
		\$146,001
Senior Executive Positions		
Senior Executive Service Band 1	Senior Executive Service Band 1	\$181,285
		\$233,744
Senior Executive Service Band 2	Senior Executive Service Band 2	\$239,924
		\$295,000

Table A9.24: Family Court of Australia and Federal Circuit Court of Australia salary ranges by classification level under the *Federal Magistrates Court of Australia and Family Court of Australia Enterprise Agreement 2011–2014* or Determination (as at 30 June 2018)

Australian Public Service Classification	Salary
Australian Public Service Level 1	\$44,063
	\$47,118
Australian Public Service Level 2	\$48,247
	\$53,504
Australian Public Service Level 3	\$56,383
	\$59,310
Australian Public Service Level 4	\$63,197
	\$66,499
Australian Public Service Level 5	\$68,315
	\$72,440
Australian Public Service Level 6	\$74,198
	\$84,754
Executive Level 1	\$94,586
	\$102,136
Executive Level 2	\$111,677
	\$131,082
Registrar Positions	
Executive Level 2	\$128,152
	\$133,702
Senior Executive Service Positions	
Senior Executive Service Band 1	\$175,000
	\$200,000
Senior Executive Service Band 2	\$200,495
	\$211,851

APPENDIX 10

ANNUAL PERFORMANCE STATEMENT

Introductory statement

I, Warwick Soden, as the accountable authority of the Federal Court of Australia, present the 2017–18 annual performance statements for the entity, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

In my opinion, these annual performance statements are based on properly maintained records, accurately reflect the performance of the entity, and comply with subsection 39(2) of the PGPA Act.



Warwick Soden
Chief Executive Officer and Principal Registrar
Federal Court of Australia

Outcome 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

Outcome 2

Apply and uphold the rule of law for litigants in the Family Court of Australia through the resolution of family law matters according to law, particularly more complex family law matters, and through the effective management of the administrative affairs of the Court

Program 2.1: Family Court of Australia

Outcome 3

Apply and uphold the rule of law for litigants in the Federal Circuit Court of Australia through more informal and streamlined resolution of family law and general federal law matters according to law, through the encouragement of appropriate dispute resolution processes and through the effective management of the administrative affairs of the Court

Program 3.1: Federal Circuit Court of Australia

Outcome 4

Improved administration and support of the resolution of matters according to law for litigants in the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate services

Program 4.1: Commonwealth Courts Corporate Services

FEDERAL COURT OF AUSTRALIA

The relationship between the Federal Court's Portfolio Budget Statements, its corporate plan and annual performance statement

Portfolio Budget Statements	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	Outcome 2 Apply and uphold the rule of law for litigants in the Family Court of Australia through the resolution of family law matters according to law, particularly more complex family law matters, and through the effective management of the administrative affairs of the Court	Outcome 3 Apply and uphold the rule of law for litigants in the Federal Circuit Court of Australia through more informal and streamlined resolution of family law and general federal law matters according to law, through the encouragement of appropriate dispute resolution processes and through the effective management of the administrative affairs of the Court	Outcome 4 Improved administration and support of the resolution of matters according to law for litigants in the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate services
	Program 1.1 Federal Court of Australia	Program 2.1 Family Court of Australia	Program 3.1 Federal Circuit Court of Australia	Program 4.1 Commonwealth Courts Corporate 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"> Clearance rate of 100% 75% of judgments to be delivered within three months 75% of cases pending conclusion to be less than 12 months old 	Timely completion of cases <ul style="list-style-type: none"> 90% of final order applications disposed of within 12 months 90% of all other applications disposed of within six months 70% of matters resolved prior to trial Timely registry services <ul style="list-style-type: none"> 75% of counter enquiries served within 20 minutes 80% of National Enquiry Centre telephone enquiries answered within 90 seconds 80% of email enquiries responded to within two working days 75% of applications lodged processed within two working days 	Efficient and effective corporate services <ul style="list-style-type: none"> Corporate services to be provided within the agreed funding Performance benchmarks as set out in the memorandum of understanding between the courts to be met
Corporate Plan purposes	Decide disputes according to the law as quickly, inexpensively and efficiently as possible	To help Australians resolve their most complex family disputes by deciding matters according to the law, promptly, courteously and effectively	To provide a simple and accessible alternative to litigation in the Family Court and Federal Court. To provide efficient and effective registry services to assist the respective courts to achieve their stated purpose	To provide efficient and effective corporate services to the Commonwealth courts and the National Native Title Tribunal
Annual Performance Statements	Analysis of performance FCA annual report Page 22–49, 54–71, 79–86, 216–222	Analysis of performance FCA annual report Page 216–222 FCoA annual report Page 20–47	Analysis of performance FCA annual report Page 216–222 FCC annual report Page 42–82	Analysis of performance FCA annual report Page 54–71, 216–222

