



FEDERAL COURT  
OF AUSTRALIA



# ANNUAL REPORT 2021-2022

## Federal Court of Australia annual report 2021–22

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### Acknowledgments

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CHIEF JUSTICE'S CHAMBERS  
FEDERAL COURT OF AUSTRALIA  
Law Courts Building  
Queens Square, Sydney NSW 2000

19 September 2022

The Hon Mark Dreyfus KC MP  
Attorney-General  
PO Box 6100  
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 2022.

The report is submitted in accordance with:

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

This report has been prepared in accordance with the Department of Finance's *Resource Management Guide No. 135: annual reports for non-corporate Commonwealth entities* (May 2022).

This is the Court's 33<sup>rd</sup> annual report.

Yours sincerely

Handwritten signature of James Allsop in blue ink.

The Honourable James Allsop AO  
Chief Justice

Handwritten signature of Sia Lagos in blue ink.

Sia Lagos  
Chief Executive Officer and Principal Registrar

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## Acronyms and abbreviations

AAL	Australian Academy of Law
AASB	Australian Accounting Standards Board
AAT	Administrative Appeals Tribunal
ACCC	Australian Competition and Consumer Commission
ACICA	Australian Centre for International Commercial Arbitration
ADR	assisted dispute resolution
AIJA	Australasian Institute of Judicial Administration
AM	Member of the Order of Australia
ANAO	Australian National Audit Office
AO	Officer of the Order of Australia
APS	Australian Public Service
AustLII	Australasian Legal Information Institute
CC	Creative Commons
CEO	Chief Executive Officer
Chev LH	Chevalier of the Legion of Honour
CIArb	Chartered Institute of Arbitrators Australia
CoA	cause of action
DPI	Director Public Information
FCMAS	Federal Court Mediator Accreditation Scheme
FOI	freedom of information
ILUA	Indigenous Land Use Agreement
IP	intellectual property
IT	information technology
J	Justice
JJ	Justices
MOU	Memorandum of Understanding
NPA	National Practice Area
NRS	National Relay Service
OAM	Medal of the Order of Australia
PGP Act	Public Governance, Performance and Accountability Act
PJSI	Pacific Judicial Strengthening Initiative
QC	Queen's Counsel
QUT	Queensland University of Technology
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
UNCCA	UNCITRAL National Coordination Committee for Australia



## Glossary

### **Administrative notices**

See practice notes.

### **Alternative procedure agreement**

A type of Indigenous land use agreement.

### **Appeal**

An application to a higher court to review a decision of a lower court or tribunal. For example, an appeal from a decision of a Federal Circuit and Family Court (Division 2) judge may be made to the Federal Court, and a decision of a single judge of the Federal Court may be the subject of an appeal to the Full Court of the Federal Court.

### **Appellate jurisdiction**

The power given to a court to hear appeals in certain 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**

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

**Future act determination application**

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

**Good faith negotiations (native title)**

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

**Hearing**

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

**Indigenous Land Use Agreement (ILUA)**

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

**Interlocutory application**

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

**Judgment**

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

**Jurisdiction**

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

**Litigants**

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

**Mediation (or Assisted Dispute Resolution)**

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

**Milestone agreement**

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

**National Court Framework**

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

**National Native Title Register**

The record of native title determinations.

**National Native Title Tribunal Member**

A person who has been appointed by the Governor-General as a member of the Tribunal under the *Native Title Act 1993*. Members are classified as presidential and non-presidential. Some members are full-time and others are part-time appointees.

**National Practice Area**

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

**Native title claimant application/claim**

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

**Native title determination**

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

**Native title representative body**

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

**Non-claimant application**

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

**Notification**

The process by which people, organisations and/ or the general public are advised by the relevant government of their intention to do certain acts or by the National Native Title Tribunal that certain applications under the *Native Title Act 1993* have been made.

**On-country**

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

**Original jurisdiction**

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

**Parties**

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

**Practice notes and administrative notices**

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

**Prescribed body corporate**

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

**Proceeding**

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

**Register of Indigenous Land Use Agreements**

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

**Register of Native Title Claims**

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

**Registered native title claimant**

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

**Registration test**

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

**Regulations**

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

**Respondent**

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

**Rules**

Rules made by the judges which set out the procedures for conducting a proceeding. The current rules of the Federal Court are the *Federal Court Rules 2011*, *Federal Court (Corporations) Rules 2000* (for proceedings under the *Corporations Act 2001*) and *Federal Court (Bankruptcy) Rules 2016* (for proceedings under the *Bankruptcy Act 1966*).

**Self-represented litigant**

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

**Setting down fee**

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

# Part 1: Overview of the Court





## Objectives

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

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

## Establishment

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

## Purpose

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

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

## Functions and powers

The Court's jurisdiction is broad, covering almost all civil matters arising under Australian federal law and some summary and indictable criminal matters. Central to the Court's civil jurisdiction is section 39B(1A) of the *Judiciary Act 1903* (Cth). 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 and Family Court of Australia (Division 2) in non-family law matters. The Court also exercises general appellate jurisdiction in criminal and civil matters on appeal from the Supreme Court of Norfolk Island. The Court's jurisdiction is described more fully in Part 3 (*Report on Court performance*).



## The Court's Outcome and Program Structure

**TABLE 1.1: OUTCOME 1: FEDERAL COURT OF AUSTRALIA**

FEDERAL COURT OF AUSTRALIA	BUDGET 21-22 (\$'000)	ACTUAL 21-22 (\$'000)	VARIATION (\$'000)
OUTCOME 1: Apply and uphold the rule of law for litigants in the Federal Court of Australia and parties in the National Native Title Tribunal through the resolution of matters according to law and through the effective management of the administrative affairs of the Court and Tribunal.			
<b>Program 1.1 – Federal Court of Australia</b>			
Administered Expenses			
Special appropriations	600	691	-91
Departmental Expenses			
Departmental appropriation <sup>1</sup>	66,498	60,421	6,077
Expenses not requiring appropriation in the budget year	17,763	20,681	-2,918
<b>Total for Program 1.1</b>	<b>84,861</b>	<b>81,793</b>	<b>3,068</b>
<b>Total expenses for outcome 1</b>	<b>84,861</b>	<b>81,793</b>	<b>3,068</b>
<b>Average staffing level (number)</b>	<b>279</b>	<b>256</b>	

<sup>1</sup> 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*.

The titles and outcome statements for the Family Court of Australia and the Federal Circuit Court of Australia were officially changed by the Department of Finance effective from 1 July 2022. These tables therefore reflect old titles as at 30 June 2022.

TABLE 1.2: OUTCOME 2: FAMILY COURT OF AUSTRALIA

FAMILY COURT OF AUSTRALIA	BUDGET 21-22 (\$'000)	ACTUAL 21-22 (\$'000)	VARIATION (\$'000)
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.			
<b>Program 2.1 – Family Court of Australia</b>			
Administered Expenses			
Special appropriations	100	36	64
Departmental Expenses			
Departmental appropriation <sup>1</sup>	40,527	35,346	5,181
Expenses not requiring appropriation in the budget year	11,906	14,751	-2,845
<b>Total for Program 2.1</b>	<b>52,533</b>	<b>50,133</b>	<b>2,400</b>
<b>Total expenses for outcome 2</b>	<b>52,533</b>	<b>50,133</b>	<b>2,400</b>
<b>Average staffing level (number)</b>	<b>135</b>	<b>132</b>	

<sup>1</sup> 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*.

The titles and outcome statements for the Family Court of Australia and the Federal Circuit Court of Australia were officially changed by the Department of Finance effective from 1 July 2022. These tables therefore reflect old titles as at 30 June 2022.

**TABLE 1.3: OUTCOME 3: FEDERAL CIRCUIT COURT OF AUSTRALIA**

FEDERAL CIRCUIT COURT OF AUSTRALIA	BUDGET 21–22 (\$'000)	ACTUAL 21–22 (\$'000)	VARIATION (\$'000)
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.			
<b>Program 3.1 – Federal Circuit Court of Australia</b>			
Administered Expenses			
Ordinary annual services (Appropriation Act No.1)	925	373	552
Special appropriations	200	112	88
Departmental Expenses			
Departmental appropriation <sup>1</sup>	89,070	82,758	6,312
Expenses not requiring appropriation in the budget year	2,367	2,157	210
<b>Total for Program 3.1</b>	<b>92,562</b>	<b>85,400</b>	<b>7,162</b>
<b>Total expenses for outcome 3</b>	<b>92,562</b>	<b>85,400</b>	<b>7,162</b>
<b>Average staffing level (number)</b>	<b>360</b>	<b>336</b>	

<sup>1</sup> 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*.

The titles and outcome statements for the Family Court of Australia and the Federal Circuit Court of Australia were officially changed by the Department of Finance effective from 1 July 2022. These tables therefore reflect old titles as at 30 June 2022.

TABLE 1.4: OUTCOME 4: COMMONWEALTH COURTS CORPORATE SERVICES

COMMONWEALTH COURTS CORPORATE SERVICES	BUDGET 21–22 (\$'000)	ACTUAL 21–22 (\$'000)	VARIATION (\$'000)
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 and registry services.			
<b>Program 4.1 – Commonwealth Courts Corporate Services</b>			
Departmental Expenses			
Departmental appropriation <sup>1</sup>	76,665	74,306	2,359
Expenses not requiring appropriation in the budget year	59,275	59,446	-171
<b>Total for Program 4.1</b>	<b>135,940</b>	<b>133,752</b>	<b>2,188</b>
<b>Program 4.2 – Commonwealth Courts Registry Services</b>			
Departmental Expenses			
Departmental appropriation	32,569	29,599	2,970
<b>Total for Program 4.2</b>	<b>32,569</b>	<b>29,599</b>	<b>2,970</b>
<b>Total expenses for outcome 4</b>	<b>168,509</b>	<b>163,351</b>	<b>5,158</b>
<b>Average staffing level (number)</b>	<b>484</b>	<b>447</b>	

<sup>1</sup> 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*.

The titles and outcome statements for the Family Court of Australia and the Federal Circuit Court of Australia were officially changed by the Department of Finance effective from 1 July 2022. These tables therefore reflect old titles as at 30 June 2022.

## About the Federal Court

### Judges of the Court

At 30 June 2022, 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 2022)**

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
Chief Justice The Hon James Leslie Bain ALLSOP AO	Sydney	
The Hon Susan Coralie KENNY AM	Melbourne	<ul style="list-style-type: none"> <li>■ Administrative Appeals Tribunal – Deputy President</li> <li>■ Australian Electoral Commission – Chairperson</li> </ul>
The Hon Andrew Peter GREENWOOD	Brisbane	<ul style="list-style-type: none"> <li>■ Administrative Appeals Tribunal – Deputy President</li> <li>■ Copyright Tribunal – President</li> </ul>
The Hon Steven David RARES	Sydney	<ul style="list-style-type: none"> <li>■ Supreme Court of the Australian Capital Territory – Additional Judge</li> <li>■ Supreme Court of Norfolk Island – Judge</li> </ul>
The Hon Berna Joan COLLIER	Brisbane	<ul style="list-style-type: none"> <li>■ National and Supreme Courts of Papua New Guinea – Judge</li> <li>■ Administrative Appeals Tribunal – Deputy President</li> <li>■ Supreme Court of the Australian Capital Territory – Additional Judge</li> </ul>
The Hon Anthony James BESANKO	Adelaide	<ul style="list-style-type: none"> <li>■ Supreme Court of Norfolk Island – Chief Justice</li> <li>■ Supreme Court of the Australian Capital Territory – Additional Judge</li> </ul>
The Hon John Eric MIDDLETON AM	Melbourne	<ul style="list-style-type: none"> <li>■ Australian Competition Tribunal – President</li> <li>■ Administrative Appeals Tribunal – Deputy President</li> <li>■ Australian Law Reform Commission – Part-time Commissioner</li> </ul>
The Hon John Alexander LOGAN RFD	Brisbane	<ul style="list-style-type: none"> <li>■ Defence Force Discipline Appeal Tribunal – President</li> <li>■ National and Supreme Courts of Papua New Guinea – Judge</li> </ul>
The Hon Nye PERRAM	Sydney	<ul style="list-style-type: none"> <li>■ Copyright Tribunal – Deputy President</li> </ul>
The Hon Jayne Margaret JAGOT	Sydney	<ul style="list-style-type: none"> <li>■ Supreme Court of the Australian Capital Territory – Additional Judge</li> <li>■ Copyright Tribunal – Deputy President</li> </ul>

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon John Victor NICHOLAS	Sydney	
The Hon David Markey YATES	Sydney	
The Hon Mordecai BROMBERG	Melbourne	
The Hon Anna Judith KATZMANN	Sydney	<ul style="list-style-type: none"> <li>■ Supreme Court of the Australian Capital Territory – Additional Judge</li> </ul>
The Hon Bernard Michael MURPHY	Melbourne	
The Hon Iain James Kerr ROSS AO	Melbourne	<ul style="list-style-type: none"> <li>■ Fair Work Australia – President</li> <li>■ Supreme Court of the Australian Capital Territory – Additional Judge</li> </ul>
The Hon Kathleen FARRELL	Sydney	<ul style="list-style-type: none"> <li>■ Australian Competition Tribunal – Deputy President</li> </ul>
The Hon Debra Sue MORTIMER	Melbourne	
The Hon Darryl Cameron RANGIAH	Brisbane	<ul style="list-style-type: none"> <li>■ Supreme Court of the Australian Capital Territory – Additional Judge</li> </ul>
The Hon Michael Andrew WIGNEY	Sydney	<ul style="list-style-type: none"> <li>■ Supreme Court of the Australian Capital Territory – Additional Judge</li> <li>■ Supreme Court of Norfolk Island – Judge</li> </ul>
The Hon Melissa Anne PERRY	Sydney	<ul style="list-style-type: none"> <li>■ Supreme Court of the Australian Capital Territory – Additional Judge</li> <li>■ Defence Force Discipline Appeal Tribunal – Member</li> <li>■ Administrative Appeals Tribunal – Deputy President</li> </ul>
The Hon Jonathan Barry Rashleigh BEACH	Melbourne	
The Hon Brigitte Sandra MARKOVIC	Sydney	
The Hon Mark Kranz MOSHINSKY	Melbourne	
The Hon Robert James BROMWICH	Sydney	<ul style="list-style-type: none"> <li>■ Supreme Court of the Australian Capital Territory – Additional Judge</li> <li>■ Supreme Court of Norfolk Island – Additional Judge</li> </ul>
The Hon Natalie CHARLESWORTH	Adelaide	<ul style="list-style-type: none"> <li>■ Supreme Court of the Australian Capital Territory – Additional Judge</li> </ul>



JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon Stephen Carey George BURLEY	Sydney	
The Hon David John O'CALLAGHAN	Melbourne	
The Hon Michael Bryan Joshua LEE	Sydney	■ Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Roger Marc DERRINGTON	Brisbane	
The Hon David Graham THOMAS	Brisbane	
The Hon Sarah Catherine DERRINGTON AM	Brisbane	■ Australian Law Reform Commission – President
The Hon Katrina Frances BANKS-SMITH	Perth	■ Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Craig Grierson COLVIN	Perth	■ Administrative Appeals Tribunal – Deputy President ■ Australian Law Reform Commission – Part-time Commissioner
The Hon Thomas Michael THAWLEY	Sydney	■ Administrative Appeals Tribunal – Deputy President ■ Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Michael Francis WHEELAHAN	Melbourne	■ Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Angus Morkel STEWART	Sydney	■ Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Michael Hugh O'BRYAN	Melbourne	■ Supreme Court of the Australian Capital Territory – Additional Judge ■ Australian Competition Tribunal – Deputy President
The Hon Darren John JACKSON	Perth	
The Hon John Leslie SNADEN	Melbourne	
The Hon Stewart Maxwell ANDERSON	Melbourne	■ Supreme Court of the Australian Capital Territory – Additional Judge
The Hon Wendy Jane ABRAHAM	Sydney	■ Supreme Court of the Australian Capital Territory – Additional Judge ■ Supreme Court of Norfolk Island – Judge

JUDGE	LOCATION	OTHER COMMISSIONS/APPOINTMENTS
The Hon John HALLEY	Sydney	
The Hon Elizabeth CHEESEMAN	Sydney	
The Hon Helen Mary Joan ROFE	Melbourne	
The Hon Kylie Elizabeth DOWNES	Brisbane	
The Hon Scott Anthony GOODMAN	Sydney	
The Hon Simon Patrick O'SULLIVAN	Adelaide	
The Hon Shaun Brendan McELWAINE	Hobart	
The Hon Michael James FEUTRILL	Perth	
The Hon Fiona Mary Ruth MEAGHER	Brisbane	■ Administrative Appeals Tribunal – President
The Hon Timothy James Francis McEVOY	Melbourne	■ Administrative Appeals Tribunal – Deputy President
The Hon Lisa Anne HESPE	Melbourne	
The Hon Elizabeth RAPER	Sydney	

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

- 28 June 2022 to 30 June 2022 – Justice Kenny

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

## Appointments and retirements during 2021–22

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

- The Honourable Justice Helen Mary Joan Rofe was appointed on 12 July 2021.
- The Honourable Justice Kylie Elizabeth Downes was appointed on 2 August 2021.
- The Honourable Justice Scott Anthony Goodman was appointed on 11 November 2021.
- The Honourable Justice Simon Patrick O'Sullivan was appointed on 20 January 2022.
- The Honourable Justice Shaun Brendan McElwaine was appointed on 24 January 2022.
- The Honourable Justice Michael James Feutrill was appointed on 8 March 2022.
- The Honourable Justice Fiona Mary Ruth Meagher was appointed on 31 March 2022.
- The Honourable Justice Timothy James Francis McEvoy was appointed on 26 April 2022.
- The Honourable Justice Lisa Anne Hespe was appointed on 27 April 2022.
- The Honourable Justice Elizabeth Raper was appointed on 2 May 2022.

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

- The Honourable Justice Geoffrey Alan Flick retired with effect on 18 October 2021.
- The Honourable Justice Neil Walter McKerracher retired with effect on 5 December 2021.
- The Honourable Justice John Edward Reeves retired with effect on 1 January 2022.
- The Honourable Justice Richard Conway White retired with effect on 5 January 2022.
- The Honourable Justice Duncan James Colquhoun Kerr Chev LH retired with effect on 25 February 2022.
- The Honourable Justice John Edward Griffiths retired with effect on 1 April 2022.
- The Honourable Justice Jennifer Davies resigned with effect from 1 April 2022.
- The Honourable Justice Paul Elias Anastassiou resigned with effect from 29 April 2022.

## Other appointments during the year are as follows:

- Justice Middleton AM was re-appointed as President of the Australian Competition Tribunal, on a part-time basis, on 26 July 2021.
- Justice Collier was re-appointed as a Judge of the National and Supreme Courts of Papua New Guinea on 9 November 2021.
- Justice Logan was re-appointed as a Judge of the National and Supreme Courts of Papua New Guinea on 9 November 2021.
- Justice Jagot was re-appointed as a Deputy President of the Copyright Tribunal of Australia on 8 December 2021.
- Justice Kenny was appointed Acting President of the Administrative Appeals Tribunal on 13 December 2021.
- Justice Collier was appointed Acting President of the Administrative Appeals Tribunal on 13 December 2021.
- Justice Meagher was appointed as President of the Administrative Appeals Tribunal on 1 April 2022.

## Executive

### Chief Executive Officer and Principal Registrar

The CEO and Principal Registrar is appointed by the Governor-General on the nomination of the Chief Justice and has the same powers as the Head of a statutory agency of the Australian Public Service in respect of the officers and staff of the Court employed under the *Public Service Act 1999* (Cth) (section 18ZE of the *Federal Court of Australia Act 1976*).

Ms Sia Lagos was appointed the CEO and Principal Registrar on 15 May 2020.

### Officers of the Court

Officers of the Court are appointed by the CEO and Principal Registrar under section 18N of the *Federal Court of Australia Act 1976* and are:

- a District Registrar for each District Registry
- Registrars and Deputy District Registrars as necessary

- a Sheriff and Deputy Sheriffs as necessary, and
- Marshals under the *Admiralty Act 1988* (Cth) as necessary.

The registrars must take an oath, or make an affirmation, of office before undertaking their duties (section 18Y of the *Federal Court of Australia Act 1976*). Registrars perform statutory functions pursuant to the *Federal Court of Australia Act 1976*, *Federal Court Rules 2011*, *Federal Court (Bankruptcy) Rules 2016*, *Federal Court (Corporations) Rules 2000*, *Federal Court (Criminal Proceedings) Rules 2016*, and the *Admiralty Act 1988* 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 1976*, *Bankruptcy Act 1966* (Cth), *Corporations Act 2001* (Cth) and *Native Title Act 1993*. A number of staff in each registry also perform functions and exercise delegated powers under the *Federal Circuit and Family Court of Australia Act 2021* (Cth). 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 2022, the Federal Court entity engaged 1,247 employees under the *Public Service Act 1999*. This figure includes 765 ongoing and 482 non-ongoing employees. More details on court staff can be found in Part 4 (*Management and accountability*) and Appendix 9 (*Staffing profile*).

## Part 2: Year in review



**A**s we start to emerge from the pandemic, I would like to take this opportunity to thank the Judges and staff for their commitment and dedication to the Court, the legal profession and court users during a period of challenging and competing priorities. Their innovation, flexibility and resilience has ensured the ongoing delivery of and access to justice for the Australian community.



Over the past 12 months a lot has been accomplished through what has been another extraordinary year. We have continued to augment key initiatives to further modernise the Court and transform and refine our operations, particularly in relation to digital practice and national operations and practice. The Court continued to focus on tailoring services to the needs of court users whilst supporting the delivery of the Government's COVID-19 recovery agenda. We also implemented a number of initiatives that focused on judicial and staff wellbeing which is of paramount importance to the Court.

During the year, we welcomed ten judges to the Court. Justice Rofe was appointed on 12 July 2021, Justice Downes was appointed on 2 August 2021, Justice Goodman was appointed on 11 November 2021, Justice O'Sullivan was appointed on 20 January 2022, Justice McElwaine was appointed on 24 January 2022, Justice Feutrill was appointed on 8 March 2022, Justice Meagher was appointed on 31 March 2022, Justice McEvoy was appointed on 26 April 2022, Justice Hesper was appointed on 27 April 2022 and Justice Raper was appointed on 2 May 2022. I would like to congratulate each of these judges on their appointment to the Court.

We also farewelled a number of judges. Justice Flick retired on 18 October 2021, Justice McKerracher retired on 5 December 2021, Justice Reeves retired on 1 January 2022, Justice White retired on 5 January 2022, Justice Kerr retired on 25 February 2022, Justice Griffiths retired on 1 April 2022, Justice Davies resigned on 1 April 2022 and Justice Anastassiou resigned on 29 April 2022. I would like to thank each of these judges for their significant contribution to the Court.

Once again, I am delighted to share our initiatives, successes and learnings over the past year.

## Significant issues and developments

### Embracing a digital future

#### Digital Court Program

The Digital Court Program continues to be a key priority for the Court, with the aim of streamlining core business systems and creating flexibility and operational efficiency. The Digital Court Program oversees the ongoing modernisation of critical document, workflow and case management tools to support the delivery of quality services to the Australian community. The program is delivering improvements to the tools used to manage the Courts' caseload through the development of a new application suite – CourtPath. CourtPath will provide a modern, stable platform across the Courts to deliver sustainable and genuine improvements to workflows, while supporting efficient case management. Following user-centred design principles, CourtPath is intuitive to use while ensuring timely and accurate access to critical information.

CourtPath is being developed in partnership with judges, registrars and court staff. Throughout 2021–22, foundational frameworks and initial digital court file capability have been developed. Enhancement and development of additional features continues, with a roadmap to deliver replacement of legacy systems over the next three to five years.

#### Digital litigation support

To support digital practice, new positions titled Digital Practice Officers were introduced in November 2021 to assist judges, chambers and court staff to increase efficiency of proceedings through enabling and refining digital practices. Some significant work included:

- improving file sharing solutions to enable parties, practitioners and court staff to securely access shared files, reducing cost and administration overhead within courts
- supporting judicial development of practice notes, to improve the consistency, efficiency and use of electronic court books, reducing use of paper and third-party solutions



- introducing bespoke technical solutions to facilitate complex matters such as *Ben Roberts-Smith v Fairfax Media Publications Pty Ltd* (ACN 003 357 720) & ORS (NSD1485/2018) which had national security, privacy and international considerations
- continuing support and improvements for e-hearings, with live streaming of high interest matters
- conducting judiciary training in the use of iPads and related software to improve effectiveness in court operations and other key tasks such as judgment writing
- conducting staff training to make better use of electronic court files, case management and online lodgment solutions.

### Cyber security

Investment in cyber security continues to be critical, as technology is essential to court operations and the threat landscape continues to evolve. The Court appointed a new Chief Information Security Officer in early 2021, who has led the measurement of current cyber maturity and the establishment of a roadmap with key capability improvements over the next three years to increase protection of court assets, data and operations.

The Court continues to strengthen cyber security maturity in line with the Australian Cyber Security Centre recommendations and Protective Security Policy Framework requirements.

Protection of endpoints (servers, laptops and similar) has been significantly improved over 2021–22 and enhanced security will continue to be deployed through 2022–23. Vulnerability identification and reduction has also been significantly improved and remains an ongoing priority.

### Video conferencing and digital practice

As hybrid hearings, involving courtroom and remote participants, become a frequent option to conduct matters, the need for technology within the courtroom is more important than before. The focus for 2021–22 was to provide clearer audio and video, as well as larger screens for easier viewing for judges and parties within the courtrooms by upgrading ageing equipment. Software updates improve the remote joining and courtroom experience, including simplifying the connection process, sharing content throughout the courtroom, and the ability to customise participant layout. Additional courtrooms will be enabled for video conferencing throughout the coming year, with the goal to have the majority of courtrooms enabled within the 2022–23 financial year.

To support increasing demand for digital services and document viewing within court, four courtrooms were enabled with integrated eTrial and video conference capability. This allows content to be displayed on multiple screens within the courtroom, and to remote parties and live stream. The new jury courtroom in the New South Wales registry has been set up to enable jury members to have their own individual screen to view content.

Access to justice via live streaming of hearings for media and the public continues to be provided by the Court. High profile matters including defamation, migration and employment matters, have been particularly popular for streaming, with up to 90,000 peak viewers. Streaming is also important for the Courts to deliver other events such as judicial training seminars and ceremonial sittings.

## Extension of the National Court Framework

The Court continues to implement the National Court Framework reforms and is now applying the reform principles to the work undertaken by judicial registrars. These reforms have involved the allocation of judicial registrar work on a national basis, introduction of a national duty registrar system and the development of national practice guides to support and enhance the work undertaken by judicial registrars. The Court continues to draw on the skills and expertise of its judicial registrars in each of the national practice areas by providing mediation and case management support to judges on a national basis. The Court continues to progress and embed the reforms.

## Workload

In 2021–22, the total number of overall filings in the Court, comprising first instance, appellate and registrar matters decreased by 3 per cent to 3,143. However, the volume of first instance filings which forms a significant component of judicial workload, increased by 3 per cent. The only area of the Court's workload to record a decrease in filings of note was appellate migration.

There was an increase in filings in the Commercial and Corporations National Practice Area. Filings remained consistent (when compared to last financial year) in the Native Title, Taxation, Intellectual Property and Federal Crime National Practice Areas. There was a reduction in filings in the Administrative and Constitutional Law and Human Rights, Admiralty and Maritime, Employment and Industrial Relations, Other Federal Jurisdiction and Migration National Practice Areas.

Appeal filings have also decreased, driven largely by a reduction in Federal Court appellate migration filings.

It is noted that save for Migration and Other Federal Jurisdiction, those National Practice Areas that experienced a reduction in filings in 2021–22, maintained a volume of filings generally comparable with 2019–20 figures.

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

## Performance

The Court has two targets for timely completion of cases:

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

During the reporting year, the Court completed 79.1 per cent of cases in less than 18 months.

A key factor contributing to the Court not achieving the benchmark this year was that a number of complex matters required face-to-face hearings that could not be conducted as a result of significant periods of restrictions imposed by Government in response to the COVID-19 pandemic.

- *Judgments to be delivered within three months*

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

During 2021–22, the Court handed down 1,906 judgments for 1,656 court matters (some matters involve more than one judgment being delivered – e.g. interlocutory decisions – and sometimes one judgment will cover multiple matters). Overall, 76 per cent of appeals (both Full Court and single judge) were delivered within three months; 81.9 per cent of judgments at first instance were delivered within three months of the matter being reserved; and 80.3 per cent of total judgments were delivered within three months.

### Financial management and organisational performance

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

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

The financial statements for 2021–22 show an operating surplus of \$17.896 million before depreciation costs of \$34.692 million and taking into account principal repayments of lease liabilities of \$19.209 million. The entity was budgeting a break-even position for the year, with the surplus stemming from significant judicial vacancies, lower employee expenses as a result of the judicial vacancies and newly funded positions being appointed across the financial year and the impact of COVID-19 on a number of operational expense areas. The Courts operate under strict budgetary controls ensuring that the entity operates within the appropriation.

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

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

A number of new Government measures appropriated additional funding to the entity for 2021–22 and forward years. In 2021–22, \$22.053 million was provided for improving access and safety for children and families. \$1.196 million was provided under the women's economic security package and \$1.021 million for the migration litigation and merits review. The migration litigation and merits review funding was supported by increases to administered receipts. \$673,000 was also provided under the Jobmaker plan to support jobs creation through industrial relations reforms.

### Wellbeing

The health and wellbeing of judges and staff is of paramount importance to the Court, and is particularly important given the continuing impact of the COVID-19 pandemic. A program of resilience, mindfulness and wellbeing sessions, utilising the services of an external facilitator, continues to be delivered on an ongoing basis. These sessions have been extremely important in underpinning our response to the COVID-19 pandemic and ensuring judges and staff feel supported and engaged.

An active judicial wellbeing committee has developed a comprehensive network of psychologists and psychiatrists in each state and territory to assist when required, and a revamped judges' portal, introduced in February 2022, provides a range of information, case studies and other support material on managing stress, mindfulness and wellbeing resources. We will continue to introduce material to assist judges in this significant area.

## Diversity and inclusion

The Court is committed to a diverse and inclusive workplace, which includes ensuring its workforce reflects the broader communities in which our employees work. The Court focuses on ensuring it creates a safe and supporting environment in which employees can bring their true selves to work, as well as ensuring recruitment and other processes are strictly merit-based. From a gender diversity perspective, females now fill 59 per cent of positions at Senior Executive Service classifications and 64 per cent of positions at Executive Level classifications.

An important element of diversity and inclusion is ensuring employees are treated with dignity, courtesy and respect at all times in the workplace. The Court has adopted a zero tolerance approach to inappropriate workplace behaviour and recently updated its anti-discrimination, bullying and harassment policies to ensure they remain current and at best practice standards. The Court provided mandatory refresher training to all employees on these policies in 2021–22 to ensure employees understand expected standards of behaviour in the workplace, as well as ensuring all employees know how they can raise a concern if they experience inappropriate behaviour. The Court conducts this training on a quarterly basis to ensure all new employees are similarly aware of the Court's policies and expectations in this regard.

A judicial workplace conduct procedure provides a sensitive, prompt and effective means of resolving complaints about judges, including by ensuring accountability for unacceptable behaviour, support for participants involved, confidentiality and procedural fairness. Chief Justice Allsop AO spoke about this topic in a speech given at the Queensland Law Society Symposium in March 2022.

A new judicial workplace conduct committee, chaired by Justice Markovic, will develop education programs specific for judges as well as a dedicated portal on judicial workplace conduct.

## Reconciliation Action Plan

The inaugural Federal Court entity Reconciliation Action Plan (RAP) for 2020–21 was launched in September 2020. There are four levels of RAP – Reflect, Innovate, Stretch and Elevate – which suit organisations at the different stages of their reconciliation journey. The Court's reconciliation journey began with a Reflect RAP in which it shared its vision for reconciliation as well as laid the foundation for future RAPs.

The Court has focused on creating employment opportunities for Aboriginal and Torres Strait Islanders, with its Aboriginal and Torres Strait islander employment rate increasing from 1.9 per cent in 2020–21 to 2.3 per cent in 2021–22 and will continue doing everything it can to sustain or improve our capacity in this area. The Court is currently working on its next RAP at the Innovate level, which it is aiming to launch in 2022–23.



**Sia Lagos**

Chief Executive Officer and Principal Registrar  
Federal Court of Australia



# Part 3: Report on court performance



## The work of the Court in 2021–22

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

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

## Management of cases and deciding disputes

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

### The Court's jurisdiction

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

Central to the Court's civil jurisdiction is section 39B (1A)(c) of the *Judiciary Act 1903*. 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 1903* to hear applications for judicial review of decisions by officers of the Commonwealth. Many cases also arise under the *Administrative Decisions (Judicial Review) Act 1977* (Cth) which provides for judicial review of most administrative decisions made under Commonwealth enactments on grounds relating to the legality, rather than the merits, of the decision.

The Court also has jurisdiction to hear and determine a question of law referred to it by the Administrative Appeals Tribunal pursuant to section 45(2) of the *Administrative Appeals Tribunal Act 1975* (Cth). This jurisdiction falls under the Administrative and Constitutional Law and Human Rights National Practice Area, which also includes complaints about unlawful discrimination and matters concerning the Australian Constitution. Figure A5.9.1 in Appendix 5 (*Workload statistics*) shows the matters filed in this practice area over the last five years.

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

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

The Court also has jurisdiction under the *Native Title Act 1993*. The Court has jurisdiction to hear and determine native title determination applications and is responsible for their mediation. It also hears and determines revised native title determination applications, compensation applications, claim registration applications, applications to remove agreements from the Register of Indigenous Land Use Agreements and applications about the transfer of records. In addition, the Court also hears appeals from the National Native Title Tribunal and matters filed under the *Administrative Decisions (Judicial Review) Act 1977* involving native title. The Court's native title jurisdiction is discussed in this part. Figure A5.9.6 in Appendix 5 (*Workload statistics*) shows the number of native title matters filed over the last five years.



A further important area of jurisdiction for the Court derives from the *Admiralty Act 1988*. The Court has concurrent jurisdiction with the Supreme Courts of the states and territories to hear maritime claims under this Act. Ships coming into Australian waters may be arrested for the purpose of providing security for money claimed from ship owners and operators. If security is not provided, a judge may order the sale of the ship to provide funds to pay the claims. During the reporting year, the Court's Admiralty Marshals made six arrests. See Figure A5.9.2 in Appendix 5 (*Workload statistics*) 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* (Cth), *Fair Work (Registered Organisations) Act 2009* (Cth) and related industrial legislation. Workplace relations and fair work matters filed over the last five years are shown in Figure A5.9.4 in Appendix 5 (*Workload statistics*).

The Court's jurisdiction under the *Corporations Act 2001* and the *Australian Securities and Investments Commission Act 2001* (Cth) 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* (Cth) constitute a significant part of the workload of the Court. These cases often raise important public interest issues involving such matters as mergers, misuse of market power, exclusive dealings or false advertising. These areas fall under the Commercial and Corporations National Practice

Area. Figure A5.9.3 in Appendix 5 (*Workload statistics*) provides statistics on this practice area.

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

Since late 2009, the Court has also had jurisdiction in relation to indictable offences for serious cartel conduct. This jurisdiction falls under the Federal Crime and Related Proceedings National Practice Area 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 and Family Court of Australia (Division 2) 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 and Family Court of Australia (Division 2) concerning decisions under the *Migration Act 1958* (Cth). The Court's migration jurisdiction is discussed in this part.

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 also discussed in this part.

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 section 39B of the *Judiciary Act 1903*, are listed on the Court's website at [www.fedcourt.gov.au](http://www.fedcourt.gov.au).

## Changes to the Court's jurisdiction in 2021–22

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

- *Online Safety Act 2021* (Cth)
- *Surveillance Legislation Amendment (Identify and Disrupt) Act 2021* (Cth)
- *Offshore Petroleum and Greenhouse Gas Storage Amendment (Titles Administration and Other Measures) Act 2021* (Cth)
- *Surveillance Legislation Amendment (Identify and Disrupt) Act 2021* (Cth)
- *Security Legislation Amendment (Critical Infrastructure) Act 2021* (Cth)
- *Offshore Electricity Infrastructure Act 2021* (Cth)
- *Telstra Corporation and Other Legislation Amendment Act 2021* (Cth), and
- *Data Availability and Transparency Act 2022* (Cth).

### Amendments to the Federal Court of Australia Act

During the reporting year the *Federal Court of Australia Act 1976* was amended by the *Courts and Tribunals Legislation Amendment (2021 Measures No.1) Act 2022* (Cth). These amendments provided clarification on the exercise of the Court's jurisdiction through remote hearings by way of video link, audio link or other appropriate means.

### Fee regulation

The *Federal Court and Federal Circuit Court Regulation 2012* was amended by *Federal Circuit and Family Court of Australia Legislation (Consequential Amendments and Other Measures) Regulations 2021* to become the *Federal Court and Federal Circuit and Family Court Regulations 2012*.

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

### Federal Court Rules

The judges are responsible for making the Rules of Court under the *Federal Court of Australia Act 1976*. The Rules provide the procedural framework within which matters are commenced and conducted in the Court. The Rules of Court are made as Commonwealth Statutory Legislative Instruments.

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

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

### Other rules

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

The *Federal Court (Corporations) Rules 2000* govern proceedings in the Federal Court under the *Corporations Act 2001* and the *Australian Securities and Investments Commission Act 2001*, as well as proceedings under the *Cross-Border Insolvency Act 2008* (Cth) which involve a debtor other than an individual. 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 an approved form. The Chief Justice may approve a form for the purposes of the *Federal Court Rules 2011*, the *Federal Court (Bankruptcy) Rules 2016* and the *Federal Court (Criminal Proceedings) Rules 2016*.

On 29 April 2022, the Chief Justice approved a new form, Form 138: Amicus Curiae. This form relates to the certification by a judicial officer when it is determined that an amicus curiae be appointed to a matter pursuant to rule 9.12 of the *Federal Court Rules 2011*. The form was issued on 17 May 2022.

### Practice notes

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

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

On 21 December 2021, the Court published the Commercial Arbitration Practice Note CA-1 which outlines the arrangements for the management within the National Court Framework of applications in the Court that concern commercial arbitration. The Court prepared drafts of a Referee and Assessor Practice Note and a General and Personal Insolvency Sub-Area Practice Note. The draft Referee and Assessor Practice Note provides guidance on the Court's practice and procedure relating to orders of referral and orders for the appointment of an assessor, including the standard terms of such orders. The draft Personal Insolvency Sub-Area Practice Note sets out arrangements for the management of matters under the *Bankruptcy Act 1966* within the National Court Framework. Both these drafts were sent to the profession for consultation. After considering the feedback received, these Practice Notes have been finalised and are in the process of being published on the Court's website.

On 7 March 2022, the Court published two practice notes relating to the Migration National Practice Area. Practice Note MIG-1 provides information on the Court's practices and procedures for the case management of its migration workload, so that parties and the profession can better prepare and assist the Court. Practice Note MIG-2 pertains to the removal from Australia of immigration detainees who have proceedings before the Court, with parties expected to advise the Court of any removal arrangements being contemplated or made, in order to facilitate the efficient administration of justice.

### Guides

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

In its response to the COVID-19 pandemic, the Federal Court developed a series of guides to support the practices developed for online hearings and the use of Microsoft Teams,

including a National Practitioners and Litigants Guide intended to provide guidance for the legal profession and litigants-in-person appearing in online hearings.

All guides are available on the Court's website.

## Workload of the Federal Court and Federal Circuit and Family Court of Australia (Division 2)

The Federal Court has concurrent jurisdiction with the Federal Circuit and Family Court of Australia (Division 2) 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 and Family Court of Australia (Division 2) in its general federal law jurisdiction.

In 2021–22, a total of 10,114 matters were filed in the two courts. The number of filings has an impact on the Federal Court's registries, as the staff members of the Federal Court's registries process the documents filed for both the Federal Court and Federal Circuit and Family Court (Division 2). The registries also provide the administrative support for each matter to be heard and determined by the relevant court.

### Case flow management of the Court's jurisdiction

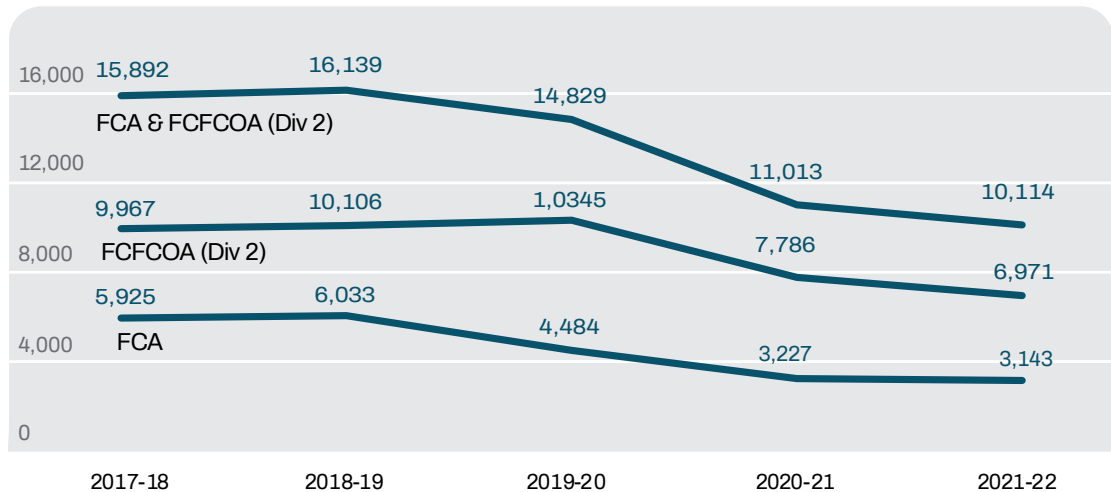
The Court has adopted, as one of its key case flow management principles, the establishment of time goals for the disposition of cases and the delivery of reserved judgments. The time goals are supported by the careful management of cases through the Court's individual docket system and the implementation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

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

### Disposition of matters other than native title

In 1999–2000, the Court set a goal of 18 months from commencement as the period within which it should dispose of at least 85 per cent of its cases (excluding native title cases). The time goal was set having regard to the growing number of long, complex and difficult cases, the impact of native title cases on the Court's workload and a

**FIGURE 3.1: FILINGS TO 30 JUNE 2022 – FEDERAL COURT OF AUSTRALIA AND FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (DIVISION 2)**



decrease in the number of less complex matters. The time goal is reviewed regularly by the Court in relation to workload and available resources. The Court's ability to continue to meet its disposition targets is dependent upon the timely replacement of judges.

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

During the five-year period from 1 July 2017 to 30 June 2022, 89 per cent of cases (excluding native title matters) were completed in 18 months or less; 81 per cent in 12 months or less; and 62 per cent in six months or less. See Figure A5.4 in Appendix 5 (*Workload statistics*). Figure A5.5 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 1,889 judgments for 1,698 court files. Of these, 525 judgments were delivered in appeals (both single judge and Full Court) and 1,364 in first instance cases. These figures include both written judgments and judgments delivered orally on the day of the hearing, immediately after the completion of evidence and submissions. There was a decrease in the total number of judgments delivered in 2021–22 compared to the number of judgments delivered in 2020–21.

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, 2,495 cases were commenced in, or transferred to, the Court's original jurisdiction. See Table A5.1.

### Matters transferred to and from the Court

Matters may be remitted or transferred to the Court under:

- *Judiciary Act 1903*, section 44
- Cross-vesting Scheme Acts
- *Corporations Act 2001*, and
- *Federal Circuit and Family Court of Australia Act 2021*.

During the reporting year, 174 matters were remitted or transferred to the Court:

- 6 from the High Court
- 18 from the Federal Circuit and Family Court of Australia (Division 2)
- 67 from the Supreme Courts, and
- 83 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 2021–22, 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 3,096.

## Current matters

The total number of current matters in the Court's original jurisdiction at the end of the reporting year was 3,799 (see Table A5.1).

**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	33	24	7	10	12	86
Admiralty	9	5	4	5	11	34
Bankruptcy	107	50	15	5	28	205
Competition law	5	5	4	5	8	27
Trade practices	41	54	18	30	91	234
Corporations	218	138	75	76	138	645
Human rights	19	17	5	10	19	70
Workplace relations	0	0	0	2	0	2
Intellectual property	40	49	26	17	47	179
Migration	67	87	26	14	50	244
Miscellaneous	109	110	63	37	97	416
Taxation	36	46	23	9	60	174
Fair work	79	58	31	37	46	251
Criminal	4	7	1	0	8	20
<b>TOTAL</b>	<b>767</b>	<b>650</b>	<b>298</b>	<b>257</b>	<b>615</b>	<b>2,587</b>
Percentage of total	29.6%	25.1%	11.5%	9.9%	23.8%	100.0%

**TABLE 3.2: AGE OF CURRENT 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	23	16	9	19	179	246
Percentage of total	9.3%	6.5%	3.7%	7.7%	72.8%	100.0%
<b>RUNNING TOTAL</b>	<b>9.3%</b>	<b>15.9%</b>	<b>19.5%</b>	<b>27.2%</b>	<b>100.0%</b>	



### 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 2022 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.

Further information about the Court's native title workload can be found later in this part.

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 (*Workload statistics*).

## 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 and Family Court of Australia (Division 2), some are in relation to decisions by state and territory courts exercising certain federal jurisdiction. For reporting purposes, 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 sections 25(1), 25(1AA) and 25(5) of the *Federal Court of Australia Act 1976*, appeals from the Federal Circuit and Family Court of Australia (Division 2) and courts of summary jurisdiction exercising federal jurisdiction, may be heard by a Full Court of the Federal Court or by a single judge in certain circumstances. All other

appeals must be heard by a Full Court, which is usually constituted by three, and sometimes five, judges.

The Court publishes details of the 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 and matters will generally be listed in the next available sitting in the capital city where the matter was heard at first instance. In the reporting year, a large number of appellate matters were scheduled for hearing by remote access technology, as part of the Court's special measures in response to the COVID-19 pandemic. There were also 14 Full Courts that the Chief Justice convened to be heard as special fixtures outside of the four scheduled sittings periods, including a joint hearing with the New Zealand Court of Appeal.

### The appellate workload

During the reporting year, 907 appellate proceedings were filed in the Court. They include 695 appeals and related actions (648 filed in the appellate jurisdiction and 47 matters filed in the original jurisdiction), 18 cross appeals and 194 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 and Family Court of Australia (Division 2) is a significant source of appellate work accounting for 54 per cent of the appeals and related actions filed in 2021–22. The majority of these proceedings continue to be heard and determined by single judges exercising the Court's appellate jurisdiction.

Further information on the source of appeals and related actions is set out in Table A5.3 in Appendix 5 (*Workload statistics*). There was an overall decrease in the total number of appeals filed in 2021–2022, from 815 to 648 for the current reporting year. This decrease was largely attributable to a 33 per cent decrease in migration appeals, as well as decreases in the areas of taxation and employment and industrial relations. However, these decreases were offset by increases in the areas of intellectual property, native title, commercial and corporations and other federal jurisdiction.

In the reporting year, 710 appeals and related actions were finalised. Of these, 194 matters were filed and finalised in the reporting year. At 30 June 2022, there were 966 appeals currently before the Court, with 709 of these being migration appeals and related actions.

The comparative age of matters pending in the Court's appellate jurisdiction (including native title appeals) at 30 June 2022 is set out in Table 3.3.

Of the appellate and related matters pending at present, just under 30 per cent are less than six months old and 50 per cent are less than 12 months old. At 30 June 2022, there were 487 matters that were over 12 months old (see Table 3.3).

### Managing migration appeals

In 2021–22, 70 migration appeals and applications 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 304 migration matters were filed in relation to judgments of the Federal Circuit and Family Court of Australia (Division 2).

Table 3.4 shows the number of appellate proceedings involving the *Migration Act 1958* as a proportion of the Court's overall appellate workload since 2017–18.

Although the number of migration appellate filings has decreased by 33 per cent since the last reporting year, 57 per cent of the Court's total appellate workload concerned decisions made under the *Migration Act 1958*.

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.

Migration appellate proceedings that are to be heard by a Full Court are generally listed for hearing in the next scheduled Full Court and appellate sitting period. In circumstances where a matter requires an expedited hearing or where a judge's commitments preclude a listing during the sitting period, a matter may be referred to a specially convened Full Court. In the 2021–22 reporting year, the Chief Justice specially convened four Migration Full Courts outside of the four scheduled sitting periods.

Migration appellate matters heard by single judges were listed for hearing throughout the reporting year, many by remote access technology, due to restrictions on in-person attendance at court premises in response to the COVID-19 pandemic.

**TABLE 3.3: AGE OF CURRENT APPEALS, CROSS APPEALS AND INTERLOCUTORY APPELLATE APPLICATIONS AT 30 JUNE 2022**

CAUSE OF ACTION	UNDER 6 MONTHS	6–12 MONTHS	12–18 MONTHS	18–24 MONTHS	OVER 24 MONTHS	SUB-TOTAL
Appeals and related actions	266	213	152	152	183	966
Percentage of total	27.5%	22.0%	15.7%	15.7%	18.9%	100.0%
<b>RUNNING TOTAL</b>	<b>266</b>	<b>479</b>	<b>631</b>	<b>783</b>	<b>966</b>	



**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	2017–18	2018–19	2019–20	2020–21	2021–22
Migration jurisdiction	1,021	1,139	749	547	367
Percentage	80.8%	80.5%	72.6%	67.1%	56.6%
<b>TOTAL APPEALS AND RELATED ACTIONS</b>	<b>1,263</b>	<b>1,415</b>	<b>1,031</b>	<b>815</b>	<b>648</b>

## The Court's native title jurisdiction

### Statistics and trends

In 2021–22, the Court resolved 53 native title applications (commenced under section 61 of the *Native Title Act 1993*, consisting of 40 native title applications, nine non-claimant applications, two compensation applications, and two revised native title determination applications. There were 13 additional applications managed by the native title practice area that were also finalised.

Of the total finalised applications, 39 were resolved by consent of the parties or were unopposed, four were finalised following litigation, and 23 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.

Thirty-four new applications were filed under section 61 of the *Native Title Act 1993* during the reporting period. Of these, 14 are native title determination application, 15 are non-claimant applications, four are compensation applications, and one is an applications to revise an existing determination. In addition, 18 new applications were filed which were not commenced under section 61 of the *Native Title Act 1993*, but relate to native title matters and are case managed in the native title National Practice Area.

At the commencement of the reporting year, there were 12 compensation applications before the Court: two in the Northern Territory, one in Queensland, one in New South Wales and eight in Western Australia.

During the reporting year:

- the New South Wales compensation application was withdrawn
- one compensation application in Western Australia was finalised by consent
- three further compensation applications were filed in Western Australia, and
- one compensation application was filed in South Australia.

At the end of the reporting year, there were 176 current native title applications, comprising 125 determination applications, 35 non-claimant applications, 14 compensation applications, and two variation applications. This is a downward trend from the 192 extant at the end of the previous financial year and reflects some intensive case management by the Court to resolve ageing claims and a reduced number of new filings during the reporting year.

There are 63 consent determinations or hearings of either the substantive matter or separate questions currently forecast for the 2022–23 financial year. Many of those hearings will include an on-country component if travel is feasible. There are also approximately 22 matters currently identified that will require some aspects to be mediated on-country by a judicial registrar.

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

The objective of both mediation and case-management processes is to identify the genuine issues in dispute between the parties and the most effective means of resolving those disputes. This process accords with the Court's responsibilities under the *Native Title Act 1993* and its overarching purpose under sections 37M and 37N of the *Federal Court of Australia Act 1976* to facilitate the just resolution of disputes according to the law as quickly, inexpensively and efficiently as possible. While full native title trials are reducing in number, there remains a significant number of litigated separate questions and interlocutory proceedings that can be extremely complex and lengthy in nature.

The trend of intensive court management of native title matters is demonstrated by the listings data over the past three years. There were 263 mediations and 633 case management hearings in 2019–2020; and 331 mediations and 617 case management hearings and 16 regional case management conferences held during 2020–21. During 2021–22 and despite the continuing need to manage more matters remotely and administratively, the native title practice area still conducted 326 mediation listings, 567 case management hearings and substantive hearing listings, 726 administrative listings and one regional case management hearing.

Access requests are being made more frequently in all states and are becoming more onerous in nature. It remains a sensitive issue having regard to the nature of the material sought and as the reason for the request is often to prepare a compensation application. The Court has continued to advance projects in relation to the digitisation of files (including retained audio-visual material) for the purpose of archiving and to make the material more accessible.

## Stakeholder engagement

The Court continues to regularly engage with stakeholders in a manner and at a regularity appropriate to the activity level and local processes in each jurisdiction. The ability to convene in-person forums has unfortunately been limited by COVID-19 restrictions during the reporting year. A forum was scheduled to occur in-person in Queensland in early 2022, but was postponed due to the peak of Omicron COVID-19 infections at that time. Similarly, a stakeholder forum was intended to be convened in Western Australia which was delayed by COVID-19 and has been impacted by the workload once COVID restrictions lessened allowing travel to proceed.

## 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 (by remote conferencing) with regard to the Cape York and Torres Strait matters and the Northern Region, and in Brisbane with regard to the Southern Region. The case management landscape in Queensland has also involved regional approaches, notably:

#### *Cape York, Torres Strait and Carpentaria Region*

The 'Torres Strait cluster' of overlapping claims and the Cape York United claim comprising many local groups have both been the subject of intensive case management and mediation including on-country mediation.

In the Torres Strait, the Warral and Ului matter was the subject of a month long on-country lay evidence hearing, which involved evidence being heard at various locations in the Torres Strait including Thursday Island (Waiben), Moa, Badu, Warral and Ului.

In Cape York, the Cape York United matter is to be resolved by a series of local determinations under section 87A of the *Native Title Act 1993* with the first two determinations having occurred in November 2021. In the next reporting period eight consent determinations are scheduled across July and October 2022. It is estimated that the matter will not be fully disposed of

until 2024–25 and involves intensive case management and mediation to progress concurrent timetables.

### **Northern Region**

The 'Cairns cluster' of claims that has been the subject of intensive case management and mediation has progressed significantly during this reporting period. This cluster was referred by the Court under section 54A of the *Federal Court of Australia Act 1976* and rule 28.61 of the *Federal Court Rules 2011* to two independent referees. Implementation of the referees report has been the subject of court case management and interlocutory hearings during the reporting year which culminated in a number of decisions handed down by Justice Charlesworth resolving those applications. The Cairns Regional Claim Group (QUD692/2016), Gimuy Walubara Yidinji People (QUD23/2019), Yirrganydji (Irukandji) People #1 (QUD14/2019), and Yirrganydji (Irukandji) People #2 (QUD337/2015), each now return to usual case management as they progress without the former overlapping issues.

A month-long on-country hearing in the Wakaman People cluster of matters, which comprises three claimant applications and three non-claimant applications, was also held during the reporting year at locations in and around Mareeba and Chillagoe.

### **Southern Region**

On 2–4 November 2021, Justice SC Derrington held an on-country preservation of evidence hearing in the Barada Kabalbara Yetimarala native title applications (QUD13/2019 and QUD15/2019).

The 'GNP or Gangulu cluster' hearing was completed during the reporting year and judgment is reserved. The Wongkumara People matter and the overlapping Yandruwandha Yawarrawarrka People matter have also been the subject of extensive case management and mediation during the reporting year. The lay evidence in these matters was heard on-country by Justice Murphy in May 2022, and the matters continue to be the subject of intensive mediation and case management as they progress towards an expert evidence hearing in March 2023.

On 23 December 2021, Justice Reeves delivered the decision *Malone v State of Queensland (The Clermont-Belyando Area Native Title Claim) (No 5)* [2021] FCA 1639, finding that there is no native title in the claim area. As a result, this matter was appealed by the Clermont Belyando and Jangga #3 applicants and is currently scheduled for a Full Court sitting in February 2023.

On 13 April 2022, Justice Mortimer handed down the decision *Melville on behalf of the Pitta Pitta People v State of Queensland* [2022] FCA 387, dismissing interlocutory applications brought by the State of Queensland and the Pitta Pitta Aboriginal Corporation RNTBC to have the compensation application summarily dismissed. Consequently, the Pitta Pitta Aboriginal Corporation RNTBC appealed the decision which was heard by the Full Court in August 2022 and dismissed.

On 26 April 2022, due to the slow progress of the Applicant in prosecuting the native title compensation application-related appeal proceeding of QUD106/2021 Wharton on behalf of the Kooma People v State of Queensland & Ors, orders were made requiring the Applicant to show cause why the application for extension of time and leave to appeal should not be dismissed. The Applicant failed to comply with the orders and, as a result, on 18 May 2022 an order providing for the dismissal of the appeal took effect. QUD107/2021 *Saunders on behalf of the Bigambul People v State of Queensland & Ors* was discontinued by consent during the reporting period.

### **South Australia**

On 24 September 2021, Justice Charlesworth delivered a consent determination for the Barngarla, in Port August (SAD6011/1998). The determination finalised the 25 year old matter, and added Port Augusta to more than 44,000 square kilometres of the Eyre Peninsula already recognised as Barngarla country.

*Sparrow v State of South Australia (Mirning Eastern Sea and Land Claim SAD76/2021)* [2021] FCA 1357 was delivered by Justice Charlesworth on 4 November 2021, striking out the originating application insofar as it covered the area within the boundaries of the Mirning Eastern Sea and Land Claim Part A and Part B (MESLC). The original application sought a determination of native title in relation to a large area of sea in and around the Great Australian Bight, together with a portion of land situated on the Eyre Peninsula incorporating the town of Streaky Bay. The MESLC overlapped the Far West Coast Sea Claim, and three claims made on behalf of the Wirangu People (Wirangu no 2 Part A), Wirangu no 3 Part A, Wirangu Sea Claim and a portion of the Wirangu no 2 non-claimant application Part A.

*Stuart v State of South Australia (Oodnadatta Common Overlap Proceedings SAD38/2013)* (No 4) [2021] FCA 1620 was delivered by Justice White on 21 December 2021. It was determined that the application by Aaron Stuart and Ors in SAD38/2013 be dismissed, and the Walka Wani (files SAD78/2013 and SAD220/2018) claim was granted. These orders were appealed (SAD37/2022 and SAD38/2022), and will be listed before the Full Court in the November 2022 sittings.

