



FEDERAL COURT OF AUSTRALIA ANNUAL REPORT 2018-19

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Annual Report
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OF AUSTRALIA
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LOOKING BACK

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To the future...

active case management
eLodgment
electron case

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TRANSFORMING

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OF AUSTRALIA
ANNUAL REPORT
2015-2016

FEDERAL COURT
OF AUSTRALIA
ANNUAL REPORT 2017-18

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6 September 2019

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 2019.

The report is submitted in accordance with:

- section 18S of the *Federal Court of Australia Act 1976*
- section 17AI of the Public Governance, Performance and Accountability Rule 2014, 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 2019).

This is the Court's 30th annual report.

Yours sincerely

The Honourable James Allsop AO
Chief Justice

Warwick Soden OAM
Chief Executive Officer and Principal Registrar

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COURT OF
AUSTRALIA
ANNUAL
REPORT**
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Acronyms and abbreviations

ACCC	Australian Competition and Consumer Commission
ACL	Australian Consumer Law
ADJR Act	<i>Administrative Decisions (Judicial Review) Act 1977</i>
ADR	Assisted Dispute Resolution
ALRC	Australian Law Reform Commission
AM	Member of the Order of Australia
ANAO	Australian National Audit Office
AO	Officer of the Order of Australia
APS	Australian Public Service
ASEAN	Association of Southeast Asian Nations
ASIC	Australian Securities and Investments Commission
AustLII	Australasian Legal Information Institute
CC	Creative Commons
CEO	Chief Executive Officer
CoA	Cause of Action
COAT	Council of Australian Tribunals
DCP	Digital Court Program
FCMAS	Federal Court Mediator Accreditation Scheme
FOI	Freedom of Information
GPN	General Practice Note
ILUA	Indigenous Land Use Agreement
IT	Information Technology
J	Justice
JCCD	Judicial Council on Cultural Diversity
JJ	Justices
MFD	Multi-Function Device
MOU	Memorandum of Understanding
NNTC	National Native Title Council
NPA	National Practice Area
NTV	Native Title Vision
OAM	Medal of the Order of Australia
PBC	Prescribed Bodies Corporate
PC	Personal computer
PGPA	Public Governance, Performance and Accountability
PIC	Pacific Island Countries
PJSI	Pacific Judicial Strengthening Initiative
PNG	Papua New Guinea
QC	Queen's Counsel
RFD	Reserve Force Decoration
RNTBC	Registered Native Title Bodies Corporate
SC	Senior Counsel
SES	Senior Executive Service
SME	Small and Medium Enterprise
SRL	Self-represented Litigant
USP	University of the South Pacific
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 (ILUA), 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

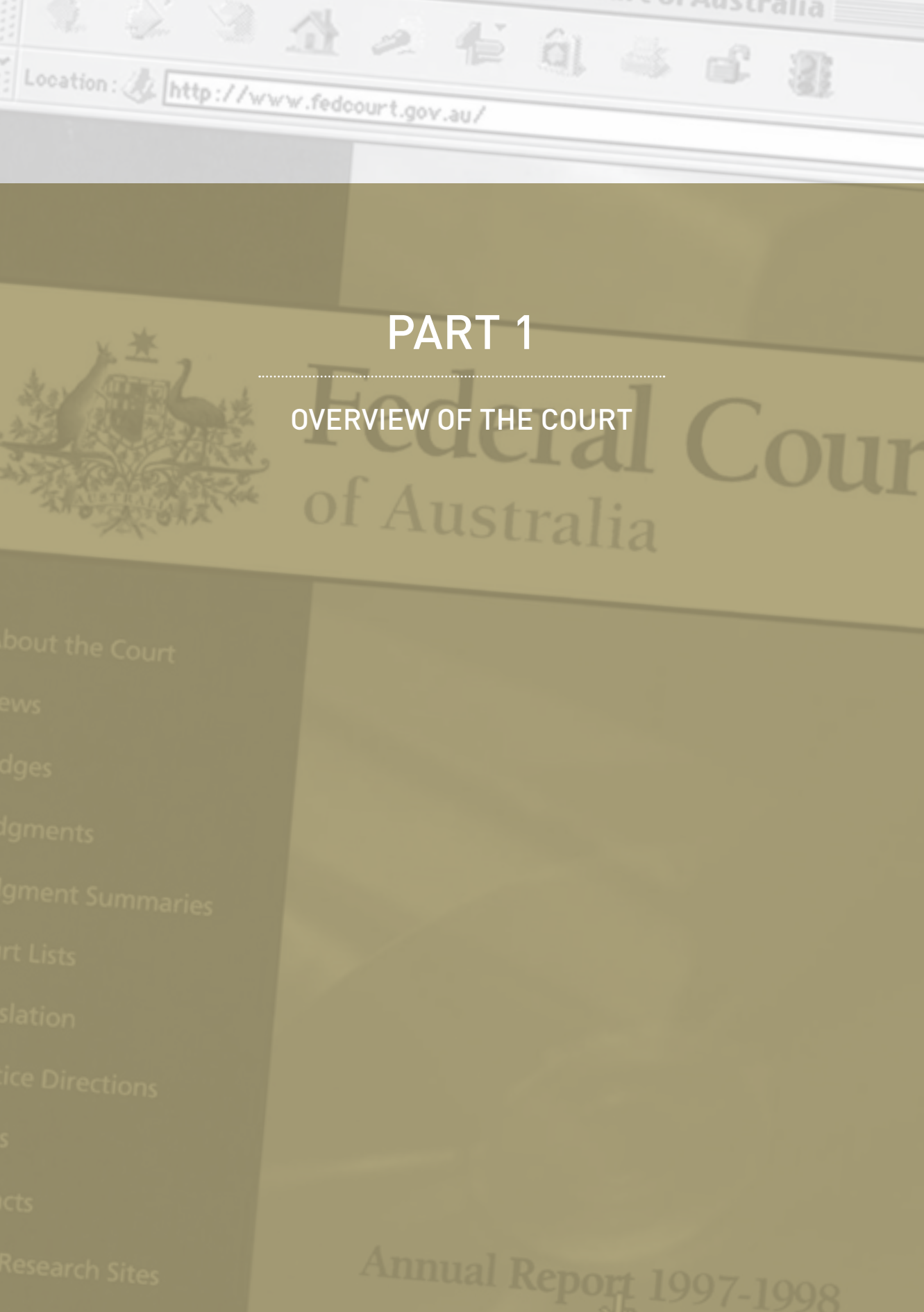
Rules made by the judges which set out the procedures for conducting a proceeding. The current rules of the Federal Court are the Federal Court Rules, Federal Court (Corporations) Rules 2000 (for proceedings under the *Corporations Act 2001*) and Federal Court (Bankruptcy) Rules 2016 (for proceedings 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

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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 2019–2020 Corporate Plan, the purpose of the Federal Court entity is to contribute to the social and economic development and wellbeing of all Australians by applying and upholding the rule of law to deliver remedies and enforce rights.

FUNCTIONS AND POWERS

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

The Court has a substantial and diverse appellate jurisdiction. It hears appeals from decisions of single judges of the Court and from the Federal Circuit Court of Australia (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 (*The work of the Court in 2018–19*).

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 2018–19 (\$'000)	ACTUAL 2018–19 (\$'000)	VARIATION (\$'000)
Program 1.1 – Federal Court of Australia			
Administered expenses			
Special appropriations	600	459	141
Departmental expenses			
Departmental appropriation ¹	72,808	69,499	3,309
Expenses not requiring appropriation in the budget year	16,639	20,435	-3,796
Total for Program 1.1	90,047	90,393	-346
Total expenses for outcome 1	90,047	90,393	-346
Average staffing level (number)	343	308	

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 2018–19 (\$'000)	ACTUAL 2018–19 (\$'000)	VARIATION (\$'000)
Program 2.1 – Family Court of Australia			
Administered expenses			
Special appropriations	100	28	72
Departmental expenses			
Departmental appropriation ¹	33,314	33,969	-655
Expenses not requiring appropriation in the budget year	11,639	13,238	-1,599
Total for Program 2.1	45,053	47,235	-2,182
Total expenses for outcome 2	45,053	47,235	-2,182
Average staffing level (number)	92	86	

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 2018–19 (\$'000)	ACTUAL 2018–19 (\$'000)	VARIATION (\$'000)
Program 3.1 – Federal Circuit Court of Australia			
Administered expenses			
Ordinary annual services (Appropriation Act No.1)	880	807	73
Special appropriations	200	431	-231
Departmental expenses			
Departmental appropriation ¹	93,582	96,717	-3,135
Expenses not requiring appropriation in the budget year	2,351	3,010	-659
Total for Program 3.1	97,013	100,965	-3,952
Total expenses for outcome 3	97,013	100,965	-3,952
Average staffing level (number)	526	504	

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 2018–19 (\$'000)	ACTUAL 2018–19 (\$'000)	VARIATION (\$'000)
Program 4.1 – Commonwealth Courts Corporate Services			
Departmental expenses			
Departmental appropriation ¹	68,996	64,673	4,323
Expenses not requiring appropriation in the budget year	57,721	57,017	704
Total for Program 4.1	126,717	121,690	5,027
Total expenses for outcome 4	126,717	121,690	5,027
Average staffing level (number)	123	131	

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

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

Judges of the Court are appointed by the Governor-General by commission and may not be removed except by the Governor-General on an address from both Houses of Parliament in the same session.

All judges must retire at the age of 70.

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

At 30 June 2019, there were 54 judges of the Court. They are listed below in order of seniority with details about any other commissions or appointments held on courts or tribunals. Of the 54 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 2019)

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 – Part-time 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

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon John Eric MIDDLETON	Melbourne	Australian Competition Tribunal – Part-time President Administrative Appeals Tribunal – Deputy President Australian Law Reform Commission – Part-time Commissioner
The Hon John Alexander LOGAN RFD	Brisbane	Administrative Appeals Tribunal – Deputy President Defence Force Discipline Appeal Tribunal – 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 – Part-time 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 Administrative Appeals Tribunal – Deputy President
The Hon Jayne Margaret JAGOT	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Administrative Appeals Tribunal – Deputy President Copyright Tribunal – Deputy President
The Hon Lindsay Graeme FOSTER	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Australian Competition Tribunal – Part-time Deputy President
The Hon John Victor NICHOLAS	Sydney	
The Hon David Markey YATES	Sydney	Australian Competition Tribunal – Part-time Deputy President
The Hon Mordecai BROMBERG	Melbourne	
The Hon Anna Judith KATZMANN	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Alan ROBERTSON	Sydney	Administrative Appeals Tribunal – Deputy President Australian Competition Tribunal – Part-time Deputy President
The Hon Bernard Michael MURPHY	Melbourne	
The Hon Iain James Kerr ROSS AO	Melbourne	Fair Work Australia – President Supreme Court of the Australian Capital Territory – Additional Judge
The Hon John Edward GRIFFITHS	Sydney	
The Hon Duncan James Colquhoun KERR Chev LH	Hobart	
The Hon Kathleen FARRELL	Sydney	Australian Competition Tribunal – Part-time Deputy President
The Hon Jennifer DAVIES	Melbourne	Administrative Appeals Tribunal – Deputy President Australian Competition Tribunal – Deputy President
The Hon Debra Sue MORTIMER	Melbourne	
The Hon Darryl Cameron RANGIAH	Brisbane	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Richard Conway WHITE	Adelaide	Administrative Appeals Tribunal – Deputy President
The Hon Michael Andrew WIGNEY	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Supreme Court of Norfolk Island – Judge
The Hon Melissa Anne PERRY	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge Defence Force Discipline Tribunal Administrative Appeals Tribunal – Deputy President
The Hon Jacqueline Sarah GLEESON	Sydney	
The Hon Jonathan Barry Rashleigh BEACH	Melbourne	
The Hon Brigitte Sandra MARKOVIC	Sydney	

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Mark Kranz MOSHINSKY	Melbourne	
The Hon Robert James BROMWICH	Sydney	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Natalie CHARLESWORTH	Adelaide	Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Stephen Carey George BURLEY	Sydney	
The Hon David John O'CALLAGHAN	Melbourne	
The Hon Michael Bryan Joshua LEE	Sydney	
The Hon Roger Marc DERRINGTON	Brisbane	
The Hon David Graham THOMAS	Brisbane	Administrative Appeals Tribunal – President
The Hon Sarah Catherine DERRINGTON	Brisbane	Australian Law Reform Commission – President
The Hon Simon Harry Peter STEWARD	Melbourne	Administrative Appeals Tribunal – Part-time Deputy President
The Hon Katrina Frances BANKS-SMITH	Perth	
The Hon Craig Grierson COLVIN	Perth	Administrative Appeals Tribunal – Part-time Deputy President
The Hon Thomas Michael THAWLEY	Sydney	Administrative Appeals Tribunal – Part-time Deputy President
The Hon Michael Francis WHEELAHAN	Melbourne	
The Hon Paul Elias ANASTASSIOU	Melbourne	
The Hon Angus Morkel STEWART	Sydney	
The Hon Michael Hugh O'BRYAN	Melbourne	
The Hon Darren John JACKSON	Perth	
The Hon John Leslie SNADEN	Melbourne	
The Hon Stewart Maxwell ANDERSON	Melbourne	
The Hon Wendy Jane ABRAHAM	Sydney	

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

- 26 June to 24 July 2018 – The Honourable Justice Greenwood.
- 21 September to 1 October 2018 – The Honourable Justice Greenwood.
- 18 April to 23 April 2019 – The Honourable Justice Greenwood.
- 16 June to 19 June 2019 – The Honourable Justice Kenny.
- 25 June to 30 June 2019 – The Honourable Justice Rares (note that this appointment extended to 15 July 2019).

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 (*The work of the Court in 2018–19*) and Appendix 8 (*Judges' activities*).

Appointments and retirements during 2018–19

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

- The **Honourable Michael Francis Wheelahan** was appointed on 3 October 2018.
- The **Honourable Paul Elias Anastassiou** was appointed on 1 February 2019.
- The **Honourable Angus Morkel Stewart** was appointed on 25 February 2019.
- The **Honourable Michael Hugh O'Bryan** was appointed on 26 February 2019.
- The **Honourable Darren John Jackson** was appointed on 20 March 2019.
- The **Honourable John Leslie Snaden** was appointed on 29 April 2019.
- The **Honourable Stewart Maxwell Anderson** was appointed on 6 May 2019.
- The **Honourable Wendy Jane Abraham** was appointed on 7 May 2019.

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

- The **Honourable Justice Richard Ross Sinclair Tracey** retired upon reaching the compulsory retirement age for federal judges on 17 August 2018.

- The **Honourable Justice Anthony Max North** retired upon reaching the compulsory retirement age for federal judges on 11 September 2018.

- The **Honourable Justice Michael Laurence Barker** resigned his commission with effect from 11 February 2019.

Other appointments during the year are as follows:

- **Justice McKerracher** was appointed as a part-time Deputy President to the Administrative Appeals Tribunal on 20 July 2018.
- **Justice Perry** was appointed as a part-time Deputy President to the Administrative Appeals Tribunal on 20 July 2018.
- **Justice Steward** was appointed as a part-time Deputy President to the Administrative Appeals Tribunal on 20 July 2018.
- **Justice Colvin** was appointed as a part-time Deputy President to the Administrative Appeals Tribunal on 20 July 2018.
- **Justice Thawley** was appointed as a part-time Deputy President to the Administrative Appeals Tribunal on 20 July 2018.

- **Justice Farrell** was appointed as a part-time Deputy President of the Australian Competition Tribunal on 21 August 2018.
- **Justice Logan** was appointed President of the Defence Force Discipline Appeals Tribunal on 27 September 2018.
- **Justice Perry** was appointed a member of the Defence Force Discipline Tribunal on 27 September 2018.
- **Justice Rares** was appointed a Judge of the Supreme Court of Norfolk Island on 11 December 2018.
- **Justice Greenwood** was re-appointed as the President of the Copyright Tribunal on 24 March 2019.

Federal Court registries

Chief Executive Officer and Principal Registrar

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

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

Principal and District Registries

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

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

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

- The Queensland District Registry provides registry services to the Copyright Tribunal, the Defence Force Discipline Appeal Tribunal and the High Court of Australia.
- The Victorian District Registry is the Principal Registry for the Australian Competition Tribunal and provides registry services to the Copyright Tribunal and the Defence Force Discipline Appeal Tribunal.

- The Tasmanian District Registry provides registry services for the Australian Competition Tribunal, the Defence Force Discipline Appeal Tribunal and the Copyright Tribunal.
- The New South Wales District Registry provides registry services to the Copyright Tribunal, the Defence Force Discipline Appeal Tribunal and the Australian Competition Tribunal.
- The South Australian District Registry provides registry services for the High Court of Australia, Australian Competition Tribunal, the Copyright Tribunal of Australia and the Defence Force Discipline Appeal Tribunal.
- The Western Australian District Registry provides registry services for the High Court of Australia, the Copyright Tribunal, the Australian Competition Tribunal and the Defence Force Discipline Appeal Tribunal.
- The registries of the Court are also registries for the Federal Circuit Court in relation to non-family law matters.

From 1 July 2019, the registry services functions of the Federal Court, Family Court and the Federal Circuit Court will be amalgamated into a new program under Outcome 4 known as the Commonwealth Courts Registry Services. This 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.

More information is outlined in Part 4 (*Management of the Court*).

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

assigned to them by the Federal Court of Australia Act, Federal Court Rules 2011, Federal Court (Bankruptcy) Rules 2016, Federal Court (Corporations) Rules 2000, Federal Court (Criminal Proceedings) Rules 2016, and the Admiralty Act and Admiralty Rules 1988. These include issuing process, taxing costs and settling appeal indexes. They also exercise various powers delegated by judges under the Federal Court of Australia Act, *Bankruptcy Act 1966*, *Corporations Act 2001* and *Native Title Act 1993*. A number of staff in each registry also perform functions and exercise delegated powers under the *Federal Circuit Court of Australia Act 1999*. 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 2019, the Federal Court entity engaged 1098 employees under the Public Service Act. This figure includes 775 ongoing and 323 non-ongoing employees. More details on court staff can be found in Part 4 (*Management of the Court*) and Appendix 9 (*Staffing profile*).

PART 2

THE YEAR IN REVIEW



Federal Court of Australia

Annual Report 1998-1999

The year in review

During 2018–19, the Court continued to achieve its objective of promptly, courteously and effectively deciding disputes according to law, in order to fulfil its role as a court exercising the judicial power of the Commonwealth under the Constitution.

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

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

Significant issues and developments

Digital Court Program

The Digital Court Program (DCP) continues to be a priority for the Federal Court, the Family Court and the Federal Circuit Court and it is on track to streamline core business systems and create flexibility and operational efficiency across the three federal courts and the tribunals. The DCP commenced on 1 July 2017 with an anticipated completion date of first phases in June 2020. Key

components of the DCP include an electronic court file project, an electronic lodgment project, and a case management project. Collectively, these projects will help to modernise and transform how court services are delivered, both internal and public-facing services, as well as resolving issues related to the courts' ageing Information Technology (IT) infrastructure.

The New SmartCourt Digital Strategy

With the objective of further improving access to justice, and building on digital innovations over the past decade, the Court has conceived a new SmartCourt Digital Strategy that will be delivered over five years, through three programs:

1. Online Services: will increase the range of transactional services available online. In addition to enabling court users to access, input and update information about themselves and their matter, it will provide information and tools to support early dispute resolution. The program will also develop user pathways enabling court users to determine and take steps to progress a matter with the Court.

It will also consolidate the three courts' websites to provide high-quality user centric access to information, advice and services.

2. Digital Court: will enable parties to appear by any device where it is easier or safer for them to do so. Parties will be able to view the same version of the 'electronic court-book' with real time access to supporting case papers. They will also be able to simultaneously view and comment on digitised evidence and access voice transcripts of hearings. Judges and staff will also be able to confidentially annotate and review private working copies of electronic documents.

3. Accountability: will assure the integrity and security of data according to robust personal information protection charters. It will also expand the range of data and analysis published about the courts' performance.

The strategy will be harmonised with the IT Strategy and Infrastructure Plan that will deliver the foundations required to support it. Our complementary Digital Support Framework will build the tools, skills and capacity of internal and external users to use its digital support and services.

The Court is currently prioritising, sequencing and determining the requirements to implement each program, with implementation to commence in the 2019-20 year.

Digital hearings

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

Commencing in June 2019, the Federal Court developed a plan for the first official digital hearing pilot. That plan included the format of the digital court book, courtroom layout, in-court support (digital hearing operator), IT support (equipment set up, boosting of existing hardware, troubleshooting and availability to attend to issues as they arise) and arranging a private working copy of the digital court book for the judge.

The pilot used existing courtroom cabling that has the ability to broadcast from one PC (operated by the digital hearing operator, in this case a trained court officer) to monitors, which had been set up on the bench, bar tables, witness box and projector screen for the gallery. One of the innovations was that the public gallery was able to see all the documentary evidence, and follow on with the submissions and arguments being presented.

An evaluation report for consideration by the Digital Practice Committee and the broader Federal Court judges is currently being developed that will address a number of key elements:

- the IT infrastructure, software and hardware used to run the pilot, including the courtroom setup (photographs to be used)
- personnel and resourcing needed to prepare for and run the pilot
- case management practices, including orders made to facilitate the digital hearing pilot
- details about how the digital court book was prepared and its final format
- feedback from the parties and their legal representatives on the digital hearing pilot
- feedback from the public gallery on the digital hearing pilot
- challenges (if any) experienced and where solutions were identified, include these, and
- future implications (if any) to consider when the Court adopts digital hearings in this way.

The learnings from the digital hearing pilot will directly influence future digital hearings in the Court.

The Court has engaged in, and will continue to engage in, external consultation and apply a measured and considered approach to ensure that the technology and requirements meet the needs of the Court, the legal profession and the litigants as digital hearings are run more frequently.

Artificial intelligence and big data

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

The Court has developed a successful pilot project that uses artificial intelligence and machine learning technologies to make recommendations to parties in relation to property settlements and division of assets in the family law jurisdiction following the breakdown of a relationship. Although only within a proof of concept environment, by applying this technology, the application has learnt to understand and apply precedents and like cases to make just and equitable recommendations. The accuracy ratings have been quite impressive, reaching levels between 90 and 97 per cent. These accuracy ratings give the Court a good indication of what could be possible for artificial intelligence and the judicial sector in the future.

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

The Court continues to look for appropriate ways to progress from the proof of concept to a project, as well as other business opportunities that could positively leverage off artificial intelligence, machine learning and big data applications.

Extension of the National Court Framework

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

The Court began the process of implementing the National Court Framework reforms in 2015. These reforms have been successfully implemented in respect of the judicial

work of the Court, including organising and managing the Court's work by reference to nine National Practice Areas (NPAs), the introduction of a national allocation system for judicial work and national duty judge arrangements, as well as nationally consistent and simplified practice through a suite of national practice notes.

The Court is now extending the National Court Framework, and its core principles, to the work undertaken by judicial registrars of the Court. This aims to ensure an efficient, effective and nationally consistent approach to the allocation and management of that work, and to utilise the specialised knowledge and skills of registrars to enhance mediation and case management support for judges. Judicial registrars undertake a variety of important work, including supporting judges in their cases by conducting mediations and a range of case management work (such as conferences of experts) and determining certain cases, primarily in corporations and personal insolvency cases. The Court is applying a similar national approach to the allocation of judicial registrar work, and developing a nationally consistent approach to the way in which judicial registrars undertake their work. These additional reforms commenced in 2018 and will be fully implemented in 2019.

Workload

In 2018–19, the total number of filings (including appeals) in the Court increased by 2 per cent to 6029. Filings in the Court's original jurisdiction (excluding appeals) remained consistent at 4617. This is a statistically insignificant shift and the filings have remained substantially increased compared to a low of 3445 original jurisdiction filings in 2014–15.

Combined filings of the Federal Court and the Federal Circuit Court in general federal law increased by 1 per cent to 16,125.

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

In the Bankruptcy jurisdiction, Federal Court registrars dealt with, and disposed of, 2563 Federal Circuit Court bankruptcy matters, which equates to 91 per cent of the Federal Circuit Court's bankruptcy caseload.

Among the total disposals (8206), 47 per cent of the Federal Circuit Court's general federal law workload is dealt with by registrars, and 53 per cent is dealt with by judges.

Further information about the Court's workload, including the management of appeals, is included in Part 3 (*The work of the Court in 2018–19*) 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 93.1 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 the pressure of other business upon the Court.

During 2018–19, the Court handed down 2267 judgments for 2128 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 239 judgments. The data indicates that 85 per cent of appeals (both Full Court and single judge) were delivered within three months and 80 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 and the Commonwealth Courts Corporate Services (Corporate Services).

The financial statements show an operating surplus of \$4.594 million before depreciation costs of \$13.882 million. The entity was budgeting a break-even position for the year, with the surplus stemming from a number of projects that have been delayed to future years following uncertainty surrounding the passage of legislation in family law. 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 is enabling the entity to develop the DCP and support the courts' ongoing digital transformation and improve service delivery.

Corporate services

Throughout 2018–19, work continued on consolidating the merger of corporate services, focusing on ensuring the evolving needs of judges and staff across all the courts and tribunals are satisfied, while delivering on required efficiencies to meet reduced appropriations.

A key focus during the year was the development of a single set of human resource policies across the entity, given the finalisation of the enterprise agreement in June 2018. In addition, work continues on consolidating IT systems and amalgamating projects targeted at simplifying the combined court environment to deliver more contemporary practices and efficiency improvements at a reduced cost.

A key project during the year was the delivery of the digital court file for family law, with deployment of a technical release on 1 July 2019, together with a number of enhancements to the eFiling functionality which facilitated an increase to the number and types of forms which can be submitted electronically.

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

- relocation and design of new corporate services accommodation within the Canberra Law Courts building in Canberra, after the exit from the previous Canberra location
- development application approval and detailed design documentation was completed for the expansion of the Newcastle registry into the adjoining building. Work will commence early in the new financial year with expected completion in early 2020
- new mediation suite fit out in Darwin
- new fit out for the expanded National Native Title Tribunal accommodation within the Commonwealth Law Courts building in Brisbane, and
- preliminary design for the relocation of Corporate Services and the construction of additional courtrooms and chambers in the Queens Square Law Courts building in Sydney to accommodate the expanded criminal jurisdiction.

Other projects commenced or finalised during the year include:

- rollout of *Expense8*, a new travel booking system that has simplified processes across the three courts and tribunals
- data centre consolidation
- finalisation of tender process for a major security upgrade across the three courts and tribunals
- closure of the National Support Office accommodation in Canberra
- refinement of emergency and business continuity planning processes to accommodate organisation structural changes across the registries, and
- rollout of updated eLearning modules across the entity.

A detailed report on the delivery of corporate services in 2018–19 is in Part 4 (*Management of the Court*).



Warwick Soden

Chief Executive Officer and
Principal Registrar

Federal Court of Australia

PART 3

THE WORK OF THE COURT IN 2018-19

The work of the Court in 2018–19

This part 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 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 144 shows the 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 29. Figure A5.9.6 on in Appendix 5 (*Workload statistics*) shows native title matters filed over the last five years.

A further important area of jurisdiction for the Court derives from the *Admiralty Act 1988*. The Court has concurrent jurisdiction with the Supreme Courts of the states and territories to hear maritime claims under this Act. Ships coming into Australian waters may be arrested for the purpose of providing security for money claimed from ship owners and operators. If security is not provided, a judge may order the sale of the ship to provide funds to pay the claims. During the reporting year, the Court's Admiralty Marshals made seven arrests. One ship remained under arrest at the end of the fiscal year, pending sale. See Figure A5.9.2 in Appendix 5 (*Workload statistics*) on page 143 for the number of Admiralty and Maritime Law matters filed in the past five years.

The Court has jurisdiction under the *Fair Work Act 2009*, *Fair Work (Registered Organisations) Act 2009* and related industrial legislation (including matters to be determined under the *Workplace Relations Act 1996* in accordance with the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*). Workplace relations and fair work matters filed over the last five years are shown in Figure A5.9.4 in Appendix 5 (*Workload statistics*) on page 143.

The Court's jurisdiction under the *Corporations Act 2001* and *Australian Securities and Investments Commission Act 2001* covers a diverse range of matters, from the appointment of 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 143 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 29.

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 27.

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 2018–19

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

- *Counter-Terrorism Legislation Amendment Act (No. 1) 2018*
- *Criminal Code Amendment (Sharing of Abhorrent Violent Material) Act 2019*
- *Enhancing Online Safety (Non-consensual Sharing of Intimate Images) Act 2018*
- *Foreign Influence Transparency Scheme Act 2018*
- *Government Procurement (Judicial Review) Act 2018*
- *Health Legislation (Improved Medicare Compliance and Other Measures) Act 2018*
- *Home Affairs and Integrity Agencies Legislation Amendment Act 2018*
- *Imported Food Control Amendment Act 2018*
- *Industrial Chemicals Act 2019*
- *Office of National Intelligence (Consequential and Transitional Provisions) Act 2018*
- *Road Vehicle Standards Act 2018*
- *Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018*
- *Treasury Laws Amendment (2018 Measures No. 4) Act 2019*
- *Treasury Laws Amendment (2018 Measures No. 5) Act 2019*
- *Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Act 2019*
- *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019*
- *Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 1) Act 2019*
- *Treasury Laws Amendment (Protecting Your Superannuation Package) Act 2019*
- *Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Act 2019*, and
- *Underwater Cultural Heritage Act 2018*.

Amendments to the Federal Court of Australia Act

During the reporting year, the Federal Court of Australia Act was amended by the *Legislation Amendment (Sunsetting Review and Other Measures) Act 2018*. This gave effect to recommendations contained in the *Report on the Operation of the Sunsetting Provisions in the Legislation Act 2003*, to ensure that Rules made by the judges of the Federal Court would not be subject to the sunsetting framework set out in Part 4 of Chapter 3 of the *Legislation Act 2003*.

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.

During the reporting year, the Federal Court Rules 2011 were amended by the Federal Court Amendment (Court Administration and Other Measures) Rules 2019 to, among other things:

- update references to the Court's CEO and Principal Registrar, as well as references to the Court's other registrars as a consequence of changes to the titles of the offices of court officials brought about by the *Courts Administration Legislation Amendment Act 2016*
- update references to regulations, including the Federal Court and Federal Circuit Court Regulation 2012
- ensure rules 8.05 and 8.06 reflect practices instituted following the implementation of the Court's National Court Framework
- clarify the appropriate practice for changing the return date of an electronically filed application
- clarify the requirements for amending an electronically submitted notice of cross-claim
- update Division 33.3 to reflect changes instituted by the *Treasury Laws Amendment (Putting Consumers First – Establishment of the Australian Financial Complaints Authority) Act 2018*, specifically in respect of appeals from the Australian Financial Complaints Authority
- ensure references to renumbered sections of the *Fair Work Act 2009* were accurately reflected in rules 34.03, 34.04 and 34.05
- extend the time available for the filing and service of a notice of appeal, under rule 36.03, to 28 days, to standardise the time period with other superior courts of record in Australia
- clarify the operation of rules 40.43 and 40.44 and item 15 of Schedule 3, and
- increase the rates of costs recoverable in Schedule 3 for work done to give effect to the recommendations made in the seventh, eighth, ninth, tenth and eleventh reports of the Joint Costs Advisory Committee.

Other rules

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

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

On 1 May 2019, the Chief Justice approved the revocation and reissuance of the following forms, with effect from 2 May 2019, for the purposes of the Federal Court Rules 2011:

- Form 23: *Request for service in a foreign country*
- Form 27: *Request for local service of foreign judicial documents*
- Form 43B: *Subpoena to produce documents*
- Form 43C: *Subpoena to give evidence and produce documents*
- Form 44: *Subpoena – Declaration by addressee Notice to addressee*
- Form 59: *Affidavit*
- Form 79: *Originating application under the Fair Work Act 2009 alleging dismissal in contravention of a general protection*
- Form 80: *Originating application under the Fair Work Act 2009 alleging unlawful termination of employment*
- Form 81: *Originating application under the Fair Work Act 2009 alleging discrimination*
- Form 98A: *Subpoena to give evidence (New Zealand)*
- Form 98B: *Subpoena to produce documents (New Zealand)*
- Form 98C: *Subpoena to give evidence and produce documents (New Zealand)*

- Form 103: *Election petition (ATSI Act)*
- Form 123: *Notice of cross-appeal*, and
- Form 130: *Notice of objection to bill of costs*.

On 1 May 2019, the Chief Justice also revoked the following forms, with effect from 2 May 2019, for the purposes of the Federal Court Rules 2011:

- Form 88: *Information*, and
- Form 89: *Summons*.

On 1 May 2019, the Chief Justice approved the revocation and reissuance of the following forms, with effect from 2 May 2019, for the purposes of the Federal Court (Criminal Proceedings) Rules 2016:

- Form CP9: *Affidavit*
- Form CP42: *Subpoena to produce a document or thing*
- Form CP43: *Subpoena to attend to give evidence and to produce a document or thing*, and
- Form CP44: *Subpoena – Notice and declaration by addressee*.

No new forms were approved by the Chief Justice for the purposes of 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 under rules 2.11, 2.12 and 2.21 of the Federal Court Rules 2011, rule 1.07 of the Federal Court (Bankruptcy) Rules 2016, rule 1.14, 1.15 and 4.20 of the Federal Court (Criminal Proceedings) Rules 2016 and the Court’s inherent power to control its own processes. All practice notes are available on the Court’s website.

In general, practice notes are issued to:

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

A key component of the National Court Framework reforms has been the review of all of the Court's practice documents to ensure nationally consistent and simplified practice. Under the National Court Framework, the Court's practice documents have been consolidated and refined from 60 practice notes and administrative notices to a coherent suite of national practice notes.

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

Central Practice Note: This is the core practice note for court users and addresses the guiding National Court Framework case management principles applicable to all NPAs.

NPA Practice Notes: Interlocking with the Central Practice Note, these practice notes raise NPA-specific case management principles and are an essential guide to practice in an NPA.

General Practice Notes: These apply to all or many cases across NPAs, or otherwise address important administrative matters. A number of General Practice Notes set out particular arrangements or information concerning a variety of key areas, such as class actions, expert evidence, survey evidence, costs, subpoenas and accessing court documents.

Appeals Practice Note: The Court has made considerable changes to the management of appeals and related applications and has commenced work on developing the key features of a comprehensive Appeals Practice Note. The Court will continue that work, including undertaking external consultation and, in the interim, Appeals Practice Note APP 2 (Content of Appeal Books and Preparation for Hearing) continues to apply.

Since the issuing of the Court's national practice notes, the 12-month review period applicable to the General Practice Notes concluded in October 2017. The Court, through its National Practice Committee, has considered the feedback received and prepared amendments to nine of its national practice notes, which will be issued early in the next reporting year. The amendments cover a number of topics, including incorporating the concise statement method into the Central Practice Note, with correlative amendments to certain NPA Practice Notes, updating the Commercial and Corporations Practice Note following changes to insolvency law with the commencement of the *Insolvency Law Reform Act 2016*, and updating the Class Actions Practice Note.

In addition, following internal and external consultation, a new Defamation Practice Note has been developed within the Defamation sub-area of the Other Federal Jurisdiction NPA. The Court will continue to review its practice and procedure and welcomes feedback in respect of its practice notes and policy and practice generally.

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. All guides are available on the Court's website.

Workload of the Federal Court and Federal Circuit Court

The 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.

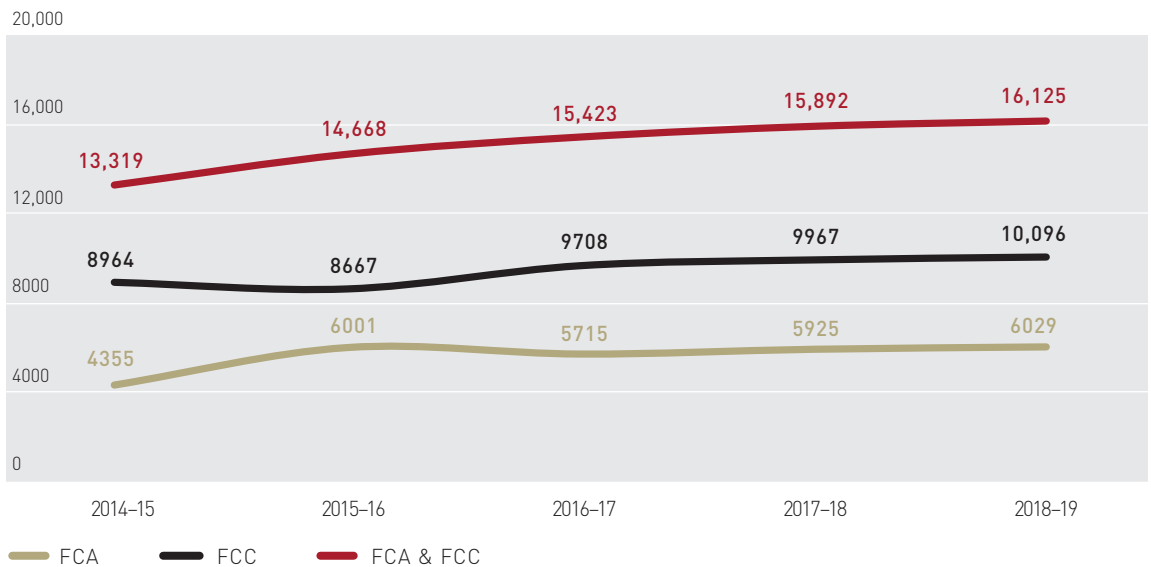
In 2018–19, a total of 16,125 matters were filed in the two courts. Any growth in filings has an impact on the Federal Court’s registries, as they process the documents filed for both courts. The registries also provide the administrative support for each matter to be heard and determined by the relevant court. The Court was able to accommodate this increase easily due to the technology and systems it has set up, most notably electronic court files for all files and lodgment, to aid efficient case processing.

Case flow management of the Court’s jurisdiction

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

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

Figure 3.1: Filings to 30 June 2019 – Federal Court of Australia and Federal Circuit Court of Australia



Disposition of matters other than native title

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

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

During the five-year period from 1 July 2014 to 30 June 2019, 93 per cent of cases (excluding native title matters) were completed in less than 18 months; 88 per cent in less than 12 months; and 75 per cent in less than six months. See Figure A5.4 in Appendix 5 (*Workload statistics*). Figure A5.5 on page 139 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 2267 judgments for 2128 court files. Of these, 1006 judgments were delivered in appeals (both single judge and Full Court) and 1261 in first instance cases. These figures include both written judgments and judgments delivered orally on the day of the hearing, immediately after the completion of evidence and submissions. This was a slight increase from the number of judgments delivered in 2017–18.

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

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

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

Workload of the Court in its original jurisdiction

Incoming work

In the reporting year, 6029 cases were commenced in, or transferred to, the Court's original jurisdiction. See Table A5.1 on page 134.

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, 163 matters were remitted or transferred to the Court:

- 10 from the High Court
- 35 from the Federal Circuit Court
- 39 from the Supreme Courts, and
- 79 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 2018–19, 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 5680.

Current matters

The total number of current matters in the Court’s original jurisdiction at the end of the reporting year was 3863 (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 2019 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	52	38	11	7	8	116
Admiralty	9	13	7	7	3	39
Bankruptcy	106	39	26	21	11	203
Competition law	6	2	2	0	5	15
Trade practices	62	40	14	18	61	195
Corporations	532	133	88	42	112	907
Human rights	21	25	8	8	11	73
Workplace relations	1	0	0	1	1	3
Intellectual property	60	53	22	26	35	196
Migration	89	78	18	6	5	196
Miscellaneous	107	69	23	27	43	269
Taxation	19	69	29	9	24	150
Fair work	97	53	46	29	29	254
Total	1161	612	294	201	348	2616
Percentage of total	44.4%	23.4%	11.2%	7.7%	13.3%	100.0%
Running total	1161	1773	2067	2268	2616	
Running percentage	44.4%	67.8%	79.0%	86.7%	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	67	42	25	25	178	337
Percentage of total	19.9%	12.5%	7.4%	7.4%	52.8%	100.0%
Running total	67	109	134	159	337	
Running percentage	19.9%	32.3%	39.8%	47.2%	100.0%	

The number of native title matters over 18 months old increased. The number of native title matters between 12-18 months and 18-24 months old increased. Further information about the Court's native title workload can be found on page 29.