OUTCOME ONE

Program 1.1: Federal Court of Australia

Purpose

- Decide disputes according to the law as quickly, inexpensively and efficiently as possible.

Delivery

- Exercising the jurisdiction of the Federal Court of Australia.
- Supporting the operations of the National Native Title Tribunal.

Results

Timely completion of cases		
Target	Result 2017–18	Target status
85 per cent of cases completed within 18 months of commencement	93 per cent of cases were completed within 18 months of commencement	Target met
Judgments to be delivered within three months	79 per cent of judgments were delivered in three months	Target met

The Court met both targets in relation to timely completion of cases:

- 85 per cent of cases completed within 18 months of commencement**

In the reporting period, the Court disposed of 92.6 per cent within 18 months of commencement. This figure includes appeals and related actions and excludes native title cases. This is well above the target rate of 85 per cent.

- Judgments to be delivered within three months**

The Court has a goal of delivering reserved judgments within a period of three months. Success in meeting this goal depends upon the complexity of the case and the pressure of other business upon the Court.

Performance criterion

Timely completion of cases

- 85 per cent of cases completed within 18 months of commencement
- Judgments to be delivered within three months.

Criterion source

- Table 2.3: Performance criteria for Outcome 1, *Federal Court of Australia Portfolio Budget Statements 2017–18*
- Federal Court of Australia Corporate Plan 2017–2018*.

During 2017–18, the Court handed down 2028 judgments for 1743 court files (some files involve more than one judgment being delivered, e.g. interlocutory decisions and sometimes, one judgment will cover multiple files).

This is an increase of 312 judgments from last financial year. The data indicates that 82 per cent of appeals (both full court and single judge) were delivered within three months and 79 per cent of judgments at first instance were delivered within three months of the date of being reserved.

A detailed analysis on the performance of the Federal Court can be found in Part 3 and Appendix 5.

OUTCOME TWO

Program 2.1: Family Court of Australia

Purpose

- To help Australians resolve their most complex family disputes by deciding matters according to the law, promptly, courteously and effectively.

Delivery

- Exercising the jurisdiction of the Family Court of Australia.

The Family Court of Australia is a separate Chapter III court under the Australian Constitution and the performance criteria applicable to the Court are identified in the *2017–18 Federal Court of Australia Portfolio Budget Statements* and in the *Federal Court of Australia Corporate Plan 2017–2018*.

This program was previously part of the Family Court and Federal Circuit Court. The program was transferred to the Federal Court of Australia with effect from 1 July 2016 by the *Courts Administration Legislation Amendment Act 2016*.

Performance criterion

Timely completion of cases

- Clearance rate of 100 per cent
- 75 per cent of judgments to be delivered within three months
- 75 per cent of cases pending conclusion to be less than 12 months old.

Criterion source

- Table 2.5: Performance criteria for Outcome 2, *Federal Court of Australia Portfolio Budget Statements 2017–18*
- Federal Court of Australia Corporate Plan 2017–2018*.