The Far West Coast Sea Claim (SAD71/201) hearing commenced on-country before Justice Charlesworth on 15 March 2022. Judgment is reserved following closing submissions on 15 July 2022. By an amended originating application filed on 24 June 2021, the claim area was reduced so that it now extends seaward to a maximum of about 300 metres in some parts, and includes some islands and incorporates an area 50 metres along the Bunda Cliffs.

The Antakirinja Matu-Yankunytjatjara Aboriginal Corporation RNTBC filed a compensation application on 22 April 2022. The applicant seeks compensation for the effects of specified compensable acts on the continued existence, enjoyment and exercise of native title rights and interests in land and waters located in and around Coober Pedy, South Australia – the claim area was the subject of the Antakirinja Matu-Yankunytjatjara native title determination on 11 May 2011 (SAD6007/1998).

## New South Wales

The Widjabul Wia-bal matter is still in intensive case management and mediation before the Court working towards a consent determination in November 2022.

A non-claimant application brought by Dungog Shire Council is proceeding to a separate question hearing concerning whether the Applicant has power under the *Local Government Act 1993* (NSW) and/or the *Crown Land Management Act 2016* (NSW) to bring the application. The hearing is listed for 5 December 2022.

In March 2020, Justice Jagot convened a hearing on-country in the non-claimant matter Wagonga Local Aboriginal Land Council, which covers a small area entirely overlapped by the South Coast People claim application. Justice Jagot delivered her judgment on 5 August 2020, finding that native title was extinguished on the relevant lot. The decision was subject to an appeal and cross appeal, which was heard by the Full Court on 24 and 25 May 2021. The appeal judgment was delivered on 23 November 2021 with the Full Court upholding the decision in first instance.

In July 2020, a separate question hearing concerning nine tenure categories and 49 specific tenures proceeded before Justice Griffiths by Microsoft Teams in the matter *Elaine Ohlsen & Ors on behalf of the Ngemba/Ngiyampaa People* (NSD38/2019). Judgment was delivered on 5 March 2021 and has since been appealed by the Attorney General of New South Wales. The appeal was heard by the Full Court from 17–19 August 2021 and the judgment was handed down on 16 March 2022 dismissing the appeal.

On 21 August 2020, the first compensation application in New South Wales was filed by *Patricia Johnson & Anor on behalf of the Barkandji Malyangapa People* over the area of the determined application NSD6084/1998. The matter was actively case managed by Justice Jagot to address preliminary issues raised in the proceeding including whether the claim has been properly authorised. On 17 August 2022, the first respondent filed an interlocutory application to have the claim summarily dismissed, excluding three lots. The applicant discontinued the proceeding on 8 April 2022, before the interlocutory application was heard.

A claim brought by Mr Ralph Lavender and Mr Jack Lavender in relation to an area on the south coast of New South Wales was also subject to an interlocutory application brought by the first respondent seeking to strike out the proceeding ('the strike out application'). The strike out application was brought on the basis that the application contained frivolous or vexatious material, or in the alternative failed to disclose a reasonable cause of action, or was likely to cause prejudice and/or delay in the proceedings. The strike out application was heard in early 2021, and judgment was delivered by Justice Perry on 31 March 2022 dismissing the claim.

## Western Australia

### Pilbara

*Dhu v Karlka Nyiyaparli Aboriginal Corporation RNTBC (No 2)* [2021] FCA 1496 was delivered by Justice Mortimer on 29 November 2021, relating to a declaration sought for memberships to a prescribed body corporate (PBC). While the Court allowed declarations that resolutions made by the PBC were not decisions made under traditional law and custom, and were not effective to refuse recognition of membership of the applicants, the Court did not make a declaration that the applicants were eligible for membership. The Court left it with the applicants and the PBC to engage constructively themselves to seek to resolve the issue of memberships, noting the difficult situation in the proceeding brought about by the imperfections of the native title system. As the applicants were partially successful, the Court ordered the PBC to pay 75 per cent of the applicants' costs of the proceeding.

Justice Banks-Smith delivered *Gilla on behalf of the Yugunga-Nya People v State of Western Australia (No 3)* [2021] FCA 1338, a Part A consent determination in a 1996 application. The Part B proceeding is subject to an overlap programmed for trial on all issues commencing August 2022.

In *Papertalk on behalf of the Mullewa Wadjari People v State of Western Australia* [2022] FCA 221, Justice Mortimer found that while there were no enforceable agreements reached in a lengthy mediation process spanning over three years regarding six overlapping proceedings, the Court was satisfied that the conduct of the applicant was an abuse of the mediation process

of the Court. The appropriate relief for the abuse of process was further considered by the Court in *Papertalk on behalf of the Mullewa Wadjari People v State of Western Australia (No 2)* [2022] FCA 593, delivered on 20 May 2022. The relief includes a further applicant meeting being conducted which is presently awaiting a result.

Following an on-country hearing in July 2019 for the Yinhawangka Gobawarra, Jurruru and Jurruru #2 matters, Justice Mortimer delivered judgment on 2 December 2020 in *Smirke on behalf of the Jurruru People v State of Western Australia (No. 2)* [2020] FCA 1728, referring the matter back to mediation for finalisation. The matters have been resolved through the mediation process and a consent determination is scheduled for mid-2022.

The Nyamal Palyku proceedings hearing dates were hampered by border closures and COVID-19 restrictions and September 2021 hearing dates were vacated in favour of preservation evidence being heard in Port Hedland in December 2021. The substantive hearing was listed and heard on-country in remote locations of Port Hedland, Nullagine and surrounds in May 2022. Expert evidence was heard in June 2022 and the matter was referred back to mediation. Mediation is ongoing.

### Goldfields

Separate question closing submissions in *Maduwongga* were heard in April 2021 and judgment reserved. Three interlocutory applications were heard by Justice Bromberg in December 2021 in the Goldfields region relating to progress of various applications. Judgments were delivered in February 2022, resulting in the *Jardu Mar* proceeding (which overlapped seven applications), being dismissed, and Justice Bromberg refusing joinder of seven Indigenous respondents in the *Darlot* proceeding. Resolution of both interlocutory applications resolved the final outstanding issues to progress the filing of a minute of consent determination of native title and joint submissions in the *Darlot* proceeding in April 2022 in preparation for a consent determination listed on-country in early July 2022.



### Central Desert

On 29 November 2021, Justice Griffiths delivered a Part A consent determination recognising native title in *Forrest on behalf of the Nangaanyaku Native Title Claim Group (Part A) v State of Western Australia* [2021] FCA 1489. The Part B proceeding will progress as a separate question hearing on the outstanding issues of whether the grant of a specific mining lease was an act consisting of the creation of a right to mine to which section 26D(1) of the *Native Title Act 1993* applied, and whether section 47B applies.

The programming timetable for trial commencing August 2022 in the three Tjiwarl compensation applications was vacated by Justice Mortimer in December 2021 as a result of substantive progress to settle the proceedings in mediation. On 3 May 2022, the applicants and State reached in-principle agreement for settlement, which was subsequently endorsed by Tjiwarl native title holders during community consultations. The final agreement, which will settle the State's liability, will be in the form of an Indigenous Land Use Agreement to be authorised by 30 November 2022. Negotiations are concurrently progressing between the applicants and mining respondents with a view to reaching full and final settlement on all matters by the end of 2022.

The Pila Nature Reserve claimant application and the Gibson Desert Compensation application were determined together, by consent on 15 June 2022. The Court attended an on-country celebration at Mina Mina in the Pila Nature Reserve. Native title and the relevant compensation were determined over the Pila Nature Reserve, this agreement included the recognition of native title utilising section 47C of the *Native Title Act 1993* to disregard extinguishment over a national park area. This was the first determination of its kind under the *Native Title Act 1993*.

### Kimberley

Following various extensions of time and assisted dispute resolution processes in Birriman-gan, orders will come into effect in early July 2022 determining the Indigenous Land and Sea Corporation (ILSC) as the default agent PBC in the absence of a nominated body by the common law holders. This is the first time the ILSC will be required to fulfil a role as temporary agent PBC.

Following an on-country hearing in August 2019 in respect of a separate question in the Gajangana Jaru, Purnululu and Purnululu #2 matters, Justice Mortimer delivered judgment on 22 October 2020 referring the matter back to mediation for finalisation. There are currently 13 matters in the Kimberley in mediation. There have been four consent determinations in the Kimberley in the period, all delivered on the papers. One matter in the region was discontinued.

Preservation evidence was heard in the Malarngowem Compensation application in December 2021 and the matter was immediately referred to mediation. Mediation is ongoing and the matter is also the subject of programming orders for a hearing on-country in September 2022.

### Southwest

Following the decision of the High Court in *Northern Land Council v Quall* [2020] HCA 33 and the subsequent steps to resolution being met in the South West Settlement Indigenous Land Use Agreement, the South West regional claimant and compensation applications are now under intensive case management before the Court to resolve the claims. The Whadjuk People, Ballardong People, Gnaala Karla Booja, South West Boorah #2, Wagyl Kaip, Southern Noongar (South West Area Two), Wagyl Kaip (Dillon Bay), Harris Family (Southwest Area One), Single Noongar #2, and most of the area covered in the Single Noongar Claim #1 and Yued applications, were finalised by consent on 1 December 2021. The remaining portions of the Single Noongar #1 and Yued claims and the Bodney Family Compensation claims are the subject of self-executing orders made on 13 June 2022 to finalise the matters in the Court.

### Victoria

Mediation continues to progress the outstanding connection issues in First Peoples of the Millewa Mallee proceeding, expected to reach a result in late 2022. Mediation has also progressed in the Eastern Maar proceeding seeking to resolve interests asserted by a number of Indigenous respondent parties. Concurrently over other areas where mediation outcomes currently appear unlikely, separate question hearings commencing May 2023 are being progressed. In relation to areas of the Eastern Maar claim that are



uncontested, progress is being made for consent determination of native title in early 2023. The Boonwurrung proceeding is listed for preservation evidence hearing before Justice Murphy for two weeks in December 2022. Preparation for a likely separate question hearing commencing in February 2023 is also occurring focused on resolution of the proper composition of the native title claim group.

A new application VID14/2022 Wamba Wamba was filed on 24 December 2021 and is awaiting notification following a decision of the delegate of the Registrar not to accept the claim for registration and leave granted to amend the application. A second judicial review application in relation to the registration of the Taungurung Indigenous Land Use Agreement filed in September 2021, was settled in mediation and discontinued in March 2022.

### Northern Territory

The McArthur River Project Compensation Claim (NTD25/2020) was filed on 14 December 2020. The compensation application area is in the northern region of the Northern Territory and is within the outer boundaries of the area covered by the earlier native title determination in *Ngajapa v Northern Territory* [2015] FCA 1249 (McArthur River Pastoral Lease), which was made by Justice Mansfield on 26 November 2015 and varied by Justice Jagot on 7 February 2022. The compensation application is listed for hearing before Justice Jagot in June 2023 and focuses in particular on the entitlement to compensation for the grant, validation and re-grant of mineral titles and the authorisation of mining activities. This is the third compensation claim in the Territory, the second being the Gove Peninsula claim (NTD43/2019) which was filed in 2019 and is listed for a demurrer hearing before the Full Federal Court in Darwin from 24–31 October 2022. In the Gove Peninsula claim, the Commonwealth has given notice that the proceeding involves matters arising under the Constitution or involving its interpretation within the meaning of section 78B of the *Judiciary Act 1903*. In this instance, the constitutional issue is whether the just terms requirement contained in section 51(xxxi) of the Constitution applies to certain acts set out in the statement of claim.

On 9 December 2021, a claimant application was filed over a portion of the Katherine River in the Northern Region of the Northern Territory – NTD24/2021 Katherine Families Beds and Banks Native Title Claim. The parties to the competing claims over the Town of Katherine, known as the Katherine Proceeding, will participate in a mediation in Katherine from 7–9 November 2022.

Over the past 12 months, the COVID-19 pandemic has had a significant impact on the ability of the Northern Land Council and Central Land Council to complete work in the field. Due to high infection rates in the first half of the year, the land councils have only recently recommenced travelling to communities. Two on-country consent determinations are scheduled in September 2022 for matters in the Northern Region.

### Assisted dispute resolution

Assisted dispute resolution (ADR) is an important part of the efficient resolution of litigation in the Court context, with cases 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 has been a Recognised Mediator Accreditation Body since September 2015 and has implemented the Federal Court Mediator Accreditation Scheme (FCMAS). The FCMAS incorporates the National Mediator Accreditation Standards and the majority of court-ordered mediations are conducted by registrars who are trained and accredited by the Court under the FCMAS.

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

Since the 2010–11 reporting period, the Court has maintained comprehensive statistical information about referrals to ADR and the outcomes of ADR processes held during the relevant reporting period. Mediation referrals are summarised in Table 3.5. As in previous years, the data should be considered in light of various factors. Firstly, referrals to mediation or other types of ADR may occur in a different reporting period to the conduct of that mediation or ADR process. Secondly, not all referrals to mediation or the conduct of mediation occur in the same reporting period as a matter was filed. This means that comparisons of mediation referrals or mediations conducted as a proportion of the number of matters filed in the Court during the reporting period are indicative only. Thirdly, the data presented on referrals to ADR during the reporting period does not include information about ADR processes that may have been engaged in by parties before the matter is filed in the Court, or where a private mediator is used during the course of the litigation. Similarly, the statistics provided in Table 3.5 do not include instances where judges of the Court order areas where their opinions are in agreement and disagreement without the supervision of a registrar.

In 2021–22, the majority of mediations were conducted by remote access technology due to travel and other restrictions associated with the COVID-19 pandemic.

During this period, there was a 13 per cent reduction in the number of matters referred to mediation compared with the 2020–21 reporting period, although referrals by matter type are broadly consistent with past years.

A collection of statistics concerning the workload of the Court by National Practice Area 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*).

### Special measures relating to COVID-19

The Court continued, where necessary, to operate under practices designed to minimise in-person attendance on court premises, with the Court's priority being the health and safety of the community, including parties, practitioners, judges and staff, and the families of all of these groups.

Online hearings continued to be utilised using remote access technology such as Microsoft Teams. Upgrades to the Court's information technology infrastructure initiated last year which included increased internet bandwidth and video conference enabled courtrooms allowed for increased online hearings with the necessary transcript support.

The Court continued to utilise the following special measures information notes:

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

**TABLE 3.5: MEDIATION REFERRALS IN 2021–22 BY NATIONAL PRACTICE AREA AND REGISTRY**

NATIONAL PRACTICE AREA	NSW	VIC	QLD	WA	SA	NT	TAS	ACT	TOTAL
Administrative and constitutional law and human rights	10	9	7	4	2	0	0	0	32
Admiralty and maritime	2	0	1	0	0	0	0	0	3
Commercial and corporations	79	68	27	17	11	1	4	10	217
Employment and industrial relations	52	29	12	14	8	1	0	0	116
Federal crime and related proceedings	0	0	0	0	0	0	0	0	0
Intellectual property	23	24	7	3	1	0	0	0	58
Migration	1	6	0	0	0	0	0	0	7
Native title	1	0	7	4	1	0	0	0	13
Other federal jurisdiction	18	2	1	1	0	0	1	0	23
Taxation	3	0	1	0	0	0	0	0	4
<b>TOTAL</b>	<b>189</b>	<b>138</b>	<b>63</b>	<b>43</b>	<b>23</b>	<b>2</b>	<b>5</b>	<b>10</b>	<b>473</b>

A new Special Measures Information Note was introduced on 29 April 2021 for Appeals and Full Court Hearings (SMIN-5). SMIN-5 sets out arrangements for the conduct and management of appeals and Full Court hearings during the ongoing COVID-19 outbreak.

All Special Measures Information Notes are currently under review, reflecting the winding down of government restrictions in response to the COVID-19 pandemic.

The Court has continued to operate at 80 per cent of its courtroom capacity, though at any given time this can depend upon the applicable restrictions across the different states and territories. The Court continues to monitor and adjust its practices and procedures to maximise its responsiveness to the ongoing challenges presented by the COVID-19 pandemic.

### Hearings for detainees

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

### **eLodgment process improvements**

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

### **Practice and procedure reforms**

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

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

- considering feedback received in respect of its national practice notes, and
- managing responsibilities and support for each National Practice Area, 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 National Practice Area (including in class actions, migration and intellectual property).

### **Liaison with the Law Council of Australia**

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

### **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 and Family Court.

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

Tables 3.6, 3.7 and 3.8 provide broad statistics about the number of SRLs appearing in the Court as applicants in a matter (respondents are not recorded). As the recording of SRLs is not a mandatory field in the Court's case management system, and the representation status of a party during the course of a proceeding may vary from time to time, statistics shown in the tables are indicative only. In the reporting year, 436 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 2021–22 BY REGISTRY**

ACTIONS COMMENCED	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	TOTAL
SRLs	6	234	4	35	12	4	80	61	436
<b>PERCENTAGE OF TOTAL</b>	1%	54%	1%	8%	3%	1%	18%	14%	<b>100%</b>

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

**TABLE 3.7: PROCEEDINGS COMMENCED BY SRLS IN 2021–22 BY CAUSE OF ACTION**

CAUSE OF ACTION	TOTAL ACTIONS	% OF TOTAL
Administrative law	13	3%
Admiralty	0	0%
Appeals and related actions	280	67%
Bankruptcy	13	3%
Bills of costs	0	0%
Competition law	0	0%
Consumer protection	9	2%
Corporations	3	1%
Cross claims	0	0%
Fair work	23	5%
Human rights	7	2%
Industrial	1	0%
Intellectual property	1	0%
Migration	54	13%
Miscellaneous	11	3%
Native title	4	1%
Taxation	2	0%
<b>TOTAL</b>	<b>421</b>	<b>100%</b>

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

**TABLE 3.8: APPEALS COMMENCED BY SRLS IN 2021–22 BY CAUSE OF ACTION**

CAUSE OF ACTION	TOTAL ACTIONS	% OF TOTAL
Administrative law	5	2%
Admiralty	0	0%
Bankruptcy	17	6%
Competition law	0	0%
Consumer protection	2	1%
Corporations	0	0%
Fair work	1	0%
Human rights	2	1%
Industrial	0	0%
Intellectual property	1	0%
Migration	244	87%
Miscellaneous	8	3%
Taxation	0	0%
Native title	0	0%
<b>TOTAL</b>	<b>280</b>	<b>100%</b>

### *Direct financial counselling project in bankruptcy proceedings*

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

During the COVID-19 pandemic, a financial counsellor was made available either by telephone or via Microsoft Teams. 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 all three registries, SRLs may also be provided with the details of financial counselling services ahead of the first court return date and referrals can be made by registry staff when assisting an SRL by telephone or over the counter.

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

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



During the reporting year, all registries experienced reduced numbers of filings due to changes to the *Bankruptcy Act 1966* because of COVID-19. As a result, there were proportionally less referrals to financial counsellors. Numbers are beginning to increase in all registries.

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

### Interpreters

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

In general, the Court's policy is to provide these services for litigants who are 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 and Family Court fees regulation (see below).

### Court fees and exemption

Fees are charged under the *Federal Court and Federal Circuit and Family Court Regulations 2012* for filing documents; setting a matter down for hearing; hearings and mediations; taxation of bills of costs; and for some other services in proceedings in the Court.

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

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

- human rights applications (other than an initial filing fee of \$55)
- some fair work applications (other than an initial filing fee of \$74.50)

- appeals from a single judge to a Full Court in human rights and some fair work applications
- an application by a person to set aside a subpoena
- an application under section 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
- setting-down fees for an interlocutory application
- a proceeding in relation to a matter remitted to the Federal Court by the High Court under section 44 of the *Judiciary Act 1903*, and
- a proceeding in relation to a referral to the Court of a question of law by a tribunal or body.

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

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

A person who has a general exemption from paying a fee can also receive, without paying a fee, the first copy of any document in the court file or a copy required for the preparation of appeal papers.

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

Entities subject to the *Freedom of Information Act 1982* (Cth) are required to publish information to the public as part of the Information Publication Scheme (IPS). This requirement is in Part II of the *Freedom of Information Act 1982* and has replaced the former requirement to publish a section 8 statement in an annual report. Each agency must display on its website a plan showing what information it publishes in accordance with the IPS requirements.

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

The availability of some documents under the *Freedom of Information Act 1982* will be affected by section 5 of that Act, which states that the Act does not apply to any request for access to a document of the Court unless the document relates to matters of an administrative nature. Documents filed in court proceedings do not relate to matters of an administrative nature; they may, however, be accessible by way of an application for inspection of court documents under the Federal Court Rules.

### Information for the media and televised judgments

The Director, Public Information (DPI) deals with all media inquiries which usually relate to accessing files and requests for judgments. Duties also involve issues that can require high-level contact and coordination.

The DPI is heavily reliant on the close cooperation and support of registries, judges' chambers, web team and those responsible for external webcasting.

The pandemic has dramatically changed the way the Court operates – most significantly, through the use of webcasting so the public can follow individual cases without the need to come to court.

During this period, the Court has effectively become a de facto broadcaster, making cases more accessible and easier to follow for media and general public.

In the reporting year cases that attracted a high level of media interest included:

- NSD912/2020: Clive Palmer v Mark McGowan
- NSD1485, NSD1486, NSD1487/2018: Roberts-Smith v Fairfax Media
- NSD616, NSD642/2018: Westpac v Forum Finance
- VID607/2020 (first instance), VID389/2021 (appeal): Sharma v Minister for Environment
- VID697/2021: Ferguson v Cricket Tasmania, and
- VID18/2022: Djokovic v Minister for Immigration.

The Roberts-Smith case is one of the longest running in the Court's history, clocking up exactly 100 hearing (trial) days at the conclusion of the reporting year when it was nearing its conclusion. In contrast, the Djokovic matter was dealt with in a very short timeframe, but attracted unprecedented worldwide interest. Viewing numbers for the appeal – broadcast on YouTube – peaked at 1.2 million.

In some cases of public importance, the Court establishes online files on to which documents are placed once approved. This assists media and the public in understanding cases better.

The Djokovic online file attracted a record 626,000 views, while the Roberts-Smith file – now the Court's second most viewed – has so far at the time of publication reached just under 93,000.

### 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.

### 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. The Victorian registry hosted the University of New England Law School Moot and the Monash JD Moot Grand Final Competition in May 2022. The New South Wales registry hosted the University of New England Moot Courts in May 2022. The Queensland registry hosted the ATSSIS Moot and the ATSSIS Moot (Final) in September 2021 and an exhibition Moot for the University of Queensland in June 2022.

### User groups

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

### Legal community

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

- **Perth** – four Federal Court jurisdiction seminars on the topics of Federal Jurisdiction; An introduction to Native Title; Administrative Law with a focus on Migration Law; and Commercial and Corporate. The registry also held an Employment and Industrial Relations seminar and a feedback meeting on the Federal Court's insurance list information. In addition the registry hosted the 2021 Western Australia Courts Summer Clerkship Program.
- **Melbourne** – a national seminar 'Conversations on current issues in the practice of Employment and Industrial Law'; an Australian Academy of Law seminar 'The Legal and Ethical Regulation of the Internet of Things'; an Australian Law Reform Commission Financial Services Inquiry Advisory Committee Meeting; and a national Commercial Law seminar 'We need to talk about class actions!'.
- **Adelaide** – the South Australia Bar Readers Course on 1 September 2021.
- **Sydney** – Mahla Pearlman Oration, Whitmore Lecture, International Arbitration Lecture, the Australian Judicial Officers Association, the Australian Academy of Law and the Law Council and a Commercial Arbitration in Australia event.
- **Brisbane** – an Employment and Industrial Relations seminar; and a ceremonial sitting to welcome newly appointed Queen's Counsel.

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

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

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

An outline of the judges' work in this area is included in Appendix 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 2021–22 the Court offered the following activities:

- four education sessions were scheduled at the Judges' meeting on 24–25 November 2021 (held remotely), and

- ten education sessions were scheduled at the Judges' meeting on 25–27 May 2022 (in Adelaide).

Education sessions offered at the Judges' meetings in 2021–22 included:

- Workshops on the following national practice areas:
  - All national practice areas session
  - Native title
  - Administrative and constitutional law and human rights
  - Admiralty and maritime.
- Session for Judges under three years
- Judicial conduct
- Judicial wellbeing: Coming out of COVID
- Our linguistically diverse society
- Managing the judicial workload
- Federal Court and Law Council of Australia joint conference on tax law, including sessions on:
  - Issues/developments in international tax
  - Interpreting tax treaties
  - Income v capital
  - Case management and trial preparation.

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 the period from 1 July 2021 to 30 June 2022, the Federal Court of Australia met the National Standard for Professional Development for Australian Judicial Officers.

## Work with international jurisdictions

Although the COVID-19 pandemic continued to limit international travel, the Federal Court was able to maintain relations and activities with several jurisdictions across the Asia-Pacific region. The Court also continued to support remotely reform and development objectives under the Pacific Judicial Strengthening Initiative (PJSI).

At the end of 2021, after five consecutive years of successful implementation, the Court's contract with the New Zealand Ministry of Foreign Affairs and Trade to manage and deliver the PJSI concluded. The Court facilitated the smooth transfer of the program to its new managing contractor, Te Kura Kaiwhakawā (formerly the Institute of Judicial Studies), under the Office of the Chief Justice of New Zealand.

Throughout its life, the Court delivered 237 activities; collaborated with over 8,000 members of the courts and the broader community and funded an additional 87 locally-led activities to address priority challenges. In its final evaluation, the initiative achieved and exceeded all its performance targets. Despite the challenges presented by COVID-19, the program was able to significantly expand access to justice through the courts, build the competent provision of substantive justice outcomes and increase the efficient delivery of procedural justice services.

In March 2022, the Court secured new funding from the Department of Foreign Affairs and Trade to extend its work within the Pacific region under the Pacific Judicial Integrity Program. In partnership with the Papua New Guinea Centre for Judicial Excellence, the program aims to deliver tailored training and development activities to support judicial and court officers to preside over and manage fraud and corruption-related cases within their respective jurisdictions. The program will also create and facilitate a regional network of judicial mentoring support to respond to the ongoing needs of courts beyond the life of the program and improve the transparency of fraud and corruption-related cases through the promotion of efficient case management and reporting. The design and delivery of these judicial and court officer training workshops will be informed and guided by the expertise of two professional panels comprising Judges and Registrars from the Pacific and Australia.

Twelve Pacific Island judiciaries are participating in the Program, including Fiji, Federated States of Micronesia, Kiribati, Nauru, Palau, Papua New Guinea, Republic of Marshall Islands, Samoa, Solomon Islands, Tokelau, Tonga and Vanuatu. The program will run for a duration of three years to 2025 at which time it will be transferred to the Centre for Judicial Excellence to continue its delivery.

### Papua New Guinea

In May, Chief Justice Allsop met with Chief Justice Salika to discuss library support under the longstanding Memorandum of Understanding between the Court and the National and Supreme Courts of Papua New Guinea. As a sequel, Ms Angela Allen, Manager, Library and Information Services (Qld) visited the Law Courts complex at Waigani, Port Moresby in June to discuss library support and training needs with library staff in the particular context of the Law Courts expansion project.

Also in June, Chief Justice Allsop and Chief Justice Salika signed an Annex to the Memorandum, signifying the continued importance of the relationship between the Courts, and the strengthening of their partnership to jointly deliver the Pacific Judicial Integrity Program.

Justices Collier and Logan resumed attending in-person in Papua New Guinea to undertake sitting in the Supreme Court pursuant to a longstanding arrangement with the Papua New Guinea Judiciary which complements the Memorandum.

### Supreme Court of Indonesia

In July and October 2021, Justice O'Bryan was a panellist at an international seminar between the Supreme Court of Indonesia and the Federal Court regarding Competition Law. The presentations focused on 'Competition Law in Australia: Structures of Enforcement and Review' and 'Examination process of witnesses and experts in competition law cases at the Federal Court'. This sharing of judicial knowledge and expertise provided input into the Supreme Court's initiative regarding the Procedure to Review Appeal from the Anti-Competition Commission.

In July 2022, Justice Burley gave a presentation on the 'International Treaties concerning Intellectual Property' to support the Supreme Court's judicial certification training for Commercial Court judges.

The sharing of judicial knowledge and mutual learning strengthens and reinforces the long-standing cooperation between the Supreme Court of Indonesia and Federal Court which enters its 18th year since the signing of first Memorandum of Understanding.

### **World Intellectual Property Organization**

Through Justice Burley, the Court is collaborating with the World Intellectual Property Organization to develop resources for the conduct of Intellectual Property trials around the world. With the assistance of two judicial registrars, Justice Burley edited an 'Intellectual Property Benchbook' for judges hearing related cases in the Philippines and Viet Nam. Judges from each of those countries were contributing authors. The Benchbook will be launched in Geneva in November 2022 as part of the WIPO Intellectual Property Judges' Forum. Justice Burley will give a presentation at the launch whilst continuing to work on the development of a parallel Benchbook for Indonesia.

The Court also assisted in the preparation of the Australian chapter in a publication directed to patent procedure in various countries around the world.



# Part 4: Management and accountability



## Governance

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

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

The *Federal Court of Australia Act 1976* also provides that the Chief Justice may delegate any of his or her administrative powers to judges, and that the CEO and Principal Registrar may exercise powers on behalf of the Chief Justice in relation to the Court's administrative affairs.

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

### Judges' committees

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

An overarching Operations and Finance Committee, chaired by the Chief Justice, assists the Chief Justice with the management of the administration of the Court.

An overarching National Practice Committee assists the Chief Justice in relation to practice and procedure reform and improvement in 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.

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

For more information about committees, see Appendix 14.

### Judges' meetings

National meetings of all judges are held on a biannual basis. A national judges' meeting was held by video conference in November 2021 and in-person in Adelaide in May 2022. The meetings dealt with matters such as the Court's Digital Court Program and other digital initiatives, enhancing legal support arrangements for judges and updates were provided from the various judicial committees.

### External scrutiny

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

## Commonwealth Courts Corporate Services

### Overview

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

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

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

## Objectives

The objectives of Corporate Services are to:

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

## Purpose

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

During 2021–22, the work of Corporate Services focused on supporting the evolving needs of judges and staff across all the courts and tribunals, while delivering on required efficiencies to meet reduced appropriations.

The following outlines the work of Corporate Services, including major projects and achievements, during 2021–22.

## The work of Corporate Services in 2021–22

### *Financial management*

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.

The Federal Court has an Operations and Finance Committee, which is made up of judges from the Court as well as the CEO and Principal Registrar.

This committee meets periodically and oversees the financial management of the Court, with Corporate Services providing support.

### *Financial accounts*

During 2021–22, revenue from ordinary activities totalled \$380.346 million.

Total revenue comprised:

- an appropriation from government of \$298.390 million
- \$43.811 million of resources received free of charge, predominantly for accommodation occupied by the Court in Commonwealth Law Courts buildings and the Law Courts Building in Sydney
- \$36.057 million of liabilities assumed by other government agencies, representing the notional value of employer superannuation payments for the Courts' judges, and
- \$2.088 million from the sale of goods and services and other revenue and gains.

Total expenses as per the financial statements are \$377.933 million. This comprises \$109.460 million in judges' salaries and related expenses, \$138.928 million in employees' salaries and related expenses, \$43.951 million in property-related lease expenses, \$48.818 million in other administrative expenses, \$34.692 million in depreciation expenses and \$2.084 million for the write-down and impairment of assets and financial instruments and financing costs.

The net operating result from ordinary activities for 2021–22, as reported in the financial statements, is a surplus of \$2.413 million including depreciation expenses and the accounting impacts of AASB 16 Leases. Depreciation expenses in 2021–22 of \$34.692 million includes depreciation on right of use assets recognised under AASB 16 Leases. To reflect the underlying operating surplus of the Federal Court of Australia entity, in line with Department of Finance guidelines, depreciation expenses of \$34.692 million are excluded and principal payments of lease liabilities of \$19.209 million are included. This effectively reverses the impact of AASB 16 Leases on the underlying result and shows a net surplus from ordinary activities of \$17.896 million for 2021–22.

The surplus is an improvement on the budgeted break-even position due to judicial vacancies, the slower than expected appointment of a number of newly funded positions as a result of new government initiatives and the continued impact of COVID-19 on a number of operational expense areas.

The Federal Court has no other comprehensive income to report in 2021–22.

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 \$116.356 million in 2020–21 to \$137.476 million in 2021–22.

Program statements for each of the Court's programs can be found in Part 1.

### **Advertising and market research**

As required under section 311A of the *Commonwealth Electoral Act 1918* (Cth), the Court must provide details of all amounts paid for advertising and marketing services. A total of \$155,284 was paid for recruitment advertising services in 2021–22. Payments for advertising the notification of native title applications, as required under the *Native Title Act 1993*, totalled \$91,872 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 2021–22.

## **Corporate governance**

### **Audit and risk management**

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

- fraud control plans and fraud risk assessments have been prepared that comply with the Commonwealth Fraud Control Guidelines
- appropriate fraud prevention, detection, investigation and reporting procedures and practices that comply with the Commonwealth Fraud Control Guidelines are in place, and
- the entity has taken all reasonable measures to appropriately deal with fraud relating to the entity. There were no instances of fraud reported during 2021–22.

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 2021–22. The committee comprises an independent chairperson, three judges from the Federal Court, three judges 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 two 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.



TABLE 4.1: AUDIT COMMITTEE, 30 JUNE 2022

MEMBER NAME	QUALIFICATIONS, KNOWLEDGE, SKILLS OR EXPERIENCE	NUMBER OF MEETING ATTENDED/ TOTAL NUMBER OF MEETINGS	TOTAL ANNUAL REMUNERATION
Ian Govey AM	<ul style="list-style-type: none"> <li>■ Bachelor of Laws (Hons), Bachelor of Economics.</li> <li>■ Fellow, Australian Academy of Law.</li> <li>■ Chair, Banking Code Compliance Committee.</li> <li>■ Chair, Federal Court of Australia Audit Committee.</li> <li>■ Deputy Chair, Commonwealth Director of Public Prosecutions Audit Committee.</li> <li>■ Director, Australian Centre for International Commercial Arbitration (ACICA).</li> <li>■ Director, Australasian Legal Information Institute (AustLII).</li> <li>■ Deputy Chair, ACT Community Services Directorate Audit Committee.</li> </ul> <p>Previously:</p> <ul style="list-style-type: none"> <li>■ CEO, Australian Government Solicitor.</li> <li>■ SES positions in the Australian Public Service, including Deputy Secretary of the Commonwealth Attorney-General's Department.</li> </ul>	4	\$22,400
Justice Nicholas	<ul style="list-style-type: none"> <li>■ Bachelor of Laws, Bachelor of Arts.</li> <li>■ Previously a barrister practising in the areas of commercial law, intellectual property law and trade practices law.</li> <li>■ Appointed Senior Counsel in 2001.</li> <li>■ Appointed as a Judge to the Federal Court of Australia in 2009.</li> </ul>	4	\$0
Justice Murphy	<ul style="list-style-type: none"> <li>■ LLB, B Juris.</li> <li>■ Senior Partner of law firm (1990–95).</li> <li>■ Chairman of national law firm (2005–11) with responsibilities including financial forecasts, budgeting and risk management.</li> <li>■ Board Member, Vice President and President, KidsFirst (formerly Children's Protection Society) (2005–present) with responsibilities including financial forecasts, budgeting and risk management.</li> </ul>	2	\$0

MEMBER NAME	QUALIFICATIONS, KNOWLEDGE, SKILLS OR EXPERIENCE	NUMBER OF MEETING ATTENDED/ TOTAL NUMBER OF MEETINGS	TOTAL ANNUAL REMUNERATION
Justice Farrell	<ul style="list-style-type: none"> <li>■ BA LLB (Hons) University of Sydney.</li> <li>■ Deputy President, Australian Competition Tribunal.</li> <li>■ Fellow, Australian Academy of Law.</li> <li>■ Honorary life member, Business Law Section, Law Council of Australia.</li> </ul> <p>Previously:</p> <ul style="list-style-type: none"> <li>■ President, Takeovers Panel (2010–12).</li> <li>■ Member, Takeovers Panel (2001–10).</li> <li>■ Chairman, Business Law Section, Law Council of Australia (2008–09).</li> <li>■ Member, Executive, Business Law Section (2004–13).</li> <li>■ Chair, Corporations Committee (2000–03).</li> <li>■ Representative, Law Council, ASX Corporate Governance Council (2001–12).</li> <li>■ Partner, Freehill Hollingdale and Page (1984–1992, 1994–2000).</li> <li>■ Consultant, Freehills (2000–12).</li> <li>■ National Coordinator, Enforcement, Australian Securities Commission (1992–93).</li> <li>■ Acting member, Australian Securities Commission (1993).</li> <li>■ Non-executive director and member of the audit committee for profit companies and government entities in the electricity generation, international banking, clothing manufacture and retail sectors (over periods between 1995–2010).</li> <li>■ Non-executive director and member of the audit committee of not-for-profit entities the Securities Institute of Australia, the Australian Institute of Management, the National Institute of Dramatic Art and the Fred Hollows Foundation (over periods 1995–2017).</li> <li>■ Fellow, Australian Institute of Management.</li> <li>■ Fellow, Australian Institute of Company Directors.</li> </ul>	4	\$0
Justice Harper	<ul style="list-style-type: none"> <li>■ BA (Hons), LLB, PhD (Uni Syd).</li> <li>■ Member, Family Court Finance Committee.</li> <li>■ Member, Family Court Conduct Committee.</li> </ul>	4	\$0



MEMBER NAME	QUALIFICATIONS, KNOWLEDGE, SKILLS OR EXPERIENCE	NUMBER OF MEETING ATTENDED/ TOTAL NUMBER OF MEETINGS	TOTAL ANNUAL REMUNERATION
Justice McEvoy	<ul style="list-style-type: none"> <li>■ B.A; LL.B. (Hons); LL.M (Melb); S.J.D. (Virginia).</li> <li>■ Visiting Professor, University of Virginia School of Law.</li> <li>■ Finance Committee, Family Court of Australia.</li> <li>■ Board member; member of audit committee; Parenting Research Centre, 2010–16.</li> <li>■ Queen’s Counsel, Victoria, 2016–19.</li> <li>■ Barrister, Victorian Bar, 2002–19.</li> <li>■ Senior Associate, Freehills 1999–2002.</li> </ul>	2	\$0
Judge Driver	<ul style="list-style-type: none"> <li>■ Bachelor of Arts/Law ANU.</li> <li>■ Chair, Federal Circuit and Family Court Legal Committee.</li> <li>■ Member, Federal Circuit and Family Court Finance Committee.</li> <li>■ Judge, Federal Magistrates Court and Federal Circuit and Family Court since 31 July 2000.</li> <li>■ Member, Australian Institute of Judicial Administration.</li> <li>■ Member, Law Council of Australia, Federal Litigation Section.</li> <li>■ Member, Judicial Conference of Australia.</li> <li>■ Previously held a number of Senior Executive Service positions in the Australian Public Service, Office of the Australian Government Solicitor.</li> </ul>	4	\$0
Justice Howard	<ul style="list-style-type: none"> <li>■ Bachelor of Laws.</li> <li>■ Fulbright Scholar.</li> <li>■ Member, Fulbright Scholarship Legal Assessment panel.</li> <li>■ Visiting Foreign Judicial Fellowship, Federal Judicial Center, Washington DC (2018).</li> <li>■ LAWASIA, Judicial Section Coordinating Committee.</li> <li>■ President, QUT Law Alumni Chapter (2014–18).</li> <li>■ Chair, LAWASIA Family Law Section (2011–14).</li> <li>■ Board Member, Centacare, Queensland (2004–12).</li> <li>■ Member, Advisory Board, St Vincent de Paul Society, Queensland (1992–94).</li> </ul>	0	\$0

MEMBER NAME	QUALIFICATIONS, KNOWLEDGE, SKILLS OR EXPERIENCE	NUMBER OF MEETING ATTENDED/ TOTAL NUMBER OF MEETINGS	TOTAL ANNUAL REMUNERATION
David Donovan	<ul style="list-style-type: none"> <li>■ FCPA.</li> <li>■ Masters of Commerce; Graduate Certificate Professional Accounting.</li> <li>■ Fellow of the Institute of Public Accountants (FIPA).</li> </ul> <p>David Donovan is a Business Manager at the Department of Infrastructure, Transport, Regional Development, Communications and the Arts. Previously, David was the Chief Finance Officer of the Commonwealth Government Digital Transformation Agency and the Administrative Appeals Tribunal (AAT) where he led teams of finance professionals in all aspects of financial management. Prior to the AAT, David was employed across financial roles at the CSIRO, Department of Human Services and the National Health Performance Authority.</p>	3	\$0

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

### **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 2020–21 annual report**

There are no errors to report.

### **Security**

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

During 2021–22, \$6.2 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.

A number of matters before the courts have required special arrangements to be made in order to accommodate the heightened security requirements sought by parties. A project to provide dedicated facilities which meet the security requirements for the most sensitive matters is currently nearing completion.

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

The development of a security risk culture emphasising the integrated nature of personal, physical and information security continues through the security communications plan. The Court continues to develop its cyber security capacity and culture.

### **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](http://www.tenders.gov.au).

#### **Consultants**

During 2021–22, five new consultancy contracts were entered into, involving total actual expenditure of \$521,763.91. In addition, six ongoing consultancy contracts were active during 2021–22, which involved total actual expenditure of \$162,235.21.

Table 4.2 outlines expenditure trends for consultancy contracts for 2021–22.

#### **Competitive tendering and contracting**

During 2021–22, 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 2021–22, there were no contracts or standing offers exempted by the CEO and Principal Registrar from publication in the contract reporting section on AusTender.

#### **Exempt contracts**

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

#### **Procurement initiatives to support small business**

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

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

**TABLE 4.2: EXPENDITURE ON REPORTABLE CONSULTANCY CONTRACTS, CURRENT REPORTING PERIOD (2021–22)**

REPORTABLE CONSULTANCY CONTRACTS	NUMBER	EXPENDITURE \$ (GST INC.)
New contracts entered into during the reporting period	5	\$521,764
Ongoing contracts entered into during a previous reporting period	6	\$162,235
<b>TOTAL</b>	<b>11</b>	<b>\$683,999</b>

**TABLE 4.3: EXPENDITURE ON REPORTABLE NON-CONSULTANCY CONTRACTS, CURRENT REPORTING PERIOD (2021–22)**

REPORTABLE NON-CONSULTANCY CONTRACTS	NUMBER	EXPENDITURE \$ (GST INC.)
New contracts entered into during the reporting period	234	\$25,407,395
Ongoing contracts entered into during a previous reporting period	250	\$40,762,636
<b>TOTAL</b>	<b>484</b>	<b>\$66,170,031</b>

**TABLE 4.4: ORGANISATIONS RECEIVING A SHARE OF REPORTABLE CONSULTANCY CONTRACT EXPENDITURE, CURRENT REPORTING PERIOD (2021–22)**

NAME OF ORGANISATION	EXPENDITURE \$ (GST INC.)
Pricewaterhousecoopers Consulting (Australia) Pty Limited (ABN 20 607 773 295)	\$384,197
Nous Group Pty Ltd (ABN 66 086 210 344)	\$72,600
Centre for Judicial Studies Pty Ltd (ABN 77 088 423 394)	\$65,022
Diacher Pty Limited (ABN 44 006 170 958)	\$46,211
S Ajitkumar & Others (ABN 89 690 832 091)	\$46,003

**TABLE 4.5: ORGANISATIONS RECEIVING A SHARE OF REPORTABLE NON-CONSULTANCY CONTRACT EXPENDITURE CURRENT REPORTING PERIOD (2021–22)**

NAME OF ORGANISATION	EXPENDITURE \$ (GST INC.)
Built Pty Limited (ABN 24 083 928 045)	\$7,470,220
MSS Security Pty Limited (ABN 29 100 573 966)	\$6,590,292
Evolve FM Pty Ltd (ABN 52 605 472 580)	\$2,763,018
Macquarie Telecom Pty Limited (ABN 21 082 930 916)	\$2,485,107
Thomson Reuters (Professional) Australia Limited (ABN 64 058 914 668)	\$2,126,821

## 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 building 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 Memorandum of Understanding (MOU) was signed by the Court with Department of Finance for 2018–19 which continues to roll over monthly while the Court and Department of Finance negotiate a long-term agreement. The longer-term lease agreement MOU is expected to come into effect part way through 2022–23 financial year.

### *Registries – leased*

Corporate Services also manages some 15 registry buildings across the nation, located in leased premises. Leased premises locations include Albury, Alice Springs, Cairns, Dandenong, Dubbo, Launceston, Lismore, Newcastle, Rockhampton, Sydney, Townsville and

Wollongong. There are also arrangements for the use of ad hoc accommodation for circuiting in 25 other regional locations throughout Australia.

### *Regional registries – co-located*

The Courts co-locate with a number of state court jurisdictions, leasing accommodation from their state counterparts. The Court has Federal Court and Federal Circuit and Family Court registries in Darwin. The registries are co-located in the Northern Territory Supreme Court building under the terms of a Licence to Occupy between the Court and the Northern Territory Government.

### *Queens Square, Sydney*

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

### *Projects and capital works delivered in 2021–22*

The majority of capital works delivered in 2021–22 were projects addressing the urgent and essential business needs of the Courts. Projects undertaken or commenced included the following:

- Completed fitout of the new Sydney Corporate Services office and the relocation of Corporate Services from Queens Square to the new office.

- Completed the expansion of registrar accommodation at the Brisbane Commonwealth Law Courts.
- Completed the establishment of a new Indigenous liaison office in Alice Springs to better support the local community.
- Completed the modification of spaces in Perth to create a new mediation suite.
- Commenced construction for additional jury courtrooms and judges' chambers in the Queens Square Law Courts building in Sydney. Works are scheduled for completion early in the 2022–23 financial year.
- Commenced design works for the new Launceston registry including two courtrooms, judges' chambers, registry, mediation suite, safe room and child services. Works will commence early in the 2022–23 financial year and be completed within four months.
- Commenced concept design works to modify the Dandenong registry to increase the accommodation capacity for Registrars and Legal Case Manager facilities. Detailed design works will commence in early 2022–23, with construction estimated to be completed by the end of the financial year.
- Worked with the building owner, the Department of Finance, to complete painting works in the Perth Commonwealth Law Courts with planning underway for painting works in other Commonwealth Law Courts buildings.
- Worked with the building owner, the Department of Finance, for the upgrade of carpet throughout Melbourne Commonwealth Law Courts. The upgrades will continue through the 2022–23 financial year.
- Worked with the building owner, the Department of Finance, to progress key compliance, infrastructure and Disability Discrimination Act upgrades across a number of Commonwealth Law Courts which also continues in to the 2022–23 financial year.

### Environmental management

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

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 its policies, procurement and contracting arrangements

#### *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 4.6 lists environmental impact/usage data where available. The data is for all the Federal Court jurisdictions over the last five financial years.

#### *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 2021–22, the Court worked within its environmental management system to minimise its environmental impact through a number of specific measures, either new or continuing.

#### *Energy*

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

#### *Information technology*

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



**TABLE 4.6: THE COURT'S ENVIRONMENTAL IMPACT/USAGE DATA, 2017–18 TO 2021–22**

ENERGY DETAILS	2017–18	2018–19	2019–20	2020–21	2021–22
Energy usage – privately leased sites (stationary) <sup>1</sup>	5483 GJ	4353 GJ	3,615 GJ	3,349 GJ	3,376 GJ
<b>Transport vehicles – energy usage<sup>2</sup></b>					
Petrol	146,216 L/ 1,251,442 km	119,476 L/ 1,058,735 km	123,787 L/ 1,231,264 km	134,781 L/ 1,303,959 km	124,998 L/ 1,266,811 km
Diesel	+ 54,250 L/ 553,917 km	+ 58,233 L/ 613,562 km	43,519 L/ 450,433 km	52,521 L/ 548,504 km	45,310 L/ 451,818 km
Dual fuel	+ 6099 L/ 61,559 km	+ 4,976 L/ 84,872 km	10,652 L/ 106,918 km	N/A	N/A
CO <sup>2</sup>	502.9 tonnes	461 tonnes	443 tonnes	470 tonnes	461 tonnes
<b>Paper usage – office paper (reams)</b>					
FCFCOA	27,192	27,049	28,651	21,917	15,654
FCA	7,825	8,787	5,866	4,734	5,215
<b>TOTAL</b>	<b>35,017</b>	<b>35,836</b>	<b>33,812</b>	<b>26,651</b>	<b>20,869</b>

<sup>1</sup> The Department of Finance reports for the Commonwealth Law Courts; these figures are for the leased sites only.

<sup>2</sup> The Courts utilise 9 hybrid vehicles previously reported under Dual Fuel. For the reporting year 2021–22, hybrid vehicles are reported under Petrol Vehicles. The Courts also utilised one electric vehicle (EV) for the period. Data for the km travelled was not available at the time of this report.

### Paper

- Matters commencing with the Courts are now handled entirely electronically. Over 107,105 electronic court files have been created, comprising almost 1,423,943 electronic documents, effectively replacing the use of paper in court files. This is an increase of 10,102 electronic court files and 141,482 electronic court documents from 2020–21.
- Family law eFiling also continues to be expanded, with over 95.8 per cent of divorce applications now being electronically filed. This is an increase of 2.8 per cent from 2020–21.
- Clients are encouraged to use the online Portal, and staff are encouraged to send emails rather than letters where feasible.
- Secure paper (e.g. confidential) continued to be shredded and recycled for all court locations.
- Non-secure paper recycling was available at all sites.
- Printers are initially set to default double-sided printing and monochrome.
- 100 per cent recycled paper (9,201 reams) comprises 44 per cent of total paper usage.
- The overall reams total 2021–22 has decreased by 5,785 reams. This is due to the increased use of electronic filing and communication were feasible, and ongoing working from home arrangements.

### 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

During COVID-19 restrictions, less travel was undertaken by officials and electronic meeting platforms were relied upon as an alternative. Although some staff travel is unavoidable, the entity will continue to support the use of video conferencing and other lessons learned on the practice of remote communications where feasible and practicable.

### Additional ecologically sustainable development implications

In 2021–22, 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 2022, the Court engaged 1,247 employees under the *Public Service Act 1999*. This figure includes 765 ongoing and 482 non-ongoing employees.

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

All employees of the Federal Court and the Federal Circuit and Family Court were designated to be employees of the Federal Court of Australia by the *Courts Administration Legislation Amendment Act 2016*. 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*).

### COVID-19

A key focus during 2021–22 continued to be on providing employees with a safe workplace throughout the pandemic. The Court followed the health advice provided by state and federal government bodies, as well as commissioning further expert advice as required.

The Court consulted with employees via employee representative bodies such as our National Consultative Committee and our Health and Safety Committee to ensure the Court appropriately tailored the COVIDSafe practices it implemented for its workplace.

Following the opportunity to work remotely throughout many stages of the pandemic, the Court has provided employees, where their role allows it, with the option of a hybrid work model. Employees can elect to work a proportion of each week from the Court's premises and from their homes. Employees have enjoyed the flexibility and improved work-life balance of working from home, and there has been no impact on the Court's operations.

### *Employee wellbeing*

The Court maintained its focus on supporting employee wellbeing and implemented a number of initiatives to support employees who may be facing professional or personal challenges. All employees can access a free and confidential counselling service via our Employee Assistance Provider, as well as the option of attending seminars on topics such as building resilience.

The Court engaged professional wellbeing providers to lead sessions for employees where employees experienced significant events such as extended lockdowns. These sessions focused on a broad range of topics, such as personal wellbeing to successfully managing home schooling. Employees were able to invite family and friends to certain sessions so their broader support network could also benefit from this training. The Court also offers a weekly online yoga session at no cost to all staff.

### *Diversity and inclusion*

The Court is committed to a diverse and inclusive workplace, which includes ensuring its workforce reflects the broader communities in which our employees work. The Court focuses on ensuring it creates a safe and supporting environment in which employees can bring their true selves to work, as well as ensuring recruitment and other processes are strictly merit-based. From a gender diversity perspective, females now fill 59 per cent of positions at Senior Executive Service classifications and 64 per cent of positions at Executive Level classifications.

An important element of diversity and inclusion is ensuring employees are treated with dignity, courtesy and respect at all times in the workplace. The Court has adopted a zero tolerance approach to inappropriate workplace behaviour and recently updated its anti-discrimination, bullying and harassment policies to ensure they remain current and at best practice standards. The policies now also provide for a formal process for employees to raise a concern if they experience inappropriate behaviour by a judge.

The Court provided mandatory refresher training to all employees on these policies in 2021–22 to ensure employees understand expected standards of behaviour in the workplace, as well as ensuring all employees know how they can raise a concern if they experience inappropriate behaviour. The Court conducts this training on a quarterly basis to ensure all new employees are similarly aware of the Court's policies and expectations in this regard.

### *Reconciliation Action Plan*

The inaugural Federal Court entity Reconciliation Action Plan (RAP) for 2020–21 was launched in September 2020. There are four levels of RAP – Reflect, Innovate, Stretch and Elevate – which suit organisations at the different stages of their reconciliation journey. The Court's reconciliation journey began with a Reflect RAP in which it shared its vision for reconciliation as well as laid the foundation for future RAPs.

The Court has focused on creating employment opportunities for Aboriginal and Torres Strait Islanders, with its Aboriginal and Torres Strait Islander employment rate increasing from 1.9 per cent in 2020–21 to 2.3 per cent in 2021–22. The Court is currently working on its next RAP at the Innovate level, which it is aiming to launch in 2022–23.

### *Disability reporting mechanism*

*Australia's Disability Strategy 2021–2031* is the overarching framework for inclusive policies, programs and infrastructure that support people with disabilities to participate in all areas of Australian life. The strategy sets out where practical changes will be made to improve the lives of people with disability in Australia. It acts to ensure the principles underpinning the United Nations Convention on the Rights of Persons

with Disabilities are incorporated into Australia's policies and programs that affect people with disability, their families and carers. All levels of government have committed to deliver more comprehensive and visible reporting under the Strategy. A range of reports on the progress of the Strategy's actions and outcome areas will be published and available at <https://www.disabilitygateway.gov.au/ads>.

Disability reporting is included in the Australian Public Service Commission's State of the Service reports and the APS Statistical Bulletin. These reports are available at <http://www.apsc.gov.au>

### **Employment arrangements**

The Remuneration Tribunal determines the remuneration of the CEO and Principal Registrars for the Federal Court, the Federal Circuit and Family Court and the Registrar of the National Native Title Tribunal, as they are holders of statutory offices.

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

The *Federal Court of Australia Enterprise Agreement 2018–2021* covers most non-SES employees. A Determination supplements the enterprise agreement, with the Determination setting out the pay increases employees are eligible to receive during the 2021–22 to 2023–24 financial years. The Court made the Determination in accordance with the *Public Sector Workplace Relations Policy 2020*.

Individual flexibility arrangements are provided for in the enterprise agreement and are used to negotiate employment arrangements that appropriately reflect individual circumstances. 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 2022, there were:

- three employees on Australian workplace agreements
- two hundred and eighteen employees on individual flexibility arrangements

- seventeen on section 24 determinations, and
- one thousand and nine employees (including casual employees) covered by the 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. One employee received a performance payment in line with the employment arrangements that were agreed at the time the employee joined the Court. The amount paid to the employee totalled \$10,000. The Court and the relevant employee have agreed to phase out this performance payment and the employee will not be eligible to receive a payment in 2022–23.

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.

### **Work health and safety**

The Court has a strong focus on providing employees with a safe and hazard free workplace. This is underpinned by the Court's commitment to consulting employees on safety related matters, with the Court having a formal Health and Safety Committee in place that meets on a quarterly basis.

In line with the Court's focus on employee wellbeing, the Court adopts early intervention strategies to support staff returning to work and performing their full range of duties following injury or illness. This applies irrespective of whether an injury is work related.

The Court's strong safety performance is reflected in the Court experiencing 59 per cent fewer accepted workers compensation claims than the average for Commonwealth agencies in 2021–22. The Court's indicative workers compensation premium for 2022–23 is similarly decreasing by 55 per cent in comparison to the premium for 2021–22.

## Information technology

The Information Technology (IT), Digital Practice and Cybersecurity teams focus on creating and maintaining technology that is simple, follows contemporary industry standards and meets the evolving needs of judges, staff, external clients, practitioners and other stakeholders across the Courts and Tribunals.

The IT team supports equitable, transparent access to justice via secure, responsive digital services delivered by a modern, cost-effective IT function as a trusted part of the Courts and Tribunals.

Work continued on consolidating and modernising IT systems to simplify the combined court environment and deliver efficiency improvements and more contemporary practices to reduce the cost of delivery.

Achievements for 2021–22 included:

- **Court reform:** Implementation of Court Reform system work to support improved case management pathways for family law in the newly created Federal Circuit and Family Court of Australia (Division 1 and Division 2). This significant change was completed on time for the 1 September legislation commencement.
- **Lighthouse pilot:** The protection of vulnerable parties and children in family law proceedings is supported by the Lighthouse pilot project including risk screening, triage and case pathways into appropriate case management streams. The initial pilot has been successful and work is under way to expand this capability to all family law registries.
- **Visibility of superannuation for family law:** Established secure, automated sharing for superannuation information requests to the Australian Taxation Office for inclusion in property matters. This system was implemented in April 2022.
- **Wi-Fi:** Expansion of court and public Wi-Fi to most court registries, with the remaining regional registries to be completed in 2022–23.
- **Information Management System:** Rationalisation of document management solutions with the migration of documents from four separate repositories, including significant document migration for the National Native Title Tribunal.
- **Telephony:** All telephony services have migrated to softphones and voice over IP handsets, from legacy ISDN or other services, further enabling location-independent calling and court operations.
- **Hardware:** Rollout of refreshed laptops and associated hardware to all judges and staff supporting hybrid and remote working.
- **IT Strategic Plan:** A review of the IT Strategic Plan was completed, with initiatives determined and a future roadmap developed. A review of the previous IT Roadmap found that more than 90 per cent of initiatives were completed, or partially completed, with some pivoting in priorities occurring throughout that time.

## Digital Court Program

The Digital Court Program continues to be a key priority for the Court, with the aim of streamlining core business systems and creating flexibility and operational efficiency. The Digital Court Program oversees the ongoing modernisation of critical document, workflow and case management tools to support the delivery of quality services to the Australian community. The program is delivering improvements to the tools used to manage the Courts' caseload through the development of a new application suite – CourtPath.

The first release of CourtPath is scheduled for the second half of 2022. This release will deliver immediate benefits to family law court files and case management, as well as introduce the system's core architecture. CourtPath will provide a modern, stable platform across the Courts that will deliver significant efficiencies to processes and work patterns.

