



FEDERAL COURT
OF AUSTRALIA

Annual Report

2023–2024

FEDERAL COURT OF AUSTRALIA ANNUAL REPORT 2023-24

About this report

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ACKNOWLEDGMENT OF COUNTRY

The Court acknowledges Aboriginal and Torres Strait Islander (First Nations) peoples as the First Peoples of Australia. The Court acknowledges and pays its respects to the Traditional Owners of the country on which the Court's eight registries are situated across Australia.

The Court acknowledges the challenges facing the Australian community in our relationships with Aboriginal and Torres Strait Islander peoples, including how Aboriginal and Torres Strait Islander peoples are treated by the justice system. In this Court, that includes but is by no means limited to, the administration of the Court's jurisdiction under the *Native Title Act 1993* (Cth), where the Court's processes and decisions have a significant impact on the interests of First Nations Peoples. The Court is committed to the improved administration of all its jurisdictions, where they affect First Nations Peoples.

READER'S GUIDE

The purpose of this report is to inform the Attorney-General, the Parliament, court users and the general public about the performance of the Federal Court of Australia (the Court) in the financial year ending 30 June 2024.

Part 1: Chief Justice's year in review

Part 2: Overview of the Court

Part 3: The Court's work in 2023–24

Part 4: Management and accountability

Part 5: Report of the National Native Title Tribunal

Part 6: Appendices

Part 7: Indexes

Includes the list of requirements and alphabetical index.

Acronyms and abbreviations and a glossary of court-specific terminology are on pages 154–158.

An electronic version of this annual report is available from the Court's website at: <https://www.fedcourt.gov.au/about/corporate-information/annual-reports>



**FEDERAL COURT
OF AUSTRALIA**

LETTER OF TRANSMITTAL

30 September 2024

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

Dear Attorney-General

I have pleasure in submitting the annual report on the operations of the Federal Court of Australia for the financial year ending 30 June 2024.

This report is submitted in accordance with:

- section 18S of the *Federal Court of Australia Act 1976* (Cth), and
- section 133 of the *Native Title Act 1993* (Cth).

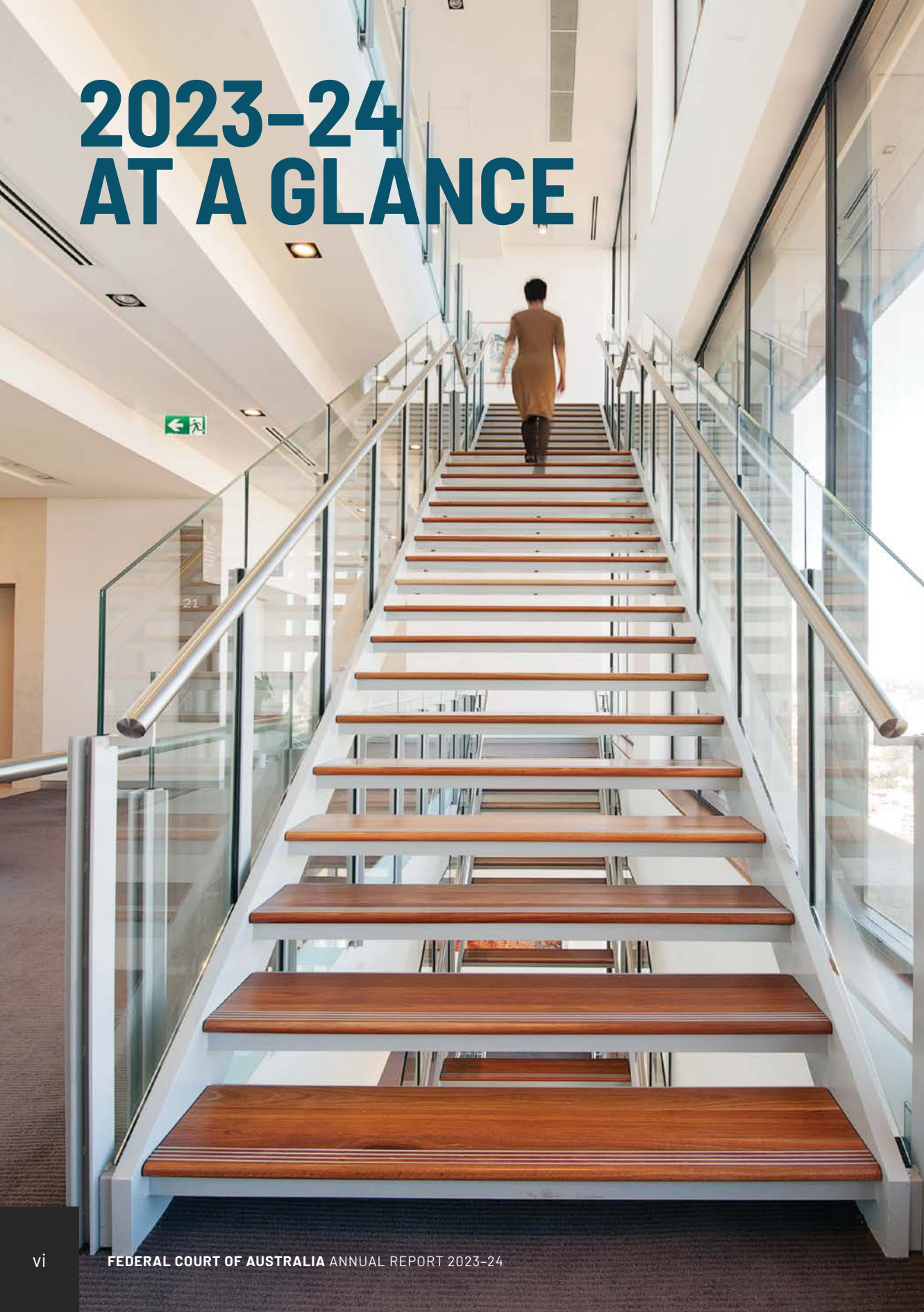
A report on the provision of corporate and registry services and the financial statements are included as part of the Federal Court of Australia Listed Entity's 2023–24 annual report.

The Federal Court of Australia Listed Entity is a non-corporate Commonwealth listed entity for the purposes of the *Public Governance and Accountability Act 2013* (Cth). The Listed Entity provides corporate and registry services in support of the operations of the Federal Court of Australia.

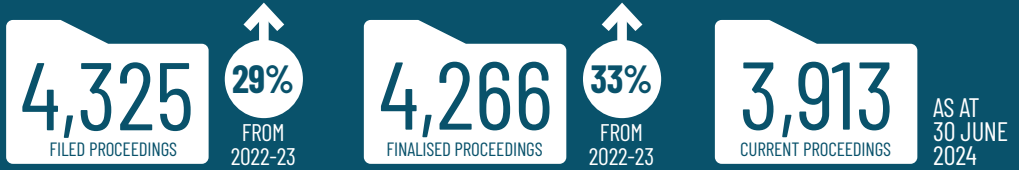
Yours sincerely

D S Mortimer
Chief Justice, Federal Court of Australia

2023-24 AT A GLANCE



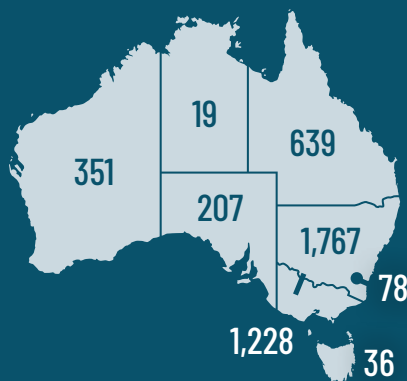
Judge Original Jurisdiction, Judge Appellate & Registrar proceedings



Proceedings filed by National Practice Area



Proceedings filed in each state and territory



1,841
DELIVERED
JUDGMENTS

1,493
DOCUMENTS PUBLISHED
TO ONLINE FILES



79% OF JUDGMENTS WERE
DELIVERED IN 3 MONTHS



86% OF JUDGMENTS WERE
DELIVERED IN 6 MONTHS



9,519,397
WEBSITE
HITS



Justice Collage (Collaborative Entry John Curtin College of Arts in the Federal Court of Australia Art of Delivering Justice School Art Competition 2002. Western Australia State Winner Year 9-11. Chief Justice's Award)

PART 1: CHIEF JUSTICE'S YEAR IN REVIEW



It is my pleasure to present the Federal Court of Australia's 2023–24 annual report.

The Federal Court is a cornerstone of Australia's justice system at the federal level, with jurisdictions that continue to grow and develop.

The work of the Federal Court touches the lives of most Australians. Year upon year, across the Court's jurisdictions, it makes many tens of thousands of orders and decisions which have significant impacts on business, government and the Australian community. It is therefore important that people can clearly see and understand what has been undertaken and achieved by the Court in the service of the Australian community.

To this end, this year the Court's annual report is presented differently, with the specific aim of providing greater clarity and showcasing the areas of excellence of the Federal Court.

The report reflects the National Court Framework and the Court's National Practice Areas (NPAs), so that the work undertaken in its various jurisdictions can be understood in its proper context.

Like the Federal Circuit and Family Court of Australia (Division 1) and (Division 2), and the National Native Title Tribunal, the Federal Court is supported by a corporate services agency known as the Federal Court of Australia Listed Entity (Listed Entity). The Listed Entity provides a range of vital support services to each of the Courts and the Native Title Tribunal. This year, the Listed Entity has produced its own report in accordance with its statutory obligations.

PART 1

I invite readers to look through each of the NPA reports in Part 3, to gain a better understanding of the work of the Court and the impact of that work. These include:

- the deterrent effect of penalties and other orders made in the areas of Regulator and Consumer Protection and Employment and Industrial Relations, and the consequent revenue received by the Federal Government where pecuniary penalties are imposed
- protecting consumers from misleading and unconscionable conduct
- adjudicating the employment rights of hundreds of thousands of Australians and the regulation of industrial activities
- resolving disputes over a wide variety of intellectual property rights in areas such as the pharmaceutical industry and the rapidly changing world of science and technology
- adjudication and resolution of a wide range of major commercial disputes
- adjudication on a wide range of taxation disputes, with direct consequences for federal revenue, as well as personal financial circumstances
- playing an active role in the proper functioning of the commercial shipping industry through its admiralty and maritime jurisdiction
- determining proceedings related to recognition of the ownership of land and waters by Australia's First Nations Peoples, and the making of orders to protect a range of other proprietary interests affected by that recognition
- deciding on human rights disputes in the areas of racial discrimination, disability discrimination, age discrimination and sex discrimination, and
- supervising of the lawful exercise of government decision making under hundreds of federal statutes.

Further, the Court has jurisdiction to deal with summary criminal offences under a number of Commonwealth Acts, as well as recently conferred indictable jurisdiction in relation to corporate crime. It has a growing defamation jurisdiction, in which the Australian public take a keen interest.

In a number of its jurisdictions, but especially in the area of environmental law, the Federal Court is increasingly required to address issues relating to climate change.

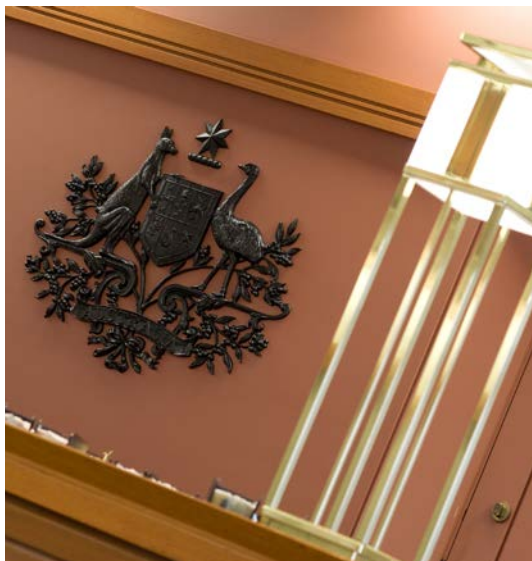
The Federal Court is and must remain contemporary and relevant, open to adaptation, and have capacity to meet the future needs of the justice system and the Australian community. It remains faithful to the fair and accessible administration of justice in ways which are proportionate to the interests at stake. In fulfilling these responsibilities, the Federal Court of Australia and its experienced and dedicated judges will continue to rise to the challenges facing the justice system in Australia, and to provide the very best service we can to the Australian community.

New developments

During the reporting period, the Court welcomed budget announcements for additional funding to support two key areas of the Court's work. The Federal Court of Australia and Native Title Tribunal will be funded a total of \$20.2 million over four years to support the digitisation of culturally and historically significant records in the native title practice area, especially proceeding records from the Court's early years in its native title work. This funding will also support the Court's dedicated objective of increasing traditional owner led agreement making in native title claims and compensation applications. The Court will receive additional funding during the 2024–25 and 2025–26 financial years to support an expected significant increase in its caseload of migration work, and to enable the Court to provide important support services to vulnerable litigants in this jurisdiction – including cultural liaison, increased interpreter services and pro bono and litigants-in-person coordinators. I look forward to reporting on the initiatives that the Court is able to undertake with this additional funding.

On 12 June 2024,¹ the Court's criminal jurisdiction was expanded to enable it to hear and determine a range of summary and indictable offences relating to conduct within the regulatory remit of the Australian Securities and Investments Commission (ASIC), such as dishonest conduct as a director of a corporation and dishonest conduct of financial services. The Court also has jurisdiction in relation to various indictable offences including money laundering and accounting record offences. For indictable offences, this will involve the conduct of jury trials.

.....
¹ Following Royal Assent to the *Attorney-General's Portfolio Miscellaneous Measures Act 2024*.



Changes to Full Court and Appellate sittings

I have continued my commitment to working closely with my judicial colleagues, and with the Court's registrars, to assist them to better manage their workloads. In support of the Court's commitment to efficiently administering its trial and appellate workload, in February 2024, following consultation with the judges of the Court and the profession, the Court announced changes to the Full Court and Appellate sitting periods in 2025 by moving to three sitting periods in March (four weeks), August (five weeks) and November (four weeks). This change will assist members of the profession, as well as judges and court staff, in managing family commitments over the January period and enabling people to take sufficient leave to return energised for the start of the next legal year. The change will also allow more time during the year for the listing of trials.

Changes in the composition of the Court

In recent years, there has been significant change in terms of the composition of the Court. At 30 June 2024, there were 53 judges in the Court including three judges holding other full time commissions: Justice Hatcher – President, Fair Work Commission, Justice Kyrou – President, Administrative Appeals Tribunal and Justice Bromberg – President, Australian Law Reform Commission.

From 1 January 2021 until 30 June 2024, 21 new judges commenced on the Court, with an average age of 55 years at appointment. During that same period, there were 18 judges who retired from the Court.

This year, the Court farewelled Justices Kathleen Farrell and Steven Rares (New South Wales Registry), Susan Kenny (Victorian Registry), David Thomas (Queensland Registry) and Anthony Besanko (South Australian Registry). Some had served the Court for long periods of time – Justice Kenny for 25 years, Justice Rares for almost 18 years and Justice Besanko for 18 years. Each retiring judge has provided dedicated service to the Australian community. I wish each of them well in their retirement.

During the reporting year, the Court also warmly welcomed the appointments of Justices Christopher Horan, Penelope Neskovicin and Craig Dowling (Victorian Registry) and Justice Yaseen Shariff (New South Wales Registry). At the time of writing, but outside the reporting year, there have been further judicial and registrar appointments which I will note in next year's foreword.

As at 30 June 2024, 17 judges (including the Chief Justice) were women and 36 were men. Thus, women comprised 32 per cent of the Federal Court bench.

At 30 June 2024, 49 registrars held office with the Federal Court. Of the total number of registrars, 29 were female (including the CEO and Principal Registrar) and 20 were male. Thus, 59 per cent of registrars holding office were female. Many of these registrars also performed work for the Federal Circuit and Family Court of Australia (Division 2), especially in that Court's migration, bankruptcy and fair work jurisdiction.

Community and professional engagement

During the reporting period, there was intense public interest in some of the high-profile proceedings of the Court. The Court has continued to use and develop online files in proceedings of public interest. The use of online files avoids the need for third party access requests for court documents, thus assisting in reducing the workload for registry staff in proceedings where there is a great deal of community or media interest. The use of online files is consistent with the Court's commitment to administering justice in as open a way as possible, while balancing the genuine

requirements for confidentiality provided for under the *Federal Court of Australia Act 1976* (Cth) (FCA Act) and the *Federal Court Rules 2011* (Cth). Parties and their legal representatives have worked cooperatively with judges of the Court to enable online files to contain as many court documents as possible, and those files have been well accessed by members of the public and the media.

Similarly, the Federal Court's YouTube presence continues to grow as proceedings are livestreamed to the public. Livestreaming not only enhances public access to court proceedings, but also enables wider access in proceedings such as class actions and native title proceedings, where there may be hundreds of individuals, located in various parts of Australia, who have a direct stake in the proceeding. During the reporting period, the Court's YouTube follower count more than doubled the previous years, with approximately three million views across all livestreamed and uploaded content. As at 30 June 2024, the Court's YouTube channel had 40,394 subscribers.

During the reporting period, the Court's LinkedIn account gained 21,206 followers, representing a 121 per cent increase in 12 months. There were 213 posts published which attracted 1,510,289 impressions, representing a growth of 256.1 per cent. The account has seen an increase of 26.8 per cent in engagement per impression and in overall company page views. The majority of the Court's followers view LinkedIn from a mobile device. The top industry demographic of the Court's LinkedIn followers is largely dominated by legal practice, followed by IT and IT consulting, legal services, government administration, non-profit organisations, higher education and individuals involved in the administration of justice. This spread of industries is much the same as it was in the previous reporting period.

The Court has engaged with the legal profession through various user group activities, and a range of professional development events either hosted by the Court or involving judges and registrars.

It is important this active engagement continues and that the Court listens to the concerns and feedback of the profession. In 2024, I have enjoyed continuing a practice I commenced last year of meeting with local members of the Law Societies, Bar Associations and some university law faculties annually, as well as spending time in each of the Court's registries, seeing judges, registrars and other court staff. I have also held meetings with

peak bodies such as the Law Council of Australia and the Australian Bar Association. I very much value the productive discussions and ideas presented on behalf of the profession, and the Court has benefited from the feedback provided. I thank all those members of the legal profession with whom the Court has engaged this year.

The Court's premises and courtrooms continue to be used for various events for the profession, for law students (such as mooted competitions) and for speaking events also open to members of the community. The fine public spaces and buildings of the Federal Court are able to provide a modern and valuable forum for such activities.

Discharge of the Court's judicial caseload

In 2023–24, there has been an overall 29 per cent increase in filings in the Federal Court compared to the same time last year. The Court has seen an increase in filings in both the original jurisdiction work of the Court (six per cent) and the appellate work of the Court (nine per cent). In the same period, the Court has seen a significant increase in registrar filings (corporations and bankruptcy filings), noting that these filings saw a dramatic decrease over the COVID-19 years (2019–20; 2020–21) and are steadily increasing each year, with a 69 per cent increase (+800 filings) in 2023–24 from the previous year.

Overall, the Federal Court has continued to finalise proceedings in an effective and efficient manner. In 2023–24, 74 per cent of proceedings finalised were finalised within 12 months of filing, an improvement from 68 per cent in the previous year, with a finalisation rate of 99 per cent (the number of proceedings finalised compared to the number filed in the fiscal year).

In 2023–24, the Court recorded a significant improvement in the delivery of outstanding reserved judgments. At the end of this reporting period, 14 judgments had been reserved for 12 months or longer, which is down from 38 judgments at the same time the previous year (30 June 2023).

The judges of the Court delivered 1,841 published judgments in 2023–24 (both Single Judge and Full Court judgments), being an increase from 1,787 in 2022–23. Of these delivered judgments, 79 per cent were delivered within three months of being reserved, with 86 per cent delivered within six months. The Court continues to deliver all judgments at an average of two months from the date they were reserved.

The Court's judges holding other commissions also delivered judgments in other courts and tribunals during the reporting period as follows – in the Supreme Court of Norfolk Island (10), the Australian Competition Tribunal (two), the Copyright Tribunal of Australia (two) and the Defence Force Discipline Appeal Tribunal (one).

The Court's registrars were allocated 501 mediations in the 2023–24 period, an 11 per cent decrease from the last financial year. In 2023–24 the registrars resolved 54 per cent of mediations, an increase from 51 per cent in 2022–23. This equates to approximately 270 proceedings being resolved through mediation conducted by registrars of the Court, delivering more timely final outcomes to the parties, helping to reduce the trial workload of the Court, and reducing both the potential costs and delays associated with trial processes, for all parties. In addition to mediation, the Court's registrars managed over 880 referrals from judges and other registrars which included activities such as expert conferrals, discovery disputes and claims of privilege, general case management and costs-related issues in proceedings. This is vital work performed to a high standard by the Court's registrars.

The Court continues to work through reviewing and maintaining its practice notes, which are a critical method of communication with litigants and the profession about how the Court will deal with matters of practice and procedure, as well as trial and appellate case management, in all or some of its NPAs. During the reporting period, on 13 October 2023, a practice note was issued in relation to schemes of arrangement after consultation with ASIC, the profession and the Harmonisation of Rules Committee. The practice note aims to promote uniform procedures across Australian courts and has been well received by the profession and regulators.

During this reporting period, one of my priorities has been judicial wellbeing. The Court has implemented a longer, more structured and rounded induction program for new judges with an emphasis on the transition from legal practice to the Court and developing a collegiate judicial environment. There are now regular opportunities for judges to discuss matters that affect their wellbeing and to consider strategies to assist them. The Court strives to ensure that all judges understand and have access to support services they may need. Judges,

registrars and all staff comprise a modern, energetic and engaged workplace, committed to serving the Australian community in a way that upholds the workplace values the Australian community expects of a modern institution. Workplace conduct sessions with experienced professionals have been formalised and conducted, including with all judges, and separate sessions for chambers staff.

Judge-led projects

Judges, assisted by the Court's registrars and staff, have worked on a number of projects designed to assist in the management of judicial workload, and assist the profession and parties in the effective and efficient conduct of litigation. These are projects designed by judges, with judges and registrars driving their implementation. They have given rise to a strong sense of collegiality, commitment to improvement and involvement in the future direction of the Court. In due course, litigants and the profession will be consulted and will begin to see the benefits of these projects. The appeals project, which resulted in a change to three appeals periods (see *Changes to Full Court and Appellate sittings* above), is one of the first of these projects to be completed and implemented. I thank my colleagues for their dedication to participating in these projects, above and beyond their already demanding judicial workloads.



Use of technology

The Court's ongoing drive toward improved online and digital facilities is continuing through the work of the Digital Court Program. The program is delivering facilities to the Court and to Court users that are secure, efficient and reliable, and uphold the Court's reputation of being at the forefront of digital case management, with electronic filing and document management in place for over ten years. Judges are also increasingly working online and conducting trials digitally, a positive environmental measure which saves resources and leads to other efficiencies, including the ability to enhance online files available to the public.

CourtPath, a flagship initiative of the program, has been progressively and carefully implemented to replace older but critical technical systems. Since March 2024, CourtPath is now the primary tool used by Federal Court judges and registrars for managing files and documents and is working well. With its third and final phase of development now underway, 2025 will see the system fully replace remaining case management tools, providing a simple, flexible solution that can continue to adapt to the needs of the Court.

The transition to CourtPath provides the foundations for the next significant focus for the Digital Court Program – replacement of the Commonwealth Courts Portal (CCP). Similarly to CourtPath, the CCP replacement will provide a flexible and accessible tool designed to meet the direct needs of litigants engaging with the Court, and the Australian public.

Consistent with the Federal Government's Strategic Commissioning Framework, the Digital Court Program is being undertaken by technical specialists employed directly by the Court. This includes a mix of employees from across the Court who bring insights and an understanding of its operations, along with technical staff with relevant industry experience recruited specifically to deliver program objectives. This approach prioritises the development of sustainable and efficient services that connect to a deep understanding of the evolving needs of the Court. The Digital Court Program is proving to be an important initiative and is generating considerable interest from a range of other Australian and overseas courts.

Regional judicial relationships

The Federal Court has a longstanding and proud commitment to international cooperation and to supporting the rule of law and the independence of the judiciary. The Court is committed to assisting and cooperating in the development of judicial processes and practices designed to suit the communities and culture of the nations of our regional judicial colleagues. We have been able to involve a wider cross-section of judges, working across a number of NPAs. Cooperation has involved visits to our registries by foreign judicial delegations, visits by some of our judges to regional courts or regional workshops and a significant use of online delivery for cooperation programs. Practice areas have included fraud and corruption prevention measures and proceedings, intellectual property litigation, competition law and class actions law.

In May 2024, the Federal Court of Australia and the Supreme Court of the Philippines signed a Memorandum of Understanding (MOU). In June 2024, a Federal Court delegation travelled to Indonesia to celebrate 20 years of working with the Supreme Court of Indonesia under our MOU. A new MOU for the next five years was also signed.

In addition to these Memoranda of Understanding, the judges on this Court have continued to develop and strengthen international relationships including with the National and Supreme Court of Papua New Guinea and the National High Court of Brazil. In February 2024, I attended, as an observer, the Pacific Chief Justices' Leadership Forum in Samoa, this year organised by the New Zealand based Pacific Justice Sector Program.

The Court looks forward to increasing and developing its cooperation work with regional judiciaries.

Gratitude

Having concluded my first full year as Chief Justice of this Court, I take this opportunity to express my sincere appreciation to the judges of this Court for their ongoing support. The judges of the Court continue to work exceptionally hard for the Australian community, and to approach their judicial work always mindful of how proceedings might be conducted more effectively and efficiently. My sincere thanks also go to the Court's excellent cohort of registrars, working in all our eight registries across the country, for their important contributions to the administration of justice. The registrars provide a great deal of support to

the judges, but they also perform a tremendous range of functions under the FCA Act and the Rules in their own right.

I acknowledge the hard work and dedication of Sia Lagos, CEO and Principal Registrar, and thank her for her ongoing assistance to me over what has been a tremendously busy and productive year, in which much has been achieved and implemented to improve the operations and efficiency of the Court.

As Chief Justice, I have worked constructively with the federal Attorney-General, the Hon Mark Dreyfus KC MP, his office and the officers of the Attorney-General's Department, led by Ms Katherine Jones PSM. I thank them all for the cooperative and effective working relationship we have had, so as to advance the interests of justice.

By no means least, aside from judges and registrars, the more than 220 staff who work for the Federal Court of Australia and the more than 1,462 staff who work for the Listed Entity deserve particular gratitude. Their work is sometimes less visible than the work of judges and registrars, but we could not perform our roles without them. Whether it is the exceptionally dedicated judgment publication staff, the court officers, lawyers and legal case managers, court services staff, building services staff, information technology staff, the busy team in People and Culture, the teams in the Court's National Operations Registry, or the security and cleaning staff, every single person contributes to ensuring the Court runs as efficiently as it can, often under a great deal of pressure and sometimes in the spotlight. The chambers staff of judges (executive assistants and associates) work as tirelessly as their judges to get through the trial and appellate work and do so with energy and good humour.

Our collective work is not easy, but it is a vital part of Australia's robust democratic governance system and I know all those working in the Federal Court and in the Listed Entity are committed to the public service we perform.

DS Mortimer

Chief Justice of the Federal Court of Australia



PART 2: OVERVIEW OF THE COURT



A display of NAIDOC posters at the New South Wales registry

REPORT FROM THE PRINCIPAL REGISTRAR



The 2023–24 period was an opportunity for engagement, innovation and transformation.

A highlight of the year was visiting all of the Court's District Registries, together with the Chief Justice and the Court's Senior Executives, and meeting with all the judges, registrars and staff, as well as members of the legal profession. It was a pleasure to hear directly from court staff, across the country, and to witness their deep commitment to the Court and its work. This engagement is essential to properly informing the Court's key initiatives and provided invaluable insight on how we refine our staff support framework and engagement activities. I look forward to participating in these visits in future years.

The Court has reaffirmed its significant and long-term commitment to ensuring our exceptional staff are properly supported to perform their essential work. To this end, substantial investment was made in the infrastructure and resources necessary to deliver initiatives related to staff induction, professional development, leadership and wellbeing. This included a leadership program for the Court's Senior Executives facilitated through workshops and ongoing collaboration. Our approach is to continuously refine the Court's support mechanisms to foster a positive, diverse and inclusive workplace culture. A significant achievement this year was the commencement of the new Enterprise Agreement, delivered through extensive engagement, consultation and cooperation with members of the Court's staff at all levels.

Over the year, considerable work was done to identify key areas for innovation and transformation to support the vital work of judges, registrars and staff. These included enhancing registry service structures for judges and court users, strengthening support frameworks for staff, and continuing the Court's important investment in its digital infrastructure.

A number of key initiatives this year have focused on how our registrars and legal support staff can work most effectively with our judges. To this end, the role of District Registrar was optimised as a key leadership role that delivers essential management functions for each District Registry and oversees

PART 2

local registrars and legal support staff, including our important mentoring and training programs. District Registrars are now the first point of contact for local judges in respect of the work of the registrars, and a key contact in relation to the operations of the registries. In addition, they are also now a key liaison for the local legal profession, an engagement initiative designed to further strengthen the Court's connection with the community.

We introduced a specialist Federal Court team in the registry to provide dedicated, expert registry services tailored to the work of the Court's judges and registrars, and the Court's users.

Judges continue to be supported by the Court's skilled and experienced judicial registrars who perform mediation and case management work. This year, National Practice Area Coordinating Registrars were identified to support the National Coordinating Judges of each of the Court's National Practice Areas (NPAs). The support provided by the NPA Coordinating Registrars includes assisting the National Coordinating Judges with NPA events,

engaging with the profession and providing input on current issues or proposed reforms relevant to their NPA.

The Court has a history of being at the forefront of digital innovation. This year the Court was proud to release the CourtPath case management system for all judges, registrars and staff. CourtPath has been well-received, with ongoing and consistently positive feedback. Key benefits identified by users include ease of use, efficiency, reliability and alignment with Court workflows. Multiple organisations have requested and received presentations on CourtPath; to understand both how it works in practice and the considered processes behind its development.

My sincere thanks and appreciation are extended to the Chief Justice, judges, registrars and all staff for their unwavering dedication and contribution to the Court and its important work, in service of the Australian community.

Sia Lagos

CEO and Principal Registrar
Federal Court of Australia

The Court's outcome and program structure

Table 2.1: Outcome 1: Federal Court of Australia

Federal Court of Australia	Budget 23-24 (\$'000)	Actual 23-24 (\$'000)	Variation (\$'000)
OUTCOME 1: Apply and uphold the rule of law for litigants in the Federal Court of Australia and parties in the National Native Title Tribunal through the resolution of matters according to law and through the effective management of the administrative affairs of the Court and Tribunal.			
Program 1.1 – Federal Court of Australia			
Special appropriations	600	343	257
Departmental appropriation ¹	69,566	70,587	(1,021)
Expenses not requiring appropriation in the budget year	18,366	22,505	(4,139)
Total for Program 1.1	88,532	93,435	(4,903)
Total expenses for outcome 1	88,532	93,435	(4,903)
Average staffing level (number)	284	260	24

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

The Court's jurisdiction

Original jurisdiction

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

Central to the Court's civil jurisdiction is section 39B (1A)(c) of the *Judiciary Act 1903* (Cth).

This jurisdiction includes cases created by federal statute and extends to proceedings in which a federal issue is properly raised as part of a claim or of a defence and to proceedings where the subject matter in dispute owes its existence to a federal statute.

The Court has jurisdiction under the *Judiciary Act 1903* (Cth) to hear applications for judicial review of decisions by officers of the Commonwealth. Many cases also arise under the *Administrative*

Decisions (Judicial Review) Act 1977 (Cth) which provides for judicial review of most administrative decisions made under Commonwealth enactments on grounds relating to the legality, rather than the merits, of the decision. The Court also has jurisdiction to hear and determine a question of law referred to it by the Administrative Appeals Tribunal pursuant to section 45(2) of the *Administrative Appeals Tribunal Act 1975* (Cth). This jurisdiction falls under the Administrative and Constitutional Law and Human Rights National Practice Area, which also includes complaints about unlawful discrimination and matters concerning the Australian Constitution.

In addition to hearing appeals in taxation matters from the Administrative Appeals Tribunal, the Court exercises a first instance jurisdiction to hear objections to decisions made by the Commissioner of Taxation.

The Court shares first instance jurisdiction with the Supreme Courts of the states and territories in the complex area of intellectual property (copyright, patents, trademarks, designs and circuit layouts). All appeals in these cases, including appeals from the Supreme Courts, are to a Full Court of the Federal Court.

The Court also has jurisdiction under the *Native Title Act 1993* (Cth). The Court has jurisdiction to hear and determine native title determination applications and is responsible for their mediation. It also hears and determines revised native title determination applications, compensation applications, claim registration applications, applications to remove agreements from the Register of Indigenous Land Use Agreements and applications about the transfer of records. In addition, the Court also hears appeals from the National Native Title Tribunal and matters filed under the *Administrative Decisions (Judicial Review) Act 1977* (Cth) involving native title.

A further important area of jurisdiction for the Court derives from the *Admiralty Act 1988* (Cth). The Court has concurrent jurisdiction with the Supreme Courts of the states and territories to hear maritime claims under this Act. Ships coming into Australian waters may be arrested for the purpose of providing security for money claimed from ship owners and operators. If security is not provided, a judge may order the sale of the ship to provide funds to pay the claims.

The Court has jurisdiction under the *Fair Work Act 2009* (Cth), *Fair Work (Registered Organisations) Act 2009* (Cth) and related industrial legislation.



Owen Dixon Commonwealth Law Courts building in Melbourne

PART 2

The Court's jurisdiction under the *Corporations Act 2001* (Cth) and the *Australian Securities and Investments Commission Act 2001* (Cth) (ASIC Act) covers a diverse range of matters, from the appointment of registered liquidators and the winding up of companies, to applications for orders in relation to fundraising, corporate management and misconduct by company officers. The jurisdiction is exercised concurrently with the Supreme Courts of the states and territories. The Court exercises jurisdiction under the *Bankruptcy Act 1966* (Cth). It has power to make sequestration (bankruptcy) orders against persons who have committed acts of bankruptcy and to grant bankruptcy discharges and annulments. The Court's jurisdiction includes proceedings arising from the administration of bankrupt estates.

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

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

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

Appellate jurisdiction

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

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

The number of appellate proceedings commenced in the Court is dependent on many factors, including the number of first instance proceedings disposed of in a reporting year, the nature and complexity of such proceedings, the nature and complexity of issues raised on appeal, legislative changes increasing or reducing the jurisdiction of the Court and decisions of the Full Court or High Court (for example, regarding the interpretation or constitutionality of legislative provisions).

Subject to sections 25(1), 25(1AA) and 25(5) of the FCA Act, appeals from the Federal Circuit and Family Court of Australia (Division 2) and courts of summary jurisdiction exercising federal jurisdiction may be heard by a Full Court of the Federal Court or by a single judge in certain circumstances. All other appeals must be heard by a Full Court, which is usually constituted by three, and sometimes five, judges.

The Court publishes details of the scheduled Full Court and appellate sitting periods on its website. In November 2023, a Notice to the Profession was published regarding a proposal to amend the timing of the Full Court and Appellate sitting periods in 2025 by moving from four to three sitting periods. The profession unanimously supported the proposal.

In recent years, a significant component of its appellate work has involved appeals from the Federal Circuit and Family Court of Australia (Division 2) concerning decisions under the *Migration Act 1958* (Cth).

The Court also exercises general appellate jurisdiction in criminal and civil proceedings on appeal from the Supreme Court of Norfolk Island.

Statutes under which the Court exercises jurisdiction, in addition to the jurisdiction vested under the Constitution through section 39B of the *Judiciary Act 1903* (Cth), are listed on the Court's website at www.fedcourt.gov.au.

Governance

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

Under the FCA Act, the Chief Justice is responsible for managing the Court's administrative affairs. The Chief Justice is assisted by the CEO and Principal Registrar.

The FCA 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 that facilitates the collegiate involvement of the judges of the Court. Judges also participate in the management of the Court through formal meetings of all judges.

Judges' committees and project groups

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

An overarching Operations and Finance Committee, chaired by the Chief Justice, oversees the financial management of the Court, with Corporate Services providing support.

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

All of the committees are supported by senior staff of the Listed Entity. For more information see Appendix 3 (*Committees*).

Judges' meetings

Judges' meetings were held on 30 August–1 September 2023 and 29–31 May 2024. The May Judges' conference also included a judicial education component.

Executive Committee

The Court's Executive Committee deals with all matters relevant to the effective discharge of the CEO's responsibilities in relation to assisting the Chief Justice with the administrative affairs of the Federal Court of Australia, as set out in sections 18B and 18D of the *Federal Court of Australia Act 1976* (Cth). The committee represents the senior (non-judicial) leadership team of the Court.

The committee has a particular focus on the efficiency and effectiveness of the Court's operations regarding the registrar's stream and the registry stream. The focus of the committee may change over time in response to direction from the Chief Justice.



The May 2024 judges' meeting

Judges of the Court

At 30 June 2024, there were 53 judges of the Court. They are listed below in order of seniority with details about any other commissions or appointments held on courts or tribunals.

Table 2.2: Judges of the Federal Court (as at 30 June 2024)

Judge	Other Commissions/Appointments
Chief Justice The Hon Debra Sue MORTIMER	
The Hon Berna Joan COLLIER	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 John Alexander LOGAN RFD	Defence Force Discipline Appeal Tribunal – President National and Supreme Courts of Papua New Guinea – Judge
The Hon Nye PERRAM	Copyright Tribunal President
The Hon John Victor NICHOLAS	
The Hon David Markey YATES	
The Hon Mordecai BROMBERG	President, Australian Law Reform Commission
The Hon Anna Judith KATZMANN	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Bernard Michael MURPHY	
The Hon Darryl Cameron RANGIAH	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Michael Andrew WIGNEY	Supreme Court of the Australian Capital Territory – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon Melissa Anne PERRY	Defence Force Discipline Appeal Tribunal – Member Administrative Appeals Tribunal – Deputy President
The Hon Jonathan Barry Rashleigh BEACH	
The Hon Brigitte Sandra MARKOVIC	
The Hon Mark Kranz MOSHINSKY	Australian Law Reform Commission – Acting President (from 9 January 2023 – 30 June 2023) Australian Competition Tribunal – Deputy President
The Hon Robert James BROMWICH	Supreme Court of the Australian Capital Territory – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon Natalie CHARLESWORTH	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Stephen Carey George BURLEY	
The Hon David John O'CALLAGHAN	
The Hon Michael Bryan Joshua LEE	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Roger Marc DERRINGTON	
The Hon Sarah Catherine DERRINGTON AM	Australian Competition Tribunal – Deputy President
The Hon Katrina Frances BANKS-SMITH	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Craig Grierson COLVIN	Administrative Appeals Tribunal – Deputy President Australian Law Reform Commission – Part-time Commissioner
The Hon Thomas Michael THAWLEY	Administrative Appeals Tribunal – Deputy President Copyright Tribunal – Deputy President Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Michael Francis WHEELAHAN	Supreme Court of the Australian Capital Territory – Additional Judge

Judge	Other Commissions/Appointments
The Hon Angus Morkel STEWART	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Michael Hugh O'BRYAN	Supreme Court of the Australian Capital Territory – Additional Judge Australian Competition Tribunal President
The Hon Darren John JACKSON	
The Hon John Leslie SNADEN	
The Hon Stewart Maxwell ANDERSON	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Wendy Jane ABRAHAM	Supreme Court of the Australian Capital Territory – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon John HALLEY	Australian Competition Tribunal – Deputy President
The Hon Elizabeth CHEESEMAN	
The Hon Helen Mary Joan ROFE	Copyright Tribunal – Deputy President
The Hon Kylie Elizabeth DOWNES	Australian Competition Tribunal – Deputy President
The Hon Scott Anthony GOODMAN	
The Hon Patrick O'SULLIVAN	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Shaun Brendan McELWAIN	
The Hon Michael James FEUTRILL	
The Hon Fiona MEAGHER	
The Hon Timothy McEVOY	
The Hon Lisa HESPE	Administrative Appeals Tribunal – Deputy President
The Hon Elizabeth RAPER	
The Hon Geoffrey Ross KENNETT	Administrative Appeals Tribunal – Deputy President
The Hon Catherine Gail BUTTON	
The Hon Ian McNeil JACKMAN	
The Hon Adam HATCHER	President, Fair Work Commission
The Hon Emiliios KYROU AO	President, Administrative Appeals Tribunal
The Hon Christopher James HORAN	
The Hon Yaseen SHARIFF	
The Hon Penelope Anna NESKOVCIN	
The Hon Craig William DOWLING	

PART 2

Appointments during 2023–24

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



The Honourable Justice Christopher Horan was appointed on 5 September 2023



The Honourable Justice Yaseen Shariff was appointed on 7 September 2023



The Honourable Justice Penelope Neskovicin was appointed on 8 February 2024



The Honourable Justice Craig Dowling was appointed on 9 February 2024

Other appointments during the year are as follows:

Justice Thawley was appointed as acting President of the Administrative Appeals Tribunal on 11 December 2023 for 12 months.

Justice Hespe was appointed as acting President of the Administrative Appeals Tribunal on 11 December 2023 for 12 months.

Justice Jackman was appointed as Deputy President of the Administrative Appeals Tribunal on 7 December 2023 for the period 7 December 2023 to 6 December 2025.

Justice Bromwich was appointed as Chief Justice of the Supreme Court of Norfolk Island on 7 May 2024.

Retirements during 2023–24

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



The Honourable Justice Farrell resigned with effect on 1 August 2023



The Honourable Justice Rares retired with effect on 15 November 2023



The Honourable Justice Kenny AM retired with effect on 29 November 2023



The Honourable Justice Thomas resigned with effect on 31 January 2024



The Honourable Justice Besanko retired with effect on 7 May 2024

Court locations

Figure 2.1: Court locations map



Judges by location

Adelaide	Brisbane	Melbourne	Perth	Sydney
Justice Charlesworth Justice O'Sullivan	Justice Collier Justice Logan RFD Justice Rangiah Justice Roger Derrington Justice Sarah C Derrington Justice Downes Justice Meagher	Chief Justice Mortimer Justice Bromberg (ALRC) Justice Murphy Justice Beach Justice Moshinsky Justice O'Callaghan Justice Wheelahan Justice O'Bryan Justice Snaden Justice Anderson Justice Rofe Justice McElwaine Justice McEvoy Justice Hespe Justice Button Justice Kyrou AO (AAT) Justice Horan Justice Neskovic Justice Dowling	Justice Banks-Smith Justice Colvin Justice Jackson Justice Feutrill	Justice Perram Justice Nicholas Justice Yates Justice Katzmann Justice Wigney Justice Perry Justice Markovic Justice Bromwich Justice Burley Justice Lee Justice Thawley Justice Stewart Justice Abraham Justice Halley Justice Cheeseman Justice Goodman Justice Raper Justice Kennett Justice Jackman Justice Hatcher (FWC) Justice Shariff

Registrars of the Court

Sia Lagos is the Chief Executive Officer and Principal Registrar of the Federal Court of Australia appointed by the Governor-General.

To enable the Court to exercise its jurisdiction nationally, there is a registry 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. Each of the registries is managed by a District Registrar, who has been appointed under section 18N of the FCA Act. The District Registrars are:

- New South Wales and Australian Capital Territory District Registries: Senior National Judicial Registrar Paul Farrell
- Victorian District Registry: National Judicial Registrar Tim Luxton
- Queensland District Registry: National Judicial Registrar Peter Schmidt
- South Australian and Northern Territory District Registries: National Judicial Registrar Nicola Colbran
- Western Australian District Registry: National Judicial Registrar Russell Trott

In addition to the District Registrars, the registrars set out in table 2.3 below, are all appointed as Registrars of the Federal Court of Australia. Registrars perform statutory functions assigned to them by the FCA Act, Federal Court Rules 2011, Federal Court Bankruptcy Rules 2016 and the Federal Court (Corporations) Rules 2000. They also exercise various powers delegated by judges under the FCA Act, *Bankruptcy Act 1966*, *Corporations Act 2001* and *Native Title Act 1993*.

Table 2.3 Registrars of the Court, 30 June 2024

Registrars of the Court	Name	Title	Location
Executive	Sia Lagos	Chief Executive Officer and Principal Registrar	Melbourne, VIC
Office of the General Counsel	Scott Tredwell	General Counsel, Deputy Principal Registrar	Brisbane, QLD
	Rohan Muscat	National Registrar	Sydney, NSW
Senior National Judicial Registrars (and District Registrars)	Rowan Davis	Senior National Judicial Registrar	Melbourne, VIC
	Paul Farrell	Senior National Judicial Registrar and District Registrar (NSW and ACT)	Sydney, NSW
	Alison Legge	Senior National Judicial Registrar and National Operations Registrar	Melbourne, VIC
	Jennifer Priestley	Senior National Judicial Registrar and National Operations Registrar	Sydney, NSW
National Judicial Registrars (and District Registrars)	Nicola Colbran	National Judicial Registrar – Native Title and District Registrar (SA and NT)	Adelaide, SA
	Tim Luxton	National Judicial Registrar and District Registrar (VIC)	Melbourne, VIC
	Peter Schmidt	National Judicial Registrar and District Registrar (QLD)	Brisbane, QLD
	Susie Stone	National Judicial Registrar – Original Jurisdiction and District Registrar (TAS)	Hobart, TAS
	Russell Trott	National Judicial Registrar and District Registrar (WA)	Perth, WA
National Judicial Registrars	Rupert Burns	National Judicial Registrar	Melbourne, VIC
	Amelia Edwards	National Judicial Registrar	Melbourne, VIC
	Jacinta Ellis	National Judicial Registrar	Melbourne, VIC
	Catherine Forbes	National Judicial Registrar – Appeals	Melbourne, VIC

Registrars of the Court	Name	Title	Location
National Judicial Registrars	Camille Goucke	National Judicial Registrar	Perth, WA
	Simon Haag	National Judicial Registrar – Migration	Sydney, NSW
	Susan O'Connor	National Judicial Registrar	Sydney, NSW
Judicial Registrars	Sydney Birchall	Judicial Registrar	Sydney, NSW
	Michael Buckingham	Judicial Registrar	Brisbane, QLD
	Jodie Burns	Judicial Registrar – Federal Criminal Jurisdiction	Melbourne, VIC
	Kent Chapman	Judicial Registrar – Migration	Brisbane, QLD
	Claire Hammerton-Cole	Judicial Registrar	Sydney, NSW
	Robyn Curnow	Judicial Registrar	Melbourne, VIC
	Samuel Cummings	Judicial Registrar	Adelaide, SA
	Ann Daniel	Judicial Registrar – Native Title	Perth, WA
	Alicia Ditton	Judicial Registrar – Federal Criminal Jurisdiction	Sydney, NSW
	Helen Donovan	Judicial Registrar	Brisbane, QLD
	Simon Grant	Judicial Registrar – Native Title	Brisbane, QLD
	Alison Hird	Judicial Registrar – Small Claims	Melbourne, VIC
	Kim Lackenby	Judicial Registrar	Canberra, ACT
	Joseph Lindsay	Judicial Registrar – Migration	Melbourne, VIC
	Laurelea McGregor	Judicial Registrar – Native Title	Perth, WA
	Thomas Morgan	Judicial Registrar	Sydney, NSW
	Nicholas Parkyn	Judicial Registrar	Adelaide, SA
	Geoff Segal	Judicial Registrar	Sydney, NSW
	Coenraad van der Westhuizen	Judicial Registrar – Migration	Melbourne, VIC
	Joanne Wilson	Judicial Registrar	Melbourne, VIC
National Registrars	Sophie Bird	National Registrar	Melbourne, VIC
	Meredith Cridland	National Registrar	Sydney, NSW
	Thomas Downing	National Registrar – Migration	Melbourne, VIC
	Amarah Henderson-Wilson	National Registrar – Native Title	Adelaide, SA
	Amy Lee	National Registrar	Sydney, NSW
	Lauren McCormick	National Registrar – Migration	Melbourne, VIC
	David Priddle	National Registrar	Melbourne, VIC
	Tali Rubinstein	National Registrar	Sydney, VIC
	Stephanie Sanders	National Registrar	Melbourne, VIC
	Thomas Stewart	National Registrar	Melbourne, VIC

PART 2

In addition to these appointments:

- The following registrars are also appointed as Deputy District Registrars: National Judicial Registrar Rupert Burns, Judicial Registrar Michael Buckingham, Judicial Registrar Kim Lackenby, Judicial Registrar Thomas Morgan, Judicial Registrar Nicholas Parkyn, and Judicial Registrar Geoff Segal.
- General Counsel, Deputy Principal Registrar Scott Tredwell has been appointed as the Deputy Sheriff in both the Federal Court of Australia and the Federal Circuit and Family Court of Australia and Deputy Marshal in the Federal Circuit and Family Court of Australia.

The following registrars are also appointed as Deputy Sheriff in the Federal Court of Australia: Sophie Bird, Jodie Burns, Rowan Davis, Alicia Ditton, David Priddle and Thomas Stewart.