Results

Timely completion of cases		
Target	Result 2017–18	Target status
Clearance rate of 100 per cent	The clearance rate was 100 per cent	Target met
75 per cent of judgments to be delivered within three months	75 per cent of judgments were delivered within three months	Target met
75 per cent of cases pending conclusion to be less than 12 months old	67 per cent of cases pending conclusion were less than 12 months old	Target not met

In 2017–18, the FCoA achieved two targets and was unable to achieve one. The Court achieved a clearance rate of 100 per cent, improving on the clearance rate of 98 per cent in 2016–17. The FCoA aims to deliver 75 per cent of reserved judgments within three months of completion of a trial. In 2017–18, 75 per cent of the 1044 reserved original

jurisdiction judgments (excluding judgments on appeal cases) were delivered within that timeframe. The FCoA also aims to have more than 75 per cent of its pending applications less than 12 months old. At 30 June 2018, 67 per cent of pending applications were less than 12 months old, compared with 68 per cent at 30 June 2017.

OUTCOME THREE

Program 3.1: Federal Circuit Court of Australia

Purpose

- To provide a simple and accessible alternative to litigation in the Family Court and Federal Court.
- To provide efficient and effective registry services to assist the respective courts to achieve their stated purpose.

Delivery

- Exercising the jurisdiction of the Federal Circuit Court of Australia.
- Providing an efficient and effective registry service to the public.

The Federal Circuit Court of Australia remains a separate Chapter III court under the Australian Constitution and the performance criteria applicable to the Court is identified in the *2017–18 Federal Court of Australia Portfolio Budget Statements* and in the *Federal Court Corporate Plan 2017–2018*.

This program was previously part of the Family Court and Federal Circuit Court. The program was transferred to the Federal Court of Australia with effect from 1 July 2016 by the *Courts Administration Legislation Amendment Act 2016*.

Performance criterion

Timely completion of cases

- 90 per cent of final order applications disposed of within 12 months
- 90 per cent of all other applications disposed of within six months
- 70 per cent of matters resolved prior to trial.

Timely registry services

- 75 per cent of counter enquiries served within 20 minutes
- 80 per cent of National Enquiry Centre telephone enquiries answered within 90 seconds
- 80 per cent of email enquiries responded to within two working days
- 75 per cent of applications lodged processed within two working days.

Criterion source

- Table 2.7: Performance criteria for Outcome 3, *Federal Court of Australia Portfolio Budget Statements 2017–18*
- *Federal Court of Australia Corporate Plan 2017–2018*.

Results

Timely completion of cases		
Target	Result 2017–18	Target status
90 per cent of final order applications disposed of within 12 months	62 per cent of final order applications were disposed of within 12 months	Target not met
90 per cent of all other applications disposed of within six months	91 per cent of all other applications were disposed of within six months	Target met
70 per cent of matters resolved prior to trial	72 per cent of matters were resolved prior to trial	Target met

Timely registry services

Target	Result 2017–18	Target status
75 per cent of counter enquiries served within 20 minutes	93 per cent of counter enquiries were served within 20 minutes	Target met
80 per cent of National Enquiry Centre telephone enquiries answered within 90 seconds	18 per cent of National Enquiry Centre telephone enquiries were answered within 90 seconds	Target not met
80 per cent of email enquiries responded to within two working days	100 per cent of email enquiries were responded to within two working days	Target met
75 per cent of applications lodged processed within two working days	98 per cent of applications lodged were processed within two working days	Target met

In 2017–18 the Federal Circuit Court achieved two targets under timely completion of cases and was unable to achieve one. This is an improvement in performance from last financial year. In the area of timely registry services, the Federal Circuit Court

achieved three targets and was unable to achieve one. A detailed analysis on the performance of the Federal Circuit Court can be found in Part 3 of the *Federal Circuit Court of Australia's 2016–17 Annual Report*.

OUTCOME FOUR

Program 4.1: Commonwealth Courts Corporate Services

Purpose

- To provide efficient and effective corporate services to the Commonwealth courts and the National Native Title Tribunal.

Delivery

- Providing efficient and effective corporate services for the Commonwealth courts and the National Native Title Tribunal.

Performance criterion

Efficient and effective corporate services

- Corporate services to be provided within the agreed funding
- Performance benchmarks as set out in the memorandum of understanding (MOU) between the courts to be met.

