

The Land and Environment Court of NSW



Annual Review

2021

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Foreword from the Chief Judge

This Review provides information on the Court, its people 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 15 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, particularly given the novel challenges presented by the COVID-19 Pandemic.

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 583 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
FRSN SC**
Chief Judge



*The Hon. Justice Brian J Preston SC,
Chief Judge.*

Photo by Ted Sealey

1 **2021: 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 2020. Of particular significance are:

- A clearance rate greater than 100% in Class 1.
- A clearance rate greater than 100% in the Class 1-3 cumulative category and the overall clearance rate (Class 1-8).
- An increase in the total number of matters finalised.
- A decrease in mean and median finalisation time in Class 1.
- A decrease in the time taken to finalise cases in Classes 1, 2, 4 and 8.
- An increase in case processing timeliness in Classes 1, 2 and 4, as indicated by substantial decreases in the backlog indicator for those classes.
- An increase or maintenance in the percentage of reserved judgments being delivered within the Court's set time standards.
- A reduction in the number of pending matters in Class 1, Class 1-3 cumulative category and overall (Class 1-8).

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

- A clearance rate of less than 100% in Classes 2, 3, 4, 5 and 8.
- An increase in the time taken to finalise cases in Classes 3 and 5.

- A decrease in case processing timeliness in Class 3, as indicated by the increase in the backlog indicator.
- A slight decrease in the percentage of matters in Classes 1-3 finalised by means of s 34 and s 34AA conciliation conferences and on-site hearings, although there was an increase in the number of matters finalised by those means.
- An increase in the number of prehearing attendances in Classes 1, 3, 4, and 8.

Reforms and developments

During 2021, reforms occurred in the following areas:

- New Policies;
- New technology and equipment;
- New information on the Court's website;
- Duty Lawyer Scheme;
- Land and Environment Court Clinic;
- Tree Helpdesk; 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 2021, the Court's Annual Conference was held at the Rydges Hotel in Newcastle. The Court held six twilight webinars, two field trips, and seven cross-jurisdictional webinars.

In 2009, the Court commenced production of a judicial newsletter, issued three times a year, 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, webinars 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 members did so remotely during 2021.

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

Consultation with court users

In 2021, 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 meetings of the Court Users Group, which were held remotely due to the COVID-19 Pandemic, 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?
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- 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 2021, 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

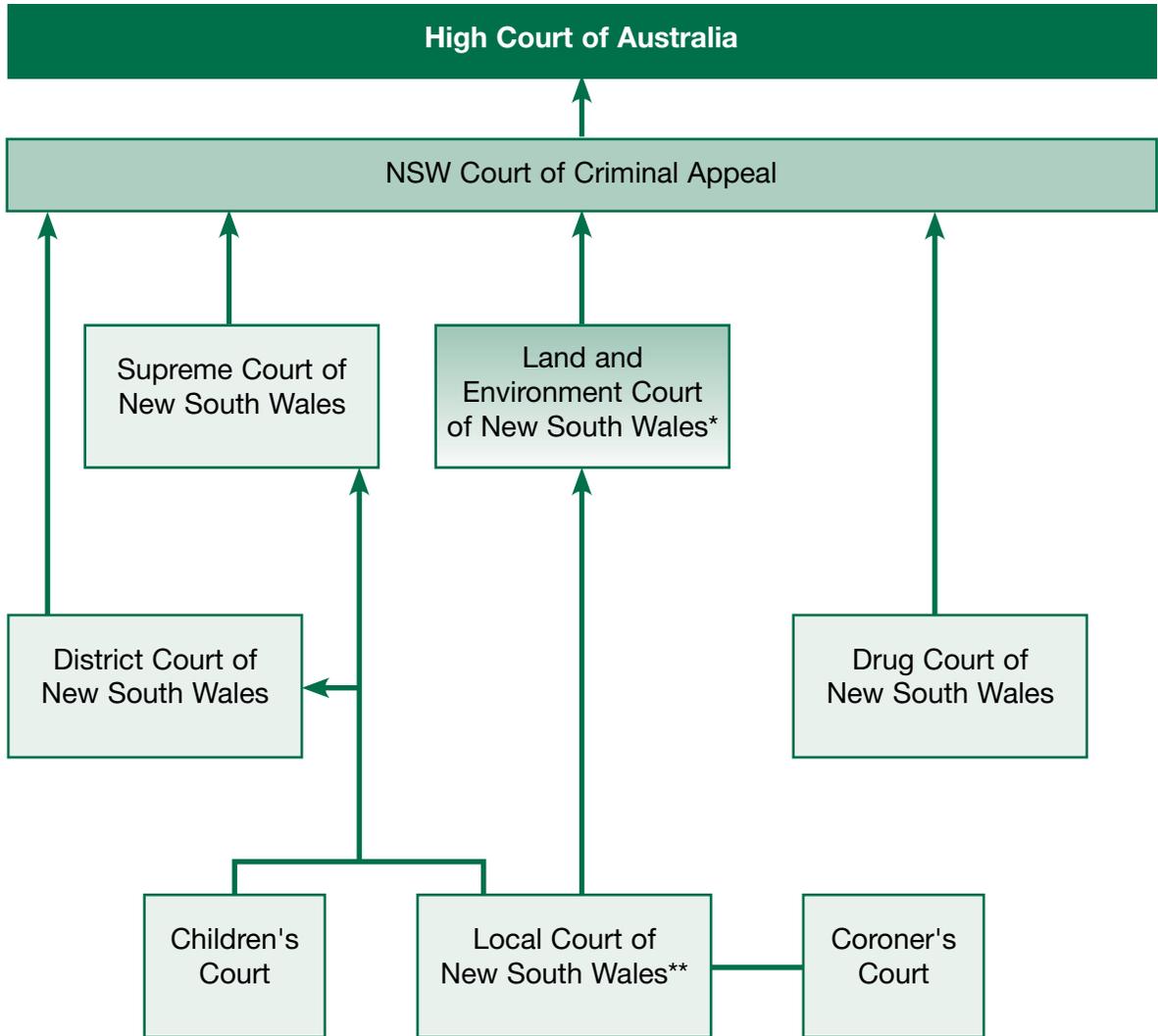
Class 1	environmental planning and protection appeals (merits review appeals)
Class 2	local government, trees and miscellaneous appeals (merits review appeals)
Class 3	land tenure, valuation, rating and compensation matters (merits review appeals)
Class 4	environmental planning and protection (civil 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.

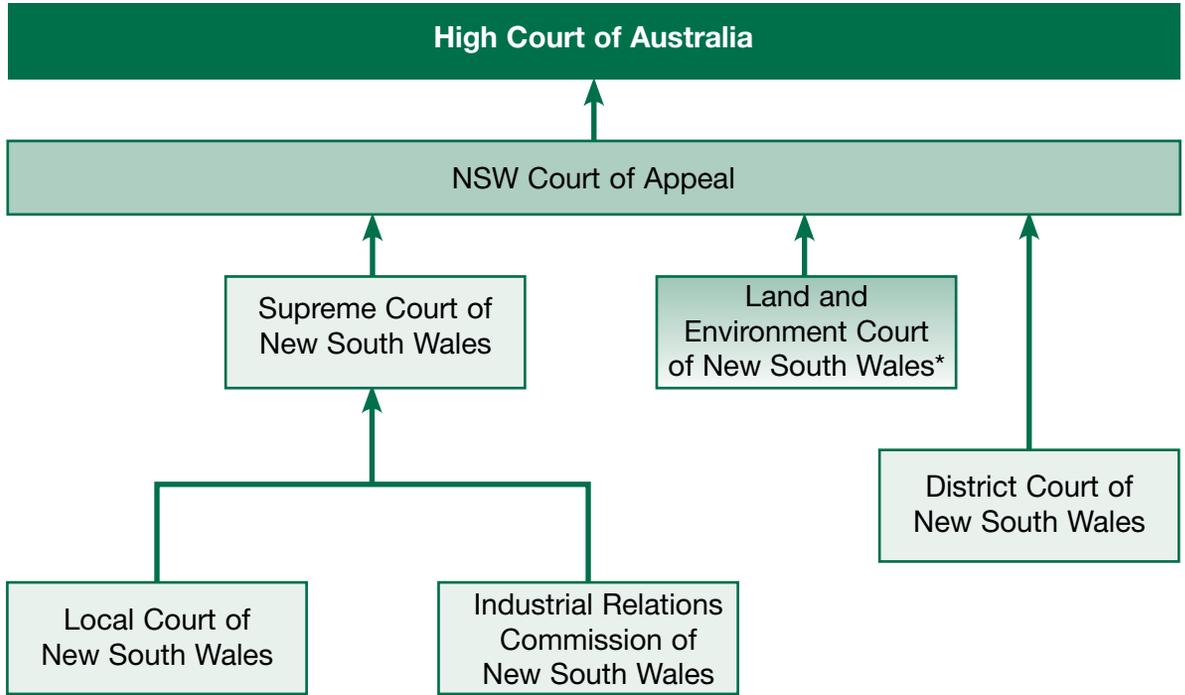
Figure 2.1 New South Wales Court System – Criminal Jurisdiction



* 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.

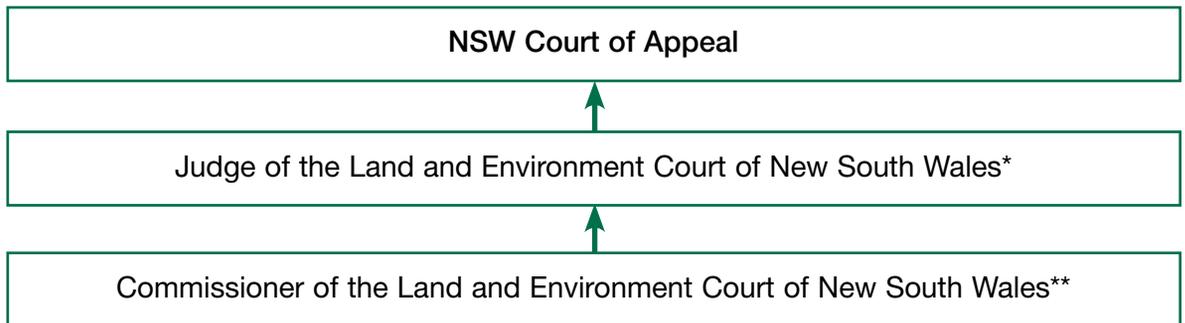
** Appeals from the Local Court of New South Wales to the Land and Environment Court are with respect to an environmental offence under the *Crimes (Appeal and Review) Act 2001* and are in Classes 6 and 7 of the Land and Environment Court's jurisdiction.

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 2021, the Judges, in order of seniority, were as follows:

Chief Judge

The Honourable Justice Brian John Preston
SC

Judges

The Honourable Justice Nicola Hope
Margaret Pain

The Honourable Justice Rachel Ann Pepper

The Honourable Justice Timothy John Moore

The Honourable Justice John Ernest Robson
SC

The Honourable Justice Sandra Anne
Duggan SC

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 Aboriginals or disputes involving Aboriginals; 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 not exceeding 5 years. 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 Chief Judge may direct that a Judge hearing a matter in Class 1, 2, 3, 4 or 8 of the Court's jurisdiction be assisted by a Commissioner (see ss 37 and 43 of the Court Act).

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 2021, the Commissioners were as follows:

Senior Commissioner

Ms Susan Dixon

Commissioners

Ms Susan O'Neill

Ms Danielle Dickson

Mr Michael Chilcott

Ms Joanne Gray

Ms Sarah Bish

Dr Peter Walsh

Mr Timothy Horton

Ms Elizabeth Espinosa

Acting Commissioners

Associate Professor Dr Paul Adam AM – botanist and ecologist

Ms Julie Bindon – town planner

Mr Alan Bradbury – lawyer

Mr Philip Clay SC – lawyer with experience in planning and land valuation matters

Mr Michael Davidson – valuer

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

Mr John Douglas – arborist

Mr David Galwey – arboricultural consultant

Mr Stuart Harding – town planner

Mr Peter Kempthorne – valuer

Mr Paul Knight – valuer

Mr Christopher McEwen SC – lawyer

Ms Susan Morris – town planner

Ms Maureen Peatman – lawyer with experience in land valuation matters

Mr Matthew Pullinger – architect and urban designer

Ms Lynne Sheridan – town planner

Dr Gary Shiels – town planner and urban designer

Mr Andrew Smith – member of the Aboriginal community and lawyer

Ms Emma Washington – landscape architect

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 Communities and Justice. The Registrar, as Business Centre Manager, has reporting and budgetary responsibilities to the Secretary of that department.

As at 31 December 2021, the Registrars were as follows:

Director and Registrar

Ms Sarah Froh

Assistant Registrar and Manager Court Services

Ms Maria Anastasi

Appointments and retirements

Appointments

Mr Michael Davidson was appointed as an Acting Commissioner of the Court on 18 October 2021.

Mr Stuart Harding was appointed as an Acting Commissioner of the Court on 18 October 2021.

Mr Christopher McEwen SC was appointed as an Acting Commissioner of the Court on 18 October 2021.

Ms Lynne Sheridan was appointed as an Acting Commissioner of the Court on 18 October 2021.

Mr Andrew Smith was appointed as an Acting Commissioner of the Court on 18 October 2021.

Retirements

Mr Norman Laing resigned as an Acting Commissioner of the Court on 17 June 2021.

Mr John Maston retired as an Acting Commissioner of the Court on 24 February 2021.

Mr Paul Rappoport resigned as an Acting Commissioner on 23 April 2021.

Ms Jennifer Smithson retired as an Acting Commissioner of the Court on 24 February 2021.

Vale

Mr Ross Speers passed away 6 July 2021, after serving the Court as an Acting Commissioner since 28 May 2014.

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 Online Court.

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.



A court hearing

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

The Court provides copies of daily court lists on the Court's website at: <https://lec.nsw.gov.au/lec/online-services/court-lists.html>

3 Caseflow Management

- Introduction
- Overview by class of jurisdiction
- Types of directions hearings
- Class 1 hearing options
- Alternative Dispute Resolution
 - Conciliation
 - Mediation
 - Neutral evaluation
 - Recognition of the Court's ADR programme

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, a hearing using a remote meeting platform, such as Microsoft Teams, or an Online Court 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 s 34AA 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, Class 1 Residential 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 63% 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.

The Court provides assistance to self-represented parties through the Tree Helpdesk. This helpdesk is operated by law students and supervised by a staff solicitor from Macquarie University.

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 on a 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 Aboriginal land rights. The practice and procedure governing Aboriginal land claims is described in the Practice Note – Class 3 Aboriginal Land Claims.

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 or as the caseload demands. 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 four types of directions hearing:

in-court directions hearing

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

telephone directions hearing

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

Microsoft Teams directions hearing

where representatives of the parties talk with the Registrar or a Judge or Commissioner via a Microsoft Teams audio visual call

Online Court directions hearing

where representatives of the parties post electronic requests to the Registrar and the Registrar responds using the Online Court platform

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, although in 2021 due to the Covid-19 Pandemic, the directions hearings have been conducted as a telephone directions hearing.
- 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 Online Court facility for further directions hearings.

From March 2020, due to the COVID-19 Pandemic, the Court operated all directions hearings by telephone, Microsoft Teams, audio-visual link (AVL) or Online Court. Throughout the 2021 lockdown period, the Court continued to conduct directions hearing remotely. In late 2021, the Court was able to conduct directions hearings using a hybrid model, allowing some matters to be conducted in person in court, where appropriate and at the request of the parties, and other matters to be conducted by telephone, AVL or by Microsoft Teams.

In 2021, Online Court was used in 1,094 civil matters in Classes 1, 2, 3, 4 and 8, and for 6,172 Online Court directions hearings.

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 a hearing conducted in court in person or by telephone, AVL or Microsoft Teams.



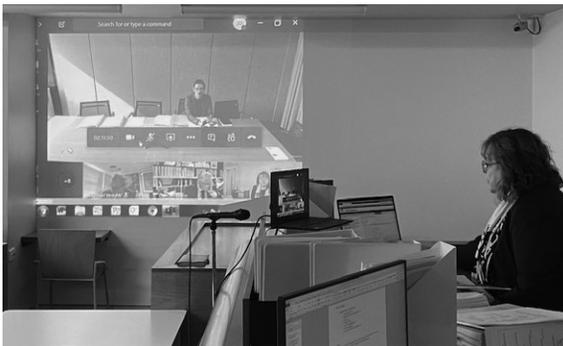
An on-site hearing conducted by Acting Commissioner Paul Adam.



An on-site hearing conducted by Justice Preston



A paperless court hearing.



A Microsoft Teams court hearing.

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

Conciliation of small scale residential development appeals is conducted under s 34AA of the Court Act. The procedure prescribed by s 34 of the Court Act applies with two modifications. First, it is mandatory

for the Court to arrange a conciliation conference between the parties. Secondly, if the parties do not agree on the substantive outcome, the presiding Commissioner terminates the conciliation conference and immediately adjudicates and disposes of the proceedings.

Table 3.1 shows the number of conciliation conferences between 2017 - 2021. Table 3.1 shows a substantial increase in the total number of conciliation conferences held in 2021 compared to 2020 and 2019. This might be a product of the mode in which conciliation conferences have been conducted, often by Microsoft Teams meetings, due to Covid-19 Pandemic restrictions on meeting in person. This may require meeting on more occasions. However, as Table 5.3 shows, the percentage of matters finalised by s 34 and s 34AA conciliation conferences or on-site remained relatively constant over this five year period.