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 2018–19, the Chief Justice specially fixed eight Full Court or appellate matters for hearing outside of the four scheduled sitting periods, involving eight sitting days or part thereof.

The appellate workload

During the reporting year, 1658 appellate proceedings were filed in the Court. They include 1466 appeals and related actions (1412 filed in the appellate jurisdiction and 54 matters filed in the original jurisdiction), 26 cross appeals and 166 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 74 per cent (1085 of the 1466) of the appeals and related actions filed in 2018–19. The majority of these proceedings continue to be heard and determined by single judges exercising the Court’s appellate jurisdiction.

Further information on the source of appeals and related actions is set out in Table A5.3 in Appendix 5 (*Workload statistics*). The number of migration appeals and related actions filed in 2018–19 increased by 11 per cent, from 1022 in 2017–18 to 1136 for the current reporting year.

In the reporting year, 1404 appeals and related actions were finalised. Of these, 673 matters were filed and finalised in the reporting year. At 30 June 2019, there were 945 appeals (comprising 901 filed in the appellate jurisdiction and 44 matters filed in the original jurisdiction) currently before the Court.

The comparative age of matters pending in the Court’s appellate jurisdiction (including native title appeals) at 30 June 2019 is set out in Table 3.3.

Of the appellate and related matters pending at present, 57 per cent are less than six months old and 84 per cent are less than 12 months old. At 30 June 2019, there were 154 matters that were over 12 months old, 143 filed in the appellate jurisdiction (see Table 3.3) and 11 matters filed in the original jurisdiction. A higher number of migration appeals and applications have been held in abeyance pending the outcomes of decisions of the Full Court of the Federal Court and the High Court. These matters are being actively identified and collectively managed by the Court until the legal issues underlying them are determined.

Table 3.3: Age of current appeals, cross appeals and interlocutory appellate applications at 30 June 2019

CAUSE OF ACTION	UNDER 6 MONTHS	6–12 MONTHS	12–18 MONTHS	18–24 MONTHS	OVER 24 MONTHS	TOTAL
Appeals and related actions	517	241	70	42	31	901
Percentage of total	57.4%	26.7%	7.8%	4.7%	3.4%	100.0%
Running total	517	758	828	870	901	
	57.4%	84.1%	91.9%	96.6%	100.0%	

Managing migration appeals

In 2018–19, 63 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 1069 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 2014–15.

Approximately 80 per cent of the Court’s appellate workload concerned decisions made under the *Migration Act 1958*. Although the number of migration appellate filings has increased by 11 per cent since the last reporting year, migration as a proportion of the Court’s overall appellate workload has remained steady.

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 2018–19, the Court resolved a total of 72 native title applications (commenced under s 61 of the *Native Title Act 1993*), consisting of 49 native title applications and 23 non-claimant applications.

Of the finalised applications, 33 were resolved by consent of the parties or were unopposed, two were finalised following litigation and 37 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.

A total of 33 native title determinations were made in the reporting year, consisting of 29 claim applications and four non-claimant applications. A total of 27 determinations were made by consent,

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	2014–15	2015–16	2016–17	2017–18	2018–19
Migration jurisdiction	648	653	764	1022	1136
Percentage	71.2%	65.8%	73.0%	80.9%	80.5%
Total appeals and related actions	910	993	1046	1263	1412

two were as a result of litigation, and a further four were unopposed non-claimant applications.

Fifty-two new applications were filed under s 61 of the Native Title Act during the reporting period. Of these, 33 are native title determination applications, 13 are non-claimant applications and six were applications to revise existing determinations. Five of the revision applications were brought in the Northern Territory relating to a common issue regarding the effect of pastoral improvements on native title.

No additional compensation applications have been filed over the past reporting year subsequent to the precedent High Court decision in *Griffiths* on 13 March 2019. The pre-existing three compensation applications filed in Queensland are being actively case managed and the three in Western Australia are awaiting resolution of the appeals against the registration of the South-West Noongar Indigenous Land Use Agreements (ILUAs) before further case management.

At the end of the reporting year, there were 267 current native title applications, comprising 216 determination applications, 38 non-claimant applications, six compensation applications, and seven variation applications. This is a downward trend from the 289 extant at the end of the previous financial year and reflects some intensive case management by the Court to resolve aging claims and groups of matters.

There were a number of additional applications managed by the native title practice area not brought under s 61 of the Native Title Act. In total, there were 88 native title related matters disposed of (including 14 appeals and two non s 61 applications) with 82 new matters filed and a pending caseload at the end of the reporting year of 281 files. These total figures are reflected in Appendix 5 (*Workload statistics*).

There are 44 consent determinations and 14 native title claim hearings of either the substantive matter or separate questions currently forecast for the 2019–20 financial year. Many of those

hearings will be conducted on-country, although the Court is generally adopting the practice of only one on-country determination per claim group.

The Court continues to focus on directed case management by specialist registrars and judges and on mediation of whole or part matters, predominantly conducted by registrars. The objective of both processes is to identify the genuine issues in dispute between the parties and the most effective means of resolving those disputes. This process accords with the Court's responsibilities under the *Native Title Act 1993* and the 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 remain a significant number of litigated separate questions and interlocutory proceedings.

Mediation may be conducted on-country, including with large groups to deal with intra and inter-Indigenous disputes, between claimant and non-claimant applicants and between applicant and regional agencies of a state government. The complexity of disputes is increasing in nature and the increased intensity of current court facilitation is demonstrated by the increase of listings from 120 mediations and 554 case management hearings in 2016–17; to 148 mediations and 789 case management hearings in 2017–18; to 316 mediations, 983 case management hearings and a further 90 regional case management conferences held during 2018–19.

Stakeholder engagement

The Court discontinued the Priority List that was previously published to the Court website as it was no longer utilised in a uniform manner and native title stakeholders indicated that they therefore no longer relied upon it. It was decided that systemic issues on a regional or state-wide basis were better identified and addressed through regular user group forums.

In Queensland, a forum involving practice area judges and registrars was convened in June 2019. As a result, a Standing Native Title User Group was established to meet with the registrars every six months, with the 12 monthly meeting including the judges and a broader group of attendees to exchange information and provide a forum to identify systemic issues relevant to Queensland native title applications.

A similar forum involving practice area judges and registrars was convened in Western Australia in June 2019 adopting a workshop model. A user group and forum structure mirroring the Queensland model was agreed to be established for future stakeholder engagement in Western Australia.

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 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 has been the subject of intensive case management and mediation. This cluster has otherwise been marked by significant progress in that a new applicant for the Torres Strait Regional Seas Claim Part B was authorised by the claim group in February, with orders replacing the previous applicant with the new applicant being made by the Court in April.
- In the Northern Region, the 'Cairns cluster' of overlapping claims 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. This is the first time a referral under s 54A and rule 28.61 has been made in the context of native title proceedings. The final report of the referees is due to be provided to the Court in December 2019.
- In the Southern Region, the 'GNP cluster', or 'Gangulu cluster' as it is also known, of overlapping claims has been the subject of intensive case management, expert conferencing and mediation. Separate question hearings are likely to take place in these matters in 2020.

A number of other claims have been the subject of intensive case management and mediation, including the Quandamooka People #4 claim, which concerns the land and waters of Moreton Island; and the overlapping matters of Koa People, which is a claimant application, and Robyn Kennedy, which is a non-claimant application. These claims concern land and waters in the vicinity of Winton in central western Queensland.

In contrast to previous years, there were no on-country hearings held during the reporting period. However, a number of on-country hearings are programmed to occur in 2020 including the Kurtijar People, Wangan and Jagalingou People and the 'Wakaman cluster' applications.

Two non-claimant matters from Queensland and New South Wales respectively, have been programmed for hearing by the Full Federal Court at first instance in the next reporting period to consider the power of the Court to make a negative determination in circumstances that the applicant has the benefit of s 24FA of the *Native Title Act 1993* following the decision of Reeves J in the decision of *Pate v State of Queensland* (2019) FCA 25.

South Australia

There have been two significant consent determinations made in South Australia, with both matters having had a long history in the Court. The Adnyamathanha, Ngadjuri and Wilyakali overlap proceedings (SAD6001/1998) was determined on 14 December 2018 by Justice White at Ororoo, South Australia. This application was made in respect of extensive areas of land in the north and east of South Australia.

The Nukunu (Area 1) claim (SAD6012/1998) was determined on 17 June 2019 by Justice Charlesworth at Port Germein, South Australia. There was an agreement reached between parties for a determination of native title in relation to part of the land to which the Nukunu claim relates, with the remaining portion of the claim to be determined separately. The determination area covers an area of approximately 15,000km² in the mid north of South Australia.

Two on-country hearings are forecast for the second half of 2019 including the Oodnadatta Common Overlap proceedings and Wirangu #2 (Part A), being a 1998 matter.

New South Wales

The Bundjalung People of Byron Bay's application filed in 2001 was determined by consent in April 2019 at Brunswick Heads following an extensive period of negotiation and mediation, resulting in an ILUA which underpinned the determination.

Significant tenure work in the Ngemba Ngiyampaa and Widjabal Wia-bal matters during the reporting period has resulted in a series of separate questions regarding the effect of many New South Wales tenures on native title being heard by the Court or programmed for hearing.

The Court has engaged an independent expert, funded by the representative body NTSCORP, as a consequence of a mediation between overlapping applicants and indigenous respondents in the Hunter Valley region. The final report will be filed and inform next steps for management of a regional case management approach.

Western Australia

Following the most recent consent determinations in the East Kimberley and intensive efforts to finalise aged matters in the region, 93.5 per cent of the Kimberley is now determined native title.

Intensive case management of claims in the Pilbara region has resulted in an increase in on-country mediation to narrow issues in dispute. In some matters, aspects of unresolved disputes are programmed for hearing in the next financial year. In relation to the Geraldton region, significant progress has been made in mediation to finalise a comprehensive regional agreement between the Applicant and State of Western Australia to settle four previous overlapping native title claims in the Geraldton region. This progress follows on from significant consent determinations made in November and December 2018 following mediation and intensive case management.

Ashwin on behalf of the Wutha People v State of Western Australia (No 4) [2019] FCA 308 concerned whether native title existed over an area of 32,630 square kilometres in the Goldfields Region of Western Australia. Justice Bromberg found that not all of those in the native title group had authorised the claim as the applicant contended that there were 'multiple pathways' (including non-descent based pathways) available to a person to acquire or possess native title rights in the claim area, however had limited the native title claim group to persons who had acquired or possessed native title rights by means of a single descent-based pathway. His Honour concluded that by limiting the authorising group to only one of the multiple pathways, there was the possibility that only a sub-set of all of the actual native title holders had authorised the claim. In light of this, Justice Bromberg declined to exercise his discretion to hear and determine the claim despite the defect in authorisation as it would prejudice the interests of persons who were not included in the claim group but may be a native title holder. Following judgment, orders were made dismissing the application.

Northern Territory

In the Northern region, on 24 October 2018, the Court made a determination of native title by consent over the town of Larrimah. This is the first time the right to take resources for any purpose (including commercial purposes) has been recognised by consent in the Northern Territory.

In the Central region, various prescribed bodies corporate have filed five revised native title determination applications seeking to amend previous determinations. These previous determinations contain ‘pastoral improvement’ clauses that reflect *De Rose v State of South Australia (No 2)* [2005] FCAFC 110. This was overturned by the High Court in *Western Australia v Brown (2014)* HCA 8 and the applications seek to reflect his change in law.

In *Northern Land Council v Quall* [2019] FCAFC 77, the Full Court found that a representative body cannot delegate its certification function under s 203BE(1)(b) of the *Native Title Act 1993*. Here, the Chief Executive Officer had signed the certificate for registration of an ILUA between the Northern Land Council and the Northern Territory of Australia. The Full Court stated that an important consideration was whether or not the power or function to be delegated involves the formation of an opinion. In this case, it did, as the representative body is required, by s 203BE(5) of the *Native Title Act* to include an express statement that the body holds the opinion that all reasonable efforts have been made to ensure those who may, or do, hold native title in the ILUA area have been identified and that such identified persons agree to the making of the agreement.

Assisted dispute resolution

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

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

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

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

Mediation referrals are summarised in Table 3.5. As in previous years, the data should be considered in light of various factors. Firstly, referrals to mediation or other types of ADR may occur in a different reporting period to the conduct of that mediation or ADR process. Secondly, not all referrals to mediation or the conduct of mediation occur in the same reporting period as a matter was filed. This means that comparisons of mediation

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

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

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

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*).

Table 3.5: Mediation referrals in 2018–19 by NPA and registry

NPA	NSW	VIC	QLD	WA	SA	NT	TAS	ACT	TOTAL
Administrative and constitutional law and human rights	11	31	8	2	0	1	1	3	57
Admiralty and maritime	7	1	2	0	0	0	0	0	10
Commercial and corporations	58	89	19	28	4	0	4	6	208
Employment and industrial relations	47	70	14	26	2	1	4	5	169
Federal crime and related proceedings	0	0	0	0	0	0	0	0	0
Intellectual property	33	34	6	1	2	0	0	0	76
Migration	0	1	1	0	0	0	0	0	2
Native title	6	0	13	8	3	1	0	0	31
Other federal jurisdiction	13	3	1	0	0	0	0	0	17
Taxation	1	0	3	3	0	0	0	0	7
Total	176	229	67	68	11	3	9	14	577

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
- preparing amendments to nine national practice notes
- consulting on and drafting a new Defamation Practice Note as part of the Defamation sub-area of the Other Federal Jurisdiction NPA
- developing the framework for a new appeals practice note, 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).

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

Liaison with the Law Council of Australia

Members of the National Practice Committee meet with the Law Council's Federal Court Liaison Committee to discuss matters concerning the Court's practice and procedure, as required. The available members of the two committees met on 3 December 2018 to discuss a range of matters, including information regarding the workload of the Court and the disposition of proceedings, case management procedure, digital hearings, 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.

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 dissuading parties from commencing or continuing unmeritorious proceedings, providing assistance to draft or amend pleadings or prepare affidavits, giving advice on how to prepare for a hearing and advising on how to enforce a court order. While the 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, 751 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 2018–19 by registry

	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	TOTAL
SRLs	3	463	5	92	21	0	41	126	751
Percentage of total	0%	63%	1%	12%	3%	0%	5%	18%	100%

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

Table 3.7: Proceedings commenced by SRLs in 2018–19 by cause of action

CAUSE OF ACTION	TOTAL ACTIONS	% OF TOTAL
Administrative law	37	5%
Admiralty	0	0%
Appeals and related actions	538	72%
Bankruptcy	27	4%
Bills of costs	0	0%
Competition law	0	0%
Consumer protection	7	1%
Corporations	10	1%
Cross claim	0	0%
Fair work	16	2%
Human rights	10	1%
Industrial	0	0%
Intellectual property	3	0%
Migration	75	10%
Miscellaneous	15	2%
Native title	13	2%
Taxation	0	0%
Total	751	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 2018–19 by cause of action

CAUSE OF ACTION	TOTAL ACTIONS	% OF TOTAL
Administrative law	9	2%
Admiralty	0	0%
Bankruptcy	10	2%
Competition law	0	0%
Consumer protection	3	1%
Corporations	1	0%
Fair work	11	2%
Human rights	2	0%
Industrial	0	0%
Intellectual property	2	0%
Migration	496	92%
Miscellaneous	3	1%
Native title	1	0%
Taxation	0	0%
Total	538	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 facilitate 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. The registrar presiding is able to refer an SRL to the financial counsellor for an immediate confidential discussion so that the SRL better understands his or her options when faced with the prospect and consequences of bankruptcy.

In Melbourne, during the reporting year, there were 67 referrals of debtors in proceedings to financial counsellors, 58 of which have been determined. In 43 of those proceedings (74 per cent), they were resolved by consent. While statistics are not yet 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 \$73.20)
- 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.

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

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

A person (but not a corporation) is exempt from paying a court fee that otherwise is payable if a Registrar or an authorised officer is satisfied that payment of that fee at that time would cause the

person financial hardship. In deciding this, the Registrar or authorised officer must consider the person’s income, day-to-day living expenses, liabilities and assets. Even if an earlier fee has been exempted, eligibility for this exemption must be considered afresh on each occasion a fee is payable in any proceeding.

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

Freedom of Information

Information Publication Scheme

As required by subsection 8(2) of the *Freedom of Information Act 1982* (FOI Act), the 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 s 5 of that Act, which states that the Act does not apply to any request for access to a document of the Court unless the document relates to matters of an administrative nature. Documents filed in court proceedings are not of an administrative nature; they may, however, be accessible by way of an application for inspection of court documents under the Federal Court Rules.

Access to judgments

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

Information for the media and televised judgments

The Director, Public Information deals with media inquiries, most of which relate to specific cases, however, duties also include issues management, which often requires high-level contact and coordination.

Media regularly contact the Director, Public Information for access to judgments and information on how to access files. This requires close liaison with, and the support of, registries and judges' chambers.

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

In 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:

- Ben Roberts-Smith matters
- *Jack de Belin v Australian Rugby League Commission Limited*
- *Friends of Leadbeater's Possum Inc v VicForests*
- *Sanda v PTTEP Australasia (Ashmore Cartier)*, and
- *Rush v Nationwide News*.

A significant highlight of the year was the special arrangements made for media covering the *Rush v Nationwide News* hearing. These included the provision of a special media room, regular upload of documents to an online file and the live televising of the judgment. The support of chambers and the web team were critical to the success of this operation.

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 2018-19, members of the Court were involved in seminars relating to arbitration, employment and industrial relations, commercial law, tax, and class actions.

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 New South Wales registry hosted a silks ceremony on 17 October 2018. The Queensland registry hosted a silks ceremony in December 2018.

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 many events for the legal community including:

- **Brisbane** – the Professor Michael Whincop Memorial Lecture, the Australian Law Reform Commission class action seminar, the Australian Bar Association seminar on taxes and debt recovery, international commercial arbitration, a new silks ceremony in December 2018, the Griffith Law School Alumni event, and the Richard Cooper Memorial Lecture.

- **Melbourne** – the annual international arbitration lecture, the Australian Academy of Law symposium, and the Maritime Law Association of Australia and New Zealand seminar.
- **Perth** – the registry hosted the AMTAC address, the 2018 arbitration seminar, an employment and industrial relations seminar, a national commercial law seminar, pro bono lawyers function and the CIArb Series arbitration clauses. The Royal Commission into Aged Care was also hosted by the Court in June 2019.
- **Sydney** – the Tristan Jepson Memorial Foundation Lecture, the NSW Hellenic Australian Lawyers Association Oration, the Whitmore Lecture, the Tony Blackshield Lecture, the Australian Association of Constitutional Law lecture, the AMTAC address, and the Mahla Pearlman Oration.
- **Hobart** – the UNCITRAL Coordinating Committee UN Day.

Education

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

The Court hosted many work experience students across multiple registries. Students are given a program that exposes them to all areas of the Court’s operations over the course of one week.

The Court hosted a number of school visits and educational tours across its registries. In South Australia, the registry hosted a visit by Year 11 legal studies students from the Glenunga International High School. In Queensland, the registry hosted a visit by year 12 students from the Southern Cross School. In Melbourne the registry hosted a visit by year 7 students from Camberwell Boys Grammar.

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

- The New South Wales registry hosted four moot courts for the University of New England.
- The Queensland registry hosted the IMLAN moot (TC Beirne School of Law), the Aboriginal and Torres Strait Islander Students’ moot competition, the Maritime moot with students from the University of Queensland and the grand final of the QILC 2018 moot.

- The Victorian registry hosted a number of moot courts for Monash, Melbourne, New England, La Trobe, Victoria and Deakin universities. The registry also hosted the RMIT Clarb Australia Pre-Moot Grand Final.
- The Tasmanian registry hosted students from the University of Tasmania as part of their labour law excursion. The registry also provided facilities for the AAT national moot competition grand final in October 2018.
- In the Australian Capital Territory, Judicial Registrar Lackenby presented to masters students of dispute resolution at the Australian National University. The paper was titled *ADR in the Federal Court and the AAT*.

Overseas delegations

Registries regularly host visiting delegations from overseas courts who are interested in learning more about the Court’s operations. This year overseas delegations visited the following registries:

- New South Wales – in December 2018 the registry hosted a delegation from the Tokyo District Court. Judge Yuriko met with Justice Perram and Justice Katzmann.

- Australian Capital Territory – in February 2019, the Canberra registry hosted a delegation from the Ministry of Law and Human Rights, Republic of Indonesia. The delegation learnt about bankruptcy and corporate insolvency and sat in on Registrar Lackenby’s corporations and bankruptcy lists. In March 2019, Rie O, Court Clerk from the Tokyo Family Court and Visiting Scholar from the ANU College of Law, visited the Canberra registry to learn about the role of registrars in our court and court practice and procedure.

Complaints

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

There were 12 complaints in the reporting year. This figure is up from 11 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 2018–19 the Court offered the following activities:

- eleven education sessions were scheduled at the judges’ meeting on 29–31 August 2018 (in Sydney)
- eight education sessions were scheduled at the judges’ meeting on 27–29 March 2019 (in Brisbane), and
- judges were offered the opportunity to attend the Supreme Court and Federal Court judges’ conference held in Hobart, Tasmania on 21–23 January 2019.

Education sessions offered at the judges’ meetings in 2018–19 included:

- workshops on the following national practice areas:
 - native title
 - admiralty and maritime
 - commercial and corporations
 - other federal jurisdiction – defamation law, and
 - administrative and constitutional law and human rights – migration.
- digital roadshow – benefits of using electronic resources
- innovation: technology and its discontents
- concise statements and the National Court Framework Practice Notes

- court referred alternative dispute resolution: perceptions of members of the judiciary
- Federal Court and Law Council of Australia joint conference on competition law, including sessions on:
 - penalties
 - substantial lessening of competition
 - concerted practices, and
 - economic evidence.
- session for judges under three years: managing your judicial practice
- the US federal judiciary – relations with the legislative and executive
- how the Court manages migration work
- using digital court books for single judge migration hearings: one way to learn how to work with a digital court record
- the story of a boat person who made it to Australia, and
- ex tempore reasons; revising reasons; when reasons are required.

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 2018–19, the Federal Court met the National Standard for Professional Development for Australian Judicial Officers.

Work with international jurisdictions

In 2018–19, the Court continued to coordinate a number of projects and activities to support governance, access to justice and the rule of law within neighbouring judiciaries. By collaborating with courts, predominantly across the Asia Pacific region, the Court was able to contribute to a number of our partners’ important reform and development priorities.

Supreme Court of the Union of Myanmar

In August 2018, our Solutions Architect (Business Intelligence) provided further assistance to the Supreme Court of the Union of Myanmar as it continues to strengthen its capacity to collect and report on key court performance indicators. The visit comprised a workshop on improving data collection and analysis, which explored the role, benefits and processes for data collection and automation, data analysis, data monitoring, court reporting and key performance indicators. The Court also provided editing assistance in the preparation of the annual report.

National and Supreme Courts of Papua New Guinea

In September 2018, the Queensland registry hosted a five-person delegation from the National and Supreme Courts of Papua New Guinea (PNG). The delegation met with the acting National Judicial Registrar and District Registrar and a Senior Legal Case Manager to discuss the Court's electronic case filing systems and processes. Delegates also met with the Manager of Library and Information Services to discuss the development of PNG's new court library. In October 2018, the Manager of Library and Information Services visited Waigani, Port Moresby to conduct training for library staff on legal cataloguing, legal publications and online legal research. A blueprint for improving library services was developed and approved. A national survey about library needs has been conducted and the results are currently being analysed.

High Court of the Solomon Islands

In September 2018, the Federal Court of Australia and the High Court of the Solomon Islands embarked on a component of the Memorandum of Understanding that relates to building the leadership skills of the Chief Magistrate. Meeting with the Senior Registrar, the Chief Magistrate discussed the range of challenges and opportunities in regard to the Magistracy and her leadership of the Magistrates Court, along with a guided approach to ongoing cooperation and options for moving forward.

In February 2019, the Deputy Principal Registrar visited the Solomon Islands and met with Chief Justice Palmer, staff of the Australian High Commission, officers of representative bodies and other governmental and policy staff. The purpose of the visit was to develop a model for self-administration and discuss the scope and form of legislation that will enable the judiciary to manage its own affairs, independent of the government. The Deputy Principal Registrar and Chief Justice Palmer also discussed strategies and capacity issues in relation to managing funds internally. Two representatives from PNG also participated to contribute their experience and views on the

development and implementation of their self-administration model. The courts will continue to collaborate on this important project in the coming year.

Supreme Court of Indonesia

Chief Justice Allsop and the CEO and Principal Registrar visited Jakarta in June 2019 to discuss progress made by the judiciary in recent months and priority reform and development objectives. A plan for ongoing engagement between the Federal Court of Australia and the Supreme Court of Indonesia is being developed.

Regional collaborations

The Court manages the New Zealand government funded Pacific Judicial Strengthening Initiative (PJSI), a five-year initiative that aims to build fairer societies by supporting the courts in 14 Pacific Island Countries (PICs) to develop more accessible, just, efficient and responsive justice services.

The PJSI comprises projects across five areas with the following intended outcomes:

1. Improved capacity of judicial leadership to assess needs, plan, own and lead judicial development locally.
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 and just behaviour and treatment that is fair and reasonable (substantive justice).
5. Cases are disposed of more efficiently (procedural justice).

Leadership

In September 2019, the second regional judicial leadership workshop was held in Auckland, New Zealand. Participants shared experiences about what judicial leadership means in the Pacific and developed plans to address the challenges faced in implementing current leadership action plans.

The Executive Committee met remotely in October 2018, and in Palau in April 2019. The latter meeting was held adjacent to the fourth Chief Justices' Leadership Forum, which was attended by 12 Chief Justices. The forum and committee endorsed PJSI's progress, including the independent mid-term review and the design for PJSI's two-year continuation.

In August 2018 and February 2019, PJSI delivered local project management and planning workshops in the Federated States of Micronesia and Vanuatu. The workshops aimed to develop self-reliance and confidence among participants to lead, design, deliver, monitor, and evaluate ongoing judicial/court development activities using established steps, processes, methods and tools. Judicial officers and court staff valued the opportunity to discuss the Court's innovations to improve access to justice and their roles in associated activities.

Access to Justice

In October 2018 and March 2019, access to justice visits took place in the Cook Islands and Vanuatu. The Cook Islands visit comprised 10 consultations with 75 court users in four locations. Consultations highlighted the need for increased public awareness of the role and functions of the courts and basic-level education on legal rights and responsibilities. A workshop with the Court took place in Rarotonga, with the

intention of recognising and responding to the significant barriers that the consultations suggest impede access to justice.

The activity in Vanuatu comprised a week of consultations on the islands of Pentecost, Santo, Malo and Epi, and a three-day workshop with the Court in Port Vila. Consultations revealed that 75 per cent of participants consider the courts to be independent, honest, competent, and to act with integrity. Two-thirds consider the courts are fair and provide access to justice/remedies, while half consider the courts to be efficient. Participants discussed their experiences and perceptions of the courts, which has since prompted court officers to develop plans to improve access to justice and court services as well as publish public information on the courts.

Professionalism

In November 2018, a workshop was held in Port Moresby to build the capacity of partner courts in the collection of data, and the systems, processes and planning required to monitor, manage and report on court performance.

In January 2019, local orientation activities took place in Tarawa, Kiribati. The visit included a two-day train-the-trainer session, followed by a lay judicial orientation workshop. The workshop promoted the competence of magistrates to perform their duties; built the capacity of local trainers

to conduct judicial orientation training; and promoted excellence in the delivery of justice across Kiribati.

A regional lay judicial officer decision making workshop was held in February 2019 in Honiara, Solomon Islands. The aim of the workshop was to improve the decision making ability of the participants through the development of judgment writing, presentation and reasoning skills.

A judicial mentoring toolkit was developed and is currently being piloted by a newly appointed Supreme Court judge in Vanuatu. The judge is being mentored by PJSI's adviser and an expatriate judge from New Zealand who sits on the Supreme Court. The pilot will be reviewed and the results used to refine the toolkit and approach for adaptation to other PICs.

The Pathway Project continues its collaboration with the PNG Centre for Judicial Excellence to build the institutional and human capacity for it to deliver ongoing education to judicial and court officers in PNG and across the Pacific. In March 2019, a train-the-trainers workshop for the PNG CJE took place in Port Moresby, to better assess needs, design, deliver and evaluate judicial training activities.

In May 2019, a PJSI adviser visited the University of the South Pacific (USP) in Port Vila to evaluate and refine the Certificate of Justice commissioned by PJSI and piloted by the USP. On

completion of the pilot, it is expected that 85–90 students will successfully complete these four courses in the Certificate of Justice at the end of semesters 1 and 2 of 2019. A Diploma of Justice, providing a second year of study following the Certificate of Justice, is currently being developed following approval from the USP Senate. It is intended to provide a pathway into degree-level study, and eventually, legal practice. It is anticipated that the Diploma of Justice will be launched in 2020.

Substantive justice

Gender and family violence workshops were delivered in Vanuatu, Palau, the FSM and Samoa in August 2018, November 2018, February 2019 and May 2019. The workshops fostered understanding of the gender inequality at the source of gender and family violence, identified strengths and weaknesses in the Court’s approach to related cases, and determined how the weaknesses will be addressed.

Two human rights workshops took place in Tonga in February 2019. Discussions included how human rights standards can be applied in both substantive and procedural justice as well as accountability and access to justice. Strong demand for orders under the *Family Protection Act 2013* is requiring the Tongan courts to create equally accessible and responsive mechanisms to deliver appropriate outcomes.

Procedural justice

In July 2018, PJSI conducted an accountability visit to support the Samoan judiciary in analysing data collected through their information management system. Following this, the Ministry of Justice and Courts Administration in Samoa are working towards creating an electronic database to enable the entry of court related data and the production of reports.

PJSI has continued to support the collection, analysis and reporting of court performance data: providing remote support to 10 PICs over the last financial year and communicating with all 14 PICs. PJSI published the *Third Court Performance Trend Report* updating the Court Performance Baseline

Report of 2011. It presents a picture of significant improvements in court annual reporting over the last seven years.

The PJSI efficiency adviser undertook visits to the Nauru, Tokelauan and PNG Courts in January, March and May 2019. The visits aimed to provide support to assist the courts to dispose of cases in a reasonable time.

The activity in Nauru comprised the development and conduct of an efficiency self-assessment, along with refinements to the Nauru Judiciary’s Improvement Plan, to address identified areas for improvement.

The in-country work with Tokelau (in Samoa) achieved the following outcomes: the conduct of an efficiency review; the development of an efficiency improvement plan; collation of outstanding data for the 2016–17 and 2017–18 annual reports; development of a draft standard operating procedure for case-flow as well as a draft complaints procedure; and the establishment of time goals.

The work with PNG supported the National Court and Supreme Court of PNG to identify strategies to manage and dispose of cases in a way that is just, timely, efficient and fair.

Further support to Palau was provided through a leadership incentive fund grant, which introduced periodic efficiency reviews. The results of these reviews inform actions to address ongoing deficiencies in performance against time goals.

Under the Information and Communications Technology Project, support to PNG was bolstered by a data system assessment that took place in July 2018. The aim of the assessment was to plan for improvements to the breadth and quality of available and reported court performance data. To that end, an assessment was made of the information currently captured and reported on, versus the information the judiciary wishes to capture and report on; along with the system’s functionality and human capacity required to achieve the latter. A data systems assessment was also conducted in the Marshall Islands in October 2018. The assessment focused on the quality of

data maintained within extant online records, and readiness to move towards a Case Tracking System.

Australian Competition and Consumer Commission

Pursuant to a Memorandum of Understanding with the Australian Competition and Consumer Commission, the Court prepared four 'judicial primers' for the Association of Southeast Asian Nations (ASEAN) member states. The judicial primers were drafted by Justice Middleton and the National Judicial Registrar-Appeals. The primer series was launched by Justice Robertson in Jakarta. Justice Robertson also delivered to the same audience of Indonesian judges a workshop on 'Using Circumstantial Evidence: Judicial Perspectives from Australia (Procedures and Principles)' and following the event, Justice Middleton recorded a video for broader dissemination across the ASEAN region.

Visitors to the Court

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

Sri Lanka: In August, a delegation of Sri Lankan judges visited the Court to discuss court matters of common interest, including case management of appeals and first instance matters. The delegation comprised of judges from the Sri Lankan Supreme Court and Court of Appeal. They were hosted by Justice Kenny, National Judicial Registrar Luxton, the Acting Director of Court Services and the Melbourne Law School.

China: In October 2018, a delegation of Hong Kong Special Administrative Region officials visited the Court to learn about the role and functions of the Court in Australia's legal system. The delegation was hosted by Justice Yates, a Judicial Registrar, a Legal Case Manager, and a Client Services Officer. Topics discussed included the relationship between the State and Federal governments, the Australian court system, the Court's powers and case management system.

Nepal: In June 2019, a delegation from the National Judicial Academy, Nepal (NJA-Nepal) visited the Court's Queen's Square premises in Sydney. Justice Yates hosted the delegation, presenting an overview of the Australian court system and discussed the value of the e-courtroom during a trial. The delegation observed Justice Yates preside over a court hearing, toured the registry and asked questions about the Court's operations.

PART 4

MANAGEMENT OF THE COURT



Management of the Court

Governance

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

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

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

In practice, the Court's governance involves two distinct structures: the management of the Court through its registry structure, and the judges' committee structure 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.

Federal Court registry management structure

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

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

Judges' committees

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

An overarching Operations and Finance Committee, chaired by the Chief Justice, assists the Chief Justice on 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 bi-annual judges' meetings.

Judges' meetings

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

External scrutiny

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

Commonwealth Courts Corporate Services

Overview

In the 2015-16 Budget, the Australian Government announced that the corporate services of the Family Court and the Federal Circuit Court would be amalgamated with the Federal Court into a single administrative body with a single appropriation.

The Commonwealth Courts Corporate Services (Corporate Services) includes communications, finance, human resources, library, information technology (IT), procurement and contract management, property, 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 a memorandum of understanding (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 process to increase efficiency
- build an agile and skilled workforce ready to meet the challenges and changes, and
- create a national technology framework capable of meeting the needs of the courts into the future.

Purpose

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

Following the review by Ernst & Young in 2015, Corporate Services is expected to generate savings of \$14.129 million in operating costs over a five-year period (i.e. 2016–17 to 2020–21), with most of the savings realised in 2019–20 and 2020–21.

With the additional efficiency dividends and changes to the parameter adjustment, a further \$9.0 million in savings is now required to meet reduced appropriations over the same period.

Throughout 2018–19, work continued on consolidating the merger of corporate services, focusing on ensuring the evolving needs of judges and staff across all the courts and tribunals were satisfied, while delivering on required efficiencies to meet reduced appropriations.

Work continued on consolidation of IT systems and amalgamation projects targeted at simplifying the combined court environment to deliver more contemporary practices and efficiency improvements to reduce the cost of delivery. A particular focus during the year has been the development of a digital court file for the family law jurisdiction. This is part of the broader Digital Court Program (DCP) that comprises multiple independent projects that will help to modernise and transform how court services are delivered, as well as resolving issues related to the courts' ageing IT infrastructure. The DCP commenced on 1 July 2017 with an anticipated completion date of first phases in June 2020. Key components of the DCP include an electronic court file project, an electronic lodgment project, and a case management project.

Following the passing of the enterprise agreement in August 2018, a major review of all human resource policies commenced. Extensive consultation occurred in the development of the single set of policies across the entity. Further work on reviewing and updating the financial policies and procedures continued throughout the year, with a focus on ensuring a consistent and structured approach across the entity, simplifying policies where appropriate.

Corporate Services has achieved the following efficiencies:

- Generating an operating surplus of over \$2.0 million over the last three financial years excluding funding provided under the Modernisation Fund and for the Judiciary Structural Reform. During this period, appropriation has reduced by over \$4.8 million a year and Corporate Services has met the cost of providing a 3 per cent pay increase to staff, estimated to cost \$0.4 million.
- Staffing levels have reduced by a further 3 per cent across Corporate Services in 2018–19, with underlying Corporate Services average staffing level, excluding staff associated with the DCP, being 35 per cent lower than 2015–16 when the Ernst & Young report was prepared. This is ahead of the target reduction for 2020–21.

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

The work of Corporate Services in 2018–19

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 quarterly 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 2018–19, revenue from ordinary activities totalled \$345.980 million.

Total revenue, in the main, comprised:

- an appropriation from Government of \$265.352 million
- \$42.557 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
- \$33.394 million of liabilities assumed by other government agencies, representing the notional value of employer superannuation payments for the courts' judges, and
- \$4.677 million from the sale of goods and services and other revenue and gains.

Pre-depreciation expenses of \$341.386 million in 2018–19 comprised \$105.165 million in judges' salaries and related expenses, \$118.034 million in employees' salaries and related expenses, \$62.090 million in property-related lease expenses, \$55.207 million in other administrative expenses, and \$0.890 million for the write-down of non-current assets and financing costs.

The net operating result from ordinary activities for 2018–19 was a surplus of \$4.594 million before depreciation expenses. When depreciation expenses of \$13.882 million are included, the Court's expenses for 2018–19 totalled \$355.268 million.

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 in family law.

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 \$70.658 million in 2017–18 to \$73.722 million in 2018–19.

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 \$130,919 was paid for recruitment advertising services in 2018–19. Payments for advertising the notification of native title applications, as required under the *Native Title Act 1993*, totalled \$129,074 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 2018–19.

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. During 2018–19, one instance of external fraud was reported. While the amount defrauded was immaterial, the appropriate process was followed to investigate and report this fraud to the Australian Institute of Criminology.

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

- a single Audit Committee overseeing the entity that met four times during 2018–19. The committee comprises an independent chairperson, three judges from the Federal Court, one judge from the Family Court, one judge 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 four internal audits during the year to test the entity's systems of internal control
- a risk management framework including a Risk Management Policy, a Risk Management Plan and a Fraud Control Plan
- internal compliance certificates completed by senior managers, and
- annual audit performed by the ANAO who issued an unmodified audit certificate attached to the annual financial statements.

Compliance report

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

Correction of errors in the 2017–18 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 2018–19, \$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. The Court also finalised the procurement arrangements for the upgrade of its security equipment and systems which will ensure court facilities continue to provide effective physical 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 2018–19, six new consultancy contracts were entered into, involving total actual expenditure of \$102,918. In addition, 17 ongoing consultancy contracts were active during 2018–19 which involved total actual expenditure of \$889,935.

Table 4.1 outlines expenditure trends for consultancy contracts for 2018–19.

Competitive tendering and contracting

During 2018–19, 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 2018–19, 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*.

Table 4.1: Number and expenditure on consultants, current report period (2018–19)

	TOTAL
No. of new contracts entered into during the period	6
Total actual expenditure during the period on new contracts (inc. GST)	\$102,918
No. of ongoing contracts engaging consultants that were entered into during a previous period	17
Total actual expenditure during the period on ongoing contracts (inc. GST)	\$889,835

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.

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.

Registries – leased

Corporate Services also manages some 13 registry buildings across the nation, located in leased premises. Leased premises locations include Albury, Cairns, Canberra, Dandenong, Dubbo, Launceston, 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's Darwin registries (there is a separate registry for the Federal Court, Family Court and Federal Circuit Court) 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 investigating the use of a Queensland Government vacant building within the legal precinct as a new dedicated registry for the region.

Queens Square, Sydney

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

Projects and capital works delivered in 2018–19

The majority of capital works delivered in 2018–19 were projects addressing the urgent and essential business needs of the courts. Projects undertaken or commenced included:

- several public area furniture upgrades where items had reached end of life
- market approach for a full security equipment upgrade in all registries
- development application approval and detailed design documentation has been completed for the expansion of the Newcastle registry into the adjoining building, with works to commence early in the new financial year
- new mediation suite fit out in Darwin
- new fit out for the expanded National Native Title Tribunal accommodation within the Commonwealth Law Courts in Brisbane, and

- commenced feasibility study for the relocation of Corporate Services and the construction of additional courtrooms and chambers in the Queens Square Law Courts Building, Sydney.

