



FEDERAL COURT
OF AUSTRALIA



ANNUAL REPORT
2019 - 20

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14 September 2020

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

Dear Attorney-General

We have pleasure in submitting the annual report on the operations of the Federal Court of Australia for the financial year ending 30 June 2020.

The report is submitted in accordance with:

- section 18S of the *Federal Court of Australia Act 1976*
- section 17A1 of the *Public Governance, Performance and Accountability Rule 2014*, and
- section 46 of the *Public Governance, Performance and Accountability Act 2013*.

This report has been prepared in accordance with the Department of Finance's Resource Management Guide No. 135: annual reports for non-corporate Commonwealth entities (May 2020).

This is the Court's 31st annual report.

Yours sincerely

Handwritten signature of The Honourable James Allsop AO in blue ink.

The Honourable James Allsop AO
Chief Justice

Handwritten signature of Sia Lagos in blue ink.

Sia Lagos
Chief Executive Officer and Principal Registrar

**FEDERAL
COURT OF
AUSTRALIA
ANNUAL
REPORT
2019–20**

Part 1
Overview of
the Court
xii

Part 2
The year
in review
9

Part 3
Report on Court
performance
15

Part 4
Management and
accountability
39

Part 5
Report on the
National Native
Title Tribunal
69

Part 6
Appendices
81

Part 7
Indexes
206

	Letter of transmittal	i
	List of figures and tables	iv
	Acronyms and abbreviations	vi
	Glossary	vii
PART 1	Overview of the Court	xii
	Functions and powers	1
	The Court's Outcome and Program Structure	2
	About the Federal Court	4
	Judges of the Court	4
PART 2	Significant issues and developments	10
	Workload	12
	Financial management and organisational performance	13
	Corporate services	13
PART 3	The work of the Court in 2019–20	16
	Management of cases and deciding disputes	16
	Changes to the Court's jurisdiction in 2019–20	17
	Workload of the Federal Court and Federal Circuit Court	19
	Workload of the Court in its original jurisdiction	21
	The Court's appellate jurisdiction	22
	The Court's native title jurisdiction	24
	Assisted dispute resolution	28
	Improving access to the Court and contributing to the Australian legal system	30
PART 4	Governance	40
	Commonwealth Courts Corporate Services	40
	Management of human resources	53
	Information technology	54
	Recordkeeping and information management	56
	Library and information services	58
	Commonwealth Courts Registry Services	59
PART 5	Overview	70
	The Tribunal's year in review	71
	The Tribunal's work in 2019–20	73
	Functions of the Native Title Registrar	75
	Management of the Tribunal	78
	Annexure	80
PART 6	Appendix 1: Financial statements	82
	Appendix 2: Entity resource statement 2019–20	122
	Appendix 3: Organisational chart	123
	Appendix 4: Registrars of the Court, 30 June 2020	124
	Appendix 5: Workload statistics	129
	Appendix 6: Work of tribunals	142
	Appendix 7: Decisions of interest	145
	Appendix 8: Judges' activities 2019–20	159
	Appendix 9: Staffing profile	181
	Appendix 10: Annual performance statement	189
	Appendix 11: Executive remuneration	199
	Appendix 12: Information required by other legislation	202
	Appendix 13: Court and Registry locations	203
PART 7	Alphabetical index	207
	List of Requirements	218

List of tables and figures

Table 1.1: Outcome 1: Federal Court of Australia	2
Table 1.2: Outcome 2: Family Court of Australia	2
Table 1.3: Outcome 3: Federal Circuit Court of Australia	3
Table 1.4: Outcome 4: Commonwealth Courts Corporate Services	3
Table 1.5: Judges of the Federal Court (as at 30 June 2020)	4
Table 3.1: Age of current matters (excluding appeals and related actions and native title matters)	21
Table 3.2: Age of current native title matters (excluding appeals)	22
Table 3.3: Age of current appeals, cross appeals and interlocutory appellate applications at 30 June 2020	23
Table 3.4: Appellate proceedings concerning decisions under the Migration Act as a proportion of all appellate proceedings (including cross appeals and interlocutory applications)	24
Table 3.5: Mediation referrals in 2019–20 by NPA and registry	29
Table 3.6: Actions commenced by SRLs during 2019–20 by registry	31
Table 3.7: Proceedings commenced by SRLs in 2019–20 by cause of action	32
Table 3.8: Appeals commenced by SRLs in 2019–20 by cause of action	32
Table 4.1: Audit committee	43
Table 4.2: Number and expenditure on consultants, current report period (2019–20)	48
Table 4.3: The Court's environmental impact/usage data, 2015–16 to 2019–20	51
Table 4.4: Snapshot of Registry Services performance against targets, 2019–20	63
Table 4.5: National Enquiry Centre workload statistics, 2015–16 to 2019–20	66
Table 5.1: Tribunal statutory office holders, 30 June 2020	70
Table 5.2: Number of applications lodged with the Tribunal in 2019–20	74
Table 5.3: Number of applications referred to or lodged with the Native Title Registrar in 2019–20	75
Table 5.4: Financial operating statement	78
Table A5.1: Summary of workload statistics – original and appellate jurisdictions – filings of major CoAs (including appellate and related actions)	130
Table A5.2: Summary of workload statistics – excluding appeals and related actions – filings of major CoAs (excluding appeals and related actions)	131
Table A5.3: Summary of workload statistics – appeals and related actions only – filings of appeals and related actions	132
Table A5.4: Summary of supplementary workload statistics – filings of supplementary causes of action	132
Table A5.5: Finalisation of major CoAs in accordance with 85 per cent benchmark (including appeals and related actions and excluding native title matters) over the last five years	135
Table A9.1: All ongoing employees, current reporting period (2019–20)	181
Table A9.2: All non-ongoing employees, current reporting period (2019–20)	182
Table A9.3: All ongoing employees, previous reporting period (2018–19)	182
Table A9.4: All non-ongoing employees, previous reporting period (2018–19)	183
Table A9.5: Australian Public Service Act ongoing employees, current reporting period (2019–20)	183
Table A9.6: Australian Public Service Act non-ongoing employees, current reporting period (2019–20)	184
Table A9.7: Australian Public Service Act ongoing employees, previous reporting period (2018–19)	184
Table A9.8: Australian Public Service Act non-ongoing employees, previous reporting period (2018–19)	185
Table A9.9: Australian Public Service Act employees by full-time and part-time status, current reporting period (2019–20)	185
Table A9.10: Australian Public Service Act employees by full-time and part-time status, previous reporting period (2018–19)	186
Table A9.11: Australian Public Service Act employment type by location, current reporting period (2019–20)	186

Table A9.12: Australian Public Service Act employment type by location, previous reporting period (2018–19)	187
Table A9.13: Australian Public Service Act Indigenous employment, current reporting period (2019–20)	187
Table A9.14: Australian Public Service Act Indigenous employment, previous reporting period (2018–19)	187
Table A9.15: Australian Public Service Act employment arrangements, current reporting period (2019–20)	187
Table A9.16: Australian Public Service Act employment salary ranges by classification level (minimum/maximum), current reporting period (2019–20)	188
Table A9.17: Australian Public Service Act employment performance pay by classification level, current reporting period (2019–20)	188
Table A9.18: Details of Accountable Authority during 2019–20	188
Table A11.1: Key management personnel	199
Table A11.2: Key management personnel remuneration for the reporting period	200
Table A11.3: Information about remuneration for senior executives	201
Table A11.4: Information about remuneration for other highly paid staff	201
Table A12.1: Information required by other legislation	202
Figure 3.1: Filings to 30 June 2020 – Federal Court and Federal Circuit Court	20
Figure 4.1: Registry Services national management structure, 30 June 2020	61
Figure 4.2: Registry Services location map	62
Figure A5.1: Matters filed over the last five years	133
Figure A5.2: Matters filed and finalised over the last five years	133
Figure A5.3: Age and number of current matters at 30 June 2020	134
Figure A5.4: Time span to complete – matters completed (excluding native title) over the last five years	134
Figure A5.5: Time span to complete against the 85 per cent benchmark (excluding native title) over the last five years	135
Figure A5.6: Bankruptcy Act matters (excluding appeals) filed over the last five years	135
Figure A5.6.1: Current Bankruptcy Act matters (excluding appeals) by year of filing	136
Figure A5.7: Corporation Act matters (excluding appeals) filed over the last five years	136
Figure A5.7.1: Current corporation matters (excluding appeals) by year of filing	136
Figure A5.8: Consumer law matters (excluding competition law and appeals) filed over the last five years	137
Figure A5.8.1: Current consumer law matters (excluding competition law and appeals) by year of filing	137
Figure A5.9: Filings, finalisations and pending	138
Figure A5.9.1: All filings, finalisations and pending by Administrative and Constitutional Law and Human Rights National Practice Areas (NPA)	138
Figure A5.9.2: All filings, finalisation and pending by Admiralty and Maritime NPA	139
Figure A5.9.3: All filings, finalisation and pending by Commercial and Corporations NPA	139
Figure A5.9.4: All filings, finalisation and pending by Employment and Industrial Relations NPA	139
Figure A5.9.5: All filings, finalisation and pending by Intellectual Property NPA	140
Figure A5.9.6: All filings, finalisation and pending by Native Title NPA	140
Figure A5.9.7: All filings, finalisation and pending by Taxation NPA	140
Figure A5.9.8: All filings, finalisations and pending, Other Federal Jurisdiction NPA	141
Figure A5.9.9: All filings, finalisations and pending, Federal Crime and Related Proceeding NPA	141
Figure A5.9.10: All filings, finalisation and pending, Migration NPA	141
Map 1: Determinations Map	77
Map 2: Indigenous Land Use Agreement Map	78

Acronyms and abbreviations

AAL	Australian Academy of Law	GPN	General Practice Note
AASB	Australian Accounting Standards Board	IAJ	International Association of Judges
AAT	Administrative Appeals Tribunal	IATJ	International Association of Tax Judges
ABA	Australian Bar Association	ICJV	International Commission of Jurists Victoria
ACCC	Australian Competition and Consumer Commission	IFA	International Fiscal Association
ACICA	Australian Centre for International Commercial Arbitration	ILUA	Indigenous Land Use Agreement
ADJR Act	<i>Administrative Decisions (Judicial Review) Act 1977</i>	IP	Intellectual Property
ADR	assisted dispute resolution	IT	Information Technology
AIAL	Australian Institute of Administrative Law	J	Justice
AIJA	Australasian Institute of Judicial Administration	JJ	Justices
AILA	Australian Insurance Law Association	LSS	Law Students' Society
ALRC	Australian Law Reform Commission	MOU	Memorandum of Understanding
AM	Member of the Order of Australia	NPA	National Practice Area
AMTAC	Australian Maritime and Transport Arbitration Commission	NRS	National Relay Service
ANAO	Australian National Audit Office	NTV	Native Title Vision
AO	Officer of the Order of Australia	OAM	Medal of the Order of Australia
APS	Australian Public Service	PC	Personal computer
ASEAN	Association of Southeast Asian Nations	PGPA	Public Governance, Performance and Accountability
AustLII	Australasian Legal Information Institute	PJSI	Pacific Judicial Strengthening Initiative
CC	Creative Commons	PNG	Papua New Guinea
CEO	Chief Executive Officer	QC	Queen's Counsel
CIArb	Chartered Institute of Arbitrators Australia	QUT	Queensland University of Technology
CMJA	Commonwealth for Magistrates and Judges Association	RFD	Reserve Force Decoration
CoA	cause of action	RNTBC	Registered Native Title Bodies Corporate
CPN	Central Practice Note	SC	Senior Counsel
DCF	Digital Court File	SES	Senior Executive Service
DCP	Digital Court Program	SIFoCC	Standing International Forum of Commercial Courts
DMJC	David Malcolm Justice Centre	SME	small and medium enterprise
DPI	Director Public Information	SRL	self-represented litigant
FCMAS	Federal Court Mediator Accreditation Scheme	SSCI	Sherman Centre for Culture and Ideas
FOI	freedom of information	UNCCA	UNCITRAL National Coordination Committee for Australia
		UNSW	University of New South Wales
		UTS	University of Technology Sydney
		UWA	University of Western Australia
		WHS	Work, Health and Safety

Glossary

Administrative notices

See practice notes.

Alternative procedure agreement

A type of Indigenous land use agreement.

Appeal

An application to a higher court to review a decision of a lower court or tribunal.

For example, an appeal from a decision of a Federal Circuit Court judge may be made to the Federal Court, and a decision of a single judge of the Federal Court may be the subject of an appeal to the Full Court of the Federal Court.

Appellate jurisdiction

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

Applicant

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

Application

The document that starts most proceedings in the Federal Court.

Area agreement

A type of Indigenous land use agreement.

Body corporate agreement

A type of Indigenous land use agreement.

Cause of action

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

Compensation application

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

Cross appeal

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

Cross claim

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

Directions

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

Discovery

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

Docket system

A system by which each case is allocated to a particular judge who will then see the case through to completion. In the Federal Court the system is called the Individual Docket System.

Electronic court file

An electronic court file is a digital version of the Court file including all documents filed with the Court or created by the Court.

Exhibit

A document or item produced in court for the purpose of becoming part of the evidence in a proceeding.

Filing of documents

The process of the Court accepting a document or documents lodged by a party to a proceeding.

First instance

A proceeding heard in the Court's original jurisdiction.

Full Court

Three or more judges sitting together to hear a proceeding.

Future act

A proposed activity on land and/or waters that may affect native title.

Future act determination application

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

Future act determination

A decision by the National Native Title Tribunal either that a future act cannot be done, or can be done with or without conditions. In making the determination, the Tribunal takes into account (among other things) the effect of the future act on the enjoyment by the native title party of their registered rights and interests and the economic or other significant impacts of the future act and any public interest in the act being done.

Good faith negotiations (native title)

All negotiation parties must negotiate in good faith in relation to the doing of future acts to which the right to negotiate applies (*Native Title Act 1993* s 31(1) (b)). See the list of indicia put forward by the National Native Title Tribunal of what may constitute good faith in its guide to future act decisions made under the right to negotiate scheme at www.nntt.gov.au. Each party and each person representing a party must act in good faith in relation to the conduct of the mediation of a native title application (s 136B(4)).

Hearing

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

Indigenous Land Use Agreement (ILUA)

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

Interlocutory application

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

Judgment

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

Jurisdiction

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

Litigants

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

Mediation (or Assisted Dispute Resolution)

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

Milestone agreement

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

National Court Framework

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

National Native Title Register

The record of native title determinations.

National Native Title Tribunal Member

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

National Practice Area

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

Native title determination

A decision by an Australian court or other recognised body that native title does or does not exist. A determination is made either when parties have reached an agreement after mediation (consent determination) or following a trial process (litigated determination).

Native title claimant application/claim

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

Native title representative body

Representative Aboriginal/Torres Strait Islander Body also known as native title representative bodies are recognised and funded by the Australian Government to provide a variety of functions under the *Native Title Act 1993*. These functions include assisting and facilitating native title holders to access and exercise their rights under the Act, certifying applications for determinations of native title and area agreements, resolving intra-Indigenous disputes, agreement-making and ensuring that notices given under the Native Title Act are brought to the attention of the relevant people.

Non-claimant application

An application made by a person who does not claim to have native title but who seeks a determination that native title does or does not exist.

Notification

The process by which people, organisations and/or the general public are advised by the relevant government of their intention to do certain acts or by the National Native Title Tribunal that certain applications under the Act have been made.

On-country

Description applied to activities that take place on the relevant area of land, for example mediation conferences or Federal Court hearings taking place on or near the area covered by a native title application.

Original jurisdiction

The authority or legal power of the Court to hear a case in the first instance.

Parties

People involved in a court case. Applicants, appellants, respondents and defendants are generally called 'parties'.

Practice notes and administrative notices

The Court publishes practice notes and administrative notices. Practice notes are issued by the Chief Justice on advice of the judges of the Court. Administrative notices are issued by each District Registrar at the request, or with the agreement, of the judges in the District Registry to which the notice relates.

Prescribed body corporate

Prescribed body corporate, a body nominated by native title holders which will represent them and manage their native title rights and interests once a determination that native title exists has been made.

Proceeding

The regular and orderly progression of a lawsuit, including all acts and events between the time of commencement and the judgment.

Register of Indigenous Land Use Agreements

A record of all Indigenous land use agreements that have been registered. An ILUA can only be registered when there are no obstacles to registration or when those obstacles have been resolved.

Register of Native Title Claims

The record of native title claimant applications that have been filed with the Federal Court, referred to the Native Title Registrar and generally have met the requirements of the registration test.

Registered native title claimant

A person or persons whose names(s) appear as 'the applicant' in relation to a claim that has met the conditions of the registration test and is on the Register of Native Title Claims.

Registration test

A set of conditions under the *Native Title Act 1993* that is applied to native title claimant applications. If an application meets all the conditions, it is included in the Register of Native Title Claims, and the claimants then gain the right to negotiate, together with certain other rights, while their application is under way.

Regulations

The Federal Court of Australia Regulations 2004 which prescribe the filing and other fees that must be paid in relation to proceedings in the Federal Court.

Respondent

The individual, organisation or corporation against whom/which legal proceedings are commenced. Also known as a 'defendant' in admiralty and corporations matters and in some courts. In an appeal it is the party who/which did not commence the appeal.

Rules

Rules made by the judges which set out the procedures for conducting a proceeding. The current rules of the Federal Court are the *Federal Court Rules 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*).

Self-represented litigant

A party to a proceeding who does not have legal representation and who is conducting the proceeding on his or her own behalf.

Setting down fee

A fee that must be paid when a date is set for hearing a matter. It includes the first day's hearing fee and, usually, has to be paid at least 28 days before the hearing.

PART 1

Overview of the Court



Objectives

The objectives of the Federal Court of Australia (Federal Court) are to:

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

Establishment

The Federal Court was created by the *Federal Court of Australia Act 1976* and began to exercise its jurisdiction on 1 February 1977. It assumed jurisdiction formerly exercised in part by the High Court of Australia and the whole jurisdiction of the Australian Industrial Court and the Federal Court of Bankruptcy. The Court is a superior court of record and a court of law and equity. It sits in all capital cities and elsewhere in Australia from time to time.

Purpose

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

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

Functions and powers

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

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

The Court's Outcome and Program Structure

Table 1.1: Outcome 1: Federal Court of Australia

OUTCOME 1: Apply and uphold the rule of law for litigants in the Federal Court of Australia and parties in the National Native Title Tribunal through the resolution of matters according to law and through the effective management of the administrative affairs of the Court and Tribunal.	BUDGET 2019–20 (\$'000)	ACTUAL 2019–20 (\$'000)	VARIATION (\$'000)
Program 1.1 – Federal Court of Australia			
Administered Expenses			
Special appropriations	600	209	391
Departmental Expenses			
Departmental appropriation ¹	67,031	62,359	4,672
Expenses not requiring appropriation in the budget year	17,413	22,091	-4,678
Total for Program 1.1	85,044	84,659	385
Total expenses for outcome 1	85,044	84,659	385
Average staffing level (number)	272	253	

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*.

Table 1.2: Outcome 2: Family Court of Australia

OUTCOME 2: Apply and uphold the rule of law for litigants in the Family Court of Australia through the resolution of family law matters according to law, particularly more complex family law matters and through the effective management of the administrative affairs of the Court.	BUDGET 2019–20 (\$'000)	ACTUAL 2019–20 (\$'000)	VARIATION (\$'000)
Program 2.1 – Family Court of Australia			
Administered Expenses			
Special appropriations	100	24	76
Departmental Expenses			
Departmental appropriation ¹	34,244	31,884	2,360
Expenses not requiring appropriation in the budget year	11,906	14,212	-2,306
Total for Program 2.1	46,250	46,120	130
Total expenses for outcome 2	46,250	46,120	130
Average staffing level (number)	93	87	

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*.

Table 1.3: Outcome 3: Federal Circuit Court of Australia

OUTCOME 3: Apply and uphold the rule of law for litigants in the Federal Circuit Court of Australia through more informal and streamlined resolution of family law and general federal law matters according to law, through the encouragement of appropriate dispute resolution processes and through the effective management of the administrative affairs of the Court.

	BUDGET 2019-20 (\$'000)	ACTUAL 2019-20 (\$'000)	VARIATION (\$'000)
Program 3.1 – Federal Circuit Court of Australia			
Administered Expenses			
Ordinary annual services (Appropriation Act No.1)	880	726	154
Special appropriations	200	113	87
Departmental Expenses			
Departmental appropriation ¹	67,803	66,981	822
Expenses not requiring appropriation in the budget year	2,367	2,949	-582
Total for Program 3.1	71,250	70,769	481
Total expenses for outcome 3	71,250	70,769	481
Average staffing level (number)	265	243	

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*.

Table 1.4: Outcome 4: Commonwealth Courts Corporate Services

OUTCOME 4: Improved administration and support for the resolution of matters according to law for litigants in the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate services.

	BUDGET 2019-20 (\$'000)	ACTUAL 2019-20 (\$'000)	VARIATION (\$'000)
Program 4.1 – Commonwealth Courts Corporate Services			
Departmental Expenses			
Departmental appropriation ¹	78,467	73,281	5,186
Expenses not requiring appropriation in the budget year	57,636	54,228	3,408
Total for Program 4.1	136,103	127,509	8,594
Program 4.2 – Commonwealth Courts Registry Services			
Departmental Expenses			
Departmental appropriation	30,367	29,298	1,069
Total for Program 4.2	30,367	29,298	1,069
Total expenses for outcome 4	166,470	156,807	9,663
Average staffing level (number)	470	451	

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*.

About the Federal Court

Judges of the Court

At 30 June 2020, 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. Of the 53 judges, there were three whose work as members of other courts or tribunals occupied all, or most, of their time.

Table 1.5: Judges of the Federal Court (as at 30 June 2020)

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
Chief Justice The Hon James Leslie Bain ALLSOP AO	Sydney	
The Hon Susan Coralie KENNY	Melbourne	Administrative Appeals Tribunal – Deputy President
The Hon Andrew Peter GREENWOOD	Brisbane	Administrative Appeals Tribunal – Deputy President Copyright Tribunal – President Australian Competition Tribunal – Deputy President
The Hon Steven David RARES	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon Berna Joan COLLIER	Brisbane	National and Supreme Courts of Papua New Guinea – Judge Administrative Appeals Tribunal – Deputy President Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Anthony James BESANKO	Adelaide	Supreme Court of Norfolk Island – Chief Justice Supreme Court of the Australian Capital Territory – Additional Judge
The Hon John Eric MIDDLETON	Melbourne	Australian Competition Tribunal – President Administrative Appeals Tribunal – Deputy President Australian Law Reform Commission – Part-time Commissioner

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon John Alexander LOGAN RFD	Brisbane	Administrative Appeals Tribunal – Deputy President Defence Force Discipline Appeal Tribunal – President National and Supreme Courts of Papua New Guinea – Judge
The Hon Geoffrey Alan FLICK	Sydney	
The Hon Neil Walter MCKERRACHER	Perth	Administrative Appeals Tribunal – Deputy President
The Hon John Edward REEVES	Brisbane	Supreme Court of the Northern Territory – Additional Judge
The Hon Nye PERRAM	Sydney	Copyright Tribunal – Deputy President
The Hon Jayne Margaret JAGOT	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Administrative Appeals Tribunal – Deputy President Copyright Tribunal – Deputy President
The Hon Lindsay Graeme FOSTER	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Australian Competition Tribunal – Deputy President
The Hon John Victor NICHOLAS	Sydney	
The Hon David Markey YATES	Sydney	Australian Competition Tribunal – Deputy President
The Hon Mordecai BROMBERG	Melbourne	
The Hon Anna Judith KATZMANN	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Bernard Michael MURPHY	Melbourne	
The Hon Iain James Kerr ROSS AO	Melbourne	Fair Work Australia – President Supreme Court of the Australian Capital Territory – Additional Judge
The Hon John Edward GRIFFITHS	Sydney	
The Hon Duncan James Colquhoun KERR Chev LH	Hobart	
The Hon Kathleen FARRELL	Sydney	Australian Competition Tribunal – Deputy President
The Hon Jennifer DAVIES	Melbourne	Administrative Appeals Tribunal – Deputy President Australian Competition Tribunal – Deputy President
The Hon Debra Sue MORTIMER	Melbourne	

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Darryl Cameron RANGIAH	Brisbane	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Richard Conway WHITE	Adelaide	Administrative Appeals Tribunal – Deputy President
The Hon Michael Andrew WIGNEY	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon Melissa Anne PERRY	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Defence Force Discipline Appeal Tribunal – Member Administrative Appeals Tribunal – Deputy President
The Hon Jacqueline Sarah GLEESON	Sydney	
The Hon Jonathan Barry Rashleigh BEACH	Melbourne	
The Hon Brigitte Sandra MARKOVIC	Sydney	
The Hon Mark Kranz MOSHINSKY	Melbourne	
The Hon Robert James BROMWICH	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Natalie CHARLESWORTH	Adelaide	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Stephen Carey George BURLEY	Sydney	
The Hon David John O'CALLAGHAN	Melbourne	
The Hon Michael Bryan Joshua LEE	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Roger Marc DERRINGTON	Brisbane	
The Hon David Graham THOMAS	Brisbane	Administrative Appeals Tribunal – President
The Hon Sarah Catherine DERRINGTON	Brisbane	Australian Law Reform Commission – President
The Hon Simon Harry Peter STEWART	Melbourne	Administrative Appeals Tribunal – Deputy President
The Hon Katrina Frances BANKS-SMITH	Perth	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Craig Grierson COLVIN	Perth	Administrative Appeals Tribunal – Deputy President
The Hon Thomas Michael THAWLEY	Sydney	Administrative Appeals Tribunal – Deputy President Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Michael Francis WHEELAHAN	Melbourne	Supreme Court of the Australian Capital Territory – Additional Judge

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Paul Elias ANASTASSIOU	Melbourne	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Angus Morkel STEWART	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Michael Hugh O'BRYAN	Melbourne	Supreme Court of the Australian Capital Territory – Additional Judge Australian Competition Tribunal – Deputy President
The Hon Darren John JACKSON	Perth	
The Hon John Leslie SNADEN	Melbourne	
The Hon Stewart Maxwell ANDERSON	Melbourne	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Wendy Jane ABRAHAM	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge

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

- 25 June to 15 July 2019 – Justice Rares
- 10 to 12 September 2019 – Justice Kenny
- 21 to 22 October 2019 – Justice Kenny

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

Appointments and retirements during 2019–20

During the year, one judge retired from the Court:

- The **Honourable Alan Robertson** retired upon reaching the compulsory retirement age for federal judges on 8 May 2020.

Other appointments during the year are as follows:

- **Justice Banks-Smith** was appointed as an Additional Judge of the ACT Supreme Court on 22 August 2019.
- **Justice Lee** was appointed as an Additional Judge of the ACT Supreme Court on 23 October 2019.
- **Justice Thawley** was appointed as an Additional Judge of the ACT Supreme Court on 23 October 2019.
- **Justice Wheelahan** was appointed as an Additional Judge of the ACT Supreme Court on 23 October 2019.
- **Justice Anastassiou** was appointed as an Additional Judge of the ACT Supreme Court on 23 October 2019.
- **Justice Stewart** was appointed as an Additional Judge of the ACT Supreme Court on 23 October 2019.
- **Justice O'Bryan** was appointed as an Additional Judge of the ACT Supreme Court on 23 October 2019, and appointed as a Deputy President of the Australian Competition Tribunal on 13 December 2019.
- **Justice Anderson** was appointed as an Additional Judge of the ACT Supreme Court on 23 October 2019.

- **Justice Abraham** was appointed as an Additional Judge of the ACT Supreme Court on 23 October 2019.
- **Justice Middleton** was re-appointed as a part-time Commissioner of the Australian Law Reform Commission on 28 November 2019.
- **Justice White** was re-appointed as a Deputy President of the Administrative Appeals Tribunal on 29 May 2020.
- **Justice Perram** was re-appointed as a Deputy President of the Copyright Tribunal of Australia on 8 June 2020.

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

Mr Warwick Soden retired as CEO and Principal Registrar on 30 April 2020.

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 s 18N of the Federal Court of Australia 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* as necessary.

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

Staff of the Court

The officers and staff of the Court (other than the Registrar and some Deputy Sheriffs and Marshals) are appointed or employed under the *Public Service Act 1999*.

At 30 June 2020, the Federal Court entity engaged 1,091 employees under the *Public Service Act 1999*. This figure includes 758 ongoing and 333 non-ongoing employees. More details on court staff can be found in Part 4 (*Management and accountability*) and Appendix 9 (*Staffing profile*).

PART 2

The year in review



The year in review

The year 2020 will be long remembered as nothing short of extraordinary. In my first year as the Chief Executive Officer (CEO) and Principal Registrar of the Federal Court of Australia, it has been my privilege to assist the Chief Justice, the Hon James Allsop AO, during a time of profound change to the Court's operations and environment. I am delighted to share our initiatives, successes and learnings in this part and throughout the Court's 2019–20 annual report.

The COVID-19 pandemic has affected almost every aspect of the Court's affairs and will continue to do so for many years to come. While the year has presented many challenges, it has also highlighted our forward-thinking approach to managing our work and our commitment to the relentless improvement of practices and digital innovation. The Court was positioned to respond rapidly and flexibly to COVID-19 and we have been able to showcase what a truly modern and progressive Court we have become.

The opportunity over the next 12 months will be to capitalise on the digital, practice and cultural initiatives that have been implemented to address COVID-19. We will continue to build a culture of innovation, consolidate the Court's national operations and deliver digital transformation to support the delivery of Court and Tribunal services. The Court is also committed to supporting the delivery of the Government's COVID-19 recovery agenda.

Significant issues and developments

Special measures relating to COVID-19

In March 2020, in response to the COVID-19 pandemic, the Court modified its practices in order to minimise in-person attendance on Court premises, with the Court's priority being the health and safety of the community, including parties, practitioners, judges and staff, and the families of all of these groups. The Court issued four special measures information notes (see page 30 for more information).

The Court quickly transitioned to hearings using remote access technology such as Microsoft Teams. The Court upgraded its information technology infrastructure, internet bandwidth and video conference enabled courtrooms in

order to hold online hearings with the necessary transcript support. Judges of the Court shared knowledge, identified issues, and developed and documented new practices as they trialled online hearings. Various guides and communications were also developed to provide support to litigants and the profession.

From mid-April 2020, the Court was operating at 80 per cent of its courtroom capacity – a remarkable achievement in such a short timeframe. The Court's practices and procedures in relation to online hearings and related processes, such as the viewing of subpoenaed material without the requirement for in-person attendance, continue to develop in response to the COVID-19 pandemic.

Embracing a digital future

Digital hearings

The Court has developed a framework to support digital hearings. In basic terms, the digital hearing framework uses existing courtroom cabling to broadcast from a PC operated by a court-appointed digital hearing operator to monitors set up on the bench, bar tables, witness box and a projector screen for the public gallery.

The digital hearing framework is focused on being cost effective and easily accessible to all litigants. It is available to any judges (and/or parties) who wish to use it for hearings, other than for mega trials (which continue to rely on the use of external digital hearing providers). The framework is based on a pilot conducted in June 2019 and addresses:

- the IT infrastructure, software and hardware required to run a digital hearing
- the recommended courtroom setup
- personnel and resourcing needed to operate and support a digital hearing

- recommended case management practices, including orders to facilitate a digital hearing, and
- details and format for preparing a digital court book.

Certain learnings from the Court's experience with the digital hearing framework, including the management of digital evidence, document exchange using digital mechanisms and the format and preparation of digital court books have been instrumental in the Court's development and support of online hearings (see below) during the COVID-19 pandemic.

Online hearings

In response to the COVID-19 pandemic, the Court modified its practices in order to minimise in-person attendance on court premises. This included a complete acceleration of components of the Court's digital strategy including the introduction of hearings by remote access technology. Microsoft Teams was the remote access technology rolled out in March 2020 to facilitate remote hearings and alternative dispute resolution by digital means. This has allowed the Court to maintain the continuity of its services and adhere to the Australian government restrictions whilst preserving access to justice.

In addition to the Special Measures Information Notes, the Court also published a National Practitioners and Litigants Guide to Online Hearings and Microsoft Teams to provide guidance for the legal profession and litigants-in-person appearing in online hearings.

Moving forward, the Court will capture key learnings, refocus its priorities to better support litigants and stakeholders and reinvigorate alternatives for the delivery of its services.

Digital litigation support

With its growing digital practices, the Court recognises the need to provide enhanced support and training for in-court technology, digital hearings and online hearings by way of dedicated digital litigation support staff. The Court has created a digitally savvy workforce through its ongoing digitisation of its services and practices. In order to accommodate the growing demands on its staff and technology, the Court is exploring an approach for the development and implementation of a digital litigation support team.

iPad initiative

The Court commenced its iPad Initiative in March 2020 in order to promote alternatives for its Working Digitally strategy by maximising flexibility to meet individual judges' work preferences. The iPad Initiative was an opt-in program for judges who were interested in opportunities to trial other means by which technology could assist them in performing their judicial duties.

An iPad Reference Guide and an ongoing training program has been developed to keep judges and chambers staff informed about how to effectively use the iPad and keep up to date with its benefits for digital litigation and judgment writing.

Digital Court Program

The Digital Court Program continues to be a priority for the Federal Court, the Family Court and the Federal Circuit Court, to streamline core business systems and create flexibility and operational efficiency across the three federal courts and the Tribunal.

In 2019–20, there were two key areas of focus. The first was the implementation of a digital court file in family law and the second was a proof of concept for implementation of a commercial off the shelf application to replace the Courts' aged case management system.

The Federal Court and the Federal Circuit Court judges conducting general federal law matters, have enjoyed the benefits of a digital court file for some years. The digital court file for family law was originally scheduled for release at the end of June 2020, however this was brought forward to April 2020 as a response to the COVID-19 pandemic. A digital court file can be accessed remotely by anyone on the Court network and is critical where multiple people require simultaneous access, for example, when working from home. Two applications were developed to support the transition to a digital family law court file. The 'Judicial Dashboard' was developed to provide judges with an overview of their docket, including links to those files in their docket that are digital, along with other statistics and data. The 'List Assist' tool was designed to help better manage hearings, with a large number of matters listed.

A proof of concept for implementation of a commercial off the shelf application to replace the Courts' aged case management system was the final stage in the evaluation of a tender for this application that was commenced in 2019. The proof of concept focused on establishing one area of general federal law in a test system. Special needs and considerations of family law were also discussed during the design phase. Completion of this proof of concept has been delayed by the impacts of the COVID-19 pandemic, however it will remain a critical project into 2020–21.

Extension of the National Court Framework

Since inception, the National Court Framework reforms have focused on the Court operating as a truly national Court through the national allocation of the Court's work, development of a nationally consistent approach to practice and organising the Court's work along national practice areas. The reforms also focused on reinvigorating the Court's approach to case management and utilising the specialised knowledge and skills of judges on a national basis.

The reforms initially focused on matters relevant to the work undertaken by the judges of the Court, including the allocation of case work to judges on a national basis, the implementation of a national duty system, introduction of nine National Practice Areas and a suite of new practice notes. The national principles are now being applied to the work undertaken by judicial registrars with the majority of that work now being allocated on a national basis, a review of judicial registrar practice and development of practice guides currently in progress, and judicial registrars enhancing the mediation and case management support for judges on a national basis. The Court will continue to progress and embed these national principles and reforms.

Workload

In 2019–20, the total number of filings (including appeals) in the Court decreased by 26 per cent to 4,469. Filings in the Court's original jurisdiction (excluding appeals) were also down 25 per cent at 3,443.

Significant decreases in filings in 2019–20 were experienced in company winding up applications dealt with by registrars of the Court and appeals from the Federal Circuit Court.

On 25 March 2020, the Commonwealth government introduced changes to corporate insolvency and bankruptcy legislation to provide relief to companies and individuals affected by the COVID-19 pandemic, with the introduction of the *Coronavirus Economic Response Package Omnibus Act 2020* (Cth).

The six months relief provided by these amendments included changes to the threshold amounts for the issue of statutory demands and bankruptcy notices to \$20,000 up from \$2,000 and \$5,000 respectively, and an increase in the time to respond to a statutory demand or a bankruptcy notice from 21 days to six months. These amendments have had a direct impact on filings in corporate insolvency and bankruptcy and specifically the workload of registrars through this period.

While filings decreased gradually during the first three quarters of the 2019–20 financial year, as a result of the COVID-19 pandemic there was a more significant decrease in overall filings during the final quarter.

Combined filings in the Federal Court and the Federal Circuit Court in general federal law decreased by 8 per cent to 13,776.

The Court's registries also provide registry services for the Federal Circuit Court. The workload of the Federal Circuit Court has continued to grow over the last five years.

The Court's registrars continue to hear and determine a substantial number of cases commenced in the Federal Circuit Court. Federal Court registrars dealt with, and disposed of, 1,891 Federal Circuit Court bankruptcy matters, which equates to 90 per cent of the Federal Circuit Court's bankruptcy caseload.

When considering total disposals (7,779), 44 per cent of the Federal Circuit Court's general federal law workload is dealt with by registrars, and 56 per cent is dealt with by judges.

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

Performance

The Court has two targets for timely completion of cases:

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

During the reporting year, the Court completed 93 per cent of cases in less than 18 months. As shown in Figure A5.5 and Table A5.5 in Appendix 5, over the last five years, the Court has consistently exceeded its benchmark of 85 per cent, with the average over the five years being 93.1 per cent.

- *Judgments to be delivered within three months*

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

During 2019–20, the Court handed down 2,313 judgments for 2,158 court files (some files involve more than one judgment being delivered – e.g. interlocutory decisions – and sometimes one judgment will cover multiple files). This is an increase from last year of 46 judgments. The data indicates that 77 per cent of appeals (both Full Court and single judge) were delivered within three months and 79 per cent of judgments at first instance were delivered within three months of the date of being reserved.

Financial management and organisational performance

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

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

The financial statements for 2019–20 include changes to the accounting treatment of operating leases as a result of the impact of changes to the Australian Accounting Standards Board (AASB) 16 Leases. The financial

statements show an operating surplus of \$15.327 million before depreciation costs of \$29.955 million and taking into account principal repayments of lease liabilities of \$17.082 million. The entity was budgeting a break-even position for the year, with the surplus stemming from projects that have been delayed to future years following uncertainty surrounding the passage of legislation. The Courts operate under strict budgetary controls ensuring that the entity operates within the appropriation.

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

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

Corporate services

During 2019–20, the work of corporate services focused on supporting the evolving needs of judges and staff across all the Courts and Tribunal, while delivering on required efficiencies to meet reduced appropriations.

As expected, a key focus in the second half of 2019–20 was in the delivery of solutions to support the work of the Courts and Tribunal in response to the COVID-19 pandemic.

IT moved quickly to effectively shift the business of the Courts to an online model. A number of technical solutions were deployed providing options for judges to attend from the courtroom, from chambers or from their home, providing solutions that enabled the Courts to continue operating during the lockdown period. This involved an upgrade to the Courts' existing video conferencing platform to provide assurance around its capacity to continue to deliver the majority of its hearings online for the foreseeable future.

During this period, COVID Safe plans were developed and implemented across all Court buildings. Measures were undertaken to ensure that appropriate social distancing protocols were in place across all locations to mitigate the risk of infection to staff and the public.

The People and Culture team moved rapidly to implement a number of support programs to assist staff during this period of increased stress and uncertainty. A significant undertaking was the delivery of resilience training offered to all staff. This training has been extremely important in underpinning our response to the COVID-19 pandemic. The provision of Microsoft Teams-based sessions, utilising the services of an external facilitator, provided the platform to reinforce the key resilience principles with staff. Various mediums for increased staff engagement and interaction were also developed focusing on staff wellbeing.

Investment in IT security, which is seen as particularly critical in an environment increasingly reliant on technology to operate, was increased. Various measures were implemented to enhance the protection of Court information and assets by reducing IT security risks and improving general IT security maturity levels.

There has been a concerted effort during this period to deliver innovative technological solutions to support the work of the Courts and Tribunal. A key achievement has been the delivery of the digital court file in family law, allowing the Court to create and access all court files electronically from any location around the country. Work also continued on consolidating IT systems and amalgamating projects targeted at simplifying the combined court environment to deliver more contemporary practices and efficiency improvements to reduce the cost of delivery.

Several property projects were delivered during the year with a number of other prominent accommodation projects underway.

A detailed report on the delivery of corporate services in 2019–20 is in Part 4 (*Management and accountability*).



Sia Lagos

Chief Executive Officer and Principal Registrar
Federal Court of Australia



PART 3

Report on Court performance



Report on Court performance

The work of the Court in 2019–20

This chapter of the annual report details the Federal Court's performance and workload during the financial year, as well as its management of cases and performance against its stated workload goals.

Aspects of the work undertaken by the Court to improve access to the Court for its users, including changes to its practice and procedure, are discussed. Information about the Court's work with overseas courts is also covered.

Management of cases and deciding disputes

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

The Court's jurisdiction

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

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

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

The Court also hears appeals on questions of law from the Administrative Appeals Tribunal. This jurisdiction falls under the Administrative and Constitutional Law and Human Rights National Practice Area (NPA), which also includes complaints about unlawful discrimination and matters concerning the Australian Constitution. Figure A5.9.1 in Appendix 5 (*Workload statistics*) shows the matters filed in this practice area over the last five years.

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

The Court shares first instance jurisdiction with the Supreme Courts of the states and territories in the complex area of intellectual property (copyright, patents, trademarks, designs and circuit layouts). All appeals in these cases, including appeals from the Supreme Courts, are to a Full Court of the Federal Court. Figure A5.9.5 on page 140 shows the number of intellectual property matters filed over the last five years.

The Court also has jurisdiction under the *Native Title Act 1993*. 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 ADJR Act involving native title. The Court's native title jurisdiction is discussed on page 140. Figure A5.9.6 in Appendix 5 (*Workload statistics*) shows the number of native title matters filed over the last five years.

A further important area of jurisdiction for the Court derives from the *Admiralty Act 1988*. The Court has concurrent jurisdiction with the Supreme Courts of the states and territories

to hear maritime claims under this Act. Ships coming into Australian waters may be arrested for the purpose of providing security for money claimed from ship owners and operators. If security is not provided, a judge may order the sale of the ship to provide funds to pay the claims. During the reporting year, the Court's Admiralty Marshals made five arrests. See Figure A5.9.2 in Appendix 5 (*Workload statistics*) on page 139 for the number of Admiralty and Maritime Law matters filed in the past five years.

The Court has jurisdiction under the *Fair Work Act 2009*, *Fair Work (Registered Organisations) Act 2009* and related industrial legislation. Workplace relations and fair work matters filed over the last five years are shown in Figure A5.9.4 in Appendix 5 (*Workload statistics*) on page 139.

The Court's jurisdiction under the *Corporations Act 2001* and the *Australian Securities and Investments Commission Act 2001* 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*. It has power to make sequestration (bankruptcy) orders against persons who have committed acts of bankruptcy and to grant bankruptcy discharges and annulments. The Court's jurisdiction includes matters arising from the administration of bankrupt estates.

Cases arising under Part IV (restrictive trade practices) and Schedule 2 (the Australian Consumer Law) of the *Competition and Consumer Act 2010* constitute a significant part of the workload of the Court. These cases often raise important public interest issues involving such matters as mergers, misuse of market power, exclusive dealings or false advertising. These areas fall under the Commercial and Corporations NPA. Figure A5.9.3 in Appendix 5 (*Workload statistics*) on page 139 provides statistics on this practice area.

Since late 2009, the Court has also had jurisdiction in relation to indictable offences for serious cartel conduct. This jurisdiction falls under the Federal Crime and Related

Proceedings NPA together with summary prosecutions and criminal appeals and other related matters.

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

In recent years, a significant component of its appellate work has involved appeals from the Federal Circuit Court concerning decisions under the *Migration Act 1958*. The Court's migration jurisdiction is discussed on page 23.

The Court also exercises general appellate jurisdiction in criminal and civil matters on appeal from the Supreme Court of Norfolk Island. The Court's appellate jurisdiction is discussed on page 22.

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

Changes to the Court's jurisdiction in 2019–20

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

- *Aged Care Quality and Safety Commission Act 2018*
- *Broadcasting Legislation Amendment (Broadcasting Reform) Act 2017*
- *Export Control Act 2020*
- *Industrial Chemicals Act 2019*
- *Insurance Contracts Act 1984*
- *Inspector-General of Live Animal Exports Act 2019*
- *National Sports Tribunal Act 2019*
- *Student Identifiers Act 2014*
- *Superannuation (Unclaimed Money and Lost Members) Act 1999*
- *Timor Sea Maritime Boundaries Treaty Consequential Amendments Act 2019*.

Amendments to the Federal Court of Australia Act

There were no amendments made to the Federal Court of Australia Act during the reporting year.

Fee regulation

The operation of the Federal Court and Federal Circuit Court Regulation 2012 remained unchanged in the reporting year.

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

Federal Court Rules

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

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

There were no amendments made to the *Federal Court Rules 2011* during the reporting year.

Other rules

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

The *Federal Court (Corporations) Rules 2000* govern proceedings in the Federal Court under the *Corporations Act 2001* and the *Australian Securities and Investments Commission Act 2001*, as well as proceedings under the

Cross-Border Insolvency Act 2008 which involve a corporate debtor. There were no changes to the *Federal Court (Corporations) Rules 2000* in the reporting year.

The *Federal Court (Bankruptcy) Rules 2016* govern proceedings in the Federal Court under the *Bankruptcy Act 1966*, as well as proceedings under the *Cross-Border Insolvency Act 2008* involving a debtor who is an individual. There were no changes to the *Federal Court (Bankruptcy) Rules 2016* in the reporting year.

The *Federal Court (Criminal Proceedings) Rules 2016* govern all criminal proceedings in the Federal Court, including summary criminal proceedings, indictable primary proceedings and criminal appeal proceedings. There were no changes to the *Federal Court (Criminal Proceedings) Rules 2016* in the reporting year.

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

Approved forms

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

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

Practice notes

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

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

The Court is moving away from process driven litigation that can be overly costly and slow and can limit access to the legal system. The Court is encouraging parties to consider the use of the Concise Statement Method where the key issues and facts at the heart of the dispute, and the primary legal grounds and relief sought, are required to be plainly and clearly identified at an early stage, so that the docket judge can make tailored case management orders that deal with the real issues in dispute in a reasonable, proportionate and cost effect way: *Australian Securities and Investments Commission v Australia and New Zealand Banking Group Limited* [2019] FCA 1284 (Allsop CJ).

Following the success of the Concise Statement Method in the Commercial and Corporations NPA, where it was first introduced, in 2019–20 the Court expanded the adoption of the Concise Statement Method into other NPAs of the Court, by revising the following practice notes:

- *Central Practice Note: National Court Framework and Case Management* (CPN-1) issued 25 October 2016
- *Administrative and Constitutional Law and Human Rights National Practice Note* (ACLHR-1) issued 25 October 2016
- *Admiralty and Maritime Practice Note* (A&M-1) issued 25 October 2016
- *Employment and Industrial Relations Practice Note* (E&IR-1) issued 25 October 2016, and
- *Intellectual Property Practice Note* (IP-1) issued 25 October 2016.

The Court also issued a new *Defamation Practice Note* (DEF-1) and revised the following practice notes in 2019–20:

- *Class Actions General Practice Note* (GPN-CA) issued 20 December 2019
- *Cross-Border Insolvency Practice Note: Cooperation with Foreign Courts or Foreign Representatives* (GPN-XBDR) issued 31 January 2020
- *Taxation Practice Note* (TAX-1) issued 25 October 2016, and
- *Lists of Authorities and Citations Practice Note* (GPN-AUTH) issued 25 October 2016.

Guides

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

In its response to the COVID-19 pandemic, the Federal Court developed a series of guides to support the practices developed for online hearings and the use of Microsoft Teams, including a *National Practitioners and Litigants Guide* intended to provide guidance for the legal profession and litigants-in-person appearing in online hearings. That guide provided information on how to join an online hearing, the expectations of the Court, the participants and members of the public, and sample orders to facilitate an online hearing.

All guides are available on the Court's website.

Workload of the Federal Court and Federal Circuit Court

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

In 2019–20, a total of 14,802 matters were filed in the two courts. The number of filings has an impact on the Federal Court's registries, as the staff members of the Federal Court's registries process the documents filed for both the Federal Court and Federal Circuit Court (in its general federal law jurisdictions). The registries also provide the administrative support for each matter to be heard and determined by the relevant court.

Case flow management of the Court's jurisdiction

The Court has adopted, as one of its key case flow management principles, the establishment of time goals for the disposition of cases and the delivery of reserved judgments. The time goals are supported by the careful management of cases through the Court's individual docket system and the implementation of practice and procedure designed to assist with the efficient disposition of cases according to law. This is further enhanced by the reforms of the National Court Framework.

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

Disposition of matters other than native title

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

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

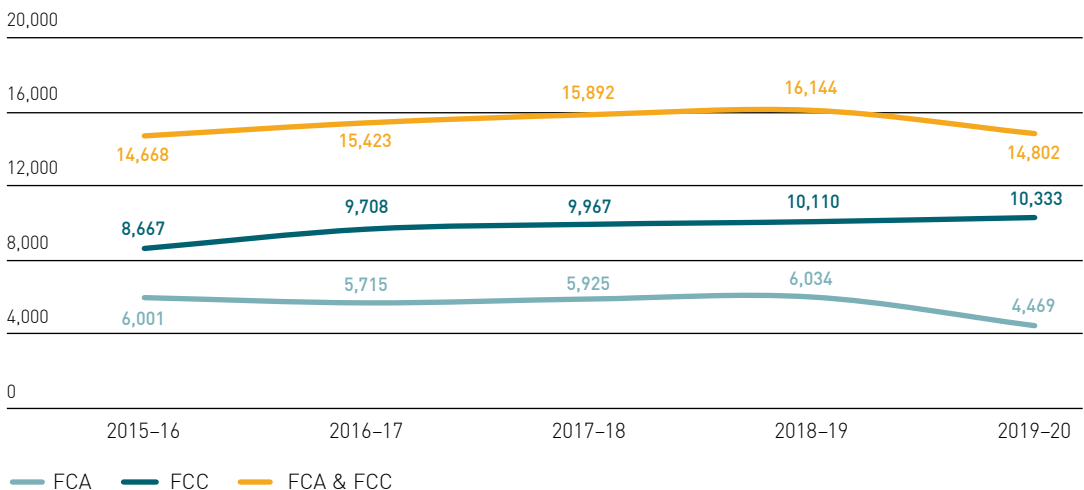
During the five-year period from 1 July 2015 to 30 June 2020, 92.9 per cent of cases (excluding native title matters) were completed in 18 months or less; 87 per cent in 12 months or less; and 72.3 per cent in six months or less. See Figure A5.4 in Appendix 5 (*Workload statistics*). Figure A5.5 on page 135 shows the percentage of cases (excluding native title matters) completed within 18 months over the last five reporting years.

Delivery of judgments

In the reporting period, the Court handed down 2,313 judgments for 2,158 court files. Of these, 886 judgments were delivered in appeals (both single judge and Full Court) and 1,427 in first instance cases. These figures include both written judgments and judgments delivered orally on the day of the hearing, immediately after the completion of evidence and submissions. There was a slight increase in the total number of judgments delivered in 2019–20 compared to the number of judgments delivered in 2018–19.

The nature of the Court's workload means that a substantial proportion of the decisions in the matters that proceed to trial in the Court will be reserved by the trial judge at the conclusion of the trial.

Figure 3.1: Filings to 30 June 2020 – Federal Court and Federal Circuit Court



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

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

Workload of the Court in its original jurisdiction

Incoming work

In the reporting year, 4,469 cases were commenced in, or transferred to, the Court's original jurisdiction. See Table A5.1 on page 130.

Matters transferred to and from the Court

Matters may be remitted or transferred to the Court under:

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

During the reporting year, 171 matters were remitted or transferred to the Court:

- 15 from the High Court
- 31 from the Federal Circuit Court
- 40 from the Supreme Courts, and
- 85 from other courts.

Matters may be transferred from the Court under:

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

During 2019–20, no matters were transferred from the Court.

Matters completed

Figure A5.2 in Appendix 5 (*Workload statistics*) shows a comparison of the number of matters commenced in the Court's original jurisdiction and the number completed. The number of matters completed during the reporting year was 4,871.

Current matters

The total number of current matters in the Court's original jurisdiction at the end of the reporting year was 3,425 (see Table A5.1).

Age of pending workload

The comparative age of matters pending in the Court's original jurisdiction (against all major causes of action, other than native title matters) at 30 June 2020 is set out in Table 3.1.

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

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

CAUSE OF ACTION	UNDER 6 MONTHS	6–12 MONTHS	12–18 MONTHS	18–24 MONTHS	OVER 24 MONTHS	SUB-TOTAL
Administrative law	37	20	10	8	6	81
Admiralty	9	4	5	5	8	31
Bankruptcy	113	42	21	8	14	198
Competition law	2	7	3	1	4	17
Trade practices	64	60	34	18	48	224
Corporations	272	125	47	40	89	573
Human rights	16	14	10	13	13	66

CAUSE OF ACTION	UNDER 6 MONTHS	6–12 MONTHS	12–18 MONTHS	18–24 MONTHS	OVER 24 MONTHS	SUB-TOTAL
Workplace relations	2	0	1	0	1	4
Intellectual property	38	34	31	21	47	171
Migration	98	24	17	35	9	183
Miscellaneous	138	83	33	27	46	327
Taxation	53	21	13	31	41	159
Fair work	94	41	40	25	38	238
Total	936	475	265	232	364	2,272
Percentage of total	41.2%	20.9%	11.7%	10.2%	16.0%	100.0%

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

CAUSE OF ACTION	UNDER 6 MONTHS	6–12 MONTHS	12–18 MONTHS	18–24 MONTHS	OVER 24 MONTHS	SUB-TOTAL
Native title action	24	26	51	32	173	306
Percentage of total	7.8%	8.5%	16.7%	10.5%	56.5%	100.0%
Running total	24	50	101	133	306	

The number of native title matters over 18 months old increased slightly compared with figures recorded in the 2018–19 annual report. The number of native title matters between 12–18 months and 18–24 months old also increased. Further information about the Court’s native title workload can be found on page 24.

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

The Court’s appellate jurisdiction

The appellate workload of the Court constitutes a significant part of its overall workload. While most appellate matters arise from decisions of single judges of the Court or the Federal Circuit Court, some are in relation to decisions by state and territory courts exercising certain federal jurisdiction. For reporting purposes, matters filed in the original jurisdiction of the Court but referred to a Full Court for hearing are treated as appellate matters.

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

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

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

In the reporting year, Full Court and appellate matters were scheduled for hearing in all eight capital cities. When appeals are considered to be sufficiently urgent, the Chief Justice will convene a special sitting of a Full Court outside of the four scheduled sitting periods.

In 2019–20, the Chief Justice specially fixed 20 Full Court or appellate matters for hearing outside of the four scheduled sitting periods, involving 20 sitting days or part thereof.

The appellate workload

During the reporting year, 1,263 appellate proceedings were filed in the Court. They include 1,071 appeals and related actions (1,026 filed in the appellate jurisdiction and 45 matters filed in the original jurisdiction), 15 cross appeals and 177 interlocutory applications such as applications for security for costs in relation to an appeal, a stay, an injunction, expedition or various other applications.

The Federal Circuit Court is a significant source of appellate work accounting for 70 per cent (725 of the 1,071) of the appeals and related actions filed in 2019–20. The majority of these proceedings continue to be heard and determined by single judges exercising the Court's appellate jurisdiction.

Further information on the source of appeals and related actions is set out in Table A5.3 in Appendix 5 (*Workload statistics*). There was an overall decrease in the total number of appeals and related actions filed in 2019–20, from 1,415 in 2018–19 to 1,026 for the current reporting year. This decrease can be largely attributed to a 35 per cent decrease in the number of migration appeals and related actions filed, from 1,139 in 2018–19, to 742 for the current reporting year.

However, there has been an increase in the Court's non-migration appeals and related actions since the 2018–19 fiscal year, particularly in the areas of taxation, administrative and constitutional law and human rights, and commercial and corporations (commercial contracts, banking, finance and insurance and regulator and consumer protection).

In the reporting year, 1,168 appeals and related actions were finalised. Of these, 335 matters were filed and finalised in the reporting year. At 30 June 2020, there were 834 appeals currently before the Court, with 571 of these being migration appeals and related actions.

The comparative age of matters pending in the Court's appellate jurisdiction (including native title appeals) at 30 June 2020 is set out in Table 3.3.

Of the appellate and related matters pending at present, 54 per cent are less than six months old and 87 per cent are less than 12 months old. At 30 June 2020, there were 103 matters that were over 12 months old (see Table 3.3).

Managing migration appeals

In 2019–20, 66 migration appeals were filed in the Court's appellate jurisdiction related to judgments of single judges of the Court exercising the Court's original jurisdiction. A further 680 migration matters were filed in relation to judgments of the Federal Circuit Court and four from another source.

Table 3.4 shows the number of appellate proceedings involving the Migration Act as a proportion of the Court's overall appellate workload since 2015–16.

Although the number of migration appellate filings has decreased by 35 per cent since the last reporting year, approximately 70 per cent of the Court's total appellate workload concerned decisions made under the *Migration Act 1958*.

Table 3.3: Age of current appeals, cross appeals and interlocutory appellate applications at 30 June 2020

CAUSE OF ACTION	UNDER 6 MONTHS	6–12 MONTHS	12–18 MONTHS	18–24 MONTHS	OVER 24 MONTHS	TOTAL
Appeals and related actions	510	221	55	22	26	834
Percentage of total	61.2%	26.5%	6.6%	2.6%	3.1%	100.0%
Running total	510	731	786	808	834	
	54%	87%	94%	97%	100.0%	

The Court continues to apply a number of procedures to streamline the preparation and conduct of these appeals and applications and to facilitate the expeditious management of the migration workload. The Court reviews all migration matters to identify cases raising similar issues and where there is a history of previous litigation. This process allows for similar cases to be managed together resulting in more timely and efficient disposal of matters. Then, all migration-related appellate proceedings (whether to be heard by a single judge or by a Full Court) are listed for hearing in the next scheduled Full Court and appellate sitting period. The exceptions to this are where expedition of an appeal may be necessary or where a judge's commitments preclude listing allocated matters during the sitting period. Where any migration-related appellate proceeding requires an expedited hearing, the matter is allocated to a single judge or referred to a specially convened Full Court. Fixing migration-related appellate proceedings for hearing in the four scheduled sitting periods has provided greater certainty and consistency for litigants. It has also resulted in a significant number of cases being heard and determined within the same sitting period.

The Court's native title jurisdiction

Statistics and trends

In 2019–20, the Court resolved a total of 65 native title applications (commenced under s 61 of the *Native Title Act 1993*), consisting of 42 native title applications, 19 non-claimant applications, three compensation applications, and one revision application. There were 17 additional applications managed by the native title practice area that were also finalised.

Of the finalised applications, 27 were resolved by consent of the parties or were unopposed, four were finalised following litigation, and 51 applications were either discontinued or dismissed. There are several other matters in which a consent determination was made, however the file remains on foot due to the determination being conditional on a subsequent event or further issues such as costs which remain to be disposed of.