Table 3.1 ss 34 and 34AA Conciliation Conferences 2017 – 2021

	2017	2018	2019	2020	2021
ss 34 and 34AA conferences	1,534	1,465	962	1,342	1,959

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 motion, 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 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 2017 to 2021. 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 2017 – 2021

		2017	2018	2019	2020	2021
Classes 1 and 2	Total:	3	5	7	9	21
	Internal	3	5	6	9	20
	External	0	0	1	0	1
	Number finalised pre-hearing	2	4	3	6	16
	% finalised pre-hearing	67	80	43	67	76
Class 3	Total:	1	4	4	2	3
	Internal	1	2	4	2	3
	External	0	2	0	0	0
	Number finalised pre-hearing	1	2	4	2	3
	% finalised pre-hearing	100	50	100	100	100
Class 4	Total:	15	11	22	19	26
	Internal	15	10	22	19	26
	External	0	1	0	0	0
	Number finalised pre-hearing	11	7	17	15	21
	% finalised pre-hearing	73	64	77	79	81
All Classes	Total:	19	20	33	30	50
	Internal	19	17	32	30	49
	External	0	3	1	0	1
	Number finalised pre-hearing	14	13	24	23	40
	% finalised pre-hearing	74	65	73	77	80

The total number of mediations increased significantly between 2020 and 2021. The 2021 total of 50 is the highest since 2006. The number of mediations in both Class 3 and Class 4 increased slightly. Mediations in Class 1 increased significantly, the highest since 2000.

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 tree disputes in Class 2 are facilitated by a mediator from the NSW Community Justice Centre.

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.

Recognition of the Court's ADR programme

The Court is now a recognised leader in dispute resolution, setting itself apart from other courts and tribunals by providing a multi-door courthouse or a dispute resolution centre, with a range of dispute resolution processes available to parties, which it matches to the individual dispute and disputants.

In 2021, the Land and Environment Court was a finalist in the categories of both 'ADR Innovation of the Year' and 'Court and Tribunal of the Year' at the Australian Disputes Centre ADR Awards. Whilst other courts curtailed their ADR programmes due to the COVID-19 Pandemic and lockdowns, the Court quickly adapted the modes by which conciliations and mediations were organised and conducted to be by telephone, AVL and Microsoft Teams, or a combination.

The success of the Land and Environment Court's alternative dispute resolution programme, the value to the community and the benefits to the parties of providing individualised justice are demonstrated by the flexibility in responding to the COVID-19 Pandemic, the year on year increase in the number of matters that continue to be filed in the Court and the number of matters that are conciliated and resolved prior to any hearing, revealing a high level of ongoing user satisfaction with the Court's dispute resolution processes.

4 Reforms and Developments

- New Policies
- New technology and equipment
- New information on the Court's website
- Duty Lawyer Scheme
- The Land and Environment Court Clinic
- Tree Helpdesk
- 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 2021, reforms occurred in the following areas:

- New Policies
- New technology and equipment
- New information on the Court's website
- Duty Lawyer Scheme
- The Land and Environment Court Clinic
- Tree Helpdesk
- 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).

New Policies

In 2021, the Court adopted new policies in relation to the ongoing COVID-19 Pandemic in response to government restrictions.

In March 2020, in response to the emerging pandemic, the Court issued a COVID-19 Pandemic Arrangements Policy, to facilitate ongoing Court operations to both protect the health and safety of all court users and to maintain access to justice and essential court services. This Policy was subsequently revised in 2021 in April, June and December to remain consistent with the changing NSW Government restrictions and provide guidance to court users and court staff in navigating a return to in person appearances in the Court as well as attendances by remote means such as telephone, AVL and Microsoft Teams.

New technology and equipment

The COVID-19 Pandemic and lockdown periods during 2021 prevented or restricted the Court's ability to resolve disputes in person and in court. The Court quickly responded by organising and conducting dispute resolution by telephone, AVL and Microsoft Teams. This required the installation of new technology and equipment. The Court replaced existing telephones in courtrooms with polycom telephonic equipment and upgraded telecommunication cables and lines to the Court building. All judges, commissioners and registrars continued training in the conduct of dispute resolution processes using remote meeting platforms. In 2021, AVL facilities were installed in nine courtrooms. A project is underway to install AVL facilities in the remaining four courtrooms and the mediation room in 2022.

The installation of AVL facilities in these nine courtrooms also enabled the technology for the 'YouTube Livestream' initiative, with a number of high profile matters being livestreamed to facilitate open access to the Court and justice throughout periods of lockdown, and to allow the public to observe hearings without having to physically attend the court.



YouTube Livestream of proceedings before Justice Duggan, 21 December 2021.

New information on the Court's website

The Court's website was updated with the policies as well as protocols and fact sheets for use of audio-visual links and Microsoft Teams. The Court also published to the website a guide to addressing judicial officers and decision-makers and updated information on the use and access to Interpreters and Translators in the Court.

Information explaining the practice and procedure that applies for particular types of cases in the Court has been expanded with the publishing and updates of a selection of 'Templates' of standard orders for Court-granted development consents and modification of consents, for use by Court staff, parties and practitioners.

The Court continued to update the information published on the website in relation to the Duty Lawyer and Tree Helpdesk schemes and information designed to assist self-represented litigants.

Duty Lawyer Scheme

In 2018, a duty lawyer scheme was trialed in the Court for a 6 month period commencing 6 April 2018. The pilot scheme is the result of a collaboration between the Environment and Planning Law Association, the Environmental Defenders Office, NSW Law Society Young Lawyers Environment and Planning Committee, Macquarie University Law School and practitioners from the Court Users Group.

The pilot scheme was aimed at assisting self-represented litigants in Classes 4 and 5 of the Court's jurisdiction. As a result of the success of the scheme, it has been extended to run permanently and has been broadened to other classes or types of proceedings in the Court.

A duty lawyer is available between 9am and 12 noon each Friday, either in person or by telephone, to provide preliminary advice to self-represented litigants with a view to guiding them through the Court process and referring them to appropriate services. In 2021 it assisted 77 unrepresented persons, an increase of 12% from the previous year.

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 and Macquarie University since early 2017.

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.

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

Tree Helpdesk

Following its establishment in 2016 with Macquarie University law students, the Tree Helpdesk continued operation in 2021. The student helpdesk is operated by Macquarie University law students and supervised by a staff solicitor to provide assistance to unrepresented persons with tree dispute matters under the Trees Act. It is an independent service from the Land and Environment Court. In 2021 it assisted 51 unrepresented persons, across 60 appointments, who wished to become or were parties to tree dispute matters.

Maintenance of library services

Library Services has continued to support the work of the Land and Environment Court in a number of ways: maintain and update the court's library collection, 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 2021, 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 - 2020 Annual Reviews, the Court has undertaken or continued to undertake 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 new jurisdiction and revised practice and procedure;
- 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;
- adaptively managing the Court's response to the COVID-19 Pandemic; and
- formulating and implementing new modes of conducting dispute resolution services, so as to match the "form of the forum to the fuss".

2. Court planning and policies:

- adopting and implementing policies to ensure the ongoing provision of dispute resolution services during the COVID-19 Pandemic; and
- implementing a Dignity and Respect Policy to ensure the Court provides a workplace free from inappropriate behaviour.

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; and
- implementing the use of paperless trials in certain classes of cases;
- introducing the eSubpoena portal which allows parties to remotely produce and access subpoenaed material;
- organising and conducting court proceedings by telephone, AVL and Microsoft Teams to maintain access to justice to all; and
- being a finalist in both 'ADR Innovation of the Year' and 'Court and Tribunal of the Year' categories at the 2021 Australian Disputes Centre ADR Awards recognising the Court's adaptation of its ADR programme.

4. Public trust and confidence and

5. User satisfaction:

- continuing to meet on a quarterly basis with court users as part of the Court Users Group, as explained in Appendix 1.
- continuing publication of a court newsletter three times a year 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; and
- 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 legislation conferring jurisdiction, case law and facts.

6. Court resources:

- maintaining the Court's human resources, by appointment of new acting commissioners;
- 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;
- adopting and implementing a Dignity and Respect Policy to ensure the Court provides a workplace free of inappropriate behaviour;
- administering a survey of all Court staff to ascertain any instances of inappropriate workplace behaviour and taking appropriate action to address survey responses;

- providing new technology and equipment in courtrooms to conduct dispute resolution processes by telephone, AVL and Microsoft Teams and to livestream proceedings on YouTube; and
- providing training for judges, commissioners and registrars and registry staff in the use of the new technology and equipment.

7. Affordable and accessible services:

- maintaining access to the Court and its dispute resolution services during the COVID-19 Pandemic;
- continuing the Duty Lawyer Scheme to assist self-represented litigants;
- continuing the Tree Helpdesk to assist self-represented parties in tree disputes;
- implementing the 'YouTube livestream' initiative allowing open access for the public to court hearings; and
- regularly monitoring and reviewing 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, in 2010, a project with the Australasian Legal Information Institute (AustLII) to use AustLII's databases to generate relevant metrics and statistics concerning the Court. The data is available on a calendar year basis and links for the data for the years ending 31 December for each year from 2010 to 2021 are available on the Court's website at Publications and Resources then Metrics and statistics.

The metrics 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 those 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.

From the twelve years of data available from the project, it can be seen that there continues to be widespread citation of decisions of this Court in other jurisdictions. In Australia, by the end of 2021, decisions of this Court were cited 9831 times (a significant increase over 2021, largely but not entirely explained by greater internal citation in this Court), in every State and Territory. The number of citations continues to increase. For example, in Western Australia, in the base year (2010) this Court's decisions had been cited 94 times in decisions of courts and tribunals (including 11 times in the Western Australian Court of Appeal). By the end of 2021, decisions of this Court had been cited 224 times (including 18 times in the Western Australian Court of Appeal), which represents a further 91 citations by courts and tribunals in Western Australia over the twelve-year period. Similar positions apply to other Australian jurisdictions as can be seen by a comparison between the December 2010 metrics and those of December 2021.

Commencing with the Court's 2020 metrics, AustLII was also able to expand its search range for both international citation data and for journal and other commentary sources. This gave a wider range of results in each category. Although the data able to be accessed internationally is comparatively limited, AustLII records decisions of this Court having been cited since 2010:

- seven times by New Zealand courts (three times by each of the High Court and the Supreme Court);
- five times by South African courts (once by the Supreme Court of Appeal);
- twice by the National Court of Papua New Guinea; and
- once each by the Belize Supreme Court, the Court of Appeal of Fiji, the Court of Appeal of the Cook Islands, the High Court of Trinidad and Tobago, the Singapore District Court and the Hong Kong Court of First Instance.

By the end of 2021, decisions of this Court had been cited in 81 courts and tribunals and other institutions throughout Australia and the world. In Australia, the courts, tribunals and other decision-making bodies citing decisions of this court have ranged from the High Court of Australia to the Queensland Building Tribunal.

The Court's decisions have also been cited in a range of law journals and other commentaries (45 in total). This is a considerable underestimation of academic citation as AustLII's access to databases of law journals or other commentaries is limited. This is because the range of law journals able to be accessed by AustLII's indexing process is limited to publicly accessible material and does not include most proprietary subscription-based journals.

The full range of courts and tribunals and law journals that have cited cases from this Court's AustLII database can be seen by accessing the December 2021 metrics on the Court's website at:
<https://lec.nsw.gov.au/lec/publications-and-resources/metrics-and-statistics.html>.

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 2021, 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. Any errors in data entry revealed by the audits were corrected.

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 2017 and 2021 are summarised in Table 5.1.

Table 5.1 Caseload Statistics

	2017	2018	2019	2020	2021
Class 1					
Registrations	1,009	1,001	904	732	779
Restored	12	9	19	11	16
Pre-Trial Disposals	556	641	636	659	655
Disposed by Hearing	275	242	219	215	306
Pending	578	705	790	643	488
Class 2					
Registrations	131	85	91	90	123
Restored	8	5	4	8	12
Pre-Trial Disposals	28	34	16	24	38
Disposed by Hearing	104	67	77	63	87
Pending	39	28	31	43	53
Class 3					
Registrations	77	107	84	82	116
Restored	5	0	0	3	5
Pre-Trial Disposals	72	68	79	77	74
Disposed by Hearing	36	38	10	12	16
Pending	94	95	93	85	114
Class 4					
Registrations	118	116	102	92	124
Restored	23	24	21	11	19
Pre-Trial Disposals	82	83	68	72	78
Disposed by Hearing	44	46	39	43	38
Pending	99	87	105	83	105
Class 5					
Registrations	59	156	164	116	192
Restored	2	0	1	4	3
Pre-Trial Disposals	6	22	24	29	75
Disposed by Hearing	69	36	65	36	76
Pending	67	166	249	300	343

Classes 6 & 7

Registrations	11	16	17	7	6
Restored	1	4	0	1	1
Pre-Trial Disposals	3	13	8	2	5
Disposed by Hearing	11	12	6	12	3
Pending	9	5	8	3	2

Class 8

Registrations	3	5	1	2	2
Restored	1	1	0	0	1
Pre-Trial Disposals	0	3	2	2	1
Disposed by Hearing	2	1	2	1	1
Pending	3	5	2	1	2

TOTAL

Registrations	1,408	1,486	1,363	1,121	1,342
Restored	52	43	45	38	57
Pre-Trial Disposals	747	864	833	865	926
Disposed by Hearing	541	442	418	382	527
Pending	889	1,091	1,279	1,158	1,107

Tables 5.1 and 5.2 show the following trends:

- After two consecutive years of decreasing registrations, 2021 saw an increase in registrations in Classes 1, 2, 3, 4 and 5. The increase in Class 1 registrations from 2020 was modest (7%), although registrations were still relatively low compared to earlier years and well below the 2017 peak. The increase in Class 2 registrations was significant (38%), to be the second highest in the last five years. Class 3 registrations increased by 42% and Class 4 registrations increased by 39%, to each be the highest registrations in those classes in the last five years. Class 5 registrations increased by the greatest amount (62.5%), to be the highest in the last five years.
- Total finalisations (1,453) increased significantly from 2020 (1,247) to be the highest in the last five years. Although the pre-trial finalisations increased, the proportion of matters finalised through pre-trial disposals decreased, most notably in Class 1. The proportion of restored matters increased but remains relatively low despite the generally elevated caseload.
- Total finalisations (1,453) were higher than total registrations (1,399) in 2021, resulting in the total pending caseload (1,107) decreasing. This is the second consecutive year that the pending caseload has decreased. This is a reflection of improved Court efficiency.

- Merits review and other civil proceedings finalised in Classes 1, 2 and 3 (1,176) comprised 81% of the Court's finalised caseload (1,453) in 2021. This proportion is slightly lower than in 2020 (84%).
- Civil and criminal proceedings finalised in Classes 4, 5, 6, 7 and 8 (277) comprised 19% of the Court's finalised caseload (1,453) in 2021. This proportion is a slight increase from 2020 (16%).

- The means of finalisation in 2021 were 64% pre-trial disposals (including by use of alternative dispute resolution processes and negotiated settlement) and 36% by adjudication by the Court. This is a slight decrease in the proportion of pre-trial finalisations in 2020 but otherwise remains consistent with the results in earlier years.

Table 5.2 Means of Finalisation – All Matters

	2017	2018	2019	2020	2021
Total matters finalised – all classes	1,288	1,306	1,251	1,247	1,453
Total pre-trial finalisations	747	864	833	865	926
% matters finalised pre-trial	58	66	67	69	64

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. Although a high percentage when compared to some of the Court's older reported statistics, this is a slight decrease from an all time high 50.2% recorded in 2018. 45% is consistent with the recent results, albeit a little lower.

Of the total of 529 matters, 482 were finalised by s 34 and s 34AA conciliation conferences and 47 matters by on-site hearings. Both 2021 and 2020 results represent a significant reduction in the amount of on-site hearing finalisations (down from 71 in 2019), largely due to COVID-19 social distancing restrictions. This also accounts for the decrease in the percentage of matters finalised by s34/s34AA/on-site hearings outlined in Table 5.3 below.

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

	2017	2018	2019	2020	2021
Total matters finalised	1,071	1,090	1,037	1,050	1,176
s 34 and s 34AA conferences and on-site hearings	523	547	500	490	529
% s 34 and s 34AA and other matters finalised on-site	48.8	50.2	48.2	46.7	45.0

Court performance by class of jurisdiction

A brief summary of the Court's performance in 2021 for each of the eight classes of jurisdiction is provided.

Class 1

Registrations of Class 1 matters increased in 2021 after decreasing the previous two years. There were 795 Class 1 registrations in 2021, 52 more than the 2020 total of 743 (a 7% increase). Finalisations also increased in 2021. There were 51 additional Class 1 finalisations in 2021 (an increase of 6%). The total of 961 finalisations is the highest since 2007. The greater number of finalisations than the number of registrations resulted in the Class 1 pending caseload reducing significantly (a decrease of 24%). This is the second consecutive year that the Class 1 pending caseload has reduced, which has not been achieved since 2009/2010. Class 1 represents 57% of all filings in 2021, down from 64% the previous year. The decrease in proportional percentage of Class 1 registrations experienced over the last three years can largely be explained by significantly elevated level of Class 5 registrations (Class 1 matters constituted almost 70% of all registrations in 2017 for example). COVID-19 also likely affected the incoming matters in Class 1 as it has had wide ranging impacts on the planning and development industries.