CourtPath is being developed in partnership with judges, registrars and court staff to deliver sustainable and genuine improvements to workflows, while supporting efficient case handling. Throughout 2021–22, foundational frameworks and initial digital court file capability have been developed. Enhancement and development of additional features continues,

with a roadmap to deliver replacement of legacy systems over the next three to five years.

Following user-centred design principles, CourtPath is intuitive to use while remaining powerful enough to provide timely and accurate access to critical data. CourtPath uses familiar, predictable design patterns seen in other modern applications to minimise the need for user training.

### *Cyber security*

Investment in cyber security continues to be critical, as technology is essential to court operations and the threat landscape continues to evolve. The Court appointed a new Chief Information Security Officer in early 2021, who has led the measurement of current cyber maturity and the establishment of a roadmap with key capability improvements over the next three years to increase protection of court assets, data and operations.

The Court continues to strengthen cyber security maturity in line with the Australian Cyber Security Centre recommendations and Protective Security Policy Framework requirements.

Protection of endpoints (servers, laptops and similar) has been significantly improved over 2021–22 and enhanced security will continue to be deployed through 2022–23.

Vulnerability identification and reduction has also been significantly improved and remains an ongoing priority.

### *Video conferencing and digital practice*

As hybrid hearings, which involve courtroom and remote participants, become a frequent option to conduct matters, the need for technology within the courtroom is more important than before. The focus for 2021–22 was to provide clearer audio and video, as well as larger screens for easier viewing for judges and parties within the courtrooms by upgrading ageing equipment. Software updates improve the remote joining and courtroom experience, including simplifying the connection process, sharing content throughout the courtroom, and the ability to customise participant layout. Additional courtrooms will be enabled for video conferencing throughout the coming year, with the goal to have the majority of courtrooms enabled within the 2022–23 financial year.

To support increasing demand for digital services and document viewing within court, four courtrooms were enabled with integrated eTrial and video conference capability. This allows content to be displayed on multiple screens within the courtroom, and to remote parties and live stream. The new jury courtroom fitout in the New South Wales registry has been set up to enable jury members to have their own individual screen to view content.

Access to justice via live streaming of hearings for media and the public continues to be provided by the Court. High profile matters including defamation, migration and employment matters have been particularly popular for streaming, with up to 90,000 peak viewers. Streaming is also important for the Courts to deliver other events such as judicial training seminars and ceremonial sittings.

Many divorce hearings are now conducted using video and/or audio conferencing, reducing the time and cost of proceedings, and managing safety concerns for parties. Improvements were implemented to automatically provide connection details within the court listing, enabling parties to connect more easily to the hearing, and reducing the manual workload for court and registry staff to manage manual conferencing configurations and communicate these to parties.

To support the Court's digital practice, new positions titled Digital Practice Officers were introduced in the Court in November 2021 to assist judges, chambers and court staff to increase efficiency of proceedings through enabling and refining digital practices. Some significant work included:

- Improving file sharing solutions to enable parties, practitioners and court staff to securely access shared files, reducing cost and administration overhead within courts.
- Supporting judicial development of practice notes, to improve the consistency, efficiency and use of electronic court books, reducing use of paper and third-party solutions.
- Introducing bespoke technical solutions to facilitate complex matters such as Ben Roberts-Smith v Fairfax Media Publications Pty Ltd (ACN 003 357 720) & ORS (NSD1485/2018) which had national security, privacy and international considerations.



- Continuing support and improvements for e-hearings, with live streaming of high interest matters.
- Conducting judiciary training in the use of iPads and related software to improve effectiveness in court operations and other key tasks such as judgment writing.
- Conducting staff training to make better use of electronic court files, case management and online lodgment solutions.

### Websites

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

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

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

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

In the reporting year, over 16,968,457 total hits to the sites were registered:

- **Federal Court website:** 5,455,229
- **Federal Circuit and Family Court of Australia (1 September 2021 – 30 June 2022):** 9,587,597
- **Family Court of Australia website (1 July 2021 – 31 August 2021):** 867,100
- **Federal Circuit Court of Australia website (1 July 2021 – 31 August 2021):** 1,058,531

- **National Native Title Tribunal website:** 829,632.

In the interests of maintaining open justice during the COVID-19 pandemic, improvements were made to the publishing procedures of the Daily Court Lists which continue to include links for members of the public to join online hearings as observers.

During the reporting period, seven new high profile online files were established. The most prolific of these was *Novak Djokovic v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* which generated an unprecedented 574,000 hits to the website, 320,000 of which were to the online file. Other online files created were *Clive Palmer v Mark McGowan*; *Minister for the Environment v Sharma*; *In the matter of the Forum Group of Companies*; and ten COVID-19 Business interruption insurance test cases.

Following the establishment of the entity in 2016, the entity was supporting three content management systems. In 2021, the entity selected the GovCMS platform to host all external websites. The Federal Circuit and Family Court of Australia website went live on GovCMS in September 2021. Work is now progressing to redesign the Federal Court and National Native Title Tribunal websites which are expected to go live in early 2024. Once complete, all legacy content management systems will be decommissioned.

### Social media

The Federal Court uses Twitter, YouTube and LinkedIn to inform the public about the role and work of the Court. Some cases of interest featured over the reporting period included:

- **VID18/2022: *Novak Djokovic v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs*:** This matter was transferred to the Federal Court from the Federal Circuit and Family Court of Australia (Division 2), after a hearing before Judge A Kelly on Friday 14 January. There were three live streams on the Federal Court YouTube channel during the proceeding, with combined total views of 1,614,613. The public sentiment with regards to the Court providing regular updates on Twitter, an online file and transparent coverage of the proceedings was extremely positive.

- NSD1485, NSD1486, NSD1487/2018: Ben Robert-Smith v Fairfax Media and Ors: As ordered by Justice Besanko on 2 February 2022, a total of 116 hearing videos for this matter were published to the Court's YouTube channel from 3 February 2022. On 11 May 2022, Justice Besanko made further orders to discontinue making recordings available on the Court's YouTube channel due to evidence suggesting information obtained by viewing and listening to the recordings was used by persons located outside of Australia to publish information identifying or tending to identify Sensitive Witnesses, as defined in orders made under sections 19(3A) and 38B of the *National Security Information (Criminal and Civil Proceedings) Act 2004* (Cth). There were combined total views for the 116 videos of 101,478.
- NSD912/2020: Clive Palmer v Mark McGowan: Due to the public interest in this matter, the Court established an online file, tweeted hearing updates and live streamed the matter via the Court's secure streaming service, Quick channel.
- NSD773/2021: North East Forest Alliance Inc v Commonwealth of Australia & State of NSW: This matter before Justice Perry was live streamed on 28 and 29 March 2022 via Quick channel.
- Barilaro v Google LLC [2022] FCA 650: Given the profile nature of this matter, a link to the judgment by Justice Rares was tweeted, gaining 18,812 impressions and potential reach of 29,671.

### Twitter

The Court launched its Twitter account on 14 January 2022, and for the period 14 January 2022 to 30 June 2022, the account received 1,602,065 total impressions, total engagement numbers of 132,701 and gained 2,584 followers. Twitter was also used to promote the delivery of high profile judgments like in the matter of Minister for the Environment v Sharma, where Chief Justice Allsop delivered the judgment on behalf of the Full Court (Chief Justice Allsop, Justice Beach, Justice Wheelahan) which was live streamed via Quick channel.

### YouTube

The Court's YouTube channel houses some education material, including videos 'Mediation in the Federal Court of Australia' (13,001 views); 'Electronic Court files in the Federal Court of Australia' (5,376 views); and 'Serving on a Federal Court Jury' (2,026 views). It is also used (in conjunction with Twitter and Quick channel) to profile cases of public interest.

### LinkedIn

The Court's LinkedIn profile, <https://www.linkedin.com/company/federal-court-of-australia> is primarily used to share updates with the legal profession and notify followers of employment vacancies. It is also used to cross promote the Court's other social media like the launch of Twitter in January 2022. The page has 7,216 followers and had 12,821 page views over the reporting period. Visitor demographics indicate the page is primarily followed by the legal and government sectors.

### Access to judgments

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

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

A revised version of the Judgment Template was deployed to judges and staff from September 2021. This revised version incorporated options for the new Federal Circuit and Family Court of Australia (Division 1 and Division 2) and provided improvements to the operation of the Judgment Template.

A consolidated Judgment Style Guide for use by both courts has been drafted and is being finalised to be released shortly. This Style Guide outlines the recommended approach to be taken to matters of style and form in judgments produced by the Federal Court of Australia and Federal Circuit and Family Court of Australia. Along with the judgment template, it is intended to facilitate, to a high degree, consistency and uniformity in judgments published by these courts.

### ***Judgment publication***

In the reporting year, 1,921 settled judgments were received by the Judgments Publication Office. This figure includes 224 Full Court decisions.

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

## **Recordkeeping and information management**

### ***Corporate coverage***

Information management is a corporate service function supporting the Federal Court of Australia, the Federal Circuit and Family Court of Australia (Division 1) and the Federal Circuit and Family Court of Australia (Division 2), National Native Title Tribunal, Australian Competition Tribunal, Copyright Tribunal of Australia and Defence Force Discipline Appeal Tribunal.

### ***Information governance***

#### **Information framework**

The information framework for the entity was implemented in 2021–22. The information framework incorporates information governance and sets out the principles, requirements and components for best practice information management. The framework provides a robust approach to information management across the entity, recognising that the individual sections of the Courts and Tribunals have different information needs.

The information framework is supported by policies and standards that ensure the information that is collected, stored and made accessible is tailored to those differing needs, and meets the entity's regulatory, legal, risk and operational requirements.

An entity-wide elearning training module 'Introduction to Information Management' was deployed in 2021–22 to educate new managers and staff about the information framework and their information management responsibilities.

#### **Records authorities**

The review of the combined draft Courts Records Authority by the National Archives of Australia was completed in June 2022. The new combined Courts Records Authority will be issued in 2022–23.

#### **Committees**

The Information Governance Committee met quarterly during the reporting year to monitor information governance obligations that affect the entity. The committee revised its terms of reference to be representative of the sections of the entity, and ensuring the responsibilities of the committee are appropriate. The committee continued to work on meeting the outcomes of the government's *Building Trust in the Public Record* policy.

### ***Information management projects***

#### **Information management system**

A new information management system was deployed across the entity in 2021–22 to replace three legacy records management systems. The new information management system has been designed to capture, manage and provide access to information assets across the entity. Court and Tribunal staff have been able to use the new information management system from November 2021, and data migration from the three legacy records management systems was completed in June 2022. The Information Management System Project is entering the post-migration stage. The stage will be completed by the end of 2022.

### ***Contract management***

A new records and information management services contract covering the entity commenced in June 2021.

Between July and December 2021, 116,484 Court and Tribunal physical files held with other records and information management service providers were consolidated under the new arrangement. Consolidating the entity's physical information assets with one provider will enable more efficient management of the information assets with the ability to find, use and dispose of the assets, as required.

### ***Working digitally***

The Court continues to progress towards working digitally by default. This is a reportable target set by the National Archives of Australia. Progress towards this target was demonstrated by:

- commencement of digitisation of Federal Court Native Title physical files and analogue media
- implementation of the information management system that enables staff to save and retrieve their documents from within office applications and to save their emails directly
- increasing volume of information assets being saved in the new information management system enabling them to be found and reused, and
- making new managers and staff aware of the entity's information framework and their information management responsibilities via induction and online training.

### ***National Archives reporting***

The National Archives annual check-up 2020–21, reporting on digital benchmark targets, saw an improvement of 0.20 percent on the entity's 2019–20 results. Significant improvements were made in the areas of creating and digital operations. The implementation of the new information management system will enable the entity to steadily achieve the whole-of-government outcomes.

### ***Transfers to National Archives***

No transfers to National Archives were undertaken in 2021–22.

### ***Library and information services***

The library provides a comprehensive library and information service to judges, registrars and staff of the Federal Court of Australia and Federal Circuit and Family Court of Australia, 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 inter-library loan nationally and internationally.

The library is a foundation member of the Australian Courts Consortium for a shared library management system using SirsiDynix software. The Consortium allows for the sharing of resources, collections, knowledge and expertise between libraries. The SirsiDynix software provides the infrastructure for the Library website, catalogue, and library management system.

With the continued development of online technology, library services were maintained during the COVID-19 pandemic. This approach has been sustained in post-lockdown situations.

### *Assistance to the Asia Pacific region*

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

## Commonwealth Courts Registry Services

### Overview of Registry Services

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

This program provides the Courts with the opportunity to shape the delivery of administrative services and stakeholder support across the entity in a more innovative and efficient manner. A focus on maximising registry operational effectiveness through streamlined structures and digital innovations will significantly contribute to the future financial sustainability of the Courts.

This national approach ensures that the quality and productivity of registry services is the very best it can be, through building consistency in registry practice across all Court locations and expert knowledge to support the National Court Framework and the important work of the judges and registrars.

### Objectives

The objectives of Registry Services are to:

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

### Purpose

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

### Registry services management structure

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

**Directors Court Services** report to the Executive Director, Court and Tribunal Services. They lead and manage the Courts' registry operations and resources in their respective regions, as well as contribute to continuous business improvement across three national streams: client services, digital services and court operations. Directors Court Services work collaboratively with national service managers and other directors to lead and manage multi-disciplinary teams delivering a range of customer-driven professional and business support services to ensure national service excellence. The development and maintenance of key relationships with Aboriginal and Torres Strait Islander peoples, culturally diverse community groups and support services is an important responsibility of the role and ensures that all Court services recognise the needs of our client groups.

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

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

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

### Court and Tribunal registries

The key functions of Court and Tribunal registries are to:

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

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

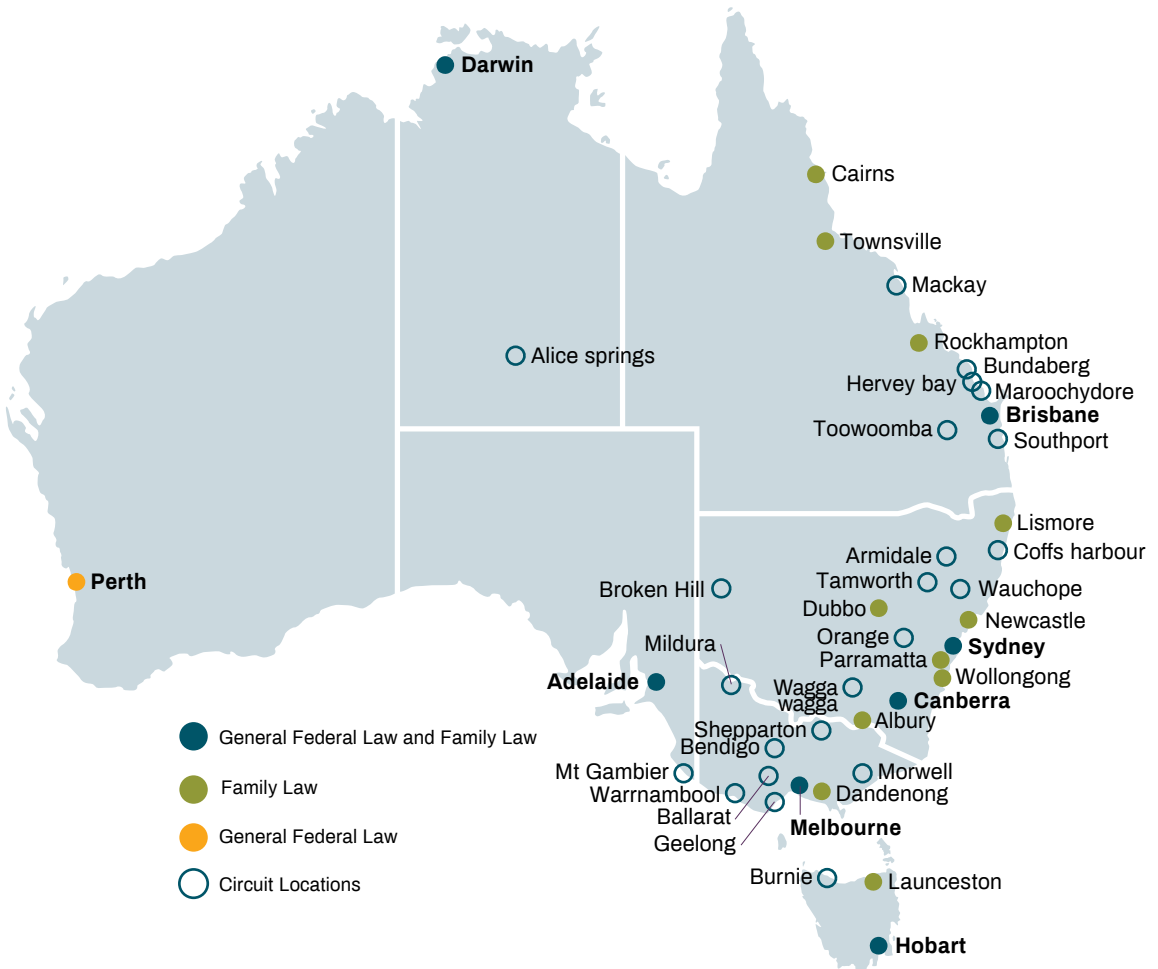
- Safe and easy to access: all processes and services are streamlined so that they prioritise user safety and ease of access.
- Consistent and equitable: the level of service available to users is consistent irrespective of the location.
- Timely and responsive: services should meet the needs of each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

### Registry Services locations

Family law services are provided in 18 registries located in every state and territory (except Western Australia). There are eight general federal law registries located in every state and territory. Three sites – Canberra, Darwin and Hobart – provide cross-jurisdictional services for general federal law and family law registry services.



FIGURE 4.1: REGISTRY SERVICES LOCATION MAP



### The work of Registry Services in 2021–22

Registry Services has three main performance criteria:

**1. Correct information**

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

**2. Timely processing of documents**

*75 per cent of documents processed within three working days.*

**3. Efficient registry services**

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

*Snapshot of 2021–22 performance against targets***TABLE 4.7: SNAPSHOT OF REGISTRY SERVICES PERFORMANCE AGAINST TARGETS, 2021–22**

PERFORMANCE MEASURE	RESULT 2021–22	STATUS
<b>CORRECT INFORMATION</b>		
Less than 1 per cent of enquiries result in a complaint about registry services.	0.019% of enquiries resulted in a complaint against registry services	Performance measure achieved
<b>TIMELY PROCESSING OF DOCUMENTS</b>		
75 per cent of documents processed within three working days.	89% of documents were processed within three working days	Performance measure achieved
<b>EFFICIENT REGISTRY SERVICES</b>		
All registry services provided within the agreed funding and staffing level.	All registry services were provided within the agreed funding and staffing levels	Performance measure achieved

Registry Services staff manage enquiries, document lodgments, subpoenas and safety plans. The number of safety plans activated in 2021–22 was 1,071 across all registry locations. Safety plan numbers remain down due to limited face-to-face services in some registries as a result of COVID-19 lockdowns and a heavy reliance on electronic hearings for the reporting period. Supporting the electronic hearings and additional registrar resources however, became a significant additional workload for Registry Services.

Throughout the year, although there were disruptions to in-person services due to state-based COVID-19 restrictions, Registry Services staff continued to process urgent enquiries and applications and provided support for difficult issues for a diverse range of clients with different needs both professionally and courteously. This included supporting vulnerable clients and ensuring people from non-English speaking backgrounds are suitably supported.

***Financial management***

In 2021–22, the Registry Services budget allocation was \$31,908,000, with an under spend of 6.8 per cent. These savings were achieved due to ongoing judicial and staff vacancies and the impact of the COVID-19 pandemic.

***Document processing***

Registry Services has one performance target relating to the timely processing of family law documents.

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

During the year, Registry Services processed 89 per cent of all documents received within three working days. Performance in this area has increased after the successful implementation of a Document Processing Dashboard, created by the Business Intelligence team. The dashboard enables workload to be allocated nationally, creating better monitoring and visibility and more efficient processing.

**TABLE 4.8: DOCUMENTS PROCESSED WITHIN THREE WORKING DAYS**

JURISDICTION	DOCUMENTS RECEIVED	DOCUMENTS PROCESSED WITHIN THREE DAYS	PERCENTAGE
All	140,204	125,433	89%
General Federal Law	43,279	40,145	93%
Family law	96,925	85,248	88%

*Documents received and processed – based on 8 weeks' data*

## Enquiries

### Family law enquiries

Registry Services staff manage counter enquiries in 18 locations across the country. Court users may send enquiries directly to family law court locations via email. The NEC also acts as a triage point for email enquiries and refers any enquiries to specific locations that cannot be answered at the first point of contact. These enquiries are usually case-specific or require some form of local knowledge or decision.

In 2021–22 Registry Services continued to have a lower than usual attendance at counters due to restrictions imposed as a result of the COVID-19 pandemic. Court users continue to be encouraged to use electronic means to lodge documents which is contributing to this trend in decreasing in-person attendance at counters.

### General federal law enquiries

Enquiries relating to general federal law matters are managed by Registry staff at each general federal law location separately and via the NEC team using the court's central phone number, email and live chat functions.

Since June 2021, general federal law phone enquiries have been received via a central phone number managed by NEC and Registry staff. Additional live chat and central email were also made available to court users in 2021. Individual registry phone numbers have been decommissioned from July 2021, however each general federal law registry has their own email and fax contact details.

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

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

## Complaints

During 2021–22, there were 43 complaints relating to Registry Services. This represents 0.019 per cent of the total number of enquiries, which meets the performance measure of 'Less than 1 per cent of enquiries resulting in a complaint about registry services'. Enquiries include phone, email and live chat actioned enquiries to the NEC.

Information about the Court's feedback and complaints processes can be found at [www.fedcourt.gov.au/feedback-and-complaints](http://www.fedcourt.gov.au/feedback-and-complaints).

### Local registry consultation

Registry Services staff engage regularly with numerous external groups such as local family law pathways networks, family advocacy and support services, Legal Aid, bar associations and law societies, local practitioners and practitioners' associations, community legal centres, family relationship centres, community organisations and support groups, child protection agencies, family violence committees and organisations, state courts, universities and police services.

Registries also work with other organisations who provide information to litigants requiring assistance with general federal law, such as the Consumer Action Law Centre, Justice Connect, LawRight, and providers of financial counselling and advice on migration matters.

Some local engagement activities during the reporting period included:

- The South Australian registry hosted 10 guests from the Women's Information Service; continued monthly meetings with the Family Law Pathways Network; and met with the Department for Child Protection South Australia to discuss electronic responses to 69ZW orders.
- The Newcastle registry court user group, consisting of representatives from the Court, Legal Aid and the Bar and Law Society met three times during the reporting period. The Newcastle registry also continued regular Registry Services/Lawyer Liaison meetings, meeting six times during the reporting period.
- The Dandenong registry's senior judicial registrar gave a presentation to family violence practitioners at the 'Together we can summit' in May 2022.
- The Parramatta registry held a function to welcome the Afghanistan Refugee Judges on 6 June 2022. The function was organised by Judge Humphreys OAM from the Federal Circuit and Family Court of Australia (Division 2). The registry also hosted a Continuing Legal Education event with the Greater West Family Law Practitioners Association on 15 June 2022, with Justice Altobelli from the Federal Circuit and Family Court of Australia (Division 1) as the main speaker.
- The Canberra registry facilitated a meeting between the Court and local legal professionals in Wagga Wagga on 11 May 2022.

### Public education and engagement

The Court engages in a range of strategies to enhance public understanding of its work, and the Court's registries are involved in educational activities with schools and universities and, on occasion, with other organisations that have an interest in the Court's work. Court facilities were also made available for many events, some of which include:

- Anniversary of Mabo decision
- Reconciliation week events
- The launch of the Edited Collection – Current Issues in Competition Law
- A presentation of the role of the Federal Court of Australia to University of Tasmania law students by Justice McElwaine and Judicial Registrar Stone.
- The launch of 'Compensation for Native Title' by Professor William Isdale.

In previous years, the Court has hosted numerous visiting delegations from overseas courts, but this was limited during 2021–22 due to the COVID-19 pandemic. The Queensland registry hosted a judge from Papua New Guinea in November 2021 who attended the swearing in of Justice Collier and Justice Logan as judges of the Papua New Guinea Supreme and National Courts.

Other activities in relation to liaison with overseas courts and stakeholders can be found in Appendix 8 (*Judges' Activities*).

### National Enquiry Centre

The NEC provides a single point of entry for phone, email and live chat enquiries to the Federal Court of Australia and the Federal Circuit and Family Court of Australia (Division 1 and Division 2). The majority of the NEC's work in 2021–22 was focused on family law, however 2021–22 was the first full year the NEC also undertook the management of general federal law enquiries received by phone and live chat. The Courts now advertise two 1300 numbers split between general federal and family law jurisdictions. These enquiries are managed by

NEC and registry staff trained in general federal law processes and procedures.

Live chat enquiries to the NEC can be initiated via the Federal Court of Australia, the Federal Circuit and Family Court of Australia, and the Commonwealth Court's Portal websites. All of these enquiries channels are triaged and handled by NEC staff. Additionally, the NEC manages email enquiries received via the 'enquiries', 'portal support' and 'portal registration' email addresses.

During 2021–22, the NEC ceased undertaking portal support for the Family Court of Western Australia who no longer utilise the Commonwealth Court's portal for their court users.

In family law, the NEC has responsibility for the triage and delivery of requests for historic divorce orders, as well as managing the administration of resourcing the Courts' family law and general federal law after-hours service.

During 2021–22, the NEC undertook the following projects:

- the implementation of a centralised general federal law after-hours service with administrative triage and referral
- the transition to the new Federal Circuit and Family Court of Australia including updating all wiki materials, and
- commencement of a project to introduce a web form for submission of email enquiries.

Implementation of a centralised general federal law after-hours service utilised the existing processes available in family law, however a significant amount of planning, management and process improvements in general federal law took place to streamline this service and introduce national management and rostering for after-hours and urgent calls.

The introduction of the Federal Circuit and Family Court of Australia and the related rules changes were a significant event for staff at the NEC and the Courts more broadly. A comprehensive update of written procedures and materials for clients was undertaken at the NEC in line with the new rules and procedures to ensure our information was accurate, up to date and reflected correct terminology and court pathways.

**TABLE 4.9: NEC PERFORMANCE, 19 JANUARY 2021 TO 30 JUNE 2022**

TYPE OF COMMUNICATION	VOLUME
Total calls presented	224,616
Total calls actioned	125,386
Calls (average wait time)*	16:13
Calls (average handle time)	7:35
Total live chats presented	151,946
Total live chats actioned	95,414
Live chats (average queue time)*	7:08
Live chats (average handle time)	13:58
Total emails received	104,261
Total emails sent	51,896

\* based on calls/chats presented, includes calls/chats that may have abandoned prior to connecting to an NEC staff member.

During 2021–22, the NEC also commenced a project to introduce a web form for the submission of email enquiries. This project is not completed to date, but represents an opportunity for significant efficiencies in the management of email enquiries and improvement in service delivery to court users once implemented. It has involved analysis of emails in terms of types of enquiries received, volumes and client pathways for submission of enquiries.

The NEC introduced new contact centre and reporting software on 19 January 2021. The 2021–22 reporting period represents the first full year of performance measuring using this system.

The numbers represent the actual numbers/ measures for work undertaken by the NEC for both family law and general federal law in 2021–22.

### *Phone calls*

The 2021–22 reporting year represented the first full year of performance measures being captured in the new contact centre software. Due to only partial data capture in the year 2020–21, it is difficult to compare year to year, however the approximations available for 2020–21 and the actual data for 2021–22 indicate that phone calls to the NEC increased this year. This may be attributable in part to increased enquiries related to significant process and rules changes in line with the commencement of the Federal Circuit and Family Court of Australia in September 2021.

Waiting times to connect with an NEC agent increased to 16 minutes and 13 seconds average queue time. This exceeds internal NEC targets and is a significant contributor to continuing high abandonment rate for queued calls to the NEC, particularly in family law.

Average handle time for phone calls remains steady year to year at close to 7.5 minutes on average.

### *Live chat*

The data reported in Table 4.9, taken with approximations for 2020, confirms the trend over the previous three years of live chats increasing from approximately 75,192 in 2019–20 to over 151,000 in 2021–22. This increase is also driven to a small degree in increasing uptake of the live chat feature in general federal law.

Live chat remains the most efficient channel for enquiries to the NEC, with staff able to manage several chats simultaneously. Average queue times for chat enquiries across family and general federal law are less than half the queue time for phone queries.

### *Email*

Emails received by the NEC in 2021–22 increased significantly from the 2020–21 estimate. The NEC received 104,261 emails this year. This increase was largely driven by significant changes to family law rules, website and processes in line with the implementation of the Federal Circuit and Family Court of Australia in September 2021.

## **Registry Services initiatives in 2021–22**

### *Introduction of a National Support Pool*

The National Support Pool was introduced in October 2021 as a national standardised support model for Deputy Registrars. The purpose of the pool is to assist, support and streamline services for the Judicial and Deputy Registrars in management of the Federal Circuit and Family Court of Australia high volume applications (divorce applications, consent orders applications and National Duty Registrar work including applications seeking urgent listings). The National Support Pool seeks to provide consistency and timeliness with respect to the assessment and management of the above applications.



### ***Centralising general federal law after-hours calls***

The National Enquiry Centre has centralised the administration of after-hours calls in general federal law, utilising existing family law process to nationalise the triage and referral of urgent after-hours calls. In addition to the benefits gained through increased access to justice for litigants who need urgent assistance, this change has also led to improved efficiencies by standardising processes across all locations.

### ***Divorce hearings***

Staff of the National Enquiry Centre worked closely with the Digital Practice Team, Deputy Registrars and the National Support Pool to improve the overall experience for litigants in divorce hearings. After a successful pilot, the project went live on Monday 30 May 2022.

Divorce hearings are now conducted electronically on a new system, and the telephone dial-in details are available on the litigant's Portal and on the Daily Court List. This removes the onus on the Court to provide dial-in details, reduces the level of administration on court staff, eliminates any confusion for litigants and improves the overall experience for litigants interacting with the Court. It has also led to a reduction in enquiries to the National Enquiry Centre requesting link details.

### ***Court lists – new publishing process***

A collaborative effort between Corporate Services, Registry teams and the National Enquiry Centre led to the creation of an improved version of the Federal Court's Court List, which went live in February 2022.

The main purpose of the changes was to improve the publication process for Open Justice Notifications, to streamline the information published and to automate some previous manual processes.

There are a number of further improvements planned to be introduced in the new reporting year, including the Federal Circuit and Family Court of Australia (Division 2) General Federal Law Daily Court List publication process.

### ***Enquiry form***

Work has commenced on developing a solution to transform the channel for email enquiries to the National Enquiry Centre. The new web form will: encourage users to self-service for more basic enquiry types; filter and categorise enquiries in a way that makes sense to both users and internal teams; and collect personal details and key information staff need to streamline responses. The enquiry form will be implemented in 2022–23.

### ***Registry services restructure***

A project team was established in 2021 to undertake a comprehensive review of the structure and functions of Court and Tribunal Services and sought to design a model that could potentially improve career paths, opportunities and operational effectiveness.

The review included enquiries, filings and in-person counter visits to registries; support, guidance and management of Chambers colleagues and the interaction with the management of registries; the provision of judicial digital services and the connection with registries and IT; and on-site management and the intersection of location staff and Corporate Services staff and other functions of the Courts.

The result was a proposal for a new model for the delivery of court operational services. This model was interrogated by Court and Tribunal Services colleagues from across Australia as well as from all parts of the Courts at meetings in January and February 2022. Roadshow presentations were delivered to staff in Sydney, Melbourne, Brisbane and Adelaide to talk about the model in more detail.

At the end of the reporting year, the team was continuing ongoing formal consultation, consolidating and considering the feedback from the roadshow presentations, and conducting further discussions with key stakeholders as required. It is expected that the new model will be implemented in 2022–23.

## Registry Services training

Training was offered to staff on a range of subjects during the year, both in-person, online and through the Court's eLearning platform.

Topics included:

- Resilience training
- Respectful workplace behaviour training
- Preparing for an interview
- Information security awareness
- Recruitment training
- Family violence training
- Co-location training (New South Wales Police, Department of Communities and Justice)
- Relationship Australia
- Expense8 training (Travel)
- Various training sessions from the National Operations Registrar team
- Byte size training sessions for managers and team leaders
- Federal Circuit and Family Court of Australia implementation
- Cultural awareness
- Legal and professional skills
- Associates Induction
- Training session for National Support Pool Client Service Officers (dispersed team) in Sydney
- COVID-19 and wellbeing support sessions continued to be rolled out during the pandemic and major lockdowns.

# Part 5: Report of the National Native Title Tribunal



## Overview

### Establishment

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

The *Native Title Act 1993* 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 *Native Title Act 1993* provides that the Tribunal must carry out its functions in a fair, just, economical, informal and prompt way. In carrying out those functions, the Tribunal may take account of the cultural and customary concerns of Indigenous Australians.

### The President, Members and the Native Title Registrar

The President, other Members of the Tribunal and the Native Title Registrar are appointed by the Governor-General for specific terms of no longer than five years. The *Native Title Act 1993* sets out the qualifications for appointment to, and respective responsibilities of, these offices.

Table 5.1 outlines Tribunal statutory office holders at 30 June 2022.

### Office locations

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

### Functions and powers

Under the *Native Title Act 1993*, the Tribunal, comprising the President and Members, has specific functions in relation to:

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

**TABLE 5.1: TRIBUNAL STATUTORY OFFICE HOLDERS, 30 JUNE 2022**

NAME	TITLE	APPOINTED	TERM	LOCATION
The Hon. JA Dowsett AM QC	President	27 April 2018	Five years	Brisbane
Helen Shurven	Member	Reappointed 29 November 2017	Five years	Melbourne
Nerida Cooley	Member	11 February 2019	Five years	Brisbane
Glen Kelly	Member	10 March 2021	Five years	Perth
Christine Fewings	Native Title Registrar	14 March 2018	Five years	Brisbane

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

### The President

The President is responsible for the management of the business of the Tribunal, including its administrative affairs, and the allocation of duties, powers and functions. The President is assisted by the CEO and Principal Registrar of the Federal Court. The CEO and Principal Registrar may delegate her responsibilities under the *Native Title Act 1993* to the Native Title Registrar, or staff assisting the Tribunal. Staff assisting the Tribunal are made available for that purpose by the Federal Court.

### The Members

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

### The Native Title Registrar

The Native Title Registrar:

- assists people to prepare applications and to help them, and other persons in matters relating to proceedings in the Tribunal

- considers whether claimant applications should be registered on the Register of Native Title Claims
- gives notice of applications to individuals, organisations, governments and the public in accordance with the *Native Title Act 1993*
- registers ILUAs that meet the registration requirements of the *Native Title Act 1993*
- maintains the Register of Native Title Claims, the National Native Title Register and the Register of ILUAs, and
- maintains a publicly available record of section 31 agreements.

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

### Staff capacity

The Tribunal will continue to manage and monitor its workloads in the next reporting period to ensure that it is appropriately resourced in future years. Strategic planning and review will underpin this process, looking to the next decade of native title.

The continued social distancing and travel restrictions imposed by COVID-19 throughout the reporting period resulted in no substantive in-person training. The Tribunal is considering how to strengthen staff capacity to respond to increased, and more direct contact with native title holders and prescribed bodies corporate. The feature of training for staff in the reporting year has been attendance at online seminars and other forms of training, with in-person training becoming less common.

### Cultural acknowledgement

The Tribunal has continued to foster understanding and respect for Indigenous culture. The Reconciliation Action Plan for the Federal Court of Australia and the National Native Title Tribunal actively supports and acknowledges our obligations under the Reflect Reconciliation Action Plan 2019–20. Towards the latter end of the reporting period, work has commenced on the Innovate Reconciliation Action Plan.



To mark the 30th anniversary of the High Court's decision in *Mabo v Queensland (No 2)* 1992 HCA 23, the Federal Court and the Tribunal held a joint event on 27 May 2022, which was streamed to each Federal Court registry and Tribunal offices around the country. The event included welcoming and closing remarks by Chief Justice Allsop AO, an acknowledgement of country by staff who are native title holders, a keynote address by the President, and a panel discussion focusing on emerging issues in the native title jurisdiction.

Traditionally, the Tribunal participates in the celebrations involving all components of the Federal Court entity in the acknowledgment and celebration of Sorry Day, Reconciliation Week and NAIDOC week. This year some of the celebrations were muted because of the incidence of COVID-19 amongst the staff.

## The Tribunal's year in review

### COVID-19

The interruption to future act notification activity precipitated by the advent of the COVID-19 pandemic in 2020 provided the opportunity to review the Tribunal's expedited procedure processes. As a result of this review, new procedures were successfully implemented in Western Australia in September 2021. The success of the new procedures led to their expansion to other jurisdictions and the adoption of a nationwide practice which has resulted in improved outcomes for stakeholders.

The widespread adoption of video conferencing technology, both within the Tribunal and in the broader community, has allowed for greater accessibility in the Tribunal's case management and mediation services. The improved participation enabled by this technology has also provided a better foundation for agreement-making through increased engagement and involvement of decision makers.

### Lismore floods

Heavy rain events in the latter half of the reporting period severely affected the eastern states, with floodwaters ravaging several communities in New South Wales.

This included the town of Lismore, which affected the operations of the Koori Mail, the relevant special-interest publication that the Native Title Registrar uses to notify native title determination applications and applications to register ILUAs. The inability for the Koori Mail to publish its monthly newspaper, and searches to find an appropriate alternative special-interest publication being unsuccessful, the Native Title Registrar was compelled to delay notification of several claimant, non-claimant and ILUA applications in March and April, until the Koori Mail recommenced operations in late April. All affected applications were notified by the Native Title Registrar prior to the close of the reporting period.

### Recent developments

The *Native Title Legislation Amendment Act 2021* (Cth) received Royal Assent on 16 February 2021, and fully came into force from 25 September 2021 when the final measures, which relate to applicant decision making and replacement of members of the applicant, commenced.

These amendments resulted in an increase in assistance requests for the Native Title Registrar to provide a preliminary view in relation to the ability of proposed native title determination applications and proposed applications to register ILUAs to meet the new requirements for registration under the *Native Title Act 1993*.

The Tribunal's educational and information activities have been significantly limited as a result of COVID-19, largely because of travel restrictions. The Tribunal's engagement with stakeholders involved attendance at the 2022 AIASTIS Summit which was held on the Sunshine Coast in Queensland. Staff from across the Tribunal were available at a dedicated stall to answer queries and provide advice on native title processes including the lodging of applications and ILUAs, information on the future act regime and also specific queries on the spatial representation of native title matters. Tribunal staff engaged with the attendees who included native title applicants, common law holders, the staff, members and executive of various Prescribed Bodies Corporate. Staff were able to provide live demonstrations of the Tribunal's online mapping and spatial data services, which is commonly known as Native Title Vision.



Stakeholder engagement sessions were held in Cairns during May with the four Aboriginal and Torres Strait Islander representative bodies, which are based in Cairns, on geospatial assistance and the services that the Tribunal can provide to both native title applicants and holders. The presentations included live demonstrations of the Tribunal's online mapping and spatial data services.

The Tribunal's spatial data continues to be freely available for third parties to use in their own systems, either by downloading the data, or by taking advantage of web map services. The Tribunal's website has extensive information to assist the public in understanding their native title concerns.

## The Tribunal's work in 2021–22

### Future Acts

A primary function of the Tribunal is the resolution, by mediation or arbitration, of disputes relating to proposed future acts (generally, the grant of exploration and mining tenements) on land over which native title has been determined to exist, or over which there is a claim by a native title party as defined in sections 29 and 30 of the *Native Title Act 1993*.

### Expedited procedure

Under section 29(7) of the *Native Title Act 1993*, the Commonwealth government, or a state or territory government as the case may be, may assert that a 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). Where a future act attracts the expedited procedure, it does not give rise to procedural rights to negotiate that would otherwise vest in native title parties. If a native title party considers that the expedited procedure should not apply to the proposed future act, it may lodge an expedited procedure objection application (objection application) with the Tribunal.

A total of 1,765 objection applications were lodged during the reporting period, 214 more than in the previous year. This is another significant rise in lodgements, following a 30 per cent increase in 2020–21. The number of active

applications at the end of the reporting period was 979 compared with 779 at the end of the previous year. During the reporting period, the Tribunal finalised 1,551 objection applications, over 200 more than the previous year, which is indicative of the Tribunal's continuing high workload in this area. More than 790 objections were withdrawn following agreement between the native title party and the relevant proponent, an increase on the previous year both in total numbers and as a proportion of objections finalised. A further 210 objection applications were finalised by withdrawal of the tenement applications by the proponent.

Seventy-four objection applications were subject to a Tribunal determination during the reporting period, almost double the number determined the previous year. The expedited procedure was determined to apply in 47 cases, and on 27 occasions, the expedited procedure was determined not to apply. The increase in objections resolved by way of determination represents somewhat of a correction following the temporary pause in inquiry processes associated with the COVID-19 pandemic, however the fact that determination numbers have not returned to pre-COVID levels is a sign of the success of the Tribunal's new procedures in promoting agreement between parties.

As demonstrated in Table 5.2, Western Australia produces many more objection applications than does Queensland. This is due, at least in part, to policies adopted by the relevant state departments concerning the use of the expedited procedure. The state of Western Australia has recently announced reforms to its expedited procedure policy, which may result in fewer acts notified in the expedited procedure.

### Future act determinations

If the expedited procedure does not apply, or is not asserted by the state, the parties must negotiate in good faith about the proposed future act. Any party may request Tribunal assistance in mediating among the parties in order to reach agreement. There were 30 requests for mediation made in the reporting period, fewer than half of those received the previous year.

The *Native Title Act 1993* prescribes a minimum six-month negotiation period. After that time, any party to the negotiation may lodge a future act determination application if no agreement has been reached. During the reporting period, 16 applications were lodged, with a similar number having been lodged the previous year.

If there has been a failure to negotiate in good faith by any party, other than a native title party, the Tribunal has no power to determine the application. If any party asserts that negotiations in good faith have not occurred, the Tribunal will hold an inquiry to establish whether that is the case.

During the reporting period, there were six ‘good faith’ decisions. In three of these decisions, the Tribunal was not satisfied that the relevant parties had not negotiated in good faith and proceeded to determine the application. In the other three decisions, the Tribunal determined that good faith negotiations had not occurred. In those cases, the parties were required to negotiate further before the matter could be brought back to the Tribunal for arbitration. Seventeen future act determination applications were finalised during the reporting period. In seven of these cases, the Tribunal determined that the future act may be done and in four cases, the Tribunal determined that the act may be done, subject to conditions. The remaining applications were either withdrawn or dismissed.

### Post-Determination Assistance

Since 1998, the Tribunal has had the power to assist, on request, an Aboriginal/Torres Strait Islander representative body in performing its dispute resolution functions, subject to entering into a costs agreement. This function is commonly referred to as ‘s203BK assistance’ after the provision of the *Native Title Act 1993* from which the power derives.

On 25 March 2021, the *Native Title Legislation Amendment Act 2021* gave the Tribunal a new set of powers relating to post-determination disputes by introducing section 60AAA into the *Native Title Act 1993*. Section 60AAA provides that a registered native title body corporate or common law holder of native title may ask the Tribunal to provide assistance ‘in promoting agreement about matters relating to native title or the operation of this Act’ between:

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

Throughout 2021–22, the Tribunal has worked to develop policies, procedures and guidelines to support the new function established by section 60AAA. The Tribunal’s policies and procedures have been shaped by its previous engagement with post-determination disputes under section 203BK and by requests for assistance received since the introduction of section 60AAA.

Generally, once the Tribunal receives a request for assistance, an officer will conduct preliminary conferencing with each of the relevant parties to understand the nature of the dispute, who should be involved, and what form the assistance should take. Depending on the matter, preliminary conferencing is followed by facilitation or information exchange, or it may move straight into mediation or another dispute resolution process.

In 2021–22, the Tribunal has conducted preliminary conferencing in relation to 25 requests received under section 60AAA. In three of these matters, the assistance has proceeded to facilitation or information exchange and the Tribunal has provided mediation assistance in

**TABLE 5.2: NUMBER OF APPLICATIONS LODGED WITH THE TRIBUNAL IN 2021–22**

FUTURE ACT	NSW	NT	QLD	WA	TOTAL
Objections to expedited procedure	0	27	74	1,669	1,770
Future act determination applications	2	1	5	8	16
<b>TOTAL</b>	<b>2</b>	<b>28</b>	<b>79</b>	<b>1,677</b>	<b>1,786</b>

another three matters. The Tribunal has also provided ongoing dispute resolution assistance under section 203BK in relation to two requests received from Aboriginal/Torres Strait Islander representative bodies.

### Referral from the Federal Court of Australia

As previously reported, in April 2021, the Court made a request for the Tribunal's assistance, concerning a long-running dispute arising under an indigenous land use agreement. The ILUA provided for the payment of funds to a number of identified families. However, the mechanism for making the relevant payments was frustrated. The party liable to make the payments took the relatively unusual course of commencing interpleader proceedings in the Federal Court. Representatives of some of the families became parties to those proceedings.

The trial Judge (Rares J) made findings with respect to certain matters but, before making final orders, sought the assistance of the Tribunal and Queensland South Native Title Services (QSNTS) in formulating a process by which each family might determine how it wished to hold such funds as it might receive pursuant to the ILUA. The Tribunal's involvement was primarily pursuant to section 203BK of the *Native Title Act 1993*, assisting QSNTS in the performance of its dispute resolution function under section 203BF of the *Native Title Act 1993*. The primary function performed by the Tribunal was assisting QSNTS to facilitate 11 family meetings.

During the reporting period, the President convened 13 meetings of the parties to the Federal Court proceedings.

### The Registers

The Native Title Registrar maintains three registers as follows:

#### *The Register of Native Title Claims*

Under section 185(2) of the *Native Title Act 1993*, the Native Title Registrar has responsibility for establishing and keeping a Register of Native Title Claims. This register records the details of claimant applications that have met the statutory

conditions for registration prescribed by sections 190A–190C of the *Native Title Act 1993*. As at 30 June 2022, there were 111 claimant applications on this register.

#### *The National Native Title Register*

Under section 192(2) of the *Native Title Act 1993*, the Native Title Registrar must establish and keep a National Native Title Register, recording approved determinations of native title.

As at 30 June 2022, a total of 558 determinations had been registered, including 101 determinations that native title does not exist and another compensation application making a total of 5 registered compensation determinations.

Map 1 Determinations Map (page 88) shows native title determinations as at 30 June 2022, including those registered and those not yet in effect.

#### *The Register of Indigenous Land Use Agreements*

Under section 199A(2) of the *Native Title Act 1993*, the Native Title Registrar must establish and keep a Register of Indigenous Land Use Agreements, in which area agreement, body corporate and alternative procedure ILUAs are registered. At 30 June 2022, there were 1,417 ILUAs registered on the Register of Indigenous Land Use Agreements.

Map 2 Indigenous Land Use Agreement Map (page 89) shows registered Indigenous Land Use Agreements as at 30 June 2022.

### Claimant and amended applications

Sections 190A–190C of the *Native Title Act 1993* require the Native Title Registrar to decide whether native title determination applications (claimant applications) and applications for certain amendments to claimant applications, should be accepted for registration on the Register of Native Title Claims. To that end, the CEO and Principal Registrar of the Federal Court provides the Native Title Registrar with a copy of each new or amended claimant application and accompanying documents that have been filed in the Federal Court.

The Native Title Registrar considers each application against the relevant requirements of the *Native Title Act 1993*. The Native Title Registrar may also undertake preliminary

assessments of such applications, and draft applications, by way of assistance provided pursuant to section 78(1)(a) of the *Native Title Act 1993*. Where the Registrar does not accept a claim for registration, the relevant applicant may seek reconsideration by the Tribunal. Alternatively, the applicant may seek judicial review in the Federal Court.

During the reporting period, the Native Title Registrar received 15 new claimant applications, four fewer than in the previous year. In addition to new claims, the Native Title Registrar received 19 amended claimant applications, two more than the previous year.

There was a small decrease in the volume of registration testing in the reporting period, a direct consequence of the reduced numbers of new and amended claims referred to the Registrar. There were 34 applications considered for registration, three fewer than the previous year. Of the 34 decisions, 24 were accepted for registration and 10 were not accepted. Two of these decisions were made by Tribunal members in response to requests to reconsider a registration decision. During the reporting period, eight applications were subjected to preliminary assessment before filing with the Federal Court. An application to the Federal Court, seeking judicial review of a decision to not accept an application for registration was made during the reporting period and is currently being considered.

### Non-claimant, compensation and revised determination applications

There was an increase in the number of non-claimant applications, with six New South Wales applications and nine Queensland applications filed in the Federal Court. No revised determination applications were referred to the Native Title Registrar in the reporting period. The Native Title Registrar received four compensation applications, a small decrease in number compared to the previous year. One application was made in South Australia and three in Western Australia.

### Indigenous land use agreements

Under the *Native Title Act 1993*, parties to an ILUA (whether a body corporate agreement, area agreement or alternative procedure agreement) may apply to the Native Title Registrar for inclusion on the Register of ILUAs. Each registered ILUA, in addition to taking effect as a contract among the parties, binds all persons who hold, or may hold, native title in relation to any of the land or waters in the area covered by the ILUA.

A total of 1,417 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.

**TABLE 5.3: NUMBER OF APPLICATIONS REFERRED TO OR LODGED WITH THE NATIVE TITLE REGISTRAR IN 2021–22**

NATIVE TITLE DETERMINATION APPLICATIONS	NSW	NT	QLD	SA	VIC	WA	TOTAL
Claimant (new)	2	1	1	1	1	9	15
Non-claimant	5	0	12	0	0	0	17
Compensation	0	0	0	1	0	3	4
Revised native title determination	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>7</b>	<b>1</b>	<b>13</b>	<b>2</b>	<b>1</b>	<b>12</b>	<b>36</b>

**TABLE 5.4: NUMBER OF APPLICATIONS LODGED WITH THE NATIVE TITLE REGISTRAR IN 2021–22**

INDIGENOUS LAND USE AGREEMENTS	NSW	NT	QLD	SA	VIC	WA	TOTAL
Area agreements	1	0	7	4	0	1	13
Body corporate agreements	2	0	17	0	0	9	28
<b>TOTAL</b>	<b>3</b>	<b>0</b>	<b>24</b>	<b>4</b>	<b>0</b>	<b>10</b>	<b>41</b>

During the reporting period, the Native Title Registrar received 41 ILUAs, eight fewer than in the previous year. Thirty body corporate and seven area agreement ILUAs were accepted for registration and entered in the Register. Four ILUAs are currently in notification.

### Notifications

The Native Title Registrar carries out a key function in respect of notification of native title determination applications and ILUAs. The floods in Lismore had a significant impact on the ability of Koori Mail, the relevant special-interest publication used to notify these applications, to publish notifications in the latter part of the reporting period, resulting in some delays in notification. However, all affected applications were notified within the reporting period.

During the reporting period, 38 native title determination applications were notified, compared with 32 in the previous year. Of the 38 applications, 20 were claimant applications.

The remainder of the notifications were 15 non-claimant applications, one revised determination application and two compensation applications.

A total of 57 ILUAs were notified during the period.

### Assistance

Section 78(1) of the *Native Title Act 1993* authorises the Native Title Registrar to give such assistance as she thinks reasonable to people preparing applications and at any stage in subsequent proceedings. That section also provides that the Native Title Registrar may help other people in relation to those proceedings. During the reporting period, such assistance was

provided on 141 occasions. As in previous years, many of the requests were for the provision of geospatial products and review of draft native title determination applications.

Under sections 24BG(3), 24CG(4) and 24DH(3) of the *Native Title Act 1993*, the Native Title Registrar may provide assistance in the preparation of ILUA registration applications. Often, this assistance takes the form of pre-lodgement comments upon the draft ILUA and the application for registration. During the reporting period, assistance was provided on 32 occasions, generally in the form of mapping assistance, preliminary assessments and pre-lodgement comments particularly in relation to the application of the amended requirements under the *Native Title Act 1993*, and the provision of related information. Such assistance must be distinguished from the assistance given by the Tribunal in the negotiation of such agreements. See sections 24BF, 24CF and 24DG of the *Native Title Act 1993*.

Pursuant to section 78(2) of the *Native Title Act 1993*, 2,029 searches of registers and other records were conducted during the reporting period, a substantial increase in requests from the previous year.

### National progress

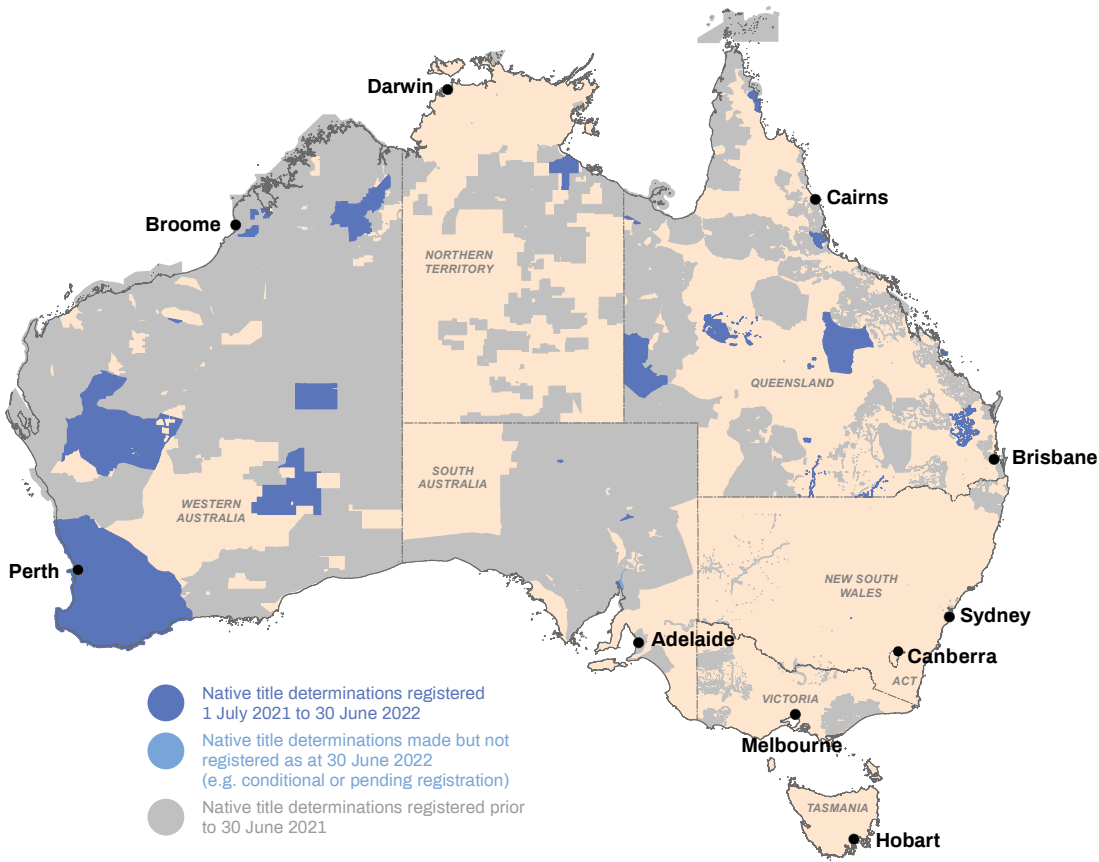
The 558 registered determinations as at 30 June 2022 cover a total area of about 3,785,835 square kilometres or 49.2 per cent of the land mass of Australia and approximately 153,634 square kilometres of sea (below the high water mark).

One conditional consent determination, (*Thomas on behalf of the Nukunu People (Area 2) Native Title Claim v State of South Australia* [2022] FCA 48) is still awaiting ILUA registration. Upon

registration, these determinations will increase the areas determined to about 3,786,692 square kilometres or 49.2 per cent of the land mass of Australia and approximately 153,700 square kilometres of sea (see Map 1).

Registered ILUAs cover about 2,698,648 square kilometres or 35.1 per cent of the land mass of Australia and approximately 51,294 square kilometres of sea (see Map 2).

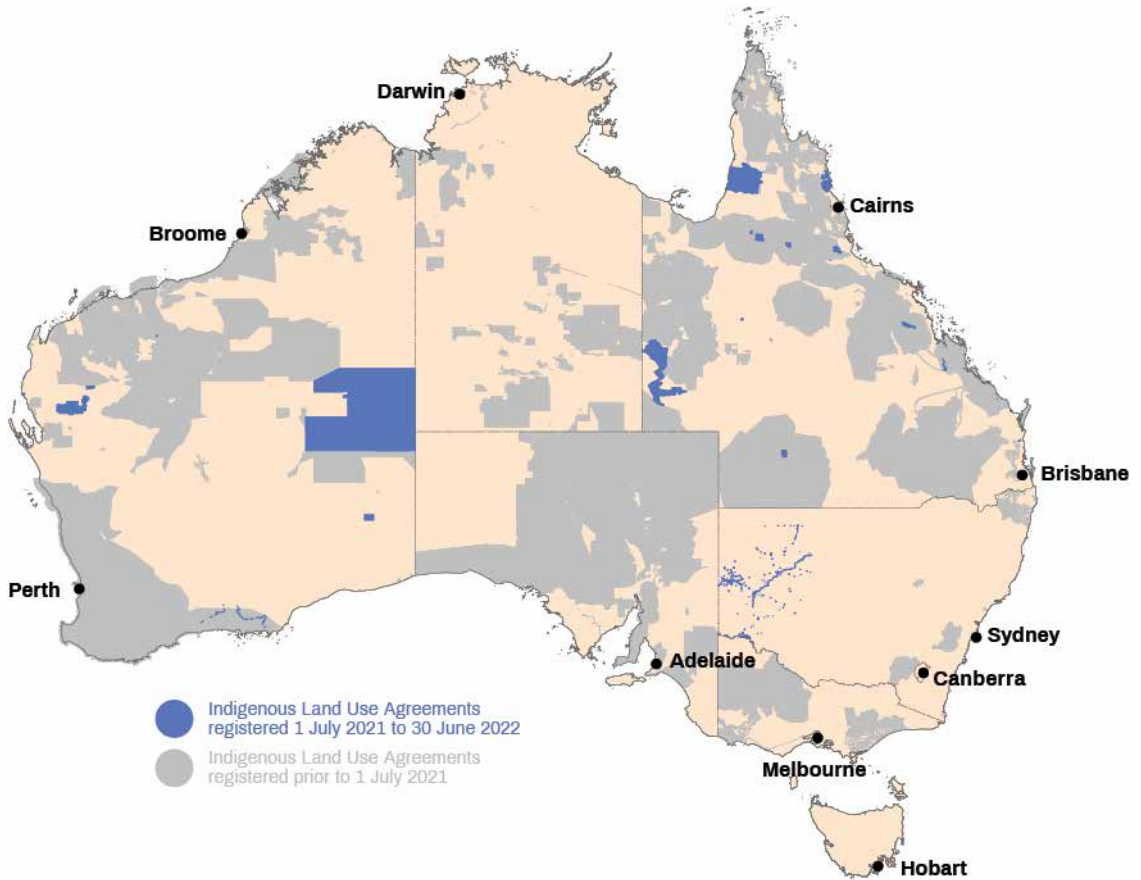
**MAP 1: DETERMINATIONS MAP**



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**MAP 2: INDIGENOUS LAND USE AGREEMENTS MAP**



Spatial data sourced from and used with permission of Landgate (WA), Department of Resources (Qld), © The State of Queensland, Department of Finance, Services & Innovation (NSW), Department of Infrastructure, Planning and Logistics (NT), Dept for Planning, Transport & Infrastructure (SA), Dept of Environment, Land, Planning and Water:(Vic) and Geoscience Australia, Australian Government, © Commonwealth of Australia.