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 4.2 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].

Table 4.2: The Court’s environmental impact/usage data, 2014–15 to 2018–19

	2014–15 FCFCC ONLY	2015–16 FCFCC ONLY	2016–17	2017–18	2018–19
Energy usage – privately leased sites (stationary)*	5383 GJ	5722 GJ	5315 GJ	5483 GJ	4353 GJ
Transport vehicles – energy usage	5871 GJ	6002 GJ	112,721 L/ 970,500 km Petrol + 59,776 L/ 650,750 km Diesel + 4749 L/ 83,420 km Dual fuel = 6535 GJ or 436.3 tonnes 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
Transport flights (estimated)	2,843,969 km 783** tonnes of CO ₂	3,829,597 km Emissions report unavailable from new travel provider	Total 9,668,605 km 1442 tonnes of CO ₂	Total 8,179,523 km 775 tonnes of CO ₂	Total 9,522,515 km 952 tonnes of CO ₂
Paper usage (office paper)	30,385 reams	33,872 reams	FCFCC 29,576 reams FCA 6403 reams Total 35,979 reams	FCFCC 27,192 reams FCA 7825 reams Total 35,017 reams	FCFCC 27,049 reams FCA 8,787 reams Total 35,836 reams

FCFCC (Family Court and Federal Circuit Court).

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

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

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

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

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

Other measures

During 2018–19, 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.
- Electricity contracts continued to be reviewed to ensure value for money.
- Ongoing education provided to staff to reduce energy use where possible, such as shutting down desktops and switching off lights and other electrical equipment when not in use.

Information technology

- In addition to the desktop auto shutdown program that commences at 7:00pm, staff continued to be encouraged to shut down their desktops as they leave work to maximise energy savings.
- E-waste was recycled or reused where possible, including auctioning redundant but still operational equipment.
- Fully recyclable packaging was used where possible.

Paper

- An electronic court file was introduced for the Federal Court and the Federal Circuit Court (general federal law) in 2014. Matters commencing with the courts are now handled entirely electronically. Over 70,702 electronic court files have been created, comprising almost 875,172 electronic documents, effectively replacing the use of paper in court files.
- Family law eFiling also continues to be expanded, with over 70 per cent of divorce applications now being electronically filed.
- Clients are encouraged to use the online Portal, and staff are encouraged to send emails rather than letters where feasible.
- Secure paper (e.g. confidential) continued to be shredded and recycled for all court locations.
- Non-secure paper recycling was available at all sites.
- Printers are set to default double-sided printing and monochrome.
- Recycled paper (13,554 reams) comprises 38 per cent of total paper usage.

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 videoconferencing facilities in place of staff travel. Although some travel is unavoidable, staff are encouraged to consider other alternatives.

Additional ecologically sustainable development implications

In 2018–19, 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 2019, the Court engaged 1098 employees under the *Public Service Act 1999*. This figure includes 775 ongoing and 323 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 2018–19, structural and operational changes were made to the organisation of employees. This included the realignment and standardisation of certain practices across the courts. These changes were supported by professional development to ensure affected employees could deliver services efficiently and effectively (both face-to-face and online professional development was offered). These changes occurred in registries and corporate

services, and included multi-skilling, and the better use of digital platforms to support the courts' and the Tribunal's operation.

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 resilience training; management training; the development of a new suite of human resource policies; upgrades and enhancements to human resource systems; and the streamlining of human resource-related processes. The training was well received by employees, with positive comments being provided.

Consultation on the new policies continues and these will be approved once consultation is complete. System upgrades and streamlined processes continue to be rolled out with most being implemented in the next reporting period.

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.

As well, 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.

The new enterprise agreement replaced two enterprise agreements, which had nominal expiry dates of 30 June 2014. These replaced enterprise agreements were established prior to the merging of the courts' administration in 2016 and were for separate entities.

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 2019, there were:

- eight employees on Australian workplace agreements
- eight employees on common law contracts
- one hundred and thirty-four employees on individual flexibility arrangements
- nineteen employees on s 24 determinations, and
- one thousand and seventy-seven 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 \$30,000. 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 2018–19, there was one incident that required the giving of notice under s 38 of the *Work Health and Safety Act*; and no investigations or notices under sections 90, 191 and 195 of that Act. Comcare provided support to the Court with an incident that occurred at the Parramatta registry and administrative changes were made to ensure emergency evacuation procedures were more widely known and will be followed by employees and others in the future.

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

The Court also supports employees' wellbeing by providing access to free, confidential counselling services, and influenza vaccinations.

Comcare audited the Court's rehabilitation management system during the reporting period and a corrective action plan was issued. Work continues on the implementation of these items.

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 2018–19 follow.

Hybrid cloud

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

Data centre consolidation

February 2019 saw a significant milestone in IT when the Family Court Casetrack Production environments were migrated from the Canberra data centre to the Federal Court's primary data centre in Sydney. This was a key milestone of the DCP as well as part of the ongoing data centre consolidations, which eventually will mean a reduction of five data centres to two, those being a primary data centre in Sydney and a disaster recovery data centre also in Sydney.

National Support Office closure

The National Support Office in Canberra was closed in January 2019 and staff were relocated to Canberra registry. As part of this relocation, IT was able to decommission the data centre that previously was the hub of IT operations in the Family Court. This was a continuation of the program of work to achieve cost savings by consolidating services between the Federal Court and the Family Court and Federal Circuit Court.

WiFi

IT is continuing to roll out WiFi services to support the business for both corporate WiFi and guest WiFi at various registries. Darwin, Hobart, Canberra and Parramatta will be completed in 2019.

DevOps

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

Test automation

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

Printer deployment

The Court has rolled out a new printer and a Multi-Function Device (MFD) fleet across all Family Court and Federal Circuit Court locations, replacing the existing devices that were between five and seven years old. Notable changes implemented with this deployment include automation of consumables ordering as part of a new managed print service, and introducing MFD functionality into chambers.

Public access computers

Improved public access computers and computers to review subpoena material have been rolled out to all registry locations nationwide. The public access computers provide enhanced scanning and printing functionality, and easy access to the online

resources for all courts including websites, live chat, Commonwealth Courts Portal and payments.

Mobile device replacement

In line with the smartphone refresh cycle of every two years, the majority of the judiciary's handsets were replaced.

Websites

The court websites are the main source of public information and a gateway to a range of online services such as eLodgment, eCourtroom, eFiling and the Commonwealth Courts Portal. Over the next 12 months, the websites will undergo major transformation as part of the new SmartCourt Digital Strategy. See page 12 for more information.

Federal Court website

The Federal Court website provides access to a range of information including court forms and fees, practice notes, guides for court users, daily court lists and judgments. In the reporting year, over four million hits to the site were registered.

There were several improvements to the website during the reporting year:

- Forms: 19 forms under the Federal Court Rules 2011 and the Federal Court (Criminal Proceedings) Rules 2016 were reissued. The publication of the forms was accompanied by an alert service, providing details of specific changes to each form for interested court users. The alert service has been recognised as a time-saving initiative by the legal profession.
- Online files: In 2013, the Federal Court established the first online file in order to manage the large number of media requests to court files in high profile matters. Where an online file has been established, court documents are published on the website as soon as approved by the judge hearing the matter. In the reporting year, five new online files were established. Of these, the *Geoffrey Rush v Nationwide News* online file proved the most successful, generating over 31,000 hits to the website.

- Jury service: In readiness for the Federal Court's first jury trial, the information on jury services was refreshed.
- Search: Several modifications were made to search functionality to improve the ability of users to find relevant information.

There were also improvements to other websites managed by the Federal Court:

- The website of the Australian Competition Tribunal was redesigned.
- Three new judgments email alert services were established for the Australian Competition Tribunal, the Copyright Tribunal and the Defence Force Discipline Appeal Tribunal. There are now a total of 23 email services offered to almost 5000 subscribers.

Family Court and Federal Circuit Court websites

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

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

- improvements to the homepage to make it easier for users to find the 'How do I' pages and streaming of latest news
- a continued focus on accessibility and providing more documents in accessible formats, and
- improvements to circuit location pages to assist litigants with filing information and links to court lists.

Page views and the most accessed areas:

- Family Court website: 5,213,508 page views by 1,301,637 users – a decrease of 6 per cent from the previous year. The most popular pages were forms, divorce, court lists and property and finances after separation.

- Federal Circuit Court website: 5,249,513 page views by 994,652 users – an increase of 3 per cent and 9 per cent respectively on the previous year. The most popular pages were applying for divorce, court lists, forms, proof of divorce, and registering for the Portal and eFiling an application for divorce.

Recordkeeping and information management

Corporate coverage

Information management is a corporate service 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 recent appointment of an Assistant Director to head the Information Management team is a welcome addition. The team now has five staff, two in Sydney, two in Perth and the Assistant Director in Canberra.

Information governance framework

The information governance framework is currently under review. The revised framework will provide a robust approach to information management across the entity to encourage meeting regulatory, legal, risk and operational requirements.

Information management communication

A new records/information management services IT portal is now available to report all records and information related matters. The IT portal enables staff to report records and information related issues.

Information management system

The implementation of a new information management system 'Open Text' has been temporarily delayed. Corporate Services and Tribunal records will share the same Open Text platform as the new digital court case files. The Court's three legacy electronic document and records management systems (eDOCS, Objective and RecFind) will be migrated to 'Open Text' and decommissioned.

Working digitally

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

- implementation of a digital court file in the Family Court and Federal Circuit Court
- completion of the personnel files scanning project
- completion of National Native Title Tribunal research reports scanning project
- digital filing of financial, procurement and contract documents, and
- digital signature approvals.

Two records (disposal) authorities

Two new draft records authorities covering the entity are awaiting review by the National Archives. These authorities will replace the current seven authorities. The retention issues involving Family Consultant notes containing sexual allegations resulting from the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse, are being resolved.

National Archives reporting

The National Archives annual check-up reporting on 2020 digital benchmark targets, saw an improvement of 0.34 per cent on the entity's 2018 results. Improvements were made in all reporting areas – governance and people, digital assets and processes and metadata and standards. This steady progress has set the foundation for the entity to achieve the whole-of-government's 2020 targets.

Transfers to National Archives

The Australian Competition Tribunal files from 1980 to 2003 and 13 significant Copyright Tribunal files were transferred to National Archives for permanent storage during 2018–19. The files will be available for public access via National Archives.

Committees

- The Information Governance Committee met quarterly to monitor information governance obligations that effect the entity. The committee endorsed the role of Chief Information Governance Officer and a nominee to take that role will be announced shortly. The information governance framework was adopted by the committee and outlines the responsibilities and obligations of all court employees regarding information management.
- The Records Policy Committee met bi-monthly and recommended key policy changes, including the secure disposal of USB sticks, the retention of specific legal documents and the forming of two working committees to establish a digitisation standard for the scanning of retrieved case and corporate files, and the practical application of this standard by registries.

Native title files and preservation pilot project

The pilot project, based in the Western Australian registry, was established to recommend an access policy for native title files when permanently stored with National Archives. The key principles are now being considered by the native title judges. Representative bodies have also been consulted on the access rules.

Audio-visual presentation project

A dedicated national drive has been established to store all native title audio visual and digital resources for the entity. When the resources are centrally located, a preservation assessment will be made and resources transferred to other digital formats as required.

Contracts

- The national storage and records management services contracts will expire in 2020. A new national contract will be negotiated to commence in March 2020.
- The current copyright agreement with the Copyright Agency Pty Ltd covers the entity until 30 June 2021. The Court is a partner on the Department of Communication and the Arts' Agreement with the Copyright Agency.

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

An artworks audit was conducted at the end of 2018 covering all artworks in the entity. Information was collected on acquisition details, format, dimensions, location, artwork images and if any artworks were privately owned. A listing of artworks will be available under each registry on the Image Gallery and a whole-of-court holdings list will be available by December 2019.

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

Significant projects undertaken over the last 12 months include the expansion and refinement of current awareness activities, to include a focus on new developments in the areas of management and dispute resolution; and an increased integration with, and support for, the judgments teams in the Federal Court, Family Court and Federal Circuit Court.

Assistance to the Asia Pacific region

The library in Brisbane is providing advice and assistance to the National and Supreme Courts of Papua New Guinea to develop their library collections and services.

The library in Melbourne dispatched a shipment of law reports to the Supreme Court of Tonga.



PART 5

REPORT OF THE NATIONAL NATIVE TITLE TRIBUNAL

National operations

Digital transformation

Beyond the boundaries

Report of the National Native Title Tribunal

Overview of the Tribunal

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.

Functions and powers

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

- mediating in native title proceedings, upon referral by the Federal Court of Australia (Federal Court)
- determining objections to the expedited procedure in the future act scheme
- mediating in relation to certain proposed future acts on areas where native title exists, or might exist
- determining applications concerning proposed future acts
- assisting people to negotiate Indigenous Land Use Agreements (ILUAs), and helping to resolve any objections to registration of ILUAs
- assisting with negotiations for the settlement of applications that relate to native title
- providing assistance to representative bodies in performing their dispute resolution functions
- 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.

The President is responsible for managing the administrative affairs of the Tribunal. The President is assisted by the Chief Executive Officer (CEO) and Principal Registrar of the 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 Act gives the Registrar specific responsibilities, including:

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

The President, Members and the Native Title Registrar

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

Table 5.1 outlines Tribunal statutory office holders, at 30 June 2019.

Office locations

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

The year in review

1 January 2019 marked 25 years since the commencement of the Act and the establishment of the Tribunal. The native title system continues to mature. Two events from the year are interesting indicators of this evolving maturity. First, in the course of the year the 200th Prescribed Body Corporate (PBC) was registered. While this reflects a positive outcome in the recognition of native title, many PBCs face significant challenges. In the reporting year, the Tribunal has regularly received requests for assistance with governance issues and internal disputes. The Tribunal provides assistance within the parameters of its existing statutory functions. If amendments proposed in the Native Title Legislation Amendment Bill 2018 are adopted, additional functions will be conferred on the Tribunal, allowing it further to assist PBCs in the management of their native title.

Table 5.1: Tribunal statutory office holders, 30 June 2019

NAME	TITLE	APPOINTED	TERM	LOCATION
The Hon John Dowsett AM	President	27 April 2018	Five years	Brisbane
Helen Shurven	Member	Reappointed 29 November 2017	Five years	Perth
James McNamara	Member	Reappointed 31 March 2019	Five years	Brisbane
Christine Fewings	Native Title Registrar	14 March 2018	Five years	Brisbane
Nerida Cooley	Member	11 February 2019	Five years	Brisbane

In connection with the proposed legislative amendments, the Tribunal has participated in a key reference group, facilitated by the Attorney-General's Native Title Unit to review and provide input in connection with the proposed amendments.

A second indicator is the High Court's decision in *Northern Territory v Mr A. Griffiths (deceased) and Lorraine Jones on behalf of the Ngaliwurru and Nungali Peoples* [2019] HCA 7 (Timber Creek Compensation Claim). The decision is a major milestone in native title as it is the first consideration of native title compensation by the High Court. It has led to a focus on compensation applications. The Tribunal has consulted with government, native title bodies and various interest groups on legal and procedural issues arising from this decision. There has been no immediate impact on actual workload for the Tribunal, but increased workloads are likely.

The President and the Native Title Registrar were appointed towards the end of the last reporting year. They have sought to focus on the Tribunal's statutory functions.

Stakeholder engagement

A key strategic priority during the reporting period has been increased contact with stakeholders, particularly representative bodies, governments at all levels, peak bodies and prescribed bodies corporate.

The President, Members and Registrar have established a fresh engagement agenda, including development of a renewed working relationship with the Federal Court to ensure the most effective use of resources. A new Protocol was signed in order to facilitate the performance of our respective roles in the recognition of native title, and to build upon the close relationship between the Court and the Tribunal.

In order to identify the best options available to assist PBCs, the Tribunal engaged with the Office of the Registrar of Indigenous Corporations, and the National Native Title Council (NNTC). The Tribunal

participated in NNTC workshops and PBC capacity-building meetings in Alice Springs and Melbourne, aimed at the development of training and education programs and in order to build strong governance structures in PBCs.

The Tribunal has facilitated an 'on-country' review of an ILUA, which had been an important component in the consent determination of a native title claim. The Tribunal undertook an audit of the identified outcomes in the ILUA, and is facilitating further negotiations between the parties, designed to ensure that outcomes identified in the ILUA are realised and relationships between the PBC and government agencies enhanced.

Education is vital for the understanding of native title and how it impacts on the broader community. The Tribunal conducts information sessions around the country to assist stakeholders in understanding their legal obligations and the need for compliance with the future act provisions of the Act. Specific stakeholder sessions were delivered in Kingscliff and Emerald. General future act education sessions for state government agencies were delivered in Cairns, Townsville, Rockhampton and Brisbane. These sessions covered the delivery of assistance, proposed amendments, and the proposed expanded dispute resolution function for the Tribunal.

In other states, the Tribunal delivered information sessions tailored to the needs of relevant stakeholders. In New South Wales, there was a strong demand for education assistance from local government. The commencement of the *Crown Land Management Act 2016* (1 July 2018) and the filing of an expansive claim over the South Coast region resulted in heightened interest in matters relating to Crown land. The Tribunal facilitated a workshop in Bega for nine Shire Councils from the south coast of NSW. A further workshop, attended by over 30 local government officers from Shellharbour, Kiama, Wollongong and Illawarra Councils was conducted by the Tribunal. The workshop also provided an opportunity to engage with local councils concerning the Tribunal and Australian Local Government Association's Local Government Project which is focused on

understanding the current capacities of councils and their needs in relation to native title issues. A follow up workshop involving over 40 people was held in Wollongong.

The Tribunal has discussed with the South Australian Department for Energy and Mining, through its *Stronger Partners Stronger Futures* program, the State's alternative 'right to negotiate' scheme and explored the 'right to negotiate' procedures used in other states under Commonwealth legislation.

In Western Australia, the President held a discussion forum around proposed changes to the Tribunal's management of future act objections. The forum was attended by the State, representative bodies, mining and exploration companies and their representatives.

On 1 May 2019, the Tribunal introduced a new process for the management of Western Australian objection applications, applying to objections over future acts notified with a notification day on or after 1 May 2019. This is designed to expedite the resolution of such objections, thus improving, for all stakeholders, an important part of the native title system.

Service delivery

In response to many stakeholder requests, the Tribunal released an online Native Title Vision (NTV) style app, which makes it possible to search areas for, and report on historical applications. The app is a method of interrogating historical claimant applications over an area with no current claim in order to ascertain previous usage. In accordance with the Tribunal's policy of making native title information freely available, an additional point of access was added for clients who use the GIS Open Data website. The same data viewed in NTV was made available in more formats for users to download and use in their own GIS systems. Additionally, this website acts as point of entry for those users who wish to use the Tribunal's web map services in their own applications.

External factors

The Government had long signalled its intent to move forward on a range of proposed reforms to the Act. In October 2018, the Attorney-General and the Minister for Indigenous Affairs released exposure drafts of the Native Title Legislation Amendment Bill 2018 and the Registered Native Title Bodies Corporate Legislation Amendment Regulations 2018 for public comment.

The exposure drafts were informed by consultation on an options paper *Proposed reforms to the Native Title Act 1993* (Cth), released on 29 November 2017, which included recommendations from the Australian Law Reform Commission's report on *Connection to Country*, the Council of Australian Government's *Investigation into Land Administration and Use*, and other recent reviews.

The proposed reforms were intended to improve the native title system for all parties, including by:

- streamlining claims resolution and agreement-making processes
- supporting the capacity of native title holders through greater flexibility around internal decision making
- increasing the transparency and accountability of prescribed bodies corporate (the corporations set up to manage native title) to the native title holders
- improving pathways for dispute resolution following a determination of native title, and
- ensuring the validity of s 31 agreements following the Full Federal Court of Australia's decision in *McGlade v Native Title Registrar & Ors* [2017] FCAFC 10.

The exposure draft of the Native Title Legislation Amendment Bill 2018 canvassed a new dispute resolution function for the Tribunal. The Bill was introduced into Parliament on 21 February 2019. It progressed as far as a second reading in the House of Representatives, before Parliament was prorogued for the general election. Consequently, the Bill has lapsed but is expected to be re-introduced into Parliament before the end of 2019.

Tribunal reorganisation and efficiencies

The reorganisation of the Tribunal was completed and fully implemented during the reporting period, resulting in simpler and more efficient team structures aligned to the Tribunal's core functions. Management roles have been rationalised, resulting in more direct reporting lines between staff, managers, the Registrar and ultimately, the President and Members.

Closer alignment with Tribunal core functions has permitted consolidation of a number of fragmented work activities into a single team, focused on the registration function. This has created a simpler, consistent and more effective supervision of applications registration and notification procedures. Efficiencies were achieved with improved timeframes for registration, as well as a reduction in the lag time in progressing a matter through to notification. Management of the three Registers became a single team responsibility, creating a number of improved practices. Steps have been taken to minimise the manual processing, and time taken to enter a determination on the National Native Title Register.

The reorganisation of the Tribunal led to the re-establishment of the Future Act team, with a view to more rigorously managing the progress of objection applications. In particular, the allocation of objection applications to Members has been streamlined and Members have closer and ongoing relationships with staff.

The Tribunal has also implemented a number of technical initiatives in its geospatial services, including:

- redesign of spatial analysis processes to be faster and more data efficient
- adoption of newer Desktop GIS technology allowing for faster processing capability, and
- use of web services to access and publish data reducing the load on internal systems.

Cultural acknowledgment

The Tribunal continued to build on its actions designed to foster an understanding of, and respect for Indigenous culture by:

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

These actions contributed to achieving an important goal for the Tribunal, namely increased Indigenous employment opportunities. Despite a low volume of recruitment, at the end of the reporting period the number of Indigenous employees had increased from four to nine, representing 15 per cent of all staff.

Other actions included training for staff in Indigenous dispute resolution and conflict management; recognising and supporting Reconciliation Week and NAIDOC. The Tribunal continues to support the Federal Court's development of a new Reconciliation Action Plan.

The Tribunal's work in 2018–19

General overview

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

Functions of the Tribunal

Future acts

Overview

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

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

Expedited procedure objection applications and inquiries

Under s 29(7) of the Act, a government party may assert that the proposed future act is an act that attracts the expedited procedure (i.e. that it is an act 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 1231 objection applications were lodged during the reporting period, 303 more than in the previous year. The number of active applications at the end of the reporting period was 740. This was 28 per cent more than the previous year, but consistent with the higher volume of lodged objections.

More than 300 objections were withdrawn after agreement was reached between the native title party and the relevant proponent. A further 204 objection applications were finalised by withdrawal of the tenement applications by the proponents.

There were 54 objection applications determined during the reporting period, a small increase from the previous year. The expedited procedure was determined to apply on 18 occasions, and on 36 occasions, the expedited procedure was determined not to apply.

Table 5.2: Number of applications lodged with the Tribunal in 2018–19

FUTURE ACT	NT	QLD	WA	TOTAL
Objections to expedited procedure	0	106	1125	1231
Future act determination applications	4	4	6	14
Total	4	110	1131	1245

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

If a proposed future act does not attract the expedited procedure, the parties must seek to negotiate agreement to the proposed future act. Any party may request Tribunal assistance in mediating among parties in order to reach agreement. There were 46 requests made in the reporting period, over double the number made in 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, 15 fewer than in the previous reporting period.

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

During the reporting period, there were three 'good faith' determinations. In two of these matters, the Tribunal was not satisfied the relevant parties did not negotiate in good faith and proceeded to determine the application. In the third matter, the Tribunal determined that good faith negotiations had not occurred. In that case, the parties were required to negotiate further before the matter could be brought back to the Tribunal for arbitration.

Fifteen future act determination applications were finalised during the reporting period. This outcome is consistent with the volume of applications lodged, but a 50 per cent reduction compared to the previous reporting period. In five cases, the Tribunal determined that the future act may be done. In two cases, it determined that the act may be done, subject to conditions. The remaining future act determination applications were either withdrawn or dismissed. Four applications were withdrawn following agreement between the parties.

Assistance in dispute resolution

Section 203BK(3) of the Act provides that a representative Aboriginal/Torres Strait Islander body may seek the assistance of the Tribunal in dispute resolution. In the reporting period, the Tribunal provided such assistance in three cases.

Other inquiries

In April 2019, the Honourable Justice Alan Robertson 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 into five separate native title determination applications covered an area extending from Port Douglas to Cairns and environs and south to the Russell River in North Queensland. The orders provide for the appointment of the President, and Dr Paul Burke, a consulting anthropologist, as referees to inquire as to:

- the group or groups who held native title rights and interests in the area as at the first assertion of sovereignty
- the normative system of law and custom pursuant to which the landholding group/groups held rights and interests, and
- identification of apical ancestors.

The inquiry must report by 20 December 2019.

Table 5.3: Number of applications referred to or lodged with the Native Title Registrar for registration in 2018–19

NATIVE TITLE DETERMINATION APPLICATIONS	NSW	NT	QLD	SA	VIC	WA	TOTAL
Claimant (new)	3	1	6	1	0	23	34
Non-claimant	10	2	0	1	0	0	13
Compensation	0	0	0	0	0	0	0
Revised native title determination	0	5	0	0	0	1	6
Total	13	8	6	2	0	24	53

Functions of the Native Title Registrar

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 34 new claimant applications, nine less than the previous reporting year. In addition to new claims, the Registrar received 23 amended claimant applications. Most new and amended applications were filed in Queensland and Western Australia.

Although there was a reduction in the number of claims received by the Registrar, the volume of registration testing was high in the reporting period. There were 62 applications considered for registration, 10 more than the previous year. Of these, 29 were accepted for registration and 33 were not accepted.

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

One application seeking judicial review of a decision not to accept an application for registration, was filed with the Federal Court and was current at the end of the reporting period. Five requests for the Tribunal to reconsider a registration test decision were received and actioned in the reporting period.

Non-claimant, compensation and revised determination applications

Two modest, but notable trends emerged in the reporting period. The first relates to non-claimant applications, where for the first time since 2008–09, the Registrar received no Queensland non-claimant applications. This may be attributable to the Court's findings in *Pate v State of Queensland* [2019] FCA 25.

The second trend relates to applications for revised determinations. Six applications were referred to the Registrar in the reporting period, the largest number in any one year to date. One in Western Australia and the remaining five in the Northern Territory. The five Northern Territory matters all relate to native title determinations made over pastoral leases.

The Registrar received no compensation applications during the reporting period.

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 prelodgment comments upon the draft ILUA and the application for registration. During the reporting period, assistance was provided on 151 occasions, generally in the form of mapping assistance and the provision of related information.

Under the Act, parties to an ILUA (whether a body corporate agreement, area agreement or alternative procedure agreement) must apply to the Registrar for 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 1228 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.

The volume of decision making was high in the reporting year, with a total of 69 ILUAs considered for registration, 19 more than the previous year. Forty-one body corporate and 28 area agreement ILUAs were accepted for registration and entered in the Register. These include the six 'South-West Settlement Indigenous Land Use Agreements' (South West ILUAs) which were accepted for registration on 17 October 2018. Twelve applications seeking judicial review of that decision were subsequently filed in the Federal Court in March 2019. These proceedings are currently before the Full Court of the Federal Court exercising its original jurisdiction.

Notification

During the reporting period, 63 native title determination applications were notified, compared with 59 in the previous reporting period. Of the 63, 37 were claimant applications, 21 were non-claimant applications and five were revised determination applications.

A total of 57 ILUAs were notified during the period.

Other forms of assistance

Assistance in relation to applications and proceedings

Section 78(1) of the Act authorises the Registrar to give such assistance as he or she thinks reasonable to people preparing applications and at any stage in subsequent proceedings. That section also provides that the Registrar may help other people in relation to those proceedings. During the reporting period, such assistance was provided on 265 occasions. As in previous years, many of the requests were for the provision of geospatial products.

Searches of registers

Pursuant to s 78(2) of the Act, 1541 searches of registers and other records were conducted during the reporting period, a similar number to the previous reporting period.

The Register of Native Title Claims

Under s 185(2) of the Act, the Registrar has responsibility for establishing and keeping a Register of Native Title Claims. This register records the details of claimant applications that have met the statutory conditions for registration prescribed by ss 190A–190C of the Act. As at 30 June 2019, there was a total of 163 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 2019, a total of 452 determinations had been registered, including 78 determinations that native title does not exist.

Map 1 shows registered native title determinations as at 30 June 2019.

The Register of Indigenous Land Use Agreements

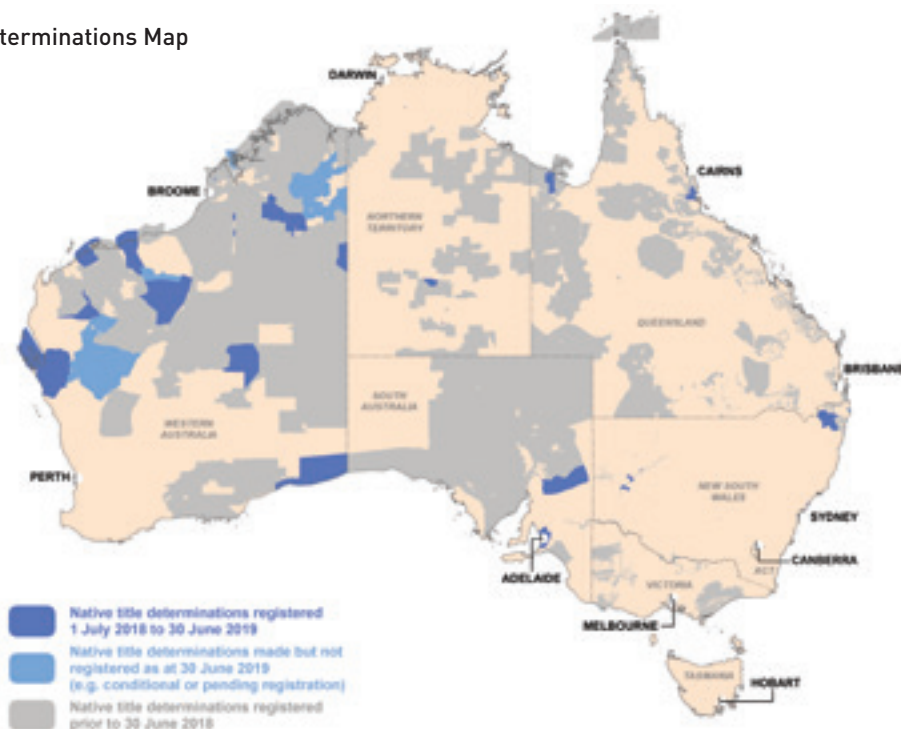
Under s 199A(2) of the Act, the Registrar must establish and keep a Register of Indigenous Land Use Agreements, in which area agreements and body corporate and alternative procedure ILUAs are registered. At 30 June 2019, there were 1220 ILUAs registered on the Register of Indigenous Land Use Agreements.

Maps

The 452 registered determinations as at 30 June 2019 covered a total area of approximately 2,976,165 square kilometres or 38.7 per cent of the land mass of Australia and approximately 119,501 square kilometres of sea (below the high water mark). There were 13 conditional consent determinations; 11 in Western Australia and two in New South Wales that were still awaiting registration as at 30 June 2019. Upon registration, these applications will increase the area to about 3,122,309 sq km or 40.6 per cent of the land mass of Australia and approximately 129,439 sq km of sea (see Map 1).

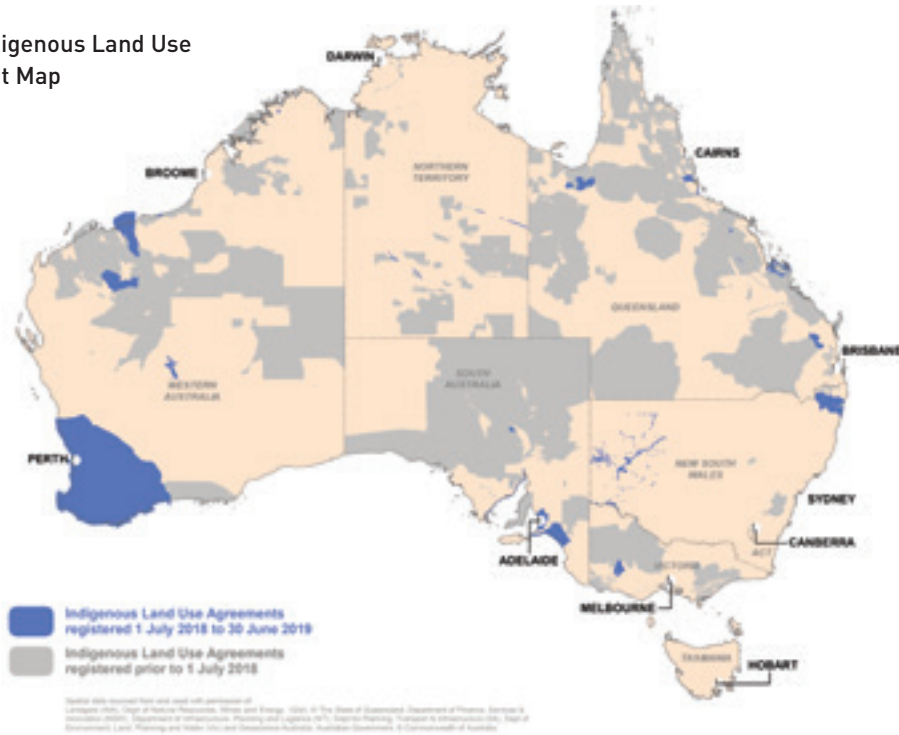
Registered ILUAs cover about 2,534,182 square kilometres or 33.0 per cent of the land mass of Australia and approximately 39,755 square kilometres of sea (see Map 2).

Map 1: Determinations Map



Native title determinations and areas are identified in the map by the Department of Planning, Transport & Infrastructure (DPTI), State of Queensland, Brisbane, Queensland, Australia. © 2019, Department of Planning, Transport & Infrastructure (DPTI), State of Queensland, Brisbane, Queensland, Australia. All rights reserved. This map is for informational purposes only. It is not intended to be used for legal or other purposes. For more information, please contact the Department of Planning, Transport & Infrastructure (DPTI), State of Queensland, Brisbane, Queensland, Australia.

Map 2: Indigenous Land Use Agreement Map



Management of the Tribunal

Tribunal governance

The President has statutory responsibility for the administration of the Tribunal. The President and Registrar set the strategic direction of the Tribunal and are responsible for its performance. During the reporting period, the President and other Members met regularly. The President and Registrar also met with senior managers, to review and discuss performance and operating capabilities.

Table 5.4: Financial operating statement

YEAR ENDING 30 JUNE 2019	BUDGET (\$'000)	ACTUAL (\$'000)	VARIANCE (\$'000)
Appropriation	8,661	8,661	0
Service receipts	0	5	5
Total Revenue	8,661	8,666	5
Total Expenses	8,661	7,627	1,034
Surplus/Deficit	0	1,039	1,039

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. \$8.492 million was allocated for the Tribunal’s operations in 2018–19.

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 2018–19.

External scrutiny

Freedom of Information

During the reporting period, one formal request was made under the *Freedom of Information Act 1982* (Cth) (FOI Act) for access to documents, which was withdrawn. The Tribunal complies with FOI Act requirements regarding publishing a disclosure log on its website. The disclosure log lists the information, which has been released in response to FOI access requests.

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

The Tribunal continues to assist the Commissioner as requested.

Annexure

President's presentations

President Dowsett AM presentations 1 July 2018 to 30 June 2019

DATE	TITLE	EVENT	ORGANISERS
7 September 2018	Keynote Address – Masterclass 'Leave to Appeal and How to Appeal'	Appellate Advocacy Workshop	The Australian Bar Association Advocacy Training Council
15 October 2018	Opening Address – 'Writing Judgments: Deciding, Explaining and Being Honest with Yourself'	Writing Better Judgments Program	National Judicial College of Australia
25 October 2018	Presentation – 'Barwick – his place in the legal pantheon'.	Selden Society Lecture Series 2018	Selden Society

Members' presentations

Member James McNamara presentations 1 July 2018 to 30 June 2019

DATE	TITLE	EVENT	ORGANISERS
17–18 July 2018	Native Title	Speaker Series	Department of Natural Resources, Mines and Energy (Queensland)
12 September 2018	Native Title	Speaker Series	Department of Natural Resources, Mines and Energy (Queensland)
19 October 2018	National Native Title Tribunal and ALGA Local Government Project	NSW Local Government Property Professionals Conference	Local Government NSW

Member Nerida Cooley presentations 1 July 2018 to 30 June 2019

DATE	TITLE	EVENT	ORGANISERS
12 June 2019	'What's new at the National Native Title Tribunal.'	3rd Annual Native Title Law and Cultural Heritage Seminar (Brisbane)	Legalwise

Registrar Fewings presentations 1 July 2018 to 30 June 2019

DATE	TITLE	EVENT	ORGANISERS
14–15 March 2019 Co-presentation with Dr Michael O'Kane	Dispute resolution in PBCs and the challenges that arise as a result of the intersection between traditional law and custom, and native title law.	Centre for Native Title Anthropology Workshop (Alice Springs)	The Centre for Native Title Anthropology (ANU)



FEDERAL
OF AUSTRALIA

ANNUAL REPORT 2017-18

PART 6

APPENDICES



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 2019:

- (a) comply with Australian Accounting Standards – Reduced Disclosure Requirements and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Federal Court of Australia as at 30 June 2019 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 statements as at 30 June 2019 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;
- Overview; 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* (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 that Act. The Chief Executive Officer is also responsible for such internal control as the Chief Executive Officer determines is necessary to enable the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Chief Executive Officer is responsible for assessing the 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 those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

Australian National Audit Office



Colin Bienke
Senior Director

Delegate of the Auditor-General

Canberra



6 September 2019

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 2019 comply with subsection 42(2) of the *Public Governance, Performance and Accountability Act 2013 (PGPA Act)*, and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

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

Signed..... 	Signed..... 
Mr Warwick Soden OAM	Ms Kathryn Hunter
Chief Executive Officer/Principal Registrar	Chief Finance Officer
06 September 2019	06 September 2019

Statement of Comprehensive Income
for the period ended 30 June 2019

	Notes	2019 \$'000	2018 \$'000	Original Budget \$'000
NET COST OF SERVICES				
Expenses				
Judicial benefits	1.1A	105,165	96,705	94,142
Employee benefits	1.1A	118,034	110,690	114,652
Suppliers	1.1B	117,297	116,005	117,901
Depreciation and amortisation	3.2A	13,882	16,253	14,956
Finance costs	1.1C	313	131	34
Impairment loss allowance on financial instruments	1.1D	1	-	-
Write-down and impairment of assets	1.1E	576	360	-
Total expenses		355,268	340,144	341,685
Own-Source income				
Own-source revenue				
Sale of goods and rendering of services	1.2A	4,081	4,586	3,894
Other revenue	1.2B	382	507	-
Total own-source revenue		4,463	5,093	3,894
Other gains				
Resources received free of charge		42,557	41,821	38,971
Liabilities assumed by other agencies		33,394	27,111	26,637
Other gains		214	6	-
Total gains	1.2C	76,165	68,938	65,608
Total own-source income		80,628	74,031	69,502
Net cost of by services		(274,640)	(266,113)	(272,183)
Revenue from Government	1.2D	265,352	252,620	257,227
Deficit on continuing operations		(9,288)	(13,493)	(14,956)
OTHER COMPREHENSIVE INCOME				
Items not subject to subsequent reclassification to net cost of services				
Changes in asset revaluation surplus		57	(211)	-
Total other comprehensive income		57	(211)	-
Total comprehensive loss		(9,231)	(13,704)	(14,956)

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

Budget Variances Commentary

Statement of Comprehensive Income

Judicial benefits

Judicial benefits are higher than budgeted due to an increase to judicial salaries by the remuneration tribunal, the appointment of additional Judges by Government during 2018-19 and the revaluation of accrued leave liabilities to reflect movements in bond rates which added \$0.6m to expenses.