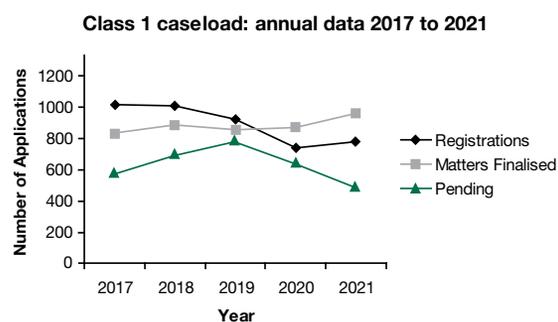
Class 1 matters constitute the bulk of the Court's finalised caseload (66%). 69.5% of Class 1 matters finalised were appeals under s 8.7 of the *Environmental Planning and Assessment Act 1979* relating to development applications. 52% of the appeals under s 8.7 were applications where councils had not determined the

development application within the statutory time period ("deemed refusals"). This is a decrease from the proportion of deemed refusals reported in 2020 (57%) and 2019 (61%). One explanation for the decrease might be the legislative amendments that extended the time for deemed refusals.

Of the remaining Class 1 finalisations in 2021, 10% were applications to modify a development consent under s 8.9 of the *Environmental Planning and Assessment Act 1979* and 13% were appeals against council orders and the actual or deemed refusal by councils to issue building or occupation certificates. Third party objector appeals constituted less than 1%. Applications for costs, s 56A appeals against the Court's decisions, and prevention or remediation notices constituted the bulk of the remaining finalised matters in Class 1.

Figure 5.1 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 1 between 2017 and 2021.

Figure 5.1



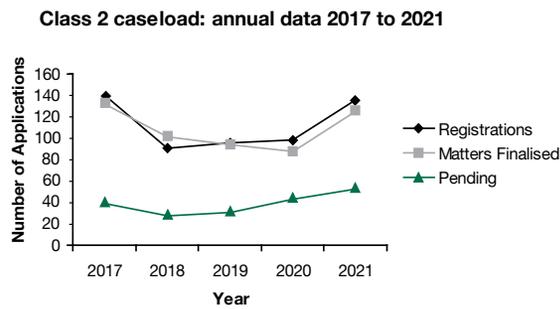
Class 2

Class 2 registrations represented 10% of total registrations in the Court in 2021 (up from 8.5% in 2020). Registrations increased significantly from 2020; a 38% increase from 98 to 135.

The number of Class 2 matters finalised in 2021 is 125, a significant increase from 2020 (44%). This number represents 9% of the Court's finalised caseload for the year, an increase from the 7% recorded in 2020 and 2019. Applications under the *Trees (Disputes Between Neighbours) Act 2006* represent a strong majority of Class 2 finalisations for 2021 (78%).

Figure 5.2 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 2 between 2017 and 2021.

Figure 5.2



Class 3

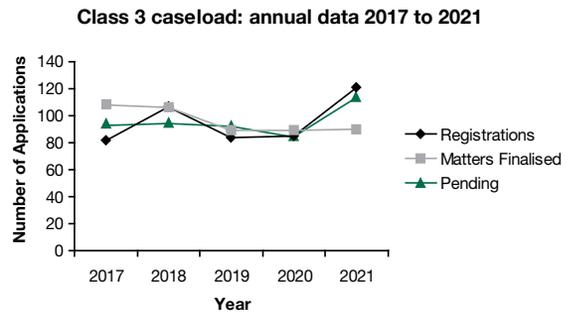
Class 3 of the Court's jurisdiction encompasses a range of proceedings including claims for compensation as a result of the compulsory acquisition of land, valuation and rates category appeals and Aboriginal land rights claims.

New registrations in Class 3 increased significantly in 2021 (42%). Compensation claims for compulsory acquisition of land constituted 37% of all Class 3 appeals registered in 2021, up significantly from 29% in 2020. Valuation and rating appeals accounted for 26%. Aboriginal land claim appeals constituted 14% of Class 3 filings (14 filed in total).

Of the Class 3 matters finalised in 2021, 31% were compensation claims (down from 40% in 2020 and 53% in 2019), 33% were valuation or rating appeals and 26% were other matters. There were 12 Aboriginal land claim matters completed in the year. Finalisations of Class 3 matters remained consistent. The pending caseload of Class 3 matters increased, a change of 34% as registrations exceeded finalisations in 2021.

Figure 5.3 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 3 between 2017 and 2021.

Figure 5.3

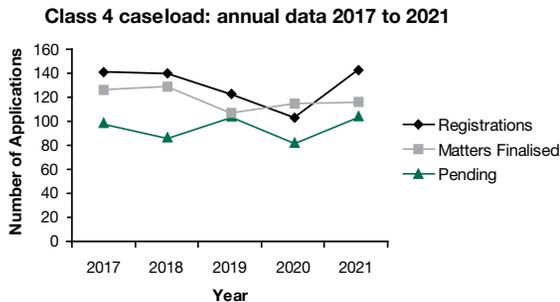


Class 4

Class 4 registrations increased significantly in 2021 (39%), whilst finalisations remained steady. Class 4 matters comprise 10% of all registrations and 8% of all finalisations in 2021. As a result of Class 4 registrations exceeding finalisations, the Class 4 pending caseload increased considerably (26.5%). Of the Class 4 matters registered in 2021, 57% were initiated by councils (up from 48% in 2020). Civil enforcement proceedings constituted 49% of finalised Class 4 matters and judicial review constituted 37%.

Figure 5.4 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 4 between 2017 and 2021.

Figure 5.4



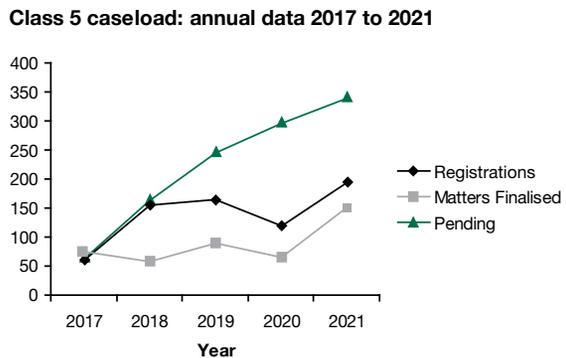
Class 5

Class 5 registrations increased significantly from an already elevated level in 2021 (62%). The total of 195 is the highest on record for the Court. The Environment Protection Authority initiated 26% of all registrations. The Natural Resources Access Regulator initiated 35% of new Class 5 matters in 2021. The Department of Planning and Environment accounted for 15%. Local Councils accounted for 9% (6 by Georges River Council, 3 by Hawkesbury City Council, 3 by Hunters Hill Council, 2 by Liverpool City Council, 1 by Ballina Shire Council). Private prosecutions under s 115 of the *Protection of the Environment Operations Act 1997* account for the remaining matters (14%).

Class 5 finalisations increased significantly in 2021, more than doubling the 2020 total (151 total, a change of 132%). Convictions were recorded in 70 matters, 69 were withdrawn or otherwise discontinued and 8 were dismissed (two restored applications to vary orders were upheld, as were two motions for costs). Fines and remediation orders ranged from \$5,000 for the contravention of the conditions of an authorisation under the *Mining Act 1992* to \$200,000 for taking water without an access licence. 22 community service orders were issued in 2021. There was one intensive correction order made by the Court in 2021.

Figure 5.5 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 5 between 2017 and 2021.

Figure 5.5



Classes 6 and 7

Five Class 6 appeals were filed in 2021. Six Class 6 matters were finalised. There were two Class 7 appeals registered, both also finalised in 2021. These were the first Class 7 matters since 2007. There are two pending Class 6 matters and no pending Class 7 matters.

Class 8

On 7 April 2009 the Court acquired jurisdiction to hear and dispose of civil proceedings under the *Mining Act 1992* and the *Onshore (Petroleum) Act 1991*. There were three Class 8 matters registered in 2021. There were two Class 8 matters finalised this year. There are two Class 8 matters pending at the end of 2021.

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 2021 to increase court fees by 0.8% to be able to balance the Court's budget and ensure a high standard of court administration service quality (effective 1 July 2021). 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 electronically filing originating process and case documents by Online Registry; conducting directions hearings and other attendances before the final hearing by means of telephone, AVL, Microsoft Teams or Online Court; producing and accessing documents by eSubpoena; enabling communication between the Court and parties and their legal representatives by Online Court, email and facsimile; conducting final hearings on the site of the dispute or sitting in country courthouses proximate to the parties and/or the subject site; and conducting final hearings by telephone, AVL or Microsoft Teams.

Up until 2016, a matter was counted as a country matter if it was outside the area bordered by the local government areas of Wollongong, Blue Mountains and Gosford. From 2016, a matter is counted as a country matter if it is in a local government area outside the Greater Sydney region. In 2021, 28% of matters registered were country matters. This represents a slight decrease from an elevated rate in recent years, which is largely explained by the sustained high volume of Class 5 registrations (of which 64% were country matters).

The Court identifies and case manages country matters (other than criminal matters in Class 5) in a particular way.

Firstly, 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 geographical location. In response to the Covid-19 Pandemic restrictions in 2021, all directions hearings conducted by the Registrar and nearly all directions hearings conducted by the List Judges were by telephone conferences. All country matters were conducted in 2021 by telephone directions hearings. Most telephone directions hearings held by the Court involve parties and their legal representatives in country matters.

Secondly, the Court pioneered the use of Online Court (previously 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, Online Court directions hearings are used extensively in country matters.

Parties appeared by Online Court directions hearing in 91% of completed Class 1 country matters and 79% of completed Class 3 country matters in 2021.

Table 5.4 shows the percentage of

pre-hearing attendances conducted by Online Court directions hearings in Classes 1-4 and 8 in 2021. The total percentage of Online Court directions hearings of 47% is an increase on 42% for 2020.

Table 5.4 Online Court and Telephone Directions Hearings

Class	No of cases	Total pre-hearing attendances	% Online Court directions hearings
1	840	10,956	51
2	94	331	77
3	73	870	37
4	85	959	22
8	2	15	20
All	1,094	13,131	47

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. 74% of finalised Class 1 country matters and 25% of finalised Class 3 country matters featured a s 34 or s 34AA 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. A formal 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 4.55, 4.56, 8.7, 8.18 or 8.25 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 2021, 4% of finalised

matters (in Classes 1 and 2) were conducted as an on-site hearing, of which 23% were country matters. Of the Class 1 country matters, however, none were conducted as an on-site hearing. The number of on-site hearings was again reduced in 2021, as it was in 2020, due to COVID-19 Pandemic restrictions and lockdown periods.



An on-site hearing conducted by Senior Commissioner Dixon.

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 2021. The number of hearings in a country courthouse was reduced due to Covid-19 Pandemic restrictions and lockdown periods.

Table 5.5 Country hearings in courthouses

Courthouse	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6	Class 8
Albion Park	1						
Ballina	1						
Byron	1						
Cooma	1						
Katoomba	2						
Moree	1						
Moss Vale	1						
Mullumbimby	2	1					
Newcastle	2						
Picton	1						
Wollongong	1						
TOTAL	14	1					

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 and now, with the use of AVL and Microsoft Teams and hybrid modes of conducting proceedings, physical attendance is no longer a requirement. The Land and Environment Court website contains a special page, under the tab 'Access for

people with disabilities', 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 procedural 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

In 2018 a duty lawyer scheme was trialed in the Court for a 6 month period commencing 6 April 2018. The pilot scheme was aimed at assisting self-represented litigants in Classes 4 and 5 of the Court's jurisdiction. As a result of the success of the scheme, it continues to run and has been broadened to other Classes or types of proceedings in the Court. A duty lawyer is available on Level 4 between 9am and 12 noon each Friday, and remotely via telephone during the COVID-19 Pandemic, to provide preliminary advice to self-represented litigants with a view to guiding them through the Court process and referring them to appropriate services.

The Tree Helpdesk has continued to assist unrepresented litigants in tree disputes. The Tree Helpdesk is operated by law students and a solicitor on the staff of Macquarie University.

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;
- 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 and 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 2021, all full-time Commissioners, a number of the Acting Commissioners and the Registrar and Assistant Registrar of the Court were nationally accredited mediators 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.

Open justice is critical to the rule of law. Courts conduct hearings in public, allowing any member of the public to observe proceedings. During 2021, due to the restrictions imposed on in-person attendances at Court, matters were able to be observed via Microsoft Teams, AVL and the initiative of YouTube livestreaming.

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 2021, the Judges, Commissioners and the Registrar participated in numerous 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.

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 2021 are set out in Table 5.6.

Table 5.6 Backlog Indicator (LEC time standards)

	Unit	LEC Standards	2017	2018	2019	2020	2021
Class 1							
Pending caseload	no.		578	705	790	643	488
Cases > 6 months	%	5	21.5	26.4	48	47.1	23.2
Cases > 12 months	%	0	2.8	7.2	17.5	24.3	7.6
Class 2							
Pending caseload	no.		39	28	31	43	53
Cases > 6 months	%	5	15.4	7.1	9.7	20.9	18.9
Cases > 12 months	%	0	2.6	0	3.2	9.3	1.9
Class 3							
Pending caseload	no.		94	95	93	85	114
Cases > 6 months	%	5	56.4	48.4	58.1	47.1	33.3
Cases > 12 months	%	0	41.5	27.4	38.7	31.8	17.5
Class 4							
Pending caseload	no.		99	87	105	83	105
Cases > 8 months	%	5	39.4	47.1	41.0	45.8	33.3
Cases > 16 months	%	0	21.2	25.3	22.9	19.3	16.2
Class 5							
Pending caseload	no.		67	166	249	300	343
Cases > 8 months	%	5	35.8	29.5	47.4	78.7	76.1
Cases > 16 months	%	0	7.5	12.1	17.3	41.3	40.2
Class 6							
Pending caseload	no.		9	5	8	3	2
Cases > 8 months	%	5	0	0	0	0	50
Cases > 16 months	%	0	0	0	0	0	0
Class 8							
Pending caseload	no.		3	5	2	1	2
Cases > 8 months	%	5	0	40	100	0	0
Cases > 16 months	%	0	0	0	100	0	0
Class 1 – 3							
Pending caseload	no.		711	828	914	771	655
Cases > 6 months	%	5	25.9	28.3	47.3	45.7	24.6
Cases > 12 months	%	0	7.9	9.3	19.1	24.3	8.6

Class 4 – 8

Pending caseload	no.		178	263	364	387	452
Cases > 8 months	%	5	35.4	35.0	44.8	70.8	65.7
Cases > 16 months	%	0	14.6	16.0	19.0	36.2	34.3

These backlog figures need some explanation:

- **Class 1:** The backlog percentage figures for pending caseloads greater than 12 months decreased in 2021, as did the percentage of pending matters exceeding 6 months. The total pending caseload in Class 1 also decreased during 2021 as a result of finalisations exceeding registrations. This is the second consecutive year that the pending caseload has reduced which is the first time this has occurred since 2009/2010. The significant drop off in matters exceeding 6 months to matters exceeding 12 months indicates a large volume of Class 1 matters are finalising between these two measuring points. In 2021, the average finalisation time for Class 1 matters was roughly 10 months, whilst the median finalisation time was about 8 months.
- **Class 2:** There was a further increase in the amount of pending Class 2 matters at the end of 2021, as registrations exceeded finalisations. Most of these are tree disputes. There are 10 pending matters that have exceeded the 6 month time standard (1 more than at the end of 2020). However, just 1 of these matters has exceeded the 12 month standard (down from 4 in 2020). These results have again been exacerbated by COVID-19 social gathering restrictions which made on-site hearing (the primary means of determination for tree disputes) difficult to organize at times during 2021.
- **Class 3:** The number of pending Class 3 matters increased in 2021 following a notable growth in Class 3 registrations. There was a significant reduction in the proportion of matters exceeding both the 6 and 12 month time standards to be the lowest in five years.
- **Class 4:** The number of pending Class 4 matters increased significantly from 2020 following an increase in registrations. There was a decrease in both the proportion of pending matters active for more than 8 months and more than 16 months to be the lowest in five years. This indicates a significant amount of Class 4 matters finalise somewhere after 8 months but before 16 months. The average duration for finalised Class 4 matters in 2021 was slightly less than 8 months and the median 7 months.
- **Class 5:** The significant increase in registrations of Class 5 matters, which exceeded the finalisations, caused the pending caseload to increase in 2021. This continues a trend from 2017 of high registrations. The volume of pending matters increased by 412% from the end of 2017. This has caused significant increases in the proportion of matters exceeding time standards. Some of these older pending matters will finalise en masse, as they are related prosecutions, so the Court should see a significant increase in Class 5 finalisations in the coming years. As shown by the age of the pending caseload above, many of these upcoming finalisations will exceed the Court's time standards.

■ **Class 6:** There was a slight decrease in the number of pending Class 6 matters in 2021. Of the 2 pending appeals, one has been active for more than 8 months. Neither has been active for more than 12 months.

■ **Class 8:** The pending caseload increased to 2 in 2021. Neither matter has been active for more than 8 months.