Criterion source

- Table 2.9: Performance criteria for Outcome 4, *Federal Court of Australia Portfolio Budget Statements 2017–18*
- Federal Court of Australia Corporate Plan 2017–2018.*

Results

Efficient and effective corporate services		
Target	Result 2017–18	Target status
Corporate services to be provided within the agreed funding	This target has been achieved with Corporate Services achieving savings in the 2017–18 financial year	Target met
Performance benchmarks as set out in the memorandum of understanding between the courts	Measures as identified through the consultative process for 2017–18 financial year achieved	Target met

The key outcome measure for Corporate Services is improved administration and support for the resolution of matters according to law for litigants in the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia and parties in the National Native Title Tribunal, through efficient and effective provision of shared corporate services.

The intent of the merger of the courts' corporate services is to deliver short-term savings and place the courts on a sustainable funding footing over the longer term, ensuring they are better placed to deliver services to litigants. The ability of Corporate Services to meet budget and projected average staffing numbers are the metrics that will be used to measure performance.

A detailed analysis on the performance of Corporate Services can be found in Part 4 (Management of the Court).

APPENDIX 11

INFORMATION REQUIRED BY OTHER LEGISLATION

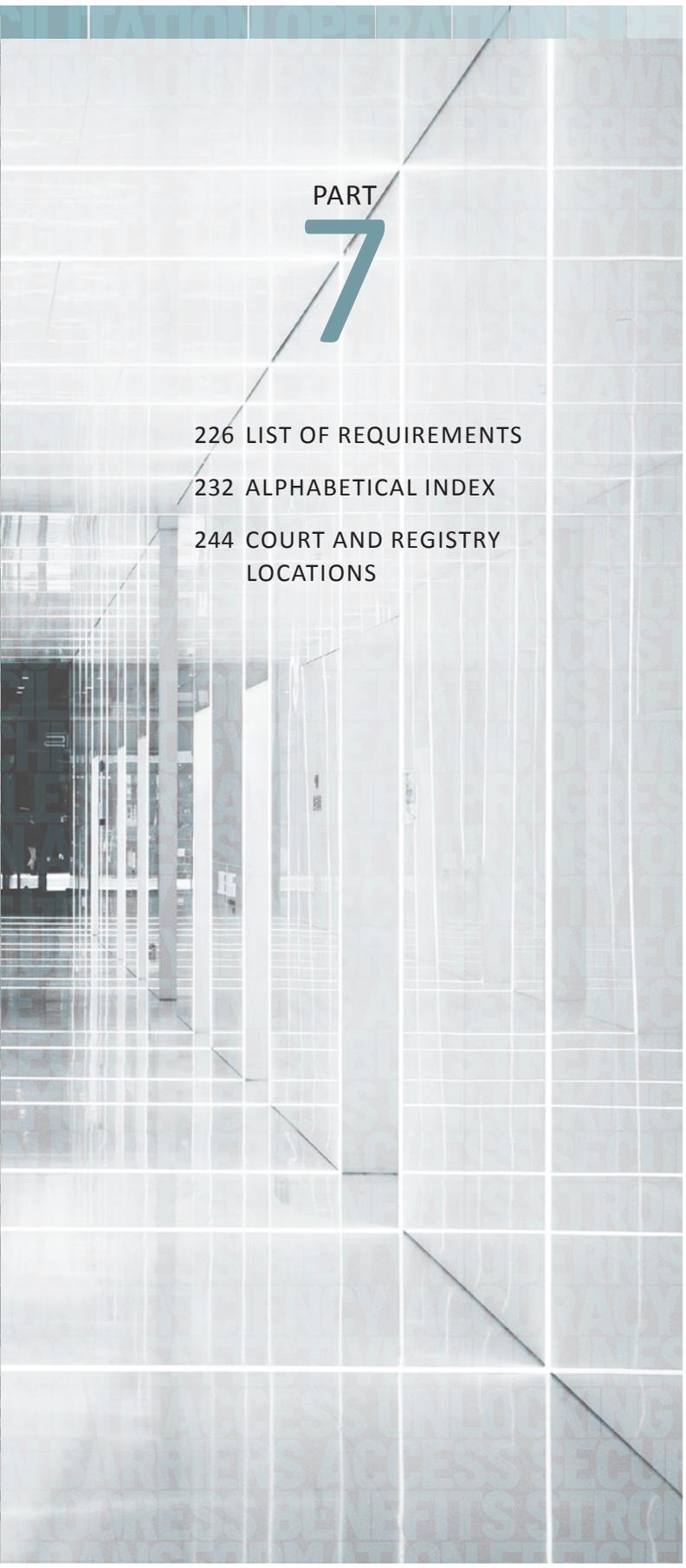
Legislation	Page reference
<i>Commonwealth Electoral Act 1918</i>	56
<i>Courts Administration Legislation Amendment Act 2016</i>	18, 24, 54, 62
<i>Environment Protection and Biodiversity Conservation Act 1999</i>	59–62
<i>Federal Circuit Court of Australia Act 1999</i>	11
<i>Federal Court of Australia Act 1976</i>	iii, 2, 5, 10, 11, 33
<i>Freedom of Information Act 1982</i>	41, 58
<i>Native Title Act 1993</i>	23, 33, 34, 35, 40, 56, 77, 167
<i>Public Governance, Performance and Accountability Act 2013</i>	iii, 53, 57, 216
<i>Public Service Act 1999</i>	10, 11, 53, 62, 63, 197
<i>Work Health and Safety Act 2011</i>	64–65