Employee benefits

Employee expenses are higher than budget due to the revaluation of accrued leave liabilities to reflect movements in bond rates which added \$2.6m to expenses. There were also higher than budgeted severance and redundancy costs.

Statement of Comprehensive Income

for the period ended 30 June 2019

Depreciation and amortisation

Depreciation expenses are lower than budgeted due to asset purchases during the year being lower than expected.

Finance costs

Finance costs are higher than budgeted due to the impact of bond rate changes impact on the unwinding of discount on make good expenses. There were also additional equipment leases entered into during the year.

Sale of goods and rendering of services

The Court received higher revenue than was anticipated in relation to its International Programs work.

Other revenue

The Court received unanticipated revenue in relation to ad-hoc international projects and for work related to a native title matter.

Other gains

The liabilities assumed by other agencies 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. This was appropriated for new measures and to cover the increase in judicial salaries.

Statement of Financial Position
as at 30 June 2019

	Notes	2019 \$'000	2018 \$'000	Original Budget \$'000
ASSETS				
Financial assets				
Cash and cash equivalents	3.1A	1,237	1,353	1,675
Trade and other receivables	3.1B	90,552	78,993	70,987
Accrued revenue		8	14	30
Total financial assets		91,797	80,360	72,692
Non-financial assets				
Buildings	3.2A	33,318	38,056	37,323
Plant and equipment	3.2A	14,781	14,445	15,032
Computer software	3.2A	11,397	10,417	10,967
Inventories	3.2B	39	39	49
Prepayments		1,767	2,563	2,145
Total non-financial assets		61,302	65,520	65,516
Total assets		153,099	145,880	138,208
LIABILITIES				
Payables				
Suppliers	3.3A	7,911	7,722	7,910
Other payables	3.3B	2,437	2,268	2,144
Total payables		10,348	9,990	10,054
Interest bearing liabilities				
Leases	3.4A	2,574	2,506	1,649
Total interest bearing liabilities		2,574	2,506	1,649
Provisions				
Employee provisions	6.1A	62,390	59,915	58,369
Other provisions	3.5A	4,065	2,811	3,012
Total provisions		66,455	62,726	61,381
Total liabilities		79,377	75,222	73,084
Net assets		73,722	70,658	65,124
EQUITY				
Contributed equity		95,527	83,232	95,527
Reserves		8,737	8,680	8,891
Accumulated deficit		(30,542)	(21,254)	(39,294)
Total equity		73,722	70,658	65,124

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

Statement of Financial Position*as at 30 June 2019***Budget Variances Commentary****Statement of Financial Position**Trade and other receivables

Appropriation receivable is higher than budgeted due to appropriation received for projects that have not commenced as they require Government legislation to be passed. There was also an underspend of capital appropriation in 2019-20 due to delays in building and software development projects.

Buildings

The value of buildings is lower than budgeted due to two building projects which have been delayed.

Prepayments

There is a decrease in supplier prepayments due to the timing of supplier payments.

Other payables

Other payables includes \$231k in staff leave liability transferred from another agency that was not expected at the time of the budget.

Employee provisions

Provisions for leave liability were revalued due to remuneration increases for judges and employees and movements in bond rates which led to an unbudgeted \$4m increase in value.

Other provisions

Additional makegood provisions were required that were not known at the time of the budget.

Statement of Changes in Equity
for the period ended 30 June 2019

	Notes	2019 \$'000	2018 \$'000	Original Budget \$'000
CONTRIBUTED EQUITY				
Opening balance				
Balance carried forward from previous period		83,232	70,770	83,232
Adjusted opening balance		83,232	70,770	83,232
Comprehensive income				
Other comprehensive income		-	-	-
Total comprehensive income		-	-	-
Transactions with owners				
Contributions by owners				
Departmental capital budget		12,295	12,462	12,295
Total transactions with owners		12,295	12,462	12,295
Closing balance as at 30 June		95,527	83,232	95,527
RETAINED EARNINGS/(ACCUMULATED DEFICIT)				
Opening balance				
Balance carried forward from previous period		(21,254)	(7,761)	(24,338)
Adjusted opening balance		(21,254)	(7,761)	(24,338)
Comprehensive income				
Deficit for the period		(9,288)	(13,493)	(14,956)
Other comprehensive income		-	-	-
Total comprehensive loss		(9,288)	(13,493)	(14,956)
Closing balance as at 30 June		(30,542)	(21,254)	(39,294)
ASSET REVALUATION RESERVE				
Opening balance				
Balance carried forward from previous period		8,680	8,891	8,891
Adjusted opening balance		8,680	8,891	8,891
Comprehensive income				
Other comprehensive income		57	(211)	-
Total comprehensive loss		57	(211)	-
Closing balance as at 30 June		8,737	8,680	8,891

Statement of Changes in Equity
for the period ended 30 June 2019

	2019	2018	Original Budget
Notes	\$'000	\$'000	\$'000
TOTAL EQUITY			
Opening balance			
Balance carried forward from previous period	70,658	71,900	67,785
Adjusted opening balance	70,658	71,900	67,785
Comprehensive income			
Deficit for the period	(9,288)	(13,493)	(14,956)
Other comprehensive income	57	(211)	-
Total comprehensive loss	(9,231)	(13,704)	(14,956)
Transactions with owners			
Contributions by owners			
Departmental capital budget	12,295	12,462	12,295
Total transactions with owners	12,295	12,462	12,295
Closing balance as at 30 June	73,722	70,658	65,124

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

Accounting Policy

Equity Injections

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

Restructuring of Administrative Arrangements

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

Budget Variances Commentary

Statement of Changes in Equity

Accumulated deficit

The improved financial results of the Court compared to budget in 2017-18 and 2018-19 have led to a better than forecast equity position.

Cash Flow Statement
for the period ended 30 June 2019

	2019	2018	Original Budget
Notes	S'000	S'000	S'000
OPERATING ACTIVITIES			
Cash received			
Appropriations	261,991	254,012	257,227
Sales of goods and rendering of services	4,067	4,715	3,894
GST received	7,469	6,170	-
Other	382	267	-
Total cash received	273,909	265,164	261,121
Cash used			
Employees	187,134	178,993	182,777
Suppliers	82,334	82,712	78,273
Borrowing costs	64	78	71
Section 74 receipts transferred to OPA	4,706	3,708	-
Total cash used	274,238	265,491	261,121
Net cash used by operating activities	(329)	(327)	-
INVESTING ACTIVITIES			
Cash received			
Proceeds from sales of property, plant and equipment	214	6	-
Total cash received	214	6	-
Cash used			
Purchase of property, plant and equipment	4,413	3,923	11,100
Purchase of intangibles	3,653	4,608	-
Total cash used	8,066	8,531	11,100
Net cash used by investing activities	(7,852)	(8,525)	(11,100)
FINANCING ACTIVITIES			
Cash received			
Contributed equity	8,769	9,244	12,295
Total cash received	8,769	9,244	12,295
Cash used			
Repayment of finance lease	704	714	1,195
Total cash used	704	714	1,195
Net Cash from financing activities	8,065	8,530	11,100
Net decrease in cash held	(116)	(322)	-
Cash and cash equivalents at the beginning of the reporting period	1,353	1,675	1,675
Cash and cash equivalents at the end of the reporting period	1,237	1,353	1,675

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

Cash Flow Statement

for the period ended 30 June 2019

Budget Variances Commentary

Statement of Cash Flow Statement

Cash used for operating activities

Employee costs have increased in line with reasons outlined in the statement of comprehensive income.

Section 74 receipts relates to miscellaneous income received by the Courts in relation to services provided. This is not budgeted for due to their unpredictability.

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.

Repayment of borrowing

Repayments of borrowing are lower than budgeted due to different arrangements entered into for the lease of equipment than anticipated.

Administered Schedule of Comprehensive Income
for the period ended 30 June 2019

	Notes	2019 \$'000	2018 \$'000	Original Budget \$'000
NET COST OF SERVICES				
Expenses				
Suppliers	2.1A	807	777	880
Impairment loss allowance on financial instruments	2.1B	3,289	-	1,000
Write-down and impairment of other assets	2.1C	-	3,730	-
Other expenses - refunds of fees	2.1D	918	536	900
Total expenses		5,014	5,043	2,780
Income				
Revenue				
Non-taxation revenue				
Fees and fines	2.2A	89,034	107,890	77,353
Total non-taxation revenue		89,034	107,890	77,353
Total revenue		89,034	107,890	77,353
Total income		89,034	107,890	77,353
Net contribution by services		84,020	102,847	74,573
Total comprehensive income		84,020	102,847	74,573

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

Budget Variances Commentary

Administered Schedule of Comprehensive Income

Fees and fines

The variance to budget is due to the uncertainty in estimating fee revenue.

Impairment loss allowance of financial instruments and write-down and impairment of other assets

The variance to budget is due to the uncertainty in estimating fees that may become impaired during the period and the change to impairment measurement methodology following the implementation of AASB9 *Financial Instruments*.

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 2019

	Notes	2019 \$'000	2018 \$'000	Original Budget \$'000
ASSETS				
Financial Assets				
Cash and cash equivalents	4.1A	142	136	8
Trade and other receivables	4.1B	2,250	4,599	4,006
Total assets administered on behalf of Government		2,392	4,735	4,014
LIABILITIES				
Payables				
Suppliers	4.2A	89	-	-
Other payables	4.2B	610	513	662
Total liabilities administered on behalf of Government		699	513	662
Net assets		1,693	4,222	3,352

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

Budget Variances Commentary

Administered Schedule of Assets and Liabilities

Cash and cash equivalents

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

Trade and other receivables

The variance to budget is due to the uncertainty in estimating the number of unpaid fees and the effect of the implementation of AASB9 *Financial Instruments*.

Suppliers

The variance to budget is a timing difference due to invoices received after 30th June 2019.

Administered Reconciliation Schedule
for the period ended 30 June 2019

	2019	2018
	\$'000	\$'000
Opening assets less liabilities as at 1 July	4,222	3,352
Adjustment for change in accounting policies	(1,854)	-
Adjustments for rounding	(1)	-
Adjusted opening assets less liabilities	2,367	3,352
Net contribution by services		
Income	89,034	107,890
Expenses		
Payments to entities other than corporate Commonwealth entities	(5,014)	(5,043)
Transfers (to)/from the Australian Government		
Appropriation transfers from Official Public Account		
Annual appropriations		
Payments to entities other than corporate Commonwealth entities	718	777
Special appropriations (unlimited) s77 PGPA Act repayments		
Payments to entities other than corporate Commonwealth entities	923	553
GST increase to appropriations s74 PGPA Act		
Payments to entities other than corporate Commonwealth entities	71	78
Appropriation transfers to OPA		
Transfers to OPA	(86,406)	(103,385)
Restructuring	-	-
Closing assets less liabilities as at 30 June	1,693	4,222

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 2019

	Notes	2019 \$'000	2018 \$'000
OPERATING ACTIVITIES			
Cash received			
Fees		81,509	76,600
Fines		4,833	26,827
GST received		70	86
Total cash received		86,412	103,513
Cash used			
Suppliers		789	855
Refunds of fees		918	536
Other		5	17
Total cash used		1,712	1,408
Net cash from operating activities		84,700	102,105
Net increase in cash held		84,700	102,105
Cash and cash equivalents at the beginning of the reporting period		136	8
Cash from Official Public Account for:			
Appropriations		1,712	1,408
Total cash from official public account		1,712	1,408
Cash to Official Public Account for:			
Transfer to OPA		(86,406)	(103,385)
Total cash to official public account		(86,406)	(103,385)
Cash and cash equivalents at the end of the reporting period	4.1A	142	136
The above statement should be read in conjunction with the accompanying notes.			

Overview

The Basis of Preparation

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

The Financial Statements have been prepared in accordance with:

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

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

The Federal Court of Australia is a combined Courts Agency established under the Public Governance, Performance and Accountability Act 2013 (PGPA Act). The Entity has been established as a non-corporate Commonwealth entity under the PGPA Act to manage the operations of the Federal Court of Australia, Family Court of Australia, Federal Circuit Court of Australia, the National Native Title Tribunal and the Commonwealth Courts Corporate Services. The Federal Court of Australia, Family Court of Australia and Federal Circuit Court of Australia are Chapter III Courts under the Australian Constitution and continue to operate as individual judicial jurisdictions.

New Accounting Standards

AASB 9: Financial Instruments

The introduction of this revised standard has led to a change in the measurement of the impairment of financial instruments. This has had a material effect on the measurement of outstanding receivables related to administered fees.

In accordance with the standard the Court now recognises impairment on administered debt proportionally from the moment a debt becomes overdue. This has led to the following adjustments:

Opening doubtful debt provision has been increased by \$1.854m.

Trade and other receivables is reduced by \$1.854m.

Impairment Loss Allowance on Financial Instruments is \$3.289m.

See Note 7.3 for detailed information.

The introduction of this standard did not have a material effect on the Court's departmental financial statements.

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

It is expected that the introduction of AASB 16: *Leases* will have a material effect on the presentation of the Court's financial statements in the 2019-20 financial year.

Taxation

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

Reporting of Administered activities

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

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

Events after the Reporting Period

Departmental

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

Administered

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

1. Financial Performance

This section analyses the financial performance of the Federal Court of Australia for the year ended 30 June 2019.

1.1 Expenses

	2019	2018
	\$'000	\$'000
Note 1.1A: Judicial and Employee Benefits		
Judges' remuneration	67,776	65,757
Judicial superannuation defined contribution	3,996	3,837
Judges' notional superannuation	33,393	27,111
Total judicial benefits	105,165	96,705
Wages and salaries	83,942	80,410
Superannuation		
Defined contribution plans	9,420	8,721
Defined benefit plans	5,733	5,898
Leave and other entitlements	16,056	13,885
Separation and redundancies	2,883	1,776
Total employee benefits	118,034	110,690
Total judicial and employee benefits	223,199	207,395

Accounting Policy

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

	2019	2018
	\$'000	\$'000
Note 1.1B: Suppliers		
Goods and services supplied or rendered		
IT services	7,456	8,910
Consultants & contractors	2,815	3,458
Property operating costs	9,901	9,235
Courts operation and administration	13,723	13,432
Travel	8,410	7,513
Library expenses	4,312	4,253
Other	7,097	6,652
Total goods and services supplied or rendered	53,714	53,453
Goods supplied	3,692	5,790
Services rendered	50,022	47,663
Total goods and services supplied or rendered	53,714	53,453
Other suppliers		
Operating lease rentals	62,090	61,598
Workers compensation expenses	1,493	954
Total other suppliers	63,583	62,552
Total suppliers	117,297	116,005

Leasing Commitments

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

	2019 \$'000	2018 \$'000
Commitments for minimum lease payments in relation to non-cancellable operating leases are payables as follows:		
Within 1 year	6,875	6,932
Between 1 to 5 years	22,509	16,112
More than 5 years	17,987	1,024
Total operating lease commitments	47,371	24,068

Accounting Policy

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

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

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

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

	2019 \$'000	2018 \$'000
Note 1.1C: Finance Costs		
Finance leases	65	78
Unwinding of discount - make good	248	53
Total finance costs	313	131

Accounting Policy

All borrowing costs are expensed as incurred.

	2019 \$'000	2018 \$'000
Note 1.1D: Impairment Loss Allowance on Financial Instruments		
Impairment on financial instruments	1	-
Total impairment on financial instruments	1	-

	2019 \$'000	2018 \$'000
Note 1.1E: Write-Down and Impairment of Other Assets		
Impairment of inventories	9	15
Impairment of plant and equipment	72	16
Impairment on intangible assets	-	26
Impairment on buildings	495	303
Total write-down and impairment of other assets	576	360

1.2 Own-Source Revenue and Gains

	2019	2018
	\$'000	\$'000

Own-Source Revenue**Note 1.2A: Sale of Goods and Rendering of Services**

Sale of goods	1	1
Rendering of services	4,080	4,585
Total sale of goods and rendering of services	4,081	4,586

Rendering of services includes the provision of services to other agencies in both Australia and overseas. This includes \$2.40m received from the New Zealand Ministry of Foreign Affairs and Trade (MFAT).

	2019	2018
	\$'000	\$'000

Note 1.2B: Other Revenue

Reimbursements from other agencies	382	507
Total other revenue	382	507

Accounting Policy

Revenue from the sale of goods is recognised when:

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

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

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

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

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

	2019	2018
	\$'000	\$'000
Note 1.2C: Other Gains		
Resources received free of charge	42,557	41,821
Liabilities assumed by other agencies	33,394	27,111
Gain on sale of assets	<u>214</u>	<u>6</u>
Total other gains	<u>76,165</u>	<u>68,938</u>

Accounting Policy

Resources Received Free of Charge

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

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

Liabilities assumed by other agencies refers to the notional cost of judicial pensions as calculated by actuaries on behalf of the Department of Finance.

	2019	2018
	\$'000	\$'000
Note 1.2D: Revenue from Government		
Departmental appropriation	264,806	252,620
Revenue from Government (supplementation)	<u>546</u>	-
Total revenue from Government	<u>265,352</u>	<u>252,620</u>

Accounting Policy

Revenue from Government

Amounts appropriated for departmental appropriations for the year (adjusted for any formal additions and reductions) are recognised as Revenue from Government when the entity gains control of the appropriation except for certain amounts that related to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned. Appropriations receivable are recognised at their nominal amounts.

2. Income and Expenses Administered on Behalf of Government

This section analyses the activities that the Federal Court of Australia 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

	2019	2018
	\$'000	\$'000
Note 2.1A: Suppliers		
Services rendered		
Supply of primary dispute resolution services	807	777
Total suppliers	807	777
Note 2.1B: Impairment Loss Allowance on Financial Instruments		
Impairment of financial instruments	3,289	-
Total impairment on financial instruments	3,289	-
Note 2.1C: Write-Down and Impairment of Other Assets		
Impairment of financial assets	-	3,730
Total write-down and impairment of other assets	-	3,730
Note 2.1D: Other Expenses		
Refunds of fees	918	536
Total other expenses	918	536

2.2 Administered – Income

	2019	2018
	\$'000	\$'000
Non-Taxation Revenue		
Note 2.2A: Fees and Fines		
Fees	84,201	81,063
Fines	4,833	26,827
Total fees and fines	89,034	107,890

Accounting Policy

All administered revenues relate to the course of ordinary activities performed by the Federal Court of Australia, the Federal Circuit Court and the Family Court of Australia on behalf of the Australian Government. As such administered revenues are not revenues of the Courts. Fees are charged for access to the Courts' services. Administered fee revenue is recognised when the service occurs. The services are performed at the same time as or within two days of the fees becoming due and payable. Revenue from fines is recognised when a fine is paid to the Court on behalf of the Government. Fees and Fines are recognised at their nominal amount due less any impairment allowance. Collectability of debts is reviewed at the end of the reporting period. Impairment allowances are made when collectability of the debt is judged to be less, rather than more, likely.

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

	2019	2018
	\$'000	\$'000
Note 3.1A: Cash and Cash Equivalents		
Cash at bank	1,224	1,336
Cash on hand	13	17
Total cash and cash equivalents	1,237	1,353
	2019	2018
	\$'000	\$'000
Note 3.1B: Trade and Other Receivables		
Goods and services receivables		
Goods and services	627	488
Total goods and services receivables	627	488
Appropriations receivable		
Appropriation receivable - operating	72,730	65,209
Appropriation receivable - departmental capital budget	14,867	11,342
Total appropriations receivable	87,597	76,551
Other receivables		
Statutory receivables (GST)	1,782	1,961
Revenue from Government	546	-
Total other receivables	2,288	1,961
Total trade and other receivables (gross)	90,552	79,000
Less impairment loss allowance	-	(7)
Total trade and other receivables (net)	90,552	78,993

Credit terms for goods and services were within 30 days (2018: 30 days).

Accounting PolicyFinancial assets

Trade receivables, loans and other receivables that are held for the purpose of collecting the contractual cash flows where the cash flows are solely payments of principal and interest that are not provided at below-market interest rates are subsequently measured at amortised cost using the effective interest method adjusted for any loss allowance.

Impairment Loss Allowance

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

3.2 Non-Financial Assets**Note 3.2A: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment and Intangibles**

	Buildings - Leasehold Improvements	Plant and equipment	Computer software ¹	Total
	\$'000	\$'000	\$'000	\$'000
As at 1 July 2018				
Gross book value	45,844	22,837	27,340	96,021
Accumulated depreciation, amortisation and impairment	(7,788)	(8,392)	(16,923)	(33,103)
Total as at 1 July 2018	38,056	14,445	10,417	62,918
Additions				
Purchase	1,349	3,064	3,653	8,066
Internally developed	-	-	-	-
Finance lease	-	834	-	834
Recognition of make-good provision	2,127	-	-	2,127
Depreciation and amortisation	(7,719)	(3,490)	(2,673)	(13,882)
Disposals	-	-	-	-
Write down	(495)	(72)	-	(567)
Total as at 30 June 2019	33,318	14,781	11,397	59,496
Total as at 30 June 2019 represented by				
Gross book value	46,419	25,488	30,533	102,440
Accumulated depreciation and impairment	(13,101)	(10,707)	(19,136)	(42,944)
Total as at 30 June 2019	33,318	14,781	11,397	59,496

- The carrying amount of computer software includes \$1.66 million of purchased software and \$9.74 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 2017, an independent valuer conducted the revaluations and management conducted a review of the underlying drivers of the independent valuation.

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

Capital commitments for property, plant and equipment are \$0.13 million (2018: \$0.12 million). Plant and equipment commitments were primarily contracts for purchases of furniture and IT equipment.

Accounting Policy***Property, plant and equipment***

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

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

Asset Recognition Threshold

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

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

which are expensed in the year of acquisition.

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to 'make good' provisions in property leases taken up by the Federal Court of Australia where there exists an obligation to restore the property to its original condition. These costs are included in the value of the Federal Court of Australia's leasehold improvements with a corresponding provision for the 'make good' recognised.

Revaluations

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

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

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

Depreciation

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

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

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

	2019	2018
Leasehold improvements	10 to 20 years or lease term	10 to 20 years or lease term
Plant and equipment – excluding library materials	3 to 100 years	3 to 100 years
Plant and equipment – library materials	5 to 10 years	5 to 10 years

Impairment

All assets were assessed for impairment at 30 June 2019. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

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

Derecognition

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

Intangibles

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

Software is amortised on a straight-line basis over its anticipated useful life of 5 years (2018: 5 years).

	2019	2018
	\$'000	\$'000
Note 3.2B: Inventories		
Inventories held for distribution	<u>39</u>	<u>39</u>
Total inventories	<u>39</u>	<u>39</u>

During 2018-19, \$9,141 of inventory held for distribution was recognised as an expense (2018: \$14,513).

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		
	2019	2018
	\$'000	\$'000
Note 3.3A: Suppliers		
Trade creditors and accruals	6,618	6,313
Operating lease rentals	1,293	1,409
Total suppliers	7,911	7,722

Settlement was usually made within 30 days.

Note 3.3B: Other Payables		
Salaries and wages	681	652
Superannuation	115	113
Separations and redundancies	651	622
Unearned income	83	83
Other	907	798
Total other payables	2,437	2,268

3.4 Interest Bearing Liabilities		
	2019	2018
	\$'000	\$'000
Note 3.4A: Leases		
Finance leases	2,574	2,506
Total leases	2,574	2,506
Minimum leases payments expected to be settled		
Within 1 year	640	776
Between 1 to 5 years	1,934	1,730
More than 5 years	-	-
Total leases	2,574	2,506

In 2019, five finance leases existed in relation to building and property, plant and equipment assets. The leases were non-cancellable and for fixed terms averaging 5 years, with a maximum of 8 years. The interest rate implicit in the leases averaged 2.17% (2018: 2.54%). The lease assets secured the lease liabilities. The Federal Court of Australia guaranteed the residual values of all assets leased.

Accounting Policy

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

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

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

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

3.5 Other Provisions

	2019	2018
	\$'000	\$'000
Note 3.5A: Other Provisions		
Provision for restoration obligations	4,065	2,371
Provision for unused office space	-	440
Total other provisions	4,065	2,811

	Provision for restoration	Provision for NSO unused office space	Total
	\$'000	\$'000	\$'000
As at 1 July 2018	2,371	440	2,811
New provision	2,127	-	2,127
Amounts reversed	(393)	(79)	(472)
Amounts used	(288)	(361)	(649)
Unwindings of discount or change in discount rate	248	-	248
Total as at 30 June 2019	4,065	-	4,065

The Federal Court of Australia currently has 14 agreements for the leasing of premises which have provisions requiring the Federal Court of Australia to restore the premises to their original condition at the conclusion of the lease. The Federal Court of Australia has made a provision to reflect the present value of this obligation.

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

	2019	2018
	\$'000	\$'000
Note 4.1A: Cash and Cash Equivalents		
Cash on hand or on deposit	142	136
Total cash and cash equivalents	142	136
Credit terms for goods and services receivable were in accordance with the Federal Courts Legislation Amendment (Fees) Regulation 2015 and the Family Law (Fees) Regulation 2012.		
Note 4.1B: Trade and Other Receivables		
Goods and services receivables	7,434	7,170
Total goods and services receivables	7,434	7,170
Other receivables		
Statutory receivable (GST)	7	6
Total other receivables	7	6
Total trade and other receivables (gross)	7,441	7,176
Less impairment loss allowance account:		
Goods and services	(5,191)	(2,577)
Total impairment loss allowance	(5,191)	(2,577)
Total trade and other receivables (net)	2,250	4,599

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 Courts' historical rate of debt collection. Credit terms for services were within 30 days (2018: 30 days).

4.2 Administered – Payables

	2019	2018
	\$'000	\$'000
Note 4.2A: Suppliers		
Trade creditors and accruals	89	-
Total supplier payables	89	-
Note 4.2B: Other Payables		
Unearned income	610	513
Total other payables	610	513

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 2019

	Annual Appropriation ¹ S'000	Adjustments to Appropriation S'000	Total appropriation S'000	Appropriation applied in 2019 (current and prior years) S'000	Variance ² S'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
Payments to corporate Commonwealth entities					
Other services					
Administered assets and liabilities					
Payments to corporate Commonwealth entities					
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*.

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

1. Departmental Capital Budgets are appropriated through Appropriation Acts (No. 1, 3). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts.
2. The variance in the expenditure for ordinary annual services is due to expenditure being lower than anticipated, resulting in a small surplus for the year excluding depreciation. The underspend of capital appropriation is due to capital projects which were delayed and not completed prior to the end of the financial year.
3. Receipts collected under Section 74 of the *PGPA Act*.

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

	2019	2018
	\$'000	\$'000
Departmental		
Appropriation Act (No. 2) 2016-17 - Equity injection	-	150
Appropriation Act (No. 1) 2017-18	-	63,180
Appropriation Act (No. 1) 2017-18 - Capital budget	2,654	11,192
Appropriation Act (No. 3) 2017-18	-	2,030
Appropriation Act (No. 1) 2018-19	65,151	-
Appropriation Act (No. 1) 2018-19 - Capital budget	12,214	-
Appropriation Act (No. 3) 2018-19	7,579	-
Cash at bank	1,237	1,353
Total departmental	88,834	77,905
Administered		
Appropriation Act (No 1) 2018-2019	162	106
Total administered	162	106

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

	Appropriation applied	
	2019	2018
	\$'000	\$'000
Authority		
Public Governance, Performance and Accountability Act 2013, Section 77,		
Administered	923	553
Total	923	553

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	
	2019	2018	2019	2018	2019	2018
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Balance brought forward from previous period	22	-	22,225	22,878	1,074	969
Increases	374	161	29,592	27,250	837	1,615
Total increases	374	161	29,592	27,250	837	1,615
Available for payments	396	161	51,817	50,128	1,911	2,584
Decreases						
Departmental	152	139	-	-	-	-
Total departmental	152	139	-	-	-	-
Decreases						
Administered	-	-	13,092	27,903	1,167	1,510
Total administered	-	-	13,092	27,903	1,167	1,510
Total decreases	152	139	13,092	27,903	1,167	1,510
Total balance carried to the next period	244	22	38,725	22,225	744	1,074
Balance represented by:						
Cash held in entity bank accounts	244	22	38,725	22,225	744	1,074
Cash held in the Official Public Account	-	-	-	-	-	-
Total balance carried to the next period	244	22	38,725	22,225	744	1,074

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		
	2019	2018
	\$'000	\$'000
Total comprehensive income less depreciation/amortisation expenses previously funded through revenue appropriations	4,651	2,549
Plus: depreciation/amortisation expenses previously funded through revenue appropriation	<u>(13,882)</u>	<u>(16,253)</u>
Total comprehensive loss - as per the Statement of Comprehensive Income	<u>(9,231)</u>	<u>(13,704)</u>

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

	2019	2018
	\$'000	\$'000
Note 6.1A: Employee Provisions		
Leave	29,541	27,119
Judges' leave	32,849	32,796
Total employee provisions	62,390	59,915

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

Leave

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

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

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

Separation and Redundancy

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

Superannuation

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

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

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

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

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

Judges' Pension

Under the *Judges' Pension Act 1968*, Federal Court and Family Court Judges are entitled to a non-contributory pension upon retirement 10 years service. 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 \$33.149 million (2018: \$27.111 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 Justice of the Federal Court of Australia, the Chief Justice of the Family Court of Australia, the Chief Judge of the Federal Circuit Court of Australia, 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 and the Executive Director of Corporate Services.

The 2017/18 financial statements also included 3 Executive Directors as Key Management Personnel. This assessment has been reassessed and confirmed that although these positions make operational decisions in their respective areas of responsibility, they do not satisfy the definition of a key management personnel in accordance with AASB 124 *Related Party Disclosures*. As a result the 2017/18 comparative key management personnel remuneration has been restated to exclude those 3 key management personnel and their remuneration expenses of \$711k, consisting of Short-term employee benefits \$558k, Post-employment benefits \$96k and Other long-term employee benefits \$57k.

	2019 \$'000	2018 \$'000
Short-term employee benefits	2,905	3,225
Post-employment benefits	1,300	1,283
Other long-term employee benefits	165	333
Termination benefits	-	-
Total key management personnel remuneration expenses	4,370	4,841

The total number of key management personnel that are included in the above table are 8 (2018: 12).

6.3 Related Party Disclosures

Related party relationships:

The entity is an Australian Government controlled entity within the Attorney-General’s portfolio. Related parties include key management personnel as well as other Australian Government entities.

Transactions with related parties:

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

Significant transactions with related parties can include:

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

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

The Courts have no transactions with related parties to disclose as at 30 June 2019 (2018: 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 2019 (2018: none).

Unquantifiable Contingencies

The Federal Court of Australia has no unquantifiable contingent assets or liabilities as at 30 June 2019 (2018: none).

Accounting Policy

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

Note 7.1B: Administered Contingent Assets and Liabilities

The Courts have no quantifiable or unquantifiable administered contingent liabilities or assets as at 30 June 2019 (2018: none).

7.2 Financial Instruments		
	2019	2018
	\$'000	\$'000
Note 7.2A: Categories of Financial Instruments		
Financial assets under AASB 139		
Loans and receivables		
Cash and cash equivalents		1,353
Trade and other receivables		481
Total loans and receivables		<u>1,834</u>
Financial assets under AASB 9		
Financial assets at amortised cost		
Cash and cash equivalents	1,237	
Trade and other receivables	<u>627</u>	
Total financial assets at amortised cost	<u>1,864</u>	
Total financial assets	<u>1,864</u>	<u>1,834</u>
Financial Liabilities		
Financial liabilities measured at amortised cost		
Trade creditors	7,911	7,722
Finance leases	<u>2,574</u>	<u>2,506</u>
Total financial liabilities	<u>10,485</u>	<u>10,228</u>

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.

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.

Classification of financial assets on the date of initial application of AASB 9

Financial assets class	Notes	AASB 139 original classification	AASB 9 new classification	AASB 139 carrying amount at 1 July 2018 \$'000	AASB 9 carrying amount at 1 July 2018 \$'000
Cash and cash equivalents	3.1A	Loans and receivables	Amortised Cost	1,353	1,353
Trade and other receivables	3.1B	Loans and receivables	Amortised Cost	481	481
Total financial assets				1,834	1,834

Reconciliation of carrying amounts of financial assets on the date of initial application of AASB 9

Financial assets class	AASB 139 carrying amount at 1 July 2018 \$'000	Reclassification \$'000	Re-measurement \$'000	AASB 9 carrying amount at 1 July 2018 \$'000
Financial assets at amortised cost				
Loan and receivables				
Cash and cash equivalents	1,353	-	-	1,353
Trade and other receivables	481	-	-	481
Total amortised cost	1,834	-	-	1,834

	2019	2018
	\$'000	\$'000
Note 7.2B: Net Gains or Losses on Financial Liabilities		
Financial liabilities measured at amortised cost		
Interest expense	<u>65</u>	<u>78</u>
Net gains/(losses) on financial liabilities measured at amortised cost	<u>65</u>	<u>78</u>

7.3 Administered – Financial Instruments		
	2019	2018
	\$'000	\$'000
<u>Note 7.3A: Categories of Financial Instruments</u>		
Financial assets under AASB 139		
Loans and receivables		
Cash and cash equivalents		136
Other receivables		4,599
Total loans and receivables		4,735
Financial assets under AASB 9		
Financial assets at amortised cost		
Cash and cash equivalents	142	
Other receivables	2,250	
Total financial assets at amortised cost	2,392	
Total financial assets	2,392	4,735

Classification of financial assets on the date of initial application of AASB 9

Financial assets class	Notes	AASB 139 original classification	AASB 9 new classification	AASB 139 carrying amount at 1 July 2018 \$'000	AASB 9 carrying amount at 1 July 2018 \$'000
Cash and cash equivalents		Loans and receivable	At amortised cost	136	136
Other receivables		Loans and receivable	At amortised cost	4,599	2,745
Total financial assets				4,735	2,881

Reconciliation of carrying amounts of financial assets on the date of initial application of AASB 9

Financial assets class	AASB 139 carrying amount at 1 July 2018 \$'000	Reclassification \$'000	Re-measurement \$'000	AASB 9 carrying amount at 1 July 2018 \$'000
Cash and cash equivalents	136	-	-	136
Other receivables	4,599	-	(1,854)	2,745
Total amortised cost	4,735	-	(1,854)	2,881

7.4 Fair Value Measurement

Accounting Policy

AASB 2015-7 provides relief for not-for-profit public sector entities from making certain specified disclosures about the fair value measurement of assets measured at fair value and categorised within Level 3 of the fair value hierarchy.

Valuations are performed regularly so as to ensure that the carrying amount does not materially differ from fair value at the reporting date. A valuation was made by an external valuer in 2017. The Federal Court of Australia reviews the method used by the valuer annually.

Note 7.4A: Fair Value Measurement

	Fair value measurements at the end of the reporting period	
	2019	2018
	\$'000	\$'000
Non-financial assets		
Leasehold improvements	33,318	38,056
Plant and equipment	14,781	14,445

The Court's assets are held for operational purposes and not held for the purposes of deriving a profit. The current use of these assets is considered to be the highest and best use.

There have been no transfers between the levels of the hierarchy during the year. The Court deems transfers between levels of the fair value hierarchy to have occurred when advised by an independent valuer or a change in the market for particular items.

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

	2019	2018
	\$'000	\$'000
Note 8.1A: Aggregate Assets and Liabilities		
Assets expected to be recovered In:		
No more than 12 months	93,579	82,954
More than 12 months	<u>59,520</u>	<u>62,926</u>
Total assets	<u>153,099</u>	<u>145,880</u>
Liabilities expected to be settled in:		
No more than 12 months	25,817	26,279
More than 12 months	<u>53,560</u>	<u>48,943</u>
Total liabilities	<u>79,377</u>	<u>75,222</u>

Note 8.1B: Administered Aggregate Assets and Liabilities

Assets expected to be recovered in:		
No more than 12 months	2,392	4,735
More than 12 months	<u>-</u>	<u>-</u>
Total assets	<u>2,392</u>	<u>4,735</u>
Liabilities expected to be settled in:		
No more than 12 months	699	513
More than 12 months	<u>-</u>	<u>-</u>
Total liabilities	<u>699</u>	<u>513</u>

Appendix 2

Entity resource statement 2018–19

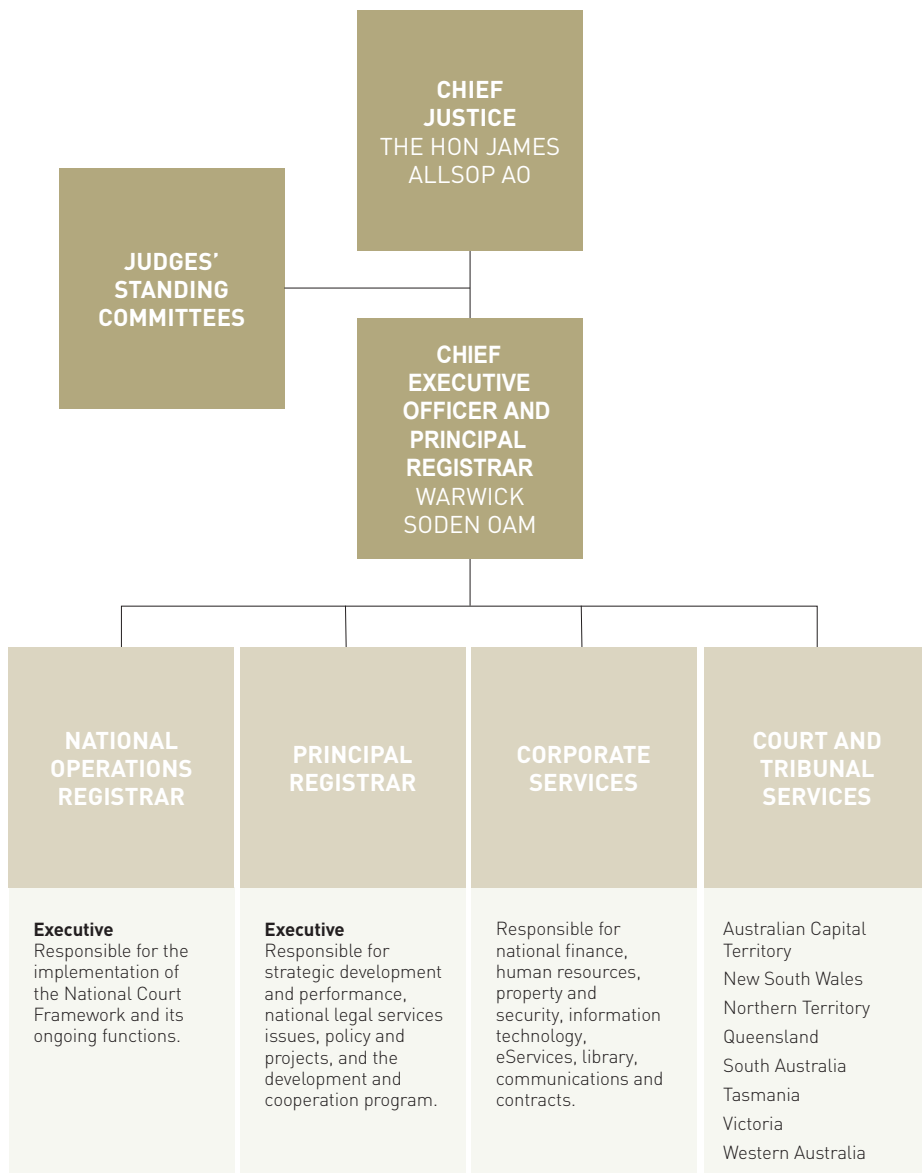
	ACTUAL AVAILABLE APPROPRIATIONS FOR 2018–19 \$'000	PAYMENTS MADE 2018–19 \$'000	BALANCE REMAINING \$'000
ORDINARY ANNUAL SERVICES¹			
Departmental appropriation			
Departmental appropriation ¹	355 005	266 171	88 834
Section 74 relevant agency receipts	4 663	4 663	
Total	359 668	270 834	88 834
Administered expenses			
Outcome 3	880	718	162
Total	880	718	162
Total ordinary annual services	360 548	271 552	88 996
Special appropriations limited by criteria/entitlement			
<i>Public Governance, Performance and Accountability Act 2013, s 77</i>	1 150	923	227
Total	1 150	923	227
Total net resourcing and payments for court	361 698	272 475	89 223

1 Appropriation Act No1 2018–19 and Appropriation Act No 3 2018–19. This also includes prior year departmental appropriation and section 74 retained revenue receipts. This also includes a Departmental Capital Budget of \$12.295m.