**Management of the Tribunal**

The President, in consultation with the Members, the Native Title Registrar and Team Managers, sets the strategic direction for the Tribunal. The relatively small size of the Tribunal militates in favour of informal, rather than formal consultation. On the other hand, its geographical dispersal increases reliance on the use of electronic means of communication.

*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. \$8,139 million was allocated for the Tribunal’s operations in 2021–22.

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

Table 5.5 next page presents the financial operating statement, summarising the Tribunal’s revenue and expenditure for 2021–22.

TABLE 5.5: FINANCIAL OPERATING STATEMENT

YEAR ENDING 30 JUNE 2022	BUDGET (\$'000)	ACTUAL (\$'000)	VARIANCE (\$'000)
Appropriation			
Total revenue	8,139	8,139	0
Total expenses	8,139	6,879	1,260
Surplus/ Deficit	0	1,260	1,260

## External scrutiny

### *Freedom of Information*

During the reporting period, three requests were received under the *Freedom of Information Act 1982* for access to documents. The Tribunal publishes a disclosure log on its website, as required by the *Freedom of Information Act 1982*. The disclosure log lists the documents that have been released in response to freedom of information access requests. Ten entries were made, each including multiple document attachments (349 pages in total).

### *Accountability to clients*

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

### *Statutory office holders*

The *Native Title Act 1993* deals, in a general way, with issues concerning the behaviour and capacity of Members. While the Native Title Registrar is subject to the Australian Public Service Code of Conduct, this does not apply to Tribunal Members, except where they may be, directly or indirectly, involved in the supervision of staff.

There is a voluntarily code of conduct for Members, however it is in need of review. This process will be undertaken in the course of 2022–23. During the reporting period, there were no complaints concerning Members.

### *Online services*

The Tribunal maintains a website at [www.nntt.gov.au](http://www.nntt.gov.au). The website enables online searching of the National Native Title Register, the Register of Native Claims, and the Register of Indigenous Land Use Agreements. Native title spatial information and data can also be accessed online through Native Title Vision. As a result of the amendments to the *Native Title Act 1993*, the Tribunal also established a publicly available record of section 31 agreements.

### *Australian Human Rights Commission*

Under section 209 of the *Native Title Act 1993*, the Commonwealth Minister may, by written notice, direct the Aboriginal and Torres Strait Islander Social Justice Commissioner to report to the Commonwealth Minister about the operation of the *Native Title Act 1993* or its effect on the exercise and enjoyment of human rights by Aboriginal peoples and Torres Strait Islanders.

The Tribunal continues to assist the Commissioner as requested.

## Part 6: Appendices



## Appendix 1: Financial Statements



### INDEPENDENT AUDITOR'S REPORT

To the Attorney-General

#### Opinion

In my opinion, the financial statements of the Federal Court of Australia (the Entity) for the year ended 30 June 2022:

- (a) comply with Australian Accounting Standards – Simplified Disclosures and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Entity as at 30 June 2022 and its financial performance and cash flows for the year then ended.

The financial statements of the Entity, which I have audited, comprise the following as at 30 June 2022 and for the year then ended:

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

#### Basis for opinion

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

#### Accountable Authority's responsibility for the financial statements

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

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

**Auditor's responsibilities for the audit of the financial statements**

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

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

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

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

Australian National Audit Office



Racheal Kris  
Senior Director  
Delegate of the Auditor-General

Canberra

5 September 2022



## Federal Court of Australia (the Entity)

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

Appropriations made by the Federal Parliament for the purposes of the Federal Court of Australia, the Federal Circuit and Family Court of Australia (Division 1 and Division 2) (previously the Family Court of Australia and the Federal Circuit Court of Australia), as well as the National Native Title Tribunal, are made to the Entity, which is accountable for the financial management of those appropriations.


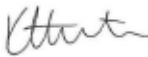


**Federal Court of Australia (the Entity)**

**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 2022 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 .....
Ms Sia Lagos	Ms Kathryn Hunter
Chief Executive Officer/Principal Registrar	Chief Finance Officer
2 <sup>nd</sup> September 2022	2 <sup>nd</sup> September 2022

**Statement of Comprehensive Income**  
for the period ended 30 June 2022

		2022	2021	Original
	Notes	\$'000	\$'000	Budget
				\$'000
<b>NET COST OF SERVICES</b>				
<b>Expenses</b>				
Judicial benefits	1.1A	109,460	105,751	116,470
Employee benefits	1.1A	138,928	123,972	133,690
Suppliers	1.1B	92,769	92,029	108,026
Depreciation and amortisation	3.2A	34,692	35,705	31,688
Finance costs	1.1C	1,030	1,528	3,216
Impairment gain/(loss) on financial instruments	1.1D	8	(22)	-
Write-Down and impairment of assets	1.1E	1,046	219	-
<b>Total expenses</b>		<b>377,933</b>	<b>359,182</b>	<b>393,090</b>
<b>Own-Source income</b>				
<b>Own-source revenue</b>				
Revenue from contracts with customers	1.2A	1,466	2,630	2,843
Resources received free of charge	1.2B	43,811	43,335	43,432
Other revenue	1.2B	615	1,579	-
<b>Total own-source revenue</b>		<b>45,892</b>	<b>47,544</b>	<b>46,275</b>
<b>Other gains</b>				
Liabilities assumed by other agencies		36,057	34,545	27,819
Other gains		7	344	-
<b>Total gains</b>	1.2C	<b>36,064</b>	<b>34,889</b>	<b>27,819</b>
<b>Total own-source income</b>		<b>81,956</b>	<b>82,433</b>	<b>74,094</b>
<b>Net (cost of)/contribution by services</b>		<b>(295,977)</b>	<b>(276,749)</b>	<b>(318,996)</b>
Revenue from Government	1.2D	298,390	275,748	302,486
<b>Surplus/(Deficit) on continuing operations</b>		<b>2,413</b>	<b>(1,001)</b>	<b>(16,510)</b>
<b>OTHER COMPREHENSIVE INCOME</b>				
<b>Items not subject to subsequent reclassification to net cost of services</b>				
Changes in asset revaluation reserve		-	-	-
<b>Total comprehensive income / (loss)</b>		<b>2,413</b>	<b>(1,001)</b>	<b>(16,510)</b>

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

**Statement of Comprehensive Income**

*for the period ended 30 June 2022*

**Budget Variances Commentary**

**Statement of Comprehensive Income**

Judicial benefits

Judicial benefits are lower than budgeted due to significant judicial vacancies throughout 2021-22 and the effect of the movement of bond rates on leave provisions.

Suppliers

Supplier expenses are lower than budgeted due to savings made arising from judicial vacancies and reduced travel costs due to the COVID pandemic in 2021-22.

Finance costs

Finance costs are lower than budgeted due to the low government bond rates and a delay in entering into new leases.

Revenue from contracts with customers

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

Liabilities assumed by other agencies

The gain received in relation to notional judicial superannuation costs was higher than budgeted due to an increase in the actuarial assessment of the value of these benefits as per the Judges Pension Long Term Cost Report 2020 done by the Department of Finance.

Revenue from Government

This is lower than budgeted following a s51 reduction in the Entity's appropriation related to a measure which is yet to be legislated.

**Statement of Financial Position**  
as at 30 June 2022

	Notes	2022 \$'000	2021 \$'000	Original Budget \$'000
<b>ASSETS</b>				
<b>Financial assets</b>				
Cash and cash equivalents	3.1A	1,607	1,234	1,239
Trade and other receivables	3.1B	146,179	134,173	103,706
<b>Total financial assets</b>		<b>147,786</b>	<b>135,407</b>	<b>104,945</b>
<b>Non-financial assets<sup>1</sup></b>				
Buildings	3.2A	154,363	164,301	187,021
Plant and equipment	3.2A	28,759	29,916	35,576
Computer software	3.2A	9,625	9,474	10,946
Inventories	3.2B	3	31	36
Prepayments		3,959	3,763	1,939
<b>Total non-financial assets</b>		<b>196,709</b>	<b>207,485</b>	<b>235,518</b>
<b>Total assets</b>		<b>344,495</b>	<b>342,892</b>	<b>340,463</b>
<b>LIABILITIES</b>				
<b>Payables</b>				
Suppliers	3.3A	7,145	9,075	5,055
Other payables	3.3B	5,390	4,100	3,665
<b>Total payables</b>		<b>12,535</b>	<b>13,175</b>	<b>8,720</b>
<b>Interest bearing liabilities</b>				
Leases	3.4A	130,127	141,720	153,062
<b>Total interest bearing liabilities</b>		<b>130,127</b>	<b>141,720</b>	<b>153,062</b>
<b>Provisions</b>				
Employee provisions	6.1A	60,603	67,388	67,069
Other provisions	3.5A	3,754	4,253	3,960
<b>Total provisions</b>		<b>64,357</b>	<b>71,641</b>	<b>71,029</b>
<b>Total liabilities</b>		<b>207,019</b>	<b>226,536</b>	<b>232,811</b>
<b>Net assets</b>		<b>137,476</b>	<b>116,356</b>	<b>107,652</b>
<b>EQUITY</b>				
Contributed equity		153,304	131,770	150,572
Reserves		12,844	12,844	12,844
Accumulated deficit		(28,672)	(28,258)	(55,764)
<b>Total equity</b>		<b>137,476</b>	<b>116,356</b>	<b>107,652</b>

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

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

**Statement of Financial Position**

*as at 30 June 2022*

**Budget Variances Commentary**

**Statement of Financial Position**

Trade and other receivables

Appropriation receivable is higher than budgeted. This reflects the surplus achieved in 2021-22 and the smaller than expected deficit in 2020-21. There was also an underspend of capital appropriation in 2021-22 due to delays in building and software development projects.

Non-Financial Assets

Non financial assets are lower than budgeted as a result of a delay in the completion of capital projects.

Payables

Payables are higher than budgeted due to a high amount of expenditure on equipment purchased at the end of the financial year that was not paid prior to 30 June 2022.

Employee Provisions

Provisions are lower than budgeted for due to a reduction in the discount rate caused by an increase in Government bond rates during 2022.

Leases

Lease liabilities are lower than budgeted due to a delay in entering into new leases that were budgeted for during 2021-22.

**Statement of Changes in Equity**  
for the period ended 30 June 2022

	Notes	2022 \$'000	2021 \$'000	Original Budget \$'000
<b>CONTRIBUTED EQUITY</b>				
<b>Opening balance</b>				
Balance carried forward from previous period		131,770	119,508	132,032
<b>Comprehensive income</b>				
Other comprehensive income		-	-	-
<b>Total comprehensive income/(loss)</b>		-	-	-
<b>Transactions with owners</b>				
<b>Distributions to owners</b>				
s51 funds for 2017-18 quarantined		-	(262)	-
s51 Withdrawal Criminal Jurisdiction 2019-20		-	(2,338)	-
<b>Contributions by owners</b>				
Equity injection - appropriation		7,525	2,717	4,531
Departmental capital budget		14,009	12,145	14,009
<b>Total transactions with owners</b>		21,534	12,262	18,540
<b>Closing balance as at 30 June</b>		153,304	131,770	150,572
<b>RETAINED EARNINGS/(ACCUMULATED DEFICIT)</b>				
<b>Opening balance</b>				
Balance carried forward from previous period		(28,258)	(26,796)	(39,254)
<b>Comprehensive income</b>				
Surplus/(Deficit) for the period		2,413	(1,001)	(16,510)
Other comprehensive income		-	-	-
<b>Total comprehensive income/(loss)</b>		2,413	(1,001)	(16,510)
<b>Transactions with owners</b>				
<b>Distributions to owners</b>				
s51 Withdrawal Criminal Jurisdiction 2019-20		-	(461)	-
Expired appropriation 2018-19		(2,827)	-	-
<b>Closing balance as at 30 June</b>		(28,672)	(28,258)	(55,764)
<b>ASSET REVALUATION RESERVE</b>				
<b>Opening balance</b>				
Balance carried forward from previous period		12,844	12,844	12,844
<b>Comprehensive income</b>				
Other comprehensive income		-	-	-
<b>Total comprehensive income/(loss)</b>		-	-	-
<b>Closing balance as at 30 June</b>		12,844	12,844	12,844



**Statement of Changes in Equity**  
for the period ended 30 June 2022

Notes	2022 \$'000	2021 \$'000	Original Budget \$'000
<b>TOTAL EQUITY</b>			
<b>Opening balance</b>			
Balance carried forward from previous period	116,356	105,556	105,622
<b>Comprehensive income</b>			
Surplus/(Deficit) for the period	2,413	(1,001)	(16,510)
Other comprehensive income	-	-	-
<b>Total comprehensive income/(loss)</b>	<b>2,413</b>	<b>(1,001)</b>	<b>(16,510)</b>
<b>Transactions with owners</b>			
<b>Distributions to owners</b>			
Quarantined funds	(2,827)	(3,061)	-
<b>Contributions by owners</b>			
Equity injection - appropriation	7,525	2,717	4,531
Departmental capital budget	14,009	12,145	14,009
<b>Total transactions with owners</b>	<b>18,707</b>	<b>11,801</b>	<b>18,540</b>
<b>Closing balance as at 30 June</b>	<b>137,476</b>	<b>116,356</b>	<b>107,652</b>

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

**Accounting Policy**

*Equity Injections*

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

**Budget Variances Commentary**

**Statement of Changes in Equity**

*Accumulated deficit*

The surplus achieved in 2021-22 has resulted in an improved equity position compared with the budgeted position.

**Cash Flow Statement***for the period ended 30 June 2022*

	2022	2021	Original Budget
Notes	\$'000	\$'000	\$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations	290,611	260,471	307,037
Sales of goods and rendering of services	1,306	2,861	2,843
GST received	7,757	7,558	-
Other	674	1,580	-
<b>Total cash received</b>	<b>300,348</b>	<b>272,470</b>	<b>309,880</b>
<b>Cash used</b>			
Employees	217,595	193,472	221,674
Suppliers	59,661	52,761	65,261
Interest payments on lease liabilities	1,529	1,715	3,216
Section 74 receipts transferred to OPA	1,988	3,805	-
<b>Total cash used</b>	<b>280,773</b>	<b>251,753</b>	<b>290,151</b>
<b>Net cash from/(used by) operating activities</b>	<b>19,575</b>	<b>20,717</b>	<b>19,729</b>
<b>INVESTING ACTIVITIES</b>			
<b>Cash received</b>			
Proceeds from sales of property, plant and equipment	7	4	-
<b>Total cash received</b>	<b>7</b>	<b>4</b>	<b>-</b>
<b>Cash used</b>			
Purchase of property, plant and equipment	13,389	13,843	22,099
Purchase of intangibles	2,684	893	-
<b>Total cash used</b>	<b>16,073</b>	<b>14,736</b>	<b>22,099</b>
<b>Net cash from/(used by) investing activities</b>	<b>(16,066)</b>	<b>(14,732)</b>	<b>(22,099)</b>
<b>FINANCING ACTIVITIES</b>			
<b>Cash received</b>			
Contributed equity	16,788	13,034	18,540
<b>Total cash received</b>	<b>16,788</b>	<b>13,034</b>	<b>18,540</b>
<b>Cash used</b>			
Repayment of borrowings	715	807	992
Principal payments of lease liabilities	19,209	18,217	15,178
<b>Total cash used</b>	<b>19,924</b>	<b>19,024</b>	<b>16,170</b>
<b>Net cash from/(used by) financing activities</b>	<b>(3,136)</b>	<b>(5,990)</b>	<b>2,370</b>
<b>Net increase / (decrease) in cash held</b>	<b>373</b>	<b>(5)</b>	<b>-</b>
Cash and cash equivalents at the beginning of the reporting period	1,234	1,239	1,239
<b>Cash and cash equivalents at the end of the reporting period</b>	<b>1,607</b>	<b>1,234</b>	<b>1,239</b>

3.1A

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

**Cash Flow Statement**

*for the period ended 30 June 2022*

**Budget Variances Commentary**

**Statement of Cash Flow Statement**

Cash used for investing activities and Contributed equity

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

Principal payments of lease liabilities

Principal payments of lease liabilities are higher than budgeted due to the budget being insufficient for current property lease costs. The budget has been increased for future years.

**Administered Schedule of Comprehensive Income**  
for the period ended 30 June 2022

	Notes	2022 \$'000	2021 \$'000	Original Budget \$'000
<b>NET COST OF SERVICES</b>				
<b>Expenses</b>				
Suppliers	2.1A	373	612	925
Impairment Loss on Financial Instruments	2.1B	1,532	3,437	3,550
Other Expenses - Refunds of Fees	2.1C	839	422	900
<b>Total expenses</b>		<b>2,744</b>	<b>4,471</b>	<b>5,375</b>
<b>Income</b>				
<b>Revenue</b>				
<b>Non-taxation revenue</b>				
Fees and Fines	2.2A	106,770	83,264	97,776
<b>Total non-taxation revenue</b>		<b>106,770</b>	<b>83,264</b>	<b>97,776</b>
<b>Total revenue</b>		<b>106,770</b>	<b>83,264</b>	<b>97,776</b>
<b>Total income</b>		<b>106,770</b>	<b>83,264</b>	<b>97,776</b>
<b>Net contribution by services</b>		<b>104,026</b>	<b>78,793</b>	<b>92,401</b>
<b>Total comprehensive income</b>		<b>104,026</b>	<b>78,793</b>	<b>92,401</b>

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

**Budget Variances Commentary**

**Administered Schedule of Comprehensive Income**

Fees and fines

Administered revenues relate to activities performed by the Entity on behalf of the Australian Government. The variance to budget is due to the uncertainty in estimating fee revenue and fines, with the Entity on occasion receipting fines on behalf of the Government. A single large fine of \$24 million was received in 2021-22 causing fine revenue to be higher.

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 2022*

	Notes	2022 \$'000	2021 \$'000	Original Budget \$'000
<b>ASSETS</b>				
<b>Financial Assets</b>				
Cash and Cash Equivalents	4.1A	136	106	103
Trade and Other Receivables	4.1B	870	1,102	1,039
<b>Total assets administered on behalf of Government</b>		<b>1,006</b>	<b>1,208</b>	<b>1,142</b>
<b>LIABILITIES</b>				
<b>Payables</b>				
Suppliers	4.2A	15	58	32
Other Payables	4.2B	454	417	542
<b>Total liabilities administered on behalf of Government</b>		<b>469</b>	<b>475</b>	<b>574</b>
<b>Net assets/(liabilities)</b>		<b>537</b>	<b>733</b>	<b>568</b>

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

**Budget Variances Commentary****Administered Schedule of Assets and Liabilities**

There is inherent uncertainty in estimating the cash balance and the balance of receivables, payables and suppliers on any particular day.

**Administered Reconciliation Schedule**  
for the period ended 30 June 2022

	2022	2021
	\$'000	\$'000
<b>Opening assets less liabilities as at 1 July</b>	733	568
<b>Net contribution by services</b>		
Income	106,770	83,264
Expenses		
Payments to entities other than corporate Commonwealth entities	(2,744)	(4,471)
<b>Transfers (to)/from the Australian Government</b>		
Appropriation transfers from Official Public Account		
Annual appropriations		
Payments to entities other than corporate Commonwealth entities	416	585
Special appropriations (unlimited) s77 PGPA Act repayments		
Payments to entities other than corporate Commonwealth entities	839	424
GST increase to appropriations s74 PGPA Act		
Payments to entities other than corporate Commonwealth entities	42	59
Appropriation transfers to OPA		
Transfers to OPA	(105,519)	(79,696)
<b>Closing assets less liabilities as at 30 June</b>	<u>537</u>	<u>733</u>

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 2022

	Notes	2022 \$'000	2021 \$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Fees		79,791	79,395
Fines		25,712	242
GST received		46	62
<b>Total cash received</b>		<u>105,549</u>	<u>79,699</u>
<b>Cash used</b>			
Suppliers		458	644
Refunds of fees		839	422
Other		-	2
<b>Total cash used</b>		<u>1,297</u>	<u>1,068</u>
<b>Net cash from operating activities</b>		<u>104,252</u>	<u>78,631</u>
<b>Net increase in cash held</b>		<u>104,252</u>	<u>78,631</u>
<b>Cash from Official Public Account for:</b>			
Appropriations		1,297	1,068
<b>Total cash from official public account</b>		<u>1,297</u>	<u>1,068</u>
<b>Cash to Official Public Account for:</b>			
Transfer to OPA		(105,519)	(79,696)
<b>Total cash to official public account</b>		<u>(105,519)</u>	<u>(79,696)</u>
Cash and cash equivalents at the beginning of the reporting period		106	103
<b>Cash and cash equivalents at the end of the reporting period</b>	4.1A	<u>136</u>	<u>106</u>
The above statement should be read in conjunction with the accompanying notes.			

## Overview

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

Appropriations made by the Federal Parliament for the purposes of the Federal Court of Australia, the Federal Circuit and Family Court of Australia (Division 1) (previously the Family Court of Australia) and the Federal Circuit and Family Court of Australia (Division 2) (previously the Federal Circuit Court of Australia) (all of which are courts established pursuant to Chapter III of the Commonwealth Constitution), as well as the National Native Title Tribunal, are made to the Entity, which is accountable for the financial management of those appropriations.

The objectives of the Entity include the provision of corporate services in support of the operations of the Federal Court of Australia, Federal Circuit and Family Court of Australia (Division 1), the Federal Circuit and Family Court of Australia (Division 2) and the National Native Title Tribunal.

### The Basis of Preparation

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

The Financial Statements have been prepared in accordance with:

- a) *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015* (FRR); and
- b) Australian Accounting Standards and Interpretations – including simplified disclosures for Tier 2 entities under AASB 1060 issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

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

### New Accounting Standards

All new/revised/amending accounting standards and or interpretations 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 Entity's financial statements.

Standard/Interpretation	Nature of change in accounting policy, transitional provisions, and adjustment to financial statements
AASB 1060 General Purpose Financial Statements – Simplified Disclosures for For-Profit and Not-for-Profit Tier 2 Entities	AASB 1060 applies to annual reporting periods beginning on or after 1 July 2021 and replaces the reduced disclosure requirements (RDR) framework. The application of AASB 1060 involves some reduction in disclosure compared to the RDR with no impact on the reported financial position, financial performance and cash flows of the Entity.

### Taxation

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

#### Reporting of Administered activities

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

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

**Events after the Reporting Period**

**Departmental**

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

**Administered**

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

## 1. Financial Performance

This section analyses the financial performance of the Federal Court of Australia (the Entity) for the year ended 30 June 2022.

### 1.1 Expenses

	2022	2021
	\$'000	\$'000
<b>Note 1.1A: Judicial and Employee Benefits</b>		
Judges remuneration	69,095	67,291
Judicial superannuation defined contribution	4,308	3,916
Judges notional superannuation	36,057	34,544
<b>Total judge benefits</b>	<b>109,460</b>	<b>105,751</b>
Wages and salaries	104,125	93,384
Superannuation		
Defined contribution plans	13,540	11,222
Defined benefit plans	4,914	4,869
Leave and other entitlements	13,772	13,366
Separation and redundancies	2,577	1,131
<b>Total employee benefits</b>	<b>138,928</b>	<b>123,972</b>
<b>Total judge and employee benefits</b>	<b>248,388</b>	<b>229,723</b>

#### Accounting Policy

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

	2022	2021
	\$'000	\$'000
<b>Note 1.1B: Suppliers</b>		
<b>Goods and services supplied or rendered</b>		
IT services	6,969	10,012
Consultants	1,092	540
Contractors	1,716	1,131
Property operating costs	10,801	10,844
Courts operation and administration	11,998	11,257
Travel	3,522	2,684
Library purchases	4,740	4,414
Other	6,412	7,432
<b>Total goods and services supplied or rendered</b>	<b>47,250</b>	<b>48,314</b>
Goods supplied	4,830	7,326
Services rendered	42,420	40,988
<b>Total goods and services supplied or rendered</b>	<b>47,250</b>	<b>48,314</b>
<b>Other suppliers</b>		
Short-term leases	265	(786)
Property resources received free of charge	43,686	43,210
Workers compensation expenses	1,568	1,291
<b>Total other suppliers</b>	<b>45,519</b>	<b>43,715</b>
<b>Total suppliers</b>	<b>92,769</b>	<b>92,029</b>

The Entity has short-term lease commitments of \$27,391 as at 30 June 2022.

The above lease disclosures should be read in conjunction with the accompanying notes 1.1C, 3.2A and 3.4A.

**Accounting Policy****Short-term leases and leases of low-value assets**

The Entity has elected not to recognise right-of-use assets and lease liabilities for short-term leases of assets that have a lease term of 12 months or less and leases of low-value assets (less than \$10,000).

	2022	2021
	\$'000	\$'000
<b>Note 1.1C: Finance Costs</b>		
Interest on lease liabilities - buildings	1,512	1,686
Interest on lease liabilities - plant and equipment	17	29
Unwinding of discount - make good	(499)	(187)
<b>Total finance costs</b>	<u>1,030</u>	<u>1,528</u>

The above lease disclosures should be read in conjunction with the accompanying notes 1.1B, 3.2A and 3.4A.

**Accounting Policy**

All borrowing costs are expensed as incurred.

	2022	2021
	\$'000	\$'000
<b>Note 1.1D: Impairment Loss on Financial Instruments</b>		
Impairment on financial instruments	<u>8</u>	<u>(22)</u>
<b>Total impairment loss on financial instruments</b>	<u>8</u>	<u>(22)</u>
	2022	2021
	\$'000	\$'000
<b>Note 1.1E: Write-Down and Impairment of Other Assets</b>		
Impairment of inventories	25	23
Impairment of plant and equipment	162	4
Impairment on buildings	<u>859</u>	<u>192</u>
<b>Total write-down and impairment of other assets</b>	<u>1,046</u>	<u>219</u>

**1.2 Own-Source Revenue and Gains**

	2022	2021
	\$'000	\$'000
<b>Own-Source Revenue</b>		
<b>Note 1.2A: Revenue from contracts with customers</b>		
Sale of goods	-	1
Rendering of services	<u>1,466</u>	<u>2,629</u>
<b>Total revenue from contracts with customers</b>	<u>1,466</u>	<u>2,630</u>
<b>Disaggregation of revenue from contracts with customers</b>		
Court administration services	364	466
NZ Aid funded program revenue	573	1,373
Government related services	529	790
Others	<u>-</u>	<u>1</u>
<b>Total</b>	<u>1,466</u>	<u>2,630</u>

	2022	2021
	\$'000	\$'000
<b>Note 1.2B: Other Revenue</b>		
Resources received free of charge		
Rent in Commonwealth Law Courts buildings	43,686	43,210
Remuneration of auditors	125	125
Other	615	1,579
<b>Total other revenue</b>	<b>44,426</b>	<b>44,914</b>

**Accounting Policy**

Revenue from the sale of goods is recognised when control has been transferred to the buyer. Revenue is recognised by the Entity under *AASB 15* when the following occurs:

- a contract is identified and each party is committed to perform its obligations;
- the rights and payment terms can be identified; and
- it is probable that the Entity will collect the consideration under the contract when goods or services have been provided.

The Entity identifies its performance obligations in each contract and determines when they have been satisfied. Revenue is recognised at the time performance obligations have been met.

The following is a description of the principal activities from which the Entity generates its revenue:

**Court administration services.** Revenue is recognised when the goods or services are provided to the customer.

**Government related services.** Revenue is recognised at the time the service is provided.

**Services provided to the New Zealand Government.** The Entity has defined performance obligations under the contract with New Zealand, with clearly identified milestones identified in the contract. Revenue is recognised when those performance obligations have been reached.

The transaction price is the total amount of consideration to which the Entity expects to be entitled in exchange for transferring promised goods or services to a customer. The consideration promised in a contract with a customer may include fixed amounts, variable amounts or both. The Entity has not been required to apply the practical expedient on AASB 15.121. There is no consideration from contracts with customers that is not included in the transaction price.

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

*Resources Received Free of Charge*

Resources received free of charge are recognised as revenue 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.

	2022	2021
	\$'000	\$'000
<b>Note 1.2C: Other Gains</b>		
Liabilities assumed by other agencies	36,057	34,545
Other	7	344
<b>Total other gains</b>	<b>36,064</b>	<b>34,889</b>

**Accounting Policy***Liabilities assumed by other agencies*

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

	2022	2021
	\$'000	\$'000
<b>Note 1.2D: Revenue from Government</b>		
Appropriations		
Departmental appropriation	<u>298,390</u>	<u>275,748</u>
<b>Total revenue from Government</b>	<u><b>298,390</b></u>	<u><b>275,748</b></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 (the Entity) 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

	2022	2021
	\$'000	\$'000
<b>Note 2.1A: Suppliers</b>		
<b>Services rendered</b>		
Supply of primary dispute resolution services	373	612
<b>Total suppliers</b>	<b>373</b>	<b>612</b>
<b>Note 2.1B: Impairment Loss on Financial Instruments</b>		
Impairment of trade and other receivables	1,532	3,437
<b>Total impairment loss on financial instruments</b>	<b>1,532</b>	<b>3,437</b>
<b>Note 2.1C: Other Expenses</b>		
Refunds of fees	839	422
<b>Total other expenses</b>	<b>839</b>	<b>422</b>

### 2.2 Administered – Income

	2022	2021
	\$'000	\$'000
<b>Note 2.2A: Fees and Fines</b>		
<b>Revenue</b>		
<b>Non-Taxation Revenue</b>		
Hearing Fees	6,766	7,681
Filing and Setting Down Fees	74,292	75,341
Fines	25,712	242
<b>Total fees and fines</b>	<b>106,770</b>	<b>83,264</b>

#### Accounting Policy

All administered revenues are revenues relating to the course of ordinary activities performed by the Federal Court of Australia, the Federal Circuit and Family Court of Australia (Division 1) and the Federal Circuit and Family Court of Australia (Division 2) on behalf of the Australian Government. As such administered revenues are not revenues of the Entity. Fees are charged for access to the Entity's services. Administered fee revenue is recognised when the service occurs.

Revenue from fines is recognised when a fine is paid to the Entity on behalf of the Government. Fees and Fines are recognised at their nominal amount due less any impairment allowance. Collectability of debts is reviewed at the end of the reporting period. Impairment allowances are made based on historical rates of default.

### 3. Financial Position

This section analyses the Federal Court of Australia (the Entity) 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

	2022	2021
	\$'000	\$'000
<b>Note 3.1A: Cash and Cash Equivalents</b>		
Cash at bank	1,591	1,219
Cash on hand	16	15
<b>Total cash and cash equivalents</b>	<b>1,607</b>	<b>1,234</b>
	2022	2021
	\$'000	\$'000
<b>Note 3.1B: Trade and Other Receivables</b>		
<b>Goods and services receivables</b>		
Goods and services	259	182
<b>Total goods and services receivables</b>	<b>259</b>	<b>182</b>
<b>Appropriation receivables</b>		
Appropriation receivables - operating	118,152	111,212
Appropriation receivables - departmental capital budget	26,726	21,980
<b>Total appropriation receivables</b>	<b>144,878</b>	<b>133,192</b>
<b>Other receivables</b>		
Statutory receivables (GST)	1,043	800
<b>Total other receivables</b>	<b>1,043</b>	<b>800</b>
<b>Total trade and other receivables (gross)</b>	<b>146,180</b>	<b>134,174</b>
Less impairment loss allowance	(1)	(1)
<b>Total trade and other receivables (net)</b>	<b>146,179</b>	<b>134,173</b>

Credit terms for goods and services were within 30 days (2021: 30 days)

#### Reconciliation of the Impairment Allowance Account:

<b>Movements in relation to 2022</b>			
	Goods and services	Other receivables	Total
	\$'000	\$'000	\$'000
<b>As at 1 July 2021</b>	<b>1</b>	<b>-</b>	<b>1</b>
Amounts written off	-	-	-
Amounts recovered and reversed	-	-	-
<b>Total as at 30 June 2022</b>	<b>1</b>	<b>-</b>	<b>1</b>
<b>Movements in relation to 2021</b>			
	Goods and services	Other receivables	Total
	\$'000	\$'000	\$'000
<b>As at 1 July 2020</b>	<b>22</b>	<b>-</b>	<b>22</b>
Amounts written off	-	-	-
Increase/decrease recognised in net surplus	(21)	-	(21)
<b>Total as at 30 June 2021</b>	<b>1</b>	<b>-</b>	<b>1</b>

**Accounting Policy**Financial assets

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

Impairment loss allowance

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

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

	Buildings - Leasehold Improvements	Plant and equipment	Computer software <sup>1</sup>	Total
	\$'000	\$'000	\$'000	\$'000
<b>As at 1 July 2021</b>				
Gross book value	210,863	37,251	34,922	283,036
Accumulated depreciation, amortisation and impairment	(46,562)	(7,335)	(25,448)	(79,345)
<b>Total as at 1 July 2021</b>	<b>164,301</b>	<b>29,916</b>	<b>9,474</b>	<b>203,691</b>
Additions				
Purchase or internally developed	9,511	3,878	2,684	16,073
Right-of-use assets	6,407	2,381	-	8,788
Depreciation and amortisation	(6,826)	(5,221)	(2,533)	(14,580)
Depreciation on right-of-use assets	(18,171)	(1,941)	-	(20,112)
Disposals on right-of-use assets	-	(92)	-	(92)
Disposals and impairment - other	(859)	(162)	-	(1,021)
Right-of-use asset reclassification	-	-	-	-
<b>Total as at 30 June 2022</b>	<b>154,363</b>	<b>28,759</b>	<b>9,625</b>	<b>192,747</b>
<b>Total as at 30 June 2022 represented by</b>				
Gross book value	225,181	40,914	33,939	300,034
Accumulated depreciation and impairment	(70,818)	(12,155)	(24,314)	(107,287)
<b>Total as at 30 June 2022</b>	<b>154,363</b>	<b>28,759</b>	<b>9,625</b>	<b>192,747</b>
<b>Carrying amount of right-of-use assets</b>	<b>121,797</b>	<b>3,226</b>	<b>-</b>	<b>125,023</b>

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

**Revaluations of non-financial assets**

All revaluations were conducted in accordance with the revaluation policy. On 30 June 2020, an independent valuer conducted the revaluations and management conducted a review of the underlying drivers of the independent valuation. A desktop assurance review was undertaken during June 2022 by an external provider to provide assurance on the appropriateness of current non-financial asset carrying amounts.

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

Capital commitments for property, plant and equipment are \$4.047 million (2021: \$0.236 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 costing less than \$2,000, which are expensed in the year of acquisition.

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

*Lease Right of Use (ROU) Assets*

Leased ROU assets are capitalised at the commencement date of the lease and comprise of the initial lease liability amount, initial direct costs incurred when entering into the lease less any lease incentives received. These assets are accounted for by Commonwealth lessees as separate asset classes to corresponding assets owned outright, but included in the same column as where the corresponding underlying assets would be presented if they were owned.

On initial adoption of AASB 16 the Entity has adjusted the ROU assets at the date of initial application by the amount of any provision for onerous leases recognised immediately before the date of initial application. Following initial application, an impairment review is undertaken for any right of use lease asset that shows indicators of impairment and an impairment loss is recognised against any right of use lease asset that is impaired. Lease ROU assets continue to be measured at cost after initial recognition in Commonwealth agency, General Government Services and Whole of Government financial statements.

*Revaluations*

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

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

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

The Entity's assets were independently valued during 2019-20. The valuer has stated in their report that the impact of COVID-19 has introduced significant valuation uncertainty due to rapidly changing economic conditions and a noted reduction in transactional evidence on which to base valuation advice. A materiality review of the carrying value of the Entity's assets was performed in 2021-22 by an external valuer. No change to the carrying value was made after the receipt of this review.

**Accounting Policy (continued)**Depreciation

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

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

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

2022	2021		
Leasehold improvements	<b>10 to 20 years or lease term</b>	10 to 20 years or lease term	
Plant and equipment – excluding library materials	<b>3 to 100 years</b>	3 to 100 years	
Plant and equipment – library materials	<b>5 to 10 years</b>	5 to 10 years	

The depreciation rates for ROU assets are based on the commencement date to the earlier of the end of the useful life of the ROU asset or the end of the lease term.

Impairment

All assets were assessed for impairment at 30 June 2022. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

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

Derecognition

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

Intangibles

The Entity's intangibles comprise externally and internally developed software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses. Software is amortised on a straight-line basis over its anticipated useful life of 5 years (2021: 5 years).

	2022	2021
	<b>\$'000</b>	<b>\$'000</b>
<b>Note 3.2B: Inventories</b>		
Inventories held for distribution	<u>3</u>	<u>31</u>
<b>Total inventories</b>	<u>3</u>	<u>31</u>

During 2021-22, \$25,184 of inventory was recognised as an expense (2021: \$22,700).

**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**

	2022	2021
	\$'000	\$'000

**Note 3.3A: Suppliers**

Trade creditors and accruals	7,145	9,075
<b>Total suppliers</b>	<b>7,145</b>	<b>9,075</b>

Settlement was usually made within 30 days.

**Note 3.3B: Other Payables**

Salaries and wages	2,502	1,925
Superannuation	425	320
Separations and redundancies	1,513	764
Unearned income	83	217
Other	867	874
<b>Total other payables</b>	<b>5,390</b>	<b>4,100</b>

**3.4 Interest Bearing Liabilities**

	2022	2021
	\$'000	\$'000

**Note 3.4A: Leases**

Lease Liabilities		
Buildings	126,898	138,842
Plant and equipment	3,229	2,878
<b>Total leases</b>	<b>130,127</b>	<b>141,720</b>

**Maturity analysis - contractual undiscounted cash flows**

Within 1 year	441	1,093
Between 1 to 5 years	37,878	39,049
More than 5 years	91,808	101,578
<b>Total leases</b>	<b>130,127</b>	<b>141,720</b>

Total cash outflow for leases for the year ended 30 June 2022 was \$19.209m. (2021: \$18.217m)

The Entity in its capacity as lessee has leases in the nature of office buildings and motor vehicles leases. All buildings, for both commercial and special purpose Court building leases, include annual fixed rent increases and CPI rent increases where applicable. 8 of those leases have an option to renew at the end of the lease period. Motor vehicle leases relates to the provision of motor vehicles to Judges and Senior Executive Officers. There are no renewal options available to the Entity.

The above lease disclosures should be read in conjunction with the accompanying notes 1.1B, 1.1D and 3.2A.

**Accounting Policy**

For all new contracts entered into, the Entity considers whether the contract is, or contains a lease. A lease is defined as 'a contract, or part of a contract, that conveys the right to use an asset (the underlying asset) for a period of time in exchange for consideration'.

Once it has been determined that a contract is, or contains a lease, the lease liability is initially measured at the present value of the lease payments unpaid at the commencement date, discounted using the interest rate implicit in the lease, if that rate is readily determinable, or the department's incremental borrowing rate.

Subsequent to initial measurement, the liability will be reduced for payments made and increased for interest. It is remeasured to reflect any reassessment or modification to the lease. When the lease liability is remeasured, the corresponding adjustment is reflected in the right-of-use asset or profit and loss depending on the nature of the reassessment or modification.



<b>3.5 Other Provisions</b>		
	2022	2021
	\$'000	\$'000
<b>Note 3.5A: Other Provisions</b>		
Provision for restoration obligations	3,754	4,253
<b>Total other provisions</b>	<b>3,754</b>	<b>4,253</b>
	<b>Provision for restoration</b>	<b>Total</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>As at 1 July 2021</b>	<b>4,253</b>	<b>4,253</b>
Additional provisions made	-	-
Unwindings of discount or change in discount rate	(499)	(499)
<b>Total as at 30 June 2022</b>	<b>3,754</b>	<b>3,754</b>

## 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 (the Entity) 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

	2022	2021
	\$'000	\$'000

#### Note 4.1A: Cash and Cash Equivalents

Cash on hand or on deposit	136	106
<b>Total cash and cash equivalents</b>	<b>136</b>	<b>106</b>

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	5,463	6,884
<b>Total goods and services receivables</b>	<b>5,463</b>	<b>6,884</b>

#### Other receivables

Statutory receivable (GST)	2	6
<b>Total other receivables</b>	<b>2</b>	<b>6</b>
<b>Total trade and other receivables (gross)</b>	<b>5,465</b>	<b>6,890</b>

#### Less impairment loss allowance account:

Goods and services	(4,595)	(5,788)
<b>Total impairment loss allowance</b>	<b>(4,595)</b>	<b>(5,788)</b>
<b>Total trade and other receivables (net)</b>	<b>870</b>	<b>1,102</b>

#### Accounting Policy

##### *Trade and other receivables*

Collectability of debts is reviewed on an ongoing basis and at the end of the reporting period. The Entity use its best endeavours to ensure Court Fees are paid in a timely manner. However, due to the nature of the fees some debts are inherently difficult to collect and result in an impairment loss allowance. The impairment loss allowance is calculated based on the Entity's historical rate of debt collection. Credit terms for services were within 30 days (2021: 30 days).

### 4.2 Administered – Payables

	2022	2021
	\$'000	\$'000

#### Note 4.2A: Suppliers

Trade creditors and accruals	15	58
<b>Total supplier payables</b>	<b>15</b>	<b>58</b>

The contract liabilities are associated with family dispute resolution services.

#### Note 4.2B: Other Payables

Unearned income	454	417
<b>Total other payables</b>	<b>454</b>	<b>417</b>

## 5. Funding

This section identifies the Federal Court of Australia's (the Entity) funding structure.

### 5.1 Appropriations

Note 5.1A: Annual Appropriations ('Recoverable GST exclusive')

#### Annual Appropriations for 2022

	Annual Appropriation <sup>1</sup> \$'000	Adjustments to Appropriation <sup>2</sup> \$'000	Total appropriation \$'000	Appropriation applied in 2022 (current and prior years) \$'000	Variance <sup>3</sup> \$'000
<b>Departmental</b>					
Ordinary annual services	303,722	1,988	305,710	292,821	12,889
Capital Budget	14,009	-	14,009	14,236	(227)
Other services					
Equity Injections	7,525	-	7,525	2,552	4,973
<b>Total departmental</b>	<b>325,256</b>	<b>1,988</b>	<b>327,244</b>	<b>309,609</b>	<b>17,635</b>
<b>Administered</b>					
Ordinary annual services	925	-	925	416	509
Administered items					
<b>Total administered</b>	<b>925</b>	<b>-</b>	<b>925</b>	<b>416</b>	<b>509</b>

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. Section 51 of the *PGPA Act* quarantined funds of \$1,102k for withdrawn criminal jurisdiction 2021-22 and \$4,230k for appropriations that were reappropriated between Entity outcomes during 2021-22.

2. Adjustments to appropriation have included receipts collected under Section 74 of the *PGPA Act*.

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

Annual Appropriations for 2021

	Annual Appropriation <sup>1</sup> \$'000	Adjustments to Appropriation <sup>2</sup> \$'000	Total appropriation \$'000	Appropriation applied in 2021 (current and prior years) \$'000	Variance <sup>3</sup> \$'000
<b>Departmental</b>					
Ordinary annual services	277,784	3,805	281,589	262,968	18,621
Capital Budget	12,145	-	12,145	15,543	(3,398)
Other services					
Equity Injections	2,717	-	2,717	-	2,717
<b>Total departmental</b>	<b>292,646</b>	<b>3,805</b>	<b>296,451</b>	<b>278,511</b>	<b>17,940</b>
<b>Administered</b>					
Ordinary annual services	885	-	885	586	299
Administered items	885	-	885	586	299
<b>Total administered</b>					

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.

Section 51 of the *PGPA Act* quarantined funds of \$2,338k for withdrawn criminal jurisdiction 2019-20 and \$723k of expired appropriation from the 2017-18 year.

2. Adjustments to appropriation have included receipts collected under Section 74 of the *PGPA Act* and Section 51 quarantined funds.

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

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

	2022	2021
	\$'000	\$'000
<b>Departmental</b>		
Appropriation Act (No. 1) 2018-19	-	2,827
Appropriation Act (No. 1) 2019-20 - Departmental Capital Budget (DCB)	-	11,555
Supply Act (No. 1) 2019-20 - Departmental Capital Budget (DCB)	-	1,136
Appropriation Act (No. 1) 2020-21 - Operating	-	81,116
Appropriation Act (No. 1) 2020-21 - Departmental Capital Budget (DCB)	5,027	5,060
Supply Act (No. 1) 2020-21 - Operating	-	29,305
Supply Act (No. 1) 2020-21 - Departmental Capital Budget (DCB)	-	1,512
Appropriation Act (No. 2) 2020-21 - Equity Injections	165	2,717
Appropriation Act (No. 1) 2021-22 – Operating <sup>1</sup>	122,247	-
Appropriation Act (No. 1) 2021-22 - Departmental Capital Budget (DCB)	14,009	-
Appropriation Act (No. 3) 2021-22 - Operating	1,236	-
Appropriation Act (No. 2) 2021-22 - Equity Injections	4,531	-
Appropriation Act (No. 4) 2021-22 - Equity Injections	2,994	-
Cash at bank	1,607	1,234
<b>Total departmental</b>	<b>151,817</b>	<b>136,462</b>
<b>Administered</b>		
Appropriation Act (No 1) 2020-21	-	299
Appropriation Act (No 2) 2021-22	509	-
<b>Total administered</b>	<b>509</b>	<b>299</b>

1. Section 51 of the *PGPA Act* quarantined funds of \$1,102k for withdrawn criminal jurisdiction 2021-22 and \$4,230k for appropriations that were reappropriated between Court outcomes during 2021-22.

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

	Appropriation applied	
	2022	2021
	\$'000	\$'000
<b>Authority</b>		
Public Governance, Performance and Accountability Act 2013, Section 77, Administered	839	424
<b>Total special appropriations applied</b>	<b>839</b>	<b>424</b>

## 5.2 Special Accounts

### Note 5.2A: Special Accounts ('Recoverable GST exclusive')

	Departmental		Administered			
	Services for other entities and Trust Moneys Special Account <sup>1</sup>		Federal Court Of Australia Litigants Fund Special Account <sup>2</sup>		Family Court and Federal Circuit Court Litigants Fund Special Account <sup>3</sup>	
	2022	2021	2022	2021	2022	2021
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Balance brought forward from previous period</b>	10	8	44,980	32,415	5,349	2,946
<b>Increases</b>	86	292	37,313	49,079	2,452	3,131
<b>Total increases</b>	86	292	37,313	49,079	2,452	3,131
<b>Available for payments</b>	96	300	82,293	81,494	7,801	6,077
<b>Decreases</b>						
Departmental	76	290	-	-	-	-
Administered	-	-	36,104	36,514	5,429	728
<b>Total decreases</b>	76	290	36,104	36,514	5,429	728
<b>Total balance carried to the next period</b>	20	10	46,189	44,980	2,372	5,349
<b>Balance represented by:</b>						
Cash held in Entity bank accounts	20	10	46,189	44,980	2,372	5,349
Cash held in the Official Public Account	-	-	-	-	-	-
<b>Total balance carried to the next period</b>	20	10	46,189	44,980	2,372	5,349

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 Federal Circuit and Family Court of Australia (Division 1) or the Federal Circuit and Family Court of Australia (Division 2);
- (b) for amounts received in respect of proceedings that have been transferred from another court to Federal Circuit and Family Court of Australia (Division 1) or the Federal Circuit and Family Court of Australia (Division 2);
- (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 Federal Circuit and Family Court of Australia (Division 1), 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 and Family Court of Australia (Division 2), or a Judge 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.

4. The closing balance of the Services for Other Entities and Trust Moneys Special Account includes amounts held in trust of \$20,000 in 2022 and \$10,000 in 2021. The closing balance of the Federal Court Of Australia Litigants Fund Special Account<sup>2</sup> includes amounts held in trust of \$46.189m in 2022 and \$44.980m in 2021. The closing balance of the Family Court and Federal Circuit Court Litigants Fund Special Account<sup>3</sup> includes amounts held in trust of \$2.372m in 2022 and \$5.349m in 2021.

**Note 5.2B: Trust Money Special Accounts**

The Entity holds funds in bank accounts on behalf of parties to Court matters. These amounts are held for the benefit of litigants and are only payable by order of the Court.

	2022	2021
	\$'000	\$'000
<b>Litigants Fund Accounts</b>		
As at 1 July	50,338	35,369
Receipts	39,851	52,501
Payments	(41,609)	(37,532)
<b>Total as at 30 June</b>	<b>48,580</b>	<b>50,338</b>
<b>Total monetary assets held in trust</b>	<b>48,580</b>	<b>50,338</b>

**5.3 Net Cash Appropriation Arrangements**

	2022	2021
	\$'000	\$'000
<b>Total comprehensive income/(loss) - as per the Statement of Comprehensive Income</b>	<b>2,413</b>	<b>(1,001)</b>
Plus: depreciation/amortisation of assets funded through appropriations (departmental capital budget funding and/or equity injections)	14,580	15,167
Plus: depreciation of right-of-use assets	20,112	20,538
Less: lease principal repayments	(19,209)	(18,217)
<b>Net Cash Operating Surplus/ (Deficit)</b>	<b>17,896</b>	<b>16,487</b>



## 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

	2022	2021
	\$'000	\$'000
<b>Note 6.1A: Employee Provisions</b>		
Leave	31,793	32,471
Judges leave	<u>28,810</u>	<u>34,917</u>
<b>Total employee provisions</b>	<b><u>60,603</u></b>	<b><u>67,388</u></b>

#### Accounting Policy

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

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

#### Leave

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

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

The liability for annual leave and long service leave has been determined by reference to the work of an actuary as at 30 June 2020. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

#### Separation and redundancy

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

#### Superannuation

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

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

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

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

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

#### Judges' pension

Under the *Judges' Pension Act 1968*, Federal Court and Federal Circuit and Family Court of Australia (Division 1) Judges are entitled to a non-contributory pension upon retirement after at least 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 Entity 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 \$36.06 million (2021: \$34.54 million). The contribution rate has been provided by the Department of Finance following an actuarial review.

## 6.2 Key Management Personnel Remuneration

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the Entity, directly or indirectly, including any director (whether executive or otherwise) of that Entity. The Entity has determined the key management personnel to be the Chief Justices and the Chief Executive Officers of the Federal Court of Australia, Federal Circuit and Family Court of Australia (Division 1), the Federal Circuit and Family Court of Australia (Division 2), the President and Registrar of the National Native Title Tribunal and the Executive Director of Corporate Services.

### Note 6.2A: Key Management Personnel Remuneration

	2022	2021
	\$'000	\$'000
Short-term employee benefits	3,079	3,123
Post-employment benefits	1,084	1,083
Other long-term employee benefits	150	150
<b>Total key management personnel remuneration expenses</b>	<b>4,313</b>	<b>4,356</b>

The total number of key management personnel that are included in the above table is 8 (2021: 8).

1. The above key management personnel remuneration excludes the remuneration and other benefits of the Portfolio Minister. The Portfolio Minister's remuneration and other benefits are set by the Remuneration Tribunal and are not paid by the Entity.
2. The above key management personnel remuneration includes remuneration for the Chief Justice of the Federal Court of Australia and the Chief Justice of the Federal Circuit and Family Court of Australia, totalling \$2.124m. The Chief Justices are not officials of the Entity but are responsible for managing the administrative affairs of the Courts under the *Federal Court of Australia Act 1976* and the *Federal Circuit and Family Court of Australia Act 2021*.

## 6.3 Related Party Disclosures

### Related party relationships:

The Entity is an Australian Government controlled entity within the Attorney-General's portfolio. Related parties to the Entity are Key Management Personnel including the Portfolio Minister and Executive and other Australian Government entities.

### Transactions with related parties:

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

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

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

The Entity has no transactions with related parties to disclose as at 30 June 2022 (2021: none).

## 7. Managing Uncertainties

This section analyses how the Federal Court of Australia (the Entity) 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 (the Entity) has nil quantifiable contingent assets or liabilities as at 30 June 2022 (2021: none).

##### **Unquantifiable Contingencies**

The Federal Court of Australia (the Entity) has nil unquantifiable contingent assets or liabilities as at 30 June 2022 (2021: none).

#### **Accounting Policy**

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

#### Note 7.1B: Administered Contingent Assets and Liabilities

The Entity has nil quantifiable or unquantifiable administered contingent liabilities or assets as at 30 June 2022 (2021: none).

**7.2 Financial Instruments**

	2022	2021
	\$'000	\$'000
<b>Note 7.2A: Categories of Financial Instruments</b>		
<b>Financial assets</b>		
<b>Financial assets at amortised cost</b>		
Cash and cash equivalents	1,607	1,234
Trade and other receivables	258	181
<b>Total financial assets at amortised cost</b>	<b>1,865</b>	<b>1,415</b>
<b>Total financial assets</b>	<b>1,865</b>	<b>1,415</b>
<b>Financial Liabilities</b>		
<b>Financial liabilities measured at amortised cost</b>		
Trade creditors	7,145	9,075
<b>Total financial liabilities</b>	<b>7,145</b>	<b>9,075</b>

**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.

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.

Effective Interest Method

Income is recognised on an effective interest rate basis for financial assets that are recognised at amortised cost.

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.

**Accounting Policy (continued)****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'.

**Financial Liabilities at Amortised Cost**

Financial liabilities, including borrowings, are initially measured at fair value. 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).

**7.3 Administered – Financial Instruments**

	2022	2021
	\$'000	\$'000

**Note 7.3A: Categories of Financial Instruments**

<b>Financial assets at amortised cost</b>		
Cash and cash equivalents	136	106
Other receivables	870	1,102
<b>Total financial assets at amortised cost</b>	<b>1,006</b>	<b>1,208</b>
<b>Total financial assets</b>	<b>1,006</b>	<b>1,208</b>

	2022	2021
	\$'000	\$'000

**Note 7.3B: Net Gains or Losses on Financial Liabilities**

<b>Financial liabilities measured at amortised cost</b>		
Interest expense	1,529	1,715
<b>Net gains/(losses) on financial liabilities measured at amortised cost</b>	<b>1,529</b>	<b>1,715</b>

## 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 2020. The Entity reviews the method used by the valuer annually.

### Note 7.4A: Fair Value Measurement

	Fair value measurements at the end of the reporting period	
	2022	2021
	\$'000	\$'000
<b>Non-financial assets</b>		
Leasehold improvements	32,566	30,741
Plant and equipment	25,533	27,070

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

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

## 8. Other Information

This section provides other disclosures relevant to the Federal Court of Australia (the Entity) financial information environment for the year.

