

The Land and Environment Court of NSW



Annual Review

2015

Contents

- 01 Foreword from the Chief Judge**
- 02 1. 2015: An Overview**
 - Court performance
 - Reforms and developments
 - Education and community involvement
 - Consultation with court users
- 05 2. Court Profile**
 - The Court
 - Statement of purpose
 - The Court's jurisdiction
 - The Court's place in the court system
 - Who makes the decisions?
 - The Judges
 - The Commissioners
 - The Registrars
 - Appointments and retirements
 - Supporting the Court: the Registry
- 14 3. Caseflow Management**
 - Introduction
 - Overview by class of jurisdiction
 - Types of directions hearings
 - Class 1 hearing options
 - Alternative Dispute Resolution
 - Conciliation
 - Mediation
 - Neutral evaluation
- 21 4. Reforms and Developments**
 - Changes to Court legislation
 - Changes in Court rules
 - New Practice Notes
 - New Policies
 - Review of planning principles
 - New information on the Court's website
 - The Land and Environment Court Clinic
 - Maintenance of library services
 - Implementing the International Framework for Court Excellence
 - Monitoring access to and use of the Court's decisions
 - Sentencing database for environmental offences
- 28 5. Court Performance**
 - Overall caseload
 - Court performance by class of jurisdiction
 - Measuring Court performance
 - Output indicators of access to justice
 - Affordability
 - Accessibility
 - Responsiveness to the needs of users
 - Output indicators of effectiveness and efficiency
 - Backlog indicator
 - Time standards for finalisation of cases
 - Time standards for delivery of reserved judgments
 - Inquiries about delays in reserved judgments
 - Clearance rate
 - Attendance indicator
 - Appeals
 - Complaints
 - Complaints received and finalised
 - Patterns in complaints
- 55 6. Education and Community Involvement**
 - Continuing professional development
 - Continuing professional development policy
 - Annual Court Conference 2015
 - Twilight seminar series
 - National Mediator Accreditation
 - Other educational activities
 - Performance indicators and programme evaluation
 - Publications
 - Education and participation in the community
 - Individual Judges' and Commissioners' activities
- 84 Appendices**
 - Appendix 1 – Court Users Groups
 - Appendix 2 – Court Committees

Foreword from the Chief Judge

This Review provides information on the Court, its human resources and its performance in the year under review. The focus is on court administration, in particular on the Court's management of its caseload. The objectives of court administration are equity, effectiveness and efficiency. The Review analyses the ways in and the extent to which the Court has achieved these objectives in the year under review.

Traditionally, court administration performance is evaluated by quantitative output indicators based on the registrations (filings), finalisations, pending caseload and time taken between filing and finalisation. Prior to 2006, the Court's Annual Reviews had focused solely on these performance indicators. This year's Review continues the practice adopted in the last nine years' Annual Reviews of reporting on an expanded range of quantitative performance indicators. Reference to these quantitative performance indicators reveals that the Court has been successful in achieving the objectives of equity, effectiveness and efficiency.

However, these quantitative performance indicators do not give a full picture of the Court's performance. There are other qualitative indicators that assist in gaining an appreciation of the Court's performance. This year's Review again includes qualitative output indicators of access to justice, including in relation to the affordability of litigation in the Court, the accessibility of the Court and the responsiveness of the Court to the needs of users.

But even the inclusion of these qualitative indicators still leaves unevaluated the Court's material contribution to the community represented by the large volume of decisions made. The Court delivered 488 written judgments. These judgments are published on NSW Caselaw website (<https://www.caselaw.nsw.gov.au/>). They provide a valuable contribution to planning and environmental jurisprudence. They also enable transparency and accountability in the Court's decision-making.

Throughout the year, the Judges, Commissioners and Registrars of the Court have administered the Court and the rule of law with a high degree of independence, impartiality, integrity, equity, effectiveness and efficiency.

The Honourable Justice Brian J Preston SC
Chief Judge



*The Hon. Justice Brian J Preston SC, Chief Judge
Photo by Ted Sealey*

1 **2015: An Overview**

- Court performance
- Reforms and developments
- Education and community involvement
- Consultation with court users

Court performance

The Court has an overriding duty to ensure the just, quick and cheap resolution of the real issues in all civil proceedings in the Court. In many areas of its work, the Court has been able to maintain or improve its performance in achieving this overriding objective relative to the results achieved in 2014. Of particular significance are:

- Continued improvement in the timeliness of the pending caseload, as measured by the backlog indicator in Classes 1-3 and Classes 4-8.
- An increase in the percentage of matters in all classes finalised pre-trial (to the highest percentage in the last five years).
- An increase in both the number and percentage of matters in Classes 1-3 finalised by means of s 34 and s 34AA conciliation conferences and on-site hearings.
- All judges and commissioners met the standard for continuing professional development.

In other areas, however the Court's performance declined:

- A greater increase in total registrations than the increase in total finalisations, resulting in total pending caseload increasing.
- The time taken to finalise matters increased in all classes except for Classes 3 and 8.
- A decline in the total clearance rate for matters in all classes and for matters in Classes 1-3 to be less than 100%, however an improvement in the clearance rate for matters in Classes 4-8 to exceed 100%.

- A decline in the percentage of reserved judgments delivered within 14, 30 and 90 days of hearing.
- The median number of pre-hearing attendances increased in Classes 4 and 5, was maintained in Classes 1, 2, 6 and 8 and decreased in Class 3 (all matters).

Reforms and developments

During 2015, reforms occurred in the following areas:

- Changes to Court legislation;
- Changes in Court rules concerning costs in s 56A appeals from Commissioner decisions;
- Introduction of new Practice Notes on Subpoena Practices, Urgent Applications and Section 56A Appeals;
- Introduction of two new policies on the Conference of Expert Witnesses and Joint Expert Reports;
- Review of planning principle;
- New information on the Court's website; and
- Maintenance of Library services.

The Court continued implementing the International Framework for Court Excellence. The Court has monitored access to and use of the Court's decisions. The Court, in conjunction with the Judicial Commission of New South Wales, updated the sentencing database for environmental offences maintained on the Judicial Information Research System (JIRS).

These developments in the Court's jurisdiction and work are discussed in Chapter 4 – Reforms and Developments.

Education and community involvement

The Court's commitment to continuing professional development was manifested by the adoption in October 2008 of a continuing professional development policy for Judges and Commissioners of the Court. The policy sets a standard of five days (30 hours) of professional development activities each calendar year. To assist in meeting the standard, the Court and the Judicial Commission of New South Wales provide an annual court conference and a twilight seminar series. In 2015, the Court's Annual Conference was held at the Novotel Sydney Manly Pacific in Manly. The Court held four twilight seminars in 2015, one field trip, two site visits and lectures and two cross-jurisdictional seminars.

In 2009, the Court commenced production on a quarterly basis of a judicial newsletter summarising recent legislation and judicial decisions of relevance to the Court's jurisdiction. The judicial newsletter is distributed to all Judges, full time and Acting Commissioners and Registrars. From January 2010, the Judicial Newsletter has been made publicly available on the Court's website.

The Judges and Commissioners updated and developed their skills and knowledge during the year by attending conferences, seminars and workshops. Some of the educational activities were tailored specifically to the Court's needs while others were of broader relevance.

The Court has a high national and international reputation as a leading specialist environment court. There is significant demand for the exchange of knowledge and experience within the national and international legal and judicial communities. Judges and Commissioners of the Court have actively participated in capacity building and information exchange by presenting papers and participating as trainers in a variety of conferences, seminars and workshops, giving lectures at educational institutions and presiding over moot courts. The Court has also regularly hosted international and national delegations.

Chapter 6 – Education and Community Involvement details the Court's activities in judicial education and involvement in the community.

Consultation with court users

In 2015, the Court continued to consult and work closely with users to improve systems and procedures through its Committees and User Groups. Consultation occurred both formally through the Court Users Group and also the Mining Court Users Group and informally with a variety of legal practitioners and professional bodies.

Details of the Court Users Group and Mining Court Users Group are in Appendix 1 and the Court's Committees are in Appendix 2.

2 Court Profile

- The Court
- Statement of purpose
- The Court's jurisdiction
- The Court's place in the court system
- Who makes the decisions?
 - The Judges
 - The Commissioners
 - The Registrars
- Appointments and retirements
- Supporting the Court: the Registry

The Court

The Land and Environment Court of New South Wales was established on 1 September 1980 by the *Land and Environment Court Act 1979* (the Court Act) as a superior court of record. It is a specialist court that enjoys the benefits of a wide jurisdiction combined in a single court. It is the first specialist environmental, superior court in the world.

Statement of purpose

The Court's purpose is to safeguard and maintain:

- the rule of law;
- equality of all before the law;
- access to justice;
- fairness, impartiality and independence in decision-making;
- processes that are consistently transparent, timely and certain;
- accountability in its conduct and its use of public resources; and
- the highest standards of competency and personal integrity of its Judges, Commissioners and support staff.

To assist in fulfilling its purpose, the Court aims to achieve excellence in seven areas:

- **Court leadership and management:** To provide organisational leadership that promotes a proactive and professional management culture, pursues innovation and is accountable and open.
- **Court planning and policies:** To formulate, implement and review plans and policies that focus on fulfilling the Court's purpose and improving the quality of its performance.



- **Court proceedings:** To ensure the Court's proceedings and dispute resolution services are fair, effective and efficient.
- **Public trust and confidence:** To maintain and reinforce public trust and confidence in the Court and the administration of justice.
- **User satisfaction:** To understand and take into account the needs and perceptions of its users relating to the Court's purpose.
- **Court resources:** To manage the Court's human, material and financial resources properly, effectively and with the aim of gaining the best value.
- **Affordable and accessible court services:** To provide practical and affordable access to information and court processes and services.

The Court's jurisdiction

The Court has an appellate and a review jurisdiction in relation to planning, building, environmental, mining and ancillary matters. Jurisdiction is exercised by reference to the subject matter of the proceedings. This may involve matters that have an impact on community interest as well as matters of government policy. The Court has summary

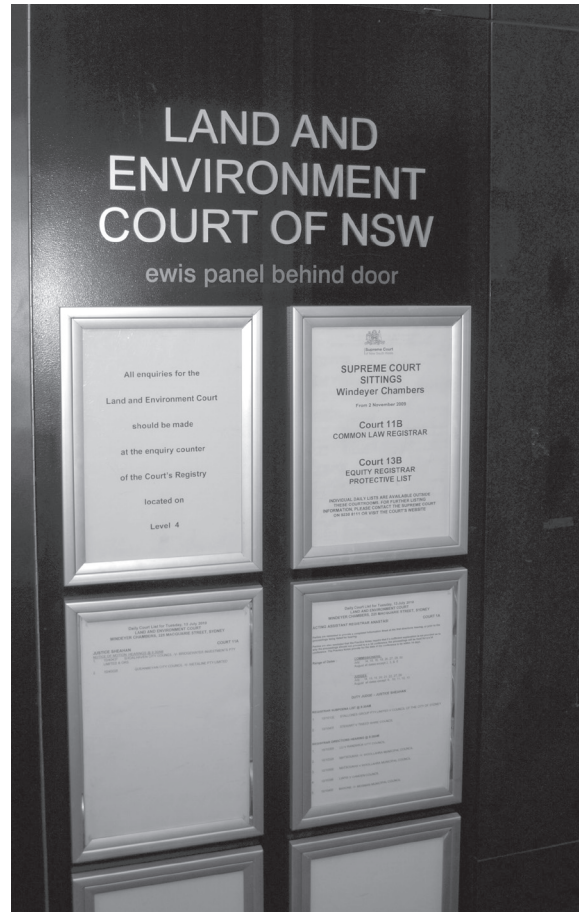
criminal jurisdiction and appellate criminal jurisdiction in relation to environmental offences.

In 2015, the Court Act provided for eight classes of jurisdiction in the Court.

Table 2.1 summarises these eight classes.

Table 2.1 Classes of the Court's Jurisdiction

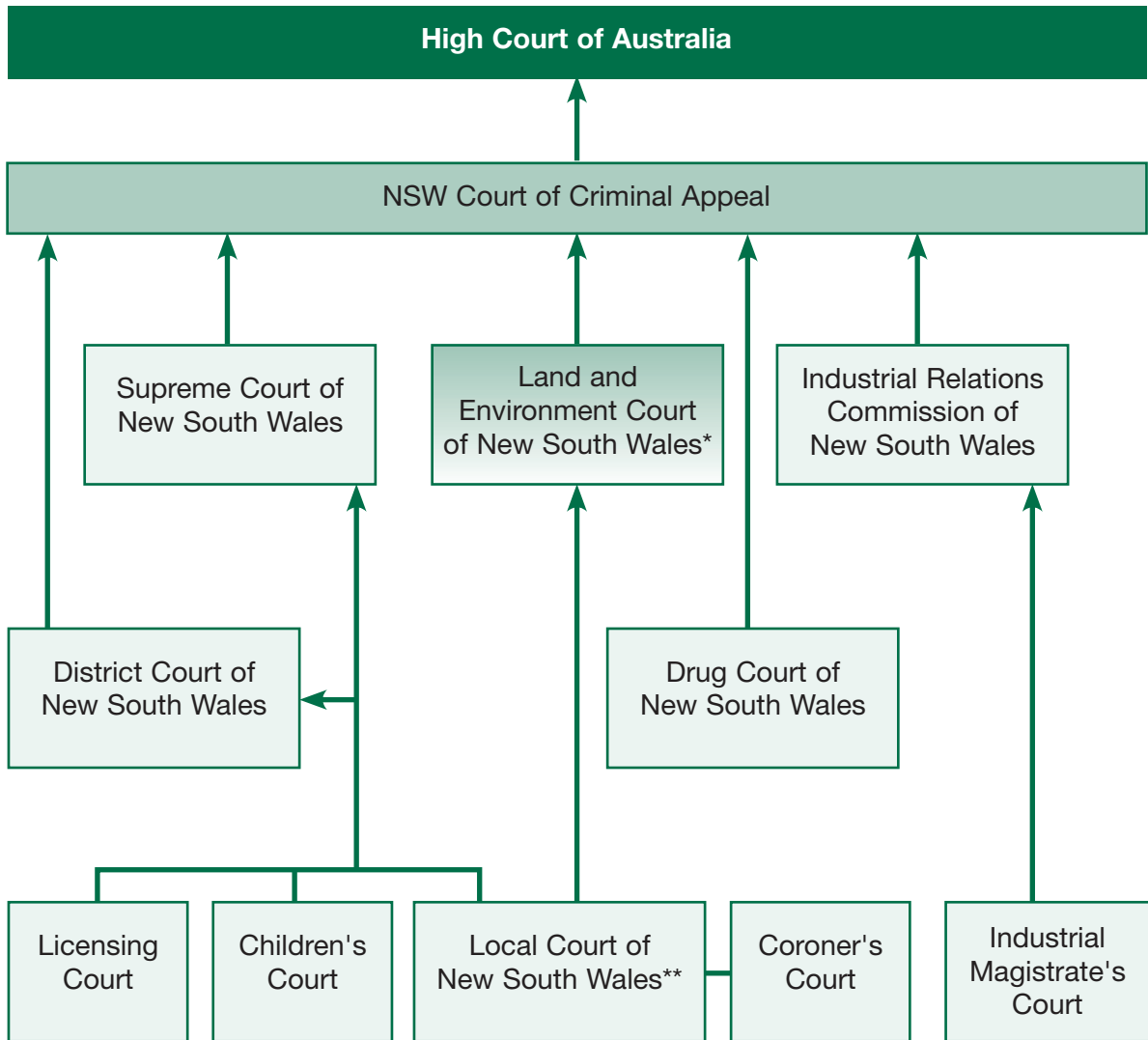
Class 1	environmental planning and protection appeals (merits review appeals)
Class 2	local government, trees and miscellaneous appeals (merits review appeals)
Class 3	land tenure, valuation, rating and compensation matters (merits review appeals)
Class 4	environmental planning and protection (civil enforcement and judicial review)
Class 5	environmental planning and protection (summary criminal enforcement)
Class 6	appeals against convictions or sentences relating to environmental offences (appeals as of right from decisions of the Local Court in prosecutions for environmental offences)
Class 7	appeals against convictions or sentences relating to environmental offences (appeals requiring leave from decisions of the Local Court in prosecutions for environmental offences)
Class 8	civil proceedings under the mining legislation



The Court's place in the court system

The Court's place in the New South Wales court system is shown diagrammatically in Figure 2.1 (criminal jurisdiction) and Figure 2.2 (civil jurisdiction). Special arrangements are made in relation to appeals from the Court's decisions in Classes 1, 2, 3, 4 and 8 of the Court's jurisdiction depending on whether the decision was made by a Judge or a Commissioner. Figure 2.3 shows diagrammatically these appellate arrangements.

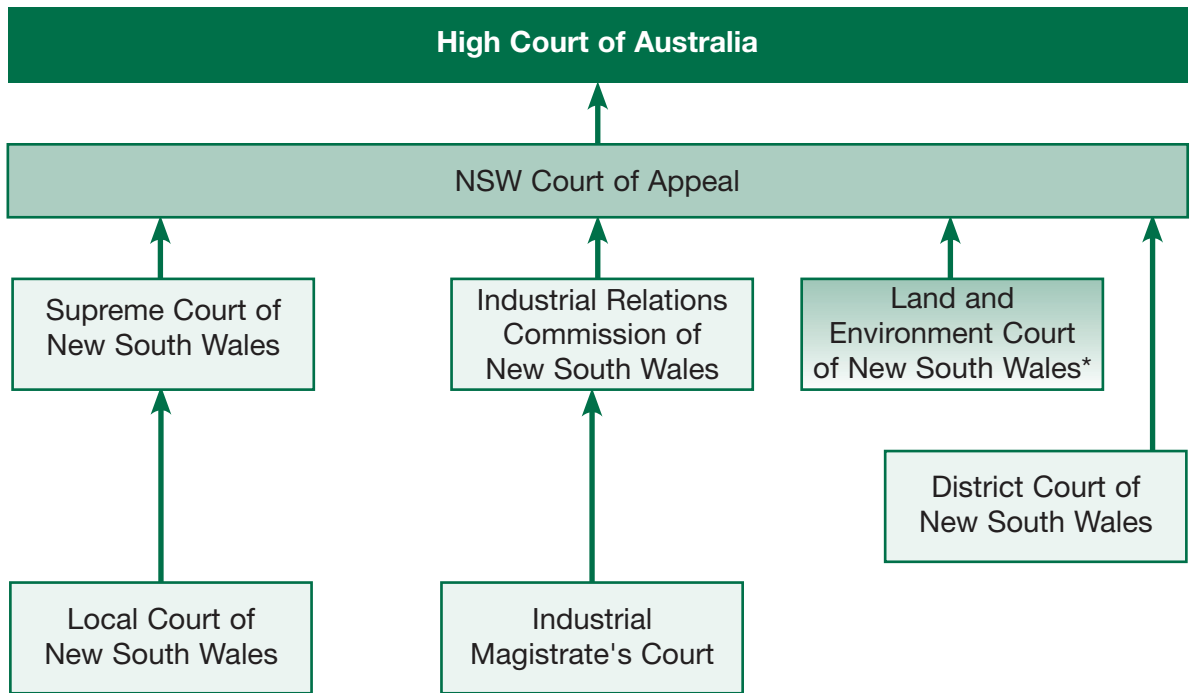
Figure 2.1 New South Wales Court System – Criminal Jurisdiction



* Appeals to the NSW Court of Criminal Appeal are in relation to proceedings in Classes 5, 6 or 7 of the Land and Environment Court's jurisdiction.

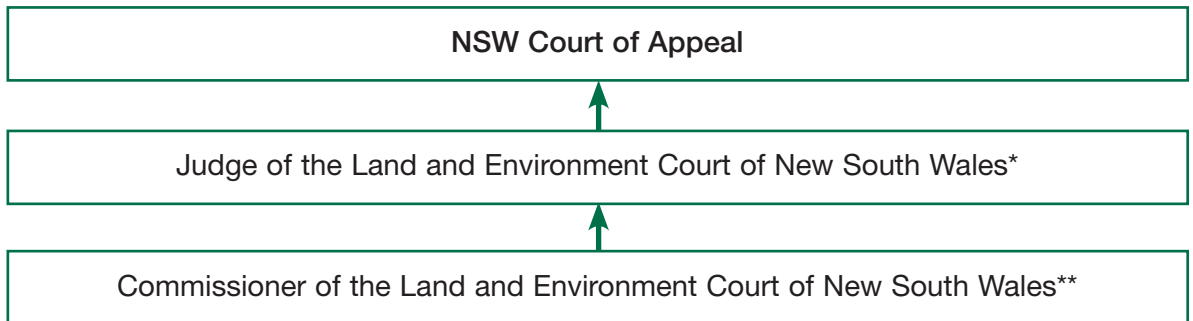
** Appeals from the Local Court of New South Wales to the Land and Environment Court are with respect to an environmental offence under the *Crimes (Appeal and Review) Act 2001* and are in Classes 6 and 7 of the Land and Environment Court's jurisdiction.

Figure 2.2 New South Wales Court System – Civil Jurisdiction



* Appeals to the NSW Court of Appeal are in relation to proceedings in Classes 1, 2, 3, 4 or 8 of the Land and Environment Court's jurisdiction.

Figure 2.3 Appeals from decisions in Classes 1, 2, 3, 4 and 8 of the Land and Environment Court of New South Wales



* Appeals from a decision of a Judge in Classes 1, 2, 3, 4 or 8 of the Land and Environment Court's jurisdiction are to the NSW Court of Appeal on a question of law.

** Appeals from a decision of a Commissioner in Classes 1, 2, 3 or 8 of the Land and Environment Court's jurisdiction are to a Judge of the Land and Environment Court on a question of law and any further appeal from the Judge's decision is only by leave of the NSW Court of Appeal.

Who makes the decisions?