All registrars, excluding the following named registrars, are appointed as Registrars of the Federal Circuit and Family Court of Australia (Judicial Registrar Simon Grant; National Registrar Amarah Henderson-Wilson; National Registrar Lee).

Table 2.4 sets out any registrars who hold additional appointments.

Table 2.4: Registrars' additional appointments

Other appointments	Title	Name	Location
Australian Competition Tribunal	Registrar	Tim Luxton	Melbourne
	Deputy Registrar	Geoffrey Segal	Sydney
		Nicola Colbran	Adelaide
		Russell Trott	Perth
		Michael Buckingham	Brisbane
Defence Force Discipline Appeal Tribunal	Registrar	Tim Luxton	Melbourne
	Deputy Registrar	Nicola Colbran	Adelaide
		Susie Stone	Hobart
		Russell Trott	Perth
		Kim Lackenby	Canberra
Copyright Tribunal of Australia	Registrar	Susan O'Connor	Sydney, Melbourne
Norfolk Island Supreme Court	Deputy Registrar	Alicia Ditton	Sydney, Melbourne



The Edmond Barton Commonwealth Law Courts building in Hobart

PART 3: THE COURT'S WORK IN 2023–24

Foyer of the Harry Gibbs Commonwealth
Law Courts Building in Brisbane

THE WORKLOAD OF THE COURT



The workload of the Court is organised by the nine NPAs. The Court's work within these practice areas can be broadly separated into three categories:

- proceedings allocated to judges in the Court's original jurisdiction ('Judge Original Jurisdiction')
- proceedings allocated to judges in the Court's appellate jurisdiction ('Judge Appellate Jurisdiction'), and
- proceedings allocated to registrars ('Registrar proceedings').

This part of the report provides a statistical overview of the work of the Court in the 2023–24 financial year together with a comparison to the 2022–23 financial year, where relevant.

Individual Docket System under the NCF

Fundamental to the effective, orderly and expeditious discharge of the Court's business is the individual docket system, as well as the NCF. The individual docket system is an integral feature of the management of the Court's work under the NCF. The general principle underlying the individual docket system is that a case is allocated to the docket of a particular judge at or about the time of filing with the intention that, subject to any necessary reallocation, it will remain with that judge for case management and disposition.

The objectives of the individual docket system include:

- savings in time and cost resulting from the Docket Judge's familiarity with the case. The system seeks to eliminate the necessity to explain the case afresh each time it comes before a judge
- consistency of approach throughout the case's history
- fewer listing events with greater results. The system aims at reducing the number of case management hearings and other events requiring appearances before the Court
- minimise unnecessary interlocutory disputes by permitting only interlocutory steps that are directed to identifying, narrowing or resolving the issues really in dispute between the parties
- better identification of cases suitable for Alternative Dispute Resolution (such as mediation), and
- earlier settlement of disputes or, failing that, a narrowing of the issues and a consequent saving of Court time.

Report against performance measures

Performance measures are set out in the Portfolio Budget Statements, a part of the Commonwealth performance framework established by the *Public Governance, Performance and Accountability Act 2013* (Cth). For the 2023–24 financial year, the Court had the following performance measures:

Performance measures	2023–24 result
85 per cent of proceedings completed within 18 months of commencement	83 per cent of proceedings were completed within 18 months of commencement
Judgments to be delivered within three months	79 per cent of judgments were delivered within three months

Judge Original Jurisdiction

In the 2023–34 financial year, 1,757 Judge Original Jurisdiction proceedings were commenced. This was an increase in filings of six per cent from the same period last year. The rate of finalisation in Court for Judge Original Jurisdiction proceedings in 2023–24 was 103 per cent—a 10 per cent improvement from 2022–23. 1,803 proceedings were finalised in the same period, with 72 per cent of the proceedings finalised within 18 months of commencement and 58 per cent within 12 months.

Of the Judge Original Jurisdiction proceedings commenced, 56 per cent were in the Commercial and Corporations NPA, followed by 14 per cent migration proceedings. New South Wales saw the largest percentage of filings by state, with 41 per cent of the filings, followed by 28 per cent in Victoria.

In this time, 1,651 judgments were delivered. These judgments include appellate judgments which were heard by a single judge and not a Full Court. Of these 1,651 judgments, 81 per cent were delivered within three months from the date of being reserved and 87 per cent were delivered within six months. This is a slight reduction from 2022–23 (82 per cent and 89 per cent respectively).

At the end of the current reporting period, the total number of Judge Original Jurisdiction proceedings was 2,550, a decrease from 2022–23.

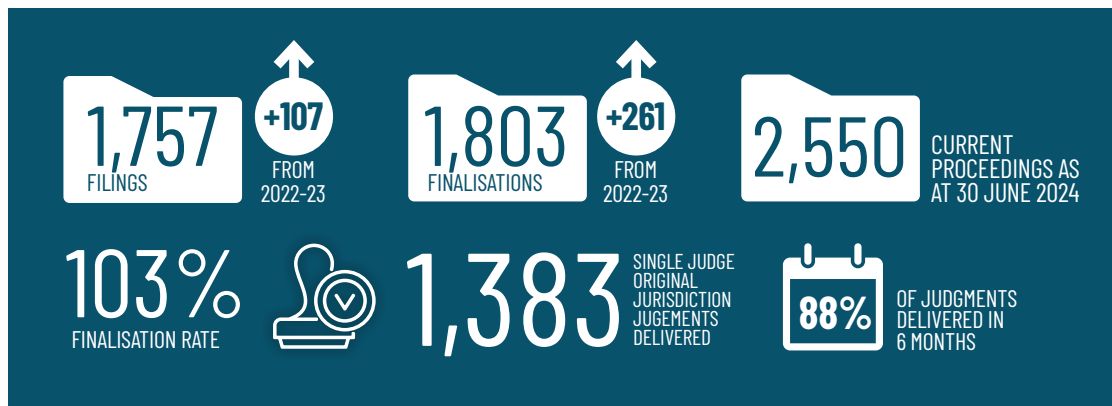


Table 3.1: Judge Original Jurisdiction caseload 2022–23 and 2023–24

Judge Original Jurisdiction caseload	2023–24	2022–23
Total filings	1,757	1,650
Total finalisations	1,803	1,542
Total current proceedings at 30 June 2024	2,550	2,596
Finalisation rate	103%	93%
Percentage disposed of within 12 months	58%	60%
Percentage of Single Judge delivered judgments (including Single Judge Appellate) within 3 months	81%	82%
Percentage of Single Judge delivered judgments (including Single Judge Appellate) within 6 months	87%	89%

Figure 3.1: Judge Original Jurisdiction, total filings by state and territory, 2022–23 to 2023–24

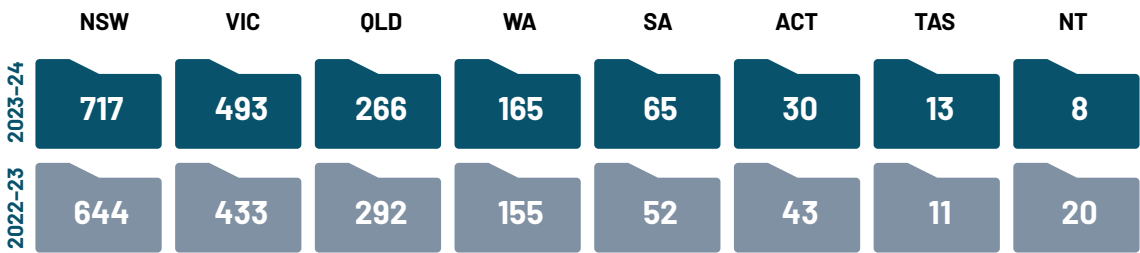
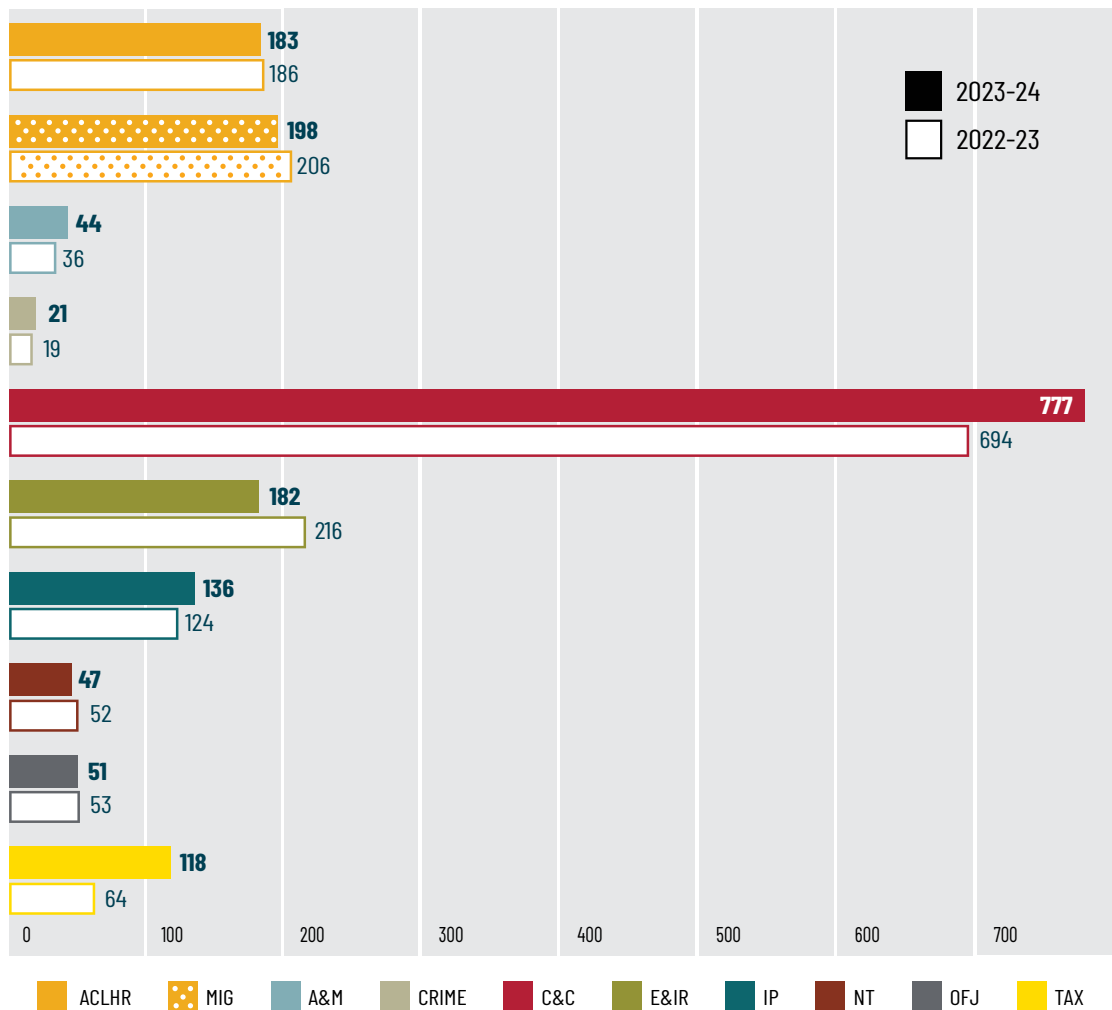


Figure 3.2: Judge Original Jurisdiction, total filings by NPA, 2022–23 to 2023–24



For a more detailed look at each of the NPAs, see pages 32–72.

Judge Appellate Jurisdiction

There was a nine per cent increase in the total number of appeals filed – from 518 in 2022–23 to 567 in 2023–24. This increase is attributable to an increase in filings across most NPAs excluding Migration, Admiralty and Maritime and Employment and Industrial Relations.

In the reporting year, 578 appeals and related actions were finalised – a finalisation rate of 102 per cent, with 65 per cent of appellate matters finalised within 18 months of filing. At 30 June 2024, there were 788 appeals currently before the Court, with 525 of these being migration appeals and related actions. Appellate proceedings may be determined by a Full Court bench or a single judge exercising the Court’s appellate jurisdiction. In 2023–24, 194 appellate matters were finalised by a Full Court, with 384 finalised by a single judge exercising the Court’s appellate jurisdiction, of which 259 proceedings were Migration matters.

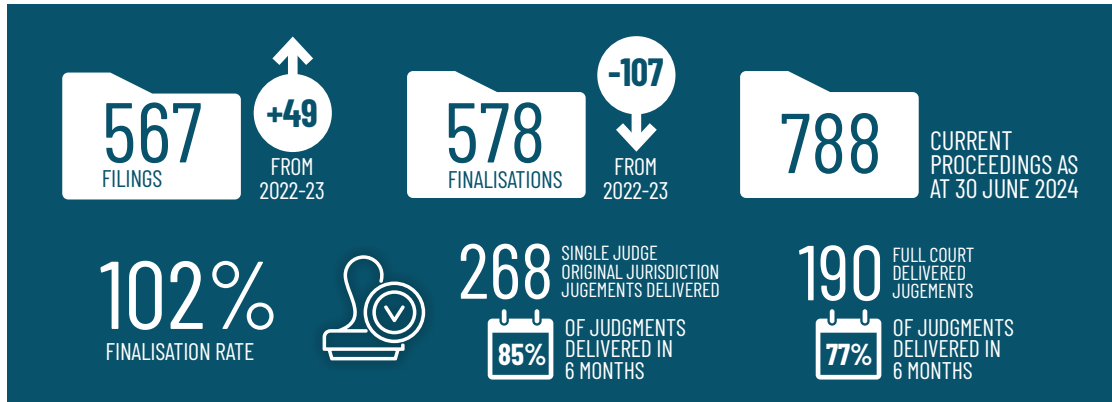


Table 3.2: Judge Appellate Jurisdiction total caseload 2022–23 and 2023–24

Total caseload (Judge Appellate)	2023–24	2022–23
Total filings	567	518
Total finalisations	578	685
Total current proceedings at 30 June 2024	788	799
Finalisation rate	102%	132%
Percentage of appellate proceedings disposed of within 12 months	48%	49%
Total Full Court delivered judgments (*)	190	198
Percentage of Full Court delivered judgments within 3 months	64%	61%
Percentage of Full Court delivered judgments within 6 months	77%	79%

Figure 3.3: Judge Appellate Jurisdiction total filings by state and territory 2022–23 and 2023–24

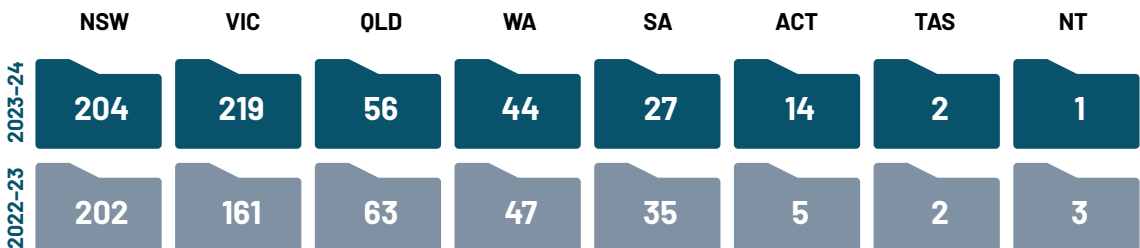
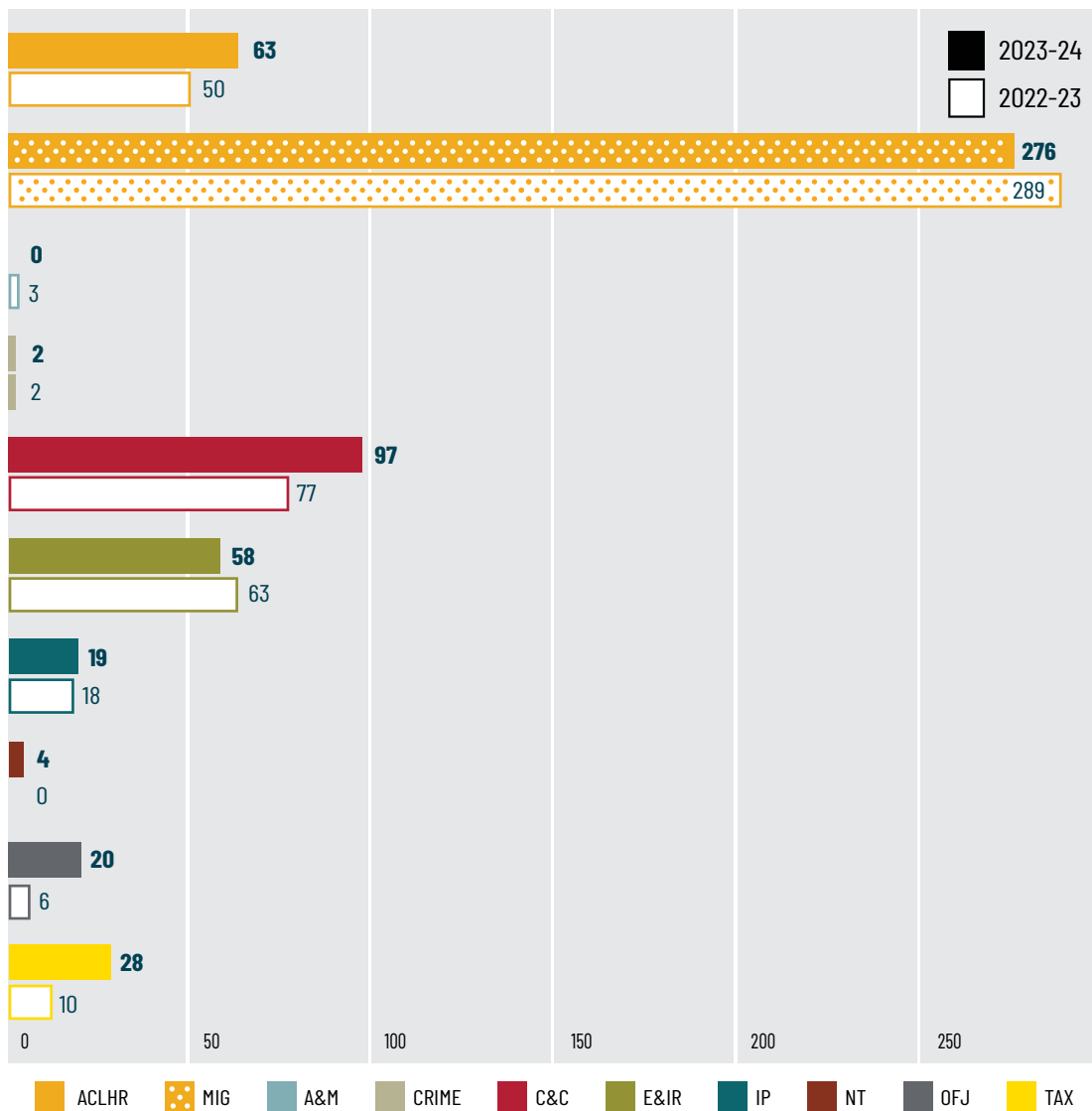


Figure 3.4: Judge Appellate Jurisdiction, total filings by NPA, 2022-23 and 2023-24



Registrar workload

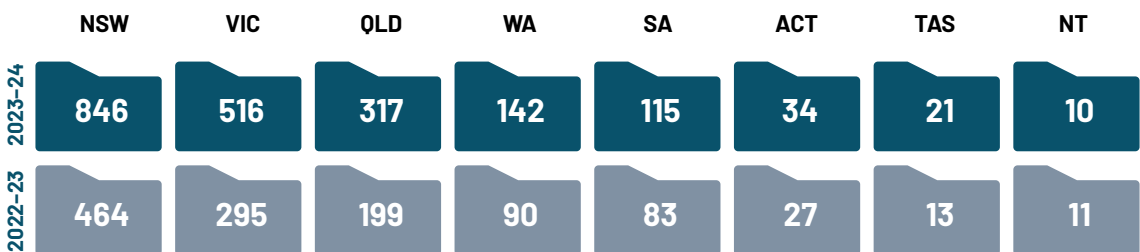
The workload of registrars in the Court is diverse and widespread. This section captures the main areas of registrar workload including:

- registrar filings, which are predominantly corporations and corporate insolvency and general and personal insolvency proceedings, heard by registrars in regular judicial registrar lists, and
- Alternative Dispute Resolution and Case Management referrals, which are proceedings (generally docketed to judges), which have been referred to registrars to provide specified assistance in accordance with the Registrars' powers, with the aim to manage the work of the Court effectively and efficiently.

Table 3.3: Total caseload (registrar), 2022–23 to 2023–24

Total caseload (registrar)	2023–24	2022–23
Total filings	2,001	1,182
Total finalisations	1,885	973
Total current proceedings at 30 June 2024	575	459
Finalisation rate	94%	82%
Percentage disposed of within 12 months	98%	96%

Figure 3.5: Total filings by state and territory (registrar), 2022–23 to 2023–24



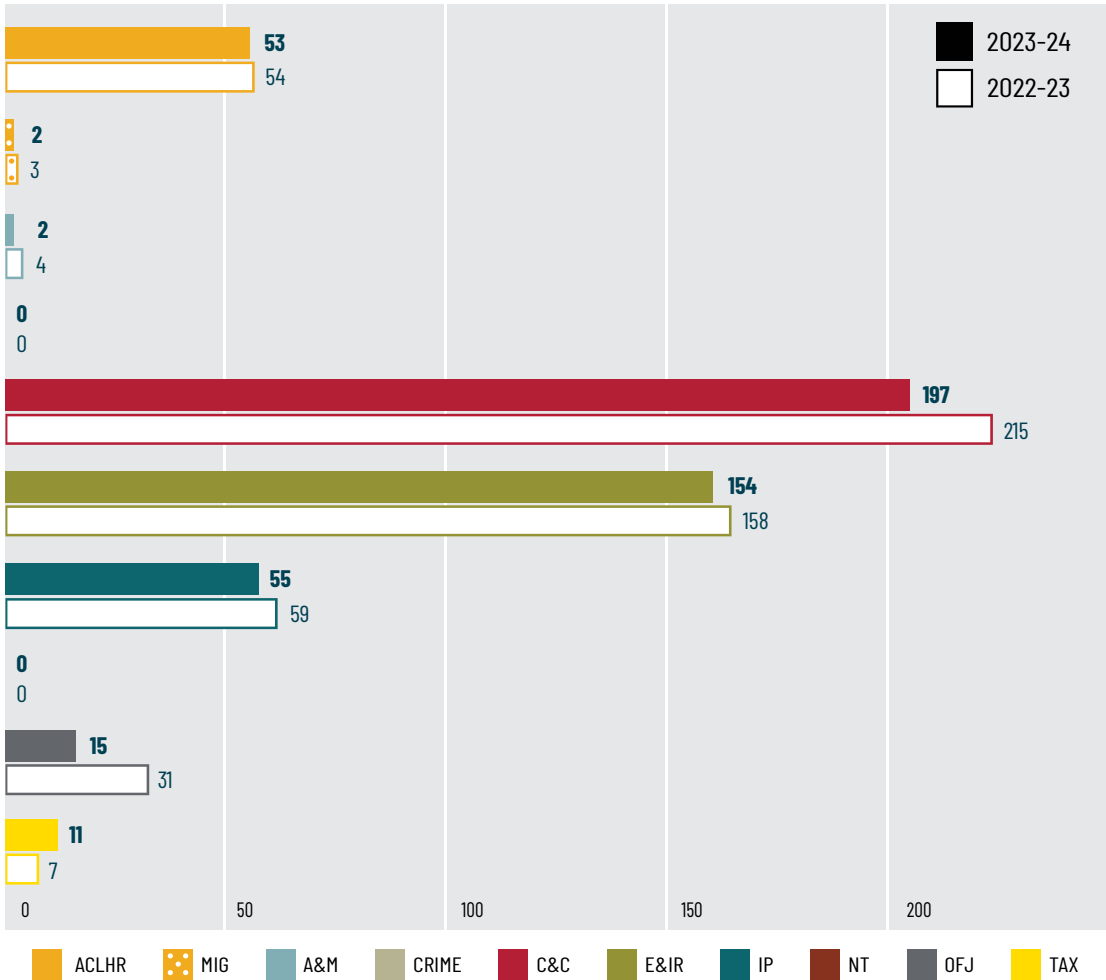
Assisted dispute resolution (mediation)

Assisted dispute resolution (ADR) is an important part of the efficient resolution of litigation in the Court context, with nearly 30 per cent of original jurisdiction proceedings being referred to mediation. In addition to providing a forum for potential settlement, mediation is an integral part of the Court's case management practices. The Court continues to conduct mediations both in person and by remote access technology where appropriate.

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

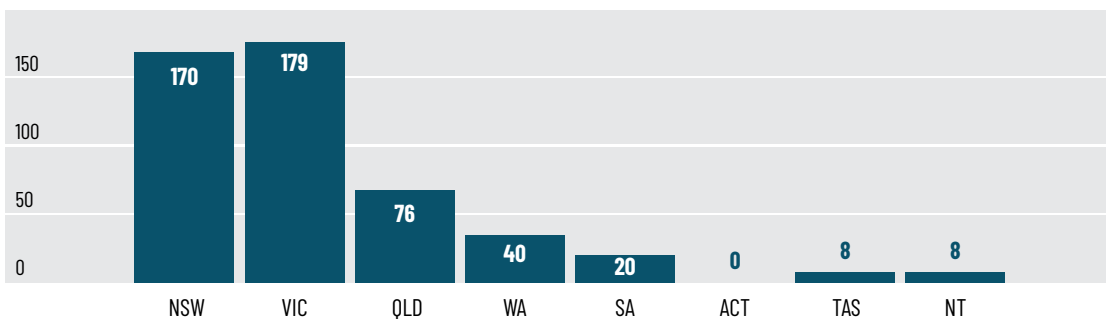
In 2023–24, there was an 11 per cent decrease overall in the number of proceedings referred to mediation compared with 2022–23. The largest number of mediation referrals were made in the Commercial and Corporations practice area, with 197 referrals, closely followed by the Employment and Industrial Relations practice area, with 154 referrals.

Figure 3.6: Proceedings referred to mediation and allocated to registrars – comparison between 2023-24 and 2022-23, by NPA



The above table excludes the Native Title NPA and the Federal Crime and Related Proceedings NPA, which have dedicated registrars and are managed differently to other NPAs.

Figure 3.7: Proceedings referred to mediation and allocated to registrars by state and territory, 2023-24



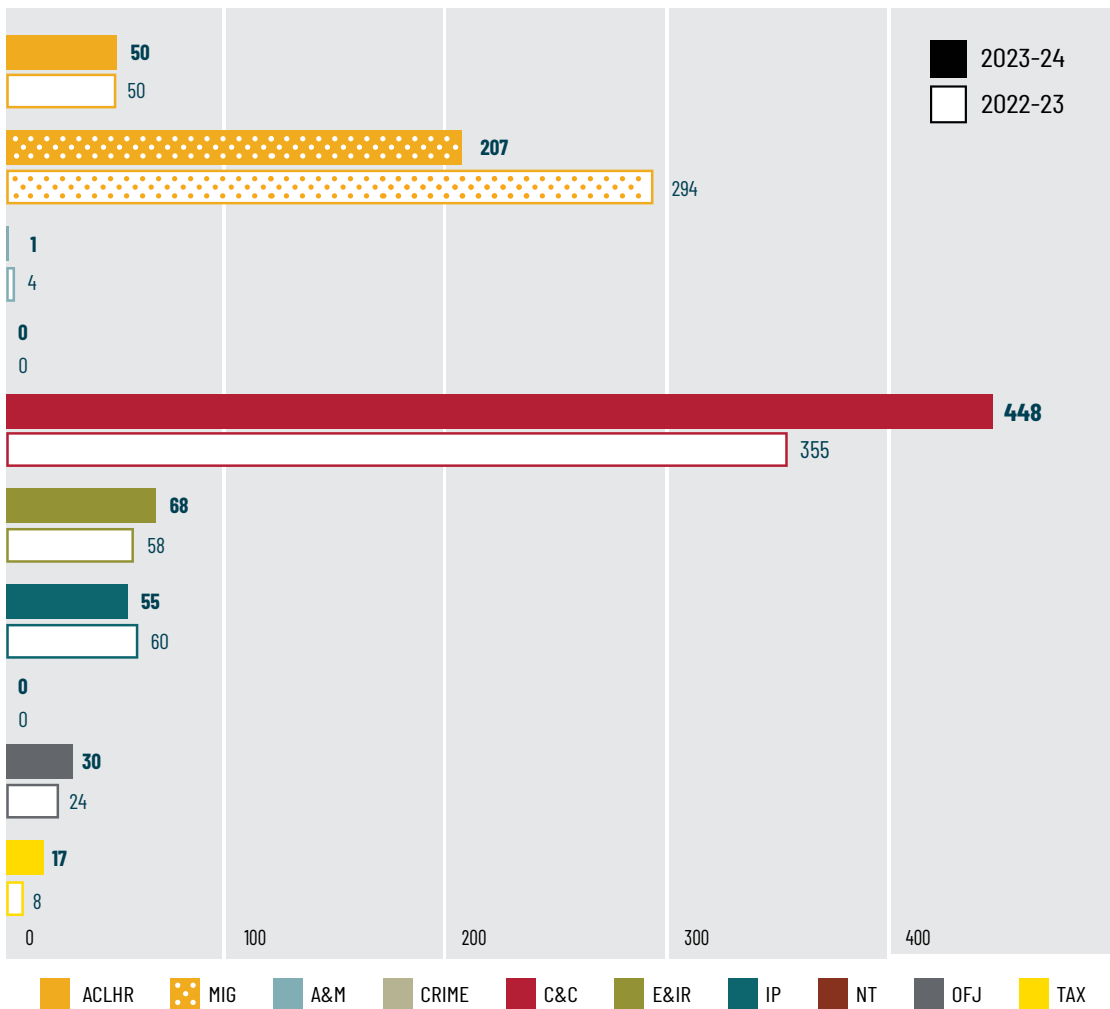
Note: These figures exclude Native Title mediation allocations, due to the nature of this work, these proceedings are managed separately by dedicated Native Title registrars.

Case management

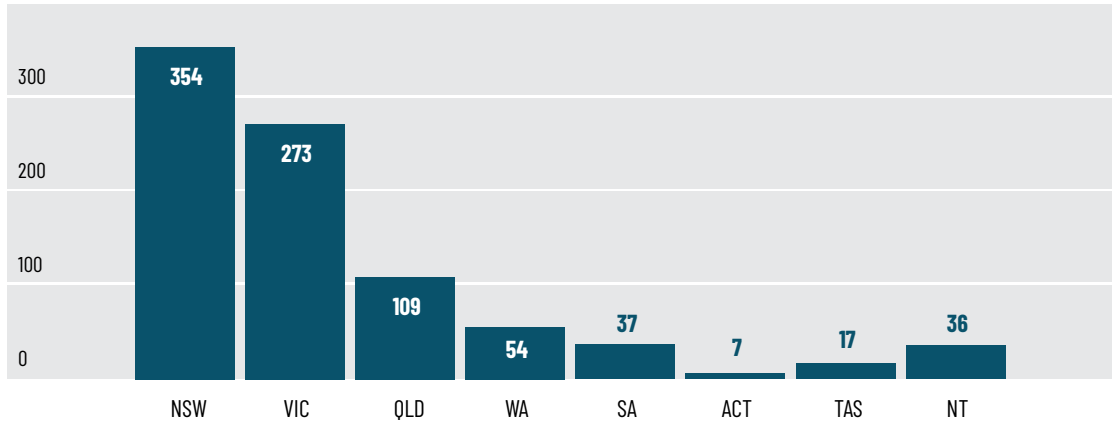
Case management allocations refer to proceedings formally allocated to registrars through the Court's allocation protocols. It is understood that registrars are often allocated additional work, that is not captured by these protocols as well as additional workload arising from managing registrars' lists and other management functions within the Court.

Case management allocations include referrals made to registrars by judges or registrars for things such as: case management in a judge docket matter (including general case management, case management of class actions etc.); costs; discovery / privilege / evidence; enforcement; expert conclave / expert conference / expert conferral; interlocutory applications; referee inquiry and report; security for costs; remuneration; examinations; long form bills of cost, short form bills of cost and any other referrals that are within the scope of the registrars' delegated powers.

Figure 3.8: Case management work allocated to registrars by NPA, 2022-23 to 2023-24



The above table excludes the Native Title NPA and the Federal Crime and Related Proceeding NPA, which have dedicated registrars and are managed differently to other NPAs.

Figure 3.9: Case management work allocated to registrars by state and territory, 2023–24

Note: These figures exclude Native Title case management allocations, and due to the nature of this work, these proceedings are managed separately by dedicated Native Title registrars.



REPORT BY NATIONAL PRACTICE AREA

The workload statistics in each NPA report refer to judge original jurisdiction and appellate workload and does not include registrar workload, which is captured separately on pages 28–29.

Administrative & Constitutional Law & Human Rights

About this NPA

The Administrative and Constitutional Law and Human Rights (ACLHR) NPA comprises proceedings concerning the judicial review of decisions and conduct involving Commonwealth enactments and powers on grounds relating to the legality, rather than the merits, of the decision, including judicial review applications: pursuant to section 39B of the *Judiciary Act 1903*, under the *Administrative Decisions (Judicial Review) Act 1977*, under sections 476A and 476B(3) of the *Migration Act 1958*, appeals on questions of law from the Administrative Appeals Tribunal, the Superannuation Complaints Tribunal and the National Native Title Tribunal, complaints about unlawful discrimination no longer being dealt with by the Australian Human Rights Commission, and proceedings concerning the Australian Constitution.

National ACLHR Coordinating Judges



Justice Collier



Justice Moshinsky



Justice Jackson

Administrative and Constitutional Law and Human Rights NPA judges

NSW	VIC / TAS	QLD	SA / NT	WA
Justice Perram	Justice Murphy	Justice Collier	Justice Charlesworth	Justice Banks-Smith
Justice Nicholas	Justice Beach	Justice Logan RFD	Justice O'Sullivan	Justice Colvin
Justice Yates	Justice Moshinsky	Justice Rangiah		Justice Jackson
Justice Katzmann	Justice Wheelahan	Justice Meagher		Justice Feutrill
Justice Wigney	Justice O'Bryan	Justice Sarah C		
Justice Perry	Justice Snaden	Derrington		
Justice Markovic	Justice Anderson			
Justice Bromwich	Justice McElwaine			
Justice Lee	Justice McEvoy			
Justice Thawley	Justice Hespe			
Justice Stewart	Justice Button			
Justice Abraham	Justice Horan			
Justice Goodman	Justice Neskovic			
Justice Raper	Justice Dowling			
Justice Kennett				
Justice Jackman				
Justice Shariff				

National Coordinating Registrar Michael Buckingham

ACLHR NPA Workload snapshot: Judge Original Jurisdiction and Appellate



Report from National Coordinating Judges

This year saw major legislative reform to the administrative law landscape with the passage of the *Administrative Review Tribunal Act 2024* (Cth), *Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Act 2024* (Cth) and *Administrative Review Tribunal (Consequential and Transitional Provisions No. 2) Act 2024* (Cth).

This legislative package:

- abolishes the Administrative Appeals Tribunal (AAT)
- replaces the AAT with the Administrative Review Tribunal (ART)
- re-establishes the Administrative Review Council
- transitions AAT staff and operations to the ART, and
- makes amendments to 248 Commonwealth Acts to ensure existing legislation and instruments operate for the ART.

Nevertheless, the Court's jurisdiction remains unchanged. Appeals from the ART will lie to the Court on questions of law and the ART may also refer questions of law to the Court.

The ART commences operations on 14 October 2024 and Justice Kyrou, the current President of the AAT, will serve as the ART's inaugural President.

Decisions of interest

Fisher v Commonwealth of Australia [2023] FCAFC 106; (2023) 298 FCR 543

(12 July 2023; Chief Justice Mortimer, Justice Katzmann, Justice Charlesworth, Justice Abraham and Justice Kennett)

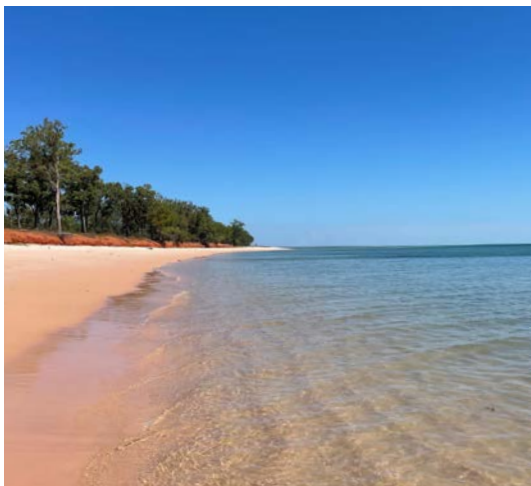
A Full Court constituted by five judges was referred a question in a special case of whether the applicant, who was Aboriginal, enjoyed a right to apply for and receive an age pension to a more limited extent than non-Aboriginal people. The applicant contended that, because Aboriginal men have a short life expectancy compared to non-Aboriginal men and the application of section 10 of the *Racial Discrimination Act 1984* (Cth), he was entitled to be treated as qualifying for the age pension despite the terms of the *Social Security Act 1991* (Cth). The Full Court answered the question 'no'. The applicant sought special leave to appeal to the High Court, which was refused.

Munkara v Santos NA Barossa Pty Ltd (No 3) [2024] FCA 9

(15 January 2024; Justice Charlesworth)

Justice Charlesworth dismissed an application to restrain the respondent from constructing a pipeline between the Barossa gas field and Darwin on a route that came within 7km of the Tiwi Islands. The applicants were Tiwi Islanders. They alleged that the pipeline would significantly impact their tangible and intangible cultural heritage. The pipeline project was regulated by the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 (Cth) (later repealed and substituted).

The respondent submitted an environment plan that was accepted by the Authority administering the Regulations. The applicants alleged the respondent was required to lodge a revised environment plan because of a new and significant environmental risk and would thereby commit a criminal offence if it proceeded with the works. Justice Charlesworth concluded that the risks relied upon by the applicants were not new within the meaning of the Regulations. In addition, the applicants failed to prove that the pipeline presented a risk to their intangible cultural heritage. To the extent that the works presented a risk to tangible cultural heritage in the form of ancient artefacts on or under the sea floor, the risk was not significant within the meaning of the Regulations.



Environment Council of Central Queensland Inc v Minister for the Environment and Water [2024] FCAFC 56

(16 May 2024; Chief Justice Mortimer, Justice Colvin and Justice Horan)

The Full Court delivered judgment in an appeal about how the effects of climate change at a world-wide level do or do not interact with the controlling provisions of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act).

The factual situation concerned the proposed extension of the life of two coal mines in New South Wales. Before the primary judge, the appellant sought judicial review to challenge the Minister’s rejection of two reconsideration requests made under section 78C of the EPBC Act. The appellant contended there was substantial new information about the impacts on matters

of national environmental significance protected under the EPBC Act (such as the Great Barrier Reef), of greenhouse gas emissions arising from the combustion of coal produced by the extension of the two mines.

The appellant contended the Minister should reconsider and expand the EPBC Act controlling provisions regulating the proposed extension of the two coal mines in light of this new information. The Full Court found the Minister had accepted the existence of a causal link between the global combustion of coal and/or gas and the adverse effects of climate change on matters of national environmental significance. However, the Full Court found that there was no error in the Minister’s ultimate conclusion that the extension of the life of each coal mine was not a ‘substantial cause’ of the overall physical effects of climate change on matters of national environmental significance (such as the Great Barrier Reef), within the meaning of that phrase in section 527E of the EPBC Act.

The Full Court dismissed the appeal. The appellant has sought special leave to appeal from the Full Court’s orders.

Save the Children Australia v Minister for Home Affairs [2024] FCAFC 81

(18 June 2024; Chief Justice Mortimer, Justice Kennett and Justice Horan)

The Full Court dismissed an appeal against the primary judge’s orders refusing to issue a writ of *habeas corpus* directed to the Commonwealth in respect of the detention of Australian women and children held by a non-state actor in North-East Syria.

The Full Court concluded that there was no legal error in the primary judge’s judgment. The primary judge had accepted the appellant’s submissions that a court may issue a writ where a respondent has control over a person’s detention or where the Court is left in doubt about the respondent’s control of a person’s detention and the pressure of the writ could be used to test a respondent’s asserted lack of control. Ultimately, the primary judge found that the appellant had not proven the Commonwealth had control over the detention of the women and children.

The Full Court held that there was no error in the primary judge having no doubt about this conclusion.

Migration

About this NPA

Australian migration law concerns the regulation of non-citizens entering and remaining in Australia. The two key sources of Australian migration law are the *Migration Act 1958* (Cth), and the *Migration Regulations 1994* (Cth). Citizenship issues are governed by the *Australian Citizenship Act 2007* (Cth).

Original jurisdiction

Most first instance migration applications must be heard in the FCFCOA (Division 2). For example, the FCFCOA (Division 2) has jurisdiction to review decisions made by the AAT Migration and Refugee Division. Some migration proceedings can be started in the Federal Court's original jurisdiction. Under section 476A(1) of the Migration Act, the Federal Court has original jurisdiction in relation to a 'migration decision' in certain situations, for example decisions to refuse or cancel a visa on character grounds and decisions relating to the removal of non-citizens who are sentenced for 12 months or more for a criminal offence. These decisions are generally made by the AAT General Division, or by the Minister personally.

A 'migration decision' under the Migration Act includes the granting, giving, suspending, cancelling, revoking or refusing to give a certificate, direction, approval, consent or permission, including a visa.

Appellate jurisdiction

The Federal Court will generally have appellate jurisdiction to hear and determine:

- an appeal from a final decision of the FCFCOA (Division 2)
- an application for leave to appeal from an interlocutory decision of the FCFCOA (Division 2), and
- an application for an extension of time to appeal from a decision of the FCFCOA (Division 2).

Migration liaison judges Justice Perry; Justice Kennett

Migration judges All judges

National Coordinating Registrar Simon Haag

Migration NPA Workload snapshot: Judge Original Jurisdiction and Appellate



Report from National Coordinating Judges

Legislative amendments

Several legislative amendments affected the Court's migration jurisdiction in 2023–24. This included:

- *Migration Amendment (Bridging Visa Conditions) Act 2023*
- *Migration and Other Legislation Amendment (Bridging Visas, Serious Offenders and Other Measures) Act 2023*, and the
- *Migration Amendment (Bridging Visa Conditions) Regulations 2023*.

This suite of legislation:

- amended the *Migration Act 1958* and the *Migration Regulations 1994* to:
 - enable the Minister to grant a bridging visa to a person without application
 - allow for the imposition of visa conditions on any bridging visa granted to non-citizens for whom there is no real prospect of removal from Australia becoming practicable in the reasonably foreseeable future and who are therefore not capable of being subject to immigration detention under subsections 189(1) and 196(1) of the *Migration Act* following the High Court's orders of 8 November 2023 in *NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs*, and
- amended the *Criminal Code* (Cth) to introduce criminal sanctions for breaches of visa conditions.

In 2023–24, the Court received a number of applications challenging the legality of these provisions.

Engagement with the profession

Throughout February and March 2024, Chief Justice Mortimer and National Judicial Registrar Haag met with representatives of the legal profession in Adelaide, Brisbane, Melbourne, Perth and Sydney to discuss the provision of pro bono legal assistance to litigants in the migration practice area.

From 13–15 March 2024, Court representatives attended the Law Council of Australia Immigration Law Conference in Melbourne. The conference brings together solicitors, barristers, AAT members, and academics working in migration law. Justice Kennett, Justice Horan and National Judicial

Registrar Haag conducted a session on the future of migration litigation in the Federal Court. Chief Judge Alstergren and Deputy Chief Judge Mercuri delivered addresses to the conference in relation to migration work in the FCFCOA.



Decisions of interest

***Singh v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2023] FCAFC 123; (2023) 299 FCR 464**

(7 August 2023; Justice Charlesworth, Justice O'Sullivan and Justice Raper)

Harsinco Pty Ltd lodged an application for approval of a nominated position under the Regional Sponsored Migration Scheme, to be occupied by Mr Singh in its restaurant in Goolwa, South Australia. Mr Singh applied for a sponsored visa on the basis of Harsinco's nomination application. Harsinco subsequently closed its Goolwa restaurant and transferred Mr Singh's position to its McLaren Vale location.

Harsinco's nomination application was refused, and, as Mr Singh's visa application was predicated on the successful approval of the nomination, Mr Singh's visa application was also refused. Both Harsinco and Mr Singh unsuccessfully sought merits review of these decisions with the Administrative Appeals Tribunal. The Tribunal found that by reason of Harsinco's closure of its Goolwa restaurant, the nominated position had ceased to exist and was no longer needed.

Both Harsinco and Mr Singh sought judicial review of the Tribunal decisions in the former Federal Circuit Court of Australia (FCCA). The primary judge dismissed Harsinco's nomination application, finding that the position which was the subject of the nomination was geographically specific to Goolwa not McLaren Vale. The primary judge consequently



dismissed Mr Singh's application, the parties having agreed that the outcome was dependent on the success of Harsinco's application for review.

Although Harsinco did not elect to appeal, Mr Singh appealed to the Federal Court, primarily challenging the FCCA decision regarding Harsinco's nomination application. Consequently, the Full Court was required to consider whether Mr Singh had standing to appeal, and/or to collaterally challenge, the FCCA decision regarding the nomination application.

Justice O'Sullivan (with Justice Raper agreeing without deciding on this point) found that only Harsinco had standing to challenge the nomination decision under section 486C of the *Migration Act 1958* (Cth). His Honour found that the contingency of judicial review of the visa decision on the outcome of judicial review of the nomination decision, did not render Mr Singh a 'party to the review' of the nomination decision under section 479 of the *Migration Act*. This was because in the visa criteria, the existence of an approved nomination was a jurisdictional fact. Justice O' Sullivan found that as a consequence, Mr Singh should not be allowed to mount a collateral challenge to the FCCA decision regarding the nomination application.

Justice Charlesworth considered Mr Singh to have standing under section 486C of the *Migration Act* as a person who is 'a party to a review' in a proceeding that 'raises an issue in connection with visas'. Her Honour found that in the review to which Mr Singh was a party, the question of whether the nomination decision was legally operative was not irrelevant to determining whether Mr Singh satisfied the criteria for the visa. Her Honour found that while it was expedient for the Tribunal and primary judge to assume the validity of the nomination application outcome, nothing in the *Migration Act* or *Migration Regulations 1994* prevented Mr Singh from raising on appeal whether the primary judge committed

jurisdictional error by proceeding on the assumption that the judicial review of the nomination application was correctly decided.

The Full Court otherwise dismissed the appeal on the basis that the term 'position' was confined in the description provided on the nomination application form, including its specific location. This was because the nominated positions must be specified with some degree of particularity to enable the local authority to certify that there was a genuine need to employ a person to work in the position which could not be filled by an Australian citizen or permanent resident living in the same local area.

***SLGS v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2023] FCAFC 104**

(7 July 2023; Justice Rares, Justice Jackson and Justice Snaden)

The appellant arrived from Sudan on a Refugee Visa which was subsequently cancelled following a number of criminal convictions for violence offences. The appellant then applied for a Protection Visa, which was refused. The Administrative Appeals Tribunal affirmed the refusal decision on the basis that although the appellant invoked Australia's protection obligations, he represented 'a danger to the Australian community' which enlivened the disqualifying provisions in section 36(1C) of the *Migration Act 1958* (Cth).

Before the primary judge, the applicant contended, first, that 'danger' must mean a present and serious risk of harm; and that 'the Australian community' must mean the Australian community as a whole, rather than merely one or more members or a segment of that Australian community. The primary judge's view was that the applicant's construction was overly narrow and failed to appreciate the potential impact of offending on the community, including where a person may pose a danger to the community by harming individuals within it.

The Full Court dismissed the appeal, finding that 'danger' included any potential harm which would be more than trivial and beyond ordinary personal interactions; and that 'the Australian community' incorporated both the community as a whole and/or any person or persons who are part of it. The Full Court found that it was open to the Tribunal to assess 'danger to the Australian community' in the way that it had.

Admiralty & Maritime

About this NPA

The Admiralty and Maritime (A&M) NPA incorporates proceedings that relate to admiralty or maritime disputes including in rem proceedings, in personam proceedings, marine insurance, cargo claims, and other proceedings including proceedings related to the *Navigation Act 2012* (Cth) and the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (Cth).