If the national time standards are used, the results of the backlog indicator for the Court in 2021 are as shown in the table below:

Table 5.7 Backlog indicator (national time standards)

	Unit	National Standards	2017	2018	2019	2020	2021
Class 1							
Pending caseload	no.		578	705	790	643	488
Cases > 12 months	%	10	2.8	7.2	17.5	24.3	7.6
Cases > 24 months	%	0	0.3	0.3	0.5	2.8	1.6
Class 2							
Pending caseload	no.		39	28	31	43	53
Cases > 12 months	%	10	2.6	0	3.2	9.3	1.9
Cases > 24 months	%	0	0	0	0	0	0
Class 3							
Pending caseload	no.		94	95	93	85	114
Cases > 12 months	%	10	41.5	27.4	38.7	31.8	17.5
Cases > 24 months	%	0	8.5	10.5	6.5	21.2	2.6
Class 4							
Pending caseload	no.		99	87	105	83	105
Cases > 12 months	%	10	28.3	35.6	32.4	30.1	22.9
Cases > 24 months	%	0	6.1	13.8	15.2	7.2	9.5
Class 5							
Pending caseload	no.		67	166	249	300	343
Cases > 12 months	%	10	29.9	15.7	36.9	66.7	46.4
Cases > 24 months	%	0	3.0	3.6	4.8	19	34.4
Class 6							
Pending caseload	no.		9	5	8	3	2
Cases > 12 months	%	10	0	0	0	0	0
Cases > 24 months	%	0	0	0	0	0	0

Class 8

Pending caseload	no.		3	5	2	1	2
Cases > 12 months	%	10	0	0	100	0	0
Cases > 24 months	%	0	0	0	0	0	0

This table shows that the Court's performance in Classes 2, 6 and 8 better or meets the national standard for both 12 months and 24 months. The Court's performance improved significantly for both the 12 month standard (now compliant with the national standard in this measure) and the 24 month standard for Class 1 matters. The Court's performance in Class 4 has improved in 2021 compared to 2020 for the 12 month standard. The Court's performance in Class 5 remains substantially below the national standard for 12 months and 24 months, despite an improvement in the first measure, for the reasons given earlier.

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 2017-2021.

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

	2017	2018	2019	2020	2021
Class 1					
No. of cases	831	883	855	874	961
% < 6 months	62	37	25	27	32
% < 12 months	94	90	77	68	72
95% completed within (months)	13	14	16	20	22
Class 2					
No. of cases	132	101	93	87	125
% < 6 months	93	89	89	66	69
% < 12 months	99	98	99	99	97
95% completed within (months)	7	9	7	10	9
Class 3					
No. of cases	108	106	89	89	90
% < 6 months	44	28	29	38	40
% < 12 months	72	63	66	66	60
95% completed within (months)	26	34	27	23	37

Class 4

No. of cases	126	129	107	115	116
% < 8 months	71	67	63	57	58
% < 16 months	88	91	85	86	89
95% completed within (months)	24	22	23	22	20

Class 5

No. of cases	75	58	89	65	151
% < 8 months	19	28	26	22	9
% < 16 months	73	76	80	51	32
95% completed within (months)	53	18	22	26	35

Class 6

No. of cases	14	25	14	14	6
% < 8 months	71	68	71	50	83
% < 16 months	100	100	100	100	83
95% completed within (months)	10	10	11	9	13

Class 8

No. of cases	2	4	4	3	2
% < 8 months	0	100	75	33	50
% < 16 months	0	100	100	33	100
95% completed within (months)	23	7	6	25	8

In Class 1, there was an increase in the percentage of cases completed within 6 months and 12 months. The number of finalisations increased from 2020 whilst the timeliness improved. The growth in backlog over recent years has made finalisation of older matters necessary to improve the Court's efficiency going forward. This is corroborated by the associated increase in the 95% completion measure: the time taken to finalise 95% of cases increased by an additional 2 months. This measure has increased by 9 months over the last 5 years. The mean (9.6 months) and median (8 months) time for completion of Class 1 matters both decreased in 2021.

In Class 2, the percentage of matters completed within 6 months increased, whilst the percentage of matter completed within 12 months slightly decreased.

The time taken for 95% of matters to be completed also decreased, as did the mean and median time for finalisation. The Court continued to manage the Class 2 caseload very well.

In Class 3, a higher percentages of cases were completed within 6 months but the 12 month standard decreased from the previous year. There was a significant increase in the time taken to complete 95% of the cases. This, combined with the decrease in matters finalised in 12 months, indicates that the Court completed a significant amount of older Class 3 matters this year. This is supported by a significant increase in the average finalisation time: almost 13 months (up from 10 months in 2020) whilst the median finalisation time actually decreased (8 months).

In Class 4, the percentage of cases finalised in less than 8 months and 16 months both slightly increased. The time taken to complete 95% of the matters also decreased. This measure has remained very consistent over the last 5 years. The mean and median finalisation times both decreased.

In Class 5, the percentages of cases finalised in less than 8 months and less than 16 months decreased significantly. This is a product of 4 years of high registrations. The time taken to complete 95% of cases further increased to almost 3 years. The average finalisation time increased significantly to 21 months (16 months in 2020).

The Court's performance in complying with time standards for Class 6 matters increased in the 8 month category. The percentage of cases finalised within 16 months fell below the 100% standard achieved in 2017, 2018 and 2019. The time taken to finalise 95% of cases increased to 13 months.

The Court's performance in Class 8 increased significantly in both the 8 month and 16 month finalisation categories. The 16 month measure was restored to the 100% completion rate after dropping down significantly in 2020. The low volume of cases makes it difficult to draw any great inferences from the result.

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 number of judgments (8%) 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 2021 for reserved judgments being delivered within the 14 and 30 days intervals improved slightly from 2020, and the 90 day measure was maintained. These results need to be viewed in the context of the material increase in the numbers of matters dealt with by the Court in the year.

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	2017	2018	2019	2020	2021
% delivered within 14 days	50	39	30	24	19	21
% delivered within 30 days	75	59	52	50	46	48
% delivered within 90 days	100	83	78	80	78	78

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

	2017	2018	2019	2020	2021
Class 1	30	10	2	2	9
Class 2	3	0	0	0	0
Class 3	2	4	1	0	0
Class 4	2	5	2	1	1
Class 5	1	0	0	0	1
Classes 6 and 7	0	0	0	0	0
Class 8	0	0	1	0	0
Total	38^{*1}	19^{*2}	6^{*3}	3^{*4}	11^{*5}

*1 In 2017, 18% of inquiries (7) concerned judges' reserved judgments and 82% (31) concerned commissioners' reserved judgments.

*2 In 2018, 68% of inquiries (13) concerned judges' reserved judgments and 32% (6) concerned commissioners' reserved judgments.

*3 In 2019, 67% of inquiries (4) concerned judges' reserved judgments and 33% (2) concerned commissioners' reserved judgments.

*4 In 2020, 33% of inquiries (1) concerned judges' reserved judgments and 67% (2) concerned commissioners' reserved judgments.

*5 In 2021, 27% of Inquires (3) concerned judges' reserved judgments and 73% (8) concerned commissioners' reserved judgments.

The Chief Judge investigated each inquiry made in 2021 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

	2017	2018	2019	2020	2021
	%	%	%	%	%
Class 1	81.4	87.4	92.6	117.6	120.9
Class 2	95.0	112.2	97.9	88.8	92.6
Class 3	131.7	99.1	106.0	104.7	74.4
Class 4	89.4	92.1	87.0	111.7	81.1
Class 5	123.0	37.2	53.9	54.2	77.4
Class 6	116.7	125	82.4	175	120
Class 8	66.7	66.7	400	150	66.7
Classes 1-3	86.2	90.3	94.1	113.4	111.9
Classes 4-8	99.5	67.1	69.0	84.6	79.6
Total	88.2	85.4	88.6	107.6	103.9

These figures show that the total clearance rate decreased from 2020 but remains above the 100% mark. The clearance rate for Classes 1-3 decreased slightly, as did the clearance rate for classes 4-8. The Class 1-3 clearance ratio finished over 100% (that is, more Class 1-3 matters were finalised than registered across the year) for the second consecutive year (prior to 2020, 2014 was the most recent year this occurred).

The Class 1 clearance rate further improved from an already high rate in 2020. It is the highest Class 1 clearance rate on record. In Class 2 registrations again exceeded finalisations in 2021, producing a clearance rate of 92.6%. This was an improvement on the 2020 result. In Class 3, the increase in registrations saw the clearance rate decrease. It is the lowest rate in the five year reporting period. The Class 4 clearance rate decreased significantly from a high result in 2020. The clearance rate in Class 5 increased significantly, the highest since 2017. Despite this, the clearance rate remained significantly below the 100% mark. This was caused by a continuation of the exceptionally high levels of Class 5 registrations. This severe increase (that began in 2018) had a continued dramatic effect on the clearance rate of Class 5 matters themselves and the Class 4-8 cumulative clearance rate. The Class 6 clearance rate decreased from 2020 but remained above 100%, whilst the Class 8 clearance rate fell below that mark. These two categories feature such low volumes of cases that the changes often have a negligible effect on the Court's yearly workload regardless of large fluctuations in the clearance rate.

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 2017-2021.

Table 5.12 Median number of pre-hearing attendances by Class

	2017	2018	2019	2020	2021
Class 1	4	4	4	4	5
Class 2	1	1	1	3	2
Class 3: (all matters)	6	5	6	5	6
Compensation claims	7	4	7	8	15
Valuation objections	7	5	3	6	3
Miscellaneous	5	7	7	3	6
Class 4	4	4	4	4	5
Class 5	5	7	6	9	7
Class 6	3	2	2	3	1
Class 8	10	3	4	6	8

The table reveals that the median number of pre-hearing attendances increased for matters in Class 1 potentially due to COVID-19 movement and gathering restrictions continuing to affect case management and listing of matters. For Class 2 matters, the number of pre-hearing attendances decreased. Overall, the number of pre-hearing attendances for all matters in Class 3 increased. The number of pre-hearing attendances decreased in Class 3 valuation matters but increased in both compensation claims and miscellaneous appeals.

The number of pre-hearing attendances increased in Class 4. The number of pre-hearing attendances in Class 5 decreased. The number of pre-hearing attendances decreased in Class 6 and increased in Class 8. The caseload volume for Classes 6 and 8 is small, so they are prone to more variation across years without impacting the Court's overall caseload management.

The effects of COVID-19 restrictions have affected these results in many ways over the past 2 years, forcing additional pre-hearing attendance in many matters to discuss practical matters regarding conduct of hearings, conciliation conferences, mediations and on-site views.

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 2021, 11 s 56A appeals were commenced, 4 appeals

were settled pre-hearing, 7 appeals were completed after a hearing, and 5 appeals were pending at 31 December 2021.

Of the 7 appeals that were completed at hearing, 2 were upheld. This represents 0.9% of the number of matters in Classes 1, 2, 3 and 8 disposed of at a hearing by a Commissioner of the Court in 2021.

Table 5.13 s 56A Appeal outcomes

	2017	2016	2019	2020	2021
Total no. of appeals	13	15	13	10	11
No. finalised pre-hearing	1	1	2	3	4
No. of appeals to hearing	12	14	11	7	7
Outcome:					
Upheld	2	4	5	2	2
Dismissed	10	10	6	5	5

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.

The Court has continued the approach it adopted for the 2016 Annual Review of reporting on the number of cases determined by the appellate courts on appeal from the Land and Environment Court. Table 5.14 shows the number and types of decisions determined by the appellate courts from 2017 to 2021.

In 2021, 12 appeals were determined by the Court of Appeal on appeal from the Land and Environment Court and 5 appeals were determined by the Court of Criminal Appeal on appeal from the Land and Environment Court.

Table 5.14 Appeals to the appellate courts

	2017	2018	2019	2020	2021
Court of Appeal					
Appeal by right	18	18	14	7	7
Leave to appeal	4	4	5	5	5
Total matters determined	20*	23*	19*	12*	12*
Court of Criminal Appeal					
Appeal by right	4	3	2	1	3
Stated case, section 5AE	1	1	3	0	0
Leave to appeal	0	1	1	4	2
Total matters determined	5	5	6	5	5

* The total reflects that an appeal was heard both as of right and by leave of the Court of Appeal or Court of Criminal Appeal.

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 counselling 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 2021, the Court received seven formal complaints.

Table 5.15 gives particulars about the complaints made and dealt with in 2021 and the outcomes.

Table 5.15 Complaint particulars

Complaints pending as at 31 December 2020	0
Complaints made during 2020	7
Total number of complaints	7
Complaints examined but dismissed	7
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	7
Complaints pending as at 31 December 2021	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 2021, Commissioners exercised the functions of undertaking conciliations, mediations, on-site hearings or court hearings in Classes 1, 2 and 3 and 8. There were 1,158 matters disposed of in 2021 in those classes. Complaints, therefore, occurred in only 0.6% 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 2021. More than one criterion may be used for each complaint. The table shows that each of the 7 complaints were dismissed.

Table 5.16 Criteria for dismissing complaints

No misconduct was established	7
The complaint related to a judicial or other function that is or was subject to adequate appeal or review rights	0

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 programs 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 2021. 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

	2021
Bias, collusion or conflict of interest	2
Delay	
Dissatisfaction with substantive outcome or wrong decision	5
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	1
Impairment	1
Inadequate reasons for judgment	
Inappropriate behaviour or comments or discourtesy	1
Incompetence	

Substitution for appeals or review

Five of the seven complaints stated that the Commissioner made wrong factual findings on the evidence or the wrong substantive decision. These complaints alleged that the Commissioner was in error in not having given substantial weight to the evidence of objectors or in preferring the evidence of one party to the evidence of the other party. Two complaints alleged that this revealed a lack of balance or bias. Two complaints were that the Commissioner had made wrong rulings about the procedure and conduct of the hearing and the evidence to be admitted. One complaint alleged the Commissioner had erred in interpreting and applying the law.

These complaints about the admission of evidence, fact-finding and decision-making do not reveal misconduct. Commissioners and judges are tasked with the functions of

deciding the evidence to be admitted, the weight to be given to evidence, the findings and inferences of fact to be drawn from the evidence, and the decision to be made based on those findings and inferences of fact. Exercising these functions in ways with which complainants disagree is not misconduct.

Three complaints concerned hearings conducted onsite of applications under the *Trees (Disputes Between Neighbours) Act 2006* concerning neighbours' trees. Commissioners are tasked to exercise a discretionary function to determine tree disputes, and in doing so make findings of fact based on evidence tendered by the parties. Exercising this discretion in ways with which the complainants disagree does not reveal misconduct.

These types of 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. Other times, the complaint is made by a person who is not a party to the proceedings and has no right to appeal the decision. 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's decision is not a substitute for an appeal against the Commissioner's decision. The Chief Judge cannot correct allegedly erroneous decisions when dealing with 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. Self-represented parties and persons other than parties to proceedings, such as local residents and objectors, can misunderstand the dispute resolution process being utilised.

One complaint expressed concern about the exchange between the Commissioner and the lawyers appearing for the parties about the rising costs of the litigation being incurred by the parties. The complainant was concerned that that Commissioner's comments were inappropriate and revealed prejudgment. The complainant had misunderstood the comments and the normal process and conduct of a hearing.

One complaint raised dissatisfaction that Commissioner hearing the tree dispute did not reprimand or hold the respondent accountable for past failures to prune the tree. This complaint revealed a misunderstanding of the judicial process of deciding tree disputes, which is to determine an application seeking orders in relation to a tree, not independently investigate and sanction past actions or omissions.

Misunderstanding as to process for recusal

Two complaints expressed dissatisfaction with the procedural and evidentiary rulings of Commissioners at the hearing of tree disputes, and sought for the Chief Judge to recuse the Commissioners from giving judgment. These complaints reveal a misunderstanding as to the process for recusal applications.

Any application for recusal must be made to the decision-maker, the Commissioners in these cases; the Chief Judge has no power to rule on recusal applications. In both instances, judgment was reserved and not yet delivered, which again reveals the misunderstanding as to process. Without a decision being given, the complaints were premature. Once a judgment had been given, if the complainants felt the decisions erred in law, they have a right of appeal pursuant to s 56A of the Court Act.

6 Education and Community Involvement

- Continuing professional development
 - Continuing professional development policy
 - Annual Court Conference 2021
 - National Mediator Accreditation
 - Other educational activities
 - Twilight seminar series
- 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 2021

The Annual Court Conference for 2021 was held on Thursday 3 June and Friday 4 June 2021 at Rydges Hotel, Newcastle. Five judges, nine Commissioners, 12 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:

- Biotechnology
- Drought impacts on water supply, catchments and ecosystems
- The grant of conditional approval
- Embodied carbon in the built environment
- Rethinking waste management and upcycling

- Field Trip: Tomago Wetlands Restoration site, Hunter Wetlands National Park and Migratory Shorebird Habitat Research Project, Kooragang Island



Field Trip: Tomago Wetlands Restoration site, 3 June 2021

National Mediator Accreditation

In 2021, all Commissioners, the Registrar and Assistant Registrar 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.

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.