The Judges

Judges have the same rank, title, status and precedence as the Judges of the Supreme Court of New South Wales. Judges preside over all Class 3 (land tenure and compensation), 4, 5, 6 and 7 matters, and can hear matters in all other Classes of the Court's jurisdiction.

As at 31 December 2015, the Judges, in order of seniority, were as follows:

Chief Judge

The Honourable Justice Brian John Preston SC

Judges

The Honourable Justice Terence William Sheahan AO

The Honourable Justice Nicola Hope Margaret Pain

The Honourable Justice Peter Meldrum Biscoe

The Honourable Justice Rachel Ann Pepper

The Honourable Justice Malcolm Graeme Craig

Acting Judges

The Hon. Acting Justice Tim Moore (25 June 2015 to 18 December 2015)

The Commissioners

Suitably qualified persons may be appointed as Commissioners of the Court. The qualifications and experience required for a Commissioner are specified in s 12 of the Court Act and include the areas of:

- administration of local government or town planning;
- town, country or environmental planning;
- environmental science, protection of the environment or environmental assessment;
- land valuation;
- architecture, engineering, surveying or building construction;
- management of natural resources or Crown Lands;
- urban design or heritage;
- land rights for Aborigines or disputes involving Aborigines; and
- law.

Persons may be appointed as full-time or part-time Commissioners for a term of 7 years. Persons may also be appointed as Acting Commissioners for a term of up to 12 months. Acting Commissioners are called upon on a casual basis to exercise the functions of a Commissioner as the need arises.

The primary function of Commissioners is to adjudicate, conciliate or mediate merits review appeals in Classes 1, 2, and 3 of the Court's jurisdiction. On occasion the



Court hearing

Chief Judge may direct that a Commissioner sit with a Judge, or that two or more Commissioners sit together to hear Class 1, 2 and 3 matters.

A Commissioner who is an Australian lawyer may also hear and determine proceedings in Class 8 of the Court's jurisdiction (when they are called a Commissioner for Mining).

As at 31 December 2015, the Commissioners were as follows:

Senior Commissioner

Mr Tim Moore (1 January 2015 to 24 June 2015 and 19 December 2015 to 3 January 2016)

Mr Graham T Brown (Acting Senior Commissioner from 25 June 2015 to 18 December 2015)

Commissioners

Mr Graham T Brown
Ms Annelise Tuor

Ms Susan A Dixon
Ms Linda Pearson
Ms Judy A Fakes
Ms Susan I Morris
Ms Susan T O'Neill

Acting Commissioners

Associate Professor Dr Paul Adam AM – botanist and ecologist

Professor Dr Megan Davis – member of the Aboriginal community and lawyer

Ms Lisa Durland – arboricultural consultant

Mr David Galwey – arboricultural consultant

Mr Robert Hussey – engineer

Dr Jeffrey Kildea – lawyer with experience in matters concerning land rights for Aborigines

Mr Norman Laing – member of the Aboriginal community and lawyer

Mr John Maston – lawyer with experience in land valuation matters



L-R back: Commissioners Susan O'Neill, Sue Morris and Graham Brown, Senior Commissioner Tim Moore and Commissioner Susan Dixon
L-R front: Commissioners Annelise Tuor, Bob Hussey, Judy Fakes and Linda Pearson

Mr E Craig Miller – valuer and mediator
Dr David Parker – valuer and mediator
Dr Robert (Bob) Smith – environmental management consultant (regional, national and international)
Ms Jennifer Smithson – town planner
Mr Ross Speers – engineer
Professor Sharon Sullivan AO – heritage consultant

The Registrars

The Court Registrar has the overall administrative responsibility for the Court, as well as exercising quasi-judicial powers such as conducting directions hearings and mediations. The Chief Judge directs the Registrar on the day-to-day running of the Court.

The Court is a business centre within the Department of Attorney General and Justice. The Registrar, as Business Centre Manager, has reporting and budgetary responsibilities to the Director General of that department.

As at 31 December 2015, the Registrars were as follows:

Registrar

Ms Joanne Gray

Assistant Registrar and Manager Court Services

Ms Maria Anastasi

Appointments and retirements

Appointments

The Hon. Acting Justice Tim Moore was appointed a judge of the Court on 10 December 2015, effective from 4 January 2016.

Retirements

The Hon. Justice Peter Biscoe had his last sitting day on 18 December 2015, thereafter on leave until he retires on 13 March 2016.

Supporting the Court: the Registry

The Court Registry comprises the following four sections:

Client Services

This section is the initial contact for Court users and provides services such as procedural assistance, filing and issuing of court process, maintaining of records and exhibits, as well as having responsibilities under the *Public Finance and Audit Act 1983*. It also provides administrative assistance for the Court's eCourt system.

Listings

This section provides listing services, including preparation of the Court's daily and weekly programme and publication of the daily Court list on the internet.

Information and Research

This section provides statistical analysis and research to the Registrar and the Chief Judge. It also supports the administration of the Court's website.

Commissioner Support

This section provides word processing and administrative support in the preparation of Commissioners' judgments and orders.



Lodging documents at the Registry

Copies of decisions of the Court can be found on NSW Caselaw by either going through the tab on the Court website home page 'Land and Environment Court decisions' or directly at <https://www.caselaw.nsw.gov.au/>

The Court provides copies of daily court lists on the Court's website at: http://www.lec.justice.nsw.gov.au/Pages/court_lists/court_lists.aspx

3 Caseflow Management

- Introduction
- Overview by class of jurisdiction
- Types of directions hearings
- Class 1 hearing options
- Alternative Dispute Resolution
 - Conciliation
 - Mediation
 - Neutral evaluation

Introduction

The Court manages the flow of its cases from inception to completion in a number of ways, and is continually looking to improve its processes and outcomes. The Chief Judge determines the day-to-day caseload management strategy of the Court. This strategy is reflected in the *Land and Environment Court Act 1979*, *Land and Environment Court Rules 2007*, *Civil Procedure Act 2005*, *Uniform Civil Procedure Rules 2005*, and the Practice Notes issued by the Chief Judge. The Judges, Commissioners and Registrars work together to ensure cases are resolved in a just, timely and cost-efficient manner.

Overview by class of jurisdiction

Caseload management varies with the type or class of proceeding.

Class 1

Proceedings in Class 1 involve merits review of administrative decisions of local or State government under various planning or environmental laws. The Court in hearing and disposing of the appeal sits in the place of the original decision-maker and re-exercises the administrative decision-making functions. The decision of the Court is final and binding and becomes that of the original decision-maker.

Appeals are allocated a date for a directions hearing before the Registrar when the appeal is filed with the Court. The directions hearing may take the form of an in-court hearing, a telephone hearing or an eCourt hearing (see Types of Directions Hearings below).

At the directions hearing, the Registrar will review the matter and make appropriate

directions for the orderly, efficient and proper preparation of the matter for resolution by the appropriate dispute resolution process. The appropriate dispute resolution process may be a consensual process such as conciliation (a conference under s 34 of the Court Act), mediation or neutral evaluation or an adjudicative process by the Court hearing and disposing of the matter either at an on-site hearing or a court hearing.

If an issue arises that falls outside the specified duties of a Registrar or the Registrar otherwise considers it appropriate, the Registrar may refer the case to a Judge.

The practice and procedure governing Class 1 appeals is described in the Practice Notes Class 1 Development Appeals and Classes 1, 2 and 3 Miscellaneous Appeals (depending on the type of appeal).

Class 2: Tree disputes

Proceedings under the *Trees (Disputes Between Neighbours) Act 2006* involve applications to the Court to remedy, restrain or prevent damage caused, being caused or likely to be caused to property or to prevent a risk of injury to any person as a consequence of a tree.

The Court manages a separate list for tree disputes. About 58% of the parties in this type of proceeding are self-represented. The application is returnable before the Assistant Registrar who is assigned to manage the list. This first court attendance can be either a telephone conference or in court. The Assistant Registrar explains the process of preparation for and hearing of the application.

The Assistant Registrar explores whether the parties may be able to resolve the dispute between themselves without court orders authorising interference with or removal of

a tree. If the parties are not able to resolve the dispute, the Assistant Registrar will fix a final hearing date, usually not more than four to five weeks after the first court attendance. The Assistant Registrar will make directions in preparation for the final hearing, such as for the provision of information by the parties to each other.

The final hearing will usually be held on-site. A Commissioner or Commissioners will preside at the hearing. Usually, one of the Commissioners will have special knowledge and expertise in arboriculture. The practice and procedure for tree disputes is described in the Practice Note Class 2 Tree Applications. Additional information is available in the special pages for tree disputes on the Court's website.

Class 3

Proceedings in Class 3 are of different types. One type of proceeding involves claims for compensation by reason of the compulsory acquisition of land and another type involves valuation objections under s 37 of the *Valuation of Land Act 1916*.

The Practice Note Class 3 Compensation Claims and Practice Note Class 3 Valuation Objections establish Lists for these matters. The Class 3 Lists are managed by the List Judge in court each Friday. The practice notes specify the directions hearings to be held in preparation for hearing and the directions that will usually be made at these directions hearings. The purpose of the practice notes is to set out the case management practices for the just, quick and cheap resolution of the proceedings.

Valuation objections are usually heard by Commissioners, mostly persons with special knowledge and expertise in the valuation of land. Compensation claims are usually heard by a Judge, at times assisted by a

Commissioner with special knowledge and expertise in valuation of land.

Other matters assigned to Class 3, such as Aboriginal land claims, are also case managed by the Class 3 List Judge. Such matters are heard by a Judge, assisted by one or more Commissioners appointed with qualifications under s 12(2)(g) of the Court Act including in relation to land rights for Aborigines.

Class 4

Proceedings in Class 4 are of two types: civil enforcement, usually by government authorities, of planning or environmental laws to remedy or restrain breaches, and judicial review of administrative decisions and conduct under planning or environmental laws.

Class 4 proceedings are case managed in a Class 4 List by the List Judge on a Friday. The List Judge makes appropriate directions for the orderly, efficient and proper preparation for trial. Applications for urgent or interlocutory relief can be dealt with at any time by the Duty Judge.

The practice and procedure governing Class 4 proceedings is described in the Practice Note Class 4 Proceedings.

Class 5

Proceedings in Class 5 involve summary criminal enforcement proceedings, usually by government authorities prosecuting offences against planning or environmental laws.

Class 5 proceedings are case managed in a Class 5 List by the List Judge on a Friday. The List Judge makes appropriate directions for the orderly, efficient and proper preparation for trial or sentence hearing. One purpose of the directions hearings is to allow the entry of pleas prior to the trial.

Such a procedure can minimise the loss of available judicial time that occurs when trials are vacated after they are listed for hearing or when a guilty plea is entered immediately prior to, or on the day of, the trial's commencement.

The directions hearing involves legal practitioners of the parties at an early stage of the proceedings. This allows the prosecution and defence to consider a range of issues that may provide an opportunity for an early plea of guilty, or shorten the duration of the trial.

The practice and procedure governing Class 5 proceedings is described in the Practice Note Class 5 Proceedings.

Classes 6 and 7

Proceedings in Classes 6 and 7 involve appeals and applications for leave to appeal from convictions and sentences with respect to environmental offences by the Local Court. The procedure for such appeals and applications for leave to appeal is regulated by the *Crimes (Appeal and Review) Act 2001*.

Proceedings in Classes 6 and 7 are case managed by the List Judge on a Friday.

Class 8

Proceedings in Class 8 are disputes under the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991*. Class 8 proceedings are case managed in a Class 8 List by a Commissioner for Mining on every second Monday morning. The Commissioner for Mining makes appropriate directions for the orderly, efficient and proper preparation for trial. Class 8 proceedings must be heard by a Judge or a Commissioner for Mining. Information on Class 8, and mining legislation and cases, are available on the

special pages for mining on the Court's website.

Types of directions hearings

The Court offers court users three types of directions hearing:

in-court directions hearing

where representatives of the parties attend before the Registrar or a Judge in court

telephone directions hearing

where representatives of the parties talk with the Registrar or a Judge in a conference call

eCourt directions hearing

where representatives of the parties post electronic requests to the Registrar and the Registrar responds using the internet

In general, the initial allocations for directions hearings are:

- For Sydney and metropolitan appeals, the appeal will usually be listed for the first directions hearing as an in-court directions hearing at the Land and Environment Court in Sydney.
- For country appeals, the appeal will usually be listed for the first directions hearing as a telephone directions hearing.

Once the first directions hearing has been held, the parties may utilise the eCourt facility for further directions hearings.

In 2015, the Court experienced an increase from 2014 in the use of eCourt callover and recorded 1,588 registered eCourt users (1,474 in 2014). The Court is recognised nationally as a leader in eCourt case management.

Class 1 hearing options

The Court Act provides that a variety of Class 1 and Class 2 matters are to be dealt with by the Court as either an on-site hearing or a court hearing. The Registrar determines at directions hearings the appropriate type of hearing having regard to the value of the proposed development, the nature and extent of the likely impacts, the issues in dispute, any unfairness to the parties and the suitability of the site for an on-site hearing.

An on-site hearing is a final hearing of a matter conducted at the site the subject of the appeal. Apart from the judgment, an on-site hearing is not recorded.

A court hearing is the final determination of a matter in the Court, and the hearing is recorded.

Alternative Dispute Resolution

The Court encourages Alternative Dispute Resolution (ADR). ADR refers to processes, other than adjudication by the Court, in which an impartial person assists the parties to resolve the issues between them. The methods of ADR available are:

- conciliation;
- mediation; and
- neutral evaluation.

Conciliation

Conciliation is a process in which the parties to a dispute, with the assistance of an impartial conciliator, identify the issues in dispute, develop options, consider alternatives and endeavour to reach agreement. The conciliator may have an advisory role on the content of the dispute or the outcome of its resolution, but not

a determinative role. The conciliator may advise on or determine the process of conciliation whereby resolution is attempted, and may make suggestions for terms of settlement, give expert advice on likely settlement terms, and may actively encourage the parties to reach agreement.

Conciliation in the Court is undertaken pursuant to s 34 of the Court Act. This provides for a combined or hybrid dispute resolution process involving first, conciliation and then, if the parties agree, adjudication.

Conciliation involves a Commissioner with technical expertise on issues relevant to the case acting as a conciliator in a conference between the parties. The conciliator facilitates negotiation between the parties with a view to their achieving agreement as to the resolution of the dispute.

If the parties are able to reach agreement, the conciliator, being a Commissioner of the Court, is able to dispose of the proceedings in accordance with the parties' agreement (if it is a decision that the Court could have made in the proper exercise of its functions). Alternatively, even if the parties are not able to decide the substantive outcome of the dispute, they can nevertheless agree to the Commissioner adjudicating and disposing of the proceedings.

If the parties are not able to agree either about the substantive outcome or that the Commissioner should dispose of the proceedings, the Commissioner terminates the conciliation conference and refers the proceedings back to the Court for the purpose of being fixed for a hearing before another Commissioner. In that event, the conciliation Commissioner makes a written report to the Court stating that no agreement was reached and the conference has been terminated and setting out what in the Commissioner's view are the issues

in dispute between the parties to the proceedings. This is still a useful outcome, as it scopes the issues and often will result in the proceedings being able to be heard and determined expeditiously, in less time and with less cost.

Table 3.1 shows the comparison between the number of conciliation conferences in 2011-2015.

Table 3.1 s 34 Conciliation Conferences 2011 – 2015

	2011	2012	2013	2014	2015
s 34 conferences	637	911	899	1,169	1,500

(NB: the figures are totals of ss 34 and 34AA conferences held in a year)

The table shows a substantial increase in utilisation of conciliation conferences between 2011 and 2015, with an additional 331 matters in 2015 compared to 2014.

Mediation

Mediation is a process in which the parties to a dispute, with the assistance of an impartial mediator, identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The mediator has no advisory or determinative role in regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation whereby resolution is attempted.

The Court may, at the request of the parties or of its own volition, refer proceedings in Classes 1, 2, 3, 4 and 8 to mediation. The Court provides a mediation service at no cost to the parties by referral to the



An on-site conciliation conference facilitated by Commissioner Annelise Tuor

Court’s mediator. The Court may also refer proceedings for mediation to an external mediator not associated with the Court and agreed to by the parties.

Table 3.2 provides a comparison between mediations in 2011 to 2015. Internal mediations are those conducted by the Court mediator. External mediations are those conducted by a mediator not associated with the Court and agreed to by the parties.

Table 3.2 Mediations in 2011 – 2015

		2011	2012	2013	2014	2015
Classes 1 and 2	Total:	4	5	0	3	5
	Internal	4	3	0	3	4
	External	0	2	0	0	1
	Number finalised pre-hearing	3	4	0	2	3
	% finalised pre-hearing	75	80	0	67	60
Class 3	Total:	4	9	9	4	2
	Internal	3	5	7	4	2
	External	1	4	2	0	0
	Number finalised pre-hearing	4	9	9	3	1
	% finalised pre-hearing	100	100	100	75	50
Class 4	Total:	8	9	9	22	22
	Internal	5	8	8	17	22
	External	3	1	1	5	0
	Number finalised pre-hearing	7	8	7	18	19
	% finalised pre-hearing	88	89	88	82	86
All Classes	Total:	16	23	18	29	29
	Internal	12	16	15	24	28
	External	4	7	3	5	1
	Number finalised pre-hearing	14	21	16	23	23
	% finalised pre-hearing	88	91	89	79	79

The total number of mediations stayed the same between 2014 and 2015. The number of mediations in 2015 in Classes 1 and 2 increased slightly from 2014 and in Class 3 decreased from 2014. The number of mediations in Classes 1, 2 and 3 are comparatively few because of the ready availability and utilisation of conciliation under s 34 of the Court Act, conciliation being another form of alternative dispute resolution. Mediations in Class 4 between 2014 and 2015 remained the same.

Neutral evaluation

Neutral evaluation is a process of evaluation of a dispute in which an impartial evaluator

seeks to identify and reduce the issues of fact and law in dispute. The evaluator's role includes assessing the relative strengths and weaknesses of each party's case and offering an opinion as to the likely outcome of the proceedings, including any likely findings of liability or the award of damages.

The Court may refer proceedings in Classes 1, 2, 3, 4 and 8 to neutral evaluation with or without the consent of the parties. The Court has referred matters to neutral evaluation by a Commissioner or an external person agreed to by the parties.

4 Reforms and Developments

- Changes to Court legislation
- Changes in Court rules
- New Practice Notes
- New Policies
- Review of planning principles
- New information on the Court's website
- The Land and Environment Court Clinic
- Maintenance of library services
- Implementing the International Framework for Court Excellence
- Monitoring access to and use of the Court's decisions
- Sentencing database for environmental offences

During 2015, reforms occurred in the following areas:

- Changes to Court legislation
- Change in Court rules
- New Practice Notes
- Review of planning principles
- New information on the Court's website
- Maintenance of library services

The Court continued implementing the International Framework for Court Excellence. One initiative has been to monitor access to and use of the Court's decisions. The Court, in conjunction with the Judicial Commission of New South Wales, maintained the sentencing database for environmental offences on the Judicial Information Research System (JIRS).

Changes to Court legislation

The *Land and Environment Court Act 1979* was amended, by the *Courts and Crimes Legislation Amendment Act 2015*, to:

- (a) enable acting judicial officers to be appointed:
 - (i) for a period not exceeding 5 years instead of the current (12 months); and
 - (ii) up to the age of 77 years (instead of the current 75 years);
- (b) enable acting commissioners to be appointed for a period not exceeding 5 years (instead of the current 12 months); and
- (c) extend the classes of proceedings in which judges may be assisted by commissioners to include proceedings in Class 4 of the Court's jurisdiction.

The amendments commenced on 15 May 2015.

Change in Court rules

Amendments were made to rule 3.7 of the Land and Environment Court Rules 2007 and Schedule 1 of the Uniform Civil Procedure Rules 2005 (UCPR) so that the usual costs provisions apply to appeals pursuant to s 56A of the Court Act. The effect of the amendments was that rule 3.7 no longer applies to s 56A appeals and the costs rules under the UCPR that are excluded from application to proceedings in Classes 1-3 of the Court's jurisdiction now apply to proceedings on appeal pursuant to s 56A. The amendments took effect from 10 July 2015.

New Practice Notes

The Court made three new Practice Notes during 2015.

Practice Note – Subpoena Practices (which commenced on 7 May 2015 and replaced a former practice note from 2014): the purpose of this Practice Note is to inform parties and the producing person of new procedures and practices in the Land and Environment Court in relation to:

- (i) the ability to nominate a convenient return date on the subpoena before filing the subpoena;
- (ii) the Court's default access orders;
- (iii) changes to the operation of the return of subpoena list;
- (iv) the Court's preferred practice in relation to the format of documents being produced in response to a subpoena;
- (v) the Court's practice in relation to accessing subpoenaed material produced in an electronic format;
- (vi) the Court's practice in relation to the production of bulky material; and

(vii) the Court's practice in returning exhibits and subpoenaed material. The new procedures are similar to the procedure used in the Supreme Court of New South Wales.

Practice Note – Urgent Applications (which commenced on 11 May 2015): the purpose of this practice note is for the guidance of practitioners in preparing urgent applications for hearing with the aim of achieving the just, quick and cheap resolution of the real issues in dispute on the urgent application.

Practice Note – Section 56A Appeals (which commenced on 21 December 2015): the purpose of this practice note is to set out the case management procedures for the just, quick and cheap resolution of appeals pursuant to s 56A of the Court Act.

New policies

Two new policies were adopted: the Conference of Expert Witnesses Policy and the Joint Expert Report Policy. Both policies commenced on 12 June 2015. The purpose of the Conference of Expert Witnesses Policy is to provide guidance regarding conferences of expert witnesses on matters in issue in proceedings with the objective of preparing a joint expert report. The purpose of the Joint Expert Report Policy is to provide guidance on the form and content of joint expert reports, so as to achieve consistency in the preparation and attainment of the objectives of joint expert reports.