National A&M Coordinating Judges



Justice Sarah C
Derrington



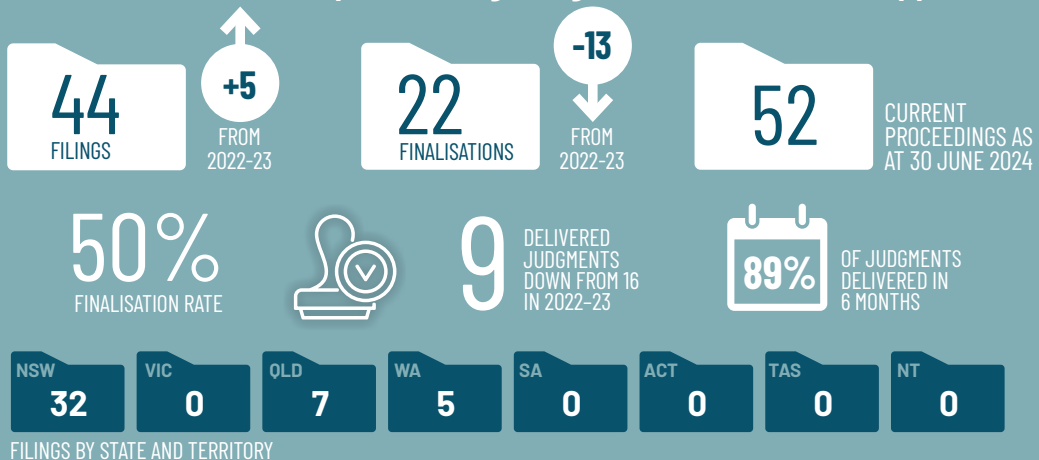
Justice Stewart

Admiralty and Maritime NPA judges

NSW	VIC / TAS	QLD	SA / NT	WA
Justice Markovic Justice Burley Justice Stewart Justice Halley	Justice Moshinsky Justice O'Callaghan Justice McEvoy	Justice Derrington Justice Sarah C Derrington	Justice O'Sullivan	Justice Feutrill

National Coordinating Registrars Paul Farrell supported by Jacinta Ellis and Russell Trott

A&M NPA Workload snapshot: Judge Original Jurisdiction and Appellate



Report from National Coordinating Judges

The Admiralty and Maritime NPA has experienced a significant volume of filings and dispensed with a high proportion of settled and discontinued proceedings in the Court's original and appellate jurisdiction.

2023 Admiralty Marshals and Judges' Workshop

Between 30 October and 1 November 2023, the 2023 Admiralty Marshals and Judges' Workshops were hosted in Brisbane, with 11 judges and 17 registrars and court staff in attendance, as well as a Supreme Court Admiralty Judge. The workshops provided educative opportunities for judges and registrars to exchange and discuss ideas, practices and approaches to issues within the Admiralty and Maritime NPA.

Admiralty Users Group

The Admiralty Users Group meeting was held on 6 October 2023 as part of the Maritime Law Association of Australia and New Zealand 48th Annual Conference in Perth. Justices Sarah C Derrington and Stewart conducted the session with members of the profession and introduced Registrars Russell Trott and Jacinta Ellis. There was consultation in relation to issues raised by the profession including the effect of caveats against arrest and the best process for judicial sale.

Decisions of interest

Delta Corp Ship Management DMCCO v The Ship 'Caledonian Sky' [2023] FCA 1058

(4 September 2023; Justice Stewart)



Justice Stewart considered an application by the manager of the *Caledonian Sky* for release of the vessel from arrest where caveats against release were previously filed. Some caveators sought

to delay release on the basis that they wished to ensure that the vessel had not sailed from the jurisdiction before their arrest warrant could be effected. The vessel was ordered to be released as the caveators did not present a proper basis for opposing immediate release.

Poralu Marine Australia Pty Ltd v MV Dijkgracht [2023] FCAFC 147; (2023) 413 ALR 47; (2023) 300 FCR 290

(8 September 2023; Justice Rares, Justice SC Derrington and Justice Feutrill)

These proceedings involved actions *in rem* and *in personam* for breach of a contract of carriage causing cargo damage. Whether contract of carriage with the charterer subject to Australian version of the Hague-Visby Rules, or the Hague-Visby Rules as enacted in the country of shipment or Hague Rules. The Appeal was allowed in part with regard to applicable terms and the Hague-Visby Rules found to apply. The appellant established the carrier's liability limited to the measure most favourable to it, i.e. as governed by the Hague-Visby Rules as enacted in the country of shipment. Also, the Himalaya clause in the contract of carriage operated to make that limitation available to the shipowner.

Dan-Bunkering (Singapore) Pte Ltd v The Ship 'Yangtze Fortune' (No 3) [2024] FCA 219

(12 March 2024; Justice Stewart)

This judgment related to an application by an unpaid bunker supplier to a demise charterer for leave to claim out of time upon the fund constituted by the proceeds of judicial sale of the *Yangtze Fortune*. Justice Stewart considered when the demise charter was terminated and whether the claim could be brought even after the judicial sale. The application was dismissed because the claim would fail due to the claimant being over nine months out of time for filing its claim and because they had deliberately chosen that delayed course.

Burrows v The Ship ‘Merlion’ [2024] FCA 220

(13 March 2024; Justice SC Derrington)



Justice Sarah C Derrington made orders and gave reasons for judgment in relation to an application to strike out pleaded claims on the basis of which *the Merlion* was arrested. Her Honour dismissed the application. Claims found to be proprietary maritime claims were not established to lack reasonable prospects of success. Other claims struck out or summarily dismissed.

Gordon v The Vessel ‘Southern Star’ [2024] FCA 674

(20 June 2024; Justice Stewart)



Justice Stewart made orders permitting the *Southern Star* to trade while under arrest, subject to conditions. Justice Stewart’s reasons for the orders were substantial likelihood that long-term security would be shortly agreed, the vessel was immediately required for previously arrangement employment, the claim was low quantum, and vessels owned by the relevant person were adequate for short-term security.



Karpik v Carnival plc (The Ruby Princess) (Initial Trial) [2023] FCA 1280

(25 October 2023; Justice Stewart)

Mrs Karpik commenced a representative proceeding pursuant to Part IVA of the FCA Act on behalf of group members who travelled as passengers, or are the close family members or executors and administrators of persons who travelled as passengers, on board the *Ruby Princess* cruise ship during its voyage from Sydney to Sydney via New Zealand departing on 8 March 2020.

It was alleged that the outbreak of Coronavirus on the ship resulted from a failure to take appropriate measures to ensure that passengers were safe and protected from contracting the virus on the ship. Mrs Karpik claimed that the failure to detect or warn about coronavirus, and implement prevention and management methods during the voyage, or otherwise cancel the cruise, constituted breaches of the cruise owner and operator’s common law duty of care to its passengers. It was also claimed that the cruise owner and operator breached a number of provisions of the Australian Consumer Law (ACL), including sections 18 (Misleading or deceptive conduct), 60 (Guarantee as to due care and skill) and 61 (Guarantees as to fitness for a particular purpose etc.) of the ACL. Justice Stewart found that breach, causation and loss were established on each of the causes of action, but, other than out of pocket expenses, no personal injury or distress and disappointment damages were awarded due to insufficient severity of injury and a full refund having been obtained.



Commercial & Corporations

About this NPA

The Commercial and Corporations National Practice Area (NPA) covers commercial and corporations disputes within federal jurisdiction. This NPA consists of six National Practice Sub-areas (NPSAs), with judges aligned to the different sub-areas based on their specialised judicial skills:

- Commercial Arbitration (CA)
- Commercial Contracts, Banking, Finance and Insurance sub-area (CCBFI)
- Corporations and Corporate Insolvency (CORPS)
- Economic Regulator, Competition and Access (ERCA)
- General and Personal Insolvency (GPI)
- Regulator and Consumer Protection (RCP)

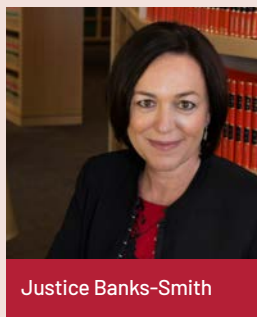
National C&C Coordinating Judges



Justice Moshinsky

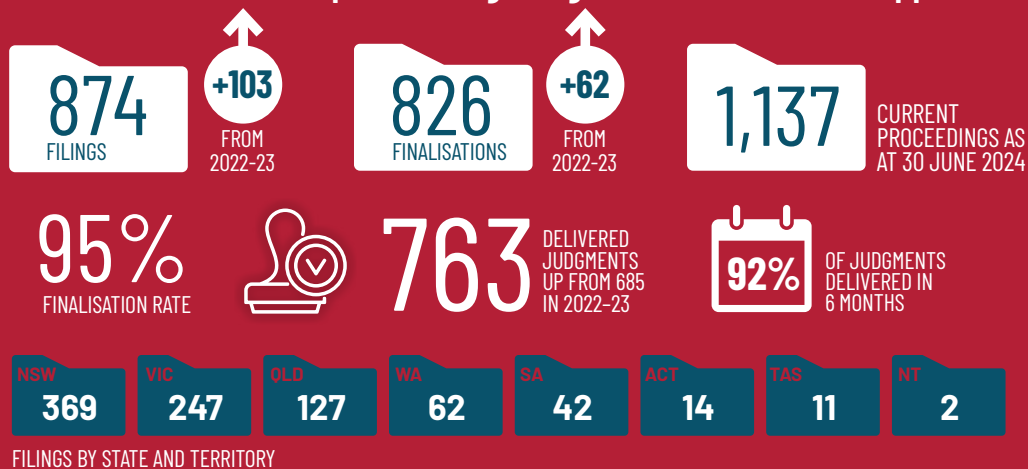


Justice Lee



Justice Banks-Smith

C&C NPA Workload snapshot: Judge Original Jurisdiction and Appellate



C&C NPA Coordinating Judges

	NSW & ACT	VIC & TAS	QLD	SA & NT	WA
C&C: CA	Justice Yates Justice Stewart Justice Jackman	Justice Beach Justice Moshinsky Justice O'Callaghan Justice Anderson Justice Button Justice Neskovicin	Justice Derrington Justice S Derrington Justice Downes	Justice O'Sullivan	Justice Banks-Smith Justice Jackson Justice Feutrill
C&C: CCBFI	Justice Nicholas Justice Yates Justice Markovic Justice Lee Justice Thawley Justice Stewart Justice Halley Justice Cheeseman Justice Goodman Justice Jackman Justice Shariff	Justice Beach Justice Moshinsky Justice O'Callaghan Justice Wheelahan (E&IR) Justice O'Bryan Justice Snaden (E&IR) Justice Anderson Justice Rofe Justice McElwaine Justice McEvoy Justice Button Justice Neskovicin Justice Dowling (E&IR)	Justice Derrington Justice S Derrington Justice Downes	Justice Charlesworth Justice O'Sullivan	Justice Banks-Smith Justice Colvin Justice Jackson Justice Feutrill
C&C: CORPS	Justice Yates Justice Markovic Justice Lee Justice Stewart Justice Halley Justice Cheeseman Justice Goodman Justice Jackman <i>Additional Judges</i> Justice Perram Justice Wigney Justice Burley Justice Thawley Justice Kennett Justice Shariff	Justice Beach Justice Moshinsky Justice O'Callaghan Justice O'Bryan Justice Anderson Justice McElwaine Justice McEvoy Justice Button Justice Neskovicin <i>Additional Judge</i> Justice Murphy (Class Actions / ASIC)	Justice Derrington Justice S Derrington Justice Downes <i>Additional Judges</i> Justice Collier Justice Meagher	Justice Charlesworth Justice O'Sullivan	Justice Banks-Smith Justice Colvin Justice Jackson Justice Feutrill
C&C: GPI	Justice Perram Justice Nicholas Justice Yates Justice Katzmann Justice Wigney Justice Perry Justice Markovic Justice Lee Justice Thawley Justice Stewart Justice Halley Justice Cheeseman Justice Goodman Justice Raper Justice Jackman	Justice Beach Justice Moshinsky Justice O'Callaghan Justice O'Bryan Justice Snaden Justice Anderson Justice Rofe Justice McElwaine Justice McEvoy Justice Hespe Justice Button Justice Horan Justice Neskovicin Justice Dowling	Justice Collier Justice Logan Justice Rangiah Justice Derrington Justice Downes Justice Meagher	Justice Charlesworth Justice O'Sullivan	Justice Banks-Smith Justice Colvin Justice Jackson Justice Feutrill
C&C: ERCA	Justice Perram Justice Yates Justice Wigney Justice Bromwich Justice Lee Justice Halley Justice Cheeseman Justice Jackman	Justice Beach Justice Moshinsky Justice O'Callaghan Justice O'Bryan Justice Anderson Justice Button Justice Neskovicin	Justice Logan Justice Derrington Justice S Derrington Justice Downes	Justice O'Sullivan	Justice Banks-Smith Justice Colvin Justice Jackson Justice Feutrill
C&C: RCP	Justice Nicholas Justice Yates Justice Katzmann Justice Wigney Justice Perry Justice Markovic Justice Bromwich Justice Lee Justice Thawley Justice Stewart Justice Abraham Justice Halley Justice Cheeseman Justice Goodman Justice Raper Justice Kennett Justice Shariff	Justice Murphy Justice Beach Justice Moshinsky Justice O'Callaghan Justice Wheelahan Justice O'Bryan Justice Snaden Justice Anderson Justice Rofe Justice McElwaine Justice Hespe Justice Button Justice Horan Justice Neskovicin	Justice Collier Justice Logan Justice Rangiah Justice Derrington Justice S Derrington Justice Downes Justice Meagher	Justice Charlesworth Justice O'Sullivan	Justice Banks-Smith Justice Colvin Justice Jackson Justice Feutrill

National Coordinating Registrars Tim Luxton and Jacinta Ellis

ABOUT THE COMMERCIAL AND CORPORATIONS NPA SUB-AREAS (NPSAS)

Commercial Arbitration NPSA

The Commercial Arbitration NPSA is the only sub-area in the Commercial and Corporations NPA to have its own dedicated practice note: Commercial Arbitration Practice Note (CA-1).

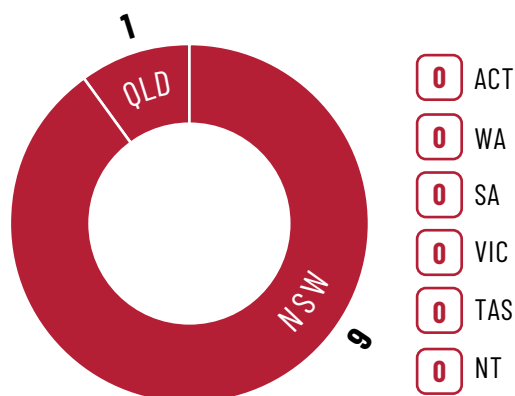
The Commercial Arbitration NPSA includes applications in the Court that concern commercial arbitration, being:

- international commercial arbitration under the *International Arbitration Act 1974* (Cth)
- domestic commercial arbitration under the State and Territory *Commercial Arbitration Acts* where applicable, and
- the exercise by the Court of its powers under sections 53A, 53AA, 53AB and 54 of the FCA Act.

Proceedings arising under the *International Arbitration Act 1974* (Cth) include:

- applications to stay a Federal Court proceeding that is capable of settlement by arbitration pursuant to an arbitration agreement between the parties
- the enforcement of a foreign award under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards
- applications under article 6 of the UNCITRAL Model Law on International Commercial Arbitration (Model Law) for orders concerning:
 - the appointment and termination of an arbitrator
 - a challenge against an arbitrator for lack of impartiality, independence or the necessary qualifications
 - whether an arbitral tribunal has jurisdiction to deal with the issues before the tribunal assisting an arbitral tribunal to take evidence the setting aside of an arbitral award the enforcement of an award under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

Figure 3.10: CA NPSA judge original jurisdiction and appellate filings



Proceedings concerning international commercial arbitration will generally be managed within the Commercial Arbitration sub-area of the Commercial and Corporations NPA, however, depending on the character of the case, such proceedings may be managed within the Admiralty and Maritime NPA.

Commercial Arbitration List

Commercial arbitration proceedings are overseen and managed by the Commercial Arbitration List Judges to ensure they are dealt with expeditiously and consistently by the Court nationally: Justice Stewart and Justice Feutrill (WA proceedings).

A dedicated group of judges with special expertise in international commercial arbitration are allocated Commercial Arbitration proceedings.

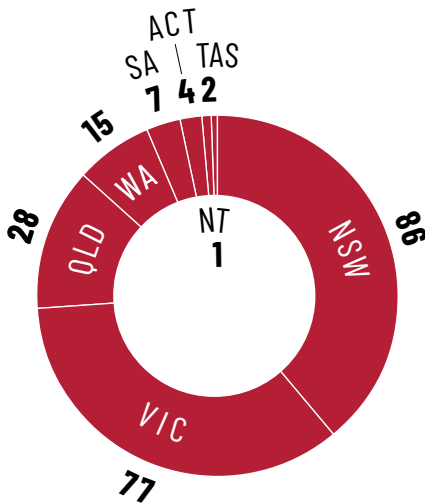
Commercial Contracts, Banking, Finance and Insurance NPSA

This NPSA includes proceedings relating to:

- commercial contracts
- insurance
- banking
- finance, and
- commercial transactional disputes.

The national Insurance List was established within this sub-area which is managed by the Insurance List Judges, Justice Derrington and Justice Jackman. The aims and operation of the Insurance List are explained in the Commercial and Corporations Practice Note.

Figure 3.11: CCBFI NPSA judge original jurisdiction and appellate filings



Corporations and Corporate Insolvency NPSA

The Corporations and Corporate Insolvency NPSA includes corporations matters and corporate insolvency proceedings which are capable of being heard in the Corporations List.

The expression ‘corporations matters’ in this sub-area includes:

- the appointment or conduct of liquidators
- schemes of arrangement
- shareholder oppression actions

- ASIC, such as the approval of director appointments, winding-up of companies, fundraising matters, corporate management and misconduct by company officers, and
- corporations matters referred to a judge by a judicial registrar.

Corporate insolvency matters in this sub-area include matters such as:

- voidable transactions
- extending of convening periods, and
- cross-border insolvency.

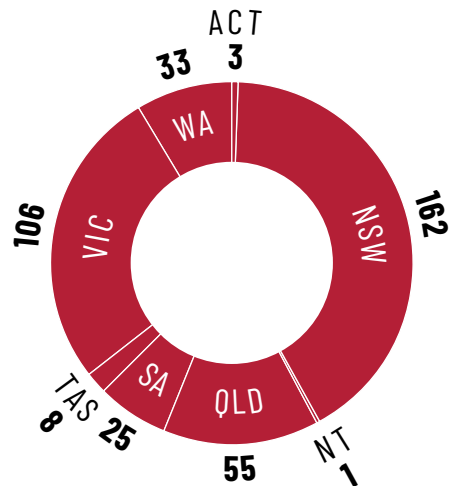
Schemes of arrangement

In order to address recent differences in scheme practice and recognise that consistency in Australian courts’ approach is beneficial to all parties involved in schemes of arrangement, the Court adopted the Practice Note – Harmonisation in schemes of arrangement’ as developed by the Committee for the Harmonisation of Rules of the Council of Chief Justices of Australia and New Zealand and adopted by the Federal Court of Australia. The Court adopted this by way of the Schemes of Arrangement Practice Note (GPN-SOA) which was published on 13 October 2023.

Corporations Lists

The Court operates both Judge and Registrar Corporations Lists. Information about the operation of the Corporations Lists is detailed in Schedule 1 of the Commercial and Corporations Practice Note. Corporations List matters are generally heard within one to two weeks from the date of filing.

Figure 3.12: CORPS NPSA judge original jurisdiction and appellate filings



Judge Corporations List

Each registry has dedicated judges who manage the Judge Corporations Lists:

NSW	Justice Markovic Justice Cheeseman Justice Jackman
VIC & TAS	Justice Beach Justice O'Callaghan Justice Anderson Justice McElwaine Justice Neskovic
QLD	Justice Derrington Justice S Derrington Justice Downes
WA	Justice Banks-Smith Justice Jackson
SA	Justice Charlesworth

Registrar Corporations List

Registrars of the Federal Court have delegated jurisdiction to hear and determine a range of corporations matters including:

- winding-up applications
- applications to set aside a statutory demand
- applications pursuant to section 90-15 of the *Insolvency Practice Schedule (Corporations)*
- applications pursuant to section 447A of the *Corporations Act 2001*(Cth)
- reinstatement applications
- applications for termination of winding-up orders
- applications to fix remuneration, and
- public examinations.

A guide to the operation of Registrar Corporations Lists can be found at: <https://www.fedcourt.gov.au/law-and-practice/guides/corporations-guides/guide>

Economic Regulator, Competition and Access NPSA

The Economic Regulator, Competition and Access NPSA includes:

- Proceedings concerning anti-competitive conduct, including:
 - civil cartel proceedings
 - mergers
 - misuse of market power
 - exclusive dealing
- competition actions by the Australian Competition and Consumer Commission, and
- infrastructure access and regulatory pricing proceedings.

Actions in this NPSA are often commenced by economic regulators, such as the:

- ASIC – Australia's corporate, markets and financial services regulator, and
- Australian Competition and Consumer Commission – Australia's competition regulator.

Figure 3.13: ERCA NPSA judge original jurisdiction and appellate filings



General and Personal Insolvency NPSA

The General and Personal Insolvency NPSA includes proceedings related to general and personal insolvency under the *Bankruptcy Act 1966* (Cth), such as:

- applications by trustees in the management of bankrupt estates (e.g. voidable transactions)
- applications by bankrupts contesting decisions of a trustee
- applications for annulment of bankruptcy, and
- bankruptcy proceedings referred to a judge by a judicial registrar.

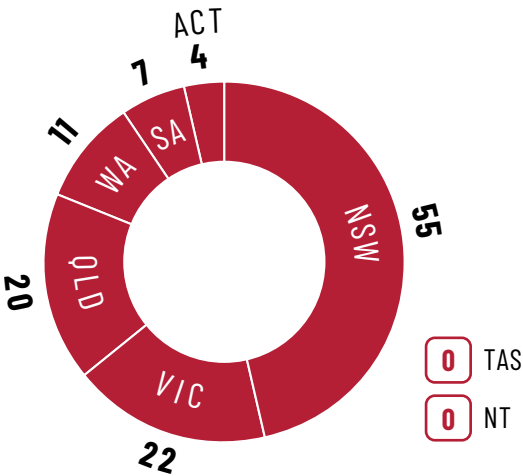
Bankruptcy proceedings before a judicial registrar

A significant proportion of bankruptcy proceedings are case managed and determined by Judicial Registrars of the Court. This includes:

- creditors' petitions
- applications to set aside bankruptcy notices, and
- examinations pursuant to section 81 of the Bankruptcy Act.

Each registry holds regular bankruptcy lists before registrars.

Figure 3.14: GPI NPSA judge original jurisdiction and appellate filings

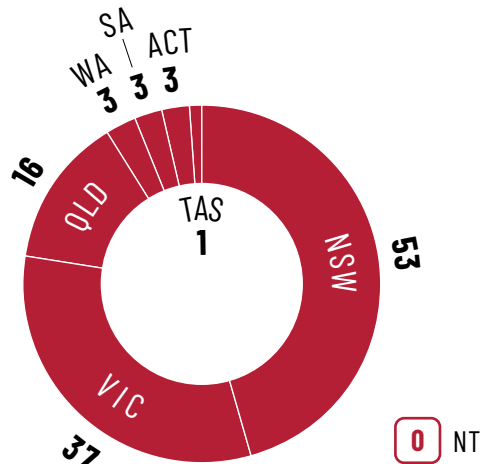


Regulator and Consumer Protection NPSA

The Regulator and Consumer Protection NPSA includes:

- consumer-related proceedings such as:
 - misleading and deceptive conduct
 - unconscionable conduct
 - unfair commercial practices
 - product liability proceedings, and
 - false advertising.
- Australian Consumer Law actions by the Australian Competition and Consumer Commission.

Figure 3.15: RCP NPSA judge original jurisdiction and appellate filings



Report from National Coordinating Judges

Consultation / Engagement with the legal profession

In the reporting period the Commercial and Corporations NPA judges have engaged extensively with the legal profession as follows:

- From 11 to 13 August 2023, Justice Banks-Smith was the Head Coach for the 2023 Piddington Society Young Lawyers Advocacy Weekend.
- On 16 August 2023, Justice Lee was a guest panel member at the joint University of Sydney and University of Queensland seminar series Regulating corporate wrongdoing: leading research, practice and policy: *'AI risks in the financial sector: consequences for companies and directors'*.
- On 5 October 2023, Justice Lee gave the keynote address at the Events Direct Conference: *'The Role of Referees in Class Actions and Complex Litigation'*.
- On 27 October 2023, Justice Lee gave the keynote address at the Association of Litigation Funders of Australia Class Action Conference: *'Litigation Funding, Class Actions and the Australian Landscape'*.
- From 29 October 2023 to 3 November 2023, Justice Lee attended and presented at the International Bar Association Annual Conference Paris 2023 Judges' Forum: *'Global class actions - coming soon to a court near you'*.
- On 21 November 2023, Justice Murphy presented the Federal Court Class Actions Seminar (with Federal Court judges).
- From 20 to 23 January 2024, Justice Lee attended and presented at the 2024 Supreme, Federal and New Zealand Senior Courts Conference Melbourne: *'The Current Defamation Law Landscape'*.
- On 19 February 2024, Justice Jackman delivered a paper to the Commercial Bar Association of Victoria, Insurance and Professional Negligence Section: *'Limits on the duty of utmost good faith'*.
- On 22 February 2024, Justice Banks-Smith chaired and attended the Unravelling Corporate Fraud Conference at the University of Western Australia Law School.
- On 22 February 2024, Justice Jackson presented at the Unravelling Corporate Fraud Conference at the University of Western Australia Law School: Discussed Professor Elise Bant's model of 'systems intentionality', exploring the state of mind of a corporation.
- On 21 March 2024, Justice Lee presented at Sparke Helmore's Judges' Series of Lectures: *'Class Actions in Australia: Access to justice or why the common law frowned on champerty and maintenance?'*
- On 27 March 2024, Justice Stewart addressed the New South Wales Bar Association International Practice Series on practical considerations in the recognition, enforcement and execution of arbitral awards. Justice Stewart spoke to the practice in the Federal Court alongside Justice Michael Ball of the New South Wales Supreme Court who spoke to the practice in that court.
- From 20 to 21 April 2024, Justice Lee attended and presented at the 5th Full Meeting of the Standing International Forum of Commercial Courts Doha, Qatar: *'Litigation Funding and Arbitration Funding by third parties'*.
- From 21 to 23 April 2024, Justice Murphy participated in a panel debate on AI in international civil dispute resolution at the Standing International Forum of Commercial Courts.
- On 16 May 2024, Justice Banks-Smith was a panellist for the Lavan Legal Restructuring Group Seminar for Insolvency Lawyers and Accountants.
- On 23 May 2024, Justice Lee presented at the Veterans' Review Board Biennial Conference: *'Justice Delayed, Justice Denied. How to be fair, just and avoid delay'*.
- From 22 to 25 May 2024, Justice Murphy presented a seminar on contractual clauses in settlements at the London Perfect Law Conference.
- On 1 June 2024, Justice Halley gave the keynote address at the 2024 Competition Law Conference: *'Second Guessing the Gate Keeper: Alternative approaches to merits and judicial review of merger clearance determinations by competition authorities'*.
- On 19 June 2024, Justice Murphy presented in a session with the Supreme Court of the Philippines as part of their Class Actions Initiative.
- From 19 to 21 June 2024, Justice Lee attended and presented at the 2024 FCFCOA Judicial Plenary Panel Session: *'Avoiding appealable errors across the Courts' jurisdictions'*.
- On 21 June 2024, Justice Jackman delivered a paper to the Commercial Law Association of Australia: *'Is Cryptocurrency Property?'*

Decisions of interest

***Australian Securities and Investments Commission v Commonwealth Bank of Australia* [2023] FCAFC 135**

(17 August 2023; Justice Moshinsky, Justice O’Byrne and Justice Jackman)

This appeal concerned the meaning of ‘*conflicted remuneration*’ and ‘*benefit*’ under section 963A of the *Corporations Act 2001* (Cth). The primary judge found that the ASIC had failed to prove that the Commonwealth Bank of Australia (CBA) and its wholly owned subsidiary, Colonial First State Investments Limited (CFSIL) had breached conflicted remuneration laws in relation to the sale of a superannuation product, Essential Super, to CBA customers. The primary judge concluded that payments made under the distribution agreement were not conflicted remuneration and CBA did not derive a ‘*benefit*’ from the agreement as Essential Super was the sole superannuation product developed and distributed by CBA, within its group of companies, and any revenue sharing constituted transfer payments within the group. The Full Court dismissed ASIC’s appeal but agreed with a number of its submissions. Relevantly, the Full Court clarified that a revenue sharing arrangement in the distribution of a financial product was a relevant ‘*benefit*’ within the meaning of the conflicted remuneration provisions and that ‘*conflicted remuneration*’ was not limited to payments between ‘*arm’s length*’ entities and may still apply to companies that form a group or are related entities.

***Elliott-Carde v McDonald’s Australia Ltd* [2023] FCAFC 162**

(12 October 2023; Justice Beach, Justice Lee and Justice Colvin)

The Full Court found that the settlement distribution powers in section 33V(2) of the FCA Act allowed the Court to make settlement-stage common fund orders. The Full Court found that the decision of the High Court of Australia in *BMW Australia Ltd v Brewster* [2019] HCA 45 did not extend to the making of settlement approval or distribution orders regarding third parties at the end of the proceedings. In separate reasons, but with only subtle differences which did not detract from the broad agreement as to the application of s 33V(2), the Full Court found that the Court’s power to make orders under section 33ZF(1) which are ‘*appropriate or necessary to ensure that justice is done in the proceeding*’ involves a different inquiry than the inquiry under section 33V(2), and that orders with respect to the distribution of any money paid under

a settlement or paid into Court may be made if it is just to do so. The Full Court determined that the discretion under section 33V(2) should not be read down by reference to implications or limitations not found in its express words.

***Galactic Seven Eleven Litigation Holdings LLC v Davaria Pty Ltd* [2024] FCAFC 54**

(2 May 2024; Justice Murphy, Justice Lee and Justice Colvin)

The Full Court confirmed that the Court has the power to make a common fund order (CFO) when approving settlement in a class action. The primary judge made orders approving a \$98 million settlement, but refused to make a CFO which gave 25 per cent of that settlement to the litigation funder. In doing so, the primary judge determined that the Court did not have power under section 33V to make a CFO and, even if it did, it was not appropriate to exercise the discretion to make a CFO in those circumstances. Instead, the Court made a funding equalisation order. The Full Court held that the primary judge erred in finding that the Court did not have power under section 33V(2) to make a CFO. The Full Court determined it was just to make a CFO in favour of the applicants representing 25 per cent of the gross settlement sum.

***Ford Motor Company of Australia Pty Ltd v Capic* [2023] FCAFC 179**

(14 November 2023; Justice Yates, Justice Beach, Justice Downes)

The Full Court found that certain vehicles imported into Australia by the appellant were defective and not of acceptable quality within the meaning of section 54 of the *Australian Consumer Law* (ACL). The primary judge found that certain vehicles that were fitted with the defective PowerShift transmission, which suffered from component and architectural deficiencies, breached the guarantee of acceptable quality under the ACL. The class members also established claims for reduction in value of the vehicles as at the date of purchase and additional damages for excess GST, stamp duty and financing costs incurred from buying a defective car at a price that did not factor in the defect. The Full Court dismissed the appeal concerning the findings that the transmission was defective and found the cars did breach the acceptable quality guarantee. As to the assessment of damages, the Full Court largely applied the reasoning of the Full Court in *Toyota Motor Corporation Australia Limited v Williams* [2023] FCAFC 50, finding that, whilst damages are

usually assessed from the date of purchase, in this case events subsequent to purchase were capable of bearing on the proper assessment of reduction in value for the purposes of section 272(1)(a) of the ACL. In addition, the Full Court found that pre-judgment interest ought to have been awarded on the damages awards for excess amounts of GST, stamp duty and financing costs.

***Singtel Optus Pty Ltd v Robertson* [2024]
FCAFC 58**

(27 May 2024; Justice Murphy, Justice Anderson and Justice Neskovicin)

The Full Court found that when making a finding as to whether a document prepared by a third party attracts legal professional privilege, it must be established that the dominant purpose of a report is to receive legal advice. At first instance, the primary judge dismissed Optus' claim of legal professional privilege over a forensic investigation report that it had commissioned from Deloitte on the basis that it had not established that the report was prepared for the dominant purpose of legal advice. The Full Court refused Optus' appeal, finding that the forensic investigation report prepared by Deloitte was not privileged. In its reasons, the Full Court emphasised that it will not be enough to simply establish that a report has a legal purpose. Rather, where there is evidence that suggests that a report has a non-legal purpose, it must be established that the legal purpose is the dominant one in order to attract privilege. Assessing the purpose for which a document is created is a fact-based endeavour which is determined objectively and requires the Court to have regard to all of the circumstances in determining whether a report is prepared for the dominant purpose of legal advice so as to attract legal professional privilege.

***Australian Securities and Investments Commission v Taylor* [2023] FCAFC 189**

(6 December 2023; Chief Justice Mortimer, Justice O'Bryan and Justice Abraham)

The Full Court dismissed ASIC's appeal, finding that it was not entitled to pursue disciplinary proceedings before the Companies Auditors Disciplinary Board against the respondent, a former director of Grant Thornton and auditor of iSignthis, in circumstances where a concurrent criminal proceeding brought by the Commonwealth Director of Public Prosecutions, concerning the same subject matter, had been instituted against him.

***Lantrak Holdings Pty Ltd v Yammine* [2023]
FCAFC 156**

(26 September 2023; Justice Lee, Justice Button and Justice Jackman)

The Full Court considered a number of issues with respect to the giving of evidence at trial by witnesses, including the correct approach to evidence concerning alleged misleading or deceptive conduct, when proceedings may be permanently stayed as an abuse of process, and the requirements for demonstrating that procedural fairness was not afforded at trial. The Full Court considered the decision of the primary judge which required evidence in chief to be given *viva voce* in circumstances where the witness had grown up in difficult circumstances and was '*inarticulate, nervous and poorly educated*'. The Full Court observed that it was important to ensure that such a witness does not encounter any disadvantage in the giving of evidence. Justice Lee also accepted that there may be interlocutory hearings where the Court may make a direction the effect of which is to prevent a party from cross-examining the deponent.

The Full Court clarified that an order staying an action as an abuse of process on the basis that the application disclosed no reasonable cause of action is an interlocutory order. Moreover, the Full Court determined that an order permanently staying a proceeding as an abuse of process on the basis of *res judicata* or Anshun estoppel is, however, regarded as final.

***J Hutchinson Pty Ltd v Australian Competition and Consumer Commission* [2024] FCAFC 18**

(29 February 2024; Justice Wigney, Justice Bromwich and Justice Anderson)

The Full Court clarified how an anti-competitive ‘*arrangement or understanding*’ is to be interpreted and applied pursuant to section 45E of the *Competition and Consumer Act 2010* (Cth). The primary judge found that there was an arrangement or understanding between the appellants, J Hutchinson Pty Ltd, a construction company, and the Construction, Forestry and Maritime Employees Union (CFMEU), pursuant to which J Hutchinson would cease to acquire waterproofing services from Waterproofing Industries (WPI), a company whose workers were not covered by an Enterprise Bargaining Agreement with the CFMEU. The case involved a threat made by a CFMEU delegate to a J Hutchinson project manager that the CFMEU would ‘*sit the job down if WPI come on site*’; J Hutchinson later terminated its contract with WPI. The primary judge found that the facts supported an inference that the CFMEU and J Hutchinson had entered into an arrangement or arrived at an understanding, noting in particular the parallel and acquiescent conduct of both parties. The Full Court allowed the appeal and dismissed the respondent’s case, finding that it was not open to the primary judge, on the facts, to infer the existence of the arrangement or understanding alleged by the respondent. Their Honours emphasised that parallel or acquiescent conduct alone will be insufficient to establish the existence of an arrangement or understanding.

***Ridge Estate Pty Ltd v Fairfield Pastoral Holdings Pty Ltd* [2024] FCAFC 17**

(23 February 2024; Justice Banks-Smith, Justice O’Sullivan and Justice Feutrill)

Amongst other matters, the Full Court considered whether the removal of a trustee by deed could amount to a fraudulent conveyance (in this case section 86 of the *Law of Property Act 1936* (SA)). At first instance, the primary judge determined multiple causes of action arising out of the breakdown of a business relationship, finding that a deed of appointment and removal of trustee comprised a conveyance made with the intent to defraud creditors. The Full Court varied one order made at first instance, but otherwise dismissed the appeal. It accepted that a trustee with a right of indemnity who has an entitlement to payment out of trust assets may be considered a creditor for the purpose of section 86 of the Act. It also accepted that even if a replaced trustee is eventually paid or may eventually be paid, including by court proceedings, if there has been an intention to hinder or delay the trustee in the assertion of its right of indemnity it may have been defrauded within the meaning of section 86. Special leave has been refused.

Employment & Industrial Relations

About this NPA

The Employment and Industrial Relations (E&IR) NPA comprises civil and criminal proceedings arising under the Fair Work jurisdiction and related legislation including: workplace-related applications, writs of mandamus or prohibition, injunctions, declarations, prosecutions, and proceedings transferred or appealed from the Federal Circuit and Family Court of Australia, other courts or the Fair Work Commission.

National E&IR Coordinating Judges



Justice Rangiah



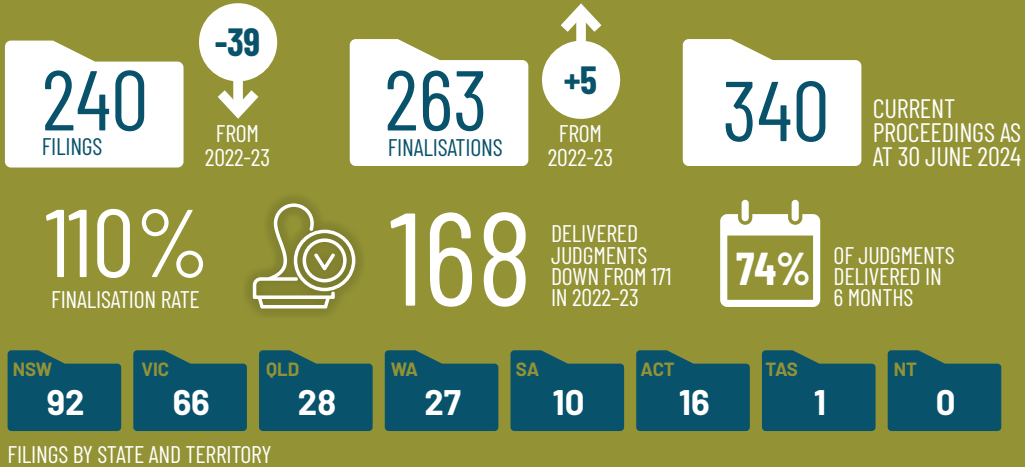
Justice Snaden

Employment and Industrial Relations NPA judges

NSW	VIC / TAS	QLD	SA / NT	WA
Justice Perram	Justice O'Callaghan	Justice Collier	Justice Charlesworth	Justice Banks-Smith
Justice Katzmann	Justice Wheelahan	Justice Logan RFD	Justice O'Sullivan	Justice Colvin
Justice Wigney	Justice Snaden	Justice Rangiah		Justice Jackson
Justice Bromwich	Justice Anderson	Justice Meagher		Justice Feutrill
Justice Lee	Justice McElwaine	Justice Sarah C		
Justice Abraham	Justice McEvoy	Derrington		
Justice Halley	Justice Horan			
Justice Goodman	Justice Dowling			
Justice Raper	<i>Additional Judge:</i>			
Justice Kennett	Justice Murphy			
Justice Shariff				

National Coordinating Registrar Amelia Edwards

E&IR NPA Workload snapshot: Judge Original Jurisdiction and Appellate



Report from National Coordinating Judges

Legislative amendments

Wide-ranging amendments have been made to the *Fair Work Act 2009* (Cth) (FW Act) under the *Closing Loopholes Act 2023* (Cth) and *Closing Loopholes (No 2) Act 2024* (Cth). Amendments particularly relevant to the Federal Court include:

- the 'new' definitions of 'employee' and 'employer' (to undo the tests in *CFMMEU v Personnel Contracting Pty Ltd* [2022] HCA 1 and *ZG Operations v Jamsek* [2022] HCA 2) and a new definition of 'casual employee'
- the criminalisation of wage theft (from 1 January 2025) with penalties of up to 10 years' imprisonment or 5,000 penalty units (\$1.65 million) for individuals and up to 25,000 penalty units (\$8.25 million) for body corporates (or for individuals and body corporates - three times the underpayment amount)
- changes to the test for a serious contravention such that a 'serious contravention' occurs when a person knowingly contravenes the provision and was reckless as to whether the contravention would occur)
- significant increases to the civil penalties by at least five times for certain contraventions of the FW Act (largely contraventions relating to underpayments) such that a body corporate is exposed to a maximum penalty of 15,000 penalty units (\$4.95 million) for a serious contravention of a civil remedy provision (and an individual is exposed to a maximum penalty of 3,000 penalty units (\$990,000) for such a contravention)
- amendments to the sham contracting provisions, such that an employer must have a 'reasonable belief' that a contract was a contract for services
- a new safety net contractual entitlement for labour hire employees, such that where a regulated labour hire arrangement is in place, a labour hire employee is entitled to be paid the same as an employee employed by a regulated employer under a host employment instrument
- new workplace rights, including in relation to workplace delegates' rights and entitlements, the 'right to disconnect', being subject to family and domestic violence', and the 'employee choice' provisions relevant to casual employment
- expansion of the general protections regime to cover adverse action between digital labour platform operators and employee-like workers in various circumstances, and
- new anti-avoidance provisions impacting on the arrangements between employers and regulated hosts (subject to regulated labour hire arrangements (or 'same job same pay' orders) and employers' conduct regarding casual employees (i.e. dismissing employees to engage them as casuals and knowingly making false statements to employees with the intention of persuading them to become a casual).

Amendments have also been made to the:

- *Sex Discrimination Act 1984* (Cth) such that the Australian Human Rights Commission has the power to commence proceedings in the FCA to enforce the positive duty imposed on employers to eliminate, as far as possible, sexual harassment, sex discrimination and other sexist behaviour

- *Work Health and Safety Act 2011* (Cth) such that industrial manslaughter is now an offence, with penalties of up to 25 years' imprisonment for individuals or fines of up to \$18 million in relation to body corporates
- *Safety, Rehabilitation and Compensation Act 1988* (Cth) such that there is now a rebuttable presumption that post-traumatic stress disorder suffered by certain employees was contributed to, to a significant degree, by their employment, and
- *Independent Contractors Act 2006* (Cth) such that applications under that legislation may only be made by an independent contractor if they earn above the 'contractor high income threshold' set out in the FW Act.

Notice to the profession

Toward the end of the 2023–24 financial year, the Court took steps to implement a national General Protections List, designed to extend nationally a similar list that has operated in Victoria since 2019. The purpose of the list (which will commence on a trial basis in September 2024) is to:

- promote consistency and efficiency in the case management of general protections proceedings
- ensure that general protections proceedings are heard in the appropriate court, having regard to any points of principle and the quantum of claims
- ensure that the resources of the Court in relation to mediation are targeted towards the most appropriate proceedings, and
- ensure early and appropriate case management and timetabling of any interlocutory or procedural matters before the proceeding is allocated to a Docket Judge.

Engagement with the profession

In June 2024, Justice Snaden attended a meeting of the Law Council of Australia's Industrial Law Committee and gave a presentation about the work of the Court. Meanwhile, the Court continues to liaise with the profession through the Employment and Industrial Relations NPA User Group, which met in May 2024.

Additionally, the Court held its annual employment law seminar—Current Issues in the Practice of Employment and Industrial Law—on 13 September 2023. Justice Rangiah gave a presentation focused upon the work of the practice area, and other presenters gave short presentations on topics of interest from the Court's premises in Melbourne and Adelaide (broadcast to other locations by video conferencing facilities).

Decisions of interest

Watson v Greenwoods & Herbert Smith Freehills Pty Ltd [2023] FCAFC 132; (2023) 413 ALR 227

(30 August 2023; Justice Moshinsky, Justice Abraham and Justice Raper)

The Full Court in its original jurisdiction clarified the extent of the limited retrospective application of corporate and tax whistleblower regimes.

The applicant, Mr Watson, provided taxation advisory services to Lendlease Corporation Ltd while working as a partner of Greenwoods & Herbert Smith Freehills Pty Ltd (GHSF). Mr Watson claimed that, from 2013, he made protected whistleblower disclosures under part 9.4AAA of the *Corporations Act 2001* (Cth) to senior employees at Lendlease and partners of GHSF in relation to the accuracy of Lendlease's financial statements and its compliance with Australian tax law. Mr Watson claimed to have been subjected to detrimental conduct between 2014 and 2016 on account of his having made those disclosures, including being removed from the Lendlease account, the denial of paid sick leave, reduced remuneration and the termination of his employment with GHSF. Mr Watson sought compensation from GHSF resulting from the detrimental conduct that he alleged that he had suffered.

Justices Moshinsky, Abraham and Raper considered whether the amendments made to each of the *Corporations Act 2001* (Cth) and the *Taxation Administration Act 1953* (Cth), which enhanced whistleblower protections, applied to the detrimental conduct that GHSF was alleged to have engaged in prior to their commencement. Their Honours determined that the amended Act did not apply retrospectively.

Helensburgh Coal Pty Ltd v Bartley [2024] FCAFC 45; (2024) 302 FCR 589

(5 April 2024; Justice Katzmann, Justice Snaden and Justice Raper)

The Full Court considered whether the Fair Work Commission (FWC) had correctly considered whether particular dismissals were cases of 'genuine redundancy' under section 389(1) and the so-called 'unfair dismissal' regime within the *Fair Work Act 2009* (Cth).

Helensburgh Coal entered into two services agreements with different companies in 2018 and 2019 for the supply of independent contractors to supplement its permanent employees at its mining sites. In 2020, Helensburgh Coal made a number of its employees redundant following an economic downturn during the COVID-19 era. Helensburgh Coal maintained its services agreement contracts and the independent contractors were not affected.

Following the retrenchments, 22 of its former employees filed an application for unfair dismissal remedies in the FWC claiming that the dismissals were not a case of 'genuine redundancy' and that Helensburgh Coal Pty Ltd should have reassigned the tasks of the independent contractors back to its employees, rather than making them redundant. At issue was whether redeployment to those contracted roles would have been 'reasonable in all the circumstances' at the point in time when the former employees were made redundant.

The Full Court dismissed the judicial review application, concluding that the FWC had not misunderstood the nature of its jurisdiction, nor what was or was not a 'genuine redundancy' in the circumstances. The Full Court held that, in the circumstances, the FWC was permitted to reason that the employer should have redeployed the affected employees to those positions that were occupied by the independent contractors.

***Construction, Forestry, Maritime, Mining and Energy Union v Fair Work Ombudsman (Cross River Rail Appeal)* [2024] FCAFC 1; (2024) 301 FCR 650**

(29 January 2024; Justice Halley, Justice Goodman and Justice McElwaine)

This was an appeal brought by the Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU) and its employee Mr Dean Lesley Rielly concerning the exercise of a right to enter a worksite at the Brisbane Cross River Rail Construction Project (worksite).

Mr Rielly arrived at the worksite on 1 July 2021 and produced a notice to the employer issued under section 119 of the *Work Health and Safety Act 2011* (Qld). Thereafter, he sought to exercise a right of entry in accordance with Part 3-4 of the *Fair Work Act 2009* (Cth).

The primary judge found that Mr Rielly refused to comply with the employer's reasonable entry requirements at the worksite, specifically by refusing to sign a visitor register and complete an induction. Mr Rielly also failed to comply with reasonable requests not to enter the worksite whilst unaccompanied, to read and obey all safety signs, to not enter a restricted area and to only confine himself to areas suitable for visitors.

The primary judge concluded that he had contravened section 499 of the *Fair Work Act 2009* (Cth), in that he had exercised his right of entry without complying with applicable occupational health and safety requirements. The primary judge imposed a penalty of \$5,500 on Mr Rielly and \$37,500 on the CFMMEU.

On appeal, the Full Court held that Mr Rielly had not exercised his rights unaccompanied, but otherwise upheld the findings of the primary judge.