Appendix 3

Organisational chart

FEDERAL COURT MANAGEMENT STRUCTURE AS AT 30 JUNE 2019



Appendix 4

Registrars of the Court, 30 June 2019

PRINCIPAL REGISTRY

EXECUTIVE

NAME	TITLE	LOCATION	APPOINTMENTS
Warwick Soden OAM	Chief Executive Officer and Principal Registrar	Sydney, NSW	Chief Executive Officer and Principal Registrar, Federal Court of Australia
John Mathieson	Deputy Principal Registrar	Sydney, NSW	Registrar, Federal Court of Australia Sheriff, Federal Court of Australia Registrar, Federal Circuit Court of Australia Deputy Registrar, Defence Force Discipline Appeal Tribunal
Scott Tredwell	Registrar – Principal Registry	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
Geoffrey Gray	Registrar – Criminal Practice and Procedure	Canberra, ACT	Registrar, Federal Court of Australia Deputy Sheriff, Federal Court of Australia Deputy Marshal, Family 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

NATIONAL OPERATIONS – LEGAL

PRINCIPAL JUDICIAL REGISTRARS

NAME	TITLE	LOCATION	APPOINTMENTS
Sia Lagos	Principal Judicial Registrar and National Operations Registrar	Melbourne, VIC	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
David Pringle	Deputy Principal Judicial Registrar and Deputy National Operations Registrar	Melbourne, VIC	Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia

NATIONAL OPERATIONS – LEGAL continued

SENIOR NATIONAL JUDICIAL REGISTRAR

NAME	TITLE	LOCATION	APPOINTMENTS
Paul Farrell	Senior National Judicial Registrar	Sydney, NSW	Acting District Registrar (NSW District Registry), Federal Court of Australia 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

JUDICIAL REGISTRAR AND DISTRICT REGISTRAR

NAME	TITLE	LOCATION	APPOINTMENTS
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 OPERATIONS – LEGAL continued

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	Sydney, NSW	Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia
Catherine Forbes	National Judicial Registrar – Appeals	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

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
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
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

NATIONAL OPERATIONS – LEGAL continued

JUDICIAL REGISTRARS continued

NAME	TITLE	LOCATION	APPOINTMENTS
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
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
David Ryan	Judicial Registrar	Melbourne, VIC	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
Anthony Tesoriero	Judicial Registrar	Sydney, NSW	Deputy District Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia Marshal, Federal Court of Australia Deputy Sheriff, Federal Circuit Court of Australia Deputy Marshal, Federal Circuit Court of Australia
Tuan Van Le	Judicial Registrar	Melbourne, VIC	Registrar, Federal Court of Australia Registrar, Federal Circuit Court of Australia

NATIONAL OPERATIONS – LEGAL continued

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 137 provides a breakdown of these matters. At this stage it is not possible to obtain information about finalisations of interlocutory applications (because they are recorded in the Court's case management system as a document filed rather than a specific CoA). Because of this, detailed reporting of these matters has been restricted to the information about appeals in Part 3 and Table A5.4.

In 2015, the National Court Framework reforms were introduced. The Court began reporting on matters by National Practice Areas (NPAs) in 2015–16. This information can be found in Figure A5.9 onwards.

Table A5.1: Summary of workload statistics – original and appellate jurisdictions – filings of major CoAs (including appellate and related actions)

CAUSE OF ACTION	2014–15	2015–16	2016–17	2017–18	2018–19
Total CoAs (including appeals and related actions)					
Filed	4355	6001	5715	5925	6029
Finalised	3896	5846	5637	5570	5680
Current	2926	3081	3159	3514	3863
Corporations (including appeals and related actions)					
Filed	2210	3687	3224	3024	2803
Finalised	1868	3502	3388	2988	2805
Current	888	1073	909	945	943
Bankruptcy (including appeals and related actions)					
Filed	260	292	353	332	375
Finalised	255	267	328	317	343
Current	138	163	188	203	235
Native title (including appeals and related actions)					
Filed	64	65	71	91	115
Finalised	74	134	95	99	77
Current	402	333	309	301	339
Total CoAs (including appeals and related actions excluding corporations, bankruptcy and native title)					
Filed	1821	1957	2067	2478	2736
Finalised	1699	1943	1826	2166	2455
Current	1498	1512	1753	2065	2346

Table A5.2: Summary of workload statistics – excluding appeals and related actions – filings of major CoAs (excluding appeals and related actions)

CAUSE OF ACTION	2014-15	2015-16	2016-17	2017-18	2018-19
Total CoAs (excluding appeals and related actions)					
Filed	3445	5008	4669	4662	4617
Finalised	3147	4899	4768	4426	4327
Current	2426	2535	2436	2672	2962
Corporations (excluding appeals and related actions)					
Filed	2185	3652	3202	2989	2768
Finalised	1846	3475	3363	2959	2776
Current	869	1046	885	915	907
Bankruptcy (excluding appeals and related actions)					
Filed	205	231	289	304	341
Finalised	192	223	274	276	303
Current	114	122	137	165	203
Native title (excluding appeals and related actions)					
Filed	55	58	54	78	112
Finalised	67	122	84	81	67
Current	389	325	295	292	337
Total CoAs (excluding appeals and related actions and excluding bankruptcy and native title)					
Filed	1000	1067	1124	1291	1396
Finalised	1042	1079	1047	1110	1181
Current	1054	1042	1119	1300	1515

Table A5.3: Summary of workload statistics – appeals and related actions only – filings of appeals and related actions

CAUSE OF ACTION	2014–15	2015–16	2016–17	2017–18	2018–19
Total appeals and related actions					
Filed	910	993	1046	1263	1412
Finalised	749	947	869	1144	1353
Current	500	546	723	842	901
Corporations appeals and related actions					
Filed	25	35	22	35	35
Finalised	22	27	25	29	29
Current	19	27	24	30	36
Migration appeals and related actions					
Filed	648	653	764	1022	1136
Finalised	463	680	583	842	1103
Current	310	283	464	644	677
Native title appeals and related actions					
Filed	9	7	17	13	3
Finalised	7	12	11	18	10
Current	13	8	14	9	2
Total appeals and related actions (excluding corporations, migration and native title appeals and related actions)					
Filed	228	298	243	193	238
Finalised	257	228	250	255	211
Current	158	228	221	159	186

Table A5.4: Summary of supplementary workload statistics – filings of supplementary causes of action

CAUSE OF ACTION	2014–15	2015–16	2016–17	2017–18	2018–19
Total CoAs (excluding appeals and related actions)					
Cross appeals (original jurisdiction)	0	0	0	0	0
Cross claims	134	135	146	116	148
Interlocutory applications	1513	1530	1517	1628	1777
Native title joinder of party applications	628	405	982	781	346
Appeals and related actions					
Cross appeals	25	25	19	20	26
Interlocutory applications	0	192	221	162	166
Total actions (including appeals and related actions)					
Cross appeals	25	19	20	17	26
Cross claims	134	135	146	116	148
Interlocutory applications	1685	1722	1738	1790	1943
Native title joinder of party applications	628	405	982	781	346
Totals	2472	2281	2886	2704	2463

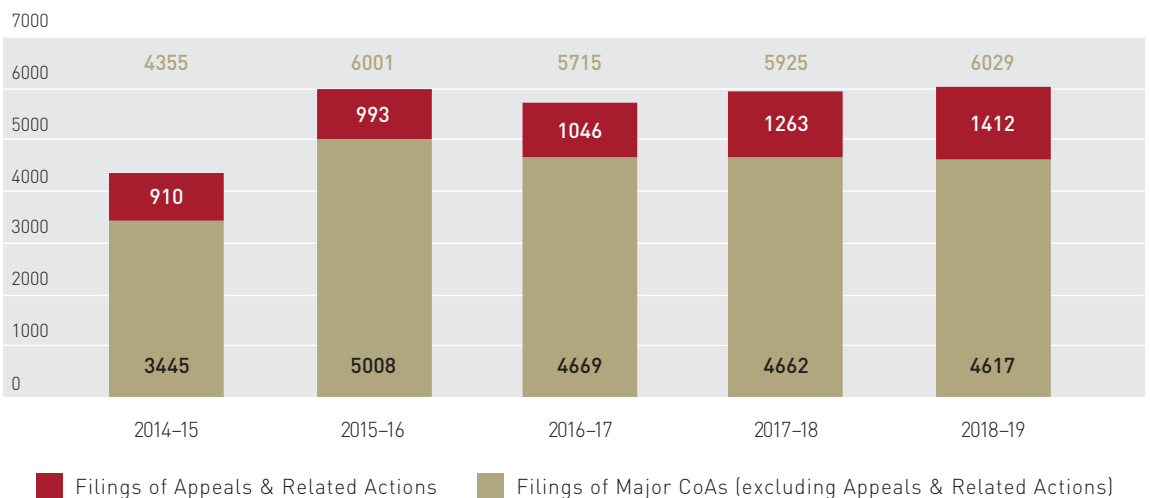
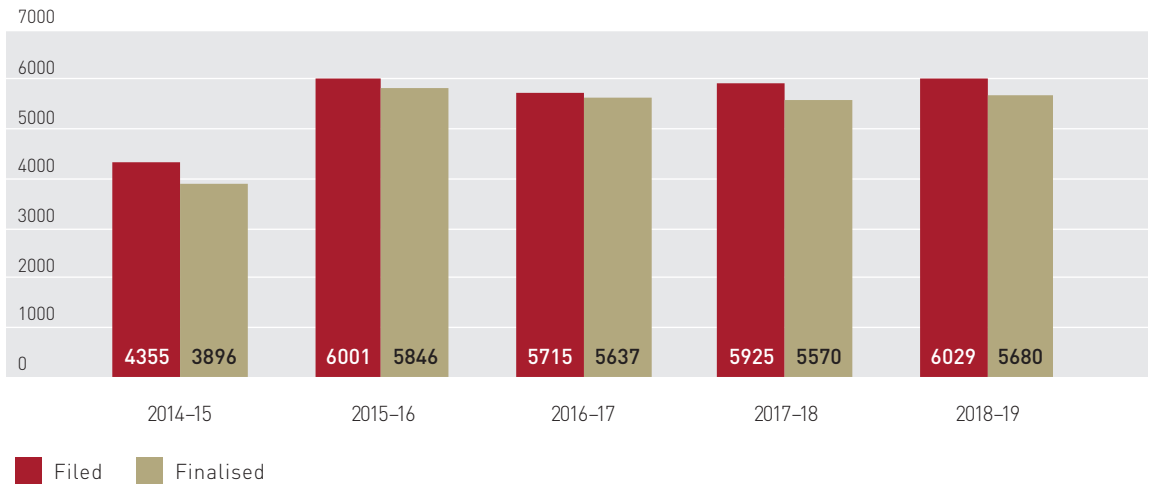
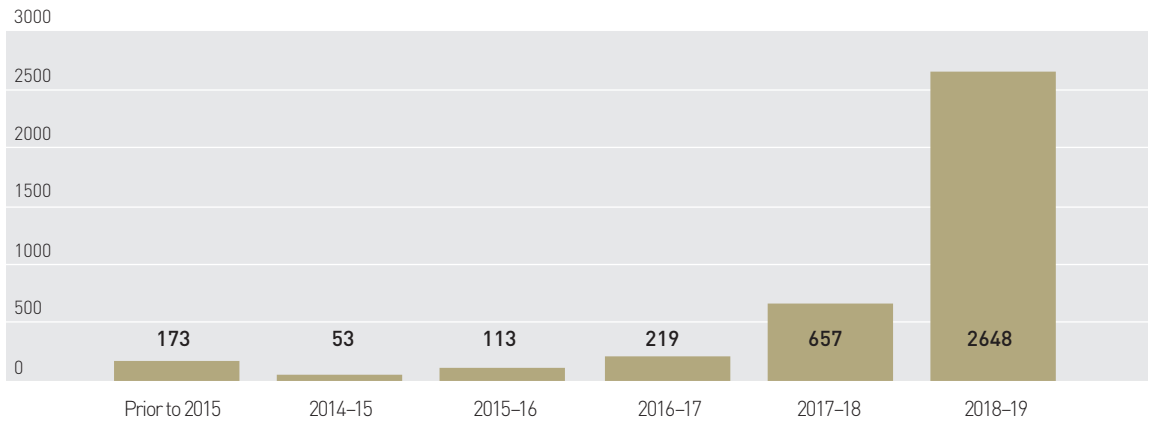
Figure A5.1: Matters filed over the last five years

Figure A5.2: Matters filed and finalised over the last five years

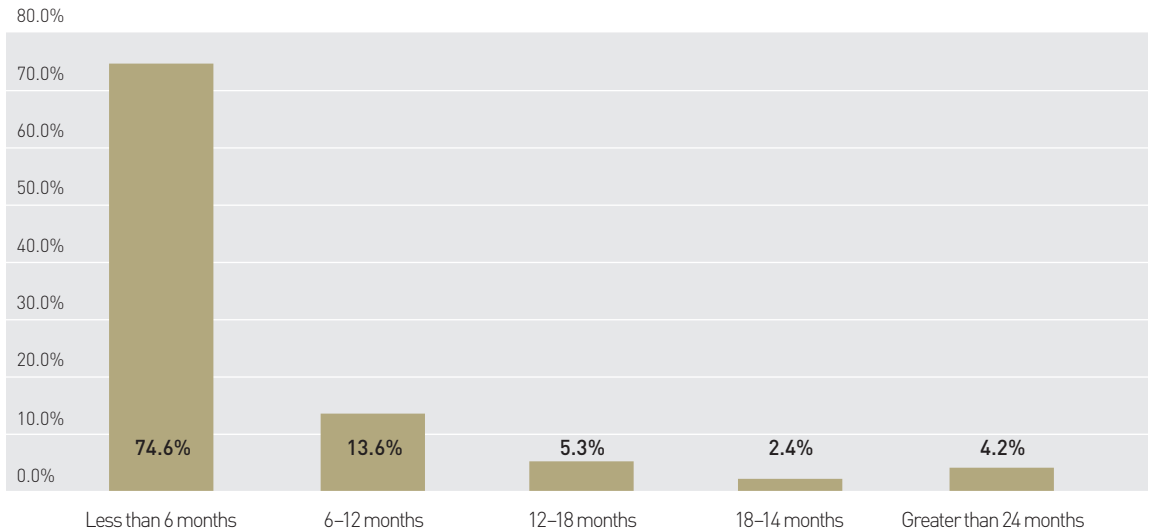


The number finalised refers to those matters finalised in the relevant financial year, regardless of when they were originally filed.

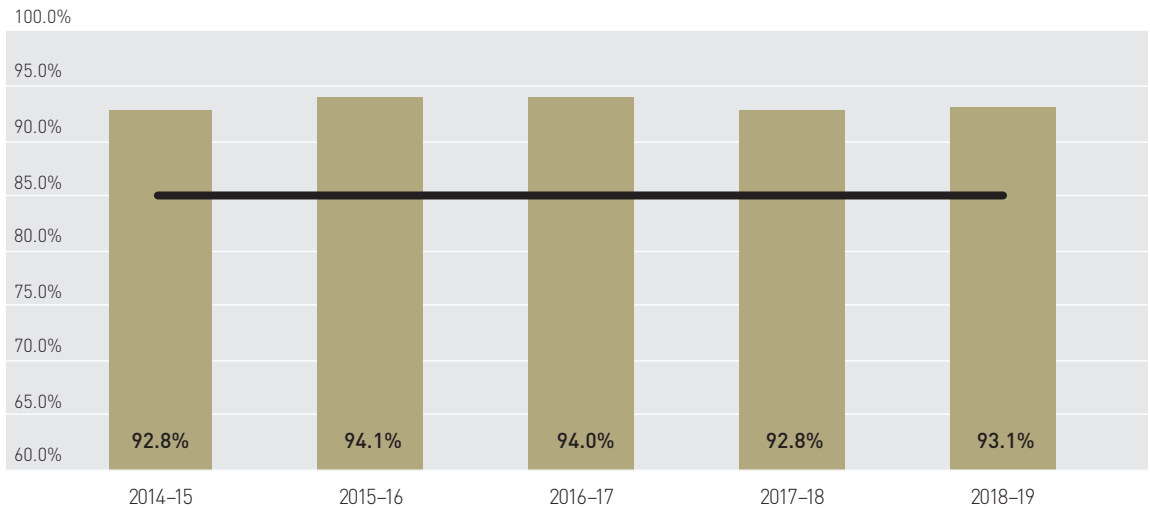
Figure A5.3: Age and number of current matters at 30 June 2019



A total of 3863 matters remain current at 30 June 2019. There were 173 applications still current relating to periods before 2014, of which 122 matters are native title matters (7.2 per cent).

Figure A5.4: Time span to complete – matters completed (excluding native title) over the last five years

A total of 26,208 matters were completed during the five-year period ending 30 June 2019, 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	2014-15	2015-16	2016-17	2017-18	2018-19
Under 18 months	3554	5388	5220	5095	5226
Percentage of total	92.8%	94.1%	94.0%	92.8%	93.1%
Over 18 months	275	336	333	394	387
Percentage of total	7.2%	5.9%	6.0%	7.2%	6.9%
Total CoAs	3829	5724	5553	5489	5613

Figure A5.6: Bankruptcy Act matters (excluding appeals) filed over the last five years

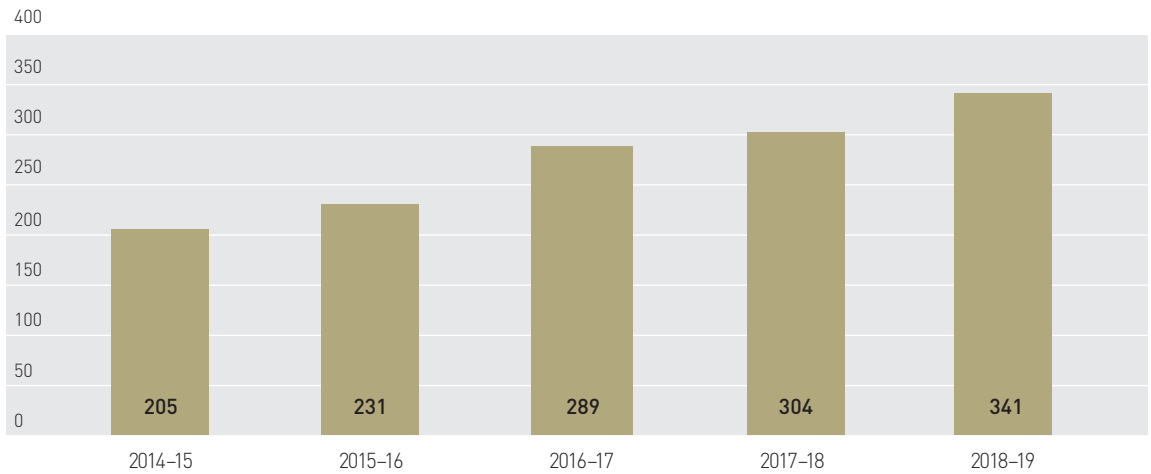


Figure A5.6.1: Current Bankruptcy Act matters (excluding appeals) by year of filing

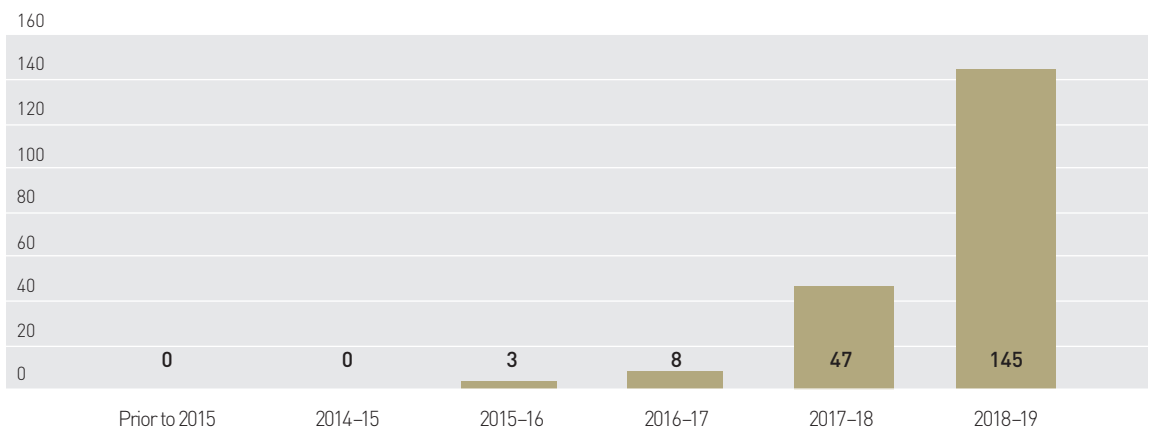


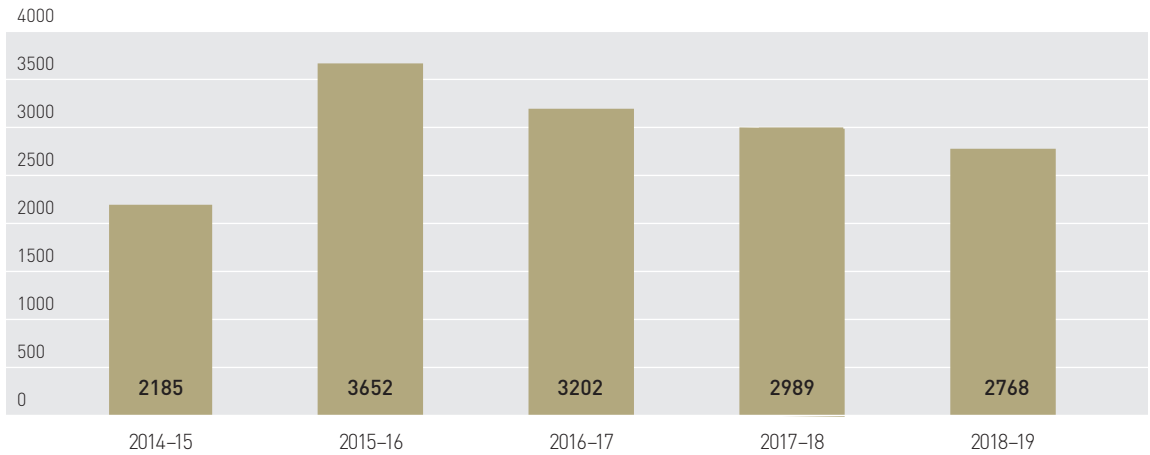
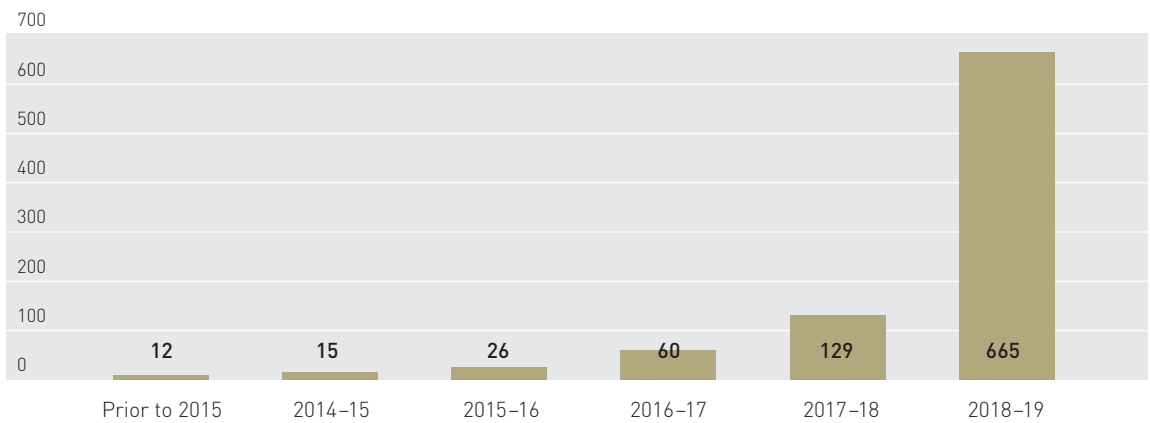
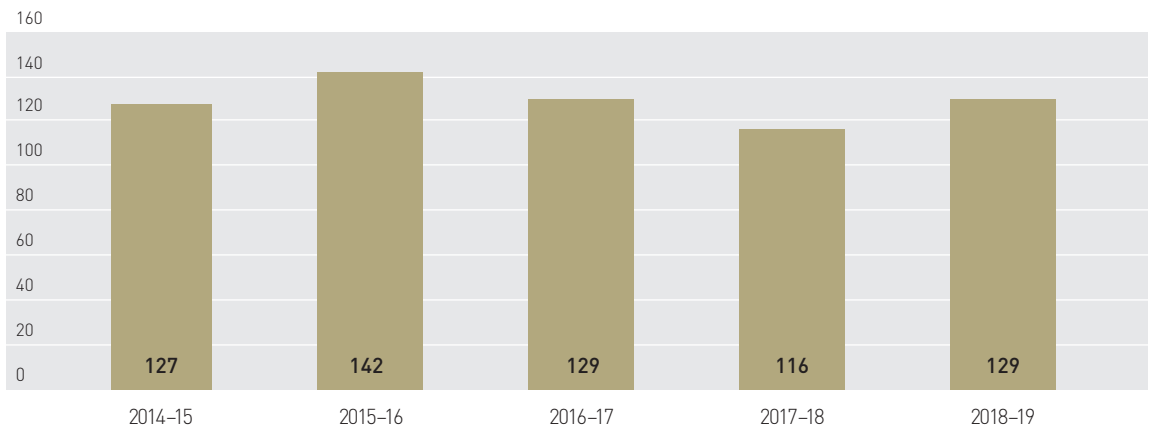
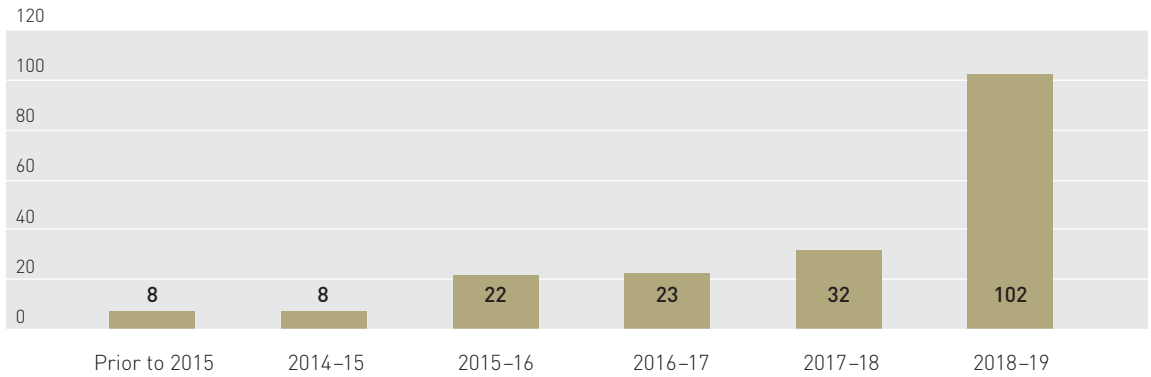
Figure A5.7: Corporation Act matters (excluding appeals) filed over the last five years**Figure A5.7.1: Current corporation matters (excluding appeals) by year of filing****Figure A5.8: Consumer law matters (excluding competition law and appeals) filed over the last five years**

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

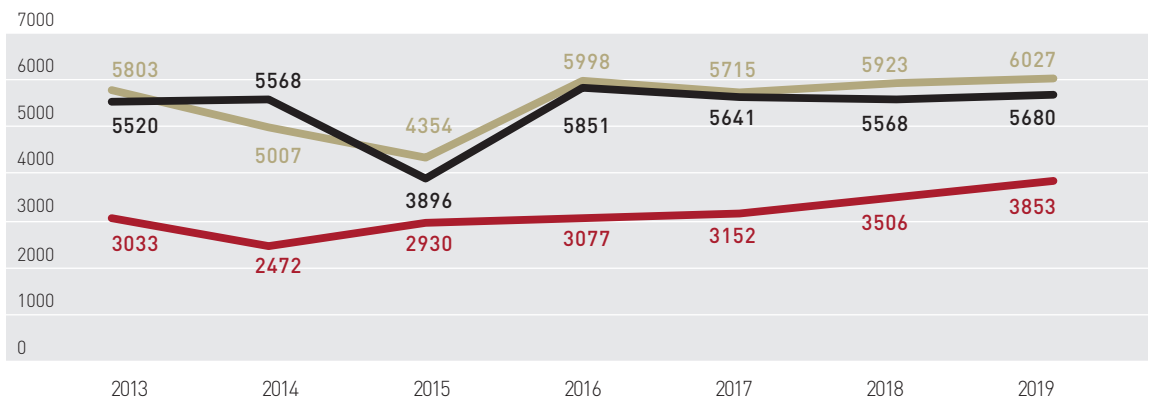


Figure A5.9.1: All filings, finalisations and pending by Administrative and Constitutional Law and Human Rights National Practice Areas (NPA)

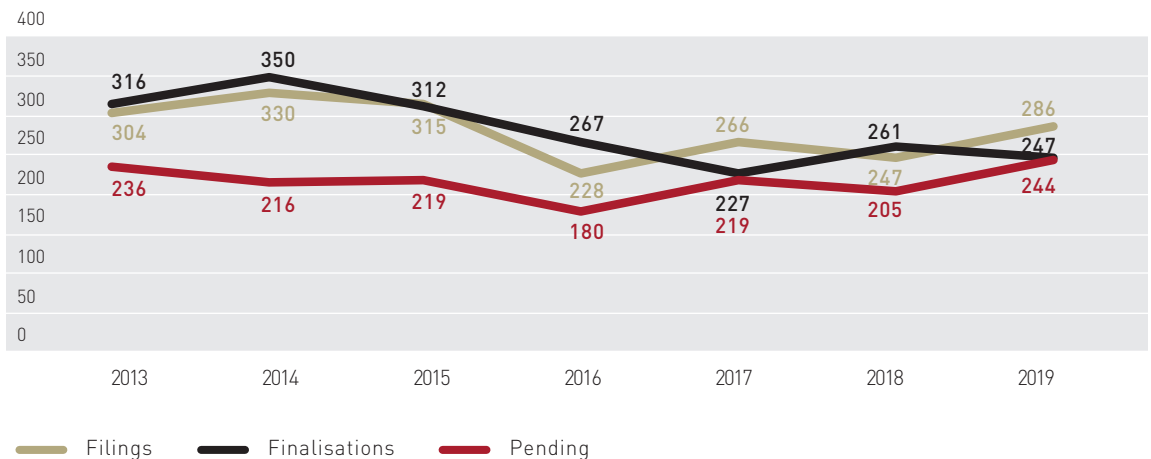


Figure A5.9.2: All filings, finalisation and pending by Admiralty and Maritime NPA

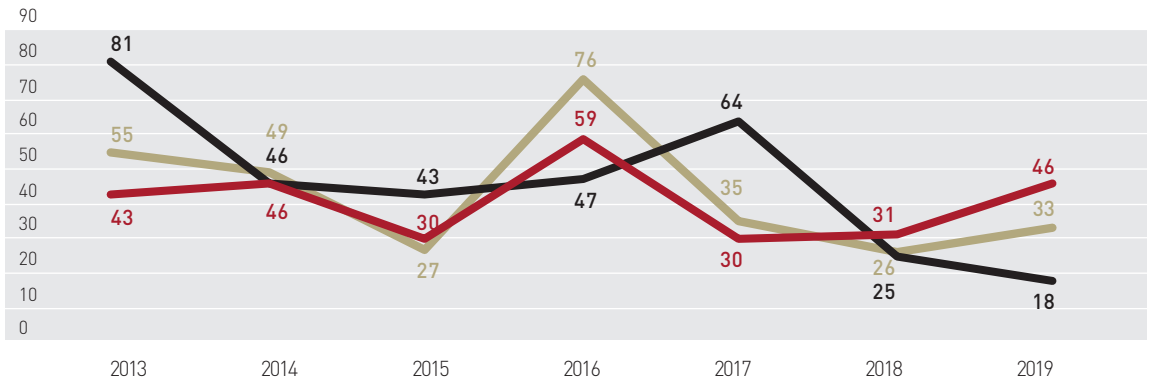


Figure A5.9.3: All filings, finalisation and pending by Commercial and Corporations NPA

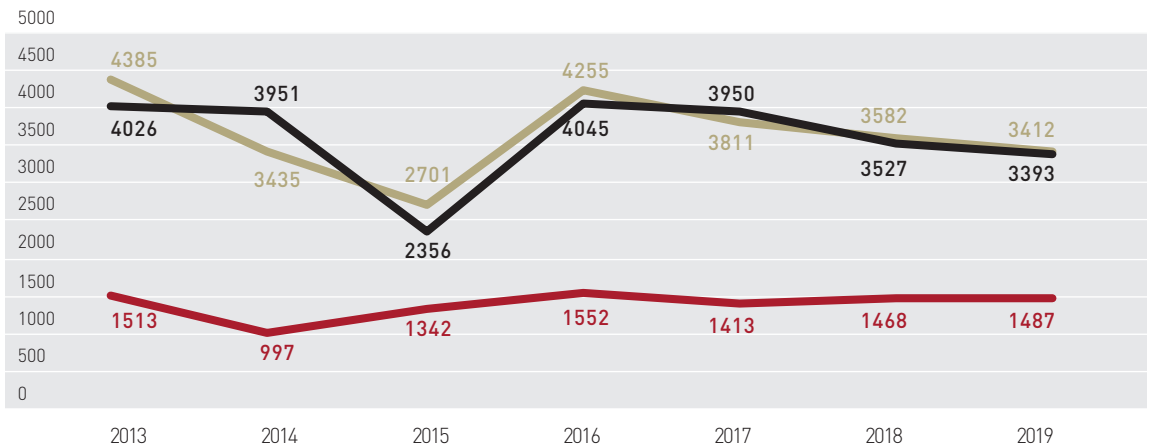
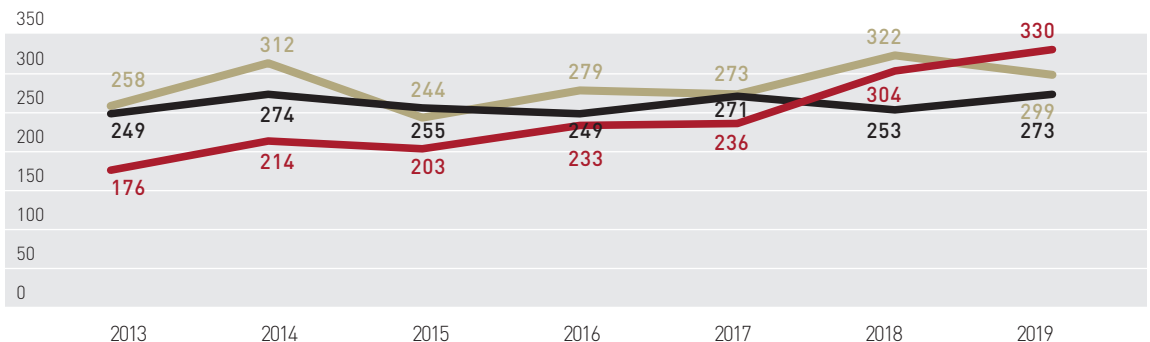


Figure A5.9.4: All filings, finalisation and pending by Employment and Industrial Relations NPA



— Filings — Finalisations — Pending

Figure A5.9.5: All filings, finalisation and pending by Intellectual Property NPA

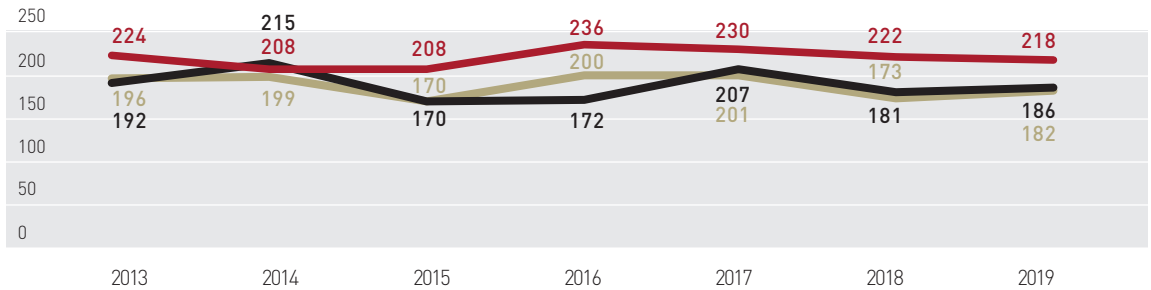


Figure A5.9.6: All filings, finalisation and pending by Native Title NPA

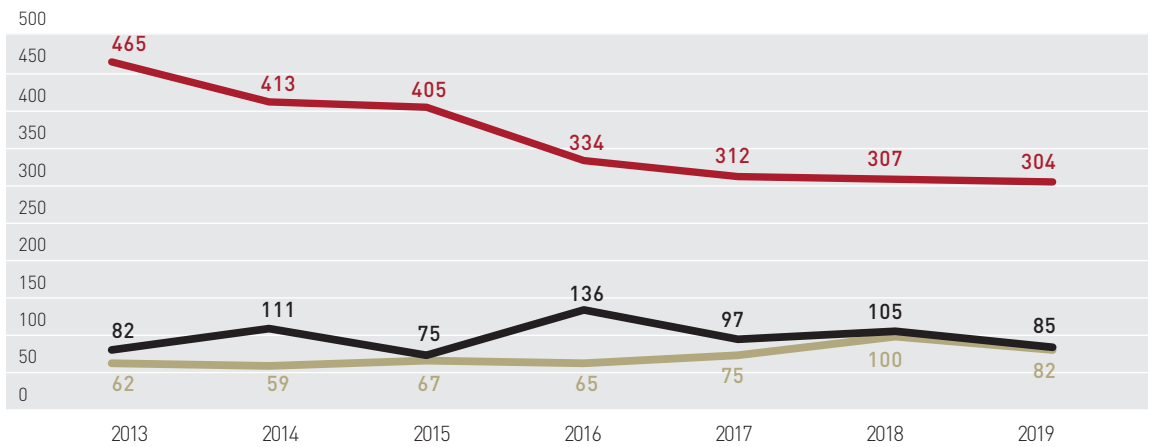
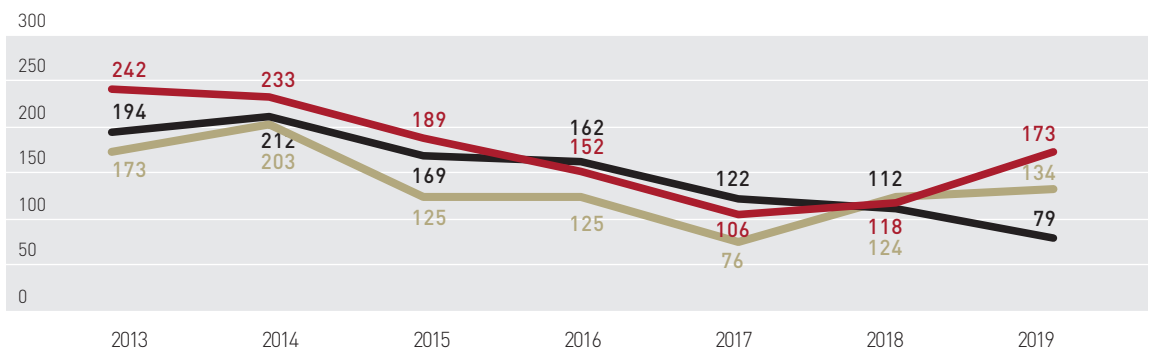


Figure A5.9.7: All filings, finalisation and pending by Taxation NPA



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

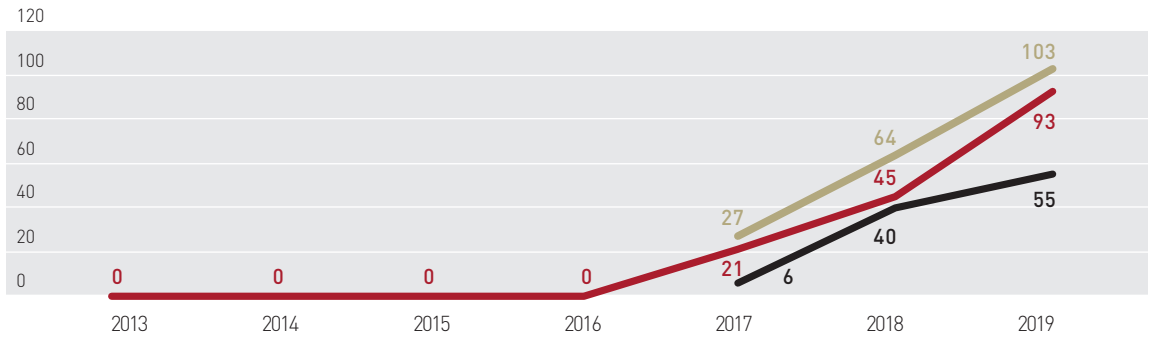


Figure A5.9.9: All filings, finalisations and pending, Federal Crime and Related Proceeding NPA

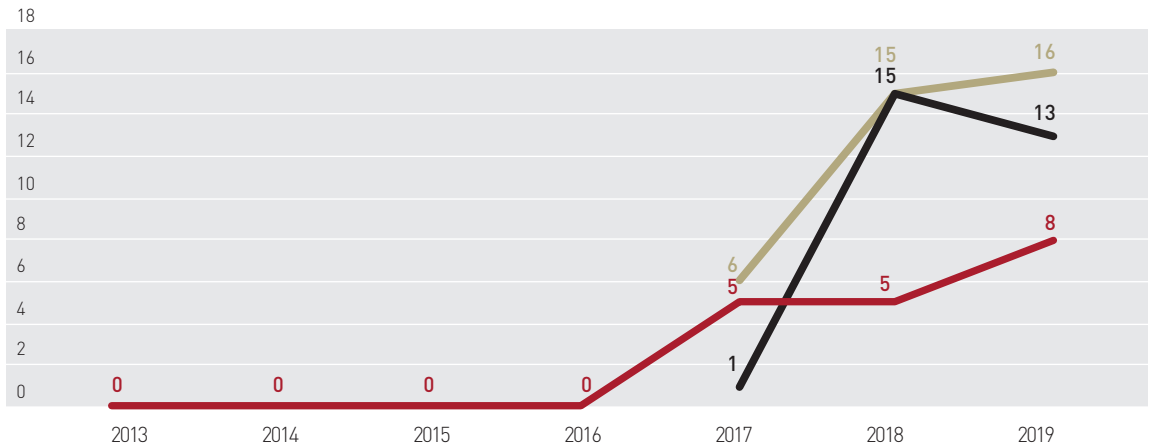
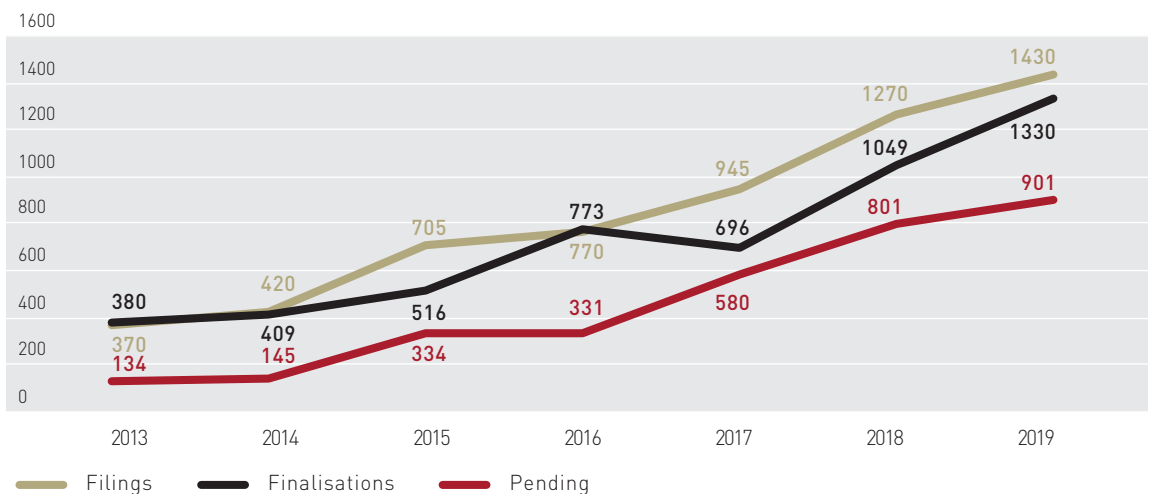


Figure A5.9.10: All filings, finalisation and pending, Migration NPA



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 regulations within the discretion of the Tribunal. The Competition and Consumer Regulations 2010 set out some procedural requirements in relation to the making and hearing of review applications.