Forty-two new applications were filed under s 61 of the *Native Title Act 1993* during the reporting period. Of these, 26 are native title determination applications, seven are non-claimant applications, six are compensation applications, and three were applications to revise existing determinations. In addition, eight new applications were filed which were not commenced under s 61 of the *Native Title Act 1993*, but relate to native title matters and are case managed in the native title NPA. None of the above figures include appeals from native title decisions.

At the commencement of the reporting year, there were six compensation applications before the Court: three in Queensland and three in Western Australia.

During the reporting year:

- the three extant Queensland compensation applications were withdrawn
- the three extant Western Australian compensation applications continued to await the resolution of the appeals against the registration of the South-West Noongar ILUAs
- two further compensation applications were filed in Queensland
- three further compensation applications were filed in Western Australia, and
- one compensation application was filed in the Northern Territory.

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

APPEALS AND RELATED ACTIONS	2015–16	2016–17	2017–18	2018–19	2019–20
Migration jurisdiction	653	764	1,022	1,139	742
Percentage	65.8%	73.0%	80.9%	80.5%	72.3%
Total appeals and related actions	993	1,046	1,263	1,415	1,026

At the end of the reporting year, there were 237 current native title applications, comprising 193 determination applications, 26 non-claimant applications, nine compensation applications, and nine variation applications. This is a downward trend from the 267 extant at the end of the previous financial year and reflects some intensive case management by the Court to resolve aging claims and a reduced number of new filings during the reporting year.

Subject to the constraints imposed by the COVID-19 pandemic, there are some 55 consent determinations or hearings of either the substantive matter or separate questions currently forecast for the 2020–21 financial year. Many of those hearings will include an on-country component if travel is feasible. There are also approximately 10 matters that will require some aspects to be mediated on-country by the case-managing registrar.

The Court continues to focus on targeted case management by specialist registrars and judges and on mediation, predominantly conducted by registrars. The Court also maintains a panel of specialist accredited mediators who can be called upon to mediate from time to time, including by way of co-mediation. Registry based, on-country and remote mediation by way of various technology platforms have been used to progress matters during the reporting period.

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

While full native title trials are reducing in number, there remains a significant number of litigated separate questions and interlocutory proceedings that can be extremely complex and lengthy in nature.

The trend of increasing court facilitation is demonstrated by the listings data over the past three years. There were 148 mediations and 789 case management hearings in 2017–18; 316 mediations and 983 case management hearings and a further 90 regional case management conferences held during 2018–19 (many of the regional conferences during

this year related to the Geraldton Settlement agreement). During 2019–20 and despite the abrupt halt to many scheduled events from March to June, the native title practice area still conducted 292 mediation listings, 995 case management hearings and substantive hearing listings, 656 administrative listings and a further 35 regional case management hearings.

Access requests are being made more frequently in all states, and are becoming more onerous in nature. It remains a sensitive issue having regard to the nature of the material sought and as the instigation for the request is often to prepare a compensation application. This year, Mortimer J provided detailed reasons and conditions on her approval for access to materials in *Hughes on behalf of the Eastern Guruma People v State of Western Australia (no 3)* [2019] FCA 2127.

Stakeholder engagement

The Court continues to regularly engage with stakeholders in a manner and at a regularity appropriate to the activity level and local processes in each jurisdiction.

In Queensland, the standing user group met with the Queensland native title registrars on 9 September 2019 and a forum involving practice area judges and registrars was convened on 31 January 2020, attended by some 80 people.

A similar forum involving practice area judges and registrars was convened in Western Australia in June 2019 adopting a workshop model. A user group was established following that forum and convened for the first time on 24 February 2020.

Significant litigation and developments

Queensland

Regional call overs continue to be a key feature of the Court's approach to the management and progression of native title claims in Queensland. Call overs have been convened in Cairns with regard to the Cape York and Torres Strait matters and the Northern Region, and in Brisbane with regard to the Southern Region. The case management landscape in Queensland has also involved regional approaches in a number of instances. Notably:

- In the Cape York, Torres Strait and Carpentaria Region, the 'Torres Strait cluster' of overlapping claims and the Cape York United claim comprising many local groups have both been the subject of intensive case management and mediation.

- In the Northern Region, the ‘Cairns cluster’ of overlapping claims continues to be the subject of intensive case management and mediation. This cluster was referred by the Court under s 54A of the *Federal Court Act 1976* (Cth) and rule 28.61 of the *Federal Court Rules 2011* (Cth) to two independent referees – the President of the National Native Title Tribunal, the Honourable John Dowsett AM QC, and the anthropologist Dr Paul Burke for inquiry and report. The final report of the referees was provided to the Court in March 2020.
- In the Southern Region, the ‘GNP or Gangulu cluster’ has been the subject of intensive joint case management, expert conferencing and mediation before reverting to three separately managed proceedings all programmed for hearing. The Southern Region has also seen the filing of two compensation applications, namely *Saunders on behalf of the Bigambul People v State of Queensland* and *Wharton on behalf of the Kooma People v State of Queensland*. These applications have been the subject of extensive case management by the Court and have otherwise seen a high level of interlocutory activity.

On-country hearings were held during the reporting period in the Kurtijar People matter and the Clermont-Belyando Area Native Title Claim matter (formerly called the Wangan and Jagalingou People matter). Both remain part-heard at the end of the reporting period.

Notable consent determinations were heard by Rangiah J for the Quandamooka (Minjerrabah) People in Brisbane, Robertson J for the Yuwibara People at Mackay and O’Byrne J for the Butchulla People at Hervey Bay.

Two non-claimant matters from Queensland and New South Wales were heard by the Full Federal Court in its original jurisdiction in November 2019, to determine whether they could be resolved by way of a negative determination. The Court considered the nature of evidence required to discharge the burden of proof in non-claimant applications and whether the applicants were able to prove on the balance of probabilities, that native title did not exist in the land and waters the subject of the claims. The Applications were granted. [See *Mace v State of Queensland* [2019] FCAFC 233].

South Australia

The Oodnadatta Common Overlap Proceeding hearing (SAD38/2013) commenced before White J in September 2019, with expert evidence to be heard in October 2020. The proceedings concern a small area of land around Oodnadatta in the far north of South Australia, covered by three overlapping claims: being Arabana No 2 (Part 2) application and the applications made in Walka Wani No 1 and Walka Wani No 2. The decision in an interlocutory matter regarding the giving and publication of male restricted evidence was appealed to the Full Federal Court, which dismissed the appeal.

Trials in the following matters are scheduled to commence in the first half of 2021, each for several weeks’ duration:

- The Ngadjuri Wilyakali overlap proceedings, and
- The Ngarrindjeri and First Nations of the South East Overlap proceedings.

Trials in respect of native title claimant applications filed by the Wirangu and Nauo people are also listed to commence on a five week estimate on 19 July 2021. It will be necessary for the Court to take evidence on-country during the trial in each of these applications.

New South Wales

Separate questions regarding the effect of New South Wales tenures on native title have been heard by the Court in the Widjabul Wia-bal matter during the reporting period. The decision of the primary judge was appealed to the Full Federal Court in February 2020, which concluded that the matters subject of the separate question hearing were hypothetical in nature (as connection had not been definitively agreed) and set aside the findings of the primary judge.

A Full Court, sitting in its original jurisdiction, was also asked to hear and determine an interlocutory issue regarding the state’s conduct during good faith negotiations to reach a consent determination in the Widjabul proceedings. The applicant was unsuccessful in making out its case due to insufficient factual evidence being put before the plurality. However, useful obiter was provided regarding the appropriate conduct of the state as model litigant and possible relief available from the Court if the standard was not met.

In March 2020, Jagot J convened a hearing on-country in the non-claimant matter Wagonga Local Aboriginal Land, which covers a small area entirely overlapped by the South Coast People claim application. Due to the COVID-19 pandemic, the on-country portion of the hearing was reduced and the hearing was finalised remotely through Microsoft Teams. Judgment is reserved.

Western Australia

In the Kimberley region (following eight additional consent determinations this year), 93.5 per cent of the Kimberley is now the subject of native title determination. Additionally, an on-country hearing took place in August 2019 in the Gajangana Jaru, Purnululu and Purnululu #2 matters. Judgment is currently reserved. There are currently four matters in the Kimberley in mediation and preservation of evidence for future compensation proceedings is currently a matter of focus.

In the Pilbara region, an on-country hearing was convened before Mortimer J in July 2019 for the Yinhawangka Gobawarra, Jurruru and Jurruru #2 matters. Expert conferences and evidence were held in Perth during December 2019 and the final submissions in February 2020. Judgment is reserved. During the course of the substantive hearing, a subpoena was sought to be served. To decide the issue, a hearing was convened canvassing issues of legal professional privilege and provides guidance on issues of privilege as they relate to connection materials: *Tommy on behalf of the Yinhawangka Gobawarra v State of Western Australia (No 2)* [2019] FCA1551.

The Nyamal Palyku Proceedings is currently comprised of five native title applications. A sixth application, WAD26/2019 Nyamal #10, was finalised at an on-country determination on 24 September 2019 at Shaw River. There have been two interlocutory hearings in these proceedings before Reeves J, *Nyamal Palyku Proceeding* [2020] FCA 428 and *Nyamal Palyku Proceeding (No 2)* [2020] FCA 788, including hearing of an application to strike out the Palyku proceeding as an abuse of process. The strike out application was dismissed and the substantive matter has now returned to intensive mediation before the judicial registrar.

Two revised determination applications have been filed in this region during the reporting period, both of which are in notification until 16 September 2020.

In the Geraldton region, a native title consent determination recognising the Yamatji Nation people was made on 7 February 2020. The orders made by the Court represent a unique and innovative settlement of native title facilitated by court mediation. The mediation was convened over approximately four years for the purpose of resolving six overlaps between the underlying five separate claims. The mediated agreement resulting in the filing of the overarching Yamatji Nation claim in mid-2019, supported by a comprehensive native title settlement ILUA entered into by the claim group and the State of Western Australia. The determination orders include positive determination of non-exclusive native title rights and interests over limited parcels and a negative determination over the rest of the area premised on the surrender of native title in the ILUA.

On 17 December 2019, a significant native title consent determination in favour of the Gnulli native title claim group was made recognising both exclusive and non-exclusive native title rights and interests over approximately 71,354 square kilometres in the Upper West Gascoyne and Murchison regions of Western Australia. The consent determination finalises claims for native title made by Gnulli people first lodged in 1997.

Drury on behalf of the Nanda People v State of Western Australia [2020] FCAFC 69 was delivered on 21 April 2020 by the Full Federal Court in its original jurisdiction. The decision confirmed the power of the Court under the *Native Title Act 1993* [Cth] to determine two separate prescribed body corporates over a shared area where the non-exclusive native title rights of two separate groups was determined.

Mediation has commenced in the Goldfields region to resolve various overlaps. A connection hearing is scheduled before Bromberg J in the longstanding Maduwongga claim (Kalgoorlie and surrounds) to commence in December 2020. On 30 October 2019, at Turtle Creek in the Central Desert region, Colvin J delivered a consent determination in favour of the Kultju native title claim group.

Two native title compensation applications were filed in the Central Desert region on 17 June 2020. The first application is made by a registered native title body corporate, which holds native title rights and interests in trust on behalf of the Tjiwarl common law holders. The application claims compensation over areas subject to the Tjiwarl determination made on 27 April 2020, for various acts which affected but did not wholly extinguish native title rights and interests. The second application is made by a compensation claim group, comprising the same persons as those determined as native title holders in the Tjiwarl determination. The application is over areas excluded from the Tjiwarl determination and where compensation is claimed for acts that wholly extinguished native title.

In the South West region, there is one compensation claim currently filed in the South West region which is subject of an application to strike out brought by the State of Western Australia. This matter, along with seven South West native title applications, await consideration of the High Court special leave applications P1/2020 – P7/2020. The appellants wish to appeal the decision of the Full Federal Court to dismiss the applications for judicial review of the registration decision of the Native Title Registrar in relation to the Southern Noongar ILUA.

Northern Territory

For many years in the Northern Territory, the determination of native title over a pastoral lease has reflected the form of the determination in *King v Northern Territory* [2007] FCA 1498 (the ‘Newcastle Waters’ case). More recently, the Northern Land Council and the Central Land Council have sought to amend the form of the determination, particularly to reflect the right to take resources for any purpose (including commercial purposes).

In the Northern Region, parties in the Minyerri and Banka Banka groups of matters were unable to agree on the form of determination and sought rulings from the Court in regard to four unresolved provisions. The Central Land Council and the Northern Territory Cattlemen’s Association, among others, intervened in the proceeding. On 19 December 2019, Justice White handed down his rulings in *Fulton on behalf of the Mambali Amaling-Gan v Northern Territory*

of Australia (the Minyerri and Banka Banka Matters) [2019] FCA 2156. These rulings have led to a reformulation of pastoral lease determinations in the Northern region. It is expected that the Minyerri and Banka Banka matters will proceed to determination by consent in September and October 2020.

On 28 November 2019, Galarrwuy Yunupingu (on behalf of the Gumatj clan or estate group) filed applications for native title and compensation in respect of land and waters on the Gove Peninsula in the Northern region. The applications will come out of notification on 22 July 2020. This is the second compensation claim in the Territory, after Timber Creek.

Victoria

In Victoria, following three expert conferences convened in the previous year in VID737/2014 Gunaikurnai People, leave was granted for the applicant to discontinue the proceeding over Wilsons Promontory without adjudication on the merits. The two remaining native title applications in Victoria, VID21/2019 Eastern Maar People and VID630/2015 First Peoples of the Millewa-Mallee, both completed the notification process which had previously been delayed due to negotiations under the State of Victoria’s *Traditional Owner Settlement Act 2010* (Vic), resulting in various Indigenous interests being joined as respondent parties and orders made in March 2020 for mediation seeking to resolve any issues between the parties by the end of the second half of 2020.

On 2 June 2020, a new native title application, VID363/2020, was filed by the Boonwurrung People, over areas surrounding Port Phillip Bay including parts of Melbourne and to the east, Wilsons Promontory.

Assisted dispute resolution

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

In recognition of the Court’s unique model of mediation and commitment to a quality professional development program, the Court

became a Recognised Mediator Accreditation Body in September 2015 and implemented the Federal Court Mediator Accreditation Scheme (FCMAS). The FCMAS incorporates the National Mediator Accreditation Standards and the majority of court-ordered mediations are conducted by registrars who are trained and accredited by the Court under the FCMAS.

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

Since the 2010–11 reporting period, the Court has maintained comprehensive statistical information about referrals to ADR and the outcomes of ADR processes held during the relevant reporting period. Mediation referrals are summarised in Table 3.5. As in previous years, the data should be considered in light of various factors. Firstly, referrals to mediation or other types of ADR may occur in a different reporting period to the conduct of that mediation or ADR process. Secondly, not all referrals to mediation or the conduct of mediation occur in the same reporting period as a matter was filed. This means that comparisons of mediation referrals or mediations conducted as

a proportion of the number of matters filed in the Court during the reporting period are indicative only. Thirdly, the data presented on referrals to ADR during the reporting period does not include information about ADR processes that may have been engaged in by parties before the matter is filed in the Court, or where a private mediator is used during the course of the litigation. Similarly, the statistics provided in Table 3.5 do not include instances where judges of the Court order experts to confer with each other to identify areas where their opinions are in agreement and disagreement without the supervision of a Registrar.

On 17 March 2020, in response to the COVID-19 pandemic, the Chief Justice determined that all listings, including mediations, be conducted by remote access technology. In the three month period since 1 April 2020, the Court has conducted 156 mediations: 86 by video conference and 70 by telephone.

During the reporting period, there was a 16 per cent reduction in the number of matters referred to mediation compared with the 2018–19 reporting period, although referrals by matter type is broadly consistent with past years.

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

Table 3.5: Mediation referrals in 2019–20 by NPA and registry

NPA	NSW	VIC	QLD	WA	SA	NT	TAS	ACT	TOTAL
Administrative and constitutional law and human rights	4	20	8	3	1	0	1	0	37
Admiralty and maritime	6	0	0	0	0	0	0	0	6
Commercial and corporations	62	82	18	14	7	1	2	5	191
Employment and industrial relations	32	61	12	13	3	0	3	4	128
Federal crime and related proceedings	0	0	0	0	0	0	0	0	0
Intellectual property	23	28	11	4	0	0	0	0	66
Migration	0	2	0	0	0	0	0	0	2
Native title	4	2	6	5	0	0	0	0	17
Other federal jurisdiction	16	5	4	2	1	2	1	1	32
Taxation	0	2	1	0	0	0	0	0	3
Total	147	202	60	41	12	3	7	10	482

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

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

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

Support for litigants impacted by bushfires

The Court acknowledges the devastating impact of the bushfires on communities and families across Australia, and offered support to those who had been affected and had a current or prospective matter before the Court. A national bushfire relief coordinator was appointed as a contact point for affected litigants to coordinate any requests for assistance.

Special measures relating to COVID-19

In March 2020, in response to the COVID-19 pandemic, the Court modified its practices in order to minimise in-person attendance on court premises, with the Court's priority being the health and safety of the community, including parties, practitioners, judges and staff, and the families of all of these groups.

The Court quickly transitioned to online hearings by use of remote access technology such as Microsoft Teams. The Court upgraded its information technology infrastructure, internet bandwidth and video conference enabled courtrooms in order to hold online hearings with the necessary transcript support. Knowledge, issues and practices were shared by the judges of the Court, as they trialled online hearings, and guidance was given to litigants and the profession through various guides and communications.

The Court issued the following special measures information notes:

- *Special measures in response to COVID-19* (SMIN-1)
- *Special measures in Admiralty and Maritime: Warrants for the arrest of ships* (SMIN-2)
- *Special measures in Appeals and Full Court hearings* (SMIN-3), and
- *Special measures in relation to Court Attendance* (SMIN-4).

From mid-April 2020, the Court was operating at 80 per cent of its courtroom capacity. The Court's practice and procedure in relation to online hearings and its various processes, such as viewing subpoena material without the requirement for in-person attendance, continues to develop during the COVID-19 pandemic.

Hearings for detainees

For litigants in immigration detention, the prospect of conducting online hearings by remote access technology presented particular challenges. The Court worked with national and state Bar Associations to arrange pro bono referrals to counsel where a litigant did not already have representation.

eLodgment process improvements

The Court has implemented improvements to its lodgment process for the application of pseudonyms to certain protection visa proceedings. Legal representatives are encouraged to contact Registry to obtain a pseudonym before filing, which can then be used in the eLodgment system. Similar measures are being developed in relation to self-represented litigants seeking to register as a user of eLodgment in order to file proceedings.

Practice and procedure reforms

The National Practice Committee is responsible for developing and refining policy and significant principles regarding the Court's practice and procedure. It is comprised of the Chief Justice, NPA coordinating judges and the national appeals coordinating judges, and is supported by a number of registrars of the Court.

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

- considering feedback received in respect of its national practice notes, and
- managing responsibilities and support for each NPA, including enhancing and developing national arrangements for liaison with the profession (including through court user-groups and forums in key practice areas), and developing a framework for skilled and experienced Judicial Registrar support for each NPA (including in class actions, migration and intellectual property).

Liaison with the Law Council of Australia

Members of the National Practice Committee meet with the Law Council's Federal Court Liaison Committee to discuss matters concerning the Court's practice and procedure, as required. The available members of the two committees met on 25 September 2019 to discuss a range of matters, including information regarding the workload of the Court and the disposition of proceedings, case management procedure, the national court framework, digital hearings, representative proceedings and policy and practice (including practice notes).

Representatives of the Court and representatives of the Law Council's Federal Court Liaison Committee also discussed updates to the Case Management Handbook and the possible extension of the Court's criminal jurisdiction.

Assistance for self-represented litigants

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

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

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

Tables 3.6, 3.7 and 3.8 provide broad statistics about the number of SRLs appearing in the Court as applicants in a matter (respondents are not recorded). As the recording of SRLs is not a mandatory field in the Court's case management system, and the representation status of a party during the course of a proceeding may vary from time to time, statistics shown in the tables are indicative only. In the reporting year, 587 people who commenced proceedings in the Court were identified as self-represented. The majority were appellants in migration appeals.

Table 3.6: Actions commenced by SRLs during 2019–20 by registry

	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	TOTAL
SRLs	2	415	2	53	10	0	9	96	587
Percentage of total	0%	71%	0%	9%	2%	0%	2%	16%	100%

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

Table 3.7: Proceedings commenced by SRLs in 2019–20 by cause of action

CAUSE OF ACTION	TOTAL ACTIONS	% OF TOTAL
Administrative law	19	3%
Admiralty	0	0%
Appeals and related actions	438	77%
Bankruptcy	19	3%
Competition law	0	0%
Consumer protection	1	0%
Corporations	8	1%
Fair work	9	2%
Human rights	7	1%
Industrial	0	0%
Intellectual property	1	0%
Migration	47	8%
Miscellaneous	20	3%
Native title	0	0%
Taxation	3	1%
Total	572	~100%

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

Table 3.8: Appeals commenced by self-represented litigants in 2019–20 by cause of action

CAUSE OF ACTION	TOTAL ACTIONS	% OF TOTAL
Administrative law	8	2%
Admiralty	0	0%
Bankruptcy	18	4%
Competition law	0	0%
Consumer protection	5	1%
Corporations	2	0%
Fair work	7	2%
Human rights	9	2%
Industrial	0	0%
Intellectual property	1	0%
Migration	384	88%
Miscellaneous	4	1%
Native title	0	0%
Taxation	0	0%
Total	438	100%

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

Direct financial counselling project in bankruptcy proceedings

With the assistance of Consumer Action in Melbourne and Uniting Communities in Adelaide, the Court has, in conjunction with the Federal Circuit Court, been able to maintain a program of targeted financial counselling assistance to SRLs in bankruptcy proceedings. Since the latter part of 2014 in Melbourne and 2018 in Adelaide, a financial counsellor sits in the courtroom in every bankruptcy list. During the COVID-19 pandemic, a financial counsellor has been available over the telephone. The registrar presiding is able to refer a SRL to the financial counsellor for an immediate confidential discussion so that the SRL better understands his or her options when faced with the prospect and consequences of bankruptcy.

In Melbourne, during the reporting year, there were 41 referrals of debtors in proceedings to financial counsellors, 38 of which have been determined. In 24 of those proceedings (63 per cent), they were resolved by consent either with the dismissal of the petition or with the making of a sequestration order. While statistics are not available from Adelaide, registrars have reported favourably about the program.

Interpreters

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

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

Court fees and exemption

Fees are charged under the Federal Court and Federal Circuit Court Regulation 2012 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 \$74.50)
- appeals from a single judge to a Full Court in human rights and some fair work applications
- an application by a person to set aside a subpoena
- an application under s 23 of the *International Arbitration Act 1974* for the issue of a subpoena requiring the attendance before or production of documents to an arbitrator (or both)
- an application for an extension of time
- a proceeding in relation to a case stated or a question reserved for the consideration or opinion of the Court
- a proceeding in relation to a criminal matter, and
- setting-down fees for an interlocutory application.

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

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

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

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

Freedom of Information

Information Publication Scheme

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

The availability of some documents under the FOI Act will be affected by 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 are not of an administrative nature; they may, however, be accessible by way of an

application for inspection of court documents under the Federal Court Rules.

Information for the media and televised judgments

The Director, Public Information (DPI) is responsible for dealing with all media inquiries. These mainly relate to how to access files and requests for judgments, however duties also involve dealing with issues that can require high-level contact and coordination.

The DPI's work requires close liaison with, and the support of, registries and judges' chambers. The role also entails briefing associates about how the Court deals with the media, arranging camera access in cases of public interest, and contacting journalists when mistakes have been made.

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

In the reporting year, such files were created for the following:

- *ABC v Kane and others*, and
- *Application in the matter of Virgin Australia Holdings (Administrators Appointed)*.

Early in the reporting year it was revealed the *Geoffrey Rush v Nationwide News online* file had resulted in just under 37,000 hits from around the world, making it the most accessed online file to date.

Mainstream television coverage was permitted in the following matters:

- *Gill v Ethicon Sarl*
- *Application in the matter of Virgin Australia Holdings (Administrators Appointed)*, and
- *Brett Cattle v Minister for Agriculture*.

The DPI was also responsible for the production of an instructional video in anticipation of the Court's first jury trial.

Community relations

The Court engages in a wide range of activities with the legal profession, including regular user group meetings. The aim of user groups is to provide a forum for court representatives and the

legal profession to discuss existing and emerging issues, provide feedback to the Court and act as a reference group.

Seminars and workshops on issues of practice and procedure in particular areas of the Court's jurisdiction are also regularly held.

In 2019–20, members of the Court were involved in seminars relating to arbitration, employment and industrial relations, commercial law, admiralty and maritime, tax, and class actions.

The Canberra registry hosted a biannual stakeholder meeting for legal stakeholders, including the ACT Bar Association, ACT Law Society, Canberra region legal practitioners, Legal Aid ACT, ACT Women's Legal Services and Child Youth Protection Services. Weekly meetings with this stakeholder group (moving to fortnightly throughout the COVID-19 period) continued.

Working with the Bar

Registries across the country hosted advocacy sessions and a number of bar moot courts and moot competitions and assisted with readers' courses during the year. The South Australian registry hosted Bar Readers courses in October, November and December 2019. The New South Wales registry hosted a silks ceremony on 28 October 2019. The Queensland registry hosted a silks ceremony in December 2019.

User groups

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

Legal community

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

- **Canberra** – co-location of Child and Youth Protection Services and the AFP commenced, however was postponed due to COVID-19. Employees have been appointed and inducted and will commence as soon as face-to-face services re-commence.
- **Darwin** – a Federal Court mediation suite was utilised for a Family Court pilot program (July 2019 until March 2020) for parties to attempt to negotiate orders rather than a child being placed in care in the Youth Court.
- **Hobart** – the UN Day Lecture.
- **Melbourne** – the Australian Academy of Law seminar, the UNCCA UN Day Lecture, a National Commercial Seminar '*Recent Developments in Misleading and Unconscionable Conduct*', National Seminar '*The Boundaries of Refugee Protection: A Comparative View*', and Judges in Conversation '*Limitations on Judicial Review: Where To From Here?*'.
- **Perth** – the national AMTAC address, the Richard Cooper Memorial Lecture, the John Emerson AM oration, an online web conference '*Cruise ships, COVID-19 and Consumers*', CI Arb Australia seminars, a national VCF seminar on *parentage, parenthood and parental responsibility* and UN Day, which was chaired by McKerracher J.
- **Sydney** – the Richard Cooper Memorial Lecture, CI Arb seminar, the Australian Law Reform Commission Corporate Crime Seminar, the University of Sydney Jessup Team Moots, Minds Count Lecture, the Australian Association of Constitutional Law lecture, the AMTAC address, and the Australian Academy of Law joint symposium.

Complaints

During the reporting year, complaints in relation to registry services were made to the Court regarding its procedures, rules, forms, timeliness or courtesy to users. For the purpose of collecting data about complaints, several discrete reports made by a complainant about a single issue or a set of related issues were recorded as a single complaint.

There were five complaints in the reporting year. This figure is down from 12 complaints recorded last year. This figure does not include complaints about the merits of a decision by a judge, which may only be dealt with by way of appeal,

or complaints about the merits of a decision of a registrar, which may only be dealt with by way of review.

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

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

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

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

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

National standard on judicial education

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

- participation by members of the Court in judicial professional development activities
- whether the proposed standard for professional development was met during the year by the Court, and
- if applicable, what prevented the Court meeting the standard (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 2019–20 the Court offered the following activities:

- eleven education sessions were scheduled at the judges' meeting on 27–29 November 2019 (in Melbourne)
- judges were offered the opportunity to attend the Supreme Court and Federal Court judges' conference.

The judges' meeting scheduled for April–May 2020 in Adelaide did not proceed, in light of the COVID-19 pandemic.

Education sessions offered at the judges' meetings in 2019–20 included:

- workshop with the profession on case management of regulatory civil litigation
- session for judges under three years
- introduction to judicial registrars
- the Federal Court's work in the Pacific: the Court's international programs
- judicial management of emotion
- sleep: the new health frontier
- recent developments in constitutional law
- Federal Court and Law Council of Australia joint conference on competition law, including sessions on:
 - Current perspective on the role of patent law in stimulating innovation
 - What does an IP regime need to be useful? Legal and economic perspectives from Europe, the United States and the Asia Pacific region
 - Trade marks, designs and patent oppositions: new technologies and areas of emerging interest
 - Copyright authorisation, safe harbour regimes; Hot topics in trade marks; Enforcement of foreign IP rights in Australia.

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

In 2019–20, due to the COVID-19 pandemic, the Federal Court was unable to provide five days of professional development activities for its judicial officers.

Work with international jurisdictions

The Federal Court has continued to collaborate with a number of courts in Asia and the Pacific this year. We have been able to support local reform and development objectives through a number of activities involving courts in the Asia–Pacific region.

As a result of COVID-19, a number of projects and activities to support governance, access to justice and the rule of law within neighbouring judiciaries have been postponed. However, by collaborating with courts, across the Asia–Pacific region, the Court was able to contribute to a number of our partners' important reform and development priorities.

National and Supreme Courts of Papua New Guinea

In December 2019, the Chief Justices of Papua New Guinea and the Federal Court signed a third, five-year Memorandum of Understanding (MOU). The MOU aims to facilitate further understanding of each nation's laws and commonalities of international legal standards, as well enhancing the capacity of the Supreme and National Courts of Papua New Guinea to fulfil their mandate.

The Court's Executive Director of Service Reform visited Port Moresby in July 2019 to conduct training to assist senior managers to understand the complexities of organisational change, to prepare for, and to lead that change. The leadership group is now in the process of implementing the changes they have responsibility for, with follow-up support anticipated in the second half of the calendar year.

In October 2019, Papua New Guinea's Efficiency Task Force visited Sydney. The Task Force discussed the findings of a Judicial Workload Survey against their current case management system and capacity. The visit closed with an interim report and recommendations for case management and efficiency reforms.

High Court of the Solomon Islands

In March, the National Judicial and District Registrar visited Munda in the Western Province of the Solomon Islands. The visit was part of the Court's Australian Government-funded project (Department of Foreign Affairs and Trade) to support the Magistracy. Based on the priority

needs identified by the Chief Magistrate, the activities for the remainder of the project were agreed. They will be implemented in the second half of the calendar year.

Regional collaborations

The Court has continued to manage the New Zealand government-funded Pacific Judicial Strengthening Initiative (PJSI). The program aims to build fairer societies by enabling the provision of more accessible, just, efficient and responsive justice services across 15 Pacific Island Courts. PJSI supports five thematic areas:

1. improved capacity of judicial leadership
2. marginalised and vulnerable groups are better able to access justice in and through courts
3. partner courts operate with a higher level of professionalism
4. partner courts exhibit more responsive, just behaviour and treatment that is fair and reasonable, and
5. cases are disposed of more efficiently.

PJSI has this year delivered the following activities:

- assessment and Support Design Visit, Fiji
- 7th, 8th and 9th Initiative Executive Committee Meetings
- human rights visit, Solomon Islands
- regional court data management workshop, Vanuatu
- ICT visit, Nauru
- gender and family violence visit, Vanuatu
- career pathway visit, Papua New Guinea (PNG)
- court data management follow-up webinar
- access to justice visit, Kiribati
- local efficiency visit, Nauru
- lay judicial officers webinar
- COVID-19 webinar, and
- opening the Courts' safely webinar.

PJSI has also approved 28 Leadership Incentive Fund grants for locally led activities, and commenced several remote engagements.

This brings the total of activities delivered since its commencement in 2017 to 77, plus 61 locally delivered activities supported by PJSI. Activities have involved and benefited over 3,000 people.

To ensure PJSI remains responsive to partner courts' priority needs, particularly those emerging as a result of the pandemic, the Court re-designed the remaining year of PJSI. With the re-design approved by PJSI's governance committee, a number of remote support activities have commenced.

Australian Competition and Consumer Commission

The Court and the ACCC entered into an MOU in June 2020, to add to a series of 'Judicial Primers'. The Primers will be published by the Organisation for Economic Co-operation and Development for the benefit of competition law judges across Association of South Asian Nations (ASEAN) member states.

Seminars and visitors to the Court

During the year, the Court hosted the following seminar and visitors:

- The Court arranged for Dr Livingston Armytage AM (Centre for Judicial Studies) and Dr Anna Dziedzic (University of Hong Kong) to attend the 2019 Federal Court Judges' Meeting in November to speak at a session entitled 'The Federal Court's Work in the Pacific: the Court's International Programs'.
- In July 2019, the Court hosted a delegation of judges from Thailand with focus on intellectual property law. The judges had been attending a workshop on intellectual property law at the University of Melbourne Law School. The delegation included the Hon Mr Nopporn Bhotirung-Siyakorn, Vice-President of the Supreme Court; the Hon Mr Nipan Chuysakul, Presiding Justice of the Supreme Court; the Hon Mr Chalit Katinasmit, Justice of the Supreme Court; the Hon Ms Sicha Nagavajra, Chief Justice of the Central Intellectual Property and International Trade Court; the Hon Mr Rukgiat Wattanapong, Justice of the Supreme Court; the Hon Ms Benjamas Punyadilok, Justice of the Supreme Court; the Hon Mr Sophon Rojanonth, Senior Justice of the Supreme Court; and a number of other senior Thai judges. The delegation discussed the Court's conduct of intellectual property cases with Justices Kenny and Moshinsky and District Registrar Luxton and Registrar Gitsham.
- In August 2019, the Court hosted 33 delegates from Thailand. The delegation comprised three justices of the Constitutional Court, including HE Mr Nurak Marpraneet, President, along with high-ranking executives from the Office of the Constitutional Court and other Thai institutions and companies. This visit was part of Thailand's 'Rule of Law Democracy Class No 7'. The delegation discussed the Court's roles and responsibilities and met with Justice Robertson.
- On 12 September 2019, the Court hosted a 35-person delegation of Thai judges, which included two judges from the Supreme Court of the Kingdom of Thailand. The delegation was hosted by Judicial Registrar Ryan and the Melbourne Law School and was given an overview of bankruptcy by Judicial Registrar Ryan and a demonstration of the Digital Court File.
- In September 2019, the Court hosted a visiting Austrian judge through the International Association of Supreme Administrative Jurisdiction's Judicial Exchange Program. Dr Markus Thoma of the Supreme Administrative Court visited the Court in Sydney from 9 to 13 September. Dr Thoma met with Justice Griffiths and Justice Driver for an overview of jurisdiction and court process.
- In February 2020, a Japanese delegation comprising Justice Yuko Myazaki and two other judges of the Supreme Court, visited the Court. The purpose of the visit was to gain a deeper understanding of Australia's judicial system and build relationships with Australian courts. The delegation met with Chief Justice Allsop and Justice Rares and were shown and discussed the operation of an electronic courtroom.

PART 4

Management and accountability



Management and accountability

Governance

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

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

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

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

Judges' committees

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

An overarching Operations and Finance Committee, chaired by the Chief Justice, assists the Chief Justice with the management of the administration of the Court. The Chief Justice is also assisted by standing committees that focus on a number of specific issues. In addition, other ad hoc committees and working parties are established from time to time to deal with particular issues.

An overarching National Practice Committee assists the Chief Justice in the management of the business of the Court and on practice and procedure reform and improvement. There are also a small number of standing committees that focus on specific issues within the framework

of the Court's practice and procedure. All of the committees are supported by senior court staff. The committees report to all judges at the biannual judges' meetings.

Judges' meetings

National meetings of all judges are held on a biannual basis. A national judges' meeting was held in November 2019, which dealt with matters such as reforms of the Court's practice and procedure, amendments to the Rules of the Court, management of the Court's finances and updates on the Court's digital initiatives, including the progress of digital hearings. The national judges' meeting scheduled for April 2020 did not proceed due to the COVID-19 pandemic.

External scrutiny

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

Commonwealth Courts Corporate Services

Overview

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

Corporate Services is managed by the Federal Court CEO and Principal Registrar who consults with heads of jurisdiction and the other CEOs in relation to the performance of this function. Details relating to corporate services and consultation requirements are set out in an MOU.

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

Objectives

The objectives of Corporate Services are to:

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

Purpose

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

During 2019–20, the work of Corporate Services focused on supporting the evolving needs of judges and staff across all the courts and tribunals, while delivering on required efficiencies to meet reduced appropriations.

The following outlines the work of Corporate Services, including major projects and achievements, during 2019–20.

The work of Corporate Services in 2019–20

Financial management

The Federal Court, Family Court and Federal Circuit Court have a Finance Committee which is made up of judges from the courts as well as the CEO and Principal Registrar.

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

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

Financial accounts

During 2019–20, revenue from ordinary activities totalled \$355.935 million.

Total revenue, in the main, comprised:

- an appropriation from government of \$273.973 million
- \$43.340 million of resources received free of charge, for accommodation occupied by the Court in Commonwealth Law Courts buildings and the Law Courts Building in Sydney
- \$35.450 million of liabilities assumed by other government agencies, representing the notional value of employer superannuation payments for the Courts' judges, and
- \$3.172 million from the sale of goods and services and other revenue and gains.

Total expenses as per the financial statements are \$353.481m. This comprises \$110.159 million in judges' salaries and related expenses, \$118.666 million in employees' salaries and related expenses, \$43.842 million in property-related lease expenses, \$48.628 million in other administrative expenses, \$29.955 million in depreciation expenses and \$2.231 million for the write-down and impairment of assets and financial instruments and financing costs.

The net operating result from ordinary activities for 2019–20, as reported in the financial statements, is a surplus of \$2.454 million including depreciation expenses and the accounting impacts of AASB 16 Leases. Depreciation expenses in 2019–20 of \$29.955 million includes depreciation on right of use assets recognised under AASB 16 Leases. To reflect the underlying operating surplus of the Federal Court of Australia entity, in line with Department of Finance guidelines, depreciation expenses of \$29.955 million are excluded and principal payments of lease liabilities of \$17.082 million are included. This effectively reverses the impact of AASB 16 Leases on the underlying result and shows a net surplus from ordinary activities of \$15.327 million for 2019–20.

The surplus is an improvement on the budgeted break-even position due to a number of projects being delayed to future years, primarily due to the uncertainty surrounding the passage of legislation as well as a reduction in travel activity in the final quarter of 2019–20 due to COVID-19 travel restrictions.

The Federal Court has other comprehensive income in 2019–20 of \$4.107 million due to the revaluation of the Court's assets.

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

Equity increased from \$73.722 million in 2018–19 to \$105.556 million in 2019–20.

Program statements for each of the Court's programs can be found on page 2 and 3.

Advertising and marketing services

As required under s 311A of the *Commonwealth Electoral Act 1918*, the Court must provide details of all amounts paid for advertising and marketing services. A total of \$228,563 was paid for recruitment advertising services in 2019–20. Payments for advertising the notification of native title applications, as required under the *Native Title Act 1993*, totalled \$97,774 over the reporting year.

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

Grant programs

The Federal Court made no grant payments in 2019–20.

Corporate governance

Audit and risk management

The CEO and Principal Registrar of the Federal Court certifies that:

- fraud control plans and fraud risk assessments have been prepared that comply with the Commonwealth Fraud Control Guidelines
- appropriate fraud prevention, detection, investigation and reporting procedures and practices that comply with the Commonwealth Fraud Control Guidelines are in place, and
- the entity has taken all reasonable measures to appropriately deal with fraud relating to the entity. There were no instances of fraud reported during 2019–20.

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

- a single Audit Committee overseeing the entity that met five times during 2019–20. The committee comprises an independent chairperson, three judges from the Federal Court, three judges from the Family Court, two judges from the Federal Circuit Court and one additional external member. The CEO and Principal Registrars for each of the Courts, the Executive Director Corporate Services, the Chief Financial Officer and representatives from the internal audit service provider and the Australian National Audit Office (ANAO) attend committee meetings as observers
- internal auditors, O'Connor Marsden and Associates, conducted five internal audits during the year to test the entity's systems of internal control
- a risk management framework including a Risk Management Policy, a Risk Management Plan and a Fraud Control Plan
- internal compliance certificates completed by senior managers, and
- annual audit performed by the ANAO who issued an unmodified audit certificate attached to the annual financial statements.

Compliance report

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

Table 4.1: Audit committee

MEMBER NAME	QUALIFICATIONS, KNOWLEDGE, SKILLS OR EXPERIENCE (INCLUDE FORMAL AND INFORMAL AS RELEVANT)	NUMBER OF MEETINGS ATTENDED/ TOTAL NUMBER OF MEETINGS	TOTAL ANNUAL REMUNERATION
Ian Govey AM	<ul style="list-style-type: none"> ■ Bachelor of Laws (Hons), Bachelor of Economics. ■ Fellow, Australian Academy of Law. ■ Chair, Banking Code Compliance Committee. ■ Chair, Federal Court of Australia Audit Committee. ■ Deputy Chair, Commonwealth Director of Public Prosecutions Audit Committee. ■ Director, Australian Centre of International Commercial Arbitration. ■ Director, Australasian Legal Information Institute (AustLII). ■ Acting Independent Reviewer, ACT Government Campaign Advertising. <p>Previously:</p> <ul style="list-style-type: none"> ■ Head, Australian Government Solicitor. ■ SES positions in the Australian Public Service, including Deputy Secretary of the Commonwealth Attorney-General's Department. 	5/5	\$18,125
Justice Nicholas	<ul style="list-style-type: none"> ■ Bachelor of Laws, Bachelor of Arts. ■ Previously a barrister practising in the areas of commercial law and intellectual property law. ■ Appointed Senior Counsel in 2001. ■ Appointed as a Judge to the Federal Court of Australia in 2009. 	5/5	\$0
Justice Murphy**	<ul style="list-style-type: none"> ■ LLB, B Juris. ■ Senior Partner of law firm (1990–95). ■ Chairman of national law firm (2005–11) with responsibilities including financial forecasts, budgeting and risk management. ■ Board Member, Vice President and President, KidsFirst (formerly Children's Protection Society) (2005–present) with responsibilities including financial forecasts, budgeting and risk management. 	3/3	\$0

MEMBER NAME	QUALIFICATIONS, KNOWLEDGE, SKILLS OR EXPERIENCE (INCLUDE FORMAL AND INFORMAL AS RELEVANT)	NUMBER OF MEETINGS ATTENDED/ TOTAL NUMBER OF MEETINGS	TOTAL ANNUAL REMUNERATION
Justice Farrell	<ul style="list-style-type: none"> ■ BA LLB (Hons) University of Sydney. ■ Deputy President, Australian Competition Tribunal. ■ Fellow, Australian Academy of Law. ■ Honorary life member, Business Law Section, Law Council of Australia. <p>Previously:</p> <ul style="list-style-type: none"> ■ President, Takeovers Panel (2010-12). ■ Member, Takeovers Panel (2001-10). ■ Chairman, Business Law Section, Law Council of Australia (2008-09). ■ Member, Executive, Business Law Section (2004-13). ■ Chair, Corporations Committee (2000-03). ■ Representative, Law Council, ASX Corporate Governance Council (2001-12). ■ Partner, Freehill Hollingdale and Page (1984-1992, 1994-2000). ■ Consultant, Freehills (2000-12). ■ National Coordinator, Enforcement, Australian Securities Commission (1992-93). ■ Acting member, Australian Securities Commission (1993). ■ Non-executive director and member of the audit committee for profit companies and government entities in the electricity generation, international banking, clothing manufacture and retail sectors (over periods between 1995-2010). ■ Non-executive director and member of the audit committee of not-for-profit entities the Securities Institute of Australia, the Australian Institute of Management, the National Institute of Dramatic Art and the Fred Hollows Foundation (over periods 1995-2017). ■ Fellow, Australian Institute of Management. ■ Fellow, Australian Institute of Company Directors. 	5/5	\$0
Justice White*	<ul style="list-style-type: none"> ■ BA LLB(Hons). ■ Judge of the Federal Court of Australia. 	2/2	\$0

MEMBER NAME	QUALIFICATIONS, KNOWLEDGE, SKILLS OR EXPERIENCE (INCLUDE FORMAL AND INFORMAL AS RELEVANT)	NUMBER OF MEETINGS ATTENDED/ TOTAL NUMBER OF MEETINGS	TOTAL ANNUAL REMUNERATION
Justice Benjamin	<ul style="list-style-type: none"> ■ Diploma of Laws (SAB). Master of Laws (University of Technology) with a major in Dispute Resolution. Honorary Master of Laws (Applied Law) and Fellow of the College of Law. ■ Presidential Member, Administrative Appeals Tribunal. ■ Chair, Family Court Finance Committee. ■ Deputy Chair, Academic Board, College of Law. <p>Previously:</p> <ul style="list-style-type: none"> ■ Chair, Federal Courts' Costs Committee. ■ President, NSW Law Society. ■ Chair and Director, College of Law. ■ Trustee, Public Purpose Fund under the <i>Legal Profession Act 1987</i>. ■ Director, Solicitors Superannuation Pty Ltd. ■ Director, Purvis Van Eyk & Company Pty Ltd (an actuarial and financial research company). ■ Executive Member, Management Committee, Rose Consulting Group (Consulting Civil Engineers). ■ Legal Representative, South-Eastern Sydney Regional Area Health Board, Institutional Ethics Committee. 	4/5	\$0
Justice Harper**	<ul style="list-style-type: none"> ■ BA (Hons), LLB, PhD (Uni Syd). ■ Member, Family Court Finance Committee. ■ Member, Family Court Conduct Committee. 	2/3	\$0
Justice McEvoy**	<ul style="list-style-type: none"> ■ B.A; LL.B. (Hons); LL.M (Melb); S.J.D. (Virginia). ■ Visiting Professor, University of Virginia School of Law. ■ Finance Committee, Family Court of Australia. ■ Board member; member of audit committee; Parenting Research Centre, 2010–16. ■ Queen's Counsel, Victoria, 2016–19. ■ Barrister, Victorian Bar, 2002–19. ■ Senior Associate, Freehills 1999–2002. 	3/3	\$0

MEMBER NAME	QUALIFICATIONS, KNOWLEDGE, SKILLS OR EXPERIENCE (INCLUDE FORMAL AND INFORMAL AS RELEVANT)	NUMBER OF MEETINGS ATTENDED/ TOTAL NUMBER OF MEETINGS	TOTAL ANNUAL REMUNERATION
Judge Driver	<ul style="list-style-type: none"> ■ Bachelor of Arts/Law ANU. ■ Chair, Federal Circuit Court Legal Committee. ■ Member, Federal Circuit Court Finance Committee. ■ Judge, Federal Magistrates Court and Federal Circuit Court since 31 July 2000. ■ Member, Australian Institute of Judicial Administration. ■ Member, Law Council of Australia, Federal Litigation Section. ■ Member, Judicial Conference of Australia. ■ Previously held a number of Senior Executive Service positions in the Australian Public Service, Office of the Australian Government Solicitor. 	5/5	\$0
Judge Howard**	<ul style="list-style-type: none"> ■ Bachelor of Laws. ■ Fulbright Scholar. ■ Member, Fulbright Scholarship Legal Assessment panel. ■ Visiting Foreign Judicial Fellowship, Federal Judicial Center, Washington DC (2018). ■ LAWASIA, Judicial Section Coordinating Committee. ■ President, QUT Law Alumni Chapter (2014–18). ■ Chair, LAWASIA Family Law Section (2011–14). ■ Board Member, Centacare, Queensland (2004–12). ■ Member, Advisory Board, St Vincent de Paul Society, Queensland (1992–94). 	3/3	\$0

MEMBER NAME	QUALIFICATIONS, KNOWLEDGE, SKILLS OR EXPERIENCE (INCLUDE FORMAL AND INFORMAL AS RELEVANT)	NUMBER OF MEETINGS ATTENDED/ TOTAL NUMBER OF MEETINGS	TOTAL ANNUAL REMUNERATION
Frances Cawthra	<ul style="list-style-type: none"> ■ Frances Cawthra is the Chief Executive Officer of Cenitex, the Victorian Government's IT shared service provider. Cenitex provides essential ICT services including identity and network management, cyber security, user workspace and cloud services to more than 30 Victorian Government departments, portfolio agencies, associated agencies and government entities. ■ Prior to joining Cenitex, Frances was Chief Finance Officer with the Australian Taxation Office and has held senior roles in a variety of organisations including the National Australia Bank, United Energy and Coles Myer. ■ She has been recognised for her leadership in the areas of financial and resource management, investment strategy, procurement and contract management. 	4/5	\$0

* Member retired from the Audit Committee in December 2019.

** Member was appointed to the Audit Committee in February 2020.

The direct electronic address of the charter determining the functions of the audit committee for the entity can be found at https://www.fedcourt.gov.au/about/corporate-information/audit-committee-charter/_nocache.

Correction of errors in the 2018–19 annual report

The Court has no matters to report.

Security

The safety and security of all people who attend or work in the Courts is a high priority.

During 2019–20, \$6.5 million was expended for court security services, including the presence of security officers, weapons screening, staff training and other security measures. This figure includes funding spent on security equipment maintenance and equipment upgrades.

Other achievements during the reporting year include:

- Finalising the procurement arrangements for the upgrade of security equipment and systems which will ensure court facilities continue to provide effective physical security.

- Taking up the first of two additional two-year extension options for the Commonwealth Contract for the provision of Guarding Services (up to October 2021).
- Replacing the aging security incident recording system with an integrated risk and security incident management system.

The Marshal and Sheriff continues to work very closely with the Australian Federal Police and the police services of the states and territories on a range of matters including executing orders emanating from family law matters such as the recovery of children, the arrest of persons and the prevention of parties leaving Australia when ordered not to do so, as well as a range of information exchange arrangements in order to improve our understanding of risks associated with individuals coming to court.

In the coming years, the Court will complete the roll-out of upgraded security infrastructure and measures to introduce a culture emphasising the integrated nature of personal, physical and information security.

Purchasing

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

Information on consultancy services

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

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

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

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

Consultants

During 2019–20, 15 new consultancy contracts were entered into, involving total actual expenditure of \$1.286 million. In addition, five ongoing consultancy contracts were active during 2019–20, which involved total actual expenditure of \$335,289.

Table 4.2 outlines expenditure trends for consultancy contracts for 2019–20.

Competitive tendering and contracting

During 2019–20, there were no contracts let to the value of \$100,000 or more that did not provide for the Auditor-General to have access to the contractor's premises.

During 2019–20, there were no contracts or standing offers exempted by the CEO and Principal Registrar from publication in the contract reporting section on AusTender.

Exempt contracts

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

Procurement initiatives to support small business

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

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

Table 4.2: Number and expenditure on consultants, current report period (2019–20)

	TOTAL
No. of new contracts entered into during the period	15
Total actual expenditure during the period on new contracts (inc. GST)	\$1,286,120
No. of ongoing contracts engaging consultants that were entered into during a previous period	5
Total actual expenditure during the period on ongoing contracts (inc. GST)	\$335,289

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

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

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

Asset management

Commonwealth Law Court buildings

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

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

An interim MOU was signed by the Court with Department of Finance for 2018–19 and this MOU will roll over monthly while the Court and Department of Finance negotiate a long-term agreement. The longer-term lease agreement MOU is expected to come into effect early in the 2020–21 financial year.

Registries – leased

Corporate Services also manages some 13 registry buildings across the nation, located in leased premises. Leased premises locations include Albury, Cairns, Dandenong, Dubbo, Launceston, Lismore, Newcastle, Rockhampton, Sydney, Townsville and Wollongong. There are also arrangements for the use of ad hoc accommodation for circuiting in 25 other regional locations throughout Australia.

Regional registries – co-located

The Courts co-locate with a number of state court jurisdictions, leasing accommodation from their state counterparts. The following arrangements are in place:

- the Court has Federal Court, Family Court and Federal Circuit Court registries in Darwin. The registries are co-located in the Northern Territory Supreme Court building under the terms of a Licence to Occupy between the Court and the Northern Territory Government, and
- the Court has a Family Court and Federal Circuit Court registry in Rockhampton, and formerly circuiting to this premises six weeks per year, under the terms of a Licence to Occupy between the Court and the Queensland Government. Since the Commonwealth Attorney-General announced a new full-time judicial appointment in Rockhampton in early 2016, negotiations with the Queensland Government regarding full-time accommodation options for the judge and registry have progressed. The Court is currently awaiting Commonwealth Government approval and funding to fit-out a new dedicated court building in a Queensland Government vacant building within the legal precinct.

Queens Square, Sydney

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

Projects and capital works delivered in 2019–20

The majority of capital works delivered in 2019–20 were projects addressing the urgent and essential business needs of the Courts. Projects undertaken or commenced included the following:

- Completed construction of new courtrooms and public facilities in Newcastle by expanding into the adjoining building.
- Upgraded jury box facilities in the Melbourne Law Courts building to ensure access compliance.

- Replaced front entrance x-ray scanning equipment in the majority of Court premises.
- Commenced project to upgrade all security backend systems, access controls, alarms and CAPS CCTV through the Courts' premises. The project is expected to be completed during 2020–21.
- Completed fit-out design works for the relocation of Sydney Corporate Services to new premises. Construction works are scheduled to occur during the 2020–21 financial year.
- Commenced early design works for the construction of additional jury courtrooms and judges' chambers in the Queens Square Law Courts building in Sydney.
- Worked with the building owner, the Department of Finance, for the upgrade of Child Dispute facilities, lifts, and bathroom and kitchen facilities throughout a number of Commonwealth Law Courts buildings.

Environmental management

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

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

- an Environmental Policy, which articulates the Court's commitment to raising environmental awareness and minimising the consumption of energy, water and waste in all accommodation, and
- a National Environmental Initiative Policy, which is intended to encourage staff to adopt water and energy savings practices. It provides clear recycling opportunities and guidance, encourages public transport and active travel to and from the workplace.

Monitoring of actual impacts on the environment

The Court has an impact on the environment in a number of areas, primarily in the consumption of resources. Table 4.3 lists environmental impact/ usage data where available. The data is for all the Federal Court jurisdictions over

the last three financial years. Before the amalgamation, all Courts reported separately, and only Family Court and Federal Circuit Court figures were reported previous to the 2016–17 financial year).

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

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

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

Other measures

During 2019–20, the Court worked within its environmental management system to minimise its environmental impact through a number of specific measures, either new or continuing.

Energy

- Replacement of conventional florescent and halogen lighting with energy saving LED lighting.
- Replacement of appliances with energy efficient models.
- Review of electricity contracts to ensure value for money.

Information technology

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

Table 4.3: The Court's environmental impact/usage data, 2015–16 to 2019–20

	2015–16 FCFCC ONLY	2016–17	2017–18	2018–19	2019–20
Energy usage – privately leased sites (stationary)*	5722 GJ	5315 GJ	5483 GJ	4353 GJ	N/A at time of printing
Transport vehicles – energy usage	6002 GJ	112,721 L/ 970,500 km Petrol + 59,776 L/ 650,750 km Diesel + 4749 L/ 83,420 km Dual fuel = 6535 GJ or 436.3 tonnes of CO ₂	146,216 L/ 1,251,442 km Petrol + 54,250 L/ 553,917 km Diesel + 6099 L/ 61,559 km Dual fuel = 7095 GJ or 502.9 tonnes of CO ₂	119,476 L/ 1,058,735 km Petrol + 58,233 L/ 613,562 km Diesel + 4,976 L/ 84,872 km Dual fuel = 6593 GJ or 461 tonnes of CO ₂	123,787 L/ 1,231,264 km Petrol 43,519 L/ 450,433 km Diesel 10,652 L/ 106,918 km Dual fuel = 443 tonnes of CO ₂
Paper usage (office paper)	33,872 reams	FCFCC 29,576 reams FCA 6403 reams Total 35,979 reams	FCFCC 27,192 reams FCA 7825 reams Total 35,017 reams	FCFCC 27,049 reams FCA 8,787 reams Total 35,836 reams	FCFCC 28,651 reams FCA 5,866 reams Total 33,812 reams

FCFCC (Family Court and Federal Circuit Court).

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

Paper

- An electronic court file was introduced for the Federal Court and the Federal Circuit Court (general federal law) in 2014. Matters commencing with the Courts are now handled entirely electronically. Over 85,514 electronic court files have been created, comprising almost 1,041,597 electronic documents, effectively replacing the use of paper in court files. This is an increase of 14,812 electronic court files and 166,425 electronic court documents from 2018–19.
- Family law eFiling also continues to be expanded, with over 87 per cent of divorce applications now being electronically filed. This is an increase of 17 per cent from 2018–19.
- Clients are encouraged to use the online Portal, and staff are encouraged to send emails rather than letters where feasible.
- Secure paper (e.g. confidential) continued to be shredded and recycled for all court locations.
- Non-secure paper recycling was available at all sites.
- Printers are initially set to default double-sided printing and monochrome.
- Recycled paper (8,774 reams) comprises 26 per cent of total paper usage. The overall reams total 2019–20 has decreased by 2,024 reams. This is due to the increased use of electronic filing and communication were feasible, as well as working from home during COVID-19 restrictions. The entity will remind officials on their return to work of the electronic protocols and highlight the benefits of our learned practices working from home without a printer.

Waste/cleaning

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

- Recycling facilities for staff personal mobile phones were permanently available at key sites.
- Secure paper and e-waste recycling was available at all sites.

Property

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

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

Travel

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

Additional ecologically sustainable development implications

In 2019–20, the Court did not administer any legislation with ecologically sustainable development implications, nor did it have outcomes specified in an Appropriations Act with such implications.

Management of human resources

Staffing

At 30 June 2020, the Court engaged 1,091 employees under the *Public Service Act 1999*. This figure includes 758 ongoing and 333 non-ongoing employees.

Additional support was provided to the Courts by undergraduate volunteers who seek placements in judges' chambers to gain experience required as part of their study.

The *Courts Administration Legislation Amendment Act 2016* designated all employees of the Federal Court, the Family Court and the Federal Circuit Court to be employees of the Federal Court of Australia. Employees are also engaged by the Federal Court to support the operation of the National Native Title Tribunal.

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

During 2019–20, refinements were made to the structure of the Court. Operational reviews commenced and adjustments made as new Chief Operating Officers and Principal Registrars were appointed and following the retirements of some other senior officials. The further implementation of standardisation of practices and organisational efficiencies were mostly put on hold as the focus changed to the management of pandemic-related control measures. Staffing levels were generally maintained during the pandemic.

The Court's study assistance program also supports employees to improve their skills so they are more productive in the workplace.

In addition to these changes, a number of other initiatives were implemented including new induction modules, pandemic-related services and support materials; further upgrades and enhancements to human resource systems; finalising the drafting of work health and safety-related policies and guidelines; and the delivery of a range of training including resilience training and support delivered to staff as they work from home. The training was well received by employees, with positive comments being provided.

Consultation on the new work health and safety policies concluded. The Court proposed amendments to work groups which are described in the proposed Policy on Work Health and Safety. Agreement on the proposed changes could not be reached and the Court requested that Comcare appoint an inspector to determine them.

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

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

Structural and operational changes also resulted in some redundancies during the reporting period.

Further, the Court engages casual employees for irregular or intermittent courtroom duties. This fluctuates as needed.

Disability reporting mechanism

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

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

Employment arrangements

The remuneration of the CEO and Principal Registrars for the Federal Court, the Family Court and the Federal Circuit Court, and the Registrar of the National Native Title Tribunal, who are holders of statutory offices, is determined by the Remuneration Tribunal.