***Construction, Forestry, Maritime, Mining and Energy Union v Fair Work Ombudsman (The 250 East Terrace Case)* [2023] FCAFC 161; (2023) 299 FCR 334**

(9 October 2023; Justice Charlesworth, Justice Snaden and Justice Raper)

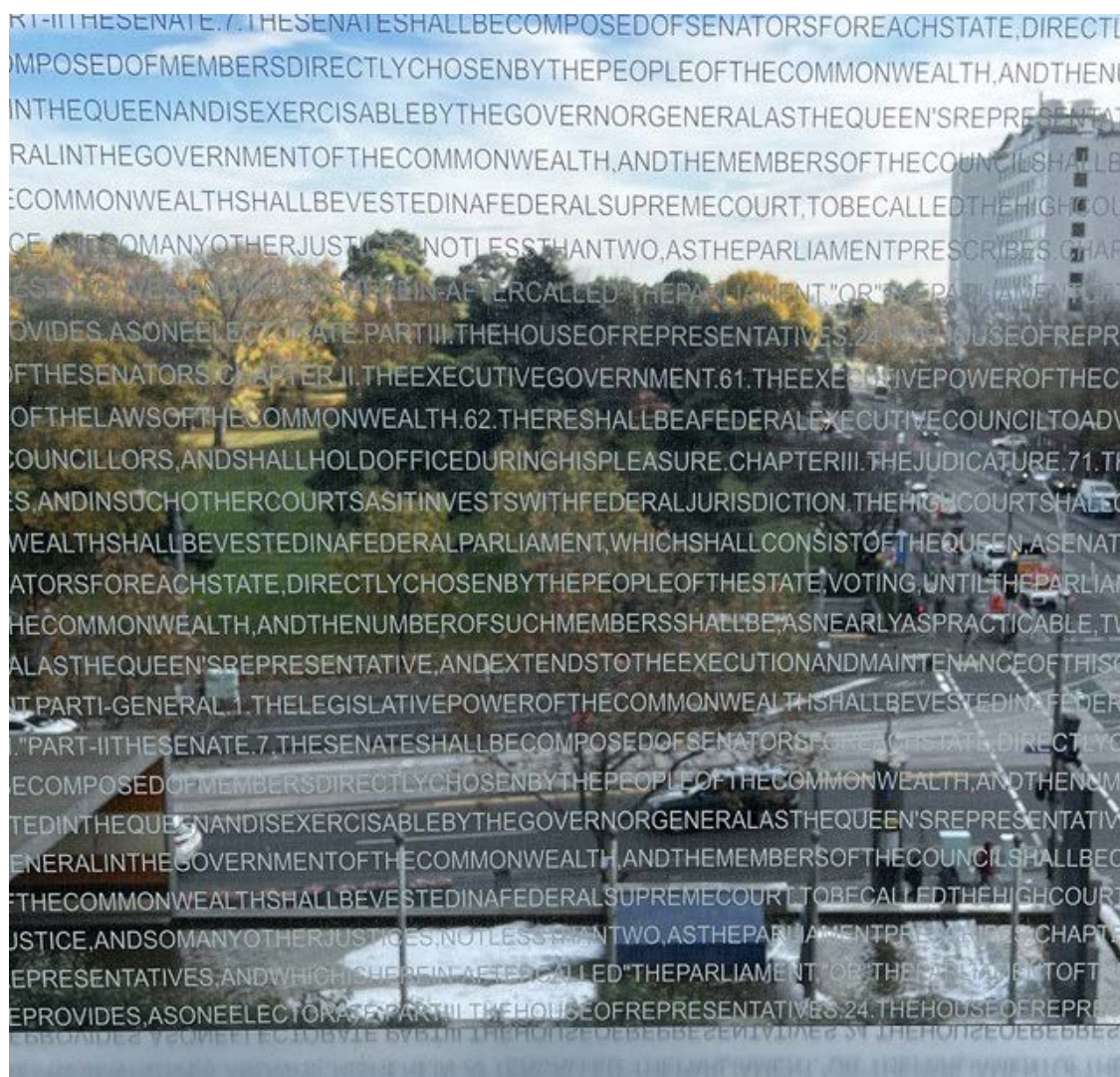
This was an appeal brought by the CFMMEU, the Acting State Secretary of its South Australian Divisional Branch, Andrew Sutherland, a construction contractor known as Core-Form and one of its directors, Mr Andrew Sneath, a Director of Core-Form, a body corporate engaged to perform concreting works at 250 East Terrace, Adelaide (worksite).

The proceeding concerned events that transpired on 16 October 2019 at the worksite. On that day, a crowd including Mr Sneath and Mr Sutherland gathered at the front entrance of the worksite to protest in relation to a dispute that had arisen with the construction principal. Mr Sutherland was wearing union-branded clothing and was in possession of a red union flag. Members of the crowd held up signs with phrases including, 'PAY UR BILLS, STOP RIPPING OFF SUBBIES' and 'JOB DONE, WHERE'S THE MONEY'. Some of the protesters used a megaphone to lead other protesters in various chants, including: 'Pay your bills! Pay your bills! Pay your bills! Pay your bills, Joe!'; 'Sell your Porsche'; 'Sell the car'; and 'What do we want? Bills paid! When do we want it? Now!'. During the course of the protest, there was a brief period during which access to and from the worksite was obstructed.

The primary judge imposed pecuniary penalties of \$189,000 and \$38,000 against the CFMMEU and Mr Sutherland respectively and also imposed a pecuniary penalty on Core-Form and Mr Sneath in the sums of \$132,000 and \$25,000, respectively. The Full Court considered whether the primary judge had failed to distinguish between organising an unlawful picket and engaging in an unlawful picket in assessing the level of seriousness of the conduct engaged in, and whether the picket was unlawfully pre-meditated.

The appellants contended that the pecuniary penalty orders were made in error and contended that the Full Court should exercise its discretion to substantially lower the penalties made against them.

The Full Court dismissed the appeal with costs and found that the pecuniary penalties imposed upon the appellants were, though high, not at a level that traversed beyond what was reasonable; and that the primary judge was entitled to characterise Core-Form's and Mr Sneath's conduct as objectively serious in the context of the picket. In so concluding, the Full Court was concerned to reaffirm the primacy of deterrence as a consideration informing appropriate penalties, and the significance of a wrongdoer's history of statutory contravention as a determinant of what deterrence might require.



Federal Crime & Related Proceedings

About this NPA

The Federal Crime and Related Proceedings NPA comprises summary prosecutions, prosecutions on indictment, criminal appeals, bail applications and empanelling juries for criminal cartel trials, and civil proceedings related to confiscating assets under the *Proceeds of Crime Act 2002* (Cth) where the Federal Court is conferred with a criminal jurisdiction.

National FCRP Coordinating Judges



Justice Bromwich



Justice Abraham

Federal Crime and Related Proceedings NPA judges

ALL STATES AND TERRITORIES

Justice Rangiah
Justice Wigney
Justice Bromwich

Justice Lee
Justice Colvin
Justice Thawley

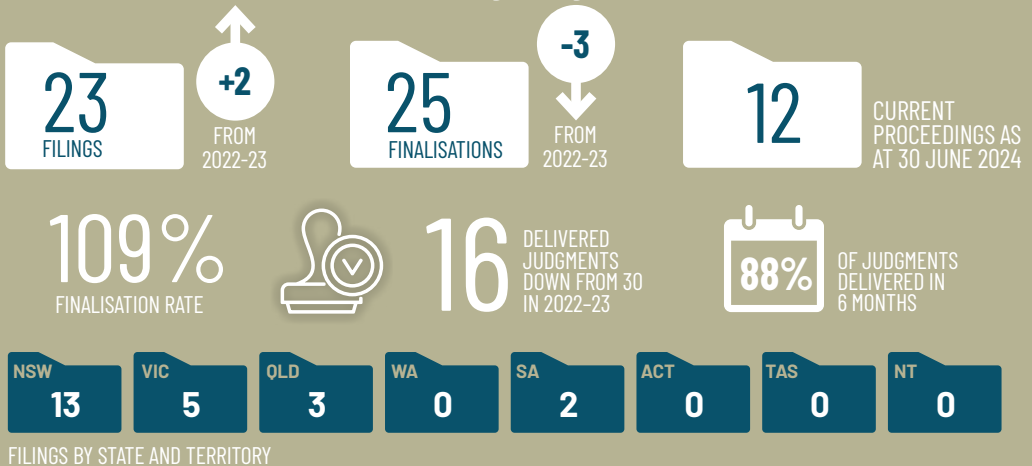
Justice Anderson
Justice Abraham
Justice Downes

Justice O'Sullivan
Justice Kennett
Justice Horan

Justice Shariff
Additional Judge:
Justice Hespe

National Coordinating Registrars Jodie Burns and Alicia Ditton

FCRP NPA Workload snapshot: Judge Original Jurisdiction and Appellate



Report from National Coordinating Judges

Since 2009, the Court has had jurisdiction in relation to indictable offences for serious cartel conduct, together with summary prosecutions and criminal appeals for a narrow range of offences.

On 11 June 2024, Royal Assent was given to the *Attorney-General's Portfolio Miscellaneous Measures Act 2024* which provided a pivotal milestone in the Court's history, conferring jurisdiction on the Court to hear and determine a range of summary and indictable offences relating to conduct within the regulatory remit under the ASIC Act, the *Corporations Act 2001*(Cth), the *National Consumer Credit Protection Act 2009*(Cth)(NCCP Act) and the *Superannuation Industry (Supervision) Act 1993*(Cth).

The Court has also been conferred jurisdiction to hear and determine a selection of indictable offences in the *Criminal Code* (Cth)(Criminal Code), including money laundering and accounting record offences. To support the expanded jurisdiction, the FCA Act has been amended to enable the Sheriff of the Court to request a state or territory jury official to prepare and provide a jury panel for use by the Court in a jury trial.

The Court now has wide-ranging jurisdiction for federal 'white-collar' criminal offences and is equipped for future jury trials with purpose-built

jury courtrooms, including a new courtroom in the New South Wales Registry (pictured) with an e-trial setup allowing evidence to be electronically presented to jurors.

Decisions of interest

***Carr v Attorney-General (Cth)*[2023] FCA 1500; (2023) 300 FCR 562**

(30 November 2023; Justice Abraham)

Justice Abraham made a declaration with respect to the meaning of suicide in sections 474.29A and 474.29B of the Criminal Code and its application to conduct undertaken in accordance with the *Voluntary Assisted Dying Act 2017*(Vic)(VAD Act). Her Honour declared that 'suicide' as used in sections 474.29A and 474.29B of the Criminal Code does apply to the ending of a person's life in accordance with, and by the means authorised by, the VAD Act and Voluntary Assisted Dying Regulations 2018 (Vic).

Her Honour noted that insofar as the VAD Act purports to authorise medical practitioners to provide information about particular methods of suicide, via a carriage service, it purports to authorise them to engage in conduct that the Criminal Code criminalises. Her Honour found there was a direct inconsistency between the VAD Act and the Criminal Code and that the VAD Act is inoperative to the extent of the inconsistency.





***Walker v Members Equity Pty Ltd (formerly Members Equity Bank Ltd)* [2024] FCA 15**

(19 January 2024; Justice Bromwich)

Members Equity Pty Ltd formerly known as Members Equity Bank Ltd (ME Bank) had pleaded guilty to four summary strict liability offences (one offence contrary to sections 12DB(1)(g) and 12GB(1) of the ASIC Act, one offence contrary to sections 64(1) of the NCCP Act and two offences contrary to 65(1) of the NCCP Act). The offences related to ME Bank's communications between 2016 to 2018 to home loan customers that included false or misleading representations about the price of financial services and failures to advise customers of changes to interest rates and minimum repayment amounts when their previous repayment arrangements were due to expire. Justice Bromwich convicted ME Bank on all four charges and ordered the payment of fines totalling \$820,000.

***Commonwealth Director of Public Prosecutions v Bingo Industries Pty Ltd; Commonwealth Director of Public Prosecutions v Tartak* [2024] FCA 121; and *Commonwealth Director of Public Prosecutions v Aussie Skips Bin Services Pty Ltd; Aussie Skips Recycling Pty Ltd; Roussakis* [2024] FCA 122**

(23 February 2024; Justice Wigney)

Bingo Industries Pty Ltd (Bingo) pleaded guilty to two criminal cartel offences (one offence contrary to section 45AF(1) and one offence contrary to section 45AG(1) of the *Competition and Consumer Act 2010* (Cth) and Aussie Skips Bin Services Pty Ltd and Aussie Skips Bins Recycling Pty Ltd (together,

Aussie Skips) pleaded guilty to one count each under section 45AF(1) of the *Competition and Consumer Act 2010* (Cth) in relation to fixing the price of collection services and processing services that the companies provided to their customers.

Justice Wigney convicted both Bingo and Aussie Skips and ordered them to pay a total fine of \$30,000,000 and \$3,500,000 respectively. Mr Tartak (former CEO of Bingo) pleaded guilty to two counts of aiding, abetting, counselling or procuring Bingo's offences. Justice Wigney convicted Mr Tartak and ordered him to pay a total fine of \$100,000; serve a term of imprisonment for 18 months to be served by way of intensive correction in the community (with conditions that he must not commit an offence; submit to supervision by a community corrections officer and perform community service work for 400 hours) and be disqualified from managing corporations for a period of five years.

Mr Roussakis (former CEO of Aussie Skips) pleaded guilty to one count of aiding, abetting, counselling or procuring Aussie Skip's offences. Justice Wigney convicted Mr Roussakis and ordered him to pay a fine of \$75,000; serve a term imprisonment for 18 months to be served by way of intensive correction in the community (with conditions that he must not commit an offence; submit to supervision by a community corrections officer and perform community service work for 300 hours) and be disqualified from managing corporations for a period of five years.

Intellectual Property

About this NPA

The Intellectual Property National Practice Area (NPA) consists of three national practice sub-areas (NPSAs), with judges aligned to each of the different sub-areas based on their specialised judicial skills:

- Copyright and Industrial Design (COPY)
- Patents and Associated Statutes (PATNS)
- Trade Marks (TM).

National IP Coordinating Judges



Justice Nicholas



Justice Yates



Justice Burley

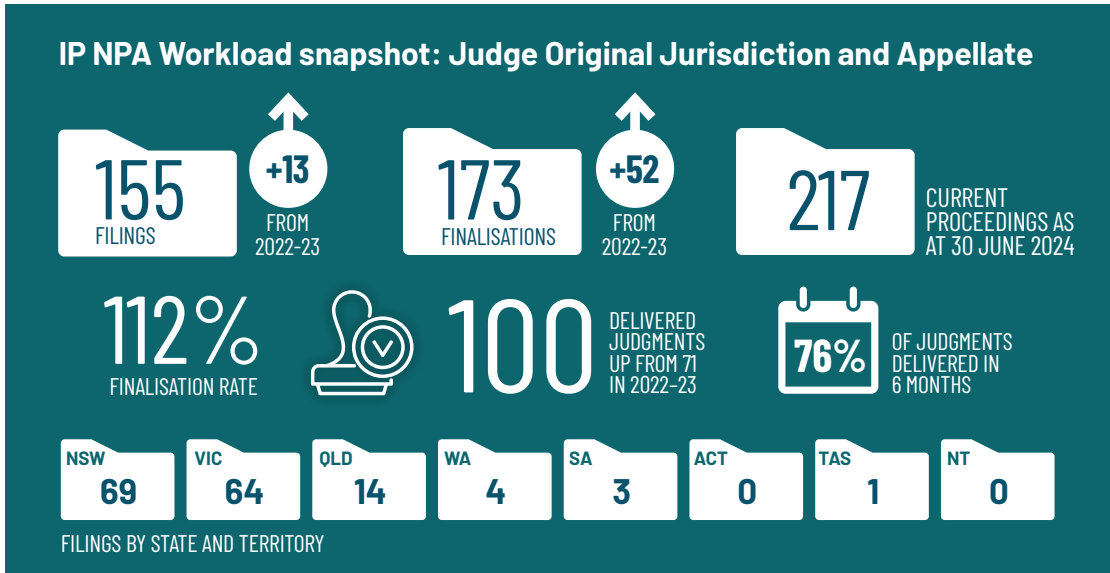


Justice Rofe

IP NPA Coordinating Judges

	NSW & ACT	VIC & TAS	QLD	SA & NT	WA
IP: COPY	Justice Perram Justice Nicholas Justice Yates Justice Katzmann Justice Burley Justice Halley Justice Cheeseman Justice Raper Justice Kennett Justice Jackman Justice Shariff	Justice Beach Justice Wheelahan Justice O'Bryan Justice Anderson Justice Rofe Justice Hespe Justice Button Justice Neskovicin	Justice Derrington Justice Downes Justice Meagher	Justice Charlesworth Justice O'Sullivan	Justice Jackson Justice Feutrill
IP: PATNS	Justice Perram Justice Nicholas Justice Yates Justice Burley Justice Jackman	Justice Beach Justice Moshinsky Justice O'Bryan Justice Rofe	Justice Downes	Justice Charlesworth Justice O'Sullivan	Justice Jackson
IP: TM	Justice Nicholas Justice Yates Justice Katzmann Justice Markovic Justice Bromwich Justice Burley Justice Lee Justice Stewart Justice Halley Justice Cheeseman Justice Goodman Justice Raper Justice Kennett Justice Jackman	Justice Beach Justice Moshinsky Justice O'Callaghan Justice Wheelahan Justice O'Bryan Justice Anderson Justice Rofe Justice Hespe Justice Button Justice Neskovicin Justice Dowling	Justice Rangiah Justice Derrington Justice Downes Justice Meagher	Justice Charlesworth Justice O'Sullivan	Justice Colvin Justice Jackson Justice Feutrill

National Coordinating Registrar Susan O'Connor



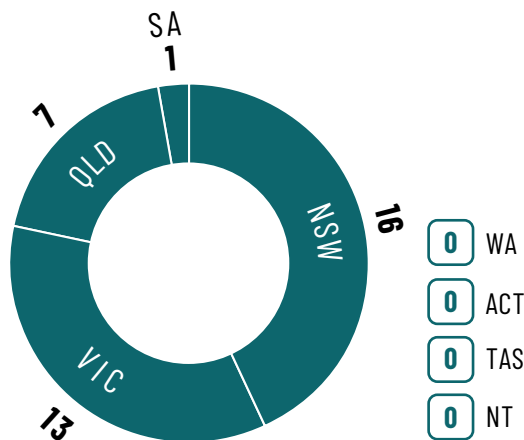
Intellectual Property NPSAs

Copyright and Industrial Design NPSA

This NPSA includes proceedings relating to:

- copyright disputes concerning works such as books, computer programs, architectural drawings, musical and artistic works and other subject matter such as films and sound recordings
- design disputes concerning the distinctive shape, configuration, pattern or ornamentation of products in an industrial or commercial context, and
- other disputes, including circuit layout disputes concerning layout designs for integrated circuits and computer chips.

Figure 3.16: Copyright and industrial design filings by state and territory

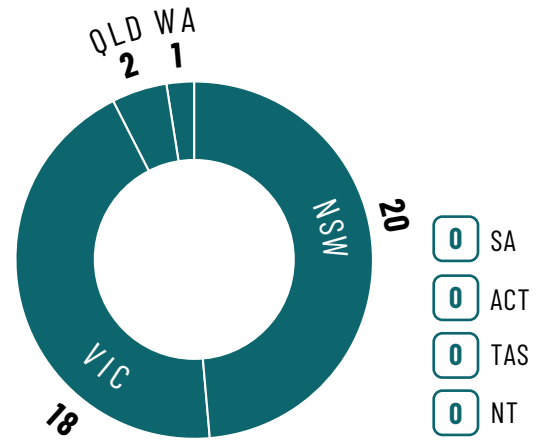


Patents and Associated Statutes NPSA

This NPSA includes proceedings relating to:

- patent disputes concerning the exclusive right to commercially exploit inventions (inventive devices, substances, methods or processes)
- other disputes, including disputes concerning plant breeder's rights in new and distinct varieties of plants, and
- appeals from the Commissioner of Patents.

Figure 3.17: Patents and associated statutes filings by state and territory

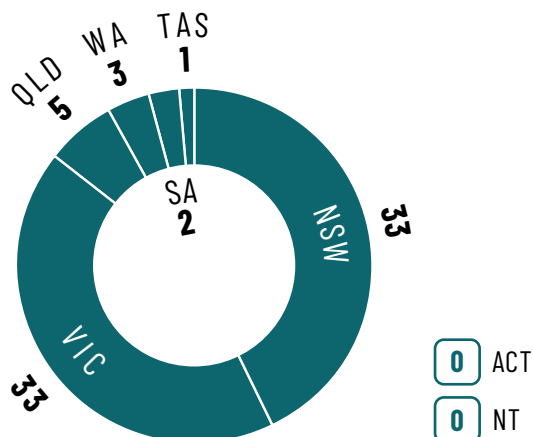


Trade Marks NPSA

This NPSA includes proceedings relating to:

- any trade mark dispute, with respect to validity of a trade mark and/or distinguishing goods and services (including in respect of a letter, number, word, phrase, sound, smell, shape, logo, picture and packaging)
- 'geographical indication' disputes involving a geographical indication or order term signifying a related attribute of goods, and
- an appeal from a decision of the Registrar of Trade Marks.

Figure 3.18: Trade marks filings by state and territory



Report from National Coordinating Judges

The Court has jurisdiction to hear a range of disputes concerning matters such as patents, trade marks, copyright, designs, circuit layouts, plant breeder's rights and appeals from the Commissioner of Patents or Registrar of Trade Marks. There have been no significant legislative amendments relevant to the Intellectual Property NPA, nor any amendments to the Court's jurisdiction in 2023-24.

The Court has continued its engagement with the legal profession, hosting several informative events for practitioners. On 15 May 2024, Justices Burley and Rofe were joined by Senior National Judicial Registrar Legge and Adrian Ryan SC to host a seminar titled 'The Bar & Bench: Efficient management of intellectual property disputes'. The seminar provided practitioners with strategies to streamline disputes in the NPA to enhance the efficient adjudication of matters.



Decisions of interest

Jusand Nominees Pty Ltd v Rattlejack Innovations Pty Ltd [2023] FCAFC 178; (2023) 300 FCR 408

(13 November 2023; Justice Perram, Justice Nicholas and Justice McElwaine)

The Full Court considered the current law on sufficiency and support following the enactment of *Intellectual Property Laws Amendment (Raising the Bar) Act 2012* (Cth). In considering the requirements of support and sufficiency, the Full Court noted that one of the statutory intentions of the Act was to align Australian law on sufficiency and support with that of the United Kingdom and Europe. In interpreting the requirement under Australian law, their Honours carefully examined jurisprudence from the United Kingdom.

For sufficiency, the Court expressed that, with respect to a product claim, a relevant inquiry would commence with the invention as it is claimed, but the inquiry can extend into the invention's essence or core. An assessment of that essence or core is likely to include a consideration of the patent's technical contribution to the art and may involve an assessment of what it is that makes the invention inventive.

Their Honours considered that the sufficiency analysis could, in this case, also apply for the support analysis, as they were 'two sides of the same coin'. The appeal was dismissed, with the Full Court finding that the patent was invalid as the specification of the patent disclosed the invention in a manner which was not clear enough and complete enough for the invention to be performed by a person skilled in the relevant art.

RB (Hygiene Home) Australia Pty Ltd v Henkel Australia Pty Ltd [2024] FCAFC 10; (2024) 302 FCR 285

(16 February 2024; Justice Nicholas, Justice Burley and Justice Hesse)

The Full Court considered what constitutes 'use as a trade mark', particularly with respect to shape trade marks.

The Court disagreed with the primary judge and held that the display of certain shape marks in a two-dimensional format on the packaging of a product constituted use of a shape mark as a trade mark.

Australian Mud Company Pty Ltd v Globaltech Corporation Pty Ltd (No 5) [2024] FCA 58

(20 February 2024; Justice Besanko)

Justice Besanko held that a patentee can make a split election between damages or an account of profits in relation to different instances of patent infringements.

His Honour held that, absent leading authority, the general principle that each infringement is a separate cause of action in respect of which the applicant has a right of election determines this issue. An applicant is entitled to exercise that right in a way that best suits its interests. It is not bound to exercise the election in a way that mitigates loss to the infringer.

Redbubble Ltd v Hells Angels Motorcycle Corporation (Australia) Pty Limited [2024] FCAFC 15; (2024) 303 FCR 100

(23 February 2024; Justice Perram, Justice Nicholas, Justice Burley, Justice Rofe and Justice Downes)

The Full Court clarified the scope of nominal damages, finding that a sum of \$8,250 could not constitute nominal damages in relation to trade mark infringement. The Court clarified that nominal damages are token sums which must be small.

Their Honours also set aside an order in the sum of \$70,000 for additional damages on the basis that the damages were not capable of deterring the appellant from infringing the trade marks, due to lack of current technology that can identify whether a design is identical or similar to another trade mark. In effect, the appellant was unable to restrain users from uploading deceptively similar or identical images to its website.

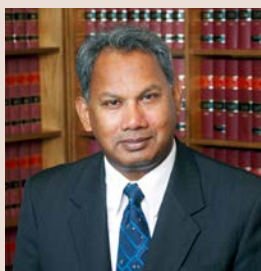
The Court also considered whether an injunction could be appropriately formulated to restrain the appellant from continuing its infringing acts. In particular, it was considered whether general or targeted language was required for the injunction.

Native Title

About this NPA

The Native Title NPA includes applications relating to: native title claims concerning the rights and interests of Aboriginal and Torres Strait Islander peoples to land and waters according to their traditional laws and customs, including determinations, 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; reviews or appeals from decisions of the National Native Title Tribunal; and matters arising under or in relation to any Indigenous Land Use Agreement or other agreement made under the *Native Title Act 1993* (Cth), or concerning a Prescribed Body Corporate (which holds or manages native title under the Act).

National NT Coordinating Judges



Justice Rangiah



Justice Charlesworth



Justice Banks-Smith

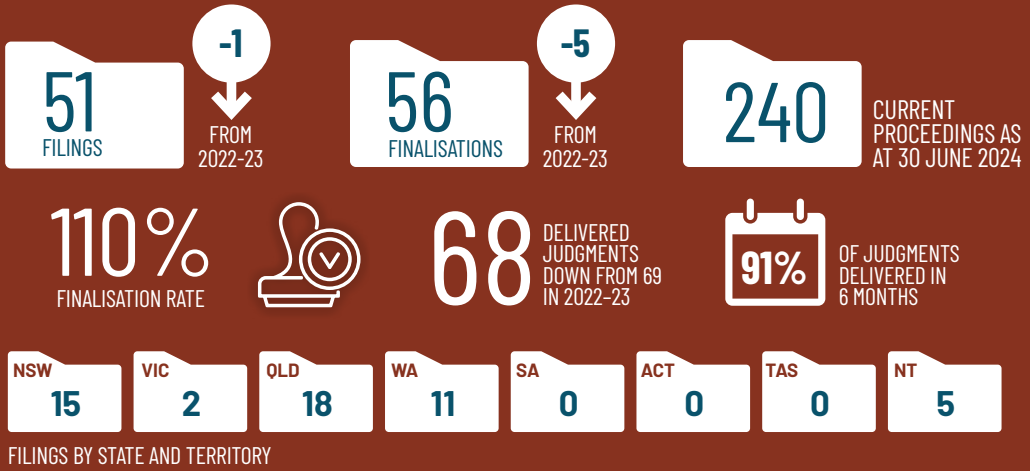
Native Title NPA judges

ALL STATES AND TERRITORIES

Justice Collier	Justice Moshinsky	Justice Banks-Smith	Justice Abraham	Justice Kennett
Justice Murphy	Justice Charlesworth	Justice Colvin	Justice Halley	Justice Horan
Justice Rangiah	Justice Burley	Justice Stewart	Justice Cheeseman	Justice Shariff
Justice Wigney	Justice Sarah C	Justice O'Bryan	Justice McEvoy	
Justice Perry	Derrington	Justice Jackson	Justice Raper	

National Coordinating Registrar Nicola Colbran

NT NPA Workload snapshot: Judge Original Jurisdiction and Appellate



Darumbal Consent Determination

Report from National Coordinating Judges

Significant litigation and outcomes

On 14 August 2023, the Full Court handed down judgment in *Stuart v State of South Australia* [2023] FCAFC 131; (2023) 299 FCR 507; (2023) 412 ALR 407.

The Full Court considered two appeals from orders made on overlapping native title claims brought by the Arabana people and the Walka Wani people. The primary judge dismissed the Arabana claim and made a determination of native title in favour of the Walka Wani people. The Full Court allowed the appeal brought by the State of South Australia and made orders dismissing the Walka Wani originating applications. The proceeding will be heard by the High Court in August 2024 following a grant of special leave in February 2024.

In December 2023, the Full Court dismissed the appeals brought by the Clermont Belyando and Jangga #3 applicants. The appeals were from the judgment *Malone v State of Queensland (The Clermont-Belyando Area Native Title Claim)* (No 5) [2021] FCA 1639; (2021) 397 ALR 397, where the primary judge found that there is no native title in the claim area.

Chief Justice Mortimer delivered nine section 87A native title determinations in the Cape York United #1 proceeding during the reporting period. The determinations delivered on 5 and 6 July 2023 recognise native title rights and interests of the

Taepithiggi, Weipa Peninsula, Central West Wik and Umpila Peoples, while the determinations delivered on 2 November 2023 recognise native title rights and interests of the Wik and Wik Way, Possum, Thaypan, Kuku Warra and Atambaya Peoples.

The McArthur River Project Compensation Claim was heard in Borroloola and Darwin in June and November 2023. This compensation application focuses in particular on the entitlement to compensation for the grant, validation and re-grant of mineral titles and the authorisation of mining activities. Justice Banks-Smith has reserved judgment.

Engagement with the profession

The Native Title Unit has continued to engage with third-party stakeholders, including by hosting a Native Title User Group meeting for Northern Territory practitioners, presenting at and attending conferences, such as the AIATSIS conference, participating in working groups, such as the preservation of evidence working group, and hosting lunchtime education sessions for young lawyers.



Huckitta Consent Determination

Taxation

About this NPA

The Taxation NPA includes proceedings relating to tax appeals pursuant to Part IVC of the *Taxation Administration Act 1953* from decisions made by the Commissioner of Taxation; questions of law and taxation on appeal from the Administrative Appeals Tribunal; and any recovery or other proceeding collateral to a tax dispute.

National TAX Coordinating Judges



Justice Thawley



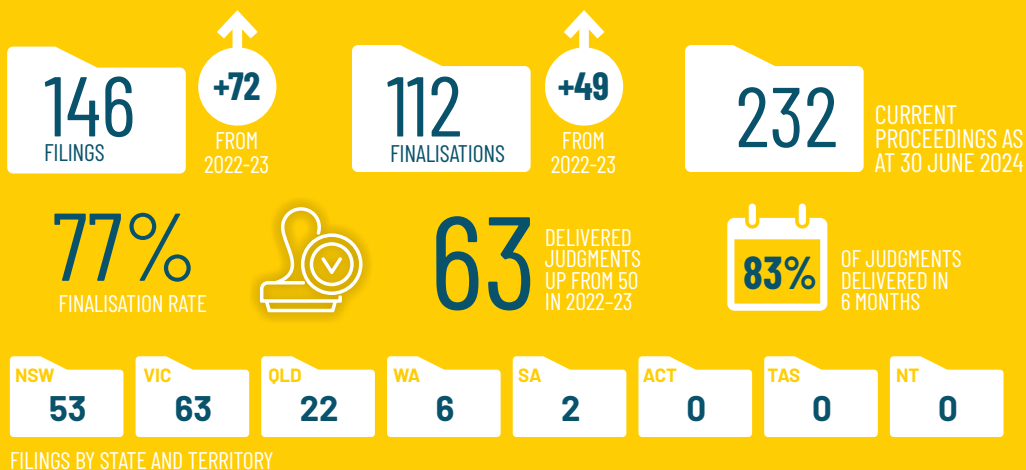
Justice Hespe

Taxation NPA judges

NSW	VIC / TAS	QLD	SA / NT
Justice Perram	Justice Moshinsky	Justice Logan RFD	Justice Charlesworth
Justice Wigney	Justice O'Callaghan	Justice Derrington	Justice O'Sullivan
Justice Perry	Justice Wheelahan	Justice Downes	Western Australia
Justice Bromwich	Justice McElwaine		Justice Colvin
Justice Thawley	Justice McEvoy		Justice Feutrill
Justice Abraham	Justice Hespe		
Justice Goodman	Justice Button		
Justice Kennett	Justice Horan		
Justice Jackman	Justice Neskovicin		

National Coordinating Registrar Robyn Curnow

TAX NPA Workload snapshot: Judge Original Jurisdiction and Appellate



Report from National Coordinating Judges

Legislative amendments

The *Treasury Laws Amendment (Tax Accountability and Fairness) Act 2024* (Cth) received royal assent on 31 May 2024. This Act amends the *Tax Agent Services Act 2009* (Cth) and *Taxation Administration Act 1953* (Cth) to expand the operation of the promoter penalty provisions, including by:

- increasing the time the Commissioner can apply to the Federal Court of Australia for an order that an entity has contravened the promoter penalty laws from four years to six years from the time the alleged conduct was last engaged in
- significantly increasing the maximum penalty that can be imposed on bodies corporate for breaches of the promoter penalty laws from the greater of:
 - a) 25,000 penalty units, or
 - b) twice the consideration received or receivable (directly or indirectly by the entity and associates of the entity in respect of the scheme to the greatest of:
 - i) 50,000 penalty units
 - ii) three times the benefits received or receivable (directly or indirectly) by the entity and associates of the entity in respect of the scheme, or
 - iii) 10% of the aggregated turnover of the entity for the most recent income year ending before the relevant breach occurred (capped at 2.5 million penalty units), and

- extending the civil penalties that can be applied to bodies corporate to Significant Global Entities (SGEs).

Extending the penalty provisions to SGEs is intended to include large partnerships and trusts. It is also intended that bodies corporate that engage in conduct that contravenes the promoter penalty provisions in their capacity as trustee are captured by the provisions.

Engagement with the profession

Justice Horan, Justice Hespe and Justice Moshinsky attended the Victorian Bar Tax Bar Association Annual Dinner in Melbourne on 25 October 2023. Justice Moshinsky delivered the after-dinner speech at this event.

Justice Hespe presented a paper entitled 'Background and History of Administrative Review to Put the Future in the Context of the Past' at a Continuing Professional Development seminar hosted by the Federal Court of Australia and the Whitlam Institute entitled *A New System of Federal Administrative Review* on 15 March 2024. The paper was also published in the Special Issue, *Australian Journal of Administrative Law* (Volume 31/1 2024).

Justice Hespe presented as part of a panel discussion on the topic 'Case preparation and management in complex and international tax disputes' at an event co-hosted by the Federal Court of Australia and the International Fiscal Association (Australian Branch) on 2 May 2024.

Decisions of interest

Simplot Australia Pty Limited v Commissioner of Taxation [2023] FCA 1115

(22 September 2023; Justice Hespe)

Justice Hespe considered whether six frozen food products were foods of a kind specified in the table in clause 1 of Schedule 1 to *A New Tax System (Goods and Services Tax) Act 1999* (Cth). A supply of 'food' is not GST free if it is of a kind specified in this table. Justice Hespe dismissed the application on the basis that:

- the focus of item 4 of Schedule 1 was on how foods were marketed and not on how they were consumed
- each of the frozen food products in issue was food of a kind that was marketed as a prepared meal, and
- the form of packaging was not determinative of whether a food was of a kind marketed as a prepared meal.

Minerva Financial Group Pty Ltd v Commissioner of Taxation [2024] FCAFC 28; (2024) 302 FCR 52

(8 March 2024; Justice Besanko, Justice Colvin and Justice Hespe)

The Full Court considered the application of Part IVA of the *Income Tax Assessment Act 1936* (Cth) (ITAA36) to the non-exercise by a Trustee of a discretion to make distributions to a unit holder in a trust that formed part of a stapled structure. The taxpayer was a member of a group of companies and trusts that carried on a financial services business known as 'Liberty Financial'. Relevant to the appeal, the Commissioner had made a determination under Part IVA to include an amount in the taxpayer's assessable income on the basis that, during the tax years ended 30 June 2012 to 30 June 2015, the taxpayer entered into or carried out a scheme for the dominant purpose of obtaining a tax benefit.

The Full Court unanimously held that Part IVA did not apply to any of the schemes identified by the Commissioner. The Court considered each of the eight factors in section 177D(2) of the ITAA36 and concluded that, viewed holistically, they did not support an objective conclusion that any party entered into or carried out the schemes identified by the Commissioner for the dominant purpose of enabling the taxpayer to obtain a tax benefit.

The Full Court confirmed that none of the factors in section 177D(2) involved a consideration of the subjective purpose or motive of any party to the scheme.

Mylan Australia Holding Pty Ltd v Commissioner of Taxation (No 2) [2024] FCA 253

(20 March 2024; Justice Button)

Justice Button considered the application of the general anti-avoidance rules in Part IVA of the ITAA36 to the funding arrangements associated with an intragroup financing structure which involved a 'debt pushdown' (being the allocation of group debt to the Australian target subsidiary), undertaken as part of a global acquisition. By determinations issued under section 177F of the ITAA36 the Commissioner disallowed the taxpayer's deductions for interest expenses and consequential carry forward losses in respect of the acquisition.

Justice Button held that Part IVA did not apply to the financing arrangements in question, because the taxpayer had demonstrated that, based on a consideration of the factors set out in section 177D, assessed objectively, no party had entered into or carried out the relevant arrangements for the dominant purpose of obtaining such a tax benefit.

PepsiCo, Inc v Commissioner of Taxation [2024] FCAFC 86; (2024) 303 FCR 1

(26 June 2024; Justice Perram, Justice Colvin and Justice Jackman)

The Full Court considered whether a component of payments made by an Australian company (Schweppes Australia Pty Ltd, the Bottler) under exclusive bottling agreements (EBAs) with two US beverage companies were royalties that triggered a withholding tax liability (RWHT), and in the alternative, would have been subject to diverted profits tax.

The Full Court allowed the taxpayers' appeals. The majority dismissed the Commissioner's contention that the relevant provisions of the EBAs included a price component for the Bottler's contractual entitlement to use the relevant intellectual property. While Justice Colvin dissented on this point, he joined the majority in finding that the taxpayers did not derive any income as a result of the payments under the EBAs, with the effect that the RWHT provisions could not apply. Justices Perram and Jackman also found that the taxpayers did not obtain a tax benefit in relation to the scheme because the taxpayer had demonstrated that there was no reasonable alternate postulate that would have resulted in the payments made by the taxpayer being subject to RWHT. Justice Colvin dissented on this issue.

Other Federal Jurisdiction

About this NPA

The Other Federal Jurisdiction NPA is designed to deal with proceedings that do not come within the Court's other NPAs. This NPA has one sub-area, being the Defamation sub-area. Other categories of proceedings which fall within this NPA are election-related disputes, civil aviation claims, telecommunications matters, and general negligence claims. This list is not by any means exhaustive. If the Court has jurisdiction but the matter does not fall within one of the eight NPAs, the matter will be managed within this NPA.

Other Federal Jurisdiction Sub-area

Defamation Sub-area National Coordinating Judges



Justice Lee



Justice Wheelahan

Defamation NPSA judges

ALL STATES AND TERRITORIES

Justice Perram	Justice O'Callaghan	Justice Snaden	Justice O'Sullivan
Justice Katzmann	Justice Lee	Justice Anderson	Justice McElwaine
Justice Rangiah	Justice Derrington	Justice Abraham	Justice McEvoy
Justice Wigney	Justice Sarah C Derrington	Justice Halley	Justice Raper
Justice Bromwich	Justice Colvin	Justice Cheeseman	Justice Button
Justice Charlesworth	Justice Wheelahan	Justice Downes	

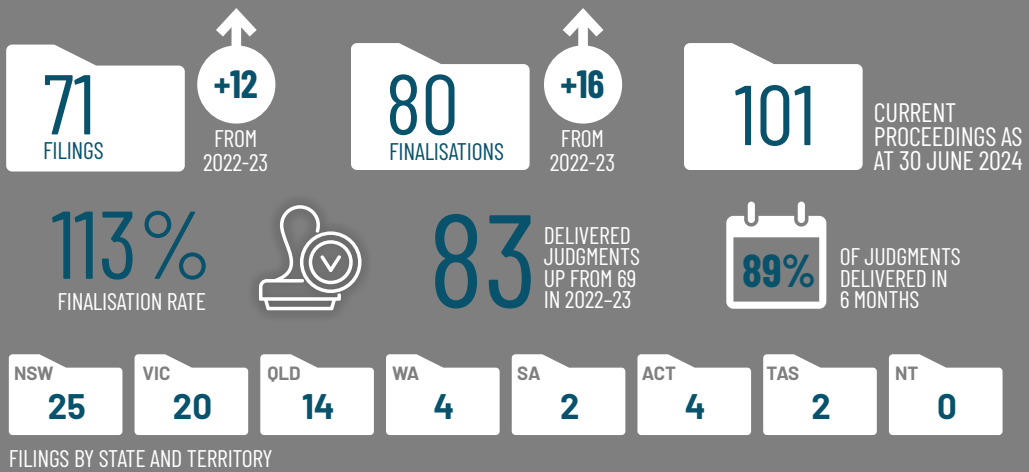
Other Federal Jurisdiction NPA judges (excluding Defamation NPSA)

ALL STATES AND TERRITORIES

All judges

National Coordinating Registrar Paul Farrell

OTHER NPA Workload snapshot: Judge Original Jurisdiction and Appellate



Report from National Coordinating Judges

Defamation proceedings make up an appreciable amount of the Court's caseload. These proceedings often attract the interest of the media and the public at large.

Twenty-four of the Court's judges are assigned to the Defamation NPSA and all of the Court's judges can receive proceedings in this NPA, which are not defamation cases. The National Coordinating Judges for the Defamation sub-area confer regularly with members of the legal profession about the Court's practice and procedure. These communications include User Group meetings, which involve discussion of a range of issues including the workload of the Court and the disposition of proceedings, case management procedure, and policy and practice. The next meeting of the Defamation User Group is due to be held in the second half of 2024.

The Court has published a practice note for the Defamation sub-area. In general terms, practice notes are issued by the Court 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. There were no changes to the Defamation Practice

Note (DEF-1) in the reporting period. Given the broad ambit of the Other Federal Jurisdiction NPA, practice notes for other specific sub-areas will be developed and introduced as necessary.

Access to court hearings and documents

The Court regularly livestreams hearings in proceedings of particular public interest, so that members of the media and the public can observe remotely. This recently occurred in the *Lehrmann v Network Ten Pty Ltd & Anor* proceeding as well as the hearing of the appeal by the Full Court in *Roberts-Smith v Fairfax Media Publications Pty Ltd & Ors*.

The Court also often establishes an online file in proceedings of significant public interest, in which all the accessible documents are published. This removes the requirement for individual applications to the Court's Registry and enables members of the public (and media) to have easy and quick access to case documents. Online files are regularly created in Other Federal Jurisdiction NPA proceedings, particularly in defamation proceedings. Recent examples of this are the *Roberts-Smith* litigation (at first instance and on appeal), the *Deeming v Pesutto* proceeding, and the *Greenwich v Latham* proceeding.

The Court continues to embrace and develop the use of technology in its interactions with parties, practitioners, journalists and the general public.

Assisted dispute resolution

Assisted dispute resolution (ADR) is a critical part of the efficient resolution of litigation in the Court, with proceedings routinely referred to some form of ADR. In addition to providing a forum for the potential settlement of proceedings, mediation is an integral part of the Court's case management process. Most Court-ordered mediations are conducted by registrars who are all trained and accredited mediators.

ADR often has particular importance in defamation proceedings which involve individual litigants, because the settlement of a proceeding usually avoids the need for an expensive and public hearing of personal matters. For this reason, parties often reach an agreed settlement in defamation proceedings. In the 2023–24 reporting period, more than 50 per cent of proceedings filed in the Other Federal Jurisdiction NPA were referred to a registrar of the Court for mediation.

Decisions of interest

***Hanson v Burston* [2023] FCAFC 124; (2023) 413 ALR 299**

(16 August 2023; Justice Wigney, Justice Wheelahan and Justice Abraham)

The Full Court allowed an appeal holding that Senator Pauline Hanson had not actionably defamed Senator Brian Burston. Before the primary judge, Mr Burston alleged that Ms Hanson made three publications containing eight allegedly defamatory imputations. The primary judge found that the publications had conveyed two of these imputations: namely, that Mr Burston sexually abused a female staffer in his parliamentary office (fourth imputation), and that Mr Burston physically assaulted Mr James Ashby in the Great Hall of Parliament House without provocation (sixth imputation). The primary judge held that a defence of substantial truth was not established in respect of either the fourth imputation or the sixth imputation. The Full Court found that although the appellant established that the fourth imputation was carried, the defence of substantial truth was established. The Full Court also found that the sixth imputation was not carried.

***Russell v Australian Broadcasting Corporation (No 3)* [2023] FCA 1223**

(16 October 2023; Justice Lee)

A former commander of special forces 'November Platoon' commenced defamation proceedings against the Australian Broadcasting Corporation and two journalists (Respondents) claiming that they published various imputations concerning conduct of the platoon in Afghanistan.

Justice Lee considered the new public interest defence in section 29A of the *Defamation Act 2005* (NSW) and found that the respondents did not establish this defence. Justice Lee awarded general damages of \$390,000 but refused to award aggravated damages.

***Palmanova Pty Ltd v Commonwealth of Australia* [2023] FCA 1391**

(14 November 2023; Justice Perram)

Palmanova Pty Ltd commenced proceedings against the Commonwealth of Australia after an artefact, made from black basalt, purchased online for USD\$17,340.00 around 2020 from the Artemis Gallery in Colorado (Artefact), had been intercepted upon its entry into Australia by Australian customs officials and retained by them. After its interception the Commonwealth Office for the Arts considered whether it should be seized under the provisions of the *Protection of Movable Cultural Heritage Act 1986* (Cth) (Act).

Palmanova sought orders that the Artefact not be forfeited. The parties accepted that a Bolivian statute of 1906 prohibited export of cultural objects from ruins of Tiwanaku or Lake Titicaca and that the Commonwealth had the legal onus of proving, on the balance of probabilities, that section 14(1) of the Act was enlivened. Justice Perram found that the Artefact was from Tiwanaku and therefore part of the movable cultural heritage of Bolivia and was removed after 1906 when it became illegal to do so. Justice Perram considered whether the Act applied to objects removed from a foreign country prior to the date of commencement of the Act, being 1 July 1987, and rejected the Commonwealth's position that '*has been exported*' in section 14(1)(a) of the Act means '*was exported*' and could include any export which occurred before date of commencement. Justice Perram held it not necessary to choose, on the facts, whether '*has been exported*' in section 14(1)(a) of the Act required an act of exportation to

occur on or after the date of commencement or to be sufficiently connected to an import occurring on or after the date of commencement and found that section 14(1) of the Act did not apply because the Artefact was exported by the 1950s and the act of importation was entirely disconnected from act of exportation.

The Commonwealth of Australia appealed the decision on the grounds that Justice Perram erred in rejecting construction that section 14(1)(a) of the Act could include acts of exportation which occurred before date of commencement and erred in construing section 14(1)(a) of the Act to require acts of exportation to occur after date of commencement or be sufficiently connected to import occurring on or after date of commencement. On 5 July 2024, the Full Court delivered judgment in *Commonwealth of Australia v Palmano Pty Ltd* [2024] FCAFC 90. A majority of the Full Court (Justices Banks-Smith and Abraham, Justice Downes dissenting) allowed the appeal, ordered that Palmano pay the Commonwealth's costs and declared that the Artefact was liable to forfeiture under section 14(1) of the Act and that the Artefact was forfeited.

Lehrmann v Network Ten Pty Ltd [2024] FCA 369

(15 April 2024; Justice Lee)

Mr Bruce Lehrmann commenced defamation proceedings against Network Ten and Ms Lisa Wilkinson claiming televised and online publications contained imputations that included that he raped Ms Brittany Higgins in Parliament House in 2019.

Justice Lee found that Mr Lehrmann was identified in the publication, that the imputations were conveyed and that the defamatory sting of each imputation was that Mr Lehrmann raped Ms Higgins in Parliament House. It was also found that the defence of substantial truth in section 25 of the *Defamation Act 2005* (NSW) was made out. Mr Lehrmann has appealed the decision. Justice Lee awarded costs against Mr Lehrmann, ordering that the costs of Network Ten and Ms Wilkinson be paid on an indemnity basis but otherwise on the ordinary basis in relation to the statutory qualified privilege defence.

Changes to the Court's jurisdiction in 2023–24

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

- *National Occupational Respiratory Disease Registry Act 2023* (Cth) – Federal Court jurisdiction – relevant court in relation to the civil penalty provision and *Regulatory Powers (Standard Provisions) Act 2014* (Cth) (Regulatory Powers Act).
- *New Vehicle Efficiency Standard Act 2024* (Cth) – Federal Court jurisdiction – relevant court in relation to compensation for acquisition of property.
- *New Vehicle Efficiency Standard (Consequential Amendments) Act 2024* (Cth) – an amending Act to the above expanding the Federal Court's jurisdiction under the *Road Vehicle Standards Act 2018* to include the power to make non-punitive orders.
- *Payment Times Reporting Amendment Act 2024* (Cth) – an amending Act expanding Federal Court jurisdiction under the *Payment Times Reporting Act 2020* – relevant court in relation to the civil penalty provision and Regulatory Powers Act.
- *Primary Industries Levies and Charges Collection Act 2024* (Cth) – Federal Court jurisdiction – relevant court in relation to injunctions, monitoring and investigation powers, and civil penalty provisions.
- *Public Health (Tobacco and Other Products) Act 2023* (Cth) – Federal Court jurisdiction – relevant court in relation to enforceable undertakings, injunctions, monitoring and investigation powers, and civil penalty provisions.

The *Attorney-General's Portfolio Miscellaneous Measures Act 2024* made amendments to the following Acts. These Acts already confer jurisdiction on the Federal Court, however the amendments confer criminal jurisdiction on the Federal Court:

- *ASIC Act* – jurisdiction conferred on the Federal Court to hear and determine prosecutions for indictable offences against this Act.
- *Corporations Act 2001* – jurisdiction conferred on the Federal Court to hear and determine prosecutions for indictable offences against this Act.
- *Judiciary Act 1903* – criminal jurisdiction conferred on the Federal Court under section 67G.