A photograph of a modern office hallway with glass walls and a grid overlay. The hallway is brightly lit, and the grid lines are white and semi-transparent. The word 'INDEXES' is written in large, bold, dark blue letters at the bottom left. On the right side, there is a vertical column of text in a lighter blue, semi-transparent font, listing various terms related to technology and business.

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ION EFFICIENCY
TRANSFORMATION
Y CONNECTIONS
RACY INTEGRITY
D FACILITATION
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PART

7

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244 COURT AND REGISTRY LOCATIONS

LIST OF REQUIREMENTS

PGPA Rule Reference	Description	Requirement	Page of this report
17AD(g)	Letter of transmittal		
17AI	A copy of the letter of transmittal signed and dated by accountable authority on date final text approved, with statement that the report has been prepared in accordance with section 46 of the Act and any enabling legislation that specifies additional requirements in relation to the annual report	Mandatory	III
17AD(h)	Aids to access		
17AJ(a)	Table of contents	Mandatory	IV
17AJ(b)	Alphabetical index	Mandatory	232
17AJ(c)	Glossary of abbreviations and acronyms	Mandatory	VIII
17AJ(d)	List of requirements	Mandatory	226
17AJ(e)	Details of contact officer	Mandatory	II
17AJ(f)	Entity's website address	Mandatory	II
17AJ(g)	Electronic address of report	Mandatory	II
17AD(a)	Review by accountable authority		
17AD(a)	A review by the accountable authority of the entity	Mandatory	14
17AD(b)	Overview of the entity		
17AE(1)(a)(i)	A description of the role and functions of the entity	Mandatory	2
17AE(1)(a)(ii)	A description of the organisational structure of the entity	Mandatory	133
17AE(1)(a)(iii)	A description of the outcomes and programmes administered by the entity	Mandatory	3
17AE(1)(a)(iv)	A description of the purposes of the entity as included in corporate plan	Mandatory	2
17AE(1)(b)	An outline of the structure of the portfolio of the entity	Portfolio departments – Mandatory	N/A

PGPA Rule Reference	Description	Requirement	Page of this report
17AE(2)	Where the outcomes and programmes administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, include details of variation and reasons for change	If applicable, Mandatory	N/A
17AD(c)	Report on the performance of the entity		
	Annual performance statements		
17AD(c)(i); 16F	Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule	Mandatory	216
17AD(c)(ii)	Report on financial performance		
17AF(1)(a)	A discussion and analysis of the entity's financial performance	Mandatory	55
17AF(1)(b)	A table summarising the total resources and total payments of the entity	Mandatory	132
17AF(2)	If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results	If applicable, Mandatory	55
17AD(d)	Management and accountability		
	Corporate governance		
17AG(2)(a)	Information on compliance with section 10 (fraud systems)	Mandatory	56
17AG(2)(b)(i)	A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared	Mandatory	56
17AG(2)(b)(ii)	A certification by accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the entity are in place	Mandatory	56