The Courts' Senior Executive Service (SES) employees are covered by separate determinations made under s 24(1) of the *Public Service Act 1999*.

The *Federal Court of Australia Enterprise Agreement 2018–2021* covers most non-SES employees and commenced on 7 August 2018.

One undertaking was made in relation to the enterprise agreement in respect to the minimum number of hours that part-time workers must be paid per occasion.

Individual flexibility arrangements are used to vary the effect of certain provisions in the enterprise agreement. Employees and the Court may come to an agreement to vary such things as salary and other benefits.

Some transitional employment arrangements remain, including those described in Australian Workplace Arrangements and common law contracts.

At 30 June 2020, there were:

- five employees on Australian workplace agreements
- eight employees on common law contracts
- one hundred and twenty one employees on individual flexibility arrangements
- eighteen employees on s 24 determinations, and
- one thousand and seventy employees covered by an enterprise agreement.

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

The Court's employment arrangements do not provide for performance pay for all employees. However, one employee's employment arrangement provided for a bonus, subject to their completion of a project. The bonus paid

was \$27,480. Another employee is eligible for a retention bonus each year (\$2,000 per annum).

Work health and safety

In accordance with Schedule 2, Part 4 of the *Work Health and Safety Act 2011*, the Court reports on certain work health and safety matters.

In 2019–20, there were no incidents that required the giving of notice under s 38 of the Act; and no investigations or notices under sections 90, 191 and 195 of that Act.

The Court uses its Health and Safety Committee and other consultative forums to liaise with employees about changes that affect them. The committee met five times during the reporting period.

The Court also supports employees' wellbeing by providing access to free, confidential counselling services, and influenza vaccinations. The program was refreshed and a new provider engaged.

Comcare audited the Court's rehabilitation management system during the previous reporting period. Corrective actions from that audit have now been implemented.

Information technology

The work of the Information Technology (IT) section is focused on creating a technology environment that is simple, follows contemporary industry standards and meets the evolving needs of judges and staff across all of the Courts and Tribunals.

Achievements for 2019–20 follow.

Courtroom video conferencing

A further 12 courtrooms were fitted out with fixed video conferencing infrastructure. This increases the penetration of courtrooms with fixed video conference capability from 38 per cent to 45 per cent. Video conferencing technology has been a key part of the Courts' response to the COVID-19 social distancing requirements and are expected to be an increasingly important part of the conduct of hearings into the future.

The core of the video conference infrastructure was modernised and consolidated as part of the COVID-19 response. Prior to the work

being undertaken there were two separate video conference networks, both on aged infrastructure and with little or no infrastructure resilience, and both networks suffered reliability and performance issues. The new consolidated network is common to all three Courts and has significant resilience and disaster recovery engineered into the design. This platform will be used to retire aging building telephone systems in 2020–21.

Remote access technologies

As part of a routine lifecycle upgrade program, two new remote access technologies were deployed in late 2019. These were a new CITRIX infrastructure for staff without laptop or tablet PCs, and a new virtual private network infrastructure for judges and staff with laptops or tablets. These new infrastructures were crucial to the Court's response to the COVID-19 pandemic. The services could rapidly be expanded in capacity. At their peak, there were over 1,000 simultaneous remote connections to the Court network as judges and staff worked from home.

Microsoft Teams

As part of the response to COVID-19 pandemic, IT rapidly rolled out the Microsoft Teams collaboration product. This was deployed as part of our broader Microsoft Office 365 tenancy which supports our email and other collaboration services. Teams was used to support a virtual courtroom that enabled the Courts to continue operating during the lockdown period.

A key consideration of this virtual courtroom approach has been to ensure that transcripts could be provided to parties and that public access to hearings could be maintained. To assist in this, a third party product was integrated with Teams to allow the Court's video enabled courtrooms to connect to a Teams-based virtual courtroom. In order to facilitate access to teams for participants without sufficient information technology resources, we subscribed to the telephone dial-in option for Teams.

A key focus for 2020–21 will be to determine how Teams or other web conferencing technologies fit into the work of the Courts into the future.

WiFi

Rollout of corporate and guest WiFi to key buildings was completed this financial year, with deployments to Darwin, Hobart, Canberra and Parramatta.

Data centre consolidation

Throughout 2019–20, all services run from the two Canberra data centres have either been retired or relocated to the production Sydney data centre. As a result data centres have been consolidated from four to two (production and disaster recovery in Sydney). This brings to an end the network and data centre consolidation program of the corporate services merger project.

Websites

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

Corporate Services staff are responsible for managing and maintaining the following Court and Tribunal websites:

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

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

In the reporting year, over 16,358,984 million total hits to the sites were registered:

- Federal Court website: 4,803,107
- Family Court website: 5,331,242
- Federal Circuit Court website: 6,224,635
- National Native Title Tribunal website: 787,471*

*This is an estimate only as analytics were only introduced to this site on 1 August 2019.

There was a substantial amount of work invested in building and maintaining up-to-date dedicated COVID-19 pages on all websites. These pages include information about digital hearings, legislative changes, FAQs, information for the media, information for the profession, information for families and the latest news on Court and Tribunal operations. There were also four special measures information notes published for the Federal Court (see page 30 for more information).

In the interests of maintaining open justice during the COVID-19 pandemic, changes were made to the publication of Daily Court Lists with the inclusion of procedures for members of the public to join online hearings as observers.

In addition, other improvements and project work undertaken for the websites during the reporting year include:

- the creation of high profile online files including *ABC v Kane*, *Application in the matter of Virgin Australia Holdings (Administrators Appointed)* and *Isileli 'Israel' Folau v Rugby Australia Limited & Anor*
- a new judgment publishing template for the Courts
- a new redesigned homepage for the Federal Circuit Court website, which aims to improve access to information and understanding of the Court's three main areas of filing: family law, migration law and general federal law
- a continued focus on accessibility and providing more documents in accessible formats
- a new section for the Lighthouse family violence project that will commence in the Family Court and Federal Court in 2020.
- research and preparation for the commencement of a major website redevelopment project
- preparation for the introduction of Live Chat for general federal law
- ongoing improvements to court location pages to assist litigants with filing information and links to court lists.

Access to judgments

When a judgment of the Federal Court, Family Court and the Federal Circuit Court is delivered, a copy is made available to the parties and published on Court websites. The Federal Court also publishes decisions of the Australian Competition Tribunal, the Copyright Tribunal and the Defence Force Discipline Appeal Tribunal.

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

The judgments staff of the Federal Court, Family Court and the Federal Circuit Court have been amalgamated and moved to Corporate Services to increase efficiencies in the publishing of judgments.

The need to migrate to a single judgment template for efficiency has seen the development of a new Judgment Template for all three Courts and facilitated a review of policies, practices and processes.

Recordkeeping and information management

Corporate coverage

Information management is a corporate service function supporting the Federal Court, Family Court, Federal Circuit Court, National Native Title Tribunal, Australian Competition Tribunal, Copyright Tribunal of Australia and Defence Force Discipline Appeal Tribunal. The Information Management team consists of four staff, one in Sydney, two in Perth and the Assistant Director in Canberra.

Information governance

Information framework

The information governance framework has been significantly revised. The new information framework incorporates information governance and sets out the principles, requirements and

components for best practice information management. The framework provides a robust approach to information management across the entity, recognising that the individual sections of the Court have different information needs.

The information framework is supported by policies and standards that ensure the information that is collected, stored and made accessible is tailored to those differing needs, and meets the entity's regulatory, legal, risk and operational requirements. Short training modules scripted to support the information framework are also being developed.

Records authorities

The new combined Tribunals Records Authority was officially issued by the National Archives in June 2020. The records authority covers the National Native Title Tribunal, the Copyright Tribunal of Australia, the Australian Competition Tribunal and the Defence Force Discipline Appeal Tribunal. The combined draft Courts Records Authority will be reviewed by the National Archives of Australia in 2020–21.

Committees

The Information Governance Committee met quarterly during the reporting year to monitor information governance obligations that effect the entity. The committee endorsed the Deputy Principal Registrar as the Chief Information Governance Officer. The committee focused on the development of the information framework and related policies and standards; information management training to support the framework; access provisions for Court and Tribunal case records that are required to be transferred to the National Archives of Australia; and meeting the ongoing government targets for working digitally. The committee also commenced a review of its terms of reference to ensure that it is representative of the sections of the Court and Tribunal, and that the responsibilities of the committee are appropriate.

The Records Policy Committee met bi-monthly and recommended key policy changes, including the secure disposal of storage media, the Court's digitisation standard for physical records, access provisions for native title records required to be transferred to the National Archives, and information management induction training. The committee was dissolved in February 2020, as its work has been replaced by the Information Governance Committee.

Information management projects

Information management system

The project to design and implement a new information management system using the Court's 'Content Server' platform commenced in May 2020. The project will consolidate the Court's three electronic document and records management systems (RecFind, eDOCS and Objective) and implement one, centralised information management system within the Court.

Audio-visual and digital resources

A dedicated national drive has been established to store all native title audio visual and digital resources for the entity. Resources are transferred to other digital formats as required. A preservation assessment of these resources is planned for 2020–21.

Archives and image gallery

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

Artworks audit

The artworks audit was completed and an asset register covering all artworks in the entity was produced. The listed artworks are available from the Court's Image Gallery.

Information management communication

Information Management revised its intranet presence, creating a single point of access to information management policies, standards and guidelines, records authorities, and providing access to the Court's current records and information systems.

Contract management

- The national storage and records management services contracts were extended for a further 12 months. The current contracts expire in March 2021. A new national contract will be negotiated to commence in March 2021.
- The Court is negotiating a new copyright

agreement to cover the entity with the Copyright Agency Pty Ltd. The Court is a partner on the Department of Communication and the Arts' Agreement with the Copyright Agency. The responsibility for Copyright has moved to Library and Information Services.

Working digitally

The Court continues to work towards the whole-of-government 2020 target to work digitally by default. This is a reportable target set by the National Archives of Australia. Progress towards this target was demonstrated by:

- increased digitisation of physical files across the Courts
- deployment of the digital court file in family law
- completing the digitisation of Family Court file lists, and
- developing a digitisation standard to enable consistent digitisation of physical items and a digital preservation standard for the preservation of born digital records and the conversion of obsolete media and formats.

National Archives reporting

The National Archives annual check-up, reporting on digital benchmark targets, saw an improvement of 0.29 per cent on the entity's 2019 results. Improvements were made in the areas of creating, interoperability, storing, disposing and digital operations. This continued steady progress will enable the entity to achieve the whole-of-government targets.

Transfers to the National Archives

The first documents to undergo digital transfer for the Court were the minutes and background papers of the Federal Court judges' biannual meetings. The information was transferred to the National Archives in January 2020. The transfer covered the minutes from the very first meeting on 7 February 1977 to 2007, spanning 30 years. The papers will be released for public access 30 years from the date of publication. Access will be available from the National Archives.

In May 2019, the National Archives approved the transfer of two significant Federal Court physical case matters held in the ACT registry. These matters are the first significant files to be approved for transfer under the Federal Court's Records Authority:

- (ACD) AG86/1995: Hughes Aircraft Systems International v Airservices Australia
- (NSD) NG733/1997: GEC Marconi Systems Pty Ltd T/AS EASAMS Australia v BHP Information Technology Pty Ltd

The first matter is now ready for transfer and a transfer date is being coordinated with the National Archives.

Library and information services

The library provides a comprehensive library and information service to judges, registrars and staff of the Federal Court, Family Court and Federal Circuit Court, and members and staff of the National Native Title Tribunal.

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

In Sydney, Federal Court judges and staff are supported by the New South Wales Law Courts Library under a Heads of Agreement between the Federal Court and the New South Wales Department of Justice. The terms of this Agreement are renegotiated each year to reflect changing circumstances.

Although primarily legal in nature, the library collection includes material on Indigenous history and anthropology to support the native title practice areas, and material on children and families to support the family consultants. Details of items held in the collection are publicly available through the Library Catalogue and Native Title Infobase, which are accessible from the Federal Court website. The library's holdings are also added to Libraries Australia and Trove making them available for interlibrary loan nationally and internationally.

The library is a foundation member of the Australian Courts Consortium for a shared library management system using SirsiDynix software. Consortium membership expanded during the year and now includes all but four Australian jurisdictions.

Services have been provided remotely during the COVID-19 pandemic, with protocols implemented to ensure hardcopy collections remain accessible. Changes to COVID-19 related legislation from all Australian states and territories were tracked by a team of librarians each day from the beginning of the pandemic and details published on the Federal Court website providing a valuable snapshot of restrictions at any point in time.

Assistance to the Asia-Pacific region

A shipment of books was dispatched to the Supreme Court of Vanuatu and the library in Brisbane continued to provide advice and assistance to the National and Supreme Courts of Papua New Guinea to develop their library collections and services.

Commonwealth Courts Registry Services

Overview of Registry Services

In 2019–20, the registry services functions for the Federal Court, Family Court and the Federal Circuit Court were amalgamated into a new program under Outcome 4 (Program 4.2) known as the Commonwealth Courts Registry Services (also known as Court and Tribunal Services).

This initiative provides the Courts with the opportunity to shape the delivery of administrative services across the entity in a more innovative and efficient manner.

A focus on maximising registry operational effectiveness through streamlined structures and digital innovations will significantly contribute to the future financial sustainability of the Courts.

The creation of Registry Services provides the Courts with the opportunity to identify ways to improve the services delivered to judicial officers, the litigants and the public more broadly.

A national approach ensures that the quality and productivity of registry services is the very best it can be, through building consistency in registry practice across all Court locations.

Objectives

The objectives of Registry Services are to:

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

Purpose

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

Registry services management structure

A new national management structure was finalised during the reporting year.

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

Directors of Court Services report to the Executive Director, Court and Tribunal Services. They lead and manage the Courts' registry operations and resources in their respective regions, as well as contribute to continuous business improvement across three national streams: client services, digital services and court operations. Directors of Court Services work collaboratively with national service managers and other directors to lead and manage multi-disciplinary teams delivering a range of customer-driven professional and business support services to ensure national service excellence. The development and maintenance of key relationships with

Aboriginal and Torres Strait Islander peoples, culturally diverse community groups and support services is an important responsibility of the role and ensures that all Court services recognise the needs of our client groups.

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

Judicial and Registry Services Team Leaders report to the Director of Court Services in their respective region and are responsible for delivering high quality case management, courtroom and chambers support to judicial officers (including training and development of associates) and registry services to clients, legal practitioners, registrars, family consultants and community groups that support court users. They have oversight of judicial and registry services in their location, and provide information on appropriate avenues for addressing client needs, and recommending appropriate options for effective resourcing and services for the Courts.

The Manager National Enquiry Centre (NEC) reports to the Executive Director, Court and Tribunal Services and is responsible for the strategic and operational management of the Courts' National Enquiry Centre based in Parramatta. This position has responsibility for managing the team handling first-level enquiries related to Family Law matters received via phone, email and live chat. In collaboration with national and local managers, the NEC manager is an important driver and contributor to the identification of business and process enhancements linked to the delivery of improved customer interactions with the Courts and meeting service level standards associated with enquiries handling.

Court and Tribunal registries

The key functions of Court and Tribunal registries are to:

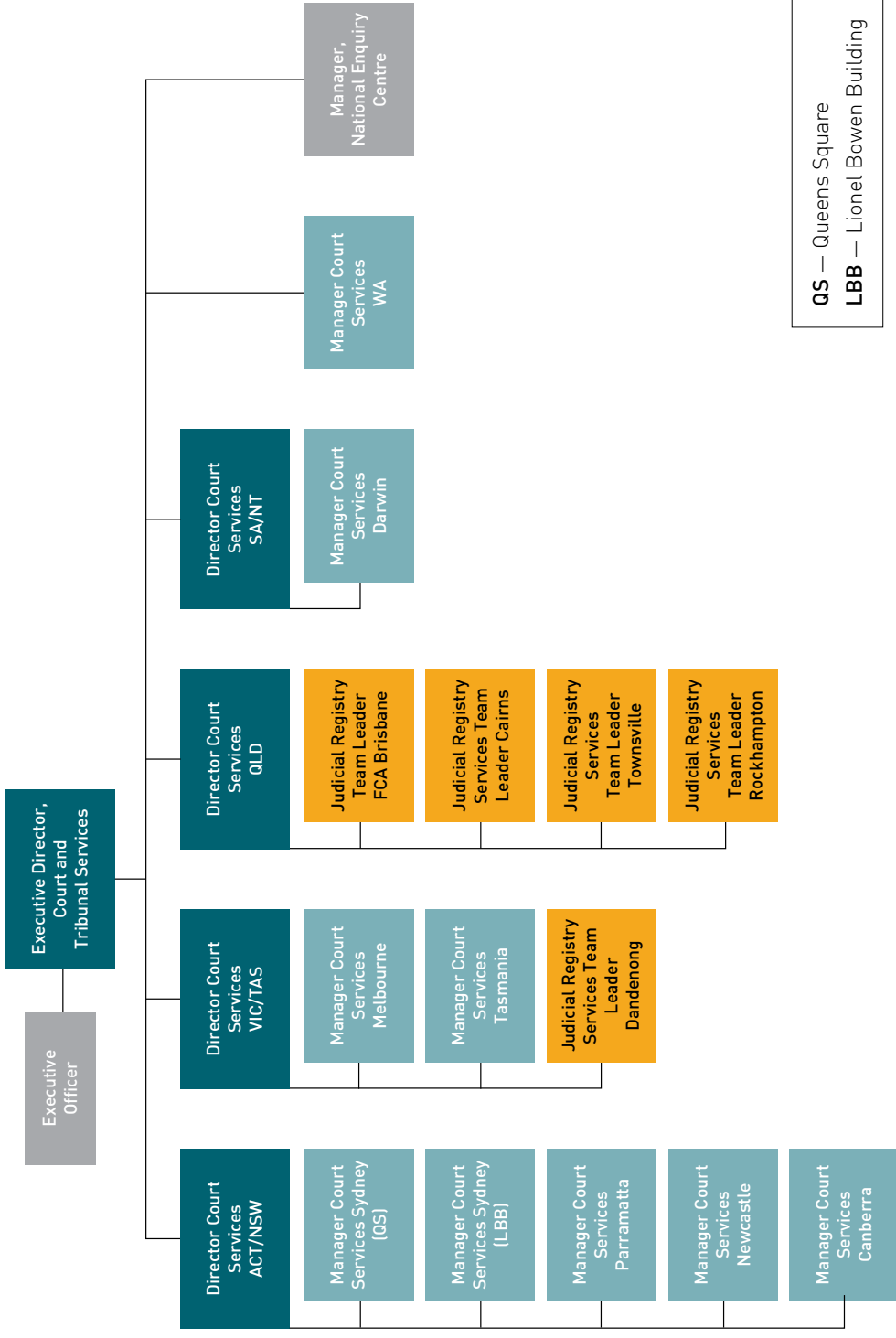
- provide information and advice about court procedures, services and forms, as well as referral options to community organisations that enable clients to take informed and appropriate action
- ensure that available information is accurate and provided in a timely fashion to support the best outcome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

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

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

Figure 4.1 below provides an overview of the registry services management structure.

Figure 4.1: Registry Services national management structure, 30 June 2020



Registry Services locations

There are eight general federal law registries located in every state and territory.

Family law services are provided in 18 registries located in every state and territory (except Western Australia).

Three sites – Canberra, Darwin and Hobart – provide cross-jurisdictional services for general federal law and family law registry services.

The work of Registry Services in 2019–20

Registry Services has three main performance criteria:

1. Correct information

- Less than 1 per cent of enquiries result in a complaint about registry services.

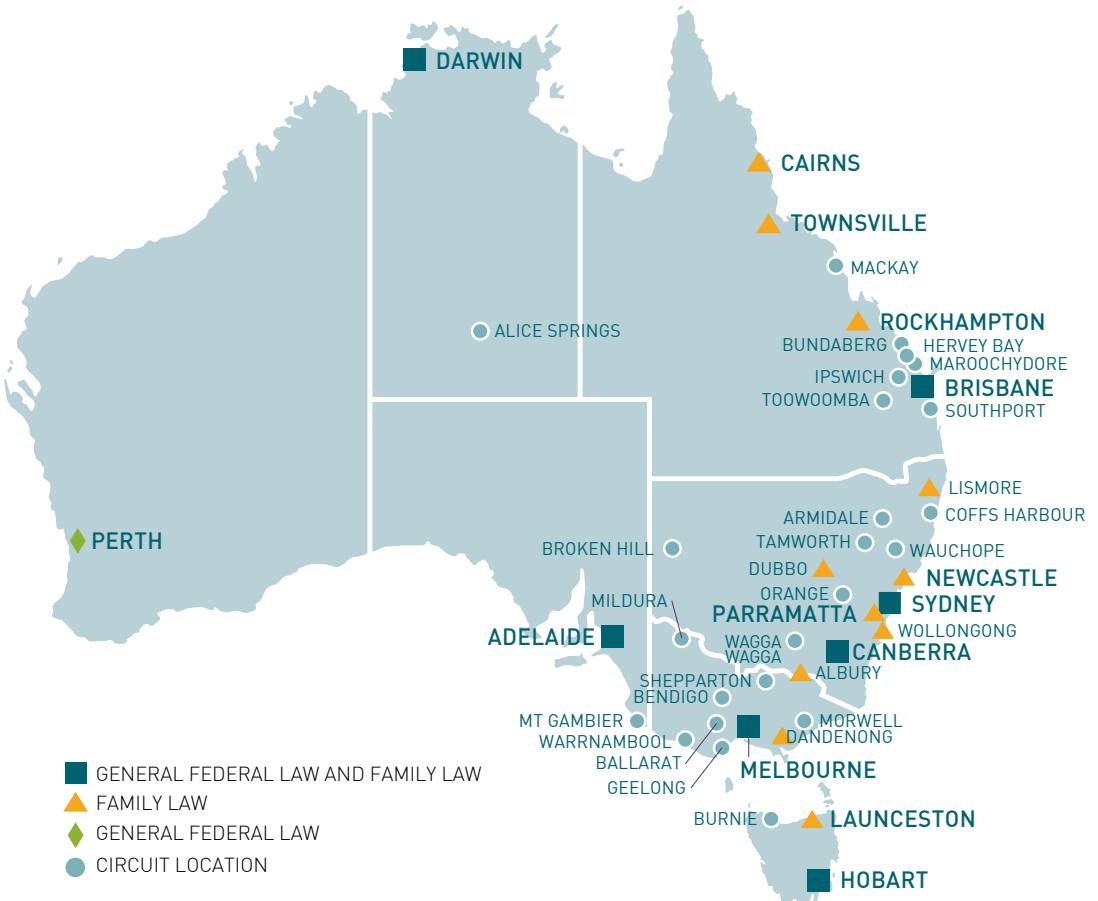
2. Timely processing of documents

- 75 per cent of documents processed within three working days.
- 90 per cent of documents processed within five working days.

3. Efficient registry services

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

Figure 4.2: Registry Services location map



Snapshot of 2019–20 performance against targets

Table 4.4: Snapshot of Registry Services performance against targets, 2019–20

CORRECT INFORMATION		
TARGET	RESULT 2019–20	TARGET STATUS
Less than 1 per cent of enquiries result in a complaint about registry services.	.004 per cent of enquiries resulted in a complaint about registry services	Target met
TIMELY PROCESSING OF DOCUMENTS		
75 per cent of documents processed within three working days.	97.8 per cent of documents were processed within three working days	Target met
90 per cent of documents processed within five working days.	98.4 per cent of documents were processed within five working days	Target met
EFFICIENT REGISTRY SERVICES		
All registry services provided within the agreed funding and staffing level.	All registry services were provided within the agreed funding and staffing levels.	Target met

Registry Services staff nationally manage an average daily workload of:

- 3,400 enquiries
- 3,100 lodgments (including initiating applications and supplementary documents)
- 330 subpoena lodgments and inspection requests, and
- 20 safety plan requests.

Registry Services staff also process urgent enquiries and applications and are regularly at the front line dealing with difficult issues and supporting a diverse range of clients with different needs both professionally and courteously. These include supporting the most vulnerable clients by creating and managing safety plans and ensuring people from non-English speaking backgrounds are suitably supported.

Financial management

In 2019–20, Registry Services performed within its overall budgeted allocation of \$30,445,000 by 3 per cent, primarily due to COVID-19 related savings in supplier expenditure.

Document processing

Registry Services has two performance targets relating to the timely processing of documents.

1. 75 per cent of documents processed within three working days.
2. 90 per cent of documents processed within five working days.

Registries receive and process applications lodged at registry counters, via eFiling and in the mail. Registry Services staff processed approximately 860,000 applications and supplementary documents in 2019–20.

Overall, family law filings have remained relatively consistent in volume for 2019–20. However, high volume, resource demanding applications such as applications for consent orders and divorce applications have increased by 7 per cent (14,908) and 3 per cent (45,886) respectively. Subpoena management, including the filing of subpoenas, notices of request to inspect and notices of objection, has decreased by 6 per cent (from 89,187 in 2018–19 to 81,444 in 2019–20). Major causes of action in federal law have decreased overall by 8 per cent in 2019–20.

Enquiries

Staff working on the counters in both federal law and family law registries handle general enquiries, lodge documents relating to proceedings, provide copies of documents and/or orders and facilitate the viewing of court files and subpoenas. Registry Services staff provide an efficient and effective service when dealing with litigants in person and the legal profession face-to-face at counters across Australia.

Approximately 835,000 enquiries are made to the court and tribunals each year, with almost half of these enquires being handled by the National Enquiry Centre. A 28 per cent decrease in counter enquiries compared to 2019–20 was expected given the restrictions resulting from COVID-19 and the closure of registry counters since March.

Family law enquiries

Registry Services staff handle counter enquiries in each location. Court users, and sometimes the National Enquiry Centre, also send enquiries directly to family law court locations via email. These enquiries are usually case-specific or require some form of local knowledge or decision. There are 18 family law courts across the country.

General federal law enquiries

Enquiries relating to general federal law matters are managed by Registry Services staff at each general federal law location separately. There are five general federal law locations each with their own counters and three with shared counters. They each have their own phone, email and fax contact details for enquiries.

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

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

Complaints

There were a total of 38 complaints in relation to Registry Services during 2019–20. The number of complaints is relatively small, being less than .005 per cent of the total number of enquiries and significantly less than the performance target of 1 per cent.

Local registry consultation

Registry Services staff continue to regularly engage with numerous external groups such as local family law pathways networks, legal aid, bar associations and law societies, local practitioners and practitioners' associations, community legal centres, family relationship centres, community organisations and support groups, child protection agencies, family violence committees and organisations, state courts, universities and police services. Registries also continued to work with the Family Advocacy and Support Services program, with the aim of enhancing their presence in the registries. In addition to those providers of legal advice already listed, registry services staff also regularly engage with organisations who provide information to litigants requiring assistance with general federal law, such as the Consumer Action Law Centre, Justice Connect, LawRight, and providers of financial counselling and advice on migration matters.

Public education and engagement

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

The Court hosted many work experience students across multiple registries. Students are given a program that exposes them to all areas of the Court's operations over the course of one week. School visits and educational tours were down this year due to risks associated with COVID-19.

The Court's support for and work with schools and universities continued through the year.

- The Victorian registry hosted a number of moot courts for La Trobe University, Freemasons Victoria, Melbourne Law School, University of New England, Victoria University, King & Wood Mallesons and the International Commission of Jurists Victoria. The registry also hosted the CIArb Australia Pre-Moot Grand Final, the Sir Harry Gibbs Constitutional Law Moot, the Victorian Bar Witness Examination Competition, Foley's List First Year Witness Exam Competition, Australian Bar Association Advanced Advocacy Intensive and the Commercial Bar Association Annual Drinks.

- The New South Wales registry hosted three moot courts for the University of New England and one for the University of Technology Sydney. The registry also had a work experience placement program running in August, September and November 2019.
- The Queensland registry hosted the Aboriginal and Torres Strait Islander Students' moot competition, the Griffith Law School alumni event, the Queensland intervarsity law competition, and the Queensland University of Technology (QUT) mooting team. In November 2019, the Queensland registry hosted two visits from year 12 students and teachers from the Southern Cross Catholic College.

Overseas delegations

Registries regularly host visiting delegations from overseas courts who are interested in learning more about the Court's operations. This year, visiting delegation numbers were down due to the COVID-19 pandemic, however the following visits occurred:

- **Australian Capital Territory** — the Canberra registry hosted a visit from Manami Takekoshi, a Family Court Investigating Officer from Osaka Family Court of Japan, who is also an ANU College of Law Visiting Fellow. Ms Takekoshi held discussions with the Senior Family Consultant, the Registrar and observed His Honour Justice Gill's matters. Ms Takekoshi is the equivalent of a family consultant in Japan and during her fellowship, she was undertaking a comparative study in relation to the courts' approaches to parenting.
- **New South Wales** — in August 2019, the registry hosted a lunch for a visiting delegation of judges from Hong Kong.
- **Victoria** — in August/September 2019, the registry hosted a visit from Sir Nicholas Blake QC, a retired judge of the High Court of England and Wales. In December 2019, the Victorian registry hosted a delegation from the International Labour Organisation of Malaysia.

National Enquiry Centre

The National Enquiry Centre (NEC) has been in operation since 2006 as the centre for family law enquiries in the Family Court and Federal Circuit Court. The NEC provides the national entry point for approximately 35,000 phone, email and live chat enquiries per month.

The NEC's responsibilities include:

- first telephone contact to the courts via the 1300 number
- first email contact to the courts via enquiries@familylawcourts.gov.au and support@comcourts.gov.au
- first contact to the courts via live chat
- a large proportion of telephone and email contacts from existing parties, lawyers and other court stakeholders
- support for users of the Portal including the Family Court of Western Australia and the Federal Court
- after hours service
- printing of event-based fee statements
- processing of proof of divorce requests, and
- Twitter notifications of procedural and registry information.

Due to the impacts of COVID-19, Registry Services introduced general federal law enquiries into the NEC as a mechanism to continue to service the public throughout what has been deemed an unprecedented operational environment. During a one month pilot – from 28 April 2020 to 29 May 2020 – the NEC responded to approximately 98 phone and 259 live chat general federal law enquiries.

Enquiries are received via three public channels: telephone via the 1300 number; emails; and live chat. The NEC's focus is to provide parties and stakeholders with appropriate information as efficiently and simply as possible through these channels.

Callers to the 1300 number are provided with general background and support information in a welcome message before being placed in a queue for the next available operator. Phone enquiries to the NEC have been declining for the past ten years, with email and live chat channels increasing in popularity, although phone enquiries have increased in 2019–20, primarily due to COVID-19. Portal support was also a major factor contributing to the work of the NEC in 2019–20.

Emails and live chats are monitored by staff trained in responding to written requests. Live chat volumes are estimates only, based on manual counts.

The NEC regularly refers parties to various stakeholders including 1800 Respect, Family Relationships Advice Line (FRAL), legal aid, government agencies and community legal centres. The NEC maintains a close relationship with FRAL and legal aid centres and regularly consults with them.

The NEC continued its commitment to support staff in their work. It encourages a collaborative workplace by:

- providing ongoing coaching and training
- enhancing wellbeing by providing ergonomic training assessment to all staff
- providing peer support and mentoring
- ensuring information and knowledge management systems are up-to-date, and
- holding regular meetings with staff to provide a two-way process of information flow.

Summary of NEC performance in 2019–20

- The NEC received a total of 275,052 phone calls (an increase from 260,844 in 2018–19).
- Callers waited an average of 15 minutes and 16 seconds for their call to be answered (compared to 14 minutes in 2018–19).
- The average length of a call was six minutes and 36 seconds (compared to six minutes and 24 seconds in 2018–19).
- Of the calls received by the NEC, 46,752 calls were for Portal support – an increase of 180 calls from 2018–19.
- An average of 74 calls a month were transferred to a family law registry. NEC staff are aware of the importance of completing transactions at the first point of contact and only transfer calls when absolutely necessary.
- 204 calls were received to the after-hours service.
- 43 per cent of calls were abandoned while queued.

- 75,192 live chats were received in 2019–20, an average of 296 per day (an increase from 62,256 (or 246 per day) in 2018–19).
- 9696 proof of divorce requests were processed.

Registry Services initiatives in 2019–20

COVID-19

While the impacts of COVID-19 were felt throughout the community, the ability of Registry Services to respond flexibly and quickly to changes in the Courts' operational environments saw many changes and initiatives successfully introduced throughout the reporting period. These include:

- business continuity testing and planning
- changed registry practices to support an increase in digital hearings
- changes to eFiling and eLodgment arrangements
- changes to subpoena viewing
- training of staff to support new processes.

Registry Services staff supported these initiatives by:

- developing a guide to support litigants seeking assistance in the use of eLodgment, particularly for FCC migration applications
- providing dedicated support to the judiciary to ensure continuity of registry operations and prospective and current litigants' access to justice
- providing national courtroom allocation to support new digital hearing initiatives
- developing practice guides to support the profession, litigants and witnesses on how to appear in digital court proceedings
- supporting an external company engaged to review Court buildings to ensure that appropriate social distancing protocols were in place to mitigate the risk of infection to staff and the public and installing social distancing markers at all registry locations to support revised face-to-face protocols.

Table 4.5: National Enquiry Centre workload statistics, 2015–16 to 2019–20

TARGET	2015–16	2016–17	2017–18	2018–19	2019–20
Phone calls	286,476	288,276	272,040	260,844	275,052
Live chats	66,336	95,424	91,704	62,256	75,192
Proof of divorce requests processed	12,348	13,344	11,880	10,656	9,696
Calls for Portal support	28,584	30,180	36,636	46,572	46,752

Digital Court File

On 19 April 2020, the Digital Court File was successfully deployed across the Family Court and the Federal Circuit Court and is now the official court record for all new family law files.

The Digital Court File supports the Courts' ongoing modernisation agenda and enhances support for in-court technology and digital hearings. The Digital Court File is a repository for the electronic storage of documents, which allows the courts to transition from paper to digital court files.

One of the realised benefits of the Digital Court File is that the file may be accessed by several staff at the same time, resulting in all documents being instantly available and reduces the need to wait for another person to finish with a hard copy file.

The Digital Court Program is part of the Government's broader digital transformation agenda and was announced as part of the *Streamlining and Improving the Sustainability of Courts* budget package. It also aligns with the Attorney-General's Department's strategic priority to *Maintain an efficient and effective Commonwealth justice system*.

Registry Services staff:

- provided subject matter experts to train all family law staff and provided ongoing support during implementation
- support chambers in the transition from physical to digital files, and
- modified procedures in order to take advantage of the capabilities of the Digital Court File.

Leadership forums for managers and team leaders

The Directors of Court Services participated in a planning session in November 2019 to collaborate and share knowledge, and to discuss the strategies, priorities and the realignment of Registry Services to support the work of the three courts. The group reviewed service delivery principles, including how services are delivered, the resources required to deliver the services, and the priorities for the next 12 months.

Registry Services training

In 2019, an initiative was launched to provide training for Registry Services staff in the following areas: family violence, cultural competency and access to justice for people with a disability. The training was designed to support staff to develop the knowledge, skills and awareness to work effectively and appropriately with clients and respond to barriers that can prevent a person from accessing justice in the Family Law Courts. Training completion rates at the time of finalising this report were as follows: Access to justice for people with a disability (52 per cent); cultural competency (64 per cent); and family violence (71 per cent).

In May 2020, a series of migration training sessions were conducted for any registry staff member who supports the practice area of migration in any capacity. The training focused on the acceptance and processing of documents lodged for individuals applying for protection visas and how to ensure an applicant's anonymity and confidentiality is maintained throughout the proceedings.

Enquiries management review

The Enquiries management project was launched to address recommendations from the FCA enquiries audit report and the NEC review. It aims to improve the handling of enquiries to all three courts by enhancing the capacity and capability of the NEC to assist court users; reducing organisations risk relating to business continuity, processes and systems; and improving the management of workload across all court locations and registries.

Planned project outputs are the implementation of robust enquiries management technology, consistent national enquiries knowledge collateral, and an agile enquiries management model capable of adjusting to meet the necessary service demands. These outputs will enable an improved ability to measure service performance, simplified enquiry channels available to court users, nationally consistent enquiries service structures and practices, and an enquiries management model supported by technology which reduces organisational risk. Implementation of the project initiatives has commenced and will continue into the second half of 2020.

New service model for integrated registry services

To continue to provide a high level of support for the judiciary and court users, an initiative that integrates court and tribunals service has commenced. The objective of the model is to enhance the services provided by registry services through the introduction of a national consistency framework model and maximise operational effectiveness through streamlined structure and digital innovations, while developing a structure that promotes flexibility and responsiveness to new opportunities and demands.

PART 5

Report of the National Native Title Tribunal



Report of the National Native Title Tribunal

Overview

Establishment

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

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

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

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

The President, Members and the Native Title Registrar

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

Table 5.1 outlines Tribunal statutory office holders, at 30 June 2020.

Member James McNamara resigned in March 2020 to take up an appointment as a Member of the Land Court of Queensland. The appointment of a new member was outstanding at the end of the reporting period.

Office locations

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

Functions and powers

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

- mediating in native title proceedings, upon referral by the Federal Court
- determining objections to the expedited procedure in the future act scheme
- mediating in relation to certain proposed future acts on areas where native title exists, or might exist

Table 5.1: Tribunal statutory office holders, 30 June 2020

NAME	TITLE	APPOINTED	TERM	LOCATION
The Hon JA Dowsett AM, QC	President	27 April 2018	Five years	Brisbane
Helen Shurven	Member	Reappointed 29 November 2017	Five years	Perth
Nerida Cooley	Member	11 February 2019	Five years	Brisbane
Christine Fewings	Native Title Registrar	14 March 2018	Five years	Brisbane

- determining applications concerning proposed future acts
- assisting people to negotiate Indigenous Land Use Agreements (ILUAs), and helping to resolve any objections to registration of ILUAs
- assisting with negotiations for the settlement of applications that relate to native title
- providing assistance to representative bodies in performing their dispute resolution functions
- reconsidering decisions of the Native Title Registrar not to accept a native title determination application (claimant application) for registration
- conducting reviews concerning native title rights and interests (upon referral by the Federal Court)
- conducting native title application inquiries as directed by the Federal Court, and
- conducting special inquiries under Ministerial direction.
- gives notice of applications to individuals, organisations, governments and the public in accordance with the Act
- registers ILUAs that meet the registration requirements of the Act, and
- maintains the Register of Native Title Claims, the National Native Title Register and the Register of ILUAs.

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

The Tribunal's year in review

It is said that, *'The past is a foreign country; they do things differently there'*¹. That proposition currently describes the Tribunal's view of our operations in the first half of the reporting period from our current position at the end of the second half of that period. The COVID-19 pandemic has been the impetus for substantial changes in our operations. We are hopeful that such changes, brought about by necessity, may prove to be of long term value. If so, 2019–20, seen in retrospect, may be noted for its achievements rather than its difficulties.

The first part of the reporting period replicated the external operating environment of the previous year: pending legislative changes to the Native Title Act, and the expectation of shifts in the volume of native title determination applications, notably an increase in compensation applications. Internally, our performance was strong, particularly in the areas of service improvement, strategic corporate plan initiatives, and planning for the foreseeable changes arising from the anticipated legislative amendments.

The outbreak of COVID-19 and consequent declaration of a pandemic behoved the Tribunal to do everything it could to protect the safety and wellbeing of staff, stakeholders and the community at large, while performing its functions, necessitating the identification and adoption of new ways of working. The Tribunal responded to this imperative by working with the other jurisdictions comprising the broader Federal Court entity and Heads of Jurisdiction.

The President

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

The Members

With the President, the Members perform the arbitral, mediation and educational functions of the Tribunal, with the support of the Registrar and staff.

The Registrar

The Registrar:

- assists people to prepare applications and to help them, and other persons in matters relating to proceedings in the Tribunal
- considers whether claimant applications should be registered on the Register of Native Title Claims

1 L.P.Hartley –The Go-Between

The Tribunal continued to operate, with most staff members working from the relative safety of their own homes. This arrangement was made possible by the recent reorganisation. The simpler and more efficient team structures, together with direct reporting lines between staff, managers, the Registrar and ultimately, the President and Members, facilitated our doing so. The ability to work remotely was facilitated by the Herculean efforts of the IT section in providing secure online access to Tribunal systems and platforms. All changes to the Tribunal's way of operating were communicated directly to the impacted stakeholders and/or by regular updates to the Native Title Tribunal's website at [http://www.nntt.gov.au/Pages/Coronavirus-\(COVID-19\)-outbreak.aspx](http://www.nntt.gov.au/Pages/Coronavirus-(COVID-19)-outbreak.aspx).

Implications for our work

Pragmatic decisions had to be made quickly. In the future acts context, the Tribunal responded to the COVID-19 measures by issuing a direction, allowing parties affected by those measures to provide a statement to that effect, which statement operated to suspend programming orders. In June 2020, the Tribunal began to relist such matters, where appropriate. As a result, there may be overall delays in the resolution of some matters. The extent of this delay will become evident in the next reporting period. It is also likely that the flow of work will be, for some time, uneven.

In Western Australia, the Tribunal initiated a series of 'online' roundtable meetings of key stakeholders, including representative bodies, peak industry groups and representatives of the State, to discuss the effect of the preventative measures on future act negotiations and matters before the Tribunal. The roundtable meetings, held in response to COVID-19, have reinforced our commitment to work with key stakeholders to respond to their needs, and those of the native title system more broadly. It is anticipated that these meetings will continue into the next reporting period as a platform for ongoing stakeholder engagement.

The Tribunal has utilised communication technologies, such as teleconferencing and video conferencing platforms, to ensure continuity of our mediation and dispute resolution services. The increased utilisation of video conferencing solutions is likely to yield ongoing improvements in the Tribunal's operations.

The difficulties created by COVID-19 caused the delay of the Tribunal's consultation with stakeholders concerning the new process for the management of objection applications in Western Australia. The process, introduced in May 2019, is designed to realign the Tribunal's administrative processes with the intent of the *Act*, with the aim of expediting the resolution of such objections. An internal review of the new procedures was undertaken in December 2019. A stakeholders' forum was due to be held in Perth in March 2020, but was postponed. The Tribunal now intends to hold the forum in late 2020.

The Tribunal's educational activities have been significantly limited as a result of COVID-19, largely because of travel restrictions. The Registrar's function has also been made more difficult. The Registrar has a statutory obligation to advertise notifications in newspapers and other publications, circulating in relevant areas. As a result of the emergency, the publication of some regional newspapers has been suspended. It has therefore been necessary to use alternative local newspapers or, where none is available, the more expensive state-based newspapers.

Staff capacity

The social distancing and travel restrictions imposed by COVID-19 led the Tribunal to reconsider how relevant staff members could undertake planned mediation accreditation training. This training followed on from Indigenous dispute resolution and conflict management training delivered in the previous year. The aim was to enable staff to meet the demands arising from the anticipated new dispute resolution function for the Tribunal. In the event, the staff participated in online training, delivered over three days. This was a successful exercise, with all staff completing the training and being accredited as mediators. Other online training, and attendance at online seminars was encouraged. The Tribunal also held a series of internal workshops, designed to build staff capacity and reinforce existing skills in the areas of research and case management.

Cultural acknowledgment

The Tribunal has continued to foster understanding of, and respect for Indigenous culture. At the end of the reporting period, a new Reconciliation Action Plan for the Federal Court of Australia entity was close to completion. The Reflect Reconciliation Action Plan 2020–21 was developed by the Court with support from the Tribunal.

Tribunal staff hosted, or participated in a variety of events for NAIDOC Week 2019, both externally and internally. At first it seemed that in 2020, we would be unable to participate in any events, or that participation levels would be low. However, embracing the theme for Reconciliation Week '*In this together*', we collaborated with the other components of the Federal Court entity, using an online channel to acknowledge and share information about Reconciliation Week.

External factors

The Government's intention to legislate reforms to the Native Title Act has been a feature of the previous and current reporting periods. The exposure draft of the Native Title Legislation Amendment Bill 2018 canvassed a new dispute resolution function for the Tribunal. A new Bill was introduced into Parliament on 21 February 2019. It progressed as far as the second reading in the House of Representatives, before Parliament was prorogued for the general election. The Bill lapsed, but was subsequently re-introduced into Parliament on 17 October 2019. Strong support remains for the proposed reforms. The Bill was referred to the Senate Legal and Constitutional Affairs Committee for inquiry and report by 28 February 2020. On 4 December 2019, the Senate granted an extension of time for reporting until 16 April 2020. On 26 March 2020, the Senate granted a further extension until 19 August 2020.

The Tribunal's work in 2019–20

General overview

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

Functions of the Tribunal

Future acts

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

Expedited procedure objection applications and inquiries

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

A total of 1270 objection applications were lodged during the reporting period, 39 more than in the previous year. The number of active applications, at the end of the reporting period, was 534. This was 28 per cent less than in the previous year, a real reduction in the number of active matters, particularly as the volume of lodged objections was slightly above that of 2018–19. The reduction is attributable in part to the Tribunal's new procedures for the management of objection applications in Western Australia. More than 500 objections were withdrawn after agreement was reached between the native title party and the relevant proponent. A further 345 objection applications were finalised by withdrawal of the tenement applications by the proponent.

There were 127 objection applications determined during the reporting period, over twice the number in the previous year. The expedited procedure was determined to apply on 57 occasions, and on 70 occasions, the expedited procedure was determined not to apply. The increase in determinations is also attributable to the new procedures for managing objection applications in Western Australia.

An application to the Federal Court, seeking judicial review of a Tribunal decision concerning an objection application, was made during the reporting period. The decision of the Full Federal Court in *Yanunijarra Aboriginal Corporation RNTBC v State of Western Australia* [2020] FCAFC 64 clarified the Tribunal's responsibilities regarding the acceptance of future act applications.

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

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

If the expedited procedure does not apply, 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 39 requests made in the reporting period, a number in line with that for the previous reporting period.

The Act prescribes a minimum six-month negotiation period. After that time, any party to the negotiation may lodge a future act determination application. During the reporting period, 14 applications were lodged, in line with the number in the previous reporting period.

The Act requires that the parties negotiate in good faith concerning the proposed future act. If there has been a failure to negotiate in good faith by a party, other than a native title party, the Tribunal has no power to determine the application. If any party asserts that negotiations in good faith have not occurred, the Tribunal will hold an inquiry to establish whether or not that is the case, before determining the application.

During the reporting period, there were two 'good faith' determinations. In both of these matters, the Tribunal was not satisfied that the relevant parties did not negotiate in good faith and proceeded to determine the application. Thirteen future act determination applications

were finalised during the reporting period. In six cases, the Tribunal determined that the future act may be done. In three of those cases, the application was not contested by the other parties. In five cases, the Tribunal determined that the act may be done, subject to conditions. The remaining future act determination applications were either withdrawn or dismissed, following agreement between the parties.

Assistance in negotiating an Indigenous Land Use Agreement

During the reporting period, the Tribunal received one assistance request pursuant to s 24CF, concerning a proposed area agreement in Queensland. This assistance is ongoing.

Other inquiries

In April 2019, Justice Robertson of the Federal Court made orders directing an inquiry pursuant to s 54A of the *Federal Court of Australia Act 1976* (Cth) and Subdivision AA of Division 5, Part 6 of the Act. The inquiry concerned five separate native title determination applications, covering an area extending from Port Douglas to Cairns and environs, and south to the Russell River in North Queensland. The President and Dr Paul Burke, a consulting anthropologist, were appointed as referees.

This inquiry was the first its kind conducted by the Tribunal. It proved to be an intensive exercise, requiring consideration of extensive anthropological reports, historical materials and expert evidence relating to occupation of the claimed areas by the pre-sovereignty society. The inquiry provided its final report in March 2020.

Table 5.2: Number of applications lodged with the Tribunal in 2019–20

FUTURE ACT	NSW	NT	QLD	WA	TOTAL
Objections to expedited procedure	0	3	87	1,168	1,270
Future act determination applications	1	0	2	11	14
Total	1	3	89	1,179	1,284

Functions of the Native Title Registrar

The Registers

The Registrar maintains three registers as follows:

The Register of Native Title Claims

Under s 185(2) of the Act, the Registrar has responsibility for establishing and keeping a Register of Native Title Claims. This register records the details of claimant applications that have met the statutory conditions for registration prescribed by ss 190A–190C of the Act. As at 30 June 2020, there were 138 claimant applications on this register.

The National Native Title Register

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

As at 30 June 2020, a total of 484 determinations had been registered, including 84 determinations that native title does not exist.

Map 1 *Determinations Map* shows native title determinations as at 30 June 2020, including those registered and those not yet in effect.

The Register of Indigenous Land Use Agreements

Under s 199A(2) of the Act, the Registrar must establish and keep a Register of Indigenous Land Use Agreements, in which area agreement,

body corporate and alternative procedure ILUAs are registered. At 30 June 2020, there were 1336 ILUAs registered on the Register of Indigenous Land Use Agreements.

Map 2 *Indigenous Land Use Agreement Map* shows registered Indigenous Land Use Agreements as at 30 June 2020.

Claimant and amended applications: assistance and registration

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

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

During the reporting period, the Registrar received 26 new claimant applications, eight fewer than the previous reporting year. In addition to new claims, the Registrar received 29 amended claimant applications. For the first time, the majority of new applications were filed in the Northern Territory. Over two-thirds of amended applications were filed in Queensland.

Table 5.3: Number of applications referred to or lodged with the Native Title Registrar in 2019–20

NATIVE TITLE DETERMINATION APPLICATIONS	NSW	NT	QLD	SA	VIC	WA	TOTAL
Claimant (new)	0	11	4	3	1	7	26
Non-claimant	5	0	2	0	0	0	7
Compensation	0	1	2	0	0	3	6
Revised native title determination	0	1	0	0	0	2	3
Total	5	13	8	3	1	12	42
Indigenous land use agreements							
Area Agreements	2	3	11	2	0	2	20
Body Corporate Agreements	2	0	15	0	1	11	29
Total	4	3	26	2	1	13	49

Although there was a reduction in the number of new claims received by the Registrar, the increase in amended applications saw a high volume of registration testing in the reporting period. There were 59 applications considered for registration, three fewer than the previous year. The number of decisions included the two requests for a Tribunal to reconsider a registration decision. Of the 59 decisions, 41 were accepted for registration and 18 were not accepted.

During the reporting period, 11 applications were subjected to preliminary assessment before filing with the Federal Court.

One application seeking judicial review of a decision not to accept an application for registration was filed with the Federal Court in the previous year, with the Court making orders in relation to that registration decision during this reporting period.

Non-claimant, compensation and revised determination applications

The volume of non-claimant applications remained low, with five New South Wales applications and two Queensland applications.

Three revised determination applications were referred to the Registrar in the reporting period. Two applications were made in Western Australia and one in the Northern Territory.

The Registrar received six compensation applications during the reporting period, the largest number in a single year since 1999–2000. Three compensation applications were made in Western Australia, two in Queensland and one in the Northern Territory.

Indigenous land use agreements: assistance and registration

Under ss 24BG(3), 24CG(4) and 24DH(3) of the Act, the Registrar may provide assistance in the preparation of ILUA registration applications. Often, this assistance takes the form of pre-lodgment comments upon the draft ILUA and the application for registration. During the reporting period, assistance was provided on 81 occasions, generally in the form of mapping assistance, pre-lodgment comments and the provision of related information.

Under the Act, parties to an ILUA (whether a body corporate agreement, area agreement or alternative procedure agreement) may apply to

the 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 1366 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.

There was a decrease in the volume of decision making in the reporting year, with a total of 48 ILUAs considered for registration, 21 fewer than the previous year. Thirty body corporate and 18 area agreement ILUAs were accepted for registration and entered in the Register. These include the Taungurung Settlement ILUA, which is the subject of an application to extend time in which to seek judicial review of the decision.

Seven further matters were the subject of High Court appeals, which will be heard in the next reporting period.

Notification

During the reporting period, 47 native title determination applications were notified, compared with 62 in the previous reporting period. Of the 47, 30 were claimant applications, including the Millewa-Mallee Native Title Claim in Victoria. To assist the local community better to understand what native title means to them, the Native Title Registrar held an information session in Irymple for all those persons who had received a notice advising of the claim. This was the first time in many years that the Registrar has delivered a session in Victoria, reflecting the need to be attuned to the differing needs for native title education and/or information. The session was attended by the Victorian Government Solicitors Office, Department of Environment, Land, Water and Planning, and the CEO of the First Nations Legal and Research Services and Mildura Rural City Council, amongst others.

The remainder of the notifications were 10 non-claimant applications, four revised determination applications and three compensation applications.

A total of 48 ILUAs were notified during the reporting period.

Other forms of assistance

Assistance in relation to applications and proceedings

Section 78(1) of the Act authorises the Registrar to give such assistance as he or she thinks reasonable to people preparing applications and at any stage in subsequent proceedings. That section also provides that the Registrar may help other people in relation to those proceedings. During the reporting period, such assistance was provided on 211 occasions. As in previous years, many of the requests were for the provision of geospatial products and review of draft native title determination applications.

Searches of registers

Pursuant to s 78(2) of the Act, 1324 searches of registers and other records were conducted during the reporting period.

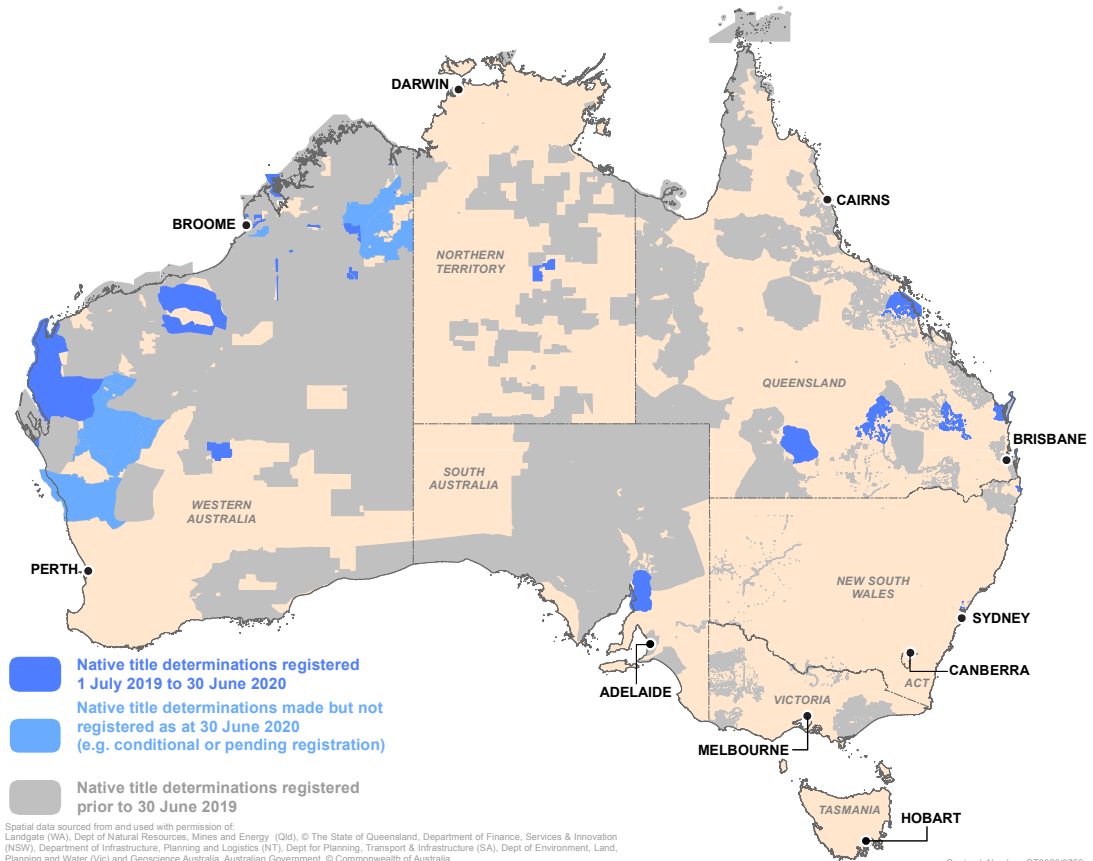
Geospatial Services

The 484 registered determinations as at 30 June 2020 covered a total area of approximately 3,130,051 square kilometres or 40.7 per cent of the land mass of Australia and approximately 137,254 square kilometres of sea (below the high water mark).

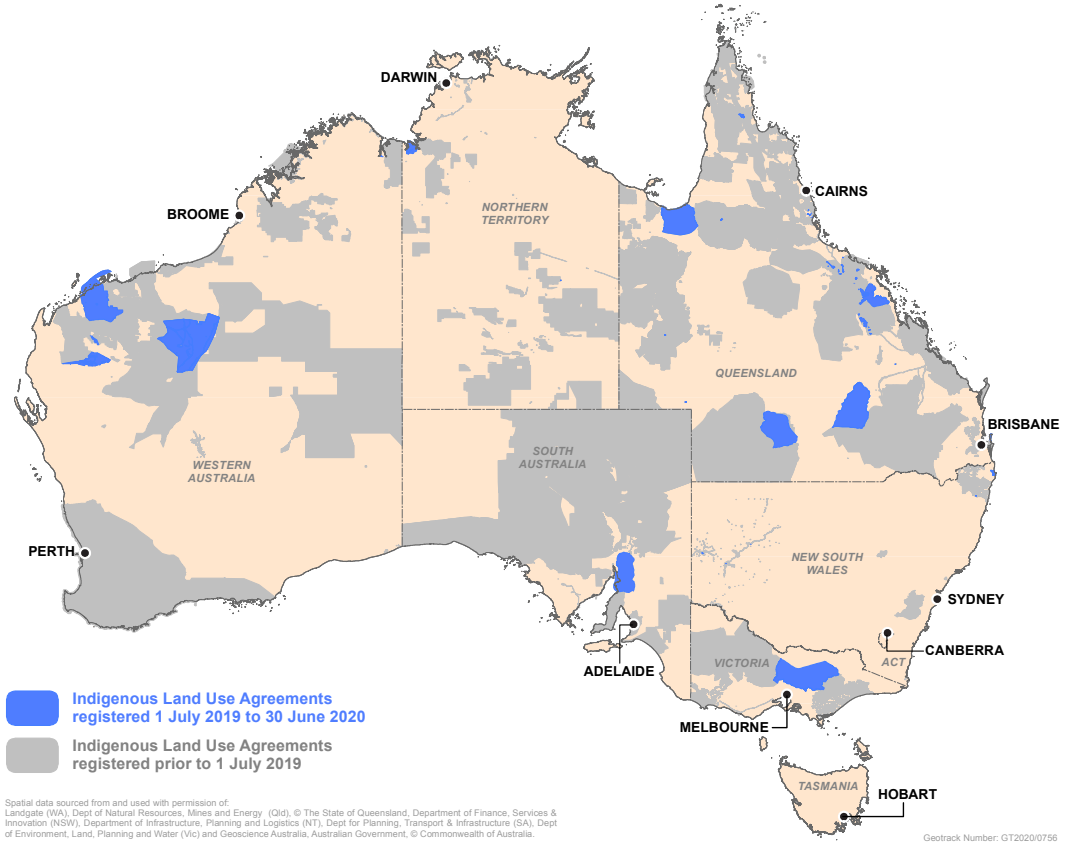
There were 11 conditional consent determinations; 10 in Western Australia and one in New South Wales that were still awaiting registration as at 30 June 2020. Upon registration, these applications will increase the area to about 3,316,012 sq km or 43.1 per cent of the land mass of Australia and approximately 142,046 sq km of sea (see Map 1).