Review of planning principles

To ensure consistency of decision making in merits review appeals, the Chief Judge has encouraged the Judges and Commissioners

to develop planning principles in their judgments in appropriate cases or to refine existing planning principles published in earlier judgments of the Court.

A planning principle is a statement of a desirable outcome from, a chain of reasoning aimed at reaching, or a list of appropriate matters to be considered in making, a planning decision. While planning principles are stated in general terms, they may be applied to particular cases to promote consistency. Planning principles are not legally binding and they do not prevail over environmental planning instruments and development control plans.

Planning principles assist when making a planning decision, including where there is a void in policy, or where policies expressed in qualitative terms allow for more than one interpretation, or where policies lack clarity.

In November 2013, the Commissioners of the Court decided that it would be appropriate to undertake a review of the continuing relevance of the 42 planning principles that had, as at that time, been adopted. The purpose of the review was to determine whether or not any of the planning principles should be revised or abandoned. The review has been an ongoing one with Commissioners giving effect to the outcomes of the review, on a planning principle by planning principle basis, as an appropriate case has arisen. During 2015, one planning principle was dealt with through the review process with the result that it was retained but revised as set out in the following table:

Principle reviewed	Review outcome	Reviewing decision
<i>Renaldo Plus 3 Pty Ltd v Hurstville City Council</i> [2005] NSWLEC 315	Planning principle should be retained but revised to require that, where a Plan of Management is appropriate, it should be incorporate in the conditions of consent.	<i>Amazonia Hotels Pty Ltd v The Council of the City of Sydney</i> [2014] NSWLEC 1247 (Pearson C)

New information on the Court's website

On 7 May 2015, the Court's website was upgraded, including improved ease of navigation, improved access for users on mobile devices and improved accessibility through the 'listen' function available on each of the webpages.

On 14 May 2015, the information on the Court's website regarding compulsory acquisition of land was updated to provide additional information and reflect recent case law.

The Land and Environment Court Clinic

The Land and Environment Court Clinic is a clinical placement program for law students run in conjunction with two universities, the University of New South Wales in the first half and Macquarie University in the second half of 2015.

The students are selected to participate in a practical program which involves work with the Registry and attendance with commissioners and judges at hearings onsite and in court. The students are engaged in administrative and research tasks as well as active participation in litigation and other dispute resolution procedures. The experience is an interactive learning experience and complements the Court's outreach activities.

Students engage with Registry and Court personnel to highlight the Court's support for access to justice in its practice and procedures. Practice and ethical matters may be considered by students through observation of the court process, interactions with the public at the Registry counter and detailed debriefing with Court personnel. The experiential learning is supported by a seminar series provided in part by Court staff.

Student reflections revealed that the experience was highly valued and rewarding. Comments include, "What an honour and incredible opportunity I had been given to attend this clinic". Another student said, "I found my experience at the LEC the most interesting because of the perspective I was able to gain from being an insider, a unique experience...". Finally, another student describes the LEC clinic as "An invaluable learning experience. Being able to engage with and observe the practical application of this area of law added a whole new dimension to the content I had learned in other classes concerning environmental and planning law... but it was the specialised execution of these legal processes by the state's most learned and experienced professionals in the field that I was able to observe making the lessons of a particularly high calibre".

The clinical program between the Court and the universities was dynamic and of multi-dimensional benefit for all participants.

Within the 2015 program, plans were made with Macquarie University to develop a pilot help service for self-represented litigants for 2016.

Maintenance of library services

Library Services has continued to support the work of the Land and Environment Court in a number of ways: providing hardcopy and electronic legal research materials, supplying an extended hours reference service, providing Caselaw NSW support and legal research training for court staff.

Implementing the International Framework for Court Excellence

In late 2008, the Court agreed to adopt and to implement the International Framework for Court Excellence. The Framework was developed by an International Consortium for Court Excellence including the Australasian Institute of Judicial Administration, Federal Judicial Center (USA), National Center for State Courts (USA) and Subordinate Courts of Singapore, assisted by the European Commission for the Efficiency of Justice and other organisations. The Framework provides a methodology for assessing a court's performance against seven areas of court excellence and guidance for courts intending to improve their performance. The Framework takes a holistic approach to court performance. It requires a whole-court approach to delivering court excellence rather than simply presenting a limited range of performance measures directed to limited aspects of court activity.

The seven areas of court excellence are:

1. Court leadership and management:

To provide organisational leadership that promotes a proactive and professional management culture, pursues innovation and is accountable and open.

2. Court planning and policies:

To formulate, implement and review plans and policies that focus on achieving the Court's purpose and improving the quality of its performance.

3. Court proceedings:

To ensure the Court's proceedings and dispute resolution services are fair, effective and efficient.

4. Public trust and confidence:

To maintain and reinforce public trust and confidence in the Court and the administration of justice.

5. User satisfaction:

To understand and take into account the needs and perceptions of its users relating to the Court's purpose.

6. Court resources:

To manage the Court's human, material and financial resources properly, effectively and with the aim of gaining the best value.

7. Affordable and accessible services:

To provide practical and affordable access to information, court processes and services.

In 2009 and 2011, the Court undertook the self-assessment process in accordance with the Framework. The process and results were summarised in the Court's 2009 and 2011 Annual Reviews. As the Framework envisages, the Court is using the results of the self-assessment processes in 2009 and 2011 to identify areas which appear to be in most need of attention and to focus on improvement in those areas.

In 2015, the Court continued implementation of actions to improve the Court's performance in each of the seven areas of court excellence. In addition to continuing the actions described in the 2013 and 2014 Annual Reviews, the Court has undertaken the following actions, grouped under the areas of court excellence:

1. Court leadership and management:

- continuing to demonstrate external orientation of the Court by communicating and consulting on the Court's vision, goals, programmes and outcomes, in particular with respect to the new jurisdiction of residential development appeals and revision of practice and procedure for compensation claims;
- continuing management training for managers in the registry;
- involving all court personnel in advancing the Court's purpose and strategies, including by regular meetings, regular provision of information and performance review;
- improving case registration and case management systems.

2. Court planning and policies

- changes to Court legislation to improve use of judicial human resources;
- amending Court rules to improve practice and procedure on costs of appeals;
- adopting new practice notes for subpoenas practices, urgent applications and section 56A appeals;
- adopting new policies on the Conference of Expert Witnesses and Joint Expert Reports;
- revising a planning principle.

3. Court proceedings:

- monitoring, measuring and managing the timeliness and efficiency of the resolution

of different types of proceedings, including continuous collection and regular review of case processing statistics;

- continuing monitoring and management of delays in reserved judgments.

4. Public trust and confidence and

5. User satisfaction:

- continuing publication on a quarterly basis of a court newsletter with the latest legislation, judicial decisions and changes in practice and procedure;
- continuing to report on the Court's performance in the Annual Review on the areas of court excellence;
- continually updating the Court's website to improve accessibility and usability and the information available, including expanding the webpages in the special areas of jurisdiction and updating relevant case law and facts.

6. Court resources:

- maintaining the Court's human resources, by appointment of an acting judge and acting senior commissioner;
- continuing and extending the professional development programme for judges and commissioners, as explained in Chapter 6;
- undertaking training and education of judges' tipstaves and researchers, and registry staff in the different types of matters and their resolution, and in the Framework.

7. Affordable and accessible services:

- regular monitoring and review of case processing statistics, case management and court practice and procedure with a view to reducing private and public costs of litigation.

Monitoring access to and use of the Court's decisions

The Court, as part of its implementation of the International Framework for Court Excellence, commissioned a project with the Australasian Legal Information Institute (AustLII) to use AustLII's databases to generate relevant metrics and statistics concerning the Court. These provide information concerning the frequency and nature of the citation of decisions of the Court by other courts or tribunals and the use made of the Court's decisions by academic journals that are publicly electronically accessible. The project also enables extraction of information about what are the most frequently cited decisions of the Court as well as about the general rate of accessing the Court's cases through AustLII's databases. The information that is contained in the citations by database section is collected on an accrual basis using 2010 as the base year.

The data is available on a calendar year basis and links for the data for the years ending 31 December for each of 2010, 2011, 2012, 2013, 2014 and 2015 are available on the Court's website at Publications and Resources then Database metrics and statistics.

From the six years of data available from the project, it can be seen that there remains a continuing widespread citation of decisions of this Court in other jurisdictions. For example, in the base year (2010) this Court's decisions had been cited 94 times in decisions of courts and tribunals in Western Australia (including 11 times in the Western Australian Court of Appeal). By the end of 2015, decisions of this Court had been cited 133 times, being a further 39 times by courts and tribunals in Western Australia. Similar positions apply to other Australian

jurisdictions as can be seen by a comparison between the December 2015 metrics and those of December 2010.

Although the data able to be accessed internationally by AustLII for the purposes of preparing the metrics is comparatively limited, decisions of this Court were cited 3,642 times in Australia and were also cited four times by New Zealand courts and once by South African courts.

The full range of courts and tribunals (57 in total) that have cited cases from this Court's AustLII database can be seen by accessing the December 2015 metrics on the Court's website at http://www.leg.justice.nsw.gov.au/Pages/publications/database_metrics_and_statistics.aspx

Sentencing database for environmental offences

The Court, in conjunction with the Judicial Commission of New South Wales, established in 2008 the world's first sentencing database for environmental offences, as part of the Judicial Information Research System (JIRS). Sentencing statistics for environmental offences display sentencing graphs and a range of objective and subjective features relevant to environmental offences. The user is able to access directly the remarks on sentencing behind each graph.

In 2015, the Court continued to provide statistics on sentences imposed by the Court in the year for environmental offences and for contempt proceedings. The statistics were loaded promptly onto JIRS. To ensure accuracy, the sentence statistics were audited on a quarterly basis by the Judicial Commission. The audits revealed satisfactory results.

5 Court Performance

- Overall caseload
- Court performance by class of jurisdiction
- Measuring Court performance
- Output indicators of access to justice
 - Affordability
 - Accessibility
 - Responsiveness to the needs of users
- Output indicators of effectiveness and efficiency
 - Backlog indicator
 - Time standards for finalisation of cases
 - Time standards for delivery of reserved judgments
 - Inquiries about delays in reserved judgments
 - Clearance rate
 - Attendance indicator
- Appeals
- Complaints
 - Complaints received and finalised
 - Patterns in complaints

Overall caseload

The comparative caseload statistics between 2011 and 2015 are summarised in Table 5.1.

Table 5.1 Caseload Statistics

	2011	2012	2013	2014	2015
Class 1					
Registrations	631	625	521	692	794
Restored	28	11	22	10	15
Pre-Trial Disposals	410	524	386	468	585
Disposed by Hearing	202	196	135	124	158
Pending	270	188	211	320	384
Class 2					
Registrations	159	135	114	103	143
Restored	11	10	7	7	13
Pre-Trial Disposals	50	47	40	41	62
Disposed by Hearing	137	105	86	77	84
Pending	47	42	37	29	40
Class 3					
Registrations	215	325	202	87	108
Restored	6	11	7	21	8
Pre-Trial Disposals	136	184	171	267	68
Disposed by Hearing	35	34	39	55	32
Pending	170	288	284	71	90
Class 4					
Registrations	145	123	102	133	124
Restored	17	34	27	13	15
Pre-Trial Disposals	77	86	75	91	99
Disposed by Hearing	67	97	52	44	48
Pending	103	81	86	96	90
Class 5					
Registrations	100	57	74	74	47
Restored	3	16	3	2	2
Pre-Trial Disposals	12	63	11	7	9
Disposed by Hearing	25	61	48	42	70
Pending	123	72	90	118	89

Class 6					
Registrations	8	10	9	6	11
Restored	0	0	0	0	3
Pre-Trial Disposals	3	2	3	0	0
Disposed by Hearing	4	7	5	4	17
Pending	4	5	6	8	5
Class 8					
Registrations	5	7	2	9	10
Restored	2	2	2	1	2
Pre-Trial Disposals	1	0	1	0	0
Disposed by Hearing	8	3	7	7	10
Pending	2	6	4	7	9
TOTAL					
Registrations	1,263	1,282	1,024	1,104	1,237
Restored	67	84	68	54	58
Pre-Trial Disposals	689	906	687	874	823
Disposed by Hearing	478	503	372	353	419
Pending	722	684	717	649	705

Table 5.1 shows the following trends between 2011 and 2015:

- Total registrations and restorations (1,295) have increased since 2014, mainly due to the significant increase in Class 1 registrations.
- Total finalisations (1,242) increased from the low in 2013 to be comparable to finalisations in 2014.
- Total finalisations (1,242) were lower than total registrations (1,295) in 2015, resulting in the total pending caseload (705) increasing in 2015.
- Merits review and other civil proceedings finalised in Classes 1, 2 and 3 (989) comprised 80% of the Court's finalised caseload (1,242) in 2015.
- Civil and criminal proceedings finalised in Classes 4, 5, 6, 7 and 8 (253) comprised 20% of the Court's finalised caseload (1,242) in 2015.
- The means of finalisation in 2015 were 66% pre-trial disposals (including by use of alternative dispute resolution processes and negotiated settlement) and 34% by adjudication by the Court. This is a decrease from 2014 but the percentage of matters finalised pre-trial is similar to the figures for 2012 and 2013, as Table 5.2 shows.

Table 5.2 Means of Finalisation – All Matters

	2011	2012	2013	2014	2015
Total matters finalised – all classes	1,167	1,409	1,059	1,227	1242
Total pre-trial finalisations	689	906	687	874	823
% matters finalised pre-trial	59	64	65	71	66

The means of finalisation for proceedings in Class 1, 2 and 3 included s 34 and s 34AA conciliation conferences and on-site hearings (mainly for Class 1 and 2 proceedings). As Table 5.3 shows, 45% of

appeals in Classes 1, 2 and 3 were finalised by these means. Of the total of 444 matters, 365 were finalised by s 34 and s 34AA conciliation conferences and 79 matters by on-site hearings.

Table 5.3 Means of Finalisation – Classes 1, 2 & 3

	2011	2012	2013	2014	2015
Total matters finalised	1,050	1,090	857	1,032	989
s 34 and s 34AA conferences and on-site hearings	331	399	345	363	444
% s 34 and s 34AA and other matters finalised on-site	31.5	36.6	40.3	35.1	44.9

Court performance by class of jurisdiction

A brief summary of the Court’s performance in 2015 for each of the eight classes of jurisdiction is provided.

Class 1

Registrations and restorations of Class 1 matters in 2015 increased by 15%, finalisations increased by 26%, and the pending caseload increased by 20% from 2014. Class 1 registrations and restorations represent 62% of all filings in the Court in 2015.

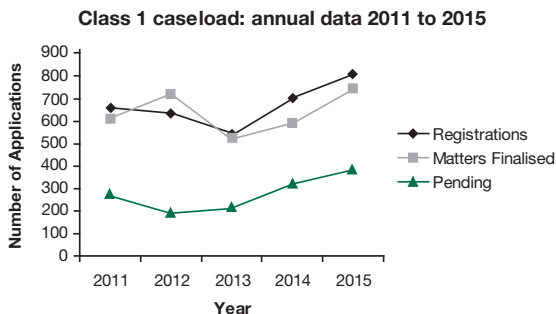
Class 1 matters constitute the bulk of the Court’s finalised caseload (60%). 64% of all Class 1 matters finalised were appeals under s 97 of the *Environmental Planning and Assessment Act 1979* relating to

development applications. 60% of the appeals under s 97 were applications where councils had not determined the development application within the statutory time period (“deemed refusals”).

Of the remaining matters finalised in 2015, 19% were applications to modify a development consent under s 96 of the *Environmental Planning and Assessment Act 1979* and 8% were appeals against council orders and the actual or deemed refusal by councils to issue building certificates. Applications for costs, appeals under s 56A of the Court Act against a Commissioner’s decision, and prevention/remediation notices constituted the remaining matters in Class 1.

Figure 5.1 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 1 between 2011 to 2015.

Figure 5.1

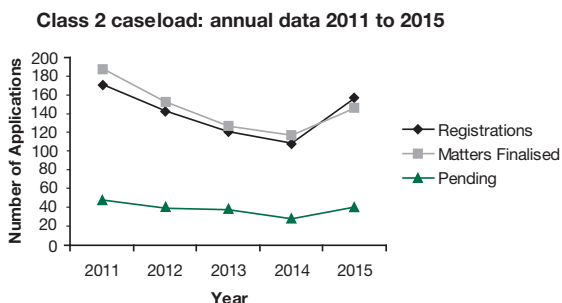


Class 2

Class 2 registrations and restorations in 2015 increased by 42% from 2014 and represented 12% of total registrations in the Court in 2015. The number of Class 2 matters finalised in 2015 represented 12% of the Court’s finalised caseload (up from 10% in 2014). These are overwhelmingly applications under the *Trees (Disputes Between Neighbours) Act 2006*.

Figure 5.2 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 2 between 2011 to 2015.

Figure 5.2



Class 3

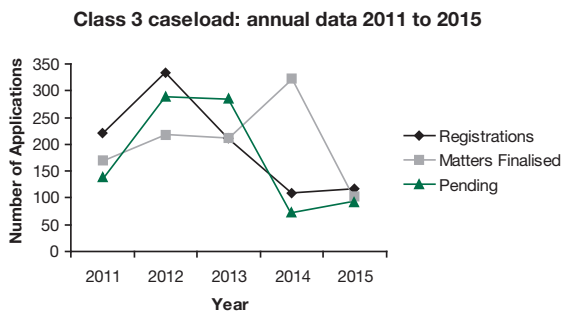
Class 3 of the Court’s jurisdiction encompasses a range of proceedings including claims for compensation as a result of the compulsory acquisition of land, valuation and rating appeals and some Aboriginal land rights matters.

Registrations and restorations in Class 3 increased by 7% in 2015. Valuation and rating appeals constituted 28% and compensation claims for compulsory acquisition of land constituted 51% of all Class 3 appeals registered in 2015.

Of the matters finalised in 2015, 51% were valuation or rating appeals, 26% were compensation claims and 23% were other matters. There was a 69% decrease in completions from 2014, and the pending caseload increased by 27% from 2014.

Figure 5.3 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 3 between 2011 and 2015.

Figure 5.3

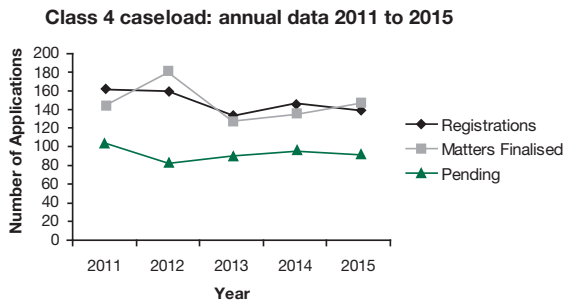


Class 4

Class 4 registrations and restorations decreased by 5% and finalisations increased by 9% in 2015 resulting in the pending caseload decreasing by 6%. Class 4 matters finalised in 2015 constituted 12% of the Court's finalised caseload. Of the Class 4 matters finalised in 2015, 54% were initiated by councils.

Figure 5.4 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 4 between 2011 and 2015.

Figure 5.4



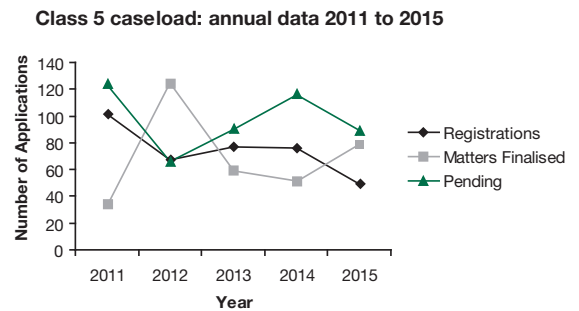
Class 5

Class 5 registrations and restorations decreased by 36% in 2015. The Environment Protection Authority/Office of Environment and Heritage initiated 49% of all new registrations. The number of matters initiated by local councils decreased to 13%, down from 51% in 2014.

61% more matters were finalised in 2015. Of the 70 matters finalised by hearings in 2015, convictions were recorded in 47, one was withdrawn and 28 were dismissed. Fines for convictions and remediation orders ranged from \$500 for supplying false/misleading information to the EPA to \$600,000 for pollution of water. No community service orders were issued in 2015.

Figure 5.5 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 5 between 2011 to 2015.

Figure 5.5



Classes 6 and 7

Eleven new Class 6 appeals were filed in 2015, 9 of which were finalised. There were no Class 7 appeals before the Court in 2015.

Class 8

Ten mining matters were filed in 2015, three of which were finalised. Seven pending matters were completed. The pending caseload increased by two matters.

Measuring Court performance

The Court has a statutory duty to facilitate the just, quick and cheap resolution of the real issues in civil proceedings in the Court. The Court's practice and procedure is designed to achieve this overriding purpose. In order to determine whether this purpose is being fulfilled, the Court needs to monitor and measure performance.

The objectives of court administration are equity, effectiveness and efficiency. Various performance indicators can be used to evaluate the Court's achievement of these objectives of court administration.

The objectives of equity and effectiveness involve ensuring access to justice. Access to justice can be evaluated by reference to various criteria, both quantitative and qualitative. These include affordability, accessibility, responsiveness to the needs of users, and timeliness and delay measured by a backlog indicator and compliance with time standards. The objective of efficiency can be evaluated by output indicators including an attendance indicator and a clearance rate indicator.

Output indicators of access to justice

Affordability

Access to justice is facilitated by ensuring affordability of litigation in the Court. One indicator of affordability is the fees paid by applicants. Lower court fees help keep courts accessible to those with less financial means. However, ensuring a high standard of court administration service quality (so as to achieve the objective of effectiveness) requires financial resources. These days, a primary source of revenue to fund court

administration is court fees. The Land and Environment Court is no exception. It was necessary in 2015 to increase court fees by 2.5% to be able to balance the Court's budget and ensure a high standard of court administration service quality (effective 1 August 2015). Notwithstanding the increase, the increased court fees still meet criteria of equity.