PGPA Rule Reference	Description	Requirement	Page of this report
17AG(2)(b)(iii)	A certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity	Mandatory	56
17AG(2)(c)	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance	Mandatory	52
17AG(2)(d) – (e)	A statement of significant issues reported to Minister under paragraph 19(1)(e) of the Act that relates to non-compliance with Finance law and action taken to remedy non-compliance	If applicable, Mandatory	57
External scrutiny			
17AG(3)	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny	Mandatory	53
17AG(3)(a)	Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity	If applicable, Mandatory	53
17AG(3)(b)	Information on any reports on operations of the entity by the Auditor-General (other than report under section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman	If applicable, Mandatory	53
17AG(3)(c)	Information on any capability reviews on the entity that were released during the period	If applicable, Mandatory	53
Management of Human Resources			
17AG(4)(a)	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives	Mandatory	62
17AG(4)(b)	Statistics on the entity's APS employees on an ongoing and non-ongoing basis; including the following: <ul style="list-style-type: none"> • Statistics on staffing classification level • Statistics on full-time employees • Statistics on part-time employees • Statistics on gender • Statistics on staff location • Statistics on employees who identify as Indigenous 	Mandatory	197

PGPA Rule Reference	Description	Requirement	Page of this report
17AG(4)(c)	Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the <i>Public Service Act 1999</i>	Mandatory	63
17AG(4)(c)(i)	Information on the number of SES and non-SES employees covered by agreements etc. identified in paragraph 17AD(4)(c)	Mandatory	197–215
17AG(4)(c)(ii)	The salary ranges available for APS employees by classification level	Mandatory	214
17AG(4)(c)(iii)	A description of non-salary benefits provided to employees	Mandatory	63
17AG(4)(d)(i)	Information on the number of employees at each classification level who received performance pay	If applicable, Mandatory	63
17AG(4)(d)(ii)	Information on aggregate amounts of performance pay at each classification level	If applicable, Mandatory	63
17AG(4)(d)(iii)	Information on the average amount of performance payment, and range of such payments, at each classification level	If applicable, Mandatory	63
17AG(4)(d)(iv)	Information on aggregate amount of performance payments	If applicable, Mandatory	N/A
Assets management			
17AG(5)	An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities	If applicable, Mandatory	58
Purchasing			
17AG(6)	An assessment of entity performance against the <i>Commonwealth Procurement Rules</i>	Mandatory	57
Consultants			
17AG(7)(a)	A summary statement detailing the number of new contracts engaging consultants entered into during the period; the total actual expenditure on all new consultancy contracts entered into during the period (inclusive of GST); the number of ongoing consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST)	Mandatory	57

PGPA Rule Reference	Description	Requirement	Page of this report
17AG(7)(b)	A statement that “During [reporting period], [specified number] new consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing consultancy contracts were active during the period, involving total actual expenditure of \$[specified million]”	Mandatory	57
17AG(7)(c)	A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged	Mandatory	57
17AG(7)(d)	A statement that “Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website.”	Mandatory	57
Australian National Audit Office Access Clauses			
17AG(8)	If an entity entered into a contract with a value of more than \$100,000 (inclusive of GST) and the contract did not provide the Auditor-General with access to the contractor’s premises, the report must include the name of the contractor, purpose and value of the contract, and the reason why a clause allowing access was not included in the contract	If applicable, Mandatory	58
Exempt contracts			
17AG(9)	If an entity entered into a contract or there is a standing offer with a value greater than \$10,000 (inclusive of GST) which has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters	If applicable, Mandatory	58
Small business			
17AG(10)(a)	A statement that “[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.”	Mandatory	58