Registered ILUAs cover about 2,595,093 square kilometres or 33.8 per cent of the land mass of Australia and approximately 40,531 square kilometres of sea (see Map 2).

Map 1: Determinations Map



Map 2: Indigenous Land Use Agreement Map



Management of the Tribunal

Tribunal governance

The President, Members and Registrar set the strategic direction for the Tribunal. During the reporting period, the President and other Members met regularly. The President and Registrar also met with senior managers, to review and discuss performance and operating capabilities, with increased regularity to deal with the implications of COVID-19.

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. \$8,202 million was allocated for the Tribunal's operations in 2019–20.

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

Table 5.4 presents the financial operating statement, summarising the Tribunal's revenue and expenditure for 2019–20.

Table 5.4: Financial operating statement

YEAR ENDING 30 JUNE 2020	BUDGET (\$'000)	ACTUAL (\$'000)	VARIANCE (\$'000)
Appropriation	8,202	8,202	0
Total Revenue	8,202	8,202	0
Total Expenses	8,202	7,301	901
Surplus/Deficit	0	901	901

External scrutiny

Freedom of information

During the reporting period, four requests were received under the *Freedom of Information Act 1982* (Cth) (FOI Act) for access to documents.

The Tribunal publishes a disclosure log on its website, as required by the FOI Act. The disclosure log lists the documents that have been released in response to FOI access requests. No documents were added to the disclosure log in the reporting report.

Accountability to clients

The Tribunal maintains a Client Service Charter (Commitment to Service Excellence) to ensure that service standards meet client needs.

During the reporting period there were no complaints requiring action under the Charter.

Members' Code of Conduct

Members of the Tribunal are subject to various statutory provisions relating to behaviour and capacity. While the Registrar is subject to the Australian Public Service Code of Conduct, this does not apply to Tribunal Members, except where they may be, directly or indirectly, involved in the supervision of staff.

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

Online services

The Tribunal maintains a website at www.nntt.gov.au. The website enables online searching of the National Native Title Register, the Register of Native Claims, and Register of Indigenous Land Use Agreements. Native title spatial information and data can also be accessed online through NTV.

Australian Human Rights Commission

Under s 209 of the Act, 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 Act 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.

Annexure

President's presentations

President Dowsett AM presentations 1 July 2019 to 30 June 2020

DATE	TITLE	EVENT	ORGANISERS
2 October 2019	Decision-Making: The Essence of Command and Leadership	Speaker series	Queensland Police Senior Command
25 October 2019 to 26 October 2019	Knowledge Sharing on the Implementation of Indigenous Peoples' Traditions into the Training of Judges	Round Table Discussion	Supreme Court of the Philippines, Philippines Judicial Academy in partnership with Konrad Adenauer Stiftung

Members' presentations

Member James McNamara presentations 1 July 2019 to 6 March 2020

DATE	TITLE	EVENT	ORGANISERS
19 August 2019	Native Title	Native Title Workshop	Bega Valley Shire Council
20 August 2019	Native Title	Native Title Information Session	Blue Mountains City Council, Brad More (Aboriginal Community Development Officer) and Gundungurra Elder, Sharon Hall
27 February 2020	Native Title	Native Title Training Session	Mackay Regional Council
28 February 2020	Native Title	Native Title Training Session	Department of Environment and Science

Member Nerida Cooley presentations 1 July 2019 to 30 June 2020

DATE	TITLE	EVENT	ORGANISERS
31 January 2020	NNTT Assistance in Relation to Compensation Applications and Negotiations	Queensland Native Title User Group Forum	Federal Court Native Title Unit

Member Helen Shurven presentations 1 July 2019 to 30 June 2020

DATE	TITLE	EVENT	ORGANISERS
5 September 2019	Aboriginal Rights, Interests and ADR	Speaker series	Australian Disputes Centre
29 October 2019	Using your Legal Skills to Get the Best Outcome for Your Client in a Tribunal	Native Title Information Session	Murdoch University Law School
5 March 2020	Perspective's from a Tribunal Member	Native Title Information Session	Murdoch University: Ready4Work Panel

Note: Member Shurven was appointed to ADRAC in August 2019.

Registrar Fewings presentations 1 July 2019 to 30 June 2020

DATE	TITLE	EVENT	ORGANISERS
22 August 2019	Conflicted Emotions in Native Title Contexts	Centre for Native Title Anthropology Annual Conference – panel discussion	CNTA Conference, St Catherine's College UWA
24 October 2019	Introductory Native Title Information session	Native Title Information Session	Queensland Department of Environment and Science
16 September 2019	Mildura Native Title Information Session	Native Title Information Session	Irymple community, Victorian Government

PART 6

Appendices



Appendix 1

Financial statements



INDEPENDENT AUDITOR'S REPORT

To the Attorney-General

Opinion

In my opinion, the financial statements of the Federal Court of Australia (the Entity) for the year ended 30 June 2020:

- (a) comply with Australian Accounting Standards – Reduced Disclosure Requirements and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Entity as at 30 June 2020 and its financial performance and cash flows for the year then ended.

The financial statements of the Entity, which I have audited, comprise the following as at 30 June 2020 and for the year then ended:

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

Basis for opinion

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

Accountable Authority's responsibility for the financial statements

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

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

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

Auditor's responsibilities for the audit of the financial statements

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

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

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

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

Australian National Audit Office



Colin Bienke
Audit Principal

Delegate of the Auditor-General

Canberra
8 September 2020

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

In our opinion, the attached financial statements for the period ended 30 June 2020 comply with subsection 42(2) of the Public Governance, Performance and Accountability Act 2013 (PGPA Act), and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

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

Signed



Ms Sia Lagos

Chief Executive Officer/Principal Registrar

8 September 2020

Signed



Ms Kathryn Hunter

Chief Finance Officer

8 September 2020

Statement of Comprehensive Income
for the period ended 30 June 2020

	Notes	2020 S'000	2019 S'000	Original Budget S'000
NET COST OF SERVICES				
Expenses				
Judicial benefits	1.1A	110,159	105,165	106,512
Employee benefits	1.1A	118,666	118,034	116,450
Suppliers	1.1B	92,470	117,297	123,511
Depreciation and amortisation	3.2A	29,955	13,882	14,871
Finance costs	1.1C	2,195	313	331
Impairment loss on financial instruments	1.1D	22	1	-
Write-down and impairment of other assets	1.1E	14	576	-
Total expenses		353,481	355,268	361,675
Own-Source income				
Own-source revenue				
Revenue from contracts with customers	1.2A	2,904	4,081	3,939
Other revenue	1.2B	43,607	42,939	42,765
Total own-source revenue		46,511	47,020	46,704
Other gains				
Liabilities assumed by other agencies		35,450	33,394	27,778
Other gains		1	214	-
Total gains	1.2C	35,451	33,608	27,778
Total own-source income		81,962	80,628	74,482
Net (cost of)/contribution by services		(271,519)	(274,640)	(287,193)
Revenue from Government	1.2D	273,973	265,352	272,322
Surplus/(Deficit) on continuing operations		2,454	(9,288)	(14,871)
OTHER COMPREHENSIVE INCOME				
Items not subject to subsequent reclassification to net cost of services				
Changes in asset revaluation surplus		4,107	57	-
Total other comprehensive income		4,107	57	-
Total comprehensive income / (loss)		6,561	(9,231)	(14,871)

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

Budget Variances Commentary	
Statement of Comprehensive Income	
<u>Judicial benefits</u>	
Judicial benefits are higher than budgeted due to the granting of an increase to judicial salaries by the remuneration tribunal that was effective from 1 July 2019, and the revaluation of accrued leave liabilities following an independent valuation and movements in government bond rates.	
<u>Suppliers</u>	
Supplier expenses are lower than budgeted. The major reason for this variance is the impact of the new accounting standard AASB 16 <i>Leases</i> . This standard resulted in the costs of the Entity's leases being classified as depreciation expenses rather than supplier expenses.	

Statement of Comprehensive Income
for the period ended 30 June 2020

Depreciation and amortisation

Depreciation expenses are higher than budgeted following the implementation of AASB16 *Leases*. The Entity added right of use lease assets to its balance sheet and a subsequent depreciation charge followed. This charge was not part of the budgeted figures.

Finance costs

Finance costs are higher than budgeted following the implementation of AASB16 *Leases*.

Revenue from contracts with customers

The Entity received lower revenue than was anticipated in relation to its International Programs work. This work was severely curtailed following the COVID-19 outbreak.

Liabilities assumed by other agencies

The gain received in relation to notional judicial superannuation costs was higher than budgeted due to an increase in the actuarial assessment of the value of these benefits.

Revenue from Government

This is higher than budgeted due to additional appropriation received from Government at additional estimates.

Statement of Financial Position
as at 30 June 2020

	Notes	2020 \$'000	2019 \$'000	Original Budget \$'000
ASSETS				
Financial assets				
Cash and cash equivalents	3.1A	1,239	1,237	1,353
Trade and other receivables	3.1B	116,393	90,552	67,396
Accrued revenue		-	8	14
Total financial assets		117,632	91,797	68,763
Non-financial assets¹				
Buildings	3.2A	182,130	33,318	47,503
Plant and equipment	3.2A	23,103	14,781	10,675
Computer software	3.2A	11,832	11,397	20,721
Inventories	3.2B	36	39	39
Prepayments		1,939	1,767	3,383
Total non-financial assets		219,040	61,302	82,321
Total assets		336,672	153,099	151,084
LIABILITIES				
Payables				
Suppliers	3.3A	4,681	7,911	7,925
Other payables	3.3B	3,733	2,437	2,268
Total payables		8,414	10,348	10,193
Interest bearing liabilities				
Leases	3.4A	151,019	2,574	1,756
Total interest bearing liabilities		151,019	2,574	1,756
Provisions				
Employee provisions	6.1A	66,903	62,390	59,915
Other provisions	3.5A	4,780	4,065	1,991
Total provisions		71,683	66,455	61,906
Total liabilities		231,116	79,377	73,855
Net assets		105,556	73,722	77,229
EQUITY				
Contributed equity		119,508	95,527	119,630
Reserves		12,844	8,737	8,680
Accumulated deficit		(26,796)	(30,542)	(51,081)
Total equity		105,556	73,722	77,229

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

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

Statement of Financial Position
as at 30 June 2020

Budget Variances Commentary

Statement of Financial Position

Trade and other receivables

Appropriation receivable is higher than budgeted. This reflects the surplus achieved in 2019-20. There was also an underspend of capital appropriation in 2019-20 due to delays in building and software development projects.

Non-Financial Assets

Non financial assets are higher than budgeted following the implementation of AASB16 *Leases*. This standard has required the addition of all leases to the Entity's balance sheet during 2019-20. This has added \$166m to the value of non-financial assets. In addition, an independent valuation of the Entity's property and equipment assets resulted in a \$4.1m increase in their value.

Other payables

Other payables are higher than budgeted due to the receipt of funding to the value of \$1.1m that is to be expended in the 2020-21 year.

Leases

Lease liabilities are higher than budgeted following the implementation of AASB16 *Leases*. This standard has required the addition of all leases to the Entity's balance sheet during 2019-20.

Employee provisions

Provisions for leave liability have increased following an independent actuarial review during 2019-20 and the movement in government bond rates.

Other provisions

New makegood provisions were entered into, that were not known at the time of the budget.

Statement of Changes in Equity
for the period ended 30 June 2020

	Notes	2020 \$'000	2019 \$'000	Original Budget \$'000
CONTRIBUTED EQUITY				
Opening balance				
Balance carried forward from previous period		95,527	83,232	95,872
Adjusted opening balance		95,527	83,232	95,872
Comprehensive income				
Other comprehensive income		-	-	-
Total comprehensive income/(loss)		-	-	-
Transactions with owners				
Contributions by owners				
Departmental capital budget		23,981	12,295	23,758
Total transactions with owners		23,981	12,295	23,758
Closing balance as at 30 June		119,508	95,527	119,630
RETAINED EARNINGS/(ACCUMULATED DEFICIT)				
Opening balance				
Balance carried forward from previous period		(30,542)	(21,254)	(36,210)
Adjustment on initial application of AASB 16		1,292	-	-
Adjusted opening balance		(29,250)	(21,254)	(36,210)
Comprehensive income				
Surplus/(Deficit) for the period		2,454	(9,288)	(14,871)
Other comprehensive income		-	-	-
Total comprehensive income/(loss)		2,454	(9,288)	(14,871)
Closing balance as at 30 June		(26,796)	(30,542)	(51,081)
ASSET REVALUATION RESERVE				
Opening balance				
Balance carried forward from previous period		8,737	8,680	8,680
Adjusted opening balance		8,737	8,680	8,680
Comprehensive income				
Other comprehensive income		4,107	57	-
Total comprehensive income/(loss)		4,107	57	-
Closing balance as at 30 June		12,844	8,737	8,680

Statement of Changes in Equity
for the period ended 30 June 2020

	Notes	2020 \$'000	2019 \$'000	Original Budget \$'000
TOTAL EQUITY				
Opening balance				
Balance carried forward from previous period		73,722	70,658	68,342
Adjustment on initial application of AASB 16		1,292	-	-
Adjusted opening balance		75,014	70,658	68,342
Comprehensive income				
Surplus/(Deficit) for the period		2,454	(9,288)	(14,871)
Other comprehensive income		4,107	57	-
Total comprehensive income/(loss)		6,561	(9,231)	(14,871)
Transactions with owners				
Contributions by owners				
Departmental capital budget		23,981	12,295	23,758
Total transactions with owners		23,981	12,295	23,758
Closing balance as at 30 June		105,556	73,722	77,229

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

Accounting Policy

Equity Injections

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

Budget Variances Commentary

Statement of Changes in Equity

Accumulated deficit

The improved financial results of the Entity compared to budget in 2018-19 and 2019-20 have led to a better than forecast equity position.

Reserves

There has been an increase to the asset revaluation reserve following an independent valuation of the Entity's assets undertaken during 2019-20.

Cash Flow Statement
for the period ended 30 June 2020

	Notes	2020 \$'000	2019 \$'000	Original Budget \$'000
OPERATING ACTIVITIES				
Cash received				
Appropriations		258,262	261,991	273,018
Sales of goods and rendering of services		3,806	4,067	3,939
GST received		8,448	7,469	-
Other		266	382	-
Total cash received		<u>270,782</u>	<u>273,909</u>	<u>276,957</u>
Cash used				
Employees		188,727	187,134	195,184
Suppliers		59,655	82,334	80,997
Interest payments on lease liabilities		1,860	-	-
Borrowing costs		23	64	80
Section 74 receipts transferred to OPA		3,434	4,706	-
Total cash used		<u>253,699</u>	<u>274,238</u>	<u>276,261</u>
Net cash from/(used by) operating activities		<u>17,083</u>	<u>(329)</u>	<u>696</u>
INVESTING ACTIVITIES				
Cash received				
Proceeds from sales of property, plant and equipment		1	214	-
Total cash received		<u>1</u>	<u>214</u>	<u>-</u>
Cash used				
Purchase of property, plant and equipment		11,581	4,413	22,916
Purchase of intangibles		3,496	3,653	-
Total cash used		<u>15,077</u>	<u>8,066</u>	<u>22,916</u>
Net cash from/(used by) investing activities		<u>(15,076)</u>	<u>(7,852)</u>	<u>(22,916)</u>
FINANCING ACTIVITIES				
Cash received				
Contributed equity		15,926	8,769	23,758
Total cash received		<u>15,926</u>	<u>8,769</u>	<u>23,758</u>
Cash used				
Repayment of borrowings		849	704	992
Principal payments of lease liabilities		17,082	-	-
Total cash used		<u>17,931</u>	<u>704</u>	<u>992</u>
Net Cash from/(used by) financing activities		<u>(2,005)</u>	<u>8,065</u>	<u>22,766</u>
Net increase / (decrease) in cash held		<u>2</u>	<u>(116)</u>	<u>546</u>
Cash and cash equivalents at the beginning of the reporting period		1,237	1,353	807
Cash and cash equivalents at the end of the reporting period	3.1A	<u>1,239</u>	<u>1,237</u>	<u>1,353</u>

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

Cash Flow Statement
for the period ended 30 June 2020

Budget Variances Commentary

Statement of Cash Flow Statement

Cash received from investing activities

Cash from the sale of assets was not budgeted for as it is unpredictable.

Cash used for investing activities and Contributed equity

Asset purchases were lower than expected due to a delay in the completion of building and software development projects.

Principal payments of lease liabilities

This change arises from the implementation during 2019-20 of AASB 16 *Leases*. The changes arising from this new standard were not accounted for during the budget process.

Administered Schedule of Comprehensive Income
for the period ended 30 June 2020

	Notes	2020 \$'000	2019 \$'000	Original Budget \$'000
NET COST OF SERVICES				
Expenses				
Suppliers	2.1A	726	807	880
Impairment loss on financial instruments	2.1B	3,802	3,289	3,200
Other expenses - refunds of fees	2.1C	346	918	900
Total expenses		4,874	5,014	4,980
Income				
Revenue				
Non-taxation revenue				
Fees and fines	2.2A	118,842	89,034	83,419
Total non-taxation revenue		118,842	89,034	83,419
Total revenue		118,842	89,034	83,419
Total income		118,842	89,034	83,419
Net contribution by services		113,968	84,020	78,439
Total comprehensive income		113,968	84,020	78,439

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

Budget Variances Commentary

Administered Schedule of Comprehensive Income

Fees and fines

Administered revenues relate to activities performed by the Entity on behalf of the Australian Government. The variance to budget is due to the uncertainty in estimating fee revenue and fines, with the Entity on occasion receiving fines on behalf of the Government.

Impairment loss on financial instruments

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

Other expenses

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

Administered Schedule of Assets and Liabilities
as at 30 June 2020

	Notes	2020 \$'000	2019 \$'000	Original Budget \$'000
ASSETS				
Financial Assets				
Cash and cash equivalents	4.1A	103	142	136
Trade and other receivables	4.1B	1,039	2,250	4,599
Total assets administered on behalf of Government		1,142	2,392	4,735
LIABILITIES				
Payables				
Suppliers	4.2A	31	89	-
Other payables	4.2B	543	610	513
Total liabilities administered on behalf of Government		574	699	513
Net assets/(liabilities)		568	1,693	4,222

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

Budget Variances Commentary

Administered Schedule of Assets and Liabilities

Cash and cash equivalents

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

Trade and other receivables

Trade and other receivables varies from budget due to the implementation of the accounting standard for financial instruments that occurred during 2018-19. This led to an increase in the Entity's doubtful debt provision, reducing the net amount of trade receivables. The financial impact of this change was not known at the time the 2019-20 budget was published.

Suppliers

The variance to budget is a timing difference due to invoices received after 30th June.

Administered Reconciliation Schedule
for the period ended 30 June 2020

	2020	2019
	\$'000	\$'000
Opening assets less liabilities as at 1 July	1,693	4,222
Adjustment for change in accounting policies	-	(1,854)
Adjustments for rounding	-	(1)
Adjusted opening assets less liabilities	1,693	2,367
Net contribution by services		
Income	118,842	89,034
Expenses		
Payments to entities other than corporate Commonwealth entities	(4,874)	(5,014)
Transfers (to)/from the Australian Government		
Appropriation transfers from Official Public Account		
Annual appropriations		
Payments to entities other than corporate Commonwealth entities	784	718
Special appropriations (unlimited) s77 PGPA Act repayments		
Payments to entities other than corporate Commonwealth entities	353	923
GST increase to appropriations s74 PGPA Act		
Payments to entities other than corporate Commonwealth entities	78	71
Appropriation transfers to OPA		
Transfers to OPA	(116,308)	(86,406)
Closing assets less liabilities as at 30 June	568	1,693

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

Accounting Policy

Administered cash transfers to and from the Official Public Account

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

Administered Cash Flow Statement
for the period ended 30 June 2020

	Notes	2020 \$'000	2019 \$'000
OPERATING ACTIVITIES			
Cash received			
Fees		77,862	81,509
Fines		38,329	4,833
GST received		78	70
Total cash received		116,269	86,412
Cash used			
Suppliers		862	789
Refunds of fees		346	918
Other		7	5
Total cash used		1,215	1,712
Net cash from operating activities		115,054	84,700
Net increase in cash held		115,054	84,700
Cash and cash equivalents at the beginning of the reporting period		142	136
Cash from Official Public Account for:			
Appropriations		1,215	1,712
Total cash from official public account		1,215	1,712
Cash to Official Public Account for:			
Transfer to OPA		(116,308)	(86,406)
Total cash to official public account		(116,308)	(86,406)
Cash and cash equivalents at the end of the reporting period	4.1A	103	142

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

Overview

Objectives of the Federal Court of Australia

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

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

The objectives of the Entity include the provision of corporate services in support of the operations of the Federal Court, Family Court, Federal Circuit Court and the National Native Title Tribunal.

The Basis of Preparation

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

The Financial Statements have been prepared in accordance with:

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

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

New Accounting Standards

AASB 15: Revenue from Contracts with Customers and AASB 1058 Income of not for profit entities.

AASB 15 and AASB 1058 became effective on 1 July 2019.

AASB 15 establishes a comprehensive framework for determining whether, how much and when revenue is recognised. It replaces existing revenue recognition guidance, including AASB 118 *Revenue*, AASB 111 *Construction Contracts* and Interpretation 13 *Customer Loyalty Programmes*. The core principle of AASB 15 is that an entity recognises revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services.

AASB 1058 is relevant in circumstances where AASB 15 does not apply. AASB 1058 replaces most of the not-for-profit (NFP) provisions of AASB 1004 *Contributions* and applies to transactions where the consideration to acquire an asset is significantly less than fair value principally to enable the Entity to further its objectives, and where volunteer services are received.

The introduction of these standards has been analysed by the Entity and has not led to any material adjustments to accounting policies or financial adjustments.

AASB 16: Leases

The Entity adopted AASB 16 using the modified retrospective approach, under which the cumulative effect of initial application is recognised in retained earnings at 1 July 2019. Accordingly, the comparative information presented for 2019 is not restated, that is, it is presented as previously reported under AASB 117 and related interpretations.

AASB 16 provides for certain optional practical expedients, including those related to the initial adoption of the standard. The Entity applied the exemption not to recognise right of use assets and liabilities for leases less than 12 months of lease term remaining as of the date of initial application unless it was considered 'reasonably certain' as it has been continuously leased for several years in the past.

As a lessee, the Entity previously classified leases as operating or finance leases based on its assessment of whether the lease transferred substantially all of the risk and rewards of ownership. Under AASB 16, the Entity recognises right-of-use assets and liabilities for most leases. However, the Entity has elected not to recognise right-of-use assets and lease liabilities for some leases of low value assets based on the value of the underlying asset when new or for short-term leases with a lease term of 12 months or less unless it was considered 'reasonably certain' that the lease would continue - it has been continuously leased for several years in the past.

On adoption of AASB 16, the Entity recognised right-of-use assets and lease liabilities in relation to leases of office space and vehicles which had previously been classified as operating leases.

The lease liabilities were measured at the present value of the remaining lease payments, discounted using the Entity's incremental borrowing rate as at 1 July 2019. The Entity's incremental borrowing rate is the rate at which a similar borrowing could be obtained from an independent creditor under comparable terms and conditions. The weighted average rate applied was 1.09%

	1 July 2019 \$'000
Impact on Transition of AASB 16	
Departmental	
Right-of-use assets - property, plant and equipment	165,939
Lease liabilities	165,939
Retained earnings	1,292
Payables - Suppliers	(1,292)
The following table reconciles the Departmental minimum lease commitments disclosed in the entity's 30 June 2019 annual financial statements to the amount of lease liabilities recognised on 1 July 2019:	
	1 July 2019
Minimum operating lease commitment at 30 June 2019	47,371
Less: short-term leases not recognised under AASB 16	(1,429)
Less: low value leases not recognised under AASB 16	(62)
Plus: effect of extension options reasonably certain to be exercised ¹	<u>128,364</u>
Undiscounted lease payments	<u>174,244</u>
Less: effect of discounting using the incremental borrowing rate as at the date of initial application	<u>(8,305)</u>
Lease liabilities recognised at 1 July 2019	<u>165,939</u>

¹In the Commonwealth Law Courts Buildings, the Department of Finance as the landlord has provided greater certainty about the lease terms to enable reporting under AASB 16.

Taxation

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

Reporting of Administered activities

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

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

Events after the Reporting Period

Departmental

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

Administered

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

1. Financial Performance

This section analyses the financial performance of the Federal Court of Australia for the year ended 30 June 2020.

1.1 Expenses

	2020	2019
	\$'000	\$'000
Note 1.1A: Judicial and Employee Benefits		
Judges remuneration	70,585	67,776
Judicial superannuation defined contribution	4,124	3,996
Judges notional superannuation	35,450	33,393
Total judicial benefits	110,159	105,165
Wages and salaries	88,004	83,942
Superannuation		
Defined contribution plans	10,375	9,420
Defined benefit plans	5,580	5,733
Leave and other entitlements	14,113	16,056
Separation and redundancies	594	2,883
Total employee benefits	118,666	118,034
Total judicial and employee benefits	228,825	223,199

Accounting Policy

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

	2020	2019
	\$'000	\$'000
Note 1.1B: Suppliers		
Goods and services supplied or rendered		
IT services	6,883	7,456
Consultants	795	437
Contractors	1,031	2,378
Property operating costs	9,635	9,901
Courts operation and administration	12,980	13,723
Travel	5,625	8,410
Library purchases	4,357	4,312
Other	6,463	7,097
Total goods and services supplied or rendered	47,770	53,714
Goods supplied	2,941	3,692
Services rendered	44,829	50,022
Total goods and services supplied or rendered	47,770	53,714
Other suppliers		
Operating lease rentals ¹	-	62,090
Short-term leases	632	-
Property resources received free of charge	43,210	-
Workers compensation expenses	858	1,493
Total other suppliers	44,700	63,583
Total suppliers	92,470	117,297

1. The Entity has applied AASB 16 using the modified retrospective approach and therefore the comparative information has not been restated and continues to be reported under AASB 117.

The Entity has short-term lease commitments of \$779,145 as at 30 June 2020.

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

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

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

	2020	2019
	\$'000	\$'000
Note 1.1C: Finance costs		
Finance leases ¹	-	65
Interest on lease liabilities - buildings	1,828	-
Interest on lease liabilities – plant and equipment	55	-
Unwinding of discount - make good	312	248
Total finance costs	2,195	313

1. The Entity has applied AASB 16 using the modified retrospective approach and therefore the comparative information has not been restated and continues to be reported under AASB 117.

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

Accounting Policy

All borrowing costs are expensed as incurred.

	2020	2019
	\$'000	\$'000
Note 1.1D: Impairment loss on financial instruments		
Impairment on financial instruments – doubtful debts	22	1
Total impairment loss on financial instruments	22	1

	2020	2019
	\$'000	\$'000
Note 1.1E: Write-down and impairment of other assets		
Impairment of inventories	10	9
Impairment of plant and equipment	4	72
Impairment on buildings	-	495
Total write-down and impairment of other assets	14	576

1.2 Own-Source Revenue and Gains

	2020	2019
	\$'000	\$'000
Own-Source Revenue		
Note 1.2A: Revenue from contracts with customers		
Sale of goods	1	1
Rendering of services	2,903	4,080
Total revenue from contracts with customers	2,904	4,081
Disaggregation of revenue from contracts with customers		
Court administration services	772	887
NZ Aid funded program revenue	1,337	2,398
Government related services	794	795
Other	1	1
Total	2,904	4,081

	2020	2019
	\$'000	\$'000
Note 1.2B: Other Revenue		
Resources received free of charge		
Rent in Commonwealth Law Courts buildings	43,210	42,432
Audit services provided by ANAO	130	125
Other	267	382
Total other revenue	43,607	42,939

Accounting Policy

Revenue from the sale of goods is recognised when control has been transferred to the buyer. Revenue is recognised by the Entity under *AASB 15* when the following occurs:

- a contract is identified and each party is committed to perform its obligations;
- the rights and payment terms can be identified; and
- it is probable that the Entity will collect the consideration under the contract when goods or services have been provided.

The Entity identifies its performance obligations in each contract and determines when they have been satisfied. Revenue is recognised at the time performance obligations have been met.

The following is a description of the principal activities from which the Entity generates its revenue:

Court administration services. Revenue is recognised when the goods or services are provided to the customer.

Government related services. Revenue is recognised at the time the service is provided.

Services provided to the New Zealand Government. The Entity has defined performance obligations under the contract with New Zealand, with clearly identified milestones identified in the contract. Revenue is recognised when those performance obligations have been reached.

The transaction price is the total amount of consideration to which the Entity expects to be entitled in exchange for transferring promised goods or services to a customer. The consideration promised in a contract with a customer may include fixed amounts, variable amounts or both. The Entity has not been required to apply the practical expedient on AASB 15.121. There is no consideration from contracts with customers that is not included in the transaction price.

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

Resources Received Free of Charge

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

Resources received free of charge have been reclassified from Other Gains to Other Revenue in 2019-20 to more accurately reflect the substance of the transaction. Comparative information has also been updated for consistency.

	2020	2019
	\$'000	\$'000
Note 1.2C: Other Gains		
Liabilities assumed by other agencies	35,450	33,394
Gain on sale of assets	1	214
Total other gains	35,451	76,165

Accounting Policy*Liabilities assumed by other agencies*

Liabilities assumed by other agencies refers to the notional cost of judicial pensions as calculated by actuaries on behalf of the Department of Finance.

	2020	2019
	\$'000	\$'000
Note 1.2D: Revenue from Government		
Appropriations		
Departmental appropriation	273,973	264,806
Revenue from Government (supplementation)	-	546
Total revenue from Government	273,973	265,352

Accounting Policy*Revenue from Government*

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

2. Income and Expenses Administered on Behalf of Government

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

2.1 Administered – Expenses

	2020	2019
	\$'000	\$'000
Note 2.1A: Suppliers		
Services rendered		
Supply of primary dispute resolution services	726	807
Total suppliers	726	807
Note 2.1B: Impairment loss on financial instruments		
Impairment of financial instruments – doubtful debts	3,802	3,289
Total impairment loss on financial instruments	3,802	3,289
Note 2.1C: Other expenses		
Refunds of fees	346	918
Total other expenses	346	918

2.2 Administered – Income

	2020	2019
	\$'000	\$'000
Revenue		
Non-Taxation Revenue		
Note 2.2A: Fees and Fines		
Hearing Fees	5,664	5,941
Filing and Setting Down Fees	74,849	78,260
Fines	38,329	4,833
Total fees and fines	118,842	89,034

Accounting Policy

All administered revenues are revenues relating to the course of ordinary activities performed by the Federal Court of Australia, the Federal Circuit Court and the Family Court of Australia on behalf of the Australian Government. As such administered revenues are not revenues of the Entity. Fees are charged for access to the Entity's services. Administered fee revenue is recognised when the service occurs. The services are performed at the same time as or within two days of the fees becoming due and payable. Revenue from hearing fees is recognised under AASB15 *Revenue from Contracts with customers*. Filing and setting down fee revenue is recognised under AASB1058 *Income of not for profit entities*.

Revenue from fines is recognised when a fine is paid to the Entity on behalf of the Government. Fees and Fines are recognised at their nominal amount due less any impairment allowance. Collectability of debts is reviewed at the end of the reporting period. Impairment allowances are made based on historical rates of default.

3. Financial Position

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

3.1 Financial Assets

	2020	2019
	\$'000	\$'000
Note 3.1A: Cash and cash equivalents		
Cash at bank	1,222	1,224
Cash on hand	17	13
Total cash and cash equivalents	1,239	1,237
	2020	2019
	\$'000	\$'000
Note 3.1B: Trade and other receivables		
Goods and services receivables		
Goods and services	105	627
Total goods and services receivables	105	627
Appropriations receivable		
Appropriation receivable - operating	92,421	72,730
Appropriation receivable - departmental capital budget	22,923	14,867
Total appropriations receivable	115,344	87,597
Other receivables		
Statutory receivables (GST)	966	1,782
Revenue from Government	-	546
Total other receivables	966	2,328
Total trade and other receivables (gross)	116,415	90,552
Less impairment loss allowance	(22)	-
Total trade and other receivables (net)	116,393	90,552

Credit terms for goods and services were within 30 days (2019: 30 days).

Reconciliation of the impairment allowance account:

Movements in relation to 2020

	Goods and services \$'000	Other receivables \$'000	Total \$'000
As at 1 July 2019	-	-	-
Amounts written off	-	-	-
Amounts recovered and reversed	-	-	-
Increase/decrease recognised in net surplus	22	-	22
Total as at 30 June 2020	22	-	22

Movements in relation to 2019

	Goods and services \$'000	Other receivables \$'000	Total \$'000
As at 1 July 2018	7	-	7
Amounts written off	(7)	-	(7)
Increase/decrease recognised in net surplus	-	-	-
Total as at 30 June 2019	-	-	-

Accounting Policy*Financial assets*

Trade receivables, loans and other receivables that are held for the purpose of collecting the contractual cash flows where the cash flows are solely payments of principal and interest, that are not provided at below-market interest rates, are subsequently measured at amortised cost using the effective interest method adjusted for any loss allowance.

Impairment loss allowance

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

3.2 Non-Financial Assets**Note 3.2A: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment and Intangibles**

	Buildings - Leasehold Improvements	Plant and equipment	Computer software ¹	Total
	\$'000	\$'000	\$'000	\$'000
As at 1 July 2019				
Gross book value	46,419	25,488	30,533	102,440
Accumulated depreciation, amortisation and impairment	(13,101)	(10,707)	(19,136)	(42,944)
Total as at 1 July 2019	33,318	14,781	11,397	59,496
Recognition of right of use asset on initial application of AASB 16	162,698	3,241	-	165,939
Adjusted total as at 1 July 2019	196,016	18,022	11,397	225,435
Additions				
Purchase	4,725	6,856	3,496	15,077
Finance lease	-	141	-	141
Right-of-use assets	1,079	1,323	-	2,402
Revaluations and impairments recognised in other comprehensive income	1,836	2,188	-	4,024
Depreciation and amortisation	(4,185)	(3,606)	(3,061)	(10,852)
Depreciation on right-of-use assets	(17,341)	(1,762)	-	(19,103)
Disposals on right-of-use assets	-	(55)	-	(55)
Disposals - other	-	(4)	-	(4)
Total as at 30 June 2020	182,130	23,103	11,832	217,065
Total as at 30 June 2020 represented by				
Gross book value	202,699	25,430	34,029	262,158
Accumulated depreciation and impairment	(20,569)	(2,327)	(22,197)	(45,093)
Total as at 30 June 2020	182,130	23,103	11,832	217,065
Carrying amount of right-of-use assets	146,436	2,747	-	149,183

1. The carrying amount of computer software includes \$3.88 million of purchased software and \$7.95 million of internally generated software.

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

Revaluations of non-financial assets

All revaluations were conducted in accordance with the revaluation policy. On 30 June 2020, an independent valuer conducted the revaluations and management conducted a review of the underlying drivers of the independent valuation.

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

Capital commitments for property, plant and equipment are \$1.2 million (2019: \$0.13 million). Plant and equipment commitments were primarily contracts for purchases of furniture and IT equipment.

Accounting Policy*Property, plant and equipment*

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

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

Asset Recognition Threshold

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

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

which are expensed in the year of acquisition.

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to 'make good' provisions in property leases taken up by the Entity where there exists an obligation to restore the property to its original condition. These costs are included in the value of the Entity's leasehold improvements with a corresponding provision for the 'make good' recognised.

Lease Right of Use (ROU) Assets

Leased ROU assets are capitalised at the commencement date of the lease and comprise of the initial lease liability amount, initial direct costs incurred when entering into the lease less any lease incentives received. These assets are accounted for by Commonwealth lessees as separate asset classes to corresponding assets owned outright, but included in the same column as where the corresponding underlying assets would be presented if they were owned.

On initial adoption of AASB 16 the Entity has adjusted the ROU assets at the date of initial application by the amount of any provision for onerous leases recognised immediately before the date of initial application. Following initial application, an impairment review is undertaken for any right of use lease asset that shows indicators of impairment and an impairment loss is recognised against any right of use lease asset that is impaired. Lease ROU assets continue to be measured at cost after initial recognition in Commonwealth agency, General Government Services and Whole of Government financial statements.

Revaluations

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

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

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

The Entity's assets were independently valued during 2019-20. The valuer has stated in their report that the impact of COVID-19 has introduced significant valuation uncertainty due to rapidly changing economic conditions and a noted reduction in transactional evidence on which to base valuation advice.

Depreciation

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

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

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

	2020	2019
Leasehold improvements	10 to 20 years or lease term	10 to 20 years or lease term
Plant and equipment – excluding library materials	3 to 100 years	3 to 100 years
Plant and equipment – library materials	5 to 10 years	5 to 10 years

The depreciation rates for ROU assets are based on the commencement date to the earlier of the end of the useful life of the ROU asset or the end of the lease term.

Impairment

All assets were assessed for impairment at 30 June 2020. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

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

Derecognition

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

Intangibles

The Entity's intangibles comprise externally and internally developed software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses. Software is amortised on a straight-line basis over its anticipated useful life of 5 years (2019: 5 years).

	2020	2019
	\$'000	\$'000
Note 3.2B: Inventories		
Inventories held for distribution	36	39
Total inventories	36	39

During 2019-20, \$9,989 of inventory held for distribution was recognised as an expense (2019: \$9,141).

Accounting Policy

Inventories held for sale are valued at the lower of cost and net realisable value.

Inventories held for distribution are valued at cost, adjusted for any loss of service potential.

Costs incurred in bringing each item of inventory to its present location and condition are assigned as follows:

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

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

3.3 Payables

	2020	2019
	\$'000	\$'000
Note 3.3A: Suppliers		
Trade creditors and accruals	4,681	6,618
Operating lease rentals ¹	-	1,293
Total suppliers	4,681	7,911

Settlement was usually made within 30 days.

1. The Entity has applied AASB 16 using the modified retrospective approach and therefore the comparative information has not been restated and continues to be reported under AASB 117.

Note 3.3B: Other payables

Salaries and wages	1,440	681
Superannuation	238	115
Separations and redundancies	68	651
Unearned income	1,262	83
Other	725	907
Total other payables	3,733	2,437

3.4 Interest Bearing Liabilities		
	2020	2019
	\$'000	\$'000
Note 3.4A: Leases		
Finance leases ¹	-	2,574
Lease Liabilities		
Buildings	147,960	-
Plant and equipment	3,059	-
Total leases	151,019	2,574

1. The Entity has applied AASB 16 using the modified retrospective approach and therefore the comparative information has not been restated and continues to be reported under AASB 117.

3.5 Other Provisions		
	2020	2019
	\$'000	\$'000
Note 3.5A: Other provisions		
Provision for restoration obligations	4,780	4,065
Total other provisions	4,780	4,065

	Provision for restoration	Total
	\$'000	\$'000
As at 1 July 2019	4,065	4,065
New provision	486	486
Amounts adjusted	(83)	(83)
Unwindings of discount or change in discount rate	312	312
Total as at 30 June 2020	4,780	4,780

The Entity currently has 16 agreements for the leasing of premises which have provisions requiring the Entity to restore the premises to their original condition at the conclusion of the lease. The Entity has made a provision to reflect the present value of this obligation.

4. Assets and Liabilities Administered on Behalf of Government

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

4.1 Administered – Financial Assets

	2020	2019
	\$'000	\$'000

Note 4.1A: Cash and cash equivalents

Cash on hand or on deposit	103	142
Total cash and cash equivalents	103	142

Credit terms for goods and services receivable were in accordance with the Federal Courts Legislation Amendment (Fees) Regulation 2015 and the Family Law (Fees) Regulation 2012.

Note 4.1B: Trade and other receivables

Goods and services receivables	6,190	7,434
Total goods and services receivables	6,190	7,434

Other receivables

Statutory receivable (GST)	10	7
Total other receivables	10	7
Total trade and other receivables (gross)	6,200	7,441

Less impairment loss allowance account:

Goods and services	(5,161)	(5,191)
Total impairment loss allowance	(5,161)	(5,191)
Total trade and other receivables (net)	1,039	2,250

Accounting Policy

Trade and other receivables

Collectability of debts is reviewed at the end of the reporting period. The impairment loss allowance is calculated based on the Entity's historical rate of debt collection. Credit terms for services were within 30 days (2019: 30 days).

4.2 Administered – Payables

	2020	2019
	\$'000	\$'000

Note 4.2A: Suppliers

Trade creditors and accruals	31	89
Total supplier payables	31	89

The contract liabilities are associated with family dispute resolution services.

Note 4.2B: Other payables

Unearned income	543	610
Total other payables	543	610

5. Funding

This section identifies the Federal Court of Australia funding structure.

5.1 Appropriations

Note 5.1A: Annual Appropriations ('Recoverable GST exclusive')

Annual Appropriations for 2020

	Annual Appropriation ¹ \$'000	Adjustments to Appropriation ² \$'000	Total appropriation \$'000	Appropriation applied in 2020 (current and prior years) \$'000	Variance ³ \$'000
Departmental					
Ordinary annual services	274,519	3,434	277,953	259,623	18,330
Capital Budget	23,981	-	23,981	15,926	8,055
Total departmental	298,500	3,434	301,934	275,549	26,385
Administered					
Ordinary annual services Administered items	881	-	881	784	97
Total administered	881	-	881	784	97

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

2. Adjustments to appropriation have included receipts collected under Section 74 of the *PGPA Act*.

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

Annual Appropriations for 2019

	Annual Appropriation ¹ \$'000	Adjustments to Appropriation \$'000	Total appropriation \$'000	Appropriation applied in 2019 (current and prior years) \$'000	Variance ² \$'000
Departmental					
Ordinary annual services	264,806	4,706	269,512	262,108	7,404
Capital Budget	12,295	-	12,295	8,769	3,526
Total departmental	277,101	4,706	281,807	270,877	10,930
Administered					
Ordinary annual services Administered items	880	-	880	718	162
Total administered	880	-	880	718	162

1. Departmental Capital Budgets are appropriated through Appropriation Acts (No. 1, 3). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts.
2. The Court has received appropriation related to new Government measures. These measures have not yet been fully implemented. The Court has therefore not spent appropriation related to these measures, causing an underspend of annual appropriation.
3. Receipts collected under Section 74 of the *PGPA Act*.

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

	2020	2019
	\$'000	\$'000
Departmental		
Appropriation Act (No. 1) 2017-18 - Capital budget	262	2,654
Appropriation Act (No. 1) 2017-18	461	
Appropriation Act (No. 1) 2018-19	4,372	65,151
Appropriation Act (No. 1) 2018-19 - Capital budget	9,500	12,214
Appropriation Act (No. 3) 2018-19	3,055	7,579
Appropriation Act (No. 1) 2019-20	51,405	-
Appropriation Act (No. 1) 2019-20 - Capital Budget	11,555	-
Appropriation Act (No. 3) 2019-20	2,670	-
Supply Act (No. 1) 2019-20	30,459	-
Supply Act (No. 1) 2019-20 - Capital Budget	1,605	-
Cash at bank	1,239	1,237
Total departmental	116,583	88,834
Administered		
Appropriation Act (No 1) 2018-2019	97	162
Total administered	97	162

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

	Appropriation applied	
	2020	2019
	\$'000	\$'000
Authority		
Public Governance, Performance and Accountability Act 2013, Section 77, Administered	353	923
Total	353	923

5.2 Special Accounts

Note 5.2A: Special Accounts ('Recoverable GST exclusive')

	Departmental		Administered			
	Services for other entities and Trust Moneys Special Account ¹		Federal Court Of Australia Litigants Fund Special Account ²		Family Court and Federal Circuit Court Litigants Fund Special Account ³	
	2020	2019	2020	2019	2020	2019
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Balance brought forward from previous period	244	22	38,725	22,225	744	1,074
Increases	127	374	19,102	29,592	3,161	837
Total increases	127	374	19,102	29,592	3,161	837
Available for payments	371	396	57,827	51,817	3,905	1,911
Decreases						
Departmental	363	152	-	-	-	-
Total departmental	363	152	-	-	-	-
Decreases						
Administered	-	-	25,412	13,092	959	1,167
Total administered	-	-	25,412	13,092	959	1,167
Total decreases	363	152	25,412	13,092	959	1,167
Total balance carried to the next period	8	244	32,415	38,725	2,946	744
Balance represented by:						
Cash held in entity bank accounts	8	244	32,415	38,725	2,946	744
Cash held in the Official Public Account	-	-	-	-	-	-
Total balance carried to the next period	8	244	32,415	38,725	2,946	744

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

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

a) In accordance with:

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

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

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

Purpose: Litigants Fund Special Account

- (a) for amounts received in respect of proceedings of the Family Court of Australia or the Federal Circuit Court of Australia (formerly the Federal Magistrates Court of Australia);
- (b) for amounts received in respect of proceedings that have been transferred from another court to the Family Court of Australia or to the Federal Circuit Court of Australia (formerly the Federal Magistrates Court of Australia);
- (c) for amounts received from the Family Court of Australia Litigants' Fund Special Account or the Federal Magistrates Court Litigants' Fund Special Account;
- (d) to make payments in accordance with an order (however described) made by a court under the Family Law Act 1975, the Family Court of Australia, or a Judge of that Court;
- (e) to make payments in accordance with an order (however described) made by a court under the Federal Circuit Court of Australia Act 1999 (formerly the Federal Magistrates Act 1999), the Federal Circuit Court of Australia (formerly the Federal Magistrates Court of Australia), or a Judge (formerly Federal Magistrate) of that Court;
- (f) to repay amounts received by the Commonwealth and credited to this Special Account where an Act of Parliament or other law requires or permits the amount to be repaid; and
- g) to reduce the balance of this Special Account without making a real or notional payment.

5.3 Net Cash Appropriation Arrangements		
	2020	2019
	\$'000	\$'000
Total comprehensive income less depreciation/amortisation expenses previously funded through revenue appropriations	19,434	4,651
Plus: depreciation/amortisation expenses previously funded through revenue appropriation	(10,852)	(13,882)
Plus: depreciation of right-of-use assets	(19,103)	-
Less: principal repayments - leased assets	17,082	-
Total comprehensive income/(loss) - as per the Statement of Comprehensive Income	6,561	(9,231)

6. People and Relationships

This section describes a range of employment and post-employment benefits provided to our people and our relationships with other key people.

6.1 Employee Provisions

	2020	2019
	\$'000	\$'000
Note 6.1A: Employee Provisions		
Leave	31,280	29,541
Judges leave	<u>35,623</u>	<u>32,849</u>
Total employee provisions	<u>66,903</u>	<u>62,390</u>

Accounting Policy

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

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

Leave

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

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

The liability for annual leave and long service leave has been determined by reference to the work of an actuary as at 30 June 2020. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

Separation and redundancy

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

Superannuation

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

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

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

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

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

Judges' pension

Under the *Judges' Pension Act 1968*, Federal Court and Family Court Judges are entitled to a non-contributory pension upon retirement after at least 10 years service (Federal Court and Family Court Judges). As the liability for these pension payments is assumed by the Australian Government, the entity has not recognised a liability for unfunded superannuation liability. The Federal Court of Australia does, however, recognise a revenue and corresponding expense item, "Liabilities assumed by other agencies", in respect of the notional amount of the employer contributions to Judges' pensions for the reporting period amounting to \$35.45 million (2019: \$33.394 million). The contribution rate has been provided by the Department of Finance following an actuarial review.

6.2 Key Management Personnel Remuneration

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity. The entity has determined the key management personnel to be the Chief Justices and the Chief Executive Officers of the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia, the President and Registrar of the National Native Title Tribunal, the Executive Director of Corporate Services.

	2020 \$'000	2019 \$'000
Short-term employee benefits	3,131	2,905
Post-employment benefits	1,127	1,300
Other long-term employee benefits	156	165
Termination benefits	-	-
Total key management personnel remuneration expenses¹	4,414	4,370

The total number of key management personnel that are included in the above table are 9 (2019: 8).

1. The above key management personnel remuneration excludes the remuneration and other benefits of the Portfolio Minister. The Portfolio Minister's remuneration and other benefits are set by the Remuneration Tribunal and are not paid by the Entity.

6.3 Related Party Disclosures

Related party relationships:

The entity is an Australian Government controlled entity within the Attorney-General's portfolio. Related parties to the Entity are Key Management Personnel including the Portfolio Minister and Executive and other Australian Government entities.

Transactions with related parties:

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

Significant transactions with related parties can include:

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

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

The Entity has no transactions with related parties to disclose as at 30 June 2020 (2019: none).

7. Managing Uncertainties

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

7.1 Contingent Liabilities and Assets

Note 7.1A: Contingent Liabilities and Assets

Quantifiable contingencies

The Federal Court of Australia has no quantifiable contingent assets or liabilities as at 30 June 2020 (2019: none).

Unquantifiable contingencies

The Federal Court of Australia has no unquantifiable contingent assets or liabilities as at 30 June 2020 (2019: none).

Accounting Policy

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

Note 7.1B: Administered Contingent Assets and Liabilities

The Entity has no quantifiable or unquantifiable administered contingent liabilities or assets as at 30 June 2020 (2019: none).

7.2 Financial Instruments

	2020	2019
	\$'000	\$'000
Note 7.2A: Categories of financial instruments		
Financial assets		
Financial assets at amortised cost		
Cash and cash equivalents	1,239	1,237
Trade and other receivables	83	627
Total financial assets at amortised cost	1,322	1,864
Total financial assets	1,322	1,864
Financial liabilities		
Financial liabilities measured at amortised cost		
Trade creditors	4,681	7,911
Finance leases	-	2,574
Total financial liabilities	4,681	10,485

Accounting Policy

With the implementation of AASB 9 Financial Instruments for the first time in 2019, the Entity classifies its financial assets in the following categories:

- a) financial assets at fair value through profit or loss;
- b) financial assets at fair value through other comprehensive income; and
- c) financial assets measured at amortised cost.

The classification depends on both the Entity's business model for managing the financial assets and contractual cash flow characteristics at the time of initial recognition.

Financial assets are recognised when the Entity becomes a party to the contract and, as a consequence, has a legal right to receive or a legal obligation to pay cash and derecognised when the contractual rights to the cash flows from the financial asset expire or are transferred upon trade date.

Comparatives have not been restated on initial application.

Financial Assets at Amortised Cost

Financial assets included in this category need to meet two criteria:

1. the financial asset is held in order to collect the contractual cash flows; and
2. the cash flows are solely payments of principal and interest (SPPI) on the principal outstanding amount.

Amortised cost is determined using the effective interest method.

Financial Assets

Trade receivables, loans and other receivables that are held for the purpose of collecting the contractual cash flows where the cash flows are solely payments of principal and interest that are not provided at below-market interest rates are subsequently measured at amortised cost using the effective interest method adjusted for any loss allowance.

Impairment of financial assets

Financial assets are assessed for impairment at the end of each reporting period based on Expected Credit Losses, using the general approach which measures the loss allowance based on an amount equal to lifetime expected credit losses where risk has significantly increased, or an amount equal to 12-month expected credit losses if risk has not increased.

The simplified approach for trade, contract and lease receivables is used. This approach always measures the loss allowance as the amount equal to the lifetime expected credit losses.

A write-off constitutes a derecognition event where the write-off directly reduces the gross carrying amount of the financial asset.

Financial Liabilities

Financial liabilities are classified as either financial liabilities 'at fair value through profit or loss' or other financial liabilities. Financial liabilities are recognised and derecognised upon 'trade date'.

Other Financial Liabilities

Other financial liabilities are initially measured at fair value, net of transaction costs. These liabilities are subsequently measured at amortised cost using the effective interest method, with interest expense recognised on an effective interest basis.

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

The fair value of financial instruments approximates its carrying value.

7.3 Administered – Financial Instruments

	2020	2019
	\$'000	\$'000
Note 7.3A: Categories of financial instruments		
Financial assets at amortised cost		
Cash and cash equivalents	103	142
Trade and other receivables	1,039	2,250
Total financial assets at amortised cost	1,142	2,392
Total financial assets	1,142	2,392
	2020	2019
	\$'000	\$'000
Note 7.3B: Net gains or losses on financial liabilities		
Financial liabilities measured at amortised cost		
Interest expense	1,883	65
Net gains/(losses) on financial liabilities measured at amortised cost	1,883	65

7.4 Fair Value MeasurementAccounting Policy

AASB 2015-7 provides relief for not-for-profit public sector entities from making certain specified disclosures about the fair value measurement of assets measured at fair value and categorised within Level 3 of the fair value hierarchy.

Valuations are performed regularly so as to ensure that the carrying amount does not materially differ from fair value at the reporting date. A valuation was made by an external valuer in 2020. The Federal Court of Australia reviews the method used by the valuer annually.

Note 7.4A: Fair Value Measurement

	Fair value measurements at the end of the reporting period	
	2020	2019
	\$'000	\$'000
Non-financial assets		
Leasehold improvements	35,693	33,318
Plant and equipment	20,014	14,781

The Entity's assets are held for operational purposes and not held for the purposes of deriving a profit. The current use of these assets is considered to be the highest and best use.

There have been no transfers between the levels of the hierarchy during the year. The Entity deems transfers between levels of the fair value hierarchy to have occurred when advised by an independent valuer or a change in the market for particular items.

8. Other Information

This section provides other disclosures relevant to the Federal Court of Australia financial information environment for the year.