25 February	Twilight Webinar, "Strata Property: Emerging issues for planning, development practices and building quality", presented by Associate Professor Hazel Easthope, City Futures Research Centre, University of New South Wales via Cisco Webex
15 April	Twilight seminar field trip, presented by Richard Francis-Jones, Design Director, FJMT and Daniel Bourke, Associate, FJMT, A visit to the CBD apartment project spanning King, Phillip & Elizabeth Streets, Sydney
13 May	Twilight Webinar, "Global developments with green finance and regulatory measures in support: implications for Australia", presented by Mr Sean Kidney, CEO, Climate Bonds Initiative, via Cisco Webex
31 May	Cross-jurisdictional Twilight Webinar, "DNA- the latest capability and limitations of DNA technology and techniques", presented by Ms Alexandra Bate, Senior Forensic Biologist, NSW Forensic & Analytical Science Service, via Cisco Webex
2-4 June	Land and Environment Court 2021 Annual Conference, Rydges Hotel, Newcastle
24 June	Twilight Webinar, "Mediation and the Land and Environment Court", presented by the Hon Wayne Martin AC QC, via Cisco Webex
21 July	Twilight Webinar, "Part 2: The Grant of Conditional Approval", presented by the Hon Justice Brian Preston, Chief Judge of the Land and Environment Court, via Cisco Webex
12 August	Ngara Yura Program Cross-jurisdictional Twilight Webinar, "First Nations Speaker Series: Dr Tyson Yunkaporta", via Cisco Webex
19 August	Ngara Yura Program Cross-jurisdictional Twilight Webinar, "First Nations Speaker Series: Ms Karlie Noon", via Cisco Webex
9 September	Ngara Yura Program Cross-jurisdictional Twilight Webinar, "First Nations Speaker Series: Uncle Bruce Pascoe", via Cisco Webex
21 October	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 1: Probabilistic Reasoning", presented by Mr Noel Hutley SC, via Cisco Webex
1 November	Ngara Yura Program and Francis Forbes Society Cross-Jurisdictional Twilight Webinar, "Making the Past Visible: The Legacies of the Protectionist Legislation", presented by Mr Richard Weston, NSW Deputy Children's Guardian, Office of the Children's Guardian, via Cisco Webex
18 November	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 2: Attribution Science", presented by Professor David Karoly, Chief Research Scientist, CSIRO, via Cisco Webex
25 November	LEC Field Trip: ANZAC War Memorial Hyde Park, Sydney

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 2021, 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 has met or exceeded the target of 85%. The 2020 Annual Conference was not held due to the Covid-19 Pandemic.

Table 6.1 Participant evaluation of Land and Environment Court Annual Conferences 2017 to 2021

	Target	2017	2018	2019	2020	2021
Overall satisfactory rating	85%	95%	90%	94%	NA	91%

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 2017 to 2021, all of which exceeded the 85% standard.

Table 6.2 Participant evaluation of Land and Environment Court Twilight seminar series 2017 to 2021

	Target	2017	2018	2019	2020	2021
Overall satisfactory rating	85%	94%	89%	97%	88%	93%

* Note: 2017 was based on 6 seminars, 2 cross-jurisdictional seminars and 2 field trips; 2018 was based on 6 seminars, 3 cross-jurisdictional seminars and 2 field trips; 2019 was based on 3 seminars, 2 cross-jurisdictional seminars and 2 field trips and 2020 was based on 3 webinars, 1 cross-jurisdictional webinar and 1 field trip; 2021 was based on 6 webinars, 1 cross-jurisdictional webinar 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 program, 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. The Handbook was updated in March 2021 to update references to legislation, Practice Notes and Policies, including the Covid-19 Pandemic Arrangements Policy and update links to the Court's new website.

Beginning in January 2010, the Court publishes on the Court's website a *Judicial Newsletter* three times a year, 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 also regularly hosts international and national delegations to the Court. In 2021, members of the Court presented lectures and seminars remotely using Microsoft Teams and Zoom.

Individual Judges' and Commissioners' activities

The Judges' and Commissioners' activities during 2021 are summarised below:

The Hon. Justice Brian John Preston SC, Chief Judge

Conferences and seminars

16 January	IV Forum on Environmental Justice, Santiago, Chile
30 January	International Webinar: Global Challenges of Modern Times hosted by Chandigarh University, Chandigarh, India
3 February	Start of Law Term Dinner, Hyatt Regency, Sydney
9 February	"What does a Biden presidency mean for Australia?" an online lecture by Affinity and the US Studies Centre, presented by Professor Simon Jackman and the Hon Bob Carr, via YouTube Live
25 February	Twilight Webinar, "Strata Property: Emerging issues for planning, development practices and building quality", presented by Associate Professor Hazel Easthope, City Futures Research Centre, University of New South Wales, Judicial Commission of NSW, via Cisco Webex
11 March	"A Short History of Australian Mining: Rushes, Booms and Busts", a lecture presented by Dr Robert Yeates, Sydney
22 March	"Potential Influence of the Global Pact for the Environment in Japan", a webinar on the precautionary, polluter-pays and environmental damage principles, presented by Professor Liz Fisher and Professor Nicolas de Sadeleer, hosted by Waseda University, Tokyo, Japan, via Zoom
25 March	Great Books Symposium, "John Milton, Paradise Lost", presented by Professor Barry Spurr, Sydney
8 April	"Safeguarding the Rule of Law and Human Rights in Myanmar", panel webinar presented by the Human Rights Section of LAWASIA, via Zoom
14 April	"Why connecting to nature is vital to our planet's survival", presented by Clive Blazey, Sydney
15 April	Twilight seminar field trip, presented by Richard Francis-Jones, Design Director, FJMT and Daniel Bourke, Associate, FJMT, A visit to the CBD apartment project spanning King, Phillip & Elizabeth Streets, Sydney
15 April	"Australia and the Dickens Boys" lecture by Thomas Keneally AO DistFRSN as part of the Royal Society 'Ideas @the House' Series hosted by Her Excellency the Honourable Margaret Beazley AC QC, Governor of New South Wales, Sydney, via Zoom
27 April	Durham University COP26 Event Series: Sharing Climate Change Action, Research and Knowledge Introduction, Durham University, England, via Zoom

5 May	"Marriage, Divorce, Children and Succession: Paternal Power in Ancient Rome" presented by The Hon Justice Arthur Emmett, Sydney
13 May	Twilight Webinar, "Global developments with green finance and regulatory measures in support: implications for Australia", presented by Mr Sean Kidney, CEO, Climate Bonds Initiative, Judicial Commission of NSW, via Cisco Webex
2-4 June	Land and Environment Court 2021 Annual Conference, "Disruption and Innovation: A Look to the Future", Rydges Hotel, Newcastle
5 June	"Biodiversity Emergency: Faiths Regenerating, Wonder, and the Will to Care" webinar present by Dr Susan Roshi, Ms Anne Lanyon, Professor Lesley Highes and Associate Profession Clive Pearson, YouTube Livestream
9 June	Forbes Lecture, "'She was looking for her child' Evatt J's dissent in Chester v the Council of Waverley Municipality" presentation by Gideon Haigh, Banco Court, Law Courts Building, Sydney
24 June	Twilight Webinar, "Mediation and the Land and Environment Court", presented by the Hon Wayne Martin AC QC, Judicial Commission of NSW, via Cisco Webex
7 July	"Society as an information processing system, and the influence of the media" Royal Society of NSW Webinar presented by Dr Erik Aslaksen FRSN, via Zoom
10 August	Mahla Pearlman Oration 2021, "The Environment of Space: There's a Lot Going on Out There", presented by, Her Excellency the Governor of New South Wales, the Honourable Margaret Beazley AC QC, webinar, Sydney
2 September	Australian Lawyers for Human Rights Webinar Event: In Conversation With The Hon Michael Kirby AC CMG, Kate Eastman AM SC and Julian Burnside AO QC, via Zoom
15 September	'What the history of nature conservation law tells us about ecological futures: A non-Euclidean vision of the Anthropocene", presented by Professor Liz Fisher as part of the Law and Nature Dialogue Webinar Series hosted by the Centre for Environmental Law, Macquarie University, via Zoom
15 September	Challenges to a Sustainable Recovery: International Law, Climate Change and Public Health Conference, Durham University, via Zoom
22 September	Forbes Society Legal History Tutorial "The History of Sentencing Law" presented by the Hon TF Bathurst AC, Chief Justice of NSW, via Zoom
28 September	Panel Discussion to celebrate launch of The Oxford Handbook of International Environmental Law 2nd edition, hosted by Oxford and Melbourne Climate Futures, via Zoom
21 October	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 1: Probabilistic Reasoning", presented by Mr Noel Hutley SC, Judicial Commission of NSW, via Cisco Webex

16 November	Environmental Law Session "Ocean Governance and Climate Change and its Consequences", LAWASIA Annual (Virtual) Conference, via Airmeeet
16 November	Law and Business Seminar of 2021: "Business Judgment and Directors' Accountability" presented by Professor Joan Loughrey, Centre for Commercial Law and Regulatory Studies, Monash University via Zoom
17 November	Centre for Environmental Law Annual Lecture "Impact of the COVID-19 pandemic on biodiversity conservation efforts and international environmental governance" presented by Elizabeth Mrema, Macquarie University, via Zoom
18 November	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 2: Attribution Science", presented by Professor David Karoly, Chief Research Scientist, CSIRO, Judicial Commission of NSW, via Cisco Webex
25 November	Judicial Commission Field Trip to The ANZAC War Memorial, Hyde Park, Sydney

Speaking Engagements

15 January	<i>Biodiversity in the court: the certainty of contests about uncertainty</i> , a presentation to the Helsinki Institute of Sustainability Science webinar on EU environmental principles and scientific uncertainty before national courts – the case of the Habitats Directive, Brussels, Belgium, via Zoom.
16 January	<i>The Proactive Responsiveness of Environmental Courts</i> , a presentation to the IV Forum on Environmental Justice, Santiago, Chile, via Zoom.
19 January	<i>The Influence of the Paris Agreement on Australian Climate Change Litigation: Rocky Hill Mine Case Study</i> , a guest lecture presented to Professor Lavanya Rajamani's International Environmental Law Course, Oxford University, England, via Zoom.
30 January	<i>Climate Consciousness and the Law</i> , a presentation given to the International Webinar: Global Challenges of Modern Times hosted by Chandigarh University, Chandigarh, India, via Zoom.
23 February	<i>Overview of the Land and Environment Court</i> , presentation given to students of the Macquarie University 'Land and Environment Court Clinic', Land and Environment Court of NSW, Sydney.
26 February	<i>Climate Conscious Lawyering</i> , lecture to the IUCN 7 th Frontiers Conference, Adelaide, via Zoom.
3 March	<i>Climate Consciousness and the Law</i> , a presentation given to the Global Policy, Diplomacy, and Sustainability Fellowship, Jindal School of Environment and Sustainability, India, via Zoom.
6 March	<i>Environmental Law and Populism: The End of Enlightened Environmental Law?</i> , a presentation given to environmental law students at the University of Sydney, New Law Building, Sydney.

17 March	<i>ADR Innovation in the Land and Environment Court</i> , a presentation to the NSW Bar Association, via Zoom.
22 March	<i>Improving access rights after the COVID-19 pandemic</i> , a presentation to a High Level Panel, at the United Nations Environment Programme event at the 8th Asia-Pacific Forum on Sustainable Development, Bangkok, Thailand, via Microsoft Teams.
22 March	Panel member, 'Potential Influence of the Global Pact for the Environment in Japan', following a webinar on the precautionary, polluter-pays and environmental damage principles, presented by Professor Liz Fisher, University of Oxford and Professor Nicolas de Sadeleer, Saint Louis University, hosted by Waseda University, Tokyo, Japan, via Zoom.
23 March	<i>Principled sentencing for environmental offenders</i> , presentation given to students of the Macquarie University 'Land and Environment Court Clinic', Land and Environment Court of NSW, Sydney
31 March	<i>Climate Conscious Lawyering</i> , lecture and panel discussion to the Law Society of NSW 'Thought Leadership' webinar series, via Zoom
20 April	Panelist, "Experiences in building judicial capacity in environmental law" Plenary discussion at the Expert Dialogue and Review Seminar jointly convened by the United Nations Environment Programme and US AID
27 April	<i>The Influence of the Paris Agreement on Climate Change Litigation: the Rocky Hill Mine Case Study</i> , lecture presented to the Global Policy Institute, Durham University, England, via Zoom.
30 April	<i>Climate Conscious Lawyering: Climate Change and the Legal Profession</i> , Justice Brian Preston in conversation with Professor Liz Fisher, Corpus Christi College, Oxford, via Zoom
26 May	Chair, External Advisory Committee on Master of Construction Law at Western Sydney University
27 May	<i>Biodiversity in the court: the certainty of contests about uncertainty</i> , a presentation to the World Judicial Conference on Environment held jointly by the Supreme People's Court of the People's Republic of China and United Nations Environment Programme, Kunming, Yunnan Province, China, via Zoom
4 June	<i>The grant of conditional development consent</i> , a presentation to the Land and Environment Court Conference, Newcastle
17 June	<i>Improving the role and operation of environmental courts and tribunals</i> , a presentation to the Thai Judges Workshop at the Asia-Pacific Judicial Symposium on Best Practice in Environmental Courts and Adjudication, Bangkok, Thailand, via Zoom

18 June	<i>Judicial decision-making of environmental problems: Gloucester Resources</i> , a presentation to the Conference on Environmental Judicial Anthology, Mexican Supreme Court of Justice, Mexico, via Zoom
18 June	Panelist, plenary discussion on 'Role of Specialised ECTs', UK Environmental Law Association's Annual Conference, London, UK, via Zoom
1 July	<i>Climate Conscious Lawyering</i> , keynote address to Australian Earth Laws Alliance, Brisbane, via Zoom
8 July	Chair, Workshop on Role of Judges in addressing Climate Change, hosted by British Institute of International and Comparative Law, London UK, via Zoom
16 July	<i>Judges and the Environment</i> , a presentation to the Inaugural IUCN Oceania Environmental Law Conference, Suva, Fiji, via Zoom
21 July	<i>The grant of conditional development consent</i> , twilight webinar hosted by the Judicial Commission of NSW, Sydney, via Cisco Webex
27 July	<i>Overview of the Land and Environment Court</i> , presentation given to students of the Macquarie University 'Land and Environment Court Clinic', Land and Environment Court of NSW, via Microsoft Teams
25 August	<i>Climate Conscious Lawyering</i> , the Allen Hope Southey Memorial Lecture, Melbourne University, via Zoom
31 August	<i>Principled sentencing for environmental offenders</i> , presentation given to students of the Macquarie University 'Land and Environment Court Clinic', Land and Environment Court of NSW, via Microsoft Teams
7 September	<i>Three states of mind needed to solve today's environmental crises</i> , presentation to the high-level roundtable judicial dialogue 'Judges and the Environment: Can Environmental Law Deliver?' at the IUCN World Conservation Congress in Marseille, France, via Zoom
15 September	<i>Changing Climate Law and Governance: A Multi-Level Perspective</i> , presentation to 'Challenges to a Sustainable Recovery: International Law, Climate Change and Public Health' Conference, Durham University, via Zoom
24 September	<i>Climate litigation: cases and trends</i> , keynote address to the Southern African Chief Justices' Conference, Victoria Falls, Zimbabwe, via Zoom
30 September	<i>Climate litigation: cases and trends</i> , lecture to the UTS Climate Law Event, via Zoom
1 October	<i>Contribution of the Land and Environment Court to Ecologically Sustainable Development</i> , a presentation to Masters of Sustainability students, University of Sydney, via Zoom

2 October	Panelist, Access to Environmental Justice, Access to Justice Conference hosted by Supreme Court of Ireland, via Zoom
7 October	<i>From strength to strength: UNEP at 50</i> , remarks at the Multistakeholder's Dialogue on the 50th anniversary of the United Nations Environment Programme, Suwon, South Korea, via Zoom
7 October	<i>Courts and Climate Change Law</i> , a judicial capacity building presentation to the Asian Development Bank-EBRD Joint Webinar on Courts and Climate Change, via Zoom
14 October	<i>The Influence of the Paris Agreement on Climate Change Litigation: the Rocky Hill Mine Case Study</i> , lecture presented to Western Sydney University, via Zoom
19 October	<i>Legal responses to climate change: international law and domestic litigation: The Rocky Hill Mine case study</i> , Te Piringa Environmental Law Symposium, University of Waikato, New Zealand, via Zoom
21 October	Chair, Twilight Webinar, Climate Change Series Part One: 'Climate Change and Probabilistic Reasoning' presented by Mr Noel Hutley SC, via Cisco Webex
8 November	<i>The grant of conditional development approval</i> , presented to the Independent Planning Commission of NSW, Sydney
16 November	Chair, Environmental Law Session 'Ocean Governance and Climate Change and its Consequences', LAWASIA Annual Conference, via Airmeeet
17 November	Chair, Centre for Environmental Law Annual Lecture 'Impact of the COVID-19 pandemic on biodiversity conservation efforts and international environmental governance ' presented by Elizabeth Mrema, Macquarie University, via Zoom
17 November	<i>Climate litigation and human rights</i> , a presentation to the Human Rights session 'The Role of the Law in Mitigating the Impact of a Changing Climate on Human Rights' at the LAWASIA Annual Conference, via Airmeeet
18 November	Chair, Twilight Webinar, Climate Change Series Part Two: 'Attribution Science', presented by Professor David Karoly, Chief Research Scientist at the CSIRO, via Cisco Webex
25 November	<i>Art and environmental law</i> , presentation to the Journal of Environmental Law 2021 Workshop 'Different Voices, Different Knowledges', Corpus Christi College, Oxford, UK, via Zoom
29 November	<i>Climate litigation: trends and cases</i> , keynote address at the Courts and Climate Change Conference, Macquarie University, via Zoom
6 December	Panelist, Australian Academy of Law and Australian Academy of Science Joint Symposium, Roundtable on the World Heritage Convention, via Zoom

9 December	<i>Trends in Human Rights and Climate Litigation</i> , Castan Centre for Human Rights Law and King & Wood Mallesons Annual Lecture, Monash University, via Zoom
10 December	<i>Climate Litigation Trends and Cases</i> , WCEL ICUN Judicial Panel, Rio de Janeiro, Brazil, via Zoom

Publications

B J Preston, "Climate Conscious Lawyering" (2021) 95 *Australian Law Journal* 51-66.