- *National Consumer Credit Protection Act 2009* – jurisdiction conferred on Federal Court to hear and determine prosecutions for indictable offences against this Act.
- *Superannuation Industry (Supervision) Act 1993* – confers jurisdiction on the Federal Court to hear and determine prosecutions for indictable offences against provisions of this Act that are administered by ASIC.

The *Attorney-General's Portfolio Miscellaneous Measures Act 2024* also made amendments to the FCA Act to substitute old provisions in relation to juries with new provisions on juries.

Fee regulation

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

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

Federal Court Rules

The judges are responsible for making the Rules of Court under the FCA Act. The Rules provide the procedural framework within which proceedings are commenced and conducted in the Court. The Rules of Court are made as Commonwealth statutory legislative instruments.

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

The *Federal Court Rules 2011* were amended by the *Federal Court Legislation Amendment Rules 2024* which came into effect on 5 June 2024.

The amendments ensure an effective application process in relation to allegations of sexual harassment under the *Fair Work Act 2009* (Cth). They extend, consolidate and clarify the powers that registrars may exercise pursuant to a direction of the Chief Justice or a judge of the Court. Further, they improve existing mechanisms for applications under the *Trans-Tasman Proceedings Act 2010* (Cth), for service outside Australia, and for proceedings under the *Patents Act 1990* (Cth) and the *Trade Marks Act 1995* (Cth). Lastly, the amendments provide for an increase in the costs allowable for work done and services performed consistent with the recommendations of the 16th Report of the Joint Cost Advisory Committee, effectively increasing the costs recoverable by a successful party.

Other Rules

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

The *Federal Court (Corporations) Rules 2000* govern proceedings in the Federal Court under the *Corporations Act 2001* (Cth) and the ASIC Act, as well as proceedings under the *Cross-Border Insolvency Act 2008* (Cth) which involve a debtor other than an individual. Schedule 3 of the *Federal Court Legislation Amendment Rules 2024* amended the *Federal Court (Corporations) Rules 2000*.

The *Federal Court (Bankruptcy) Rules 2016* govern proceedings in the Federal Court under the *Bankruptcy Act 1966* (Cth), as well as proceedings under the *Cross-Border Insolvency Act 2008* (Cth) involving a debtor who is an individual. Schedule 2 of the *Federal Court Legislation Amendment Rules 2022* amended the *Federal Court (Bankruptcy) Rules 2016*.

The *Federal Court (Criminal Proceedings) Rules 2016* govern all criminal proceedings in the Federal Court, including summary criminal proceedings, indictable primary proceedings and criminal appeal proceedings. Schedule 4 of the *Federal Court Legislation Amendment Rules 2022* repealed Part 10 of the *Federal Court (Criminal Proceedings) Rules 2016*.

The *Admiralty Rules 1988* govern proceedings in the Federal Court under the *Admiralty Act 1988* (Cth). There were no changes to the *Admiralty Rules 1988* in the reporting year.

Approved forms

Approved forms are available on the Court's website. Any document that is filed in a proceeding in the Court must be in accordance with an approved form. The Chief Justice may approve a form for the purposes of the *Federal Court Rules 2011*, the *Federal Court (Bankruptcy) Rules 2016* and the *Federal Court (Criminal Proceedings) Rules 2016*.

Practice notes

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

Practice notes supplement the procedures set out in the Rules of Court and are issued by the Chief Justice upon the advice of the judges of the Court and the Court's inherent power to control its own processes. All practice notes are available on the Court's website.

On 13 October 2023, the Court published the Schemes of Arrangement Practice Note (GPN-SOA) which implements the 'Practice Note – Harmonisation in schemes of arrangement' as developed by the Committee for the Harmonisation of Rules of the Council of Chief Justices of Australia and New Zealand and adopted by the Federal Court of Australia. The Practice Note is issued in order to address recent differences in scheme practice and recognises that consistency in Australian courts' approach is beneficial to all parties involved in schemes of arrangement.

Guides

The Federal Court issues national guides. These guides cover a variety of subject areas, such as appeals, migration, human rights, and insolvency. 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.

Notices to the profession

The Chief Justice issues notices to the profession to inform them of various court-related matters. During 2023–24 four notices to the profession were issued:

- 17 November 2023: Consultation – Full Court and Appellate sitting periods for 2025
- 14 February 2024: Consultation – Proposal to dissolve the ACT List
- 22 February 2024: Full Court and Appellate sitting periods for 2025
- 12 March 2024: Dissolution of the ACT List

All Notices to the profession are published on the [Court's website](#).

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

This section reports on the Court's work during the year to improve the operation and accessibility of the Court, including reforms to its practice and procedure. This section also reports on the Court's work during the year to contribute more broadly to enhancing the quality and accessibility of the Australian justice system, including the participation of judges in bodies such as the Australian Law Reform Commission and the Australasian Institute of Judicial Administration, and in other law reform, community and educational activities. An outline of the judges' work in this area is included in Appendix 2 (*Judges' activities*).

Hearings for detainees

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

eLodgment process in protecting visa proceedings

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

Liaison with the Law Council of Australia

The Court maintained a liaison with the Law Council of Australia, through the Federal Court/ Law Council of Australia Liaison Committee. This meeting is held twice a year, with liaison on specific issues between representatives of the Law Council of Australia and the Chief Justice, leading judges from relevant NPAs and senior staff occurring between those meetings.

Litigants-in-person

A litigant-in-person (LIP) is a party to a proceeding who is not represented by a legal practitioner and, instead, conducts the proceeding on his or her own behalf. The Court provides a range of services to LIPs that have been developed to ensure that LIPs have access to information and assistance concerning the Court's practice and procedure.

During the reporting year, the Court established an LIP project led by judges and registrars to consider all aspects of proceedings involving LIPs including effective case management practices and resources available to LIPs to ensure greater access to justice. The Court has also continued its registrar-assistance model in which registrars provide support in proceedings involving LIPs. This work is ongoing and continues to be a priority for the Court.

In 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 legal information and advice to LIPs involved in proceedings in federal courts. While the services are independent of the courts, facilities are provided within court buildings to enable meetings to be held with clients.

Tables 3.26, 3.27 and 3.28 provide broad statistics about the number of proceedings commenced by LIPs in 2023–24 (respondents are not recorded). In the reporting year, 430 proceedings were commenced in the Court by litigants identified as a LIP. Forty-eight per cent of the proceedings were appellants in migration proceedings (including appeals).



The Peter Durack Commonwealth Law Courts Building in Perth.

PART 3

Table 3.4: Proceedings commenced by LIPs 2023–24, by registry

LIP proceedings allocated to a Docket Judge	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Total
LIPs	11	140	0	60	26	4	123	66	430
Percentage of total	3%	32%	0%	14%	6%	1%	29%	15%	100%

Table 3.5: Original jurisdiction proceedings commenced by LIPs 2023–24, by National Practice Area

National Practice Area	Total LIP allocations	Percentage of total
ACLHR	95	37%
MIG	66	26%
A&M	0	0%
CRIME	4	2%
C&C	54	21%
E&IR	22	9%
IP	3	1%
NT	3	1%
OFJ (*)	3	1%
TAX	5	2%
Total	255	100%

(*) OFJ includes defamation

Table 3.6: Appeals commenced by LIPs 2023–24, by National Practice Area

National Practice Area	Total LIP allocations	Percentage of total
ACLHR	10	6%
MIG	144	82%
A&M	0	0%
CRIME	1	1%
C&C	5	3%
E&IR	11	6%
IP	1	1%
NT	-	0%
OFJ (*)	3	2%
TAX	-	0%
Total	175	100%

(*) OFJ includes defamation

Direct financial counselling project in bankruptcy proceedings

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

Financial counsellors are present in the courtroom in bankruptcy lists, and the presiding registrar is able to refer an LIP to the financial counsellor for an immediate confidential discussion so that the LIP better understands his or her options when faced with the prospect and consequences of bankruptcy.

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

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

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

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

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

Interpreters

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

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

Court fees and exemptions

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

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

Some specific proceedings are exempt from all or some fees.

These include:

- human rights applications (other than an initial filing fee of \$55)
- some fair work applications (other than an initial filing fee of \$83.30)
- appeals from a single judge to a Full Court in human rights and some fair work applications
- an application by a person to set aside a subpoena
- an application under section 23 of the *International Arbitration Act 1974* (Cth) for the issue of a subpoena requiring the attendance before or production of documents to an arbitrator (or both)

PART 3

- an application for an extension of time
- a proceeding in relation to a case stated or a question reserved for the consideration or opinion of the Court
- a proceeding in relation to a criminal matter
- setting-down fees for an interlocutory application
- a proceeding in relation to a matter remitted to the Federal Court by the High Court under section 44 of the *Judiciary Act 1903* (Cth), and
- a proceeding in relation to a referral to the Court of a question of law by a tribunal or body.

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

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

A person who has a general exemption from paying a fee can also receive, without paying a fee, the first copy of any document in the court file or a copy required for the preparation of appeal papers. A corporation, or other body, that had been granted Legal Aid or funding under the *Native Title Act 1993* (Cth) has the same entitlements.

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

More comprehensive information about filing and other fees that are payable, how these are calculated (including definitions used e.g. 'not-for-profit association,' 'public authority,' 'publicly listed company' and 'small business') and the operation of the exemption from paying the fee is available on the Court's website. Details of the fee exemptions during the reporting year are set out in Appendix 1 of the Federal Court of Australia Listed Entity Annual Report (*Financial statements*).

Livestreaming

The Federal Court continues to commit to providing access to justice by livestreaming proceedings via the Court's YouTube channel. In 2023–24, 89 listings were livestreamed, including high public interest cases such as *Ben Roberts-Smith v Fairfax Media Publication*, *Bruce Lehrmann v Network Ten Pty Limited*, *eSafety Commissioner v X Corp* and more.

Additionally, court and judicial events were livestreamed including judicial welcome and farewell ceremonies, seminars and lectures such as *In Conversation: Recovering and Revitalising Indigenous Laws*, *Employment and Industrial Relations Seminar*, *Richard Cooper Memorial Lecture*, *In Conversation* event with Chief Justice Mortimer and Justice Joe Williams, *International Fiscal Association x Federal Court of Australia Seminar*, a MOU signing between the Federal Court and the Philippines Supreme Court and the Silk Bows ceremony.

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

Table 3.7: Selection of court proceedings and events livestreamed in 2023–24

EVENT	TOTAL VIEWS FOR ENTIRE HEARING
Lehrmann v Network Ten Pty Ltd & Anor (NSD103/2023)	2,779,381
Employment and Industrial Law Seminar 2023	50,758
Al Muderis v Nine Network Australia Pty Ltd & Ors (NSD917/2022)	58,528
Roberts-Smith v Fairfax Media Publication Pty Ltd & Ors (NSD1485/2018)	18,592
Queensland Kings Counsel Ceremony	11,839
Bell & Ors on behalf of the Wakka Wakka People #4 & State of Queensland & Ors (QUD277/2019)	9,936
Victoria Silk Bows Ceremony	8,483
Pabai v Commonwealth (VID622/2021)	6,014
In Conversation: From Treaty to Settlement, to Treaty Settlements	5,730
eSafety Commissioner v X Corp (NSD474/2024)	5,674
Haverkort v Qantas (VID650/2023); Nicholas v Qantas (VID893/2023)	5,152
Applications by ANZ and Suncorp (ACT1/2023)	4,220
Farewell ceremony for Justice Middleton	4,184
Greenwich v Latham (NSD475/2023)	3,927
Ceremonial Welcome sitting for Chief Justice Mortimer	3,793
Transport Workers' Union of Australia v Qantas Airways Ltd (NSD1309/2020)	3,518
Yindjibarndi Ngurra Aboriginal Corporation RNTBC v State of Western Australia & Ors (WAD37/2022)	3,146
Russell v Australian Broadcasting Corporation (NSD745/2022)	2,566
Senator Ralph Babet & Anor v Electoral Commissioner (NSD978/2023)	2,380
Australian Electoral Commission v Kelly (NSD375/2022)	1,980

Media

The Court is supported by Corporate Services staff who handle media inquiries including access to court files and requests for judgments.

In some cases, the Court establishes online files into which material is placed once approved. In the reporting year, the following online files were the subject of intense public interest:

- NSD689, 690, 691/2023: Roberts-Smith Appeals
- NSD103/2023: Lehrmann v Network Ten
- VID1023/2023: Deeming v Pesutto
- NSD372/2023: Faruqi v Hansen, and
- NSD1148/2022: Tickle v Giggle for Girls.

The Lehrmann v Network Ten online file had more 405,908 page views (making it the most popular webpage in 2023–24) and – when judgment was delivered in April 2024 – more than 47,000 people watched the live YouTube broadcast.

During the reporting year the Federal Court established its first media committee, comprised of judges, court staff and media representatives. Among its terms of reference, it was asked to ‘facilitate open and constructive dialogue between various parties with a common interest in and responsibility for open justice.’ A key part of the committee’s work is to canvass ways to use digital platforms such as LinkedIn, YouTube and X to provide the public and profession with an insight

PART 3

into aspects of the Court's work and facilitate open justice. The intention was for the profession and the public to have a greater understanding of the Court's work. At the conclusion of the reporting year, the committee had met on five occasions and established a productive working relationship with the media.

Social media

Corporate Services staff manage the Court's social media accounts:

- LinkedIn
- X
- YouTube

The channels are used to inform the public about the role and work of the Court, including:

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

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

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

LinkedIn

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

During the reporting period, the Court's LinkedIn account gained 21,206 followers, representing a 121 per cent increase in 12 months. At 30 June 2024, the Court's LinkedIn account had 37,155 followers. There were 213 posts published which attracted 1,510,289 impressions, representing a growth of 256.1 per cent. Across these posts there was a total engagement rate of 109,719 (7.3 per cent per impression) and a total of 93,513 post clicks.

The account has seen an increase of 26.8 per cent in engagement per impression and in overall company page views. The majority of our followers view LinkedIn from a mobile device as opposed to a desktop. Therefore our content is geared towards being accessible from this type of device.

The top industry demographic of the Court's LinkedIn followers is largely dominated by law practice, followed by IT and IT consulting, legal services, government administration, non-profit organisations, higher education and the administration of justice. This spread of industries is largely the same as last year.

The top 10 occupations of our followers include: legal, IT, operations, business development, education, administration, customer service specialist, sales, community and social services and researcher.

As at 30 June 2024, our followers were largely located nationally within Australia, predominantly in Sydney (29.1 per cent), Melbourne (23.2 per cent), Brisbane (11 per cent), Perth 6.1 per cent) Adelaide (4.4 per cent) and Canberra (2.4 per cent), with a few profiles indicating they reside overseas.

X

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

At 30 June 2024, the Court's X account had 4,480 followers (a growth of 49.4 per cent). During the reporting period, the account gained 1,484 followers and lost 156 followers. The Court is not seeking to actively grow our X following as this channel is used for one-way communication to share information, not to actively engage with the account's audience.

There were 131 posts published, of which the majority contained images/and or graphics. The posts attracted 563,643 impressions and an engagement rate of 7.7 per cent and a total of 18,731 post clicks.

YouTube

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

As at 30 June 2024, the Court's YouTube channel had 40,394 subscribers. During the reporting period, 89 court proceedings and many other events were livestreamed and received approximately 13,200,000 impressions and 3,000,000 views.

Community relations

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

User groups

User groups have been formed along National Practice Area lines to discuss issues related to the operation of the Court, its practice and procedure, to act as a reference group for discussion of developments and proposals, and as a channel to provide feedback to the Court on particular areas of shared interest. During the reporting year, user groups met both nationally and locally in a number of practice areas, including admiralty, class actions, employment and industrial relations and defamation.

Legal community

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

- **Western Australia** – the annual court welfare service professional development day in May 2024.
- **Victoria** – the Whitlam Institute Continuing Professional Development seminar, an Australian Academy of Law Seminar, and the Deakin Law Competition in March 2024. In April 2024, the registry hosted a Readers' Course and a Readers' Course Appellate Advocacy Moot. In May 2024, the registry hosted an event for the International Fiscal Association, a Monash Moot, a Moot for the University of New England, and a morning tea for Court Network volunteers.
- **South Australia** – four judicial/practitioner meetings throughout the year; a co-location/registrar stakeholder meeting; and in March 2024, a meeting with Chief Justice Mortimer and members of the South Australian legal profession and bar.
- **New South Wales** – an Employment and Industrial Relations seminar in September 2023; the Australian Bar Association Advanced Trial Advocacy Intensive in January 2024; a migration pro-bono meeting in March 2024; and a Class Action users committee meeting in March 2024.
- **Queensland** – a meeting with Chief Justice Mortimer, registry staff and the local profession in March 2024.
- **Australian Capital Territory** – the Biannual Courts and Legal Profession Meeting on 26 July 2023; a Canberra Co-location Stakeholder meeting on 7 August 2023; a meeting and luncheon with Chief Justice Mortimer and the ACT Bar Association and Law Society on 24 August 2023 and 5 March 2024; and a Court operation event for University of Canberra legal studies students in April 2024.

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

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

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

An outline of the judges' work in this area is included in Appendix 2 (*Judges' activities*).

National standard on judicial education

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

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

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

During 2023–24, the Court offered the following internal education activities to its judicial officers:

- education sessions were conducted at the judges' meeting held on 29–31 May 2024 (in South Australia), and
- stand-alone sessions were conducted during the year on Federal discrimination law, general protections claims under the *Fair Work Act 2009* (Cth), migration law and admiralty law.

The education sessions offered at the judges' meeting in 2023–24 included:

- Judges' forum – open discussion on practical issues in judicial work
- Running Class Actions – what we can learn from the Stolen Wages Case, and
- The Modern (Work)Place: political dissent, disconnecting, WFH and other pandemic hangovers.

In addition to the above, judges undertook other education activities through participation in external seminars and conferences. Some of these are set out in Appendix 2 (*Judges' activities*).

In the period from 1 July 2023 to 30 June 2024, the Federal Court of Australia met the National Standard for Professional Development for Australian Judicial Officers.

Judgments publication

In the reporting year, 1,851 settled judgments were received and published by the Judgments Publication Office. This figure includes 192 Full Court decisions.

The Judgments Publication Office also received and published a number of decisions from the Supreme Court of Norfolk Island (10), the Competition Tribunal (2), the Copyright Tribunal (2) and the Defence Force Discipline Appeal Tribunal (1).

The Judgments Publication Office provides copies of judgments to a number of free legal information websites including AustLII and JADE, legal publishers, media and other subscribers.

Judgments of public interest are published within an hour of delivery and other judgments within a few days. The exception to this is confidential judgments, which may be suppressed temporarily or permanently.

Email notifications of judgments are sent to subscribers via a subscription service on the Court's website.

Work placements

The Court regularly offers work experience placements for students and other organisations to shadow and observe various areas of the Court's operational and administrative areas, exposing participants to the Court's work environment.

In November 2023, at the invitation of the Federal Court, Mr Ziad Hussein, Principal Law Librarian at the Office of the Attorney-General of Fiji, spent a week with the library staff in the Melbourne registry.

Ziad also had the opportunity to meet with Chief Justice Mortimer and visited the Law Library of Victoria (in the Victorian Supreme Court). He gained professional and practical experience of the library systems, workflows and procedures in the Court's library network, and was able to compare the work done by the Court's library with that undertaken by himself and his own staff in Fiji.



Ziad Hussein and Chief Justice Mortimer

Indigenous clerkships

Each year, the Victorian Bar offers Indigenous law students with an opportunity to apply for a seasonal clerkship in its Indigenous Clerkship Program.

The Indigenous Clerkship Program has been running for 16 years and offers Indigenous students enrolled in a law degree at a recognised Australian university the opportunity to participate in paid work experience at the Victorian Bar, Federal Court of Australia and Supreme Court of Victoria.

In 2024, clerkships have been offered to six Indigenous students, with each clerkship running for four weeks – one week with a barrister, one week

with the Supreme Court of Victoria, one week with the County Court of Victoria and one week with the Federal Court of Australia.

The below chambers participated in the 2024 clerkship program:

- 5–9 February 2024: Justice McEvoy
- 12–16 February 2024: Justice McElwaine
- 19–23 February 2024: Justice O'Bryan
- 26 February–March 2024: Justice Snaden and Justice Button
- 4–8 March 2024: Justice Murphy



Justice O'Bryan and Keeley Hughes

Lives and Times of Judges podcast series

The Federal Court launched its first podcast series in April 2024. Entitled 'Lives and times of Judges' the series explores the lives and career of former judges of the Federal Court.

In a series of conversations with journalist and broadcaster Fiona Gruber, each judge discusses his or her career, the influences and experiences that shaped them and their reflections on the evolution of the Court.

As at 30 June 2024, the Court had published four interviews:

- Robert French AC
- James Allsop AC SC
- Michael Black AC KC
- William Gummow AC KC.

Six more podcasts – of 30-to-40-minute duration – are planned over the next year.

Work with international jurisdictions

The Court continued to collaborate with courts across Asia and the Pacific. Over the past year, the Court has collaborated on a broad range of bilateral and regional activities with courts in 21 countries.

Pacific

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

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

Over the past year, the Program has benefited from the generous assistance of several Australian and Pacific judges and registrars, who used their expertise and experience to design specialist training programs for judges on hearing fraud and corruption-related cases and for registry officers to manage and report on them.

Transposing the in-person course, in July 2023, Judicial Registrars Ditton, Burns and Wilson facilitated a four-part ‘live’ online course for 28 registrars on *Managing and Reporting on Fraud and Corruption Cases*. In October 2023, Justice Sarah C Derrington and two legally qualified psychologists conducted a webinar attended by 16 judges. The webinar discussed the prevalence and mitigation strategies to address *Unconscious Bias in Decision-Making*. The webinar was followed by two more, held in February 2024 and June 2024. February’s webinar, facilitated by Justice Bromwich, covered *Evidentiary Issues* and was attended by 26 of the region’s judges. The June webinar, facilitated by Justice Wimalasena, President of the Court of Appeal, Nauru, covered *Issues and Emerging Challenges in Fraud and Corruption Cases* and was attended by 14 participants.



Justice Sarah C Derrington presents at the Unconscious Bias in Decision Making webinar.



Justice Wigney led the Advanced Judicial and Officers’ Fraud and Corruption Workshop in Port Vila.



Justice Wigney presenting in Port Vila.



Assistant Registrar Crimes Victoria Belo, National Court of Papua New Guinea; Registrar Jodie Burns, Federal Court of Australia; Registrar Shemi Joel, Supreme Court of Vanuatu; Registrar Alicia Ditton and Registrar Joanne Wilson, Federal Court of Australia.

In March 2024, with assistance from Justice Wigney and several Pacific Island judges, the Court piloted an *Advanced Fraud and Corruption Workshop* in Port Vila, Vanuatu. Attended by 23 judges, the workshop addressed some of the more complex issues included in the introductory workshop. This was followed by an online version of the course in May 2024, which was attended over five weeks by 18 judges. In June 2024, a similarly advanced course for registrars was also piloted by Judicial Registrars Ditton, Burns and Wilson for 21 participants in Honiara, Solomon Islands.

Supreme and National Courts of Papua New Guinea

Justices Collier and Logan continued their judicial appointments in Papua New Guinea, sitting in the Supreme Court. This is pursuant to a longstanding arrangement with the Papua New Guinea Judiciary which complements the MOU between the Courts. Justice Collier has also sat in the National Court of Papua New Guinea in first instance civil trials in provincial registries.

In September 2023, Justice Logan RFD assisted in the delivery of a commercial litigation workshop by the Queensland Bar at the Legal Training Institute and co-presented a Continuing Legal Education Seminar for lawyers. Justice Rares

presented several seminars at an Admiralty and Maritime Law Education Workshop which Justice Collier co-facilitated. In October 2023, Chief Justice Mortimer presented the Sir Buri Kidu Lecture Series on the challenges for the courts in environment litigation – reflections on the situation in Australia and Papua New Guinea. Justice Collier continues to work with the PNG Centre for Judicial Excellence in respect of the sourcing of speakers for the Sir Buri Kidu Lectures and participating in panels at those lectures, in the reporting year these were Chief Justice Mortimer, Chief Justice Helen Bowskill of the Supreme Court of Queensland and Deputy President Hartigan of the Queensland Industrial Relations Commission.



Chief Justice Mortimer and Chief Justice Salika.



Chief Justice Mortimer and Justice Burley with staff from the PNG Centre for Judicial Excellence.

Supreme Court of Indonesia

Continuing to share judicial knowledge and experience has further strengthened and reinforced the long-standing cooperation between the Supreme Court of Indonesia and Federal Court which entered its 20th year since the signing of its first MOU. The 20th anniversary MOU was signed in Jakarta on 25 June 2024. The delegation, comprising Justices Collier, Markovic, Bromwich and Burley along with Sia Lagos, visited for a week to conduct various activities including visiting and lecturing at the judicial training school; discussing the promotion of women in judicial leadership; participating in seminars on insolvency and international commercial law; and discussing the implementation of the activities contained in the MOU. In the preceding week Justices Collier, Bromwich, Burley and Halley, along with Senior National Judicial Registrar Farrell, hosted a delegation from the Supreme Court to discuss the MOU including the scope and objectives of its associated activities.

In February 2024, Justice Markovic represented the Court in Jakarta to attend the Supreme Court's Annual Report Delivery Ceremony. The Court also supported the Supreme Court's Commercial Judges Certification Training Program by providing the following presentations: Justice Burley - 'International Treaties concerning Intellectual Property'; and Philosophy and History of the *IPR Protection*; and Justice Markovic 'Personal and Corporate Insolvency in Australia'.



Delegates at the Indonesian Supreme Court's Annual Report Delivery Ceremony.



Chief Justice Mortimer signs the MOU between the Federal Court and the Supreme Court of Indonesia.



A delegation from the Supreme Court of Indonesia visited the Court's Victorian Registry in June 2024.



Justice Collier exchanges gifts with Justice Syamsul Maarif.



The Indonesian visiting delegation comprising the Honourable Justice Gusti Agung Sumantha, S.H., M.H., Justice Syamsul Maarif S.H. LL.M., PhD, Justice Bambang Hery Mulyono, SH. MH and Dr Aria Suyudi, SH., LL.M, with Acting Chief Justice Collier, and Justices Markovic, Burley, Bromwich and Halley and Senior National Judicial Registrar Paul Farrell.

Supreme Court of the Philippines

In May 2024, the Courts signed a first MOU of Understanding on judicial cooperation. Initial areas for collaboration include the development/revision of court rules related to competition, class actions, admiralty and indigenous land rights. The Courts will also collaborate on aspects of court administration. Justice Murphy and Registrar Legge are supporting the Supreme Court's working group on rules governing class actions and Justice Halley and Registrar Farrell are supporting the working group to revise the Supreme Court's rules for competition law cases.

In August 2023, Justice Burley presented remotely to the *Editor's Introduction to the Intellectual Property Benchbook Series* at the National Judicial Colloquium on Intellectual Property in the Philippines hosted by the World Intellectual Property Organization in Manila. Justice Rofe attended the launch in person.



Justice Rofe at the Editor's Introduction to the Intellectual Property Benchbook Series.

Presentations

In addition to the various presentations mentioned above, judges made presentations at events taking place in the United States of America, Korea, the United Kingdom and India.

In July 2023, Justice Rofe presented at the Indo-Pacific Judicial Colloquium on Intellectual Property, Innovation and Technology held in the United States. Her Honour presented on three topics: Challenges in Design and Patent Litigation; Intellectual Property and International Trade Matters – Is there a need for Specialised Courts? and the Use of Experts in Intellectual Property Litigation.



Justice Rofe (far right) at the Indo-Pacific Judicial Colloquium.

In September 2023, Justice O'Bryan presented remotely on competition law at the Organisation for Economic Cooperation and Development (OECD) and Korea Policy Centre Competition Law Seminar for Asia-Pacific Judges in Korea. Also in September, Justice Logan RFD presented a paper on hearings by video link at the Commonwealth Magistrates' and Judges' Association conference in Cardiff, Wales.

In February 2024, at the invitation of the Attorney-General for India, Justice Logan delivered a keynote address about enhancing access to justice at the Commonwealth Attorneys-General and Solicitors-General/Commonwealth Legal Education Association Conference in New Delhi, India.



Justice Logan RFD with Professor (Dr.) S. Sivakumar, President of the Commonwealth Legal Education Association (CLEA) and Conference Chair of the CLEA/Attorneys-General and Solicitors-General Conference in New Delhi in February 2024.

PART 3

Visits

During the year, the Court hosted and sent delegates respectively to and from Nauru, Canada, Samoa, Hong Kong, Brazil, Qatar, Vietnam, and Egypt.

In July 2023, a delegation from the Nauru judiciary visited the Court in Sydney to learn about registry functions. In December, Justice Diner of the Federal Court of Canada visited Sydney and Melbourne to learn about the Court's approach to digital hearings. His Honour was hosted by Justice Wheelahan in Melbourne and Justice Perram in Sydney.



Chief Justice Mortimer and Justice Diner.

In February 2024, Chief Justice Mortimer attended the Pacific Chief Justices' Leadership Forum in Samoa and in March 2024, Justice McEvoy attended the 8th Judicial Seminar on Commercial Litigation in Hong Kong.

In April 2024, Justices Perram and Downes represented the Court at the 35th anniversary of the National High Court of Brazil while Justices Murphy and Lee attended the 5th Full Meeting of the Standing International Forum of Commercial Courts (SIFoCC) in Qatar. The Full Meetings are designed to inspire common approaches to problems of an international and national character where such commonality is desirable. Topics this year focused on artificial intelligence, corporate legal responsibility in the context of climate change, and developing the relationship between litigation, arbitration and mediation.

The Deputy Chief Justice of the Supreme People's Court of Vietnam led a judicial delegation of six to visit the Court in Melbourne in April 2024. Hosted by Justices Burley and Rofe, discussions included the application of artificial intelligence and digital evidence.



Gift exchange with the Vietnamese delegation.



Delegates from the Pacific Chief Justices' Leadership Forum.

In May 2024, the President of the Alexandria Criminal Court in Egypt, Justice Amir Ramzy led a delegation to visit the Court in Sydney. Justices Harrison and Lee hosted the delegation providing an overview of the Court's work and a tour of its facilities.



Justice Ramzy and Justice Lee.



Delegates exchanged insights on leveraging technology for court proceedings to enhance efficiency in dispensing justice whilst upholding the courts' dignity in the era of remote hearings post-COVID.



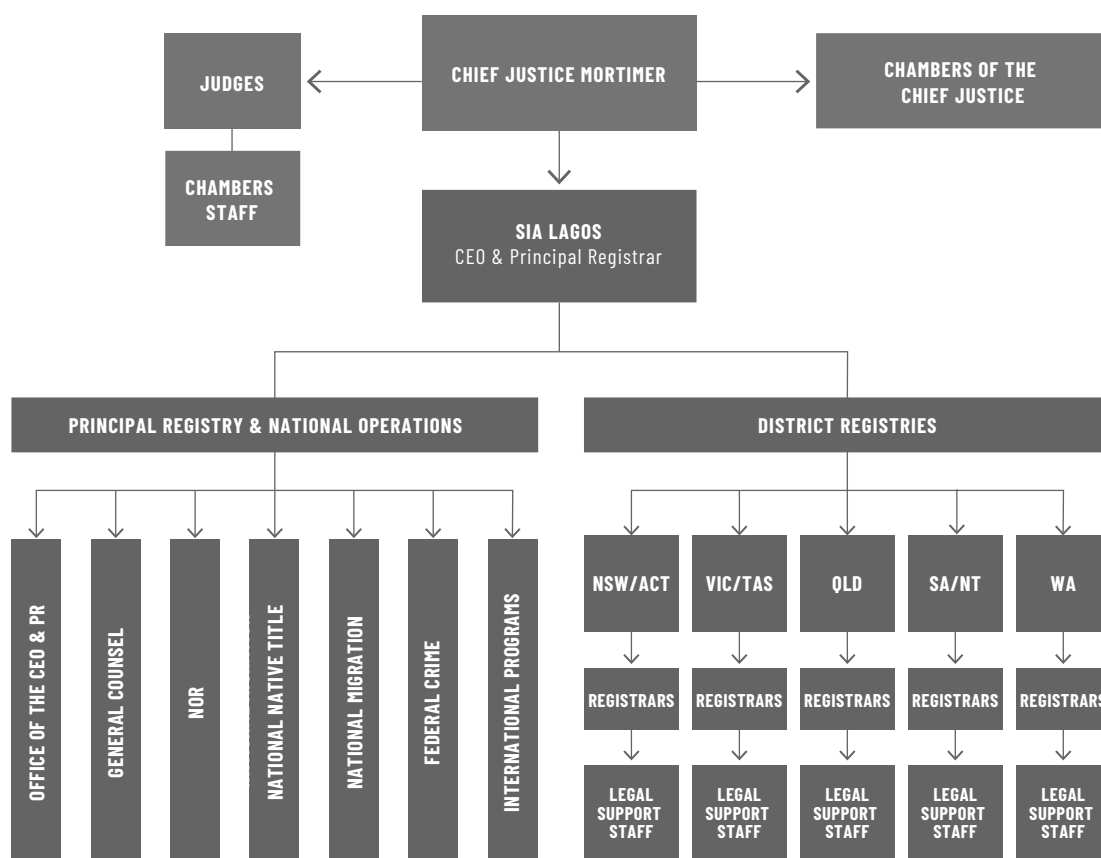
PART 4: MANAGEMENT AND ACCOUNTABILITY

ADMINISTRATION OF THE COURT

Under the FCA Act, the Chief Justice has the responsibility for the administration of the Federal Court of Australia, assisted by the CEO and Principal Registrar of the Federal Court of Australia. To enable the effective and efficient administration of justice, the judiciary needs support to deal with its workload. Non-judicial Court employees, who are public servants employed by the Federal Court Listed Entity, provide that support.

Organisational structure

Figure 4.1: Federal Court of Australia organisational structure, 30 June 2024



Executive

Chief Executive Officer and Principal Registrar

The CEO and Principal Registrar is appointed by the Governor-General on the nomination of the Chief Justice and has the same powers as the Head of a statutory agency of the Australian Public Service in respect of the officers and staff of the Court employed under the *Public Service Act 1999* (Cth) (section 18ZE of the FCA Act). Ms Sia Lagos was appointed the CEO and Principal Registrar on 15 May 2020.

Officers of the Court

Officers of the Court are appointed by the CEO and Principal Registrar under section 18N of the FCA Act and are:

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

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

These include issuing process, taxing costs and settling appeal indexes. They also exercise various powers delegated by judges under the FCA Act, *Bankruptcy Act 1966* (Cth), *Corporations Act 2001* (Cth) and *Native Title Act 1993* (Cth).

A number of staff in each registry also perform functions and exercise delegated powers under the *Federal Circuit and Family Court of Australia Act 2021* (Cth).

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 by the Federal Court Listed Entity under the *Public Service Act 1999* (Cth).

Court Officers

Court Officers provide high quality court support services to judges, registrars and their staff, and to the general public and legal practitioners. They carry out a diverse range of tasks and perform a variety of courtroom activities including setting up courtrooms, opening and closing court, handing up documents, swearing in witnesses, operating courtroom technology (including video conferencing equipment) and supporting digital litigation practices (such as online hearings and livestreaming). See page 93 for a feature on some of our long serving Court Officers.

Legal Case Managers

Legal Case Managers provide support to the judicial registrar team in a range of areas, including:

- undertaking preparatory work for the list, including liaising with parties, listing matters on the Court's case management system, undertaking all post court work, including uploading orders and ensuring the Court's case management system accurately reflects outcomes.
- assisting with any preliminary work required for public examinations including attending the examination with the judicial registrar as required and ensuring that outcomes and listing details are accurately recorded
- reviewing bills of costs to ensure they are ready to be estimated and taxed, preparing drafts of estimate letters and preparing orders and certificates of taxation for the registrar to approve
- assisting with the lump sum costs process including by drafting orders, recording outcomes and corresponding with parties as required.
- reviewing eCourtroom applications for substituted service and issuing summonses for examination
- liaising with parties, preparing draft orders for consideration by the registrar and arranging public examinations
- assisting with the national allocation of work to Judicial Registrars including drafting emails, corresponding with parties and chambers and reviewing judicial registrar capacity

- updating and maintaining national training, educational guides and manuals, and
- supporting the judicial registrars in arranging conferences and seminars.

Client Service Officers

Client Service Officers are responsible for the provision of services directly to the judiciary in specific locations and the public both locally (face to face) and/or nationally (as part of a dispersed national team). Responsibilities include:

- providing information and advice about court services, procedures, processes and forms and assisting clients to resolve their enquiries and issues
- providing administrative services in accordance with court processes, including document lodgment, enquiries management, registrar support and receiving and reconciling court fees and charges
- assisting in the management of complex cases through the case management system
- scheduling and prioritising matters for hearing and other interventions to achieve the earliest possible resolution
- liaising with a range of internal and external stakeholders including chambers, registrars and their support staff, managers, legal practitioners, community organisations and other service providers to assist the resolution of cases, and
- collating, analysing and producing reports.

SPOTLIGHT : THANKING OUR COURT OFFICERS

Court officers are responsible for ensuring court proceedings run smoothly. Their role is varied but involves a range of tasks such as opening and closing court proceedings, calling on witnesses and making sure court conduct is orderly. The Court Officer role comes with a lot of responsibility, and they need to be highly organised, have excellent communication skills, a good knowledge of court procedures and be able to work with a wide range of people.

The Court thanks all Court Officers for their dedication and commitment – with special mention to some of our longer serving Court Officers below.

Patricia Helich (New South Wales)



Patricia started with the Court in 2004 and works in the Court's New South Wales registry. In those days there were only three female judges in the New South Wales Registry. Since then, there have been many changes: from courts without windows to courts with sweeping views of the harbour; from wheeling the video to court to Microsoft Teams; from three female judges to seven and the first female Chief Justice.

"All the judges I began to work with have all retired in my time with the Court and some of them are no longer with us. I have immensely enjoyed my time over the past 20 years and cherish my interaction with my colleagues, associates, registrars, judges, solicitors, barristers and Senior Counsel. I have time and care for all."

Kevin Hauxwell (South Australia)



Kevin started a casual Court Officer in 2008 and was appointed Senior Court Officer in 2009. He works in the Court's South Australian registry.

"I love being busy and involved in the daily comings and goings of the Court. I am also known as the fix it man when I am not in court and help in the setting up of chambers, movement of shelving and furniture and any other related tasks. I am now working three days a week in my transition to retirement but am not ready to hang up the hat just yet."

Carol Locket (Victoria)



Carol commenced with the Court in February 2017 and works in the Court's Victorian registry. She is experienced in all court procedures and ensures courtroom standards and procedures are delivered as seamlessly as possible. Carol had a significant customer service background when she applied for a Court Officer position and now trains new Court Officers in all aspects of the Court Officer position with an aim for consistency. She also assists Di with catered functions.

Di Hill (Victoria)



Di commenced as a Court Officer in February 2015 and works in the Court's Victorian registry. She is experienced in all court procedures, ensuring judges', associates' and parties' needs are met. She is an outstanding communicator, is tireless, enthusiastic and kind to everyone. New associates receive a familiarisation session with Di regarding courtroom and Court Officer procedures and she enjoys facilitating the smooth delivery of judges' and the Court's working luncheons, functions and meetings.

Steven Ford (New South Wales)



Steven started as a Court Officer in 2019. He interacts with many different people from the legal field including barristers, solicitors, judges, registrars, associates, other court staff and the public.

“One of the most interesting cases I was involved in was the Ben Roberts Smith trial, one of the longest running matters I have been part of. One of the most memorable periods was during the COVID-19 pandemic when hearings were being run remotely with very few people in court. Microsoft Teams started to become a huge presence in the Court and is now probably the most used videoconferencing system we use.”

David Gibbs (Western Australia)



David started as a Court Officer in 2011 and works in the Court’s Western Australian registry. He is experienced in all facets of Court practices and procedures, many ‘on country’ hearings for native title matters and is also a WA Admiralty Marshal.

“I am immensely proud to work with such dedicated and enthusiastic members of the Court.”

Internal and external scrutiny

External scrutiny

The Court was not the subject of any reports by a parliamentary committee or the Commonwealth Ombudsman.

External evaluations

There were no external evaluations.

Internal evaluations

There were no internal evaluations.

Correction of errors

There are no errors to report in the Federal Court of Australia 2022–23 annual report.

Complaints and complaints policy

Complaints policy

The Federal Court of Australia is committed to responding effectively to feedback and complaints. The Court’s complaint policy is available on its website at <https://www.fedcourt.gov.au/feedback-and-complaints>.

The complaints policy outlines how a complaint may be made in relation to various types of complaints. The Court is committed to acknowledging complaints as soon as practicable and managing responses in an effective and timely manner.

Judicial complaints procedure

The *Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Act 2012* (Cth) and the *Courts Legislation Amendment (Judicial Complaints) Act 2012* (Cth) commenced on 12 April 2013.

The Judicial Complaints Act amended the FCA Act, and the *Freedom of Information Act 1982* (Cth) to:

- provide a statutory basis for the Chief Justice of the Federal Court of Australia to deal with complaints about judicial officers
- provide protection from civil proceedings that could arise from a complaints handling process for a Chief Justice as well as participants assisting them in the complaints handling process, and
- exclude from the operation of the *Freedom of Information Act 1982* (Cth) documents arising in the context of consideration and handling of a complaint about a judicial officer.

The Chief Justice, pursuant to section 15 of the FCA Act, is responsible for the handling of complaints made about another judge. The Chief Justice may take any measures he or she believes are reasonably necessary to maintain public confidence in the Court including, but not limited to, temporarily restricting another judge to non-sitting duties; establishing a Conduct Committee; or referring the complaint to the Attorney-General.

The Judicial Complaints Procedure of the Court sets out how a complaint may be made in relation to the conduct of a judge and how complaints are handled. Judicial conduct, for the purposes of this procedure, means conduct of a judge in court or in connection with a case in the Federal Court of Australia, or in connection with the performance of a judge's judicial functions. This procedure is available on the website at: <https://www.fedcourt.gov.au/feedback-and-complaints/judicial-complaints>.

The *Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Act 2012* (Cth) provides a standard mechanism for parliamentary consideration of removal of a judge from office under of the Australian Constitution paragraph 72(ii).

Judicial workplace conduct

The Court has a Judicial Workplace Conduct Committee of experienced judges, led by Justice Markovic. During 2023–24, the committee initiated a Judicial Workplace Conduct Project which involved 12 group meetings with up to six judges in each of the Court's registries. The sessions were designed to enable the participating judges the opportunity to build awareness of their own experiences and their role in creating a safe workplace environment; reflect on their own experiences and how they, their colleagues and the Court could make the workplace safer; and ensure they felt equipped to undertake action should they witness inappropriate behaviour.

The project resulted in the development of a communication strategy outlining key themes and actions to be implemented to continue to foster and enhance the workplace culture in chambers and the overall Court environment. The strategy will be implemented in 2024–25.

Information Publication Scheme

The Federal Court has published, on its website at www.fedcourt.gov.au/ips, materials relating to the Information Publication Scheme. This includes the Court's current Information Publication Scheme plan as well as information about the Court's organisational structure, functions, appointments, annual reports, consultation arrangements and freedom of information contact officer as well as information routinely provided to the Australian Parliament.

The availability of some documents under the *Freedom of Information Act 1982* (Cth) will be affected by section 5 of that Act, which states that the Act does not apply to any request for access to a document of the Court unless the document relates to matters of an administrative nature.

Documents filed in court proceedings do not relate to matters of an administrative nature; they may, however, be accessible by way of an application for inspection of court documents under the Federal Court Rules.

Report from the Executive Director, Strategy and Corporate Services



Corporate Services supports the operations of the Federal Court of Australia. Corporate functions include security, communications and media, finance, people and culture, library and information management, information technology, procurement

and contract management, property, judgment publishing, risk oversight and management, and business intelligence.

Throughout 2023–24, Corporate Services has continued to evolve to meet increasing expectations, supported by what we have learned due to changing circumstances and our commitment to making positive changes through excellence in our people, places, processes and technology.

In a year of progress and change, one of the key highlights was the progression of the Digital Court Program – currently implementing CourtPath, which will progressively replace several internal-facing case management systems and electronic court files with a single platform that will streamline court activity and reduce costs associated with maintaining multiple legacy systems. The second phase of the program was completed in early 2024. The Digital Court Program is preparing for a future migration of the CourtPath application to the cloud which will provide further benefits including improved functions, performance and scalability.

Other improvements in the digital space included enhanced video conferencing capabilities within courtrooms, leading to improved video and audio quality, ensuring seamless communication and proceedings, significantly improving access to justice. The new systems have streamlined courtroom operations with intuitive control panels, providing a better in-room experience for judges, staff and the profession, reducing technical issues and downtime. As demand for livestreaming and video conferencing technology continues to evolve rapidly, these installations and upgrades have positioned our courtrooms to support a modern court experience.

Protecting our valuable information assets and promoting a culture of cyber security awareness has also remained a constant area of attention and investment.

Corporate Services continues to ensure the safety and security of people who attend the Court for work, as well as members of the community who attend the Court to access its services. During the reporting year, work progressed on the Future Security Service project, and strengthening security awareness for all building occupants and improving staff awareness and capability, with the introduction of a refreshed online security awareness training program. The Marshal team continued to engage with the state Sheriffs and Bailiffs for the enforcement of warrants issued by the Court and supported the Court's interactions with other security-related agencies across federal and state governments.

In addition, a boost to our People and Culture capability in 2023–24 has enabled us to be more responsive in supporting the Court to build a diverse and capable workforce. Implementation of an updated Enterprise Agreement provides an improved staff experience and is leading to better performance across multiple functions.

The majority of capital projects delivered in 2023–24 addressed urgent and essential needs of the Court. This included concepts and detailed design for new mediation suites in the Perth Commonwealth Law Courts, and painting works in the Adelaide and Melbourne Commonwealth Law Courts. In addition, the ongoing maintenance and improvement of facilities across all locations continues to ensure that the buildings in which the Court operates remain safe and fit for purpose.

I sincerely thank our executives and staff for their ongoing commitment and work to support the operations of the Federal Court and I look forward to continuing to deliver our highly ambitious reform program which will assist the Court in facilitating access to justice for all who need it.

For a comprehensive report on the operations of Corporate Services in 2023–24, see Part 3 of the Federal Court Listed Entity 2023–24 annual report.

Paul Kennedy

Executive Director, Strategy and
Corporate Services (A/g)

Report from the Executive Director, Court and Tribunal Services



Court and Tribunal Services is responsible for providing registry services to support the operations of the Federal Court of Australia. This includes providing high level support for the judiciary and court users, maximising operational effectiveness through

streamlined structures and digital innovations, maintaining a structure that promotes flexibility and responsiveness to new opportunities and demands, and supporting the Court to take full advantage of the benefits of the Digital Court Program.

Court and Tribunal Services is composed of a range of teams including court registries in each state and territory, a national filing and enquiries centre, and a court logistics and digital practice team.

Court and Tribunal Services staff manage court filing processes, enquiries, document lodgments, and subpoenas. In addition to face-to-face services, they also support electronic hearings. Throughout the year, staff continued to process urgent enquiries and applications and provided support for a diverse range of clients with differing needs.

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

Throughout 2022–23, Court and Tribunal Services operated with commitment, adaptability and innovation to deliver effective registry services to the Federal Court of Australia. Court and Tribunal Services staff are located in each of the eight Federal Court registries across Australia. The structure and operations of the teams within Court and Tribunal Services continues to evolve and adapt to ensure it is best placed to deliver services for the Court and its users.

In consultation with judges and staff of the Court, Court and Tribunal Services introduced a series of strategies to achieve five key goals in the 2024 year. The goals were to create a specialist Federal Court Stream (within the shared service), develop a Recruitment Strategy, introduce a structured Training and Development Plan, establish and implement Knowledge Capture Strategies, and improve connection and communication through the creation of a Communication and Engagement Strategy.

The above goals also aligned with commitments made in the Court and Tribunal Services APS Census Action plan for 2023–24.

Key achievements against those goals are:

- the creation of a specialist Federal Court team within Court and Tribunal Services
- the creation of a Knowledge and Training Team, within existing resourcing
- creation of key instructional materials and delivery of training for Client Service Officers
- new communication channels introduced to support the seamless transfer of information across teams, and
- new forums for information sharing and decision making, specific to Federal Court Operations.

In addition to the core responsibilities of the teams, Court and Tribunal Services supports the Court's broader objectives of modernisation and open justice. In 2023–24, the team introduced a new nationally consistent process for managing Federal Court chambers travelling to different registries. The new process facilitates efficient allocation of visiting chambers and ensures that judges and staff are equipped with the necessary information before their arrival at the destination registry.

In 2023–24 Court and Tribunal Services staff continued to engage in a range of strategies to support enhanced public understanding of the role of the Court, with registry staff involved in educational activities with schools and universities, international delegations of judicial officers and court administrators and other organisations that have an interest in the Courts' work.