8.1 Aggregate Assets and Liabilities

	2020	2019
	\$'000	\$'000
Note 8.1A: Aggregate Assets and Liabilities		
Assets expected to be recovered in:		
No more than 12 months	119,583	93,579
More than 12 months	<u>217,089</u>	<u>59,520</u>
Total assets	<u>336,672</u>	<u>153,099</u>
Liabilities expected to be settled in:		
No more than 12 months	24,452	25,817
More than 12 months	<u>206,664</u>	<u>53,560</u>
Total liabilities	<u>231,116</u>	<u>79,377</u>

Note 8.1B: Administered Aggregate Assets and Liabilities		
Assets expected to be recovered in:		
No more than 12 months	1,142	2,392
More than 12 months	<u>-</u>	<u>-</u>
Total assets	<u>1,142</u>	<u>2,392</u>
Liabilities expected to be settled in:		
No more than 12 months	574	699
More than 12 months	<u>-</u>	<u>-</u>
Total liabilities	<u>574</u>	<u>699</u>

Appendix 2

Entity resource statement 2019–20

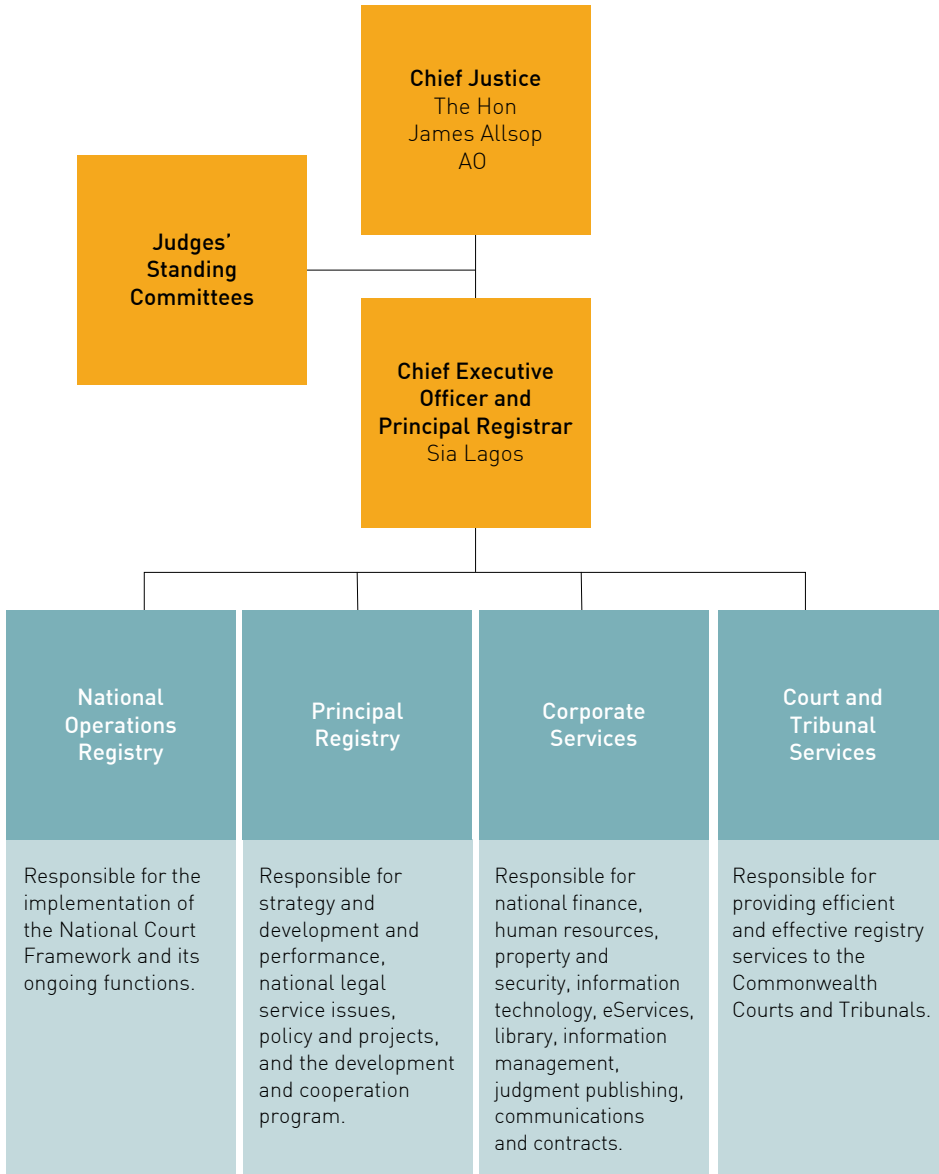
	ACTUAL AVAILABLE APPROPRIATIONS FOR 2019–20 \$'000	PAYMENTS MADE 2019–20 \$'000	BALANCE REMAINING \$'000
ORDINARY ANNUAL SERVICES			
Departmental appropriation			
Departmental appropriation ¹	387 334	270 754	116 580
Total	387 334	270 754	116 580
Administered expenses			
Outcome 3	881	784	97
Total	881	784	97
Total ordinary annual services	388 215	271 538	116 677
Special Appropriations limited by criteria / entitlement			
<i>Public Governance, Performance and Accountability Act 2013, s77</i>	900	353	547
Total	900	353	547
Total net resourcing and payments for Court	389 115	271 891	117 224

¹ Includes a Departmental Capital Budget of \$23.981m

Appendix 3

Organisational chart

Federal Court management structure as at 30 June 2020



Appendix 4

Registrars of the Court, 30 June 2020

EXECUTIVE			
Name	Title	Location	Appointments
Sia Lagos	Chief Executive Officer and Principal Registrar	Melbourne, VIC	Chief Executive Officer and Principal Registrar, Federal Court of Australia
Scott Tredwell	Acting Deputy Principal Registrar	Brisbane, Qld	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia Deputy Sheriff, Federal Court of Australia Deputy Sheriff, Federal Circuit Court of Australia Deputy Marshal, Federal Circuit Court of Australia
Jessica Der Matossian	Registrar – Digital Practice	Sydney, NSW	Registrar, Federal Court of Australia
Claire Hammerton Cole	Registrar – General Law and Practice	Sydney, NSW	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
PRINCIPAL JUDICIAL REGISTRARS			
Name	Title	Location	Appointments
Paul Farrell	A/g Principal Judicial Registrar and National Operations Registrar	Sydney, NSW	Acting District Registrar (NSW District Registry), Federal Court of Australia Acting District Registrar (ACT District Registry), Federal Court of Australia Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
SENIOR NATIONAL JUDICIAL REGISTRARS			
Name	Title	Location	Appointments
Rowan Davis	Senior National Judicial Registrar – Federal Criminal Jurisdiction	Melbourne, VIC	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Jennifer Priestley	Senior National Judicial Registrar	Sydney, NSW	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia

NATIONAL JUDICIAL REGISTRARS AND DISTRICT REGISTRARS

Name	Title	Location	Appointments
Murray Belcher	National Judicial Registrar and District Registrar	Brisbane, QLD	District Registrar (QLD District Registry), Federal Court of Australia Registrar, Federal Circuit Court of Australia Registrar, Copyright Tribunal of Australia Deputy Registrar, Defence Force Discipline Appeal Tribunal
Nicola Colbran	National Judicial Registrar and District Registrar	Adelaide, SA	District Registrar (SA District Registry), Federal Court of Australia District Registrar (NT District Registry), Federal Court of Australia Registrar, Federal Circuit Court of Australia Deputy Registrar, Australian Competition Tribunal Deputy Registrar, Defence Force Discipline Appeal Tribunal
Tim Luxton	National Judicial Registrar and District Registrar	Melbourne, VIC	District Registrar (VIC District Registry), Federal Court of Australia Registrar, Federal Circuit Court of Australia Registrar, Australian Competition Tribunal Registrar, Defence Force Discipline Appeal Tribunal
Russell Trott	National Judicial Registrar and District Registrar	Perth, WA	District Registrar (WA District Registry), Federal Court of Australia Registrar, Federal Circuit Court of Australia Deputy Registrar, Australian Competition Tribunal Deputy Registrar, Defence Force Discipline Appeal Tribunal
Susie Stone	Judicial Registrar and District Registrar	Hobart, TAS	District Registrar (TAS District Registry), Federal Court of Australia Registrar, Federal Circuit Court of Australia Deputy Registrar, Defence Force Discipline Appeal Tribunal

NATIONAL JUDICIAL REGISTRARS

Name	Title	Location	Appointments
Phillip Allaway	National Judicial Registrar	Melbourne, VIC	Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia Deputy Registrar, Defence Force Discipline Appeal Tribunal
Matthew Benter	National Judicial Registrar	Perth, WA	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Rupert Burns	National Judicial Registrar	Melbourne, VIC	Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Catherine Forbes	National Judicial Registrar	Melbourne, VIC	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Claire Gitsham	National Judicial Registrar	Melbourne, VIC	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Susan O'Connor	National Judicial Registrar	Sydney, NSW	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Katie Stride	National Judicial Registrar – Native Title	Brisbane, Qld	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Tuan Van Le	National Judicial Registrar	Melbourne, VIC	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
David Ryan	National Judicial Registrar	Melbourne, VIC	Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia

JUDICIAL REGISTRARS

Name	Title	Location	Appointments
Michael Buckingham	Judicial Registrar	Brisbane, Qld	Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Elisabeth Bunyan	Judicial Registrar – Native Title	Melbourne, VIC	Registrar, Federal Court of Australia
Suzanne Carlton	Judicial Registrar – Migration	Adelaide, SA	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
James Cho	Judicial Registrar	Sydney, NSW	Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Ann Daniel	Judicial Registrar – Native Title	Perth, WA	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia

JUDICIAL REGISTRARS

Name	Title	Location	Appointments
Alicia Ditton	Judicial Registrar – Federal Criminal Jurisdiction	Sydney, NSW	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Simon Grant	Judicial Registrar – Native Title	Brisbane, Qld	Registrar, Federal Court of Australia
Simon Haag	Judicial Registrar – Migration	Melbourne, VIC	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Kim Lackenby	Judicial Registrar	Canberra, ACT	Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia Deputy Registrar, Defence Force Discipline Appeal Tribunal
Katie Lynch	Judicial Registrar	Brisbane, Qld	Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia Deputy Registrar, Australian Competition Tribunal
Laurelea McGregor	Judicial Registrar – Native Title	Perth, WA	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Thomas Morgan	Judicial Registrar	Sydney, NSW	Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Chuan Ng	Judicial Registrar	Sydney, NSW	Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia Deputy Registrar, Supreme Court of Norfolk Island Deputy Sheriff, Federal Court of Australia
Nicholas Parkyn	Judicial Registrar	Adelaide, SA	Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Geoffrey Segal	Judicial Registrar	Sydney, NSW	Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia Deputy Registrar, Australian Competition Tribunal

NATIONAL REGISTRARS

Name	Title	Location	Appointments
Sophie Bird	National Registrar	Melbourne, VIC	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Adam Bundy	National Registrar	Melbourne, VIC	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Meredith Cridland	National Registrar	Sydney, NSW	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Alison Hird	National Registrar	Melbourne, VIC	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Lauren McCormick	National Registrar	Melbourne, VIC	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Rohan Muscat	National Registrar	Sydney, NSW	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
David Priddle	National Registrar	Melbourne, VIC	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Stephanie Sanders	National Registrar	Melbourne, VIC	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia

Appendix 5

Workload statistics

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

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

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

Casetrack records matters in the Court classified according to 16 main categories, described as 'causes of action' (CoAs). The classification of matters in this way causes an under representation of the workload because it does not include filings of supplementary CoAs (cross appeals and cross claims), interlocutory applications or native title joinder of party applications.

In 2007–08 the Court started to count and report on interlocutory applications (including interim applications and notices of motion) in appellate proceedings in order to provide the most accurate picture possible of the Court's appellate workload. From 2008–09 the Court has counted all forms of this additional workload in both its original and appellate jurisdictions.

Table A5.4 on page 132 provides a breakdown of these matters. At this stage it is not possible to obtain information about finalisations of interlocutory applications (because they are recorded in the Court's case management system as a document filed rather than a specific CoA). Because of this, detailed reporting of these matters has been restricted to the information about appeals in Part 3 and Table A5.4.

The Court began reporting on matters by National Practice Areas (NPAs) in 2015–16. This information can be found in Figure A5.9 onwards.

Table A5.1: Summary of workload statistics – original and appellate jurisdictions – filings of major CoAs (including appellate and related actions)

CAUSE OF ACTION	2015–16	2016–17	2017–18	2018–19	2019–20
Total CoAs (including appeals and related actions)					
Filed	6,001	5,715	5,925	6,034	4,469
Finalised	5,839	5,626	5,580	5,733	4,871
Current	3,092	3,181	3,526	3,827	3,425
Corporations (including appeals and related actions)					
Filed	3,687	3,224	3,024	2,805	1,808
Finalised	3,495	3,387	2,996	2,861	2,106
Current	1,079	916	944	888	590
Bankruptcy (including appeals and related actions)					
Filed	292	353	332	376	384
Finalised	267	326	319	358	363
Current	164	191	204	222	243
Native title (including appeals and related actions)					
Filed	65	71	91	115	56
Finalised	134	95	99	78	88
Current	334	310	302	339	307
Total CoAs (including appeals and related actions excluding corporations, bankruptcy and native title)					
Filed	1,957	2,067	2,478	2,738	2,221
Finalised	1,943	1,818	2,166	2,436	2,314
Current	1,515	1,764	2,076	2,378	2,285

Table A5.2: Summary of workload statistics – excluding appeals and related actions – filings of major CoAs (excluding appeals and related actions)

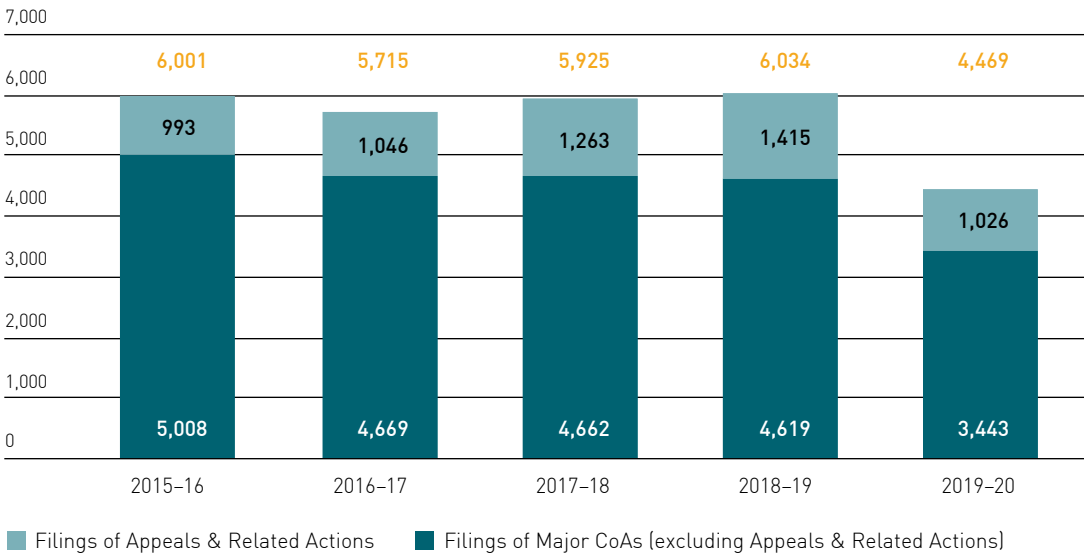
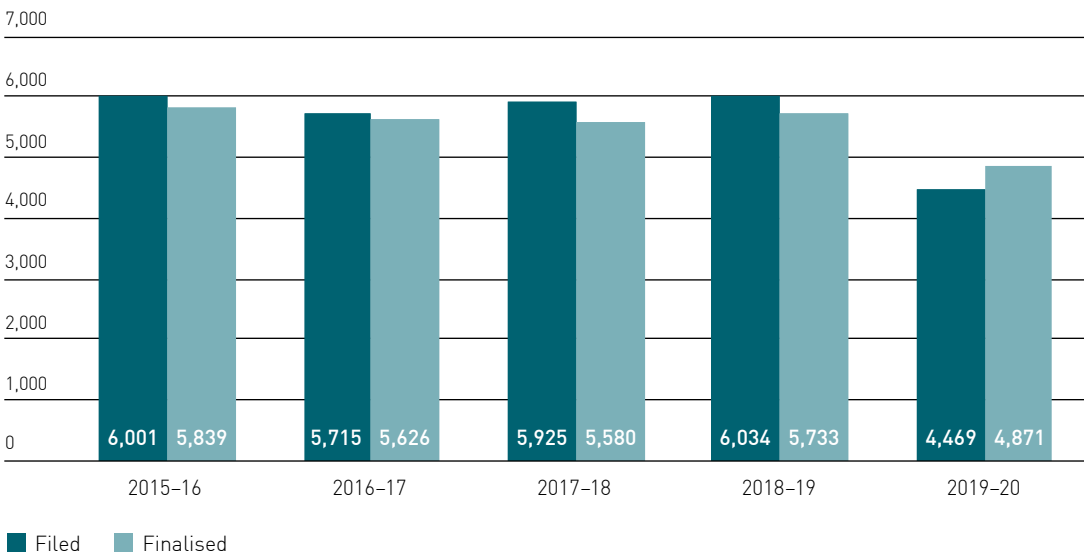
CAUSE OF ACTION	2015–16	2016–17	2017–18	2018–19	2019–20
Total CoAs (excluding appeals and related actions)					
Filed	5,008	4,669	4,662	4,619	3,443
Finalised	4,894	4,759	4,438	4,398	3,753
Current	2,546	2,456	2,860	2,901	2,591
Corporations (excluding appeals and related actions)					
Filed	3,652	3,202	2,989	2,769	1,788
Finalised	3,469	3,362	2,967	2,831	2,066
Current	1,051	891	913	851	573
Bankruptcy (excluding appeals and related actions)					
Filed	231	289	304	342	343
Finalised	223	273	279	323	328
Current	123	139	164	183	198
Native title (excluding appeals and related actions)					
Filed	58	54	78	112	54
Finalised	122	84	81	68	85
Current	326	296	293	337	306
Total CoAs (excluding appeals and related actions and excluding bankruptcy and native title)					
Filed	1,067	1,124	1,291	1,396	1,258
Finalised	1,080	1,040	1,111	1,176	1,274
Current	1,046	1,130	1,310	1,530	1,514

Table A5.3: Summary of workload statistics – appeals and related actions only – filings of appeals and related actions

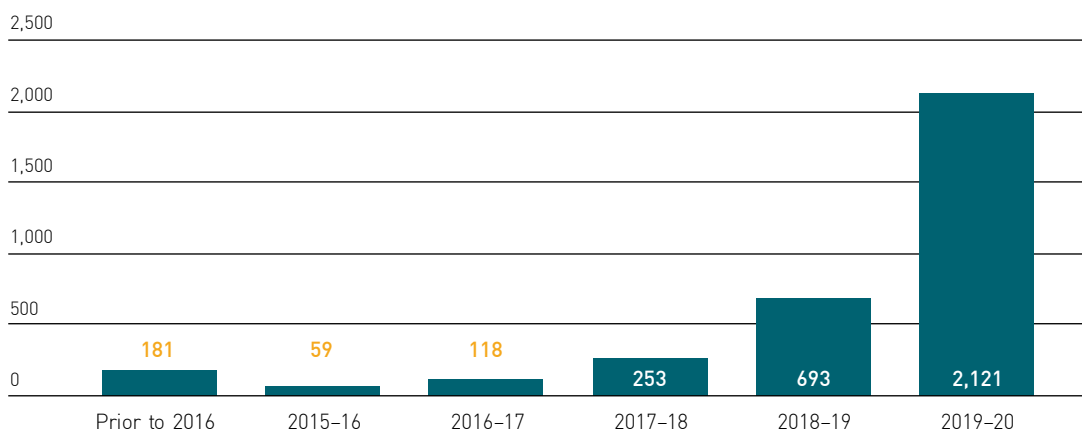
CAUSE OF ACTION	2015–16	2016–17	2017–18	2018–19	2019–20
Total appeals and related actions					
Filed	993	1,046	1,263	1,415	1,026
Finalised	945	867	1,142	1,335	1,118
Current	546	725	846	926	834
Corporations appeals and related actions					
Filed	35	22	35	36	20
Finalised	26	25	29	30	40
Current	28	25	31	37	17
Migration appeals and related actions					
Filed	653	764	1,022	1,139	742
Finalised	680	583	840	1,096	857
Current	280	461	643	686	571
Native title appeals and related actions					
Filed	7	17	13	3	2
Finalised	12	11	18	10	3
Current	8	14	9	2	1
Total appeals and related actions (excluding corporations, migration and native title appeals and related actions)					
Filed	298	243	193	237	262
Finalised	227	248	255	199	218
Current	230	225	163	201	245

Table A5.4: Summary of supplementary workload statistics – filings of supplementary causes of action

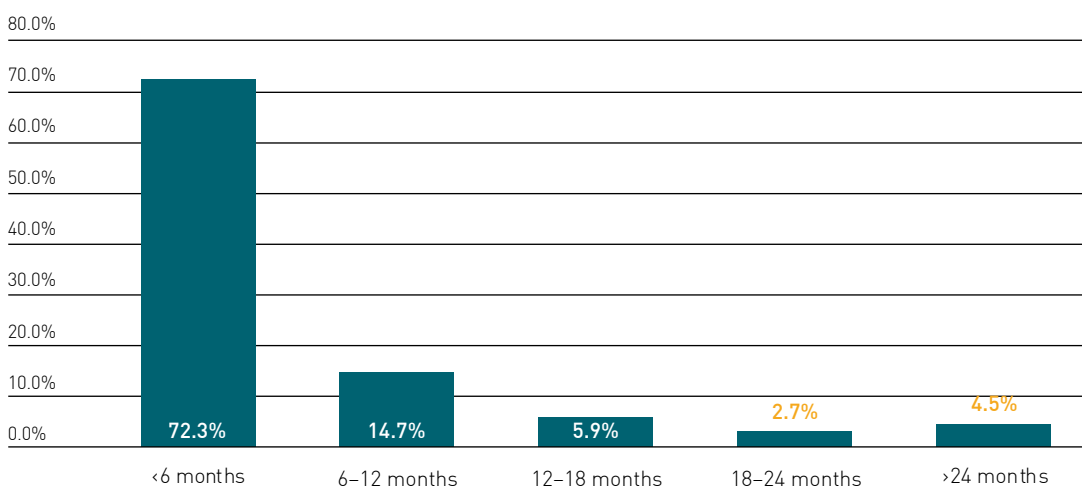
CAUSE OF ACTION	2015–16	2016–17	2017–18	2018–19	2019–20
Total CoAs (excluding appeals and related actions)					
Cross appeals (original jurisdiction)	19	20	17	26	15
Cross claims	135	146	116	148	133
Interlocutory applications	1,722	1,517	1,628	1,778	1,717
Native title joinder of party applications	628	405	982	781	346
Appeals and related actions					
Cross appeals	19	20	17	26	15
Interlocutory applications	192	221	162	166	177
Total actions (including appeals and related actions)					
Cross appeals	19	20	17	26	15
Cross claims	135	146	116	148	133
Interlocutory applications	1,722	1,738	1,790	1,944	1,894
Native title joinder of party applications	628	405	982	781	346
Totals	2,504	2,309	2,905	2,899	2,388

Figure A5.1: Matters filed over the last five years**Figure A5.2: Matters filed and finalised over the last five years**

The number finalised refers to those matters finalised in the relevant financial year, regardless of when they were originally filed.

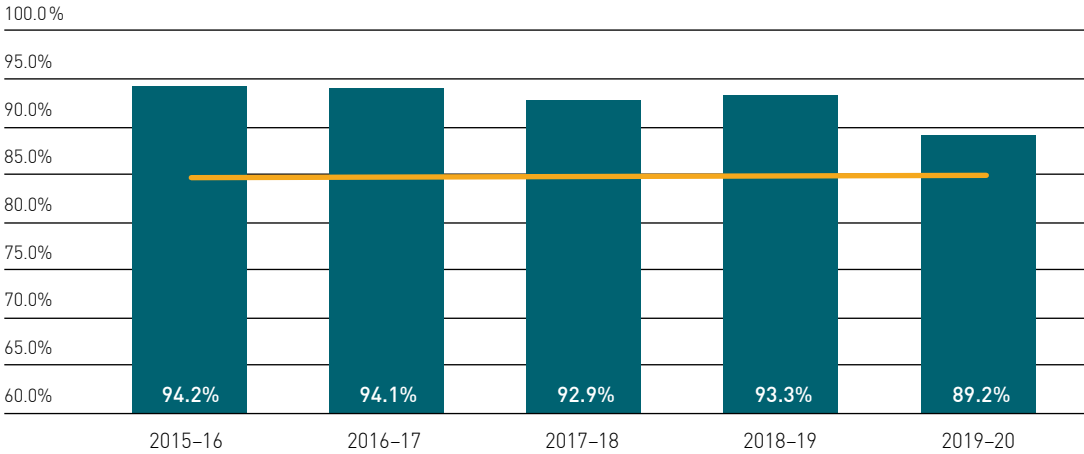
Figure A5.3: Age and number of current matters at 30 June 2020

A total of 3,425 matters remain current at 30 June 2020. There were 181 applications still current relating to periods before 2015, of which 306 matters are native title matters (9 per cent).

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

A total of 27,155 matters were completed during the five-year period ending 30 June 2020, excluding native title matters. The time span, from filing to disposition of these matters, is shown in Figure A5.4.

Figure A5.5: Time span to complete against the 85 per cent benchmark (excluding native title) over the last five years



The Court has a benchmark of 85 per cent of cases (excluding native title) being completed within 18 months of commencement. Figure A5.5 sets out the Court's performance against this time goal over the last five years. The total number of matters (including appeals but excluding native title) completed for each of the last five years and the time spans for completion are shown in Table A5.5.

Table A5.5: Finalisation of major CoAs in accordance with 85 per cent benchmark (including appeals and related actions and excluding native title matters) over the last five years

PERCENTAGE COMPLETED	2015-16	2016-17	2017-18	2018-19	2019-20
Under 18 months	5,384	5,216	5,108	5,285	4,271
Percentage of total	94.2%	94.1%	93.3%	93.3%	89.2%
Over 18 months	333	326	391	380	515
Percentage of total	5.8%	5.9%	7.1%	6.7%	10.8%
Total CoAs	5,717	5,542	5,499	5,665	4,786

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

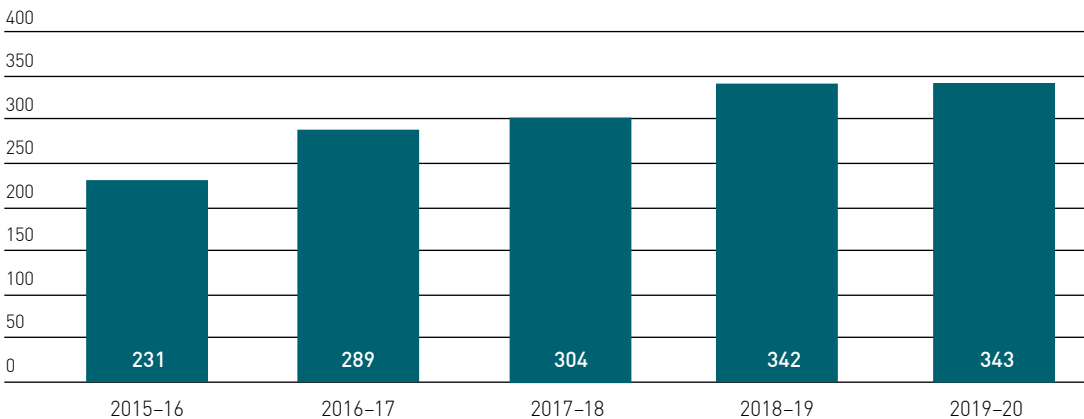


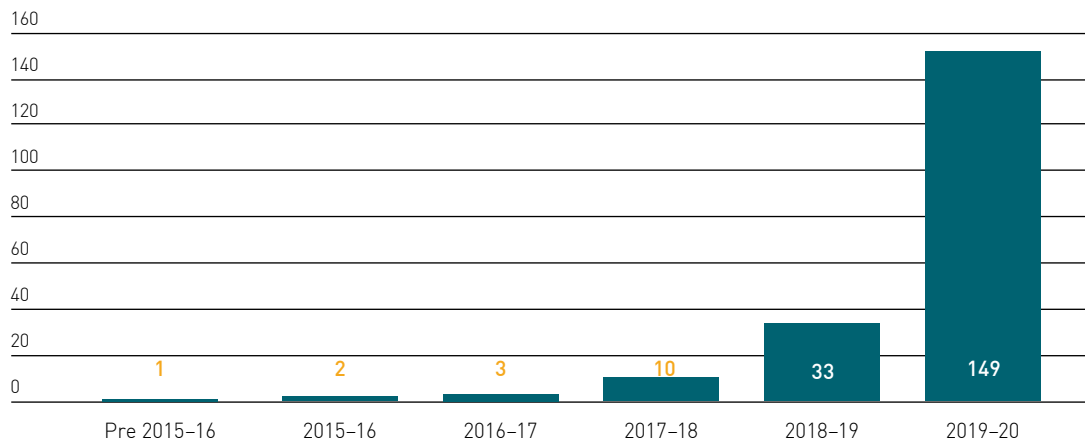
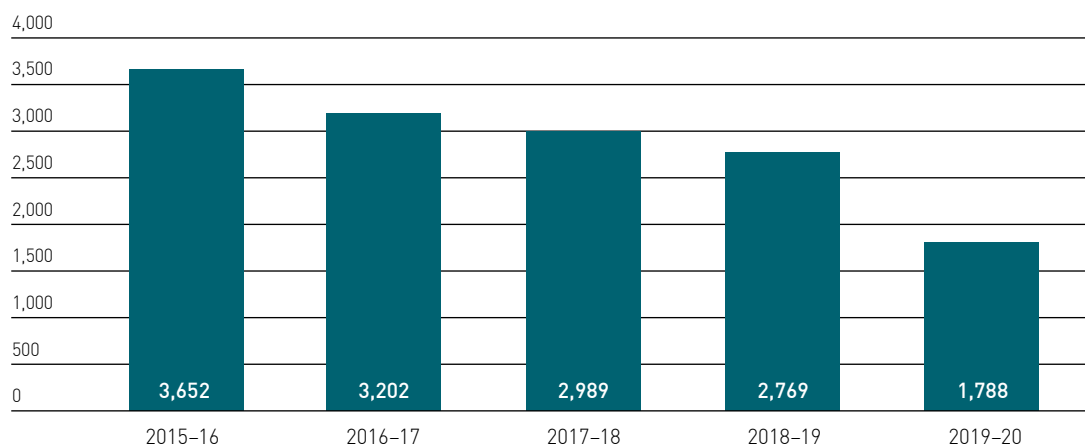
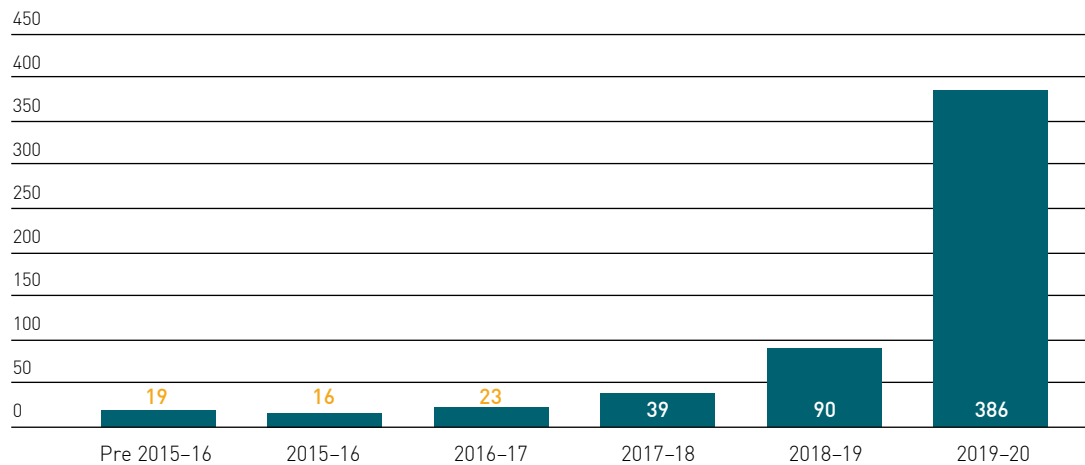
Figure A5.6.1: Current Bankruptcy Act matters (excluding appeals) by year of filing**Figure A5.7: Corporation Act matters (excluding appeals) filed over the last five years****Figure A5.7.1: Current corporation matters (excluding appeals) by year of filing**

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

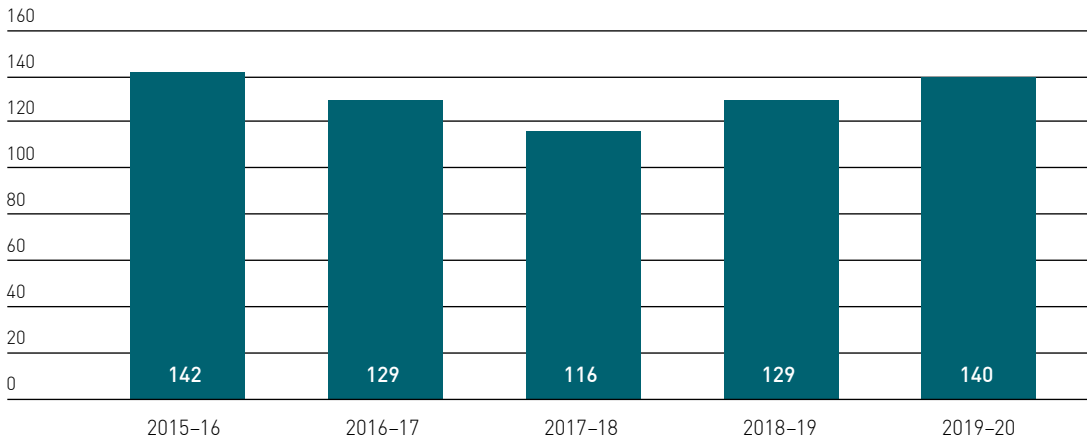
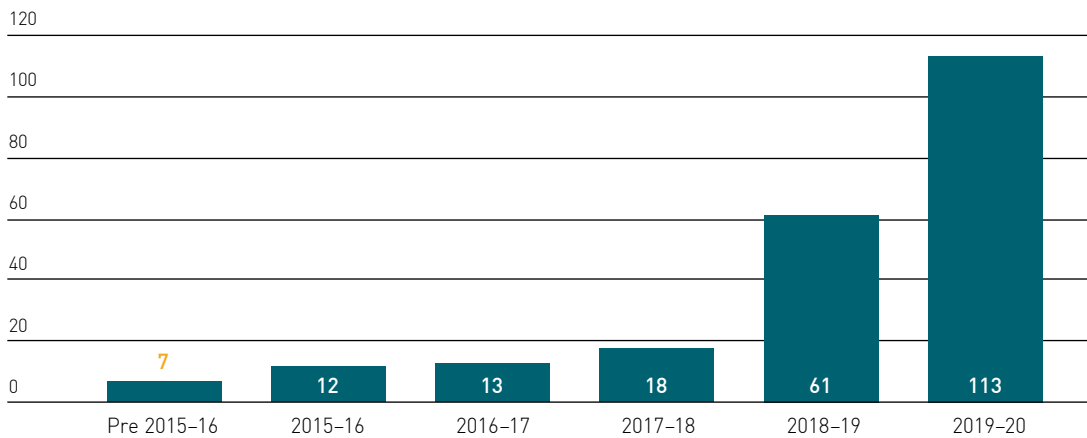


Figure A5.8.1: Current consumer law matters (excluding competition law and appeals) by year of filing



National Court framework

Figure A5.9: Filings, finalisations and pending

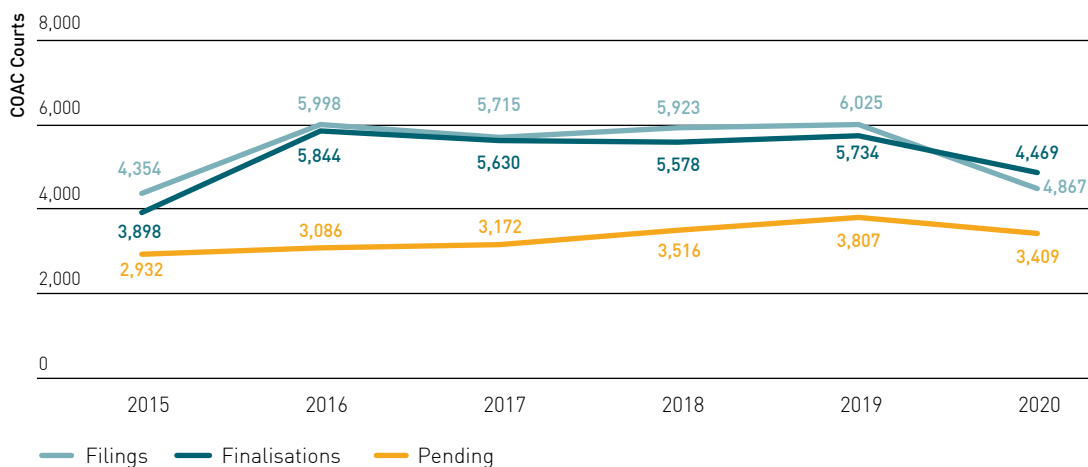


Figure A5.9.1: All filings, finalisations and pending by Administrative and Constitutional Law and Human Rights National Practice Areas (NPA)

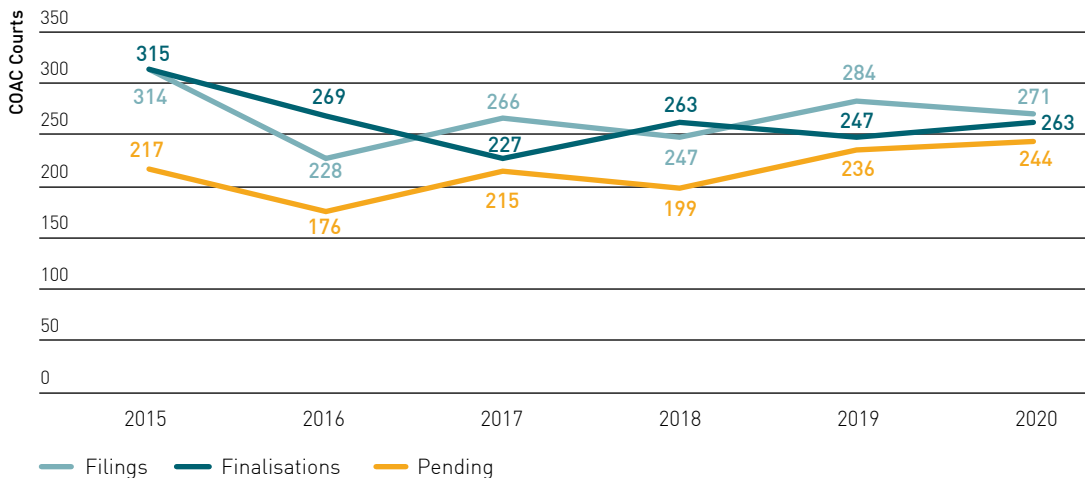


Figure A5.9.2: All filings, finalisation and pending by Admiralty and Maritime NPA

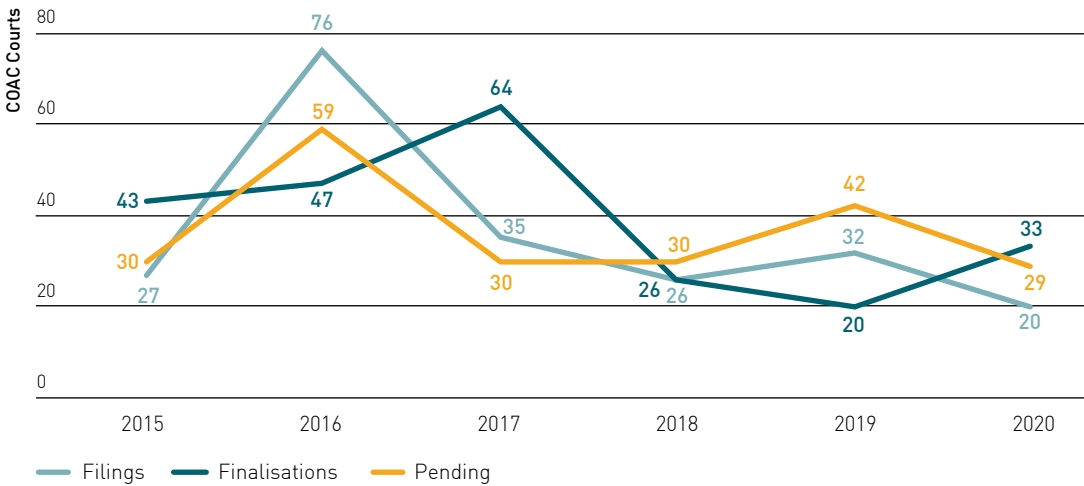


Figure A5.9.3: All filings, finalisation and pending by Commercial and Corporations NPA

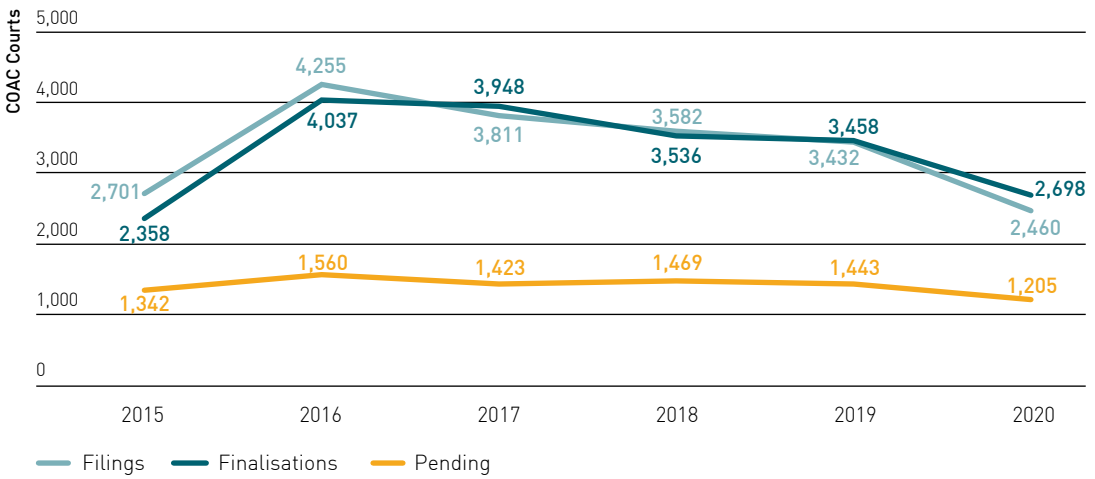


Figure A5.9.4: All filings, finalisation and pending by Employment and Industrial Relations NPA

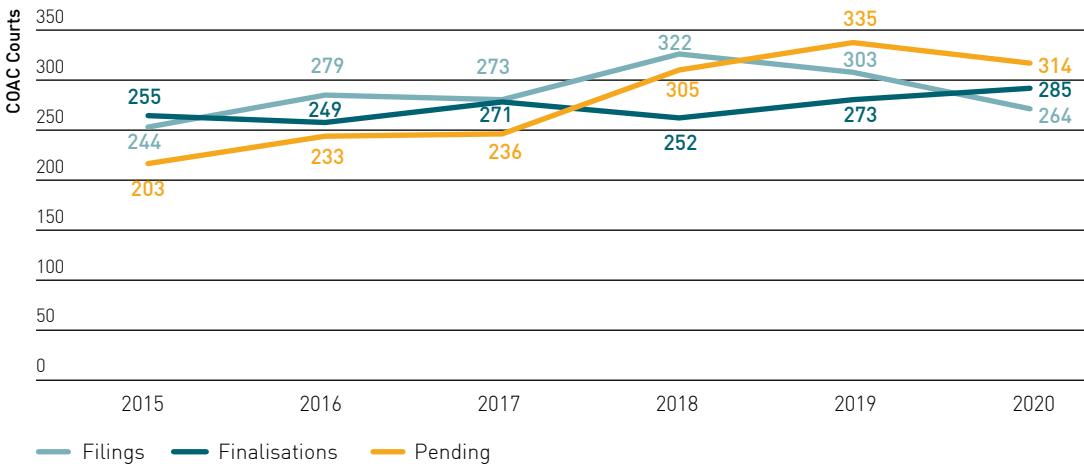


Figure A5.9.5: All filings, finalisation and pending by Intellectual Property NPA

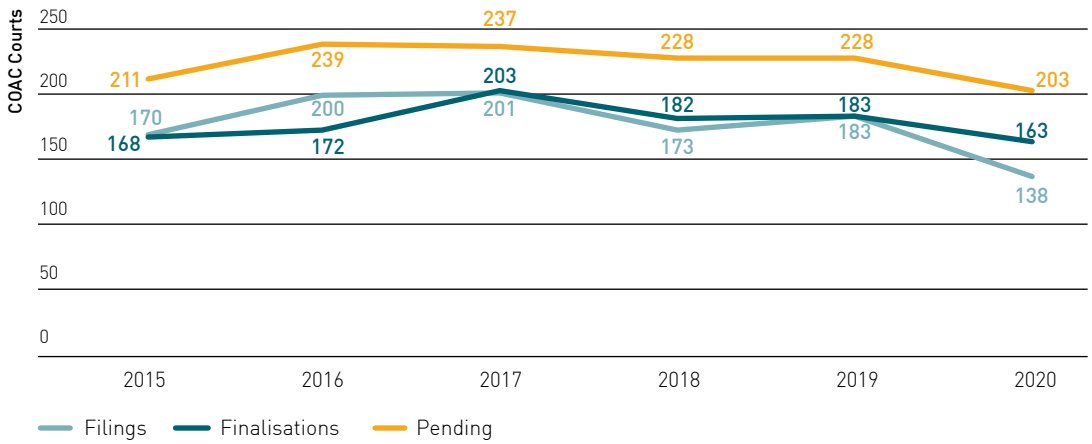


Figure A5.9.6: All filings, finalisation and pending by Native Title NPA

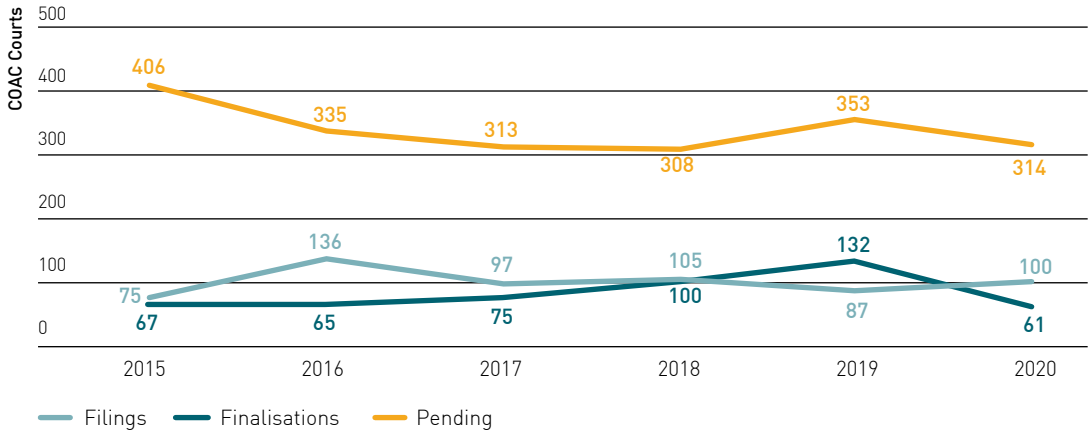
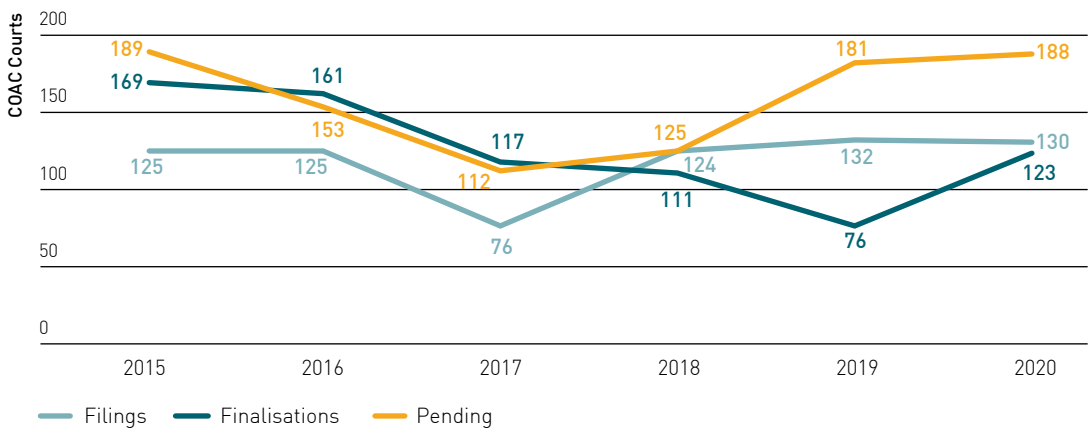


Figure A5.9.7: All filings, finalisation and pending by Taxation NPA



In 2016–17 the Court introduced two new NPAs: Other Federal Jurisdiction NPA and Federal Crime and Related Proceedings NPA.

Figure A5.9.8: All filings, finalisations and pending, Other Federal Jurisdiction NPA

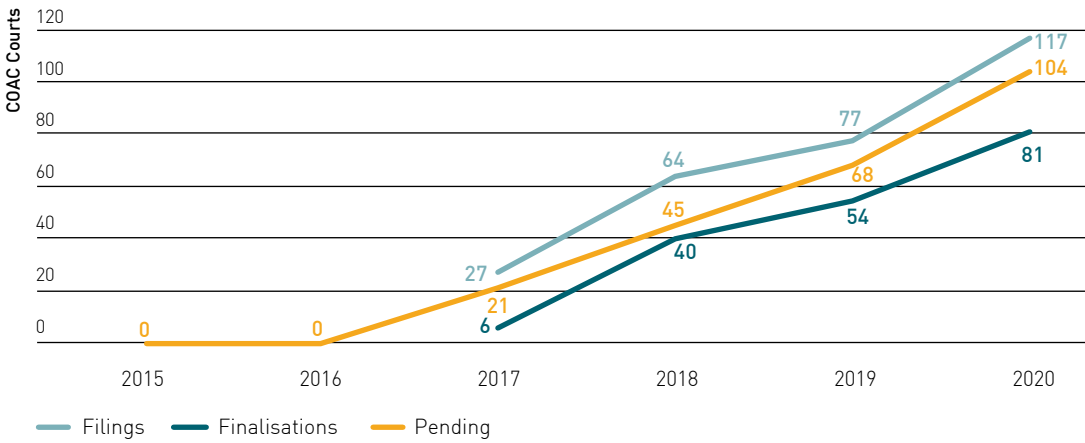


Figure A5.9.9: All filings, finalisations and pending, Federal Crime and Related Proceeding NPA

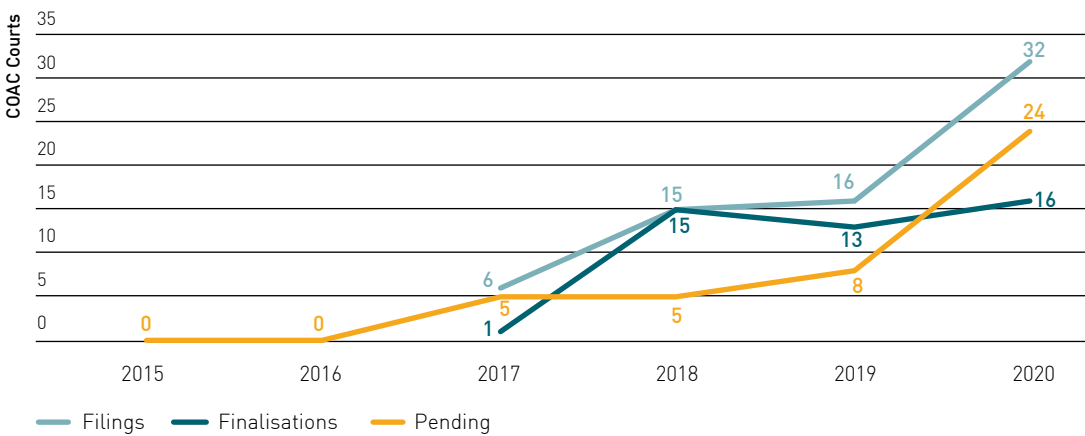
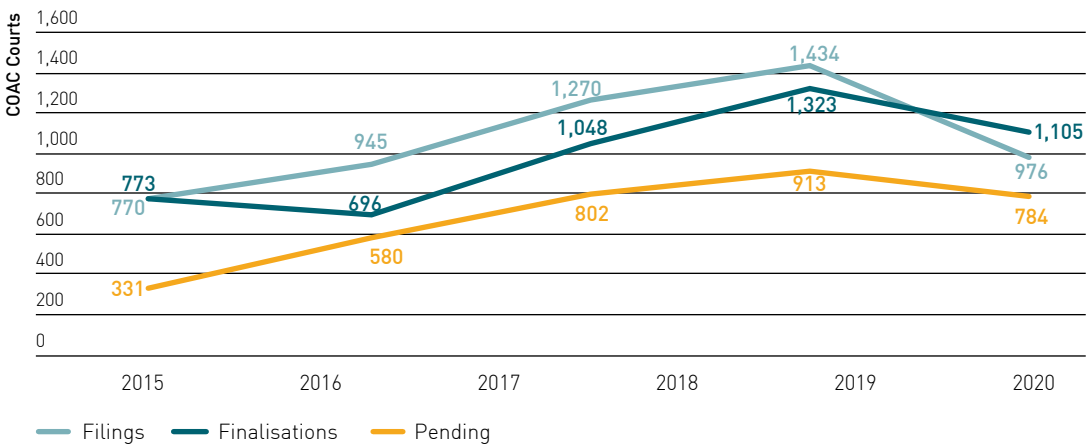


Figure A5.9.10: All filings, finalisation and pending, Migration NPA



Appendix 6

Work of tribunals

Australian Competition Tribunal

Functions and powers

The Australian Competition Tribunal was established under the *Trade Practices Act 1965* and continues under the *Competition and Consumer Act 2010* (the 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 clearances for company mergers and acquisitions
- review of determinations by the ACCC in relation to the granting or revocation of authorisations that permit conduct and arrangements that would otherwise be prohibited under the Act for being anti-competitive
- review of decisions by the Minister or the ACCC in relation to allowing third parties to have access to the services of essential facilities of national significance
- review of determinations by the ACCC in relation to notices issued under s 93 of the Act in relation to exclusive dealing, and
- review of certain decisions of the ACCC and the Minister in relation to international liner cargo shipping.

The Tribunal can also hear a range of other, less common, applications arising under the Act. The Tribunal can affirm, set aside or vary the decision under review.

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 (the Regulations), within the discretion of the Tribunal. The Regulations set out some procedural requirements in relation to the making and hearing of review applications. Other procedural requirements are set out in the Tribunal's most recent 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 s 31 of the Act, a presidential member must be a judge of a Federal Court, other than the High Court or a court of an external territory.

Justice John Middleton is the President of the Tribunal. Justice Michael O'Bryan was appointed as a Deputy President of the Tribunal during the reporting year, joining Justice Andrew Greenwood, Justice Lindsay Foster, Justice David Yates, Justice Alan Robertson, Justice Kathleen Farrell and Justice Jennifer Davies.

Ms Diana Eilert and Dr Jill Walker were appointed as members of the Tribunal during the reporting year, joining Dr Darryn Abraham, Professor Kevin Davis and Professor Caron Beaton-Wells. Rodney Shogren retired as a member during the reporting year.

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

Activities

Two matters were current at the start of the reporting year. During the year, one matter was commenced and two matters were finalised.

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

Decisions of interest

- Application by Port of Newcastle Operations Pty Ltd [2019] ACompT 1 (30 October 2019)

Copyright Tribunal

Functions and powers

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

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*, 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. Justice Andrew Greenwood is the President of the Tribunal. Justice Nye Perram and Justice Jayne Jagot are Deputy Presidents. The current members of the Tribunal are Dr Rhonda Smith (reappointed from 12 December 2017), Mr Charles Alexander (appointed from 30 November 2017), Ms Sarah Leslie (appointed from 1 March 2018) and Ms Michelle Groves (appointed from 16 April 2018). Appointments are usually for a period of five years.

The Registrar of the Tribunal is an officer of the Federal Court. Murray Belcher was appointed Registrar of the Tribunal on 16 August 2018.

Activities and cases of interest

No new matters were commenced in the Tribunal during the reporting period.

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

- CT2 of 2017* – *Meltwater Australia Pty Ltd v Copyright Agency Limited*, being an application brought under s 157(3) of the *Copyright Act 1968*, filed on 28 November 2017.
- CT1 of 2018* – *Streem Pty Ltd v Copyright Agency Limited*, being a further application brought under s 157(3) of the *Copyright Act 1968*, filed on 21 May 2018.
- CT2 of 2018* – *Isentia Pty Ltd v Copyright Agency Limited*, being a further application brought under s 157(3) of the *Copyright Act 1968*, filed on 20 June 2018.
- CT4 of 2018 – *Copyright Agency Limited v Universities listed in Schedule B*, being an application brought under s 113P and s 153A of the *Copyright Act 1968*, filed on 12 November 2018.

*These matters are currently being heard together.

The following matters were finalised during the reporting period:

- CT1 of 2012 – *Reference by Phonographic Performance Company of Australia Limited*.
- CT1 of 2017 – *Copyright Agency Limited v State of New South Wales*.

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) (the Act). Pursuant to s 20 of the Act, a convicted person or a prescribed acquitted person may bring an appeal to the Tribunal against his or her conviction or prescribed acquittal. Such appeals to the Tribunal lie from decisions of courts martial and of Defence Force magistrates.

Practice and procedure

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

Membership and staff

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

The President of the Tribunal is Justice John Logan RFD. The Deputy President is Justice Paul Brereton AM RFD. The other members of the Tribunal are Justice Melissa Perry and Justice Peter Barr. There was no change to the composition of the Tribunal during the reporting year. One vacancy in the Tribunal's establishment remains unfilled. Because of the absence of new filings, that vacancy has not affected the operations of the Tribunal.

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

Activities

One matter was current at the start of the reporting year. That matter was finalised during the reporting year. No new matters were filed. The Tribunal held a brief hearing in Brisbane on 25 September 2019 to publish a decision and related reasons in respect of an outstanding costs issue in respect of an earlier appeal.

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

Appendix 7

Decisions of interest

Administrative and Constitutional Law and Human Rights NPA

Secretary, Department of Education and Training v Simpson Networks Pty Ltd t/as Melbourne School Holiday Club [2019] FCAFC 239 (23 December 2019, Greenwood, Yates and Colvin JJ)

The respondent (MSHC) was an approved child care provider that operated a care programme for at risk and vulnerable children during school holidays. The programme was offered between 8am and 6pm, with care also provided from 6pm until 8am at no charge. MSHC's approval as a child care provider was cancelled immediately following the 2017 winter vacation. In respect of the 2017 winter vacation, MSHC claimed that it was entitled to child care benefits by way of fee reduction for 146 children of \$1,490,892.

A delegate of the Secretary found that MSHC was not entitled to child care benefits by way of fee reduction. Eligibility for child care benefits depended on an individual incurring liability to pay for care. The delegate concluded MSHC's hourly fees were so much higher than the average vacation care fees for Victoria that no one would agree to pay such extraordinarily high fees across a week and no individual had incurred a genuine liability to do so. The delegate considered that MSHC appeared to be deliberately inflating its fees to attract high rates of child care benefits.

The Federal Circuit Court set aside the delegate's decision upon an application by MSHC for judicial review. The primary judge found that MSHC did not have a contractual right to charge its full fees, but that individuals were still liable to pay reasonable fees for the care provided on the basis of a quantum meruit. The primary judge found it was unreasonable, and unfair for the delegate to find that MSHC should not receive any benefit at all for its provision of child care services.

The Full Court found that in an application for judicial review the question was whether there had been reviewable error by the delegate, not whether a different conclusion should have been reached. The Full Court found the primary judge was in error in reaching his own conclusion as to whether there was liability to pay. Furthermore, if there was no liability to pay, a nil benefit was the proper outcome and the delegate's decision could not be said to be unreasonable on that basis.

MSHC submitted the reviewable error was that the delegate failed to take into account a mandatory consideration, namely the actual arrangements between individuals and MSHC in respect of each child. As the legislation required a weekly calculation for each child, the Full Court found it was unlikely that in each case it was mandatory to consider the details of the arrangement made with each individual. No such mandatory consideration could be discerned from the statute. The Full Court found the actual arrangements were not a mandatory consideration, but were merely factual matters to be considered where relevant in determining whether there was a liability to pay.

Administrative and Constitutional Law and Human Rights NPA

Makasa v Minister for Immigration and Border Protection [2020] FCAFC 22 (28 February 2020, Allsop CJ, Kenny, Besanko, Bromwich and Banks-Smith JJ)

Mr Makasa, a citizen of Zambia, arrived in Australia in 2001 when he was 18 years old. Following a number of convictions for assault, driving offences and sexual offences in 2005, 2007 and 2009, a delegate of the Minister cancelled Mr Makasa's visa. In 2013, the cancellation decision was set aside by the Tribunal. In 2017, Mr Makasa was convicted of a summary offence and fined \$300. Later that year he was disqualified from driving for 12 months and fined after being convicted on a charge of drink driving. These events led to the Minister deciding to personally cancel Mr Makasa's visa.

Before the primary judge, Mr Makasa contended that the visa cancellation power was not available for exercise in relation to the same person on the same facts and circumstances, where the original exercise of power resulted in a decision not to cancel a person's visa, but accepted that he would be unsuccessful if the Minister had relied upon his more recent offending in 2017 in exercising the visa cancellation power. The primary judge was of the view that the Minister did take into account the 2017 offences as forming the basis for his decision to cancel Mr Makasa's visa.

The hearing of this appeal coincided with the resumed hearing of an appeal in another matter, *Brown v Minister for Home Affairs* [2018] FCA 1722. The two appeals gave rise to the following question: whether the Minister can re-exercise the discretion conferred by s 501(2) of the *Migration Act 1958* (Cth) to cancel a person's visa where the Tribunal has set aside a delegate's decision to cancel the visa under s 501(2) and decided instead not to cancel the visa; and if so, whether the Minister can rely on the very same facts to enliven the discretion in s 501(2) as the Tribunal did on review?

By majority, the Full Court allowed the appeal and ordered Mr Makasa to be released from immigration detention. Whether or not the cancellation power could be re-exercised involved a process of statutory construction. Allsop CJ, Kenny and Banks-Smith JJ found it was open to the Minister, acting personally, to set aside the decision of the Tribunal and substitute his own decision, but not to re-exercise his discretion to cancel Mr Makasa's visa, relying on the same 2009 convictions as the Tribunal to enliven the power.

Besanko J delivered minority reasons, finding that in circumstances where the intermediate conclusions of the Tribunal and the Minister were similar, the inference should be drawn that the Minister failed to treat the decision of the Tribunal as a relevant consideration of great importance and this constituted jurisdictional error.

Bromwich J, in dissent, found that there was no re-exercise of the cancellation power, as the Tribunal had previously decided not to exercise the cancellation power. Bromwich J found the Minister's exercise of the cancellation power in 2017 was lawful because it was not unreasonable for the Minister to consider that the new drink driving conviction was a material change or difference.

An appeal is currently pending in the High Court of Australia, special leave having been granted on 12 June 2020.

Admiralty and Maritime NPA

Neptune Hospitality Pty Ltd v Ozmen Entertainment Pty Ltd [2020] FCAFC 47 (19 March 2020, McKerracher, Markovic and Anastassiou JJ)

Neptune and Kanki entered into a joint venture agreement (the agreement) to operate a hospitality and entertainment business aboard the vessel, Seadeck. Seadeck was owned by Ozmen, and Neptune and Kanki took possession pursuant to a charter agreement (the charter agreement). Although the parties anticipated large profits, the business was not ultimately successful.

On 11 July 2017, Kanki served a breach notice (the notice) under the agreement, requiring certain breaches be remedied by Neptune. Kanki subsequently relied on the alleged unremedied breaches as the basis for its entitlement to terminate the agreement. In turn, Ozmen claimed that the termination of the agreement enabled it to validly terminate the charter agreement. Neptune disputed any relief sought by Kanki and Ozmen, claiming that both had unclean hands.