B J Preston, "The Influence of the Paris Agreement on Climate Litigation: Legal Obligations and Norms (Part I)" (2021) 33(1) *Journal of Environmental Law* 1-32.

B J Preston, "The Influence of the Paris Agreement on Climate Litigation: Causation, Corporate Governance and Catalyst (Part II)" (2021) 33(2) *Journal of Environmental Law* 227-256.

B J Preston, "Shifting from unsustainability to sustainability: A foreword" (2021) 27 *Pandora's Box* iv-ix.

B J Preston, Blogpost, "Three states of mind needed to solve today's environmental crises" *Pathway to the 2022 declaration*: <<https://www.pathway2022declaration.org/article/three-states-of-mind-needed-to-solve-todays-environmental-crises/>>.

B J Preston, Blogpost, "Climate Conscious Lawyering" *University College London, Centre for Law and Environment*: <<https://www.ucl.ac.uk/law-environment/blog-climate-change-and-rule-law/climate-conscious-lawyering>>.

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

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

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

Fellow, Australian Academy of Law (FAAL)

Fellow, Royal Society of NSW (FRSN)

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*

Member, Editorial Board, *Chinese Journal of Environmental Law*

Adjunct Professor, Sydney Law School, University of Sydney

Adjunct Professor, School of Law, Western Sydney University

Adjunct Professor, School of Law and Justice, Southern Cross University

Member, Bangladesh Judicial Capacity Building and Research Partnerships Advisory Committee, Western Sydney University

Member, Advisory Board, Centre for Environmental Law, Macquarie University

Member, Macquarie University Law Campaign Committee

Member, Interim Governing Committee, Global Judicial Institute on the Environment

Vice President, Oceania, Global Judicial Institute on the Environment

Member, Advisory Committee on The Judges and the Academy, University of New South Wales

Associate Member, European Union Forum of Judges for the Environment

Member, International Research Advisory Board

Acting Member, Land Court and Land Appeal Court of Queensland

Delegations and international assistance

22 January	Meeting with Professor Jörg Fedtke and Professor Jaap Spier and European tort lawyers to discuss the research project on liability for carbon emissions, via Zoom.
9 February	Meeting with Pankaj Kumar, PhD Candidate, Centre for the Study of Law and Governance at Jawaharlal Nehru University, New Delhi, India via Microsoft Teams.
15 February	Further meeting with Professor Jörg Fedtke and Professor Jaap Spier and European tort lawyers to discuss the research project on liability for carbon emissions, via Zoom.
11 March	Meeting with Michael Neustein and John Mant in relation to planning law reform proposals, via Microsoft Teams.
11 March	Office Hour meeting with students of Global Policy, Diplomacy, and Sustainability Fellowship Programme, Jindal School of Environment and Sustainability, India, via Zoom.
7 April	Meeting of the Core Group to draft a Practical Toolbox on Corporate Climate Litigation, organised by the British Institute of International and Comparative Law, London UK, via Zoom.
19 May	Meeting with representatives of the Supreme People's Court of the People's Republic of China regarding the Kunming Declaration, Yunnan Province, China, via Zoom
29 June	Meeting of the Core Group to draft a Practical Toolbox on Corporate Climate Litigation, organised by the British Institute of International and Comparative Law, London UK, via Zoom.

1 December	Meeting of the International Building Quality Centre Working Group on Good Practice Building Dispute Resolution, University of Canberra, via Zoom
15 December	Meeting of the Advisory Board of the Macquarie University Centre for Environmental Law, via Zoom



Justice Preston, Ms Maureen Peatman, and Her Excellency the Hon Margaret Beazley AC QC, Governor of NSW at the conferral of the Law Council of Australia Legal Practice Section, Award for Excellence Outstanding Contribution to Environmental Law to Justice Preston

The Hon. Justice Nicola Hope Margaret Pain

Conferences and seminars

25 February	Twilight Webinar, "Strata Property: Emerging issues for planning, development practices and building quality", presented by Associate Professor Hazel Easthope, City Futures Research Centre, University of New South Wales, Judicial Commission of NSW, via Cisco Webex
15 April	Twilight seminar field trip: "A visit to the CBD apartment project spanning King, Phillip & Elizabeth Streets, Sydney", presented by Richard Francis-Jones, Design Director, FJMT and Daniel Bourke, Associate, FJMT
29 April	Twilight seminar field trip, "Ngara Yura Cross Jurisdictional Twilight Seminar Weave", presented by Siobhan Byrson and Daniel Daylight, Judicial Commission of NSW
6 May	Australian Institute of Administrative Law, "Independent Review of Administrative Law: Lessons from the UK", online

7-9 May	International Association of Women Judges, "15 th Biennale Conference", online
13 May	Twilight Webinar, "Global developments with green finance and regulatory measures in support: implications for Australia", presented by Mr Sean Kidney, CEO, Climate Bonds Initiative, Judicial Commission of NSW, via Cisco Webex
27 May	Global Network for the Study of Human Rights and Environment CEL Webinar, "The Law & Nature Dialogues: Pathways to adaptation for conservation law", online
27 May	Australian Institute of Administrative Law, "Automation of Decision Making Within Environmental and Planning Law", online
2-4 June	Land and Environment Court, 2021 Annual Conference, Rydges Hotel, Newcastle
21 July	Twilight Webinar, "Part 2: The Grant of Conditional Approval", presented by the Hon Justice Preston, Chief Judge of the Land and Environment Court, Judicial Commission of NSW, online
12 August	Ngara Yura Program Cross-jurisdictional Twilight Webinar, "First Nations Speaker Series: Dr Tyson Yunkaporta", presented by the Judicial Commission of NSW, online
12 August	Ngara Yura Program Cross-jurisdictional Twilight Webinar, "First Nations Speaker Series: Ms Karlie Noon", presented by the Judicial Commission of NSW, online
19 August	2021 Plunkett Lecture, "Dignity in the time of John Herbert Plunkett" presented by Hon Justice J Gleeson
31 August	Australian Institute of Administrative Law, "Admin Law on the Edge: Exploring the Edge of Judicial Review", online
9 September	Ngara Yura Program Cross-jurisdictional Twilight Webinar, "First Nations Speaker Series: Uncle Bruce Pascoe", presented by the Judicial Commission of NSW, online
16 September	International Law Association, "International Criminal Law: Practitioner Perspectives", online
18 October	University of Sydney, "Climate extremes on the road to Glasgow", presented by Professor David Karoly, Professor Lesley Hughes, Martijn Wilder AM, online
21 October	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 1: Probabilistic Reasoning", presented by Mr Noel Hutley SC, Judicial Commission of NSW, online
26 October	International Law Association, "International law of climate change: Profound challenges facing COP26", chair, online

26 October	Australian Institute of Administrative Law QLD, "The Human Rights Act: Three Tricky Questions for Administrative Lawyers", presented by Felicity Nagorcka, Assistant Chief Counsel – Crown Law, Gail Hartridge, Barrister – Wilberforce Chambers
1 November	Ngara Yura Program and Francis Forbes Society Cross-Jurisdictional Twilight Webinar, "Making the Past Visible: The Legacies of the Protectionist Legislation", presented by Mr Richard Weston, NSW Deputy Children's Guardian, Office of the Children's Guardian, Judicial Commission of NSW, online
3 November	University of Sydney, "Indigenous Peoples and Law", online
9 November	Asian Australian Lawyers Association Inc NELA: "Trends in climate litigation", presented by Matt Floro, online
18 November	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 2: Attribution Science", presented by Professor David Karoly, Chief Research Scientist, CSIRO, Judicial Commission of NSW, online
24 November	Centre for International Law hosted by Singapore University, "After Glasgow - The Take of Chief Negotiators on the Results of COP26 and the Road Ahead", online
25 November	Land and Environment Court Field Trip, ANZAC War Memorial Hyde Park, Sydney
9 December	Australian Centre for Climate and Environmental Law, "2021 Distinguished Speaker Address: Can climate litigation save the planet? The role of climate attribution science", online

Speaking engagements

April	International Association of Women Judges 15th International Biennial Conference: "From Ripple to Torrent: Riding the Waves of International and Regional Climate Change Litigation" (online)
9 May	International Association of Women Judges: "Climate Change Litigation Challenges" (with Pepper J), New Zealand (online)
5 June	University of Sydney: "15 th Australasian Property Law Teachers Conference", Sydney
22 July	Chair: International Law Association (Australian Branch), Early Career Panel, "Intersections of International Environmental Law with National Jurisdictions" (online)
3 September	National Environmental Law Association: "Conceptualising a Commonwealth EPA" (online)
26 October	Chair: International Law Association (Australian Branch) "The profound challenges facing COP 26 and the UNFCCC" (online)

1 November	Association of Southeast Asian Nations (ASEAN) Judges Workshop on Environmental Law: "Scientific Evidence in Climate Change Related Litigation", Jakarta (online)
23 November	Indonesia Environmental Judges Training, "Examining Scientific Evidence in Environmental Cases", Jakarta (online)
10 December	Roundtable discussion: High-Level Judicial Segment of the 2nd World Environmental Law Congress, "The Role of Judges: Environmental Law 2030 and Beyond", Rio de Janeiro (online)

Publications

N Pain, 'Book Review: Ceri Warnock Environmental Courts and Tribunals: Powers, Integrity and the Search for Legitimacy' (2021) 5 *Chinese Journal of Environmental Law* 109

N Pain, 'Conceptualising a Commonwealth Environment Protection Authority' (2021) 36(4) *Australian Environment Review* 79

N Pain and R Pepper, 'Can Personhood Protect the Environment: Affording Legal Rights to Nature' (2021) 45 *Fordham International Law Journal* 315

N Pain and R Pepper, 'Managing Environmental Conflict' in R Lyster (ed) *Environmental and Planning Law in NSW* (Federation Press, 2021)

N Pain, 'Human Rights Law Can Drive Climate Change Mitigation' in B Mayer, A Zahar (eds) *Debating Climate Law* (Cambridge University Press, 2021)

Membership of legal, cultural or benevolent organisations

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

Chair, Land and Environment Court Education Committee

Member, Land and Environment Court representative, Australian Judicial Officers Association

Member, Australian Association of Constitutional Law

Member, Australian Association of Women Judges

Member, Australian Institute of Administrative Law

Committee member, International Law Association Australian Branch

Member, Judicial Commission of NSW Standing Advisory Committee on Judicial Education

Member, National Environmental Law Association

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

Member, Law Association for Asia and the Pacific (LAWASIA)

Member, New South Wales Bar Association

Member, Law Council of Australia International Law Section

The Hon. Justice Rachel Ann Pepper

Conferences and seminars

18 February	Sydney University, Summer Innovation Program launch
25 February	Twilight Webinar, "Strata Property: Emerging issues for planning, development practices and building quality", presented by Associate Professor Hazel Easthope, City Futures Research Centre, University of New South Wales, Judicial Commission of NSW, via Cisco Webex, Sydney
17 March	The County Koori Court, Her Honour Judge Irene Lawson and Terrie Stewart of the Victorian County Koori Court, Ngara Yura Committee of the NSW Judicial Commission, webinar, Sydney
15 April	Twilight seminar field trip, presented by Richard Francis-Jones, Design Director, FJMT and Daniel Bourke, Associate, FJMT, A visit to the CBD apartment project spanning King, Phillip & Elizabeth Streets, Sydney
7-9 May	International Association of Women Judges 15th International Biennial Conference 2021, Celebrating Diversity, Auckland, New Zealand
13 May	Twilight Webinar, "Global developments with green finance and regulatory measures in support: implications for Australia", presented by Mr Sean Kidney, CEO, Climate Bonds Initiative, Judicial Commission of NSW, via Cisco Webex, Sydney
31 May	Cross-jurisdictional Twilight Webinar, "DNA- the latest capability and limitations of DNA technology and techniques", presented by Ms Alexandra Bate, Senior Forensic Biologist, NSW Forensic & Analytical Science Service, Judicial Commission of NSW, via Cisco Webex, Sydney
3-4 June	Land and Environment Court Annual Conference 2021, Disruption and Innovation: A Look to the Future, Newcastle Rydges, Newcastle
24 June	Twilight Webinar, "Mediation and the Land and Environment Court", presented by the Hon Wayne Martin AC QC, Judicial Commission of NSW, via Cisco Webex, Sydney
19 July	Judicial Impartiality Q&A: Exploring Viewpoints, Australian Law Reform Commission, webinar, Sydney
21 July	Twilight Webinar, "Part 2: The Grant of Conditional Approval", presented by the Hon Justice Preston, Chief Judge of the Land and Environment Court, Judicial Commission of NSW, via Cisco Webex, Sydney
22 July	Administrative Law on the Edge – An Overview Part 1, Australian Institute of Administrative Law National Conference 2021, webinar, Melbourne
22 July	Professor Matthew Groves Australian Institute of Administrative Law National Conference 2021, National Lecture, webinar, Melbourne
3 August	Secret Hearings and the Constitution, Australian Academy of Laws, webinar, Sydney

5 August	Julian R Murphy, Mercy and Judicial Review – the Reviewability of the Prerogative of Mercy, Australian Institute of Administrative Law, webinar, Melbourne
10 August	Mahla Pearlman Oration 2021, Governor of New South Wales, Her Excellency the Honourable Margaret Beazley AC QC, The Environment of Space: There’s a Lot Going on Out There, webinar, Sydney
12 August	Ngara Yura Program Cross-jurisdictional Twilight Webinar, “First Nations Speaker Series: Dr Tyson Yunkaporta”, Judicial Commission of NSW, via Cisco Webex, Sydney
19 August	Ngara Yura Program Cross-jurisdictional Twilight Webinar, “First Nations Speaker Series: Ms Karlie Noon”, Judicial Commission of NSW, via Cisco Webex, Sydney
9 September	Ngara Yura Program Cross-jurisdictional Twilight Webinar, “First Nations Speaker Series: Uncle Bruce Pascoe”, Judicial Commission of NSW, via Cisco Webex, Sydney
21 October	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 1: Probabilistic Reasoning", presented by Mr Noel Hutley SC, Judicial Commission of NSW, via Cisco Webex, Sydney
22 October	Kerr Report Symposium, Kerr’s Vision Splendid for Administrative Law: Still Fit for Purpose?, Gilbert + Tobin Centre of Public Law and the Australian Institute of Administrative Law NSW Chapter, webinar, Sydney
1 November	Ngara Yura Program and Francis Forbes Society Cross-Jurisdictional Twilight Webinar, "Making the Past Visible: The Legacies of the Protectionist Legislation", presented by Uncle Michael ‘Widdy’ Welsh and Mr Richard Weston, NSW Deputy Children’s Guardian, Office of the Children’s Guardian, Judicial Commission of NSW, via Cisco Webex, Sydney
18 November	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 2: Attribution Science", presented by Professor David Karoly, Chief Research Scientist, CSIRO, Judicial Commission of NSW, via Cisco Webex

Speaking engagements

12 January	Recorded interview, Wingara Mura – Bunga Barrabugu Summer Program, University of Sydney, University of Sydney Law School, Sydney, Australia
20 February	Judge, Jessup International Law Moot, Sydney, Australia
16 March	Climate Change Litigation, webinar, Clayton Utz, Sydney, Australia
9 May	From Ripple to Torrent: Riding the Waves of International, Regional and Domestic Climate Change Litigation, presentation at International Association of Women Judges 15th International Biennial Conference 2021, Celebrating Diversity, Auckland, New Zealand

22 July	The Environment is All Rights, Administrative Law on the Edge – An Overview Part 1, Australian Institute of Administrative Law National Conference 2021, webinar, Melbourne
10 September	Chair, NSW Bar Association, NSW Law Society and Ngara Yura Committee of the NSW Judicial Commission First Nations Speaker series: Uncle Bruce Pascoe, webinar, Sydney
6 October	Moderator, ANU Women in Law Association, ANU Women in the Law, webinar, Canberra
12 October	Judge, Final, ANU Gender Identity and Sexuality Law Moot 2021, ANU College of Law, webinar, Canberra
21 October	Chair, Kerr Report Symposium – Introduction to Keynote address by the Honourable Justice John Griffiths, Kerr’s Vision Splendid for Administrative Law: Still Fit for Purpose?, Gilbert + Tobin Centre of Public Law and the Australian Institute of Administrative Law NSW Chapter