First, the court fees differentiate having regard to the nature of applicants and their inherent likely ability to pay. Individuals are likely to have less financial resources than corporations and hence the court fees for individuals are about half of those for corporations.

Secondly, the court fees vary depending on the nature of the proceedings. For example, the court fees for proceedings concerning a dispute over trees under the *Trees (Disputes Between Neighbours) Act 2006* have been set low, equivalent to Local Court fees, reflecting the fact that these proceedings are likely to be between individual neighbours.

Thirdly, in development appeals in Class 1, the quantum of court fees increases in step with increases in the value of the development (and the likely profit to the developer). Similarly, in compensation claims in Class 3, the court fees increased in step with the increases in the amount of compensation claimed.

Fourthly, the increased court fees bring about parity with the court fees for equivalent proceedings in other courts. The court fees for tree disputes are equivalent to Local Court fees reflecting the fact that the nature of the dispute is one that the Local Court might entertain. Similarly, proceedings in Class 4 for civil enforcement and judicial review are of the nature of proceedings in,

and indeed before the establishment of the Land and Environment Court were conducted in, the Supreme Court. The court fees for these proceedings are comparable to those charged by the Supreme Court.

Finally, the Registrar retains a discretion to waive or vary the court fees in cases of hardship or in the interests of justice.

It is also important to note that court fees are only part of the costs faced by litigants. Legal fees and experts' fees are far more significant costs of litigation and are the principal indicator of affordability of access to the Court. The Court continues to improve its practice and procedure with the intention of reducing these significant costs and hence improve the affordability of litigation in the Court.

Accessibility

The Court has adopted a number of measures to ensure accessibility including geographical accessibility, access for people with disabilities, access to help and information, access for unrepresented litigants, access to alternative dispute resolution mechanisms and facilitating public participation.

Geographical accessibility

Geographical accessibility concerns ensuring parties and their representatives and witnesses are able to access the Court in geographical terms. New South Wales is a large state. The Land and Environment Court is located in Sydney which is a considerable distance from much of the population. To overcome geographical accessibility problems, the Court has adopted a number of measures, including conducting directions hearings and other attendances before the final

hearing by means of telephone or eCourt; enabling communication between the Court and parties and their legal representatives by email and facsimile; conducting final hearings on the site of the dispute; and sitting in country courthouses proximate to the parties.

The Court identifies and especially case manages country matters. A matter is a country matter if it is outside the area bordered by the local government areas of Wollongong, Blue Mountains and Gosford. In 2015, 21% of matters finalised were country matters.

First, for attendances before final hearings, the Court has established the facility of a telephone directions hearing. This type of directions hearing takes place in a court equipped with conference call equipment where the parties or their representatives can participate in the court attendance whilst remaining in their distant geographical location. Most telephone directions hearings held by the Court involve parties and their legal representatives in country matters.

Secondly, the Court pioneered the use of eCourt directions hearings. This involves the parties or their representatives posting electronic requests to the Registrar using the internet and the Registrar responding. This also mitigates the tyranny of distance. Again, eCourt directions hearings are used extensively in country matters. Parties appeared by eCourt directions hearing in 60% of Class 1 country matters and 65% of Class 3 country matters in 2015.

Table 5.4 shows the percentage of pre-hearing attendances conducted by eCourt directions hearings and telephone directions hearings in Classes 1-4 in 2015.

Table 5.4 eCourt and Telephone Directions Hearings

Class	No of cases	Total pre-hearing attendances	% eCourt directions hearings	% Telephone directions hearings
1	732	3,673	21	4
2	146	312	10	22
3	97	733	17	1
4	142	935	15	0.7
All	1,117	5,653	19	4

Thirdly, proceedings in Classes 1, 2 and 3 are commonly referred to conciliation under s 34 of the Court Act. Conciliation conferences are frequently held on the site of the dispute. 61% of Class 1 country matters and 42% of Class 3 country matters had a s 34 conciliation conference.

Fourthly, conduct of the whole or part of a hearing on the site of the dispute also means that the Court comes to the litigants. An official on-site hearing involves conducting the whole hearing on-site. This type of hearing is required where there has been a direction that an appeal under ss 96, 96AA, 97, 121ZK or 149F of the *Environmental Planning and Assessment Act 1979* or s 7 of the *Trees (Disputes Between Neighbours) Act 2006* be conducted as an on-site hearing. The hearing is conducted as a conference presided over by a Commissioner on the site

of the development. In 2015, 9% of matters (in Classes 1 and 2) were conducted as an on-site hearing, of which 28% were country matters.

However, even for other hearings which may be conducted as a court hearing, it is the Court's standard practice that the hearing commence at 9.30am on-site. This enables not only a view of the site and surrounds but also the taking of evidence from residents and other persons on the site. This facilitates participation in the proceedings by witnesses and avoids the necessity for their attendance in the Court in Sydney. Nearly all country matters in Classes 1, 2 and 3 that were conducted as a court hearing still had an on-site view in the country.

Fifthly, the Court regularly holds court hearings in country locations. Table 5.5 shows hearings held in a country courthouse for 2015.

Table 5.5 Country hearings in courthouses**Number of Hearings**

Courthouse	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6	Class 8
Ballina	1						
Bathurst	1						
Belmont	1						
Camden	1						
Coffs Harbour	1						
Cowra	1						
Gosford	1						
Lightning Ridge							2
Moama	1						
Murwillumbah	1						
Newcastle	1						
Tamworth	1						
Wagga Wagga	1						
TOTAL	12						2

Access for persons with disabilities

The Court has a disability strategic plan that aims to ensure that all members of the community have equal access to the Court's services and programmes. The Court is able to make special arrangements for witnesses with special needs. The Court can be accessed by persons with a disability. The Land and Environment Court website contains a special page, under the tab 'Facilities & Support', outlining the disability services provided by the Court.

Access to help and information

The Court facilitates access to help and provides information to parties about the Court and its organisation, resources and services, the Court's practices and procedures, its forms and fees, court lists

and judgments, publications, speeches and media releases, and self-help information, amongst other information. Primarily it does this by its website. However, the Court also has guides and other information available at the counter. Registry staff assist parties and practitioners, answer questions and provide information. Registry staff cannot provide legal advice.

The Local Courts throughout New South Wales also have information on the Land and Environment Court and documents are able to be filed in those Courts, which are passed on to the Land and Environment Court.

The provision of such help and information facilitates access to justice and allows the people who use the judicial system to understand it.

Access for unrepresented litigants

The Court also makes special efforts to assist unrepresented litigants, through its website and its published information and fact sheets, and by the Registry staff. The Court has a special guide, under the tab 'Publications & Resources', for Litigants in Person in the Land and Environment Court of New South Wales. The guide contains information on:

- The Court's jurisdiction;
- Legal advice and assistance – a referral guide;
- The Court's schedule of fees;
- Application form to postpone, waive or remit Court fees;
- The availability of interpreters;
- Disability access information;
- User feedback on Land and Environment Court services;
- Information about the Court's website; and
- Contact information for the Court.

The Court's website also has on its home page special pages on: 'Your legal problem is about', 'Types of cases', 'Resolving Disputes', 'Coming to the court', 'Practice & Procedure', 'Forms & Fees', 'Land and Environment Court Decisions', amongst others.

Access to Alternative Dispute Resolution

The Court has been a pioneer in providing alternative dispute resolution services. The availability of alternative dispute resolution mechanisms allows the tailoring of mechanisms to the needs of disputants and the nature of the evidence.

When the Land and Environment Court was established in 1980 there was the facility for conciliation conferences under s 34 of the Court Act. These were curtailed in 2002 when on-site hearings were provided for but in 2006 the facility of conciliation conferences was extended to all matters in Classes 1, 2 and 3. Since then there has been a significant increase in utilisation of conciliation conferences (see Table 3.1).

The Court provides mediation services. In 2015, all of the full-time Commissioners and a number of the Acting Commissioners of the Court were qualified for national accreditation as a mediator and could provide in-house mediation for parties. In addition, the Court encourages and will make appropriate arrangements for mediation by external mediators. Informal mechanisms such as case management conferences also encourage negotiation and settlement of matters.

The Court's website, under the tab on the home page of 'Resolving disputes', contains information explaining the alternative dispute resolution mechanisms and providing links to other sites explaining ADR methods including mediation.

Facilitating public participation

Access to justice can also be facilitated by the Court ensuring that its practice and procedure promote and do not impede access by all. This involves careful identification and removal of barriers to participation, including by the public. Procedural law dealing with standing to sue, interlocutory injunctions (particularly undertaking for damages), security for costs, laches and costs of proceedings, to give some examples, can either impede or facilitate public access to justice.

The Court's decisions in these matters have generally been to facilitate public access to the courts. The Land and Environment Court Rules 2007 (Part 4 rule 4.2) also allow the Court not to require an undertaking as to damages or order security for costs or order costs against an unsuccessful party if satisfied that proceedings have been brought in the public interest.

Responsiveness to the needs of users

Access to justice can also be facilitated by the Court taking a more user-orientated approach. The justice system should be more responsive to the needs and expectations of people who come into contact with the system. The principle of user orientation implies that special steps should be taken to ensure that the Court takes specific measures both to assist people to understand the way the institution works and to improve the facilities and services available to members of the public. These steps require sensitivity to the needs of particular groups.

The measures adopted by the Court for ensuring accessibility (discussed above) also make the Court more responsive to the needs and expectations of people who come into contact with the Court. The Court also consults with court users and the community to assist the Court to be responsive to the needs of users.

The Court has a Court Users Group to maintain communication with, and feedback from, Court users as to the practice and procedure and the administration of the Court. Information on, and membership of, the Court Users Group is in Appendix 1. In 2009, the Court established a specialised Mining Court Users Group. Court Users Groups assist the Court to be responsive to the needs of those who use it.

The Chief Judge has held informal gatherings with practitioners and experts who use the Court and delivered numerous speeches where the Court's practices and procedures have been discussed.

In 2015, the Judges, Commissioners and the Registrar participated in numerous conferences and seminars to enhance awareness of recent developments in the Court relating to both procedural and substantive law.

Output indicators of effectiveness and efficiency

The effectiveness and efficiency of the Court is able to be measured by reference to the output indicators of backlog indicator, time standards for finalisation of cases, time standards for delivery of judgments, clearance rate and attendance indicator.

Backlog indicator

The backlog indicator is an output indicator of case processing timeliness. It is derived by comparing the age (in elapsed time from lodgment) of the Court's caseload against time standards. The Court adopted its own standards for the different classes of its jurisdiction in 1996. These are:

- Classes 1, 2 and 3: 95% of applications should be disposed of within 6 months of filing.
- Classes 4, 5, 6, 7 and 8: 95% of applications should be disposed of within 8 months of filing.

These standards are far stricter than the national standards used by the Productivity Commission in its annual *Report on Government Services*.

The national standards are:

- No more than 10% of lodgments pending completion are to be more than 12 months old (ie. 90% disposed of within 12 months).
- No lodgments pending completion are to be more than 24 months old (i.e. 100% disposed of within 24 months).

Performance relative to the timeliness standards indicates effective management of caseloads and court accessibility.

Time taken to process cases is not necessarily due to court administration delay. Some delays are caused by factors other than those related to the workload of the Court. These include delay by parties, unavailability of a witness, other litigation taking precedence, and appeals against interim rulings.

The results of the backlog indicator measured against the Land and Environment Court time standards for 2015 are set out in Table 5.6.

Table 5.6 Backlog Indicator (LEC time standards)

	Unit	LEC Standards	2011	2012	2013	2014	2015
Class 1							
Pending caseload	no.		270	188	210	320	384
Cases > 6 months	%	5	19.3	14.4	14.8	14.1	17.1
Cases > 12 months	%	0	2.6	3.2	5.2	4.1	5.7
Class 2							
Pending caseload	no.		47	42	37	29	40
Cases > 6 months	%	5	0	0	0	3.4	0
Cases > 12 months	%	0	0	0	0	0	0
Class 3							
Pending caseload	no.		170	288	284	71	90
Cases > 6 months	%	5	44.1	63.2	79.9	46.5	27.8
Cases > 12 months	%	0	21.8	11.8	62.0	26.8	13.3
Class 4							
Pending caseload	no.		103	81	86	96	90
Cases > 8 months	%	5	30.1	40.7	38.4	39.6	30.0
Cases > 16 months	%	0	15.5	18.5	23.3	17.7	16.7

Class 5

Pending caseload	no.		123	72	90	118	89
Cases > 8 months	%	5	28.4	50.0	58.9	56.8	69.7
Cases > 16 months	%	0	25.2	20.8	31.1	33.1	30.3

Class 6

Pending caseload	no.		4	5	6	8	5
Cases > 8 months	%	5	50.0	40.0	16.7	50.0	20.0
Cases > 16 months	%	0	0	40.0	0	37.5	0

Class 8

Pending caseload	no.		1	6	4	7	9
Cases > 8 months	%	5	50.0	33.3	50.0	28.6	11.1
Cases > 16 months	%	0	0	0	0	14.3	0

Class 1- 3

Pending caseload	no.		487	518	531	420	514
Cases > 6 months	%	5	26.5	40.5	48.6	18.8	17.7
Cases > 12 months	%	0	9.0	7.7	35.2	7.6	6.6

Class 4 – 8

Pending caseload	no.		233	166	186	229	193
Cases > 8 months	%	5	29.6	44.0	47.8	48.5	47.2
Cases > 16 months	%	0	20.2	19.8	25.8	26.2	21.8

These backlog figures need some explanation:

- Class 1: The backlog figures for pending caseloads greater than 6 months and also greater than 12 months increased in 2015 compared to 2014. The total pending caseload in Class 1 increased during 2015 as a result of registrations exceeding finalisations. The timeliness of case processing of Class 1 matters therefore decreased in 2015 compared to 2014.
- Class 2: There were no cases pending in Class 2 for more than 6 months or for more than 12 months. This is a continuing highly commendable result. The pending caseload increased slightly.

- Class 3: The backlog figures in 2015 for pending caseload greater than 6 months decreased substantially to 27.8% and for cases greater than 12 months also decreased substantially to 13.3%, the best results in the last five years. Total pending caseload increased slightly. Hence, the timeliness of case processing of Class 3 matters improved substantially in 2015.
- Class 4: There were slight decreases in the backlog figure for pending caseload exceeding 8 months and for pending caseload greater than 16 months to the lowest figures in the last four years. The total pending caseload in Class 4 decreased marginally.

- Class 5: The backlog figures for pending caseload exceeding the 8 month standard increased and the backlog figures for pending caseload greater than 16 months decreased slightly. The total pending caseload in Class 5 decreased as a result of finalisations exceeding registrations.
- Class 6: There were only a small number of appeals in Class 6. There was a significant percentage decrease in appeals greater than 8 months and no appeal cases greater than 16 months.

- Class 8: There was an increase in pending caseload by two cases, both of which were pending greater than 8 months and no case was pending for greater than 16 months.

If the national time standards are used, the results of the backlog indicator for the Court in 2015 are as shown in the table below:

Table 5.7 Backlog indicator (national time standards)

	Unit	National Standards	2011	2012	2013	2014	2015
Class 1							
Pending caseload	no.		270	188	210	320	384
Cases > 12 months	%	10	2.6	3.2	5.2	4.1	5.7
Cases > 24 months	%	0	0.4	0.5	1.4	0.6	0.8
Class 2							
Pending caseload	no.		47	42	37	29	40
Cases > 12 months	%	10	0	0	0	0	0
Cases > 24 months	%	0	0	0	0	0	0
Class 3							
Pending caseload	no.		170	288	284	71	90
Cases > 12 months	%	10	21.8	11.8	62.0	26.8	13.3
Cases > 24 months	%	0	2.4	4.5	6.2	8.5	7.8
Class 4							
Pending caseload	no.		103	81	86	96	90
Cases > 12 months	%	10	20.4	28.4	31.4	26.0	22.2
Cases > 24 months	%	0	8.7	7.4	11.6	13.5	8.9

Class 5

Pending caseload	no.		123	72	90	118	89
Cases > 12 months	%	10	28.5	34.7	44.4	50.0	58.4
Cases > 24 months	%	0	20.3	18.1	25.6	22.9	21.3

Class 6

Pending caseload	no.		4	5	6	8	5
Cases > 12 months	%	10	0	40.0	16.7	50.0	20.0
Cases > 24 months	%	0	0	0	0	12.5	0

Class 8

Pending caseload	no.		4	2	6	4	9
Cases > 12 months	%	10	0	0	16.7	50.0	0
Cases > 24 months	%	0	0	0	0	0	0

This table shows that the Court's performance in Classes 1, 2 and 8 better or meets the national standard for 12 months and 24 months. The Court's performance in Class 3 has significantly improved in 2015 compared to 2013 and 2014 for the standard for 12 months and slightly improved for the standard for 24 months compared to 2014. The Court's performance in Class 4 is worse than the national standard although it has improved compared to 2014. The Court's performance in Class 5 has decreased for the standard for 12 months to be the worst level in the last five years, but has improved marginally for the standard for 24 months compared to 2013 and 2014. The Court's performance in Classes 6 and 7 is above the national standard for 12 months but not for 24 months. However, there is only a small number of cases involved in these Classes.

The reasons for the Court's performance are given in the explanation of the backlog indicator (LEC time standards).

Time standards for finalisation of cases

The backlog indicator is a measure of the timeliness of the pending caseload. The Court also measures the timeliness of completed cases by comparing the time taken for finalisation of cases in each class to the Court's time standards. The higher the percentage of cases completed by each time standard and the shorter the time period to complete 95% of the cases, the better the Court's performance. Table 5.8 sets out the Court's performance in finalising cases in each class in compliance with the Court's time standards for the period 2011-2015.

Table 5.8 Finalisation of cases – compliance with time standards by Class

	2011	2012	2013	2014	2015
Class 1					
No. of cases	612	720	521	592	743
% < 6 months	77	78	80	78	70
% < 12 months	96	97	97	96	96
95% completed within (months)	11	11	9	10	11
Class 2					
No. of cases	187	152	126	118	146
% < 6 months	94	93	98	97	94
% < 12 months	99	98	100	100	100
95% completed within (months)	6	6	5	5	6
Class 3					
No. of cases	171	218	211	322	100
% < 6 months	53	44	59	25	45
% < 12 months	74	79	81	38	70
95% completed within (months)	21	20	21	28	28
Class 4					
No. of cases	183	127	135	135	147
% < 8 months	73	73	73	66	64
% < 16 months	90	91	91	87	88
95% completed within (months)	20	22	25	27	28
Class 5					
No. of cases	37	124	59	49	79
% < 8 months	47	19	61	45	24
% < 16 months	79	82	90	71	38
95% completed within (months)	29	28	18	34	67
Class 6					
No. of cases	7	9	8	4	17
% < 8 months	100	100	63	100	76
% < 16 months	100	100	80	100	76
95% completed within (months)	11	6	30	8	27
Class 8					
No. of cases	9	3	8	7	10
% < 8 months	89	100	75	71	40
% < 16 months	100	100	88	71	80
95% completed within (months)	9	17	19	22	20

The table shows that in 2015, the Court improved its performance by reducing the time taken to finalise cases in Class 3 compared to 2014, but not compared to 2011-2013. In Class 1, there was a reduction in the percentage of cases completed within 6 months but a maintenance of the very high percentage of cases completed within 12 months. There was a marginal increase of one month in the time taken to finalise 95% of cases. In Class 2, there was a marginal decrease in the percentage of cases completed in two months, maintenance of the 100% completion within 12 months and an increase by one month in the time taken to complete 95% of cases. In Class 4, the percentage of cases finalised in less than 6 months and less than 12 months changed marginally from 2014 and the time taken to complete 95% of the matters increased by one month. In Class 5, the percentage of cases finalised in less than 6 months and less than 12 months decreased significantly and the time taken to complete 95% of cases increased significantly for the second year in a row. This is the poorest performance in the last five years in this Class. The Court's performance in complying with time standards for Class 6 matters also decreased, although very few cases were involved. The number of matters in Class 8 is small, so delay in one or two matters disproportionately affects the percentages.

Time standards for delivery of reserved judgments

The Court may dispose of proceedings by judgment delivered at the conclusion of

the hearing (ex tempore judgment) or at a later date when judgment is reserved by the Court (reserved judgment). A substantial number of judgments (34%) are delivered ex tempore, thereby minimising delay. To minimise delay for reserved judgments the Court has adopted time standards.

The Court's time standard for delivery of reserved judgments is determined from the date of the last day of hearing to the delivery date of the judgment. The current time standards for reserved judgments are as follows:

- 50% of reserved judgments in all classes are to be delivered within 14 days of hearing.
- 75% are to be delivered within 30 days of hearing.
- 100% are to be delivered within 90 days of hearing.

These are strict standards compared to other courts.

As Table 5.9 shows, the Court's performance in 2015 for reserved judgments being delivered within 14 days met the standard but declined for reserved judgments delivered within 30 days. For the 90 days standard, the Court's performance declined slightly compared to the previous four years and was less than the standard. The Court's performance in meeting judgment timeliness standards is an average of the performance of all individual decision-makers, both commissioners and judges, in matters in all classes of the Court's jurisdiction.

Table 5.9 Reserved judgments compliance with time standards

	Standard	2011	2012	2013	2014	2015
% delivered within 14 days	50	41	50	57	51	45
% delivered within 30 days	75	62	66	73	67	62
% delivered within 90 days	100	83	86	87	85	83

Inquiries about delays in reserved judgments

A delay in delivering a reserved judgment impedes achievement of the goal of the just, quick and cheap resolution of proceedings. One of the Court's time standards for the delivery of reserved judgments is that 100% of reserved judgments should be delivered within 90 days of the judgment being reserved, usually at the completion of the hearing.