At first instance, the primary judge rejected that Neptune had acted in breach of its fiduciary duty. However, the primary judge found that Neptune failed to provide requested financial information, failed to provide information regarding the catering arrangements for the business, and proceeded to unilaterally relocate Seadeck, in breach of the agreement. The primary judge held that the agreement was validly terminated, and concluded that Ozmen would have to give a ship's mortgage over Seadeck to secure any obligations owing by either Ozmen or Kanki to Neptune, following an investigation into the finances of the joint venture business.

On appeal, the Full Court broadly agreed with the primary judge's conclusions, noting that his reasoning was 'compelling'. The Full Court noted that the primary judge considered, but rightly rejected, Neptune's arguments as to Kanki's alleged breach of its duty to act in good faith. The Full Court also rejected that Kanki's notice did not strictly comply with formal requirements of the notice, where it found that Neptune's

conduct indicated it understood its obligations under the notice. The Full Court further found that it was open to the primary judge to draw inferences in Kanki's favour. It disagreed that the finding that Neptune sought to relocate Seadeck, in breach of the agreement, was 'glaringly improbable'. However, contrary to the primary judge's conclusions, the Full Court found that the obligation to provide financial information did not extend to BAS statements.

As the primary judge was correct on the substantive issues, the Full Court held that the orders at first instance ought not to be disturbed.

Commercial and Corporations NPA | Corporations and Corporate Insolvency Sub-area

Bellamy's Australia Limited v Basil [2019] FCAFC 147 [23 August 2019, Murphy, Gleeson and Lee JJ]

Bellamy's Australia Limited (Bellamy's) is the respondent in two competing class actions. Bellamy's sought orders capping the costs that could be recovered by the applicants in those class actions to only a single set of costs between both proceedings, or alternatively imposing quantum caps of approximately \$4.5 million in total.

The primary judge refused to make the orders sought, noting that quantum caps could not yet be adequately assessed, should be mutual, and could operate unfairly to group members. The primary judge found it was preferable to deal with costs questions retrospectively and in the interim to leave in place a case management protocol designed to reduce or minimise costs duplication and inefficiency.

In its application for leave to appeal, Bellamy's did not press for quantum caps, but sought that any costs be agreed or assessed on the basis that the applicants are treated as being represented by one set of counsel and one firm of solicitors in the one proceeding.

The Full Court found that, supposing the primary judge's interlocutory decision to be wrong, substantial injustice would not result if leave was refused. This was because the issue of an adverse costs order against Bellamy's might never arise and, even if it did, a range of procedural options would be available to Bellamy's to protect its position.

If costs were taxed, a taxing officer would not allow costs incurred or increased through unreasonableness or any other unnecessary expense. Bellamy's could also seek an order that any unreasonably incurred costs be disallowed or directing an inquiry as to whether any costs have been so incurred. If the class actions settled, the Court would only allow the deduction of fair and reasonable costs from the settlement sum. This would include consideration as to whether costs were duplicative or excessive. Bellamy's could also retrospectively make an application before the primary judge to limit its adverse costs exposure. The Full Court agreed there was no compelling reason to deal with costs prospectively and now.

The Full Court also found that the primary judge's decision was not attended with sufficient doubt to warrant its reconsideration on appeal. Although the undesirability of multiple class actions for the one alleged wrong and the desirability of avoiding duplication of costs was obvious, the Australian class actions regime recognised the possibility of multiple class actions and did not mandate that the respondent will only face one proceeding or one set of adverse legal costs.

The Full Court said docket judges have considerable latitude in fashioning solutions to deal with multiplicity of class actions. The Full Court found the primary judge exercised his discretion by reference only to considerations relevant to its exercise and upon facts connected with the litigation with which his Honour was dealing. The Full Court respectfully agreed with the pragmatic approach adopted by the primary judge, and dismissed Bellamy's application for leave to appeal.

Commercial and Corporations NPA | Corporations and Corporate Insolvency Sub-area

Shafston Avenue Construction Pty Ltd v McCann [2020] FCAFC 85 [22 May 2020, Farrell, Davies and Moshinsky JJ]

The appellants claimed to be creditors of the third respondent, a joint venture company incorporated to engage in construction projects in Queensland (the joint venture company). Shareholders in the joint venture company were China Railway Construction Group Co Ltd (China Rail) and Rimfire Constructions Pty Ltd.

Each of the shareholder companies entered into a deed of covenant (deed of covenant), by which each shareholder company agreed to pay a certain amount to the joint venture company, in the event that the joint venture company were wound up.

In November 2017, Mr McCann and Mr Jahani were appointed jointly and severally as the administrators of the joint venture company, and in March 2018, the joint venture company entered into a deed of company arrangement (the DOCA).

The appellants applied to terminate the DOCA, and for orders that the joint venture company be wound up. The appellants argued that the DOCA was unfairly prejudicial to them and the other creditors, in addition to being contrary to public policy because it excluded any investigations into insolvent trading by the joint venture company directors. Reeves J, as the primary judge, determined that the DOCA should not be terminated, and found there was not a likely prospect of the creditors of the joint venture company receiving a better outcome in liquidation. Reeves J noted that there would be some risk in attempting to enforce the China Rail deed of covenant as China Rail had indicated it intended to defend any such proceedings on the basis that the deed of covenant was unenforceable. Reeves J also noted potential difficulties with enforcing any judgment obtained, where China Rail lacked any significant assets within Australia.

The appellants appealed from the orders of the primary judge, refusing to terminate the DOCA, to the Full Court. The Full Court rejected the appellants' contention that the primary judge had erred in finding there was not a likely prospect of the creditors receiving a better outcome in the liquidation of the joint venture company. The Full Court noted that the primary judge found that there was a realistic prospect of obtaining an Australian judgment against China Rail, and held that it was open to the primary judge to accept Messrs McCann and Jahani's 'high-end' estimate of a 75 per cent recovery rate under the deed of covenant. The Full Court held that the primary judge correctly identified that the appellants' submissions assumed a 100 per cent recovery under the deed of covenant, while the estimate of 75 per cent took into account the risks of litigation against China Rail.

The Full Court also considered whether the primary judge had erred in the exercise of his discretion not to terminate the DOCA. The Full Court held that the appellants' submissions did not establish any error in the *House v The King* (1936) 55 CLR 499 sense. Finally, the Full Court held that, while the possibility of an insolvent trading claim was a relevant consideration, it was open to the primary judge to discount its significance in the circumstances. Accordingly, the appeal was dismissed.

Commercial and Corporations NPA | Corporations and Corporate Insolvency Sub-area

Zoetis Australia Pty Ltd v Abbott [2019] FCAFC 153 (30 August 2019, Allsop CJ, Perram and Beach JJ)

Zoetis Australia Pty Ltd (Zoetis) distributed an equine vaccine for the Hendra virus. Ms Abbott, a stockwoman, alleged that her horses suffered serious side effects from the Hendra virus vaccine which caused them to lose value and become unsuitable for their occupational use. Ms Abbott commenced a representative proceeding on behalf of an open class of horse owners whose horses allegedly suffered side effects from the use of the vaccine. Ms Abbott's legal representatives were acting on a 'no win no fee' basis and had not been successful at securing litigation funding.

Zoetis sought security for costs or alternatively an order for the collection of information concerning the financial capacity of group members to contribute to an amount to be provided as security. It was not in dispute that Ms Abbott did not have the financial capacity to provide the amount of the security sought.

Considerations that weighed in favour of granting security included that the proceeding had been pleaded and prosecuted in a substandard fashion, that Zoetis was not likely to be able to recover its costs from Ms Abbott, that at least some of the group members were likely to have sufficient assets in order to raise the security sought and that there was a real and not insignificant risk of injustice to Zoetis.

Considerations that weighed against granting security included that there was a prima facie arguable case, that the individual claims of each group member were likely to be modest in value, that Zoetis could not realistically expect to obtain

an order for security in individual cases brought by such claimants, and that group members were generally entitled to play a passive role while the claims of the lead claimant and common issues were determined.

The primary judge considered that the discretionary factors weighed against ordering security for costs. The primary judge also found that a costly and time consuming interrogation of the financial position of a very large number of group members was not appropriate.

The primary judge considered the broader desirable policy outcome of not putting in place obstacles to the ability of claimants to self-fund class action proceedings.

The Full Court unanimously refused leave to appeal, finding the reasons of the primary judge were not attended by sufficient or, indeed, any real doubt as to the proper undertaking of the principal task. The essence of the complaint made by Zoetis was that the primary judge had failed to balance the considerations said to be required by prior authority. Allsop CJ explained that the prior authority did not lay down exhaustive general principles or particular principles as to how to approach security for costs applications in class actions. Allsop CJ found there was no basis to think that the primary judge failed to undertake the appropriate balancing and take into account the potential prejudice to Zoetis in making the order that he did. Perram and Beach JJ agreed with the reasons given by the Chief Justice.

Commercial and Corporations NPA | Economic Regulator, Competition and Access Sub-area

Australian Competition and Consumer Commission v Pacific National Pty Limited [2020] FCAFC 77 [6 May 2020, Middleton, Perram and O’Byran JJ]

The Full Court found that Pacific National, the dominant firm in the interstate intermodal rail haulage market, was not prohibited by s 50 of the *Competition and Consumer Act 2010* (Cth) from acquiring the Acacia Ridge terminal in Queensland from Aurizon.

The Acacia Ridge terminal connects to the standard gauge interstate rail network and to Queensland’s narrow gauge rail network and includes intermodal facilities for moving containers between road and rail transport.

The Australian Competition and Consumer Commission (ACCC) identified the terminal as a ‘bottleneck’ asset and sought to restrain its acquisition by Pacific National on the basis that ownership would enable Pacific National to deny access to the terminal and thereby raise barriers to entry to the interstate intermodal rail haulage market. The primary judge accepted an access undertaking from Pacific National in relation to the terminal and, on the basis of the undertaking, concluded that the acquisition would not raise barriers to entry and would not contravene s 50. The primary judge also found that, in the absence of the undertaking, the acquisition would raise barriers to entry and thereby substantially lessen competition in contravention of s 50.

The ACCC appealed, arguing that the primary judge did not have power to accept the undertaking or erred in doing so. Pacific National and Aurizon cross appealed, arguing that the primary judge erred in relation to market definition, erred in construing the word ‘likely’ as meaning real chance (rather than more probable than not) and erred in concluding that, in the absence of the undertaking, the acquisition would raise barriers to entry and thereby substantially lessen competition in contravention of s 50.

The Full Court upheld the cross-appeals on the third ground, but rejected the other two grounds.

On the first ground, the Full Court concluded that the primary judge did not err in relation to market definition. It was open to the primary judge to find that a subset of Pacific National’s customers, namely ‘captive’ customers whose freight needs could not be switched to road or sea, formed a relevant market. It was not necessary for the primary judge to find that captive customers could be identified with a high degree of accuracy. It was sufficient that Pacific National knew enough to be able to engage in price discrimination.

On the second ground, the Full Court concluded that the primary judge did not err by construing the word ‘likely’ as meaning ‘real commercial likelihood’.

On the third ground, the Full Court concluded, on the basis of the factual findings made by the primary judge, that the acquisition would not be likely to substantially lessen competition because barriers to entry were already high and there was no realistic prospect of new entry before a new competing rail terminal was built.

Upholding the cross-appeals required the dismissal of the ACCC's appeal and rendered the ACCC's grounds of appeal moot. Nevertheless, the Full Court addressed the ACCC's grounds. All members of the Full Court agreed that the primary judge erred in reasoning that the access undertaking was relevant in determining whether the acquisition would contravene s 50 and concluded that the power to accept an undertaking only arose once a finding of contravention had been made. Nevertheless, a majority of the Full Court (Middleton and O'Bryan JJ) concluded that, if the acquisition had contravened s 50, it would have been open to the primary judge to accept the access undertaking in lieu of injunctive or other relief, and the acceptance of the undertaking was not beyond power.

An application for special leave to appeal is currently pending in the High Court of Australia.

Commercial and Corporations NPA / General and Personal Insolvency Sub-area

Le v Scott as trustee of the property of Chanh Tam Le, a Bankrupt [2020] FCAFC 12 (18 February 2020, Kerr, Anastassiou and Anderson JJ)

The main issue in contention in this appeal was the true ownership of a property located in Sunshine West, Victoria (the property).

In 2015, the respondent was appointed the trustee of the bankrupt estate of the appellant (the trustee). The trustee brought an application seeking declarations and orders for the possession and sale of the property, on the basis that the appellant, together with the second respondent, his wife, held an interest in the property. The trustee alleged that although the certificate of title for the property showed the registered proprietors as Tam Chanh Le and the second respondent, the appellant, Chanh Tam Le, and the registered proprietor, Tam Chanh Le, were in fact the one and the same person. The trustee's application proceeded undefended in the proceedings below, and was granted by the primary judge.

On appeal, the appellant submitted that the registered proprietor, Tam Chanh Le, was in fact the appellant's brother, since deceased. The Full Court received fresh evidence, including documents purporting to be birth and death certificates for Tam Chanh Le.

The Full Court considered that, as a result of the fresh evidence, the question of whether the appellant is the one and the same person as Tam Chanh Le remained a live question. In reaching this conclusion, the Full Court noted a statutory declaration purportedly made by Tam Chanh Le in 2016, certifying his interest in the property.

The Full Court allowed the appeal on a limited basis, and made orders remitting the matter for hearing and determination of whether the appellant is, or was at the relevant time, the joint proprietor of the property.

Commercial and Corporations NPA / Regulator and Consumer Protection Sub-area

Gill v Ethicon Sàrl (No 5) [2019] FCA 1905 (21 November 2019, Katzmann J)

Mrs Gill, Mrs Dawson and Mrs Sanders brought a representative action under Pt IVA of the *Federal Court of Australia Act 1976* (Cth) on behalf of Australian women who suffered debilitating complications as a result of transvaginal implantation of one or more of nine synthetic pelvic mesh devices designed to alleviate stress urinary incontinence or pelvic organ prolapse. Ethicon Sàrl and Ethicon Inc. are Swiss and American manufacturers which supplied the devices to Johnson & Johnson Medical Pty Limited for promotion and supply to the Australian market for over two decades. The trial of this matter was large and complex, taking place between July 2017 and February 2018.

Katzmann J found that all nine devices failed to meet the standards of safety patients were generally entitled to expect and that accordingly, each device had a defect within the meaning of the *Trade Practices Act 1974* (Cth) or the *Australian Consumer Law* and were unfit for purpose and not of merchantable quality. Primary regard was had to the admittedly clinically significant risks of complication, lack of or inadequate warnings about those risks and misleading marketing material. One such finding was that in order to secure

inclusion of the devices on the Australian Register of Therapeutic Goods, the devices were marked with the 'CE' logo, a certification which signifies compliance with the requirements for sale in the European Union, in circumstances where the devices did not in fact meet such requirements. Katzmann J found that based on the representations made in instructions for use and marketing material, the respondents engaged in misleading or deceptive conduct. Ethicon Sàrl, Ethicon Inc and Johnson & Johnson Medical Pty Limited were found jointly and severally liable to compensate the representative applicants and any group members who suffered injury as a result of the defects, unless the action was statute-barred and the limitation period not extended.

Katzmann J found that Ethicon Sàrl and Ethicon Inc had a duty of care in the design, testing and evaluation of the devices and, along with Johnson & Johnson, a continuing duty of care in supplying and marketing devices. Katzmann J accepted that both the pre-market and post-market evaluations of safety and efficacy were deficient and insufficient to discharge the duty of care. It was held that but for the failure to warn of the potential complications and extent of evaluation, each representative applicant would not have consented to implantation. The evidence established that the associated risks were not insignificant, were foreseeable, and could result in serious harm. The fact that medical practitioners also owe a duty of care to their patients did not absolve the respondents of their duties to take reasonable care to provide accurate information about the performance and safety of the devices to the applicants or group members.

The representative applicants were awarded a combined \$2.6 million in common law damages and Katzmann J granted injunctive relief preventing the supply, distribution and marketing of those devices still on the market without specified information about the adverse events which may result from the implantation of the devices.

An appeal from this judgment is expected to be heard by a Full Court in early 2021.

Commercial and Corporations NPA | Regulator and Consumer Protection Sub-area

Kraft Foods Group Brands LLC v Bega Cheese Limited [2020] FCAFC 65 (14 April 2020, Foster, Moshinsky and O'Bryan JJ)

Kraft Foods Group Brands LLC and H.J. Heinz Company Australia Ltd (together, Kraft) are subsidiaries of Kraft Heinz Company. Kraft peanut butter has been available for purchase in Australia since 1935. By 2007, Kraft Foods Limited (KFL), an Australian company, was selling peanut butter in 'a jar with a yellow lid and a yellow label with a blue or red peanut device, the jar having a brown appearance when filled' (the peanut butter trade dress or PBTd). In 2012, KFL's parent company, Kraft Foods Inc, effected a corporate restructure in which two independent public companies were created to deal with its global snacks business and North American grocery business.

In 2017, Bega acquired the peanut butter business of KFL (later renamed Mondelez Australia (Foods) Ltd (MAFL)) under a sale and purchase agreement including its assets, recipes and goodwill and thereafter commenced manufacturing and selling Bega branded peanut butter using the PBTd. From April 2018, Kraft commenced production of peanut butter in Australia using a new formula with packaging that closely resembled the PBTd but supermarkets refused to stock its product because of potential customer confusion. Bega now accounts for 80 per cent of the peanut butter market in Australia.

Kraft sought declarations that it was entitled to use the PBTd and that Bega had engaged in misleading or deceptive conduct in contravention of the *Australian Consumer Law*, or passing off, through use of the PBTd and other trade marks, and in respect of its advertising campaign. Bega counter-claimed on similar grounds.

The primary judge found that the assignment or licensing of an unregistered trade mark is not possible without assignment of the underlying goodwill of the business, so that Bega acquired the PBTd when it purchased the peanut butter business from MAFL, including its assets and goodwill. After considering various licensing agreements, the primary judge concluded that

Kraft had not established that KFL had used the PBDT as a mere licensee; and, to the extent that a master trademark agreement purported to assign the goodwill associated with the PBDT to an upstream entity, that assignment was ineffective as a matter of Australian law. It followed that Bega was entitled to use the PBDT and had not misled customers; instead, Kraft had engaged in misleading and deceptive conduct, and passing off, through its use of the PBDT.

On appeal, Kraft's principal contentions related to the proper construction of the restructure documents. The Full Court rejected Kraft's contention that, on the true construction of the documents, viewed in their commercial context, the rights relating to the PBDT were allocated to the North American grocery business, GroceryCo. Kraft also contended that, as a matter of law, it is possible to assign an unregistered trade mark without also assigning the underlying goodwill. The Full Court rejected this contention, holding that it did not represent Australian law. The Full Court dismissed the appeal. The Full Court also dismissed Bega's cross-appeal to the finding that it had infringed a trade mark by use of the Kraft hexagon logo on its shippers.

An application for special leave to appeal is currently pending in the High Court of Australia.

Employment and Industrial Relations *NPA*

Bianco Walling Pty Ltd v Construction, Forestry, Maritime, Mining and Energy Union [2020] FCAFC 50 (24 March 2020, Flick, White and Perry JJ)

Bianco Walling Pty Ltd (Bianco) is engaged in the construction industry in South Australia. Its business has changed and enlarged over the years so that it ceased its original business of bricklaying and started manufacturing pre-cast concrete panels. Bianco acquired other businesses over time, which produced civil construction products including T-beams and drainage products. From 2006, Bianco had three divisions: the Pre-Cast Division, the Structural Division and the Civil Division.

In November 2017, Bianco applied to the Fair Work Commission (FWC) under s 217 of the *Fair Work Act 2009* (Cth) to vary clause 1.2 of the *Bianco Walling Pty Ltd (Gepps Cross Site)*

Enterprise Agreement 2016 (EA) by deleting the words 'concrete manufacturing operations' and replacing them with the words 'Pre-Cast Division'. Under that provision, the FWC may vary an enterprise agreement 'to remove an ambiguity or uncertainty'.

A Deputy President of the FWC considered evidence of the circumstances surrounding the making of the EA, including predecessor agreements, and accepted that Bianco had objectively established the common intention of Bianco and its employees that clause 1.2 apply only to employees in its Pre-Cast Division. However, in interpreting the EA, the Deputy President considered he could only have regard to this evidence if the ordinary and plain meaning of the words 'concrete manufacturing operations' were uncertain or ambiguous. Having found they were not, the Deputy President dismissed the application.

The Full Bench of the FWC granted permission to appeal but found no error in the findings, approach and conclusion of the Deputy President, and dismissed the appeal.

Bianco filed an originating application in the Federal Court under s 39B of the *Judiciary Act 1903* (Cth), which was heard and determined by a Full Court.

The Full Court found the FWC was wrong in approaching the matter as though it was required to interpret the EA to discharge its function under s 217, as distinct from determining whether ambiguity or uncertainty existed. In performing its functions, the FWC is obliged to take into account 'equity, good conscience and the merits of the matter' under s 578 and is not bound by the rules of evidence and procedure. The Full Court found that, far from being precluded from having regard to evidence of the parties' common intention and the history of clause 1.2 of the EA, the FWC was permitted to have regard to them.

The Full Court found that the Deputy President and the Full Bench of the FWC had committed jurisdictional error by misunderstanding the nature of the FWC's jurisdiction under s 217 and the task required of it. It issued a writ of certiorari quashing the decisions of the FWC and a writ of mandamus compelling the FWC to exercise its jurisdiction in accordance with law.

Employment and Industrial Relations NPA

Construction, Forestry, Maritime, Mining and Energy Union v Australian Building and Construction Commissioner [2019] FCAFC 201 (15 November 2019, Bromberg, Wheelahan and Snaden JJ)

On 5 and 6 June 2017, Mr Hassett, an employee of the CFMMEU, entered a construction site in Devonport, Tasmania to investigate suspected contraventions of the *Work Health and Safety Act 2012* (Tas). Whilst in attendance he climbed on a crane while it was in operation, refused a request of the site occupier to get off the crane, used insulting language and engaged in abusive behaviour.

Mr Hassett and the CFMMEU admitted to contravening s 499 of the *Fair Work Act 2009* (Cth) (FW Act) by Mr Hassett failing to comply with the site occupier's reasonable occupational and safety request to get off the crane, and s 500 of the FW Act by Mr Hassett acting in an improper manner. The primary judge imposed penalties against Mr Hassett and the CFMMEU in respect of both the s 499 contraventions and the s 500 contraventions.

On appeal, the CFMMEU argued that the primary judge had erred in construing the civil double jeopardy provision in s 556 of the FW Act that provides: 'If a person is ordered to pay a pecuniary penalty under a civil remedy provision in relation to particular conduct, the person is not liable to be ordered to pay a pecuniary penalty under some other provision of a law of the Commonwealth in relation to that conduct.' The CFMMEU contended that because Mr Hassett's conduct that established the s 499 contravention was also an element of the s 500 contravention, only one penalty could be imposed on each of the CFMMEU and Mr Hassett in relation to that 'particular conduct'.

The Full Court found that the primary judge had construed 'particular conduct' in s 556 to mean the whole of the conduct the subject of a contravention and pecuniary penalty, and had erred in concluding s 556 was not engaged because the conduct relevant to the s 500 contravention was more expansive than the conduct the subject of the s 499 contravention.

The Full Court found 'particular conduct' refers to the act or omission that the wrongdoer actually did to constitute the particular contravention. In this case, Mr Hassett's refusal to get down from the crane was conduct relied upon for each contravention and once a pecuniary penalty had been imposed in respect of the s 500 contravention, s 556 operated to preclude the imposition of an additional penalty under s 499 in relation to the same conduct.

The Full Court allowed the appeal and set aside the penalties relating to the s 499 contraventions.

Federal Crime and Related Proceedings NPA

The Country Care Group Pty Ltd v Commonwealth Director of Public Prosecutions [2020] FCAFC 30 (6 March 2020, Allsop CJ, Wigney and Abraham JJ)

In 2010, The Country Care Group Pty Ltd won a tender to provide 'assistive technology products', such as wheelchairs and specialised furniture designed for the elderly and people with disabilities, to eligible beneficiaries under a rehabilitation program managed by the Department of Veterans' Affairs. Country Care's managing director, Mr Hogan, developed a nationwide network of subcontractors to supply these products at the prices agreed to between Country Care and the Department.

The prosecution alleged, by the first three charges of the indictment, that Country Care and Mr Hogan attempted to induce members of the network to contravene a cartel offence (s 44ZZRF(1) of the *Competition and Consumer Act 2010* (Cth) (the Act)) by making an arrangement or arriving at an understanding between and amongst members containing a cartel provision (s 44ZZRD(1) of the Act) that they would not advertise for sale goods at a price lower than the contracted price. Mr Harrison, a former employee, was charged with aiding, abetting, counselling or procuring the attempt by Mr Hogan. Country Care's challenge to those charges was dismissed by the trial judge.

The question for the Full Court was whether the first three charges were oppressive or unfair and should be severed and stayed because they would inevitably require the trial judge to give impossible or oppressively complex directions for two of the

four elements of the charges; the conduct and circumstance elements. The accused submitted that given the charges were particularised such that there were potentially thousands of 'pathways' to guilt, the trial judge would be required to give the jury directions as to those many pathways and as to the need for unanimity as to any particular pathway or pathways before finding the accused guilty.

Between the hearing of the interlocutory application and the appeal, and at the appeal, the prosecution continued to refine and confine its case in a way that significantly reduced the complexity of the charges. The Full Court found that it was not possible and indeed wrong to rule out the need for any extended unanimity direction because the necessity of any direction ultimately depends upon the evidence and conduct of the trial. However, as to the conduct element and certain aspects of the circumstance element, it was unlikely there would be a need for extended unanimity directions and in any event, if there was, they would not be so complex as to justify severance or stay. Accordingly, the appeal was dismissed.

This is the first time an Australian corporation and individuals have been prosecuted under the criminal cartel provisions of the Act.

Intellectual Property NPA | Copyright Sub-area

Chhabra v McPherson as Trustee for the McPherson Practice Trust [2019] FCAFC 228 (13 December 2019, Greenwood, Charlesworth and Burley JJ)

The respondents are partners in a law firm that joined the Kaden Boriss international law firm network in 2013. The firm used the Kaden Boriss logos until October 2017. The appellants claimed that the first appellant, Mr Lal, was the sole owner of the copyright in those logos, that the respondents used these pursuant to a bare licence revocable at will, and that this licence had been revoked by January 2017. The appellants sought damages for copyright infringement.

The primary judge found that the original owner of the relevant copyright was the company engaged to create the logos, Pulse. A confirmatory deed made in 2017 retrospectively assigned copyright in the logos from Pulse to Mr Lal jointly with another co-owner, Mr Barta. The primary judge found the respondents had a contractual licence to use the logos for the purpose of signifying their firm's participation in the Kaden Boriss network and this licence could not be withdrawn without just cause or, perhaps, reasonable notice. The primary judge found there was no effective revocation of the respondents' licence.

The Full Court agreed with the primary judge that there had not been an assignment of copyright from Mr Barta to Mr Lal, so as to make him the sole owner. The Full Court said general assertions about the right to use a brand were not sufficient, as 'brand' most naturally referred to the common law trade mark. In any event, the Full Court found that the statutory requirements for an assignment of future copyright were not met, as Mr Barta was not the 'owner of the copyright on its coming into existence'. The confirmatory deed was not made until some six years after the copyright came into existence and only had retrospective effect to some months after the copyright came into existence.

The Full Court found it was open to the primary judge to find that the licence was a contractual one and this made it necessary to identify the conditions of revocation in accordance with ordinary contractual principles. Even if the revocation term identified by the primary judge went beyond what was argued at trial by either party, no miscarriage of justice was shown.

The Full Court found the primary judge did not err by finding that Mr Barta did not consent to the revocation, nor by leaving undecided the question of whether Mr Lal as co-owner of the copyright could revoke the respondents' licence without Mr Barta's consent. The alleged acts of revocation were not in accordance with the contractual terms of the licence as found by the primary judge, including because no reasonable notice had been given. In the circumstances, any error in the obiter remarks of the primary judge in considering whether a bare licence was revocable at will was found by the Full Court to not be material to the outcome.

Intellectual Property NPA | Patents and Associated Statutes Sub-area

Commissioner of Patents v Rokt Pte Ltd [2020] FCAFC 86 [21 May 2020, Rares, Nicholas and Burley JJ]

In 2016 and 2017, the Commissioner of Patents determined that Rokt Pte Ltd's claimed invention relating to digital advertising systems and methods was not a patentable invention. The claimed purpose of the invention was to enhance consumer engagement with online advertising by presenting an intermediate 'engagement offer' (e.g a survey or free game, which may be referred to as 'click-bait') targeted to a consumer using a data-based scoring algorithm based on real-time assessment of consumer behaviour and attributes. The primary purpose of the offer was not to sell a product, but to encourage the user positively to engage with the offer, and then be taken on an 'engagement journey' that would lead to targeted advertisements.

The primary judge heard the application *de novo* and found that the resolution lay 'largely in the realm of facts'. Accepting the evidence of one expert, Professor Verspoor, the primary judge found the substance of the invention was the introduction of an 'engagement offer' providing an alternative advertising technique to previous systems. This was found to be an improvement in computer technology such that the use of computers was integral to the invention; a solution to the technical problem of how to address the business problem of attracting consumer attention; and an integration of known components into a single system in an innovative and previously unknown way. The primary judge concluded the claimed invention was a 'manner of manufacture' within the meaning of s 18(1)(a) of the *Patents Act 1990* [Cth] and should proceed to grant.

The Full Court found that by characterising the problem as one that lay in the realm of facts, and adopting the evidence of Professor Verspoor in order to resolve it, the primary judge erred by failing to address the question of the proper characterisation of the invention according to the authorities. The Full Court reiterated that characterisation is a matter of law based on the construction of the specification, which may be assisted by expert evidence, but which evidence is limited to placing the Court in the position of a

person acquainted with the state of the art as at the priority date.

As to the proper characterisation, the Full Court reiterated that whilst the claim must be read with reference to the body of the specification, the invention is defined by the claims. The relevant question for the court in the case of a computer implemented technology is whether or not the invention properly understood is for a mere scheme that is simply implemented by a computer, or whether it is something more. It is not enough that the claimed invention could not be implemented other than by the use of computers, or that the scheme required bespoke software for its implementation on computer equipment.

The Full Court found that the claim amounted to an instruction to carry out a marketing scheme through well-known and understood functions of computer technology. Accordingly, the invention claimed was not patentable. The appeal was allowed.

An application for special leave to appeal is currently pending in the High Court of Australia.

Intellectual Property NPA | Trade Marks Sub-area

Trident Seafoods Corporation v Trident Foods Pty Ltd [2019] FCAFC 100 [20 June 2019, Reeves, Jagot and Rangiah JJ]

Trident Seafoods is a seafood company headquartered in the United States, and looking to expand into Australia. Trident Foods is a long established Australian company, selling food products with Asian flavours and ingredients. Trident Seafoods sought the removal of two trade marks for the word 'TRIDENT' owned by Trident Foods from the Register of Trade Marks for non-use. The trade marks had been registered for decades, but since about 2000, all sales of food under the marks had been made by the parent company of Trident Foods.

The primary judge found that Trident Foods had not used the marks in Australia during the relevant period because the parent company was not an authorised user of the marks. Nevertheless, the primary judge exercised her discretion to decide that the marks should not be removed, considering arrangements made to authorise the parent company's use,

post non-use period sales, intentions relating to future use and the likelihood of confusion in the minds of consumers.

The Full Court disagreed with the primary judge's conclusion that Trident Foods had not authorised use of the marks by its parent company. Both companies had common directors and the common purpose of enhancing the value of the brand. The Full Court found the concept of mere acquiescence was commercially unrealistic in the circumstances and inferred control of the use of the marks by their owner. The Full Court also found that Trident Seafoods failed to identify any error of the requisite kind to justify appellate intervention in the primary judge's exercise of discretion.

Trident Seafoods also opposed the registration of a new trade mark application made by Trident Foods. Trident Seafoods argued that registration should be blocked by its own trade mark application and because Trident Foods did not intend to use the new mark.

The Full Court exercised its discretion to decide that the Trident Foods application should not be blocked by the Trident Seafoods application for a mark that will never be able to achieve registration and which has not been used in Australia. The Full Court also found that Trident Foods subjectively intended its parent company to be an authorised user of the mark. Given the very low threshold set with regard to intention to use, the Full Court found there were no circumstances that displaced the presumption of Trident Foods' intention to use the mark. The Full Court allowed the appeal by Trident Foods and allowed its new trade mark application to proceed to registration.

Native Title NPA

Fortescue Metals Group v Warrie on behalf of the Yindjibarndi People [2019] FCAFC 177 (18 October 2019, Jagot, Robertson, Griffiths, Mortimer and White JJ)

In 2003, the Court found that the Yindjibarndi People held non-exclusive native title rights over Moses land, an area of the Pilbara in north-western Western Australia. Shortly after, Stanley Warrie, on behalf of the Yindjibarndi People, made an application for the determination of exclusive native title rights over an area immediately south of Moses land, subject to ss 47A and 47B of the *Native Title*

Act 1993 (Cth) (NTA). In 2017, that application was granted. The primary judge found that non-Yindjibarndi people must seek permission to enter and use the land, both to protect country and to protect from adverse spiritual consequences, or risk serious physical punishment for transgression. This was found to be proof of control of access and a right of exclusive possession, contrary to the finding in 2003 that the practice of seeking permission was no more than a matter of respect. Fortescue Metals Group Ltd, which was not party to the Moses land determination, challenged the Warrie determination. The appeal was dismissed in three separate judgments.

By ground 1, the appellants argued that the re-litigation of the issue of exclusive possession by seeking inconsistent determinations was an abuse of process. Jagot and Mortimer JJ considered that members of a claim group are not forever fixed with one description of their 'society', that there was no obligation to bring all claims at once and that findings of fact as to rights and interests over different lands and waters may well differ, even though the same overall normative system is involved. Robertson and Griffiths JJ considered that given the 2003 decision was made in a different era, that is before *Griffiths v Northern Territory* [2007] FCAFC 178 and *Banjima People v State of Western Australia* [2015] FCAFC 84 clarified the relevance of 'spiritual necessity' and the proper focus in assessing evidence pertaining to exclusive possession, the inconsistency in the determinations did not reduce public confidence in the administration of justice nor constitute an abuse of process. For White J, the primary judge erred in concluding that s 13 of the NTA, being the power to revoke or vary a determination, is a statutory exception to the principles of *res judicata*, issue estoppel and abuse of process. Nevertheless, White J found there could be no abuse of process, including because the determinations were not inconsistent given they related to different lands and waters.

Jagot and Mortimer JJ, primarily delivering the Court's reasons with respect to grounds 2 and 3, found that a finding of exclusive possession does not depend upon recognition by non-Aboriginal people, nor the effectiveness of enforcement against non-Aboriginal people and that it was inappropriate to assess exclusive possession by reference to common law proprietary concepts or

decisions made in the context of extinguishment. Their Honours found that the primary judge's approach was consistent with *Griffiths* and *Banjima*, neither of which held that 'spiritual necessity' itself directly gives rise to exclusive possession, but rather that spiritual concepts are enmeshed in traditional law and custom.

Under ground 4, the appellants submitted that spiritual beliefs are irrelevant to the question of occupation under s 47B of the NTA because they do not establish a presence on the land in a 'concrete real world sense'. Robertson and Griffiths JJ, delivering the Court's reasons, considered this argument artificially restricted the question to Anglo-Australian notions removed from the NTA context. Their Honours recognised that evidence of connection to country may be an important and possibly decisive contextual aspect of the assessment of evidence of occupation, however insufficient in and of itself given the questions of connection and occupation are distinct enquiries. Their Honours affirmed that spiritual connection may be relevant to that enquiry and that occupation by assertion of traditional rights and interests is not limited to areas in which Aboriginal people are physically present.

An application for special leave to appeal was refused by the High Court of Australia.

Other Federal Jurisdiction NPA

Jadwan Pty Ltd v Rae & Partners (A Firm) [2020] FCAFC 62 (9 April 2020, Bromwich, O'Callaghan and Wheelahan JJ)

Jadwan Pty Ltd (Jadwan) owned and operated the Derwent Court nursing home. As a Commonwealth approved nursing home, it received subsidies in respect of its 51 approved bed licences. In 1997, Jadwan's approval was revoked and it ceased operations.

Jadwan commenced negligence proceedings. The first to third respondents were law firms, who each employed Mr Wicks, a solicitor who retained carriage of Jadwan's matters as he moved firms. The fourth respondent was a Melbourne-based solicitor. Jadwan claimed that the first to fourth respondents failed to provide competent advice in relation to the withdrawal of Commonwealth approval, thereby depriving Jadwan of its entitlements to its subsidies and capacity to remain registered as an approved

nursing home operator. Jadwan alleged it consequently lost its chance to relocate the nursing home, or alternatively, sell its bed licences. In addition, Jadwan brought proceedings as against the fifth respondent for the alleged loss of opportunity to pursue claims of negligence against Jadwan's former barrister for negligent advice (the barrister).

Jadwan's claims against all respondents were rejected at first instance. The primary judge found that the first respondent's retainer did not extend to legal advice. The primary judge found that Mr Wicks was negligent, when in the employ of the second and third respondents, by reason of his failure to appreciate the consequences of incoming legislation, however, Jadwan did not suffer any loss. This was because of the primary judge's finding that Jadwan had at this stage independently decided not to continue with its nursing home business, and was focused on selling its 51 approved bed licences. The primary judge dismissed the claims as against the fourth respondent, on the ground that the retainer was confined in scope, and as against the fifth respondent, on the ground that even if the barrister had breached his duty, such negligence caused no loss.

The Full Court dismissed an appeal from the primary judge's decision, however, the Full Court disagreed with some of the findings made at first instance. The Full Court concluded that although the first respondent's retainer did in fact require legal skill and that Mr Wicks ought to have exercised reasonable care, Jadwan had not established it would have acted on such advice. The Full Court further considered the primary judge to have erred in finding that Jadwan had decided to 'get out' of operating Derwent Court, finding that the better inference was that Jadwan had been giving serious consideration to ceasing operation and selling its licences but had not made a firm or irrevocable decision as at the relevant date.

Finally, the Full Court disagreed with the primary judge's formulation of the advice a prudent lawyer exercising reasonable care ought to have given. The Full Court accepted that a reasonable solicitor would acquaint themselves with the relevant legislation, and that each of the professionals who provided advice had breached their duties of care. However, the Full Court remained unpersuaded that, had Jadwan been given reasonable advice, that it would have taken

action to challenge the revocation of its approval or progress its plans to relocate the nursing home to different premises. Accordingly, no act or omission of Mr Wicks, the fourth respondent or the barrister resulted in the damage alleged by Jadwan, and the appeal was dismissed.

An application for special leave to appeal is currently pending in the High Court of Australia.

Taxation NPA

Burton v Commissioner of Taxation [2019] FCAFC 141 (22 August 2019, Logan, Steward and Jackson JJ)

Mr Burton, an Australian resident, realised capital gains from his US investments in the 2011 and 2012 income years. In the US, Mr Burton paid tax on the majority of these gains at a concessional rate of 15 per cent, and on the remainder at the ordinary rate of 35 per cent. In Australia, the gains were taxed at ordinary rates, but Mr Burton was able to apply a 50 per cent discount to the amount of the gains included in his assessable income. In his Australian returns, Mr Burton sought to claim the US tax he paid either as a foreign income tax offset under domestic law or as a foreign tax credit under the applicable tax treaty.

In the objection decision, the Commissioner of Taxation decided that Mr Burton could only claim half of the US tax he paid against his discounted capital gain. The primary judge dismissed Mr Burton's appeal, finding that 50 per cent of the capital gains made by Mr Burton were not included in his assessable income in Australia, such that only half of the US tax was paid in respect of amounts included in Mr Burton's assessable income in Australia. The primary judge found the terms of the applicable treaty were not inconsistent with this conclusion. By majority, the Full Court agreed with the primary judge.

The Full Court was unanimous in finding that Mr Burton was only entitled to a foreign income tax offset under domestic law for half of the tax he paid in the US. Logan J found it was fatal to the success of Mr Burton's claim that an offset was only available for foreign tax paid 'in respect of an amount that is all or part of an amount included in your assessable income'. Only half of the US tax paid by Mr Burton was in respect of amounts included in his assessable income under Australian tax law. According to Steward J, one first had to identify what was included in assessable income, and then what foreign tax had been paid on that sum. Jackson J agreed with the reasons of both Logan J and Steward J.

The majority of the Full Court also found Mr Burton was not entitled to a credit under the treaty for foreign tax paid on income that was not included in his assessable income in Australia. According to Steward J, because the treaty allowed for a credit by Australia against tax payable, the starting point was the identification of what income Australia taxed. Allowing a credit for US tax paid on income never brought to tax in Australia would go beyond what was required to provide relief from double taxation. Jackson J found the outcome under domestic law was consistent with the general principles expressed in relation to foreign tax credits in the treaty.

Logan J, in dissent, found the amount of the foreign tax credits provided for by the treaty was equivalent to the amount of US tax paid by Mr Burton in respect of the gains he derived from US sources. The mechanism for the computation of Australian taxation in respect of those gains, including the availability of the 50 per cent capital gains tax discount under domestic law, could not alter the amount of Mr Burton's entitlement under the treaty.

An application for special leave to appeal was refused by the High Court of Australia.

Appendix 8

Judges' activities 2019–20

Chief Justice Allsop

Chief Justice Allsop is:

- an Honorary Bencher of the Middle Temple
- a Member of the American Law Institute
- a Fellow of the Australian Academy of Law
- President of Francis Forbes Society for Australian Legal History
- Patron of the Australian Insurance Law Association
- Chair of ACICA Judicial Liaison Committee 2019
- a Member on the Asian Business Law Institute Board of Governors representing the Australian Judiciary

DATE	ACTIVITY
18 July 2019	Attended legal symposium on The Uluru Statement from the Heart: Constitutional Recognition of the Voice with the Hon AM Gleeson AC at Gilbert & Tobin Sydney office.
23 July 2019	Chaired second event in 2019 of the International Arbitration Series, a joint initiative of the CI Arb Australia and the Federal Court entitled 'Multiple Dimensions of Complex Arbitrations' held in Ceremonial Court 1 in Sydney.
24 July 2019	Attended and presided over 2019 Aboriginal and Torres Strait Islander Students' Final Moot Competition at Federal Court Brisbane. Presented the trophy to the winner.
25 July 2019	Telephone conference with SIFoCC International Working Group: on International Best Practice in Case Management.
31 July 2019	Attended book launch: <i>Jesting Pilate</i> by the Rt Hon Sir Owen Dixon, 3 rd Edition in Banco Court, Supreme Court, Sydney.
5 August 2019	Attended The Mason Conversation, a series named in honour of Sir Anthony Mason AC KBE GBM. The Hon Michael McHugh AC QC speaking. Held in Banco Court, Supreme Court, Sydney.
15 August 2019	Attended CI Arb Arbitration Australia seminar entitled 'Party Appointed Experts in International Arbitration: Asset or Liability?', guest speaker Professor Doug Jones AO at Level Twenty Seven Chambers, Brisbane.
20 August 2019	Attended Federation Press book launch of Victor Windeyer's 'Legacy Legal and Military Papers', edited by Bruce Debelle AO QC in Banco Court, Supreme Court, Sydney.
21 August 2019	Attended book launch at Sydney Law School: 'Free Will and the Law: New Perspectives', authors Dr Allan McCay, The University of Sydney and Dr Michael Sevel.
23 August 2019	Attended Judges and the Academy seminar at Monash Law Chambers The Hon Stephen Gageler with Andrew Lynch presenting the topic 'The quantity and quality of justice'.

DATE	ACTIVITY
27 August 2019	Chaired presentation by Dr Elisabeth Peden and Daniel Tynan 'Systemic unconscionable conduct: evidentiary hurdles and recent cases' at NSW Bar Association Common Room.
4 September 2019	Attended lunchtime talk by Sir Nicholas Blake 'Human Rights and Brexit' in Level 16 Conference Room, Federal Court, Melbourne.
4 September 2019	Chaired Australian Academy of Law event presented by guest speaker, Sir Nicholas Blake 'Democracy, Human Rights and the Judiciary: the common law and the wider world' in Court One, Federal Court, Melbourne.
5 September 2019	Attended ACICA Judicial Liaison Committee Meeting at Herbert Smith Freehills, Sydney.
7-8 September 2019	Attended seminar in honour of Professor Leslie Zines: Key Issues in Australian Federal Constitutional Law at ANU College of Law Canberra. Presented paper 'Constitutional Framework for the Establishment of an Australian International Commercial Tribunal' chaired by Chief Justice Kiefel, commented by Professor James Stellios.
10-12 September 2019	Attended the Commonwealth Magistrates and Judges Annual Conference, Port Moresby PNG.
16 September 2019	Attended the swearing in ceremony appointing Mr Richard Cavanagh SC as a Judge of the Supreme Court of NSW.
19 September 2019	Attended Brad Selway Memorial lecture, Law Society of South Australia, Justice Charlesworth presenting.
23 September 2019	Attended University of Tasmania, Hobart and presented lunchtime lecture called 'Unconscionability - in Equity and in Statute'. Attended University of Tasmania, Hobart and presented evening lecture 'The Rule of Law is not a Law of Rules'.
26 September 2019	Attended Melbourne Law School to present the 2019 Harold Ford Memorial Lecture on the topic 'The intersection of companies and trusts'.
3 October 2019	Hosted farewell reception for Warwick Soden, CEO and Principal Registrar, Federal Court, Sydney.
11 October 2019	Attended and spoke at a session for the Victorian Bar Readers 'History of the Federal Court'.
16 October 2019	Attended and provided an opening address, with Roger Gyles AO QC followed by panel discussion at NSW Bar Association called 'The Australian Bar Association Inquiry into International Arbitration - The Gyles Report'.
17 October 2019	Attended NSW 2019 Barristers' Clerks Opening Event in Banco Court.
22 October 2019	Attended Council of Chief Justices Meeting in Wellington, New Zealand.
23 October 2019	Attended Law Council of Australia IP Committee Judges' dinner.
31 October 2019	Attended AILA 2019 National Conference Hobart and presenting opening address as AILA Patron.
7 November 2019	Attended Australian Institute of Administrative Law event - A dinner to honour the contributions to AIAL of Her Excellency the Hon Margaret Beazley AO QC, Governor of NSW. Gave guest lecture on 'The Contribution of the State Courts to the Development of Administrative Law in Australia', at Ashurst.
12 November 2019	Delivered the 2019 Kenneth Sutton Lecture 'Statute and Equity: A discussion of their Relationship' at Minter Ellison, Sydney.

DATE	ACTIVITY
26 November 2019	Hosted informal drinks function to celebrate the newly appointed Silks at the Melbourne Registry of the Federal Court.
30 November – 1 December 2019	Attended the Federal Court Admiralty and Maritime Retreat, Hepburn Springs, VIC.
3 December 2019	Met with Chief Justice Sir Gibuma Gibbs Salika GCL KBE CSM OBE in Federal Court, Sydney.
	Signing of Memorandum of Understanding (MOU) on Judicial Cooperation between Federal Court of Australia and Supreme and National Courts of Papua New Guinea 2020–2025 in Ceremonial Court 1, Sydney.
12 December 2019	Attended ceremonial sitting for newly appointed Queen’s Counsel, Brisbane.
17 December 2019	Attended invitation to Australian Maritime College Board dinner in Sydney.
22 January 2020	Attended ACICA Judicial Committee meeting.
6 February 2020	Attended Annual Islamic Opening of Law Term Service 2020, Punchbowl Mosque.
11 February 2020	Attended Joint Seminar–Bar Book Committee together with Jonathan Rudin: Addressing Indigenous Over-Representation in Canada: Legislation, Litigation and Mobilization at NSW Bar Association Common Room, Sydney.
12 February 2020	Attended Jewish Community Law Service 2020, The Great Synagogue, Sydney.
13 February 2020	Met with Justice Yuko Miyazaki, Justice of the Japanese Supreme Court; Mr Masyuki Sakaniwa, Judge; Ms Noriko Tanaka, Consul, Consulate-General of Japan, Sydney.
13 February 2020	Attended Law Council of Australia Business Law Section dinner.
19 February 2020	Attended the AILA Victorian Annual Dinner, Melbourne.
27 February 2020	Attended Indigenous Law Students’ Clerkship Certificate Ceremony, Supreme Court of NSW, Sydney.
3 March 2020	Attended AACL seminar address presented by Her Excellency the Hon Margaret Beazley AC QC on the constitutional issues arising out of the High Court decision in <i>Love & Thoms v Commonwealth [2020] HCA 3: ‘The Constitution and Indigenous Australians’</i> in Court 1, Sydney.
COVID-19	Conferences and speaking engagements arranged all postponed due to COVID-19: <ul style="list-style-type: none"> ■ Singapore International Commercial Court Symposium 2020: Trends and Developments in International Commercial Litigation (SICC Symposium) ■ 5th Chief Justices’ Leadership Forum, Honiara, Solomon Islands ■ Shanghai University of Political Science and Law 3rd Judicial Roundtable on Commercial Law, Shanghai
5 May 2020	Presented ‘History of the Federal Court’ to Victorian Bar Readers over Zoom.
13 May 2020	Interviewed by Victorian Bar ‘In conversation with the Chief Justice of Federal Court’, over Zoom.
10 June 2020	Presented via webinar Geoff Masel Lecture ‘The changing manifestations of risk: some comments on innovation, unconscionability and duty of utmost good faith’.

Justice Kenny

Justice Kenny is:

- a Presidential Member of the Administrative Appeals Tribunal
- a Member of the Council of the Australian Institute of Judicial Administration
- a Foundation Fellow of the Australian Academy of Law
- a College Fellow of St Hilda's College, University of Melbourne
- Chair, Asian Law Centre Advisory Board, Melbourne University Law School
- Member of the Editorial Board of the Journal of the Intellectual Property Society of Australia and New Zealand

DATE	ACTIVITY
July 2019	Published 'The Law Commissions: Constitutional Arrangements and the Rule of Law' in <i>Oxford Journal of Legal Studies</i> , vol 39(3).
24 July 2019	Hosted (with Justice Moshinsky, District Registrar Luxton and Registrar Gitsham, Thomas Stewart and Melbourne University Law School) a delegation of senior judges from Thailand, to discuss the conduct of intellectual property law cases.
7–13 August 2019	Co-taught with Professor Adrienne Stone, 'Constitutional Rights and Freedoms', in the Masters Program, Melbourne Law School.
7 August 2019	Delivered Sir Anthony Mason Lecture, at Melbourne Law School, titled 'Possibilities for proportionality in Australian administrative law'.
7–8 September 2019	Chaired session on 'Executive power following the Williams Cases' at Symposium to Honour Professor Leslie Zines AO.
10–12 September 2019	Acting Chief Justice of the Federal Court of Australia.
21–29 October 2019	Acting Chief Justice of the Federal Court of Australia.

Justice Rares

DATE	ACTIVITY
1 July – 15 July 2019	Acting Chief Justice of the Federal Court of Australia.
12 September 2019	Gave the welcome address to NSW Bar Readers' Course.
30 September – 2 October 2019	Presented at Comité Maritime International Colloquium in Mexico City and delivered speech entitled 'Charting a new course – Promoting the development of an international convention on liability and compensation relating to transboundary damage from offshore oil and gas activities'.
7–8 October 2019	Sat as Judge of Norfolk Island Supreme Court.
12 October 2019	Elected President of the Australasian Institute of Judicial Administration.
29 November 2019	Presented at Judges and the Academy seminar on Cross cultural understanding and the Pilbara native title claim.
30 November 2019	Presented at Admiralty Judges' Retreat.
13 February 2020	Met with Chief Justice Allsop and delegation from the Supreme Court of Japan of Justice Yuko Miyazaki, Mr Masayuki Sakaniwa and Ms Noriko Tanaka.
18 February 2020	Participated in panel regarding social media use at the Judicial College of Victoria.
21 February 2020	Chaired Commercial Law Association of Australia 'Contract Master Class' seminar.
24 February 2020	Attended a Class Action User Group meeting.

Justice Collier

DATE	ACTIVITY
15 July 2019	Adjudicated part of the 2019 Aboriginal and Torres Strait Islander students' moot competition final at the Federal Court in Brisbane.
25 August 2019	Presented a paper entitled 'Recent Developments and Impending Changes in Practice and Procedures in the Federal Court' at the Queensland Bar Association Employment and Industrial Relations Conference, Gold Coast.
28 August 2019	Hosted the 2019 Griffith Law School Whincop Lecture on the #MeToo Movement in Australia at the Federal Court in Brisbane.
10 September 2019	Chaired a panel session on the topic 'Scandalising the courts and the judiciary – controlling the media' at the CMJA Annual Conference in Papua New Guinea.

Justice Middleton

Justice Middleton is:

- a Council Member of the University of Melbourne
- Chair of the University of Melbourne Foundation and Trust Committee
- a Member of the American Law Institute
- a Member of the Australian Centre for International Commercial Arbitration Advisory Board
- a Member of the Australian Centre for International Commercial Arbitration Judicial Liaison Committee
- a Fellow of the Australian Academy of Law
- a Member of the Editorial Board of the Journal of the Intellectual Property Society of Australia and New Zealand

DATE	ACTIVITY
11 August 2019	Guest speaker at The 31st Conference of The Samuel Griffith Society on 'Courts and Judges' in Melbourne.
30 August 2019	Attended the 20 th Anniversary of the Popular Consultation and of Self Determination of Timor-Leste to represent the Australian Judiciary in Dili, Timor-Leste.
13 September 2019	Delivered a paper in conjunction with Justice O'Callaghan to the Victorian Bar Readers' Course on 'Written Advocacy' in Melbourne.
17 September 2019	Chaired a session at the International Arbitration Series, a joint initiative of the CI Arb Australia and Federal Court, theme 'International Arbitration and the Art of Strategy'.
18–19 October 2019	Presented at the 17 th Annual Competition Law and Economics Workshop on 'Assessing the future: The challenge of competition cases' in Adelaide.
27 November 2019	Spoke at the Regulatory Litigation Case Management Workshop, Federal Court/Business Law Section of the Law Council of Australia in Melbourne.

DATE	ACTIVITY
2-3 July 2019	Attended the Tax Justice Network Conference and the TJN lecture and awards at the City University, London.
5 July 2019	Successive consultations in London with the Australian High Commissioner, CMJA Secretary-General and Director of Programs and Commonwealth Secretariat re Commonwealth Judicial Education.
8 July 2019	Attended the Selden Society Annual Meeting and related lecture in London.
9 July 2019	Meeting with the Hon Sir Ross Cranston to discuss Commonwealth Judicial Education.
10-13 July 2019	Attended the 2019 British Legal History Conference at St Andrews in Scotland.
2-6 September 2019	Assisted using personal leave, a teaching team from the Queensland Bar in the delivery of a commercial litigation workshop at Papa New Guinea's Legal Training Institute.
8-12 September 2019	Attended and presented paper on Judicial Ethics topic at the Commonwealth Magistrates' and Judges' Association Conference in Papua New Guinea.
4 October 2019	Judged the Queensland Interschool Law Competition Moot.
31 October 2019	Participated as a panellist in the Australian Bar Association – Tax Bar and Judiciary Workshop in Sydney on current tax litigation issues and conduct of litigation in the Administrative Appeals Tribunal and the Federal Court.
3 December 2019	Attended the signing of the MOU between the Federal Court of Australia and the Supreme and National Courts of Papua New with Chief Justice Allsop and Chief Justice Sir Gibbs Salika held at the Federal Court in Sydney.
20-22 January 2020	Attended the Supreme and Federal Court Judges' Conference in Canberra.
26 May 2020	Presented with Matthew Paterson (former Associate and solicitor at Minter Ellison) at the Administrative Institute of Administrative Law Webinar on The Administrative Decision-Making Continuum.
28 May 2020	Presented with Chief Judge Laverdiere (recently retired from the Maine District and is a member of the National Judicial College Faculty in USA) at the Pacific Judicial Strengthening Initiative Webinar on COVID-19 Experiences and Responses across the Pacific and between Partners Courts.

Justice McKerracher

Justice McKerracher:

- chaired the UNCITRAL Coordination Committee for Australia
- represented the Court on the Governing Council and Executive of the Judicial Conference of Australia

DATE	ACTIVITY
7 August 2019	Chaired an IP Seminar: Point and Shoot – Modern Photography and Copyright Law.
24 October 2019	Spoke at the annual UNCCA United Nations Day Lecture in Perth on the topic '25 Years Of Cross Border Insolvency Law Reform 1994-2019'.
29 November – 1 December 2019	Participated in the organisation of and presented at the Admiralty Retreat in Hepburn Springs
5 December 2019	Spoke to the annual Law School Summer Clerks on 'The Workings of the Federal Court'.
23 June 2020	Chaired a national CPD Admiralty Seminar by Web Conference (Microsoft Teams) on the topic 'Cruise Ships, COVID-19 and Consumers'.

Justice Perram

DATE	ACTIVITY
1 August 2019	Judged the Grand Final of the UTS LSS Holland Constitutional Law Moot.
23 October 2019	Spoke on a panel at the 19 th Biennial Copyright Law and Practice Symposium entitled 'Post Modern(isation) Creativity and Innovation – Testing the Experts on the Untested'.
1 November 2019	Presented at the Technology, Public Administration and Public Law Conference at the Australian National University entitled 'Judicial Review of Machine-Made Decisions'.

Justice Foster

DATE	ACTIVITY
5–6 February 2020	As one of the National Coordinating Judges of the Court's Commercial and Corporations National Practice Area, Justice Foster chaired meetings of the Commercial and Corporations (Insolvency) User Group (NSW and ACT) and the Commercial and Corporations (General) User Group (NSW and ACT). These User Groups were established so that the Court can engage with the profession on an ongoing and structured basis and to provide a useful forum in which developments in the law, as well as practical issues which may arise in respect of the Court's practice and procedure, will be discussed.

Justice Yates

Justice Yates is:

- a Member of the Editorial Board of *The Journal of the Intellectual Property Society of Australia and New Zealand*

DATE	ACTIVITY
28 November 2019	Chaired panel discussion at Federal Court and Law Council of Australia Joint Conference IP Workshop entitled 'What does an IP regime need to be useful? Legal and economic perspectives from Europe, the United States and Asia Pacific'.
3 December 2019	Delivered a presentation to Judges of the Tokyo District Court and Supreme Court.
18–22 January 2020	Attended Supreme Court and Federal Court Judges' Conference in Canberra.
6–8 March 2020	Delivered a presentation at the 8 th Annual Gibraltar Continuing Professional Development Conference in Bowral NSW entitled 'Patently incompatible? The collision of private rights and economic welfare'.
18 March 2020	Delivered a presentation at the College of Law Judge's Series entitled 'Subpoenas, discovery and interrogatories'.