Publications

N Pain and R Pepper, 'Can Personhood Protect the Environment: Affording Legal Rights to Nature' (2021) *45 Fordham International Law Journal* 315

R Pepper, 'Quartet of Recent Landmark Climate Change Cases' (2021) *95 Australian Law Journal* 861

N Pain and R Pepper, 'Managing Environmental Conflict' in R Lyster (ed) *Environmental and Planning Law in NSW* (Federation Press, 2021)

Membership of legal, cultural or benevolent organisations

Fellow of the Australian Academy of Law

Adjunct Professor, University of Sydney School of Law

Lecturer, Environmental Litigation, University of Sydney School of Law

Secretary, Australian Institute of Administrative Law (NSW Chapter)

Member, Australian Institute of Administrative Law, National Executive Committee

Standing Organising Committee Member, National Judicial College of Australia Sentencing Conference

Judicial member, Football Federation of Australia

Board member, Twenty10

NSW representative, Australian Association of Woman Judges

Land and Environment Court of NSW representative, Ngara Yura Committee, Judicial Commission of New South Wales

Member, Australian Association of Constitutional Law

Member, Australian Institute of Administrative Law

Member, World Commission on Environmental Law

Member, IUCN Commission on Environmental Law

Member, National Judicial College of Australia

Member, Australian Institute of Judicial Administration

Member, Commonwealth Magistrates' and Judges' Association

Member, Environment Institute of Australia and New Zealand

The Hon. Justice Timothy John Moore

Conferences and seminars

25 February	Twilight Webinar, "Strata Property: Emerging issues for planning, development practices and building quality", presented by Associate Professor Hazel Easthope, City Futures Research Centre, University of New South Wales, Judicial Commission of NSW, via Cisco Webex
17 March	Ngara Yura Program Webinar: Solutions to reducing the Indigenous prison population – role of a specialist court (County Koori Court of Victoria)
14 April	Tendency evidence, presented by Justice Button J, Sydney
15 April	Twilight seminar field trip, presented by Richard Francis-Jones, Design Director, FJMT and Daniel Bourke, Associate, FJMT, A visit to the CBD apartment project spanning King, Phillip & Elizabeth Streets, Sydney
13 May	Twilight Webinar, "Global developments with green finance and regulatory measures in support: implications for Australia", presented by Mr Sean Kidney, CEO, Climate Bonds Initiative, Judicial Commission of NSW, via Cisco Webex
31 May	Cross-jurisdictional Twilight Webinar, "DNA- the latest capability and limitations of DNA technology and techniques", presented by Ms Alexandra Bate, Senior Forensic Biologist, NSW Forensic & Analytical Science Service, Judicial Commission of NSW, via Cisco Webex
2-4 June	Land and Environment Court 2021 Annual Conference, Rydges Hotel, Newcastle
24 June	Twilight Webinar, "Mediation and the Land and Environment Court", presented by the Hon Wayne Martin AC QC, Judicial Commission of NSW, via Cisco Webex
21 July	Twilight Webinar, "Part 2: The Grant of Conditional Approval", presented by the Hon Justice Preston, Chief Judge of the Land and Environment Court, Judicial Commission of NSW, via Cisco Webex
24 August	"Blinded - Why Type 2 diabetes is a growing epidemic", presented by Dr James Muecke, Sydney

21 October	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 1: Probabilistic Reasoning", presented by Mr Noel Hutley SC, Judicial Commission of NSW, via Cisco Webex
18 November	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 2: Attribution Science", presented by Professor David Karoly, Chief Research Scientist, CSIRO, Judicial Commission of NSW, via Cisco Webex
25 November	LEC Field Trip: ANZAC War Memorial Hyde Park, Sydney

Speaking engagements

9 March	Executive Forum, "Just Terms Compensation, An Update from Justice Moore", Australian Property Institute, Sydney
25 March	Webinar, "Compensation/valuation litigation In The Time of COVID-19", presentation to Valuer General's staff, Sydney
31 March	Opening remarks: Planning & environment law matters in our current climate – what are the prevalent topics and issues we can expect to see in 2021?, University of New South Wales, Sydney

Publications

Judicial Newsletter, editor, Land and Environment Court of NSW

ACKMA Journal, editor, Australian Cave and Karst Management Association

Membership of legal, cultural or benevolent organisations

Chair, Land and Environment Court Newsletter Committee

Member, Land and Environment Court Education Committee

Member, Caselaw Governance Committee

Member, Australasian Cave and Karst Management Association Committee

Member, John Koowarta Reconciliation Law Scholarship Advisory Committee

The Hon. Justice John Ernest Robson SC

Conferences and seminars

25 February	Twilight Webinar, "Strata Property: Emerging issues for planning, development practices and building quality", presented by Associate Professor Hazel Easthope, City Futures Research Centre, University of New South Wales, Judicial Commission of NSW, via Cisco Webex
17 March	Ngara Yura Program Cross-Jurisdictional Webinar, "Solutions to reducing the Indigenous prison population – Role of a specialist court", presented by her Honour Judge Irene Lawson and Ms Terrie Stewart, Victorian County Koori Court, Judicial Commission of NSW, via Cisco Webex

17 March	Alternative Dispute Resolution Committee Webinar, “ADR insights from the Chief Judge of the Land and Environment Court of NSW”, presented by the Hon Justice Brian Preston, Chief Judge of the Land and Environment Court, NSW Bar Association, via webinar
31 March	The Law Society of NSW Thought Leadership Series Webinar, “Climate Change – an emerging role for legal practitioners”, opening address by the Hon Justice Brian Preston, Chief Judge of the Land and Environment Court; panelists, Ms Cathie Armour, Commissioner, Australian Securities and Investments Commission; Mr Timothy Stutt, Senior Associate, Herbert Smith Freehills; Ms Sophie Marjanac, Climate Accountability Lead, ClientEarth; Juliana Warner, President, The Law Society of NSW, via webinar
14 April	Land and Environment Court Tutorial: “Tendency Evidence”, discussion led by the Hon Justice Richard Button, Supreme Court of NSW, Land and Environment Court of NSW
15 April	Twilight Seminar Field Trip, presented by Richard Francis-Jones, Design Director, FJMT and Daniel Bourke, Associate, FJMT, a visit to the “CBD apartment project spanning King, Phillip and Elizabeth Streets, Sydney”
13 May	Twilight Webinar, “Global developments with green finance and regulatory measures in support: implications for Australia”, presented by Mr Sean Kidney, CEO, Climate Bonds Initiative, Judicial Commission of NSW, via Cisco Webex
31 May	Cross Jurisdictional Webinar, “DNA – the latest capability and limitations of DNA technology and techniques”, presented by Ms Alexandra Bate, Senior Forensic Biologist, NSW Forensic and Analytical Science Service, Judicial Commission of NSW, via Cisco Webex
1 June	NSW Bar Association Webinar, “Ways that human rights can assist in your practice at the Bar”, chaired by the Hon Justice Angus Stewart, Federal Court of Australia, via webinar
2-4 June	Land and Environment Court 2021 Annual Conference, “Disruption and Innovation: A Look to the Future”, Rydges Hotel, Newcastle
24 June	Twilight Webinar, “Mediation and the Land and Environment Court”, presented by the Hon Wayne Martin AC QC, Judicial Commission of NSW, via Cisco Webex
21 July	Twilight Seminar, “Part 2: The Grant of Conditional Approval”, presented by the Hon Justice Brian Preston, Chief Judge of the Land and Environment Court, Judicial Commission of NSW, via Cisco Webex
10 August	Mahla Pearlman Oration 2021, "The Environment of Space: There's a Lot Going on Out There", presented by, Her Excellency the Governor of New South Wales, the Honourable Margaret Beazley AC QC, webinar, Sydney

12 August	Ngara Yura Program Cross-jurisdictional Twilight Webinar, "First Nations Speaker Series: Dr Tyson Yunkaporta", Judicial Commission of NSW, via Cisco Webex
19 August	Ngara Yura Program Cross-jurisdictional Twilight Webinar, "First Nations Speaker Series: Ms Karlie Noon", Judicial Commission of NSW, via Cisco Webex
9 September	Ngara Yura Program Cross-jurisdictional Twilight Webinar, "First Nations Speaker Series: Uncle Bruce Pascoe", Judicial Commission of NSW, via Cisco Webex
21 October	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 1: Probabilistic Reasoning", presented by Mr Noel Hutley SC, Judicial Commission of NSW, via Cisco Webex
1 November	Ngara Yura Program and Francis Forbes Society Cross-Jurisdictional Twilight Webinar, "Making the Past Visible: The Legacies of the Protectionist Legislation", presented by Mr Richard Weston, NSW Deputy Children's Guardian, Office of the Children's Guardian, Judicial Commission of NSW, via Cisco Webex
18 November	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 2: Attribution Science", presented by Professor David Karoly, Chief Research Scientist, CSIRO and Mr Noel Hutley SC, Judicial Commission of NSW, via Cisco Webex
25 November	Judicial Commission of NSW Field Trip, "Anzac War Memorial", Hyde Park, Sydney

Membership of legal, cultural or benevolent organisations

Member, Australian Judicial Officers Association

Member, NSW Bar Association

Chair, Land and Environment Court of New South Wales Library Committee

Member, Judicial Well-being Advisory Committee, 'Judicial Well-being Project', research panel led by the School of Law and the School of psychology, University of NSW and the Judicial Commission of NSW

The Hon. Justice Sandra Anne Duggan SC

Conferences and seminars

25 February	Twilight Webinar, "Strata Property: Emerging issues for planning, development practices and building quality", presented by Associate Professor Hazel Easthope, City Futures Research Centre, University of New South Wales, Judicial Commission of NSW, via Cisco Webex
17 March	Zoom Webinar, "ADR insights from the Chief Judge of the NSW Land and Environment Court", presented by the Hon Justice Preston, Chief Judge of the Land and Environment Court, NSW Bar Association
14 April	Land and Environment Court Tutorial, "Tendency Evidence", presented by the Hon Justice Richard Button, Justice of the Supreme Court
15 April	Twilight seminar field trip, presented by Richard Francis-Jones, Design Director, FJMT and Daniel Bourke, Associate, FJMT, A visit to the CBD apartment project spanning King, Phillip & Elizabeth Streets, Sydney
5 May	Twilight Webinar, "Clause 4.6", Environment and Planning Law Association, via Zoom
13 May	Twilight Webinar, "Global developments with green finance and regulatory measures in support: implications for Australia", presented by Mr Sean Kidney, CEO, Climate Bonds Initiative, Judicial Commission of NSW, via Cisco Webex
24 June	Twilight Webinar, "Mediation and the Land and Environment Court", presented by the Hon Wayne Martin AC QC, Judicial Commission of NSW, via Cisco Webex
28 June	Twilight Webinar, "When Less is More: a discussion on how to write judgments promptly and efficiently", presented by the Hon Justice Ian Harrison, Justice of the Supreme Court, Judicial Commission of NSW, via Cisco Webex
21 July	Twilight Webinar, "Part 2: The Grant of Conditional Approval", presented by the Hon Justice Preston, Chief Judge of the Land and Environment Court, Judicial Commission of NSW, via Cisco Webex
10 August	Mahla Pearlman Oration 2021, "The Environment of Space: There's a Lot Going on Out There", presented by, Her Excellency the Governor of New South Wales, the Honourable Margaret Beazley AC QC, webinar, Sydney
20 October	Twilight Seminar, "Update on compulsory acquisition decisions over the last 12 months", presented by Andre Beatty, Ballanda Sack and Tim Allen, Environment and Planning Law Association, via Zoom
21 October	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 1: Probabilistic Reasoning", presented by Mr Noel Hutley SC, Judicial Commission of NSW, via Cisco Webex

18 November	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 2: Attribution Science", presented by Professor David Karoly, Chief Research Scientist, CSIRO, Judicial Commission of NSW, via Cisco Webex
25 November	LEC Field Trip: ANZAC War Memorial Hyde Park, Sydney

Speaking engagements

30 March	Presenter, "Tips and Traps for Young Practitioners", Macquarie University Land and Environment Court Clinic, Sydney
7 September	Presenter, "Tips and Traps for Young Practitioners", Macquarie University Land and Environment Court Clinic, Sydney
7 October	Adjudicator, "2021, Environmental Law Mooting Competition", Macquarie University, via Zoom
4 November	Presenter, "Hybrid Hearings", Environment and Planning Law Association, via Zoom

Membership of legal, cultural or benevolent organisations

- Member, Women Lawyers Association of NSW
- Member, Australian Judicial Officers Association
- Member, Environment and Planning Law Association
- Member, Australian Association of Women Judges
- Member, Australian Institute of Administrative Law
- Member, NSW Bar Association

Ms Susan Dixon, Senior Commissioner

Conferences and seminars

25 February	Twilight Webinar, "Strata Property: Emerging issues for planning, development practices and building quality", presented by Associate Professor Hazel Easthope, City Futures Research Centre, University of New South Wales via Cisco Webex
15 April	Twilight seminar field trip, presented by Richard Francis-Jones, Design Director, FJMT and Daniel Bourke, Associate, FJMT, A visit to the CBD apartment project spanning King, Phillip & Elizabeth Streets, Sydney
13 May	Twilight Webinar, "Global developments with green finance and regulatory measures in support: implications for Australia", presented by Mr Sean Kidney, CEO, Climate Bonds Initiative, via Cisco Webex
31 May	Cross-jurisdictional Twilight Webinar, "DNA- the latest capability and limitations of DNA technology and techniques", presented by Ms Alexandra Bate, Senior Forensic Biologist, NSW Forensic & Analytical Science Service, via Cisco Webex

2-4 June	Land and Environment Court 2021 Annual Conference, Rydges Hotel, Newcastle
24 June	Twilight Webinar, "Mediation and the Land and Environment Court", presented by the Hon Wayne Martin AC QC, via Cisco Webex
21 July	Twilight Webinar, "Part 2: The Grant of Conditional Approval", presented by the Hon Justice Preston, Chief Judge of the Land and Environment Court, via Cisco Webex
12 August	Ngara Yura Program Cross-jurisdictional Twilight Webinar, "First Nations Speaker Series: Dr Tyson Yunkaporta", via Cisco Webex
19 August	Ngara Yura Program Cross-jurisdictional Twilight Webinar, "First Nations Speaker Series: Ms Karlie Noon", via Cisco Webex
9 September	Ngara Yura Program Cross-jurisdictional Twilight Webinar, "First Nations Speaker Series: Uncle Bruce Pascoe", via Cisco Webex
21 October	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 1: Probabilistic Reasoning", presented by Mr Noel Hutley SC, via Cisco Webex
1 November	Ngara Yura Program and Francis Forbes Society Cross-Jurisdictional Twilight Webinar, "Making the Past Visible: The Legacies of the Protectionist Legislation", presented by Mr Richard Weston, NSW Deputy Children's Guardian, Office of the Children's Guardian, via Cisco Webex
18 November	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 2: Attribution Science", presented by Professor David Karoly, Chief Research Scientist, CSIRO, via Cisco Webex
25 November	LEC Field Trip: ANZAC War Memorial Hyde Park, Sydney

Speaking engagements

March to October	Mentor, Mentoring Program/Clinic Placement for final year law students, Macquarie University and The University of New South Wales
2 March	Guest Speaker, ADR in the LEC, Macquarie University Land and Environment Court Clinic, Sydney
14 May	Guest Speaker, ADR in the LEC, NSW Bar Practice Course, Online
24 June	Chairperson, Mediation and the Land and Environment Court, Judicial Commission of NSW, Twilight Webinar
3 August	Guest Speaker, ADR in the LEC, Macquarie University Land and Environment Court Clinic, Sydney
9 September	Guest Speaker, ADR in the LEC, NSW Bar Practice Course, Sydney

Membership of legal, cultural or benevolent organisations

Member, Council of Australasian Tribunals

Member, Land and Environment Court of NSW Education Committee

Member, Land and Environment Court of NSW Library Committee

Member, Land and Environment Court of NSW Court Users Group

Member, Institute of Arbitrators and Mediators Australia

Member, Australian Dispute Resolution Association Inc.