The Court has adopted a policy on Delays in Reserved Judgments that allows a party or legal representative who is concerned that a reserved judgment has been outstanding for a period in excess of the Court's standard of 3 months, to make a written inquiry to the Chief Judge. The policy provides that

the Chief Judge will discuss each inquiry with the judicial officer involved, but without revealing the inquirer's identity to the judicial officer, to ascertain the expected timing for delivery of the reserved judgment. The Chief Judge responds to the inquirer with the expected timing provided by the judicial officer. The inquirer may make a further inquiry if the judgment is not delivered within the notified expected timing.

Table 5.10 provides information on the total number of inquiries received under the Delays in Reserved Judgments Policy and the type of case (the classes of the Court's jurisdiction) which the inquiry concerned. In a number of instances, successive inquiries have been made with respect to the same reserved judgment. Each successive inquiry is recorded as a new inquiry.

Table 5.10 Inquiries about delays in reserved judgments

	2011	2012	2013	2014	2015
Class 1	20	10	9	2	6
Class 2	1	1	0	1	0
Class 3	2	5	7	5	5
Class 4	28	12	11	10	7
Class 5	13	2	3	3	9
Classes 6 and 7	0	0	2	0	2
Class 8	1	0	0	0	2
Total	65^{*1}	30^{*2}	32^{*3}	21^{*4}	31^{*5}

*1 In 2011, 80% of inquiries (52) concerned judges' reserved judgments and 20% (13) concerned commissioners' reserved judgments.

*2 In 2012, 73% of inquiries (22) concerned judges' reserved judgments and 27% (8) concerned commissioners' reserved judgments.

*3 In 2013, 97% of inquiries (31) concerned judges' reserved judgments and 3% (1) concerned commissioners' reserved judgments.

*4 In 2014, 95% of inquiries (20) concerned judges' reserved judgments and 5% (1) concerned commissioners' reserved judgments.

*5 In 2015, 84% of inquiries (26) concerned judges' reserved judgments and 16% (5) concerned commissioners' reserved judgments.

The Chief Judge investigated each inquiry made in 2015 in accordance with the policy and responded in writing to the inquirer in a timely manner.

Clearance rate

The clearance rate is an output indicator of efficiency. It shows whether the volume of finalisations matches the volume of lodgments in the same reporting period. It indicates whether the Court's pending caseload has increased or decreased over that period. The clearance rate is derived by dividing the number of finalisations in the reporting period by the number of lodgments in the same period. The result is multiplied by 100 to convert it to a percentage.

A figure of 100% indicates that during the reporting period the Court finalised as many cases as were lodged and the pending caseload is the same as what it was

12 months earlier. A figure of greater than 100% indicates that, during the reporting period, the Court finalised more cases than were lodged, and the pending caseload has decreased. A figure less than 100% indicates that during the reporting period, the Court finalised fewer cases than were lodged, and the pending caseload has increased. The clearance rate should be interpreted alongside finalisation data and the backlog indicator. Clearance over time should also be considered.

The clearance rate can be affected by external factors (such as those causing changes in lodgment rates) as well as by changes in the Court's case management practices.

The results of the clearance rate for the Court in each of its classes are shown in Table 5.11.

Table 5.11 Clearance rate

	2011	2012	2013	2014	2015
	%	%	%	%	%
Class 1	92.9	113.2	95.9	84.3	91.8
Class 2	110.0	104.8	104.1	107.2	93.6
Class 3	77.4	64.9	100.5	298.1	86.2
Class 4	88.9	116.6	98.4	92.5	105.8
Class 5	35.2	169.9	76.6	64.5	161.2
Class 6	87.5	90.0	88.9	66.7	121.4
Class 8	128.6	33.3	200.0	70.0	83.3
Classes 1-3	92.4	97.6	98.2	112.2	91.5
Classes 4-8	70.4	128.1	92.2	81.9	118.2
Total	87.7	103.1	97.0	106.0	95.9

These figures show that the total clearance rate for all matters decreased and was less than 100% (95.9%), due to the decrease in the clearance rate for matters in Classes 1-3

(91.5%). However, the total clearance rate for matters in Classes 4-8 improved (to 118.2%).

The clearance rate for matters in Class 1 (91.8%) was an improvement over 2014, reflecting the proportionately greater increase in finalisations compared to registrations, compared to 2014. However, this was still insufficient to clear the load in 2015. In Class 2, finalisations were only ten cases less than registrations in 2015, resulting in a percentage slightly below 100%. In Class 3, finalisations were less than registrations but the time taken to finalise the cases improved (a greater percentage of the cases were finalised in less time). The clearance rate for matters in Class 4 was just above 100% due to a proportionately greater increase in finalisations compared to registrations. The high clearance rate for Class 5 matters was caused by a proportionately greater increase in finalisations compared to the decrease in registrations.

The change in clearance rate for matters in Classes 6 and 8, an increase in Class 6 and decrease in Class 8, represents a difference of only a few cases.

Attendance indicator

The attendance indicator is an output indicator of efficiency where court attendances act as a proxy for input costs. The more attendances, the greater the costs both to the parties and to public resources. The number of attendances is the number

of times that parties or their representatives are required to be present in court to be heard by a judicial officer or mediator (including appointments that are adjourned or rescheduled).

The attendance indicator is presented as the median number of attendances required to reach finalisation for all cases finalised during the year, no matter when the attendance occurred.

Fewer attendances may suggest a more efficient process. However, intensive case management, although increasing the number of attendances, may have countervailing benefits. Intensive case management may maximise the prospects of settlement (and thereby reduce the parties' costs, the number of cases queuing for hearing and the flow of work to appellate courts) or may narrow the issues for hearing (thus shortening hearing time and also reducing costs and queuing time for other cases waiting for hearing). In the Land and Environment Court, increased use of the facilities of conciliation conferences and case management conferences may be means to achieve these benefits.

Table 5.12 below compares the median number of pre-hearing attendances for each class of proceedings completed in 2011-2015.

Table 5.12 Median number of pre-hearing attendances by Class

	2011	2012	2013	2014	2015
Class 1	3	3	4	4	4
Class 2	1	1	1	1	1
Class 3: (all matters)	5	6	5	7	5
Compensation claims	9	12	6	12	8
Valuation objections	3	6	4	6	7
Miscellaneous	7	4	6	7	6

Class 4	3	3	3	5	7
Class 5	3	7	3	5	9
Class 6	13	3	2	2	2
Class 8	3	5	4	4	4

The table reveals that the number of pre-hearing attendances stayed constant for matters in Classes 1, 2, 6 and 8 between 2014 and 2015. The number of pre-hearing attendances for all matters in Class 3 decreased, as did the number of attendances for compensation claims. The number of pre-hearing attendances for valuation objections increased. The number of pre-hearing attendances also increased in Classes 4 and 5 from 2014. These increases are a disappointing regression, indicating more delay and cost in managing and resolving these matters.

Appeals

Measuring the number of appeals from a court's decisions and their success are not appropriate or useful indicators of the quality of the decisions or of court administration. Nevertheless, as there are appeal rights from the Court's decisions, the Court should provide statistics on the exercise of the appeal rights in the review year.

There are three types of appeals that can be generated from decisions of the Court (see Figures 2.1, 2.2 and 2.3 in Chapter 2 Court Profile).

First, decisions of Commissioners in Classes 1, 2 and 3 may be appealed to a Judge of the Court pursuant to s 56A of the Court Act. Section 56A appeals are confined to appeals against decisions on a question of law and do not permit a review of the Commissioner's decision on the facts or merits. As shown in Table 5.13, in 2015, 12 s 56A appeals were commenced, no appeals were settled pre-hearing, 6 were completed after a hearing, and 6 remained pending at 31 December 2015.

Of the 6 appeals that were completed at hearing, two were upheld. This represents 0.7% of the number of matters in Classes 1, 2, 3 and 8 disposed of at a hearing by a Commissioner of the Court in 2015 (284 matters).

Table 5.13 s 56A Appeal outcomes

	2011	2012	2013	2014	2015
Total no. of appeals	14	29	12	17	12
No. finalised pre-hearing	4	11	2	2	0
No. of appeals to hearing	16	17	15	14	6
Outcome:					
Upheld	8	2	5	5	2
Dismissed	8	15	10	9	4

Secondly, appeals from decisions made by Judges in Classes 1 to 4 and 8 are heard in the Court of Appeal.

Thirdly, appeals from decisions made by Judges in Classes 5, 6 and 7 are heard in the Court of Criminal Appeal.

In 2015, 7 appeals were lodged with the Court of Appeal and 2 appeals were lodged with the Court of Criminal Appeal. The number of appeals to these appellate courts in 2015 is shown in Table 5.14 below.

The table reflects the distinctions drawn in the legislation and rules between, firstly, a notice of appeal and a summons seeking leave to appeal and, secondly, a notice of

appeal and a notice of intention to appeal. In respect of the second distinction, rather than immediately appeal, a party may lodge a notice of intention to appeal, the effect of which is to extend the time within which an appeal may be lodged. However, many parties do not subsequently lodge an appeal.

The figures for the different appeal processes are not able to be added together because of the partial duplication in the categories of appeal process. For example, a party who lodges a notice of intention to appeal and then a notice of appeal will be counted in each category of appeal process.

Table 5.14 Appeals to the appellate courts

	2011	2012	2013	2014	2015
Court of Appeal					
Notice of Intention to appeal	22	14	13	17	6
Notice of appeal	25	17	10	13	7
Total	44	29	21	24	12
Court of Criminal Appeal					
Notice of Intention to appeal	0	2	3	1	4
Notice of appeal	1	1	2	1	2
Stated case, section 5AE	0	2	0	2	1
Total	1	5	5	3	5

Complaints

Accountability and public trust and confidence in the Court and the administration of justice is enhanced by the availability of a procedure for making complaints about the conduct of Court members in the performance of their functions. The procedure for making complaints differs according to the Court member concerned.

Judges of the Court are judicial officers and complaints about Judges' conduct are made to the Judicial Commission of New South Wales according to the procedure in the *Judicial Officers Act 1989*.

Complaints about Commissioners, who are not judicial officers, are made to the Chief Judge of the Court. The Court has published a policy on making, examining and dealing with complaints against Commissioners. Complaints that are upheld can result in action being taken by the Chief Judge (such as counseling or the making of administrative arrangements designed to avoid repetition of the problem) or referral to the Attorney-General for consideration of removal of the Commissioner from office.

The Court advises all complainants and the Commissioner concerned of the outcome of the examination of the complaint. Starting with the 2009 Annual Review, the Court also reports on its handling of complaints and patterns in the nature and scope of complaints.

An inquiry to the Chief Judge by parties to proceedings or their legal representatives, pursuant to the Court's Policy on Delays in Reserved Judgments, as to the expected date for delivery of reserved judgment in proceedings is not a complaint about the conduct of the Court member concerned. Similarly, an inquiry as to the expected

date of publication of the written reasons for judgment given ex tempore at the conclusion of a hearing is not a complaint about the conduct of the Court member concerned. Inquiries pursuant to the Court's Policy on Delays in Reserved Judgments are discussed earlier in this chapter.

Complaints received and finalised

In 2015, the Court received 10 formal complaints.

Table 5.15 gives particulars about the complaints made and dealt with in 2015 and the outcomes.

Table 5.15 Complaint particulars

Complaints pending as at 31 December 2014	0
Complaints made during 2015	10
Total number of complaints	10
Complaints examined but dismissed	10
Complaints not dismissed but dealt with by the Chief Judge	0
Complaints referred by Chief Judge to Complaint Committee	0
Complaint withdrawn	0
Total number of complaints finalised	10
Complaints pending as at 31 December 2015	0

As can be seen from Table 5.15, the number of complaints is low. The vast majority of complaints are made after, and in relation to, the hearing and disposal of a matter by a Commissioner. In 2015, Commissioners exercised the functions of undertaking conciliations, mediations, on-site hearings or court hearings in Classes 1, 2 and 3 and 8. There were 999 matters disposed of in 2015 in those classes. Complaints, therefore, occurred in only 1% of matters

dealt with by Commissioners. This small proportion of complaints to matters dealt with by Commissioners is a pleasing indication of the high standards of conduct of Commissioners and the community's preparedness to accept decisions if they are made in accordance with the due process of the law.

The Chief Judge examines each complaint in accordance with the Court's policy. If the examination shows no misconduct, the Chief Judge dismisses the complaint and explains in writing to the complainant why the complaint was dismissed.

Table 5.16 shows the criteria used for dismissing complaints in 2015. More than one criterion may be used for each complaint. The table shows that five of the six complaints were dismissed.

Table 5.16 Criteria for dismissing complaints

No misconduct was established	10
The complaint related to a judicial or other function that is or was subject to adequate appeal review rights	3

Patterns in complaints

The Court monitors patterns in the nature and scope of complaints to identify areas that might need to be addressed through its continuing professional development programs or other appropriate action. For example, information gathered from complaints in previous years has been used to develop education programmes on improving judgment writing and court craft by Commissioners.

Causes of complaint

Table 5.17 sets out the common causes of complaint and identifies which causes were raised by the complaints made in 2015. The number refers to the number of complaints raising that cause of complaint. Many complaints raise multiple causes and these are captured by this approach. It is to be emphasised these are the categories of allegations made in complaints, whether or not they were upheld.

Table 5.17 Common causes of complaint

	2015
Bias, collusion or conflict of interest	1
Delay	1
Dissatisfaction with substantive outcome or wrong decision	4
Dissatisfaction with procedural and evidentiary rulings	2
Error interpreting or applying the law	1
Failure of Court to enforce judgment or orders	1
Failure to give fair hearing	2
Impairment	0
Inadequate reasons for judgment	0
Inappropriate behaviour or comments or discourtesy	3
Incompetence	0

Substitution for appeals or review

Many of the complaints made amount, in essence, to a complaint that a Commissioner has made the wrong decision. These complaints are often made in apparent substitution of an appeal against the decision of a Commissioner or Registrar. They are usually made when a party to litigation is aggrieved by an unfavourable decision but for one reason or another (including financial reasons) does not wish to appeal. Instead, a personal complaint is made against the decision-maker, either directly challenging the outcome or indirectly doing so by alleging that the outcome could only have resulted by some fault or bias of the decision-maker. Such complaints are dealt with on their merits. However a complaint about a Commissioner is not a substitute for an appeal and the Chief Judge cannot correct allegedly erroneous decisions.

In 2015, four of the complaints were that the Commissioners had made wrong findings of fact on the evidence and made the wrong substantive decision. Two complaints were that the Commissioners made wrong rulings about the procedure and conduct of the hearing or the evidence to be admitted. One complaint was that the Commissioner wrongly interpreted and applied the law. The existence of the right of appeal under s 56A of the Court Act was a satisfactory means to redress these complaints.

Misunderstanding as to dispute resolution process

The Court resolves matters by a variety of dispute resolution processes, including consensual mechanisms such as conciliation and mediation, and adjudicative

mechanisms such as hearings. Persons other than parties to proceedings, such as local residents, can misunderstand the dispute resolution process being utilised.

In 2015, two complaints were made by residents near the site of the proposed development. In each case, the Court had arranged a conciliation conference between the parties, the developer and the local council. At that conciliation conference, the parties reached agreement that the proposed development should be approved. The Commissioner made orders in accordance with the parties' agreement, as the Commissioner was required by the Court Act to do. The neighbour in each case, who was not a party, complained that the Commissioner had not conducted a full hearing and given a reasoned judgment. These complaints revealed a misunderstanding about the difference between conciliation and adjudication and the obligations of a Commissioner conducting a conciliation.

In one case, the parties (the developer and the local council) reached agreement after a conciliation had been terminated by one Commissioner. The matter was listed before a different Commissioner for hearing. Both parties consented to the Commissioner upholding the appeal and granting consent. The local council had not notified the neighbour of the hearing and he did not attend. The Commissioner heard the evidence that was presented and determined to grant consent, giving reasons for his decision. The complaint revealed a misunderstanding of who were the parties and who had rights to appear and give evidence at the hearing.

Inappropriate conduct or discourtesy

Two complaints concerned the manner in which the Commissioner conducted a hearing. In both cases, the hearing commenced on the site of the dispute, in one case concerning a tree and in the other a proposed development. In each case, in response to comments or behaviour of parties or members of the public, the Commissioner raised his voice and said that if the comments or behaviour do not change, the hearing will be adjourned from the site to a courtroom. The complainants felt that the Commissioner raised his voice to an unacceptably loud level and the warning about adjourning to a courtroom was threatening and intimidating. The complaints revealed a misunderstanding about the on-site hearing. The on-site hearing was a hearing of the proceedings, notwithstanding that it was being conducted on-site and not in a courtroom. The Commissioner had a responsibility to control the conduct of the hearing. The open air venue may have required the Commissioner to elevate his voice to be heard over the higher background noise. The warning to adjourn to a courtroom was appropriate in order to maintain control and ensure an orderly and fair hearing.

One complaint concerned alleged inappropriate criticism of an expert witness in reasons for judgment. The Commissioner did not accept the evidence of one expert witness and gave reasons for rejecting the witness's methodology and

calculations. The witness complained that the Commissioner was in error in rejecting his evidence and the manner in which it was said was inappropriately personal and not objective. The complaint was not upheld. It revealed a misunderstanding that an essential function of the Commissioner was to decide what evidence to accept or reject and to give reasons for doing so. Making a wrong finding as to the evidence to accept or reject did not involve misconduct, nor did giving reasons that may be critical of a witness's evidence.

Failure to give a fair hearing

Two complaints were by neighbours who were not parties to proceedings. The proceedings were referred to conciliation conferences. At one conference, the neighbour felt that the residents who objected to the proposed development did not have an adequate opportunity to be heard. At another conference a person who objected to the development was unable to attend because of the inclement weather which caused traffic delays. The conference proceeded at the site with the parties and some neighbours who lived next door. In both cases, the persons were not parties to the proceedings and had no legal entitlement to participate in the conciliation conference. There was no denial of procedural fairness to the persons. Again, the complaints revealed a misunderstanding about the dispute resolution process.

6 Education and Community Involvement

- Continuing professional development
 - Continuing professional development policy
 - Annual Court Conference 2015
 - Twilight seminar series
 - National Mediator Accreditation
 - Training and education seminars for Court staff
 - Other educational activities
- Performance indicators and programme evaluation
- Publications
- Education and participation in the community
- Individual Judges' and Commissioners' activities

Continuing professional development

Continuing professional development policy

The Court adopted in October 2008 a Continuing Professional Development Policy for the Court. The purpose of continuing professional development is to enhance professional expertise, facilitate development of professional knowledge and skills, and promote the pursuit of juristic excellence. The policy sets a standard for each Judge and Commissioner of the Court of five days (or 30 hours) each calendar year of professional development activities relating to their professional duties.

To assist in meeting the standard, the Court and the Judicial Commission of New South Wales provide an annual conference of two days (12 hours) and a twilight seminar series providing at least 12 hours (two days) of professional development activities a year.

Annual Court Conference 2015

The Annual Court Conference for 2015 was held on Thursday 28 May and Friday 29 May 2015 at the Novotel Sydney Manly Pacific, Manly. Six Judges, 8 Commissioners, 10 Acting Commissioners and the Registrar attended the conference. The conference was organised in partnership with the Judicial Commission of New South Wales. The two day conference programme included sessions on:

- Economic Valuation of the Environment
- Statutory Interpretation
- The UN Report on North Korea: How the United Nations met the Common Law

- Field Trip: Manly's Aboriginal and Natural Heritage
- The NSW Civil and Administrative Tribunal: Practice and Procedure
- ePlanning: Progress to Date and Challenges Ahead
- Recent Developments in Administrative Law
- Some Interesting Developments in Criminal Law
- Mediation & Conciliation Workshop
- The Ngarra Yura Program and Aboriginal Culture



*Field Trip: Manly's Aboriginal and Natural Heritage
Presenters: Ms Karen Smith, Education Officer and Mr Phil Hunt, Archaeologist,
Aboriginal Heritage Office*

Twilight seminar series

The Court commenced its twilight seminar series in November 2008. The seminars are held after court hours from 4.30pm

to 6.00pm. The Court held three twilight seminars in 2015, and there were also two cross-jurisdictional seminars, one field trip, one site visit and one Ngara Yura Program seminar.

25 March	Twilight seminar, Statistics and Statistic Modelling, presented by Professor Gerry Quinn, Professor and Associate HOS (Warnambool), School of Life and Environmental Sciences, Faculty of Science, Engineering and Built Environment, Deakin University
21 April	Judicial Commission field trip to UTS Business School, the Dr Chau Chak Wing Building, designed by World renowned architect, Frank Gehry, tour led by Mr Daniel Beekwilder, Director of Daryl Jackson Robin Dyke Architects and Mr John Kraeft of UTS
29 April	Cross-jurisdictional twilight seminar, Procedure for Fitness to be Tried and Mental Illness Cases, presented by His Honour Acting Judge Dan Howard SC, President, Mental Health Review Tribunal and Mr Tobias Mackinnon, Statewide Clinical Director for Forensic Mental Health, Justice Health and Forensic Mental Health Network
12 May	Twilight seminar, The Changing Face of Environmental Litigation, presented by Dr Peter Cashman, Professor (Social Justice); Director, Social Justice Program, University of Sydney
13 June	Ngara Yura Program: field trip to Jibbon Beach Rock Engravings
15 July	Twilight seminar, Novel Ecosystems as Future Heritage: Policy and Practice in Managing Landscapes, presented by Professor Peter Bridgewater, Visiting Fellow, Centre for Museums and Heritage, ANU
24 September	Ngara Yura Program twilight seminar, Communicating with Aboriginal People in Court, presented by Dr Diana Eades, Adjunct Professor, Fellow of the Australian Academy of the Humanities, University of New England
20 October	Cross-jurisdictional twilight seminar, The Rise of the Digital Natives: Communicating with Juries, presented by Dr Jacqueline Horan, Senior Lecturer and member of the Victorian Bar (academic), University of Melbourne and Professor James Ogloff AM, Director, Swinburne University of Technology and Forensicare, Supreme Court of NSW
3 November	Judicial Commission site visit to the Museum of Contemporary Art, tour led by Ms Elizabeth Ann Macgregor OBE, MCA Director and Mr Sam Marshall, Architect

National Mediator Accreditation

In 2015, all full-time Commissioners were nationally accredited as mediators.