### 8.1 Current/ non-current distinction for assets and liabilities

	2022	2021
	\$'000	\$'000
<b>Note 8.1A: Current/non-current distinction for assets and liabilities</b>		
<b>Assets expected to be recovered in:</b>		
<b>No more than 12 months</b>		
Cash and cash equivalents	1,607	1,234
Trade and other receivables	146,178	134,131
Prepayments	3,950	3,763
Inventories	3	-
<b>Total no more than 12 months</b>	<b>151,738</b>	<b>139,128</b>
<b>More than 12 months</b>		
Trade and other receivables	1	42
Buildings	154,363	164,301
Plant and equipment	28,759	29,916
Computer software	9,625	9,474
Inventories	-	31
Prepayments	9	-
<b>Total more than 12 months</b>	<b>192,757</b>	<b>203,764</b>
<b>Total assets</b>	<b>344,495</b>	<b>342,892</b>
<b>Liabilities expected to be settled in:</b>		
<b>No more than 12 months</b>		
Suppliers	7,145	9,075
Other payables	5,306	3,980
Leases	440	1,092
Employee provisions	16,142	16,831
Other provisions	1,128	917
<b>Total no more than 12 months</b>	<b>30,161</b>	<b>31,895</b>
<b>More than 12 months</b>		
Other payables	84	120
Leases	129,687	140,628
Employee provisions	44,461	50,557
Other provisions	2,626	3,336
<b>Total more than 12 months</b>	<b>176,858</b>	<b>194,641</b>
<b>Total liabilities</b>	<b>207,019</b>	<b>226,536</b>



	2022	2021
	\$'000	\$'000
<b><u>Note 8.1B: Administered - Current/non-current distinction for assets and liabilities</u></b>		
<b>Assets expected to be recovered in:</b>		
<b>No more than 12 months</b>		
Cash and cash equivalents	136	106
Taxation receivables		
Trade and other receivables	870	1,102
Asset held for sale	-	-
[Disclose by asset disclosure]	-	-
<b>Total no more than 12 months</b>	<b>1,006</b>	<b>1,208</b>
<b>More than 12 months</b>		
Trade and other receivables	-	-
Land and buildings	-	-
Heritage and cultural	-	-
Plant and equipment	-	-
Computer software	-	-
Other intangibles	-	-
[Disclose by asset disclosure]	-	-
<b>Total more than 12 months</b>	<b>-</b>	<b>-</b>
<b>Total assets</b>	<b>1,006</b>	<b>1,208</b>
<b>Liabilities expected to be settled in:</b>		
<b>No more than 12 months</b>		
Suppliers	15	58
Subsidies	-	-
Grants	-	-
Personal benefits	-	-
Other payables	454	417
Loans	-	-
Leases	-	-
Employee provisions	-	-
Other provisions	-	-
[Disclose by liability disclosure]	-	-
<b>Total no more than 12 months</b>	<b>469</b>	<b>475</b>
<b>More than 12 months</b>		
Suppliers	-	-
Loans	-	-
Leases	-	-
Employee provisions	-	-
Other provisions	-	-
[Disclose by liability disclosure]	-	-
<b>Total more than 12 months</b>	<b>-</b>	<b>-</b>
<b>Total liabilities</b>	<b>469</b>	<b>475</b>

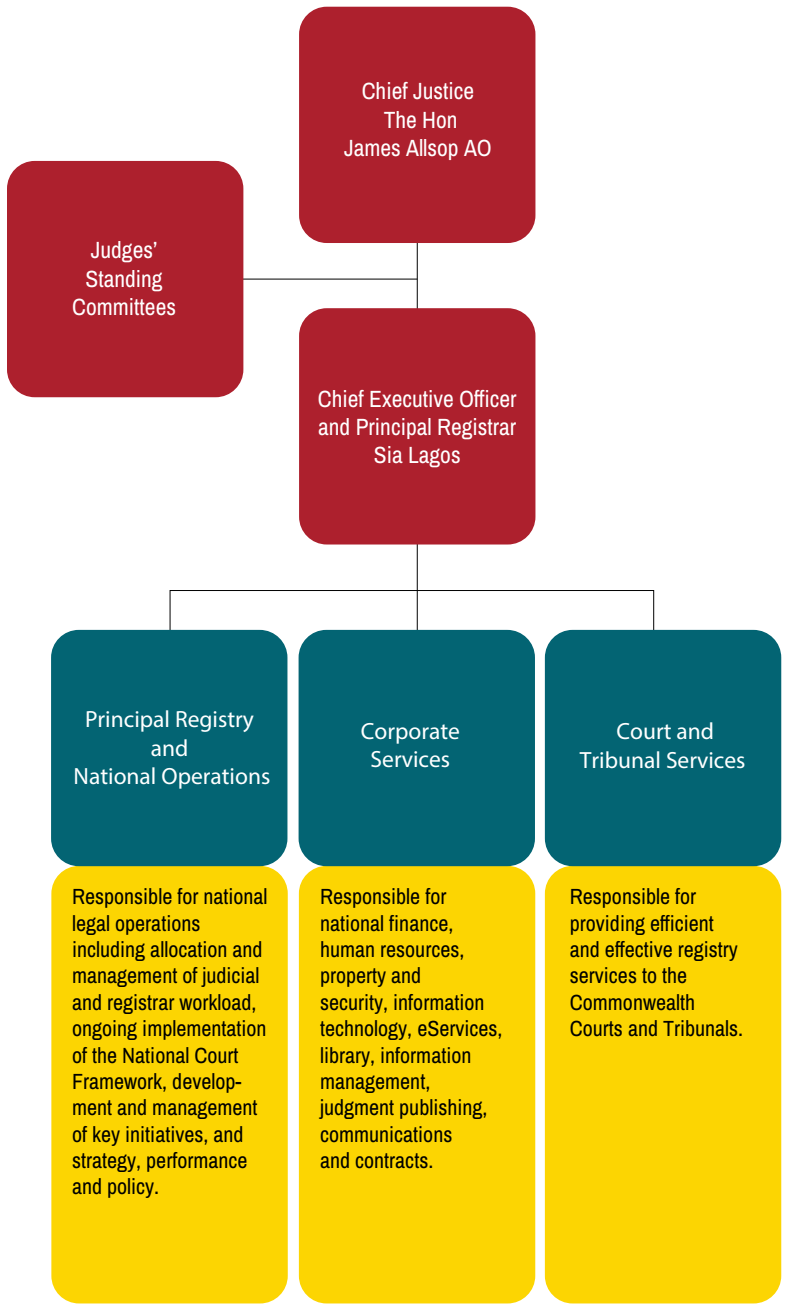
## Appendix 2: Entity Resource Statement

ENTITY RESOURCE STATEMENT	ACTUAL AVAILABLE APPROPRIATIONS FOR 2021-22 \$'000	PAYMENTS MADE 2021-22 \$'000	BALANCE REMAINING \$'000
<b>ORDINARY ANNUAL SERVICES<sup>1</sup></b>			
<b>Departmental appropriation</b>	453 627	307 143	146 484
Departmental appropriation	<b>453 627</b>	<b>307 143</b>	<b>146 484</b>
<b>Total</b>			
<b>Administered expenses<sup>1</sup></b>			
<b>Outcome 3</b>	<b>925</b>	<b>416</b>	<b>509</b>
<b>Total</b>	<b>925</b>	<b>416</b>	<b>509</b>
<b>Total ordinary annual services</b>	<b>454 552</b>	<b>307 559</b>	<b>146 993</b>
<b>Special appropriations limited by criteria / entitlement</b>			
<i>Public Governance, Performance and Accountability Act 2013, s77</i>	1 000	839	161
<b>Total</b>	1 000	839	<b>161</b>
<b>Total net resourcing and payments for court</b>	<b>455 552</b>	<b>308 398</b>	<b>147 154</b>

<sup>1</sup> Includes a Departmental Capital Budget of \$12.145m and an equity injection of \$2.717m

## Appendix 3: Organisational chart

Federal Court management structure as at 30 June 2022



## Appendix 4: Registrars of the Court, 30 June 2022

### Principal Registry

#### *Executive*

NAME	TITLE	LOCATION	APPOINTMENTS
Sia Lagos	Chief Executive Officer and Principal Registrar	Melbourne, VIC	<ul style="list-style-type: none"> <li>Chief Executive Officer and Principal Registrar, Federal Court of Australia.</li> </ul>

#### *Office of the General Counsel*

NAME	TITLE	LOCATION	APPOINTMENTS
Scott Tredwell	General Counsel, Deputy Principal Registrar	Brisbane, QLD	<ul style="list-style-type: none"> <li>Registrar, Federal Court of Australia</li> <li>Registrar, Federal Circuit and Family Court of Australia</li> <li>Deputy Sheriff, Federal Court of Australia</li> <li>Deputy Sheriff, Federal Circuit and Family Court of Australia</li> <li>Deputy Marshal, Federal Circuit and Family Court of Australia</li> </ul>
Claire Hammerton Cole	Registrar – General Law and Practice	Sydney, NSW	<ul style="list-style-type: none"> <li>Registrar, Federal Court of Australia</li> <li>Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Rohan Muscat	National Registrar	Sydney, NSW	<ul style="list-style-type: none"> <li>Registrar, Federal Court of Australia</li> <li>Registrar, Federal Circuit and Family Court of Australia</li> </ul>

### National Operations – Legal

#### *Principal Judicial Registrars*

NAME	TITLE	LOCATION	APPOINTMENTS
Rowan Davis	A/g Principal Judicial Registrar and National Operations Registrar	Melbourne, VIC	<ul style="list-style-type: none"> <li>Registrar, Federal Court of Australia</li> <li>Registrar, Federal Circuit and Family Court of Australia</li> </ul>

*Senior National Judicial Registrars*

NAME	TITLE	LOCATION	APPOINTMENTS
Paul Farrell	Senior National Judicial Registrar and National Operations Registrar	Sydney, NSW	<ul style="list-style-type: none"> <li>■ District Registrar (NSW District Registry), Federal Court of Australia</li> <li>■ District Registrar (ACT District Registry), Federal Court of Australia</li> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Alison Legge	Senior National Judicial Registrar and National Operations Registrar	Melbourne, VIC	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Jennifer Priestley	Senior National Judicial Registrar and National Operations Registrar	Sydney, NSW	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>

*National Judicial Registrars and District Registrars*

NAME	TITLE	LOCATION	APPOINTMENTS
Nicola Colbran	National Judicial Registrar and District Registrar	Adelaide, SA	<ul style="list-style-type: none"> <li>■ District Registrar (SA District Registry), Federal Court of Australia</li> <li>■ District Registrar (NT District Registry), Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> <li>■ Deputy Registrar, Australian Competition Tribunal</li> <li>■ Deputy Registrar, Defence Force Discipline Appeal Tribunal</li> </ul>
Tim Luxton	National Judicial Registrar and District Registrar	Melbourne, VIC	<ul style="list-style-type: none"> <li>■ District Registrar (VIC District Registry), Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> <li>■ Registrar, Australian Competition Tribunal</li> <li>■ Registrar, Defence Force Discipline Appeal Tribunal</li> </ul>

NAME	TITLE	LOCATION	APPOINTMENTS
Peter Schmidt	National Judicial Registrar and District Registrar	Brisbane, QLD	<ul style="list-style-type: none"> <li>■ District Registrar (QLD District Registry), Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Susie Stone	Acting National Judicial Registrar and District Registrar	Hobart, TAS	<ul style="list-style-type: none"> <li>■ District Registrar (TAS District Registry), Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> <li>■ Deputy Registrar, Defence Force Discipline Appeal Tribunal</li> </ul>
Russell Trott	National Judicial Registrar and District Registrar	Perth, WA	<ul style="list-style-type: none"> <li>■ District Registrar (WA District Registry), Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> <li>■ Deputy Registrar, Australian Competition Tribunal</li> <li>■ Deputy Registrar, Defence Force Discipline Appeal Tribunal</li> </ul>

### *National Judicial Registrars*

NAME	TITLE	LOCATION	APPOINTMENTS
Phillip Allaway	National Judicial Registrar	Melbourne, VIC	<ul style="list-style-type: none"> <li>■ Deputy District Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> <li>■ Deputy Registrar, Defence Force Discipline Appeal Tribunal</li> </ul>
Matthew Benter	National Judicial Registrar	Perth, WA	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Rupert Burns	National Judicial Registrar	Melbourne, VIC	<ul style="list-style-type: none"> <li>■ Deputy District Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Catherine Forbes	National Judicial Registrar	Melbourne, VIC	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>

NAME	TITLE	LOCATION	APPOINTMENTS
Susan O'Connor	National Judicial Registrar	Sydney, NSW	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Katie Stride	National Judicial Registrar – Native Title	Brisbane, QLD	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>

### *Judicial Registrars*

NAME	TITLE	LOCATION	APPOINTMENTS
Michael Buckingham	Judicial Registrar	Brisbane, QLD	<ul style="list-style-type: none"> <li>■ Deputy District Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Jodie Burns	Judicial Registrar – Federal Criminal Jurisdiction	Melbourne, VIC	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Christian Carney	Judicial Registrar – Migration	Melbourne, VIC	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
James Cho	Judicial Registrar	Sydney, NSW	<ul style="list-style-type: none"> <li>■ Deputy District Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Ann Daniel	Judicial Registrar – Native Title	Perth, WA	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Alicia Ditton	Judicial Registrar – Federal Criminal Jurisdiction	Sydney, NSW	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> <li>■ Deputy Registrar, Norfolk Island Supreme Court</li> </ul>
Amelia Edwards	Judicial Registrar	Melbourne, VIC	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Simon Grant	Judicial Registrar – Native Title	Brisbane, QLD	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> </ul>



NAME	TITLE	LOCATION	APPOINTMENTS
Simon Haag	National Judicial Registrar – Migration	Melbourne, VIC	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Ivan Ingram	Judicial Registrar – Native Title	Brisbane, QLD	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Kim Lackenby	Judicial Registrar	Canberra, ACT	<ul style="list-style-type: none"> <li>■ Deputy District Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> <li>■ Deputy Registrar, Defence Force Discipline Appeal Tribunal</li> </ul>
Katie Lynch	Judicial Registrar	Brisbane, QLD	<ul style="list-style-type: none"> <li>■ Deputy District Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> <li>■ Deputy Registrar, Australian Competition Tribunal</li> </ul>
Laurelea McGregor	Judicial Registrar – Native Title	Perth, WA	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Thomas Morgan	Judicial Registrar	Sydney, NSW	<ul style="list-style-type: none"> <li>■ Deputy District Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Nicholas Parkyn	Judicial Registrar	Adelaide, SA	<ul style="list-style-type: none"> <li>■ Deputy District Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Geoffrey Segal	Judicial Registrar	Sydney, NSW	<ul style="list-style-type: none"> <li>■ Deputy District Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> <li>■ Deputy Registrar, Australian Competition Tribunal</li> </ul>
Coenraad van der Westhuizen	Judicial Registrar – Migration	Melbourne, VIC	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>

*National Registrars*

NAME	TITLE	LOCATION	APPOINTMENTS
Sophie Bird	National Registrar	Melbourne, VIC	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Adam Bundy (on secondment)	National Registrar	Melbourne, VIC	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Meredith Cridland	National Registrar	Sydney, NSW	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Alison Hird	National Registrar	Melbourne, VIC	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Lauren McCormick	National Registrar	Melbourne, VIC	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
David Priddle	National Registrar	Melbourne, VIC	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Tali Rubinstein	National Registrar	Sydney, NSW	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Stephanie Sanders	National Registrar	Melbourne, VIC	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>
Thomas Stewart	National Registrar	Melbourne, VIC	<ul style="list-style-type: none"> <li>■ Registrar, Federal Court of Australia</li> <li>■ Registrar, Federal Circuit and Family Court of Australia</li> </ul>

## Appendix 5: Workload statistics

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

The Court began reporting on matters by National Practice Areas (NPAs) in 2015–16. This information can be found in Figure A5.9.1 onwards.

**TABLE A5.1: SUMMARY OF WORKLOAD STATISTICS – ORIGINAL AND APPELLATE JURISDICTIONS – FILINGS OF MAJOR COAS (INCLUDING APPELLATE AND RELATED ACTIONS)**

CAUSE OF ACTION	2017–18	2018–19	2019–20	2020–21	2021–22
<b>Total COAs (including appeals and related actions)</b>					
Filed	5,925	6,033	4,484	3,227	3,143
Finalised	5,577	5,716	4,874	2,933	3,096
Current	3,531	3,848	3,458	3,752	3,799
<b>Corporations (including appeals and related actions)</b>					
Filed	3,024	2,804	1,812	738	814
Finalised	2,995	2,853	2,107	709	786
Current	949	900	605	634	662

CAUSE OF ACTION	2017–18	2018–19	2019–20	2020–21	2021–22
<b>Bankruptcy (including appeals and related actions)</b>					
Filed	332	376	384	288	418
Finalised	317	361	375	312	376
Current	204	219	228	204	246
<b>Native title (including appeals and related actions)</b>					
Filed	91	115	57	55	54
Finalised	99	80	97	87	66
Current	303	338	298	266	254
<b>Total COAs (including appeals and related actions excluding corporations, bankruptcy and native title)</b>					
Filed	2,478	2,738	2,231	2,146	1,857
Finalised	2,166	2,422	2,295	1,825	1,868
Current	2,075	2,391	2,327	2,648	2,637

**TABLE A5.2: SUMMARY OF WORKLOAD STATISTICS – EXCLUDING APPEALS AND RELATED ACTIONS – FILINGS OF MAJOR COAs (EXCLUDING APPEALS AND RELATED ACTIONS)**

CAUSE OF ACTION	2017–18	2018–19	2019–20	2020–21	2021–22
<b>Total COAs (excluding appeals and related actions)</b>					
Filed	4,662	4,618	3,453	2,412	2,495
Finalised	4,436	4,389	3,769	2,283	2,386
Current	2,682	2,911	2,595	2,724	2,833
<b>Corporations (excluding appeals and related actions)</b>					
Filed	2,989	2,768	1,791	704	785
Finalised	2,966	2,825	2,066	680	749
Current	917	860	585	609	645
<b>Bankruptcy (excluding appeals and related actions)</b>					
Filed	304	342	342	255	376
Finalised	277	326	339	272	337
Current	164	180	183	166	205

CAUSE OF ACTION	2017–18	2018–19	2019–20	2020–21	2021–22
<b>Native title (excluding appeals and related actions)</b>					
Filed	78	112	54	48	44
Finalised	81	70	94	84	58
Current	294	336	296	260	246
<b>Total COAs (excluding appeals and related actions excluding bankruptcy and native title)</b>					
Filed	1,291	1,396	1,266	1,405	1,290
Finalised	1,112	1,168	1,270	1,247	1,242
Current	1,307	1,535	1,531	1,689	1,737

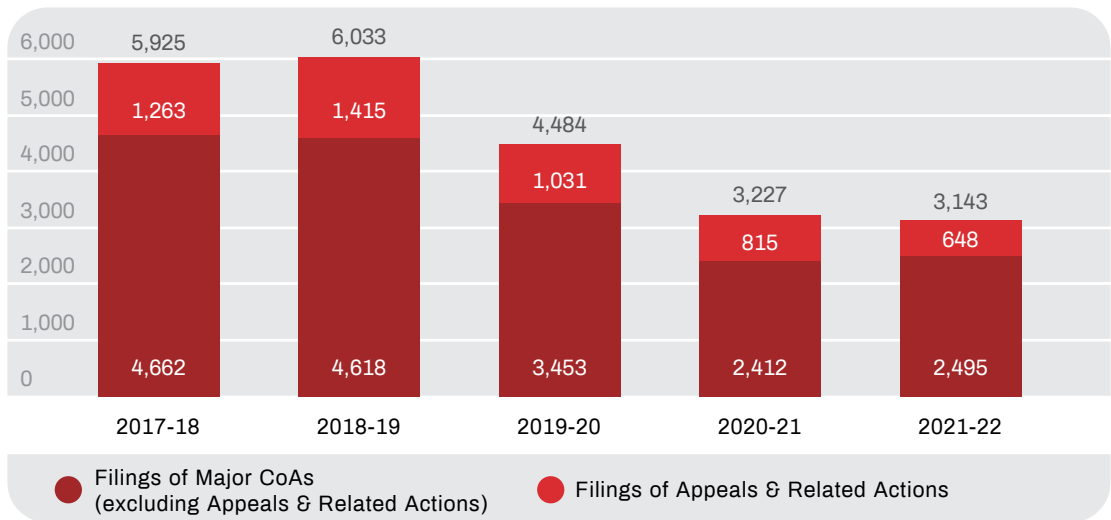
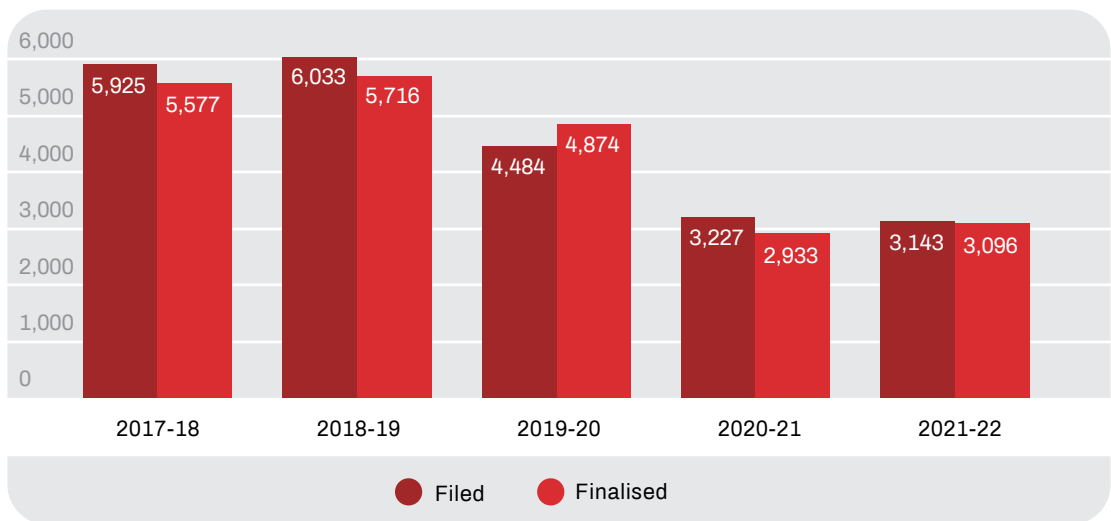
**TABLE A5.3: SUMMARY OF WORKLOAD STATISTICS – APPEALS AND RELATED ACTIONS ONLY – FILINGS OF APPEALS AND RELATED ACTIONS**

CAUSE OF ACTION	2017–18	2018–19	2019–20	2020–21	2021–22
<b>Total appeals and related actions</b>					
Filed	1,263	1,415	1,031	815	648
Finalised	1,141	1,327	1,105	650	710
Current	849	937	863	1,028	966
<b>Corporations appeals and related actions</b>					
Filed	35	36	21	34	29
Finalised	29	28	41	29	37
Current	32	40	20	25	17
<b>Migration appeals and related actions</b>					
Filed	1,021	1,139	749	547	367
Finalised	839	1,092	847	363	435
Current	644	691	593	777	709
<b>Native title appeals and related actions</b>					
Filed	13	3	3	7	10
Finalised	18	10	3	3	8
Current	9	2	2	6	8

CAUSE OF ACTION	2017–18	2018–19	2019–20	2020–21	2021–22
<b>Total appeals and related actions (excluding corporations, migration and native title appeals and related actions)</b>					
Filed	194	237	258	227	242
Finalised	255	197	214	255	230
Current	164	204	248	220	232

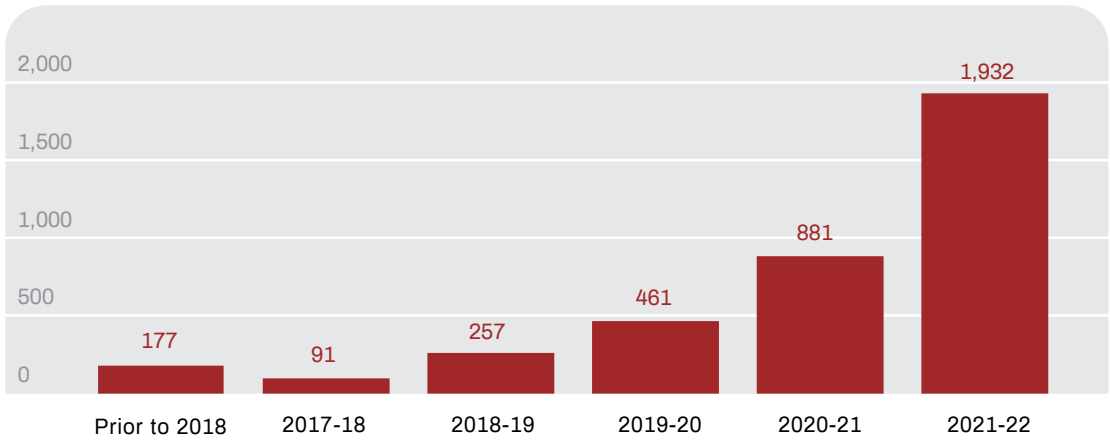
**TABLE A5.4: SUMMARY OF SUPPLEMENTARY WORKLOAD STATISTICS – FILINGS OF SUPPLEMENTARY CAUSES OF ACTION**

CAUSE OF ACTION	2017–18	2018–19	2019–20	2020–21	2021–22
<b>Total COAs (excluding appeals and related actions)</b>					
Cross appeals (original jurisdiction)	17	26	15	23	18
Cross claims	116	148	133	154	122
Interlocutory applications	1,628	1,778	1,722	1,753	1,891
Native title joinder of party applications	628	405	982	781	346
<b>Appeals and related actions</b>					
Cross appeals	17	26	15	23	18
Interlocutory applications	162	166	177	163	194
<b>Total actions (including appeals and related actions)</b>					
Cross appeals	17	26	15	23	18
Cross claims	116	148	133	154	122
Interlocutory applications	1,790	1,944	1,899	1,916	2,085
Native title joinder of party applications	628	405	982	781	346
<b>TOTALS</b>	<b>2,551</b>	<b>2,523</b>	<b>3,029</b>	<b>2,874</b>	<b>2,571</b>

**FIGURE A5.1: MATTERS FILED OVER THE LAST FIVE YEARS****FIGURE A5.2: MATTERS FILED AND FINALISED OVER THE LAST FIVE YEARS**

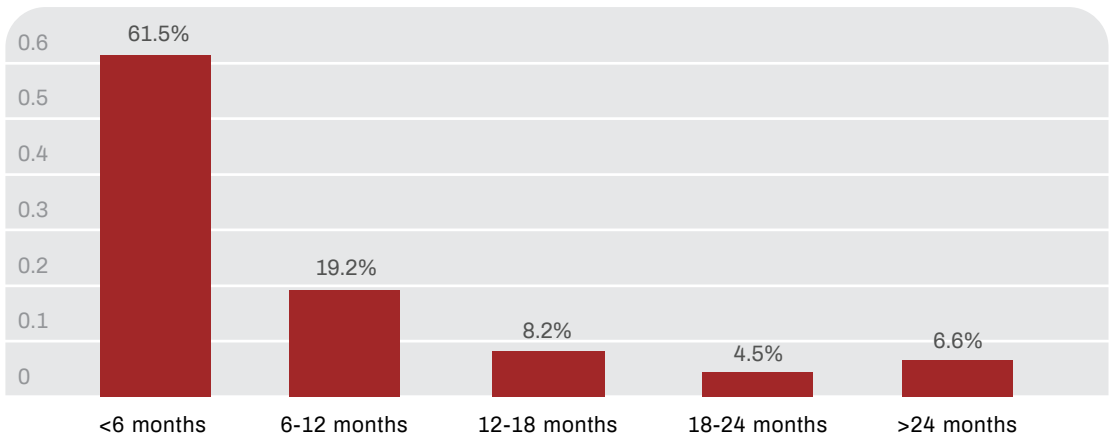
The number finalised refers to those matters finalised in the relevant financial year, regardless of when they were originally filed.

**FIGURE A5.3: AGE AND NUMBER OF CURRENT MATTERS AT 30 JUNE 2022**



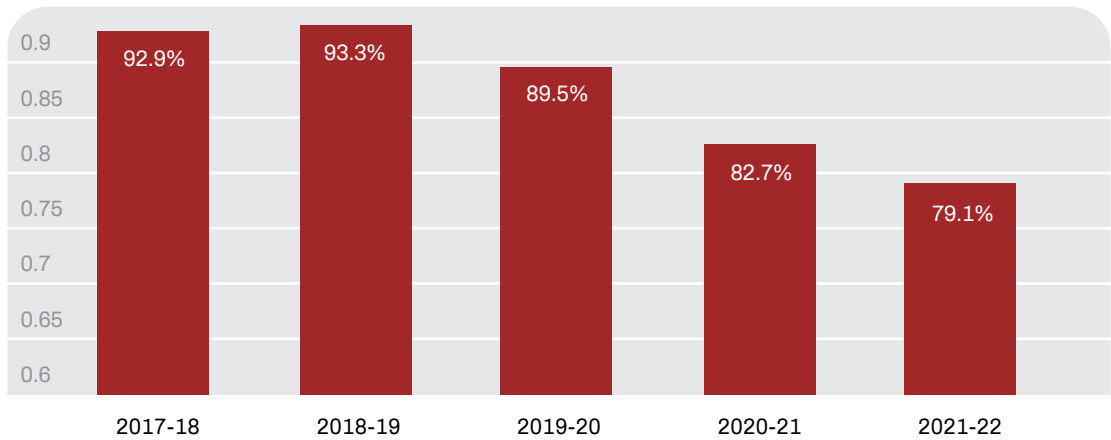
A total of 3,799 matters remain current at 30 June 2022. There were 177 applications still current relating to periods before 2018, of which 82 matters are native title matters (46 per cent).

**FIGURE A5.4: TIME SPAN TO COMPLETE – MATTERS COMPLETED (EXCLUDING NATIVE TITLE) OVER THE LAST FIVE YEARS**



A total of 21,809 matters were completed during the five-year period ending 30 June 2022, excluding native title matters. The time span, from filing to disposition of these matters, is shown in Figure A5.4.



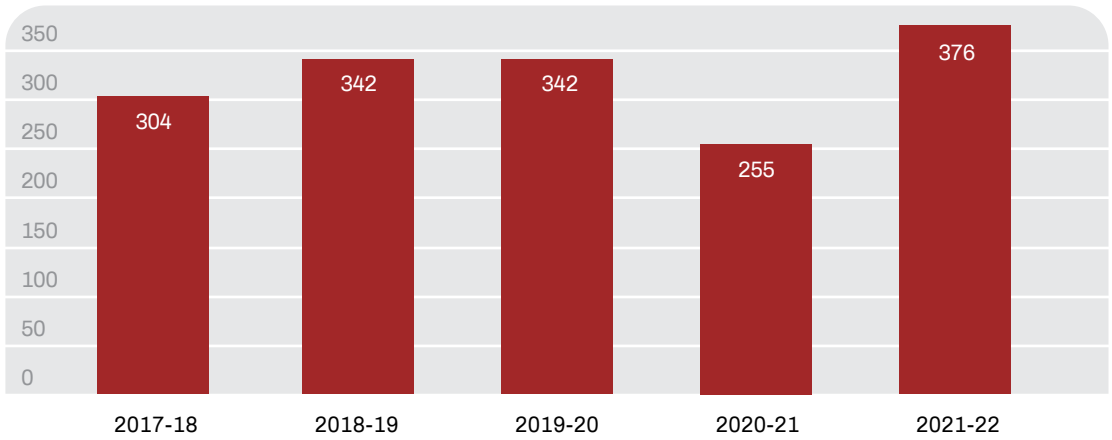
**FIGURE A5.5: TIME SPAN TO COMPLETE AGAINST THE 85 PER CENT BENCHMARK (EXCLUDING NATIVE TITLE) OVER THE LAST FIVE YEARS**

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.

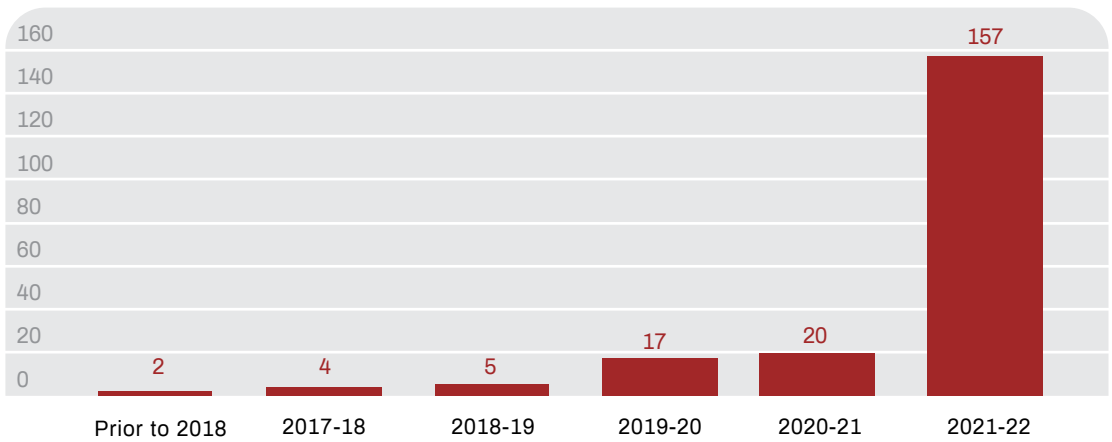
**TABLE A5.5: FINALISATION OF MAJOR COAS IN ACCORDANCE WITH 85 PER CENT BENCHMARK (INCLUDING APPEALS AND RELATED ACTIONS AND EXCLUDING NATIVE TITLE MATTERS) OVER THE LAST FIVE YEARS**

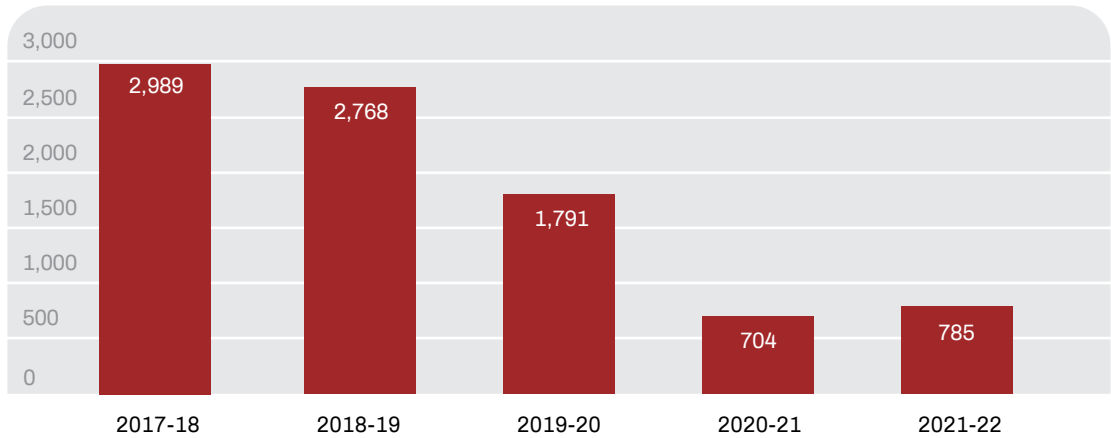
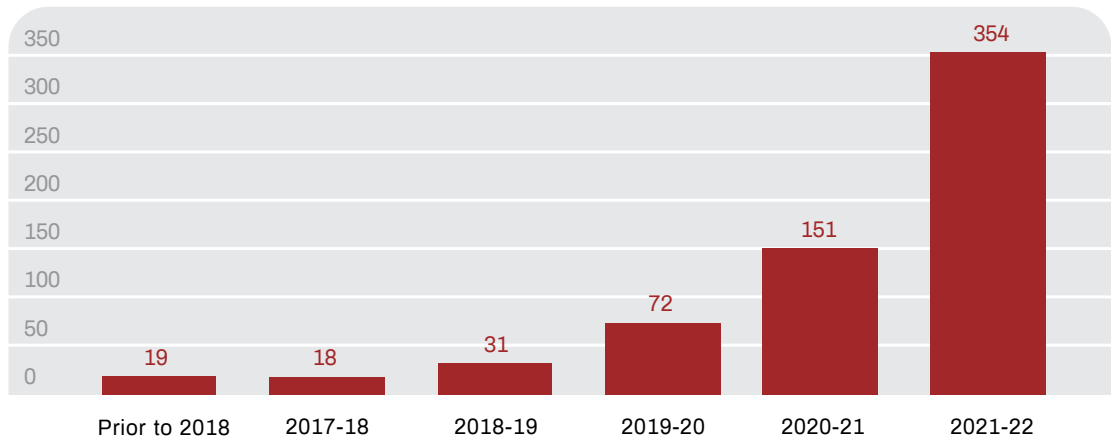
PERCENTAGE COMPLETED	2017-18	2018-19	2019-20	2020-21	2021-22
Under 18 months	5,104	5,265	4,279	2,355	2,402
Percentage of total	92.9%	93.3%	89.5%	82.7%	79.1%
Over 18 months	392	381	501	494	636
Percentage of total	7.1%	6.7%	10.5%	17.3%	20.9%
<b>TOTAL COAs</b>	<b>5,496</b>	<b>5,646</b>	<b>4,780</b>	<b>2,849</b>	<b>3,038</b>

**FIGURE A5.6: BANKRUPTCY ACT MATTERS (EXCLUDING APPEALS) FILED OVER THE LAST FIVE YEARS**

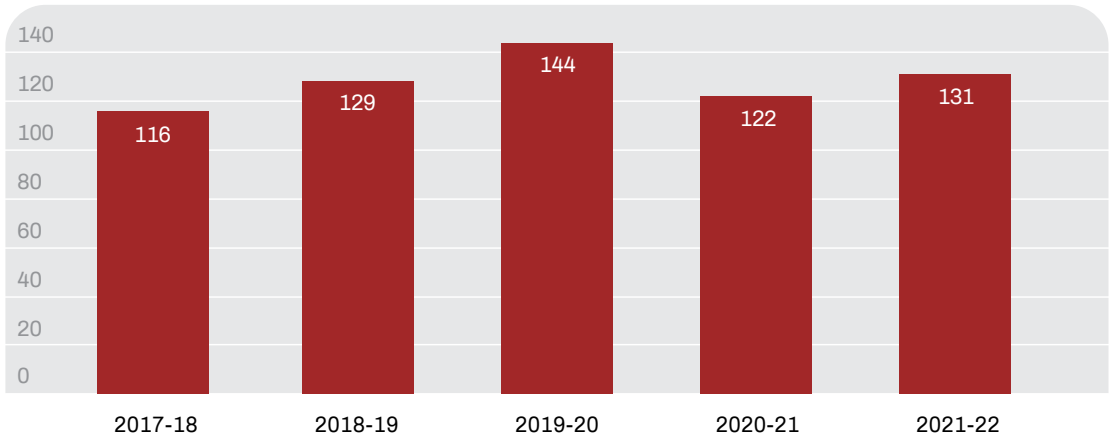


**FIGURE A5.6.1: CURRENT BANKRUPTCY ACT MATTERS (EXCLUDING APPEALS) BY YEAR OF FILING**

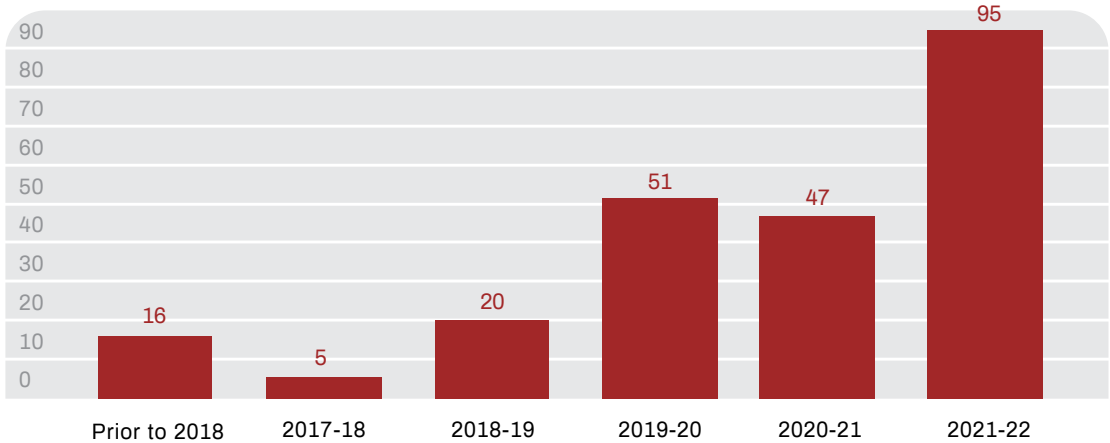


**FIGURE A5.7: CORPORATION ACT MATTERS (EXCLUDING APPEALS) FILED OVER THE LAST FIVE YEARS****FIGURE A5.7.1: CURRENT CORPORATION MATTERS (EXCLUDING APPEALS) BY YEAR OF FILING**

**FIGURE A5.8: CONSUMER LAW MATTERS (EXCLUDING COMPETITION LAW AND APPEALS) FILED OVER THE LAST FIVE YEARS**

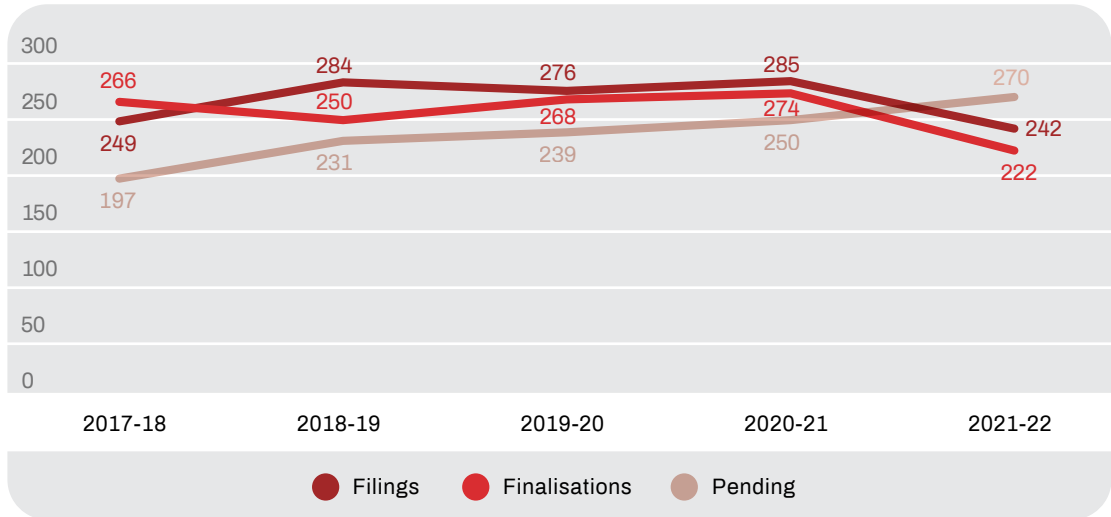


**FIGURE A5.8.1: CURRENT CONSUMER LAW MATTERS (EXCLUDING COMPETITION LAW AND APPEALS) BY YEAR OF FILING**

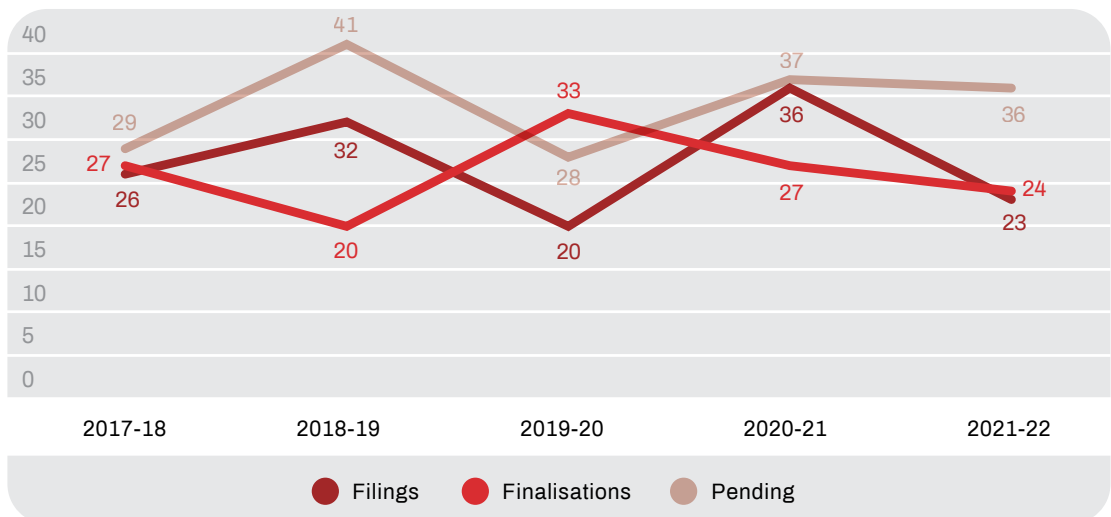


## National Court framework

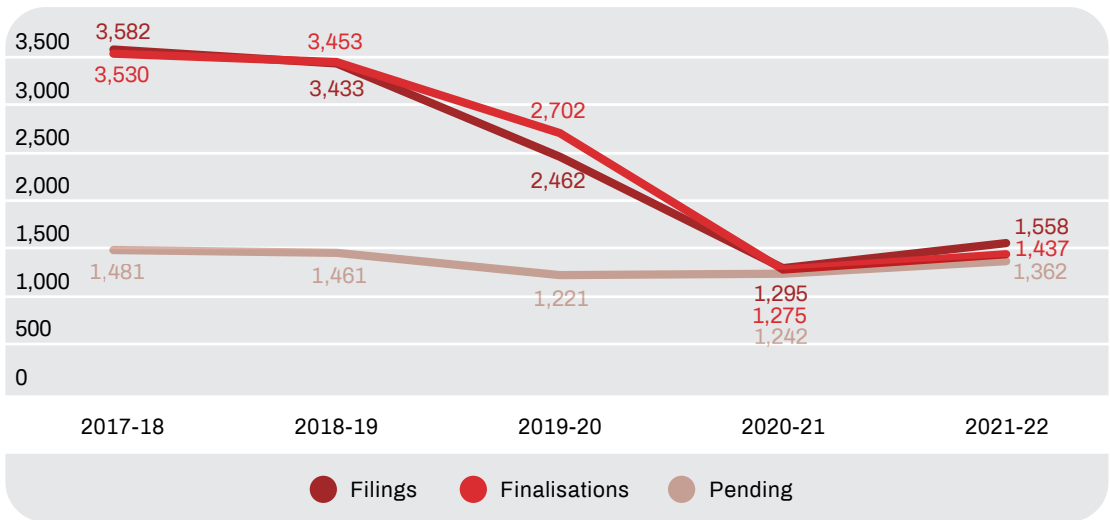
**FIGURE A5.9.1: ALL FILINGS, FINALISATIONS AND PENDING BY ADMINISTRATIVE AND CONSTITUTIONAL LAW AND HUMAN RIGHTS NATIONAL PRACTICE AREAS (NPA)**



**FIGURE A5.9.2: ALL FILINGS, FINALISATIONS AND PENDING BY ADMIRALTY AND MARITIME NPA**



**FIGURE A5.9.3: ALL FILINGS, FINALISATIONS AND PENDING BY COMMERCIAL AND CORPORATIONS NPA**



**FIGURE A5.9.4: ALL FILINGS, FINALISATIONS AND PENDING BY EMPLOYMENT AND INDUSTRIAL RELATIONS NPA**

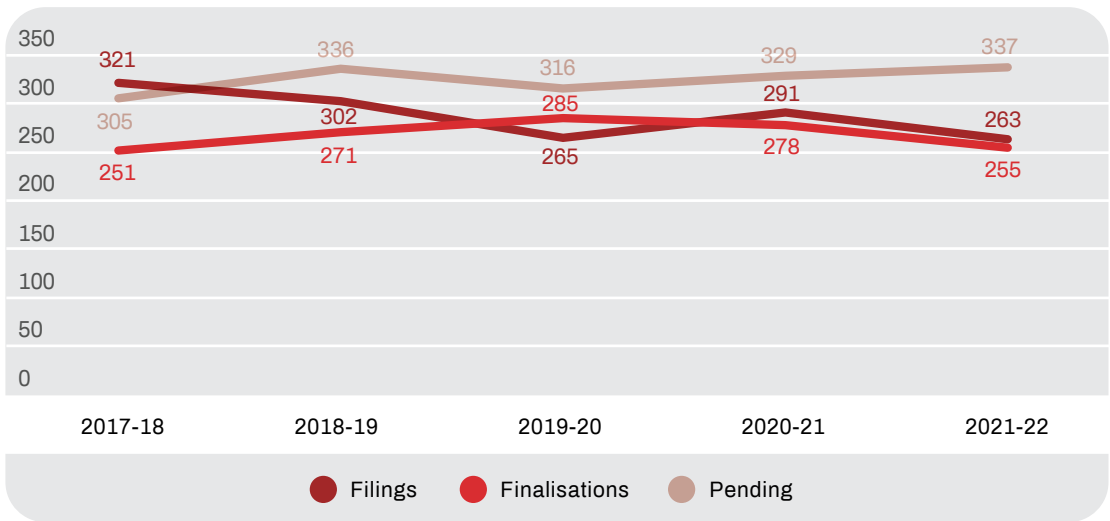


FIGURE A5.9.5: ALL FILINGS, FINALISATIONS AND PENDING BY INTELLECTUAL PROPERTY NPA

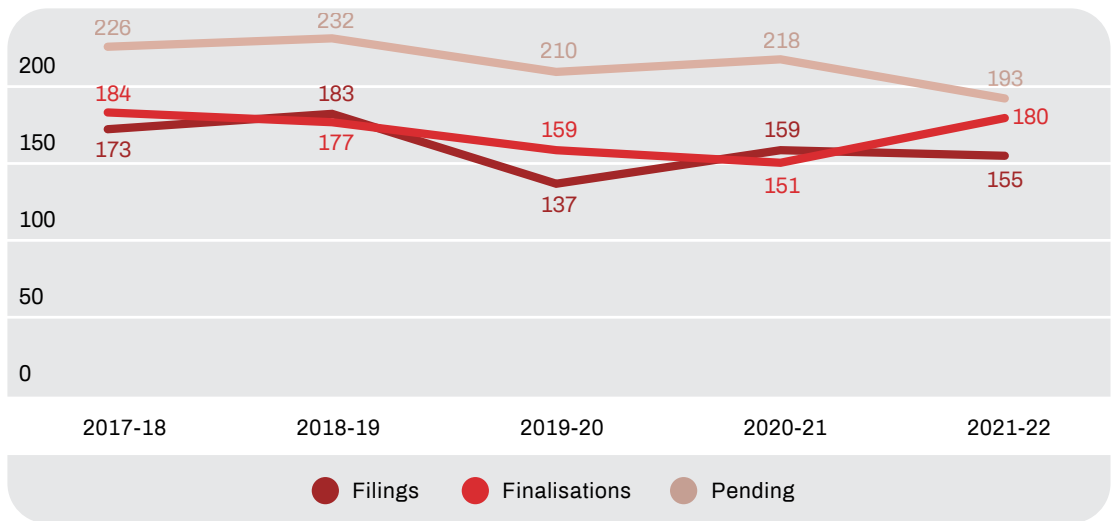
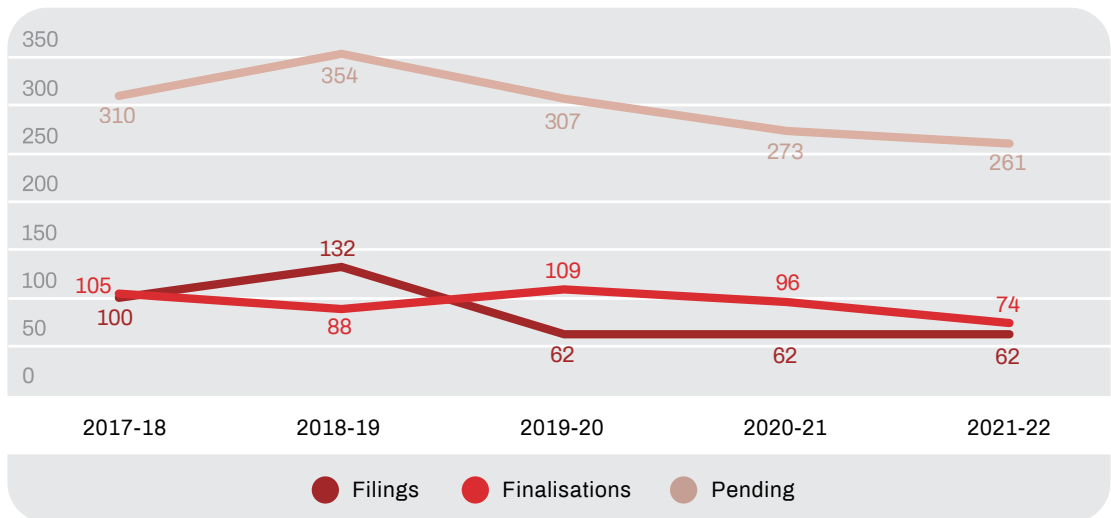
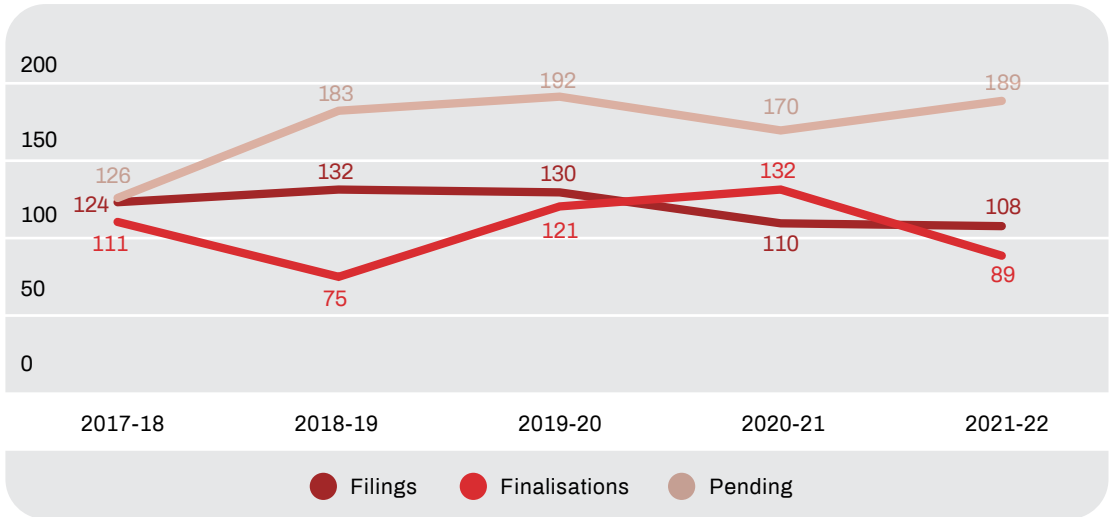


FIGURE A5.9.6: ALL FILINGS, FINALISATIONS AND PENDING BY NATIVE TITLE NPA

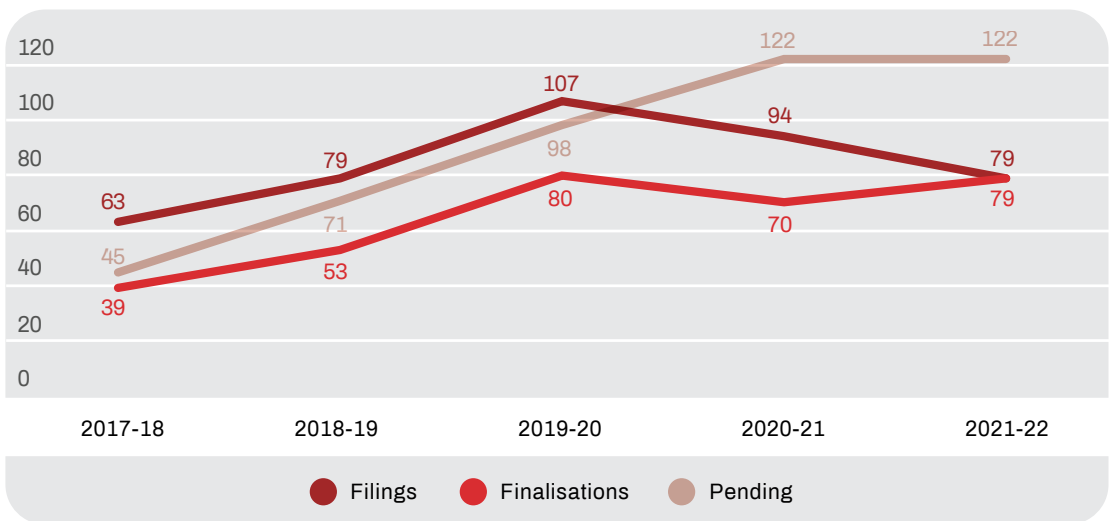


**FIGURE A5.9.7: ALL FILINGS, FINALISATIONS AND PENDING BY TAXATION NPA**

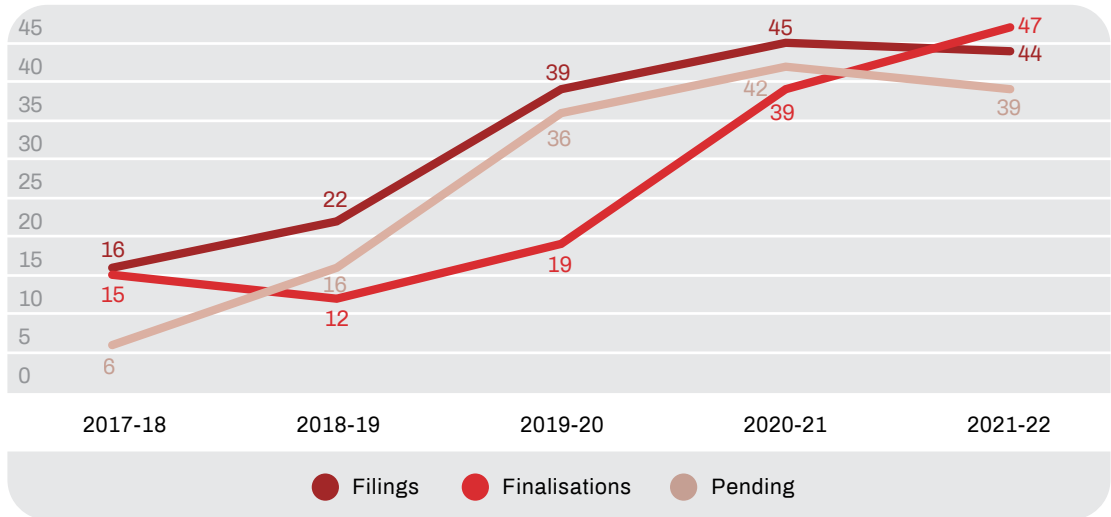
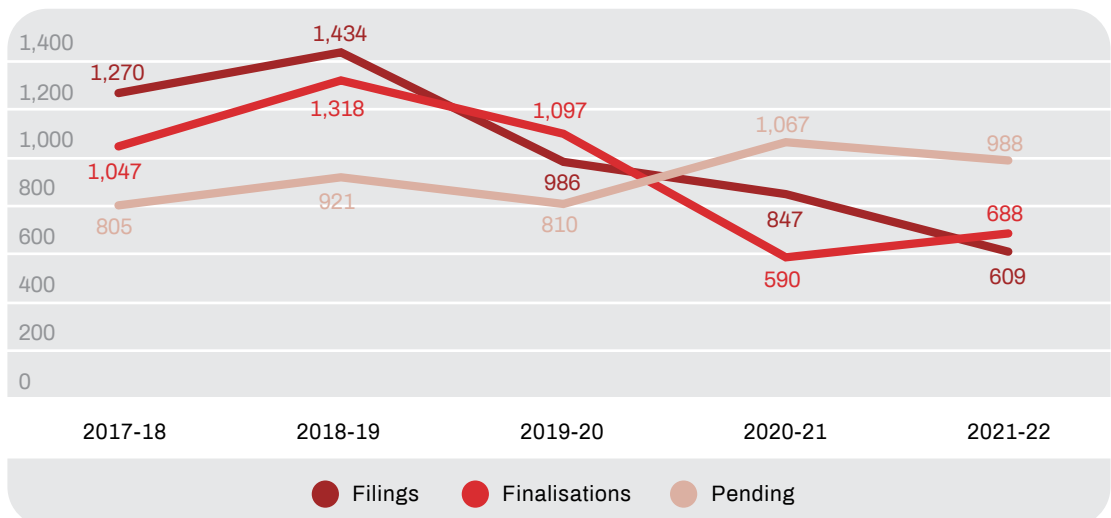


In 2016–17 the Court introduced two new NPAs: Other Federal Jurisdiction NPA and Federal Crime and Related Proceedings NPA.

**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, FINALISATIONS 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* (Cth) and continues under the *Competition and Consumer Act 2010*.

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 *Competition and Consumer Act 2010* 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 grant 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 section 93 of the Act in relation to exclusive dealing, and
- review of certain decisions of the ACCC and the Minister in relation to international liner cargo shipping.

The Tribunal can also hear a range of other, less common, applications arising under the *Competition and Consumer Act 2010*.