- The Tribunal issued a revised Practice Direction on 3 April 2019.
- 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 Andrew Greenwood, Justice Lindsay Foster, Justice David Yates, Justice Alan Robertson, Justice Kathleen Farrell and Justice Jennifer Davies are the Deputy Presidents of the Tribunal.

Professor Caron Beaton-Wells was appointed as a lay member of the Tribunal during the reporting year, joining Rodney Shogren, Dr Darryn Abraham and Professor Kevin Davis. Four lay members of the Tribunal retired during the same period: Robyn Davey, Grant Latta AM, Professor David Round AM and Ray Steinwall.

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

Activities

One matter was current at the start of the reporting year. During the year, two matters were commenced and one was 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 DBNGP (WA) Transmission Pty Ltd* [2018] ACompT 1 (16 July 2018).

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 of Australia. Murray Belcher was appointed Registrar of the Tribunal on 16 August 2018. Before this, the Registrar was Michael Wall.

Activities and cases of interest

Three matters were commenced in the Tribunal during the reporting period:

- CT3 of 2018 – *Fueltrac Pty Ltd v State of Queensland*, being an application brought under s 153E of the *Copyright Act 1968*, filed on 4 October 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.
- CT5 of 2018 – *Jon Sainken and White Dee Pty Ltd v Australasian Performing Right Association Ltd & Anor*, being an application under s 155, s 156 or s 157 of the *Copyright Act 1968*, filed on 16 November 2018.

Both CT3 of 2018 and CT5 of 2018 have been finalised. CT4 of 2018 remains ongoing.

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

- CT1 of 2017 – *Copyright Agency Limited v State of New South Wales*, being an application brought under s 153K of the *Copyright Act 1968*, filed on 17 November 2017.
- 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.

The following matter was remitted back to the Tribunal by order of the Full Court of the Federal Court of Australia [see *Phonographic Performance Company of Australia Limited v Copyright Tribunal of Australia* [2019] FCAFC 95]:

- CT 1 of 2012 – *Reference by Phonographic Performance Company of Australia Limited*.

Defence Force Discipline Appeal Tribunal

Functions and powers

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

Practice and procedure

Tribunal hearings were conducted as follows:

- 2 May 2019, in Brisbane, and
- 7 December 2018, in Melbourne.

The procedure of the Tribunal is within its discretion.

Membership and staff

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

There were a number of changes to the composition of the Tribunal during the reporting year. Justice John Logan RFD was appointed as President (having formerly been Deputy President). Justice Paul Brereton AM RFD was appointed as Deputy President (having formerly been a member). Justice Melissa Perry and Justice Peter Barr were appointed as members of the Tribunal.

There were also a number of retirements from the Tribunal during the reporting year. Justice Richard Tracey AM RFD retired as President. Justice Graham Hiley RFD and Justice Greg Garde AO RFD retired as members 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

Three matters were current at the start of the reporting year. During the year, one matter was commenced and four 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

- *Boyson v Chief of Army* [2019]
ADFDAT 2 (2 May 2019)
- *McCleave v Chief of Navy* [2019]
ADFDAT 1 (21 February 2019)
- *Betts v Chief of Army* [2018]
ADFDAT 2 (10 July 2018)
- *Randall v Chief of Army* [2018]
ADFDAT 3 (10 July 2018).

Appendix 7

Decisions of interest

ADMINISTRATIVE AND CONSTITUTIONAL LAW AND HUMAN RIGHTS NPA

Linfox Australia Pty Ltd v O'Loughlin
[2018] FCAFC 173 (12 October 2018, Kenny, Moshinsky and Bromwich JJ)

Mr O'Loughlin was employed by Linfox as a petrol tank driver. In 2010, he sustained a serious injury in an altercation with a mechanic at a service station while he was in the process of delivering petrol to the service station for one of Linfox's customers. In 2014, Linfox decided to revoke a prior grant of workers' compensation to Mr O'Loughlin on the basis that it had never been liable because of the way in which Mr O'Loughlin's injury was sustained.

Section 5A of the *Safety, Rehabilitation and Compensation Act 1988* (the Act) defined an 'injury' to mean one 'arising out of, or in the course of' employment. Without limiting this definition, s 6 of the Act provided an extended meaning of the concept of an injury arising out of or in the course of employment, so that an injury was to be treated as having so arisen if relevantly to this case, it was sustained at the employee's place of work, unless the employee voluntarily and unreasonably submitted to an abnormal risk of injury.

The Tribunal had found that Mr O'Loughlin's injury arose in the course of his employment under s 5A(1)(b). The Tribunal had also found that the injury had been sustained at Mr O'Loughlin's place of work and that he had voluntarily and unreasonably submitted to an abnormal risk of injury. The Tribunal took the view that Mr O'Loughlin could not avoid the restriction in s 6 of the Act, regardless of the independent finding that his injury was sustained in the course of his employment under s 5A(1)(b). On that basis, the Tribunal held that the injury could not be treated as having arisen in the course of employment and was not compensable. The primary judge set aside the decision of the Tribunal, and found that Mr O'Loughlin was entitled to workers' compensation.

The Full Court agreed with the primary judge that an injury that arose in the course of employment so as to fall within s 5A(1)(b), without the need to resort to the extended meaning in s 6(1), was compensable even if the employee voluntarily and unreasonably submitted to an abnormal risk of injury. The Full Court found it was not mandatory to consider and apply the restriction in s 6 of the Act if an injury otherwise met the definition in s 5A of the Act. The legal effect of the opening phrase in s 6 of the Act, '[w]ithout limiting the circumstances in which an injury to an employee may be treated as having arisen out of, or in the course of, his or her employment', was central to the disposition of the appeal. Section 6 was facultative, not mandatory, in its application, containing its own limits on its operation. If s 6(1) did not need to be relied upon to give an extended meaning to an injury arising out of or in the course of employment, its limitations correspondingly did not apply.

On 20 March 2019, the High Court refused special leave to appeal on the papers: [2019] HCASL 83.

ADMINISTRATIVE AND CONSTITUTIONAL LAW AND HUMAN RIGHTS NPA

MZAOL v Minister for Immigration and Border Protection [2019] FCAFC 68 (29 April 2019, Bromberg, Farrell and Davies JJ)

The appellants are a mother and daughter whose protection visa applications had been refused by a delegate of the Minister. The Tribunal affirmed the refusal decision and an application for judicial review was dismissed by the Federal Circuit Court. The Full Court allowed the appeal, finding that the Tribunal had not considered and determined a claim that the appellant mother was at risk of, or in fear of, serious harm from forced sterilisation.

The mother came to Australia from China on a student visa in 2007, but this visa was cancelled before her daughter was born in Australia in 2012. One of the protection claims was that the child would face discrimination and harm in China, including because she would be considered a 'black child'. The relevant ground of appeal was that the mother also claimed to fear that she would be subjected to physical harm, including the possibility of forced sterilisation, because of her inability to pay the fine for breaching China's family planning laws, and that this claim was not addressed by the Tribunal.

The mother's statement in support of the visa application said she feared punishment under China's family planning law. The statement said her sister-in-law had suffered serious complications after she miscarried and had a sterilisation operation and that she feared this would also happen to her. A written submission to the Tribunal referred to the mother's inability to pay any fines imposed and included extracts from country information that referred to family planning laws being enforced, including by way of abortions or sterilisations.

The Full Court said that the Tribunal was required to deal with each claim expressly raised and also those that were apparent on the material before the Tribunal. The Full Court found it was tolerably clear from the statement and the submission that the appellant mother made a claim that she feared that should she be returned to China, the consequences of her non-compliance with China's family planning laws included the likelihood that she may be subjected to physical harm, including the possibility of forced sterilisation.

The Full Court found that the Tribunal had not properly appreciated that two feared consequences were claimed to arise from an inability to pay the likely fine under China's family planning law. The first for the daughter, as a 'black child', and the second for the mother herself. The Full Court found that the consequences for the daughter were extensively dealt with, but that nowhere in the reasons of the Tribunal was the asserted inability to pay the fine addressed by reference to the feared consequences of non-payment for the mother. The Full Court allowed the appeal on this ground, finding that the relevant claim arose and was not addressed.

ADMINISTRATIVE AND CONSTITUTIONAL LAW AND HUMAN RIGHTS NPA

Beni v Minister for Immigration and Border Protection [2018] FCAFC 228 (14 December 2018, McKerracher, Reeves and Thawley JJ)

In this case, the Full Court considered when a notice of decision sent by email was 'transmitted' and whether the Tribunal had the general power to extend time for the making of an application for review of a decision in proceedings in the Migration and Refugee Division.

The Tribunal held that it did not have jurisdiction to review a decision cancelling the appellant's temporary business entry visa because the application for review was not brought within the prescribed seven day period after the appellant was notified of the decision. An email giving notice of

the decision was sent on the day the decision was made. The Tribunal was prepared to accept that the email was not actually received by the appellant on that day, but concluded that by virtue of sending the email, the email was 'transmitted' and notification was therefore deemed to have occurred. The Federal Circuit Court agreed with the approach of the Tribunal.

The Full Court considered whether a notice of decision was given to the appellant 'by transmitting [it by] email' in circumstances where the email was not received. The Full Court said the word 'transmitting' could require either sending or both sending and receiving. The word had to be read in the context in which it was used. The Full Court said in this case the regime was directed to the ability of the Minister to know the date of notification so it would be possible to know what to put on the notification document as the date by which any review must be sought. The Full Court considered the need for administrative certainty, including the considerable difficulty and high impracticability of proving receipt in order to establish transmission. The Full Court found that in this case 'transmitting' referred to sending, rather than sending and receiving. The word 'transmitting' was used instead of 'dispatching' because 'transmitting' was more commonly used in the context of electronic communications. The Full Court held that the Tribunal was correct in concluding that the review application was brought out of time.

The Full Court then considered whether the Tribunal had the power to extend time in this case. The starting point was a provision that rendered the general power to extend time inapplicable to Tribunal proceedings in the Migration and Refugee Division. This was subject to an exception authorising other enactments to provide for applications to be made to the Tribunal for review. If another enactment provided for applications to the Tribunal, that enactment could also include provisions adding to, excluding or modifying the operation of the general power to extend time, which would 'have effect subject to any provisions so included'. The Full Court found that this did not, in effect, resuscitate the general power to extend time in proceedings in the Migration and

Refugee Division. The Full Court said it was clear, when looking at the legislative history and the surrounding secondary materials that there was no legislative intention to permit extensions of time. The Full Court concluded that the Tribunal was correct to find that the general power to extend time did not apply.

ADMIRALTY AND MARITIME NPA

Degroma Trading Inc v Viva Energy Australia Pty Ltd [2019] FCA 649 (13 May 2019, O'Callaghan J)

Degroma Trading Inc (Degroma) is the registered owner of the Panamanian-flagged oil and chemical tanker, the *Diamond-T*. Through its agent, it entered into a voyage charter with Viva Energy Australia Pty Ltd (Viva) for the carriage in October 2018 of a cargo of Viva's diesel and unleaded petroleum products from Geelong to Tasmania.

Through their respective agents, the parties were in correspondence regarding a draft bill of lading, which included an arbitration clause that gave either party the ability to elect to have any dispute arising out of the bill of lading to be referred to arbitration in London. At the same time, cargo loading operations had commenced in Geelong.

On 19 October 2018, there were reports of a potential problem with the condition of the cargo loaded onto the *Diamond-T* and Viva requested that the cargo already loaded on board the vessel be discharged back ashore. Further loadings and un-loadings of Viva's cargo continued until around 25 October 2018 and a dispute arose regarding alleged contamination of the cargo.

Viva commenced an arrest proceeding on 15 November 2018 and sought damages against Degroma for breach of its duty, as bailee, to properly clean its cargo tanks prior to loading. Degroma brought an application for a stay of the proceedings under s 7 *International Arbitration Act 1974* (Cth) on the basis it elected to exercise the arbitration clause.

Viva argued there was no binding arbitration agreement and, in any event, no final bill of lading that a dispute could 'arise out of'. Degroma submitted the arbitration clause constituted a separable agreement for the purposes of Article II of the Convention, irrespective of whether the whole bill of lading was binding on the parties, because there was an unambiguous exchange of letters or telegrams regarding the draft bill of lading that made it clear Degroma would not negotiate on the terms of the arbitration clause.

O'Callaghan J found the real issue was a practical one and concluded that if the Court heard the question of whether an arbitration agreement exists, that question would be bound up with the broader question of whether the parties are bound by a bill of lading, and if so, by what terms. O'Callaghan J stayed Viva's proceedings and referred the whole of the dispute to arbitration.

EMPLOYMENT AND INDUSTRIAL RELATIONS NPA

Bluescope Steel (AIS) Pty Ltd v Australian Workers' Union [2019] FCAFC 84 (24 May 2019, Allsop CJ, Collier and Rangiah JJ)

Bluescope Steel (AIS) Pty Ltd's employees at its Port Kembla operations were covered by industrial instruments that required them to work 'additional hours', beyond the standard hours of 38 hours per week. The employees were regularly required to do so in order to meet business needs. The employees were paid annualised or aggregate salaries. They worked up to 43.5 hours per week (38 hours plus 5.5 'additional hours') and were rostered to work on public holidays. Their salaries included payment for not only the base salary, but also the additional hours and public holidays.

The Australian Workers' Union (AWU) commenced proceedings on behalf of the employees against Bluescope for contravention of s 50 of the *Fair Work Act 2009* by failing to make appropriate superannuation contributions. The key issues were whether the salary components for 'additional hours' and public holidays fell within s 6 of the *Superannuation Guarantee (Administration) Act*

1992 (Cth) [SG Act] so that Bluescope was required to pay superannuation contributions on them. The answer to those questions involved the construction of the words 'ordinary time earnings' and 'ordinary hours of work' under the SG Act.

The primary judge found that 'ordinary hours of work' refers to the hours that are actually worked by an employee on a regular, normal, customary or usual basis, so that the whole of the salary paid by Bluescope to its employees were ordinary time earnings.

The Full Court overturned this finding on appeal. In relation to the meaning of 'ordinary time earnings', Allsop CJ said 'the meaning that best reflects ... the text, context, purpose and history of the provision is earnings in respects of ordinary or standard hours of work at ordinary rates of pay as provided for in a relevant industrial instrument, or contract of employment, but if such does not exist (and there is no distinction between ordinary or standard hours and other hours by reference to rates of pay) earnings in respect of the hours that the employee has agreed to work or, if different, the hours usually or ordinarily worked'.

The Full Court found that under the relevant industrial instruments, the ordinary hours of work were defined and 'additional hours' and public holidays were paid at higher rates than the ordinary base rate. It followed that they did not constitute 'ordinary time earnings' for the purpose of the SG Act and Bluescope was not required to pay superannuation contributions on them. Accordingly, the appeal was dismissed.

COMMERCIAL AND CORPORATIONS NPA | COMMERCIAL CONTRACTS, BANKING, FINANCE AND INSURANCE SUB-AREA

AIG Australia Limited v Kaboko Mining Limited [2019] FCAFC 96 (14 June 2019, Allsop CJ, Derrington and Colvin JJ)

This proceeding concerns the interpretation of an insolvency exclusion clause in a directors and officers (D&O) liability insurance policy.

Pursuant to agreements made in 2012, Noble Resources Limited (Noble) advanced to Kaboko Mining Limited (Kaboko) USD\$6 million as prepayment for manganese ore from Zambian mines. In 2015, Noble claimed that Kaboko defaulted and demanded payment from Kaboko. Kaboko subsequently appointed administrators and then became subject to a deed of company arrangement. In 2016, Kaboko, by its administrators, initiated claims against four former directors, alleging breaches of their duties to act with due care and diligence in managing the company's affairs and to act in good faith in the best interests of the company. The directors sought indemnity under a D&O policy issued by AIG Australia Limited (AIG). AIG declined indemnity, on the basis that the directors' alleged contraventions led to the company's insolvency, so that accordingly, the insolvency exclusion applied. The exclusion provided that AIG was not liable to cover any loss 'in connection with any claim arising out of, based upon or attributable to the actual or alleged insolvency of the company or any actual or alleged inability of the company to pay any or all of its debts as and when they fall due'.

The primary judge determined that the insolvency exclusion did not operate to preclude the directors from being indemnified. It was accepted the alleged breaches ultimately led to Kaboko's insolvency. However, the primary judge concluded that the relevant loss did not arise out of Kaboko's insolvency, but was instead the loss of Kaboko's opportunity to exploit a commercial opportunity to develop its mining projects.

On appeal, the Full Court unanimously upheld the decision below. The Full Court considered that the question was whether it is the subject matter of the claim that must have the specified insolvency link, or whether the link is also established where, by reason of the circumstances that have led to the bringing of the claim, it can be said that the claim arises out of, is based upon or is attributable to the actual or alleged insolvency.

The Full Court found that, subject to the claim for the costs of the external controllers, Kaboko's claims against the directors were not founded upon any insolvency allegations, and each claim could be advanced, irrespective of whether Kaboko was in administration. Accordingly, the exclusion was not engaged, and AIG's appeal was dismissed.

COMMERCIAL AND CORPORATIONS NPA | COMMERCIAL CONTRACTS, BANKING, FINANCE AND INSURANCE SUB-AREA

Westpac Banking Corporation v Lenthall
[2019] FCAFC 34 (1 March 2019, Allsop CJ,
Middleton and Robertson JJ)

Mr Lenthall, with three other representative applicants, commenced proceedings on behalf of those who had purchased insurance issued by Westpac Life Insurance Services Ltd, on the advice of advisors at Westpac Banking Corporation (together 'Westpac'). It was alleged Westpac had breached fiduciary duties by failing to advise group members of insurance policies offered by third party insurers, where those policies were equivalent or better, and were available at a lower price.

The representative applicants had entered into a litigation funding agreement with JustKapital Litigation Pty Limited (JustKapital). The primary judge made common fund orders, concluding that the power to make such orders lay in the Court's general power to make orders thought appropriate to ensure justice is done, pursuant to s 33ZF of the *Federal Court of Australia Act 1976* (FCA Act). Consequently, all group members became liable for their proportionate share of JustKapital's commission, irrespective of whether they had signed a funding agreement directly with JustKapital. Westpac challenged the common fund orders, including on the basis that the power to make such orders involved the acquisition of property other than on just terms, contrary to s 51(xxxi) of the Constitution.

In a separate consumer product class action against BMW Australia, the New South Wales Court of Appeal was referred a similar question regarding the power to make common fund orders. As the issues in both matters 'overlapped considerably', the Chief Justice of the Federal Court, the Chief Justice of the Supreme Court of New South Wales, and the President of the Court of Appeal of New South Wales agreed to conduct an historic joint sitting to hear the matters at the same time in the same courtroom.

The Full Court dismissed Westpac's appeal, concluding that common fund orders were permitted under the FCA Act and the Constitution. The Full Court held that Parliament intended that s 33ZF of the FCA Act confer a wide power, enabling the Court to shape the procedures and principles applicable to class actions, against an assessment of all connected circumstances. The Full Court further rejected the argument that, as it did not involve the determination of pre-existing rights, the making of common fund orders was not a valid exercise of judicial power. The Full Court observed that the nature of judicial power is of a special kind, and the creation of rights and obligations is not necessarily foreign to the exercise of judicial power. Finally, the Full Court rejected the challenge that the common fund orders operated as acquisitions of property, otherwise than on just terms contrary to s 51(xxxi) of the Constitution, holding that the orders operated as a genuine adjustment of the competing rights and obligations of the group members and JustKapital.

Special leave to appeal was granted by the High Court of Australia, and the appeal was heard on 13 and 14 August 2019.

COMMERCIAL AND CORPORATIONS NPA | GENERAL AND PERSONAL INSOLVENCY SUB-AREA

Moss v Gunns Finance Pty Ltd (Receivers & Managers Appointed) (In liquidation) [2018] FCAFC 185 [29 October 2018, Gleeson, Lee, and Banks-Smith JJ]

Mr Moss defaulted on loans obtained from Gunns Finance Pty Ltd (Receivers & Managers Appointed) (in liquidation) (Gunns Finance) for timber and walnut investment schemes. Gunns Finance commenced two recovery proceedings in the District Court of New South Wales, and summary judgment was entered against Mr Moss in relation to his walnut schemes.

While the proceeding relating to Mr Moss' timber schemes was still on foot, Mr Moss appointed controlling trustees and proposed a Personal Insolvency Agreement (PIA) to his creditors at a creditors' meeting. The terms of the PIA required Mr Moss to pay \$150k to creditors in full discharge of his debts, which totalled over \$2.7m. The PIA was approved by a majority of creditors representing 75 per cent of the money owed to those taking part in the vote. Gunns Finance voted against the resolution but had only been admitted for part of its claim (being the amount obtained by summary judgment). Its proof of debt relating to the timber schemes (remaining claim) was admitted for only \$1 for voting purposes.

Gunns Finance sought to have the PIA set aside, and for a sequestration order to be made against the estate of Mr Moss. The primary judge found that the remaining claim was wrongly admitted for only \$1, and should have been admitted in full, and that the PIA vote was dominated by creditors who were not at arm's length. The primary judge also found that the terms of the PIA were unreasonable and were not calculated to benefit Mr Moss' creditors generally. The relief sought by Gunns Finance was granted.

On appeal, the Full Court found that no error was demonstrated in the primary judge's conclusion that the full debt should have been admitted, and therefore the decision to set aside the PIA had not been shown to be erroneous. The Full Court agreed with the primary judge's finding that the return to creditors under the PIA was negligible, and the conclusion that the terms of the PIA were therefore unreasonable. The appeal was dismissed.

COMMERCIAL AND CORPORATIONS NPA | ECONOMIC REGULATOR, COMPETITION AND ACCESS SUB-AREA

Australian Competition and Consumer Commission v Colgate-Palmolive Pty Ltd [2019] FCAFC 83 [24 May 2019, Middleton, Perram and Bromwich JJ]

In 2009, the major producers of laundry detergent introduced new 'ultra-concentrate' versions of their existing standard concentrate products into supermarket retail chains, and ceased supplying their standard concentrate laundry powders. The ACCC brought proceedings against Colgate-Palmolive Pty Ltd (Colgate), one of its employees, PZ Cussons Australia Pty Ltd (Cussons) and Woolworths Limited (Woolworths), alleging that the simultaneous and almost uniform transition to ultra-concentrate detergent arose from a collusive arrangement made between Colgate, Cussons and Unilever Australia Limited (Unilever) that they would withhold ultra-concentrate detergent from the market until an agreed date in March 2009. While the other parties ultimately settled with the ACCC, Cussons proceeded to contest the matter.

At trial, the primary judge concluded that the ACCC had not established that Cussons had in fact arrived at such an arrangement with the other suppliers. The primary judge was satisfied that although Colgate, Cussons and Unilever were all conscious of the impending transition at approximately the same time, the evidence demonstrated that it was in fact Woolworths and Coles that had largely prompted the timing of the

transition. The primary judge further accepted that Cussons was, for the most part, unaware of the activities of the other suppliers and retailers in the period prior to the transition.

The Full Court rejected the multiple grounds raised by the ACCC on appeal. Among other conclusions, the Full Court held that the primary judge did not impose an impermissible requirement that the ACCC identify with undue precision when the arrangement had been made, or by which of its officers. The Full Court also rejected that the primary judge had sought to impose an obligation on the ACCC to show the existence of an irrecoverable commitment by Cussons, when observing the absence of any commitment, obligation or moral or legal duty to the other suppliers in respect of the transition.

The Full Court also affirmed that parallel conduct, in insolation, is not generally sufficient to prove anti-competitive conduct in ordinary markets. The Full Court agreed with the primary judge's observation that the ACCC had failed to test under cross-examination of expert witnesses any of the economic grounds that explained the parallel conduct.

The Full Court dismissed the appeal with costs.

COMMERCIAL AND CORPORATIONS NPA | REGULATOR AND CONSUMER PROTECTION SUB-AREA

Australian Competition and Consumer Commission v Medibank Private Limited [2018] FCAFC 235 [20 December 2018, Perram, Murphy and Beach JJ]

Following the termination or phasing out by Medibank, and its subsidiary, of agreements with pathology and radiology service providers, Medibank no longer covered the gap between the Medicare Benefit Schedule fee and the amount charged by service providers. As a result, some Medibank members became exposed to a gap payment they did not previously have to pay.

The ACCC commenced proceedings against Medibank, claiming that it had engaged in misleading and deceptive conduct, contrary to the Australian Consumer Law (ACL), by representing to its members that they would not bear any out-of-pocket expenses for in-hospital pathology and radiology services (diagnostic cover representation). The ACCC also alleged that Medibank had misrepresented to its customers that it would not reduce their benefits under their policies (notice representation), and did so. Finally, the ACCC alleged that Medibank had acted unconscionably in terminating the agreements and making such representations, thereby contravening s 21 of the ACL.

The primary judge concluded that statements of the kind contained in Medibank's cover summary did not convey the diagnostic cover representation, noting that no reasonable consumer could understand the word 'cover' to mean complete indemnification for all costs incurred by members for in-hospital diagnostic services. It was found that the notice representation was not made out, because detrimental change notices were not required where there were no changes to the fund rules, only to hospital contracting arrangements. These conclusions were fatal to the ACCC's case on unconscionable conduct.

On appeal to the Full Court, Perram J observed that the 'Achilles' heel' of the ACCC's case was that Medibank's cover summary does not mention diagnostic services. His Honour agreed with the primary judge's conclusion regarding the reasonable consumer's interpretation of the word 'cover'. Perram J also concurred with the findings of the primary judge in relation to the notice representation. Murphy and Beach JJ agreed with Perram J's reasoning.

In relation to the alleged unconscionability, Beach J found (Perram and Murphy JJ agreeing) that although Medibank's conduct may have been harsh or unfair, this was not sufficient to establish statutory unconscionability under the ACL.

The Full Court dismissed the appeal with costs.

NATIVE TITLE NPA

Manado on behalf of the Bindunbur Native Title Claim Group v State of Western Australia [2018] FCAFC 238 (20 December 2018, Barker, Perry and Charlesworth JJ)

In 2013, applications were made by Jabirr Jabirr, Bindunbur and Goolarabooloo people, for determinations of native title to areas in the Mid Dampier Peninsula. The primary judge found that rights and interests arising from a rayi connection (a spiritual phenomenon that can lead to an attachment to a particular place or animal), were not native title rights and interests for the purposes of the *Native Title Act 1993* (Cth) (NTA). The primary judge also found that the functions and rights of persons who hold mythical or ritual knowledge and experience of an area are not native title rights or interests within the meaning of the NTA. A determination was made in favour of all parties except the Goolarabooloo people.

The primary judge also held that the confirmation of public access and enjoyment of waterways, beaches, etc. referred to in s 14 of the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA) was a 'privilege' and therefore an 'interest' for the purposes of the NTA. Section 212 of the NTA allows states to enact confirmatory laws regarding existing rights. This access and enjoyment was included by the primary judge as 'other interests' under the determinations.

On appeal by the Goolarabooloo people, the Full Court agreed with the primary judge that the knowledge and status of a person as a ritual leader does not result in such a person being possessed of any rights or interests in relation to land or waters under Jabirr Jabirr law and custom. The Full Court recognised that while the rayi association may give rise to some limited personal rights and interests, they were not territorial or proprietary rights, and therefore did not give rise to rights or interests 'in relation to the land or waters' for the purposes of the NTA. The Goolarabooloo appeal was accordingly dismissed.

In considering separate appeals made by the Jabirr Jabirr and Bindunbur people, the Full Court considered whether the primary judge erred in including in the determinations, public access and enjoyment of beaches and other places as 'other interests' for the purposes of the NTA. The Full Court disagreed with the primary judge's construction of the NTA, finding that s 212 only has the capacity to confirm existing rights and not create new ones. The Full Court found that the creation of such a right, which would constrain the exercise of existing native title rights and interests, would require a clear and plain Parliamentary intent. The appeals of the Jabirr Jabirr and Bindunbur people were allowed and the determinations were amended to reflect these findings.

Applications for special leave to appeal filed by the State of Western Australia and the Commonwealth of Australia were granted by the High Court in relation to the Jabirr Jabirr and Bindunbur appeals, on 21 June 2019. The High Court appeals are yet to be determined.

NATIVE TITLE NPA

Northern Land Council v Quall [2019] FCAFC 77 [20 May 2019, Griffiths, Mortimer and White JJ]

The CEO of the Northern Land Council (NLC), purported to certify an application for registration of the Kenbi Indigenous Land Use Agreement relating to areas of land for which the NLC was the representative body under the *Native Title Act 1993* (the Act). The purported certification was made by the CEO following, and pursuant to, a resolution whereby the NLC delegated to the CEO, its power to assist Aboriginal people in its capacity as a representative body, in respect of its certification function under s 203B of the Act.

The respondents commenced proceedings, contending that the NLC's certification function under the Act was not delegable or was not validly delegated to the CEO, because at the time the NLC resolution was made, the relevant function had not yet been introduced into the Act. The primary

judge found that the NLC's power extended to the delegation of the certification function to a staff member. It was concluded, however, that the NLC resolution did not constitute a valid delegation of the certification function, because a delegation does not extend to a power that comes into existence after it is made.

The NLC appealed the decision, and a cross-appeal was filed by the respondents regarding whether the certification function was delegable. Griffiths and White JJ found that while the NLC is able to obtain assistance from its staff in the performance of its certification function, it must perform that function itself. Griffiths and White JJ recognised the significance of representative bodies being designed so as to ensure satisfactory performance of their roles 'in the interests of the Aboriginal constituents whom they represent'. The language of the Act was found to support the view that there was no implied intention by Parliament that the certification function was to be performed by any person other than the NLC itself.

Mortimer J agreed with the reasons of Griffiths and White JJ, stating that the Act 'intends that control of the certification function remains with the body itself as the repository of the power'.

The cross-appeal was allowed and NLC's appeal dismissed. An application for special leave to appeal to the High Court of Australia was filed by the NLC on 16 July 2019.

FEDERAL CRIME AND RELATED NPA

Commonwealth Director of Public Prosecutions v Christian [2019] FCAFC 5 [29 January 2019, Besanko, Flick and Robertson JJ]

This matter arose from a criminal prosecution in the Supreme Court of Norfolk Island. Mr Christian pleaded guilty to five counts of the offence of sexual intercourse with a young person. The primary judge dismissed an application to revoke bail, and later sentenced Mr Christian. Reasons for both decisions were made available to the parties and online (the 'two judgments').

The Commonwealth Director of Public Prosecutions (CDPP) subsequently sought that the two judgments be recalled, and publication be thereafter restricted. The CDPP argued the two judgments tended to reveal the complainant's identity, so the publication of the two judgments contravened s 169 of the *Criminal Procedure Act 2007* (NI). At the time, s 169 provided that it was an offence to publish, in relation to a sexual offence proceeding, a reference or allusion from which the complainant's identity might reasonably be inferred. The primary judge ordered minor redactions to the two judgments, but otherwise dismissed the application.

The CDPP appealed, claiming non-publication orders were necessary to prevent prejudice to the administration of justice. Besanko and Robertson JJ found that the only source of power to make an order, prohibiting third parties from making available the two judgments on the internet, could be the inherent jurisdiction or implied power in limited circumstances to restrict the publication of proceedings conducted in open court. Besanko and Robertson JJ considered whether the exercise of the power was justified, having regard to the necessity of such orders in the interests of the administration of justice. Besanko and Robertson JJ rejected the contention that the primary judge failed to reach the conclusion that ought to be reached, namely that the complainant's age was a reference in the two judgments from which her identity might reasonably be inferred.

Flick J found it was unnecessary to resolve the question of the source of power to prohibit publication of judgments, but observed that to 'contemplate the making of such an order would seem to run contrary to the cherished objective of open justice'. Flick J found it remained questionable whether the common law or the inherent powers of a superior court 'extend to the making of an order restricting the further publication of a judgment and reasons once published in open court'. Flick J held the primary judge's findings dictated a conclusion that there was no error in refusing to make non-publication orders.

The Full Court dismissed the appeal.

INTELLECTUAL PROPERTY NPA | COPYRIGHT SUB-AREA

Phonographic Performance Company of Australia Limited v Copyright Tribunal of Australia [2019] FCAFC 95 (6 June 2019, Besanko, Middleton and Burley JJ)

The Phonographic Performance Company of Australia Limited (PPCA) is a copyright collecting society that represents the interests of record companies and Australian recording artists. It obtains the rights to grant licences of the copyright in sound recordings through input agreements with licensors.

PPCA sought judicial review of a decision of the Copyright Tribunal on a proposed licence scheme involving a non-exclusive licence to the subscription television industry, particularly Foxtel.

The Full Court noted the issues between the parties related principally, but not exclusively, to price. They found no error in the Tribunal's approach of rejecting the expert evidence advanced by both parties and moving to the process of judicial estimation after ruling out the market rate and national bargain rate methods. They rejected an argument that the Tribunal had fixated on an unsafe reference point by referring to a previous agreement (instead of a more relevant agreement) and took a 'percentage increase' approach, which strayed from its statutory task. Instead, the Full Court found there was no evidence that the Tribunal had not taken those matters into account and, in truth, the matters complained of went to the merits of the Tribunal's evaluation of the weight to be accorded to factors it was able, but not bound, to take into account.

In terms of the jurisdictional issue, the Tribunal had rejected PPCA's submission that the Tribunal had no power to impose non-price terms by means of schemes which were inconsistent with the terms under which PPCA was itself licensed by its own members. The Tribunal found the power to approve a scheme was not derived from the existence of a licence which a collecting society may hold from its members, but from the *Copyright Act 1968* (Cth), and under the scheme granted to Foxtel the on-demand offering right and audiovisual streaming right.

The Full Court overturned this finding on appeal and construed a 'licence scheme' as requiring to relate to classes of cases the subject of the licence that the licensor or owner is willing to grant. The Full Court remitted the matter back to the Tribunal for further consideration.

INTELLECTUAL PROPERTY NPA | PATENTS AND ASSOCIATED STATUTES SUB-AREA

Calidad Pty Ltd v Seiko Epson Corporation [2019] FCAFC 115 (5 July 2019, Greenwood, Jagot and Yates JJ)

Seiko Epson Corporation (Seiko) manufactures and sells printer cartridges world-wide under the trade mark 'Epson'. Each cartridge is compatible with its printers and is fitted with a memory chip so that once ink reaches a threshold level, the cartridge is no longer operative and cannot be refilled. Ninestar manufactures generic printer consumables. It obtains used original Epson cartridges from third parties and restores them to working condition via a series of steps. Calidad Pty Ltd (Calidad) imported cartridges from Ninestar into Australia and promoted them as 'remanufactured Epson cartridges'.

Seiko commenced proceedings against Calidad alleging that its importation and sale of the repurposed cartridges infringed its Australian patents. Calidad argued it had an implied licence to deal with the cartridges arising from Seiko's unrestricted sale of the original cartridge. Alternatively, Calidad argued the exhaustion of rights doctrine applies in Australia so that all of a patentee's rights in relation to a patent are exhausted at the point of first sale.

The primary judge found that Calidad had an implied licence authorising its conduct in respect of three of seven categories of remanufactured Epson cartridges where the modifications did not affect its essential features, but had infringed Seiko's patents in respect of the remaining four categories where the modifications were so significant they fell outside of the implied licence. Calidad lodged an appeal and Seiko lodged a cross-appeal.