Other educational activities

The Judges and Commissioners of the Court updated and developed their skills and knowledge by attending conferences, seminars and workshops. Some of these programmes are tailored specifically to the Court's needs, while others target the national or international legal and judicial communities. Specific information for each Judge or Commissioner is provided below.

Performance indicators and programme evaluation

All educational activities conducted by the Court and Judicial Commission of New South Wales are evaluated both quantitatively and qualitatively to ensure they meet the needs of the Judges, Commissioners and Registrars of the Court.

Quantitatively, the Court's Continuing Professional Development policy sets a standard of five days (or 30 hours) in each calendar year of professional development activities for each Judge and full-time Commissioner. Collectively, the quantitative target is 450 hours. In 2015, both the collective target as well as the individual standard for each Judge and full time Commissioner was met or exceeded.

Qualitatively, an evaluation form is distributed to each participant of each educational programme to receive feedback on whether the educational objectives were met and to measure the programme's usefulness, content and delivery. The ratings derived from the evaluation forms assist in measuring the success of the education programmes. Figure 6.1 shows the overall satisfaction with the Court's annual conference over the past five years with all but one conference exceeding the target of 85%.

Table 6.1 Participant evaluation of Land and Environment Court Annual Conferences 2011 to 2015

	Target	2011	2012	2013	2014	2015
Overall satisfactory rating	85%	90%	80%	90%	89%	93%

The Court's twilight seminar series commenced in 2008 but had its first full year of operation in 2009. Figure 6.2 shows the

overall satisfaction of the twilight seminar series in the years 2011 to 2015, most of which exceeded the 85% standard.

Table 6.2 Participant evaluation of Land and Environment Court Twilight seminar series 2011 to 2015

	Target	2011	2012	2013	2014	2015
Overall satisfactory rating	85%	93%	93%	88%	86%	91%

*Note: 2011 was based on 7 seminars in each year; 2012 was based on 4 seminars, 2 cross-jurisdictional seminars and 2 field trips and one skills workshop on Communication in the courtroom; 2013 was based on 6 seminars, one cross-jurisdictional seminar and one field trip; 2014 was based on four seminars, two cross-jurisdictional seminars, one field trip and one site visit; and 2015 was based on 3 seminars and 2 field trips.

The Education Director of the Judicial Commission provides an evaluation report on each educational programme to the Court's Education Committee about the usefulness and relevance of the programme, noting any recommendations for improvements to future programmes based on input from participants and presenters.

Publications

As part of its education programme, the Court produced two publications.

In August 2010, the Court, in conjunction with the Judicial Commission of New South Wales, produced the *Land and Environment Court of NSW Commissioners' Handbook*. The Handbook provides guidance, especially to Commissioners and Registrars, on the Court and its jurisdiction; the members of the Court and their functions; court practice and procedure; the commencement of proceedings and pleadings; case management; the different processes for resolution of proceedings, including hearings and conciliation conferences; decision-making and judgments; conduct of court members; and resources and remuneration for Commissioners. The Handbook is published online by the Judicial Commission on a closed website for members of the Court.

Beginning in January 2010, the Court publishes quarterly on the Court's website a Judicial Newsletter for the benefit of members of the Court and the wider public

to better enable them to keep up to date with recent legal developments. The Newsletter provides summaries of recent legislation and judicial decisions of the High Court of Australia, NSW Court of Appeal, NSW Court of Criminal Appeal, NSW Supreme Court and Land and Environment Court, as well as of other courts in Australia and overseas, concerning matters of relevance to the Court's jurisdiction. In the electronic version of the Newsletter published on the Court's website under the tab 'Publications & Resources' then Judicial Newsletters, links are included in the text to enable direct access to the legislation, documents and decisions referred to in the text.

Education and participation in the community

The Court has a high national and international reputation as a leading specialist environment court. There is significant demand for the exchange of knowledge and experience within the national and international legal and judicial communities. Judges and Commissioners of the Court have actively participated in capacity building and information exchange by presenting papers and participating as trainers in a variety of conferences, seminars, workshops, giving lectures at educational institutions and presiding at moot courts.

The Court has also regularly hosted international and national delegations to the Court.

Individual Judges' and Commissioners' activities

The Judges' and Commissioners' activities during 2015 are summarised below:

The Hon. Justice Brian John Preston SC, Chief Judge

Conferences and seminars

4 February	Opening of Law Term 2015 Dinner, Law Society of NSW, Parliament House, Sydney
12 February	AACL seminar, Sir Anthony Mason Lecture in Constitutional Law, Lord Bryce and the Australian Constitution, presented by the Justice Stephen Gageler, Banco Court, Sydney
17 February	Patron's address to the meeting of the Young Lawyers Environmental Law Committee, Law Society of NSW
18 February	Bryan Stevenson, <i>Just Mercy: A Story of Justice and Redemption</i> , ANU, Canberra
5 March	Mahla Pearlman AO Annual Oration and Future of Environmental Law Symposium, Is Resilience the new ESD?, presented by Professor Jan McDonald, University of Tasmania at the Federal Court, Sydney
6 March	Law Council of Australia 'Future of Environmental Law' Symposium, Langham Hotel, Sydney
25 March	Twilight seminar, Statistics and Statistic Modelling, presented by Professor Gerry Quinn, Professor and Associate HOS (Warnambool), School of Life and Environmental Sciences, Faculty of Science, Engineering and Built Environment, Deakin University, Judicial Commission of NSW
22 April	'Magna Carta in its Medieval Context', an address delivered by the Hon. J J Spigelman AC QC, Banco Court, Sydney
29 April	Cross-jurisdictional twilight seminar, Procedure for fitness to be Tried and Mental Illness Cases, presented by His Honour Acting Judge Dan Howard SC, President, Mental Health Review Tribunal and Mr Tobias Mackinnon, Statewide Clinical Director for Forensic Mental Health, Justice Health and Forensic Mental Health Network, Judicial Commission of NSW
5 May	Francis Forbes Society lecture, 'An Introduction to Australian Legal History', presented by Emeritus Professor Bruce Kercher, Banco Court, Sydney
8 May	Flesh and Blood: a feminist symposium on embodied histories, ANU, Canberra
18 May	Australian Academy of Law Patron's Address, 'Magna Carta and the Development of the Common Law', presented by Emeritus Professor Paul Brand, Emeritus Fellow, All Souls College, Oxford University, Federal Court, Sydney

19 May	Annual Whitmore Lecture, 'Whitmore and the Americans', presented by Justice Stephen Gageler, Federal Court, Sydney
13 June	Ngara Yura Program: field trip to Jibbon Beach Rock Engravings
22 June	International Workshop on Legal Responses to Climate Change, Wuhan University, Wuhan, China
24 June	Theories and Practice on Coping with Global Climate Change Symposium, Beijing, China
15 July	Twilight seminar, Novel Ecosystems as Future Heritage: Policy and Practice in Managing Landscapes, presented by Professor Peter Bridgewater, Visiting Fellow, Centre for Museums and Heritage, ANU, Judicial Commission of NSW
16 July	<i>No Small Change: The Road to Recognition for Indigenous Australia</i> , by Frank Brennan SJ AO, Meet the author event, ANU, Canberra
29 July	Civil Justice Forum, Darling Park, Sydney
10 August	ILA Seminar, 'Sea Level Rise and International Law', presented by Dr David Freestone, Executive Director of the Sargasso Sea Commission, Professor Rosemary Rayfuse, UNSW and Professor Clive Schofield, University of Wollongong at Baker & Mackenzie, Sydney
17 – 19 September	Adjudicating the Future: Climate Change and the Rule of Law Symposium – a joint initiative of the UK Supreme Court, the Foreign and Commonwealth Office, the Journal of Environmental Law and The Dickson Poon School of Law, King's College London with support from UNEP and the Asian Development Bank in London, UK
25 September	Finn's Law: An Australian Justice Conference, ANU, Canberra
19 October	AACL Seminar, 'Judicial Appointment Reform', presented by Professor Andrew Lynch, Federal Court, Sydney
22 October	Law Society of NSW Annual Members Dinner
29 – 30 October	NJCA Judicial Leadership Program, Coogee
2 November	Launch of the Asian Australian Lawyers Association in NSW by The Hon. Michael Kirby AC CMG, Baker & McKenzie, Sydney
3 November	Judicial Commission site visit to the Museum of Contemporary Art, tour led by Ms Elizabeth Ann Macgregor OBE, MCA Director and Mr Sam Marshall, Architect
5 November	2015 Blackshield Lecture and Alumni Reception, 'Human Rights and the overreach of Executive Discretion: Citizenship, Asylum Seekers and Whistle-blowers', presented by Emeritus Professor Gillian Triggs, Federal Court, Sydney

12 November	2015 ACCEL Distinguished Speaker Lecture, 'Public-Private Partnerships in Dealing with Extreme Events: Improving Insurance Decision-Making in a Misunderstood Industry', presented by Professor H Kunreuther, The Wharton School, University of Pennsylvania
27 November	AustLII 20th Anniversary cocktail reception and speech by Justice Stephen Gageler, UTS, Sydney

Speaking Engagements

13 – 17 April	<i>Successful environmental courts</i> , Virtual Environmental Law Guest lecturer, Mercer University Law School, Georgia, USA hosted by Professor Steve Johnson
2 – 5 June	<i>Issues Concerning Economic Valuation of the Environment in the Law and Economic Valuation of the Environment</i> , EEPSEA Judicial Training Workshop, Determining the Economic Value of Natural Resources and Economic Damages, Khao Yai, Thailand
22 July	<i>An overview of climate litigation around the world</i> , EDO NSW Climate Litigation Forum, Sydney
3 August	<i>Operation of the Land and Environment Court</i> , a presentation to the Macquarie University Environmental Law Clinic Students
9 September	<i>Biodiversity Offsets: Adequacy and Efficacy in Theory and Practice</i> , IUCNAEL Annual Colloquium, Jakarta, Indonesia
18 September	<i>Mapping Climate Change Adjudication</i> , Adjudicating the Future: Climate Change and the Rule of Law Symposium, Kings College London, UK
18 September	<i>The Contribution of the Courts in Tackling Climate Change</i> , a presentation to the Journal of Environmental Law public lecture 'Climate Change and the Rule of Law: Judicial Perspectives from Around the World', Kings College London, UK
18 September	Interview with Stephen Minas, Research Fellow, Transnational Law Institute, The Dickson Poon School of Law, King's College London following the presentation
1 October	<i>Panel Member</i> , Community Awareness of the Judiciary Open Forum, Judicial Commission of NSW
7 October	<i>Achieving Climate Justice and Human Rights</i> ; IBA President's Task Force Showcase Session, IBA Annual Conference, Vienna, Austria
20 October	<i>Climate Change Litigation</i> , a lecture given to environmental law students at Wollongong University
4 November	<i>Welcome address</i> to the newly appointed Silks, Silks Bows Ceremony, Land and Environment Court
7 November	<i>Chair</i> , Environmental and Resources session: dispute resolution in Asia and the Pacific, 28th Annual LAWASIA Conference, Hilton Hotel, Sydney

19 November	<i>The effectiveness of the Law in providing access to environmental justice: an introduction</i> , Macquarie University Centre for Environmental Law Annual Lecture, Macquarie University
2 December	<i>Patron presentation</i> to Young Lawyers Environmental Committee, and presentation of 2015 Young Lawyers Essay Prize
4 December	<i>Implementing a Climate Conscious Approach in Daily Legal Practice</i> , a paper presented to the Australian & New Zealand Legal Ethics Colloquium Fifth Bi-Annual Meeting: Sustainable Legal Ethics, Melbourne



Silks Bows Ceremony 2015

Publications

“The Adequacy of the Law in Satisfying Society’s Expectations for Major Projects” (2015) 32 *Environmental and Planning Law Journal* 182

“Economic Valuation of the Environment” (2015) 32 *Environmental and Planning Law Journal* 301

“Foreword” in M Jacobs, *Law of Compulsory Land Acquisition*, Second Edition, Thomson Reuters, Sydney 2015

“The Adequacy of the Law in Achieving Climate Change Justice – Some Brief Comments” (2015) 30(4/5) *Australian Environment Review* 78

“Protected Areas in the Courts: An Overview” [2015] 11 *Resource Management Theory and Practice* 22

“Preface” in (2015) 211 *Local Government and Environmental Reports of Australia*, iii.

Membership of legal, cultural or benevolent organisations

Chair, Land and Environment Court Rules Committee

Member, Uniform Rules Committee, Supreme Court of NSW

Official member, Judicial Commission of New South Wales

Member, Adhoc Advisory Committee of Judges, United Nations Environment Programme (UNEP) Judges Programme

Chair, Environmental Law Standing Committee, Law Association for Asia and the Pacific (LAWASIA)

Member, Environmental Law Commission, The International Union for Conservation of Nature (IUCN)

Executive Committee Member, Australian Centre for Climate and Environmental Law (ACCEL), University of Sydney

Member, International Bar Association President's Climate Change Justice and Human Rights Task Force

Fellow, Australian Academy of Law (FAAL)

Honorary Fellow, Environment Institute of Australia and New Zealand

Member, Advisory Board, Asia Pacific Centre for Environmental Law, National University of Singapore

Title Editor, Title 14 – Environment and Natural Resources, The Laws of Australia

General Editor, Local Government Planning and Environment NSW Service

Member, Editorial Advisory Board, Asia Pacific Journal of Environmental Law

Adjunct Professor, Sydney Law School, University of Sydney

Guest lecturer, ANU College of Law, Australian National University

Delegations and international assistance

16 February Meeting with Mr John Woolcock, Senior Planning Inspector dealing with appeals for the Secretary of State, UK, to discuss hydraulic fracturing for coal seam/shale gas in NSW

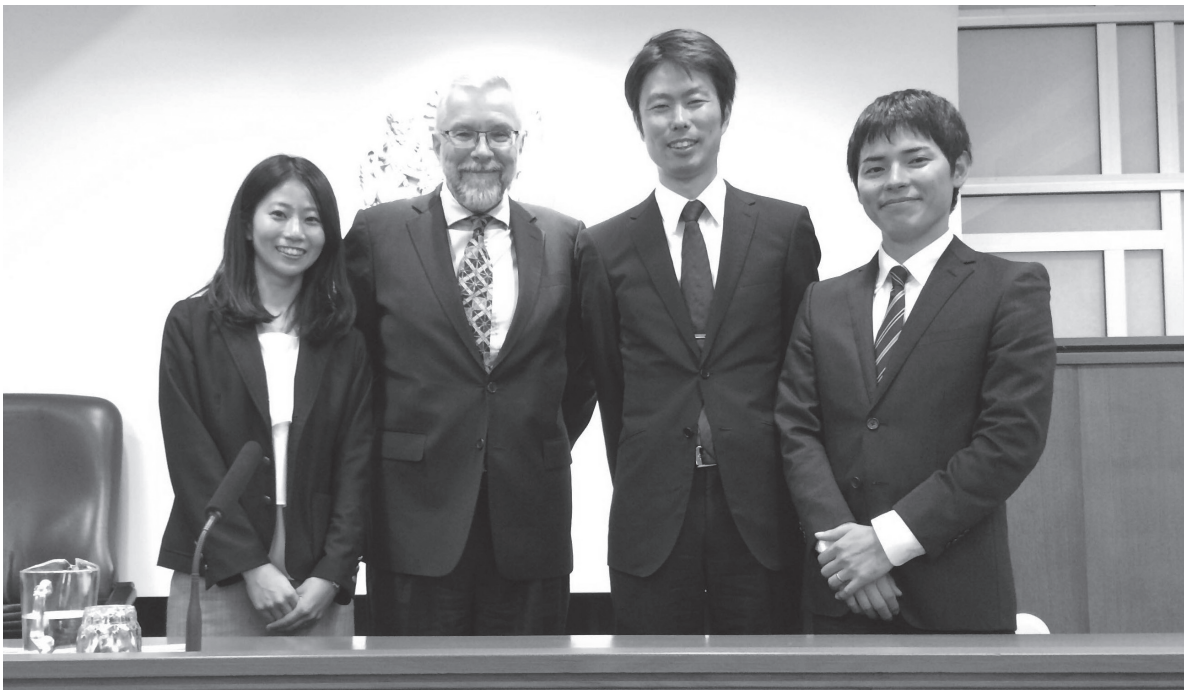
25 February Meeting with Professor Tetsuro Hirano, College of Law, Ritsumeikan University and Judge Shota Watanuki, Tokyo District Court to discuss operation of the Land and Environment Court and particularly expert evidence, concurrent evidence and ADR

23 March Meeting with Professor Maria Marques Banque, Universitat Rovira i Virgili, Tarragona, Spain to discuss Australian environmental and criminal law and observe court

15 May	Lecture to a delegation of 27 students from Kelley School of Business, Indiana University on cases before the Court involving sustainability. Delegation hosted by Dr Gerry Bates, Specialist in Environmental Law and Policy
22 May	Welcome address (via video) on environmental courts and tribunals to the 1st Annual Judicial Training Day for the Hawaii Environmental Court
25 May	Interview with Ms Tanya Anstey, PhD Student at Monash University on the decision in <i>Bulga Milbrodale Progress Association Inc v Minister for Planning and Infrastructure and Warkworth Mining Limited</i> [2013] NSWLEC 48 for her doctoral research
14 August	Meeting with Ms Di Zhou, Mr Cai Xueen and Ms Pei Yilin from the Research Institute of Environmental Law, Wuhan University, China. Delegation on a study tour on environmental law as part of their PhD and Masters studies at Wuhan University. Delegation hosted by Emeritus Professor Ben Boer, Sydney University
27 August	Chinese judicial Delegation, hosted by President Sun Chao, Chief Justice of the High People's Court of Guizhou Province and his six colleagues to discuss the operation of the Land and Environment Court. In conjunction with Dr Zhiqiong June Wang from the School of Law, University of Western Sydney
16 September	Examiner for M.St examination and application for D. Phil on 'Environmental Adjudication: Legal Integrity and Legitimacy' by Ms Ailsa Warnock of Corpus Christ College, University of Oxford, UK
23 September	Meeting with Professor Mindge Cao, Professor at China University of Political Science and Law and Professor Mingming Liu to discuss the operation of the Land and Environment Court and economic valuation of environmental cases
16 November	Meeting with Mrs Natsuko Kouo Matsumoto, Attorney, Mr Satoshi Matsumoto, Assistant Judge, Osaka District Court and Mr Taku Okada, Assistant Judge Sakai Branch of Osaka District Court to discuss matters heard by the Land and Environment Court and the role of the judges of the Court. Also discussion on conciliation and mediation in the Court
20 November	Chinese Delegation of 23 people, hosted by Ms Yu Min, Deputy Chief Procurator of People's Procuratorate of Ghuzhou Province, China to discuss criminal prosecution in the Land and Environment Court and the role of the judges of the Court



Judicial Delegation hosted by Chief Justice Sun Chao with Mrs Judith Preston and Dr Zhiqiong June Wang



L-R, Mrs Natsuko Kouo Matsumoto, Justice Brian Preston, Mr Satoshi Matsumoto and Mr Taku Okada

The Hon. Justice Terence William Sheahan AO

Conferences and seminars

12 February	AACL seminar, Sir Anthony Mason Lecture in Constitutional Law, Lord Bryce and the Australian Constitution, presented by Justice Stephen Gageler, Banco Court, Sydney
17 February	Pre-Election Criminal Justice Forum, Community Justice Coalition, University of Sydney Law School, Sydney
20 February	CIArb and Anglo-Australasian Lawyers Society Breakfast Seminar, 'International arbitration what Australian lawyers can learn from England, Asia and beyond', presented by Mr Neil Kaplan CBE QC SBS, Australian Club, Sydney
25 March	Twilight seminar, Statistics and Statistic Modelling, presented by Professor Gerry Quinn, Professor and Associate HOS (Warnambool), School of Life and Environmental Sciences, Faculty of Science, Engineering and Built Environment, Deakin University, Judicial Commission of NSW
21 April	Judicial Commission field trip to UTS Business School, the Dr Chau Chak Wing Building, designed by World renowned architect, Frank Gehry, tour led by Mr Daniel Beekwilder, Director of Daryl Jackson Robin Dyke Architects and Mr John Kraeft of UTS
22 April	'Magna Carta in its Medieval Context', an address delivered by the Hon. J J Spigelman AC QC, Banco Court, Sydney
23 April	2015 Sir Maurice Byers Lecture, The Australian Constitution and International Law, presented by Justin Gleeson SC, Solicitor General of Australia, NSW Bar Association Common Room, Sydney
29 April	Cross-jurisdictional twilight seminar, Procedure for Fitness to be Tried and Mental Illness Cases, presented by His Honour Acting Judge Dan Howard SC, President, Mental Health Review Tribunal and Mr Tobias Mackinnon, Statewide Clinical Director for Forensic Mental Health, Justice Health and Forensic Mental Health Network, Judicial Commission of NSW
12 May	2015 Law week breakfast, 'Reflections', presentation by the Hon. John O'Meally AM RFD, City of Sydney Law Society, Swissotel, Sydney
12 May	Twilight seminar, The Changing Face of Environmental Litigation, presented by Dr Peter Cashman, Professor (Social Justice); Director, Social Justice Program, University of Sydney
27 May	The Sydney Institute Seminar, 'Constitutional Recognition for Indigenous Australia', Father Frank Brennan SJ AO and Dr Megan Davis, Gallipoli Club, Sydney
22 June	Thomas More Society Dinner address, 'Law, Justice, Morality and Discretion', presented by President Margaret Beazley AO, Doltone House, Sydney