I look forward to continuing my work with Chief Justice Mortimer and CEO and Principal Registrar Sia Lagos, to provide high quality and innovative registry services to support the operations of the Federal Court of Australia.

For a comprehensive report on the operations of Court and Tribunal Services in 2023–24, see Part 4 of the Federal Court Listed Entity 2023–24 annual report.

Louise Kenworthy

Executive Director, Court and Tribunal Services



ISOLATED: Nakerz Monti Wagner, Mowbray College, Federal Court of Australia Art of Delivering Justice Schools Art Competition 2002, National Individual Winner Year 7–9, Victoria State Winner Year 7–9



PART 5: REPORT OF THE NATIONAL NATIVE TITLE TRIBUNAL

Pilbara

OVERVIEW



Establishment

The *Native Title Act 1993* (Cth) (NTA) established the National Native Title Tribunal (Tribunal) as an independent body with a wide range of functions. The NTA is, itself, a ‘special measure’ for the advancement and protection of Aboriginal and Torres Strait Islander people (Indigenous Australians) and is intended to advance the process of reconciliation among all Australians. It is in keeping with the preamble and the extent of work still to be done, that the new vision statement for the Tribunal is ‘A Reconciled Future – where Country thrives on recognised native title rights and respectful relationships’.

The NTA creates a national native title scheme, the objectives of which include:

- providing for the recognition and protection of native title
- establishing mechanisms for determining native title claimant, non-claimant, revision and compensation applications, and
- establishing ways in which future dealings affecting native title (future acts) may validly proceed.

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

The President, Members and the Native Title Registrar

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

Table 5.1 outlines Tribunal statutory office holders as of 30 June 2024.

Office locations

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

Functions and powers

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

- mediating native title proceedings, upon referral by the Federal Court
- determining objections to the expedited procedure in the future act regime

PART 5

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

Table 5.1: Tribunal statutory office holders, 30 June 2024

Title	Term	Location
President Kevin Smith	Five years	Brisbane
Member Nerida Cooley	Five years	Brisbane
Member Glen Kelly	Five years	Perth
Member Lisa Eaton	Five years	Perth
Registrar Katie Stride	Five years	Brisbane



Back row: Member Glen Kelly; President Kevin Smith

Front row: Member Nerida Cooley; Member Lisa Eaton; Registrar Katie Stride

The President

The NTA provides that the President is responsible for the management of the business of the Tribunal, including its administrative affairs, and the allocation of duties, powers and functions. The President is assisted by the CEO and Principal Registrar of the Federal Court of Australia. The CEO and Principal Registrar may delegate their administrative responsibilities under the NTA to the Native Title Registrar, or staff assisting the Tribunal.

The Members

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

The Native Title Registrar

The Native Title Registrar is delegated most of the administrative functions of the CEO of the Federal Court in relation to the Tribunal. They also hold certain statutory powers and responsibilities under the NTA including:

- providing assistance to people in preparing native title applications or parties to proceedings in the Tribunal
- considering whether claimant applications meet the requirements of the registration test in order to be registered on the Register of Native Title Claims
- giving notice of new, amended claim and compensation applications and of ILUAs to individuals, organisations, governments and the public in accordance with the NTA
- considering whether applications to register an ILUA meets the registration requirements of the NTA in order to be registered
- maintaining the Register of Native Title Claims, the National Native Title Register and the Register of ILUAs, and
- maintaining a publicly available record of section 31 agreements.

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

Staff capacity

The Tribunal has been through a significant restructure process during the reporting year and is building its staff numbers to fill vacant roles. It will continue to manage and monitor its workloads and create process improvements in the next reporting period to ensure that it is appropriately resourced in future years. Strategic planning and review will underpin this process, looking to the next decade of native title. A Capability Framework has been developed to focus on key competencies for Tribunal staff to assist in developing a tiered training program and supporting managers to reinvigorate an individual performance and learning regime.

The Tribunal has increased in-person attendance at meetings, seminars and workshops, and with optional online attendance has been key to conducting our business, building key relationships and increasing the internal capacity of our staff. The Tribunal had a significant presence at the AIATSIS Summit in June 2024, presenting in various capacities at both plenary and concurrent sessions and providing information and geospatial guidance at a permanent information stall. Other staff attended and benefited from the exposure to related sessions and engagement with external colleagues.

Cultural acknowledgement

The Tribunal has continued to foster understanding and respect for Indigenous culture and cultural safety in the workplace. The Reconciliation Action Plan for the Federal Court of Australia and the National Native Title Tribunal has been identified as a key focus of area for review and reframing in the next reporting period. The Tribunal has participated in the Attorney-General's Department's (AGD) First Nations sub-group and also in an APS First Nations Employee Network meeting during 2023-24.

The Tribunal has continued to take the lead in organising celebrations in conjunction with the Federal Court to acknowledge and celebrate Sorry Day, Reconciliation Week and NAIDOC Week during the reporting period.

The Tribunal's year in review and stakeholder engagement

The 2023–24 financial year has been a period of consolidation for the work of the Tribunal following the appointments of Mr Kevin Smith as President and Ms Katie Stride as Registrar in July and August 2023 respectively. Under new leadership, a significant whole of organisation review and planning process was conducted. This resulted in a substantial restructure aimed at liberating capacity of the Executive and Members to provide strategic guidance and re-build capacity to provide complex assistance functions, providing for clearer succession and career pathways and fostering internal business support.

Twenty-five stakeholder engagement and educative presentations sessions were conducted both in-person and virtually by Tribunal officers. These included the President's addresses at the Centre for Native Title Anthropology conference, the Supreme Court ACT land rights summit, AIATSIS and the Planning Institute Australia. The Registrar and members of her staff have presented regional information sessions about claims in notification at Townsville, Queensland and Geelong, Victoria. She has also addressed the Attorney-General's Department native title team, the Native Title Senior Officers' meeting, AIATSIS and played a key leadership role in the Commonwealth Native Title Committee. The Tribunal has driven a focused agenda to enhance native title sector capacity in partnership with the other key Commonwealth agencies. It has also contributed to the Preservation of Evidence national working group.

Member Lisa Eaton has presented at Lexis Nexis native title conferences on future act and mediation topics and at the AIATSIS Summit. Member Glen Kelly has presented a lecture at the University of Western Australia, presented at the Danjoo Summit and in relation to section 60AAA of the NTA at the AIATSIS Summit.

The Post-Determination Dispute team has actively collaborated with ORIC and the National Native Title Council and has presented at all the regional PBC Forums on the Tribunal assistance available to common law holders and their corporations.

The Geospatial team continues to demonstrate the Tribunal's online mapping and spatial data services for several stakeholders and at Federal Court training sessions for junior practitioners.

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

The Tribunal's work in 2023–24

Future acts

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

Expedited procedure

Under section 29(7) of the NTA, the Commonwealth government, or a state or territory government, may assert that a proposed future act is an act that will have minimal impact on native title and therefore should be fast-tracked through the expedited procedure. Where a future act attracts the expedited procedure, it does not give rise to procedural rights to negotiate that would otherwise vest in native title parties. If a native title party considers that the expedited procedure should not apply to the proposed future act, it may lodge an expedited procedure objection application (objection application) with the Tribunal.

A total of 1,097 objection applications were lodged during the reporting period, compared to 1,290 previously reported. The number of active objections at the end of the reporting period was 982, compared with 792 at the end of June 2023. During the reporting period, the Tribunal finalised 868 objection applications compared to 1,479 in the previous period.

Approximately 351 objections were withdrawn following agreement between the native title party and the relevant proponent. A further 271 objection applications were finalised by withdrawal of the tenement applications. One hundred and five objection applications were subject to a Tribunal determination or dismissal during the reporting

period. The expedited procedure was determined to apply in 12 cases, and on eight occasions, the expedited procedure was determined not to apply.

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

Future act determinations

If the expedited procedure does not apply, or is not asserted by the state, the parties must negotiate in good faith about the proposed future act. Any party may request Tribunal assistance in mediating among the parties in order to reach agreement. There were 34 requests for mediation made in the reporting period.

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

Fifteen future act determination applications were finalised during the reporting period. Five of these applications did not proceed to a determination because the parties reached agreement. There were no applications in which the Tribunal determined that the future act may be done subject to conditions. In six applications, the Tribunal issued a determination that the future act may be done, all of which were made on the basis that the parties had reached agreement but were unable to formalise section 41A (State Deed) agreement. The remaining applications were either withdrawn or dismissed.

Post-determination assistance

The Tribunal has been actively providing assistance to common law native title holders and Registered Native Title Bodies Corporate (RNTBCs) since the commencement in March 2021 of the provision under section 60AAA of the NTA.

Section 60AAA provides that a registered native title body corporate or common law holder of native title may ask the Tribunal to provide assistance ‘in promoting agreement about matters relating to native title or the operation of this Act’ between:

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

To date this assistance function has not been resourced with additional funding and was established with a skeleton staff and limited remit to undertake assistance on country or face-to-face with participants. As of 1 July 2024, the Tribunal's assistance to common law holders and RNTBCs under section 60AAA is to be resourced with some recurrent funding for the following four years.

With the prospect of resourcing, policy and process development is now being ratified and a dedicated post-determination team established, which includes Aboriginal and Torres Strait Islander Liaison staff. There is ongoing evaluation of process, models of facilitation / mediation and outcomes, as well as capability amongst RNTBCs and common law holders and the nature and scope of post-determination disputes.

The Tribunal's assistance model is underpinned by the principles of agreement making and consensus building. Assistance is provided by Tribunal officers and Members and includes facilitation to build capacity, dispute resolution, technical and system support, information exchange between participants or with other relevant bodies or agencies. Some requests may receive assistance through more than one of these options. The post determination team responds also to general post determination enquiries and complaints which may lead to referrals to other bodies or agencies. Since the commencement of section 60AAA, assistance has been provided predominantly online, but with additional resourcing, it is envisaged that more effective assistance can be provided to common law holders and RNTBCs in person and on-country.

PART 5

In 2023–24, the Tribunal responded to 68 requests for assistance received under section 60AAA, 45 of which were one-off post-determination related enquiries. The Tribunal conducted preliminary conferencing with participants in 20 matters. Throughout the reporting period, facilitation or information exchange continued in two matters and mediation assistance continued in two other matters. Mediation assistance in two matters, initiated in previous reporting periods, has been finalised this reporting period.

Table 5.2: Number of applications lodged with the Tribunal in 2023–24

Future Act	NT	QLD	WA	Total
Objections to expedited procedure	34	46	1,017	1,097
Future act determination applications	1	1	6	8
Total	35	47	1,023	1,105

The Registers

The Native Title Registrar maintains three registers as follows:

The Register of Native Title Claims

Under section 185(2) of the NTA, the Native Title Registrar has responsibility for establishing and keeping a Register of Native Title Claims. This register records the details of claimant applications that have met the statutory conditions for registration prescribed by sections 190A–190C of the NTA. At 30 June 2024, there were 96 claimant applications on this register.

The National Native Title Register

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

At 30 June 2024, a total of 616 determinations have been registered, including 114 determinations that native title does not exist.

Map 1 (page 108) shows native title determinations at 30 June 2024, including those registered and those not yet in effect.

The Register of Indigenous Land Use Agreements

Under section 199A(2) of the NTA, the Native Title Registrar must establish and keep a Register of ILUAs, in which area agreement, body corporate and alternative procedure ILUAs are registered. At 30 June 2024, there were 1,487 ILUAs registered on the Register of ILUAs.

Map 2 (page 109) shows registered Indigenous Land Use Agreements at 30 June 2024.

Claimant and amended applications

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

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

Alternatively, the applicant may seek judicial review in the Federal Court.

During the reporting period, the Native Title Registrar received 16 new claimant applications, a decrease of nine compared to the previous year. In addition to new claims, the Native Title Registrar received 19 amended claimant applications, 11 less than the previous year.

Table 5.3: Number of applications referred to or lodged with the Native Title Registrar in 2023–24

Native Title Determination applications	NSW	NT	QLD	SA	VIC	WA	Total
Claimant (new)	0	2	7	0	1	6	16
Non-claimant	15	1	6	0	0	0	22
Compensation	0	0	1	0	0	0	1
Revised native title determination	0	0	0	0	0	1	1
Total	15	3	14	0	1	7	40

Table 5.4: Number of applications lodged with the Native Title Registrar in 2023–24

Indigenous Land Use Agreements	NSW	NT	QLD	SA	VIC	WA	Total
Area agreements	1	4	10	3	0	0	18
Body corporate agreements	0	4	10	2	0	13	29
Total	1	8	20	5	0	13	47

There was a corresponding decrease in the volume of registration testing in the reporting period. There were 25 applications considered for registration, 17 less than the previous year. Of the 25 decisions, 21 were accepted for registration and four were not accepted.

During the reporting period, five applications for preliminary assessment of native title applications were received.

Non-claimant, compensation and revised determination applications

There was a significant increase in the number of new non-claimant applications filed in the Federal Court during this reporting period, with 15 New South Wales applications, one Northern Territory application and six Queensland applications filed in the Federal Court. One revised determination application was filed in Western Australia during the reporting period, compared with two in the previous year. The Native Title Registrar received one compensation application, as in the previous year. That application was made in Queensland.

Indigenous land use agreements

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

A total of 1,487 ILUAs are currently on the Register of ILUAs, the majority of which are in Queensland. Broadly, the ILUAs deal with a wide range of matters including the exercise of native title rights and interests over pastoral leases, local government activity, mining, state-protected areas and community infrastructure such as social housing.

During the reporting period, the Native Title Registrar received 47 ILUAs, 21 more than in the previous year. Twenty-one body corporate and 17 area agreement ILUAs were accepted for registration and entered in the Register.

Section 31 deeds

Since the 2020–21 reporting year, the Tribunal has been required to maintain a record of all deeds of agreement provided to it from future act negotiation parties pursuant to section 31 of the NTA. During the 2023–24 reporting year, 57 section 31 deeds were recorded by the Tribunal. A total of 240 deeds have been recorded by the Tribunal since it took on that statutory function.

Notifications

The Native Title Registrar carries out a key function in respect of notification of native title determination applications and ILUAs. During the reporting period, 50 native title determination applications were publicly notified, compared with 25 in the previous year. These applications comprised 23 claimant applications, 26 non-claimant applications, no revised determination applications and one compensation application. A total of 41 ILUAs were notified during the period.

Assistance

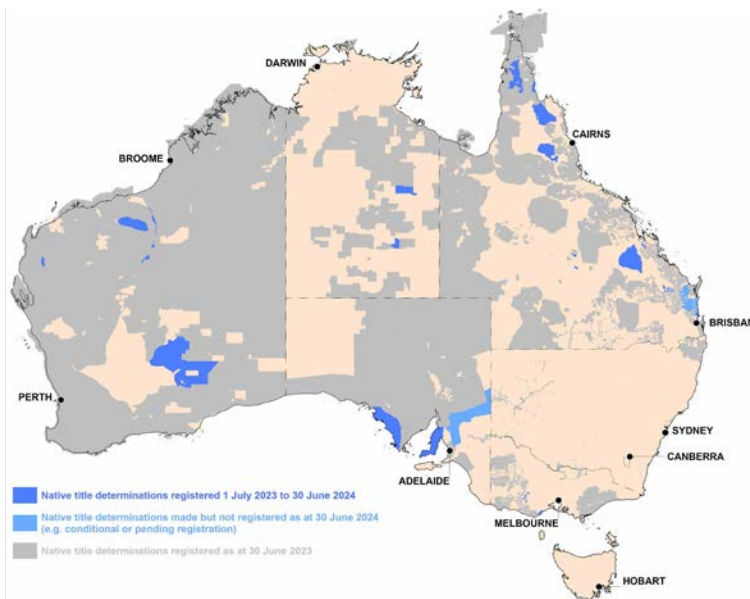
Section 78(1) of the NTA authorises the Native Title Registrar to give such assistance as they think reasonable to people preparing applications and at any stage in subsequent proceedings. That section also provides that the Native Title Registrar may help other people in relation to those proceedings.

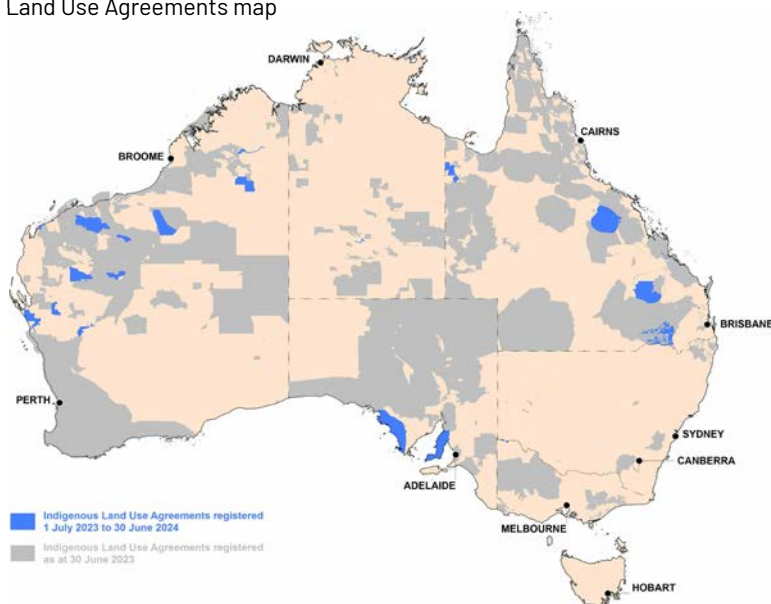
During the reporting period, such assistance was provided on 125 occasions. As in previous years, the requests comprised of provision of geospatial products and review of draft native title determination applications.

Under sections 24BG(3), 24CG(4) and 24DH(3) of the NTA, the Native Title Registrar may provide assistance in the preparation of ILUA registration applications. Often, this assistance takes the form of comments upon the draft ILUA and the application for registration, as well as mapping assistance. During the reporting period, assistance was provided on 136 occasions. Such assistance must be distinguished from the assistance given by the Tribunal in the negotiation of such agreements. See sections 24BF, 24CF and 24DG of the NTA.

Pursuant to section 78(2) of the NTA, 2,099 searches of registers and other records were conducted during the reporting period, a slight decrease in requests from the previous year.

Map 1: Determinations map



Map 2: Indigenous Land Use Agreements map

National progress

The 616 registered determinations at 30 June 2024 cover a total area of 4,004,167 square kilometers or 52.1 per cent of the land mass of Australia and approximately 176,055 square kilometers of sea (below the high-water mark).

Three conditional consent determinations, (*Branson on behalf of Ngadjuri Nation #2 Native Title Claim v State of South Australia* [2023] FCA 715, *O'Donnell on behalf of the Wilyakali Native Title Claim v State of South Australia* [2023] FCA 1000 and *Douglas on behalf of the Kabi Kabi First Nation Traditional Owners Native Title Claim Group v State of Queensland (No 5)* [2024] FCA 645) are still awaiting

ILUA registration to take effect. Upon registration, these determinations will increase the areas determined to about 4,032,357 square kilometers or 52.4 per cent of the land mass of Australia and approximately 176,119 square kilometers of sea (see Map 1).

Registered ILUAs cover about 2,780,701 square kilometers or 36.2 per cent of the land mass of Australia and approximately 51,980 square kilometers of sea (see Map 2).

Financial review

The Federal Court's appropriation includes funding for the operation of the Tribunal. This funding is set out as sub-program 1.1.2 in the Court's Portfolio Budget Statements. \$8.535 million was allocated for the Tribunal's operations in 2023–24.

Appendix 1 of the Federal Court Listed Entity Annual Report shows the consolidated financial results for both the Court and the Tribunal.

Table 5.5 presents the financial operating statement, summarising the Tribunal's revenue and expenditure for 2023–24.

Table 5.5: Financial operation statement

Year ending 30 June 2024	Budget (\$'000)	Actual (\$'000)	Variance (\$'000)
Appropriation			
Total revenue	8,462	8,535	73
Total expenses	8,462	8,021	441
Surplus/Deficit	0	541	514

External scrutiny

Freedom of information

During the reporting period, three requests were received one was withdrawn under the *Freedom of Information Act 1982* (Cth) for access to documents. The Tribunal publishes a disclosure log on its website, as required by the *Freedom of Information Act 1982* (Cth).

The disclosure log lists 93 documents released in response to three freedom of information access requests processed during the reporting period.

Accountability to clients

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

Statutory office holders

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

There is a voluntary code of conduct for Members, however it is in need of review. This process will be undertaken in 2024–25. During the reporting period, there were no complaints concerning Members.

Online services

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

Australian Human Rights Commission

Under section 209 of the NTA, the Commonwealth Minister may, by written notice, direct the Aboriginal and Torres Strait Islander Social Justice Commissioner to report to the Commonwealth Minister about the operation of the NTA or its effect on the exercise and enjoyment of human rights by Aboriginal peoples and Torres Strait Islanders.

The Tribunal continues to assist the Commissioner as requested.

PART 6: APPENDICES

APPENDIX 1: WORK OF TRIBUNALS

Australian Competition Tribunal

Functions and powers

The Australian Competition Tribunal was established under the *Trade Practices Act 1965* (Cth) and continues under the *Competition and Consumer Act 2010* (Cth) (Act).

The Tribunal is a review body. A review by the Tribunal is a re-hearing or a re-consideration of a matter. The Tribunal may perform all the functions and exercise all the powers of the original decision-maker for the purposes of review. It can affirm, set aside, or vary the original decision.

The Tribunal has jurisdiction under the Act to hear a variety of applications, most notably:

- review of determinations by the Australian Competition and Consumer Commission (ACCC) granting or refusing merger authorisation
- review of determinations by the ACCC in relation to the grant or revocation of other authorisations that permit conduct and arrangements that would otherwise be prohibited under the Act for being anti-competitive
- review of decisions by the Minister or the ACCC in relation to allowing third parties to have access to the services of essential facilities of national significance
- review of determinations by the ACCC in relation to notices issued under section 93 of the Act in relation to exclusive dealing, and
- review of certain decisions of the ACCC and the Minister in relation to international liner cargo shipping.

The Tribunal can also hear a range of other, less common, applications arising under the Act.

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

Practice and procedure

A review by the Tribunal is usually conducted by way of a public hearing but may in some instances be conducted on the papers. Parties may be represented by a lawyer. The procedure of the Tribunal is, subject to the Act and the Competition and Consumer Regulations 2010 (Regulations), within the discretion of the Tribunal.

The Regulations set out some procedural requirements in relation to the making and hearing of review applications. Other procedural requirements are set out in the Tribunal's Practice Direction.

Proceedings are conducted with as little formality and technicality and with as much expedition as the requirements of the 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 section 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 Michael O'Bryan is the President of the Tribunal. The Deputy Presidents of the Tribunal are Justice Mark Moshinsky, Justice Sarah C Derrington, Justice John Halley and Justice Kylie Downes. Justice Kathleen Farrell retired as a Deputy President on 1 August 2023.

There are three lay members of the Tribunal: Ms Diana Eilert, Dr Jill Walker and Mr Ray Steinwall. Professor Caron Beaton-Wells and Mr Daniel Andrews retired as lay members during the reporting year.

The Tribunal is supported by a Registrar (Tim Luxton) and Deputy Registrars (Geoffrey Segal, Nicola Colbran, Russell Trott and Michael Buckingham).

Activities

One new matter was commenced and determined during the reporting year (see below).

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

Decision of interest

Applications by Australia and New Zealand Banking Group Limited and Suncorp Group Limited [2024] ACompT 1

This decision concerned an application for review of a determination of the ACCC to reject an application for a merger authorisation. The authorisation was sought by Australia and New Zealand Banking Group Limited (ANZ) and Suncorp Group Limited and concerned the proposed acquisition by ANZ of Suncorp-Metway Limited, a bank. The Tribunal was satisfied that the proposed acquisition would not be likely to have the effect of substantially lessening competition and would be likely to result in a benefit to the public that would outweigh the detriment to the public that would be likely to result from the proposed acquisition. The determination of the ACCC was set aside and the authorisation was granted.

Copyright Tribunal

Functions and powers

The Copyright Tribunal was established under the *Copyright Act 1968* (Cth) to hear applications dealing with four main types of matters:

1. to determine the amounts of equitable remuneration payable under statutory licensing schemes
2. to determine a wide range of ancillary issues with respect to the operation of statutory licensing schemes, such as the determination of sampling systems
3. to declare that the applicant (a company limited by guarantee) be a collecting society in relation to copying for the services of the Commonwealth or a state, and
4. to determine a wide range of issues in relation to the statutory licensing scheme in favour of government.

By virtue of the *Copyright Amendment Act 2006* (Cth), assented to on 11 December 2006, the Tribunal also has jurisdiction to hear disputes between collecting societies and their members.

Practice and procedure

Hearings before the Tribunal normally take place in public. Parties may be represented by a lawyer. The procedure of the Tribunal is subject to the Copyright Act and regulations and is within the discretion of the Tribunal.

The Copyright Regulations 2017 came into effect in December 2017 (replacing the Copyright Tribunal (Procedure) Regulations 1969). Part 11 of the regulations relates to the Copyright Tribunal and includes provisions concerning its practice and procedure.

Proceedings are conducted with as little formality and technicality, and as quickly as the requirements of the Act, and a proper consideration of the matters before the Tribunal, permit. The Tribunal is not bound by the rules of evidence.

Membership and staff

The Tribunal consists of a President and such number of Deputy Presidents and other members as appointed by the Governor-General.

On 15 December 2022, Justice Nye Perram was appointed as President of the Tribunal for a period of seven years. Justice Perram had been acting in that role following the retirement of Justice Andrew Greenwood on 19 July 2022. Also on 15 December 2022, Justice Tom Thawley, Justice Michael O'Bryan and Justice Helen Rofe were appointed as Deputy Presidents of the Tribunal for a period of five years.

On 8 June 2023, Mr Michael Fraser AM, Ms Fiona Phillips and Ms Alida Stanley were appointed as non-judicial members of the Tribunal for a period of three years. The appointments of the previous non-judicial members Dr Rhonda Smith, Ms Sarah Leslie and Ms Michelle Groves expired during the reporting period.

The Registrar of the Tribunal is an officer of the Federal Court. The Registrar of the Tribunal during the reporting period was Katie Lynch and then, Susan O'Connor.

Activities and cases of interest

One matter was commenced in the Tribunal during the reporting period:

- CT2 of 2023 – Application by Commercial Radio & Audio Limited under section 152(2) of the *Copyright Act 1968*, filed on 13 September 2023.

The following matters were commenced in the Tribunal before the reporting period and remain ongoing:

- CT1 of 2021 – Australasian Performing Right Association Limited ABN 42 000 016 099 and Australasian Mechanical Copyright Owners' Society Limited ABN 78 001 678 851, being a reference under section 154 of the *Copyright Act 1968*, filed 26 March 2021.
- CT2 of 2021 – Copyright Agency Limited ABN 53 001 228 799 v Department of Education (Queensland) and the bodies listed in Schedule A, being an application brought under section 113P and section 153A of the *Copyright Act 1968*, filed 18 May 2021.
- CT1 of 2022 – The DLA Group Pty Limited ACN 003 329 039 v The State of Western Australia, being an application brought under section 183(5) of the *Copyright Act 1968*, filed on 20 April 2022.

- .CT2 of 2022 – Free TV Australia Ltd (ACN 101 842 184) v Phonographic Performance Company of Australia Limited (ACN 000 680 704), being an application brought under section 157 of the *Copyright Act 1968*, filed on 22 December 2022
- CT1 of 2023 – Reference brought by Phonographic Performance Company of Australia Ltd (ACN 00 680 704), being an application brought under section 154 of the *Copyright Act 1968*, filed on 18 May 2023.

Some cases of interest include:

- CT1 of 2021 – Australasian Performing Right Association Limited ABN 42 000 016 099 and Australasian Mechanical Copyright Owners' Society Limited ABN 78 001 678 851, filed 26 March 2021. As set out at [2] of Reference by APRA AMCOS (Summons)[2023]ACopyT 3: "The reference is concerned with the appropriate fee to be charged to the providers of subscription video on demand services (SVOD services) in return for the licence of APRA AMCOS to communicate and/or reproduce musical works within their repertoire which, in practical terms, includes the vast bulk of commercially available music. Although some of the content streamed by SVOD providers has been acquired by them pursuant to arrangements which licence the communication and/or reproduction of the music contained within that content, there is no practical way that an SVOD provider can check whether this has in all cases been done. In practical terms, they need a blanket licence from APRA AMCOS to avoid inadvertent infringements of copyright". The parties to CT 1 of 2021 include: APRA/AMCOS, Netflix Inc, The Walt Disney Company (Australia) Pty Ltd, Paramount and Stan Entertainment Pty Ltd.
- CT1 of 2023 – Reference brought by Phonographic Performance Company of Australia Ltd (PPCA) (ACN 00 680 704), being an application brought under section 154 of the *Copyright Act 1968*, filed on 18 May 2023. PPCA proposes to bring into operation a new Commercial Radio Broadcasters Licence Scheme (Scheme) to licence commercial radio broadcasters (the Licensees) to communicate PPCA Sound Recordings to the public by way of a radio broadcast using the Broadcasting Services Bands (as defined in s 6(1) of the *Broadcasting Services Act 1992* (Cth)). In bringing these proceedings, PPCA seeks to confirm the Scheme as proposed, or alternatively, vary as the Tribunal reasonably sees fit. Parties include PPCA and Commercial Radio & Audio Ltd.

Defence Force Discipline Appeal Tribunal

Functions and powers

The Defence Force Discipline Appeal Tribunal was established as a civilian tribunal under the *Defence Force Discipline Appeals Act 1955* (Cth). Pursuant to section 20 of the *Defence Force Discipline Appeals Act 1955*, a convicted person or a prescribed acquitted person may bring an appeal to the Tribunal against his or her conviction or prescribed acquittal. Such appeals to the Tribunal lie from decisions of courts martial and of Defence Force magistrates.

Practice and procedure

Subject to the *Defence Force Discipline Appeals Act 1955*, the procedure of the Tribunal is within its discretion. In practice, appeals are conducted in a similar way to an appeal before a state or territory Court of Appeal/Court of Criminal Appeal or the United Kingdom's Court Martial Appeal Court. Counsel robe on the hearing of an appeal but, because the Tribunal does not exercise the judicial power of the Commonwealth, the members of the Tribunal do not.

Membership and staff

The Tribunal is comprised of the President, the Deputy President and other members.

The President of the Tribunal is Justice John Logan RFD. The Deputy President is Justice Melissa Perry. The other members of the Tribunal are Justice Robertson Wright, Justice John Halley and Justice Lincoln Crowley.

Justice Paul Brereton AM RFD has retired as Deputy President. Justice Peter Barr and Justice Michael Slattery AM (Mil) RAN have retired as members.

The Tribunal is supported by a Registrar (Tim Luxton) and Deputy Registrars (Nicola Colbran, Kim Lackenby, Geoffrey Segal, Susie Stone and Russell Trott).

Activities

Two matters were filed during the reporting year. One matter was determined during the year.

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

Decisions of interest

- *Poulton v Chief of Navy* [2023] ADFDAT 1



APPENDIX 2: JUDGES' ACTIVITIES 2023–24

Judges' participation in conferences, seminars and training events is an important part of judicial education, as well as maintaining the Court's reputation domestically and internationally. It may also contribute to ongoing public confidence in the knowledge, awareness and expertise of judges when they exercise judicial power.

The Hon Debra Mortimer

Professional and other associations

- Senior Fellow, Melbourne Law School
- Member, Advisory Board, Centre for Comparative Constitutional Studies
- Member, International Association of Refugee Law Judges
- Member, Board of Advisors of the Public Law Review

DATE	ACTIVITY
24 August 2023	Visited the Australian Capital Territory Registry to meet with staff and members of the profession.
25 August 2023	Attended the ceremonial welcome sitting for Justice Louise Taylor at the Supreme Court of the Australian Capital Territory.
30 August–1 September 2023	Attended and hosted the National Federal Court Judges' Meeting Conference.
5 September 2023	Attended the swearing in ceremony of Justice Horan held at the Victorian Registry of the Federal Court of Australia.
7 September 2023	Attended the swearing in ceremony of Justice Shariff held at the NSW Registry of the Federal Court of Australia.
12 September 2023	Hosted an In Conversation event with Professor Val Napoleon from the University of Victoria, Canada. This event was held in the Melbourne Registry of the Federal Court of Australia.
13 September 2023	Presided over the ceremonial welcome sitting for Justice Shariff held at the Sydney Registry of the Federal Court of Australia.
13 September 2023	Presented introductory remarks at the Federal Court's Conversation on Current Issues in the Practice of Employment and Industrial Law. This event was held in the Melbourne Registry of the Federal Court of Australia.
2 October 2023	Presentation to the Victorian Readers Course with District Registrar Luxton.
2 October 2023	Recorded an interview with Sarah-Elke Kraal for 'The Brief Case Podcast'.
6 October 2023	Attended and spoke at the 2023 Australian Judicial Officers Association's Colloquium held in Auckland. Presented a session on 'Developing Appropriate Judicial Co-operation Programs'.
16 October 2023	Attended the ceremony sitting to mark the retirement of the Honourable Susan Kiefel AC as Chief Justice of Australia. This event was held at the High Court of Australia in Canberra.
17–18 October 2023	Attended and hosted the National Federal Court Registrar's Conference.
19 October 2023	Spoke as a guest lecturer for Melbourne University's Refugee Law class alongside David Manne.
20 October 2023	Presided over the ceremonial welcome sitting for Justice Horan held in the Victorian Registry of the Federal Court of Australia.
24 October 2023	Delivered a speech for the Sir Buri Kidu Lecture Series on the topic of 'Challenges for the Courts in Environmental Litigation – Reflections on the Situation in Australia and PNG'. This speech took place in Papua New Guinea and was organised by the Papua New Guinea Centre for Judicial Excellence and The University of Papua New Guinea.
31 October 2023	Attended the 60th Meeting of the Council of Chief Justices, held in Adelaide.
6 November 2023	Attended ceremonial sittings to mark the appointment the Honourable Stephen John Gageler AC as Chief Justice of Australia and the Honourable Robert Beech-Jones as a Justice of the High Court of Australia.

DATE	ACTIVITY
8 November 2023	Presided over a special sitting of the Full Court to formally announce the appointment of Senior Counsel in and for the State of Victoria. This event was hosted in the Melbourne Registry of the Federal Court of Australia.
10 November 2023	Delivered a speech at the 2023 EPLA Conference in Sydney on the topic of <i>'Trends in climate change litigation – a brief world tour'</i> .
14 November 2023	Presided over the ceremonial farewell sitting for Justice Rares held in the Sydney Registry of the Federal Court of Australia.
15 November 2023	Delivered the keynote address at the Annual Monash University Richard Larkins Oration in Melbourne on the topic of <i>'The Art of Delivering Justice: Reflections after Two Decades'</i> .
17 November 2023	Presided over the ceremonial sitting for Justice Bromberg held in the Victorian Registry of the Federal Court of Australia.
24 November 2023	Presided over the ceremonial farewell sitting for Justice Kenny held in the Victorian Registry of the Federal Court of Australia.
27 November 2023	Delivered a keynote address at the Monash University Law Review's 49th Annual Dinner in Melbourne on the topic of <i>'Pro Bono Work: Sharing the Burden of Ensuring Access to Justice'</i> .
1 December 2023	Presented at Clayton Utz's Public Law Essential Continuing Legal Education Day on the topic of <i>'The conduct of judicial review litigation in the Federal Court'</i> .
1 December 2023	Attended the Law Council of Australia's 90th Anniversary Gala Dinner.
6 December 2023	Attended the ceremonial welcome sitting for the Honourable Justice Claire Harris of the Supreme Court of Victoria.
12 January 2024	Recorded a video message to be played at the inauguration ceremony for the Indonesian Women Judges' Association (Badan Perhimpunan Hakim Perempuan Indonesia).
29 January – 1 February 2024	Visited the Western Australia Registry in Perth with CEO and Principal Registrar, Sia Lagos to meet with the Judges, staff and members of the profession.
31 January 2024	Presided over a special sitting of the Full Court to formally announce the appointment of Senior Counsel in and for the State of Western Australia. This event was hosted in the Perth Registry of the Federal Court of Australia.
8 February 2024	Attended the swearing in ceremony of Justice Neskovic held at the Victorian Registry of the Federal Court of Australia.
8 February 2024	Co-hosted the Victorian Commercial Bar Association Drinks, along with Chief Justice Ferguson and Chief Justice Alstergren. The function was held in the Victorian Registry of the Federal Court of Australia.
9 February 2024	Attended the swearing in ceremony of Justice Dowling held at the Victorian Registry of the Federal Court of Australia.
15 February 2024	Delivered the keynote address for the Judicial College of Victoria's Mastering the Art of Judgment Writing Program on the topic of <i>'Reflections on the Judgment Writing Process, Audience and Purpose'</i> .
19-20 February 2024	Attended the 2024 Pacific Chief Justice's Forum organised by the Pacific Justice Sector Programme in Apia, Samoa.
23 February 2024	Presented an address at the 2024 Commonwealth Law Conference organised by the Law Council of Australia.
26 February 2024	Visited the Tasmanian Registry in Hobart with CEO and Principal Registrar, Sia Lagos to meet with staff and members of the profession.
28 February 2024	Presided over the ceremonial welcome sitting for Justice Neskovic held in the Melbourne Registry of the Federal Court of Australia.

DATE	ACTIVITY
1 March 2024	Presided over the ceremonial welcome sitting for Justice Dowling held in the Melbourne Registry of the Federal Court of Australia.
5 March 2024	Visited the ACT Registry in Canberra with CEO and Principal Registrar, Sia Lagos to meet with staff and members of the profession.
5 March 2024	Presented at an In Conversation event organised by AGS on the topic of <i>'The Government in Court – a view from the bench'</i> .
6-8 March 2024	Visited the Queensland Registry in Brisbane with CEO and Principal Registrar, Sia Lagos to meet with the Judges, staff and members of the profession.
8 March 2024	Delivered the keynote address at the Queensland Law Society Symposium 2024.
11-15 March 2024	Visited the NSW Registry in Sydney with CEO and Principal Registrar, Sia Lagos to meet with the Judges, staff and members of the profession.
18-19 March 2024	Visited the Northern Territory Registry in Darwin with CEO and Principal Registrar, Sia Lagos to meet with staff and members of the profession.
20-22 March 2024	Visited the South Australian Registry in Adelaide with CEO and Principal Registrar, Sia Lagos to meet with the Judges, staff and members of the profession.
25 March 2024	Spoke with Dame Sian Elias and Lady Hale at a 'fireside chat' organised by the Anglo-Australasian Lawyers Society (UK Chapter) for International Women's Day.
25-28 March 2024	Met with Judges, staff and members of the profession in Victoria with CEO and Principal Registrar, Sia Lagos.
4 April 2024	Hosted an In Conversation event with Justice Joe Williams. This event was held in the Victorian Registry of the Federal Court of Australia.
8 April 2024	Spoke at the book launch of <i>Sir Gerard Brennan: The Law's Good Servant</i> by Jeff FitzGerald. The launch event was held in the NSW Registry of the Federal Court.
9 April 2024	Addressed the Victorian Bar Readers Course.
6 May 2024	Presided over the ceremonial farewell sitting for Justice Besanko held in the South Australian Registry of the Federal Court of Australia.
8 May 2024	Recorded a video message for the International Association of Women Judges Regional Conference in the Philippines.
10 May 2024	Attended the Supreme Court of Tasmania's Bicentenary event in Hobart.
15 May 2024	Virtually signed a Memorandum of Understanding with Chief Justice Gesmundo of the Supreme Court of the Philippines.
17 May 2024	Attended the Supreme Court of New South Wales Bicentenary event in Sydney.
21 May 2024	Attended the ceremonial welcome sitting for Justice Rowena Orr at the Supreme Court of Victoria.
22 May 2024	Attended and spoke, as a guest of honour, at a dinner held by the Australian Association of Women Judges.
29-31 May 2024	Attended and hosted the National Federal Court Judges' Meeting Conference.
16 May 2024	Addressed the New South Wales Bar Readers Course.
4 June 2024	Facilitated a Native Title Expert Panel on <i>'The next 30 years of the native title system – drawing upon the lessons of the past to meet the challenges and opportunities of the future'</i> at the AIATSIS Summit 2024 in Melbourne.

PART 6

The Hon John Logan RFD

Professional and other associations

- President, Defence Force Discipline Appeal Tribunal
- Judge, Supreme and National Courts of Justice of Papua New Guinea
- Member (ex officio), Queensland Bar Association South Pacific Legal Education Committee
- Council Member, Australasian Institute of Judicial Administration
- Member, Board of Governors, Cromwell College within the University of Queensland

DATE	ACTIVITY
1 September 2023	Attended the Asian Development Bank and the Standing International Forum of Commercial Courts Judicial Roundtable, International Forum regarding 'Commercial Courts and Climate Change: Questions of Corporate Legal responsibility' (virtual).
4–8 September 2023	Volunteer member (using personal leave) of teaching team at the Commercial Litigation Workshop conducted by Queensland Bar Association at the Papua New Guinea Legal Training Institute.
5 September 2023	Delivered a paper for the Commonwealth Lawyers Association/PNG Law Society/PNG CJE CLE for Mediation and Commercial Law Seminar.
11 September 2023	Attended (at own expense and using personal leave) and delivered a paper at the Commonwealth Magistrates' and Judges' Association Conference in Cardiff, Wales entitled 'Open Justice: Are video hearings sufficiently accessible to the parties?'.
18 October 2023	Attended on the Governor-General at Admiralty House, with Justice Halley to be sworn in as President and Member respectively of the Defence Force Discipline Appeal Tribunal (Sydney).
27 October 2023	Delivered a paper at The Law Council of Australia, Migration Law Conference entitled 'Forty Years On – Some Personal Reflections on Changes to Migration Law over a Professional Lifetime' (Gold Coast).
24 November 2023	Delivered the After Dinner Speech at the Society of St Andrew of Scotland (Queensland) St Andrew's Even Dinner entitled 'Revising Scotland in the Mind – Some Personal Reflections on the Scotland of the Scottish Diaspora'.
20 January–24 January 2024	Attended the Supreme and Federal Court Judges Conference (Melbourne).
3 February 2024	Attended (at own expense for travel), at the personal invitation of the Attorney-General for India and delivered Keynote Address at the Commonwealth Legal Education Association – Commonwealth Attorneys and Solicitors General Conference on 'Cross-Border Challenges in Justice Delivery' (Dehli, India).
9 February 2024	Delivered remarks to the International Conference on Comparative Law, 2024, the Amity Law School in India in collaboration with School of Business and Law, Edith Cowan University, Western Australia (virtual).
9 February 2024	Co-hosted with Justice Collier a drinks evening with Dr Peter Maynard (President of the Commonwealth Law Association) and Mr Lopeti Senituli (president of the Tonga Law Society) together with members of the Federal Circuit and Family Court of Australia, Supreme Court of Queensland, District Court of Queensland, Administrative Appeals Tribunal, Australian Bar Association, Queensland Bar Association and Queensland Law Society.
2 March 2024	Attended the Australasian Institute of Judicial Administration Council Meeting (Melbourne).
3 May 2024	Delivered a speech on military administrative law at the Advanced Military Administrative Law Course at the University of Adelaide Law School (virtual).
3 May 2024	Delivered an after-dinner speech at the New South Wales Tri-Service Legal Panel Dinner entitled 'A Farewell to Arms by the Australian Senior Judiciary?' (Sydney).
1 June 2024	Attended the Australasian Institute of Judicial Administration Council Meeting (Brisbane).

The Hon Anna Katzmann

Professional and other associations

- Fellow, Australian Academy of Law
- Member, Advisory Committee, Gilbert + Tobin Centre of Public Law
- Court's representative, organising committee, Supreme and Federal Court Judges' Conference
- Chair, Wellbeing Committee

DATE	ACTIVITY
22-24 January 2024	Attended the Supreme and Federal Court Judges' Conference and chaired Session 4 titled 'Women helping women - The IAWJ and Women Afghan Judges' (Melbourne).

The Hon Bernard Murphy

Professional and other associations

- Principal Fellow, Melbourne Law School, University of Melbourne
- Member, Operations and Finance Committee
- Member, Judicial Wellbeing Committee

DATE	ACTIVITY
20-21 April 2024	Attended the Standing International Forum of Commercial Courts, 5th Full meeting (Doha).
23-May 2024	Presented at Perfect Law international conference on Class Actions (London).
3 May 2024 ongoing	Assisted on behalf of Federal Court of Australia with the Class Actions Initiative of the Supreme Court of the Philippines.

The Hon Michael Wigney

Professional and other associations

- Judge, Supreme Court of Norfolk Island
- Chair, Court Media Committee
- Coordinating Judge, Federal Crime and Related Proceedings National Practice Area
- Coordinating Judge, Taxation National Practice Area

DATE	ACTIVITY
11-13 October 2023	Presented sessions on 'Practical Issue Identification' and 'How Structure Facilitates Decision Making' at the National Judicial College of Australia conference. Presented a session 'What lies ahead' on a panel with Justices Mullins and Stevenson (Canberra).
26 October 2023	Presented a Continuing Professional Development session on 'Safeguarding Human Rights in International Extradition' for the New South Wales Bar Association.
30 November 2023	Presented in panel discussion 'Criminal and civil cartel enforcement: success' as part of the GCR Live: Competition Enforcement in Australia conference.
11-15 March 2024	Facilitated the Pacific Judicial Integrity Program and presented sessions on 'Fraud and Corruption' and 'Sentencing' (Vanuatu).
9-10 May 2024	Attended the National Judicial College of Australia conference (Sydney).
23 May 2024	Presented at an online session on 'Sentencing' for the Pacific Judicial Integrity Program.
26-30 June 2024	Facilitated the 'Facilitating Better Judgments' National Judicial College of Australia workshop (Perth).

PART 6

The Hon Melissa Perry

Professional and other associations

- Deputy President, Administrative Appeals Tribunal
- Deputy President, Defence Force Discipline Appeal Tribunal (appointed with effect from 11 September 2023)
- Deputy Judge Advocate General, Air Force
- Air Commodore, Royal Australian Air Force, Legal Specialist Reserves
- Foundation Fellow, Australian Academy of Law
- Patron, New South Wales Chapter, Hellenic Australian Lawyers Association
- Member, Advisory Committee, Gilbert + Tobin Centre of Public Law, University of New South Wales
- Member, Law School External Advisory Board, University of Adelaide
- Member, Advisory Council, Centre for International and Public Law, Australian National University
- Member, Board of Advisors, Research Unit on Military Law and Ethics, University of Adelaide
- Member, Advisory Board, UNSW Allens Hub for Technology, Law and Innovation
- Member, organising committee, Hellenic Australian Lawyers Association conference 2025 (from March 2024)

DATE	ACTIVITY
27 July 2023	Interviewed by the ABC Law Report on Court Interpreters.
17 August 2023	Presented a session 'Interaction between International Human Rights Law and Military Discipline Law' for the LTM 3 course held by the Law School, University of Adelaide (virtual).
22 August 2023	Participated on a panel in the Welcome to the Law Seminars series held by the Women Lawyers Association of New South Wales, College of Law (Sydney).
24 October 2023	Delivered the introduction to the Annual John Perry AC QC Oration delivered by the (then) Hon Justice Stephen Gageler AC, Hellenic Australian Lawyers Association, South Australian Chapter (Adelaide).
3 November 2023	Delivered the keynote address, 'From Shakespeare to AI: The Law and Evolving Technologies' at the South Australian Judicial Development Day (Adelaide).
February 2024	Co-authored article with associates, Benjamin Durkin and Charlotte Breznik, 'From Shakespeare to AI: The Law and Evolving Technologies' (2024) 98 ALJ 272.
18 March 2024	Hosted Jessup International Law Moot Practice Moot for the Sydney University Law School Team.
27 March 2024	Presented 'Deepfakes as Ruses of War', MLC Training Night, Victoria Barracks (Paddington, New South Wales).
6-7 April 2024	Participated in the panel on 'Looking to the Future: Ask me anything' at the National Judicial College of Australia Symposium, Artificial Intelligence and the Courts: Master or Servant (Canberra).
24 April 2024	Presented the keynote address at the launch of International Digital Policy Observatory developed by the University of Sydney, University of New South Wales and University of Technology pursuant to a grant from the Australian Research Council. The launch was hosted by Gilbert + Tobin (Sydney).
24 May 2024	Presented the closing address at the Official Opening of the 51st Annual Conference of the Federation of Cyprus Communities and Organizations of Australia and New Zealand, and the Annual Conference of the Pan Australian Co-Ordinating Committee of Justice for Cyprus and the NEPOMAK World Organization for Young Overseas Cypriots.