The Full Court found the correct approach to determine the issue was first to consider the scope of the implied licence, rather than to consider the extent to which the modifications affected or extinguished it. The Full Court was unanimous on the result that all of the categories of remanufactured Epson cartridges fell outside the scope of the implied licence, but each judge had slightly different reasoning. Greenwood and Jagot JJ considered the steps taken by Ninestar to modify the cartridges amounted to the 'manufacture' of the patented invention, while Yates J found the implied licence did not extend to their remanufacture after the cartridges had been used. The Full Court rejected that the modifications amounted to a repair of the cartridges because there was no defect with them. The Full Court dismissed Calidad's appeal and allowed Seiko's cross-appeal.

Calidad have applied for special leave to appeal to the High Court.

INTELLECTUAL PROPERTY NPA | TRADE MARKS SUB-AREA

Vokes Ltd v Laminar Air Flow Pty Ltd [2018] FCAFC 109 (16 July 2018, Nicholas, Davies and Burley JJ)

This appeal concerns the application of s 81 of the *Trade Marks Act 1995* (Cth) (the Act), which provides that the Registrar of Trade Marks (Registrar) may, on his or her own initiative, correct any error or omission in entering in the Register any particular in respect of the registration of a trade mark.

The appellant (Vokes) was the owner of six trade marks until August 2001, at which time a change of name form (the form) was erroneously submitted to the Registrar by an agent of AES Environmental Pty Ltd (AES), and the Register was changed to reflect AES as the registered owner. Vokes had not actually changed its name.

In 2005, an assignment of the trade marks from AES to the first respondent (Laminar) was entered on the Register. In December 2014, Vokes sought ‘correction’ of the Register under s 81 of the Act, so that it showed Vokes as the registered owner. A delegate of the Registrar subsequently determined that there was power under s 81 to make the correction sought by Vokes and found it was appropriate to do so (delegate’s decision). Laminar applied for judicial review of the delegate’s decision, seeking to have it set aside.

The primary judge found that the change of the owner’s name was not an error of the kind within s 81 of the Act, because the error was on the part of the person submitting the form, not the Registrar. Therefore, it was not open to the Registrar to correct the error. The primary judge also distinguished an earlier case called *Mediaquest Communications LLC v Registrar of Trade Marks* [2012] FCA 768 (*Mediaquest*), on the basis that a change of name was not a jurisdictional fact or a precondition to the exercise of the Registrar’s power under the Act. The delegate’s decision was set aside.

Vokes appealed the primary judge’s decision to the Full Court. In agreeing with the findings of the primary judge, the Full Court found that the Registrar simply entered the change of name as described in the form, and there was therefore no error made *in entering* any particular in the Register, pursuant to s 81. The Full Court also found that the primary judge was not incorrect to distinguish *Mediaquest*, stating that the language of the relevant provision ‘provides no basis upon which it may be concluded that the fact of a valid change of name is a jurisdictional fact’. The appeal was thereby dismissed.

OTHER FEDERAL JURISDICTION NPA

Sarina v Fairfax Media Publications Pty Ltd [2018] FCAFC 190 (31 October 2018, Rares, Markovic and Bromwich JJ)

Mr Sarina initiated defamation proceedings against Fairfax Media Publications Pty Ltd (Fairfax) in the District Court of New South Wales, in relation to a Sydney Morning Herald article published on 19 October 2010 with the headline ‘McGurk’s confidants have colourful past’ (DC Proceedings). The case settled and a deed of release was later executed by the parties. In August 2017, Mr Sarina again initiated proceedings in the Federal Court against Fairfax, in connection with the publication of two other Sydney Morning Herald articles on 14 September 2009 (headlined ‘The jockey, the boxer and the money men’) and on 16 October 2010 headlined ‘McGurk duo linked to \$150 million loan fraud’, (together, the ‘other publications’).

Mr Sarina alleged that as a result of the statements, he had been injured in his character, credit, business, personal and professional reputation and been brought into public hatred, ridicule and contempt. Fairfax filed an interlocutory application on 10 October 2017, seeking summary judgment on the basis that the deed of release released it from liability in respect of the other publications.

The primary judge found that the deed of release was drafted ‘in such wide terms as would naturally embrace the matters complained of in the present proceeding’. The primary judge held that the deed of release released Fairfax from liability in respect of the other publications, and dismissed Mr Sarina’s originating application.

The Full Court found that the words of the deed, having not referred to any other publication, did not appear to support the wide view taken by the primary judge, but instead confined the release solely to the releasee’s liability to Mr Sarina in damages for defamation, arising from the publication of the article the subject of the DC proceedings. The Full Court observed that it

would be 'most unusual' for a release in a deed dealing with one article to be read as releasing the publisher, or a party related to the publisher, from liability in respect of other publications, unless the wording of the deed was 'unmistakably clear' which, the Full Court found, the words of this deed were not. The Full Court allowed the appeal and set aside the orders of the primary judge.

TAXATION NPA

Harding v Commissioner of Taxation [2019] FCAFC 29 (22 February 2019, Logan, Davies and Steward JJ)

The Full Court considered whether Mr Harding was a resident of Australia in the 2011 income year and specifically whether Mr Harding had a 'permanent place of abode' outside of Australia in circumstances where he resided in temporary accommodation.

Mr Harding was born in Australia but left in his youth and got married in the United Kingdom in his twenties before moving to the Middle East for work. In 2004, his wife and children relocated to a home that the family built in Australia. Mr Harding followed in 2006 and worked in Australia for a few years before returning to work in the Middle East. Mr Harding deposed that he left Australia in 2009 with an intention to live and work in the Middle East indefinitely. He said that he expected his family would join him towards the end of 2011. He said he did not expect to ever live in his home in Australia again, so he sold or took with him most of his personal belongings. From 2009, Mr Harding lived and worked in the Middle East. During 2011, he lived in leased serviced apartments in Bahrain. When he visited Australia, he stayed at the family home. His marriage broke down at the end of 2011, so his family never joined him.

The primary judge found that Mr Harding was not a resident of Australia according to ordinary concepts in 2011 because he intended to depart Australia permanently in 2009. The primary judge then considered the statutory definition of a resident, being 'a person whose domicile is in Australia, unless ... the person's permanent place of abode is outside Australia'. Mr Harding conceded that in the 2011 year of income he was domiciled in Australia. The primary judge found that Mr Harding did not have a permanent place of abode outside Australia because he was living in serviced apartments. The primary judge found this was temporary accommodation by its very nature and because Mr Harding's plan was to acquire a house once his family moved across to join him.

The Full Court agreed that Mr Harding was not a resident of Australia according to ordinary concepts in 2011. The key question was whether Mr Harding had a 'permanent place of abode' outside Australia. The Full Court found that the learned primary judge adopted a too narrow conception of what may constitute a 'permanent place of abode'. The Full Court concluded that a permanent place of abode when considering the residency of a taxpayer should be construed by reference to a geographic location, rather than by reference to the taxpayer's specific dwelling. The Full Court said the 'place' of abode, in the specific legislative context, referred to a town or a country. The Full Court found that Mr Harding's permanent place of abode in 2011 was Bahrain. That was the 'place' where he was living. For that reason, the Full Court found that Mr Harding was not a resident of Australia.

Appendix 8

Judges' activities

CHIEF JUSTICE ALLSOP

Chief Justice Allsop is:

- a part-time teacher in maritime law at the University of Queensland
- an Honorary Bencher of the Middle Temple
- a member of the American Law Institute
- a fellow of the Australian Academy of Law
- an Adjunct Professor in the School of Law at the University of Queensland
- President of Francis Forbes Society for Australian Legal History
- Patron of the Australian Insurance Law Association
- Chair of Australian Centre for International Commercial Arbitration Judicial Liaison Committee 2019, and
- a Member on the Asian Business Law Institute Board of Governors representing the Australian Judiciary.

DATE	ACTIVITY
12 July 2018	Attended the Hellenic Australian Lawyers International Rhodes Conference and presented 'The Place that launched a Thousand Ships: Some Hellenic Influences on Maritime Law and Commerce'.
31 July 2018	Attended the 2018 Geoff Masel Lecture at HWL Ebsworth Sydney Office as Patron of the Australian Insurance Law Association.
3 August 2018	Hosted and presided over the final of the Aboriginal and Torres Strait Islanders' Moot Competition 2018 at the Federal Court in Brisbane.
17 August 2018	Presided over the ceremonial sitting to farewell the Honourable Justice Richard Tracey AM RFD, at the Federal Court in Melbourne.
20 August 2018	Hosted a cocktail reception at the Federal Court in Sydney for the International Law Association Biennial Conference.
23 August 2018	Participated in the Australian Academy of Law/Australian Academy of Science Symposium 'Are you sure' with other panellist the Honourable Robert French AC. Title 'Uncertainty as part of Certainty: Recognising the Limits of Definitional Clarity and Embracing the Need for Uncertainty to Understand the Whole'.
29 August 2018	Hosted the AMTAC Annual Address 2018, presented by Justice Steven Rares at the Federal Court in Sydney.
7 September 2018	Presided over the ceremonial sitting for the retirement of the Honourable Justice Anthony North, at the Federal Court in Melbourne.
8-9 September 2018	Lectured at the University of Queensland.
15-16 September 2018	Lectured at the University of Queensland.

17 September 2018	Signed a Memorandum of Understanding (MoU) between the Federal Court of Australia and the High Court of the Solomon Islands, with Chief Justice Palmer. The MoU is a formal commitment by both courts to provide judicial cooperation over the coming five years. The ceremony was at the Federal Court in Sydney.
18 September 2018	Attended and hosted a seminar 'Introduction to the Aboriginal Land Rights System in NSW', a joint initiative of the NSW Judicial Commission Ngara Yura Committee, the NSW Bar Association's First Nations Committee and the Law Society of NSW Indigenous Issues Committee at the Federal Court in Sydney.
19 September 2018	Hosted and commentated at the Australian Association of Constitutional Law Seminar entitled 'Reflections on the Executive Power of the Commonwealth: Recent Developments, Interpretational Methodology and Constitutional Symmetry' at the Federal Court in Sydney.
20 September 2018	Attended the Australian Disputes Centre's Supreme Court of New South Wales ADR Address 2018, given by the Honourable Chief Justice Tom Bathurst, AC at the Supreme Court of New South Wales.
22–23 September 2018	Attended the second biennial Judicial Insolvency Network Conference in New York City.
24–25 September 2018	Attended the International Insolvency Institute's (III) 18th annual conference in New York City.
26 September 2018	Attended and co-chaired the meeting of the Advisory and Working Committees of the ABLI-III <i>Asian Principles of Restructuring</i> project in New York City.
27–28 September 2018	Attended the Standing International Forum of Commercial Courts meeting in New York City.
3 October 2018	Spoke to the Victorian readers at the Federal Court in Melbourne.
3 October 2018	Conducted the swearing in of Mr Michael Wheelahan in Melbourne.
5 October 2018	Introduced and hosted the Federal Court Digital Practice Forum with the Law Council of Australia at the Federal Court in Sydney. The discussion paper was entitled 'Improving the delivery of justice using technology'.
8 October 2018	Attended the ceremonial sitting for the retirement for Chief Justice Pascoe, at the Federal Court in Sydney.
9 October 2018	Attended the Federal Circuit Court's Annual Plenary for judges and addressed the judges on 'Writing Ex Temps – What is expected'.
15 October 2018	Attended and spoke at the CIArb Australian Annual Lecture entitled 'The Role of Law in International Arbitration' at Allens in Melbourne.
18 October 2018	Hosted and chaired the Australian Academy of Law Patron's Address by The Rt. Hon. Dame Sian Elias, GNZM, Chief Justice of New Zealand in Court 1 of the Federal Court in Melbourne. Entitled 'Back to the Future? How local history, customs and traditions are still shaping our legal orders'.
23 October 2018	Attended the Council of Chief Justices meeting in Melbourne.

24 October 2018	Spoke at the UNCCA (UNCITRAL National Coordination Committee of Australia) lecture 'New York Convention – Celebrating its 60th Anniversary: Reflections and Predictions' at the Federal Court in Melbourne.
25 October 2018	Opened in courtroom 1 of the Federal Court in Melbourne via VCF 'Employment and Industrial Relations NPA Seminar' broadcast from Sydney.
26 October 2018	Presided over the welcome ceremonial sitting of the Court for the Honourable Michael Wheelahan at the Federal Court in Melbourne.
31 October 2018	Presided over the AILA Young Professionals Mock Trial at the Federal Court in Perth.
1 November 2018	Attended and gave the plenary address at the AILA national conference in Perth.
1 November 2018	Delivered the annual Quayside Oration 2018 entitled 'The Rule of Law is not the law of rules' in Perth.
12 November 2018	Opened the Tristan Jepson Memorial Foundation Annual Lecture at the Federal Court in Sydney.
17 November 2018	Attended and addressed the Plenary of the Joint Australian Bar Association and New South Wales Bar Association Biennial Conference entitled 'the Future of the Independent Bar in Australia'.
29 November 2018	Attended the Family Court's Plenary Conference and gave an address entitled 'Delivering ex tempore reasons'.
10 December 2018	Attended the ceremonial sitting of the Family Court of Australia to swear in the Hon. Chief Justice William Alstergren and the Hon. Deputy Chief Justice Robert McClelland.
13 December 2018	Presided over the ceremonial sitting of the Federal Court of Melbourne for the announcement of the appointment of Senior Counsel in Victoria.
13 December 2018	Presided over the ceremonial sitting of the Federal Court of Queensland for the announcement of the appointment of Senior Counsel in Queensland.
23 January 2019	Attended and presented the session entitled 'The Courts as Institutions and Workplaces' at the Supreme and Federal Court Judges' Conference in Hobart.
30 January 2019	Presided over the ceremonial sitting of the Full Court to farewell the Honourable Justice Barker at the Federal Court in Perth.
31 January 2019	Presided over the special sitting of the Full Court of the Federal Court of Western Australia for the announcement of the appointment of Senior Council in Western Australia.
1 February 2019	Presided over the ceremonial sitting of the Full Court for the swearing in and welcome of the Honourable Justice Anastassiou at the Federal Court in Melbourne.
6 February 2019	Attended the Jewish Law Service at The Great Synagogue in Sydney.
16 February 2019	Attended the 6th Judicial Seminar on Commercial Litigation in Sydney and chaired session 4 entitled 'The role of equity in 21st century commercial disputes'.

18 February 2019	Hosted and attended an informal drinks function to celebrate the newly appointed Silks at the Federal Court in Melbourne.
20 February 2019	Attended the Victorian Bar Pro Bono Awards ceremony at the Supreme Court Library in Victoria.
25 February 2019	Conducted the swearing in of Mr Angus Stewart SC in Sydney.
26 February 2019	Conducted the swearing in of Mr Michael O'Bryan QC in Melbourne.
27 February 2019	Attended the farewell ceremony for the Honourable Justice Margaret Beazley AO as President of the Court of Appeal at the Supreme Court of New South Wales.
27 February 2019	Hosted and attended an informal drinks function to celebrate the newly appointed Silks at the Sydney registry of the Federal Court.
28 February 2019	Attended the formal ceremony to honour the appointment of Dr Andrew Bell SC as President of the Court of Appeal of the Supreme Court of New South Wales.
4 March 2019	Attended the Law Society Credential Visit with the NSW Executive Committee at the Federal Court in Sydney.
8 March 2019	Attended the ABA International Women's Day event with The Honourable Margaret Beazley AO QC, Governor-Designate of NSW speaking at Chief Justice's Garden, St James.
20 March 2019	Presided over the ceremonial sitting of the Full Court for the swearing in and welcome of the Honourable Justice Jackson, at the Federal Court in Perth.
25 March 2019	Presided over the ceremonial sitting of the Court to welcome Justice Stewart at the Federal Court in Sydney.
26 March 2019	Attended and presented the opening lecture at the Special Lecture Series, University of Queensland, entitled 'Technology and the future of the courts' at the Federal Court in Brisbane.
2 April 2019	Attended the Council of Chief Justices meeting in Sydney.
4 April 2019	Attended and presented the 12th Annual Whitemore Lecture 2019 entitled 'The foundations of Administrative Law', at the Federal Court in Sydney.
9 April 2019	Presided over the ceremonial sitting of the Court to welcome Justice O'Bryan, at the Federal Court in Melbourne.
11 April 2019	Hosted a visit from The Honourable Paul Crampton, Chief Justice of the Federal Court of Canada.
29 April 2019	Presided over the ceremonial sitting of the Full Court for the swearing in and welcome of the Honourable Justice Snaden, at the Federal Court in Melbourne.
30 April 2019	Attended the ceremonial sitting of the Family Court of Australia in Melbourne to welcome Justice Tim McEvoy as a Judge of the Family Court of Australia.
30 April 2019	Attended and spoke at the Maritime Law Association of Australia and New Zealand (Victorian Branch) Seminar entitled 'The Burden of Proof under the Hague-Visby Rules: <i>Volcafe Ltd v Campania Sud Americana De Vapores SA</i> [2018] UKSC 61'.

1 May 2019	Gave the welcoming address to the Victorian Bar readers entitled 'History of the Federal Court' at the Federal Court in Melbourne.
6 May 2019	Presided over the ceremonial sitting of the Full Court for the swearing in and welcome of the Honourable Justice Anderson, at the Federal Court in Melbourne.
7 May 2019	Presided over the ceremonial sitting of the Full Court for the swearing in and welcome of the Honourable Wendy Abraham, at the Federal Court in Sydney.
16 May 2019	Gave the welcoming address to the New South Wales Bar readers entitled 'History of the Federal Court'.
22 May 2019	Attended an official dinner, along with Rares, Rangiah, Moshinsky, Bromwich, Burley and Stewart JJ, at the invitation of His Excellency Consul-General (Ambassadorial Rank) of the People's Republic of China in Sydney.
5 June 2019	Attended and chaired the Francis Forbes Society lecture presented by Professor Anne Twomey entitled 'Pitt Cobbett – A Pre-Engineer's Ghost Speaks from the Grave'.
6 June 2019	Attended the IMLAM Demonstration Moot at Sydney Law School.
15 June 2019	Attended the Ngará Yura Exchanging Ideas Symposium at Museum of Applied Arts and Sciences in Sydney and chaired the session entitled 'Challenges in Achieving First Nations Consensus in Treaty Making Processes'.
16–19 June 2019	Attended the Federal Court delegation visit in Jakarta hosted by The Honorary Chief Justice of Supreme Court of the Republic of Indonesia. Presented a lecture to the Supreme Court of Indonesia judges entitled 'Australia's Experience: Rule of Law to Promote Economic Growth'. Also presented a lecture to judicial leaders and Government Ministers entitled 'Role of Reform in the Legal and Judicial Sectors to Promote Economic Growth'.

JUSTICE KENNY

Justice Kenny is:

- a member of the Council of the Australian Institute of Judicial Administration
- a Foundation Fellow of the Australian Academy of Law
- a College Fellow of St Hilda's College, University of Melbourne
- Chair, Asian Law Centre Advisory Board, Melbourne University Law School, and
- Member of the Editorial Board of the Journal of the Intellectual Property Society of Australia and New Zealand.

DATE

ACTIVITY

13 August 2018	Hosted a delegation of Sri Lankan judges, in conjunction with National Judicial Registrar Luxton, the acting Director of Court Services and the Melbourne Law School.
17 September 2018	Contributed to the Asian Law Centre Review Panel's five-year review, Melbourne Law School.
11 October 2018	Led discussion with the Hon. Justice Dennis Davis (High Court of South Africa) and Ms Anna Dzedzic on 'Being a Judge', in the <i>Judges in Conversation</i> series.

30 November 2018	Participated (by invitation) in a conference to mark 30 years of the Centre for Comparative Constitution Studies, Melbourne Law School.
24 January 2019	Discussion with Professor Hilary Charlesworth AM regarding the history of Australia’s participation in the International Court of Justice.
15 March 2019	Hosted event for the award of Future Justice Prize 2019 to Antoinette Braybrook.
25 March 2019	Launched A Genovese, T Luker and K Rubenstein (eds), <i>The Court as Archive</i> (ANU Press, 2019).

JUSTICE GREENWOOD

DATE	ACTIVITY
8 November 2018	Chapter published in <i>The Federal Court’s Contribution to Australian Law; Past, Present and Future</i> , Editors Ridge and Stellios, entitled ‘The Federal Court’s Jurisdiction in Intellectual Property’ (delivered on 8 September 2017 at the Australian National University Conference to mark the 40th Anniversary of the Federal Court).
13 May 2019	Delivered remarks in recognition of the 20th Anniversary of Frontier Economics
23 May 2019	Delivered address to the University of Queensland Law School on Practice and Procedure in the Federal Court.
25 May 2019	Attended and chaired the opening session of the Competition Law Conference in Sydney.

JUSTICE RARES

Justice Rares is:

- a member of the Comité Maritime International’s International Working Group on Offshore Activities
- a Senior Vice President and a member of the Board of Management of the Australasian Institute of Judicial Administration
- presiding member of the Admiralty Rules Committee, and
- Chair of the Consultative Council for Australian Law Reporting until retiring on 31 May 2019.

DATE	ACTIVITY
5 July 2018	Chaired a meeting of the Admiralty Rules Committee.
29 August 2018	Presented speech titled ‘The Rule of Law and International Trade’ at Australian Maritime and Transport Arbitration Commission’s Annual Address in Sydney.
September 2018	Gave an interview for Adam Butt and Hugh Stowe ‘Playing in the hot tub – a guide to concurrent expert evidence in New South Wales’, published in <i>Bar News</i> (Spring 2018).
31 October 2018	Panellist at the Law Council of Australia’s Defamation Seminar on online defamation and the s 49 review in Sydney.
17 April 2019	Chaired the judging panel for the University of Technology, Sydney, Commercial Law Moot Grand Final in Sydney.

10 May 2019	Attended the UNCCA panel discussion, hosted by the University of Canberra in Canberra.
30–31 May 2019	Chaired meeting of the Consultative Council for Australian Law Reporting in Brisbane.
6 June 2019	Presented a paper titled 'Speaking the right social media language' at National Conference for the Council of Australasian Tribunals in Melbourne.
13 June 2019	Chaired a user group meeting of Admiralty practitioners in Sydney.
13 June 2019	Published opening chapter 'Commercial Issues in Private International Law' in Douglas, Bath, Keys and Dickinson (eds) <i>Commercial Issues in Private International Law</i> (Hart Publishing, 2019).
25–30 June 2019	Acting Chief Justice of the Federal Court of Australia.
27 June 2019	Published chapter 'Declining Jurisdiction Following Arrest' in Paul Myburgh (ed) <i>The Arrest Conventions: International Enforcement of Maritime Claims</i> (Bloomsbury, 2019).

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 ACICA Advisory Board
- a Fellow of the Australian Academy of Law, and
- Member of the Editorial Board of the *Journal of the Intellectual Property Society of Australia and New Zealand*.

DATE	ACTIVITY
7–9 September 2018	Spoke at the 32nd IPSANZ Annual Conference in New Zealand on 'Concurrent Expert Evidence: Still Flavour of the Month?'
21–22 September 2018	Spoke with The Hon Teresa Cheng GBS SC JP, Secretary for Justice of Hong Kong and Sir Rupert Jackson PC at the Hong Kong 2018 International Commercial Law Conference on 'The Rise of the International Commercial Court'.
27–28 September 2018	Attended, with Chief Justice Allsop, the Standing International Forum of Commercial Courts, Second Meeting in New York.
17 October 2018	Chaired a session at the 6th International Arbitration Conference on 'Around the Globe in 60 minutes: Hot Topics in International Arbitration' in Melbourne.
15–17 November 2018	Spoke with the Hon Justice David Hammerschlag at the Australian Bar Association/New South Wales Bar Association biennial conference on 'The Fate of Old Time Advocacy Skills in Modern Commercial Litigation' in Sydney.
27 February 2019	Spoke at a presentation by the Federal Court and the Commercial Law Bar Association in Melbourne on 'Class actions and third party litigation funders – what's next after the ALRC final report?'

17 April 2019	Spoke with the Hon Justice O’Callaghan to the Victorian Bar Readers’ Course on Written Advocacy.
18 June 2019	Chaired a public seminar of the Australian Law Reform Commission and the University of Melbourne on ‘The Future of Law Reform: Constitutional and Immigration Issues’.

JUSTICE LOGAN

DATE	ACTIVITY
3–8 September 2018	Assisted a teaching team from the Queensland Bar in the delivery of a commercial litigation workshop at Papua New Guinea’s Legal Training Institute.
10–14 September 2018	Attended the Commonwealth Magistrates’ and Judges’ Association Conference in Brisbane. Delivered a paper on the subject of the origins of and contemporary need for military justice system. Served on the local organising committee for this conference.
16 November 2018	Delivered a paper at the South-East Queensland Joint Services Legal Panel Training Day on the subject of the inter-relationships between the military discipline and administrative discharge systems.

JUSTICE MCKERRACHER

Justice McKerracher is:

- a Chair of the UNCITRAL Coordination Committee for Australia, and
- the Court’s representative on the Governing Council and Executive of the Judicial Conference of Australia.

DATE	ACTIVITY
20 September 2018	Hosted and addressed the Women Lawyers of Western Australia at the Federal Court in Perth.
5–7 October 2018	Participated in the Judicial Conference of Australia Colloquium and the Governing Council Meeting in Melbourne.
10–12 October 2018	Delivered a speech to the 2018 MLAANZ 45th National Conference in the Blue Mountains, NSW entitled ‘The 5th Decade of Admiralty Law in the Federal Court’.
20 October 2018	Spoke at the Inaugural Piddington Society’s South West Conference at Yallingup on ‘federal jurisdiction’.
23 October 2018	Participated in the ACICA Symposium on the New York Convention in Perth.
24 October 2018	Spoke at the annual UNCCA United Nations Day Lecture in Perth on ‘The 60th Anniversary of the New York Convention 1958–2018’.
15 November 2018	Spoke at the University of Western Australia’s UNCITRAL Asia Pacific Day 2018 on ‘Celebrating the 60th Anniversary of the NYC’.
19 March 2019	Chaired a Joint CIArb Australia and Federal Court Seminar in Perth.

20 March 2019	Chaired a session as part of the WA Bar Association's CPD program on 'Jurisdictional error after <i>SZVFW, TTY167, Hossain and Shrestha</i> ' in Perth.
5 April 2019	Participated in the Inaugural Piddington Society 'Meet the Feds' event in Perth.
10 May 2019	As Chair of UNCCA, participated in the fifth annual May UNCCA seminar in Canberra.
13-17 May 2019	Represented the International Association of Judges and the Court at the UNCITRAL Working Group VI (judicial sale of ships) at the United Nations in New York.
29 May 2019	Delivered an address by video link to the Judges of the Federal Circuit Court of Australia on 'Recent Developments in Migration Law'.
5 June 2019	Delivered an annual address on Federal Jurisdiction to the Western Australian Bar Association Bar Readers' Course in Perth.
7-9 June 2019	Participated in the Judicial Conference of Australia Colloquium, chairing a session entitled 'Technology in the Courts', and the Governing Council Meeting in Darwin.

JUSTICE PERRAM

DATE	ACTIVITY
13 October 2018	Spoke at the University of South Australia/ACCC 16th Competition Law and Economics Workshop entitled 'Competition Policy: can it deliver in the new digital age?'
24 October 2018	Chaired the UNICTRAL National Coordination Committee for Australia - United Nations Lecture in Sydney.
16 November 2018	Spoke at the Australian Bar Association/New South Wales Bar Association National Conference entitled 'Judges in Conversation'.
28 June 2019	Presented at the Commercial Law Association June Judges series entitled 'The ordinary and reasonable consumer in misleading or deceptive conduct cases'.

JUSTICE JAGOT

Justice Jagot is Chair of the Council of Chief Justices' Harmonisation of Rules Committee.

DATE	ACTIVITY
17 October 2018	Attended announcement of the appointments of Senior Counsel for the State of New South Wales.
16 November 2018	Addressed delegates at the National Bar Association Conference.
6 December 2018	Delivered an occasional address at a graduation ceremony at the University of Sydney Law School.

JUSTICE FOSTER

DATE	ACTIVITY
22 August 2018	Chaired a working session dealing with foreign judgment and issues of enforcement and recognition at the Biennial Conference of the International Law Association in Sydney.
25 May 2019	Chaired the session 'Proof of Collusion' in Cartel Cases at the Competition Law Conference in Sydney.

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
17 October 2018	Delivered a presentation to Hong Kong SAR Legal Officials as part of the Court's International Programs.
20–23 January 2019	Attended the Supreme and Federal Court Judges' Conference in Hobart.
24 June 2019	Delivered a presentation to representatives of the National Judicial Academy Nepal as part of the Court's International Programs.

JUSTICE BROMBERG

Justice Bromberg is:

- *the Federal Court's representative for the Judicial Officers Aboriginal Cultural Awareness Committee*
- *a coordinator for the Federal Court on the Victorian Bar's Indigenous Clerkship Program*
- *the National Vice-President of the International Commission of Jurists, and*
- *the President of the International Commission of Jurists, Victoria.*

DATE	ACTIVITY
15 October 2018	Chaired and spoke at the Annual Industrial Law Update presented by the Industrial Bar Association of the Victorian Bar.
25 October 2018	Hosted and spoke at an Employment and Industrial Relations Seminar at the Federal Court on current issues in the practice of employment and industrial law.
14 November 2018	Spoke at the Fair Work Commission's Twilight on the Judicial Review of FWC Decisions.
28 May 2019	Gave the occasional address and presented the Monash Faculty of Law Prize for Best Honours Thesis and the Monash Faculty of Law Prize for the Best Honours Student at this year's Undergraduate Prize Ceremony.
26 June 2019	Chaired the Federal Court and Judicial College of Victoria's twilight seminar 'Bruce Pascoe on Myth, Culture, History and the Law'.

JUSTICE KATZMANN

Justice Katzmann is:

- a Director of Minds Count (formerly the Tristan Jepson Memorial Foundation)
- a Chair of the Governing Council of Neuroscience Research Australia
- 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, and
- a representative on the organising committee for the Supreme and Federal Court Judges' Conference.

DATE	ACTIVITY
9 July 2018	Panellist at workshop entitled 'Uncloaking the judiciary: The judicial role, style and image' organised by the Judiciary Project of the Gilbert + Tobin Centre of Public Law.
21-23 January 2019	Attended the Supreme and Federal Court Judges' Conference in Hobart.

JUSTICE ROBERTSON

Justice Robertson is the Deputy President of the Australian Academy of Law.

DATE	ACTIVITY
2 October 2018	Appointed a Visiting Judicial Fellow at the ANU College of Law.
10-12 October 2018	Represented the Federal Court at the 8th OECD/Korea Policy Centre Competition Seminar for Asia-Pacific Judges, 'Circumstantial Evidence and Cartel Cases' in Jakarta. Spoke at the launch of the Competition Primers and presented a paper, 'Using Circumstantial Evidence: The Judicial Perspective from Australia - Procedures, Principles and Cases'.
21-23 January 2019	Attended the Supreme and Federal Court Judges' Conference in Hobart.
26 February 2019	Presented a paper at the ANU staff seminar, 'Judicial Method and What Judges do'.
28 February 2019	Presented to students at the ANU College of Law, 'A Day in the Life of a Federal Court Judge and his associate' - with Will Randles.
1 April 2019	Presented a paper, 'How does the Federal Court deal with findings of fact on Judicial Review of Administrative Action?' at the Australian National University.

JUSTICE MURPHY

Justice Murphy is:

- a Member of the University of Melbourne, Law School Advisory Council, and
- a Board Member of Kids First Australia.

DATE	ACTIVITY
19 September 2018	Presented to Victorian Bar Readers as part of the Bar Readers' Course, Melbourne
25 September 2018	Attended the IMF Bentham and University of New South Wales Class Action conference in Melbourne.
26 October 2018	Spoke on 'Class Actions and Litigation Funding Reform', Association of Litigation Funders of Australia conference in Melbourne.
16 November 2018	Panel member, 'The rise of competing securities class actions' Rise 2018 Conference in Sydney.
27 February 2019	Spoke at the 'Class actions and third party litigation funders – what's next after the ALRC final report?' seminar in Melbourne.
15 March 2019	Spoke on 'Civil Justice Reforms in Class Actions' at the Association of Litigation Funders of Australia Conference in Melbourne.
25 March 2019	Presented to Victorian Bar Readers as part of the Bar Readers' Course in Melbourne.
5 April 2019	Roundtable participant, 'Globalisation of Civil Litigation' conference, Stanford University, USA.

JUSTICE GRIFFITHS

Justice Griffiths is:

- a Member of the Law Society of New South Wales – Judicial Working Party – Improving Accessibility for Indigenous Court and Tribunal Users, and
- a Member of Australasian Institute of Judicial Administration – Indigenous Justice Committee.

DATE	ACTIVITY
2–3 November 2018	Presented paper at the Australian National University's Public Law Weekend on 'Review of Visa Cancellation or Refusal Decisions on Character Grounds: A Comparative Analysis'.
10 November 2018	Delivered the keynote address at launch of Burt Flugelman exhibition at Wollongong University.

JUSTICE DAVIES

DATE	ACTIVITY
16 August 2018	Gave the keynote address at the Tax Institute's 2018 Western Australian State Convention.
18 August 2018	Provided feedback from the Bench Moot for Women Barristers – Victorian Court of Appeal.
29 September 2018	Attended the 9th Assembly of the International Association of Tax Judges in Ottawa, Canada and spoke on Tax Fraud in VAT/GST.
16 November 2018	Chaired a session on 'Multilateral instrument/treaties' at the Australian Bar Association Conference in Sydney.

JUSTICE MORTIMER

Justice Mortimer is:

- a Senior Fellow, Melbourne Law School
- a Member, Advisory Board of the Centre for Comparative Constitutional Studies
- a Member, Australian Academy of Law
- a Member, International Association of Refugee Law Judges
- a Member, Monash University Faculty of Law 'External Professional Advisory Committee', and
- a Member, Board of Advisors of the Public Law Review.

DATE	ACTIVITY
11-13 July 2018	Attended the Public Law Conference 2018 'The Frontiers of Public Law' at Melbourne Law School, and: Chaired the session 'Frontiers of Federalism' on Friday 13 July 2018. Presented a paper on 'Coming to Terms with Communal Decision Making by Aboriginal and/or Torres Strait Islander Peoples in a Public Law Context' on Friday 13 July 2018.
16 August 2018	Hosted students from Melbourne Law School at the Court as part of their Refugee Law Class studies, and provided a briefing to the students.
18 August 2018	Adjudicated the 'Feedback from the Bench' moot for women barristers.
31 August 2018	Contributed an article 'Some thoughts on writing judgments in, and for, contemporary Australia' to the Melbourne University Law Review, Volume 42, Number 1, 2018.
6-11 September 2018	Co-taught the subject, with Laureate Professor Cheryl Saunders, 'Current Issues in Administrative Law' as part of the Melbourne Law Master's Program at Melbourne Law School.
19 September 2018	Keynote speaker at the Melbourne University Law Students' Society Women's Portfolio Networking Night.

15–16 November 2018	Attended the International Association of Refugee and Migration Judges Asia Pacific Conference in Wellington, New Zealand, and presented a paper on ‘Family Unity –Balancing Human Rights and Border Integrity’.
21 January 2019	Member of the John Gibson Award 2018 selection committee.
6 March 2019	Panel member for the Melbourne University Law Students’ Society International Women’s Day Panel.
25 March 2019	Adjudicated the Monash Law Students’ Society General Moot 2019
5–7 April 2019	Attended the Language and the Law III conference in Alice Springs
11 April 2019	Presented an Australian Institute of Administrative Law CPD seminar on ‘What Judges want (and what Judges do); preparing judicial review cases and how courts review fact finding’.
28 June 2019	Facilitated the Western Australia Native Title User Group workshop meeting, hosted by the Federal Court’s Perth registry.

JUSTICE WIGNEY

DATE	ACTIVITY
23 August 2018	Panellist for the Federal Court and the Tax Committee of the Australian Bar Association presentation and discussion on tax and debt recovery.
20 September 2018	Presented at the 2018 University of Sydney Law & Business Seminar, entitled ‘White Collars, Dirty Cuffs: The BBSW Cases and Rate Riggings’.
9 October 2018	Presented at the annual plenary for judges of the Federal Circuit Court on ‘Legal Unreasonableness’.
25 May 2019	Chaired the 2019 Competition Law Conference at a session entitled ‘Substantial lessening of competition under s 46 – Will we know it when we see it?’

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 Foundation Fellow, Australian Academy of Law
- an 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.

- *the Section Editor (Administrative Law), Australian Law Journal.*
- *a Member, Panel of Supervisors, PhD Student, Law School, Australian National University*
- *the Patron, NSW Chapter, Hellenic Australian Lawyers Association, and*
- *an Ambassador for One Disease (a non-profit organisation concerned with the elimination of preventable diseases in remote indigenous communities).*

DATE	ACTIVITY
9-13 July 2018	Presented at the Hellenic Australian Lawyers Association Conference, Rhodes, Greece, on 'Water, Territory, and the Role of History: Thoughts from an International Perspective'.
14 August 2018	Delivered the keynote address at the launch of the Sydney University Law Society/King & Wood Mallesons Women's Mentoring Scheme in Sydney.
20 August 2018	Introduced the Hon. Justice Stephen Gageler AC who delivered the inaugural Hellenic Australian Lawyers NSW Chapter Oration at the Federal Court in Sydney.
5 September 2018	Spoke at a Q&A on Native Title and the Federal Court with students from Tranby National Indigenous Adult Education visiting the National Native Title Tribunal.
14 September 2018	Attended the Janet Coombs lunch for new female barristers.
20 September 2018	Delivered the Annual Kirby Lecture, Australian National University in Canberra, on 'The Duality of Water: Conflict or Co-operation' (to be published in the <i>Australian Yearbook of International Law</i>).
1 November 2018	Delivered a paper entitled 'Water Law: Re-Imagining the Future through the Prism of Antiquity' at the Environment Institute of Australia and New Zealand 2018 Annual Conference in Sydney.
15 February 2019	Attended the 2019 Gilbert + Tobin Constitutional Law Conference in Sydney.
18 February 2019	Participated in the Indigenous Clerks Program 2019.
23 March 2019	Keynote speaker for 2019 CPD Immigration Law Conference in Canberra, on 'iDecide: Digital Pathways to Decision'.
25 March 2019	Judged a practice moot for the Sydney University Jessup Moot team.
26 March 2019	Participated in a panel discussion on 'Mentoring Diversity', Women Lawyers Association of NSW.
4 April 2019	Spoke to school students from St Columba Anglican School and Canowindra High School visiting the Federal Court and arranged by the Rule of Law Institute of Australia pursuant to its Law Day Out Excursion Program.
6 May 2019	Contributed an article on 'The Law, Equality and Inclusiveness in a Culturally and Linguistically Diverse Society' to the special issue of the <i>Adelaide Law Review</i> celebrating its 40th anniversary.
27 June 2019	Participated in a panel discussion on 'Advocacy in Judicial Review Proceedings' by the Women Barristers Forum.

JUSTICE GLEESON

DATE	ACTIVITY
10–12 September 2018	Attended the UNCITRAL Trade Law Forum, Incheon in South Korea.
2–5 November 2018	Moderated on the Cross-Border Insolvency Session at the 31st LAWASIA Conference, Siem Reap in Cambodia.
15–17 November 2018	Spoke at the Australian Bar Association National Conference 'Rise' 2018, Sydney on 'Managing Civil Litigation in the Courts of the 21st Century'.
14–16 February 2019	Presented at the sixth Judicial Seminar on Commercial Litigation, Sydney on 'Applications of law of evidence in commercial litigation'.
31 March–5 April 2019	Presented at the National Judicial College of Australia National Judicial Orientation Program, Adelaide on 'Court craft – the trial from hell (part two)'.
10 May 2019	Presented at the UNCCA Fifth Annual May Seminar, Canberra on 'Judicial Cooperation in Cross-Border Insolvency'.
25 May 2019	Attended the 2019 Competition Law Conference in Sydney.
13 June 2019	Presented at a NSW Bar Association CPD Session, Sydney on 'Fresh perspectives on equitable briefing: But first, some statistics ...'