24 June	AIAL Seminar, 'Anti-Terrorism, Citizenship, and Natural Justice', presented by Professor Helen Irving and others, offices of Clayton Utz, Sydney
30 June	Seminar, 'The Costly Divide Between Economic and Social Policy', presented by the Hon. Dominic Perrottet MP, The Centre for Independent Studies, St Leonards, NSW
9 November	The Sydney Institute Seminar, 'The Dismissal – Different Views', the Hon. John Howard, Paul Kelly, Journalist and author, Professor Anne Twomey, Professor of Constitutional Law, Sydney University, and Gerard Henderson, Executive Director, The Sydney Institute, Sydney
19 November	Interview with Professor Jenny Hocking by Former Senator the Hon. John Faulkner to discuss her book <i>The Dismissal Dossier: Everything You Were Never Meant to Know About November 1975</i> , Gleebooks, Sydney

Membership of legal, cultural or benevolent organisations

Member, Land and Environment Court Rules Committee

Land and Environment Court's Nominee, Governing Council of the Judicial Conference of Australia

The Hon. Justice Nicola Hope Margaret Pain

Conferences and seminars

21 April	Judicial Commission field trip to UTS Business School, the Dr Chau Chak Wing Building, designed by World renowned architect, Frank Gehry, tour led by Mr Daniel Beekwilder, Director of Daryl Jackson Robin Dyke Architects and Mr John Kraeft of UTS
23 April	2015 Sir Maurice Byers Lecture, The Australian Constitution and International Law, presented by Justin Gleeson SC, Solicitor General of Australia, NSW Bar Association Common Room, Sydney
29 April	Cross-jurisdictional twilight seminar, Procedure for Fitness to be Tried and Mental Illness Cases, presented by His Honour Acting Judge Dan Howard SC, President, Mental Health Review Tribunal and Mr Tobias Mackinnon, Statewide Clinical Director for Forensic Mental Health, Justice Health and Forensic Mental Health Network, Judicial Commission of NSW
12 May	Twilight seminar, The Changing Face of Environmental Litigation, presented by Dr Peter Cashman, Professor (Social Justice); Director, Social Justice Program, University of Sydney
18 May	Australian Academy of Law Patron's Address, 'Magna Carta and the Development of the Common Law', presented by Emeritus Professor Paul Brand, Emeritus Fellow, All Souls College, Oxford University, Federal Court, Sydney

13 June	Ngara Yura field trip to Jibbon Beach Rock Engravings, Bundeena
24 June	AIAL seminar, Anti-Terrorism, Citizenship, and Natural Justice – Where lies the balance?, presentations by Professor Helen Irving, Sydney Law School; Dr Rayner Thwaites, Senior Lecturer, Sydney Law School; The Hon. Roger Gyles AO QC, National Security Legislation Monitor and Professor Kim Rubenstein, Director, Centre for International and Public Law, ANU College of Law, Clayton Utz, Sydney
15 July	Twilight seminar, Novel Ecosystems as Future Heritage: Policy and Practice in Managing Landscapes, presented by Professor Peter Bridgewater, Visiting Fellow, Centre for Museums and Heritage, ANU, Judicial Commission of NSW
22 July	EDO NSW Public Forum on Climate Litigation, discussion on the Urgenda's landmark climate litigation in Dutch Courts by Urgenda Foundation Director, Marjan Minnesma and a presentation by Justice Brian Preston on an overview of climate litigation around the world, Sydney
24 September	Ngara Yura Program twilight seminar, Communicating with Aboriginal People in Court, presented by Dr Diana Eades, Adjunct Professor, Fellow of the Australian Academy of the Humanities, University of New England, Judicial Commission of NSW
3 November	Judicial Commission site visit to the Museum of Contemporary Art, tour led by Ms Elizabeth Ann Macgregor OBE, MCA Director and Mr Sam Marshall, Architect
12 November	ACCEL Distinguished Speaker lecture, Who should compensate the victims of climate disasters? the role of insurance, presented by Professor Howard Kunreuther, Australian Centre for Climate and Environmental Law (ACCEL)
26 November	ACCEL Distinguished Speaker lecture, Climate Disaster Law: What is Australia's Scorecard?, presented by Professor Rosemary Lyster, Australian Centre for Climate and Environmental Law (ACCEL)

Speaking engagements

6 March	<i>Opening remarks and Chair</i> , CLAA Property and Planning Law 2015 Conference, State Library, Sydney
23 May	Judge for Mock Trial, NSW Bar Association, Bar Practice Course
5 November	<i>Inaugural address</i> , Professional Environmental Women's Association, Hall & Wilcox Lawyers, Sydney
13 November	<i>Chair</i> , NELA National Conference, Sydney
7 December	<i>Balancing competing rights in the criminal justice system: biodiversity protection and indigenous hunting and fishing rights in Australia and elsewhere</i> , IUCN Academy of Environmental Law 13th Annual Colloquium, Jakarta, Indonesia

Membership of legal, cultural or benevolent organisations

Board member, Australian Centre for Climate and Environmental Law, University of Sydney

Member, International Union for Conservation of Nature, Commission on Environmental Law

Member, Land and Environment Court Education Committee

Chair, Land and Environment Court Library Committee

The Hon. Justice Peter Meldrum Biscoe

Conferences and seminars

25 March Twilight seminar, Statistics and Statistic Modelling, presented by Professor Gerry Quinn, Professor and Associate HOS (Warnambool), School of Life and Environmental Sciences, Faculty of Science, Engineering and Built Environment, Deakin University, Judicial Commission of NSW

21 April Judicial Commission field trip to UTS Business School, the Dr Chau Chak Wing Building, designed by World renowned architect, Frank Gehry, tour led by Mr Daniel Beekwilder, Director of Daryl Jackson Robin Dyke Architects and Mr John Kraeft of UTS

29 April Cross-jurisdictional twilight seminar, Procedure for Fitness to be Tried and Mental Illness Cases, presented by His Honour Acting Judge Dan Howard SC, President, Mental Health Review Tribunal and Mr Tobias Mackinnon, Statewide Clinical Director for Forensic Mental Health, Justice Health and Forensic Mental Health Network, Judicial Commission of NSW

12 May Twilight seminar, The Changing Face of Environmental Litigation, presented by Dr Peter Cashman, Professor (Social Justice); Director, Social Justice Program, University of Sydney

Membership of legal, cultural or benevolent organisations

Member, Judicial Commission of New South Wales Standing Advisory Committee on Judicial Education

Chair, Land and Environment Court Education Committee

Member, Land and Environment Court Rules Committee

The Hon. Justice Rachel Ann Pepper

Conferences and seminars

12 February	AACL seminar, Sir Anthony Mason Lecture in Constitutional Law, Lord Bryce and the Australian Constitution, presented by Justice Stephen Gageler, Banco Court, Sydney
13 February	Gilbert + Tobin 2015 Constitutional Law Conference, Sydney
19 February	UNSW CLE/CPD Seminar, Recent Developments in Planning and Environment Law, Sydney
5 March	Mahla Pearlman AO Annual Oration and Future of Environmental Law Symposium, Is Resilience the new ESD? presented by Professor Jan McDonald, University of Tasmania at the Federal Court, Sydney
6 March	Future of Environmental Law symposium, Law Council of Australia, Sydney
17 March	ANU CIPL seminar, Law of the Sea and the marine environment: from lex lata to lex ferenda: thinking outside the international legal box, presented by Ms Camille Goodman and Dr Greg French, Department of Foreign Affairs and Trade, Canberra, ACT
16 April	Ngara Yura Program twilight seminar, Communicating with Aboriginal People in Court, presented by Dr Diana Eades, Adjunct Professor, Fellow of the Australian Academy of the Humanities, University of New England, Judicial Commission of NSW
21 April	Judicial Commission field trip to UTS Business School, the Dr Chau Chak Wing Building, designed by World renowned architect, Frank Gehry, tour led by Mr Daniel Beekwilder, Director of Daryl Jackson Robin Dyke Architects and Mr John Kraeft of UTS
22 April	'Magna Carta in its Medieval Context', an address delivered by the Hon. J J Spigelman AC QC, Banco Court, Sydney
23 April	2015 Sir Maurice Byers Lecture, The Australian Constitution and International Law, presented by Justin Gleeson SC, Solicitor General of Australia, NSW Bar Association Common Room, Sydney
29 April	Cross-jurisdictional twilight seminar, Procedure for Fitness to be Tried and Mental Illness Cases, presented by His Honour Acting Judge Dan Howard SC, President, Mental Health Review Tribunal and Mr Tobias Mackinnon, Statewide Clinical Director for Forensic Mental Health, Justice Health and Forensic Mental Health Network, Judicial Commission of NSW
13 June	Ngara Yura Program: field trip to Jibbon Beach Rock Engravings
15 July	Twilight seminar, Novel Ecosystems as Future Heritage: Policy and Practice in Managing Landscapes, presented by Professor Peter Bridgewater, Visiting Fellow, Centre for Museums and Heritage, ANU, Judicial Commission of NSW

22 July	EDO NSW Public Forum on Climate Litigation, discussion on the Urgenda's landmark climate litigation in Dutch Courts by Urgenda Foundation Director, Marjan Minnesma and a presentation by Justice Brian Preston on an overview of climate litigation around the world, Sydney
24 July	Constitutional Law Conference 2015, Melbourne Law School, Melbourne
27 July	NSW Bar Association CPD seminar, The Constitutional Aspects of Commonwealth and State Application Laws, presented by Justice Mark Leeming, NSW Bar Association
17 August	NSW Bar Association CPD seminar, Unifying Principles in Administrative and Criminal Law, presented by Mr Tim Game SC and Ms Julia Roy, NSW Bar Association
9 September	NSW Bar Association CPD seminar, Tendency and Coincidence Evidence, presented by Professor Peter Mirfield, Oxford University, NSW Bar Association
1 October	UNSW Gilbert + Tobin Centre of Public Law lecture, Magna Carta: Destiny or Accident? The Right Hon the Lord Igor Judge, Federal Court of Australia, Sydney
27 October	The Spigelman Public Law Oration, 'Values in Public Law', presented by The Hon. James Allsop AO, Chief Justice of the Federal Court of Australia, Bar Association Common Room, Sydney
3 November	Judicial Commission site visit to the Museum of Contemporary Art, tour led by Ms Elizabeth Ann Macgregor OBE, MCA Director and Mr Sam Marshall, Architect
4 November	The Francis Forbes Society Legal History Tutorials 2015, The History of Statutory Interpretation, presentation by Justice Ashley Black, Hospital Road Court, Sydney

Speaking engagements

19 February	<i>Opening Remarks</i> , Recent Developments in Planning and Environment Law, UNSW CLE/CPD Seminar, Sydney
2 March – 1 April	Judge-in-residence, Centre for International & Public Law, College of Law, Australian National University, Canberra
6 March	Chair, Future of Environmental Law Symposium, Law Council of Australia, Sydney
28 March	<i>Criminal Prosecutions in the Land and Environment Court of New South Wales</i> , NSW Bar Association, CPD Conference, Sydney
14 May	<i>Hottubbing in Australia: the Use of Concurrent Expert Evidence</i> , 2015 Alaskan Bar Convention, Fairbanks, Alaska
19 September	Judge of Final Mock Trial, NSW Bar Practice Course, Sydney
14 October	Presentation to UTS Planning Law students, UTS, Sydney

19 October	<i>Chair</i> , AACL seminar, Judicial Appointments, Federal Court of Australia, Sydney
6 November	<i>Criminal Prosecutions in the LEC</i> , a presentation to Newcastle Solicitors CPD seminar, Newcastle
7 November	Judge of Moot Competition, 28th Annual LAWASIA Conference, Sydney
13 November	Chair of Morning Session, Q & A Panel Moderator, National NELA Conference 2015, <i>Planning, Climate and Environmental Law: Where to from here?</i> Sydney
14 November	<i>Criminal Prosecution in the LEC</i> , a presentation to the Salvos Legal Lecture Series, Sydney

Publications

Co-Consulting Editor, Australian Environmental Review, LexisNexis

Environment Section Editor, *The Australian Law Journal*, Thomson Reuters

Membership of legal, cultural or benevolent organisations

Committee member, Australian Institute of Administrative Law (NSW Chapter)

Secretary, Australian Association of Constitutional Law

Member, International Association of Women Judges

Member, Australian Institute of Judicial Administration

Member, National Judicial College of Australia

Member, Ngara Yura Committee, Judicial Commission of New South Wales

Member, Environmental Law Commission, The International Union for Conservation of Nature (IUCN)

Member, World Commission on Environmental Law

Member, International Bar Association

The Hon. Justice Malcolm Graeme Craig

Conferences and seminars

5 March Mahla Pearlman AO Annual Oration and Future of Environmental Law Symposium, Is Resilience the new ESD? presented by Professor Jan McDonald, University of Tasmania at the Federal Court, Sydney

25 March Twilight seminar, Statistics and Statistic Modelling, presented by Professor Gerry Quinn, Professor and Associate HOS (Warnambool), School of Life and Environmental Sciences, Faculty of Science, Engineering and Built Environment, Deakin University, Judicial Commission of NSW

22 April	'Magna Carta in its Medieval Context', an address delivered by the Hon. J J Spigelman AC QC, Banco Court, Sydney
15 July	Twilight seminar, Novel Ecosystems as Future Heritage: Policy and Practice in Managing Landscapes, presented by Professor Peter Bridgewater, Visiting Fellow, Centre for Museums and Heritage, ANU, Judicial Commission of NSW
20 October	Cross-jurisdictional twilight seminar, The Rise of the Digital Natives: Communicating with Juries, presented by Dr Jacqueline Horan, Senior Lecturer and member of the Victorian Bar (academic), University of Melbourne and Professor James Ogloff AM, Director, Swinburne University of Technology and Forensicare, Supreme Court of NSW
27 October	The Spigelman Public Law Oration, 'Values in Public Law', presented by The Hon. James Allsop AO, Chief Justice of the Federal Court of Australia, Bar Association Common Room, Sydney
3 November	Judicial Commission site visit to the Museum of Contemporary Art, tour led by Ms Elizabeth Ann Macgregor OBE, MCA Director and Mr Sam Marshall, Architect

Speaking engagements

11 September	<i>The Role of Experts in the Court Process</i> , Expert Evidence Seminar, Associate Professional Certificate in Expert Evidence, The Australian Property Institute, Sydney
16 October	<i>Statutory Interpretation</i> , a presentation to the EPLA Annual Conference, Darlinghurst, Sydney

Membership of legal, cultural or benevolent organisations

Member, The Australasian Institute of Judicial Administration Incorporated
Member, Judicial Conference of Australia Inc
Member, New South Wales Bar Association
Member, Caselaw Governance Committee
Member, Education Committee

Acting Justice Tim Moore (25 June to 18 December 2015)

Mr Tim Moore, Senior Commissioner (1 January to 24 June 2015 and 19 December 2015 to 3 January 2016)

Conferences and seminars

25 March	Twilight seminar, Statistics and Statistic Modelling, presented by Professor Gerry Quinn, Professor and Associate HOS (Warnambool), School of Life and Environmental Sciences, Faculty of Science, Engineering and Built Environment, Deakin University, Judicial Commission of NSW
12 May	Twilight seminar, The Changing Face of Environmental Litigation, presented by Dr Peter Cashman, Professor (Social Justice); Director, Social Justice Program, University of Sydney
15 July	Twilight seminar, Novel Ecosystems as Future Heritage: Policy and Practice in Managing Landscapes, presented by Professor Peter Bridgewater, Visiting Fellow, Centre for Museums and Heritage, ANU, Judicial Commission of NSW
22 July	EDO NSW Public Forum on Climate Litigation, discussion on the Urgenda's landmark climate litigation in Dutch Courts by Urgenda Foundation Director, Marjan Minnesma and a presentation by Justice Brian Preston on an overview of climate litigation around the world, Sydney
9 September	NSW Bar Association CPD seminar, Tendency and Coincidence Evidence, presented by Professor Peter Mirfield, Oxford University, NSW Bar Association
24 September	Ngara Yura Program twilight seminar, Communicating with Aboriginal People in Court, presented by Dr Diana Eades, Adjunct Professor, Fellow of the Australian Academy of the Humanities, University of New England, Judicial Commission of NSW
3 November	Judicial Commission site visit to the Museum of Contemporary Art, tour led by Ms Elizabeth Ann Macgregor OBE, MCA Director and Mr Sam Marshall, Architect

Speaking engagements

19 May	<i>Land and Environment Court Processes for Dealing with Small Scale Title Disputes</i> , Department of Trade and Investment, Sydney
29 July	<i>Land and Environment Court Update: Planning Principles, Policies and Practice Notes</i> with Acting Senior Commissioner Graham Brown and Registrar Joanne Gray, EPLA twilight seminar, Sydney
3 & 10 August	<i>Operation of the Land and Environment Court</i> , Macquarie University Internship students, Sydney

17 September *Role and Operation of the Land and Environment Court*, Padstow TAFE students, Sydney

2 December *The Sentencing Process for Environmental Offences and Merit Appeals in the Land and Environment Court*, Environment and Waste Conference, Australian Sustainable Business Group, Sydney

Membership of legal, cultural or benevolent organisations

Member, NSW Bar Association

Member, Australian Cave and Karst Management Association

Life Member, Industrial Relations Society of New South Wales

Delegations and international assistance

2 March *The Role of the Land and Environment Court*, a presentation to the Lao Government delegation

14 December *The Role of the Land and Environment Court*, a presentation to the South Korean Government, Ministry of Government Legislation delegation

Mr Graham Brown, Commissioner

Conferences and seminars

25 March Twilight seminar, Statistics and Statistic Modelling, presented by Professor Gerry Quinn, Professor and Associate HOS (Warnambool), School of Life and Environmental Sciences, Faculty of Science, Engineering and Built Environment, Deakin University, Judicial Commission of NSW

21 April Judicial Commission field trip to UTS Business School, the Dr Chau Chak Wing Building, designed by World renowned architect, Frank Gehry, tour led by Mr Daniel Beekwilder, Director of Daryl Jackson Robin Dyke Architects and Mr John Kraeft of UTS

12 May Twilight seminar, The Changing Face of Environmental Litigation, presented by Dr Peter Cashman, Professor (Social Justice); Director, Social Justice Program, University of Sydney

6 July Planning Reform Series, An Evening with the Minister for Planning, The Hon. Rob Stokes MP, Allens Linklaters

15 July Twilight seminar, Novel Ecosystems as Future Heritage: Policy and Practice in Managing Landscapes, presented by Professor Peter Bridgewater, Visiting Fellow, Centre for Museums and Heritage, ANU, Judicial Commission of NSW

Speaking engagements

16 July	<i>Are you getting the most out of s 34 Conferences?</i> , a presentation to the Planning Institute of Australia, Sydney
29 July	<i>The Land and Environment Update: Planning Principles, Policies and Practice Notes</i> , EPLA twilight seminar with Acting Justice Tim Moore and Registrar Joanne Gray
18 October	<i>Ethics, Evidence and Experts</i> , a presentation to the EPLA Annual Conference, Darlinghurst, Sydney

Membership of legal, cultural or benevolent organisations

Planning Institute of Australia

Ms Annelise Tuor, Commissioner

Conferences and seminars

5 March	Mahla Pearlman AO Annual Oration and Future of Environmental Law Symposium, Is Resilience the new ESD?, presented by Professor Jan McDonald, University of Tasmania at the Federal Court, Sydney
25 March	Twilight seminar, Statistics and Statistic Modelling, presented by Professor Gerry Quinn, Professor and Associate HOS (Warnambool), School of Life and Environmental Sciences, Faculty of Science, Engineering and Built Environment, Deakin University, Judicial Commission of NSW
21 April	Judicial Commission field trip to UTS Business School, the Dr Chau Chak Wing Building, designed by World renowned architect, Frank Gehry, tour led by Mr Daniel Beekwilder, Director of Daryl Jackson Robin Dyke Architects and Mr John Kraeft of UTS
12 May	Twilight seminar, The Changing Face of Environmental Litigation, presented by Dr Peter Cashman, Professor (Social Justice); Director, Social Justice Program, University of Sydney
6 July	Planning Reform Series, An Evening with the Minister for Planning, The Hon. Rob Stokes MP, Allens Linklaters
15 July	Twilight seminar, Novel Ecosystems as Future Heritage: Policy and Practice in Managing Landscapes, presented by Professor Peter Bridgewater, Visiting Fellow, Centre for Museums and Heritage, ANU, Judicial Commission of NSW
25 August	City Talk: The Politics of Climate Change: Towards the Paris Climate Conference 2015. Panel: Connie Hedegaard, former European Union Commissioner for Climate Action, Mark Butler MP, Senator Larissa Waters and Dr John Hewson AM, Sydney Town Hall

24 September	Ngara Yura Program twilight seminar, Communicating with Aboriginal People in Court, presented by Dr Diana Eades, Adjunct Professor, Fellow of the Australian Academy of the Humanities, University of New England, Judicial Commission of NSW
3 November	Judicial Commission site visit to the Museum of Contemporary Art, tour led by Ms Elizabeth Ann Macgregor OBE, MCA Director and Mr Sam Marshall, Architect
8 December	Sidney Luker Memorial Medal and Lecture, 'Improving the quality of the urban debate – why do so many smart people say so much nonsense about planning', presented by Professor Peter Phibbs at the Planning Institute of Australia