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 *Competition and Consumer Act 2010* and the *Competition and Consumer Regulations 2010* (the Regulations), within the discretion of the Tribunal.

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

Proceedings are conducted with as little formality and technicality and with as much expedition as the requirements of the *Competition and Consumer Act 2010* and a proper consideration of the matters before the Tribunal permit. The Tribunal is not bound by the rules of evidence.

#### *Membership and staff*

The Tribunal is comprised of presidential members and lay members who are qualified by virtue of their knowledge of, or experience in, industry, commerce, economics, law or public administration. Pursuant to section 31 of the *Competition and Consumer Act 2010*, 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 AM is the President of the Tribunal. The Deputy Presidents of the Tribunal are Justice Kathleen Farrell and Justice Michael O'Bryan. Justice Andrew Greenwood and Justice David Yates retired as Deputy Presidents on 24 August 2021. Justice Jennifer Davies retired as a Deputy President on 1 April 2022.

Dr Darryn Abraham, Professor Ken Davis AM, Professor Caron Beaton-Wells, Ms Diana Eilert and Dr Jill Walker are the Members of the Tribunal.

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

### Activities

Five matters were current at the start of the reporting year. During the year, three new matters were commenced and six matters were determined.

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

### Decisions of interest

- Application by Port of Newcastle Operations Pty Ltd (No 3) [2022] ACompT 2 (5 April 2022).
- Application by Port of Newcastle Operations Pty Limited (No 2) [2022] ACompT 1 (4 March 2022).
- Application by Controlabill Pty Ltd [2021] ACompT 6 (6 December 2021).
- Application by New South Wales Minerals Council (No 4) [2021] ACompT 5 (18 November 2021).

## Copyright Tribunal

### Functions and powers

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

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

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

### Practice and procedure

Hearings before the Tribunal normally take place in public. Parties may be represented by a lawyer. The procedure of the Tribunal is subject to the *Copyright Act 1968* 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 *Copyright Act 1968*, 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), Ms Sarah Leslie (appointed from 1 March 2018) and Ms Michelle Groves (appointed from 16 April 2018). Mr Charles Alexander (appointed from 30 November 2017) resigned effective 30 September 2021.

The Registrar of the Tribunal is an officer of the Federal Court. The Registrar of the Tribunal during the reporting period was Katie Lynch.

### Activities and cases of interest

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

- CT1 of 2022 – *The DLA Group Pty Limited ACN 003 329 039 v The State of Western Australia*, being an application brought under section 183(5) of the *Copyright Act 1968*, filed on 20 April 2022.

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

- CT1 of 2021 – *Australasian Performing Right Association Limited ABN 42 000 016 099 and Australasian Mechanical Copyright Owners' Society Limited ABN 78 001 678 851*, being a reference under section 154 of the *Copyright Act 1968*, filed 26 March 2021.
- CT2 of 2021 – *Copyright Agency Limited ABN 53 001 228 799 v Department of Education (Queensland) and the bodies listed in Schedule A*, being an application brought under section 113P and section 153A of the *Copyright Act 1968*, filed 18 May 2021.

The following matter was finalised during the reporting period:

- CT1 of 2020 – *Audio-Visual Copyright Society Limited ACN 003 912 310 v Foxtel Management Pty Limited ACN 068 671 938 (withdrawn on 8 December 2021)*.

Decisions were delivered in the following matters during the reporting period:

- CT2 of 2017\* – *Meltwater Australia Pty Ltd v Copyright Agency Limited ABN 53 001 228 799*, being an application brought under section 157(3) of the *Copyright Act 1968*, filed on 28 November 2017.
- CT2 of 2018\* – *Isentia Pty Ltd v Copyright Agency Limited ABN 53 001 228 799*, being a further application brought under s 157(3) of the *Copyright Act 1968*, filed on 20 June 2018.
- CT4 of 2018 – *Copyright Agency Limited ABN 53 001 228 799 on its own behalf and as agent for the parties listed in Schedule A v The Universities listed in Schedule B*, being an application brought under section 113P and section 153A of the *Copyright Act 1968*, filed on 12 November 2018.

\*These matters were heard together.

### Decisions of interest

- *Application by Isentia Pty Limited [2021] ACopyT 2 (15 October 2021)*. An application for judicial review of this decision has been filed in the Federal Court: *NSD1212/2021 – Copyright Agency Limited v Isentia Pty Ltd ACN 002 533 851 & Ors*.

- *Copyright Agency Limited v University of Adelaide [2022] ACopyT 2 (31 May 2022)*. An application for judicial review of this decision has been filed in the Federal Court: *NSD486/2022 – The University of Adelaide & Ors v Copyright Agency Limited & Anor*.

## Defence Force Discipline Appeal Tribunal

### Functions and powers

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

### Practice and procedure

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

### Membership and staff

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

The President of the Tribunal is Justice John Logan RFD. The Deputy President is Justice Paul Brereton AM RFD. The other members of the Tribunal are Justice Melissa Perry, Justice Peter Barr and Justice Michael Slattery AM RAN. Justice Slattery was appointed to the Tribunal during the reporting year.

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

### *Activities*

Three matters were filed during the reporting year. Two matters were determined during the year.

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

### *Decisions of interest*

- Howieson v Chief of Army [2021] ADFDAT 1 (9 July 2021).
- Private R v Chief of Army [2021] ADFDAT 2 (27 August 2021).
- Private R v Chief of Army [2022] ADFDAT 1 (1 April 2022).

## Appendix 7: Decisions of interest

### Administrative and Constitutional Law and Human Rights NPA

#### *Minister for the Environment v Sharma* [2022] FCAFC 35

(15 March 2022, Allsop CJ, Beach and Wheelahan JJ)

This appeal concerns the orders made by the primary judge declaring that the Commonwealth Minister for the Environment owed a duty of care at common law when considering and approving an extension of a coal mine in New South Wales. The duty required the Minister to take reasonable care to avoid causing personal injury or death to all people in Australia under 18 years of age at the time of the commencement of the proceeding arising from the emissions of carbon dioxide into the Earth's atmosphere from the combustion of the coal to be mined in the extension of the mine.

The Full Court was unanimous in the view that the duty of care should not be imposed upon the Minister. The three judgments of the Court had different emphases as to why this conclusion should be reached.

The Chief Justice found that the duty should not be imposed for a number of reasons. First, the matter was unsuitable for judicial determination given it dealt with core questions of government policy. Secondly, the imposition of the duty of care as found by the primary judge would be incoherent and inconsistent with the relevant statutory and governmental frameworks in question. Thirdly, the lack of control over the harm (as distinct from over the tiny contribution to the overall risk of damage from climate change), a lack of special vulnerability in the legal sense, the indeterminacy of liability and the lack of proportionality between the tiny increase in risk and lack of control and liability for all damage by heatwaves, bushfires and rising sea levels to all Australians under the age of 18, ongoing into the future, meant that the duty in tort should not be imposed.

Justice Beach emphasised two factors in support of the conclusion that the duty should not be imposed. First, there was not sufficient closeness and directness between the Minister's exercise of

statutory power and the likely risk of harm to the respondents and the class that they represent. Secondly, to impose a duty would result in indeterminate liability. As for the other matters argued by the Minister, in his Honour's view none of them individually or collectively warranted not recognising the duty found by the primary judge.

Justice Wheelahan held the view that no duty of care arose for three main reasons. First, there is no relationship between the Minister, and the respondents and those whom they represent, that supports the recognition of a duty of care. Secondly, it would not be feasible to establish an appropriate standard of care, with the consequence that there would be incoherence between the suggested duty and the discharge of the Minister's statutory functions. Thirdly, it was not reasonably foreseeable that the approval of the extension to the coal mine would be a cause of personal injury to the respondents or those whom they represent, as the concept of causation is understood for the purposes of the common law tort of negligence.

#### *Darnell v Stonehealth Pty Ltd* [2022] FCAFC 76

(11 May 2022, Markovic, Thomas and Stewart JJ)

In this case, the Full Court considered when a supermarket business came into existence and drew a distinction between the primary business of a store and its primary activities on a particular day.

The issue arose in the context of an application for approval to supply pharmaceutical benefits scheme (PBS) medicines. In order to obtain approval, a pharmacy was required to be a certain distance away from the nearest PBS approved pharmacy and within a certain distance from a 'supermarket', defined as 'a retail store the primary business of which is the sale of a range of food, beverages, groceries and other domestic goods.'

Stonehealth leased a premises from Coles at the Flagstone Village Shopping Centre, and applied to supply PBS medicines from that premises at around midnight on 20 March 2020. Mr Darnell, the proprietor of a nearby non-PBS approved pharmacy, applied for approval on the following day. The Australian Community Pharmacy Authority dealt with the applications in the order received. It recommended that the Stonehealth

application be approved and the approval was granted by the Secretary, Department of Health. Mr Darnell appealed to the Full Court after unsuccessfully seeking judicial review of the Authority's recommendation and the Secretary's approval.

Mr Darnell claimed there was no 'supermarket', as defined, on 20 March 2020. In preparation for its advertised 'grand opening' on 21 March 2020, the Coles at the Flagstone Village Shopping Centre opened its doors for a period of two hours on the evening prior. The Full Court found that the Coles was operating a supermarket and had 'commenced trading' from 20 March 2020, even if its primary activities on that day were preparatory in nature. There was no requirement for the primary activity on a particular day to be the sale of goods. The role played by 'primary' in the definition of 'supermarket' was only to identify the primary business of the retail store in question, namely selling groceries as opposed to selling other goods or providing services.

Mr Darnell also claimed the decision of the Authority was affected by materially false or misleading information, including a letter linking the early opening of the supermarket to the COVID-19 pandemic. Mr Darnell claimed the early opening was a sham to assist Stonehealth. The Full Court did not agree that the findings of the primary judge in relation to the reasons for the early opening of the supermarket were 'glaringly improbable'. The Full Court found that Coles was prepared to assist Stonehealth by working towards an early opening, but that this did not 'cross the line'. The evidence before the primary judge established that the supermarket was open to the public and that members of the public took advantage of that, entered the store and purchased groceries.

Mr Darnell claimed that the Authority was not entitled to take into account an unsolicited letter received from Coles after the application date. The Full Court found no error in the primary judge's conclusion that the Authority was permitted to consider the letter because Coles acted at the request of Stonehealth, but not as its agent.

The Full Court dismissed Mr Darnell's appeal with costs.

## Administrative and Constitutional Law and Human Rights NPA | Migration

### *Acting Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v CWY20 [2021] FCAFC 76*

(9 November 2021, Allsop CJ, Kenny Besanko, Kerr and Charlesworth JJ)

In these proceedings, heard together, the Full Court considered two decisions involving the cancellation or refusal of a visa on character grounds under section 501A(2) of the *Migration Act* (the Act).

In the first matter, an appeal from a single judge, the Acting Minister determined that CWY20 did not pass the character test, concluding that it was in the national interest to refuse him a bridging visa having regard to the seriousness of his criminal conduct and risk of re-offending.

The second matter comprises two grounds of an application for judicial review filed in the Court's original jurisdiction, determined as separate questions by the Full Court. After QJMV was found guilty of criminal charges, the Minister determined that he did not pass the character test and it was in the national interest to cancel his protection visa.

Both CWY20 and QJMV had previously been assessed as being owed protection obligations, and it was accepted that their removal to Afghanistan would breach Australia's non-refoulement obligations under international law. In similarly structured decisions, the Acting Minister and the Minister referred to these non-refoulement obligations as a 'countervailing consideration' outweighed by national interest considerations favouring refusal or cancellation.

The Full Court unanimously found that the Minister retained a residual discretion under section 501A(2) to refuse or cancel a visa once he was satisfied as to the criteria in section 501A(2) (c), (d) and (e) of the Act. In these decisions, the Minister and Acting Minister were found to have erred by deferring consideration of non-refoulement obligations to the final, discretionary stage of the decision making process. The Full Court determined that the Minister and Acting Minister did not give active consideration to the significance of a breach of Australia's non-refoulement obligations under international law as part of the national interest criteria under section 501A(2)(e) of the Act.



Justice Besanko (with whom Allsop CJ, Kenny, Kerr and Charlesworth JJ agreed) determined that the primary judge was correct to reject the Acting Minister's submission that it should be inferred from the statement of reasons that he turned his mind to Australia's non-refoulement obligations, but had concluded that it was not material to the assessment of 'national interest'.

Justice Besanko considered that, while not a mandatory relevant consideration in every case, a failure to consider Australia's non-refoulement obligations in relation to 'national interest' under section 501A(2)(e) could amount to jurisdictional error where the Minister may not have reached a state of satisfaction as to the 'national interest' reasonably, and where there was at least a possibility that the Minister may have given different weight to the national interest had this been taken into account.

Chief Justice Allsop also considered Australia's non-refoulement obligations in the context of international law, noting that the violation of international law is intrinsically and inherently a matter of national interest, and therefore within the subject of evaluation.

The Court dismissed the Acting Minister's appeal in CWY20, and found that the Minister's cancellation of QJMV's visa was affected by jurisdictional error.

***Djokovic v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2022] FCAFC 3**

**(16 January 2022, Allsop CJ, Besanko and O'Callaghan JJ)**

Mr Djokovic is a Serbian citizen and one of the world's top ranked men's tennis players. Mr Djokovic arrived in Australia on 5 January 2022 to compete in the Australian Open Tennis Championship. His visa was cancelled upon arrival by a delegate of the Minister for Home Affairs, when it came to light that Mr Djokovic was not vaccinated against COVID-19 and had recently tested positive. Section 116 of the *Migration Act* 1958 (the Act) allows the Minister or their delegate to cancel a visa if they are satisfied that the presence of the visa holder in Australia is or may be a risk to the health, safety or good order of the Australian community or a segment of it.

Mr Djokovic immediately challenged the cancellation of his visa in the Federal Circuit and Family Court of Australia. On 10 January 2022, counsel for the Minister of Home Affairs conceded that the process adopted by her delegate denied Mr Djokovic procedural fairness (synonymous with 'natural justice' as used in the Act). The visa cancellation decision was subsequently quashed.

After the hearing, the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (the Minister) indicated to Mr Djokovic's legal advisors that he would be considering whether to exercise his personal power of cancellation pursuant to section 133C(3) of the Act. Under section 133C(3), the Minister may cancel a visa if he is satisfied that a ground for cancelling the visa under section 116 exists *and* that it would be in the public interest to do so. A cancellation made by the Minister personally is not subject to the rules of procedural fairness. On 14 January 2022, the Minister cancelled Mr Djokovic's visa relying on section 133C(3).

Mr Djokovic sought a review of the Minister's decision in the Federal Circuit and Family Court of Australia. The proceedings were then transferred to the Federal Court of Australia and on 16 January 2022, the Full Court heard Mr Djokovic's application.

Mr Djokovic contended that the Minister exercised his discretion unreasonably and failed to consider whether cancelling his visa may itself foster anti-vaccination sentiment in Australia. Mr Djokovic asserted he posed a negligible COVID-19 risk to others, had a medical reason for not being vaccinated, and had entered Australia lawfully and consistently with Australian Technical Advisory Group on Immunisation (ATAGI) documents. There was no basis for the Minister to find that Mr Djokovic's presence in Australia is or may be a risk to the health or good order of the Australian community, nor was it open to the Minister to conclude that Mr Djokovic had a well-known anti-vaccination stance.

The Full Court unanimously rejected Mr Djokovic's arguments.

The Full Court assessed whether the Minister exercised his discretionary power in accordance with the concept of legal reasonableness. It ruled that the Minister's finding that Mr Djokovic posed a risk to the health, safety and good order of the



Australian community was not irrational, illogical or based on findings or inferences of fact not supported by logical grounds.

Mr Djokovic had recently ignored public health measures overseas by attending activities unmasked while COVID positive to his knowledge. There had been rallies and protests by anti-vaccination groups when Mr Djokovic's visa was cancelled. It was open to the Minister to infer that Mr Djokovic's presence in Australia may encourage (1) an attitude of breaching public health regulations; and (2) anti-vaccination sentiment; particularly amongst the young, the impressionable, and those who remain hesitant about receiving vaccinations. Both scenarios could lead to heightened community transmission and increased pressure on the Australian health system. No evidence was needed to establish Mr Djokovic's ability as a world tennis champion to influence a broad demographic: this inference could be drawn from common sense and human experience. Further, it was not necessary for the Minister to consider the consequences of Mr Djokovic's removal from or absence in Australia. Section 116 only requires the Minister to examine the risks that may arise from the presence of Mr Djokovic in Australia.

The Full Court dismissed Mr Djokovic's appeal with costs.

## Commercial and Corporations NPA | Commercial Contracts, Banking, Finance and Insurance sub-area

*Star Entertainment Group Limited v Chubb Insurance Australia Ltd* [2022] FCAFC 16

*LCA Marrickville Pty Limited v Swiss Re International SE* [2022] FCAFC 17

(21 February 2022, Moshinsky, Derrington and Colvin JJ)

The Full Court handed down judgment in six appeals that raised issues concerning business interruption insurance policies and the COVID-19 pandemic.

In the first appeal, companies in the Star Entertainment Group appealed from a decision that they were not entitled to indemnity under an insurance policy for loss from business interruption caused by COVID-19 restrictions. The Full Court dismissed the appeal. The policy

in question included separate provisions dealing with disease and with catastrophes. There was an exclusion for COVID-19 in the provision dealing with disease, so the appellants relied on the provision dealing with catastrophes. The Full Court found that the scope of the more generally expressed provision dealing with catastrophes had to be read down so as to avoid inconsistency with the more specific provision dealing with disease.

The Full Court emphasised the importance of reading the policy as a whole to avoid incoherence or incongruence in the policy's operation.

The other five appeals related to ten test cases concerning the application and operation of policies of insurance for business interruption or interference in the context of the effects of COVID-19, including government actions to control its spread. The Full Court agreed with the conclusions of the primary judge that the insuring clauses did not apply in all but one of the cases under consideration (the Meridian Travel case).

Some of the specific provisions dealing with disease did not exclude COVID-19, a 'listed human disease' under the *Biosecurity Act 2015*, because they still referred to 'quarantinable diseases' under a repealed Commonwealth Act, the *Quarantine Act 1908*. The relevant insurers sought to rely on section 61A of the *Property Law Act 1958* (Vic), which provides that where an Act is repealed and re-enacted, any reference to the repealed Act is to be construed as a reference to the re-enacted Act. The Full Court agreed with the primary judge that this provision applied to Acts of the Victorian rather than the Commonwealth Parliament and that, in any event, the *Biosecurity Act 2015* was not a re-enactment with modification of the *Quarantine Act 1908*.

In relation to certain policies, the Full Court agreed with the primary judge that the policies would not apply where cover was contingent on restrictions being imposed 'as a result of' an outbreak of COVID-19 within a specified radius. This is because the relevant restrictions were imposed as a result of the threat to the health of all persons from COVID-19, not because of any particular outbreak.

The policy in the Meridian Travel case covered losses caused by an outbreak of COVID-19 within a specified radius and the insurer conceded that

there had been such an outbreak. The primary judge found, and the Full Court agreed, that Meridian Travel should have the opportunity to try to prove the proximate cause of its losses.

The Full Court came to a different view to the primary judge with respect to certain subsidiary issues and so amended the primary judge's answers to certain of the questions posed by the parties.

### **Commercial and Corporations NPA | Corporations and Corporate Insolvency sub-area**

#### ***Crowley v Worley Limited* [2022] FCAFC 33 (11 March 2022, Perram, Jagot and Murphy JJ)**

In August 2013, Worley announced earnings of \$322 million for the 2013 financial year and 'a solid foundation to deliver increased earnings' in the 2014 financial year (FY14). Mr Crowley purchased shares in Worley in October 2013. The following month, Worley's share price suffered a significant fall after Worley announced reduced earnings guidance for FY14.

Mr Crowley commenced a shareholder class action on his own behalf and on behalf of other persons who purchased Worley shares between August and November 2013, alleging that Worley engaged in misleading and deceptive conduct by representing that it expected to achieve net profit after tax in excess of \$322 million in FY14 and that it had reasonable grounds to so expect. It was also claimed that Worley contravened its continuous disclosure obligations and the Australian Stock Exchange (ASX) Listing Rules by not notifying the ASX that it did not have a reasonable basis for providing the FY14 earnings guidance and/or that its FY14 earnings were likely to fall materially short of the consensus expectation.

The primary judge found that Mr Crowley's case failed. The primary judge was not satisfied that Worley's FY14 budget, which supported the FY14 earnings guidance, lacked reasonable grounds when it was approved by the board, that the position changed in September or October 2013, or that Worley knew or ought to have known that its FY14 earnings would fall materially short of any consensus expectation.

The Full Court allowed Mr Crowley's appeal and remitted the matter to a single judge for further consideration, in the context of the evidence as a whole.

Jagot and Murphy JJ, with whose reasons Perram J also agreed, found that the primary judge's process of reasoning miscarried. In relation to misleading and deceptive conduct, it was Worley's case that the FY14 budget process and FY14 budget provided it with reasonable grounds to make the FY14 earnings guidance statement. Mr Crowley contended that the FY14 budget was unrealistic and unreasonable. The primary judge erred in considering the issue of reasonable grounds by reference to the reasonableness and diligence of the board. The relevant representation was made by Worley, not by its board, so the relevant issue was whether Worley had reasonable grounds for making that representation.

It could not be safely concluded that the primary judge would have reached the same conclusions as to whether Worley, the representor, had reasonable grounds for making the representation, because that question had to be answered by reference to the knowledge properly attributable to Worley according to orthodox principles, which included at least the knowledge of the CFO, Mr Holt.

In relation to continuous disclosure and the ASX listing rules, the Full Court found that it is not only opinions actually held or possessed by the company that required disclosure. The Full Court found that a company would also be 'aware' of an opinion which it ought reasonably to have formed on the basis of information of which its officers ought reasonably to have been aware.

### **Commercial and Corporations NPA | General and Personal Insolvency sub-area**

#### ***McMillan v Warner (Trustee)* [2022] FCAFC 20 (23 February 2022, Logan, Farrell and Halley JJ)**

A sequestration order was made against the bankrupt estate of Mr McMillan in November 2018 and Mr Warner was appointed as trustee over Mr McMillan's bankrupt estate (Trustee).

The Trustee claimed that the transfer in 2002 of Mr McMillan's interest in a property in Strathfield, New South Wales to his wife, the appellant, was void as an undervalued transaction or as a transaction to defeat creditors. The year prior, Mr McMillan had decided to operate a car dealership in addition to his existing prestige car repair business.

The primary judge found that the transfer was void as a transaction to defeat creditors. The Full Court allowed the appeal and, in lieu of the orders made by the primary judge, ordered that the Trustee's claim be dismissed.

The Full Court concluded that the primary judge erred in drawing an inference, from all the relevant circumstances, that the main purpose of Mr McMillan in making the transfer was to prevent the Strathfield property from becoming divisible among his creditors, or was to hinder or delay the process of making that property available among his creditors

The Full Court found that an inference that the main purpose of a bankrupt in making a transfer of property was to defeat his or her creditors must be a reasonable and definite inference, not merely one of a number of conflicting inferences with equal degree of probability.

As the primary judge rejected Mr McMillan's explanation for the transfer, the question of Mr McMillan's purpose for making the transfer was an objective enquiry to be determined by drawing inferences from factual findings.

The Full Court found there was insufficient foundation for the drawing of a reasonable and definite inference of Mr McMillan's main purpose. There were several reasons for the Full Court's conclusion, including that an equally compelling inference was available as to a different purpose, and that the creditor most affected by the transfer had not sought any security over the property. The Full Court did not accept that the car dealership could relevantly be characterised as a risky venture and it was not suggested by the Trustee that there was any doubt as to Mr McMillan's solvency at the time of the transfer. Noting that 16 years had elapsed between the transfer and Mr McMillan's bankruptcy, the Full Court was satisfied that the absence of any

temporal connection between the liabilities of Mr McMillan as at the time of the transfer and the liabilities that ultimately led to his bankruptcy was a significant consideration that should have been given significant weight in any determination of the main purpose of the transfer. The Full Court also found that the judge erred in not taking into account dealings subsequent to the transfer that were inconsistent with a main purpose of defeating creditors.

The Full Court was not persuaded that any other grounds of appeal had been established, finding that the primary judge had not erred by departing from the pleaded case, in rejecting Mr McMillan's explanation for the transfer or in drawing negative inferences by reason of the failure to call certain witnesses.

An application for special leave to appeal is currently pending in the High Court of Australia.

## **Commercial and Corporations NPA | Economic Regulator, Competition and Access sub-area**

### ***Australian Competition and Consumer Commission v IVF Finance Pty Limited (No 2)* [2021] FCA 1295**

**(25 October 2021, O'Bryan J)**

In this case, the ACCC was successful in obtaining an interlocutory injunction under section 80(2) of the *Competition and Consumer Act 2010* (the Act) restraining IVF Finance from completing the acquisition of certain fertility clinics.

On 22 August 2021, IVF Finance and its parent company, Virtus Health, entered into a share sale agreement pursuant to which IVF Finance agreed to acquire all of the issued share capital in four companies (Adora, Darlinghurst, Greensborough and Craigie) that operated four fertility clinics and three day hospitals located in Brisbane, Sydney, Melbourne and Perth.

The share sale agreement was not conditional on formal or informal ACCC approval. Nevertheless, when the sale was announced publicly on 23 August 2021, the parties also informed the ACCC of the sale. On 30 August 2021, the parties provided the ACCC with information concerning the sale and the markets affected, but did not seek the ACCC's approval to complete the sale.

The ACCC subsequently informed the parties that it intended to conduct a public review of the sale and sought an undertaking from the parties not to complete. The parties refused to provide that undertaking and ultimately informed the ACCC that they intended to complete the sale on 15 October 2021.

The ACCC then commenced proceedings alleging that the sale would contravene s 50 of the Act by reason that the acquisition of Adora by IVF Finance would have the effect, or be likely to have the effect, of substantially lessening competition for the supply of low cost fertility services, or alternatively, fertility services, in the Brisbane metropolitan region and in the Melbourne metropolitan region. The ACCC sought an interlocutory injunction to restrain completion of the acquisition until the final determination of its originating application.

O'Bryan J heard and determined the ACCC's interlocutory application on an urgent basis.

On the question of a prima facie case, O'Bryan J was satisfied that the ACCC had shown a prima facie case that the acquisition of Adora by IVF Finance would be likely to have the effect of substantially lessening competition by reference to evidence adduced in relation to market definition, market concentration, barriers to entry, product differentiation and brand reputation.

On the question of the balance of convenience, Virtus Health and IVF Finance offered to provide 'hold separate' undertakings to the Court which would continue until the final determination of the ACCC's originating application. The undertakings were to keep the Adora business separate and independent from Virtus Health's operations, both in terms of ownership of the assets and the management of its operations. O'Bryan J considered the balance of convenience on the basis that it was likely that any interlocutory injunction would remain in effect until mid-2022. O'Bryan J found that the balance of convenience favoured the grant of an interlocutory injunction. His Honour considered that there was a very substantial public interest in preventing an acquisition that presented a real risk of substantially lessening competition. The proffered undertakings were an imperfect solution to that risk. O'Bryan J considered that

the private interests of the parties to the share sale agreement weighed less than the public interest and should be further discounted in circumstances where the inconvenience and risk of loss were largely avoidable. O'Bryan J was not persuaded that the risk to the Adora business generated by the grant of an injunction was any greater than the risk generated by the proceeding more generally.

The proceeding was timetabled for an expedited trial, but discontinued after Virtus Health decided not to proceed with the Acquisition.

### **Commercial and Corporations NPA | International Commercial Arbitration sub-area**

#### ***Hub Street Equipment Pty Ltd v Energy City Qatar Holding Company [2021] FCAFC 110*** **(25 June 2021, Allsop CJ, Middleton and Stewart JJ)**

In 2010, Energy City Qatar (ECQ), a company incorporated in Qatar, and Hub Street Equipment (Hub), a company incorporated in Australia, entered into a contract for Hub to supply and install street lighting equipment, street furniture and accessories in Doha, Qatar. The contract provided for disputes to be referred to arbitration in Qatar, with each party allowed to appoint one member of the arbitral committee, and a third member to be mutually chosen by the first two members.

In 2012, ECQ decided not to proceed with the contract and sought repayment of an advance that it had paid to Hub. Rather than allowing Hub to appoint a member of the arbitral committee, in June 2016 ECQ commenced proceedings in Qatar seeking orders that the Court appoint an arbitral tribunal of three arbitrators including an arbitrator nominated by ECQ.

Hub did not participate in the Qatari Court proceedings or in the subsequent arbitration. In August 2017, the arbitral tribunal issued an award obliging Hub to repay the advance and to pay compensation to ECQ and arbitration fees.

The primary judge decided that the Court should enforce the award and entered judgment for ECQ against Hub. The principal ground on which Hub contended that the award should not be enforced was that the composition of the arbitral tribunal

was not in accordance with the agreement of the parties notwithstanding that the tribunal was appointed by a Qatari Court. ECQ's principal contention in response was that the appointment, having been made by the Qatari Court, must be regarded as valid under the law of the seat and that Hub's remedy was to challenge it there rather than to resist enforcement in Australia. ECQ also contended that as a matter of discretion the Court should enforce the award.

Two days before the Full Court intended to hand down judgment, Hub (with the consent of ECQ) informed the Court that the matter had settled in principle. The Court received no response when it asked the parties to communicate to the Court their view as to whether the judgment should be handed down. Allsop CJ, with whom Middleton and Stewart JJ agreed, found that important considerations of public policy and public interest meant that the Court could and should proceed to hand down its judgment, noting that the judgment was complete at the time of notification, that the appeal raised points of law of general interest and that the judgment corrected errors of both law and fact in the judgment below.

The Full Court decided that Hub's appeal should be allowed. Stewart J, with whom Allsop CJ and Middleton J agreed, found that the award should not be enforced in Australia because the arbitral tribunal was not composed in accordance with the agreement of the parties and that was a proper basis to resist enforcement, it not being necessary for the award debtor to seek to set the award aside at the seat of the arbitration. Since a failure to compose the arbitral tribunal in accordance with the agreement of the parties was fundamental to the jurisdiction of the arbitrators, there was little if any scope to exercise the discretion to enforce and the discretion should not be so exercised.

The Full Court allowed the appeal and set aside the orders and declaration made below.

## Commercial and Corporations NPA | Regulator and Consumer Protection sub-area

### *viagogo AG v Australian Competition and Consumer Commission* [2022] FCAFC 87

(18 May 2022, Yates, Abraham and Cheeseman JJ)

Viagogo, a company incorporated in Switzerland, operated an Australian online 'marketplace' where people could resell their tickets for live events at a price of their own choosing. If a buyer was found, viagogo added certain charges, including a booking fee of about 28 per cent of the price of the ticket.

The primary judge found that viagogo engaged in misleading conduct by failing to adequately disclose that it was a reseller (Official Site Representation), all-inclusive ticket prices (Price Representations), and that references to tickets still available related only to tickets on the viagogo Australian website (Quantity Representations). The primary judge imposed pecuniary penalties in the total sum of A\$7 million in addition to non-pecuniary relief.

Viagogo appealed from the primary judge's findings in relation to both liability and penalty. In relation to liability, the appeal was confined to the Official Site and Price Representations. In relation to penalty, viagogo contended that the total amount was manifestly excessive.

The Full Court found that no errors had been established in the primary judge's 'methodical and detailed' reasoning or in the conclusions that the Official Site and Price Representations were misleading. In relation to the requirement in the *Australian Consumer Law* for a single price to be specified in certain circumstances, the Full Court found that the relevant supply was a single transaction that could not be split into the supply to a consumer on the one part, of a ticket by the third party seller, and on the other part, the supply of a marketplace by viagogo, each of which attract a separate price.

The Full Court also found that viagogo had not established that an error of manifest excess was plainly apparent in the way in which the primary judge exercised the penalty discretion.

The Full Court explained that profit was merely one factor that may be relevant among many others and that reported profit may not reflect the objective seriousness of the contravention. Those engaged in trade or commerce should be deterred from conducting themselves according to the cynical cost benefit calculus where the risk of the penalty is weighed against the profits to be made from the contravention. The Full Court also rejected a contention that the primary judge placed insufficient weight on the impacts of the COVID-19 pandemic. The Full Court noted that *viagogo* did not lead any evidence of the impact of the pandemic on its Australian business, but that the primary judge expressly took the impact of the COVID-19 pandemic into account, taking judicial notice of the fact that the entertainment industry has been devastated by the restrictions brought about by the pandemic.

The Full Court unanimously dismissed the appeal in relation to both liability and penalty.

## Employment and Industrial Relations NPA

### *Australian Rail, Tram and Bus Industry Union v Busways Northern Beaches Pty Ltd (No 2)* [2022] FCAFC 55

(7 April 2022, Bromberg, Wheelahan and Snaden JJ)

The New South Wales government sought to privatise its state-run public transport bus services. Busways, a newly established private operator, proposed to tender for contracts covering the provision of bus services in various regions within Sydney that had previously been serviced by the State Transit Authority. The Full Court considered whether Busways was establishing, or was proposing to establish, a 'genuine new enterprise', such that the Fair Work Commission had jurisdiction to approve a greenfields agreement between Busways and the Transport Workers' Union of Australia.

The government continued to own the buses and other assets used to service each region and would maintain control over bus timetables and fares. The incoming operators were required to retain bus drivers and maintenance staff, whose jobs would be guaranteed for two years and who would transfer with all their accrued entitlements.

The applicant sought prerogative relief to have the approval of the greenfields agreement by the Fair Work Commission set aside on the basis that it did not relevantly relate to a 'genuine new enterprise'. The original jurisdiction of the Court was exercised by a Full Court.

The Court unanimously found that the greenfields agreement did not relate to a 'genuine new enterprise', such that the Fair Work Commission could not exercise the power of approval that it purported to exercise.

Bromberg J found that a 'new' enterprise had to be novel generally, rather than merely new to its proponent, and that the word 'genuine' directed attention to substance rather than form. Bromberg J found it was necessary to compare the character of any existing similar enterprise with that of the proposed enterprise by reference to their essential characteristics.

Bromberg J found that the State Transit Authority and Busways provided or proposed to provide services to Transport for New South Wales. Those services, in each case, involved the management and delivery of the same transport services to the public in the same regions, utilising largely the same plant and equipment. The existence of a profit motive did not result in the proposed enterprise bearing a substantially different character.

Wheelahan J agreed substantially with the reasons given by Bromberg J.

Snaden J found that a 'genuine new enterprise' denoted a business, activity, project or undertaking upon which an employer proposed to commence otherwise than as the successor to an existing operator. Snaden J found the analysis turned upon the proper characterisation of the enterprise of an 'old' or existing operator and an assessment as to whether it bore, in substance, the same character as the enterprise of the 'new' or 'incoming' operator. In this case, Snaden J found that the nature or character of the pre-tender bus services was, in substance, the same as the nature or character of the bus services in respect of which the Busways entities made the greenfields agreement.



***King v Melbourne Vicentre Swimming Club Inc [2021] FCAFC 123***

**(15 July 2021, Collier, Katzmann and Jackson JJ)**

Mr King was employed as a swim coach by the Club between 2006 and 2018. He claimed that the Club failed to pay him in accordance with the *Fitness Industry Award 2010* during the last six years of his employment (claim period). The Club claimed that Mr King was not covered by the Award during his employment.

Mr King coached swim squads that were, broadly, in the middle range of seniority among the squads offered by the Club. He worked full time and reported to the Head Coach at the Club, and on occasion acted in that position when the Head Coach was absent. During the claim period, Mr King held a Silver Licence swim coaching qualification.

The primary judge considered Award coverage as a separate issue and declared that Mr King was not covered by the Award during the claim period. The primary judge found that the Award covered swimming teachers, and coaches of beginner swimmers who were current Bronze Licence holders, but not those coaching at higher levels, like Mr King. The primary judge found it was too much of a strain to construe the text of the Award as bringing within its coverage coaches with higher qualifications, or coaches of squads above the level of beginner swimmers.

The Full Court considered two questions of construction of the Award. The first was whether Mr King qualified for coverage at classification level 4 because he met the general requirements as to supervision and initiative, or whether he also needed to meet the more specific conditions for swim-related roles. The Full Court found that the words ‘an employee at this level may also be’ conveyed that an employee’s role may or may not be swim-related, not that the more specific conditions for swim-related roles were optional.

The second question was whether the more specific conditions for swim-related roles at level 4 were minimum requirements only, such that swim coaches who exceeded the specified level of work, qualifications and experience were covered by the Award. The Full Court found there was no doubt that Mr King exceeded the specified qualifications and experience. The Full Court accepted, however, that it was no strain on the language to construe the more specific

conditions as only minimum requirements for a swim coach to be covered by level 4. The Full Court found there was nothing in the Award that set a ‘ceiling’ for level 4 in terms of qualifications and experience.

The Full Court found that Mr King’s Silver Licence and duties coaching intermediate and senior swimmers did not take him outside the coverage of level 4. The Full Court found that Mr King fulfilled the minimum requirements for that level and did not fulfil the requirements for any higher level, so he was covered by the level 4 classification in the Award during the claim period. The matter was remitted to the primary judge for the trial of the balance of the issues in the proceeding.

**Federal Crime and Related Proceedings NPA**

***Mensink v Registrar of the Federal Court of Australia [2022] FCAFC 102***

**(9 June 2022, Bromwich, Lee and Thawley JJ)**

Mr Mensink was charged with contempt of court for failing, on two occasions, to comply with a summons to attend a public examination into the collapse of Queensland Nickel Pty Ltd, of which he was a sole director at the time it was placed into voluntary administration. Contempt proceedings were commenced by the special purpose liquidators of Queensland Nickel but subsequently taken over by the Registrar of the Federal Court pursuant to a court order made following the special purpose liquidators entering into a settlement deed with Mr Mensink and other parties. Mr Mensink’s application for summary dismissal of the contempt proceeding and to discharge the warrants for his arrest was dismissed.

Mr Mensink sought an extension of time and leave to appeal from the court order that the Registrar take over the contempt proceeding and appealed against the dismissal of his summary judgment application. The Full Court dismissed both appeals.

The Full Court rejected that Mr Mensink had been denied procedural fairness, finding that that in making the order for the Registrar to take over the contempt proceeding, Mr Mensink had the opportunity to be heard.

The Full Court found Mr Mensink's challenge to the power of the Court to order the Registrar to take over the contempt proceeding was based upon a misunderstanding of the *Federal Court Rules 2011* (the Rules), the statutory context in which they are made, their terms, their ordinary operation and the freedom given to a judge to depart from them. The Full Court found the Rules did not limit the power of the primary judge to make the order appointing the Registrar to take over the contempt proceeding.

The Full Court rejected that the contempt proceeding was brought to an end upon approval of the settlement deed. While the settlement deed affected the rights and obligations of Mr Mensink and the special purpose liquidators, it did not operate to extinguish the contempt proceeding, or the underlying cause of action for contempt. The Full Court further found that there remained an important and independent public interest to be vindicated, having much wider application than the private interests of the special purpose liquidators confined to the proceeding they had brought. Mr Mensink's defiance of the Court's authority, and the ongoing public interest in maintaining practical and effective compulsion to attend examinations under the *Corporations Act 2001*, were both important considerations and bases for continuing the contempt proceeding. The Full Court concluded it was appropriate and in the interests of justice to make an order to ensure that the contempt proceeding could continue.

### **Intellectual Property NPA | Copyright and Industrial Designs sub-area**

#### ***State of Escape Accessories Pty Limited v Schwartz* [2022] FCAFC 63**

(20 April 2022, Greenwood, Nicholas and Anderson JJ)

This proceeding concerns whether copyright subsisted in the appellant's perforated neoprene tote bag or carry-all bag (Escape Bag) on the basis that it was a work of artistic craftsmanship.

The primary judge rejected the appellant's claim against the respondents for copyright infringement in respect of the Escape Bag. The appellant appealed on 10 grounds against the primary judge's decision. The first six grounds challenged the primary judge's consideration

of the evidence, in particular how much weight was given to the appellant's evidence and the respondent's evidence. Grounds 7 and 8 concerned alleged errors in the primary judge's findings concerning the state of the art in bag design and in the evaluation of the Escape Bag's features as a whole. Grounds 9 and 10 challenged two specific findings made by the primary judge concerning the approach to design and choice of materials used in the design.

The Full Court found that the primary judge's treatment of the appellant's evidence was not affected by error and that there was no inconsistency in the primary judge having accepted the appellant's evidence and holding that the Escape Bag was not a work of artistic craftsmanship. The Full Court also found it was open to the primary judge to give considerable weight to the respondent's expert evidence.

The Full Court agreed with the primary judge's finding that the design of the Escape Bag was substantially constrained by function. The use of perforated neoprene and sailing rope in the design was said to reflect minor variations in design detail that was consistent with the primary judge's conclusion that the use of such materials to make an everyday carry bag was, at its highest, an evolution in styling rather than an act of artistic craftsmanship.

The view of the Full Court was that the appellant's criticism of the primary judge's overall approach was unfounded. The Full Court concluded that Escape Bag was not a work of artistic craftsmanship and the appeal was dismissed.

### **Intellectual Property NPA | Patents and associated Statutes sub-area**

#### ***Commissioner of Patents v Ono Pharmaceutical Co. Ltd* [2022] FCAFC 39 *Merck Sharp & Dohme Corp. v Sandoz Pty Ltd* [2022] FCAFC 40**

(18 March 2022, Allsop CJ, Yates and Burley JJ)

In these cases, the Full Court considered the operation of the patent term extension regime for standard patents relating to pharmaceutical substances.

In *Ono*, a competitor's pharmaceutical product that contained or consisted of a substance that



fell within the scope of the claim(s) of the patent obtained regulatory approval at an earlier date than a product sponsored by a related entity of the patentees. The primary judge found that the extension of term regime was designed to compensate a patentee of a pharmaceutical substance for the loss in time before which it could exploit its invention, and to remedy the mischief caused by delays in obtaining regulatory approval. The primary judge preferred a liberal rather than a literal construction, finding that the extension regime operated only by reference to the patentee's goods, not those of a competitor.

In *Merck Sharp & Dohme*, more than one pharmaceutical substance had been disclosed and claimed in the patent. The primary judge found that the term of any extension had to be calculated by reference to the earliest first regulatory approval date in relation to any of those pharmaceutical substances, such that the term of the extension was equal to zero.

The Full Court emphasised that it was the fundamental duty of a court, when undertaking statutory construction, to give meaning to the legislative command according to the terms in which it has been expressed. The Full Court found that the extension of term regime seeks to balance a range of competing interests, not just the interests of the patentee, and that it could be taken that the legislature saw the correct balance as being achieved by the very words it chose to implement that regime.

The Full Court found that patent term extensions were to be calculated by reference to the first regulatory approval date of any goods included in the Australian Register of Therapeutic Goods containing, or consisting of any of the pharmaceutical substances disclosed and claimed in the patent.

Contrary to the conclusion of the primary judge in *Ono*, the Full Court found that the inquiry ought not to be restricted to the goods of a particular person.

The Full Court agreed with the primary judge in *Merck Sharp & Dohme* that where more than one substance was disclosed and claimed in the patent, any extension to be granted had to be calculated by reference to the earliest first regulatory approval date in relation to any of those pharmaceutical substances.

The Full Court allowed the appeal in *Ono* and dismissed the appeal in *Merck Sharp & Dohme*.

## Intellectual Property NPA | Trade Marks sub-area

### *Allergan Australia Pty Ltd v Self Care IP Holdings Pty Ltd* [2021] FCAFC 163

(7 September 2021, Jagot, Lee and Thawley JJ)

Allergan Inc is the manufacturer of Botox and the owner of various trade marks for BOTOX, including the word mark BOTOX. Self Care IP Holdings Pty Ltd and Self Care Corporation Pty Ltd (together Self Care) supply cosmetic products, including topical anti-wrinkle skincare products under the trade mark FREEZEFRAME.

Allergan Inc and its subsidiary, Allergan Australia Pty Ltd (together Allergan), brought proceedings against Self Care, alleging trade mark infringement and misleading and deceptive conduct. The primary judge found that Allergan failed to establish infringement of the BOTOX trade mark. The primary judge concluded that the ubiquitous reputation in the BOTOX mark successfully countered a finding of deceptive similarity, as consumers would be unlikely to have an imperfect recollection of such a renowned mark.

The Full Court agreed with the primary judge that PROTOX was used by Self Care as a trade mark and that it was used independently of the mark FREEZEFRAME. The Full Court concluded that consumers would not have confused PROTOX for BOTOX, as the words were sufficiently different. However, as there was a real risk that consumers might think the different products came from the same source, the Full Court held that PROTOX was deceptively similar to BOTOX and therefore infringed Allergan's trade mark.

In considering the phrase 'instant Botox® alternative', the Full Court found the word 'alternative' implied that Self Care's Inhibox product was different to Botox, but it did not necessarily imply that the products were not associated or that they did not come from the same or an associated source. The Full Court found that the phrase 'instant Botox® alternative' so nearly resembled BOTOX that it was likely to deceive or cause confusion and thereby constituted trade mark infringement.

The Full Court also found a reasonable consumer would have understood the phrase '*instant Botox® alternative*' to mean the effects of Inhibox lasted as long as Botox, or at least that it prolonged Botox's effects. In circumstances where there was no scientific or other material from which such a representation could reasonably be made, the Full Court held this representation was misleading or deceptive.

The Full Court allowed the appeal and remitted the matter to the primary judge for determination of damages or an account of profits.

An appeal is currently pending in the High Court of Australia, special leave having been granted on 13 May 2022.

## Native Title NPA

### *District Council of Streaky Bay v Wilson* [2021] FCAFC 181

(18 October 2021, Mortimer, Perry and SC Derrington JJ)

The respondent filed a native title determination application in 1997 claiming native title rights and interests over an area of land situated on the west coast of South Australia that includes the Streaky Bay golf course and other parts of the town of Streaky Bay. The District Council of Streaky Bay (Council) contended that native title had been extinguished with respect to the whole of the golf course on the basis of construction of a public work in the nature of major earthworks, namely the golf course, or alternatively by reason of a lease it had granted the Streaky Bay and Districts Golf Club Inc (Club) in 1994.

A separate question in relation to extinguishment of native title was determined by the primary judge, namely whether native title was wholly extinguished by either the construction of public works in the nature of major earthworks on the land where the golf course was situated on or before 31 December 1993, (the Earthworks question) or by a lease granted or intended to be granted by the Council to the Club, after 1 January 1994 and before 23 December 1996 (the Lease question). The primary judge determined the separate question in favour of the respondent.

The Full Court held that leave to appeal was required on the basis that the primary

judge's decision on the separate question was interlocutory in character, having resolved only one issue while the native title determination application proceedings continued.

In considering the Earthworks question, the primary judge's interpretation and application of the definition of 'major earthworks' was central to several grounds of the proposed appeal. The Full Court found the earthworks grounds of appeal were not established and in some instances did no more than assert error without any corresponding contention of what the precise error was, or what the correct finding should have been. The Full Court found that the primary judge's construction of major earthworks was consistent with the authorities and accepted the primary judge's reasoning that a major disturbance to the land was required in order to satisfy the definition of major earthworks. The Full Court found that the primary judge correctly considered and applied the evidence in forming the conclusion that no major earthworks had been undertaken on the disputed parcels of land. The Full Court also rejected the Council's construction of section 251D of the *Native Title Act 1993*, instead finding that provision operated to extinguish native title in land adjacent to that on which a public work is constructed only so far as the use of the additional land is or was necessary for, or incidental to, the construction, establishment or operation of the public work.

In relation to the Lease question, the Full Court accepted the primary judge's findings that in circumstances where the lease had not been produced, the evidence considered as a whole was insufficient to conclude that there existed a specifically enforceable agreement for a lease, or a lease that was otherwise enforceable at any time before 23 December 1996. Having located the Lease, the Club's minute books for the period 1992–2002 and end-of-year financial summaries for 1992–1998 two months after the primary judge delivered judgment, the Council sought to adduce fresh evidence on appeal. The Full Court was not satisfied that the Council could not have been, with reasonable diligence, made aware of the physical existence of the Lease, and found that had the fresh evidence been adduced at the trial, the result would not have been different.

The Full Court granted leave to appeal but dismissed the appeal.

## Other Federal Jurisdiction NPA

### *Bazzi v Dutton* [2022] FCAFC 84

(17 May 2022, Rares, Rangiah and Wigney JJ)

On 25 February 2021, Mr Bazzi published a tweet on Twitter about then Home Affairs Minister, Peter Dutton. The tweet contained a statement that 'Peter Dutton is a rape apologist' with a link to an online article published by *The Guardian* reporting on Mr Dutton's comments concerning allegations of rape made by women in refugee centres on Nauru. The primary judge found that the tweet conveyed the imputation that Mr Dutton excuses rape and that he was entitled to damages of \$35,825. The primary judge rejected Mr Bazzi's defences of honest opinion and fair comment on a matter of public interest.

The sole ground on appeal was whether the primary judge erred in finding that the tweet conveyed the imputation. The Full Court was unanimous in its view that the tweet was offensive and derogatory, but found that it did not convey the imputation.

Justices Rares and Rangiah found the primary judge did not explain in his reasons why the ordinary reasonable reader would have understood that the tweet conveyed the imputation, nor did he explain how the primary judge moved from the meaning of 'apologist' as a person who defends someone or something, to the meaning that Mr Dutton is a person who excuses rape. Their Honours held that ordinary reasonable readers of social media publications, like tweets, do not engage in elaborate analysis, but read such material using their general knowledge, impressionistically, in the context in which it is published. Their Honours were of the view that when *The Guardian* material was read, fleetingly, with Mr Bazzi's six word statement, the ordinary reasonable reader of the tweet would conclude that it suggested that Mr Dutton was sceptical about claims of rape and in that way was an apologist, which was very different from imputing that he excuses rape itself.

Justice Wigney agreed that the impugned tweet did not convey the imputation. Justice Wigney found that while the primary judge correctly identified the principles on which to assess whether a matter conveys a defamatory imputation, the primary judge misapplied them in at least three respects. First, the primary judge unduly focused on the first six words of the tweet and was wrong to dissect and segregate them from *The Guardian* material. Secondly, the primary judge erred by allowing his analysis and interpretation of the tweet to be overly influenced by dictionary definitions, particularly in relation to the word 'apologist'. Thirdly, the primary judge erred by approaching the meaning of the tweet as involving a binary choice between the meaning alleged by Mr Dutton and the alternative meaning proposed by Mr Bazzi during the trial.

The Full Court allowed the appeal and set aside the decision of the primary judge. An application for special leave to appeal is currently pending in the High Court of Australia.

## Taxation NPA

### *Hurley v Collector of Customs* [2022] FCAFC 92

(24 May 2022, Moshinsky, Banks-Smith and Colvin JJ)

Mr Hurley was the sole director of a company that imported alcohol into Australia. The alcohol was delivered into home consumption in advance of duty being paid pursuant to a number of periodic settlement permissions given by the Collector. The company later failed to pay the requisite duty within time or at all.

The Collector served three demands for payment on Mr Hurley on the basis that he had, or had been entrusted with, the possession, custody or control of dutiable goods that were subject to customs control and failed to keep those goods safely. Mr Hurley applied to the Administrative Appeals Tribunal for review of the decisions to make the demands for payment. Mr Hurley did not dispute that he had, or had been entrusted with, the possession, custody or control of dutiable goods. The Tribunal concluded that, in circumstances where the duty on the goods was not paid, Mr Hurley had failed to keep the goods

safely. The Tribunal affirmed the decisions to make the three demands (adjusting, by consent, the amount of one of the demands).

Mr Hurley appealed on a question of law from the decision of the Tribunal. The original jurisdiction of the Court was exercised by a Full Court.

The Collector submitted that, unless and until duty was paid, the relevant goods remained 'subject to customs control'. The Full Court found this submission to be irreconcilable with the legislative text. The Full Court found that the relevant alcoholic beverages ceased to be subject to customs control when they were delivered into home consumption pursuant to a periodic settlement permission given by the Collector.

The Full Court explained that in each of the cases relied on by the Collector, something in the nature of loss, destruction or consumption happened to the goods, resulting in a loss of duty, while the goods were subject to customs control. However, in the present case, nothing relevantly happened to the goods, and there was no loss of duty (because duty was not yet due), while the goods were subject to customs control.

The Full Court found that Mr Hurley had not failed to keep the dutiable goods safely as the goods were not lost, destroyed or consumed, and there was no failure to pay duty while the goods were subject to customs control. The Full Court allowed the appeal and set aside the decisions of the Tribunal and the Collector, as well as the relevant demands for payment.

An application for special leave to appeal is currently pending in the High Court of Australia.

## Appendix 8: Judges' activities 2021–22

### Chief Justice Allsop AO

- Honorary Bencher, Middle Temple
- Member, American Law Institute
- Fellow, Australian Academy of Law
- President, Francis Forbes Society for Australian Legal History
- Patron, Australian Insurance Law Association
- Chair, Australian Centre for International Commercial Arbitration, Judicial Liaison Committee
- Member, Asian Business Law Institute Board of Governors representing the Australian Judiciary
- Member, Commonwealth Magistrates' and Judges' Association.

DATE	ACTIVITY
13 July 2021	Attended virtually the swearing in of Justice Rofe held at the Federal Court of Australia, in Melbourne.
16 July 2021	Attended and spoke at the Resolution Institute Conference 2021 on 'Resilience and Reinvention: Dispute Resolution During a Crisis and Beyond' at The Fullerton Hotel, in Sydney.
3 August 2021	Delivered virtually via video conference an opening address for the Law Council's Chief Justices Past and Present Dispute Resolution Lecture Series Webinar, on 'International Dispute Resolution and an International Justice System'.
4 August 2021	Attended virtually the swearing in of Justice Downes held at the Federal Court of Australia, in Brisbane.
19 August 2021	Attended the 2021 Plunkett Lecture presented by The Hon Justice Gleeson entitled 'Dignity in the time of John Herbert Plunkett' via Zoom.
31 August 2021	Delivered remotely an address in Session 1 at the Federal Jurisdiction Seminars held at Federal Court of Australia in Perth entitled 'Federal Jurisdiction'.
22 September 2021	Introduced the 2021 Aboriginal and Torres Strait Islander Students' Moot Competition Preliminary and Finals held in Brisbane, via video conference.
28 September 2021	Presented at the Commonwealth Technology RoundTable Meeting virtually via video conference with the Honourable Justice Nye Perram and Director of Digital Practice, Ms Jessica Der Matossian.
29 September 2021	Presented virtually at the Judicial RoundTable as Discussion Leader on Topic 1: What is an International Commercial Dispute?
6 October 2021	Presented virtually at Victorian Bar Readers' Course: Judicial Views on Written and Oral Advocacy.
8 October 2021	Attended the Law Council of Australia's 2021 Taxation Committee Webinar via video conference.
14 October 2021	Attended and spoke virtually at the Australian Government Legal Service's Conference on 'Law, Power and Government Responsibility'.

DATE	ACTIVITY
18 October 2021	Attended the Council of Chief Justices' Meeting virtually via video conference.
21 October 2021	Delivered address at the Australian Academy of Law's 10th Annual Patron's Address on 'Thinking About Law: the importance of how we attend to the problem at hand and of context' virtually via video conference.
26 October 2021	Attended remotely the Western Australia Federal Jurisdiction Seminars Session 3.
28 October 2021	Attended the Richard Cooper Memorial Lecture 2021 presented by the Hon John Dowsett AM QC entitled 'The Image and the Search – an idiosyncratic overview' via video conference.
1 November 2021	Co-chaired Ngara Yura Program and Francis Forbes Society webinar entitled 'Making the Past Visible: The Legacies of the Protectionist Legislation' with Ms Sonja Stewart, CEO of the Law Society of New South Wales and Chair of Rugby Australia's First Nations Rugby Committee.
3 November 2021	Attended the Pacific Judicial Strengthening Initiative's 8th Chief Justices' Leadership Forum virtually via video conference.
3 November 2021	Attended and spoke at the Australian Academy of Law's event entitled 'Issues arising from the Operation of Intermediate Courts of Appeal (Civil)' via video conferencing.
4 November 2021	Attended the Pacific Judicial Strengthening Initiative's 11th Initiative Executive Committee meeting virtually via video conference.
12 November 2021	Attended the swearing in of Justice Goodman held at the Federal Court of Australia, in Sydney.
18 November 2021	Attended and provided welcome at the Australian Maritime and Transport Arbitration Commission Annual Address 2021 at the Federal Court of Australia, in Sydney.
26 November 2021	Delivered an address as Guest Speaker at the New South Wales Claims Discussion Group Industry Christmas Luncheon event, in Sydney.
29 November 2021	Attended remotely the virtual Federal Court Victorian 2021 Silk Ceremony.
30 November 2021	Attended remotely the Western Australia Federal Jurisdiction Seminars Session 4.
3 December 2021	Presided over the ceremonial farewell of the Full Court for Justice McKerracher held at the Federal Court of Australia, in Perth.
6 December 2021	Attended the Australian Academy of Law's seminar on Freedom of Expression in the UK and Australia considered comparatively.
8 December 2021	Attended the swearing in of Justice Dhanji to the Supreme Court of New South Wales, in Sydney.
8 December 2021	Attended the Australian Centre for International Commercial Arbitration / International Committee of the New South Wales Bar Association Seminar on International Arbitration and the Australian Consumer Law.