JUSTICE MARKOVIC

DATE	ACTIVITY
23–24 July 2018	Presented as a panel member at the Judicial Colloquium session 'Do and can courts make a difference in promoting an efficient, fair and successful cross border restructuring and insolvency', Singapore Insolvency Conference 2018.
8 March 2019	Chaired the Commercial Law Association Class Actions Conference 'Class actions: different perspectives'.
14 March 2019	Chaired the New South Wales Bar Association Continuing Professional Development Seminar – 'Equitable briefing of experts'.
31 March 2019	Sat as one of three judges on a panel of one of the semi-final rounds of the Ian Fletcher International Insolvency Law Moot.
1–2 April 2019	Attended the 13th Joint INSOL/UNCITRAL/World Bank Multinational Judicial Colloquium in Singapore and presented as a panel member on 'Restructuring Enterprise Groups – Theory and Practice'.
3–4 April 2019	Attended the INSOL International Annual Regional Conference in Singapore.
3 April 2019	Attended a meeting of the Asian Business Law Institute – International Insolvency Institute joint project on the Asian Principles of Business Restructuring.
5 April 2019	Attended the third meeting of the Judicial Insolvency Network.
10 May 2019	Attended UNCCA fifth annual May seminar and chaired session on 'Judicial Sale of Ships'.

JUSTICE MOSHINSKY

Justice Moshinsky is:

- *an alternate director of the National Judicial College of Australia,*
- *a Senior Fellow at the Melbourne Law School, and*
- *a member of the Advisory Board of the Centre for Comparative Constitutional Studies at the Melbourne Law School.*

DATE	ACTIVITY
15 February 2019	Presented a paper on 'The Federal and State Courts on Constitutional Law: The 2018 Term' at the 2019 Constitutional Law Conference conducted by the Gilbert + Tobin Centre of Public Law at the University of New South Wales.
March–May 2019	Co-taught a course on the Separation of Powers in the Masters Program at the Melbourne Law School.
2–3 March 2019	Attended a conference on 'Judges: Angry? Biased? Burned out?' conducted by the National Judicial College of Australia in Canberra.
2 May 2019	Gave a presentation on 'Good Advocacy, Tips for Written Submissions, Notable Experiences on the Court, Evidence Issues' at the IPSANZ Victorian Judges' Dinner Event in Melbourne.
5 June 2019	Chaired a seminar on 'Financial Services law and enforcement after the Banking Royal Commission', as part of the National Commercial Law Seminar series conducted by Monash University in conjunction with the Federal Court and the Victorian Bar.
27–28 June 2019	Attended a conference on 'Judicial Peer Support' conducted by the Judicial College of Victoria.

JUSTICE BURLEY

Justice Burley is a member of the advisory board of the Allens Hub for Technology, Law and Innovation.

DATE	ACTIVITY
25 September 2018	Chaired a panel discussion for the International Arbitration Series hosted by CIArb Australia in conjunction with the Federal Court, with the theme of 'Independence, Bias and Conflicts in International Commercial Arbitration'.
5 October 2018	Panel speaker for the Federal Court Digital Practice Forum on 'Improving the delivery of justice using technology'.
10–12 October 2018	Attended the Maritime Law Association of Australia and New Zealand National Conference and gave a presentation entitled 'Cross-border Insolvency and Admiralty'.
28 November 2018	Panel speaker at the launch of Issue 41(4) of the UNSW Law Journal Launch on the theme 'Reconceptualising the Trial: Administering Justice in an Era of Social and Technological Change'.

5 December 2018	Guest speaker at the Intellectual Property Society of Australia and New Zealand end of year function.
23–28 April 2019	Attended the 27th Annual Fordham Intellectual Property Law and Policy Conference at Fordham University in New York.

JUSTICE O'CALLAGHAN

DATE	ACTIVITY
17 October 2018	Chaired the National Commercial Law Seminar entitled 'Bad Company: Know corporate crime of your clients will do the time' at the Federal Court in Melbourne.
25 March 2019	Adjudicated the Monash LSS Grand Final General Moot 2019 at the Federal Court in Melbourne.
2 May 2019	Delivered a presentation with the Honourable Justice Moshinsky to the Intellectual Property Society for Australia and New Zealand on 'Good Advocacy, Tips for Written Submissions, Notable Experiences on the Court, Evidence Issues.'

JUSTICE LEE

Justice Lee is a Section Editor for 'Class Actions' in the Australian Law Journal.

DATE	ACTIVITY
26 August 2018	Presented at the Law Council of Australia '2018 Corporations Law Workshop'.
25 September 2018	Presented at the IMF Bentham/University of New South Wales Class Action Conference entitled 'Current Issues in Class Actions, including Access to Justice'.
22 October 2018	Presented at the Association of Litigation Funders of Australia conference entitled 'Class Action and Litigation Funding Reform'.
26 February 2019	Presented the keynote speech at Herbert Smith Freehills discussion on the ALRC Report on Class Action Proceedings and Third-Party Litigation Funders.
27 February 2019	Panel member at joint seminar on ALRC Report into Class Actions and Litigation Funding.
5 March 2019	Presented at Grant Thornton annual event entitled 'The Class Action Network'.
13 March 2019	Presented at the Association of Litigation Funders Australia Conference entitled 'Civil Justice Reform'.
28 June 2019	Presented the keynote speech entitled 'Case Management and Insolvency: Matching Rhetoric and Reality' at the Australian Independent Insolvency Practitioners Annual Conference.

JUSTICE DERRINGTON

DATE	ACTIVITY
3 July 2018	Judged the International Maritime Moot Competition.
24 October 2018	Chaired address to Celebrate the 60th Anniversary of the New York Convention in Brisbane.
4 April 2019	Chaired and judged the University of Queensland Vis Exhibition Moot.
24 June 2019	Chaired and judged the University of Queensland Law School Maritime Show Moot.

JUSTICE THOMAS

Justice Thomas is:

- *a Committee Member and Treasurer of the Council of Australasian Tribunals*
- *a Board Member of l'Association Internationale Des Hautes Juridictions Administratives, and*
- *the Editor of Thomson Reuters, Queensland Civil Practice.*

DATE	ACTIVITY
24 August 2018	Attended the Law Council liaison meeting.
7 September 2018	Attended the 2018 Council of Australasian Tribunals Conference and chaired a session titled 'Using Emotional Intelligence to Enable a Successful Tribunal Hearing'.
3 October 2018	Chaired the judging panel for the AAT Moot Competition 2018 Grand Final.
6 December 2018	Chaired and addressed the Law Council of Australia's Hot Topics Seminar.
28 February 2019	Met with Mr Arthur Moses SC, the President of the Law Council of Australia.
7 March 2019	Gave the keynote address at the AGS Administrative Law Forum 2019.
17 May 2019	Chaired and addressed the Law Council of Australia's Hot Topics Seminar.
24-27 June 2019	Attended the 2019 Congress of l'Association Internationale Des Hautes Juridictions Administratives.

JUSTICE STEWARD

DATE	ACTIVITY
10 October 2018	Attended the Federal Circuit Court Plenary and gave a presentation on the giving of expert evidence.
12 October 2018	Attended the 6th Annual Victorian Tax Forum and delivered an address on 'The Future of Tax Litigation in the Federal Court in the 21st Century'.
17 October 2018	Spoke to the younger members of the Tax Institute of Australia on 'Tax Litigation: a view from the other side of the Bar table'.
9 November 2018	Attended the BLS Annual Tax Works in Tweed Heads NSW and presented the keynote address on 's 177D of the <i>Income Tax Assessment Act 1936</i> (Cth)'.
29 November 2018	Attended and gave an address at the Tax Bar Association Annual Dinner.

JUSTICE BANKS-SMITH

Justice Banks-Smith is:

- *the Chair of the Law Advisory Board for the University of Notre Dame Law School (Fremantle), and*
- *the Chair of the Human Research Ethics Committee for Perth Children's Hospital.*

DATE	ACTIVITY
20 July 2018	Attended the ceremonial farewell for the Wayne Martin AC as Chief Justice of Western Australia.
24 July 2018	Attended the business breakfast chaired by the Hon Wayne Martin QC hosted by Carmel School featuring Mark Leibler (Pan Pacific Hotel).
24 July 2018	Attended the ceremonial welcome for Justice Jennifer Smith to the Supreme Court of Western Australia.
3 August 2018	Attended the Chartered Institute of Arbitrators Conference Dinner.
4 August 2018	Attended the Law Society of Western Australia's annual Black Tie Gala Dinner.
6 September 2018	Hosted and delivered a talk for students of Hale School involved in its Year 11 Leadership program.
13 September 2018	Conducted a workshop on expert evidence for members of Francis Burt Chambers.
18 September 2018	Delivered an address to the Gilbert +Tobin Women's Circle Program.
20 September 2018	Attended the Women Lawyers of Western Australia 'Meet the Judiciary' event hosted by the Federal Court.
24–28 September 2018	Attended the Pacific Judicial Conference in Samoa as the delegate of the Federal Court and delivered a talk on mediations and a talk on the use of technology in the courts.

3 October 2018	Attended a Herbert Smith Freehills event to celebrate 150 years of its establishment in Perth.
5 October 2018	Attended the Western Australian Bar Association Bar and Bench Dinner.
10 October 2018	Attended and introduced the guest speaker for the Twilight Intellectual Property Seminar 'One Size Does Not Fit All - Implied licences in copyright infringement cases and other matters that parties assume at their peril' hosted by the Federal Court.
17 October 2018	Participated as panel member at the Piddington Society's function for final year University students 'Pizza, Piddington and thoughts from the Profession' at UWA Law School.
24 October 2018	Chaired the United Nations Day Lecture for the 60th Anniversary of the New York Convention 1958-2018 at the Perth registry of the Federal Court.
31 October 2018	Attended dinner to welcome and farewell judges and District Registrar of the Western Australian registry.
15 November 2018	Attended event hosted by Francis Burt chambers for judges of the Supreme and Federal Courts.
26-30 November 2018	Hosted and supervised a summer clerk from Notre Dame University Law School for the WA Courts' Summer Clerkship Program.
28 November 2018	Guest speaker on Federal Court jurisdiction at Women In Crime business group meeting.
29 November 2018	Attended the Women Lawyers of Western Australia End of Year event.
18 January 2019	Gave an address to the Piddington Society Graduates on resilience and longevity in the law.
20-24 January 2019	Attended the 2019 Supreme and Federal Court Judges Conference in Hobart.
31 January 2019	Attended a special sitting of the Federal Court for Western Australia's 2018 Senior Counsel appointees.
31 January 2019	Attended the Supreme Court of Western Australia drinks function to celebrate the 2018 Senior Counsel appointments.
14-16 February 2019	Attended the sixth judicial seminar on Commercial Litigation and presented on case management in the Federal Court.
6 March 2019	Gave the keynote address at the Restructuring and Insolvency WA International Women's Day Breakfast.
7 March 2019	Gave the keynote address at the Anglo-Australian Lawyers Society (WA) 'Black Label' Seminar Series - A Good Day in Court.
8 March 2019	Attended the Women Lawyers of Western Australia 2019 Honours Dinner.

25 March 2019	Chaired the Western Australian Bar Association CPD Program Session ' <i>Thorne v Kennedy [2017] HCA 49</i> – the latest from the High Court on undue influence, duress and unconscionability'.
29–31 March 2019	Advocacy coach at the Piddington Society 2018 Rottnest Island Conference.
5 April 2019	Panel speaker at the Piddington Society's 'Meet the Feds' function.
10 April 2019	Guest presenter at the University of Notre Dame, School of Law, St Thomas More Law Awards night as Chair of the Law Advisory Board.
17 April 2019	Attended a pro bono counsel drinks function hosted by the Perth Federal Court judges to recognise their contribution.
26 April 2019	Attended a Supreme Court function to celebrate Justice Murphy's 10 year judicial anniversary.
7 June 2019	Attended the ceremonial welcome for Justice Jennifer Hill to the Supreme Court of Western Australia.
11 June 2019	Presented a seminar on 'Conflicts of Interest and Confidentiality' in the Ethics and Practice Module of the Western Australia Bar Association's Bar Readers' Course.
14 June 2019	Attended the 2019 Judicial Appointments Celebration hosted by Solicitor General of Western Australia.

JUSTICE COLVIN

DATE	ACTIVITY
23–27 July 2018	Attended the National Judicial Orientation Programme.
12 September 2018	Participated in Business Law Section Seminar 'Companies, corporate officers and public interests: Are we at a legal tipping point'.
20 September 2018	Attended 'Meet the Judiciary' function of Women Lawyers of Western Australia.
18 October 2018	Presented 'Conferral between counsel: Ethics and Obligations to each other and the Court' for Western Australian Bar Association Spring CPD Programme.
23 October 2018	Presented at a seminar on Pleadings at Francis Burt Chambers.
5 April 2019	Participated in a 'Meet the Feds' event organised by the Piddington Law Society.

JUSTICE O'BRYAN

DATE	ACTIVITY
9 April 2019	Participated in a Judges in Conversation series on 'Artificial Intelligence and the Law: Challenges for Lawyers and Judges' with Professor Karen Yeung. Organised by Melbourne University and held at the Federal Court.
10 April 2019	Presented at a LESANZ VIC breakfast seminar on 'What the removal of the IP Safe Harbour from the <i>Competition and Consumer Act 2010</i> (Cth) means for you'.
7 May 2019	Attended the Judicial College of Victoria Koori Twilight 'Understanding Intergenerational Trauma and Family Violence in Aboriginal and Torres Strait Islander communities'.
13 June 2019	Attended a dinner with Melbourne judges organised by the Law Council Intellectual Property Committee.
26 June 2019	Attended the Judicial College of Victoria Law and Literature Koori Twilight 'Bruce Pascoe on myth, culture, history and the law'.

Appendix 9

Staffing profile

From 1 July 2016, the *Courts Administration Legislation Amendment Act 2016* merged the corporate service functions of the Family Court of Australia (Family Court) and the Federal Circuit Court of Australia (Federal Circuit Court) with the Federal Court of Australia (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 Chief Executive Officer (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 2019 is 1098 employees. This includes 775 ongoing and 323 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 (2018–19)

	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL MALE	FULL-TIME	PART-TIME	TOTAL FEMALE	FULL-TIME	PART-TIME	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 A9.2: All non-ongoing employees, current 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 A9.3: All ongoing employees, previous reporting period (2017-18)

	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL MALE	FULL-TIME	PART-TIME	TOTAL FEMALE	FULL-TIME	PART-TIME	TOTAL INDETERMINATE	
NSW	62	7	69	149	67	216	0	0	0	285
Qld	30	2	32	87	31	118	0	0	0	150
SA	15	1	16	37	14	51	0	0	0	67
Tas	3	0	3	14	2	16	0	0	0	19
Vic	34	4	38	98	38	136	0	0	0	174
WA	17	0	17	33	12	45	0	0	0	62
ACT	20	1	21	24	3	27	0	0	0	48
NT	2	0	2	6	2	8	0	0	0	10
External Territories	0	0	0	0	0	0	0	0	0	0
Overseas	0	0	0	0	1	1	0	0	0	1
TOTAL	183	15	198	448	170	618	0	0	0	816

Table A9.4: All non-ongoing employees, previous reporting period (2017–18)

	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL MALE	FULL-TIME	PART-TIME	TOTAL FEMALE	FULL-TIME	PART-TIME	TOTAL INDETERMINATE	
NSW	38	2	40	79	8	87	0	0	0	127
Qld	11	3	14	23	6	29	0	0	0	43
SA	4	0	4	7	2	9	0	0	0	13
Tas	1	0	1	3	3	6	0	0	0	7
Vic	24	0	24	44	7	51	0	0	0	75
WA	3	1	4	8	1	9	0	0	0	13
ACT	1	1	2	8	0	8	0	0	0	10
NT	0	0	0	1	0	1	0	0	0	1
External Territories	0	0	0	0	0	0	0	0	0	0
Overseas	0	0	0	0	1	1	0	0	0	1
TOTAL	82	7	89	173	28	201	0	0	0	290

Table A9.5: Australian Public Service Act ongoing employees, current 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 A9.6: Australian Public Service Act non-ongoing employees, current 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 A9.7: Australian Public Service Act ongoing employees, previous reporting period (2017–18)

	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	4	0	4	2	0	2	0	0	0	6
SES 1	7	0	7	7	0	7	0	0	0	14
EL 2	27	4	31	34	15	49	0	0	0	80
EL 1	31	2	33	74	41	115	0	0	0	148
APS 6	38	1	39	82	22	104	0	0	0	143
APS 5	25	0	25	105	15	120	0	0	0	145
APS 4	21	3	24	72	32	104	0	0	0	128
APS 3	23	2	25	63	35	98	0	0	0	123
APS 2	7	2	9	9	10	19	0	0	0	28
APS 1	0	1	1	0	0	0	0	0	0	1
Other	0	0	0	0	0	0	0	0	0	0
TOTAL	183	15	198	448	170	618	0	0	0	816

Table A9.8: Australian Public Service Act non-ongoing employees, previous reporting period (2017–18)

	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	1	0	1	1	0	1	0	0	0	2
SES 1	0	0	0	1	0	1	0	0	0	1
EL 2	2	2	4	8	6	14	0	0	0	18
EL 1	4	1	5	4	3	7	0	0	0	12
APS 6	8	0	8	15	2	17	0	0	0	25
APS 5	35	0	35	56	4	60	0	0	0	95
APS 4	22	3	25	60	4	64	0	0	0	89
APS 3	7	1	8	20	6	26	0	0	0	34
APS 2	3	0	3	8	3	11	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	82	7	89	173	28	201	0	0	0	290

Table A9.9: Australian Public Service Act employees by full-time and part-time status, current 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 A9.10: Australian Public Service Act employees by full-time and part-time status, previous reporting period (2017-18)

	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	6	0	6	2	0	2	8
SES 1	14	0	14	1	0	1	15
EL 2	61	19	80	10	8	18	98
EL 1	105	43	148	8	4	12	160
APS 6	120	23	143	23	2	25	168
APS 5	130	15	145	91	4	95	240
APS 4	93	35	128	82	7	89	217
APS 3	86	37	123	27	7	34	157
APS 2	16	12	28	11	3	14	42
APS 1	0	1	1	0	0	0	1
Other	0	0	0	0	0	0	0
TOTAL	631	185	816	255	35	290	1106

Table A9.11: Australian Public Service Act employment type by location, current 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 A9.12: Australian Public Service Act employment type by location, previous reporting period (2017–18)

	ONGOING	NON-ONGOING	TOTAL
NSW	285	127	412
QLd	150	43	193
SA	67	13	80
Tas	19	7	26
Vic	174	75	249
WA	62	13	75
ACT	48	10	58
NT	10	1	11
External Territories	0	0	0
Overseas	1	1	2
TOTAL	816	290	1106

Table A9.13: Australian Public Service Act Indigenous employment, current reporting period (2018–19)

	TOTAL
Ongoing	18
Non-ongoing	6
TOTAL	24

Table A9.14: Australian Public Service Act Indigenous employment, previous reporting period (2017–18)

	TOTAL
Ongoing	18
Non-ongoing	5
TOTAL	23

Table A9.15: Australian Public Service Act employment arrangements, current reporting period (2018–19)

	SES	NON-SES	TOTAL
Enterprise agreement	0	1077	1077
Determination	14	5	19
Australian Workplace Agreement	1	7	8
Individual Flexibility Agreement	0	134	134
Common Law Contract	0	8	8
TOTAL	15	1231	1246

Table A9.16: Australian Public Service Act employment salary ranges by classification level (minimum/maximum), current reporting period (2018–19)

	MINIMUM SALARY	MAXIMUM SALARY
SES 3	–	–
SES 2	–	303,850
SES 1	–	240,756
EL 2	113,390	305,175
EL 1	98,358	178,077
APS 6	76,848	106,225
APS 5	71,152	87,297
APS 4	63,794	78,759
APS 3	57,235	61,774
APS 2	50,250	55,723
APS 1	44,401	49,070
Other	–	–

Table A9.17: Australian Public Service Act employment performance pay by classification level, current reporting period (2018–19)

	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	–	–	–	–
SES 2	0	–	–	–	–
SES 1	0	–	–	–	–
EL 2	1	30,000	30,000	30,000	30,000
EL 1	0	–	–	–	–
APS 6	0	–	–	–	–
APS 5	0	–	–	–	–
APS 4	0	–	–	–	–
APS 3	0	–	–	–	–
APS 2	0	–	–	–	–
APS 1	0	–	–	–	–
Other	0	–	–	–	–
TOTAL	1	30,000	30,000	30,000	30,000

Table A9.18: Details of Accountable Authority during 2018–19

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 2018	30 June 2019

Appendix 10

ANNUAL PERFORMANCE STATEMENT

Introductory statement

I, Warwick Soden, as the accountable authority of the Federal Court of Australia, present the 2018-19 annual performance statements for the entity, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

In my opinion, these annual performance statements are based on properly maintained records, accurately reflect the performance of the entity, and comply with subsection 39(2) of the PGPA Act.



Warwick Soden

Chief Executive Officer and Principal Registrar
Federal Court of Australia

Outcome 1

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.

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 services.
	→	→	→	→
	Program 1.1 Federal Court of Australia	Program 2.1 Family Court of Australia	Program 3.1 Federal Circuit Court of Australia	Program 4.1 Commonwealth Courts Corporate Service
	→	→	→	→
	Timely completion of cases <ul style="list-style-type: none"> 85% of cases completed within 18 months of commencement Judgments to be delivered within three months 	Timely completion of cases <ul style="list-style-type: none"> Clearance rate of 100% 75% of judgments to be delivered within three months 75% of cases pending conclusion to be less than 12 months old 	Timely completion of cases <ul style="list-style-type: none"> 90% of final order applications disposed of within 12 months 90% of all other applications disposed of within six months 70% of matters resolved prior to trial Timely registry services <ul style="list-style-type: none"> 75% of counter enquiries served within 20 minutes 80% of National Enquiry Centre telephone enquiries answered within 90 seconds 80% of email enquiries responded to within two working days 75% of applications lodged processed within two working days 	Efficient and effective corporate services Corporate services to be provided within the agreed funding
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 a simple and accessible alternative to litigation in the Family Court and Federal Court Provide efficient and effective registry services to assist the respective courts to achieve their stated purpose	Provide efficient and effective corporate services to the Commonwealth courts and the National Native Title Tribunal
	→	→	→	→
ANNUAL PERFORMANCE STATEMENT	Analysis of performance Federal Court annual report: page 18-46; 49-64, 66-77, and 196-202	Analysis of performance Federal Court annual report: page 196-202 Family Court annual report: page 16-35	Analysis of performance Federal Circuit Court annual report: page 26-56	Analysis of performance Federal Court annual report: page 49-64, and 196-202
	→	→	→	→

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 2.3: Performance criteria for Outcome 1, *Federal Court of Australia Portfolio Budget Statements 2018–19*.
- *Federal Court of Australia Corporate Plan 2018–19*.

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 93.1 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 2018–19, the Court handed down 2267 judgments for 2128 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 239 judgments from last financial year. The data indicates that 85 per cent of appeals (both full court and single judge) were delivered within three months and 80 per cent of judgments at first instance were delivered within three months of the date of being reserved.

A detailed analysis on the performance of the Federal Court can be found in Part 3 (*The work of the Court in 2018–19*) and Appendix 5 (*Workload statistics*) of this report.

Results

TIMELY COMPLETION OF CASES		
TARGET	RESULT 2018–19	TARGET STATUS
85 per cent of cases completed within 18 months of commencement	93.1 per cent of cases were completed within 18 months of commencement	TARGET MET
Judgments to be delivered within three months	85 per cent of judgments were delivered in three months	TARGET MET

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 *2018–19 Federal Court of Australia Portfolio Budget Statements* and in the *Federal Court of Australia Corporate Plan 2018–2019*.

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.

Results

TIMELY COMPLETION OF CASES

TARGET	RESULT 2018–19	TARGET STATUS
Clearance rate of 100 per cent	The clearance rate was 102 per cent	TARGET MET
75 per cent of judgments to be delivered within three months	79 per cent of judgments were delivered within three months	TARGET MET
75 per cent of cases pending conclusion to be less than 12 months old	62 per cent of cases pending conclusion were less than 12 months old	TARGET NOT MET

Criterion source

- Table 2.5: Performance criteria for Outcome 2, *Federal Court of Australia Portfolio Budget Statements 2018–19*
- *Federal Court of Australia Corporate Plan 2018–19*.

In 2018–19, the Family Court achieved two targets and was unable to achieve one.

The Court achieved a clearance rate of 102 per cent for all application types, improving on the clearance rate of 100 per cent in 2017–18. The clearance rate for final order applications was 107.6 per cent.

The Family Court aims to deliver 75 per cent of reserved judgments within three months of completion of a trial. In 2018–19, 79 per cent of the 819 reserved original jurisdiction judgments (excluding judgments on appeal cases) were delivered within that timeframe.

The Family Court aims to have more than 75 per cent of its pending applications less than 12 months old. At 30 June 2019, 62 per cent of pending applications were less than 12 months old, compared with 67 per cent at 30 June 2018. The capacity to finalise some of the pending applications older than 12 months old was impacted by judicial vacancies in 2018–19, particularly in the Melbourne and Sydney registries.

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 2018–19 Annual Report*.

OUTCOME 3

Program 3.1: Federal Circuit Court of Australia

Purpose

To provide a simple and accessible alternative to litigation in the Family Court and Federal Court.

To provide efficient and effective registry services to assist the respective courts to achieve their stated purpose.

Delivery

- Exercising the jurisdiction of the Federal Circuit Court of Australia.
- Providing an efficient and effective registry service to the public.

The Federal Circuit Court of Australia remains a separate Chapter III court under the Australian Constitution and the performance criteria applicable to the Court is identified in the *2018-19 Federal Court of Australia Portfolio Budget Statements* and in the *Federal Court Corporate Plan 2018-2019*.

Performance criterion

Timely completion of cases

- 90 per cent of final order applications disposed of within 12 months.
- 90 per cent of all other applications disposed of within six months.
- 70 per cent of matters resolved prior to trial.

Timely registry services

- 75 per cent of counter enquiries served within 20 minutes.
- 80 per cent of National Enquiry Centre telephone enquiries answered within 90 seconds.
- 80 per cent of email enquiries responded to within two working days.
- 75 per cent of applications lodged processed within two working days.

Results

TIMELY COMPLETION OF CASES		
TARGET	RESULT 2018-19	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	92 per cent of all other applications were disposed of within six months	TARGET MET
70 per cent of matters resolved prior to trial	72 per cent of matters were resolved prior to trial	TARGET MET

TIMELY REGISTRY SERVICES

TARGET	RESULT 2018–19	TARGET STATUS
75 per cent of counter enquiries served within 20 minutes	90 per cent of counter enquiries were served within 20 minutes	TARGET MET
80 per cent of National Enquiry Centre telephone enquiries answered within 90 seconds	10 per cent of National Enquiry Centre telephone enquiries were answered within 90 seconds	TARGET NOT MET
80 per cent of email enquiries responded to within two working days	100 per cent of email enquiries were responded to within two working days	TARGET MET
75 per cent of applications lodged processed within two working days	98 per cent of applications lodged were processed within two working days	TARGET MET

Criterion source

- Table 2.7: Performance criteria for Outcome 3, *Federal Court of Australia Portfolio Budget Statements 2018–19*.
- *Federal Court of Australia Corporate Plan 2018–19*.

In 2018–19, the Federal Circuit Court achieved two targets under timely completion of cases and was unable to achieve one. This is consistent with last financial year.

In the area of timely registry services, the Federal Circuit Court achieved three targets and was unable to achieve one. The National Enquiry Centre answered 10 per cent of phone calls in 90 seconds – a decline of 8 per cent from 2017–18. This can be attributed to increases in the average call time (from five minutes 45 seconds in 2017–18 to six minutes 24 seconds in 2018–19) as a result of more complex enquiries.

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 2018–19 Annual Report*.

From 2019–20, the registry services functions for the Federal Court, Family Court and the Federal Circuit Court will be amalgamated into a separate program under Outcome 4: Commonwealth Courts Corporate 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.

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 2.9: Performance criteria for Outcome 4, *Federal Court of Australia Portfolio Budget Statements 2018–19*.
- *Federal Court of Australia Corporate Plan 2018–19*.

The key outcome measure for Corporate Services is improved administration and support for the resolution of matters according to law for litigants in the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia and parties in the National Native Title Tribunal, through efficient and effective provision of shared corporate services.

The intent of the merger of the courts' corporate services is to deliver short-term savings and place the courts on a sustainable funding footing over the longer term, ensuring they are better placed to deliver services to litigants. The ability of Corporate Services to meet budget and projected average staffing numbers are the metrics that will be used to measure performance.

A detailed analysis on the performance of Corporate Services can be found in Part 4 (*Management of the Court*).

Results

EFFICIENT AND EFFECTIVE CORPORATE SERVICES

TARGET

Corporate services to be provided within the agreed funding

RESULT 2018–19

This target has been achieved

TARGET STATUS

TARGET MET

Appendix 11

Executive remuneration

During the reporting period ended 30 June 2019, the Federal Court of Australia had eight executives who meet the definition of key management personnel. Their names and length of term as key management personnel are outlined in Table A11.1.

Table A11.1: Information about remuneration for key management personnel

NAME	POSITION TITLE	SHORT-TERM BENEFITS			POST-EMPLOYMENT BENEFITS		OTHER LONG-TERM BENEFITS			TOTAL REMUNERATION
		BASE SALARY	BONUSES	OTHER BENEFITS AND ALLOWANCES	SUPERANNUATION CONTRIBUTIONS	LONG SERVICE LEAVE	OTHER LONG-TERM BENEFITS	TERMINATION BENEFITS		
CJ Pascoe (a)	Chief Justice	205,172	0	22,387	201,767	22,269	0	0	451,594	
CJ Allsop (b)	Chief Justice	504,900	0	24,595	457,421	50,485	0	0	1,037,402	
CJ Alstergren (c)	Chief Justice	474,176	0	38,347	457,421	50,485	0	0	1,020,430	
Warwick Soden (b)	CEO and Principal Registrar	311,028	0	93,682	64,210	10,907	0	0	479,827	
Stewart Fenwick (d)	CEO and Principal Registrar	175,349	0	39,644	33,461	5,457	0	0	253,910	
John Dowsett (e)	President	417,878	0	0	20,531	10,742	0	0	449,151	
Christine Fewings	Native Title Registrar	282,531	0	0	20,531	6,908	0	0	309,970	
Catherine Sullivan	Executive Director Corporate Services	292,885	0	22,090	44,931	7,338	0	0	367,244	
Grand Total		2,663,918	0	240,745	1,300,274	164,592	0	0	4,369,529	

(a) Family Court of Australia

(b) Federal Court of Australia

(c) Family Court of Australia and Federal Circuit Court of Australia

(d) Federal Circuit Court of Australia

(e) National Native Title Tribunal

Table A11.2: Information about remuneration for senior executives

TOTAL REMUNERATION BANDS	NUMBER OF SENIOR EXECUTIVES	SHORT-TERM BENEFITS			AVERAGE OTHER BENEFITS AND ALLOWANCES			POST-EMPLOYMENT BENEFITS			OTHER LONG-TERM BENEFITS			TERMINATION BENEFITS			TOTAL REMUNERATION
		AVERAGE BASE SALARY	AVERAGE BONUSES	AVERAGE BENEFITS	AVERAGE OTHER BENEFITS AND ALLOWANCES	AVERAGE SUPERANNUATION CONTRIBUTIONS	AVERAGE SERVICE LEAVE	AVERAGE LONG SERVICE LEAVE	AVERAGE OTHER LONG-TERM BENEFITS	AVERAGE TERMINATION BENEFITS	AVERAGE LONG-TERM BENEFITS	AVERAGE OTHER LONG-TERM BENEFITS	AVERAGE TERMINATION BENEFITS	AVERAGE TOTAL REMUNERATION			
\$0 - \$220,000	2	135,001	0	6,868	19,376	3,137	0	0	0	0	0	0	0	0	164,382		
\$220,001 - \$245,000	2	186,221	0	20,610	28,793	4,169	0	0	0	0	0	0	0	0	239,792		
\$245,001 - \$270,000	8	187,467	0	17,289	33,098	4,705	0	0	0	0	0	0	17,758	0	260,317		
\$270,001 - \$295,000	3	227,704	0	12,681	40,677	5,832	0	0	0	0	0	0	0	0	286,894		
\$295,001 - \$320,000	1	95,860	0	40	23,321	3,491	0	0	0	0	0	0	194,043	0	316,755		
\$320,001 - \$345,000	1	279,572	0	600	42,092	6,695	0	0	0	0	0	0	0	0	328,958		
\$345,001 - \$370,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
\$370,001 - \$395,000	1	297,256	0	34,557	47,530	7,596	0	0	0	0	0	0	0	0	386,939		
\$395,001 - \$420,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
\$420,001 - \$445,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
\$445,001 - \$470,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
\$470,001 - \$495,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
\$495,001 - \$545,000	1	252,623	0	0	43,943	5,992	0	0	0	0	0	0	227,384	0	529,942		

Table A11.3: 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 SUPERANNUATION CONTRIBUTIONS	AVERAGE SERVICE LEAVE	AVERAGE OTHER LONG-TERM BENEFITS	AVERAGE TERMINATION BENEFITS	AVERAGE TOTAL REMUNERATION			
\$220,001 – \$245,000	2	192,262	0	4,179	29,510	4,814	0	0	0	0	234,943	
\$245,001 – \$270,000	3	206,164	0	8,559	32,079	5,075	0	0	0	0	260,437	
\$270,001 – \$295,000	1	216,656	30,000	240	34,155	5,578	0	0	0	0	286,870	
\$295,001 – \$320,000	0	0	0	0	0	0	0	0	0	0	0	
\$320,001 – \$345,000	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	
\$370,001 – \$395,000	0	0	0	0	0	0	0	0	0	0	0	
\$395,001 – \$420,000	0	0	0	0	0	0	0	0	0	0	0	
\$420,001 – \$445,000	0	0	0	0	0	0	0	0	0	0	0	
\$445,001 – \$470,000	0	0	0	0	0	0	0	0	0	0	0	
\$470,001 – \$495,000	0	0	0	0	0	0	0	0	0	0	0	
\$495,001 –	0	0	0	0	0	0	0	0	0	0	0	

Appendix 12

Information required by other legislation

Table A12.1: Information required by other legislation

LEGISLATION	PAGE
<i>Commonwealth Electoral Act 1918</i>	51
<i>Courts Administration Legislation Amendment Act 2016</i>	15, 21, 58, 186
<i>Environment Protection and Biodiversity Conservation Act 1999</i>	55
<i>Federal Court of Australia Act 1976</i>	vi, 1, 25, 30, 72, 154
<i>Freedom of Information Act 1982</i>	38, 53, 77
<i>Native Title Act 1993</i>	xiii, xiv, xv, 10, 18, 29, 30, 31, 33, 38, 51, 66, 69, 157, 158
<i>Public Governance, Performance and Accountability Act 2013</i>	vi, 49, 52, 53, 80, 95, 112, 195
<i>Public Service Act 1999</i>	9, 10, 49, 58, 59, 186
<i>Work Health and Safety Act 2011</i>	60

PART 7

INDEXES

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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	215
17AJ(c)	Glossary of abbreviations and acronyms	Mandatory	vi-vii
17AJ(d)	List of requirements	Mandatory	210
17AJ(e)	Details of contact officer	Mandatory	inside front cover
17AJ(f)	Entity’s website address	Mandatory	
17AJ(g)	Electronic address of report	Mandatory	
17AD(a)	Review by accountable authority		
17AD(a)	A review by the accountable authority of the entity	Mandatory	12
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}(iii)	A description of the organisational structure of the entity	Mandatory	127
17AE(1){a}(iii)	A description of the outcomes and programmes administered by the entity	Mandatory	2-3; 196
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	194
17AE(1){aa}(ii)	Position title of the accountable authority or each member of the accountable authority	Mandatory	
17AE(1){aa}(iii)	Period as the accountable authority or member of the accountable authority within the reporting period	Mandatory	
17AE(1){b}	An outline of the structure of the portfolio of the entity	Portfolio departments mandatory	
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
17AD(c)	Report on the Performance of the entity		

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PAGE OF THIS REPORT
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	195
17AD(c)(ii)	Report on Financial Performance		
17AF(1)(a)	A discussion and analysis of the entity's financial performance	Mandatory	51
17AF(1)(b)	A table summarising the total resources and total payments of the entity	Mandatory	126
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	
17AG(2)(b)(i)	A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared	Mandatory	
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	
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	52
17AG(2)(c)	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance	Mandatory	
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	
EXTERNAL SCRUTINY			
17AG(3)	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny	Mandatory	
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	49
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	
17AG(3)(c)	Information on any capability reviews on the entity that were released during the period	If applicable, Mandatory	N/A

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PAGE OF THIS REPORT
MANAGEMENT OF HUMAN RESOURCES			
17AG(4)(a)	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives	Mandatory	58
17AG(4)(aa)	Statistics on the entity's employees on an ongoing and non-ongoing basis, including the following: <ul style="list-style-type: none"> ■ statistics on full-time employees ■ statistics on part-time employees ■ statistics on gender ■ statistics on staff location 	Mandatory	186
17AG(4)(b)	Statistics on the entity's APS employees on an ongoing and non-ongoing basis; including the following: <ul style="list-style-type: none"> ■ Statistics on staffing classification level ■ Statistics on full-time employees ■ Statistics on part-time employees ■ Statistics on gender ■ Statistics on staff location ■ Statistics on employees who identify as Indigenous 	Mandatory	186
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	
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	186
17AG(4)(c)(ii)	The salary ranges available for APS employees by classification level	Mandatory	193
17AG(4)(c)(iii)	A description of non-salary benefits provided to employees	Mandatory	60
17AG(4)(d)(i)	Information on the number of employees at each classification level who received performance pay	If applicable, Mandatory	
17AG(4)(d)(ii)	Information on aggregate amounts of performance pay at each classification level	If applicable, Mandatory	
17AG(4)(d)(iii)	Information on the average amount of performance payment, and range of such payments, at each classification level	If applicable, Mandatory	
17AG(4)(d)(iv)	Information on aggregate amount of performance payments	If applicable, Mandatory	
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	54
PURCHASING			
17AG(6)	An assessment of entity performance against the <i>Commonwealth Procurement Rules</i>	Mandatory	54

PGPA RULE REFERENCE	DESCRIPTION	REQUIREMENT	PAGE OF THIS REPORT
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	
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	53
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	
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	
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	53
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	53
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	
17AG(10)(b)	An outline of the ways in which the procurement practices of the entity support small and medium enterprises	Mandatory	54
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	

PART 7 LIST OF REQUIREMENTS

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FINANCIAL STATEMENTS			
17AD(e)	Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act	Mandatory	80
EXECUTIVE REMUNERATION			
17AD(da)	Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 23 of the Rule	Mandatory	203
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	
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	51
17AH(1)(c)	Outline of mechanisms of disability reporting, including reference to website for further information	Mandatory	
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	38
17AH(1)(e)	Correction of material errors in previous annual report	If applicable, mandatory	52
17AH(2)	Information required by other legislation	Mandatory	207

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Court and registry locations

GENERAL FEDERAL LAW REGISTRIES (Federal Court and Federal Circuit Court)

* These registries share counter services with the family law jurisdiction

Principal Registry

Law Courts Building

Queens Square
Sydney NSW 2000

Phone: (02) 9230 8567

Fax: (02) 9230 8824

Email: query@fedcourt.gov.au

Web: www.fedcourt.gov.au

Contact hours: 8.30am–5.00pm

Australian Capital Territory*

Nigel Bowen Commonwealth Law Courts

Childers Street
Canberra City ACT 2600

Phone: (02) 6267 0666

Fax: (02) 6267 0625

Email: actman@fedcourt.gov.au

Counter hours: 9.00am–4.30pm

Contact hours: 8.30am–5.00pm

New South Wales

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

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

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

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