Membership of legal, cultural or benevolent organisations

Member, Planning Institute of Australia

Ms Susan Dixon, Commissioner

Conferences and seminars

19 February	UNSW CLE/CPD Seminar, Recent Developments in Planning and Environment Law, Sydney
25 March	Twilight seminar, Statistics and Statistic Modelling, presented by Professor Gerry Quinn, Professor and Associate HOS (Warnambool), School of Life and Environmental Sciences, Faculty of Science, Engineering and Built Environment, Deakin University, Judicial Commission of NSW
21 April	Judicial Commission field trip to UTS Business School, the Dr Chau Chak Wing Building, designed by World renowned architect, Frank Gehry, tour led by Mr Daniel Beekwilder, Director of Daryl Jackson Robin Dyke Architects and Mr John Kraeft of UTS
12 May	Twilight seminar, The Changing Face of Environmental Litigation, presented by Dr Peter Cashman, Professor (Social Justice); Director, Social Justice Program, University of Sydney
15 July	Twilight seminar, Novel Ecosystems as Future Heritage: Policy and Practice in Managing Landscapes, presented by Professor Peter Bridgewater, Visiting Fellow, Centre for Museums and Heritage, ANU, Judicial Commission of NSW
11 September	Associate Professional Certificate in Expert Evidence, API, NSW, Sydney

Speaking engagements

- | | |
|--------------|---|
| 17 August | <i>Mining jurisdiction in the LEC</i> , a presentation to Macquarie University Bachelor of Laws students, Land and Environment Court of NSW |
| 16 September | <i>Mining and Petroleum Law</i> , a presentation to Mining and Petroleum Law students at The University of Notre Dame, Sydney |

Membership of legal, cultural or benevolent organisations

- | |
|--|
| Member, Council of Australasian Tribunals |
| Member, Institute of Arbitrators and Mediators Australia |
| Member, Australian Disputes Resolution Association Inc |

Ms Linda Pearson, Commissioner

Conferences and seminars

- | | |
|--------------|---|
| 5 March | Mahla Pearlman AO Annual Oration and Future of Environmental Law Symposium, Is Resilience the new ESD?, presented by Professor Jan McDonald, University of Tasmania at the Federal Court, Sydney |
| 25 March | Twilight seminar, Statistics and Statistic Modelling, presented by Professor Gerry Quinn, Professor and Associate HOS (Warnambool), School of Life and Environmental Sciences, Faculty of Science, Engineering and Built Environment, Deakin University, Judicial Commission of NSW |
| 21 April | Judicial Commission field trip to UTS Business School, the Dr Chau Chak Wing Building, designed by World renowned architect, Frank Gehry, tour led by Mr Daniel Beekwilder, Director of Daryl Jackson Robin Dyke Architects and Mr John Kraeft of UTS |
| 19 May | Annual Whitmore Lecture, 'Whitmore and the Americans', presented by Justice Stephen Gageler, Federal Court, Sydney |
| 15 July | Twilight seminar, Novel Ecosystems as Future Heritage: Policy and Practice in Managing Landscapes, presented by Professor Peter Bridgewater, Visiting Fellow, Centre for Museums and Heritage, ANU, Judicial Commission of NSW |
| 23 – 24 July | Australian Institute of Administrative Law 2015 National Conference, "Administrative Law – Challenges of a New Age", Canberra |
| 17 August | NSW Bar Association CPD seminar, Unifying Principles in Administrative and Criminal Law, presented by Mr Tim Game SC and Ms Julia Roy, NSW Bar Association |
| 24 September | Ngara Yura Program twilight seminar, Communicating with Aboriginal People in Court, presented by Dr Diana Eades, Adjunct Professor, Fellow of the Australian Academy of the Humanities, University of New England, Judicial Commission of NSW |

27 October The Spigelman Public Law Oration, 'Values in Public Law', presented by The Hon. James Allsop AO, Chief Justice of the Federal Court of Australia, Bar Association Common Room, Sydney

3 November Judicial Commission site visit to the Museum of Contemporary Art, tour led by Ms Elizabeth Ann Macgregor OBE, MCA Director and Mr Sam Marshall, Architect

Speaking engagements

19 February *Chair*, "Planning and Environmental Law" Continuing Legal Education, Faculty of Law, University of New South Wales

9 September *The Challenges of Environmental Dispute Resolution*, a presentation to the 13th IUCN Academy of Environmental Law Colloquium, Atma Jaya University, Jakarta

18 September *Mediating Environmental Disputes: Lessons, Tips and Pitfalls*, a presentation to students in Environmental Litigation and Mediation, Macquarie University

Publications

"The Vision Splendid: Australian Tribunals in the 21st Century" in A Connolly & D Stewart (eds) *Public Law in the Age of Statutes: Essays in Honour of Dennis Pearce* (Federation Press, 2015).

Membership of legal, cultural or benevolent organisations

Chair, Land and Environment Court Judicial Newsletter Committee

Member, Land and Environment Court Education Committee

Member, Environmental Law Commission, The International Union for Conservation of Nature (IUCN)

Ms Judy Fakes, Commissioner

Conferences and seminars

25 March Twilight seminar, Statistics and Statistic Modelling, presented by Professor Gerry Quinn, Professor and Associate HOS (Warnambool), School of Life and Environmental Sciences, Faculty of Science, Engineering and Built Environment, Deakin University, Judicial Commission of NSW

21 April Judicial Commission field trip to UTS Business School, the Dr Chau Chak Wing Building, designed by World renowned architect, Frank Gehry, tour led by Mr Daniel Beekwilder, Director of Daryl Jackson Robin Dyke Architects and Mr John Kraeft of UTS

15 July	Twilight seminar, Novel Ecosystems as Future Heritage: Policy and Practice in Managing Landscapes, presented by Professor Peter Bridgewater, Visiting Fellow, Centre for Museums and Heritage, ANU, Judicial Commission of NSW
29 July	EPLA Twilight Seminar, The Land and Environment Court Update: Planning Principles, Policies and Practice Notes, presented by Acting Justice Tim Moore, Acting Senior Commissioner Graham Brown and Registrar Joanne Gray
3 – 4 September	National Tree Symposium, TREENET, Adelaide
3 November	Judicial Commission site visit to the Museum of Contemporary Art, tour led by Ms Elizabeth Ann Macgregor OBE, MCA Director and Mr Sam Marshall, Architect

Speaking engagements

1 September	<i>Arborists and the Law, The duties of an expert witness</i> , lecture to students of Diploma in Arboriculture, Ryde College of TAFE
9 September	<i>The Trees (Disputes Between Neighbours) Act 2006</i> , lecture to students of Diploma in Arboriculture, Ryde College of TAFE

Membership of legal, cultural or benevolent organisations

Member, TREENET Management Committee

Member, International Society of Arboriculture

Ms Susan Morris, Commissioner

Conferences and seminars

5 March	Mahla Pearlman AO Annual Oration and Future of Environmental Law Symposium, Is Resilience the new ESD?, presented by Professor Jan McDonald, University of Tasmania at the Federal Court, Sydney
25 March	Twilight seminar, Statistics and Statistic Modelling, presented by Professor Gerry Quinn, Professor and Associate HOS (Warnambool), School of Life and Environmental Sciences, Faculty of Science, Engineering and Built Environment, Deakin University, Judicial Commission of NSW
21 April	Judicial Commission field trip to UTS Business School, the Dr Chau Chak Wing Building, designed by World renowned architect, Frank Gehry, tour led by Mr Daniel Beekwilder, Director of Daryl Jackson Robin Dyke Architects and Mr John Kraeft of UTS
12 May	Twilight seminar, The Changing Face of Environmental Litigation, presented by Dr Peter Cashman, Professor (Social Justice); Director, Social Justice Program, University of Sydney

13 June	Ngara Yura Program: field trip to Jibbon Beach Rock Engravings
6 July	Planning Reform Series, An Evening with the Minister for Planning, The Hon. Rob Stokes MP, Allens Linklaters
15 July	Twilight seminar, Novel Ecosystems as Future Heritage: Policy and Practice in Managing Landscapes, presented by Professor Peter Bridgewater, Visiting Fellow, Centre for Museums and Heritage, ANU, Judicial Commission of NSW
3 November	Judicial Commission site visit to the Museum of Contemporary Art, tour led by Ms Elizabeth Ann Macgregor OBE, MCA Director and Mr Sam Marshall, Architect
8 December	Sidney Luker Memorial Medal and Lecture, 'Improving the quality of the urban debate – why do so many smart people say so much nonsense about planning', presented by Professor Peter Phibbs at the Planning Institute of Australia

Membership of legal, cultural or benevolent organisations

Member, Planning Institute of Australia (CPP)

Member, Australian Disputes Resolution Association Inc

Ms Susan O'Neill, Commissioner

Conferences and seminars

March – October	Juris Doctor (part-time), University of Sydney Subjects completed: <i>Contracts, Legal Reasoning, Civil and Criminal Procedure, Criminal Law, Torts and Contracts II</i>
21 April	Judicial Commission field trip to UTS Business School, the Dr Chau Chak Wing Building, designed by World renowned architect, Frank Gehry, tour led by Mr Daniel Beekwilder, Director of Daryl Jackson Robin Dyke Architects and Mr John Kraeft of UTS
12 May	Twilight seminar, The Changing Face of Environmental Litigation, presented by Dr Peter Cashman, Professor (Social Justice); Director, Social Justice Program, University of Sydney
15 July	Twilight seminar, Novel Ecosystems as Future Heritage: Policy and Practice in Managing Landscapes, presented by Professor Peter Bridgewater, Visiting Fellow, Centre for Museums and Heritage, ANU, Judicial Commission of NSW
3 November	Judicial Commission site visit to the Museum of Contemporary Art, tour led by Ms Elizabeth Ann Macgregor OBE, MCA Director and Mr Sam Marshall, Architect

Speaking engagements

- | | |
|------------|---|
| 17 August | <i>The jurisdiction of the Land and Environment Court of NSW</i> , a presentation to Macquarie University Bachelor of Laws students, Land and Environment Court of NSW |
| 15 October | <i>The value of heritage</i> , a presentation to the EPLA Annual Conference, Darlinghurst, Sydney |
| 19 October | <i>Heritage issues in merits appeals, Land and Environment Court of NSW</i> , a presentation to Sydney University Master Heritage Conservation students, Sydney University Architecture Faculty |
-

Membership of legal, cultural or benevolent organisations

Member, Australian Institute of Architects

Registered Architect, NSW Architects Registration Board

Appendices

- Appendix 1 – Court Users Groups
- Appendix 2 – Court Committees

Appendix 1 – Court Users Groups

Court Users Group

A Court Users Group was established in 1996 as a consultative committee comprising of representatives from interested organisations. The Group meets 4 times a year and assists with improving Court services by making recommendations to the Chief Judge about:

- improving the functions and services provided by the Court; and
- ensuring services and facilities of the Court are adapted to the needs of litigants and their representatives.

The Group has an advisory role and has no authority to require any action or change. However its deliberations have been a catalyst for a number of initiatives, such as the 1999 Pre-Hearing Practice Direction and a survey of electronic callover users resulting in significant improvements to callover procedures.

Members during 2015

The Hon. Justice Brian J Preston SC, Chief Judge (Chair)	Land and Environment Court
Senior Commissioner Tim Moore	Land and Environment Court
Registrar Joanne Gray	Land and Environment Court
Mr Peter Callaghan SC	Institute of Arbitrators and Mediators Australia
Mr Peter Castor	Institute of Australian Consulting Aborigiculturists
Mr Stephen Child/Mr Derek Hill	Australian Property Institute
Ms Lesley Finn	Law Society Development and Planning Committee and Law Society of New South Wales
Mr Aaron Gadiel	Urban Taskforce Australia
Mr Sam Haddad	Engineers Australia
Ms Sue Higginson	EDO NSW
Mr Tom Howard SC	New South Wales Bar Association
Mr James Johnson	Nature Conservation Council of New South Wales
Ms Patricia Lenehan	Office of Environment and Heritage
Ms Liyan Leow	NSW Department of Industry
Mr Frank Loveridge	Local Government NSW
Ms Helen Macfarlane	Urban Development Institute of Australia
Ms Roslyn McCulloch	Environment and Planning Law Association NSW

Mr Michael Neustein	Royal Australian Institute of Architects (NSW Chapter)
Mr Eugene Sarich	Australian Institute of Building Surveyors and Australian Institute of Environmental Health
Mr Gavin Shapiro	Environment and Planning Law Association
Mr Chris Shaw	Property Council of Australia
Mr Gary Shiels	Planning Institute of Australia (NSW Division)
Mr Stuart Simington	Housing Industry Association
Dr James Smith	Environment and Planning Law Association NSW
Ms Jennifer Smith/ Ms Anna Summerhayes	Department of Planning & Infrastructure
Mr Colin Weatherby <i>(to June 2015)</i>	Institution of Surveyors New South Wales Inc
Mr Ian Woodward	Local Government Lawyers Group

Mining Court Users Group

A Mining Court Users Group was established in 2010 as a consultative committee comprising of representatives from mining related organisations and mining lawyers. The Group meets 4 times a year to enable two-way communication in relation to the Court's functions in hearing and disposing of proceedings in the Court's mining jurisdiction. The Group has an advisory role and has no authority to require any action or change.

Members during 2015

The Hon. Justice Brian J Preston	Land and Environment Court SC, Chief Judge (Chair)
Senior Commissioner Tim Moore	Land and Environment Court
Commissioner Susan Dixon	Land and Environment Court
Mr Stewart Armstrong	Trade & Investment NSW
Mr Matt Brand	NSW Farmers Association
Mr John Browne	Browne, Jeppesen & Sligar Solicitors
Mr Nicholas Dan	Bilbie Dan Solicitors & Attorneys
Mr Mark Faraday	Kemp Strang Lawyers
President Pat Fletcher	Grawin-Glengarry Sheepyards Miners' Association
Mr Bob Harrison	Mining Titles Services Pty Ltd
Mr Russell Hetherington	Hetherington Exploration & Mining Title Services
Ms Sue Higginson	Environmental Defender's Office
Mr Robert Jarratt	Jarratt, Webb & Graham Pty Ltd
Mr Peter Long	Rural Law with Peter Long
Mrs Louise Moore	Moore & Co Solicitors
Ms Maxine O'Brien	Lightning Ridge Miners' Association & Australian Opal Exhibition Inc
Mr Stuart Percy	Stuart Percy & Associates Solicitors
Mr Andrew White	Sparke Helmore Lawyers

Appendix 2 – Court Committees

Court Committees

The Court has a number of internal committees to assist in the discharge of the Court's functions.

Rules Committee

The Rules Committee meets throughout the year to consider proposed changes to the Rules applicable to the Court with a view to increasing the efficiency of the Court's operations, and reducing cost and delay in accordance with the requirements of access to justice.

Members

The Hon. Justice Brian Preston SC, Chief Judge

The Hon. Justice Terry Sheahan AO

The Hon. Justice Peter Biscoe

The Hon. Justice Malcolm Craig

Education Committee

The Education Committee organises the Annual Conference and twilight seminars for the Judges and Commissioners of the Court.

Members

The Hon. Justice Peter Biscoe (Chair)

The Hon. Justice Nicola Pain

The Hon. Justice Malcolm Craig

Commissioner Linda Pearson

Commissioner Susan O'Neill

Ms Joanne Gray, Registrar

Ms Ruth Windeler, Education Director, Judicial Commission of New South Wales

Ms Ruth Sheard, Manager, Conferences and Communication, Judicial Commission of New South Wales

Library Committee

The Library Committee provides advice on the management of the Judges' Chambers Collections and other Court Collections.

Members

The Hon. Justice Rachel Pepper (Chair)

Senior Commissioner Tim Moore

Commissioner Judy Fakes

Commissioner Susan O'Neill

Registrar Joanne Gray

Mr Holger Aman

Court Newsletter Committee

The Court Newsletter Committee reviews and summarises recent legislation and judicial decisions for publication in the Judicial Newsletter. The Judicial Newsletter is published each quarter.

Members

Commissioner Linda Pearson (Chair)

Ms Vicki Ferguson, Information & Research Officer

February 2015
Volume 7 Issue 1

Land and Environment Court of NSW Judicial Newsletter

Legislation

- Statutes and Regulations
 - Planning
 - Local Government
 - Criminal
 - Water
 - Pollution
 - Mining and Petroleum
 - Miscellaneous
 - Bills
- State Environmental Planning Policies
- Miscellaneous

Court Practice and Procedure

Judgments

- United Kingdom
- High Court of Australia
- NSW Court of Appeal
- NSW Court of Criminal Appeal
- Land and Environment Court of NSW
 - Judicial Review
 - Criminal
 - Aboriginal Land Claims
 - Development Appeals
 - Compulsory Acquisition
 - Practice and Procedure
 - Access to Neighbouring Land
 - Costs
 - Section 56A Appeals
- Commissioner Decisions
- Court News

Legislation

- Statutes and Regulations

Planning:

- Environmental Planning and Assessment Amendment Act 2014* — assented to 19 November 2014, will amend the *Environmental Planning and Assessment Act 1979*:
- to increase substantially the maximum penalties for offences against the Act and the regulations;
 - to create additional offences, including for providing false or misleading information in connection with planning matters;
 - to consolidate and expand the investigative powers of council and Departmental officers for the enforcement of the Principal Act and to make other provision for the enforcement of the Act, including provision for cessation of utilities orders; and
 - to require the Secretary of the Department to establish and facilitate the online delivery of planning services and information (by means of the NSW planning portal), including to enable planning applications to be lodged and dealt with online and to facilitate public access to planning information.

Environmental Planning and Assessment (Local Government Areas) Regulation 2014, published 17 October 2014, designated land area as part of that local government area for

Local Government:

Local Government Amendment (Elections) Act 2014 amended the *Local Government Act 1993* to:

- enable, in certain circumstances, fill countback of votes rather than a by-election;
- require each council having its general election to elect an Electoral Commissioner (to be appointed by the Electoral Commission) to administer the elections of the council;
- require the Electoral Commissioner administering the elections of the council to update the residential roll for the local government area.

Further provisions are set out in the *Local Government (Elections) Regulation 2015* — published 6 February 2015.

Criminal:

See *Environmental Planning and Assessment (Protection of the Environment Legislation Amendment) Act 2014*, published 19 November 2014, which contains amendments to the *Protection of the Environment Operations Act 1997*.

October 2015
Volume 7 Issue 3

Land and Environment Court of NSW Judicial Newsletter

Legislation

- Statutes and Regulations
 - Planning
 - Local Government
 - Criminal
 - Water
 - Pollution
 - Mining and Petroleum
 - Miscellaneous
- Bills
- State Environmental Planning Policies
- On Exhibition

Court Practice and Procedure

Judgments

- Federal Court of Australia
- NSW Court of Appeal
- NSW Court of Criminal Appeal
- Supreme Court of New South Wales
- Land and Environment Court of NSW
 - Judicial Review
 - Criminal
 - Civil Enforcement
 - Aboriginal Land Claims
 - Development Appeals
 - Practice and Procedure
 - Costs
 - Section 56A Appeals
- Commissioner Decisions
- Court News

Legislation

- Statutes and Regulations

Planning:

- Environmental Planning and Assessment Amendment (Offences and Enforcement) Regulation 2015*, published 31 July 2015:
- provides that certain time periods are not included in the calculation of the assessment period for State significant development and are not counted in the calculation of the deemed refusal period for that category of development;
 - increases the maximum penalties for certain fire safety offences, and an offence relating to signs on development sites, by omitting the stated penalties and relying on the default maximum penalty of \$110,000 (fixed by section 125D(2) of the *Environmental Planning and Assessment Act 1979*);
 - updates a reference to a provision about fire brigade inspection powers that has been amended;
 - allows authorised fire officers to issue penalty notices, but only in respect of the contravention of orders given by authorised fire officers and certain other fire-related offences;
 - provides for the enforcement of court orders to cease the use of premises as backpackers' accommodation and boarding houses by the making of utilities orders;
 - modifies the application to planning matters of provisions of the *Protection of the Environment Operations Act 1997* relating to court orders in connection with offences;
 - extends the expanded offence of providing false or misleading information in connection with a planning matter to the provision of information in response to a requirement of a condition of a development consent, an approval to carry out a project that is a transitional Part 3A project or an approval under Part 5.1 of the *Environmental Planning and Assessment Act 1979*;
 - provides for further offences to be dealt with by penalty notices (or "on-the-spot fines");
 - increases the penalties for certain offences that are dealt with by penalty notice; and
 - makes savings and transitional provisions that are consequential on amendments made by the *Environmental Planning and Assessment Amendment Act 2014* in relation to offences, penalties, enforcement and the disclosure of political donations and gifts.

[For further explanatory notes see *Circular PS 15-004* issued by the Department of Planning and Environment]

Environmental Planning and Assessment Amendment (Transitional Part 3A Approvals) Regulation 2015, published 21 August 2015, provides that a transitional Part 3A approval does not lapse if a request for extension has been duly made to the Minister but has not been determined before the approval would otherwise lapse.

© State of New South Wales through the Department of Justice 2016. This work is protected by copyright. You may download, display, print and reproduce this material in whole or in part, subject to acknowledgement of the source for personal, non-commercial use within your organisation. Except for any uses permitted under the Copyright Act 1968 (Cth) all other rights reserved.

This document has been prepared by the NSW Department of Justice for general information purposes and while every care has been taken in relation to its accuracy, no warrant is given or implied. Further, recipients should obtain their own independent advice before making any decision that relies on this information.

ISSN 1832-8563

Published December 2016 by State of New South Wales through the Department of Justice and The Land and Environment Court of NSW.

Printed on Monza Satin – 55% recycled and FSC certified mixed source paper0. (ecoDesign ecoPrint FSC Cert no. C092723)



**Land and Environment Court
of New South Wales**

Website

www.lec.justice.nsw.gov.au

Email

lecourt@agd.nsw.gov.au

Street Address

**Windeyer Chambers
Level 4, 225 Macquarie Street
Sydney NSW 2000**

Registry Hours

Monday – Friday 8.30am to 4.30pm

Document Exchange

DX 264 Sydney

Postal Address

**GPO Box 3565
Sydney NSW 2001**

Telephone **(02) 9113 8200**

Facsimile **(02) 9113 8222**