Justice Bromberg

Justice Bromberg is:

- coordinator of the Federal Court, Victorian Supreme Court and the Victorian Bar's Indigenous Clerkship Program

DATE	ACTIVITY
11 July 2019	Hosted and presented to the ILO Malaysian Delegation visiting the Federal Court.
18 July 2019	Gave the closing address to the Centre for Employment and Labour Relations Law Evening Panel on 'The International Labour Organisation and the Future of Work'.
19 August 2019	Spoke at a Seminar on Discrimination Law, Insights and Recent Developments presented by the Industrial Bar Association of the Victorian Bar.
3 October 2019	Adjudicated the grand final of the ICJV International Criminal Law Moot.
10 October 2019	Chaired and presented at the Employment and Industrial Relations NPA Seminar on Current Issues in the Practice of Employment and Industrial Law.
23 October 2019	Guest Speaker at Holding Redlich's Annual Dinner of the Workplace Relations Specialists accredited by the Law Institute of Victoria.

Justice Katzmann

Justice Katzmann is:

- Chair of the Governing Council of Neuroscience Research Australia
- Director of Minds Count (formerly the Tristan Jepson Memorial Foundation) until October 2019, when her resignation took effect, having been a director since the Foundation was established in 2008
- a Member of the Advisory Committee of the Gilbert + Tobin Centre of Public Law
- a Committee Member of the Australian Association of Women Judges
- a Member of the Australian Academy of Law
- a representative of the Court on the organising committee for the Supreme and Federal Court Judges' Conference

DATE	ACTIVITY
18 July 2019	Attended the Gilbert + Tobin legal symposium on The Uluru Statement from the Heart: Constitutional Recognition of the Voice with the Hon AM Gleeson AC.
22 August 2019	Attended the Australian Academy of Science and Australian Academy of Law Joint Symposium: A 'Hypothetical' on Climate Change: the Science and the Law.
26 August 2019	Awarded an Honorary Doctorate of Laws by the University of NSW for her eminent service to the community.
28 August 2019	Attended the John Lehane Memorial Lecture on the topic 'The interface between contract and equity'.
20–22 January 2020	Attended the Supreme and Federal Court Judges' Conference in Canberra and chaired the session titled 'The 'Ideal Judge': Perceptions of Judges through History'.
21 February 2020	Attended the 2020 Constitutional Law Conference and chaired the session titled 'Implied Freedom of Political Communication: Cases, Controversies and Freedom of the Press'.

Justice Murphy

Justice Murphy is:

- a Member of the University of Melbourne's Law School Advisory Council
- a Board Member at Kids First Australia

DATE	ACTIVITY
31 July 2019	Presented to Slater & Gordon lawyers, Class Action CLE.
10 October 2019	Presented to Victorian Bar Readers as part of Bar Readers' Course.
18 November 2019	Presented to Lander & Rogers lawyers, Class Action Q&A seminar.
10 February 2020	Spoke at the 'Contingency Fees, Competition and CFO Conference' hosted by The Association of Litigation Funders of Australia and Shine Lawyers.
11 March 2020	Spoke at the 'Class Actions 2020 – a Conference on the Future of the Class Actions Regime' hosted by Slater & Gordon.
16 April 2020	Presented to Victorian Bar Readers as part of Bar Readers' Course.

Justice Griffiths

Justice Griffiths is:

- a Member of the Visiting Judicial Fellow Program – ANU (2020)
- a Member of the AIJA Indigenous Justice Committee
- a Member of the Law Society of New South Wales – Judicial Working Party – Improving outcomes for indigenous court and tribunal users
- a Member of the Federal Court Indigenous Law Clerks Program

DATE	ACTIVITY
12 July 2019	Judged essay – AIAL National Essay Prize in Administrative Law.
18 July 2019	Attended Symposium to hear the Hon Murray Gleeson AC's presentation – 'Uluru Statement from the Heart: Indigenous Constitutional Recognition'.
7 September 2019	Chaired Session at ANU Symposium honouring the late Professor Leslie Zines AO.
21 October 2019	Presented paper at NCAT Members' Conference – 'Maintaining Impartiality in the Tribunal Environment'.
5 February 2020	Attended 2020 Opening of Law Term Dinner.
12 February 2020	Chaired Session at NSW Bar Association – Public Law Section – 'Persuasive Written Submissions'.
25 March 2020	Presented paper 'Professional ethics, court etiquette and witness preparation' – 2020 Judges' Series – The College of Law – The Banco Court.

DATE	ACTIVITY
13–14 September 2019	Panel Member at the 10th Annual Assembly – IATJ – Cambridge, England Substantive Session on Recent Case Law on partnerships and Beneficial Ownership.
16–19 September 2019	Attended an IAJ Meeting – Kazakhstan.
17 October 2019	Spoke at the Tax institute’s 2019 Victoria Tax Forum on ‘The Interaction between the AAT and the Federal Court in Tax Cases’.
22 October 2019	Presented at the Victorian Bar Readers’ Course on ‘Taxation and the Barrister: Taxpayer and Adviser, and Taxation practicalities’.
29 October 2019	Presented at the Melbourne Law School’s 2019 Annual Tax Lecture entitled ‘Tax Stability’.
31 October 2019	Panel Member at the ABA/FCA Tax Barristers conference in Sydney on ‘Case Management in Tax Cases’.
15–16 November 2019	Panel Member at the 2019 Taxation Law Workshop on ‘The Changing Dynamics of International Taxation – A Corporate Perspective’.
2 December 2019	Panel Member at the IFA – Jones Day on ‘The Changing Dynamics of International Taxation’.
6 February 2020	Gave the keynote address at the 2020 Financial Services Taxation Conference on ‘Tax Stability’.

Justice Mortimer

Justice Mortimer is:

- a Senior Fellow of the Melbourne Law School
- a Member of the Advisory Board of the Centre for Comparative Constitutional Studies
- a Member of the Australian Academy of Law
- a Member of the International Association of Refugee Law Judges
- a Member of the Monash University Faculty of Law External Professional Advisory Committee
- a Member of the Board of Advisors of the Public Law Review

DATE	ACTIVITY
8 October 2019	Participated in the ‘Judges in Conversation’ event with Professor David Feldman of Cambridge.
2 September 2019	Hosted students from Melbourne Law School at the Court as part of their Refugee Law Class studies, and provided a briefing to the students.
21 November 2019	Presented a lecture on ‘Some thoughts on the AAT’s merits review functions from a judicial perspective’ to the AAT as part of the Occasional Lecture Series.
9 January 2020	Published a chapter ‘Coming to Terms with Communal, Land-related Decision-making by Aboriginal and/or Torres Strait Islander Peoples in a Public Law Context’ to the book <i>The Frontiers of Public Law</i> .
3 February 2020	Member of the 2020 John Gibson Award selection committee.

Justice Wigney

DATE	ACTIVITY
16 August 2019	Attended Judges' luncheon with the Hon Justice Tony Poon, Court of First Instance of the High Court in Hong Kong.
31 October 2019	Presented on a panel alongside Justice Davies and Brad Jones of Counsel regarding case management in the Federal Court at the Australian Bar Association Tax Bar and Judiciary Workshop.
5 December 2019	Attended the NSW Law Society judicial cocktail reception.
5 February 2020	Attended the 2020 Opening of Law Term dinner at Strangers' Dining Room, Parliament House.

Justice Perry

Justice Perry is:

- a Squadron Leader, Royal Australian Air Force, Legal Specialist Reserves
- a member of the Judicial Council on Diversity established by the Council of Chief Justices as the representative of the Federal Court
- a Fellow, Australian Academy of Law
- a Honorary Visiting Research Fellow, Law School, University of Adelaide
- a Member of the Advisory Committee to the Gilbert + Tobin Centre of Public Law, University of New South Wales; the Law School Advisory Board, University of Adelaide; the Advisory Council, Centre for International and Public Law, Australian National University; and the Board of Advisors, Research Unit on Military Law and Ethics, University of Adelaide
- Section Editor (Administrative Law), *Australian Law Journal*
- a Patron, NSW Chapter, Hellenic Australian Lawyers Association
- an Ambassador for One Disease (a non-profit organisation concerned with the elimination of preventable diseases in remote indigenous communities)

DATE	ACTIVITY
25 July 2019	Panel member at the NSW Law Society Future of Law and Innovation in the Profession Conference on Artificial Intelligence held in Sydney.
1 August 2019	Delivered Closing Remarks at the International Bar Association/NSW Law Society seminar on 'Bullying and Sexual Harassment in the Legal Profession' held in Sydney.
25 August 2019	Participated in NSW Bar Association Open Day for Female Law Students.
30 August 2019	Delivered Introductory Remarks at the John Perry Oration, Adelaide, for the South Australian Chapter of the Hellenic Australian Lawyers Association.
September 2019	Contributed 'The Law, Equality and Inclusiveness in a Culturally and Linguistically Diverse Society' to a special edition of <i>The Adelaide Law Review</i> to mark the publication of volume 40.
October 2019	Publication of 'Kirby Lecture in International Law 2018 – The Duality of Water: Conflict or Co-operation', [2018] 36 <i>Australian Year Book of International Law</i> 3.
14–19 October 2019	ANU Visiting Judicial Fellowship, Canberra (in residence).
14 October 2019	Introduced session on the Architecture of Justice held by the Sherman Centre for Culture and Ideas (SCCI) as part of the SCCI Architecture Hub 2019.

DATE	ACTIVITY
12 November 2019	Chaired seminar at the NSW Chapter of the Australian Association of Constitutional Law on 'The Prorogation Case: Judicial Review in the Age of Brexit'.
26 November 2019	Spoke on Panel Q&A, 2019 Kaldor Centre Annual Conference (UNSW) on 'Good decisions: achieving fairness in refugee law, policy and practice'.
21 January 2020	Chaired a session at the Supreme and Federal Court Judges Conference, Canberra, on 'Cyberwarfare and Cybercrime'.
4 February 2020	Judged Sydney University Jessup Practice Moot with Christabel Richards-Neville, Associate for 2018.
10 February 2020	Member of the judging panel for the Australian round of the Global LawTech Venture competition, hosted by the University of NSW and The Allens Hub for Technology, Law and Innovation.
25 February 2020	Participated in Law Days Out for 2020 – Students from St Joseph's College, Lochinvar.
10 June 2020	Presented online to members of the Administrative Appeals Tribunal on 'Statements of Reasons: Issues of Legality and Best Practice'.
18 June 2020	Panel member on online seminar held by the NSW Young Lawyers Association addressing 'Technology in Government Decision-Making'.
19 June 2020	Participant in the online workshop component of the UNSW Government Automation and Public Law project.

Justice Gleeson

DATE	ACTIVITY
6 July 2019	Attended the National Judicial College of Australia – Effective Judicial Presentations seminar in Sydney.
11–12 July 2019	Panel Member at the Australian Bar Association Convergence conference in Singapore on session entitled 'Cross Border Insolvency and Restructuring: New Frontiers in Singapore and Australia'.
31 October 2019 – 1 November 2019	Attended the National Judicial College of Australia – 'Judicial Officers with Leadership Responsibilities' seminar in Sydney.
12–15 November 2019	Presented at National Judicial College of Australia – National Judicial Orientation Program on the Gold Coast: Chaired session on 'Unconscious Judicial Prejudice'. Presented entitled 'Court craft – the trial from hell'.
6 February 2020	Attended the National Judicial College of Australia – National Judicial Orientation Program in Sydney: Presented entitled 'Court craft – the trial from hell'.
6 March 2020	Chaired session at Commercial Law Association Lunchtime Seminar in Sydney.
11 March 2020	Presented at College of Law 2020 Judges' Series in Sydney entitled 'Affidavits in the Federal Court of Australia; practitioners' responsibilities'.

Justice Markovic

Justice Markovic is:

- a Member of the Advisory Committee for the Asian Business Law Institute's insolvency and restructuring project

DATE	ACTIVITY
16 August 2019	Participated in the NSW Bar Association Female Student Open Day.
5–8 November 2019	Attended and presented at the Hong Kong LAWASIA Conference for the session titled 'Reorganisation alternatives for cross-border insolvency in Asia'.

Justice Moshinsky

Justice Moshinsky is:

- an alternate Director of the National Judicial College of Australia
- a Director of the Australian Academy of Law
- a Member of the Advisory Board of the Centre for Comparative Constitutional Studies at the Melbourne Law School

DATE	ACTIVITY
7–8 September 2019	Attended a symposium to honour Professor Leslie Zines AO: Key Issues in Australian Federal Constitutional Law, in Canberra.
5 October 2019	Judged semi-final of the Gibbs Moot, Melbourne Law School.
31 October – 1 November 2019	Attended a conference on 'Judicial Officers with Leadership Responsibilities' conducted by the National Judicial College of Australia in Sydney.
19 November 2019	Gave the after-dinner speech at the Tax Bar Association annual dinner.

Justice Bromwich

DATE	ACTIVITY
10 April 2019 – 30 April 2020	Part-time Commissioner to the Australian Law Reform Commission Inquiry on Corporate Criminal Responsibility. Justice Bromwich worked with Justice Derrington and ALRC staff on numerous drafts of the discussion paper and final report, a part of which included attending meetings with the Advisory Committee, speaking at public meetings in Brisbane, Melbourne and Sydney, attending ALRC Team Workshops in Brisbane and Sydney, and participating in further meetings with individual ALRC Team members in person, online and by telephone.

Justice Burley

Justice Burley is:

- a member of the advisory board of the Allens Hub for Technology, Law and Innovation
- a member of the Editorial Board of the Journal of the Intellectual Property Society of Australia and New Zealand

DATE	ACTIVITY
9–11 August 2019	Presented at a Seminar for barristers' chambers.
6–8 September 2019	Presented at the Intellectual Property Society of Australia and New Zealand's 33 rd Annual Conference in Noosa, on the topic 'The Myth and the Monopoly: What does the claim define?'.
13 September 2019	Hosted and delivered a talk for Year 9 students from Chifley College Mount Druitt as a part of the LEAPS (Lawyers Assisting and Encouraging Promising Students) program.
31 October 2019	Guest speaker at the Intellectual Property Society of Australia and New Zealand Judges' Dinner at IPSANZ, Brisbane.
13–15 November 2019	Attended the World Intellectual Property Organization's '2019 Intellectual Property Judges Forum' in Geneva, and gave a presentation on the topic 'Exhaustion of IP rights and parallel imports'.
29 November 2019	Chaired a panel discussion on the topic of 'Trade Marks, Designs and Patent Oppositions: New technologies and areas of emerging interest' at the November 2019 Federal Court Judges Conference.

Justice O'Callaghan

DATE	ACTIVITY
23 July 2019	Attended seminar sponsored by CIArb Australia and the Federal Court entitled 'Multiple Dimensions of Complex Arbitrations'.
29 August 2019	Presented seminar sponsored by the Melbourne Law School with Judge Alison Nathan of the United States District Court for the Southern District of New York, entitled 'Federal Judicial Appointments and Federal Judicial Power: A US-Australia Comparison'.
4 September 2019	Attended lecture sponsored by the Australian Academy of Law by Sir Nicholas Blake, entitled 'Democracy, Human Rights and the Judiciary: the common law and the wider world'.
13 September 2019	Spoke at September 2019 Victorian Readers' Course on the topic 'Judicial views on written advocacy'.
24 October 2019	Chaired United Nations Day Lecture entitled '25 Years of Cross Border Insolvency Law Reform 1994–2019'.
31 October 2019	Spoke at Victorian Bar seminar sponsored by the Industrial Bar Association entitled 'Keep an eye on the trial – Practical measures to ensure your case runs smoothly in court'.
29 November – 1 December 2019	Attended Federal Court Admiralty and Maritime Workshop.
6 May 2020	Spoke at Victorian Bar 'webinar' entitled 'Virtual hearings Part 2: Using Teams in the Federal Court'.
21 May 2020	Spoke at 'webinar' of the launch of 'COVID-19 and the Law of Australia'.

Justice R M Derrington

Justice R M Derrington is:

- an Adjunct Professor, TC Beirne School of Law at the University of Queensland

DATE	ACTIVITY
27 August 2019	Panel Member for the Bar Practice Course Pleadings Session Q&A.
23 October 2019	Chaired the UN Day Lecture in Brisbane on '25 years of Cross Border Insolvency Law Reform 1994–2019'.
27 December 2019 – 9 January 2020	Taught at the University of Queensland on 'Leading as Lawyers'.

Justice Thomas

DATE	ACTIVITY
18 July 2019	Presented the National Lecture on Administrative Law at the 2019 Australian Institute of Administrative Law National Administrative Law Conference.
1 August 2019	Hosted the Law Council of Australia liaison meeting regarding the AAT.
4–5 September 2019	Hosted a visit from Justice Dr Markus Thoma, Austrian Supreme Administrative Court
6 September 2019	Attended the 2019 Council of Australasian Tribunals NSW Conference and chaired a session titled 'Social media – the power and the perils'.
10 October 2019	Chaired the judging panel for the AAT Moot Competition 2019 Grand Final.
29 October 2019	Attended and provided preliminary remarks at the Law Council of Australia conference titled 'Callinan review: past reflections, future directions'.
31 October 2019	Met with Emeritus Professor Rosalind Croucher AM, President of the Australian Human Rights Commission.
6 December 2019	Chaired the Law Council of Australia's Hot Topics in Commonwealth Compensation Seminar.
29 January 2020	Attended the Queensland Civil and Administrative Tribunal's 10 th Anniversary Ceremony.
21 February 2020	Hosted the Law Council of Australia liaison meeting regarding the AAT.

Justice S C Derrington

Justice S C Derrington is:

- President of the Australian Law Reform Commission
- Emeritus Professor of the University of Queensland
- Vice-chair of the Council of the Australian Maritime College
- a Member of the Council of the Australian National Maritime Museum
- a Titular Member of the Comité Maritime International and a member of the International Working Groups on Cross-border Insolvency and Marine Insurance
- a Fellow of the Australian Academy of Law
- a Fellow of the Nautical Institute
- a Fellow of the Queensland Academy of Arts and Sciences
- a Member of the Admiralty Rules Committee
- a Community Ordinary Member of The College of Law Ltd

DATE	ACTIVITY
July 2019	Published note 'Family Law for the Future – A 'Radical' Recommendation' (2019) <i>Australian Law Journal</i> 431–433.
5 July 2019	Judged semi-final of International Maritime Law Arbitration Moot in Rotterdam.
3 August 2019	Presented to the Law Council of Australia's Corporations Law Workshop 'The future of Australia's corporate law' in the Barossa Valley.
6 August 2019	Delivered address at the St John's College Academic Dinner 'Who is packing your parachute?' at the University of Queensland.
4 September 2019	Delivered paper at the Freedom 19 Conference 'Of shields and swords – let the jousting begin!' in Sydney.
19–20 September 2019	Participated in colloquium on 'Misleading Silence' as member of expert reference group at University of Melbourne.
25 September 2019	Delivered paper to the Anglo/Australian Lawyers Society 'Class (actions). Commerce, Culture and Crime' in London.
24 October 2019	Panellist at McCullough Robertson 'Year 101 Women in Law' in Brisbane.
29–30 October 2019	Delivered keynote address at Allens Corporate Crime Conference 'The ALRC Inquiry to date: a preview of the Proposals' in Sydney and Melbourne.
7 November 2019	Delivered paper at Family Law Pathways Network 'The ALRC Report on the Family Law System: the rationale for Recommendation 1' in Brisbane.
15 November 2019	Presented to Australia Awards in Indonesia: Integrated Criminal Justice System for Access to Justice Program 'Law Reform in Australia' in Brisbane.
21 November 2019	Delivered keynote address at Family Relationship Service Australia Conference 'Evolving Families and the continuing justification for rules particular to the regulation of families' in the Hunter Valley.
28 November 2019	Delivered keynote address at the Charity Law Association of Australia and New Zealand Conference 'Faith, hope and charity – religion as a public benefit in modern Australia' at the University of Melbourne.
30 November – 1 December 2019	Presented at the Admiralty Judges' Workshop in Hepburn Springs.

DATE	ACTIVITY
29 December 2019 – 9 January 2020	Course convenor and lecturer 'Leading as Lawyers' at the University of Queensland (in conjunction with the University of Tennessee).
24 January 2020	Judged pitches and presentations for the Sydney Law School Summer Innovation Program at the University of Sydney.
6 March 2020	Presented at Australian Bar Association and Queensland Bar Association Conference 'Family Law Reform' in Brisbane.
20 March 2020	Presented to the UNSW Family Law Intensive 'Family Law Reform' (via video conference).
21 May 2020	Presented to students at Queen's College within the University of Melbourne (via video conference).
29 June 2020	Gave the keynote address to launch UNSW Law Journal Issue 43(2) 'Law Reform: Projects, Processes, and Pitfalls' (via video conference).

Justice Steward

DATE	ACTIVITY
31 October 2019	Attended the Australian Bar Association Tax Workshop in Sydney.
28 January 2020	Attended the Opening of the Legal Year Red Mass at St Patrick's Cathedral.
11 March 2020	Delivered keynote address at the Justice Hill Tax Institute Convention, entitled 'The Judicial Work of the Hon Justice Edmonds'.

Justice Banks-Smith

Justice Banks-Smith is:

- Chair of the Law Advisory Board for the University of Notre Dame Law School (Fremantle)
- Chair of the Human Research Ethics Committee for Perth Children's Hospital
- a Member of the Australian Centre for International Commercial Arbitration WA State Committee

DATE	ACTIVITY
2 August 2019	Attended the Women Judges, Magistrates and Barristers Dinner, South Perth Yacht Club.
28 August 2019	Attended Herbert Smith Freehills Annual Alumni and Community event, Postal Hall at the State Buildings.
12 September 2019	Hosted and delivered a talk for students of Hale School involved in its Year 11 Leadership program.
17 September 2019	Attended drinks function hosted by the Supreme Court of Western Australia with the Women Members of the Western Australia Bar Association, Supreme Court DMJC).
9 October 2019	Presented the 2019 David Malcolm Memorial Lecture: 'More Than Just Precedent: Perspectives on Judgment Writing', University of Notre Dame, Craven Law Library, School of Law Building.
24 October 2019	Presented the 2019 United Nations Day Lecture: '25 Years of Cross Border Insolvency Law Reform 1994-2019', Federal Court WA Registry.
25 October 2019	Attended the Western Australian Bar Association's Bar and Bench Dinner, Royal Freshwater Bay Yacht Club.

DATE	ACTIVITY
8 November 2019	Attend the Carmel School Business Breakfast with The Hon Mathias Cormann, Minister for Finance, Pan Pacific Hotel.
28 November 2019	Attended Reception at Government House hosted by the Hon Kim Beazley AC Governor of Western Australia and Ms Susie Annus.
5 December 2019	Attended the Law Society of Western Australia's End of Year Celebration, The Westin.
17 December 2019	Attended the University of Notre Dame Graduation Ceremony, Notre Dame, Drill Hall.
29 January 2020	Attended the Western Australian 2019 New Silks' Celebration Drinks, Supreme Court of WA, DMJC.
31 January 2020	Attended drinks function to mark the retirement of Justice Lindy Jenkins, Supreme Court of WA, DMJC.
11 March 2020	Attended drinks function with WA Family Court Judges, Level 8, Federal Court.
23 March 2020	Presented online CPD seminar for the Piddington Society on 'The ethics of advocacy'.

Justice Colvin

Justice Colvin is:

- a Committee Member of the National Judicial College of Australia Writing Better Judgments Committee
- a Fellow of the Australian Academy of Law

DATE	ACTIVITY
5 July 2019	Presided over mock trial for the Australian Bar Association's Essential Trial Advocacy Court, Federal Court.
10–12 July 2019	Attended and presented paper for session 'An Australian International Commercial Court – Not a bad Idea or What a bad Idea' at the Australian Bar Association's 2019 Conference: 'Convergence', Singapore.
25 September 2019	Participated in the Western Australia Bar Association's Best Practice Seminar on 'Disclosure and Related Matters', Exchange Tower Conference Suite.
10–12 February 2020	Facilitated for the National Judicial College of Australia's Writing Better Judgments Program.

Justice Stewart

DATE	ACTIVITY
18 July 2019	Attended The Uluru Statement from the Heart: constitutional recognition of the Voice symposium with The Hon Murray Gleeson AC QC at Gilbert + Tobin.
24 July 2019	Delivered the Maritime Law Association of Australia and New Zealand Lunchtime Lecture entitled 'Salvage Learnings from the Thor Commander'.
1 August 2019	Attended official reception at the invitation of Ambassador Mr Patricio Powell of Chile and Captain Claudio Maldonado on board the TS <i>Esmeralda</i> at HMAS Kuttabul, Woolloomooloo.
7 August 2019	Attended the Alinea Chambers official opening by the Governor of NSW, Her Excellency the Hon Margaret Beazley AC QC.

DATE	ACTIVITY
15 August 2019	Attended public address delivered by The Hon Michael Kirby AC CMG and Professor Stefan Petrow of the University of Tasmania on the life of Sir Francis Villeneuve Smith, the third Chief Justice of Tasmania, and the issues of colonial and postcolonial racism in Australia. Hosted by the Federation Press in association with the Francis Forbes Society.
16 August 2019	Attended luncheon for the Hon Justice Tony Poon, from the Court of First Instance of the High Court in Hong Kong and the accompanying delegation in Sydney.
22 August 2019	Attended the Banco Chambers annual reception for the legal profession.
28 August 2019	Attended the John Lehane Memorial Lecture presented by Lord Sales, Justice of the Supreme Court of the United Kingdom, on the topic 'The interface between contract and equity'.
29 August 2019	Attended the Peter McMullin Centre on Statelessness and Federal Court lecture on the topic 'The Boundaries of Refugee Protection: A Comparative View'.
12 September 2019	Delivered a paper entitled 'Writ or Wrong? Protecting against a change in ownership before the vessel is arrested' at the 46 th annual conference of MLAANZ in Auckland, New Zealand.
17 September 2019	Attended the third International Arbitration Seminar, an initiative of the CIArb Australia and the Federal Court, chaired by the Hon Justice Middleton, the panel presented on the topic 'International Arbitration and the Art of Strategy'.
18 September 2019	Attended the Australian Association of Constitutional Law seminar on the topic 'Inconsistency'.
19 September 2019	Attended the New Chambers annual reception for the legal profession.
26 September 2019	Attended the annual Australian Maritime and Transport Arbitration Commission (AMTAC) address in Sydney delivered by Ms Amy Gulhot, Assistant Secretary, Agriculture and Food Trade, Office of Trade Negotiations, Dept of Foreign Affairs and Trade.
7 October 2019	Participated in the Maritime Cross-Border Insolvency Round-table at the Centre for Maritime Law, Faculty of Law, National University of Singapore, at the invitation of the Director, Professor Stephen Girvin.
24 October 2019	Delivered the 2019 Richard Cooper Memorial Lecture entitled 'The fluctuating incidence of the burden of proof under the Hague-Visby Rules: the implications of <i>Volcafe v CSAV</i> [2019] AC 358 for the position in Australia' at the Federal Court, Brisbane, at the invitation of Professor Patrick Parkinson, Dean of the TC Beirne School of Law, University of Queensland.
28 October 2019	Attended a special sitting of the Federal Court and reception to welcome and congratulate new Senior Counsel in NSW.
31 October 2019	Attended the Australian Bar Association (in association with the Federal Court) Tax Conference and Dinner in Sydney.
12 November 2019	Attended the Australian Association of Constitutional Law special expert panel discussion of the recent decision of the United Kingdom Supreme Court in the Prorogation Case: <i>R (Miller) v Prime Minister; Cherry v Advocate-General for Scotland</i> [2019] UKSC 41 by Professor Anne Twomey and Michael Sexton SC.
14 November 2019	Attended the YES Anniversary Cocktail Celebration at the Parliament of NSW.
27–28 November 2019	Attended the Judges' Meeting and Joint Conference between the Federal Court and Law Council of Australia on Intellectual Property in Melbourne.

DATE	ACTIVITY
30 November – 1 December 2019	Participated in the Admiralty Judges' Retreat at Hepburn Springs, VIC. Presented two seminars: 'A practical arrest scenario: the arrest, management and sale of a ship' with Justice Rares and 'Limitation of Liability' with Justice McKerracher.
5 December 2019	Attended the annual Judicial Cocktail Reception at the Law Society of NSW.
13 December 2019	Attended the Human Rights Awards 2019 ceremony in Sydney.
10 February 2020	Attended the New Chambers tax barristers function.
11 February 2020	Attended the Banco Chambers official opening by the Governor of NSW, Her Excellency the Hon Margaret Beazley AC QC.
20–26 February 2020	Participated in the Indigenous Clerkship Program at the Federal Court.
21 February 2020	Attended the Gilbert + Tobin Centre of Public Law UNSW 2020 Constitutional Law Conference in Sydney.
3 March 2020	Attended the Australian Association of Constitutional Law address on the constitutional issues arising out of the High Court's significant decision in <i>Love v Commonwealth; Thoms v Commonwealth</i> [2020] HCA 3 presented by the Governor of NSW, Her Excellency the Hon Margaret Beazley AC QC.
9 March 2020	Delivered a paper entitled 'The role of courts in supporting arbitration: a review of recent developments in the Asia-Pacific' (by video conference from Sydney) at the 21 st International Congress of Maritime Arbitrators Conference in Rio de Janeiro, Brazil.
29 May 2020	Attended Gilbert + Tobin Centre of Public Law responses to COVID-19 webinar on COVID-19 and Cruise Ships.
4 June 2020	Attended the Australian Bar Association Tax Committee online drinks.
22 June 2020	Attended Gilbert + Tobin Centre of Public Law responses to COVID-19 webinar on Human Rights Restrictions and Proportionality.
23 June 2020	Attended the FCA national admiralty online seminar on 'Cruise ships, COVID-19 and consumer' by Professor Kate Lewins and Professor Elise Bant.

Justice O'Bryan

Justice O'Bryan is:

- the Federal Court's representative for the Victorian Judicial Officers Aboriginal Cultural Awareness Committee

DATE	ACTIVITY
28 August 2019	Attended The John Lehane Memorial Lecture presented by Lord Sales, Justice of the Supreme Court of the United Kingdom on the interface between contract and equity at the Supreme Court of NSW in Sydney.
30–31 August 2019	Attended the 2019 Competition and Consumer Law Workshop in Melbourne organised by the Law Council of Australia.
4 September 2019	Attended the presentation by Sir Nicholas Blake on Democracy, Human Rights and the Judiciary: the common law and the wider world organised by the Australian Academy of Law, held at the Federal Court in Melbourne and chaired by Chief Justice Allsop.

DATE	ACTIVITY
16 October 2019	Chaired a seminar on recent developments in misleading and unconscionable conduct organised by Monash University and held at the Federal Court in Melbourne.
19 February 2020	Attended the CommBar Annual Cocktail Party hosted by Chief Justices Allsop and Ferguson.
4 March 2020	Attended an afternoon tea for the Indigenous Clerkship program at the Supreme Court of Victoria in Melbourne.
12 March 2020	Attended the Judicial College of Victoria Koori Twilight Program 'Voice. Treaty. Truth –The Long Road to Recognition'.

Justice Jackson

DATE	ACTIVITY
5 July 2019	Presided over Mock Trial for the Australian Bar Association's Essential Trial Advocacy Court, Federal Court.
7 August 2019	Attended the Alinea Chambers Official Launch, Melbourne.
17–18 August 2019	Coached at the Law Society's annual Practical Advocacy Weekend, Children's Court of Western Australia.
17 September 2019	Attended Supreme Court Drinks with the Women Members of the Western Australia Bar Association, Supreme Court DMJC.
25 September 2019	Participated in the Western Australia Bar Association's Best Practice Seminar on 'Disclosure and Related Matters', Exchange Tower Conference Suite.
26 September 2019	Attended the Women Lawyers of Western Australia 'Meet the Judiciary' Function, Supreme Court, Stirling Gardens.
2 October 2019	Attended the 2019 John Toohey AC QC Oration: 'The Development of Native Title: Opening Our Eyes to Shared History', delivered by Justice Michelle Gordon AC.
24 October 2019	Attended the 2019 UN Day Lecture: '25 Years of Cross Border Insolvency Law Reform 1994–2019', Presented by Justice Banks-Smith, Federal Court WA Registry.
6 November 2019	Attended the 2019 Sir Francis Burt Oration delivered by the Hon Robert S French AC: 'The Law in a Climate of Change', Supreme Court, Stirling Gardens.
11–15 November 2019	Attended the National Judicial Orientation Program, Gold Coast, Qld.
5 December 2019	Attended the Law Society of Western Australia's End of Year Celebration, The Westin.
12 December 2019	Attended the Quayside Chambers Second Annual Oration presented by the Hon Justice AS Bell: 'Gambling and Law in the 21st Century', Quayside Chambers.
29 January 2020	Attended the Western Australian 2019 Silk's Announcement Celebration Drinks, Supreme Court of WA, DMJC.
31 January 2020	Attended Drinks to mark the retirement of Justice Lindy Jenkins, Supreme Court of WA, DMJC.
3 February 2020	Acted as judge for the University of Western Australia Jessup Moot, UWA Law School.
21 February 2020	Presented speech 'Artificial Intelligence in the Judicial Process' at Fremantle Law Conference.

Justice Abraham

Justice Abraham is:

- a Member of the Advisory Committee for the Australian Law Reform Commission: Corporate Criminal Responsibility, Individual Liability for Corporate Criminal Conduct

DATE	ACTIVITY
16 August 2019	Hosted and presented to students in chambers as part of the NSW Bar Association's, 'Female Law Students' Open Day'.
29 October 2019	Presented to members of NSW Junior Bar as part of the NSW Bar Association's New Barrister Committee, Judicial Q&A Session.
10 October 2019	Presented to students at NSW Law Society as part of a panel discussion with members of the judiciary, entitled 'A Night in Chambers'.
10–15 November 2019	Attended the National Judicial Orientation Program, Qld.
29 February 2020	Chaired, session entitled 'Commonwealth Law: The practical challenges of Pham and Hili', 2020 Sentencing Conference conducted by the National Judicial College Conference, Canberra.

Appendix 9

Staffing profile

From 1 July 2016, the *Courts Administration Legislation Amendment Act 2016* merged the corporate service functions of the Family Court and the Federal Circuit Court with the Federal Court into a single administrative entity – known as the Federal Court of Australia.

Heads of jurisdiction continue to be responsible for managing the administrative affairs of their respective courts (excluding corporate services), with assistance from a CEO and Principal Registrar.

All staff are employed by the Federal Court under the *Public Service Act 1999*, regardless of which court or tribunal they work for or provide services to. The total staffing number for the combined entity as at 30 June 2020 is 1091 employees. This includes 758 ongoing and 333 non-ongoing employees.

The following tables provide more information. The CEO and Principal Registrars and the National Native Title Tribunal Registrar are holders of public office and are not included in this appendix. Judges are also not included in any staffing numbers.

Table A9.1: All ongoing employees, current reporting period (2019–20)

	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL MALE	FULL-TIME	PART-TIME	TOTAL FEMALE	FULL-TIME	PART-TIME	TOTAL INDETERMINATE	
NSW	63	5	68	145	55	200	0	0	0	268
Qld	30	2	32	84	27	111	0	0	0	143
SA	11	3	14	39	6	45	0	0	0	59
Tas	3	0	3	13	4	17	0	0	0	20
Vic	38	4	42	87	34	121	0	0	0	163
WA	16	0	16	33	7	40	0	0	0	56
ACT	6	1	7	32	3	35	0	0	0	42
NT	0	0	0	5	1	6	0	0	0	6
External Territories	0	0	0	0	0	0	0	0	0	
Overseas	0	0	0	0	1	1	0	0	0	1
TOTAL	167	15	182	438	138	576	0	0	0	758

Table A9.2: All non-ongoing employees, current reporting period (2019-20)

	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL MALE	FULL-TIME	PART-TIME	TOTAL FEMALE	FULL-TIME	PART-TIME	TOTAL INDETERMINATE	
NSW	41	1	42	88	14	102	0	0	0	144
Qld	19	2	21	23	3	26	0	0	0	47
SA	6	0	6	12	2	14	0	0	0	20
Tas	1	0	1	5	2	7	0	0	0	8
Vic	24	3	27	59	4	63	1	0	1	91
WA	5	1	6	4	2	6	0	0	0	12
ACT	0	1	1	5	2	7	0	0	0	8
NT	1	0	1	1	1	2	0	0	0	3
External Territories	0	0	0	0	0	0	0	0	0	0
Overseas	0	0	0	0	0	0	0	0	0	0
TOTAL	97	8	105	197	30	227	1	0	1	333

Table A9.3: All ongoing employees, previous reporting period (2018-19)

	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL MALE	FULL-TIME	PART-TIME	TOTAL FEMALE	FULL-TIME	PART-TIME	TOTAL INDETERMINATE	
NSW	58	8	66	146	61	207	0	0	0	273
Qld	31	2	33	89	28	117	0	0	0	150
SA	14	1	15	37	12	49	0	0	0	64
Tas	3	0	3	12	4	16	0	0	0	19
Vic	40	4	44	84	33	117	0	0	0	161
WA	19	0	19	30	8	38	0	0	0	57
ACT	9	1	10	28	4	32	0	0	0	42
NT	2	0	2	5	1	6	0	0	0	8
External Territories	0	0	0	0	0	0	0	0	0	0
Overseas	0	0	0	0	1	1	0	0	0	1
TOTAL	176	16	192	431	152	583	0	0	0	775

Table A9.4: All non-ongoing employees, previous reporting period (2018–19)

	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL MALE	FULL-TIME	PART-TIME	TOTAL FEMALE	FULL-TIME	PART-TIME	TOTAL INDETERMINATE	
NSW	43	0	43	72	15	87	0	0	0	130
Qld	18	5	23	24	6	30	0	0	0	53
SA	4	0	4	9	3	12	0	0	0	16
Tas	0	0	0	4	3	7	0	0	0	7
Vic	24	1	25	57	4	61	0	0	0	86
WA	4	2	6	5	3	8	0	0	0	14
ACT	3	0	3	6	3	9	0	0	0	12
NT	1	0	1	3	0	3	0	0	0	4
External Territories	0	0	0	0	0	0	0	0	0	0
Overseas	0	0	0	0	1	1	0	0	0	1
TOTAL	97	8	105	180	38	218	0	0	0	323

Table A9.5: Australian Public Service Act ongoing employees, current reporting period (2019–20)

	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL MALE	FULL-TIME	PART-TIME	TOTAL FEMALE	FULL-TIME	PART-TIME	TOTAL INDETERMINATE	
SES 3	0	0	0	0	0	0	0	0	0	0
SES 2	3	0	3	1	0	1	0	0	0	4
SES 1	5	0	5	5	1	6	0	0	0	11
EL 2	32	2	34	44	9	53	0	0	0	87
EL 1	32	3	35	75	39	114	0	0	0	149
APS 6	26	2	28	88	19	107	0	0	0	135
APS 5	22	1	23	96	13	109	0	0	0	132
APS 4	24	2	26	68	20	88	0	0	0	114
APS 3	17	3	20	53	32	85	0	0	0	105
APS 2	6	1	7	8	5	13	0	0	0	20
APS 1	0	1	1	0	0	0	0	0	0	1
Other	0	0	0	0	0	0	0	0	0	0
TOTAL	167	15	182	438	138	576	0	0	0	758

Table A9.6: Australian Public Service Act non-ongoing employees, current reporting period (2019-20)

	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL MALE	FULL-TIME	PART-TIME	TOTAL FEMALE	FULL-TIME	PART-TIME	TOTAL INDETERMINATE	
SES 3	0	0	0	0	0	0	0	0	0	0
SES 2	0	0	0	1	0	1	0	0	0	1
SES 1	0	0	0	0	0	0	0	0	0	0
EL 2	4	1	5	3	3	6	0	0	0	11
EL 1	5	2	7	4	3	7	0	0	0	14
APS 6	7	0	7	13	3	16	0	0	0	23
APS 5	18	3	21	41	1	42	0	0	0	63
APS 4	50	1	51	105	12	117	1	0	1	169
APS 3	6	1	7	21	7	28	0	0	0	35
APS 2	7	0	7	9	1	10	0	0	0	17
APS 1	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0
TOTAL	97	8	105	197	30	227	1	0	1	333

Table A9.7: Australian Public Service Act ongoing employees, previous reporting period (2018-19)

	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL MALE	FULL-TIME	PART-TIME	TOTAL FEMALE	FULL-TIME	PART-TIME	TOTAL INDETERMINATE	
SES 3	0	0	0	0	0	0	0	0	0	0
SES 2	3	0	3	1	0	1	0	0	0	4
SES 1	5	0	5	5	0	5	0	0	0	10
EL 2	29	3	32	40	14	54	0	0	0	86
EL 1	31	4	35	72	41	113	0	0	0	148
APS 6	31	1	32	85	17	102	0	0	0	134
APS 5	26	1	27	88	14	102	0	0	0	129
APS 4	20	2	22	75	23	98	0	0	0	120
APS 3	27	2	29	56	36	92	0	0	0	121
APS 2	4	2	6	9	7	16	0	0	0	22
APS 1	0	1	1	0	0	0	0	0	0	1
Other	0	0	0	0	0	0	0	0	0	0
TOTAL	176	16	192	431	152	583	0	0	0	775

Table A9.8: Australian Public Service Act non-ongoing employees, previous reporting period (2018–19)

	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL MALE	FULL-TIME	PART-TIME	TOTAL FEMALE	FULL-TIME	PART-TIME	TOTAL INDETERMINATE	
SES 3	0	0	0	0	0	0	0	0	0	0
SES 2	0	0	0	1	0	1	0	0	0	1
SES 1	0	0	0	0	0	0	0	0	0	0
EL 2	2	1	3	4	2	6	0	0	0	9
EL 1	6	2	8	4	5	9	0	0	0	17
APS 6	10	0	10	18	3	21	0	0	0	31
APS 5	21	2	23	45	4	49	0	0	0	72
APS 4	46	1	47	78	12	90	0	0	0	137
APS 3	8	1	9	24	9	33	0	0	0	42
APS 2	4	1	5	6	3	9	0	0	0	14
APS 1	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0
TOTAL	97	8	105	180	38	218	0	0	0	323

Table A9.9: Australian Public Service Act employees by full-time and part-time status, current reporting period (2019–20)

	ONGOING			NON-ONGOING			TOTAL
	FULL-TIME	PART-TIME	TOTAL ONGOING	FULL-TIME	PART-TIME	TOTAL NON-ONGOING	
SES 3	0	0	0	0	0	0	0
SES 2	4	0	4	1	0	1	5
SES 1	10	1	11	0	0	0	11
EL 2	76	11	87	7	4	11	98
EL 1	107	42	149	9	5	14	163
APS 6	114	21	135	20	3	23	158
APS 5	118	14	132	59	4	63	195
APS 4	92	22	114	156	13	169	283
APS 3	70	35	105	27	8	35	140
APS 2	14	6	20	16	1	17	37
APS 1	0	1	1	0	0	0	1
Other	0	0	0	0	0	0	0
TOTAL	605	153	758	295	38	333	1091

Table A9.10: Australian Public Service Act employees by full-time and part-time status, previous reporting period (2018-19)

	ONGOING			NON-ONGOING			TOTAL
	FULL-TIME	PART-TIME	TOTAL ONGOING	FULL-TIME	PART-TIME	TOTAL NON-ONGOING	
SES 3	0	0	0	0	0	0	0
SES 2	4	0	4	1	0	1	5
SES 1	10	0	10	0	0	0	10
EL 2	69	17	86	6	3	9	95
EL 1	103	45	148	10	7	17	165
APS 6	116	18	134	28	3	31	165
APS 5	114	15	129	66	6	72	201
APS 4	95	25	120	124	13	137	257
APS 3	83	38	121	32	10	42	163
APS 2	13	9	22	10	4	14	36
APS 1	0	1	1	0	0	0	1
Other	0	0	0	0	0	0	0
TOTAL	607	168	775	277	46	323	1098

Table A9.11: Australian Public Service Act employment type by location, current reporting period (2019-20)

	ONGOING	NON-ONGOING	TOTAL
NSW	268	144	412
Qld	143	47	190
SA	59	20	79
Tas	20	8	28
Vic	163	91	254
WA	56	12	68
ACT	42	8	50
NT	6	3	9
External Territories	0	0	0
Overseas	1	0	1
TOTAL	758	333	1091

Table A9.12: Australian Public Service Act employment type by location, previous reporting period (2018–19)

	ONGOING	NON-ONGOING	TOTAL
NSW	273	130	403
Qld	150	53	203
SA	64	16	80
Tas	19	7	26
Vic	161	86	247
WA	57	14	71
ACT	42	12	54
NT	8	4	12
External Territories	0	0	0
Overseas	1	1	2
TOTAL	775	323	1098

Table A9.13: Australian Public Service Act Indigenous employment, current reporting period (2019–20)

	TOTAL
Ongoing	19
Non-ongoing	6
TOTAL	25

Table A9.14: Australian Public Service Act Indigenous employment, previous reporting period (2018–19)

	TOTAL
Ongoing	18
Non-ongoing	6
TOTAL	24

Table A9.15: Australian Public Service Act employment arrangements, current reporting period (2019–20)

	SES	NON-SES	TOTAL
Enterprise agreement	0	1070	1070
Determination	16	2	18
Australian Workplace Agreement	0	5	5
Individual Flexibility Agreement	0	121	121
Common Law Contract	0	8	8
TOTAL	16	1206	1222

Table A9.16: Australian Public Service Act employment salary ranges by classification level (minimum/maximum), current reporting period (2019–20)

	MINIMUM SALARY	MAXIMUM SALARY
SES 3	–	–
SES 2	–	300,918
SES 1	–	246,799
EL 2	116,236	312,835
EL 1	100,827	182,547
APS 6	78,777	108,892
APS 5	72,938	89,488
APS 4	65,395	78,777
APS 3	58,672	63,325
APS 2	51,511	57,122
APS 1	45,516	50,302
Other	–	–

Table A9.17: Australian Public Service Act employment performance pay by classification level, current reporting period (2019–20)

	NUMBER OF EMPLOYEES RECEIVING PERFORMANCE PAY	AGGREGATED (SUM TOTAL) OF ALL PAYMENTS MADE	AVERAGE OF ALL PAYMENTS MADE	MINIMUM PAYMENT MADE	MAXIMUM PAYMENT MADE
SES 3	0	0	0	0	0
SES 2	0	0	0	0	0
SES 1	0	0	0	0	0
EL 2	1	27,480	27,480	27,480	27,480
EL 1	0	0	0	0	0
APS 6	0	0	0	0	0
APS 5	0	0	0	0	0
APS 4	0	0	0	0	0
APS 3	0	0	0	0	0
APS 2	0	0	0	0	0
APS 1	0	0	0	0	0
Other	0	0	0	0	0
TOTAL	1	27,480	27,480	27,480	27,480

Table A9.18: Details of Accountable Authority during 2019–20

NAME	POSITION TITLE/ POSITION HELD	PERIOD AS THE ACCOUNTABLE AUTHORITY OR MEMBER	
		DATE OF COMMENCEMENT	DATE OF CESSATION
Warwick Soden	CEO and Principal Registrar	1 July 2019	30 April 2020
Sia Lagos	CEO and Principal Registrar	1 May 2020	30 June 2020

Appendix 10

Annual performance statement

Introductory statement

I, Sia Lagos, as the accountable authority of the Federal Court of Australia, present the 2019–20 annual performance statements for the entity, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

In my opinion, these annual performance statements are based on properly maintained records, accurately reflect the performance of the entity, and comply with subsection 39(2) of the PGPA Act.



Sia Lagos

Chief Executive Officer and Principal Registrar
Federal Court of Australia

Outcome 1

Program 1.1: Federal Court of Australia

Apply and uphold the rule of law for litigants in the Federal Court of Australia and parties in the National Native Title Tribunal through the resolution of matters according to law and through the effective management of the administrative affairs of the Court and Tribunal.

Outcome 2

Program 2.1: Family Court of Australia

Apply and uphold the rule of law for litigants in the Family Court of Australia through the resolution of family law matters according to law, particularly more complex family law matters, and through the effective management of the administrative affairs of the Court.

Outcome 3

Program 3.1: Federal Circuit Court of Australia

Apply and uphold the rule of law for litigants in the Federal Circuit Court of Australia through more informal and streamlined resolution of family law and general federal law matters according to law, through the encouragement of appropriate dispute resolution processes and through the effective management of the administrative affairs of the Court.

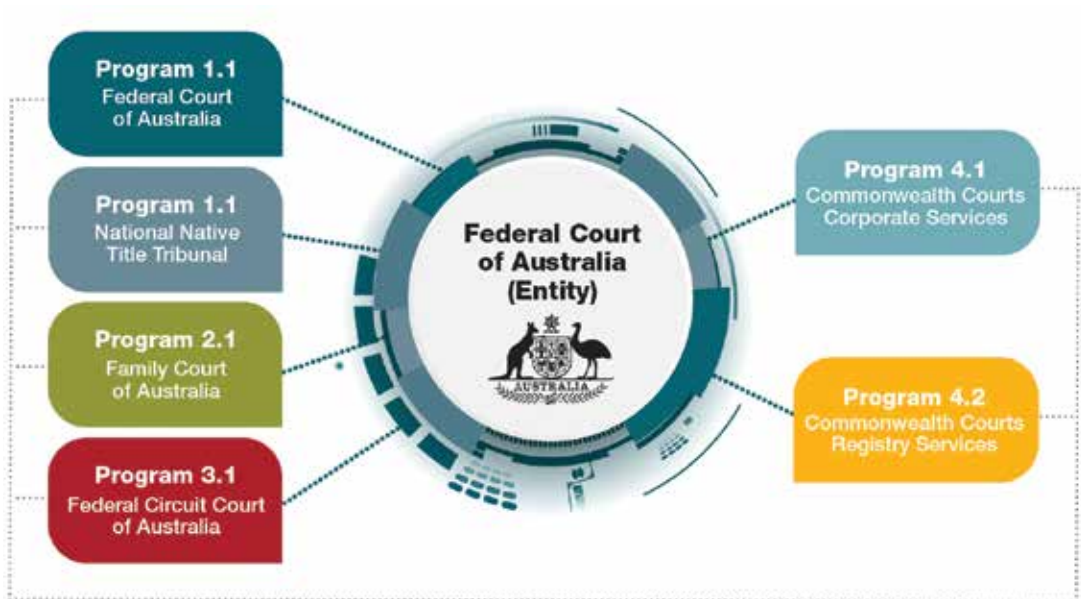
Outcome 4

Program 4.1: Commonwealth Courts Corporate Services

Improved administration and support of the resolution of matters according to law for litigants in the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate services.

Program 4.2: Commonwealth Courts Registry Services

Improved administration and support of the resolution of matters according to law for litigants in the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate and registry services.



Federal Court of Australia

The relationship between the Federal Court's Portfolio Budget Statements, corporate plan and annual performance statement

	OUTCOME 1	OUTCOME 2	OUTCOME 3	OUTCOME 4
Portfolio Budget Statements	Apply and uphold the rule of law for litigants in the Federal Court of Australia and parties in the National Native Title Tribunal through the resolution of matters according to law and through the effective management of the administrative affairs of the Court and Tribunal.	Apply and uphold the rule of law for litigants in the Family Court of Australia through the resolution of family law matters according to law, particularly more complex family law matters, and through the effective management of the administrative affairs of the Court.	Apply and uphold the rule of law for litigants in the Federal Circuit Court of Australia through more informal and streamlined resolution of family law and general federal law matters according to law, through the encouragement of appropriate dispute resolution processes and through the effective management of the administrative affairs of the Court.	Improved administration and support of the resolution of matters according to law for litigants in the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate and registry services.
	↓	↓	↓	↓
	Program 1.1 Federal Court of Australia	Program 2.1 Family Court of Australia	Program 3.1 Federal Circuit Court of Australia	Program 4.2 Commonwealth Courts Registry Services
	↓	↓	↓	↓
	Timely completion of cases 85% of cases completed within 18 months of commencement Judgments to be delivered within three months	Timely completion of cases Clearance rate of 100% 75% of judgments to be delivered within three months 75% of cases pending conclusion to be less than 12 months old	Timely completion of cases 90% of final order applications disposed of within 12 months 90% of all other applications disposed of within six months 70% of matters resolved prior to trial	Correct information Less than 1% of enquiries result in a complaint about registry services. Timely processing of documents 75% of documents processed within three working days. 90% of documents processed within five working days.
				Efficient and effective corporate services Corporate services to be provided within the agreed funding
				Efficient registry services All registry services provided within the agreed funding and staffing level.

OUTCOME 1

OUTCOME 2

OUTCOME 3

OUTCOME 4

Corporate
Plan purpose

Decide disputes according to the law as quickly, inexpensively and efficiently as possible	↓	Help Australians resolve their most complex family disputes by deciding matters according to the law, promptly, courteously and effectively	↓	Provide timely access to justice and resolve disputes in an efficient and cost effective manner, using appropriate dispute resolution processes.	↓	Provide efficient and effective corporate services to the Commonwealth courts and the National Native Title Tribunal	↓	Provide efficient and effective registry services to the Commonwealth courts and tribunals
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Annual
performance
statement

Analysis of performance Federal Court 2019–20 annual report: pages 15–38; 40–68; 70–80; and 193–198.	↓	Analysis of performance Federal Court 2019–20 annual report: pages 193–198. Family Court 2019–20 annual report: pages 16–39	↓	Analysis of performance Federal Court 2019–20 annual report: pages 193–198. Federal Circuit Court 2019–20 annual report: pages 23–57	↓	Analysis of performance Federal Court 2019–20 annual report: pages 59–68; and 193–198.	↓	Analysis of performance Federal Court 2019–20 annual report: pages 59–68; and 193–198.
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OUTCOME 1

Program 1.1:

Federal Court of Australia

Purpose

Decide disputes according to the law as quickly, inexpensively and efficiently as possible.

Delivery

- Exercising the jurisdiction of the Federal Court of Australia.
- Supporting the operations of the National Native Title Tribunal.

Performance criterion

Timely completion of cases

- 85 per cent of cases completed within 18 months of commencement.
- Judgments to be delivered within three months.

Criterion source

- Table 2.1.3: Performance criteria for Outcome 1, *Federal Court of Australia Portfolio Budget Statements 2019–20*.
- *Federal Court of Australia Corporate Plan 2019–2020*.

Results

TIMELY COMPLETION OF CASES		
Target	Result 2019–20	Target status
85 per cent of cases completed within 18 months of commencement	93 per cent of cases were completed within 18 months of commencement	TARGET MET
Judgments to be delivered within three months	77 per cent of judgments were delivered in three months	TARGET MET

Analysis

The Court met both targets in relation to timely completion of cases:

- **85 per cent of cases completed within 18 months of commencement**

The Court disposed of 93 per cent of cases within 18 months of commencement. This figure

includes appeals and related actions and excludes native title cases. This is well above the target rate of 85 per cent.

- **Judgments to be delivered within three months**

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

During 2019–20, the Court handed down 2,313 judgments for 2,158 court files (some files involve more than one judgment being delivered, e.g. interlocutory decisions and sometimes, one judgment will cover multiple files).

This is an increase of 46 judgments from last financial year. The data indicates that 77 per cent of appeals (both full court and single judge) were delivered within three months and 79 per cent of judgments at first instance were delivered within three months of the date of being reserved.

Significant decreases in filings in 2019–20 were experienced in company winding up applications dealt with by registrars of the Court and appeals from the Federal Circuit Court.

On 25 March 2020, the Commonwealth government introduced changes to corporate insolvency and bankruptcy legislation to provide relief to companies and individuals affected by the COVID-19 pandemic, with the introduction of the *Coronavirus Economic Response Package Omnibus Act 2020* (Cth).

The six months relief provided by these amendments included changes to the threshold amounts for the issue of statutory demands and bankruptcy notices to \$20,000 up from \$2,000 and \$5,000 respectively, and an increase in the time to respond to a statutory demand or a bankruptcy notice from 21 days to six months. These amendments have had a direct impact on filings in corporate insolvency and bankruptcy and specifically the workload of registrars through this period.

While filings decreased gradually for the first three quarters of the 2019–20 financial year, the onset of COVID-19 in the final quarter caused a more significant decrease in overall filings.

A detailed analysis on the performance of the Federal Court can be found in Part 3 (*Report on Court performance*) and Appendix 5 (*Workload statistics*) of this report.

OUTCOME 2

Program 2.1: Family Court of Australia

Purpose

To help Australians resolve their most complex family disputes by deciding matters according to the law, promptly, courteously and effectively.

Delivery

- Exercising the jurisdiction of the Family Court of Australia.

The Family Court of Australia is a separate Chapter III court under the Australian Constitution and the performance criteria applicable to the Court is identified in the *2019–20 Federal Court of Australia Portfolio Budget Statements* and in the *Federal Court of Australia Corporate Plan 2019–2020*.

Performance criterion

Timely completion of cases

- Clearance rate of 100 per cent
- 75 per cent of judgments to be delivered within three months
- 75 per cent of cases pending conclusion to be less than 12 months old.

Criterion source

- Table 2.2.2: Performance criteria for Outcome 2, *Federal Court of Australia Portfolio Budget Statements 2019–20*.
- *Federal Court of Australia Corporate Plan 2019–2020*.

Results

TIMELY COMPLETION OF CASES

Target	Result 2019–20	Target status
Clearance rate of 100 per cent	The clearance rate was 99 per cent	TARGET NOT MET
75 per cent of judgments to be delivered within three months	83 per cent of judgments were delivered within three months	TARGET MET

TIMELY COMPLETION OF CASES

Target	Result 2019–20	Target status
75 per cent of cases pending conclusion to be less than 12 months old	65 per cent of cases pending conclusion were less than 12 months old	TARGET NOT MET

Analysis

While the COVID-19 pandemic evolved largely in the last quarter of the 2019–20 financial year, its impact on the operations of the Family Court was significant.

There was a period of significant upheaval and adjustment at the end of March and beginning of April, during which the Court shifted to electronic hearings. This required substantial effort, reorganisation, training and administrative work on the part of judges and staff.

Despite this, there are certain hearings, such as trials in particularly complicated matters, that could not proceed. This is due to the inherent nature of conducting proceedings electronically, including the unpredictability of the technology and internet connection of the parties and witnesses, the added difficulties for some unrepresented litigants or those parties requiring interpreters, the impact of stay-at-home restrictions and the additional time consumed to conduct an electronic hearing compared to a face-to-face hearing. These effects will continue to be felt into the 2020–21 financial year.

The Court used its best endeavours to continue finalising as many cases as possible, and, to the credit of judges and staff, has maintained a clearance rate of 99 per cent across all applications. It is noted that, but for the impacts of the COVID-19 pandemic, the Court is likely to have met the 100 per cent clearance rate target. The Court received a 7 per cent increase in the number of Final Order Applications filed, an 8.2 per cent increase in the number of Applications in a Case filed, and a 7.5 per cent increase in the number of Applications for Consent Orders filed during 2019–20 compared to 2018–19.

The Court aims to deliver 75 per cent of reserved judgments within three months of completion of a trial. In 2019–20, 83 per cent of the 939 reserved original jurisdiction judgments (excluding judgments on appeal cases) were delivered within that timeframe.

The Court aims to have more than 75 per cent of its pending applications less than 12 months old. At 30 June 2020, 65 per cent of pending applications were less than 12 months old, an improvement compared with 62 per cent at 30 June 2019.

The Court regularly reviews its oldest cases to better understand the causes of their delay and to determine ways in which older cases can be managed. In February and March 2020, the Court was undertaking the Summer Campaign to clear aging pending final order applications nationally across the Court through referrals to both internal and external ADR, including where appropriate, family dispute resolution (FDR) with both a registrar and family consultant. This was successful in resolving a number of matters, however the Summer Campaign was postponed after completion in only two registries due to COVID-19.

