



10 Introduction

10 Significant issues and developments

# THE YEAR IN REVIEW



# PART 2



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

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





# THE YEAR IN REVIEW

## INTRODUCTION

During 2016–17, the Court continued to achieve its objective of promptly, courteously and effectively deciding disputes according to law, in order to fulfil its role as a court exercising the judicial power of the Commonwealth under the Constitution.

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

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

**These are discussed separately in this part.**

## SIGNIFICANT ISSUES AND DEVELOPMENTS

### NATIONAL COURT FRAMEWORK

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

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

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

## New Practice Notes

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

## 40TH ANNIVERSARY

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

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

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

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

## ORGANISATIONAL REVIEW

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

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

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

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

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

## DIGITAL INNOVATION

### Digital Court Program

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

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

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

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

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

## WORKLOAD

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

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

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

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

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

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

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

## PERFORMANCE

The Court has two targets for timely completion of cases:

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

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

### 2. Judgments to be delivered within three months

The Court has a goal of delivering reserved judgments within a period of three months. Success in meeting this goal depends upon the complexity of the case and the pressure of other business upon the Court. During 2016–17, the Court handed down 1712 judgments for 1502 court files (some files involve more than one judgment being delivered e.g. interlocutory decisions, and sometimes one judgment will cover multiple files).

This is a slight decrease from last year by 64 judgments. The data indicates that 83 per cent of appeals (both full court and single judge) were delivered within three months and 79 per cent of judgments at first instance were delivered within three months of the date of being reserved (a slight decrease from 2015–16).

## FINANCIAL MANAGEMENT AND ORGANISATIONAL PERFORMANCE

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

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

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

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

## MERGER OF CORPORATE SERVICES

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

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

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

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



### Warwick Soden

Chief Executive Officer and Principal Registrar  
Federal Court of Australia