PGPA Rule Reference	Description	Requirement	Page of this report
17AG(10)(b)	An outline of the ways in which the procurement practices of the entity support small and medium enterprises	Mandatory	58
17AG(10)(c)	If the entity is considered by the Department administered by the Finance Minister as material in nature—a statement that “[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury’s website.”	If applicable, Mandatory	58
Financial statements			
17AD(e)	Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act	Mandatory	90
17AD(f) Other mandatory information			
17AH(1)(a)(i)	If the entity conducted advertising campaigns, a statement that “During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity’s website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance’s website.”	If applicable, Mandatory	56
17AH(1)(a)(ii)	If the entity did not conduct advertising campaigns, a statement to that effect	If applicable, Mandatory	56
17AH(1)(b)	A statement that “Information on grants awarded to [name of entity] during [reporting period] is available at [address of entity’s website].”	If applicable, Mandatory	56
17AH(1)(c)	Outline of mechanisms of disability reporting, including reference to website for further information	Mandatory	66
17AH(1)(d)	Website reference to where the entity’s Information Publication Scheme statement pursuant to Part II of FOI Act can be found	Mandatory	41
17AH(1)(e)	Correction of material errors in previous annual report	If applicable, Mandatory	57
17AH(2)	Information required by other legislation	Mandatory	223

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COURT AND REGISTRY LOCATIONS

General Federal Law Registries (Federal Court and Federal Circuit Court)

* 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 District Registry

Nigel Bowen Commonwealth Law Courts
Childers Street, Canberra City ACT 2600
Phone: (02) 6267 0666 | Fax: (02) 6267 0625
Email: actman@fedcourt.gov.au
Counter hours: 9.00am–4.30pm
Contact hours: 8.30am–5.00pm

New South Wales District Registry

Level 17 Law Courts Building
Queens Square, Sydney NSW 2000
Phone: (02) 9230 8567 | Fax: (02) 9230 8535
Email: nswdr@fedcourt.gov.au
Counter hours: 9.00am–4.30pm
Contact hours: 8.30am–5.00pm

*Northern Territory District Registry

Level 3 Supreme Court Building
State Square, Darwin NT 0800
Phone: (08) 8941 2333 | Fax: (08) 8941 4941
Email: ntreg@fedcourt.gov.au
Counter hours: 9.00am–4.00pm
Contact hours: 8.30am–5.00pm

Queensland District Registry

Level 6 Harry Gibbs Commonwealth Law Courts
119 North Quay, Brisbane QLD 4000
Phone: (07) 3248 1100 | Fax: (07) 3248 1260
Email: qldreg@fedcourt.gov.au
Counter hours: 9.00am–4.00pm
Contact hours: 8.30am–5.00pm

South Australia District Registry

Level 5 Roma Mitchell Commonwealth Law Courts
3 Angas Street, Adelaide SA 5000
Phone: (08) 8219 1000 | Fax: (08) 8219 1001
Email: sareg@fedcourt.gov.au
Counter hours: 9.00am–4.30pm
Contact hours: 8.30am–5.00pm

*Tasmania District Registry

Edward Braddon Commonwealth Law Courts
39–41 Davey St, Hobart TAS 7000
Phone: (03) 6232 1615 | Fax: (03) 6232 1601
Email: tasreg@fedcourt.gov.au
Counter hours: 9.00am–4.30pm
Contact hours: 8.30am–5.00pm

Victoria District Registry

Level 7 Owen Dixon Commonwealth Law Courts
305 William Street, Melbourne VIC 3000
Phone: (03) 8600 3333 | Fax: (03) 8600 3351
Email: vicreg@fedcourt.gov.au
Counter hours: 9.00am–4.30pm
Contact hours: 8.30am–5.00pm

Western Australia District Registry

Level 6 Peter Durack Commonwealth Law Courts
1 Victoria Avenue, Perth WA 6000
Phone: (08) 9268 7100 | Fax: (08) 9221 3261
Email: waregistry@fedcourt.gov.au
Counter hours: 8.30am–4.00pm
Contact hours: 8.30am–5.00pm

Family Law Registries (Family Court and Federal Circuit Court)

* These registries share counter services with the general federal law jurisdiction

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

Virgil Power Building
Ground Floor 46 East Street, Cnr Fitzroy Street
Rockhampton QLD 4700

Townsville

Level 2, Commonwealth Centre
143 Walker Street
Townsville QLD 4810

South Australia

Adelaide

Roma Mitchell Commonwealth Law Courts
3 Angas Street
Adelaide SA 5000

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