DATE	ACTIVITY
20 January 2022	Attended virtually the swearing in of Justice O'Sullivan held at the Federal Court of Australia in Adelaide, via video conference.
24 January 2022	Attended virtually the swearing in of Justice McElwaine held at the Federal Court of Australia in Hobart, via video conference.
3 February 2022	Attended Credential Visit with Law Society of New South Wales Executive Committee, virtually via Microsoft Teams.
9 February 2022	Delivered an introduction and address at the Virtual Book Launch for <i>Class Actions in Australia third edition</i> hosted by Herbert Smith Freehills.
23 February 2022	Attended the Francis Forbes tutorial on 'The History of Jurisprudence' and presented the outgoing Chief Justice Bathurst with a gift as acknowledgement of his patronage to the Society; also presented certificates to the essay prize winners.
25 February 2022	Presided over the ceremonial welcome of the Full Court for Justice McElwaine held at the Federal Court of Australia, in Hobart.
25 February 2022	Presided over the ceremonial farewell of the Full Court for Justice Kerr held at the Federal Court of Australia, in Hobart.
28 February 2022	Attended the ceremonial farewell for the Hon Chief Justice Bathurst of the Supreme Court of New South Wales, in Sydney.
4 March 2022	Presided over the ceremonial farewell of the Full Court for Justice Flick held at the Federal Court of Australia, in Sydney.
7 March 2022	Attended the ceremonial swearing in of Chief Justice Bell to the Supreme Court of New South Wales, in Sydney.
8 March 2022	Attended the ceremonial swearing in of Chief Justice McCallum to the Supreme Court of Australian Capital Territory, in Canberra.
9 March 2022	Attended the swearing in of Justice Julie Ward as President of the Court of Appeal New South Wales, in Sydney.
10 March 2022	Attended virtually the swearing in of Justice Feutrill held at the Federal Court of Australia in Perth, via video conference.
11 March 2022	Delivered keynote address at the Queensland Law Society Symposium 2022 in Brisbane on 'The culture of the legal profession: lessons of the past and hope for the future.'
15 March 2022	Attended virtually the Ngará Yura Webinar – A story of resistance: Fred Maynard and the Australian Aboriginal Progressive Association via video conference.
22 March 2022	Presided over the ceremonial welcome of the Full Court for Justice O'Sullivan held at the Federal Court of Australia, in Adelaide.
24 March 2022	Attended virtually the Australian Academy of Law's webinar event for 'The Legal and Ethical Regulation of the Internet of Things.'
31 March 2022	Presided over the ceremonial welcome of the Full Court for Justice Downes held at the Federal Court of Australia, in Brisbane.
11 April 2022	Attended the Council of Chief Justices' Meeting, in Hobart.



DATE	ACTIVITY
13 April 2022	Attended virtually and presented at the Victorian Bar Association's Readers' Course: Federal Court Session.
13 April 2022	Attended and spoke at the Federal Court of Australia Insurance List Information and Feedback meeting, held at the Federal Court of Australia, in Sydney.
20 April 2022	Meeting with Chief Justice Sir Gibuma Gibbs Salika GCL KBE CSM OBE at Federal Court of Australia, in Sydney.
20 April 2022	Presided over the ceremonial welcome of the Full Court for Justice Goodman held at the Federal Court of Australia, in Sydney.
21 April 2022	Attended the ceremonial swearing in of Dr Jeremy Kirk to the Supreme Court of New South Wales, in Sydney.
21 April 2022	Attended a Reception for the 10th Australasian Institute of Judicial Administration Appellate Judges' Conference.
26 April 2022	Attended the swearing in of Justice McEvoy at the Federal Court of Australia, in Melbourne.
27 April 2022	Attended the swearing in of Justice Hespe at the Federal Court of Australia, in Melbourne.
27 April 2022	Attended virtually a liaison meeting between the New South Wales Law Society and the Federal Court with regard to Ensuring a Fair Post-COVID Justice System.
28 April 2022	Delivered keynote address at the Australian Bar Association's National Conference entitled 'The Courtroom Post Covid 19', in Melbourne.
28 April 2022	Attended the Victorian Bar Section Dinner as a Guest of the President, in Melbourne.
29 April 2022	Delivered keynote address on 'Advocacy in tax cases: a view from the Bench' at the Australian Bar Association's tax session, in Melbourne.
30 April 2022	Attended the Sir Harry Gibbs Memorial Oration, Samuel Griffith Society and presented on 'Being a Judge: judicial technique, independence and labels'.
2 May 2022	Attended the swearing in of Justice Raper at the Federal Court of Australia, in Sydney.
6 May 2022	Presided over the ceremonial welcome of the Full Court for Justice Rofe held at the Federal Court of Australia, in Melbourne.
10 May 2022	Presided over the special sitting of the Full Court for Western Australia Silk Bows held at the Federal Court of Australia, in Perth.
10 May 2022	Presided over the ceremonial welcome of the Full Court for Justice Feutrill held at the Federal Court of Australia, in Perth.
11 May 2022	Meeting with Mr Conrad Liveris, President of the Piddington Society Western Australia at the Federal Court of Australia, in Perth.
12 May 2022	Delivered Opening Address for New South Wales Bar Association's bi-annual Bar Practice Course: Welcome and Introduction to Practice in the Federal Court via Microsoft Teams.



DATE	ACTIVITY
19 May 2022	Attended virtually the Judicial Dispute Resolution Network Inaugural Meeting with Supreme Court of Singapore hosting.
25 May 2022 – 26 May 2022	Attended the National Federal Court Judges' Meeting Conference held at the Federal Court of Australia, in Adelaide.
27 May 2022	Attended and delivered an address at the Mabo 30th Anniversary Event at the Federal Court of Australia, in Brisbane.
09 June 2022	Attended and delivered an address at the Book Launch Edited Collection – Current Issues in Competition Law at the Federal Court, in Sydney.
10 June 2022	Presided over the ceremonial welcome of the Full Court for Justice Raper held at the Federal Court of Australia, in Sydney.
15 June 2022	Signing of Annex to Memorandum of Understanding, Federal Court of Australia and National and Supreme Court of Papua New Guinea with Chief Justice Salika of Papua New Guinea.
16 June 2022	Meeting with President and Ambassador of the Capital Punishment Justice Project, Mr Stephen Kleim SC and Mr Christopher Ward SC.
21 June 2022	Attended and delivered an address at the Australian Academy of Law Book Launch: A Sense of Common Purpose. A History of the Australian Academy of Law in Conference Room at the Federal Court of Australia, in Sydney.
22 June 2022	Attended and delivered an address at the Australian Centre for International Commercial Arbitration Book Launch event for Commercial Arbitration in Australia 3rd edition by Doug Jones AO and Janet Walker.
23 June 2022	Presided over the ceremonial welcome of the Full Court for Justice McEvoy held at the Federal Court of Australia, in Melbourne.

## Justice Kenny AM

- Chairperson, Australian Electoral Commission
- Presidential Member, Administrative Appeals Tribunal
- Member, Council of the Australian Institute of Judicial Administration
- Foundation Fellow, Australian Academy of Law
- Principal Fellow, Melbourne Law School, University of Melbourne
- College Fellow, St Hilda's College, University of Melbourne
- Chair, Asian Law Centre Advisory Board, Melbourne Law School, University of Melbourne
- Member, Editorial Board, Journal of the Intellectual Property Society of Australia and New Zealand
- Advisory Board Member, University of Melbourne Ninian Stephen Law Program
- Convenor, Library Committee
- Convenor, International Development and Cooperation Committee
- Member, Judicial Education Committee
- Member, Public Communications Committee

DATE	ACTIVITY
20–26 October 2021	Co-taught with Professor Adrienne Stone, 'Constitutional Rights and Freedoms', Masters Program, Melbourne Law School, University of Melbourne.
1–31 December 2021	Acting President of the Administrative Appeals Tribunal.
8 March 2022	Speaker, 'Senior trial judges from England and Australia speak about judging', Australian Academy of Law Public Online Seminar.
20 April 2022	Judge of Moots, Readers' Course Oral Appellate Workshops, Victorian Bar.
12–13 May 2022	Participated in '2022 Demystifying AI Ethics Masterclass, Centre for Artificial Intelligence and Digital Ethics', University of Melbourne.
28–30 June 2022	Acting Chief Justice of the Federal Court of Australia.
July 2021 – 30 June 2022	Attended scheduled meetings of the AIJA Research Committee.
July 2021 – 30 June 2022	Attended meetings and discussions relating to current positions held (as listed above).

## Justice Middleton AM

- President, Australian Competition Tribunal
- Presidential Member, Administrative Appeals Tribunal
- Part-time Commissioner, Australian Law Reform Commission
- Member, American Law Institute
- Member, Australian Centre for International Commercial Arbitration, Advisory Board
- Member, Australian Centre for International Commercial Arbitration, Judicial Liaison Committee
- Fellow, Australian Academy of Law
- Member, Editorial Board of the Journal of the Intellectual Property Society of Australia and New Zealand
- Patron, Oxford University Society in Victoria

DATE	ACTIVITY
19 July 2021	Chaired the Monash University Faculty of Law and the Australian Law Reform Commission webinar on 'Judicial Impartiality Q&A: Exploring Viewpoints', in Melbourne.
27 August 2021	Attended the 2021 Competition and Consumer Workshop exploring topical competition and consumer law issues, presented by a range of international and domestic speakers, in Melbourne.
31 August 2021	Attended the Australian Law Reform Commission Team Workshop on the Financial Services Legislation Inquiry via Zoom.
20 September 2021	Attended the Australian Law Reform Commission Advisory Committee Meeting on the Financial Services Legislation Inquiry via Zoom.
14 October 2021	Spoke with Chief Justice Ferguson at the Victorian Bar's Leadership Continuing Professional Development on a session entitled 'Expectations of the Court and leading Junior Counsel'.
18 October 2021	Chaired the Australian Centre of International Commercial Arbitration (ACICA) and the Chartered Institute of Arbitrators Australia (CI Arb Australia) session entitled 'Writing Enforceable Arbitral Awards and Enforcements of Awards' via Zoom.
20 October 2021	Attended the Australian Law Reform Commission Advisory Committee Meeting on Judicial Impartiality Inquiry via Zoom.
17 December 2021	Attended the 2021 Melbourne University Law Review Annual Dinner, hosted by The University of Melbourne, in Melbourne.
29 March 2022	Chaired the CI Arb Australia and Federal Court of Australia Seminar in Melbourne on topical issues in international arbitration.
30 March 2022	Spoke at Peter Jopling AM QC's retirement from the Victorian Bar and the welcome of the 2020, 2021 and 2022 Readers of the Victorian Bar, in Melbourne.
11 April 2022	Attended the Australian Law Reform Commission Team Workshop on the Financial Services Legislation Inquiry via Zoom.

29 April 2022	Participated in a panel at 2022 Australian Bar Association National Conference in Melbourne on 'Live-Streaming of Court Cases: the implications for judges, advocates and the administration of justice'.
27 May 2022	Attended the Victorian Bar Dinner at the Plaza Ballroom, in Melbourne.
3 June 2022	Attended the Annual Dinner of the Oxford University Society in Victoria at Queen's Hall Parliament House, in Melbourne.

### Justice Logan RFD

- President, Defence Force Discipline Appeal Tribunal
- Judge, Supreme and National Courts of Justice of Papua New Guinea

DATE	ACTIVITY
28 August 2021	Delivered a commentary at the workshop conducted by the Queensland Bar Association, delivered at the Tonga Law Society Continuing Professional Developments Pleading Workshop (virtual).
13 September 2021	Delivered a paper at the Commonwealth Magistrates and Judges Association Conference entitled 'The Effective disposal of cases after COVID-19' (virtual).
16 March 2022	Delivered a paper at the Sir Buri Kidu Lecture at the University of Papua New Guinea on The Rule of Law, Economic, Development and Peace and Welfare and Good Government in Port Moresby, Papua New Guinea.
29 April 2022	Presented a paper at the Taxation Institute of Australia National Infrastructure Conference in Sydney on 'Expert Evidence in Taxation Appeals'.
29 April 2022	Delivered remarks on the launch of 'Keeping the Peace of the Realm' authored by Sam White, University of Adelaide Law School, in Adelaide.
30 May 2022	Delivered a commentary at the Workshop conducted by the Bar Association of Queensland, South Pacific Region Legal Education committee – Deadly Sins and Handy Hints of Statutory Interpretation.

## Justice McKerracher

Note: Justice McKerracher retired from the Court on 5 December 2021.

- Board member, United Nations Commission on International Trade Law Coordination Committee for Australia
- Representative, Governing Council and Executive of the Australian Judicial Officers Association

DATE	ACTIVITY
31 August 2021	Spoke on the topic of 'Practical case studies' in the first session of the Federal Jurisdiction Seminars, the inaugural session being chaired by the Chief Justice, in Perth.
21 September 2021	Attended the second session of the Federal Jurisdiction Seminars on the topic 'An introduction to Native Title', chaired by Justice Jackson, in Perth.
18–24 October 2021	Participated as the UNCCA and International Association of Judges' representative at the 4th Revision, 39th session of the United Nations Commission on International Trade Law Working Group VI on Judicial Sales of Ships (Vienna) (virtual).
26 October 2021	Chaired the third session of the Federal Jurisdiction Seminars 'Administrative Law, with a focus on Migration Law', in Perth.

## Justice Perram

- Chair, Court Digital Practice Committee
- Deputy President, Copyright Tribunal of Australia

DATE	ACTIVITY
27 August 2021	Participated in Standing International Forum of Commercial Courts meeting.
28 September 2021	Participated in the Commonwealth Technology Conference, 'Access to Justice: Rethinking the Role of Technology', hosted by Lord Chief Justice of England and Wales.
10–11 November 2021	Panellist at the Patent Court of Korea's 2021 International IP Court Conference.
31 March–1 April 2022	Participated in the National Judicial College of Australia's Judicial Officers with Leadership Responsibilities program.
21–22 April 2022	Participated in the 10th Australasian Institute of Judicial Administration Appellate Judges Conference.
9 June 2022	Attended launch of <i>Current Issues in Competition Law</i> .

### Justice Jagot

- Board Member, Minds Count
- Member, Governing Council, Australian Judicial Officers Association

DATE	ACTIVITY
15 October 2021	Attended and presented paper at the Australian Competition and Consumer Commission Conference – 18th Annual Competition Law and Economics Workshop entitled: ‘Some Thoughts About Proof in Competition Cases’.
26 October 2021	Attended and presented paper at the New South Wales Young Lawyers Workplace Wellbeing Session entitled: ‘Managing Vicarious Trauma in Legal Settings’.
11 February 2022	Attended and presented paper at Gilbert + Tobin Centre of Public Law: 2022 Constitutional Law Conference entitled: ‘The Federal and State Courts on Constitutional Law: The 2021 Term’.
22 April 2022	Attended and presented paper at the Appellate Judges’ Conference entitled: ‘In Defence of Jurisdictional Error’.
2 June 2022	Attended as a facilitator at the AIATSIS Summit 2022: Moderating Plenary Session: Trial, Trauma and Triumph II: 30 years of native title.
3 June 2022	Attended as a panellist at the National Judicial College of Australia Conference: The Observance of the 30th Anniversary of the Mabo Decision and presented paper entitled: ‘Native Title – Compensation for Economic Loss’.
18 June 2022	Attended Australian Judicial Officers Association Governing Council meeting.

### Justice Bromberg

- National Coordinating Judge, Federal Court Employment and Industrial Relations National Practice Area
- Registry Coordinating Judge (Victoria), Federal Court Employment and Industrial Relations National Practice Area
- Coordinator, Federal Court, Victorian Supreme Court and the Victorian Bar’s Indigenous Clerkship Program
- Chair, Federal Court Employment and Industrial Relations NPA User Group
- Chair, Advisory Board of the Centre for Employment and Labour Relations Law (Melbourne University)

DATE	ACTIVITY
1 December 2021	Chaired and presented at the Federal Court’s Employment and Industrial Relations NPA Seminar on Current Issues in the Practice of Employment and Industrial Law.
24 February 2022	Spoke at the Law Institute of Victoria Workplace Relations Conference.

## Justice Katzmann

- Chair, Governing Council, Neuroscience Research Australia (NeuRA) and later the Board of NeuRA until 8 June 2022
- Member, Advisory Committee, Gilbert + Tobin Centre of Public Law
- Committee Member, Australian Association of Women Judges
- Fellow, Australian Academy of Law
- Court Representative, organising committee, Supreme and Federal Court Judges' Conference
- Chair, Court Wellbeing Committee

DATE	ACTIVITY
2 September 2021	Presided over mock interlocutory applications for the New South Wales Bar Readers Course.
28 September 2021	Presided over the Baker McKenzie National Women's Moot.
29 September 2021	Attended the third annual 2021 Sybil Morrison Lecture in honour of the Hon Mary Gaudron QC.
21 October 2021	Attended the Australian Academy of Law's Tenth Annual Patron's Address delivered by Allsop CJ.
3 November 2021	Attended the Australian Academy of Law's presentation of 'Issues Arising from the Operation of Intermediate Courts of Appeal'.
18 March 2022	Attended Festschrift in honour of Emeritus Professors Andrew Byrnes and Andrea Durbach, presented by the Australian Human Rights Institute and the University of New South Wales.
22 April 2022	Attended the Australian and New Zealand Appellate Judge's Conference, hosted by the New South Wales Supreme Court.
12 May 2022	Presided over mock interlocutory applications for the New South Wales Bar Readers Course.

## Justice Murphy

- Principal Fellow, University of Melbourne
- Member, Law School Advisory Council, University of Melbourne
- Member, American Law Institute

DATE	ACTIVITY
18 March 2022	Gave keynote address, 'Navigating the Principles and Practicalities of Group Cost Orders, Common Fund Orders and No Win No Fee', Class Action Seminar, Shine Lawyers.
30 May 2022	Co-authored paper with Jagot J and Aaron Moss, 'Open Justice and Class Actions: Including a Judicial Perspective'.
2 June 2022	Chair, National Commercial Law Seminar Series 'We need to talk about class actions!' Seminar, Monash University.

### Justice Mortimer

- Senior Fellow, Melbourne Law School
- Member, Advisory Board, Centre for Comparative Constitutional Studies
- Member, Australian Academy of Law
- Member, International Association of Refugee Law Judges
- Member, Board of Advisors, Public Law Review

DATE	ACTIVITY
18 August 2021	Presented at the launch of the Victorian Women Lawyers' 2021 Warren Moot.
5 November 2021	Presented at the Environmental and Planning Law Association's Annual Conference on collaboration in litigation about environmental protection.
24 February 2022	Presented a Continuing Professional Development seminar for the New South Wales Bar Association titled 'Pro bono: Who benefits? Accepting briefs on a pro bono basis'.
22 June 2022	Presented at the Federal Circuit and Family Court of Australia Judicial Plenary, paper entitled 'A review of judicial review in the migration jurisdiction: Strategies that might assist and support FCFCOA Judges'.

### Justice Rangiah

- Additional Judge, Supreme Court of the Australian Capital Territory
- Member, Executive and Governing Council, Australian Judicial Officers Association
- Member, Griffith University Law School, Advisor Committee
- Member, University of Queensland, Pro Bono Centre Committee

DATE	ACTIVITY
28 August 2021	Presented at Queensland Employment and Industrial Relations Conference.
23 November 2021	Chaired Bar Association of Queensland's Principles and Practice of Native Title Law seminar.
1 December 2021	Jointly Chaired Federal Court of Australia's Conversation on Current Issues in Employment and Industrial Law.
1 March 2022	Wrote Editorial for Precedent Journal.
25 May 2022	Presented at Queensland Magistrates' State Conference 2022.
27 May 2022	Chaired Panel session at Mabo Day Event.



## Justice Wigney

- Judge, Supreme Court of the Australian Capital Territory
- Judge, Supreme Court of the Norfolk Island

DATE	ACTIVITY
9 November 2021	Panellist on the New Barristers' Committee Judicial Q&A panel for the New South Wales Bar Association webinar.
March 2022	On 22 May 2021, Justice Wigney was a keynote speaker at the 2021 Competition Law Conference where his Honour delivered a speech and presented a paper providing a review and overview of practice and procedure in the criminal jurisdiction of the Federal Court of Australia, namely criminal cartel trials in the Federal Court. The paper presented at the conference was subsequently edited and published as a journal article in the Australian Journal of Competition and Consumer Law: Michael Wigney, 'Practice and Procedure in the Criminal Jurisdiction of the Federal Court of Australia' (2022) 30 AJCCL 11.
5 March 2022	Served as a panellist on the Ethics Panel at the New South Wales Bar Association Sydney CPD Conference regarding ethical issues and considerations that can and should arise within the practice of law.
12 May 2022	Judged mock interlocutory hearings for the New South Wales Bar Association Bar Readers Course.
9 June 2022	Presented a paper on recent developments in competition law, namely the criminalisation of cartel conduct and the Federal Court's relatively new jurisdiction in that area, at the book launch of Current Issues In Competition Law, a two-volume edited collection of articles from various members of the judiciary, the regulator, the practising profession and the academy.

## Justice Perry

- Additional Judge, Supreme Court of the Australian Capital Territory
- Deputy President, Administrative Appeals Tribunal
- Member, Defence Force Discipline Appeal Tribunal
- Commissioned Officer, Royal Australian Air Force, Legal Specialist Reserves
- Foundation Fellow, Australian Academy of Law
- Federal Court Representative, Judicial Council on Cultural Diversity (JCCD)
- Chair, Specialist Committee established by the Judicial Council on Cultural Diversity, *Recommended National Standards for Working with Interpreters in Courts and Tribunals* (2nd ed, 2022)
- Member, Editorial Working Group, *Modern Slavery: Guidance for Australian Courts* (JCCD) (2021)
- Patron, New South Wales Chapter, Hellenic Australian Lawyers Association
- Member, Advisory Committee, Gilbert + Tobin Centre of Public Law, University of New South Wales
- Member, Law School External Advisory Board, University of Adelaide
- Member, Advisory Council, Centre for International and Public Law, Australian National University
- Member, Board of Advisors, Research Unit on Military Law and Ethics, University of Adelaide
- Honorary Member, Special Joint Data and Policy Subcommittee of the Asian Australian Lawyers Association New South Wales Branch and Women's Lawyers' Association of New South Wales Diversity Subcommittee

DATE	ACTIVITY
1 July 2021	Presented on 'Fact Finding and Weighing Evidence,' Veterans' Review Board Learn & Connect Program (virtual event).
2 July 2021	Panellist, International Bar Association Judges Forum, 'Justice, The Courts and COVID-19; The need for the Judiciary to Innovate' (virtual event).
9 July 2021	Member of Judging Panel, Final, 2021 Australian Red Cross and Australian Law Students' Association International Humanitarian Law Moot (via Zoom).
17 September 2021	Presented Welcome Address, Annual John Perry AO QC Oration, Hellenic Australian Lawyers SA Chapter (via videolink).
20 September 2021	Member of Judging Panel, Grand Final, 2021 Sir Harry Gibbs Constitutional Law Moot, with the Hon Justices Gageler and Moshinsky (virtual event).
21 October 2021	Presenter (and co-author with then associate, Sonya Campbell), 'AI and Automated Decision-Making: Are you just another number?,' Gilbert + Tobin Centre of Public Law, University of New South Wales Law & Justice, and New South Wales Chapter, Australian Institute of Administrative Law, Online Symposium addressing <i>Kerr's Vision Splendid for Administrative Law: Still Fit for Purpose?</i>
November 2021	Expert reader, sections of the draft Judicial Impartiality Inquiry Report, Australian Law Reform Commission.
21 December 2021	Interview, Adelaide Advertiser.
23 January 2022	Judged, Lex:lead (Lawyers for Economic Advancement and Development) 2022 International Essay Competition.
12 February 2022	Member of Judging Panel, 2022 Philip C. Jessup International Law Moot Court Competition (Australian Round) Grand Final, with the Hon Justice Steward and Ms Gitanjali Bajaj.

DATE	ACTIVITY
10 March 2022	Presented on Interview Panel, 'Working effectively with Interpreters', Guardianship Division, New South Wales Civil and Administrative Tribunal (NCAT).
11 March 2022	Attended 70th Anniversary Gala Dinner for the Women Lawyers Association of New South Wales.
8 April 2022	Attended Celebrating Women in the Judiciary Cocktail Event, Women Lawyers Association of New South Wales.
26 April 2022	Speaker, Launch, <i>Recommended National Standards for Working with Interpreters in Courts and Tribunals</i> (JCCD) (2nd ed, 2022), Queensland (presented virtually).
30 April 2022	Presented Keynote Address, 'Advocacy: Perspectives from the Bench', South Australian Bar Association Annual Conference, Barossa Valley.
19 May 2022	Hosted a bar reader for the New South Wales Bar Association's 'Day with Judges' as part of the New South Wales Bar Practice Course.
25 May 2022	Panellist, National Practice Area: Administrative and Constitutional Law and Human Rights, Federal Court Judges' Meeting, Adelaide.
21 June 2022	Chaired Book Launch by the Hon Chief Justice Allsop AO of ' <i>A Sense of Common Purpose: A History of the Australian Academy of Law</i> ' by Emeritus Professor David Barker AM FAAL, Federal Court, in Sydney.

## Justice Markovic

- Chair, United Nations Commission on International Trade Law, National Coordination Committee for Australia
- Member, Steering Committee, National Judicial Orientation Program, organised by the National Judicial College of Australia
- Member, Program Advisory Committee, National Judicial College of Australia
- Member, Advisory Committee, Asian Business Law Institute – International Insolvency Institute joint project on the Asian Principles of Business Restructuring
- Convenor, Harmonised Bankruptcy Rules Monitoring Committee

DATE	ACTIVITY
9 July 2021	Forum on Asian Insolvency Reform. Participated in a panel session on 'Modifications to Insolvency Procedures – Promotion of cross-border cooperation in the region; including development of United Nations Commission on International Trade Law Model Law on Cross-Border Insolvency'.
7 September 2021	Australasian Institute of Judicial Administration Panel – The Law Society's Government Solicitors Conference 2021: 'Reflections on the Virtual Courtroom Experience during a Pandemic'.
13–14 September 2021	INSOL Virtual Forum on Asian Insolvency Reform. Participated in panel discussion about cross-border cooperation in the Asia Pacific region and the development of the United Nations Commission on International Trade Law Model Law on Cross-Border Insolvency.
17 September 2021, 3 December 2021, 25 February 2022, 14 May 2022	Attended meetings of the National Judicial College of Australia – National Judicial Orientation Program and Program Advisory Planning Committee.
22 March 2022	Chaired Developments in class actions – Continuing Professional Development run by the Commercial Law Section of the New South Wales Bar Association.
27 April 2022	Insolvency Law course, University of Sydney Law School – guest speaker on the practice of insolvency law as a solicitor and Judge.
27 May 2022	Chaired UNCITRAL National Coordination Committee for Australia's seventh annual May Seminar on 25 Years of the Model Law on Cross Border Insolvency and panel session on the Model Law in Australia: 'The Model Law – 25 years'.

### Justice Moshinsky

- Member, Victorian events organising committee, Australian Academy of Law
- Member, advisory committee, Centre for Comparative Constitutional Law, Melbourne Law School

DATE	ACTIVITY
20 September 2021	Participated (together with Gageler J of the High Court of Australia and Perry J of the Federal Court of Australia) in the bench adjudicating the Grand Final of the Sir Harry Gibbs Constitutional Law Moot.
November 2021	Contributed the following book chapter: "Defining and Determining a 'Substantial Lessening of Competition'", ch 7 in Gvozdenovic M and Puttick S (eds), <i>Current Issues in Competition Law</i> , vol 1 (The Federation Press, 2021).

### Justice Burley

- Member, Advisory Board, Allens Hub for Technology, Law and Innovation
- Member, Editorial Board, Journal of the Intellectual Property Society of Australia and New Zealand

DATE	ACTIVITY
6 August 2021	Presented to The Judicial Training Centre of Indonesia on 'Comparative Procedural Law in Examining Intellectual Property Rights Disputes in Australian Courts and Indonesian Courts' at the Supreme Court of the Republic of Indonesia.
12 September 2021	Judged and presented the John McLaren Emmerson QC Essay Prize as part of the 34th IPSANZ Annual Conference.
1 November 2021	Attended launch of monograph titled 'Artificial Intelligence and the Legal Profession' by Professor Michael Legg and Dr Felicity Bell as part of Allens Hub for Technology, Law and Innovation at the University of New South Wales, Sydney.
10 November 2021	Presented at the World Intellectual Property Organization's '2021 Intellectual Property Judges Forum' as part of a panel on the topic 'Distinctive Judicial Case Management Challenges for Patent Disputes'.
8 March 2022	Participated in a 'Chambers Chat' series with Judge Thomas Durkin for the Richard Linn Inn based in Chicago discussing the differences between Australian and US court procedure and the specific requirements of IP cases.
20–21 April 2022	Guest speaker at the 29th Annual Intellectual Property Law and Policy Conference at Fordham University in New York, presenting on 'Artificial Intelligence' and 'Views From The Judiciary'.

## Justice O'Callaghan

DATE	ACTIVITY
18 October 2021	Presented at the September 2021 Victorian Readers' Course on the topic 'Judicial Views on Written and Oral Advocacy'.
9 February 2022	Attended online webinar of the publication of the 'Third Edition of Class Actions in Australia' with Chief Justice Allsop.
13 April 2022	Presented at the March 2022 Victorian Readers' Course on the topic 'Federal Court' with Chief Justice Allsop.
20–21 April 2022	Participated as a Judge in the March 2022 Victorian Readers' Course Oral Appellate Moots 'Appellate Advocacy Workshop'.
25–27 May 2022	Attended the annual Federal Court Judges' Meeting, in Adelaide.
21 June 2022	Presented at the National Registrars' Meeting of the Federal Court, in Melbourne.

## Justice Lee

- Section Editor, 'Class Actions', the Australian Law Journal
- Additional Judge, Supreme Court of the Australian Capital Territory
- Fellow, University of Melbourne

DATE	ACTIVITY
1 September 2021	Evatt at his peak: Review essay by Justice Michael Lee, Gideon Haigh, <i>The Brilliant Boy, Doc Evatt and the Great Australian Dissent</i> (Scribner 2021), Southern Highlands Newsletter #243

## Justice R Derrington

DATE	ACTIVITY
30 November 2021	Speaker (with Justice Downes): 'Bringing commercial and corporate proceedings in the Brisbane Federal Court' – The Commercial Law Association of Australia Ltd.
12 July 2021	Chaired the Federal Court (Queensland Registry) Commercial and Corporations Consultation Committee Meeting.
14 July 2021	Chaired the Federal Court (Queensland Registry) Insolvency Law Consultation Committee Meeting.
26 March 2022	Bar Association of Queensland Conference – Presenter: 'Tips for the newly appointed'.
9 April 2022	Taught – University of Queensland – LAWS7721 – Current Issues in Private Law – Advanced Civil Litigation: 'Federal Court'.

## Justice Thomas

- Board Member, International Association of Supreme Administrative Jurisdictions/Association Internationale Des Hautes Jurisdictions Administratives
- Treasurer, Council of Australasian Tribunals (until December 2021)

DATE	ACTIVITY
15 July 2021	Meeting with Emeritus Professor Rosalind Croucher AM, President of the Australian Human Rights Commission.
16 July 2021	Chaired the Hot Topics in Commonwealth Compensation conducted by the Law Council of Australia.
19 July 2021	Attended the Queensland Opening of the Law Year Church Service at the Cathedral of St Stephen, in Brisbane.
20 August 2021	Hosted the Law Council of Australia liaison meeting with the Administrative Appeals Tribunal.
24 August 2021	Attended the Welcome Ceremony for the Hon Justice Declan Kelly QC at the Supreme Court of Queensland, in Brisbane.
5 October 2021	Attended the Swearing in Ceremony for the Hon Justice Kerri Mellifont at the Supreme Court of Queensland, in Brisbane.
12 October 2021	Attended function hosted by the Brisbane Registry Federal Court Judges for the Judges of the Supreme Court of Queensland.
13 October 2021	Attended the Council of Australasian Tribunals National Executive Meeting and Planning Day.
25 October 2021	Attended the Farewell Dinner for His Excellency the Hon Paul de Jersey AC CVO at the Brisbane Convention and Exhibition Centre.
27 October 2021	Chaired the judging panel for the Administrative Appeals Tribunal National Mooting Competition Grand Final.
1 November 2021	Attended the Swearing in Ceremony for Dr Jeannette Young PSM as 27th Governor of Queensland at Speaker's Green, Parliamentary Annexe.
21 June 2022	Attended via video conference the International Association of Supreme Administrative Jurisdictions/Association Internationale Des Hautes Jurisdictions Administratives Board Meeting, in Brussels.

## Justice S Derrington AM

- President, Australian Law Reform Commission
- Honorary Bencher, Gray's Inn
- Emeritus Professor, University of Queensland
- Vice-chairman, Council of the Australian Maritime College
- Member, Council of the Australian National Maritime Museum
- Titular Member, Comité Maritime International
- Fellow, Australian Academy of Law
- Fellow, Nautical Institute
- Fellow, Queensland Academy of Arts and Sciences
- Community Ordinary Member, The College of Law Ltd

DATE	ACTIVITY
5 July 2021	Delivered Keynote Address to the 2021 Australasian Law Academics Association Conference: 'What is the value of the legal academy and to whom?' (University of Technology Sydney and Sydney University via Zoom).
6 July 2021	Delivered Keynote Address at Corporate and Financial Law Webinar <i>Dissent in Insurance Law</i> (British Insurance Law Association and University of Glasgow): 'I dissent, but why?'
11 November 2021	Delivered the Keynote at the Australian Restructuring Insolvency and Turnaround Association Expert Series: 'The changing face of law reform in Australia.'
18 November 2021	Delivered the 22nd Annual W A Lee Equity: 'O Equity, Equity, Wherefore Art Thou Equity?'
6–7 December 2021	Delivered paper at Academy of Social Sciences workshop, <i>The Contemporary Corporation – Current Challenges and Future Directions: 'Corporate purpose and legal structures for social enterprises – scope for reform?'</i> , Flinders University, in Adelaide.
13–15 December 2021	Presented paper (with Sam Walpole) at <i>The Culpable Corporate Minds</i> colloquium: 'Corporate Culpability in Admiralty', University of Western Australia, in Perth.
26 May 2022	Presented 'Recent Developments in Admiralty' (with Stewart J) at National Judges' Education Meeting, in Adelaide.
7 June 2022	Delivered Monash Law <i>Fiat Justitia Lecture 2022</i> : 'Without Fear or Favour'.
20 June 2022	Judged International Maritime Law Arbitration Exhibition Moot, in Brisbane.



## Justice Banks-Smith

- Chair, Law Advisory Board, University of Notre Dame Law School (Fremantle)
- Chair, Human Research Ethics Committee, Perth Children's Hospital
- Member, Australian Centre for International Commercial Arbitration, Western Australia State Committee
- Fellow, Australian Academy of Law
- Member, Australian Judicial Officers Association
- Alternate Member, National Judicial College of Australia Council
- Alternate Judge, Supreme Court of the Australian Capital Territory
- Member, Australasian Institute of Judicial Administration
- Member, Law Society of Western Australia
- Member, Women Lawyers of Western Australia

DATE	ACTIVITY
30 July 2021	Attended the Ceremonial Welcome for her Honour Justice Larissa Strk to the Supreme Court of Western Australia.
18 August 2021	Attended the Ceremonial Welcome for his Honour Justice Malcolm Solomon to the Supreme Court of Western Australia.
25 August 2021	Attended the Western Australian Bar Association's Bar Readers' Course Function to mark the closing of the course and presented the Chief Justice's Prize.
31 August 2021	Speaker at the Federal Jurisdiction Seminar presented by the Judges and Registrars of the WA Registry: Session 1 'Federal Jurisdiction; Practical Case Studies; and Justice in the pandemic'.
16 September 2021	Speaker for The Piddington Society Practical Legal Training: 'Pizza, Piddington and the Profession – Life after Uni'.
21 September 2021	Speaker at the Federal Jurisdiction Seminar presented by the Judges and Registrars of the WA Registry: Session 2 'An Introduction to Native Title'.
8 October 2021	Attended the Ceremonial Welcome for her Honour Judge Allyson Ladhams to the Federal Circuit and Family Court of Australia.
26 October 2021	Attended the Federal Jurisdiction Seminar presented by the Judges and Registrars of the WA Registry: Session 3 'Administrative Law, with a focus on Migration Law'.
4 November 2021	Attended the Quayside Oration delivered by her Honour Justice Janine Pritchard: '(Why) aren't we there yet? The long and winding road to equality of opportunity in law'.
5 November 2021	Attended the Western Australian Bar Association's Bar and Bench Dinner.
11 November 2021	Attended the Sir Francis Burt Oration 2021 delivered by Professor Helen Milroy: 'The power of disclosure and the experience of the Royal Commission'.
1 December 2021	Panellist at the Australian Restructuring, Insolvency and Turnaround Association, WA Division, Forum: Views from the Bench.
29 November to 3 December 2021	Hosted and supervised a summer clerk from Notre Dame University Law School for the Western Australia Courts' Summer Clerkship Program.

DATE	ACTIVITY
2 December 2021	Presented seminar to the 2021 Courts Summer Clerkship Program: 'Workings of the Federal Court'.
3 December 2021	Attended the Ceremonial Farewell for the Hon Justice Neil McKerracher.
21 January 2022	Presided over Mock Trial for the Australian Bar Association's Essential Trial Advocacy Court.
21 January 2022	Attended the closing dinner for the Australian Bar Association's Essential Trial Advocacy Court.
2 February 2022	Attended the Ceremonial Welcome for His Honour Judge Henry Jackson to the District Court of Western Australia.
3 February 2022	Judge of exhibition Moot for the University of Western Australia's 2022 Jessup Team.
22 February 2022	Chaired the Federal Jurisdiction Seminar presented by the Judges and Registrars of the WA Registry: Session 4 'Commercial and Corporations'.
24–25 February 2022	Participated in the 7th Judicial Seminar on Commercial Litigation.
25 February 2022	Attended the Ceremonial Farwell for Justice Rene Le Miere from the Supreme Court of Western Australia.
8 March 2022	Speaker at the Australian Academy of Law Event: Senior trial judges from England and Australia speak about judging.
31 March–1 April 2022	Attended the National Judicial College of Australia's Judicial Officers with Leadership Responsibilities Program.
9 May 2022	Presided over Notre Dame Law Students' Society Moot Grand Final.
10 May 2022	Attended Special Sitting of the Federal Court for Western Australia's 2021 Senior Counsel appointees.
10 May 2022	Attended the Ceremonial Welcome for Justice Michael Feutrill.
18–19 May 2022	Attended the International Judicial Dispute Resolution Network Conference.
2 June 2022	Attended the Inter-Jurisdictional Education Committee (WA) Seminar: 'Communication and Barriers to Justice'.
7 June 2022	Attended the Academy of Law Event: 'The Fallibility of Memory and Fact Finding'.
10 June 2022	Attended the Ceremonial Welcome for Justice Elizabeth Raper.

## Justice Colvin

- Part-time commissioner, Australian Law Reform Commission
- Deputy President, Administrative Appeals Tribunal
- Committee Member, National Judicial College of Australia Writing Better Judgments Committee
- Committee Member, Judicial Officers with Leadership Responsibility Program
- Fellow, Australian Academy of Law
- Member, Australian Judicial Officers Association
- Member, Australasian Institute of Judicial Administration

DATE	ACTIVITY
24 August 2021	Presented to the Australian Institute of Administrative Lawyers: <i>Review of the exercise of judicial power for jurisdictional error: some recent migration cases.</i>
26 October 2021	Speaker at the Federal Jurisdiction Seminar presented by the Judges and Registrars of the WA Registry: Session 3 ' <i>Administrative Law, with a focus on Migration Law.</i>
28 November 2021	Presented to the Supreme Court of Western Australia's 2021 Annual Conference: <i>Referees and Court Appointed Experts.</i>
21 January 2022	Presided over Mock Trial for the Australian Bar Association's Essential Trial Advocacy Court.
22 February 2022	Speaker at the Federal Jurisdiction Seminar presented by the Judges and Registrars of the WA Registry: Session 4 ' <i>Commercial and Corporations.</i>
24–25 February 2022	Participated in the 7th Judicial Seminar on Commercial Litigation convened virtually in Singapore.
31 March–1 April 2022	Participated in the the National Judicial College of Australia's Judicial Officers with Leadership Responsibilities Program.
24 May 2022	Chaired the Australian Law Reform Commission Webinar: <i>What goes where? A comparative discussion of the legislative puzzle.</i>
27 May 2022	Participated in the Business Law Section Tax Workshop.
7 June 2022	Presented judicial commentary on presentation by Professor Ecker: <i>The Fallibility of Memory and Fact Finding.</i>

## Justice Wheelahan

- Additional judge, Supreme Court, Australian Capital Territory

DATE	ACTIVITY
20 September 2021	2021 Sir Harry Gibbs Constitutional Law Moot – adjudicating a semi-final with the Hon Michael Black QC, and the Hon Pamela Tate SC, Melbourne Law School.

## Justice Stewart

- Additional Judge, Australian Capital Territory Supreme Court
- Member, Maritime Law Association of Australia and New Zealand
- Member, Maritime Law Association of South Africa
- Member, Australian Judicial Officers Association

DATE	ACTIVITY
30 July 2021	Attended the swearing in of Dr James Renwick CSC SC as Deputy Judge Advocate-General (Navy) (online).
1 September 2021	Presented opening remarks at Maritime Law Association of Australia and New Zealand, New South Wales Branch Winter Seminar on the topic of Marine Insurance (online).
27 October 2021	Attended the ceremonial sitting for the announcements of appointments of Senior Counsel for the State of New South Wales, in Sydney.
4 November 2021	Attended the ceremonial sitting to farewell the Honourable Neil McKerracher QC as Judge of the Federal Court of Australia (online).
12 November 2021	Attended the swearing in of the Honourable Justice Goodman as Judge of the Federal Court of Australia, in Sydney.
15 November 2021	Chaired seminar entitled 'State legislative power and the Constitution: <i>Mineralogy Pty Ltd v Western Australia</i> [2021] HCA 30; <i>Palmer v Western Australia</i> [2021] HCA 31' presented by the Australian Association of Constitutional Law at the Federal Court, in Sydney.
16 November 2021	Attended 'A live conversation with Daniel Kahneman', University of Sydney (online).
18 November 2021	Presented the Australian Maritime and Transport Arbitration Commission Annual Address at the Federal Court, in Sydney.
13 December 2021	Attended the swearing in of Judge Gavin Mansfield as Judge of the Federal Circuit and Family Court of Australia, in Canberra.
24–25 February 2022	Attended the 7th Judicial Seminar on Commercial Litigation, hosted by the Supreme Court of Singapore (online).
28 February 2022	Attended the farewell ceremony for the Honourable Tom Bathurst as Chief Justice of New South Wales, in Sydney.
4 March 2022	Attended the farewell ceremony for the Honourable Dr Geoffrey Flick SC as Judge of the Federal Court of Australia, in Sydney.
7 March 2022	Attended the swearing in of the Honourable Justice Andrew Bell as Chief Justice of New South Wales, in Sydney.
18 March 2022	Attended festschrift seminar honouring Professors Andrew Byrnes and Andrea Durbach of the University of New South Wales (online).
25 March 2022	Attended 2021 Bench and Bar Dinner, in Sydney.
28 March 2022	Attended the swearing in of the Honourable Justice Anna Mitchelmore as Judge of the Supreme Court of New South Wales and Judge of Appeal, in Sydney.
28 March 2022	Attended the Law Society of New South Wales' Opening of Law Term Dinner, in Sydney.

DATE	ACTIVITY
20 April 2022	Attended the ceremonial sitting to welcome the Honourable Justice Scott Goodman, in Sydney.
21 April 2022	Attended the swearing in of the Honourable Justice Jeremy Kirk as Judge of the Supreme Court of New South Wales and Judge of Appeal (online).
2 May 2022	Attended the swearing in of the Honourable Elizabeth Raper as Judge of the Federal Court of Australia, in Sydney.
12 May 2022	Judged mock interlocutory hearings for the New South Wales Bar Association Bar Readers Course.
25–26 May 2022	Attended Federal Court judicial education seminars, and presented paper on ‘Recent developments in shipping, here and abroad’, in Adelaide.
26 May 2022	Attended Law Council / Federal Court tax seminar dinner, in Adelaide
27 May 2022	Attended event to commemorate the 30th anniversary of <i>Mabo No. 2</i> , hosted by the Federal Court and the National Native Title Tribunal, in Brisbane.
10 June 2022	Attended the ceremonial sitting to welcome the Honourable Justice Elizabeth Raper, in Sydney.
14 June 2022	Attended the Law Council Intellectual Property Committee Dinner, in Sydney.

### Justice O’Bryan

- Deputy President, Australian Competition Tribunal
- Federal Court representative, Victorian Judicial Officers Aboriginal Cultural Awareness Committee
- Federal Court representative, joint initiative with the Organisation for Economic Cooperation and Development and the Australian Competition and Consumer Commission to produce Primers for Association of Southeast Asian Nations Judges on Competition Law

DATE	ACTIVITY
1 July 2021	Presented at the 11th Organisation for Economic Cooperation and Development/ Korea Policy Centre Competition Law Webinar for Asia-Pacific Judges and launch of the Primer on Vertical Restraints in Competition Law for Association of Southeast Asian Nations Judges.
28 July 2021	Presented ‘Competition Law in Australia – structures of enforcement and review’ at an international webinar on Competition Law organised by the Supreme Court of the Republic of Indonesia in cooperation with the Australia – Indonesia Partnership for Justice.
22 September 2021	Contributed a chapter entitled ‘Section 50: Should the Burden of Proof be Shifted?’ published in Part III Mergers and Acquisitions, In M Gvozdenovic & S Puttick (Eds), Volume II Practice and Perspectives, <i>Current Issues in Competition Law</i> , The Federation Press.
12 October 2021	Presented ‘The examination of witnesses and experts in competition law cases in Australia’ at an international webinar on Competition Law organised by the Supreme Court of the Republic of Indonesia in cooperation with the Australia – Indonesia Partnership for Justice.
21 May 2022	Delivered the keynote address on ‘Competition Litigation – the role of the Federal Court’ at the Competition Law Conference 2022.

## Justice Jackson

- Committee Member, Inter-jurisdictional Judicial Education Committee (Western Australia)
- Member, Australian Judicial Officers Association

DATE	ACTIVITY
29 July 2021	Attended the Inter-jurisdictional Judicial Education Committee (Western Australia) Seminar: <i>Identifying Strategies For Working With Self-Represented Litigants</i> .
30 July 2021	Attended the Ceremonial Welcome for her Honour Justice Larissa Strk to the Supreme Court of Western Australia.
18 August 2021	Attended the Ceremonial Welcome for his Honour Justice Malcolm Solomon to the Supreme Court of Western Australia.
19 August 2021	Attended the 2021 John Toohey Oration delivered by the Hon Robert French AC: <i>'A true Australian Republic: True to our history, fit for our future.'</i>
25 August 2021	Attended the Western Australian Bar Association's Bar Readers' Course Function to mark the closing of the course and presented the Chief Justice's Prize.
31 August 2021	Attended the Federal Jurisdiction Seminar presented by the Judges and Registrars of the Western Australia Registry: Session 1 <i>'Federal Jurisdiction; Practical Case Studies; and Justice in the pandemic.'</i>
21 September 2021	Chaired the Federal Jurisdiction Seminar presented by the Judges and Registrars of the Western Australia Registry: Session 2 <i>'An Introduction to Native Title.'</i>
8 October 2021	Attended the Ceremonial Welcome for her Honour Judge Allyson Ladhams to the Federal Circuit and Family Court of Australia.
21 October 2021	Attended the Australian Academy of Law's Tenth Annual Patron's Address by the Hon James Allsop AO, Chief Justice of the Federal Court: <i>Thinking about the Law: the importance of how we attend to the problem at hand and of context.</i>
26 October 2021	Attended the Federal Jurisdiction Seminar presented by the Judges and Registrars of the Western Australia Registry: Session 3 <i>'Administrative Law, with a focus on Migration Law.'</i>
27 October 2021	Delivered speech at the Australian Academy of Law Event 'The Narrative Voice in Fiction and in Law' (Perth): <i>The Role of Narrative in the Judicial Process.</i>
4 November 2021	Attended the Quayside Oration delivered by her Honour Justice Janine Pritchard: <i>'(Why) aren't we there yet? The long and winding road to equality of opportunity in law.'</i>
5 November 2021	Attended the Western Australian Bar Association's Bar and Bench Dinner.
11 November 2021	Attended the Sir Francis Burt Oration 2021 delivered by Professor Helen Milroy: <i>The power of disclosure and the experience of the Royal Commission.</i>
29 November to 3 December 2021	Hosted and supervised a summer clerk from the University of Western Australia for the Western Australia Courts' Summer Clerkship Program.
3 December 2021	Attended the Ceremonial Farewell for the Hon Justice Neil McKerracher.

DATE	ACTIVITY
21 January 2022	Presided over Mock Trial for the Australian Bar Association's Essential Trial Advocacy Court.
2 February 2022	Attended the Ceremonial Welcome for His Honour Judge Henry Jackson to the District Court of Western Australia.
22 February 2022	Speaker at the Federal Jurisdiction Seminar presented by the Judges and Registrars of the Western Australia Registry: Session 4 ' <i>Commercial and Corporations</i> '.
25 February 2022	Attended the Ceremonial Farewell for Justice Rene Le Miere from the Supreme Court of Western Australia.
26 April 2022	Presented Seminar on the 'Federal Jurisdiction' in the Jurisdiction and Procedure Module of the 2022 Western Australian Bar Association's Bar Readers' Course.
10 May 2022	Attended the Special Sitting of the Federal Court for Western Australia's 2021 Senior Counsel appointees.
10 May 2022	Attended the Ceremonial Welcome for Justice Michael Feutrill.
2 June 2022	Attended the Inter-jurisdictional Judicial Education Committee (Western Australia) Seminar: <i>Communication and Barriers to Justice</i> .
7 June 2022	Attended the Academy of Law Event: <i>The Fallibility of Memory and Fact Finding</i> .

### Justice Halley

DATE	ACTIVITY
14 July 2021	Judged the Australian Law Students' Association Championship Moot.
2 September 2021	Judged mock interlocutory hearings for the New South Wales Bar Association Bar Readers Course.
15 December 2021	Attended the Law Society of New South Wales' Judicial Cocktail Reception.
28 February 2022	Attended the farewell of the Honourable Chief Justice Bathurst of the Supreme Court of New South Wales.
4 March 2022	Attended the farewell of the Honourable Justice Flick of the Federal Court of Australia.
28 March 2022	Attended the swearing in ceremony appointing Anna Mitchelmore SC as a judge of the Court of Appeal of the Supreme Court of New South Wales.
28 March 2022	Attended the Law Society of New South Wales' Opening of the Law Term Dinner.
31 March 2022	Attended the Australian Disputes Centre Alternative Dispute Resolution Annual Dinner.
20 April 2022	Attended the ceremonial sitting for the Honourable Justice Goodman.
2 May 2022	Attended the swearing in ceremony appointing Elizabeth Raper SC as a judge of the Federal Court of Australia.

DATE	ACTIVITY
27 May 2022	Attended the Federal Court and National Native Title Tribunal event in Brisbane marking the 30th anniversary of the High Court's decision in <i>Mabo</i> .
10 June 2022	Attended the ceremonial sitting for the Honourable Justice Raper.
16 June 2022	Attended New Chambers Cocktails at Vivid Festival.

### Justice Rofe

- Member, Editorial Board, Journal of the Intellectual Property Society of Australia and New Zealand
- Member, Victorian Women Lawyers Association
- Member, Starts With Us Steering Committee

DATE	ACTIVITY
10 September 2021	Presented alongside the Honourable Dr Annabelle Bennett AC SC, Charlotte May QC and Clare Cunliffe in a seminar entitled 'Diversity: What's in it for me?' at the 34th Intellectual Property Society of Australia and New Zealand.
12 September 2021	Presented alongside the Honourable Justice John Stephen Kós, President of the Court of Appeal of New Zealand and Registrar Susan O'Connor in a Judges' Panel Session at the 34th Intellectual Property Society of Australia and New Zealand.
November 2021 onwards	Acted as a mentor in the Victorian Bar Indigenous Mentoring Program.
21–25 February 2022	Participated in the Federal Court, Victorian Supreme Court and the Victorian Bar Indigenous Clerkship Program.
28 April 2022	Attended the Dame Roma Mitchell Lunch hosted by the Women Barristers Association.
28 April 2022	Attended the Commercial Bar Association of Victoria's Annual Dinner.

### Justice Downes

- Insolvency Liaison Judge and Additional National Appeals Coordinating Judge, General and Personal Insolvency Practice Area
- Member, Rules Committee
- Member, Public Communications Committee

DATE	ACTIVITY
24 August 2021	Panel member for session on 'Pleadings and commencing proceedings' at Queensland Bar Practice Course.
30 November 2021	Presented with Justice Derrington to the Commercial Law Association on 'Bringing commercial and corporate proceedings in the Brisbane Federal Court'.



### Justice Feutrill

- Honorary Fellow, Law School, University of Western Australia
- Lecturer, International Commercial Arbitration, University of Western Australia

DATE	ACTIVITY
31 May 2022	Presented at the annual Western Australian Bar Association Bar Readers' Course on the topic of 'Conflicts of Interest and Confidentiality'.

### Justice McEvoy

- Judicial Deputy President, Administrative Appeals Tribunal
- Visiting Professor, The University of Virginia School of Law
- Member, The American Law Institute
- Board Member, Oz Child
- Member, Audit Committee, Federal Court of Australia
- Member, Australasian Institute of Judicial Administration
- Member, Australian Judicial Officers Association
- Member, The Victorian Bar Inc.
- Member, The Tasmanian Bar
- Member, The Medico-Legal Society of Victoria

DATE	ACTIVITY
26–27 May 2022	Attended National Judge's Meeting, in Adelaide.
27 May 2022	Invited Guest, Victorian Bar Dinner, in Melbourne.

### Justice Hespe

DATE	ACTIVITY
29 April 2022	Australian Bar Association Seminar – Panellist: 'Facilitating Proof in Tax Cases' – State Library Victoria.
27 May 2022	Federal Court of Australia/Law Council of Australia – Panellist: 'Interpreting Tax Treaties' – Federal Court of Australia, in Adelaide.

## Appendix 9: Staffing profile

The Chief Executive Officer and Principal Registrar of the Federal Court of Australia, together with officers and staff identified under the *Federal Court of Australia Act 1976*, the *Federal Circuit and Family Court of Australia Act 2021* and the *Native Title Act 1993*, constitute a single Statutory Agency for the purposes of the *Public Service Act 1999*.

Employees are engaged to work in support of the following courts or tribunal:

- Federal Court of Australia
- Federal Circuit and Family Court of Australia, and
- National Native Title Tribunal.

Employees are covered by the *Federal Court of Australia Enterprise Agreement 2018–2021*.

The Federal Court and the Federal Circuit and Family Court each maintain a distinct statutory identity, with separate functions and judicial independence.