The Hon Brigitte Markovic

Professional and other associations

- Chair, UNCITRAL National Coordination Committee for Australia (until 10 May 2024)
- Member, Steering Committee, National Judicial Orientation Program, organised by the National Judicial College of Australia
- Member, Program Advisory Committee, National Judicial College of Australia
- Member, Advisory Committee, Asian Business Law Institute – International Insolvency Institute joint project on the Asian Principles of Business Restructuring
- Convenor, Harmonised Bankruptcy Rules Monitoring Committee
- Court's representative on the Judicial Insolvency Network and member of the Steering Committee
- Member, International Insolvency Institute
- Member, INSOL
- Convenor, Judicial Workplace Conduct Committee
- Member, International Co-ordination Committee

DATE	ACTIVITY
27 July 2023	Presented as part of a panel facilitated by Elisa Holmes, barrister, with Justice Black of the Supreme Court of New South Wales and Christina Trahanas, barrister at New South Wales Bar Association Continuing Professional Development session on cross-border insolvency.
2–4 September 2023	Presented at the Banking and Financial Services Law Association Conference with the Honourable Justice Goddard of the New Zealand Court of Appeal on 'From the Bench – case law update' (Queenstown, New Zealand).
30–31 October 2023	Attended the Admiralty Marshals' Workshop (Brisbane).
22–26 January 2024	Participated as a coach in the Australian Bar Association Advanced Trial Advocacy Intensive course.
19–21 February 2024	At the invitation of the Supreme Court of Indonesia attended (on the Chief Justice's behalf) the presentation of the Supreme Court of Indonesia's 2023 Annual Report Delivery and tree planting ceremony and gave a presentation with the Honourable Justice Syamsul Maarif discussing the Australian statutory regime both under the <i>Corporations Act 2001</i> (Cth) and the <i>Bankruptcy Act 1966</i> (Cth) and the mechanisms available to debtor companies and individuals for restructuring (Jakarta, Indonesia).
15 September 2023 3 October 2023 12 November 2023 18 November 2023 16 February 2024 18–19 March 2024 5 April 2024	Attended meetings as member of the Program Advisory Committee and the steering committee for the National Judicial Orientation Program of the National Judicial College of Australia.
8 April 2024 3 May 2024 27 May 2024	Attended Steering Committee Meetings of the Judicial Insolvency Network (virtual).
9–10 May 2024	Attended the UNCITRAL National Coordination Committee for Australia AGM and Annual May Seminar (Melbourne).
11–14 June 2024	Attended the fifth meeting of the Judicial Insolvency Network. Presented on the topic 'Insolvency and Digital Assets – A Practical Perspective' with Lord Justice Snowden of the Court of Appeal of England and Wales and Justice Yihan Goh of the Supreme Court of Singapore, (Singapore).

PART 6

The Hon Mark Moshinsky

Professional and other associations

- Member, Victorian events organising committee, Australian Academy of Law
- Member, advisory committee, Centre for Comparative Constitutional Law, Melbourne Law School
- Part-time Commissioner, Australian Law Reform Commission
- Deputy President, Australian Competition Tribunal

DATE	ACTIVITY
26 July 2023	Delivered keynote address at Rhodes Scholars' Association of Victoria annual dinner.
23 Sep 2023	Co-presented with Justice Burley the 'Judges' session' at the Intellectual Property Society of Australia and New Zealand annual conference.
09 October 2023	Adjudicated, with Justice Kenny and the Hon Pamela Tate AM KC, the Grand Final of the Gibbs Constitutional Law Moot at the Melbourne Law School.
25 October 2023	Delivered address at Tax Bar Association annual dinner.
22 November 2023	Presented to FCFCOA judges on expert evidence.
March 2024	Participated in Interview for March 2024 issue of <i>Intellectual Property Forum</i> .
18 March 2024	Delivered vote of thanks at Australian Academy of Law seminar presented by Justice Kyrou, President of the Administrative Appeals Tribunal, and Albert Dinelli KC.

The Hon Natalie Charlesworth

Professional and other associations

- Member, Women Lawyers' Association South Australia Inc
- Member, Legal Practitioners' Education and Admissions Council

DATE	ACTIVITY
12 October 2023	Participated in the Law Council of Australia, Federal Litigation and Dispute Resolution Section round table lunch discussion 'The Integration of ADR into Courts and Tribunals'.
22 November 2023	Attended the launch of NUSHIP Eyre as Ship's Sponsor.
19 April 2024	Attended the 11th Appellate Judges' Conference (Adelaide).
1 May 2024	Chaired the Women's Insolvency Network of South Australia Continuing Professional Development session.

The Hon Stephen Burley

Professional and other associations

- Member, Minds Count Foundation Board
- Member, Editorial Board, Journal of the Intellectual Property Society of Australia and New Zealand
- Member, Federal Court User Group (IP sub-group)
- Chair, Federal Court of Australia's International Cooperation Committee
- National Coordinating Judge, Intellectual Property

DATE	ACTIVITY
17 September 2023	Judged and presented the John McLaren Emmerson QC Essay Prize as part of the 36th Intellectual Property Society of Australia and New Zealand Annual Conference.
22-26 October 2023	Visited the National and Supreme Courts of Papua New Guinea (Port Moresby).
16-17 November 2023	Attended the World Intellectual Property Organization's 2023 Intellectual Property Judges Forum.
17 November 2023	Presented at the World Intellectual Property Organization's 2023 Intellectual Property Judges Forum in a panel discussion on 'Generative Artificial Intelligence, the Metaverse and Intellectual Property Infringement'.
22 November 2023	Presented at a focus group discussion on the development of an intellectual property reform agenda in Indonesia, on the topic of 'Lessons Learned and Good Practices in Implementing IPR Protection and Enforcement in Australia'.
23 November 2023	Attended Francis Gurry Lecture on Intellectual Property 'Towards a Sustainable Patent System and Society'.
9 December 2023	Presented at the International Seminar on IP Judicial Protection, hosted by the World Intellectual Property Organization and Guangdong People's High Court, on the topic of 'Site Blocking under the Copyright Act'.
16 January 2024	Presented with Dr Annabelle Bennett and Prof Lyria Bennett Moses to students of the University of New South Wales Law and Technology: Comparative Perspectives Masters Program.
31 January 2024	Facilitated the Sydney Federal Court Intellectual Property User Group discussion.
21 February 2024	Presented to Legal Studies students from Asquith Girls High School.
5 March 2024	Facilitated the Sydney Federal Court Intellectual Property User Group discussion.
4 April 2024	Delivered keynote speech at the launch of Robert Burrell and Michael Handler's third edition of <i>Australian Trade Mark Law</i> .
5 April 2024	Facilitated the Sydney Federal Court Intellectual Property User Group discussion.
15 April 2024	Attended a meeting with Justice Rofe, and Justices Meade and Bacon of the UK High Court, regarding strategies for the promotion of diversity in courts.
1 May 2024	Facilitated the Sydney Federal Court Intellectual Property User Group discussion.
7 May 2024	Attended a meeting with representatives of the Supreme Court of Indonesia regarding the development of an Indonesian Patents Bench Book.
15 May 2024	Attended the Memorandum of Understanding signing between the Philippines Supreme Court and Federal Court of Australia (virtual).
15 May 2024	Panelist for 'The Bar and Bench: Efficient management of intellectual property disputes' seminar hosted by CommBar (Intellectual Property and Trade Practices section) and the Federal Court of Australia.
19 June 2024	Hosted a delegation from the Indonesian Supreme Court in Sydney Registry.
24-28 June 2024	Visited Jakarta, Indonesia for 20th anniversary of Memorandum of Understanding signing between the Supreme Court of Indonesia and the Federal Court of Australia, including signing of new Memorandum of Understanding and associated activities.

The Hon David O'Callaghan

DATE	ACTIVITY
30 October– 1 November 2023	Participated at the Marshals' Training and Admiralty Judges' Judicial Education Workshop (Brisbane).
5 December 2023	Chaired meeting of the Federal Court's Library and Archive Committee.
14 February	Chaired meetings of the Federal Court's National Duty Scheme Committee.
19 March 2024	Presented at Victorian Government Solicitor's Office on legal writing to the Inquiries, Prosecutions and Administrative Law Branch.
2 April 2024	Library and Archive Committee released Oral History Project, podcasts entitled 'Lives and Times of Judges of the Federal Court of Australia'.
15 April 2024	Chaired meetings of the Federal Court's National Duty Scheme Committee.
17 April 2024	Participated as a judge at the March 2024 Victorian Readers' Course: Oral Appellate Advocacy Moots.
29–31 May 2024	Attended and presented at the Judges' Meeting and Judicial Education Program in Adelaide.

The Hon Michael Lee

Professional and other associations

- Section Editor, 'Class Actions' in the Australian Law Journal
- Additional Judge, Supreme Court of the Australian Capital Territory
- Fellow, University of Melbourne
- Adviser, European Law Institute on Project Group: 'Third Party Funding of Litigation'
- Member of the Class Action User Group, Defamation User Group, Remuneration Committee, Operations Committee and the Mediation Docket Project Group

DATE	ACTIVITY
16 August 2023	Guest panellist at The University of Sydney/University of Queensland seminar series 'Regulating corporate wrongdoing: leading research, practice and policy': AI risks in the financial sector: consequences for companies and directors.
5 October 2023	Gave the keynote address for the Events Direct Conference: 'The Role of Referees in Class Actions and Complex Litigation'.
27 October 2023	Gave the keynote address at Association of Litigation Funders of Australia Class Action Conference: 'Litigation Funding, Class Actions and the Australian Landscape'.
29 October– 3 November 2023	Attended and presented at the IBA Annual Conference Paris 2023 Judges' Forum: 'Global class actions – coming soon to a court near you'.
20–23 January 2024	Attended and presented at the 2024 Supreme, Federal and New Zealand Senior Courts Conference: 'The Current Defamation Law Landscape' (Melbourne).
21 March 2024	Presented at Sparke Helmore Judges' Series of Lectures: 'Class Actions in Australia: Access to justice or why the common law frowned on champerty and maintenance?'.
20–21 April 2024	Attended and presented at the 5th Full Meeting of the Standing International Forum of Commercial Courts: 'Litigation Funding and Arbitration Funding by third parties' (Doha, Qatar).
23 May 2024	Presented at the Veteran's Review Board Biennial Conference: 'Justice Delayed, Justice Denied. How to be fair, just and avoid delay'.
19–21 June 2024	Attended and presented at the 2024 FCFCOA Judicial Plenary – Panel Session: 'Avoiding appealable errors across the Courts' jurisdictions'.

The Hon Roger Derrington

Professional and other associations

- Adjunct Professor, TC Beirne School of Law at the University of Queensland
- Member, Australian Association of Constitutional Law Inc

DATE	ACTIVITY
22 September 2023	Chaired the Australian Bar Association Conference 'Dealing with Federal criminal law matters in the Federal Court'.
10 October 2023	Spoke at the Book Launch – <i>Australian Annotated Class Actions Legislation</i> , 3rd Edition – Clayton Utz (Brisbane).
11 November 2023	Spoke with Justice McElwaine at The Law Society of Tasmania 2023 Litigation Convention, East Coast Tasmania – Session 7.1, Day One, 'The Federal Court: What We Do, How We Do It and Tips for Practitioner Involvement and Litigating in the Federal Court'.
1 March 2024	Chaired the Bar Association of Queensland Annual Conference 'Recent Developments in the Conduct of Criminal and Civil Proceedings'.
11 May 2024	Taught the University of Queensland Advanced Civil Litigation Course – 'Trials'.
12 May 2024	Taught the University of Queensland Advanced Civil Litigation Course – 'Federal Court'.
20 June 2024	Judged the International Maritime Law Arbitration Moot and hosted Teams function.

The Hon Sarah C Derrington

Professional and other associations

- Emeritus Professor, University of Queensland
- Deputy President, Australian Competition Tribunal
- Member, Council of the Australian National Maritime Museum (until end 2024)
- Titular Member, Comité Maritime International and a member of the International Working Group on Marine Insurance
- Chair, United Nations Coordination Committee for Australia
- Fellow, Australian Academy of Law
- Fellow, Nautical Institute
- Fellow, Queensland Academy of Arts and Sciences
- Member, Admiralty Rules Committee
- Member, Judicial Education Committee
- Member, Media Committee

DATE	ACTIVITY
July 2023	Published 'Expert Economic Evidence in Australian Competition Law: "Economic Assessors – Time to Adopt Admiralty Practice?"' in <i>CPI Antitrust Chronicle</i> .
27 July 2023	Attended the Nautical Institute (Queensland) Annual General Meeting.
4-6 August 2023	Attended the 2023 Corporations Workshop hosted by the Business Law Section of the Law Council of Australia.
17 August 2023	Attended Current Legal Issues Seminar 'Social Media and Defamation Law' by Justice Applegarth.
30 August-1 September 2023	Attended Judges' Meeting and Judicial Education Conference (Melbourne).

DATE	ACTIVITY
5 September 2023	Attended a hybrid seminar: Insights on Law Reform and was a member of panel conversation with the Hon. John Middleton – hosted by Melbourne Centre for Commercial Law, University of Melbourne.
8–10 September 2023	Presented at the Australian Academy of Law/Australasian Institute of Judicial Administration/ Australian Law Journal Conference: Enduring Courts in Changing Times: ‘Impartial Administration of Justice’.
13 September 2023	Attended Federal Court Seminar ‘Current Issues in the Practice of Employment and Industrial Law’.
23 September 2023	Panellist at the Australian Bar Association National Conference to discuss rule of law and diversity and participated in closing Hypothetical.
4–6 October 2023	Attended the Maritime Law Association of Australia and New Zealand Annual Conference and chaired session on Carriage of Cargo and the Admiralty Users’ Group Discussion (Perth).
16 October 2023	Attended the ceremonial sitting of the Court to mark the retirement of the Honourable Susan Kiefel AC from the office of Chief Justice of the High Court.
18 October 2023	Panellist member at the 2024 Unravelling Corporate Fraud Conference to discuss Challenges in Corporate Fraud Litigation, hosted by University of Western Australia Law School and HFW.
19 October 2023	Presented at the Pacific Judicial Integrity Program: ‘An overview of judicial impartiality’, as part of the Unconscious Bias in Judicial Decision-Making webinar.
27 October 2023	Keynote address at the 2023 ALFA National Conference on ‘the progression of class actions since the Australian Law Reform Commission report was handed down and improvements to the operation of class actions and legal finance in Australia’.
30 October–1 November 2023	Convened the Admiralty Judges workshop and participated in the Marshals’ workshop.
23 November 2023	Attended the 2023 David F Jackson Memorial Mooting Dinner at the University of Queensland.
14 December 2023	Attended the Brisbane Silk Bows Ceremony.
22 February 2024	Panellist member at the Unravelling Corporate Fraud Conference to discuss ‘Challenges in Corporate Fraud Litigation’.
23 February 2024	Guest speaker at the joint Law Reform Commission of Western Australia and Piddington Society breakfast seminar.
23 February 2024	Keynote speaker at The Piddington Society 2024 Symposium on ‘Law Reform, the future of insolvency’.
6 March 2024	Judged the Queensland University of Technology Oxford International Intellectual Property Law Practice Moot.
7 March 2024	Panel member providing information to interested barristers on ‘Practising in Native Title Law’ (Brisbane).
11 March 2024	Attended the Annual Faith Service for the legal profession and the judiciary, Uniting Church (Brisbane).
21 March 2024	Attended an Australian Academy of Law Fellows Dinner (Hobart).
3 April 2024	Delivered the 2024 Tetley Lecture in Maritime Law at McGill University (New Orleans).
May 2024	Published ‘Judicial Impartiality’ in Trischa Mann (ed), <i>Enduring Courts in Changing Times</i> (AAL, 2024) Part XI.
9–10 May 2024	Attended UNCCA Annual General Meeting and addressed UNCCA Annual Seminar.
20 June 2024	Judged the International Maritime Law Arbitration Moot.

The Hon Katrina Banks-Smith

Professional and other associations

- Alternate Council Member, National Judicial College of Australia
- Fellow, Australian Academy of Law
- Member, Australian Judicial Officers Association
- Member, Australasian Institute of Judicial Administration
- Member, Women Lawyers of Western Australia

DATE	ACTIVITY
14 July 2023	Presided over mock trial and attend Closing Dinner for the Australian Bar Association's Essential Trial Advocacy Course.
20 July 2023	Attended Quayside Chambers Portrait Unveiling of The Hon John Gilmour QC.
26 July 2023	Attended Australian Academy of Law Public Event: <i>The Ins and Outs of Juries</i> .
27 July 2023	Attended Ceremonial Welcome of Justice Matthew Howard to the Supreme Court of Western Australia.
3 August 2023	Attended Ceremonial Welcome of Justice Stephen Lemonis to the Supreme Court of Western Australia.
11–13 August 2023	Lead Coach at the Piddington Society's 2023 Advocacy Weekend.
17 August 2023	Chaired Expert Evidence Seminar at the Quayside Chambers: <i>Expert Evidence in the Federal Court</i> .
12 October 2023	Attended the Australian Academy of Law's 12th Annual Patron's Address by the Hon Justice Peter Quinlan: <i>There is no single correct sentence: thoughts on choice, subjectivity and the ethics of sentencing</i> .
6 November 2023	Attended swearing in of Chief Justice Gageler and Justice Beech-Jones to the High Court of Australia.
10 November 2023	Attended Western Australian Bar Association's 60th Anniversary Dinner.
15 November 2023	Attended ceremonial farewell for Justice Andrew Beech.
29 November 2023	Presented at Piddington Society's End of Year Breakfast Function.
29 January 2024	Attended Supreme Court of Western Australia's 2024 Senior Counsel Presentation.
31 January 2024	Attended special sitting of the Perth Registry of the Federal Court of Australia for Western Australia's 2024 Senior Counsel appointees.
1 February 2024	Attended ceremonial welcome of Master Sarah Russell to the Supreme Court of Western Australia.
21 February 2024	Attended ceremonial welcome of Judge Genevieve Cleary to the District Court of Western Australia.
22 February 2024	Presented at University of Western Australia 'Unravelling Corporate Fraud' Conference.
23 February 2024	Attended ceremonial welcome of Justice Kate Glancy to the Supreme Court of Western Australia.
28 February 2024	Attended ceremonial welcome of Justice Penelope Neskovic to the Federal Court of Australia.
29 February 2024	Attended ceremonial welcome of Justice Gary Cobby to the Supreme Court of Western Australia.
6 May 2024	Attended ceremonial farewell for Justice Anthony Besanko.
14 May 2024	Presented at the Law Council of Australia's 2024 Consumer Rights Award.
16 May 2024	Panellist at the Lavan Legal Restructuring Group Seminar 'If I could change one thing ... Conversations on Restructuring with the Bar and the Bench'.

PART 6

The Hon Craig Colvin

Professional and other associations

- Part-time Commissioner, Australian Law Reform Commission (concluded 31 December 2023)
- Deputy President, Administrative Appeals Tribunal
- Member, National Judicial College of Australia Writing Better Judgments Committee
- Member, National Judicial College of Australia Judicial Officers with Leadership Responsibility Program
- Member, Judicial Liaison Committee, Australian Centre for International Commercial Arbitration (concluded 2023)
- Fellow, Australian Academy of Law
- Member, Australian Judicial Officers Association
- Member, Australasian Institute of Judicial Administration

DATE	ACTIVITY
9 August 2023	Participated in the Western Australian Interjurisdictional Education Committee's Training Event for the Western Australian Judiciary: 'Let's Talk'.
8 September 2023	Attended the Western Australian Bar Association's Symposium: The Voice.
11-13 October 2023	Presented at the National Judicial College of Australia's Writing Better Judgments Program (Canberra).
6 November 2023	Presented paper for the Western Australian Bar Association's Continuing Professional Development event 'The role of the Barrister – ethics and the professional responsibilities'.
1 May 2024	Presented seminar on 'The role of the Barrister – ethics and the professional responsibilities' for the 2024 Western Australian Bar Association's Bar Readers' Course.
26-28 June 2024	Presented at the National Judicial College of Australia's Writing Better Judgments Program (Perth).

The Hon Michael Wheelahan

Professional and other associations

- Member, Australian Judicial Officers Association

DATE	ACTIVITY
5 September 2023	Presented a session 'An Introduction to Civil Appeals' for the Victorian Bar Readers Course September 2023.
11-13 October 2023	Participated in and completed the National Judicial College of Australia 'Writing Better Judgments Program' (Canberra).
6 March 2024	Presented a session 'An Introduction to Civil Appeals' for the Victorian Bar Readers Course March 2024.
17-19 April 2024	Presented a session 'The use of Technology and Applications' for the National Judicial College of Australia 'Writing Better Judgments III Train the Trainer Program' (Sydney).
9-10 May 2024	Participated in and completed the National Judicial College of Australia 'Effective Judicial Presentations Program' (Canberra).

The Hon Angus Stewart

Professional and other associations

- Additional Judge, Australia Capital Territory Supreme Court
- The Court's representative on and Chair of the Australian Centre for International Commercial Arbitration Judicial Liaison Committee
- Member, Maritime Law Association of Australia and New Zealand
- Member, Maritime Law Association of South Africa
- Member, Australian Judicial Officers Association
- Member, Australian Association of Constitutional Law
- Member, New South Wales Bar Association

DATE	ACTIVITY
8 August 2023	Attended swearing in ceremony for the Honourable Justice S Nixon, Supreme Court of New South Wales.
24 August 2023	Attended the Maritime Law Association of Australia and New Zealand New South Wales Annual General Meeting.
25 August 2023	Attended swearing in ceremony of G Waugh SC as judge of the District Court of New South Wales.
08 September 2023	Attended Chief Justice Susan Kiefel's address at the Supreme Court of New South Wales Conference, 'The creation of the Supreme Courts of New South Wales and Van Diemen's Land'.
14 September 2023	Attended the 2023 Bathurst Lecture 'The Corporation in Private International Law' delivered by the Hon Chief Justice A S Bell.
4-6 October 2023	Attended and addressed (in the Admiralty and Maritime Court User Group session) the Maritime Law Association of Australia and New Zealand annual conference (Perth).
4-6 October 2023	Delivered a paper 'Judicial Sales and the Beijing Convention' at the MLANZ annual conference (Perth).
18 October 2023	Attended the Law Council's Intellectual Property Committee Judges' Dinner.
19 October 2023	Attended farewell ceremony for the Honourable Justice R T Beech-Jones, Supreme Court of New South Wales.
30-31 October 2023	Attended and presented at the Court's Admiralty Marshals' Workshop (Brisbane).
1 November 2023	Attended and presented at the Court's Admiralty Judges' Training Day (Brisbane).
6 November 2023	Attended the Honourable Chief Justice S J Gageler's swearing in ceremony at the High Court of Australia (Canberra).
6 November 2023	Attended the Honourable Justice R T Beech-Jones' swearing in ceremony at the High Court of Australia (Canberra).
20 November 2023	Attended Ngara Yura presentation, Banco Court, Supreme Court of New South Wales.
7 December 2023	Attended MLANZ Christmas Drinks.
22-26 January 2024	Trained on the Australian Bar Association Trial Advocacy Course (Sydney).
30 January 2024	Attended swearing in ceremony for the Honourable Justice I Pike, Supreme Court of New South Wales.
31 January 2024	Attended the Law Society of New South Wales Opening of Law Term dinner.
1 February 2024	Attended swearing in ceremony for the Honourable Justice J Hmelnitsky, Supreme Court of New South Wales.
7 February 2024	Attended AACL event: A panel discussion of 2023's most significant cases in constitutional law.

DATE	ACTIVITY
8 February 2024	Attended opening of Omnia Chambers.
9 February 2024	Attended annual Gilbert & Tobin Centre Constitutional Law Conference.
29 February 2024	Attended 5 Wentworth Chambers function.
25 March 2024	Chaired New South Wales Bar Association Human Rights Committee event on public interest litigation.
27 March 2024	Addressed New South Wales Bar Association International Practice Series on practical considerations in recognition, enforcement and execution of arbitral awards.
3 April 2024	Attended the opening of the Supreme Court of New South Wales Bicentenary Gallery Wall.
4 April 2024	Attended the book launch of the 3rd ed of <i>Australian Trade Mark Law</i> .
18–20 April 2024	Attended the 11th Australasian Institute of Judicial Administration Appellate Judges' Conference (Adelaide).
3 May 2024	Attended the Nigel Bowen Chambers annual event.
10 May 2024	Attended the 2024 Bench and Bar Dinner, New South Wales Bar Association.
15 May 2024	Delivered welcome remarks to the Maritime Law Association of Australia and New Zealand New South Wales Branch Continuing Legal Education Seminar.
17 May 2024	Attended the Supreme Court of New South Wales Bicentenary Ceremonial Sitting.
13 June 2024	Attended the New Chambers annual event.
14 June 2024	Attended the GayBar Pride Month Celebration event.

The Hon Michael O'Bryan

Professional and other associations

- President, Australian Competition Tribunal
- Deputy President, Copyright Tribunal of Australia
- Federal Court representative, Victorian Judicial Officers Aboriginal Cultural Awareness Committee
- Federal Court coordinator for the Victorian Bar's Indigenous Clerkship Program
- Federal Court representative, joint initiative with the Organisation for Economic Co-operation and Development and the Australian Competition and Consumer Commission to produce Primers for Association of Southeast Asian Nations Judges on Competition Law

DATE	ACTIVITY
1 September 2023	Attended Law Council of Australia's Competition and Consumer Workshop (Melbourne).
18 September 2023	Presented at the 13th OECD/KPC Competition Law seminar for Asia-Pacific judges on 'Competition law: Standards of proof and intensity of review by courts in Australia'.
16 November 2023	Attended the 2023 Richard Cooper Memorial Lecture on Native Title conducted by the TC Bernie School of Law and the Federal Court of Australia in Brisbane (virtual).
20 February 2024	Conducted the Australian Competition Tribunal conference with Deputy Presidents and Members (Sydney).
4 March 2024	Attended the Law Council of Australia's Intellectual Property Committee dinner (Melbourne).

The Hon Darren Jackson

Professional and other associations

- Committee Member, Inter-jurisdictional Judicial Education Committee (Western Australia)
- Fellow, Australian Academy of Law
- Member, Australian Academy of Law Western Australia Event Organising Committee
- Member, Australian Judicial Officers Association

DATE	ACTIVITY
14 July 2023	Presided over a Mock Trial for the Australian Bar Association's Essential Trial Advocacy Course.
20 July 2023	Attended Quayside Chambers Portrait Unveiling of The Hon John Gilmour QC.
27 July 2023	Attended Ceremonial Welcome of Justice Matthew Howard to the Supreme Court of Western Australia.
9 August 2023	Attended the Western Australian Interjurisdictional Education Committee's Training Event for the Western Australian Judiciary: Let's Talk.
11-13 August 2023	Coached at the Piddington Society's 2023 Advocacy Weekend.
8 September 2023	Attended the Western Australian Bar Association's Symposium: The Voice.
12 October 2023	Attended the Australian Academy of Law's 12th Annual Patron's Address by the Hon Justice Peter Quinlan 'There is no single correct sentence: thoughts on choice, subjectivity and the ethics of sentencing'.
24 October 2023	Judges of the Perth Registry host Cocktail Function for the Western Australia Supreme Court judges.
10 November 2023	Attended the Western Australian Bar Association's 60th Anniversary Dinner.
15 November 2023	Attended the Ceremonial Farewell for Justice Andrew Beech.
30 November 2023	Attended the 2023 Quayside Oration by Justice Gail Archer 'More is More: Styles of Oral and Written Advocacy in Civil Litigation'.
29 January 2024	Attended the Supreme Court of Western Australia's 2024 Senior Counsel Presentation.
31 January 2024	Attended a Special Sitting of the Perth Registry of the Federal Court of Australia for Western Australia's 2024 Senior Counsel appointees.
22 February 2024	Presented at the University of Western Australia Unravelling Corporate Fraud Conference.
23 February 2024	Attended a Ceremonial Welcome of Justice Kate Glancy to the Supreme Court of Western Australia.
1 March 2024	Attended a Ceremonial Welcome of Justice Craig Dowling to the Federal Court of Australia.
12 March 2024	Presented at the Piddington Society Evidence Essentials seminar.
6 May 2024	Presented a seminar on 'Federal Jurisdiction' for the 2024 Western Australian Bar Association's Bar Readers' Course.
3-5 June 2024	Attended the AIATSIS 2024 Summit: Celebrating Indigenous Brilliance: Then and Now.

PART 6

The Hon John Halley

Professional and other associations

- Deputy President, Australian Competition Tribunal
- Member, Defence Force Discipline Appeals Tribunal

DATE	ACTIVITY
8 August 2023	Attended the swearing in of Scott Nixon SC as a judge of the New South Wales Supreme Court.
18 October 2023	Sworn in as a member of the Defence Force Discipline Appeals Tribunal, Admiralty House (Sydney).
30 October–1 November 2023	Attended Marshals' Training and Admiralty Judges' Judicial Training (Brisbane).
15 November 2023	Attended the swearing in of Justice Perry and Justice Wright as members of the Defence Force Discipline Appeals Tribunal (Sydney).
30 January 2024	Attended the swearing in of Ian Pike SC as a judge of the New South Wales Supreme Court.
1 February 2024	Attended the swearing in of James Hmelnitsky SC as a judge of the New South Wales Supreme Court.
3 April 2024	Attended the launch of the Supreme Court's 200-year anniversary book titled 'Constant Guardian: Changing Times: The Supreme Court of New South Wales 1824–2024' (Sydney).
6 May 2024	Attended farewell ceremony of Justice Besanko as a judge of the Federal Court of Australia (Adelaide).
17 May 2024	Attended the ceremonial sitting for the Bicentenary of the Supreme Court of New South Wales (Sydney).
1 June 2024	Presented the keynote address and a paper titled 'Second Guessing the Gate Keeper: Alternative Approaches to Merits and Judicial Review of Merger Clearance Determinations by Competition Authorities' at the 2024 Competition Law Conference (Sydney).
19 June 2024	Met with a delegation from the Supreme Court of Indonesia (Sydney).

The Hon Elizabeth Cheeseman

Professional and other associations

- Council Member, University of New South Wales
- Member, Australian Judicial Officers Association
- Member, New South Wales Bar Association
- Member, Judicial Education Committee
- Member, Duty Proposal Committee

DATE	ACTIVITY
16 August 2023	Attended the New South Wales Bar Association Sybil Morrison Lecture 2023.
23 August 2023	Panellist and judge at the Australian Insurance Law Association – 2023 Ron Shorter Award.
20 February 2024	Attended seminar hosted by the Judicial Commission of New South Wales titled 'Sovereign Citizens – a psychological perspective'.
22 February 2024	Attended seminar hosted by New Chambers titled 'Trustee Succession: Indemnities, Insolvency and Fiduciary Duties?'.
13 May 2024	Attended seminar hosted by Victorian Court of Appeal titled 'Recurring Issues in Civil Appeals'.

The Hon Helen Rofe

Professional and other associations

- Deputy President, Copyright Tribunal (since December 2022)
- National Coordinating Judge, Intellectual Property (Victoria)
- Member, Editorial Board, Journal of the Intellectual Property Society of Australia and New Zealand
- Member, Victorian Women Lawyers Association
- Member, Starts With Us Steering Committee
- Member, Diversity Internship Steering Group
- Member, Security Committee
- Member, ECF Replacement (CourtPath) Judicial Engagement Committee
- Member, International Cooperation Subcommittee
- Member, National Duty Scheme Committee
- Chair, Law Council Intellectual Property Case Management User Group (Melbourne)

DATE	ACTIVITY
13 July 2023	Participated in an interview for the article 'In Conversation with the Honourable Justice Helen Rofe' published in the September 2023 issue of 'Intellectual Property Forum' journal.
25-27 July 2023	Attended the Indo-Pacific Judicial Colloquium hosted by the United States Patent and Trademark Office (Washington, United States of America).
2 August 2023	Attended the 'Starts With Us' framework workshop for 'Input into the development of the Framework for primary prevention of gendered violence in the Victorian legal and justice workforce'.
16-18 August 2023	Presented at the World Intellectual Property Organisation's launch of the Bench Book for the Philippines Judicial Academy and National Judicial Colloquium on Intellectual Property Adjudication (Manilla, Philippines).
20 October 2023	Attended the welcome ceremony for Justice Horan.
25 October 2023	Attended Judicial Workplace Conduct Project.
31 October-8 November 2023	Participated in the Federal Court, Victorian Supreme Court, Victorian County Court, and Victorian Bar Association Diversity Internship Program.
2 November 2023	Participated in an interview with <i>The Australian</i> newspaper.
8 November 2023	Attended the Victorian Silk Bows Ceremony.
15 November 2023	Attended the Launch of the Diversity Internship Program.
17 November 2023	Attended the ceremonial sitting for Justice Bromberg.
21 November 2023	Attended 'A Truly Hellish Day in Court!' event hosted by Emmerson Chambers.
24 November 2023	Attended the farewell ceremony for Justice Kenny AM.
24 November 2023	Invited as a speaker at the Melbourne University Law School Valedictory Dinner.
28 February 2024	Attended the welcome ceremony for Justice Neskovicin.
28 February 2024	Attended the 'Indigenous Students' Clerkship Program' Function hosted by the Victorian Bar Association
1 March 2024	Attended the welcome ceremony for Justice Dowling.
4 March 2024	Attended the Federal Court and Law Council Intellectual Property Committee dinner.
7 March 2024	Received the inaugural 'ChIPS Champion' award from the Australia and New Zealand Chapter of the ChIPS Network.

DATE	ACTIVITY
3-5 April 2024	Participated in the Federal Court, Victorian Supreme Court, and Victorian Bar Association Indigenous Clerkship Program.
6-7 April 2024	Presented at the 'Artificial Intelligence and the Courts - Master or Servant' symposium held by the National Judicial College of Australia (Canberra).
16 April 2024	Attended the <i>Australian Trade Mark Law</i> book launch.
18 April 2024	Adjudicated the Victorian Bar Readers' Course Appellate Advocacy Moots.
18 April 2024	Attended the Alumni Cocktail Evening hosted by the Melbourne University Law Review.
30 April 2024	Hosted the Vietnamese Judicial Delegation's visit to the Victorian registry.
7 May 2024	Presented at the 'Equitable Briefing: Views from Both Sides of the Fence' event hosted by Emmerson Chambers.
15 May 2024	Presented on the panel at the 'Intellectual Property Seminar' hosted by the Federal Court and the Intellectual Property section of the Commercial Bar.
16 May 2024	Hosted an Intellectual Property Soirée for the Melbourne profession in honour of Justice Yates.
21 May 2024	Attended the welcome ceremony of Justice Orr.
21 May 2024	Presented on the Law Week Panel Discussion regarding the Diversity Internship Program.
22 May 2024	Attended a dinner hosted by the Australian Association of Women Judges in honour of Chief Justice Mortimer.
7 June 2024	Presented at the 'New Zealand Senior Courts' Update' seminar held at Wellington, New Zealand (virtual).
12 June 2024	Attended the opening of the Australian Law Reform Commission's Melbourne office.
19 June 2024	Attended a dinner event held by the Victorian Bar Association for the Hon Stephen Charles AO KC.
21 June 2024	Attended the West Brighton Club dinner.

The Hon Kylie Downes

Professional and other associations

- Chair, Rules Committee
- Chair, Committee for the Harmonisation of Rules of the Council of Chief Justices of Australia and New Zealand
- Member, Digital Practice Committee
- Member, Library and Archives Committee
- Deputy President, Australian Competition Tribunal

DATE	ACTIVITY
July 2023–December 2023	Participated as member of the Electronic Case File Replacement (CourtPath) Judicial Engagement Group.
13 July 2023	Attended joint meeting of FCA/FCFCOA migration judges (virtual).
11 August 2023	Attended bench and bar dinner (Brisbane).
23 August 2023	Chaired meeting of Committee for the Harmonisation of Rules of the Council of Chief Justices of Australia and New Zealand.
30 August 2023–1 September 2023	Attended Judges' Meeting (Healesville).

DATE	ACTIVITY
13 September 2023	Attended ceremonial sitting of the Full Court to welcome Justice Shariff (Sydney).
August–October 2023	Chaired sub-committee of Harmonisation Committee for purposes of preparing harmonised practice note on schemes of arrangement.
October 2023 –May 2024	Member of <i>ad hoc</i> committee with Justice Perram relating to short form judgments.
24 October 2023	Presented at Queensland Law Society as part of Modern Advocate Lecture Series (Brisbane).
26 October 2023	Attended the Intellectual Property Society of Australia and New Zealand Annual Judges' Dinner (Brisbane).
6 November 2023	Attended ceremonial sittings of High Court for swearing in of Chief Justice Gageler and Justice Beech-Jones (Canberra).
13 December 2023	Attended dinner for new silks and gave toast on behalf of judiciary (Brisbane).
14 December 2023	Attended ceremonial sitting of Full Court to welcome new silks (Brisbane).
20 February 2024	Attended conference of members of Australian Competition Law Tribunal (Sydney).
10–11 April 2024	Attended conference in Brasilia to celebrate 35th anniversary of the Superior Tribunal de Justica (National High Court of Brazil).
29 April 2024	Chaired meeting of Committee for the Harmonisation of Rules of the Council of Chief Justices of Australia and New Zealand (Sydney).
29–31 May 2024	Attended Judges' Meeting (Barossa Valley).

The Hon Patrick O'Sullivan

Professional and other associations

- Member, Australian Judicial Officers Association
- Member, Criminal Procedure Committee
- Member, International Development and Cooperation Committee
- Additional Judge, Supreme Court of the Australian Capital Territory
- Member, Federal Court and Supreme Court Judges Conference 2025 Organising Committee

DATE	ACTIVITY
28 July 2023	Keynote speaker at the Commercial Law Conference: 'Federal Court puts the brakes on ACCC's unconscionable conduct case against Mazda'.
15 August 2023	Hosted a talk with students visiting the Court from Immanuel and Loreto College.
19 October 2023	Attended and participated in a session on 'Judicial Workplace Conduct Project' – conducted Dr Helen Szoke AO.
20 October 2023	Attended welcome sitting of Justice Horan in Melbourne on behalf of Adelaide Registry.
26 October 2023	Participated in an interview for an article in <i>The Australian</i> with Ellie Dudley.
30–31 October 2023	Attended the Admiralty Marshal's Workshop (Brisbane).
6 November 2023	Attended the SABA Bar Readers Course and conducted a presentation on 'Courtroom etiquette and dealing with difficult judges, opposing counsel, clients and witnesses'.
17 November 2023	Attended a sitting for Justice Bromberg in Melbourne on behalf of Adelaide Registry.
7 December 2023	Attended and presented a session on Trusts at the STEP SA Annual Members Dinner.

DATE	ACTIVITY
28 February 2024	Attended welcome sitting of Justice Neskovicin (Melbourne).
12 March 2024	Attended the IPSANZ, SA Trade Marks Update, presented by Ed Heerey KC and Ben Gardiner KC (Adelaide).
6 May 2024	Attended Farewell ceremony for Justice Besanko (Adelaide).
29–31 May 2024	Attended the Federal Court Judges' Meeting (Adelaide).

The Hon Shaun McElwaine

Professional and other associations

- Member, Judicial Wellbeing Committee
- Member, Self-represented Litigants Working Group
- Member, Australian Judicial Officers Association

DATE	ACTIVITY
4–5 October 2023	Presided over Victorian Bar Readers' Course Oral Appellate Advocacy Moots (Melbourne).
11 November 2023	Presented at the Tasmanian Lawyers Litigation Convention, East Coast Tasmania.
12–17 November 2023	Attended the National Judicial Orientation Program (Sydney).
18 April 2024	Presided over the Victorian Bar Readers' Course Oral Appellate Advocacy Moots (Melbourne).
3 May 2024	Presented at the Tasmanian Legal Practice Course, University of Tasmania (Hobart).
10 May 2024	Attended the Bicentenary of the Supreme Court of Tasmania.

The Hon Michael Feutrill

Professional and other associations

- Member, Australasian Institute of Judicial Administration
- Member, Australian Judicial Officers Association
- Honorary Fellow, Law School, University of Western Australia
- Lecturer, International Commercial Arbitration, University of Western Australia
- Member, Western Australia Steering Committee, Australian Centre for International Commercial Arbitration

DATE	ACTIVITY
28 July 2023	Spoke to Year 10–12 students as part of Guildford Grammar School's 'Friday Afternoon Activity space' on professional career (Perth).
9 August 2023	Attended the Western Australia Judiciary training event 'Let's Talk' at the College of Law (Perth).
16–17 September 2023	Participated as a coach in the annual Law Society of Western Australia Practical Advocacy Weekend (Perth).
30 October–1 November 2023	Participated in the Admiralty Marshals' Workshop and facilitated with Registrar Trott the session 'Marshals' Forum' (Brisbane).
17–22 March 2024	Participated in the National Judicial College of Australia National Judicial Orientation Program (Brisbane).
17 April 2024	Presented a session entitled 'Into a hornet's nest – indemnity claims for historical institutional child abuse – Uniting Church in Australia Property Trust (NSW) v Allianz Australia Insurance Limited (Liability Judgment) [2023] FCA 190' at the Australian Institute of Administrative Law seminar (Perth).

The Hon Timothy McEvoy

Professional and other associations

- Judicial Deputy President, Administrative Appeals Tribunal
- Visiting Professor, University of Virginia School of Law
- Member, American Law Institute
- Board Member, OzChild
- Member, Australasian Institute of Judicial Administration
- Member, Australian Judicial Officers Association
- Member, Victorian Bar Inc.
- Member, Tasmanian Bar
- Member, Medico-Legal Society of Victoria

DATE	ACTIVITY
5 July 2023	Attended on behalf of the Chief Justice and spoke at the launch of the Filipino Australian Lawyers Association (Melbourne).
13 July 2023	Presented at panel discussion for the launch of 'The World Crisis and International Law: The Future of International Law' by Professor Paul B Stephan III (Cambridge) hosted by Wilmer Cutler Pickering Hale and Dorr LLP (London).
1 August 2023	Attended lunch meeting hosted by the Chief Justice with Chief Justice Syarifuddin, and Judges of the Supreme Court of Indonesia (Melbourne).
30 August– 1 September 2023	Attended August Judges' Meeting, Melbourne (Healesville).
12 September 2023	Attended in conversation event with the Chief Justice and Professor Val Napoleon, University of Victoria (Canada), on the topic of 'Recovering and Revitalising Indigenous Laws', Owen Dixon Commonwealth Law Courts (Melbourne).
25 September– 5 October 2023	Taught Globalization and Private Dispute Resolution course at University of Virginia School of Law, Charlottesville (USA).
20 October 2023	Attended ceremonial sitting of the Full Court to welcome Justice Horan (Melbourne).
20 October 2023	Attended Dever's List Dinner (Melbourne).
30 October– 1 November 2023	Attended Marshals' and Admiralty Judges' Judicial Education (Brisbane).
8 November 2023	Attended the Victorian Silk Bows Ceremony and drinks to celebrate the Victorian Senior Counsel appointments (Melbourne).
14 November 2023	Attended ceremonial sitting of the Full Court to farewell Justice Rares (Sydney).
17 November 2023	Attended ceremonial sitting of the Full Court for Justice Bromberg (Melbourne).
28 November 2023	Visited significant cultural sites of the Upurli Upurli Nguratja native title holders near Cundelee, Western Australia and delivered consent determination judgment on country (<i>Hansen on behalf of the Upurli Upurli Nguratja Native Title Claim Group v State of Western Australia</i> [2023] FCA 1460).
29 November 2023	Attended and delivered consent determination judgment on country for the Kakarra Part B native title holders at Karonie, Western Australia (<i>Forrest on behalf of the Kakarra Part B Claim Group v State of Western Australia</i> [2023] FCA 1461).
20–24 January 2024	Attended the 2024 Supreme, Federal and New Zealand Senior Courts Conference (Melbourne).
29 January 2024	Attended Jewish Opening of the Legal Year, East Melbourne Synagogue (Melbourne).

DATE	ACTIVITY
5–9 February 2024	Participated in the Federal Court, Supreme Court of Victoria, County Court of Victoria and the Victorian Bar Indigenous Clerkship Program.
8 February 2024	Attended CommBar Annual Cocktail Party (Melbourne).
28 February 2024	Attended ceremonial sitting of the Full Court to welcome Justice Neskovicin (Melbourne).
28 February 2024	Attended Victorian Bar Indigenous Clerkship Program Thank You Drinks (Melbourne).
1 March 2024	Attended ceremonial sitting of the Full Court to welcome Justice Dowling (Melbourne).
13–15 March 2024	Presented at the 8th Judicial Seminar on Commercial Litigation, Hong Kong: <i>Res judicata and issue (collateral) estoppel in transnational litigation and arbitration: The United States position in comparative perspective</i> .
18–19 April 2024	Attended the 2024 Australian Institute of Judicial Administration 11th Appellate Judges' Conference (Adelaide).
18 May 2024	Attended Victorian Bar Dinner (Melbourne).
21 May 2024	Attended the ceremonial sitting of the Supreme Court of Victoria to welcome the Honourable Justice Rowena Orr as a Judge of Appeal of the Supreme Court of Victoria.
22 May 2024	Attended Australian Association of Women Judges Dinner for Mortimer CJ (Melbourne).
29–31 May 2024	Attended National Judges' Meeting, Adelaide (Barossa Valley).

The Hon Lisa Hespe

Professional and other associations

- Deputy President, Administrative Appeals Tribunal

DATE	ACTIVITY
25 October 2023	Attended the Tax Bar Association Annual Dinner.
15 March 2024	Presented at the Whitlam Institute Continuing Professional Development: 'A New System of Federal Administrative Review'.
2 May 2024	Panel member at the International Fiscal Association/Federal Court Seminar: 'Case preparation and management in complex and international tax disputes' (Melbourne).

The Hon Geoffrey Kennett

Professional and other associations

- Fellow, Australian Academy of Law
- Deputy President, Administrative Appeals Tribunal
- Member, Australian Judicial Officers Association
- Federal Court representative, Court Accessibility User Group

DATE	ACTIVITY
6 November 2023	Attended the ceremonial sitting of the High Court of Australia for the swearing in of the Hon Chief Justice Stephen Gageler.
6 November 2023	Attended the ceremonial sitting of the High Court of Australia for the swearing in of the Hon Justice Robert Beech-Jones.
12–17 November 2023	Attended the National Judicial College of Australia's National Judicial Orientation Program.
27 February 2024	Attended the unveiling of the official portrait of the Hon. James Allsop AC.
15 March 2024	Presented a session on migration litigation in the Federal Court at the Law Council of Australia's Immigration Law Conference with Justice Horan and Registrar Haag.
15 May 2024	Attended the signing of a Memorandum of Understanding between the Federal Court of Australia and the Supreme Court of the Philippines.
16 May 2024	Presided over mock Federal Court Applications for the New South Wales Bar Practice Course.
17 May 2024	Attended the ceremonial sitting of the New South Wales Supreme Court to mark the Court's Bicentenary.
18 June 2024	Presented a seminar on migration law at the Federal Circuit and Family Court of Australia's General Federal Law Judges' Plenary with Judge Given.

The Hon Ian Jackman

Professional and other associations

- Member, Australian Academy of Law

DATE	ACTIVITY
19 February 2024	Delivered a paper: 'Limits on the Duty of Utmost Good Faith' to the Commercial Bar Association of Victoria, Insurance and Professional Negligence Section.
17–21 June 2024	Taught a course on 'Leaders in Jurisprudence' to students at St Andrew's College, University of Sydney.
21 June 2024	Delivered a paper on 'Is Cryptocurrency Property?' to the Commercial Law Association of Australia (Sydney).

PART 6

The Hon Christopher Horan

Professional and other associations

- Fellow, Australian Academy of Law
- Member, Australian Association of Constitutional Law
- Member, Australian Judicial Officers Association

DATE	ACTIVITY
25 October 2023	Attended the Tax Bar Association Annual Dinner (Melbourne).
8 March 2024	Attended Centre for Comparative Constitutional Studies symposium on 'Current Developments in Constitutional Law' at the University of Melbourne Law School and chaired the session on 'Referendums and the Future of Constitutional Change' presented by Professor Cheryl Saunders AO, the Hon. Susan Kenny AM, KC and Mr Tom Rogers (Australian Electoral Commissioner).
15 March 2024	Attended the Law Council of Australia Immigration Law Conference and presented with the Hon. Justice Geoffrey Kennett and National Judicial Registrar Simon Haag on the topic 'The Future of Migration Litigation in the Federal Court of Australia' chaired by Carina Ford, chair of the Migration Law Committee (Melbourne).
18 March 2024	Attended the Australian Academy of Law seminar presented by the Hon Justice Emilios Kyrrou on 'Mechanisms in the ART Bill to Thwart Robodebt-type Maladministration' at the Federal Court of Australia (Melbourne).
18 April 2024	Participated as a judge at the Victorian Bar Readers' Course Oral Appellate Advocacy Moots.
21 May 2024	Attended the ceremonial welcome for Justice Rowena Orr, Court of Appeal, Supreme Court of Victoria.
12 June 2024	Attended the opening of the offices of the Australian Law Reform Commission (Melbourne).