A detailed analysis on the performance of the Family Court of Australia can be found in Part 3 (*Report on Court performance*) of the Family Court of Australia's 2019–20 Annual Report.

OUTCOME 3

Program 3.1: Federal Circuit Court of Australia

Purpose

To assist with the effective resolution of disputes using streamlined procedures and appropriate dispute resolution processes to resolve matters as efficiently and cost effectively as possible.

Delivery

- Exercising the jurisdiction of the Federal Circuit Court of Australia.

The Federal Circuit Court of Australia remains a separate Chapter III court under the Australian Constitution and the performance criteria applicable to the Court is identified in the *2019–20 Federal Court of Australia Portfolio Budget Statements* and in the *Federal Court Corporate Plan 2019–2020*.

Performance criterion

Timely completion of cases

- 90 per cent of final order applications disposed of within 12 months.
- 90 per cent of all other applications disposed of within six months.
- 70 per cent of matters resolved prior to trial.

Criterion source

- Table 2.3.2: Performance criteria for Outcome 3, *Federal Court of Australia Portfolio Budget Statements 2019–20*.
- *Federal Court of Australia Corporate Plan 2019–2020*.

Results

TIMELY COMPLETION OF CASES		
Target	Result 2019–20	Target status
90 per cent of final order applications disposed of within 12 months	62 per cent of final order applications were disposed of within 12 months	TARGET NOT MET
90 per cent of all other applications disposed of within six months	89 per cent of all other applications were disposed of within six months	TARGET NOT MET
70 per cent of matters resolved prior to trial	73 per cent of matters were resolved prior to trial	TARGET MET

Analysis

In 2019–20, the Federal Circuit Court achieved one target under timely completion of cases and was unable to achieve two. The first target includes disposals of final order applications filed in family law, as well as applications filed in general federal law and migration.

It is noted in this financial year, the Notice of Risk cause of action has not been included in consideration of the results of the second target as the Notice of Risk is not an application type. Previously in the 2017–18 and 2018–19 Annual Reports, the Notice of Risk cause of action was included in this target.

The impact of the COVID-19 pandemic on the Court's operations in 2019–20 can be detected in the performance statistics. While the Court has been able to continue with the majority of its workload, there are certain categories of work that have not been able to be conducted electronically at the usual rate they would be undertaken, for example trials for final orders applications. Some trials have needed to be temporarily adjourned when parties do not have access to technology or a satisfactory internet connection, or when there are difficulties arising from access to an interpreter or other procedural fairness issues.

Additionally, there was a period of significant upheaval and adjustment at the end of March and beginning of April, during which the Court shifted to electronic hearings. This required substantial effort, reorganisation, training and administrative work on the part of judges and staff, which accounts for the slightly lower number of applications finalised overall during this financial year compared to the previous financial year (90,666 compared to 91,794).

A detailed analysis on the performance of the Federal Circuit Court can be found in Part 3 of the *Federal Circuit Court of Australia's 2019–20 Annual Report*.

OUTCOME 4

Program 4.1: Commonwealth Courts Corporate Services

Purpose

To provide efficient and effective corporate services to the Commonwealth Courts and the National Native Title Tribunal.

Delivery

Providing efficient and effective corporate services for the Commonwealth Courts and the National Native Title Tribunal.

Performance criterion

Efficient and effective corporate services

- Corporate services to be provided within the agreed funding.

Criterion source

- Table 2.4.2: Performance criteria for Outcome 4, *Federal Court of Australia Portfolio Budget Statements 2019–20*.
- *Federal Court of Australia Corporate Plan 2019–2020*.

Results

EFFICIENT AND EFFECTIVE CORPORATE SERVICES

Target	Result 2019–20	Target status
Corporate services to be provided within the agreed funding	This target has been achieved	TARGET MET

Analysis

The key outcome measure for Corporate Services is improved administration and support for the resolution of matters according to law for litigants in the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia and parties in the National Native Title Tribunal, through efficient and effective provision of shared corporate services.

The intent behind the creation, in 2016, of Corporate Services, was to deliver short-term savings and place the Courts on a sustainable funding footing over the longer term, ensuring they are better placed to deliver services to litigants. The ability of Corporate Services to meet budget and projected average staffing numbers are the metrics that will be used to measure performance.

During 2019–20, the work of corporate services continued to focus on supporting the evolving needs of judges and staff across all the courts and tribunals, while delivering on required efficiencies to meet reduced appropriations.

As expected, a key focus was in the delivery of solutions to support the work of the Courts and Tribunal in response to the COVID-19 pandemic, effectively and quickly moving the business of the Courts to an online model. This involved upgrading the Courts' existing video conferencing platform to provide assurance around its capacity to continue to deliver the majority of its hearings online for the foreseeable future.

Investment in IT security was increased and

various measures were implemented to enhance the protection of Court information and assets by reducing IT security risks and improving general IT security maturity levels.

A key achievement during the reporting period was the delivery of the digital court file in family law, allowing the Courts to create and access all court files electronically from any location around the country.

A detailed analysis on the performance of Corporate Services can be found in Part 4 (*Management and accountability*).

OUTCOME 4

Program 4.2: Commonwealth Courts Registry Services

Purpose

To provide efficient and effective registry services to the Commonwealth Courts and tribunals.

Delivery

Providing efficient and effective registry services for the Commonwealth Courts and tribunals.

Performance criterion

Correct information

- Less than 1 per cent of enquiries result in a complaint about registry services.

Timely processing of documents

- 75 per cent of documents processed within three working days.
- 90 per cent of documents processed within five working days.

Efficient registry services

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

Criterion source

- Table 2.4.2: Performance criteria for Outcome 4, *Federal Court of Australia Portfolio Budget Statements 2019–20*.
- *Federal Court of Australia Corporate Plan 2019–2020*.

Results

CORRECT INFORMATION		
Target	Result 2019–20	Target status
Less than 1 per cent of enquiries result in a complaint about registry services.	.004 per cent of enquiries resulted in a complaint about registry services.	TARGET MET
TIMELY PROCESSING OF DOCUMENTS		
75 per cent of documents processed within three working days	97.8 per cent of documents were processed within three working days	TARGET MET
90 per cent of documents processed within five working days	98.4 per cent of documents were processed within five working days	TARGET MET
EFFICIENT REGISTRY SERVICES		
All registry services provided within the agreed funding and staffing level	All registry services were provided within the agreed funding and staffing levels.	TARGET MET

Analysis

From 2019–20, the registry services functions for the Federal Court, Family Court and the Federal Circuit Court have been amalgamated into a separate program under Outcome 4: Program 4.2 Commonwealth Courts Registry Services. This initiative will provide the Courts with the opportunity to shape the delivery of administrative services across all federal courts in a more innovative and efficient manner. A focus on maximising registry operational effectiveness through streamlined structures and digital innovations will significantly contribute to the future financial sustainability of the Courts.

In 2019–20, Registry Services performed within its overall budgeted allocation of \$30,445,000 by 3 per cent, primarily due to COVID19 related savings in supplier expenditure.

Registries receive and process applications lodged at registry counters, via eFiling and in the mail. Registry Services staff processed

approximately 860,000 applications and supplementary documents in 2019–20.

Overall, family law filings have remained relatively consistent in volume for 2019–20. However, high volume, resource demanding applications such as applications for consent orders and divorce applications have increased by 7 per cent (14,908) and 3 per cent (45,886) respectively. Subpoena management, including the filing of subpoenas, notices of request to inspect and notices of objection, has decreased by 6 per cent (from 89,187 in 2018–19 to 81,444 in 2019–20). Major causes of action in federal law have decreased overall by 8 per cent in 2019–20.

Staff working on the counters in both federal law and family law registries handle general enquiries, lodge documents relating to proceedings, provide copies of documents and/or orders and facilitate the viewing of court files and subpoenas. Registry Services staff provide an efficient and effective service when dealing with litigants in person and the legal profession face-to-face at counters across Australia.

Approximately 835,000 enquiries are made to the Courts and tribunals each year, with almost half of these enquires being handled by the National Enquiry Centre. A 28 per cent decrease in counter enquiries compared to 2019–20 was expected given the face-to-face restrictions resulting from COVID-19.

There were a total of 38 complaints in relation to Registry Services during 2019–20. The number of complaints is relatively small, being less than .005 per cent of the total number of enquiries and significantly less than the performance target of 1 per cent.

Appendix 11

Executive remuneration

During the reporting period ended 30 June 2020, the Federal Court of Australia had nine executives who meet the definition of key management personnel.

Table A11.1: Key management personnel

NAME	POSITION	TERM AS KMP
Chief Justice Allsop AO	Chief Justice	1 July 2019 to 30 June 2020
Chief Justice Alstergren	Chief Justice	1 July 2019 to 30 June 2020
Warwick Soden	CEO and Principal Registrar	1 July 2019 to 30 April 2020
Sia Lagos	CEO and Principal Registrar	12 August 2019 to 28 August 2019 (Acting) 4 October 2019 to 14 May 2020 (Acting) 15 May 2020 to 30 June 2020
David Pringle	CEO and Principal Registrar	2 September 2019 to 16 April 2020 (Acting) 17 April 2020 to 30 June 2020
Virginia Wilson	CEO and Principal Registrar	1 July 2019 to 30 August 2019 (Acting)
John Dowsett AM	National Native Title Tribunal President	1 July 2019 to 30 June 2020
Christine Fewings	National Native Title Tribunal Registrar	1 July 2019 to 30 June 2020
Catherine Sullivan	Executive Director Corporate Services	1 July 2019 to 30 June 2020

Table A11.2: Key management personnel remuneration for the reporting period

NAME	POSITION TITLE	SHORT-TERM BENEFITS			POST-EMPLOYMENT BENEFITS			OTHER LONG-TERM BENEFITS			TOTAL REMUNERATION
		BASE SALARY	BONUSES	BENEFITS AND ALLOWANCES	OTHER SUPERANNUATION CONTRIBUTIONS	LONG SERVICE LEAVE	LONG-TERM BENEFITS	OTHER LONG-TERM BENEFITS	TERMINATION BENEFITS		
Chief Justice Allsop AO	Chief Justice, Federal Court	515,000	0	26,983	466,572	51,495	0	0	0	1,060,050	
Chief Justice Alstergren	Chief Justice, Family Court and Chief Judge, Federal Circuit Court	515,000	0	31,837	466,572	51,495	0	0	0	1,064,904	
Warwick Soden	CEO and Principal Registrar, Federal Court	103,402	0	80,127	55,396	9,271	0	0	0	248,196	
Sia Lagos	CEO and Principal Registrar, Federal Court	383,977	0	4,778	27,970	9,142	0	0	0	425,867	
David Pringle	CEO and Principal Registrar, Family Court and Federal Circuit Court	324,353	0	0	17,297	7,594	0	0	0	349,244	
Virginia Wilson	CEO and Principal Registrar, Family Court and Federal Circuit Court	48,861	0	10,934	6,126	1,435	0	0	0	67,356	
John Dowsett	National Native Title Tribunal President	448,577	0	38,341	21,175	10,955	0	0	0	519,048	
Christine Fewings	National Native Title Tribunal Registrar	279,826	0	0	21,175	7,045	0	0	0	308,046	
Catherine Sullivan	Executive Director Corporate Services	296,300	0	22,372	44,554	7,523	0	0	0	370,749	
Grand Total		2,915,296	0	215,372	1,126,837	155,955	0	0	0	4,413,460	

Table A11.3: Information about remuneration for senior executives

TOTAL REMUNERATION BANDS	NUMBER OF SENIOR EXECUTIVES	SHORT-TERM BENEFITS					POST-EMPLOYMENT BENEFITS			OTHER LONG-TERM BENEFITS			TERMINATION BENEFITS		TOTAL REMUNERATION	
		AVERAGE BASE SALARY	AVERAGE BONUSES	AVERAGE BENEFITS AND ALLOWANCES	AVERAGE OTHER BENEFITS AND ALLOWANCES	AVERAGE SUPERANNUATION CONTRIBUTIONS	AVERAGE LONG SERVICE LEAVE	AVERAGE LONG-TERM BENEFITS	AVERAGE OTHER BENEFITS	AVERAGE TERMINATION BENEFITS	AVERAGE TERMINATION BENEFITS	AVERAGE TOTAL REMUNERATION	AVERAGE TOTAL REMUNERATION	AVERAGE TOTAL REMUNERATION	AVERAGE TOTAL REMUNERATION	AVERAGE TOTAL REMUNERATION
\$0 – \$220,000	6	91,945	0	8,605	17,928	2,953	0	0	0	0	0	0	0	0	0	121,431
\$220,001 – \$245,000	4	193,856	0	5,171	32,040	4,813	0	0	0	0	0	0	0	0	0	235,880
\$245,001 – \$270,000	3	205,125	0	14,732	33,614	5,129	0	0	0	0	0	0	0	0	0	258,600
\$270,001 – \$295,000	2	214,650	0	23,222	34,279	5,266	0	0	0	0	0	0	0	0	0	277,417
\$295,001 – \$320,000	3	198,005	0	12,490	35,767	5,036	0	0	0	0	0	0	0	0	52,492	303,790
\$320,001 – \$345,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
\$345,001 – \$370,000	1	306,584	0	200	45,009	7,411	0	0	0	0	0	0	0	0	0	359,204

Table A11.4: Information about remuneration for other highly paid staff

TOTAL REMUNERATION BANDS	NUMBER OF SENIOR EXECUTIVES	SHORT-TERM BENEFITS					POST-EMPLOYMENT BENEFITS			OTHER LONG-TERM BENEFITS			TERMINATION BENEFITS		TOTAL REMUNERATION	
		AVERAGE BASE SALARY	AVERAGE BONUSES	AVERAGE BENEFITS AND ALLOWANCES	AVERAGE OTHER BENEFITS AND ALLOWANCES	AVERAGE SUPERANNUATION CONTRIBUTIONS	AVERAGE LONG SERVICE LEAVE	AVERAGE LONG-TERM BENEFITS	AVERAGE OTHER BENEFITS	AVERAGE TERMINATION BENEFITS	AVERAGE TERMINATION BENEFITS	AVERAGE TOTAL REMUNERATION	AVERAGE TOTAL REMUNERATION	AVERAGE TOTAL REMUNERATION	AVERAGE TOTAL REMUNERATION	AVERAGE TOTAL REMUNERATION
\$225,001 – \$245,000	4	183,586	0	17,363	31,374	4,342	0	0	0	0	0	0	0	0	0	236,665
\$245,001 – \$270,000	5	208,670	0	6,135	33,954	5,218	0	0	0	0	0	0	0	0	0	253,977
\$270,001 – \$295,000	1	223,969	0	22,618	34,436	5,355	0	0	0	0	0	0	0	0	0	286,378
\$295,001 – \$320,000	1	231,358	27,480	320	35,207	5,718	0	0	0	0	0	0	0	0	0	300,083
\$320,001 – \$345,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
\$345,001 – \$370,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
\$370,001 – \$395,000	1	319,334	0	200	48,149	7,820	0	0	0	0	0	0	0	0	0	375,503

Appendix 12

Information required by other legislation

Table A12.1: Information required by other legislation

LEGISLATION	PAGE
<i>Commonwealth Electoral Act 1918</i>	42
<i>Courts Administration Legislation Amendment Act 2016</i>	13, 53, 181
<i>Environment Protection and Biodiversity Conservation Act 1999</i>	50
<i>Federal Court of Australia Act 1976</i>	i, 1, 21, 25, 40, 74, 150
<i>Freedom of Information Act 1982</i>	34, 48, 79
<i>Native Title Act 1993</i>	viii, ix, x, 8, 16, 24, 25, 27, 33, 34, 42, 70, 156
<i>Public Governance, Performance and Accountability Act 2013</i>	1, 2, 3, 40, 42, 48, 84, 113, 189
<i>Public Service Act 1999</i>	8, 40, 53, 54, 181, 24
<i>Work Health and Safety Act 2011</i>	54

Appendix 13

Court and Registry locations

General Federal Law Registries (Federal Court and Federal Circuit Court)

*These registries share counter services with the family law jurisdiction

Principal Registry

Law Courts Building

Queens Square
Sydney NSW 2000

Phone: (02) 9230 8567
Fax: (02) 9230 8824

Email: query@fedcourt.gov.au
Web: www.fedcourt.gov.au

Contact hours: 8.30am–5.00pm

Northern Territory*

Supreme Court Building

Level 3, State Square
Darwin NT 0800

Phone: (08) 8941 2333
Fax: (08) 8941 4941

Email: ntreg@fedcourt.gov.au

Counter hours: 9.00am–4.00pm

Contact hours: 8.45am–4.30pm

Australian Capital Territory*

Nigel Bowen Commonwealth Law Courts

Cnr University Avenue and Childers Street
Canberra City Act 2600

Phone: (02) 6267 0666
Fax: (02) 6267 0625

Email: actman@fedcourt.gov.au

Counter hours: 9.00am–4.30pm

Contact hours: 8.30am–5.00pm

Queensland*

Harry Gibbs Commonwealth Law Courts

Level 6, 119 North Quay
Brisbane Qld 4000

Phone: (07) 3248 1100
Fax: (07) 3248 1260

Email: qldreg@fedcourt.gov.au

Counter hours: 9.00am–4.00pm

Contact hours: 8.30am–5.00pm

New South Wales

Law Courts Building

Level 17, Queens Square
Sydney NSW 2000

Phone: (02) 9230 8567
Fax: (02) 9230 8535

Email: nswdr@fedcourt.gov.au

Counter hours: 9.00am–4.30pm

Contact hours: 8.30am–5.00pm

South Australia

Roma Mitchell Commonwealth Law Courts

Level 5, 3 Angas Street
Adelaide SA 5000

Phone: (08) 8219 1000
Fax: (08) 8219 1001

Email: sareg@fedcourt.gov.au

Counter hours: 9.00am–4.30pm

Contact hours: 8.30am–5.00pm

Tasmania***Edward Braddon Commonwealth Law Courts**

39–41 Davey St
Hobart TAS 7000

Phone: (03) 6232 1615

Fax: (03) 6232 1601

Email: tasreg@fedcourt.gov.au

Counter hours: 9.00am–4.30pm

Contact hours: 8.30am–5.00pm

Victoria**Owen Dixon Commonwealth Law Courts**

Level 7, 305 William Street
Melbourne VIC 3000

Phone: (03) 8600 3333

Fax: (03) 8600 3351

Email: vicreg@fedcourt.gov.au

Counter hours: 9.00am–4.30pm

Contact hours: 8.30am–5.00pm

Western Australia**Peter Durack Commonwealth Law Courts**

Level 6, 1 Victoria Avenue
Perth WA 6000

Phone: (08) 9268 7100

Fax: (08) 9221 3261

Email: perth.registry@fedcourt.gov.au

Counter hours: 8.30am–4.00pm

Contact hours: 8.30am–5.00pm

Family Law Registries (Family Court and Federal Circuit Court)**Australian Capital Territory****Canberra*****Nigel Bowen Commonwealth Law Courts**

Cnr University Avenue and Childers Street
Canberra ACT 2600

New South Wales**Albury**

Level 1, 463 Kiewa Street
Albury NSW 2640

Dubbo

Cnr Macquarie and
Wingewarra Streets
Dubbo NSW 2830

Lismore**Westlawn Building**

Level 2, 29–31 Molesworth Street
Lismore NSW 2480

Newcastle

61 Bolton Street
Newcastle NSW 2300

Parramatta**Garfield Barwick Commonwealth Law Courts**

1–3 George Street
Parramatta NSW 2123

Sydney**Lionel Bowen Commonwealth Law Courts**

97–99 Goulburn Street
Sydney NSW 2000

Wollongong

Level 1, 43 Burelli Street
Wollongong NSW 2500

Northern Territory**Darwin*****Supreme Court Building**

State Square
Darwin NT 0800

Queensland**Brisbane****Harry Gibbs Commonwealth Law Courts**

119 North Quay,
Cnr North Quay and Tank Streets
Brisbane Qld 4000

Cairns**Commonwealth Government Centre**

Levels 3 and 4
104 Grafton Street
Cairns Qld 4870

Rockhampton**Virgil Power Building**

Ground Floor 46 East Street
Cnr Fitzroy Street
Rockhampton Qld 4700

Townsville

Level 2, Commonwealth Centre
143 Walker Street
Townsville Qld 4810

South Australia

Adelaide

Roma Mitchell Commonwealth Law Courts

3 Angas Street
Adelaide SA 5000

Tasmania

Hobart*

Edward Braddon Commonwealth Law Courts

39–41 Davey Street
Hobart TAS 7000

Launceston

ANZ Building

Level 3
Cnr Brisbane and
George Streets
Launceston TAS 7250

Victoria

Dandenong

53–55 Robinson Street
Dandenong VIC 3175

Melbourne

Owen Dixon Commonwealth Law Courts

305 William Street
Melbourne VIC 3000

PART 7

Indexes



Alphabetical index

A

- abbreviations, vi
 - Aboriginal and Torres Strait Islander Social Justice Commissioner, 79
 - Aboriginal peoples' and Torres Strait Islanders' human rights, 79
 - Abraham, Justice Wendy Jane, 180
 - access to judgments, 56
 - access to the Court, 30–6
 - Accountable Authority, 188 *see also* Chief Executive Officer and Principal Registrar
 - accounting standards changes, 13
 - Administrative and Constitutional Law and Human Rights NPA, 16
 - decisions of interest, 145–6
 - workload statistics, 138
 - Administrative Appeals Tribunal, 16
 - Administrative Decisions (Judicial Review) Act 1977*, 16
 - administrative tribunal decisions concerning the Courts' operations for purposes of the PGPA Act, 40
 - Admiralty Act 1988*, 8, 16
 - admiralty and maritime law matters, 16–17
 - decisions of interest, 146–7
 - workload statistics, 139
 - Admiralty Rules 1988*, 8, 18
 - advertising and market research, 42
 - Allsop, Chief Justice James Leslie Bain, 123
 - professional activities, 159–61
 - see also* Chief Justice
 - annual performance statement, 189–98
 - annual report corrections, previous reports, 47
 - appeals
 - jurisdiction, 17, 22–4
 - reserved judgments, 21
 - timeliness of delivering judgments, 13, 23, 135
 - workload and statistics, 23–4, 132
 - approved forms, 18
 - archives and image gallery, 57
 - artworks audit, 57
 - Asia–Pacific region, 37–8, 59
 - asset management, 49–50, 57 *see also* audits
 - assisted dispute resolution, 28–9
 - Attorney-General's Department, 31, 67
 - audio-visual resources, 57
 - Audit Committee, 42, 43–7
 - Auditor-General access clauses, 48
 - audits
 - artworks audit, 57
 - independent auditor's report, 42, 82–3
 - internal audit arrangements, 42
 - of rehabilitation management system, 54
 - AusTender, 48
 - AustLII, 56
 - Australian Competition and Consumer Commission, 38
 - Australian Competition and Consumer Commission v Pacific National Pty Limited [2020] FCAFC 77*, 149–50
 - Australian Competition Tribunal, 142–3
 - access to judgments, 56
 - appointments, 142
 - decisions of interest, 143
 - information management, 56, 57
 - registry services, 64
 - website, 55
 - Australian Federal Police, 47
 - Australian Human Rights Commission, 79
 - Australian National Audit Office, 42
 - independent auditor's report, 42, 82–3
 - Australian Securities and Investments Commission Act 2001*, 17, 18
 - Australian workplace agreements, 54
- ## B
- Bankruptcy Act 1966*, 8, 17, 18
 - bankruptcy matters, 17
 - COVID-19 government economic relief measures, 12
 - workload statistics, 12, 135–6
 - Banks-Smith, Justice Katrina Frances
 - professional activities, 175–6

- the Bar, working with, 35
 - Bellamy's Australia Limited v Basil* [2019] FCAFC 147, 147
 - Bianco Walling Pty Ltd v Construction, Forestry, Maritime, Mining and Energy Union* [2020] FCAFC 50, 152
 - Bromberg, Justice Mordecai
 - professional activities, 166
 - Burke, Paul, 26, 74
 - Burley, Justice Stephen Carey George
 - professional activities, 172
 - Burton v Commissioner of Taxation* [2019] FCAFC 141, 158
 - bushfire-affected litigants, support for, 30
- C**
- cartel conduct, 17
 - case management, 11–12, 16–17, 19, 20, 25
 - Chhabra v McPherson as Trustee for the McPherson Practice Trust* [2019] FCAFC 228, 154
 - Chief Executive Officer and Principal Registrar, 124
 - remuneration, 200
 - role, 8, 40
 - year in review, 10–14
 - Chief Information Governance Officer, 57
 - Chief Justice
 - Acting Chief Justice arrangements, 7
 - responsibilities, 40
 - Chief Operating Officers, 53
 - Client Service Charter, National Native Title tribunal, 79
 - codes of conduct, 79
 - Collier, Justice Berna Joan
 - professional activities, 163
 - Colvin, Justice Craig Grierson
 - professional activities, 176
 - Comcare, 54
 - Commercial and Corporations NPA, 17
 - decisions of interest, 147–52
 - workload statistics, 139
 - Commissioner of Patents v Rokt Pte Ltd* [2020] FCAFC 86, 155
 - committees, 40
 - common law contracts, 54
 - Commonwealth Courts Corporate Services, 13–14, 40–52
 - advertising and market research, 42
 - asset management, 49–50, 57
 - corporate governance, 42–7
 - environmental management, 50–2
 - finance law compliance, 42
 - financial management, 41–2
 - human resources management, 53–4
 - information technology, 54–6
 - library and information services, 58–9
 - objectives, 41
 - outcome and program statement, 3, 190–2
 - overview, 40–1
 - performance statement, 196–7
 - purchasing, 48–8
 - purpose, 41, 196
 - recordkeeping and information management, 56–8
 - resources for outcome, 3
 - security arrangements, 47
 - staffing *see* staff
 - work of, 41–2
 - Commonwealth Courts Registry Services, 59–68
 - additional services, 64
 - enquiries management review, 67
 - enquiry centre *see* National Enquiry Centre
 - financial management, 63
 - initiatives, 66
 - key functions of registries, 60
 - locations, 62
 - management structure, 59–61
 - new service model, 68
 - objectives, 59
 - outcome and program statement, 190–2, 197–8
 - overseas delegations, 65
 - overview, 59
 - performance against targets, 63
 - performance criteria, 62
 - performance statement, 197–8
 - public education and engagement, 64–5
 - purpose, 59, 197
 - resources for outcome, 3
 - service delivery principles, 60

- training, 67
 - workload, 12, 63–4
 - Commonwealth Law Court buildings, 49
 - Commonwealth Ombudsman, 40
 - Commonwealth Procurement Rules, 48
 - community relations, 34–5, 64–5
 - companies
 - COVID-19 government economic relief measures, 12
 - see also* corporation matters
 - companies and commercial jurisdiction, 17
 - Competition and Consumer Act 2010*, 17
 - complaints, 35–6, 64, 79
 - compliance report, 42
 - Concise Statement Method, 19
 - Constitution, 1, 16, 17
 - Construction, Forestry, Maritime, Mining and Energy Union v Australian Building and Construction Commissioner* [2019] FCAFC 201, 153
 - consultancy services, 48
 - Consumer Action Law Centre, 64
 - consumer law, workload statistics, 137
 - contact officer, *inside front cover*
 - contracts, 48, 57 *see also* purchasing
 - copyright agreement, 57–8
 - Copyright Tribunal, 143–4
 - access to judgments, 56
 - cases of interest, 143–4
 - information management, 56, 57
 - registry services, 64
 - website, 55
 - Coronavirus Economic Response Package Omnibus Act 2020* (Cth), 12 *see also* COVID-19 pandemic
 - corporate governance
 - Corporate Services, 42–7
 - Federal Court of Australia, 40
 - National Native Title Tribunal, 78
 - corporate insolvency
 - COVID-19 government economic relief measures, 12
 - Corporate Plan purpose *see* purpose
 - corporate services *see also* Commonwealth Courts Corporate Services
 - corporation matters
 - fee exemptions, 34
 - jurisdiction, 17
 - workload statistics, 136
 - Corporations Act 2001*, 8, 17
 - correction of errors in previous annual reports, 47
 - The Country Care Group Pty Ltd v Commonwealth Director of Public Prosecutions* [2020] FCAFC 30, 153–4
 - court locations, 203–205
 - courtroom video conferencing, 54–5
 - Courts Administration Legislation Amendment Act 2016*, 13, 53
 - Courts Records Authority, 57
 - COVID-19 pandemic
 - Courts' response to, 10–11, 13–14, 19, 29, 30, 53, 54–5, 56, 59, 66
 - government economic measures, 13
 - impact of, 12, 30, 37, 65, 72
 - NNTT response to, 71–2
 - criminal proceedings, 17, 18 *see also* Federal Crime and Related Proceedings NPA
 - Cross-Border Insolvency Act 2008*, 18
 - cultural acknowledgment, 60, 70, 72–3
- ## D
- data centres, 55 *see also* information technology
 - Davies, Justice Jennifer
 - professional activities, 168
 - decisions of interest, 145–58
 - Defence Force Discipline Appeals Tribunal, 144
 - access to judgments, 56
 - information management, 56, 57
 - registry services, 64
 - website, 55
 - definitions (terminology), vii–xi
 - Deputy District Registrars, 8
 - Deputy Principal Registrar, 57, 124
 - Deputy Sheriffs, 8
 - Derrington, Justice R M
 - professional activities, 173
 - Derrington, Justice S C
 - professional activities, 174–5
 - detention *see* immigration detention
 - determinations (map), 77

digital court file, 11–12, 13, 14, 52, 58, 67 *see also*
 case management
 Digital Court Program, 11, 67
 digital hearings, 10–11
 digital litigation support, 11
 digital resources storage, 57
 digital transformation, 10, 13, 52, 58, 67
 digitisation initiatives, 58
 Director, Public Information, 34
 Directors of Court Services, 59–60, 67
 disability reporting, 53
 dispute resolution, assisted *see* assisted dispute
 resolution
 District Registrars, 8 *see also* Registrars
 District Registries, 8 *see also* registries
 divorce applications, 52
 docket case management process *see* case
 management
 document access (FOI), 34 *see also* publishing
 document and records management, 56–8
 document processing, timeliness in registries, 63
 Dowsett, Justice John, 26
 presentations by, 80
*Drury on behalf of the Nanda People v State of
 Western Australia* [2020] FCAFC 69, 27

E

ecologically sustainable development
 implications in legislation administered, 52
see also environmental performance
 education programs
 community, 64–5
 for judicial officers, 36
 legal, 36
see also staff: training
 eLodgment system, 30 *see also* digital court file
 employees *see* staff
 Employment and Industrial Relations NPA
 decisions of interest, 152–3
 workload statistics, 139
 energy use, 50, 51
 enquiries, 63–4
 enterprise agreements, 54
 entity resource statement, 122
 environmental performance, 50–2

errors in previous annual reports, correction of,
 47
 ethical standards, 79
 Executive Director, Court and Tribunal Services,
 59
 exempt contracts, 48
 expenses for outcomes, 2–3
 external scrutiny, 40
 National Native Title Tribunal, 79

F

Fair Work Act 2009, 17
 fair work matters, 17, 139
Fair Work (Registered Organisations) Act 2009,
 17
 Family Court of Australia
 corporate services *see* Commonwealth Courts
 Corporate Services
 digital court files, 13, 14, 52, 58, 67
 Digital Court Program, 11–12
 financial management *see* financial
 management
 Lighthouse family violence project, 56
 outcome and program statement, 2, 190–2
 performance statement, 194–5
 registry locations, 204–205
 family law
 enquiries, 64
 workload, 63
 Federal Circuit Court of Australia
 appeals from, 1, 17, 22–4
 corporate services for *see* Commonwealth
 Courts Corporate Services
 digital court files, 67
 Digital Court Program, 11–12
 outcome and program statement, 3, 190–2
 performance statement, 195–6
 registry locations, 203–205
 workload, 12, 19–21
Federal Circuit Court of Australia Act 1999, 8
Federal Court (Bankruptcy) Rules 2016, 8, 18
Federal Court (Corporations) Rules 2000, 8, 18
*Federal Court (Criminal Proceedings) Rules
 2016*, 8, 18

- Federal Court of Australia
 - committees, 40
 - corporate services *see* Commonwealth Courts Corporate Services
 - establishment, 1
 - functions and powers, 1
 - judges *see* judges
 - jurisdiction, 1, 16–19
 - locations, 203–204
 - objectives, 1
 - organisational structure, 123
 - outcome and program structure, 2–3, 190–2
 - overview of, 1–8
 - performance statement, 193 *see also* performance
 - purpose, 1
 - registries *see* registries
 - workload *see* workload
 - year in review, 10–14
 - Federal Court of Australia Act 1976*, i, 1, 8, 18, 25, 40
 - Federal Court Rules 2011*, 8, 18
 - Federal Crime and Related Proceedings NPA, 17
 - decisions of interest, 153–4
 - workload statistics, 141
 - federal law, general *see* general federal law
 - fees and fee regulation, 18, 33–4
 - proceedings exempt from fees, 33–4
 - files *see* case management; online files for high profile matters
 - filings *see* workload
 - finance law compliance, 42
 - financial accounts, 41–2
 - financial counselling for self-represented litigants in bankruptcy proceedings, 33
 - financial management, 13, 41, 63
 - additional funding, 13
 - entity resource statement, 122
 - National Native Title Tribunal, 78
 - financial statements, 13, 82–121
 - audit report, 42, 82–3
 - Fortescue Metals Group v Warrie on behalf of the Yindjibarndi People* [2019] FCAFC 177, 156–7
 - Foster, Justice Lindsay Graeme
 - professional activities, 165
 - fraud prevention and control, 42
 - freedom of information, 34–5, 48, 79
 - Freedom of Information Act 1982*, 34, 48, 79
 - Fulton on behalf of the Mambali Amaling-Gan v Northern Territory of Australia (the Minyerri and Banka Banka Matters)* [2019] FCA 2156, 28
 - functions and powers
 - Australian Competition Tribunal, 142
 - Copyright Tribunal, 143
 - Defence Force Discipline Appeals Tribunal, 144
 - Federal Court of Australia, 1
 - National Native Title Tribunal, 73–4
 - funding *see* financial management
- ## G
- general federal law
 - enquiries, 64
 - workload, 12, 63
 - Gill v Ethicon Sàrl (No 5)* [2019] FCA 1905, 150–1
 - Gleeson, Justice Jacqueline Sarah
 - professional activities, 170
 - glossary, vii–xi
 - governance
 - Corporate Services, 40–2
 - Federal Court of Australia, 40
 - National Native Title Tribunal, 78
 - grant programs, 42
 - Griffiths, Justice John Edward
 - professional activities, 167
 - guides, 19
- ## H
- Health and Safety Committee, 54 *see also* work health and safety
 - hearings
 - for detainees, 30
 - digital hearings, 10–11
 - online hearings, 11, 13, 30
 - High Court of Australia, 22
 - High Court of the Solomon Islands, 37
 - human resources management, 53–4 *see also* staff
 - human rights *see* Administrative and Constitutional Law and Human Rights NPA

I
 image gallery, 57
 immigration detention
 hearings for detainees, 30
 incidents (accidents and injury), 54
 Indigenous Land Use Agreements (ILUAs), 78
 area and location, 77–8
 assistance and registration, 76, 77
 notified, 76–7
 number of, 75
 Register, 75, 76
 individual flexibility arrangements, 54
 industrial law jurisdiction, 17, 139
 Information Governance Committee, 57
 information management, 56–8
 Information Publication Scheme, 34
 information technology, 10–11, 13–14, 30, 51,
 54–6, 72
 insolvency, personal *see* bankruptcy matters
 intellectual property jurisdiction, 16
 Intellectual Property NPA
 decisions of interest, 154–6
 workload statistics, 140
 internal audit arrangements, 42
 international collaboration, 37–38
 interpreters, 33
 intranet, 57
 iPad initiative, 11

J
 Jackson, Justice Darren John, 179
 JADE, 56
Jadwan Pty Ltd v Rae & Partners (A Firm) [2020]
 FCAFC 62, 157–8
 judges, 4–7
 appointments, 7–8
 committees, 40
 delegation of powers, 8, 40
 meetings, 40
 retirements, 7
 see also Chief Justice
 judgments
 access to, 56
 decisions of interest, 145–58
 number of, 13, 20

 publishing, 56
 reserved, 13, 20–1
 timeliness of, 13, 20, 23, 135
 Judicial and Registry Services Team Leaders, 60
 ‘Judicial Dashboard’, 11
 judicial decisions concerning the Courts’
 operations for purposes of the PGPA Act
 (external scrutiny), 40
 judicial education, 36
 Judicial Primers, 38
Judiciary Act 1903, 1, 16
 jurisdiction of the Federal Court, 1, 16–19
 changes to, 17–18
 Justice Connect, 31, 64
 JusticeNet SA, 31

K
 Katzmann, Justice Anna Judith
 professional activities, 166
 Kenny, Justice Susan Coralie
 Acting Chief Justice, 7
 professional activities, 162
 key management personnel, 199–200
 key performance indicators *see* performance
King v Northern Territory [2007] FCA 1498, 28
*Kraft Foods Group Brands LLC v Bega Cheese
 Limited* [2020] FCAFC 65, 151–2

L
 Lagos, Sia
 review of year, 10–14 *see also* Chief Executive
 Officer and Principal Registrar
 Law Council of Australia Federal Court Liaison
 Committee, 31
 LawRight, 31, 64
*Le v Scott as trustee of the property of Chanh
 Tam Le, a Bankrupt* [2020] FCAFC 12, 150
 leadership forums, 67
 leases, accounting treatment of, 13
 Legal Aid Western Australia, 31
 legal community events, 35
 legal education programs, 36
 legal system, Court contribution to, 36–8
 legislation
 changes affecting the Court’s jurisdiction, 17

legislative framework for Court jurisdiction,
1, 8

letter of transmittal, i

library and information services, 58–9

Lighthouse family violence project, 56

'List Assist' tool, 11

litigants, support for, 30–4

- bushfire-affected, 30
- self-represented, 30, 31–2
- unrepresented, 30

live chat, 56, 65, 66

lodgment process, 30

Logan, Justice John Alexander

- professional activities, 164

M

McKerracher, Justice Neil Walter

- professional activities, 164

Makasa v Minister for Immigration and Border Protection [2020] FCAFC 22, 145–6

management structure, Registry Services, 59–61

Manager National Enquiry Centre, 60

Managers of Court Services, 60

maritime law matters *see* admiralty and maritime law matters

marketing services, 42

Markovic, Justice Brigitte Sandra

- professional activities, 171

Marshals, 8, 17, 47

matters dealt with (workload) *see* workload

media inquiries, 34

mediation, 28–9

- native title matters, 25, 29, 72
- referrals by NPA and registry, 29
- training in, 72

Members, National Native Title Tribunal, 70, 71

memoranda of understanding

- with ACCC, 38
- with Supreme and National Courts of Papua New Guinea, 37

Middleton, Justice John Eric

- professional activities, 163

Migration Act 1958, 17

migration jurisdiction, 17

- appeals, 23–4
- workload, 141

Modernisation Fund, 13

Mortimer, Justice Debra Sue

- professional activities, 168

Moshinsky, Justice Mark Kranz

- professional activities, 171

Murphy, Justice Bernard Michael

- professional activities, 167

N

National Archives of Australia, 57, 58

National Court Framework, 12, 20 *see also*

- National Practice Areas

National Enquiry Centre, 65–6

- channels of communication, 65
- enquiries management review, 67
- management, 60
- responsibilities, 65–6
- workload and performance, 63–4, 65, 66

national guides, 19

National Judicial College of Australia, 36

National Native Title Register, 75

National Native Title Tribunal, 16

- accountability to clients, 79
- COVID-19 response, 71–2
- cultural acknowledgment, 70, 72–3
- establishment, 70
- ethical standards, 79
- external factors, 73
- financial review, 78
- functions, 73–4
- future acts, 73–4
- governance, 78

ILUAs *see* Indigenous Land Use Agreements (ILUAs)

- information management, 56, 57
- inquiries, 74
- management of, 78–9
- maps, 77–8
- Members, 70, 71, 79
- office locations, 70
- overview, 70–1
- President, 70, 71
- President's presentations, 80
- register searches, 77, 79
- registers kept, 75
- Registrar, 70, 71, 75–8

- Registrar's remuneration, 200
 - stakeholder engagement, 72
 - statutory office-holders, 70
 - website, 55
 - work in 2019–20, 73–8
 - year in review, 71–3
 - see also* *Native Title Act 1993*; native title matters
 - National Practice Areas, 12
 - mediation referrals, 29
 - practice and procedure reforms, 30–1
 - workload statistics, 138–41
 - National Practice Committee, 30–1, 40
 - Native Title Act 1993*, 8, 16, 24, 25, 27, 34, 70, 71, 79, 156–7
 - advertising of applications, 42, 72
 - proposed amendments, 73
 - see also* National Native Title Tribunal
 - native title matters, 80
 - compensation claims, 24
 - decisions of interest, 156–7
 - mediation, 25, 29, 72
 - notification of native title applications, 42, 72
 - stakeholder engagement, 25
 - workload and trends, 21, 22, 24–8
 - see also* National Native Title Tribunal
 - Native Title Registrar, 70, 71, 75–8
 - Neptune Hospitality Pty Ltd v Ozmen Entertainment Pty Ltd* [2020] FCAFC 47, 146–7
 - New South Wales, native title matters, 26–7, 74, 75, 76
 - non-salary benefits, 54
 - Norfolk Island *see* Supreme Court of Norfolk Island
 - Northern Territory, native title matters, 28, 74, 75, 76
 - Nyamal Palyku Proceeding* [2020] FCA 428, 27
 - Nyamal Palyku Proceeding (No 2)* [2020] FCA 788, 27
- O**
- objectives
 - Corporate Services, 41
 - Federal Court of Australia, 1
 - Registry Services, 59
 - O'Bryan, Justice Michael Hugh
 - professional activities, 178–9
 - O'Callaghan, Justice David John
 - professional activities, 172
 - Officers of the Court, 8 *see also* registrars
 - Ombudsman, 40
 - online files for high profile matters, 34, 56
 - online hearings, 11
 - online services *see* digital court file; information technology; websites
 - operating result, 13, 41–2
 - Operations and Finance Committee, 40
 - Organisation for Economic Co-operation and Development, 38
 - organisational structure
 - Federal Court of Australia, 123
 - Registry Services, 59–61
 - Other Federal Jurisdiction NPA
 - decisions of interest, 157–8
 - workload statistics, 141
 - outcomes and programs, 190–2
 - Outcome 1 *see* Federal Court of Australia
 - Outcome 2 *see* Family Court of Australia
 - Outcome 3 *see* Federal Circuit Court of Australia
 - Outcome 4, Program 4.1 *see* Commonwealth Courts Corporate Services
 - Outcome 4, Program 4.2 *see* Commonwealth Courts Registry Services
 - performance statements, 193–8
 - see also* performance
 - overseas delegations, 38, 65
 - overview
 - Corporate Services, 40–1
 - Federal Court of Australia, 1–8
 - National Native Title Tribunal, 70–1
 - Registry Services, 59

P

- Pacific Judicial Strengthening Initiative, 37–8
- paper usage, 51, 52
- Papua New Guinea
 - library collection and services, 59
 - National and Supreme Courts, 37
- Parliamentary committees, 40, 73

- pay *see* remuneration and benefits
 - performance
 - annual performance statement, 189–98
 - Commonwealth Courts Corporate Services, 196–7
 - Commonwealth Courts Registry Services, 62, 63, 197–8
 - environmental management, 50–2
 - Family Court of Australia, 194–5
 - Federal Circuit Court of Australia, 195–6
 - Federal Court of Australia, 16, 193
 - financial management, 41–2
 - National Enquiry Centre, 66
 - National Native Title Tribunal, 73–8
 - timeliness, 13, 20, 23, 63, 134–5
 - performance pay, 54, 188
 - Perram, Justice Nye
 - professional activities, 165
 - Perry, Justice Melissa Anne
 - professional activities, 169–70
 - personal insolvency *see* bankruptcy matters
 - personnel *see* staff
 - police services, 47
 - Portfolio Budget Statements, 190–2
 - practice areas *see* National Practice Areas
 - practice notes, 18–19
 - President, National Native Title Tribunal, 54, 70, 71, 80, 200
 - Principal Registrar, Federal Court *see* Chief Executive Officer and Principal Registrar
 - pro bono schemes, 30
 - procurement *see* purchasing
 - professional activities (judges' activities), 159–80
 - see also* international collaboration
 - programs *see* outcomes and programs
 - property projects, 14, 49–50, 52
 - pseudonyms, 30
 - public education, 34–5, 64–5
 - Public Governance, Performance and Accountability Act 2013*, i, 40, 42, 48, 53
 - Public Governance, Performance and Accountability Rule 2014*, i
 - public interest issues, 17
 - Public Service Act 1999*, 8, 40, 53
 - s24 determinations, 54
 - publishing, 56
 - of judgments, 56
 - notification of native title applications, 42, 72
 - see also* websites
 - purchasing, 48–9
 - library system consortium purchasing, 59
 - purpose
 - Corporate Services, 41, 196
 - Family Court of Australia, 194
 - Federal Circuit Court of Australia, 195
 - Federal Court of Australia, 1, 193
 - and outcomes, 192 *see also* performance
 - Registry Services, 59, 197
- Q**
- Queensland, native title matters, 25–6, 74, 75, 76
- R**
- Rares, Justice Steven David
 - Acting Chief Justice, 7
 - professional activities, 162
 - Reconciliation Action Plan, 72
 - recordkeeping, 56–8
 - Records Policy Committee, 57
 - recycling, 50, 52
 - regional collaborations, 37–8 *see also* international collaboration
 - Register of Indigenous Land Use Agreements, 16, 75, 76
 - Register of Native Title Claims, 75–6
 - registrars, 12, 124–8
 - district registrars, 8
 - judicial registrars, 124–7
 - national registrars, 128
 - Native Title Registrar, 70, 71, 75–8
 - role, 8
 - of tribunals, 142, 143, 144
 - registries, 19, 40
 - additional services, 64
 - administration, 53
 - buildings and accommodation, 49–50, 52, 55
 - counter enquiries, 63–4 *see also* National Enquiry Centre
 - key functions, 60
 - local consultation, 64
 - locations, 62, 203–205

management structure, 59–61
 mediation referrals, 29
 new service model, 68
 workload, 12, 63–4
see also Commonwealth Courts Registry Services
 rehabilitation management system, 54
 remote access technology, 10–11, 30, 55, 72
 remuneration and benefits, 54, 188
 key management personnel, 200
 non-salary benefits, 54
 performance pay and bonuses, 54, 188
 senior executives, 54, 188, 201
 statutory office-holders, 54, 200
 Remuneration Tribunal, 54, 85, 117
 reserved judgments, 13, 20–1
 risk management, 42
 rules, 8, 18 *see also Admiralty Rules 1988; Federal Court (Bankruptcy) Rules 2016; Federal Court (Corporations) Rules 2000; Federal Court (Criminal Proceedings) Rules 2016; Federal Court Rules 2011*

S

safety *see* work health and safety
 salaries *see* remuneration and benefits
Secretary, Department of Education and Training v Simpson Networks Pty Ltd t/as Melbourne School Holiday Club [2019] FCAFC 239, 145
 security, 14, 47, 50
 self-represented litigants, 30, 31–2
 seminars and workshops, 35, 38
 Senate Legal and Constitutional Affairs Committee, 73
 Senior Executive Service employees,
 remuneration, 54, 188, 201
Shafston Avenue Construction Pty Ltd v McCann [2020] FCAFC 85, 147–8
 Sheriffs, 8, 47
 small business participation in procurement, 48
 Solomon Islands, 37
 South Australia, native title matters, 26, 75
 staff
 average staffing level, 2, 3
 employment arrangements, 8, 53, 54, 187
 health, safety and wellbeing, 14
 health and wellbeing, 53, 54
 human resources management, 53–4
 numbers and profile, 8, 53, 181–8
 remuneration and benefits, 54, 188
 training, 14, 53, 67, 72
 staff consultation, 53
 stakeholder engagement, 35, 64–5
 native title matters, 25
 statistical reports *see* court performance
 statutes under which the Court exercises
 jurisdiction, or affecting the Court's
 jurisdiction, 1, 8, 16–17
 statutory functions, 8
 statutory office-holders, 70, 199
 remuneration, 200
 Steward, Justice Simon Harry Peter
 professional activities, 175
 Stewart, Justice Angus Morkel, 176–8
 study assistance program, 53
 Supreme Court of Norfolk Island, 1, 17
 Supreme Court of Papua New Guinea, 37
 Supreme Courts of the states and territories, 16

T

taxation matters, 16
 decisions of interest, 158
 workload statistics, 140
 terminology (definitions), vii–xi
 Thomas, Justice David Graham
 professional activities, 173
 timeliness, 13, 20, 23, 63, 134–5
Tommy on behalf of the Yinhawangka Gobawarra v State of Western Australia (No 2) [2019] FCA1551, 27
 Torres Strait Islanders' human rights, 79
Traditional Owner Settlement Act 2010 (Vic), 28
 training and development *see* education
 programs; judicial education; staff: training
 travel and transport, 41, 50, 51, 52
 Tribunals Records Authority, 57
Trident Seafoods Corporation v Trident Foods Pty Ltd [2019] FCAFC 100, 155–6

U

unrepresented litigants, 30
user groups, 34–5

V

Vanuatu, book shipment to, 59
Victoria, native title matters, 28, 75, 76
video conferencing, 10, 13, 29, 30, 52, 54–5, 72,
196
visitors to the Court and registries, 38, 65
volunteers, 53

W

waste management, 52
websites, 55–6
 addresses, 55
 native title information, 79
 usage, 55
Western Australia, native title matters, 25, 27–8,
74, 75, 76
WiFi, 55
Wigney, Justice Michael Andrew
 professional activities, 169
work experience students, 34
work health and safety, 53, 54
working digitally *see* digital transformation
working groups and committees *see* committees
workload, 12–13, 19–21
 appellate jurisdiction, 23–4, 130, 132, 133
 disposition of matters other than native title,
 20
 statistics, 129–41
 see also case management
workload in original jurisdiction, 12
 age of pending workload, 21–2
 current matters, 21, 130–2, 134
 incoming work, 21, 130
 matters completed, 21, 133
 matters transferred to and from the Court, 21
 native title matters, 73–8
workplace agreements *see* enterprise
 agreements
workplace relations matters *see* industrial law
 jurisdiction

Y

*Yanunijarra Aboriginal Corporation RNTBC v
State of Western Australia* [2020] FCAFC 64, 73
Yates, Justice David Markey
 professional activities, 165
year in review

 Federal Court of Australia, 10–14
 National Native Title Tribunal, 71–3

Z

Zoetis Australia Pty Ltd v Abbott [2019] FCAFC
153, 148–9

List of Requirements

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PAGE OF THIS REPORT
17AD(g)	Letter of transmittal		
17AI	A copy of the letter of transmittal signed and dated by accountable authority on date final text approved, with statement that the report has been prepared in accordance with section 46 of the Act and any enabling legislation that specifies additional requirements in relation to the annual report	Mandatory	i
17AD(h)	Aids to access		
17AJ(a)	Table of contents	Mandatory	iii
17AJ(b)	Alphabetical index	Mandatory	207
17AJ(c)	Glossary of abbreviations and acronyms	Mandatory	vi–xi
17AJ(d)	List of requirements	Mandatory	218
17AJ(e)	Details of contact officer	Mandatory	Inside front cover
17AJ(f)	Entity's website address	Mandatory	Inside front cover
17AJ(g)	Electronic address of report	Mandatory	Inside front cover
17AD(a)	Review by accountable authority		
17AD(a)	A review by the accountable authority of the entity	Mandatory	9–14
17AD(b)	Overview of the entity		
17AE(1)(a)(i)	A description of the role and functions of the entity	Mandatory	1
17AE(1)(a)(ii)	A description of the organisational structure of the entity	Mandatory	123
17AE(1)(a)(iii)	A description of the outcomes and programmes administered by the entity	Mandatory	2–3
17AE(1)(a)(iv)	A description of the purposes of the entity as included in corporate plan	Mandatory	1
17AE(1)(aa)(i)	Name of the accountable authority or each member of the accountable authority	Mandatory	188
17AE(1)(aa)(ii)	Position title of the accountable authority or each member of the accountable authority	Mandatory	188
17AE(1)(aa)(iii)	Period as the accountable authority or member of the accountable authority within the reporting period	Mandatory	188
17AE(1)(b)	An outline of the structure of the portfolio of the entity	Portfolio departments - mandatory	N/A
17AE(2)	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	N/A

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PAGE OF THIS REPORT
17AD(c)	Report on the Performance of the entity		
	Annual performance Statements		
17AD(c)(i); 16F	Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule	Mandatory	189–198
17AD(c)(ii)	Report on Financial Performance		
17AF(1)(a)	A discussion and analysis of the entity's financial performance	Mandatory	13; 41–42
17AF(1)(b)	A table summarising the total resources and total payments of the entity	Mandatory	122
17AF(2)	If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results	If applicable, Mandatory.	N/A
17AD(d)	Management and Accountability		
	Corporate Governance		
17AG(2)(a)	Information on compliance with section 10 (fraud systems)	Mandatory	42
17AG(2)(b)(i)	A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared	Mandatory	42
17AG(2)(b)(ii)	A certification by accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the entity are in place	Mandatory	42
17AG(2)(b)(iii)	A certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity	Mandatory	42
17AG(2)(c)	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance	Mandatory	42
17AG(2)(d) – (e)	A statement of significant issues reported to Minister under paragraph 19(1)(e) of the Act that relates to non-compliance with Finance law and action taken to remedy non-compliance	If applicable, Mandatory	42
	Audit Committee		
17AG(2A)(a)	A direct electronic address of the charter determining the functions of the entity's audit committee	Mandatory	47

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PAGE OF THIS REPORT
17AG(2A)(b)	The name of each member of the entity's audit committee	Mandatory	43–47
17AG(2A)(c)	The qualifications, knowledge, skills or experience of each member of the entity's audit committee	Mandatory	43–47
17AG(2A)(d)	Information about the attendance of each member of the entity's audit committee at committee meetings	Mandatory	43–47
17AG(2A)(e)	The remuneration of each member of the entity's audit committee	Mandatory	43–47
External Scrutiny			
17AG(3)	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny	Mandatory	40
17AG(3)(a)	Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity	If applicable, Mandatory	40
17AG(3)(b)	Information on any reports on operations of the entity by the Auditor-General (other than report under section 43 of the Act), a Parliamentary Committee, or the Commonwealth Ombudsman	If applicable, Mandatory	40
17AG(3)(c)	Information on any capability reviews on the entity that were released during the period	If applicable, Mandatory	N/A
Management of Human Resources			
17AG(4)(a)	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives	Mandatory	53
17AG(4)(aa)	Statistics on the entity's employees on an ongoing and non-ongoing basis, including the following: (a) statistics on full-time employees (b) statistics on part-time employees (c) statistics on gender (d) statistics on staff location	Mandatory	181–188
17AG(4)(b)	Statistics on the entity's APS employees on an ongoing and non-ongoing basis; including the following: ■ Statistics on staffing classification level ■ Statistics on full-time employees ■ Statistics on part-time employees ■ Statistics on gender ■ Statistics on staff location ■ Statistics on employees who identify as Indigenous	Mandatory	181–188

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PAGE OF THIS REPORT
17AG(4)(c)	Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the <i>Public Service Act 1999</i>	Mandatory	187
17AG(4)(c)(i)	Information on the number of SES and non-SES employees covered by agreements etc identified in paragraph 17AG(4)(c)	Mandatory	181–188
17AG(4)(c)(ii)	The salary ranges available for APS employees by classification level	Mandatory	188
17AG(4)(c)(iii)	A description of non-salary benefits provided to employees	Mandatory	54
17AG(4)(d)(i)	Information on the number of employees at each classification level who received performance pay	If applicable, Mandatory	54; 188
17AG(4)(d)(ii)	Information on aggregate amounts of performance pay at each classification level	If applicable, Mandatory	188
17AG(4)(d)(iii)	Information on the average amount of performance payment, and range of such payments, at each classification level	If applicable, Mandatory	188
17AG(4)(d)(iv)	Information on aggregate amount of performance payments	If applicable, Mandatory	188
Assets Management			
17AG(5)	An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities	If applicable, mandatory	49
Purchasing			
17AG(6)	An assessment of entity performance against the <i>Commonwealth Procurement Rules</i>	Mandatory	48
Consultants			
17AG(7)(a)	A summary statement detailing the number of new contracts engaging consultants entered into during the period; the total actual expenditure on all new consultancy contracts entered into during the period (inclusive of GST); the number of ongoing consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST)	Mandatory	48
17AG(7)(b)	A statement that “ <i>During [reporting period], [specified number] new consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing consultancy contracts were active during the period, involving total actual expenditure of \$[specified million]</i> ”	Mandatory	48

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PAGE OF THIS REPORT
17AG(7)(c)	A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged	Mandatory	48
17AG(7)(d)	A statement that “ <i>Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website.</i> ”	Mandatory	48
Australian National Audit Office Access Clauses			
17AG(8)	If an entity entered into a contract with a value of more than \$100 000 (inclusive of GST) and the contract did not provide the Auditor-General with access to the contractor’s premises, the report must include the name of the contractor, purpose and value of the contract, and the reason why a clause allowing access was not included in the contract	If applicable, Mandatory	48
Exempt contracts			
17AG(9)	If an entity entered into a contract or there is a standing offer with a value greater than \$10 000 (inclusive of GST) which has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters	If applicable, Mandatory	48
Small business			
17AG(10)(a)	A statement that “ <i>[Name of entity] supports small business participation in the Commonwealth Government procurement market. Small and Medium Enterprises (SME) and Small Enterprise participation statistics are available on the Department of Finance’s website.</i> ”	Mandatory	48
17AG(10)(b)	An outline of the ways in which the procurement practices of the entity support small and medium enterprises	Mandatory	48
17AG(10)(c)	If the entity is considered by the Department administered by the Finance Minister as material in nature—a statement that “ <i>[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.</i> ”	If applicable, Mandatory	49
Financial Statements			
17AD(e)	Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act	Mandatory	82

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PAGE OF THIS REPORT
Executive Remuneration			
17AD(da)	Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 2-3 of the Rule	Mandatory	199
17AD(f) Other Mandatory Information			
17AH(1)(a)(i)	If the entity conducted advertising campaigns, a statement that <i>“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.”</i>	If applicable, Mandatory	N/A
17AH(1)(a)(ii)	If the entity did not conduct advertising campaigns, a statement to that effect	If applicable, Mandatory	42
17AH(1)(b)	A statement that <i>“Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity’s website].”</i>	If applicable, Mandatory	42
17AH(1)(c)	Outline of mechanisms of disability reporting, including reference to website for further information	Mandatory	53
17AH(1)(d)	Website reference to where the entity’s Information Publication Scheme statement pursuant to Part II of FOI Act can be found	Mandatory	34
17AH(1)(e)	Correction of material errors in previous annual report	If applicable, mandatory	47
17AH(2)	Information required by other legislation	Mandatory	202