The total staffing number for the combined entity as at 30 June 2022 is 1,247 employees. This includes 765 ongoing and 482 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 REPORT PERIOD (2021–22)**

LOCATION	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL MALE	FULL-TIME	PART-TIME	TOTAL FEMALE	FULL-TIME	PART-TIME	TOTAL INDETERMINATE	
NSW	62	8	70	145	57	202	0	0	0	272
Qld	31	1	32	87	25	112	0	0	0	144
SA	8	3	11	45	8	53	0	0	0	64
Tas	4	0	4	12	6	18	0	0	0	22
Vic	35	5	40	99	26	125	0	0	0	165
WA	16	0	16	36	7	43	0	0	0	59
ACT	5	1	6	25	3	28	0	0	0	34
NT	0	0	0	4	1	5	0	0	0	5
External territories	0	0	0	0	0	0	0	0	0	0
Overseas	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>161</b>	<b>18</b>	<b>179</b>	<b>453</b>	<b>133</b>	<b>586</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>765</b>

TABLE A9.2: ALL NON-ONGOING EMPLOYEES, CURRENT REPORT PERIOD (2021–22)

LOCATION	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL MALE	FULL-TIME	PART-TIME	TOTAL FEMALE	FULL-TIME	PART-TIME	TOTAL INDETERMINATE	
NSW	46	3	49	117	22	139	0	0	0	188
Qld	27	3	30	52	8	60	0	0	0	90
SA	7	1	8	27	7	34	0	0	0	42
Tas	1	0	1	2	2	4	1	0	1	6
Vic	28	1	29	81	11	92	0	0	0	121
WA	5	1	6	10	0	10	0	0	0	16
ACT	3	0	3	12	0	12	0	0	0	15
NT	0	1	1	2	1	3	0	0	0	4
External territories	0	0	0	0	0	0	0	0	0	0
Overseas	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>117</b>	<b>10</b>	<b>127</b>	<b>303</b>	<b>51</b>	<b>354</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>482</b>

TABLE A9.3: ALL ONGOING EMPLOYEES, PREVIOUS REPORT PERIOD (2020–21)

LOCATION	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL MALE	FULL-TIME	PART-TIME	TOTAL FEMALE	FULL-TIME	PART-TIME	TOTAL INDETERMINATE	
NSW	60	6	66	153	57	210	0	0	0	276
Qld	37	1	38	83	26	109	0	0	0	147
SA	12	2	14	42	8	50	0	0	0	64
Tas	3	0	3	12	5	17	0	0	0	20
Vic	44	3	47	103	28	131	0	0	0	178
WA	14	0	14	32	8	40	0	0	0	54
ACT	4	1	5	29	2	31	0	0	0	36
NT	0	0	0	3	2	5	0	0	0	5
External territories	0	0	0	0	0	0	0	0	0	0
Overseas	0	0	0	0	1	1	0	0	0	1
<b>TOTAL</b>	<b>174</b>	<b>13</b>	<b>187</b>	<b>457</b>	<b>137</b>	<b>594</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>781</b>

TABLE A9.4: ALL NON-ONGOING EMPLOYEES, PREVIOUS REPORT PERIOD (2020–21)

LOCATION	MALE			FEMALE			INDETERMINATE			TOTAL
	FULL-TIME	PART-TIME	TOTAL MALE	FULL-TIME	PART-TIME	TOTAL FEMALE	FULL-TIME	PART-TIME	TOTAL INDETERMINATE	
NSW	39	3	42	86	15	101	0	0	0	143
Qld	20	2	22	43	9	52	0	0	0	74
SA	10	0	10	14	4	18	0	0	0	28
Tas	2	0	2	3	2	5	0	0	0	7
Vic	24	3	27	66	2	68	1	0	1	96
WA	8	0	8	6	0	6	0	0	0	14
ACT	2	2	4	8	1	9	0	0	0	13
NT	1	0	1	0	0	0	0	0	0	1
External Territories	0	0	0	0	0	0	0	0	0	0
Overseas	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>106</b>	<b>10</b>	<b>116</b>	<b>226</b>	<b>33</b>	<b>259</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>376</b>

**TABLE A9.5: AUSTRALIAN PUBLIC SERVICE ACT ONGOING EMPLOYEES, CURRENT REPORT PERIOD (2021–22)**

CLASSIFICATION	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	3	0	3	0	0	0	7
SES 1	3	0	3	6	0	6	0	0	0	9
EL 2	39	1	40	60	18	78	0	0	0	118
EL 1	33	4	37	85	41	126	0	0	0	163
APS 6	29	2	31	94	16	110	0	0	0	141
APS 5	22	3	25	104	12	116	0	0	0	141
APS 4	21	2	23	65	20	85	0	0	0	108
APS 3	7	4	11	28	23	51	0	0	0	62
APS 2	3	1	4	8	3	11	0	0	0	15
APS 1	0	1	1	0	0	0	0	0	0	1
Other	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>161</b>	<b>18</b>	<b>179</b>	<b>453</b>	<b>133</b>	<b>586</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>765</b>

**TABLE A9.6: AUSTRALIAN PUBLIC SERVICE ACT NON-ONGOING EMPLOYEES, CURRENT REPORT PERIOD (2021–22)**

CLASSIFICATION	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	9	0	9	11	3	14	0	0	0	23
EL 1	27	1	28	4	12	16	0	0	0	44
APS 6	6	2	8	7	1	8	0	0	0	16
APS 5	30	3	33	102	10	112	0	0	0	145
APS 4	31	2	33	150	11	161	1	0	1	195
APS 3	13	2	15	26	12	38	0	0	0	53
APS 2	1	0	1	2	2	4	0	0	0	5
APS 1	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>117</b>	<b>10</b>	<b>127</b>	<b>303</b>	<b>51</b>	<b>354</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>482</b>

**TABLE A9.7: AUSTRALIAN PUBLIC SERVICE ACT ONGOING EMPLOYEES, PREVIOUS REPORT PERIOD (2020–21)**

CLASSIFICATION	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	3	0	3	0	0	0	6
SES 1	6	0	6	5	1	6	0	0	0	12
EL 2	38	1	39	52	14	66	0	0	0	105
EL 1	33	3	36	75	40	115	0	0	0	151
APS 6	27	1	28	95	15	110	0	0	0	138
APS 5	29	0	29	103	15	118	0	0	0	147
APS 4	19	3	22	74	22	96	0	0	0	118
APS 3	14	3	17	42	26	68	0	0	0	85
APS 2	5	1	6	8	4	12	0	0	0	18
APS 1	0	1	1	0	0	0	0	0	0	1
Other	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>174</b>	<b>13</b>	<b>187</b>	<b>457</b>	<b>137</b>	<b>594</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>781</b>



**TABLE A9.8: AUSTRALIAN PUBLIC SERVICE ACT NON-ONGOING EMPLOYEES, PREVIOUS REPORT PERIOD (2020–21)**

CLASSIFICATION	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	5	1	6	7	2	9	0	0	0	15
EL 1	5	2	7	22	12	34	0	0	0	41
APS 6	8	0	8	10	2	12	0	0	0	20
APS 5	23	1	24	48	1	49	0	0	0	73
APS 4	53	4	57	101	6	107	1	0	1	165
APS 3	8	1	9	30	8	38	0	0	0	47
APS 2	4	1	5	7	2	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
<b>TOTAL</b>	<b>106</b>	<b>10</b>	<b>116</b>	<b>226</b>	<b>33</b>	<b>259</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>376</b>

**TABLE A9.9: AUSTRALIAN PUBLIC SERVICE ACT EMPLOYEES BY FULL-TIME AND PART-TIME STATUS, CURRENT REPORT PERIOD (2021–22)**

CLASSIFICATION	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	7	0	7	1	0	1	8
SES 1	9	0	9	0	0	0	9
EL 2	99	19	118	20	3	23	141
EL 1	118	45	163	31	13	44	207
APS 6	123	18	141	13	3	16	157
APS 5	126	15	141	132	13	145	286
APS 4	86	22	108	182	13	195	303
APS 3	35	27	62	39	14	53	115
APS 2	11	4	15	3	2	5	20
APS 1	0	1	1	0	0	0	1
Other	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>614</b>	<b>151</b>	<b>765</b>	<b>421</b>	<b>61</b>	<b>482</b>	<b>1,247</b>

**TABLE A9.10: AUSTRALIAN PUBLIC SERVICE ACT EMPLOYEES BY FULL-TIME AND PART-TIME STATUS, PREVIOUS REPORT PERIOD (2020–21)**

CLASSIFICATION	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	1	0	1	7
SES 1	11	1	12	0	0	0	12
EL 2	90	15	105	12	3	15	120
EL 1	108	43	151	27	14	41	192
APS 6	122	16	138	18	2	20	158
APS 5	132	15	147	71	2	73	220
APS 4	93	25	118	155	10	165	283
APS 3	56	29	85	38	9	47	132
APS 2	13	5	18	11	3	14	32
APS 1	0	1	1	0	0	0	1
Other	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>631</b>	<b>150</b>	<b>781</b>	<b>333</b>	<b>43</b>	<b>376</b>	<b>1,157</b>

**TABLE A9.11: AUSTRALIAN PUBLIC SERVICE ACT EMPLOYMENT TYPE BY LOCATION, CURRENT REPORT PERIOD (2021–22)**

LOCATION	ONGOING	NON-ONGOING	TOTAL
NSW	272	188	460
Qld	144	90	234
SA	64	42	106
Tas	22	6	28
Vic	165	121	286
WA	59	16	75
ACT	34	15	49
NT	5	4	9
External territories	0	0	0
Overseas	0	0	0
<b>TOTAL</b>	<b>765</b>	<b>482</b>	<b>1,247</b>

**TABLE A9.12: AUSTRALIAN PUBLIC SERVICE ACT EMPLOYMENT TYPE BY LOCATION, PREVIOUS REPORT PERIOD (2020–21)**

LOCATION	ONGOING	NON-ONGOING	TOTAL
NSW	276	143	419
Qld	147	74	221
SA	64	28	92
Tas	20	7	27
Vic	178	96	274
WA	54	14	68
ACT	36	13	49
NT	5	1	6
External territories	0	0	0
Overseas	1	0	1
<b>TOTAL</b>	<b>781</b>	<b>376</b>	<b>1,157</b>

**TABLE A9.13: AUSTRALIAN PUBLIC SERVICE ACT INDIGENOUS EMPLOYMENT, CURRENT REPORT PERIOD (2021–22)**

EMPLOYMENT STATUS	TOTAL
Ongoing	21
Non-ongoing	8
<b>TOTAL</b>	<b>29</b>

**TABLE A9.14: AUSTRALIAN PUBLIC SERVICE ACT INDIGENOUS EMPLOYMENT, PREVIOUS REPORT PERIOD (2020–21)**

EMPLOYMENT STATUS	TOTAL
Ongoing	18
Non-ongoing	4
<b>TOTAL</b>	<b>22</b>

**TABLE A9.15: AUSTRALIAN PUBLIC SERVICE ACT EMPLOYMENT ARRANGEMENTS, CURRENT REPORT PERIOD (2021–22)**

EMPLOYMENT ARRANGEMENT	SES	NON-SES	TOTAL
Enterprise Agreement	0	1,009	1,009
Determination	17	0	17
Australian Workplace Agreement (AWA)	0	3	3
Individual Flexibility Arrangement (IFA)	0	218	218
<b>TOTAL</b>	<b>17</b>	<b>1,230</b>	<b>1,247</b>

**TABLE A9.16: AUSTRALIAN PUBLIC SERVICE ACT EMPLOYMENT SALARY RANGES BY CLASSIFICATION LEVEL (MINIMUM/MAXIMUM), CURRENT REPORT PERIOD (2021–22)**

CLASSIFICATION	MINIMUM SALARY	MAXIMUM SALARY
SES 3	0	0
SES 2	\$244,560	\$306,635
SES 1	\$195,047	\$240,253
EL 2	\$135,176	\$300,605
EL 1	\$102,743	\$240,000
APS 6	\$80,274	\$117,185
APS 5	\$74,324	\$92,211
APS 4	\$66,638	\$80,274
APS 3	\$59,787	\$64,528
APS 2	\$52,490	\$58,207
APS 1	\$46,381	\$51,258
Other	0	0
<i>Minimum/Maximum range</i>	0	0

**TABLE A9.17: AUSTRALIAN PUBLIC SERVICE ACT EMPLOYMENT PERFORMANCE PAY BY CLASSIFICATION LEVEL, CURRENT REPORT PERIOD (2021–22)**

	NUMBER OF EMPLOYEES RECEIVING PERFORMANCE PAY	AGGREGATED (SUM TOTAL) OF ALL PAYMENTS MADE	AVERAGE OF ALL PAYMENTS MADE	MINIMUM PAYMENT MADE TO EMPLOYEES	MAXIMUM PAYMENT MADE TO EMPLOYEES
SES 3	0	0	0	0	0
SES 2	1	\$10,000	\$10,000	\$10,000	\$10,000
SES 1	0	0	0	0	0
EL 2	0	0	0	0	0
EL 1	0	0	0	0	0
APS 6	0	0	0	0	0
APS 5	0	0	0	0	0
APS 4	0	0	0	0	0
APS 3	0	0	0	0	0
APS 2	0	0	0	0	0
APS 1	0	0	0	0	0
Other	0	0	0	0	0
<b>TOTAL</b>	<b>1</b>	<b>\$10,000</b>	<b>\$10,000</b>	<b>\$10,000</b>	<b>\$10,000</b>

**TABLE A9.18: DETAILS OF ACCOUNTABLE AUTHORITY DURING THE REPORTING PERIOD, CURRENT REPORT PERIOD (2021–22)**

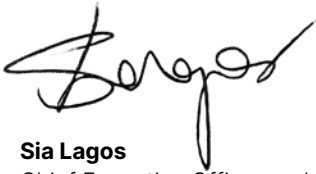
NAME	POSITION TITLE/POSITION HELD	DATE OF COMMENCEMENT	DATE OF CESSATION
Sia Lagos	CEO and Principal Registrar	1 July 2021	30 June 2022

## Appendix 10: Annual performance statement

### Introductory statement

I, Sia Lagos, as the accountable authority of the Federal Court of Australia, present the 2021–22 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 (section 16F of the PGPA Rule).



**Sia Lagos**

Chief Executive Officer and Principal Registrar  
Federal Court of Australia

### Outcome 1

#### Program 1.1: Federal Court of Australia

Apply and uphold the rule of law for litigants in the Federal Court of Australia and parties in the National Native Title Tribunal through the resolution of matters according to law and through the effective management of the administrative affairs of the Court and Tribunal.

### Outcome 2

#### Program 2.1: Family Court of Australia

Apply and uphold the rule of law for litigants in the Family Court of Australia through the just, safe, efficient and timely resolution of family law matters, particularly more complex family law matters including appeals, according to law, through the encouragement of appropriate dispute resolution processes 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 the just, safe, efficient and timely resolution of family law and general federal law matters according to law, through the encouragement of appropriate dispute resolution processes 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, the Federal Circuit Court of Australia and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate services.



**Program 4.2: Commonwealth Courts Registry Services**

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

**Note:** The titles and outcome statements for the Family Court of Australia and the Federal Circuit Court of Australia were officially changed by the Department of Finance effective from 1 July 2022. These tables therefore reflect old titles as at 30 June 2022.

## 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	
<b>PORTFOLIO BUDGET STATEMENTS</b>				
<p>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.</p> <p>↓</p>	<p>Apply and uphold the rule of law for litigants in the Family Court of Australia through the just, safe, efficient and timely resolution of family law matters, particularly more complex family law matters including appeals, according to law, through the encouragement of appropriate dispute resolution processes through the effective management of the administrative affairs of the Court.</p> <p>↓</p>	<p>Apply and uphold the rule of law for litigants in the Federal Circuit Court of Australia through the just, safe, efficient and timely resolution of family law and general federal law matters according to law, through the encouragement of appropriate dispute resolution processes through the effective management of the administrative affairs of the Court.</p> <p>↓</p>	<p>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, Federal Circuit Court of Australia, and parties in the National Native Title Tribunal through efficient and effective provision of shared corporate and registry services.</p> <p>↓</p>	<p>↓</p>
<p><b>Program 1.1</b> Federal Court of Australia</p> <p>↓</p>	<p><b>Program 2.1</b> Family Court of Australia</p> <p>↓</p>	<p><b>Program 3.1</b> Federal Circuit Court of Australia</p> <p>↓</p>	<p><b>Program 4.1</b> Commonwealth Courts Corporate Services</p> <p>↓</p>	<p><b>Program 4.2</b> Commonwealth Courts Registry Services</p> <p>↓</p>
<p><b>TIMELY COMPLETION OF CASES</b></p> <p>85% of cases completed within 18 months of commencement</p> <p>Judgments to be delivered within three months</p> <p>↓</p>	<p><b>TIMELY COMPLETION OF CASES</b></p> <p>Clearance rate for final order applications of 100%</p> <p>75% of judgments to be delivered within three months</p> <p>↓</p>	<p><b>TIMELY COMPLETION OF CASES</b></p> <p>Clearance rate for final order family law applications of 100%</p> <p>Clearance rate for general federal law applications (excluding migration) of 100%</p> <p>90% of all other family law applications disposed of within six months</p> <p>70% of all matters resolved prior to trial</p> <p>↓</p>	<p><b>EFFICIENT AND EFFECTIVE CORPORATE SERVICES</b></p> <p>Corporate services to be provided within the agreed funding</p> <p>↓</p>	<p><b>CORRECT INFORMATION</b></p> <p>Complaint rate regarding incorrect information from the registry of less than 1%</p> <p><b>TIMELY PROCESSING OF DOCUMENTS</b></p> <p>75% of documents processed within three working days</p> <p><b>EFFICIENT REGISTRY SERVICES</b></p> <p>All registry services provided within the agreed funding and staffing level</p> <p>↓</p>

OUTCOME 1	OUTCOME 2	OUTCOME 3	OUTCOME 4	
<b>CORPORATE PLAN PURPOSE</b>				
To decide disputes according to the law as quickly, inexpensively and efficiently as possible.	Through its specialist judges, registrars and staff, assist Australians to resolve their most complex family disputes by deciding matters according to the law, promptly, courteously and effectively.	To provide timely access to justice and resolve disputes in an efficient and cost-effective manner, using appropriate dispute resolution processes.	To provide efficient and effective corporate services to the Commonwealth Courts and Tribunals.	To provide efficient and effective registry services to the Commonwealth Courts and Tribunals.
↓	↓	↓	↓	↓
<b>ANNUAL PERFORMANCE STATEMENT</b>				
<b>Analysis of performance</b>	<b>Analysis of performance</b>	<b>Analysis of performance</b>	<b>Analysis of performance</b>	<b>Analysis of performance</b>
Federal Court of Australia 2021–22 annual report: Chapter 3, Chapter 4 and Appendix 10.	Federal Court of Australia 2021–22 annual report: Appendix 10.  Federal Circuit and Family Court of Australia 2021–22 annual report: Part 3.	Federal Court of Australia 2021–22 annual report: Appendix 10.  Federal Circuit and Family Court 2021–22 annual report: Part 4.	Federal Court of Australia 2021–22 annual report: Chapter 4 and Appendix 10.	Federal Court of Australia 2021–22 annual report: Chapter 4 and Appendix 10.

**Note:** The titles and outcome statements for the Family Court of Australia and the Federal Circuit Court of Australia were officially changed by the Department of Finance effective from 1 July 2022. These tables therefore reflect old titles as at 30 June 2022.

## OUTCOME 1 Program 1.1: Federal Court of Australia

### Purpose

To 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 measures

#### Timely completion of cases

- 85 per cent of cases completed within 18 months of commencement.
- Judgments to be delivered within three months.

### Source

- Table 2.1.3: Performance measure for Outcome 1, *Federal Court of Australia Portfolio Budget Statements 2021–22*.
- *Federal Court of Australia Corporate Plan 2021–2022*.

## Results

### TIMELY COMPLETION OF CASES

PERFORMANCE MEASURE	RESULT 2021–22	STATUS
85% of cases completed within 18 months of commencement.	79.1% per cent of cases were completed within 18 months of commencement.	Performance measure not achieved
Judgments to be delivered within three months.	80.3% per cent of judgments were delivered in three months.	Performance measure achieved

### Analysis

In 2021–22, the total number of overall filings in the Court, comprising first instance, appellate and registrar matters decreased by 3 per cent to 3,143. However, the volume of first instance filings which forms a significant component of judicial workload, increased by 3 per cent.

There was an increase in filings in the Commercial and Corporations National Practice Area. Filings remained consistent (when compared to last financial year) in the Native Title, Taxation, Intellectual Property and Federal Crime National Practice Areas. There was a reduction in filings in the Administrative and Constitutional Law and Human Rights, Admiralty and Maritime, Employment and Industrial Relations, Other Federal Jurisdiction and Migration National Practice Areas.

Appeal filings have also decreased, driven largely by a reduction in Federal Court appellate migration filings.

It is noted that save for Migration and Other Federal Jurisdiction, those National Practice Areas that experienced a reduction in filings in 2021–22, maintained a volume of filings generally comparable with 2019–20 figures.

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 79.1 per cent of cases in less than 18 months.

A key factor contributing to the Court not achieving the benchmark this year was that a number of complex matters required face-to-face hearings that could not be conducted as a result of significant periods of restrictions imposed by Government in response to the COVID-19 pandemic.

- *Judgments to be delivered within three months*

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

During 2021–22, the Court handed down 1,906 judgments for 1,656 court matters (some matters involve more than one judgment being delivered – e.g. interlocutory decisions – and sometimes one judgment will cover multiple matters). Overall, 76 per cent of appeals (both Full Court and single judge) were delivered within three months; 81.9 per cent of judgments at first instance were delivered within three months of the matter being reserved; and 80.3 per cent of total judgments were delivered within three months.

A detailed analysis on the performance of the Federal Court can be found in Part 3 (*Report on Court performance*) and Appendix 5 (*Workload statistics*) of this report.

## OUTCOME 2 Program 2.1: Family Court of Australia

**Note:** The titles and outcome statements for the Family Court of Australia and the Federal Circuit Court of Australia were officially changed by the Department of Finance effective from 1 July 2022. These tables therefore reflect old titles as at 30 June 2022.

### Purpose

To help Australians resolve their most complex family disputes by deciding matters according to the law, promptly, courteously and effectively.

### Delivery

The exercise of 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 *2021–22 Federal Court of Australia Portfolio Budget Statements* and in the *Federal Court of Australia Corporate Plan 2021–2022*.

### Performance measures

*Timely completion of cases*

- Clearance rate for final order applications of 100 per cent.
- 75 per cent of judgments to be delivered within three months.

### Source

- Table 2.2.2: Performance measure for Outcome 2, *Federal Court of Australia Portfolio Budget Statements 2021–22*.
- *Federal Court of Australia Corporate Plan 2021–2022*.

### Results

#### TIMELY COMPLETION OF CASES

PERFORMANCE MEASURE	RESULT 2021–22	STATUS
Clearance rate for final order applications of 100%.	The clearance rate for final order applications was 307%.	Performance measure achieved
75% of judgments to be delivered within three months.	91% of judgments were delivered within three months.	Performance measure achieved

### Analysis

The 2021–22 financial year was the second full year that the Court was impacted by the COVID-19 pandemic. Whilst the Court was quick to adapt to flexible alternatives to in-person hearings in 2020, including electronically by telephone, audioconference or video conference, the pandemic has continued to impact the volume of cases the Court can finalise. The Court has done its best to minimise these impacts where they are within its control, however some inefficiencies have been unavoidable where legal practitioners or litigants have contracted COVID-19 immediately prior to or during a hearing, and it has not been able to proceed electronically. This impact has also been particularly felt by the Court Children's Service when conducting interviews of parents, carers and children for the preparation of Child Impact Reports or Family Reports. Despite this, the Court has performed admirably during the financial year to the credit of Judges and staff.

For new proceedings filed from 1 September 2021, the original jurisdiction of the Federal Circuit and Family Court of Australia (Division 1) changed as a result of the commencement of the *Federal Circuit and Family Court of Australia Act 2021*. From 1 September 2021, the Federal Circuit and Family Court of Australia (Division 2) became the single point of entry for family law proceedings initiated from that date. Consequently, this annual report encompasses a period of transition: from 1 July 2021 to 31 August 2021, the Federal Circuit and Family Court of Australia (Division 1) continued to receive new filings at first instance, and for proceedings commenced from 1 September 2021 the Court's original jurisdiction to hear new family law and child support proceedings is enlivened by way of transfer from the Federal Circuit and Family Court of Australia (Division 2).

The Federal Circuit and Family Court of Australia (Division 1) continues to deal with the most complex family law matters, including matters involving complexity associated with family violence or other risks, allegations of child abuse or serious physical harm included in the Magellan List, and cases involving international child abduction instituted under the *Family Law (Child Abduction Convention) Regulations 1986*, commonly referred to as Hague Convention proceedings.

In 2021–22, 5,912 applications were filed in the Court's original jurisdiction. The majority of applications filed were applications for consent orders filed pre 1 September 2021, followed by interim applications, now called applications in a proceeding.

In 2021–22, the Court received 628 applications for final orders and finalised 1,928 applications. As a result, the number of pending applications for final orders decreased by 29 per cent compared to the number of applications pending at 30 June 2021. The clearance rate as at the end of the year was 307 per cent.

It should be noted that the decrease in the number of applications finalised is partially attributable to the fact that in previous years, applications that were filed in the then Family Court of Australia but were transferred to the Federal Circuit Court of Australia soon after filing because they were more appropriate to be heard by that court, were recorded as a finalisation. Further, as the Court is not receiving new filings (aside from by way of transfer), the Court is only finalising matters that were pending pre-1 September 2021, which are largely more complex or have been pending for some time and require determination, hence a lower number of matters have been finalised. Whilst less matters were finalised than the previous year, there was an increase in the number of matters finalised at trial (a final hearing) and a greater percentage of those were judicially determined.

The percentage of applications finalised within 12 months has decreased, and is likely to continue to do so whilst the Court focuses on finalising the oldest pending cases. These cases require significant judicial time and court resources, however the resolution of these matters is of great benefit to the parties and to the ability of the Court, in the future, to resolve matters within a 12 month timeframe as far as is possible.

A detailed analysis on the performance of the Federal Circuit and Family Court of Australia (Division 1) can be found in Part 3 of the Federal Circuit and Family Court of Australia's 2021–22 Annual Report.

### OUTCOME 3 Program 3.1: Federal Circuit Court of Australia

**Note:** The titles and outcome statements for the Family Court of Australia and the Federal Circuit Court of Australia were officially changed by the Department of Finance effective from 1 July 2022. These tables therefore reflect old titles as at 30 June 2022.

#### Purpose

To provide timely access to justice and resolve disputes in an efficient and cost-effective manner, using appropriate dispute resolution processes.

#### Delivery

Exercising the jurisdiction of the Federal Circuit Court of Australia.

The Federal Circuit Court of Australia remains a separate Chapter III court under the Australian Constitution and the performance criteria applicable to the Court is identified in the *2021–22 Federal Court of Australia Portfolio Budget Statements* and in the *Federal Court Corporate Plan 2021–2022*.

#### Performance measures

##### Timely completion of cases

- Clearance rate for final order family law applications of 100 per cent.
- Clearance rate for general federal law applications (excluding migration) of 100 per cent.
- 90 per cent of all other family law applications disposed of within six months.
- 70 per cent of all matters resolved prior to trial.

#### Source

- Table 2.3.2: Performance criteria for Outcome 3, *Federal Court of Australia Portfolio Budget Statements 2021–22*.
- *Federal Court of Australia Corporate Plan 2021–2022*.

#### Results

##### TIMELY COMPLETION OF CASES

PERFORMANCE MEASURE	RESULT 2021–22	STATUS
Clearance rate for final order family law applications of 100%.	The clearance rate was 122%.	Performance measure achieved
Clearance rate for general federal law applications (excluding migration) of 100%.	The clearance rate was 113%	Performance measure achieved
90% of all other family law applications disposed of within six months.	90% of all other family law applications disposed of within six months.	Performance measure achieved
70% of all matters resolved prior to trial.	84% of matters were resolved prior to trial.	Performance measure achieved

#### Analysis

The 2021–22 financial year was the second full year that the Court was impacted by the COVID-19 pandemic. Whilst the Court was quick to adapt to flexible alternatives to in-person hearings in 2020, including electronically by telephone, audioconference or video conference, the pandemic has continued to impact the volume of cases the Court can finalise. The Court has done its best to minimise these impacts where they are within its control, however some inefficiencies have been unavoidable

where legal practitioners or litigants have contracted COVID-19 immediately prior to or during a hearing, and it has not been able to proceed electronically. This impact has also been particularly felt by the Court Children's Service when conducting interviews of parents, carers and children for the preparation of Child Impact Reports or Family Reports. Despite this, the Court has performed admirably during the financial year to the credit of Judges and staff.

In 2021–22, 91,545 family law applications were filed in the Court. The majority of applications filed were applications for divorce, followed by interim applications, now called applications in a proceeding, then applications for consent orders, and then applications for final orders. Prior to 1 September 2021, all applications for consent orders were filed in the then Family Court of Australia.

In 2021–22, the Court received 12,551 applications for final orders and finalised 15,351 applications. As a result, the number of pending applications for final orders decreased by 17 per cent compared to the number of applications pending at 30 June 2021. The clearance rate as at the end of the year was 122 per cent.

The Court finalised 15,351 applications this year compared to 15,613 last year, and received fewer filings than in the 2020–21 financial year. Whilst the Court does not have data indicating the reason for the decrease in filings, one significant factor is likely to be the increased focus on, and compliance with, pre-action procedures since 1 September 2021, which require parties to make genuine efforts to resolve disputes and to attempt dispute resolution before filing an application (where it is safe to do so and subject to other exceptions).

The Court finalised slightly more matters at trial than the previous financial year. The Court's ability to conduct final hearings, and particular final hearings in-person, continued to be impacted by the COVID-19 pandemic during the financial year. The Court expects to be able to conduct a greater number of final hearings moving forward, particularly given the implementation of case management reforms.

In 2021–22, the Court received 17,911 applications for interim orders (also referred to as Applications in a Proceeding) and finalised 18,717 applications. As a result, the number of pending applications for interim orders decreased by 11 per cent compared to the number of applications pending at 30 June 2021. The clearance rate as at the end of the financial year was 105 per cent.

The highest number of filings the Court receives in the family law jurisdiction are applications for divorce. In 2021–22, the Court received 46,064 applications for divorce and finalised 50,575 applications. The Court's clearance rate for divorce applications was 110 per cent, the highest in more than five years. Consequently, the number of applications for divorce pending in the Court decreased by 33 per cent as compared to the number of applications pending at 30 June 2021.

From 1 September 2021, applications for consent orders are filed in the Federal Circuit and Family Court of Australia (Division 2), reflecting the establishment of a single point of entry for the filing of all new family law applications from that date. Applications for consent orders were previously filed in the then Family Court of Australia. Applications for consent orders continue to be dealt with by registrars, and are considered on a national basis to ensure consistent timeframes for the making of consent orders. From 1 September 2021 to 30 June 2022, 13,049 applications for consent orders were filed in the Federal Circuit and Family Court of Australia (Division 2), and 11,603 applications were finalised.

In 2021–22, the Court received 898 contravention applications and finalised 1,107 contravention applications, with a clearance rate of 123 per cent. The number of contravention applications pending decreased by 30 per cent compared to the number pending at 30 June 2021, and at 30 June 2022, was the lowest in more than five years.

The average time from filing to finalisation has increased by one month this financial year compared to financial year 2020–21. This is to be expected given that the Court is particularly focused on finalising the oldest pending cases. Furthermore, the ability to conduct an increasing number of hearings face to face enabled the Court to finalise older matters that had not otherwise been able to be heard electronically. During the more restrictive measures in place during the COVID-19 pandemic, there



were matters that had to be adjourned pending the ability of the Court to conduct a greater number of in-person hearings.

In 2021–22, 4,503 migration applications were filed in the Court and 2,802 applications were finalised. Migration matters represented 65 per cent of the Court's filings in the general federal law jurisdiction.

There was a slight decrease (8.6%) in the number of migration applications filed during the reporting period. This is likely attributable to the impact of the COVID-19 pandemic. However, 4,503 migration filings is still a significant incoming caseload, and places pressure on judicial resources, particularly given a number of judges who predominantly heard matters in the migration jurisdiction retired during the financial year.

The Court monitors its ability to dispose of the migration caseload by reference to the clearance rate – the relationship between the number of matters finalised and the number of matters filed during the financial year. Despite the retirement of several experienced migration judges, the clearance rate remained relatively steady at 62 per cent in 2021–22, compared to 58 per cent in 2020–21. However, given the clearance rate is less than 100 per cent, the Court's pending migration caseload has continued to increase at a sustained rate.

For the first time, as at 30 June 2022, the Court's pending migration caseload of 16,198 is larger than the Court's pending family law caseload of 15,607. Additional resourcing is required to assist the Court to dispose of the pending caseload in a timely way.

The nature of migration work leads to a larger number of written judgments than any other area of the Court's work. Migration judgments represent approximately 25 per cent of the Court's written judgments and approximately 44 per cent of the Court's judgments published on AustLII in 2021–22.

The Court's general federal law jurisdiction includes administrative law, admiralty law, bankruptcy, consumer law, human rights, fair work (industrial law), and intellectual property. The Court shares this jurisdiction with the Federal Court of Australia and, in some cases, state courts. Where the Court has jurisdiction in a matter, it also has jurisdiction to determine associated or inseverable claims that would otherwise not be within jurisdiction.

The Court aims to have a clearance rate of 100 per cent for applications in general federal law (excluding migration). In 2021–22, the Court exceeded this target, achieving a clearance rate of 113 per cent.

In 2021–22, 2,465 applications were filed in the Court's general federal law jurisdiction. This is a slight decrease from the 2,545 filed in 2020–21. The ongoing impact of the COVID-19 pandemic on filings has continued in this financial year.

The Court received 1,247 bankruptcy applications in 2021–22, and finalised 1,287. This represents a significant increase in bankruptcy filings of 38 per cent, compared with 902 filings in 2020–21. However, it is noted that, filings have not returned to the pre-COVID 19 levels. Due to COVID-19, on 25 March 2020, the Commonwealth Government introduced significant temporary debt relief measures which increased the debt threshold required for creditors to apply for a bankruptcy notice and increased the timeframe for a debtor to respond to a bankruptcy notice from 21 days to six months. These temporary debt relief measures ended on 1 January 2021.

The Court has established a benchmark for the handing down of reserved judgments within three months of the hearing or receipt of written submissions. Consistently with the previous financial years, the Court has delivered 95 per cent of judgments within this timeframe. It is a focus of the Court to ensure that judgments are delivered in a timely way to ensure, where appropriate, the efficient resolution of disputes and certainty of outcome for parties.

A detailed analysis on the performance of the Federal Circuit and Family Court of Australia (Division 2) can be found in Part 4 of the Federal Circuit and Family Court of Australia's 2021–22 Annual Report.

## OUTCOME 4 Program 4.1: Commonwealth Courts Corporate Services

### Purpose

To provide efficient and effective corporate services to the Commonwealth courts and the National Native Title Tribunal.

### Delivery

Providing efficient and effective corporate services for the Commonwealth courts and the National Native Title Tribunal.

### Performance measures

*Efficient and effective corporate services*

- Corporate services to be provided within the agreed funding.

### Source

- Table 2.4.2: Performance criteria for Outcome 4, *Federal Court of Australia Portfolio Budget Statements 2021–22*.
- *Federal Court of Australia Corporate Plan 2021–2022*.

### Results

#### TIMELY COMPLETION OF CASES

PERFORMANCE MEASURE	RESULT 2021–22	STATUS
Corporate services to be provided within the agreed funding	Corporate services were provided within the agreed funding	Performance measure achieved

### Analysis

During 2021–22, the work of corporate services focused on supporting the evolving needs of judges and staff across all the Courts and Tribunal, while delivering on required efficiencies to meet reduced appropriations.

As expected, a key focus in 2021–22 was to continue the delivery of solutions to support the work of the Courts and the Tribunal in response to the COVID-19 pandemic. Work continued on consolidating and modernising IT systems to simplify the combined court environment and deliver efficiency improvements and more contemporary practices to reduce the cost of delivery.

Further upgrades to video conferencing equipment supported the increased use of hybrid hearings undertaken throughout the year where a combination of in-court and remote technology was used to support court operations. Infrastructure and security upgrades were deployed to enhance the stability and security of the remote technology solutions to support judges’ and staffs’ capacity to work from home when required.

Investment in cyber security continues to be critical, as technology is essential to court operations and the threat landscape continues to evolve. Protection of endpoints (servers, laptops and similar) has been significantly improved over 2021–22 and enhanced security will continue to be deployed through 2022–23.

During this period, COVIDSafe plans were updated to ensure consistency with changing requirements across the country. Measures were undertaken to ensure compliance with required hygiene protocols across all locations to mitigate the risk of infection to staff and the public.

The People and Culture team developed additional support programs to assist staff over the year, particularly staff impacted by ongoing lockdowns. Resilience, mindfulness and wellbeing sessions have been offered to all staff and delivered regularly. This training has been extremely important in underpinning our response to the COVID-19 pandemic. The provision of Microsoft Teams-based sessions, utilising the services of an external facilitator, provided the platform to staff support and reinforced engagement.

Several significant property projects were completed in 2021–22, including the fitout of new Sydney Corporate Services accommodation, the expansion of registrar accommodation in Brisbane, a new Indigenous liaison office in Alice Springs, and a new mediation suite in Perth. Several more large scale property projects were commenced with completion expected in 2022–23.

A detailed analysis on the performance of Corporate Services can be found in Part 4 (*Management and accountability*).

## Program 4.2: Commonwealth Courts Registry Services

### Purpose

To provide efficient and effective registry services to the Commonwealth Courts and tribunals.

### Delivery

Providing efficient and effective registry services for the Commonwealth Courts and tribunals.

### Performance measures

#### Correct information

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

#### Timely processing of documents

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

#### Efficient registry services

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

### Source

- Table 2.4.2: Performance criteria for Outcome 4, *Federal Court of Australia Portfolio Budget Statements 2021–22*.
- *Federal Court of Australia Corporate Plan 2021–2022*.

### Results

#### CORRECT INFORMATION

PERFORMANCE MEASURE	RESULT 2021–22	STATUS
Complaint rate regarding incorrect information from the registry of less than 1%.	0.019 % of enquiries resulted in a complaint about registry services	Performance measure achieved

#### TIMELY PROCESSING OF DOCUMENTS

PERFORMANCE MEASURE	RESULT 2021–22	STATUS
75% of documents processed within three working	89% of documents were processed within three working days	Performance measure achieved

**EFFICIENT REGISTRY SERVICES**

PERFORMANCE MEASURE	RESULT 2021–22	STATUS
All registry services provided within the agreed funding and staffing level	All registry services were provided within the agreed funding and staffing levels	Performance measure achieved

**Analysis**

Since 2019–20, the registry services functions for the Federal Court, the Family Court of Australia and the Federal Circuit Court of Australia have been amalgamated into a separate program under Outcome 4: Program 4.2 Commonwealth Courts Registry Services. This initiative has provided the Court with the opportunity to shape the delivery of administrative services across all federal courts in a more innovative and efficient manner.

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

In 2021–22, Registry Services performed within its overall budgeted allocation of \$31,908,000 by 6.8 per cent, primarily due to savings from ongoing judicial and staff vacancies and the impact of the COVID-19 pandemic.

Registry Services staff manage enquiries, document lodgments, subpoenas and safety plans. The number of safety plans activated in 2021–22 was 1,071 across all registry locations. Safety plans decreased by approximately 22 per cent in 2021–22 due to the suspension of face-to-face services in some registries affected by COVID-19 lockdowns and the subsequent move to a heavy reliance on electronic hearings for that period. Supporting the electronic hearings and additional registrar resources however, became a significant additional workload for registry services.

Throughout the year, although there were interruptions to in-person services due to state-based COVID-19 restrictions, Registry Services staff continued to process urgent enquiries and applications and provided support for difficult issues for a diverse range of clients with different needs both professionally and courteously. This included supporting vulnerable clients and ensuring people from non-English speaking backgrounds are suitably supported.

The COVID-19 pandemic continues to cause significant shifts in workload. Whilst the Courts were quick to adapt to flexible alternatives to in-person hearings in 2020, including electronically by telephone, audioconference or video conference, the pandemic has continued to impact the volume of cases the Courts can finalise.

During 2021–22, there were 43 complaints against Registry Services. This represents 0.019 per cent of the total number of enquiries, which meets the performance measure of 'Less than 1 per cent of enquiries resulting in a complaint about registry services'. Enquiries include phone, email and live chat actioned enquiries to the NEC.

During the year, Registry Services processed 89 per cent of all documents received within three working days, exceeding the target of 75 per cent. Performance in this area has increased after the successful implementation of a Document Processing Dashboard, created by the Business Intelligence team. The dashboard enables workload to be allocated nationally, creating better monitoring and visibility and more efficient processing.

## Appendix 11: Executive remuneration

During the reporting period ending 30 June 2022, the Federal Court of Australia had eight executives who meet the definition of key management personnel.

**TABLE A11.1: INFORMATION ABOUT REMUNERATION FOR KEY MANAGEMENT PERSONNEL**

Name	Position title	Short-term benefits			Post-employment benefits	Other long-term benefits		Termination Benefits	Total remuneration
		Base salary	Bonuses	Other benefits and allowances		Long service leave	Other long-term benefits		
Chief Justice Allsop AO*	Chief Justice, Federal Court of Australia	\$515,000	0	\$28,275	\$466,572	\$51,495	0	0	\$1,061,343
Chief Justice Alstergren AO*	Chief Justice, Federal Circuit and Family Court of Australia (Division 1) and Chief Judge, Federal Circuit and Family Court of Australia (Division 2)	\$515,000	0	\$29,906	\$466,572	\$51,495	0	0	\$1,062,973
Sia Lagos	CEO and Principal Registrar, Federal Court of Australia	\$487,632	0	0	\$36,633	\$11,562	0	0	\$535,827
David Pringle	CEO and Principal Registrar, Federal Circuit and Family Court of Australia	\$392,565	0	0	\$23,569	\$9,109	0	0	\$425,243
John Dowsett	President, National Native Title Tribunal	\$469,346	0	0	\$23,659	\$10,891	0	0	\$503,895
Chris Fewings	Native Title Registrar	\$300,843	0	0	\$23,659	\$6,981	0	0	\$331,482
Darrin Moy	Executive Director Corporate Services (acting)	\$85,220	0	\$5,977	\$11,230	\$1,371	0	0	\$103,798
Catherine Sullivan	Executive Director Corporate Services	\$233,240	0	\$15,773	\$32,366	\$7,523	0	0	\$288,901
<b>Grand total</b>		<b>\$2,998,846</b>	<b>0</b>	<b>\$79,931</b>	<b>\$1,084,258</b>	<b>\$150,428</b>	<b>0</b>	<b>0</b>	<b>\$4,313,463</b>

\* The above key management personnel remuneration includes remuneration for the Chief Justice of the Federal Court of Australia and the Chief Justice of the Federal Circuit and Family Court of Australia, totalling \$2.124m. The Chief Justices are not officials of the Entity but are responsible for managing the administrative affairs of the Courts under the *Federal Court of Australia Act 1976* and the *Federal Circuit and Family Court of Australia Act 2021*.

TABLE A11.2: INFORMATION ABOUT REMUNERATION FOR SENIOR EXECUTIVES

Total remuneration bands	Number of senior executives	Shortterm benefits			Postemployment benefits		Other longterm benefits		Termination benefits		Total remuneration
		Average base salary	Average bonuses	Average other benefits and allowances	Average superannuation contributions	Average long service leave	Average other longterm benefits	Average termination benefits	Average total remuneration		
\$0-\$220,000	2	\$94,374	0	\$11,049	\$12,310.35	\$5,410	0	0	0	\$123,143	
\$220,001-\$245,000	0	0	0	0	0	0	0	0	0	0	
\$245,001-\$270,000	4	\$203,537	0	\$33,765	\$33,765	\$5,091	0	0	0	\$257,692	
\$270,001-\$295,000	2	\$236,395	0	\$36,629	\$36,629	\$4,973	0	0	0	\$285,362	
\$295,001-\$320,000	2	\$242,657	0	\$36,283	\$36,283	\$5,574	0	0	0	\$307,847	
\$320,001-\$345,000	3	\$277,031	0	\$45,273	\$45,273	\$6,511	0	0	0	\$339,856	
\$345,001-\$370,000	4	\$296,649	0	\$45,203	\$45,203	\$7,049	0	0	0	\$353,082	
\$370,001-\$395,000	1	\$146,459	0	\$21,474	\$21,474	\$5,718	0	\$188,843	0	\$377,794	
\$395,001-\$420,000	0	0	0	0	0	0	0	0	0	0	
\$420,001-\$445,000	0	0	0	0	0	0	0	0	0	0	
\$445,001-\$470,000	0	0	0	0	0	0	0	0	0	0	
\$470,001-\$495,000	0	0	0	0	0	0	0	0	0	0	
\$495,001-....	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>	50
<i>Courts Administration Legislation Amendment Act 2016</i>	17, 60
<i>Environment Protection and Biodiversity Conservation Act 1999</i>	58
<i>Federal Court of Australia Act 1976</i>	2, 11, 12, 22, 25, 30, 48, 94, 108, 129, 207, 234
<i>Freedom of Information Act 1982</i>	42, 55, 90
<i>Native Title Act 1993</i>	12, 20, 29, 30, 34, 41, 42, 50, 80, 81, 82, 83, 84, 85, 86, 87, 90, 175, 207
<i>Public Governance, Performance and Accountability Act 2013</i>	3, 4, 5, 6, 48, 54, 55, 92, 95, 108, 125, 136, 221
<i>Public Service Act 1999</i>	11, 12, 48, 60, 62, 207



## Appendix 13: Court and registry locations

General Federal Law Registries (Federal Court and Federal Circuit and Family Court (Division 2)).

\*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](mailto:query@fedcourt.gov.au)  
Web: [www.fedcourt.gov.au](http://www.fedcourt.gov.au)  
Contact hours: 8.30am–5.00pm

### *Australian Capital Territory\**

Nigel Bowen Commonwealth Law Courts  
Cnr University Avenue and Childers Street  
Canberra City ACT 2600  
Phone: 1300 720 980  
Fax: (02) 6267 0625  
Email: [actreg@fedcourt.gov.au](mailto:actreg@fedcourt.gov.au)  
Counter hours: 9.00am–4.30pm  
Contact hours: 8.30am–5.00pm

### *New South Wales*

Law Courts Building  
Level 17, Queens Square  
Sydney NSW 2000  
Phone: 1300 720 980  
Fax: (02) 9230 8535  
Email: [nswreg@fedcourt.gov.au](mailto:nswreg@fedcourt.gov.au)  
Counter hours: 9.00am–4.30pm  
Contact hours: 8.30am–5.00pm

### *Northern Territory\**

Supreme Court Building  
Level 3, State Square  
Darwin NT 0800  
Phone: 1300 720 980  
Fax: (08) 8941 4941  
Email: [ntreg@fedcourt.gov.au](mailto:ntreg@fedcourt.gov.au)  
Counter hours: 9.00am–4.00pm  
Contact hours: 8.45am–4.30pm

### *Queensland*

Harry Gibbs Commonwealth Law Courts  
Level 6, 119 North Quay  
Brisbane Qld 4000  
Phone: 1300 720 980  
Fax: (07) 3248 1260  
Email: [qldreg@fedcourt.gov.au](mailto:qldreg@fedcourt.gov.au)  
Counter hours: 9.00am–4.00pm  
Contact hours: 8.30am–5.00pm

### *South Australia*

Roma Mitchell Commonwealth Law Courts  
Level 5, 3 Angas Street  
Adelaide SA 5000  
Phone: 1300 720 980  
Fax: (08) 8219 1001  
Email: [sareg@fedcourt.gov.au](mailto:sareg@fedcourt.gov.au)  
Counter hours: 9.00am–4.30pm  
Contact hours: 8.30am–5.00pm

### *Tasmania\**

Edward Braddon Commonwealth Law Courts  
39–41 Davey St  
Hobart TAS 7000  
Phone: 1300 720 980  
Fax: (03) 6232 1601  
Email: [tasreg@fedcourt.gov.au](mailto:tasreg@fedcourt.gov.au)  
Counter hours: 9.00am–4.30pm  
Contact hours: 8.30am–5.00pm

### *Victoria*

Owen Dixon Commonwealth Law Courts  
Level 7, 305 William Street  
Melbourne VIC 3000  
Phone: 1300 720 980  
Fax: (03) 8600 3351  
Email: [vicreg@fedcourt.gov.au](mailto:vicreg@fedcourt.gov.au)  
Counter hours: 9.00am–4.30pm  
Contact hours: 8.30am–5.00pm

### *Western Australia*

Peter Durack Commonwealth Law Courts  
Level 6, 1 Victoria Avenue  
Perth WA 6000  
Phone: 1300 720 980  
Email: [waregistry@fedcourt.gov.au](mailto:waregistry@fedcourt.gov.au)  
Counter hours: 8.30am–4.00pm  
Contact hours: 8.30am–5.00pm  
International callers: +612 7809 1037

**Family law registries  
(Federal Circuit and Family 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  
48 East 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

## Appendix 14: Committees

COMMITTEE	MEMBERSHIP
Audit	Justice Nicholas Justice Farrell Justice Murphy Justice McEvoy Justice Harper (FCFCOA Division 1) Justice Howard (FCFCOA Division 1) Judge Driver (FCFCOA Division 2) Ian Govey AM (Independent chair) David Donovan (External member)  <i>Sia Lagos (See PGPA)</i> <i>David Pringle (FCFCOA)</i> <i>Christine Fewings NNTT</i> <i>Darrin Moy (S)</i> <i>Kathryn Hunter</i>
Criminal Procedure	Justice Rares Justice Besanko Justice Rangiah Justice Wigney (C) Justice Beach Justice Bromwich Justice Banks-Smith Justice O'Bryan Justice Abraham Justice O'Sullivan  <i>Sia Lagos</i> <i>Rowan Davis (S)</i> <i>Alicia Ditton</i> <i>Jodie Burns</i>
Digital Practice	Justice Perram (C) Justice Jagot Justice Mortimer Justice Rangiah Justice Markovic Justice Bromwich Justice Charlesworth Justice Burley Justice SC Derrington Justice Banks-Smith Justice Wheelahan  <i>Sia Lagos</i> <i>Jessica Der Matossian (S)</i>

COMMITTEE	MEMBERSHIP
International Development and Cooperation	Justice Kenny AM (C) Justice Collier Justice Logan Justice Bromberg Justice Yates Justice Mortimer Justice Burley Justice O'Callaghan  <i>Sia Lagos</i> <i>Helen Burrows (S)</i>
Judicial Education	Justice Kenny AM Justice Collier Justice Besanko Justice Perram Justice Katzmann Justice Farrell Justice Mortimer Justice Moshinsky Justice Burley Justice Lee Justice SC Derrington AM Justice Banks-Smith (C) Justice O'Bryan Justice Jackson Justice Rofe  <i>Sia Lagos</i> <i>Claire Hammerton Cole (S)</i> <i>Andrea Jarratt</i> <i>Katrina Wu</i>
Judicial Education Conference Sub-committee	Justice Farrell (C) Justice Banks-Smith  <i>Claire Hammerton Cole (S)</i> <i>Andrea Jarratt</i> <i>Katrina Wu</i>
Judicial Wellbeing	Justice Katzmann (C) Justice Murphy Justice Charlesworth Justice Banks-Smith Justice Collier  <i>Sia Lagos</i> <i>Darrin Moy (S)</i>

COMMITTEE	MEMBERSHIP
Judicial Workplace Conduct	Justice Collier Justice Mortimer Justice Rangiah Justice Markovic (C) Justice Moshinsky Justice Bromwich Justice Charlesworth Justice Banks-Smith  <i>Sia Lagos</i> <i>Darrin Moy</i> <i>Jenni Priestley</i> <i>Scott Tredwell</i> <i>Andrea Jarratt</i>
Library	Justice Kenny AM (C) Justice Collier Justice Besanko Justice Burley Justice O'Callaghan Justice Jackson Justice Cheeseman  <i>Georgia Livissianos (S)</i>
National Practice	Chief Justice (C) All National Coordinating and National Appeals Judges  <i>Sia Lagos</i> <i>Scott Tredwell</i> <i>Peter Schmidt (S)</i>
Operations and Finance	Chief Justice Allsop AO (C) Justice Greenwood Justice Rares Justice Collier Justice Besanko Justice Middleton AM Justice Jagot Justice Nicholas Justice Murphy Justice Mortimer Justice Banks-Smith Justice Colvin  <i>Sia Lagos</i> <i>Darrin Moy (S)</i> <i>Kathryn Hunter</i>

COMMITTEE	MEMBERSHIP
Finance Sub-committee	Chief Justice Allsop AO (C) Justice Besanko Justice Middleton AM Justice Nicholas Justice Murphy Justice Colvin  <i>Sia Lagos</i> <i>Darrin Moy (S)</i> <i>Kathryn Hunter</i>
Public Communications	Justice Kenny AM Justice Rares Justice Collier Justice Bromberg Justice Wigney Justice Perry Justice Lee Justice SC Derrington AM (C) Justice Jackson Justice Rofe Justice Downes Justice O'Sullivan Justice McElwaine  <i>Bruce Phillips</i> <i>Janelle Olney</i> <i>Georgia Livissianos</i>
Remuneration	Justice Katzmann Justice Murphy Justice Wigney Justice Lee Justice McElwaine  <i>Sia Lagos</i>
Rules	Justice Besanko Justice Jagot (C) Justice Yates Justice Rangiah Justice Colvin  <i>Scott Tredwell (S)</i>

COMMITTEE	MEMBERSHIP
Security	Justice Perry Justice Lee Justice Jackson Justice Rofe Deputy Chief Justice McClelland (FCFCOA Division 1) (C) Justice McNab (FCFCOA Division 1) Judge Vasta (FCFCOA Division 2)  <i>Darrin Moy (S)</i> <i>Steve Fewster</i> <i>David Llewelyn</i> <i>Sami Dagher</i> <i>Paul Kennedy</i>

## Part 7: Indexes





## List of requirements

PGPA Rule Reference	Part of Report	Description	Requirement
17AD(g)		Letter of transmittal	
17AI	i	A copy of the letter of transmittal signed and dated by accountable authority on date final text approved, with statement that the report has been prepared in accordance with section 46 of the Act and any enabling legislation that specifies additional requirements in relation to the annual report.	Mandatory
17AD(h)		Aids to access	
17AJ(a)	ii	Table of contents (print only).	Mandatory
17AJ(b)	253	Alphabetical index (print only).	Mandatory
17AJ(c)	vi	Glossary of abbreviations and acronyms.	Mandatory
17AJ(d)	246	List of requirements.	Mandatory
17AJ(e)	IFC	Details of contact officer.	Mandatory
17AJ(f)	IFC	Entity's website address.	Mandatory
17AJ(g)	IFC	Electronic address of report.	Mandatory
17AD(a)		Review by accountable authority	
17AD(a)	13	A review by the accountable authority of the entity.	Mandatory
17AD(b)		Overview of the entity	
17AE(1)(a)(i)	2	A description of the role and functions of the entity.	Mandatory
17AE(1)(a)(ii)	137	A description of the organisational structure of the entity.	Mandatory
17AE(1)(a)(iii)	3	A description of the outcomes and programmes administered by the entity.	Mandatory
17AE(1)(a)(iv)	2	A description of the purposes of the entity as included in corporate plan.	Mandatory
17AE(1)(aa)(i)	220	Name of the accountable authority or each member of the accountable authority	Mandatory
17AE(1)(aa)(ii)	220	Position title of the accountable authority or each member of the accountable authority	Mandatory
17AE(1)(aa)(iii)	220	Period as the accountable authority or member of the accountable authority within the reporting period	Mandatory
17AE(1)(b)	221	An outline of the structure of the portfolio of the entity.	Portfolio departments mandatory

PGPA Rule Reference	Part of Report	Description	Requirement
17AE(2)	N/A	Where the outcomes and programs administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, include details of variation and reasons for change.	If applicable, Mandatory
17AD(c)	Report on the Performance of the entity		

### **Annual performance Statements**

17AD(c)(i); 16F	221	Annual performance statement in accordance with paragraph 39(1)(b) of the Act and section 16F of the Rule.	Mandatory
17AD(c)(ii)	Report on Financial Performance		
17AF(1)(a)	49	A discussion and analysis of the entity's financial performance.	Mandatory
17AF(1)(b)	136	A table summarising the total resources and total payments of the entity.	Mandatory
17AF(2)	N/A	If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results.	If applicable, Mandatory.
17AD(d)	Management and Accountability		

### **Corporate Governance**

17AG(2)(a)	50	Information on compliance with section 10 (fraud systems)	Mandatory
17AG(2)(b)(i)	50	A certification by accountable authority that fraud risk assessments and fraud control plans have been prepared.	Mandatory
17AG(2)(b)(ii)	50	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)	50	A certification by accountable authority that all reasonable measures have been taken to deal appropriately with fraud relating to the entity.	Mandatory
17AG(2)(c)	50	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance.	Mandatory
17AG(2)(d) – (e)	54	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

PGPA Rule Reference	Part of Report	Description	Requirement
<b>Audit Committee</b>			
17AG(2A)(a)	54	A direct electronic address of the charter determining the functions of the entity's audit committee.	Mandatory
17AG(2A)(b)	51	The name of each member of the entity's audit committee.	Mandatory
17AG(2A)(c)	51	The qualifications, knowledge, skills or experience of each member of the entity's audit committee.	Mandatory
17AG(2A)(d)	51	Information about the attendance of each member of the entity's audit committee at committee meetings.	Mandatory
17AG(2A)(e)	51	The remuneration of each member of the entity's audit committee.	Mandatory
<b>External Scrutiny</b>			
17AG(3)	48	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny.	Mandatory
17AG(3)(a)	N/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
17AG(3)(b)	48	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)	50	Information on any capability reviews on the entity that were released during the period.	If applicable, Mandatory
<b>Management of Human Resources</b>			
17AG(4)(a)	60	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives.	Mandatory
17AG(4)(aa)	207	Statistics on the entity's employees on an ongoing and non-ongoing basis, including the following: <ul style="list-style-type: none"> <li>a. statistics on full-time employees</li> <li>b. statistics on part-time employees</li> <li>c. statistics on gender</li> <li>d. statistics on staff location</li> </ul>	Mandatory

PGPA Rule Reference	Part of Report	Description	Requirement
17AG(4)(b)	207	Statistics on the entity's APS employees on an ongoing and non-ongoing basis; including the following: <ul style="list-style-type: none"> <li>■ Statistics on staffing classification level</li> <li>■ Statistics on full-time employees</li> <li>■ Statistics on part-time employees</li> <li>■ Statistics on gender</li> <li>■ Statistics on staff location</li> <li>■ Statistics on employees who identify as Indigenous.</li> </ul>	Mandatory
17AG(4)(c)	62; 218	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)	218	Information on the number of SES and nonSES employees covered by agreements etc. identified in paragraph 17AG(4)(c).	Mandatory
17AG(4)(c)(ii)	219	The salary ranges available for APS employees by classification level.	Mandatory
17AG(4)(c)(iii)	62	A description of non-salary benefits provided to employees.	Mandatory
17AG(4)(d)(i)	220	Information on the number of employees at each classification level who received performance pay.	If applicable, Mandatory
17AG(4)(d)(ii)	220	Information on aggregate amounts of performance pay at each classification level.	If applicable, Mandatory
17AG(4)(d)(iii)	220	Information on the average amount of performance payment, and range of such payments, at each classification level.	If applicable, Mandatory
17AG(4)(d)(iv)	220	Information on aggregate amount of performance payments.	If applicable, Mandatory

### **Assets Management**

17AG(5)	57	An assessment of effectiveness of assets management where asset management is a significant part of the entity's activities.	If applicable, mandatory
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### **Purchasing**

17AG(6)	55	An assessment of entity performance against the <i>Commonwealth Procurement Rules</i> .	Mandatory
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PGPA Rule Reference	Part of Report	Description	Requirement
<b>Reportable consultancy contracts</b>			
17AG(7)(a)	55	A summary statement detailing the number of new reportable consultancy contracts entered into during the period; the total actual expenditure on all such contracts (inclusive of GST); the number of ongoing reportable consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting period on those ongoing contracts (inclusive of GST).	Mandatory
17AG(7)(b)	55	A statement that <i>"During [reporting period], [specified number] new reportable consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing reportable consultancy contracts were active during the period, involving total actual expenditure of \$[specified million]."</i>	Mandatory
17AG(7)(c)	55	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)	55	A statement that <i>"Annual reports contain information about actual expenditure on reportable consultancy contracts. Information on the value of reportable consultancy contracts is available on the AusTender website."</i>	Mandatory

**Reportable non-consultancy contracts**

17AG(7A)(a)	55	A summary statement detailing the number of new reportable non-consultancy contracts entered into during the period; the total actual expenditure on such contracts (inclusive of GST); the number of ongoing reportable non-consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting period on those ongoing contracts (inclusive of GST).	Mandatory
17AG(7A)(b)	55	A statement that <i>"Annual reports contain information about actual expenditure on reportable non-consultancy contracts. Information on the value of reportable non-consultancy contracts is available on the AusTender website."</i>	Mandatory
17AD(daa)	Additional information about organisations receiving amounts under reportable consultancy contracts or reportable non-consultancy contracts		
17AGA	56; 57	Additional information, in accordance with section 17AGA, about organisations receiving amounts under reportable consultancy contracts or reportable non-consultancy contracts.	Mandatory

PGPA Rule Reference	Part of Report	Description	Requirement
<b>Australian National Audit Office Access Clauses</b>			
17AG(8)	55	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
<b>Exempt contracts</b>			
17AG(9)	55	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
<b>Small business</b>			
17AG(10)(a)	55	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)	55	An outline of the ways in which the procurement practices of the entity support small and medium enterprises.	Mandatory
17AG(10)(c)	N/A	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
<b>Financial Statements</b>			
17AD(e)	92	Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act.	Mandatory

PGPA Rule Reference	Part of Report	Description	Requirement
<b>Executive Remuneration</b>			
17AD(da)	234	Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 23 of the Rule.	Mandatory
17AD(f)	Other Mandatory Information		
17AH(1)(a)(i)	N/A	If the entity conducted advertising campaigns, a statement that <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
17AH(1)(a)(ii)	50	If the entity did not conduct advertising campaigns, a statement to that effect.	If applicable, Mandatory
17AH(1)(b)	50	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
17AH(1)(c)	61	Outline of mechanisms of disability reporting, including reference to website for further information.	Mandatory
17AH(1)(d)	42	Website reference to where the entity's Information Publication Scheme statement pursuant to Part II of FOI Act can be found.	Mandatory
17AH(1)(e)	54	Correction of material errors in previous annual report	If applicable, mandatory
17AH(2)	237	Information required by other legislation	Mandatory

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