APPENDIX 3: COMMITTEES

Federal Court judicial committees, 30 June 2024

Committee	Committee members	Staff representatives
Audit	Justice Thawley Justice Harper J (FCFOCA)(Division 1) Judge Laing (FCFOCA)(Division 2) Ian Govey (Independent chair) David Donovan (External member) Lloyd Dobson (External member) Sue-Ellen Bickford (External member)	Sia Lagos (See PGPA) David Pringle (FCFCOA) Katie Stride (NNTT) Paul Kennedy Attilio Martiniello (S) Nathan Price Chris Leeming Sami Dagher
Criminal Procedure	Justice Wigney (C) Justice Bromwich Justice Abraham Justice O'Sullivan	Rowan Davis (S) Alicia Ditton Jodie Burns
Digital Practice	Justice Perram (C) Justice Wheelahan Justice Downes	Paul Kennedy Bernadette Ruddy Nathan Price Tim Luxton Thom Stewart Rob Southwell (S)
International Cooperation	Justice Collier Justice Logan RFD Justice Markovic Justice Burley (C) Justice Colvin Justice Rofe Justice O'Sullivan	Sia Lagos Andrea Jarratt Helen Burrows (S)
Judicial Education	Justice Katzmann Justice Sarah C Derrington AM Justice Banks-Smith (C) Justice Stewart Justice O'Bryan Justice Cheeseman	Sia Lagos Andrea Jarratt Claire Hammerton Cole (S) Dimi Argyros
Judicial Education Conference subcommittee	Justice Sarah C Derrington (C) Justice Banks-Smith	Andrea Jarratt Claire Hammerton Cole (S) Dimi Argyros
Judicial Wellbeing	Justice Collier Justice Katzmann (C) Justice Murphy Justice Charlesworth Justice Banks-Smith Justice McElwaine	Sia Lagos Jimmy Mastorakos Jane Sandry (S) Jodie Burns
Judicial Workplace Conduct	Justice Markovic (C) Justice Moshinsky Justice Jackson	Sia Lagos Jimmy Mastorakos Andrea Jarratt
Library and Archives	Justice O'Callaghan (C) Justice Downes Justice Feutrill Justice Jackman	Georgia Livissianos (S)

Committee	Committee members	Staff representatives
Operations and Finance Forum	Chief Justice Mortimer (C) Justice Perram Justice Murphy Justice Moshinsky Justice Lee Justice Roger Derrington Justice Colvin Justice Abraham Justice Hespe	Sia Lagos Paul Kennedy Scott Tredwell Attilio Martiniello Louise Kenworthy Jimmy Mastorakos Matthew Davis Alison Legge Andrea Jarratt (S)
Media	Justice Wigney (C) Justice Charlesworth Justice Sarah C Derrington Justice Jackson Justice Button	Janelle Olney (S) Rachael Cowdell Bruce Phillips Georgia Livissianos Paul Farrell Rowan Davis Selected external media representatives
Remuneration	Justice Lee (C) Justice Snaden Justice McEvoy Justice Button	Sia Lagos Andrea Jarratt (S)
Rules	Justice Perram Justice Yates Justice Colvin Justice Wheelahan Justice Abraham Justice Halley Justice Downes (C)	Peter Schmidt (S) Scott Tredwell
Security	Justice Perry Justice Rofe Deputy Chief Justice McClelland (FCFCOA) (C) Judge Vasta (FCFCOA) Judge McNab (FCFCOA)	Paul Kennedy Steve Fewster (S)

C = Chair

S = Secretariat

APPENDIX 4: STAFFING PROFILE

The Chief Executive Officer and Principal Registrar of the Federal Court of Australia, together with officers and staff identified under the FCA Act, the *Federal Circuit and Family Court of Australia Act 2021* (Cth) and the *Native Title Act 1993* (Cth), constitute a single statutory agency for the purposes of the *Public Service Act 1999* (Cth). This is known as the Federal Court Listed Entity.

Heads of jurisdiction continue to be responsible for managing the administrative affairs of their respective courts (excluding corporate services), with assistance from a CEO and Principal Registrar.

All staff are employed by the Federal Court Listed Entity under the *Public Service Act 1999* (Cth), regardless of which court or tribunal they work for or provide services to.

The total staffing number for the Listed Entity as at 30 June 2024, was 1,462 employees. This includes 899 ongoing and 563 non-ongoing employees.

For more information about staffing see Part 3 (*Report on Corporate Services*) and Appendix 3 (*Staffing statistics*) of the Federal Court Listed Entity's 2023-24 annual report.

Staff providing direct support to the Federal Court of Australia include:

- 99 judicial support staff providing support to judges
- 49 registrars providing support to judges

At 30 June 2024, there were 53 judges in the Federal Court of Australia, including the Chief Justice. Judge numbers are not included in the overall Listed Entity staffing number.

APPENDIX 5: INFORMATION REQUIRED BY OTHER LEGISLATION

Legislation	Page of printed report
<i>Federal Court of Australia Act 1976 (Cth)</i>	iii, 4, 13, 92
<i>Freedom of Information Act 1982 (Cth)</i>	96, 110
<i>Native Title Act 1993 (Cth)</i>	i, iii, 11, 18, 63, 78, 92, 101, 143, 156, 157, 158
<i>Public Governance, Performance and Accountability Act 2013 (Cth)</i>	10, 23
<i>Public Service Act 1999 (Cth)</i>	92, 143

APPENDIX 6: COURT LOCATIONS

Principal Registry

Law Courts Building
Queens Square Sydney NSW 2000

Phone: (02) 9230 8567

Fax: (02) 9230 8824

Email: query@fedcourt.gov.au

Web: www.fedcourt.gov.au

Contact hours: 8.30am–5.00pm

Australian Capital Territory

Nigel Bowen Commonwealth Law Courts
Cnr University Avenue and Childers Street
Canberra City ACT 2600

Phone: 1300 720 980

Fax: (02) 6267 0625

Email: actreg@fedcourt.gov.au

Counter hours: 9.00am–4.30pm

Contact hours: 8.30am–5.00pm

New South Wales

Law Courts Building
Level 17, Queens Square Sydney NSW 2000

Phone: 1300 720 980

Fax: (02) 9230 8535

Email: nswreg@fedcourt.gov.au

Counter hours: 9.00am–4.30pm

Contact hours: 8.30am–5.00pm

Northern Territory

Supreme Court Building
Level 3, State Square Darwin NT 0800

Phone: 1300 720 980

Fax: (08) 8941 4941

Email: ntreg@fedcourt.gov.au

Counter hours: 9.00am–4.00pm

Contact hours: 8.45am–4.30pm

Queensland

Harry Gibbs Commonwealth Law Courts
Level 6, 119 North Quay
Brisbane Qld 4000

Phone: 1300 720 980

Fax: (07) 3248 1260

Email: qldreg@fedcourt.gov.au

Counter hours: 9.00am–4.00pm

Contact hours: 8.30am–5.00pm

South Australia

Roma Mitchell Commonwealth Law Courts
Level 5, 3 Angas Street
Adelaide SA 5000

Phone: 1300 720 980

Fax: (08) 8219 1001

Email: sareg@fedcourt.gov.au

Counter hours: 9.00am–4.30pm

Contact hours: 8.30am–5.00pm

Tasmania

Edward Braddon Commonwealth Law Courts
39–41 Davey St
Hobart TAS 7000

Phone: 1300 720 980

Fax: (03) 6232 1601

Email: tasreg@fedcourt.gov.au

Counter hours: 9.00am–4.30pm

Contact hours: 8.30am–5.00pm

Victoria

Owen Dixon Commonwealth Law Courts
Level 7, 305 William Street
Melbourne VIC 3000

Phone: 1300 720 980

Fax: (03) 8600 3351

Email: vicreg@fedcourt.gov.au

Counter hours: 9.00am–4.30pm

Contact hours: 8.30am–5.00pm

Western Australia

Peter Durack Commonwealth Law Courts
Level 6, 1 Victoria Avenue
Perth WA 6000

Phone: 1300 720 980

Email: waregistry@fedcourt.gov.au

Counter hours: 8.30am–4.00pm

Contact hours: 8.30am–5.00pm

International callers: +612 8833 7402

PART 7: INDEXES

List of requirements

PGPA Rule Reference	Part of Report	Description	Requirement
17AD(g)	Letter of transmittal		
17A1	iii	A copy of the letter of transmittal signed and dated by accountable authority on date final text approved, with statement that the report has been prepared in accordance with section 46 of the Act and any enabling legislation that specifies additional requirements in relation to the annual report.	Mandatory
17AD(h)	Aids to access		
17AJ(a)	151	Table of contents (print only).	Mandatory
17AJ(b)	160	Alphabetical index (print only).	Mandatory
17AJ(c)	154	Glossary of abbreviations and acronyms.	Mandatory
17AJ(d)	146	List of requirements.	Mandatory
17AJ(e)	IFC	Details of contact officer.	Mandatory
17AJ(f)	IFC	Entity's website address.	Mandatory
17AJ(g)	IFC	Electronic address of report.	Mandatory
17AD(a)	Review by accountable authority		
17AD(a)	1-7, 9-10	A review by the accountable authority of the entity.	Mandatory
17AD(b)	Overview of the entity		
17AE(1)(a)(i)	Entity report 2-5	A description of the role and functions of the entity.	Mandatory
17AE(1)(a)(ii)	Entity report 3, 14, 40	A description of the organisational structure of the entity.	Mandatory
17AE(1)(a)(iii)	Entity report 3-5	A description of the outcomes and programmes administered by the entity.	Mandatory
17AE(1)(a)(iv)	Entity report 2	A description of the purposes of the entity as included in corporate plan.	Mandatory
17AE(1)(aa)(i)	Entity report 2, 108	Name of the accountable authority or each member of the accountable authority.	Mandatory
17AE(1)(aa)(ii)	Entity report 2, 108	Position title of the accountable authority or each member of the accountable authority.	Mandatory
17AE(1)(aa)(iii)	Entity report 108	Period as the accountable authority or member of the accountable authority within the reporting period.	Mandatory
17AE(1)(b)	Entity report 108	An outline of the structure of the portfolio of the entity.	Portfolio departments mandatory
17AE(2)	N/A	Where the outcomes and programs administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, include details of variation and reasons for change.	If applicable, Mandatory

PGPA Rule Reference	Part of Report	Description	Requirement
17AD(c)	Report on the Performance of the entity		
Annual performance Statements			
17AD(c)(i); 16F	Entity report 109-129	Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule.	Mandatory
17AD(c)(ii)	Report on Financial Performance		
17AF(1)(a)	Entity report 15	A discussion and analysis of the entity's financial performance.	Mandatory
17AF(1)(b)	Entity report 99	A table summarising the total resources and total payments of the entity.	Mandatory
17AF(2)	N/A	If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results.	If applicable, Mandatory.
17AD(d)	Management and Accountability		
Corporate Governance			
17AG(2)(a)	Entity report 16	Information on compliance with section 10 (fraud systems).	Mandatory
17AG(2)(b)(i)	Entity report 16	A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared.	Mandatory
17AG(2)(b)(ii)	Entity report 16	A certification by accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the entity are in place.	Mandatory
17AG(2)(b)(iii)	Entity report 16	A certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity.	Mandatory
17AG(2)(c)	Entity report 5	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance.	Mandatory
17AG(2)(d) – (e)	Entity report 19	A statement of significant issues reported to Minister under paragraph 19(1)(e) of the Act that relates to noncompliance with Finance law and action taken to remedy noncompliance.	If applicable, Mandatory
Audit Committee			
17AG(2A)(a)	Entity report 19	A direct electronic address of the charter determining the functions of the entity's audit committee.	Mandatory
17AG(2A)(b)	Entity report 17-19	The name of each member of the entity's audit committee.	Mandatory
17AG(2A)(c)	Entity report 17-19	The qualifications, knowledge, skills or experience of each member of the entity's audit committee.	Mandatory
17AG(2A)(d)	Entity report 17-19	Information about the attendance of each member of the entity's audit committee at committee meetings.	Mandatory
17AG(2A)(e)	Entity report 17-19	The remuneration of each member of the entity's audit committee.	Mandatory
External Scrutiny			
17AG(3)	Entity report 6	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny.	Mandatory

PGPA Rule Reference	Part of Report	Description	Requirement
17AG(3)(a)	Entity report 6	Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity.	If applicable, Mandatory
17AG(3)(b)	Entity report 6	Information on any reports on operations of the entity by the Auditor General (other than report under section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman.	If applicable, Mandatory
17AG(3)(c)	Entity report 6	Information on any capability reviews on the entity that were released during the period.	If applicable, Mandatory
Management of Human Resources			
17AG(4)(a)	Entity report 27	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives.	Mandatory
17AG(4)(aa)	Entity report 100-108	Statistics on the entity's employees on an ongoing and nonongoing basis, including the following: (a) statistics on fulltime employees (b) statistics on parttime employees (c) statistics on gender (d) statistics on staff location.	Mandatory
17AG(4)(b)	Entity report 100-108	Statistics on the entity's APS employees on an ongoing and nonongoing basis; including the following: Statistics on staffing classification level Statistics on fulltime employees Statistics on parttime employees Statistics on gender Statistics on staff location Statistics on employees who identify as Indigenous.	Mandatory
17AG(4)(c)	Entity report 29, 107	Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the Public Service Act 1999.	Mandatory
17AG(4)(c)(i)	Entity report 107	Information on the number of SES and nonSES employees covered by agreements etc identified in paragraph 17AG(4)(c).	Mandatory
17AG(4)(c)(ii)	Entity report 107	The salary ranges available for APS employees by classification level.	Mandatory
17AG(4)(c)(iii)	Entity report 107	A description of nonsalary benefits provided to employees.	Mandatory
17AG(4)(d)(i)	Entity report 108	Information on the number of employees at each classification level who received performance pay.	If applicable, Mandatory
17AG(4)(d)(ii)	Entity report 108	Information on aggregate amounts of performance pay at each classification level.	If applicable, Mandatory
17AG(4)(d)(iii)	Entity report 108	Information on the average amount of performance payment, and range of such payments, at each classification level.	If applicable, Mandatory
17AG(4)(d)(iv)	Entity report 108	Information on aggregate amount of performance payments.	If applicable, Mandatory
Assets Management			
17AG(5)	Entity report 22-24	An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities.	If applicable, mandatory

PGPA Rule Reference	Part of Report	Description	Requirement
Purchasing			
17AG(6)	Entity report 21	An assessment of entity performance against the Commonwealth Procurement Rules.	Mandatory
Reportable consultancy contracts			
17AG(7)(a)	Entity report 21	A summary statement detailing the number of new reportable consultancy contracts entered into during the period; the total actual expenditure on all such contracts (inclusive of GST); the number of ongoing reportable consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting period on those ongoing contracts (inclusive of GST).	Mandatory
17AG(7)(b)	Entity report 21	A statement that "During [reporting period], [specified number] new reportable consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing reportable consultancy contracts were active during the period, involving total actual expenditure of \$[specified million]".	Mandatory
17AG(7)(c)	Entity report 21	A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged.	Mandatory
17AG(7)(d)	Entity report 21	A statement that "Annual reports contain information about actual expenditure on reportable consultancy contracts. Information on the value of reportable consultancy contracts is available on the AusTender website."	Mandatory
Reportable non-consultancy contracts			
17AG(7A)(a)	Entity report 21	A summary statement detailing the number of new reportable non-consultancy contracts entered into during the period; the total actual expenditure on such contracts (inclusive of GST); the number of ongoing reportable non-consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting period on those ongoing contracts (inclusive of GST).	Mandatory
17AG(7A)(b)	Entity report 21	A statement that "Annual reports contain information about actual expenditure on reportable non-consultancy contracts. Information on the value of reportable non-consultancy contracts is available on the AusTender website."	Mandatory
17AD(daa)	Additional information about organisations receiving amounts under reportable consultancy contracts or reportable non-consultancy contracts		
17AGA	Entity report 21	Additional information, in accordance with section 17AGA, about organisations receiving amounts under reportable consultancy contracts or reportable non-consultancy contracts.	Mandatory
Australian National Audit Office Access Clauses			
17AG(8)	Entity report 21	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 AuditorGeneral 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

PGPA Rule Reference	Part of Report	Description	Requirement
Exempt contracts			
17AG(9)	Entity report 21	If an entity entered into a contract or there is a standing offer with a value greater than \$10 000 (inclusive of GST) which has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters.	If applicable, Mandatory
Small business			
17AG(10)(a)	Entity report 22	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
17AG(10)(b)	Entity report 22	An outline of the ways in which the procurement practices of the entity support small and medium enterprises.	Mandatory
17AG(10)(c)	Entity report 22	If the entity is considered by the Department administered by the Finance Minister as material in nature—a statement that “[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury’s website.”	If applicable, Mandatory
Financial Statements			
17AD(e)	Entity report 56–98	Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act.	Mandatory
Executive Remuneration			
17AD(da)	Entity report 130–132	Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 23 of the Rule.	Mandatory
17AD(f)	Other Mandatory Information		
17AH(1)(a)(i)	N/A	If the entity conducted advertising campaigns, a statement that “During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity’s website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance’s website.”	If applicable, Mandatory
17AH(1)(a)(ii)	Entity report 16	If the entity did not conduct advertising campaigns, a statement to that effect.	If applicable, Mandatory
17AH(1)(b)	Entity report 16	A statement that “Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity’s website].”	If applicable, Mandatory
17AH(1)(c)	Entity report 28	Outline of mechanisms of disability reporting, including reference to website for further information.	Mandatory
17AH(1)(d)	96	Website reference to where the entity’s Information Publication Scheme statement pursuant to Part II of FOI Act can be found.	Mandatory
17AH(1)(e)	95	Correction of material errors in previous annual report.	If applicable, mandatory
17AH(2)	144	Information required by other legislation.	Mandatory

TABLE OF CONTENTS

Acknowledgment of Country	i
Reader's Guide	ii
Letter of transmittal	iii
2023–24 at a glance	iv
Part 1: Chief Justice's year in review	1
New developments	2
Changes to Full Court and Appellate sittings	3
Changes in the composition of the Court	3
Community and professional engagement	3
Discharge of the Court's judicial caseload	4
Judge-led projects	5
Use of technology	6
Regional judicial relationships	6
Gratitude	6
Part 2: Overview of the Court	8
Report from the Principal Registrar	9
The Court's jurisdiction	11
Governance	13
Judges of the Court	14
Court Locations	17
Registrars of the Court	18
Part 3: The Court's work in 2023–24	22
The workload of the Court	23
Individual Docket System under the NCF	23
Report against performance measures	23
Judge Appellate Jurisdiction	26
Registrar workload	28
Assisted dispute resolution (mediation)	28
Case management	30
Report by National Practice Area	
Administrative and Constitutional Law and Human Rights	32
Migration	35
Admiralty and Maritime	38
Commercial and Corporations	41
Employment and Industrial Relations	51
Federal Crime and Related Proceedings	56
Intellectual Property	59
Native Title	63
Taxation	66

Part 4: Management and Accountability	90
Administration of the Court	91
Organisational structure	91
Executive	92
Staff of the court	92
Internal and external scrutiny	95
Correction of errors	95
Complaints and complaints policy	95
Information Publication Scheme	96
Report from the Executive Director, Strategy and Corporate Services	97
Report from the Executive Director, Court and Tribunal Services	98
Part 5: Report of the National Native Title Tribunal	100
Overview	101
The Tribunal's year in review and stakeholder engagement	104
The Tribunal's work in 2023-24	104
The Registers	106
Claimant and amended applications	106
Non-claimant, compensation and revised determination applications	107
Indigenous land use agreements	107
S31 Deeds	108
Notifications	108
Assistance	108
National progress	109
Financial review	109
External scrutiny	110
Online services	110
Australian Human Rights Commission	110
Part 6: Appendices	111
Appendix 1: Work of tribunals	111
Appendix 2: Judges' activities 2023-24	115
Appendix 3: Committees	141
Appendix 4: Staffing profile	143
Appendix 5: Information required by other legislation	144
Appendix 6: Court locations	145
Part 7: Indexes	146
List of requirements	146
Table of contents	151
List of figures and tables	152
Acronyms and abbreviations	154
Glossary	154
Index	159
Contact details	166

List of figures and tables

Figure 2.1: Court locations map	15
Figure 3.1: Judge Original Jurisdiction, total filings by state and territory, 2022–23 to 2023–24	25
Figure 3.2: Judge Original Jurisdiction, total filings by NPA, 2022–23 to 2023–24	25
Figure 3.3: Judge Appellate Jurisdiction, total filings by state and territory, 2022–23 and 2023–24	26
Figure 3.4: Judge Appellate Jurisdiction, total filings by National Practice Area, 2022–23 and 2023–24	27
Figure 3.5: Total filings by state and territory (registrar), 2022–23 to 2023–24	28
Figure 3.6: Proceedings referred to mediation and allocated to registrars – comparison between 2023–24 and 2022–23, by NPA	29
Figure 3.7: Proceedings referred to mediation and allocated to registrars by state and territory, 2023–24	29
Figure 3.8: Case management work allocated to registrars by NPA, 2022–23 to 2023–24	30
Figure 3.9: Case management work allocated to registrars by state and territory, 2023–24	31
Figure 3.10: CA NPSA judge original jurisdiction and appellate filings	43
Figure 3.11: CCBFI NPSA judge original jurisdiction and appellate filings	44
Figure 3.12: CORPS NPSA judge original jurisdiction and appellate filings	44
Figure 3.13: ERCA NPSA judge original jurisdiction and appellate filings	45
Figure 3.14: GPI NPSA judge original jurisdiction and appellate filings	46
Figure 3.15: RCP NPSA judge original jurisdiction and appellate filings	46
Figure 3.16: Copyright and industrial design filings by state and territory	60
Figure 3.17: Patents and associated statutes filings by state and territory	60
Figure 3.18: Trade marks filings by state and territory	61
Figure 4.2: Federal Court of Australia organisational structure, 30 June 2024	91
Table 2.1: Outcome 1: Federal Court of Australia	10
Table 2.2: Judges of the Federal Court (as at 30 June 2024)	16
Table 2.3: Registrars of the Court, 30 June 2024	18
Table 2.4: Registrars' additional appointments	20
Table 3.1: Judge Original Jurisdiction caseload 2022–23 and 2023–24	24
Table 3.2: Judge Appellate Jurisdiction total caseload 2022–23 and 2023–24	26
Table 3.3: Total caseload (registrar) 2022–23 to 2023–24	28
Table 3.4: Proceedings commenced by LIPs 2023–24, by registry	76
Table 3.5: Original Jurisdiction proceedings commenced by LIPs 2023–24, by National Practice Area	76
Table 3.6: Appeals commenced by LIPs 2023–24, by National Practice Area	76
Table 3.7: Selection of court proceedings and events livestreamed in 2023–24	79
Table 5.1: Tribunal statutory office holders, 30 June 2024	102
Table 5.2: Number of applications lodged with the Tribunal in 2023–24	106
Table 5.3: Number of applications referred to or lodged with the Native Title Registrar in 2023–24	107
Table 5.4: Number of applications lodged with the Native Title Registrar in 2023–24	107
Table 5.5: Financial operation statement	109

ACRONYMS AND ABBREVIATIONS

AAT	Administrative Appeals Tribunal	IT	information technology
ACCC	Australian Competition and Consumer Commission	J	Justice
ACICA	Australian Centre for International Commercial Arbitration	JJ	Justices KC King's Counsel
ACL	Australian Consumer Law	LIP	Litigant in person
AGS	Australian Government Solicitor	MLAANZ	Maritime Law Association of Australia and New Zealand
AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies	MOU	Memorandum of Understanding
ADR	assisted dispute resolution	NPA	National Practice Area
AIJA	Australasian Institute of Judicial Administration	NPSA	National Practice Sub-area
AM	Member of the Order of Australia	NRS	National Relay Service
AO	Officer of the Order of Australia	NTA	Native Title Act
APP	Australian Privacy Principles	OAM	Medal of the Order of Australia
APS	Australian Public Service	PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i> (Cth)
ARIPO	African Regional Intellectual Property Organization	RFD	Reserve Force Decoration
ASIC	Australian Securities and Investments Commission	RNTBC	Registered Native Title Bodies Corporate
AustLII	Australasian Legal Information Institute	SC	Senior Counsel
CC	Creative Commons	SES	Senior Executive Service
CEO	Chief Executive Officer	SGE	Significant Global Entities
CPN	Central Practice Note	UNCCA	UNCITRAL National Coordination Committee for Australia
FCA	Federal Court of Australia	UNCITRAL	United Nations Commission on International Trade Law
FCFCOA	Federal Circuit and Family Court of Australia		
FCMAS	Federal Court Mediator Accreditation Scheme		
FOI	freedom of information		
GPN	General Practice Note		
ILUA	Indigenous Land Use Agreement		
IP	intellectual property		
IPSANZ	Intellectual Property Society of Australia and New Zealand		

GLOSSARY

Administrative notices

See practice notes.

Alternative procedure agreement

A type of Indigenous land use agreement.

Appeal

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

Appellate jurisdiction

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

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 proceedings and in some other courts. In the National Native Title Tribunal, the applicant is the person or persons who make an application for a determination of native title or a future act determination.

Application

The document that starts most proceedings in the Federal Court.

Area agreement

A type of Indigenous land use agreement.

Body corporate agreement

A type of Indigenous land use agreement.

Cause of action

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

Compensation application

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

Cross appeal

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

Cross claim

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

Directions

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

Discovery

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

Docket system

A system by which each case is allocated to a particular judge who will then see the case through to completion. In the Federal Court the system is called the Individual Docket System.

Electronic court file

A digital version of the Court file including all documents filed with the Court or created by the Court.

Exhibit

A document or item produced in court for the purpose of becoming part of the evidence in a proceeding.

Filing of documents

The process of the Court accepting a document or documents lodged by a party to a proceeding.

First instance

A proceeding heard in the Court's original jurisdiction.

Full Court

Three or more judges sitting together to hear a proceeding.

Future act

A proposed activity on land and/or waters that may affect native title.

Future act determination

A decision by the National Native Title Tribunal either that a future act cannot be done, or can be done with or without conditions. In making the determination, the Tribunal takes into account (among other things) the effect of the future act on the enjoyment by the native title party of their registered rights and interests and the economic or other significant impacts of the future act and any public interest in the act being done.

Future act determination application

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

Good faith negotiations (native title)

All negotiation parties must negotiate in good faith in relation to the doing of future acts to which the right to negotiate applies (*Native Title Act 1993* (Cth) section 31(1)(b)). See the list of indicia put forward by the National Native Title Tribunal of what may constitute good faith in its guide to future act decisions made under the right to negotiate scheme at www.nntt.gov.au. Each party and each person representing a party must act in good faith in relation to the conduct of the mediation of a native title application (section 136B(4)).

Hearing

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

Indigenous Land Use Agreement (ILUA)

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

Interlocutory application

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

Judgment

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

Jurisdiction

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

Litigants

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

Litigant-in-Person

A party to a proceeding who is not represented by a legal practitioner and, instead, conducts the proceeding on his or her own behalf.

Mediation (or assisted dispute resolution)

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

Milestone agreement

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

National Court Framework

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

National Native Title Register

The record of native title determinations.

National Native Title Tribunal Member

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

National Practice Areas

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

Native title claimant application/claim

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

Native title determination

A decision by an Australian court or other recognised body that native title does or does not exist. A determination is made either when parties have reached an agreement after mediation (consent determination) or following a trial process (litigated determination).

Native title representative body

Representative Aboriginal/Torres Strait Islander Body also known as native title representative bodies are recognised and funded by the Australian Government to provide a variety of functions under the *Native Title Act 1993*. These functions include assisting and facilitating native title holders to access and exercise their rights under the *Native Title Act 1993*, certifying applications for determinations of native title and area agreements, resolving intra-Indigenous disputes, agreement-making and ensuring that notices given under the *Native Title Act 1993* are brought to the attention of the relevant people.

Non-claimant application

An application made by a person who does not claim to have native title but who seeks a determination that native title does or does not exist.

Notification

The process by which people, organisations and/or the general public are advised by the relevant government of their intention to do certain acts or by the National Native Title Tribunal that certain applications under the *Native Title Act 1993* 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

Notices issued by the Chief Justice on advice of the judges of the Court.

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 (ILUAs) 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.

PART 7

Registration test

A set of conditions under the *Native Title Act 1993* that is applied to native title claimant applications. If an application meets all the conditions, it is included in the Register of Native Title Claims, and the claimants then gain the right to negotiate, together with certain other rights, while their application is under way.

Regulations

The Federal Court of Australia Regulations 2004 which prescribe the filing and other fees that must be paid in relation to proceedings in the Federal Court.

Respondent

The individual, organisation or corporation against whom/which legal proceedings are commenced. Also known as a 'defendant' in admiralty and corporations proceedings and in some courts. In an appeal it is the party who/which did not commence the appeal.

Rules

Rules made by the judges which set out the procedures for conducting a proceeding. The current rules of the Federal Court are the *Federal Court Rules 2011*, *Federal Court (Corporations) Rules 2000* (for proceedings under the *Corporations Act 2001*) and *Federal Court (Bankruptcy) Rules 2016* (for proceedings under the *Bankruptcy Act 1966*).

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.

ALPHABETICAL INDEX

A

Aboriginal and Torres Strait Islanders
 acknowledgment of country, i
 Indigenous clerkships, 83
 Indigenous land use agreements, 107
 Indigenous land use agreements map, 109
 National Native Title Tribunal *see* National Native Title Tribunal
 Native Title NPA *see* Native Title NPA

acronyms and abbreviations, 154

administration of Court, 91
 Client Service Officers, 93
 complaints and complaints policy, 95–6
 error correction, 95
 executive, 92
 Executive Director, Court and Tribunal Services' report, 98–9
 Executive Director, Strategy and Corporate Services' report, 97
 Information Publication Scheme, 96
 internal and external scrutiny, 95
 organisational structure, 91
 staff of Court, 92–3

Administrative and Constitutional Law and Human Rights (ACLHR) NPA, 32
 ACLHR NPA judges, 32
 decisions of interest, 33–4
 National ACLHR Coordinating Judges, 32
 National Coordinating Judges' report, 33
 National Coordinating Registrar, 32
 workload snapshot, 33

Admiralty and Maritime (A&M) NPA, 38
 2023 Admiralty Marshals and Judges' Workshop, 39
 Admiralty and Maritime NPA judges, 38
 Admiralty Users Group, 39
 decisions of interest, 39–40
 National A&M Coordinating Judges, 38
 National Coordinating Judges' report, 39
 National Coordinating Registrar, 35
 workload snapshot, 38

Appellate Court
 sittings, changes to, 3

appellate jurisdiction, 12
 Judge Appellate Jurisdiction, 26–7
 migration NPA, 35

assisted dispute resolution (ADR)
 mediation, 28–9
 Other Federal Jurisdiction NPA, 71

Audit Committee, 141

Australian Competition Tribunal
 activities, 112
 decisions of interest, 112
 functions and powers, 111
 membership, 111–12
 practice and procedure, 111
 staff, 111–12

Australian Human Rights Commission, 110

B

bankruptcy
 direct financial counselling project in bankruptcy proceedings, 77
 proceedings before Judicial Registrar, 45

Banks-Smith, Katrina, 127

Burley, Stephen, 123–4

C

case management, 30–1
 registrars, work allocated to, 30–1

Charlesworth, Natalie, 122

Cheeseman, Elizabeth, 132

Chief Executive Officer, 92
 contact details, 159

Chief Justice
 chambers' contact details, 159
 year in review, 1–7

Colvin, Craig, 128
 Commercial and Corporations (C&C) NPA, 41
 C&C NPA Coordinating Judges, 42
 decisions of interest, 48–50
 legal profession, consultation/engagement with, 47
 National C&C Coordinating Judges, 41
 National Coordinating Judges' report, 47
 National Coordinating Registrar, 42
 sub-areas (NPSAs), 43–6
 workload snapshot, 41

Commercial and Corporations NPA sub-areas (NPSAs)
 Commercial Arbitration NPSA, 43
 Commercial Contracts, Banking, Finance and Insurance NPSA, 44
 Corporations and Corporate Insolvency NPSA, 44–5
 Economic Regulator, Competition and Access NPSA, 45
 General and Personal Insolvency NPSA, 46
 Regulator and Consumer Protection NPSA, 46

Commercial Arbitration List, 43

Commercial Contracts, Banking, Finance and Insurance NPSA, 44

committees, 141–2

PART 7

- Audit Committee, 141
- Criminal Procedure Committee, 141
- Digital Practice Committee, 141
- International Cooperation Committee, 141
- Judicial Education Committee, 141
- Judicial Education Conference subcommittee, 141
- Judicial Wellbeing Committee, 141
- Judicial Workplace Conduct Committee, 141
- Library and Archives Committee, 141
- Media Committee, 141
- Operations and Finance Forum, 141
- Remuneration Committee, 141
- Rules Committee, 141
- Security Committee, 141
- community and professional engagement, 3–4
- community relations, 81–3
 - Indigenous clerkships, 83
 - judgments publication, 82
 - judicial education, national standard on, 82
 - legal community, 81
 - legal education programs and reform activities, involvement in, 82
 - Lives and Times of Judges podcast series, 83
 - user groups, 81
 - work placements, 83
- competition
 - Australian Competition Tribunal *see* Australian Competition Tribunal
 - Economic Regulator, Competition and Access NPSA, 45
- complaints
 - complaints policy, 95
 - judicial complaints procedure, 96
- composition of Court
 - changes in, 3
- constitutional law
 - ACLHR NPA *see* Administrative and Constitutional Law and Human Rights (ACLHR) NPA
- contact details, 159
- Copyright and Industrial Design NPSA, 60
- Copyright Tribunal
 - activities, 113
 - cases of interest, 113
 - functions and powers, 112
 - membership, 113
 - practice and procedure, 112
 - staff, 113
- Corporations and Corporate Insolvency NPSA, 44–5
 - Corporations Lists, 44
 - Judge Corporations List, 45
 - Registrar Corporations List, 45
 - schemes of arrangement, 44
- country, acknowledgment of, i

- Court and Tribunal Services
 - report of Executive Director, 98–9
- Criminal Procedure Committee, 141

D

- decisions of interest
 - A&M NPA, 39–40
 - ACLHR NPA, 33–4
 - Australian Competition Tribunal, 112
 - C&C NPA, 48–50
 - Defence Force Discipline Appeal Tribunal, 114
 - E&IR NPA, 53–5
 - Federal Crime and Related Proceedings NPA, 57–8
 - IP NPA, 62
 - Migration NPA, 36–7
 - Other Federal Jurisdiction NPA, 71–2
 - Taxation NPA, 68
- Defamation NPSA, 69
 - judges, 69
 - National Coordinating Judges, 69
- Defence Force Discipline Appeal Tribunal
 - activities, 114
 - decisions of interest, 114
 - functions and powers, 114
 - membership, 114
 - practice and procedure, 114
 - staff, 114
- Derrington, Roger, 125
- Derrington, Sarah, 125–6
- detainee hearings, 74
- Digital Practice Committee, 141
- Downes, Kylie, 134–5

E

- Economic Regulator, Competition and Access NPSA, 45
- eLodgment process in protecting visa proceedings, 75
- Employment and Industrial Relations (E&IR) NPA, 51
 - decisions of interest, 53–5
 - E&IR Coordinating Judges, 51
 - engagement with profession, 53
 - National Coordinating Judges' report, 52–3
 - National Coordinating Registrar, 51
 - National E&IR Coordinating Judges, 51
 - notice to profession, 53
 - workload snapshot, 52
- evaluations
 - internal and external, 92
- executive, 92
 - Chief Executive Officer, 92
 - officers of Court, 92
 - Principal Registrar, 92

Executive Committee, 13
 Executive Director, Court and Tribunal Services
 report, 98–9
 Executive Director, Strategy and Corporate Services
 report, 97
 external scrutiny, 95
 National Native Title Tribunal, 110

F

Federal Court of Australia Act 1976 (Cth), 144
 Federal Crime and Related Proceedings NPA, 56
 decisions of interest, 57–8
 judges, 56
 National Coordinating Judges' report, 57
 National Coordinating Registrars, 56
 National FCRP Coordinating Judges, 56
 workload snapshot, 56
 fees and exemptions, 77–8
 Feutrill, Michael, 136
Freedom of Information Act 1982 (Cth), 144
 Full Court
 sittings, changes to, 3

G

General and Personal Insolvency NPSA, 46
 bankruptcy proceedings before Judicial Registrar, 45
 glossary, 155–8
 governance, 13
 Executive Committee, 13
 judges' committees and project groups, 13
 judges' meetings, 13

H

Halley, John, 132
 hearings for detainees, 74
 Hesper, Lisa, 138
 Horan, Christopher, 140
 human rights
 ACLHR NPA see Administrative and Constitutional
 Law and Human Rights (ACLHR) NPA

I

Individual Docket System under NCF, 23
 Indonesia
 Supreme Court, 86
 Information Publication Scheme, 96
 information required by other legislation, 144
 insolvency
 Corporations and Corporate Insolvency NPSA, 44–5
 General and Personal Insolvency NPSA, 46
 Intellectual Property NPA, 59
 Coordinating Judges, 59
 decisions of interest, 62

National Coordinating Judges, 61
 National Coordinating Registrar, 59
 National IP Coordinating Judges, 59
 sub-areas (NPSAs), 60–1
 workload snapshot, 60
 Intellectual Property NPSAs, 60–1
 Copyright and Industrial Design NPSA, 60
 Patents and Associated Statutes NPSA, 60
 Trade Marks NPSA, 61
 International Cooperation Committee, 141
 international jurisdictions, work with, 84–9
 Indonesian Supreme Court, 86
 Pacific, 84–5
 Papua New Guinea's Supreme and National Courts, 85
 Philippines Supreme Court, 87
 presentations, 87
 visits, 88–9
 interpreters, 77

J

Jackman, Ian, 139
 Jackson, Darren, 131
 Judge Appellate Jurisdiction, 26–7
 total caseload, 26
 total filings, 27
 Judge Original Jurisdiction, 24–5
 caseload, 24
 total caseload, 24
 total filings, 25
 judges' activities 2023–24, 115–140
 Banks-Smith, Katrina, 127
 Burley, Stephen, 123–4
 Charlesworth, Natalie, 122
 Cheeseman, Elizabeth, 132
 Colvin, Craig, 128
 Derrington, Roger, 125
 Derrington, Sarah, 125–6
 Downes, Kylie, 134–5
 Feutrill, Michael, 136
 Halley, John, 132
 Hesper, Lisa, 138
 Horan, Christopher, 140
 Jackman, Ian, 139
 Jackson, Darren, 131
 Katzmann, Anna, 119
 Kennett, Geoffrey, 139
 Lee, Michael, 124
 Logan, John, 118
 Markovic, Brigitte, 121
 McElwaine, Shaun, 136
 McEvoy, Timothy, 137–8

PART 7

- Mortimer, Debra, 115–17
 - Moshinsky, Mark, 122
 - Murphy, Bernard, 119
 - O'Bryan, Michael, 130
 - O'Sullivan, Patrick, 135–6
 - Perry, Melissa, 120
 - Rofe, Helen, 133–4
 - Stewart, Angus, 129–30
 - Wheelahan, Michael, 128
 - Wigney, Michael, 119
 - Judges of Court, 14–16
 - activities 2023–24, 115–140
 - appointments during 2023–24, 16
 - committees and project groups, 13
 - Judge Appellate Jurisdiction, 26–7
 - Judge Original Jurisdiction, 24–5
 - locations, 17
 - meetings, 13
 - National Coordinating Judges see National Coordinating Judges' reports
 - projects led by, 5
 - retirements during 2023–24, 16
 - judgments publication, 82
 - judicial education, national standard on, 82
 - Judicial Education Committee, 141
 - Judicial Education Conference subcommittee, 141
 - Judicial Wellbeing Committee, 141
 - Judicial Workplace Conduct Committee, 141
 - jurisdiction
 - appellate, 12, 35
 - changes in 2023–24, 72–4
 - Judge Appellate Jurisdiction, 26–7
 - Judge Original Jurisdiction, 24–5
 - original, 11–12, 35
 - jurisdiction changes in 2023–24, 72–4
 - approved forms, 74
 - Federal Court rules, 73
 - fee regulation, 73
 - notices to profession, 74
 - other rules, 73
 - Practice Notes, 74
- K**
- Katzmann, Anna, 119
 - Kennedy, Paul, 97
 - Kennett, Geoffrey, 139
 - Kenworthy, Louise, 99
- L**
- Law Council of Australia
 - liaison with, 75
 - Lee, Michael, 124
 - legal education programs and reform activities, involvement in, 82
 - letter of transmittal, iii
 - Library and Archives Committee, 141
 - list of requirements, 146–50
 - litigants-in-person, 75–6
 - Lives and Times of Judges podcast series, 83
 - livestreaming, 78–9
 - locations, 17
 - Court locations, 145
 - judges by, 17
 - National Native Title Tribunal offices, 101
 - Logan, John, 118
- M**
- Markovic, Brigitte, 121
 - McElwaine, Shaun, 136
 - McEvoy, Timothy, 137–8
 - media, 79–80
 - contact details, 159
 - Media Committee, 141
 - mediation, 28–9
 - Migration NPA, 35
 - appellate jurisdiction, 35
 - decisions of interest, 36–7
 - legislative amendments, 36
 - migration judges, 35
 - Migration Liaison judges, 35
 - National Coordinating Judges' report, 36
 - National Coordinating Registrar, 35
 - original jurisdiction, 35
 - professional engagement, 36
 - workload snapshot, 35
 - Mortimer, Chief Justice Debra, 1–7, 115–17
 - Moshinsky, Mark, 122
 - Murphy, Bernard, 119
- N**
- National Coordinating Judges' reports
 - A&M NPA, 39
 - ACLHR NPA, 33
 - C&C NPA, 47
 - E&IR NPA, 52–3
 - Federal Crime and Related Proceedings NPA, 57
 - IP NPA, 61
 - Migration NPA, 36
 - Native Title NPA, 64–5
 - Other Federal Jurisdiction NPA, 70–1
 - Taxation NPA, 67
 - National Coordinating Registrar
 - A&M NPA, 35
 - ACLHR NPA, 32
 - C&C NPA, 42

- E&IR NPA, 51
 - Federal Crime and Related Proceedings NPA, 56
 - IP NPA, 59
 - Migration NPA, 35
 - Native Title NPA, 63
 - Other Federal Jurisdiction NPA, 69
 - Taxation NPA, 66
 - National Court Framework (NCF)
 - Individual Docket System under, 23
 - National Native Title Register, 106
 - National Native Title Tribunal
 - applications – claimant and amended, 106–7
 - applications – non-claimant, compensation and revised determination, 107
 - assistance, 108
 - Australian Human Rights Commission, 110
 - cultural acknowledgement, 103
 - determinations map, 108
 - establishment, 101
 - external scrutiny, 110
 - financial review, 109
 - functions and powers, 101–2
 - Indigenous land use agreements, 107
 - Indigenous land use agreements map, 109
 - Members, 101, 103
 - national progress, 109
 - Native Title Registrar, 101, 103
 - notifications, 108
 - NTA s 31 deeds, 108
 - office locations, 101
 - online services, 110
 - President, 101, 103
 - registers, 106
 - staff capacity, 103
 - stakeholder engagement, 104
 - statutory office holders, 102
 - work in 2023–24, 104–6
 - year in review, 104
 - National Native Title Tribunal external scrutiny, 110
 - clients accountability, 110
 - freedom of information, 110
 - statutory office holders, 110
 - National Native Title Tribunal financial review, 109
 - financial operation statement, 109
 - National Native Title Tribunal work in 2023–24
 - expedited procedure, 104–5
 - future act determinations, 105
 - future acts, 104
 - post-determination assistance, 105–6
 - National Practice Areas (NPAs)
 - A&M see Admiralty and Maritime (A&M) NPA
 - ACLHR see Administrative and Constitutional Law and Human Rights (ACLHR) NPA
 - commercial and corporations see Commercial and Corporations NPA
 - E&IR see Employment and Industrial Relations (E&IR) NPA
 - federal crime see Federal Crime and Related Proceedings NPA
 - IP see Intellectual Property NPA
 - migration see Migration NPA
 - Native Title see Native Title NPA
 - other jurisdiction see Other Federal Jurisdiction NPA
 - taxation see Taxation NPA
 - National Practice Sub-Areas (NPSAs)
 - Commercial Arbitration NPSA, 43
 - Commercial Contracts, Banking, Finance and Insurance NPSA, 44
 - Copyright and Industrial Design NPSA, 60
 - Corporations and Corporate Insolvency NPSA, 44–5
 - Defamation NPSA, 69
 - Economic Regulator, Competition and Access NPSA, 45
 - General and Personal Insolvency NPSA, 46
 - Patents and Associated Statutes NPSA, 60
 - Regulator and Consumer Protection NPSA, 46
 - Trade Marks NPSA, 61
 - Native Title Act 1993*(Cth)(NTA), 101, 144
 - section 31 deeds, 108
 - Native Title NPA, 63
 - engagement with profession, 65
 - judges, 63
 - National Coordinating Judges’ report, 64–5
 - National Coordinating Registrar, 63
 - National NT Coordinating Judges, 63
 - significant litigation and outcomes, 64–5
 - workload snapshot, 64
- O**
- O’Byrne, Michael, 130
 - O’Sullivan, Patrick, 135–6
 - officers of Court, 92
 - Client Service Officers, 93
 - thanking, 93–5
 - Operations and Finance Forum, 141
 - original jurisdiction, 11–12
 - Judge Original Jurisdiction, 24–5
 - migration NPA, 35
 - Other Federal Jurisdiction NPA, 69
 - access to court hearings and documents, 70–1
 - assisted dispute resolution (ADR), 71
 - changes to Court’s jurisdiction in 2023–24, 72–4
 - community relations, 81–3
 - decisions of interest, 71–2
 - Defamation NPSA, 69

PART 7

- improving Court access and contributing to legal system, 74–81
- international jurisdictions, work with, 84–9
- judges, 69
- National Coordinating Judges' report, 70–1
- National Coordinating Registrar, 69
- sub-areas, 69
- workload snapshot, 70

Outcome 1, 10
overview, v

P

- Pacific, 84–5
- Papua New Guinea
 - Supreme and National Courts, 85
- Patents and Associated Statutes NPSA, 60
- performance measures, report against, 23
- Perry, Melissa, 120
 - Philippines
 - Supreme Court, 87
- Principal Registrar, 92
 - contact details, 159
 - report, 9–20
- Public Governance, Performance and Accountability Act 2013* (Cth), 144
- Public Service Act 1999* (Cth), 144

R

- Register of Native Title Claims, 106
- Registrars of Court, 18–20
 - additional appointments, 20
 - bankruptcy proceedings before Judicial Registrar, 45
 - case management work allocated to, 30–1
 - National Coordinating Registrar see National Coordinating Registrar
 - total caseload, 28
 - workload, 28
- Regulator and Consumer Protection NPSA, 46
- Remuneration Committee, 141
- requirements, list of, 146–50
- Rofe, Helen, 133–4
- Rules Committee, 141

S

- Security Committee, 141
- sittings
 - Full Court and Appellate sittings, changes to, 3
- social media, 80–1
 - contact details, 159
 - LinkedIn, 80
 - X, 80–1
 - YouTube, 81

- staff
 - Australian Competition Tribunal, 111–12
 - Copyright Tribunal, 113
 - Court, 92–3
 - Defence Force Discipline Appeal Tribunal, 114
 - National Native Title Tribunal staff capacity, 103
 - profile, 143
- Stewart, Angus, 129–30
 - Strategy and Corporate Services report of Executive Director, 97

T

- Taxation NPA, 66
 - decisions of interest, 68
 - engagement with profession, 67
 - judges, 66
 - legislative amendments, 67
 - National Coordinating Judges, 67
 - National Coordinating Registrar, 66
 - National Tax Coordinating Judges, 66
 - workload snapshot, 67
- technology, use of, 6
- Trade Marks NPSA, 61

U

- user groups, 81

V

- visa proceedings
 - eLodgment process in protecting, 75

W

- Wheelahan, Michael, 128
- Wigney, Michael, 119
- work placements, 83
- workload of Court, 23–31
 - assisted dispute resolution (mediation), 28–9
 - case management, 30–1
 - Individual Docket System under NCF, 23
 - Judge Appellate Jurisdiction, 26–7
 - Judge Original Jurisdiction, 24–5
 - performance measures, report against, 23
 - registrar workload, 28
- workload snapshot
 - A&M NPA, 38
 - ACLHR NPA, 33
 - C&C NPA, 41
 - E&IR NPA, 52
 - Federal Crime and Related Proceedings NPA, 56
 - IP NPA, 60
 - Migration NPA, 35
 - Native Title NPA, 64

Other Federal Jurisdiction NPA, 70

Taxation NPA, 67

Y

year in review, 1-7

community and professional engagement, 3-4

composition of Court, changes in, 3

Full Court and Appellate sittings, changes to, 3

gratitude, 6-7

Judge-led projects, 5

judicial caseload of Court, discharge, 4-5

National Native Title Tribunal, 104

new developments, 2

regional judicial relationships, 6

technology, use of, 6

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Procedures or information relating to your case

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Filing enquiries

Inquiries should be directed to the Registry in the state in which the case will be (or has been) lodged. See Appendix 6 (*Court locations*) for more information.

Commonwealth Courts Portal

support@comcourts.gov.au

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