Member, Law Society of NSW

Nationally Accredited Mediator

Ms Susan O'Neill, Commissioner

Conferences and seminars

15 April	Twilight seminar field trip, presented by Richard Francis-Jones, Design Director, FJMT and Daniel Bourke, Associate, FJMT, A visit to the CBD apartment project spanning King, Phillip & Elizabeth Streets, Sydney
2-4 June	Land and Environment Court 2021 Annual Conference, Rydges Hotel, Newcastle
3 June	Field Trip: Tomago Wetlands Restoration site, Hunter Wetlands National Park and Migratory Shorebird Habitat Research Project, Kooragang Island; Associate Professor William Glamore, School of Civil and Environmental Engineering and the Water Research Laboratory, UNSW; Judicial Commission of New South Wales.
24 June	Twilight Webinar, "Mediation and the Land and Environment Court", presented by the Hon Wayne Martin AC QC, via Cisco Webex
21 July	Twilight Webinar, "Part 2: The Grant of Conditional Approval", presented by the Hon Justice Preston, Chief Judge of the Land and Environment Court, via Cisco Webex
24 August	Webinar, Vaccine Passports to Freedom? Balancing Rights and Responsibilities During COVID-19, Moderator Professor Justine Nolan, Professor Greg Dore, Professor Sarah Joseph, Professor George Williams AO, UNSW Australian Human Rights Institute
30 September	Supreme Court of the New South Wales 4th Annual ADR Address, the Honourable Justice Julie Ward, Australian Disputes Centre
21 October	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 1: Probabilistic Reasoning", presented by Mr Noel Hutley SC, via Cisco Webex
18 November	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 2: Attribution Science", presented by Professor David Karoly, Chief Research Scientist, CSIRO, via Cisco Webex

Speaking engagements

7 June Jury member, Australian Institute of Architects NSW Chapter, Enduring Architecture Award

Publications

Updated Chapters 3 and 4 in Lyster et al (eds) *Environmental and Planning Law in New South Wales* (Federation Press, 5th ed, 2021)

S O'Neill, 'The proposed changes to clause 4.6 of the Standard Instrument - Principal Local Environmental Plan' (2021) *Local Government Law Journal* Issue 23.4

Membership of legal, cultural or benevolent organisations

Member, Australian Institute of Architects

Registered Architect, NSW Architects Registration Board

Nationally Accredited Mediator

Admitted as Solicitor in NSW

Ms Danielle Dickson, Commissioner

Conferences and seminars

25 February Twilight Webinar, "Strata Property: Emerging issues for planning, development practices and building quality", presented by Associate Professor Hazel Easthope, City Futures Research Centre, University of New South Wales via Cisco Webex

2-4 June Land and Environment Court 2021 Annual Conference, Rydges Hotel, Newcastle

24 June Twilight Webinar, "Mediation and the Land and Environment Court", presented by the Hon Wayne Martin AC QC, via Cisco Webex

21 July Twilight Webinar, "Part 2: The Grant of Conditional Approval", presented by the Hon Justice Preston, Chief Judge of the Land and Environment Court, via Cisco Webex

12 August Ngara Yura Program Cross-jurisdictional Twilight Webinar, "First Nations Speaker Series: Dr Tyson Yunkaporta", via Cisco Webex

19 August Ngara Yura Program Cross-jurisdictional Twilight Webinar, "First Nations Speaker Series: Ms Karlie Noon", via Cisco Webex

9 September Ngara Yura Program Cross-jurisdictional Twilight Webinar, "First Nations Speaker Series: Uncle Bruce Pascoe", via Cisco Webex

21 October Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 1: Probabilistic Reasoning", presented by Mr Noel Hutley SC, via Cisco Webex

1 November	Ngara Yura Program and Francis Forbes Society Cross-Jurisdictional Twilight Webinar, "Making the Past Visible: The Legacies of the Protectionist Legislation", presented by Mr Richard Weston, NSW Deputy Children's Guardian, Office of the Children's Guardian, via Cisco Webex
18 November	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 2: Attribution Science", presented by Professor David Karoly, Chief Research Scientist, CSIRO, via Cisco Webex
25 November	LEC Field Trip: ANZAC War Memorial Hyde Park, Sydney

Membership of legal, cultural or benevolent organisations

Member, Land and Environment Court Education Committee

Nationally Accredited Mediator

Member, Law Society of NSW

Mr Michael Chilcott, Commissioner

Conferences and seminars

25 February	Twilight Webinar, "Strata Property: Emerging issues for planning, development practices and building quality", presented by Associate Professor Hazel Easthope, City Futures Research Centre, University of New South Wales via Cisco Webex
15 April	Twilight seminar field trip, presented by Richard Francis-Jones, Design Director, FJMT and Daniel Bourke, Associate, FJMT, A visit to the CBD apartment project spanning King, Phillip & Elizabeth Streets, Sydney
13 May	Twilight Webinar, "Global developments with green finance and regulatory measures in support: implications for Australia", presented by Mr Sean Kidney, CEO, Climate Bonds Initiative, via Cisco Webex
31 May	Cross-jurisdictional Twilight Webinar, "DNA- the latest capability and limitations of DNA technology and techniques", presented by Ms Alexandra Bate, Senior Forensic Biologist, NSW Forensic & Analytical Science Service, via Cisco Webex
2-4 June	Land and Environment Court 2021 Annual Conference, Rydges Hotel, Newcastle
24 June	Twilight Webinar, "Mediation and the Land and Environment Court", presented by the Hon Wayne Martin AC QC, via Cisco Webex
21 July	Twilight Webinar, "Part 2: The Grant of Conditional Approval", presented by the Hon Justice Preston, Chief Judge of the Land and Environment Court, via Cisco Webex

10 August	Mahla Pearlman Oration 2021, "The Environment of Space: There's a Lot Going on Out There", presented by, Her Excellency the Governor of New South Wales, the Honourable Margaret Beazley AC QC, webinar, Sydney
12 August	EIANZ (NSW Div) Annual General Meeting Keynote Address. The Work of Resilience NSW by Mr Shane Fitzsimmons, Head of Resilience NSW
26 August	EIANZ Webinar: Update on Climate Change presented by Dr David Karoly, Chief Research Scientist, CSIRO Climate Science Centre
15 September	'What the history of nature conservation law tells us about ecological futures: A non-euclidean vision of the Anthropocene', presented by Professor Liz Fisher as part of the Law and Nature Dialogue Webinar Series hosted by the Centre for Environmental Law, Macquarie University, via Zoom
30 September	Webinar: Australian Disputes Centre Annual Address. Supreme Court of NSW. Address by Hon. Justice Julie Ward.
21 October	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 1: Probabilistic Reasoning", presented by Mr Noel Hutley SC, via Cisco Webex
9-10 November	Webinar: EIANZ 2021 Annual Conference

Membership of legal, cultural or benevolent organisations

Honorary Life Member, Environment Institute of Australia and New Zealand (EIANZ)

Member, Rotary Club of Sydney

Nationally Accredited Mediator

Ms Joanne Gray, Commissioner

Conferences and seminars

25 February	Twilight Webinar, "Strata Property: Emerging issues for planning, development practices and building quality", presented by Associate Professor Hazel Easthope, City Futures Research Centre, University of New South Wales via Cisco Webex
13 May	Twilight Webinar, "Global developments with green finance and regulatory measures in support: implications for Australia", presented by Mr Sean Kidney, CEO, Climate Bonds Initiative, via Cisco Webex
2-4 June	Land and Environment Court 2021 Annual Conference, Rydges Hotel, Newcastle
24 June	Twilight Webinar, "Mediation and the Land and Environment Court", presented by the Hon Wayne Martin AC QC, via Cisco Webex
21 July	Twilight Webinar, "Part 2: The Grant of Conditional Approval", presented by the Hon Justice Preston, Chief Judge of the Land and Environment Court, via Cisco Webex

10 August	Mahla Pearlman Oration 2021, "The Environment of Space: There's a Lot Going on Out There", presented by, Her Excellency the Governor of New South Wales, the Honourable Margaret Beazley AC QC, webinar, Sydney
30 September	Supreme Court of the New South Wales 4th Annual ADR Address, the Honourable Justice Julie Ward, Australian Disputes Centre
21 October	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 1: Probabilistic Reasoning", presented by Mr Noel Hutley SC, via Cisco Webex
4 November	Conference Session at the Environment and Planning Law Association Conference, "LEC Practice and Procedure Update: Panel on the Ongoing Role of Virtual and Hybrid Hearings - the New Way of Doing Things", presented by the Hon Justice Duggan, Judge and Sarah Froh, Registrar of the Land and Environment Court, via Zoom
18 November	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 2: Attribution Science", presented by Professor David Karoly, Chief Research Scientist, CSIRO, via Cisco Webex

Speaking engagements

14 October	<i>Reflections on the Lucy Mentoring Program</i> , University of Wollongong School of Law Lucy Mentoring Program Graduation, via Zoom
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Membership of legal, cultural or benevolent organisations

Member, Law Society of NSW
 Nationally Accredited Mediator

Ms Sarah Bish, Commissioner

Conferences and seminars

25 February	Twilight Webinar, "Strata Property: Emerging issues for planning, development practices and building quality", presented by Associate Professor Hazel Easthope, City Futures Research Centre, University of New South Wales via Cisco Webex
15 April	Twilight seminar field trip, presented by Richard Francis-Jones, Design Director, FJMT and Daniel Bourke, Associate, FJMT, A visit to the CBD apartment project spanning King, Phillip & Elizabeth Streets, Sydney
13 May	Twilight Webinar, "Global developments with green finance and regulatory measures in support: implications for Australia", presented by Mr Sean Kidney, CEO, Climate Bonds Initiative, via Cisco Webex

31 May	Cross-jurisdictional Twilight Webinar, "DNA- the latest capability and limitations of DNA technology and techniques", presented by Ms Alexandra Bate, Senior Forensic Biologist, NSW Forensic & Analytical Science Service, via Cisco Webex
2-4 June	Land and Environment Court 2021 Annual Conference, Rydges Hotel, Newcastle
24 June	Twilight Webinar, "Mediation and the Land and Environment Court", presented by the Hon Wayne Martin AC QC, via Cisco Webex
21 July	Twilight Webinar, "Part 2: The Grant of Conditional Approval", presented by the Hon Justice Preston, Chief Judge of the Land and Environment Court, via Cisco Webex
21 October	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 1: Probabilistic Reasoning", presented by Mr Noel Hutley SC, via Cisco Webex
18 November	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 2: Attribution Science", presented by Professor David Karoly, Chief Research Scientist, CSIRO, via Cisco Webex

Membership of legal, cultural or benevolent organisations

Member, International Association of Hydrogeologists

Member, Institute of Arbitrators and Mediators Australia

Member, Registered Engineers for Disaster Relief, Australia

Member, United Nations International Children Emergency Fund WASH Consultants Roster

Member, United Nations Development Programme Consultants Roster

Nationally Accredited Mediator

Dr Peter Walsh, Commissioner

Conferences and seminars

28 April	Sustainability Transitions Research Network (STRN) webinar, "Just Energy Transitions: A Spatial Perspective", via Zoom
13 May	Twilight Webinar, "Global developments with green finance and regulatory measures in support: implications for Australia", presented by Mr Sean Kidney, CEO, Climate Bonds Initiative, via Cisco Webex
2-4 June	Land and Environment Court 2021 Annual Conference, Rydges Hotel, Newcastle
24 June	Twilight Webinar, "Mediation and the Land and Environment Court", presented by the Hon Wayne Martin AC QC, via Cisco Webex
21 July	Twilight Webinar, "Part 2: The Grant of Conditional Approval", presented by the Hon Justice Preston, Chief Judge of the Land and Environment Court, via Cisco Webex

21 October	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 1: Probabilistic Reasoning", presented by Mr Noel Hutley SC, via Cisco Webex
18 November	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 2: Attribution Science", presented by Professor David Karoly, Chief Research Scientist, CSIRO, via Cisco Webex
7-9 December	Climate Justice Research Centre University of Technology Sydney, "Problems and Solutions for Decarbonisation and Energy Transition: a Cross-National Dialogue", via Zoom

Membership of legal, cultural or benevolent organisations

Fellow, Planning Institute of Australia

Certified Practising Planner

Nationally Accredited Mediator

Mr Timothy Horton, Commissioner

Conferences and seminars

25 February	Twilight Webinar, "Strata Property: Emerging issues for planning, development practices and building quality", presented by Associate Professor Hazel Easthope, City Futures Research Centre, University of New South Wales via Cisco Webex
15 April	Twilight seminar field trip, presented by Richard Francis-Jones, Design Director, FJMT and Daniel Bourke, Associate, FJMT, A visit to the CBD apartment project spanning King, Phillip & Elizabeth Streets, Sydney
13 May	Twilight Webinar, "Global developments with green finance and regulatory measures in support: implications for Australia", presented by Mr Sean Kidney, CEO, Climate Bonds Initiative, via Cisco Webex
2-4 June	Land and Environment Court 2021 Annual Conference, Rydges Hotel, Newcastle
24 June	Twilight Webinar, "Mediation and the Land and Environment Court", presented by the Hon Wayne Martin AC QC, via Cisco Webex
21 July	Twilight Webinar, "Part 2: The Grant of Conditional Approval", presented by the Hon Justice Preston, Chief Judge of the Land and Environment Court, via Cisco Webex
23 August	Livestream: "Industry Report on Digitalisation of Design and Construction of Class 2 Buildings in New South Wales", presented by the Centre for Smart Modern Construction

22 September	Livestream: "Endangered discourse: Improving the quality of public debate on urban and housing policy", presented by Professor Emeritus, Peter Phibbs, University of Sydney, Tina Perinotto, Managing Editor, The Fifth Estate, Dr Erin Brady, ACT Department of Environment, Planning and Sustainable Development, and Eliza Owen, CoreLogic, for the University of Sydney.
21 October	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 1: Probabilistic Reasoning", presented by Mr Noel Hutley SC, via Cisco Webex
18 November	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 2: Attribution Science", presented by Professor David Karoly, Chief Research Scientist, CSIRO, via Cisco Webex
25 November	LEC Field Trip: ANZAC War Memorial Hyde Park, Sydney

Membership of legal, cultural or benevolent organisations

Fellow, Australian Institute of Architects

Nationally Accredited Mediator

Member, Law Association of Asia and the Pacific (LAWASIA)

Ms Elizabeth Espinosa, Commissioner

Conferences and seminars

18 February	Launch of 2021 WLANSW Program and NSW Women Lawyers Achievement Awards, Guest Speaker: The Honourable Justice Virginia Bell AC, High Court of Australia, Sydney
25 February	University of Wollongong Law 30 years event, Professor Trish Mundy, Dean and Head, School of Law, Faculty of Business and Law, 1 Macquarie Place Circular Quay
15 April	Twilight seminar field trip, presented by Richard Francis-Jones, Design Director, FJMT and Daniel Bourke, Associate, FJMT, A visit to the CBD apartment project spanning King, Phillip & Elizabeth Streets, Sydney
30 April	Environment and Planning Law Association AGM and welcome to new Commissioners of the Land and Environment Court, Art Gallery of NSW, Sydney
13 May	Twilight Webinar, "Global developments with green finance and regulatory measures in support: implications for Australia", presented by Mr Sean Kidney, CEO, Climate Bonds Initiative, via Cisco Webex
25 May	Diverse Women in Law Mentoring Program Launch, Amelia Loughland and Professor Rosalind Dixon, Ashurst Australia, 11/5 Martin Place, Sydney
31 May	Cross-jurisdictional Twilight Webinar, "DNA- the latest capability and limitations of DNA technology and techniques", presented by Ms Alexandra Bate, Senior Forensic Biologist, NSW Forensic & Analytical Science Service, via Cisco Webex

2-4 June	Land and Environment Court 2021 Annual Conference, Rydges Hotel, Newcastle
24 June	Twilight Webinar, "Mediation and the Land and Environment Court", presented by the Hon Wayne Martin AC QC, via Cisco Webex
21 July	Twilight Webinar, "Part 2: The Grant of Conditional Approval", presented by the Hon Justice Preston, Chief Judge of the Land and Environment Court, via Cisco Webex
21 July	Cultural Awareness Training Session, Diverse Women in Law, Dr Dimitria Groutsis of the University of Sydney, via Google Meet
12 August	Ngara Yura Program Cross-jurisdictional Twilight Webinar, "First Nations Speaker Series: Dr Tyson Yunkaporta", via Cisco Webex
19 August	Ngara Yura Program Cross-jurisdictional Twilight Webinar, "First Nations Speaker Series: Ms Karlie Noon", via Cisco Webex
9 September	Ngara Yura Program Cross-jurisdictional Twilight Webinar, "First Nations Speaker Series: Uncle Bruce Pascoe", via Cisco Webex
21 October	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 1: Probabilistic Reasoning", presented by Mr Noel Hutley SC, via Cisco Webex
21 October	2021 Annual Goldring Lecture, University of Wollongong Law School, Advancing social justice across the decades: commitment, challenges and changes, Zoom Webinar
1 November	Ngara Yura Program and Francis Forbes Society Cross-Jurisdictional Twilight Webinar, "Making the Past Visible: The Legacies of the Protectionist Legislation", presented by Mr Richard Weston, NSW Deputy Children's Guardian, Office of the Children's Guardian, via Cisco Webex
18 November	Twilight Webinar, "Legal Reasoning and Climate Change Evidence Part 2: Attribution Science", presented by Professor David Karoly, Chief Research Scientist, CSIRO, via Cisco Webex
18 November	2021 Annual General Meeting of Diverse Women in Law, Her Hon Judge Yehia SC, via Zoom
23 November	Women Lawyers Association NSW, Annual General Meeting, via Zoom
23 November	Australian Women Lawyers, Annual General Meeting, via Zoom
24 November	WLNSW Celebrate appointment of women silks, The Hon Justice Jacqueline Gleeson, Sydney
25 November	LEC Field Trip: ANZAC War Memorial Hyde Park, Sydney
2 December	Principles for our Planning System, Minister Rob Stokes, Live Stream
6 December	Law Society of NSW Annual Members Dinner, Ben Crowe, Leadership Mentor, Life Coach and Advisor, The Fullerton Hotel, 1 Martin Place Sydney

Speaking engagements

28 July Trust and Accountability in a 2020 World, panel speaker, University of Wollongong, Sydney CBD Campus

Membership of legal, cultural or benevolent organisations

Member, Law Society of NSW

Member, Women Lawyers NSW

Member and Graduate, Australian Institute of Company Directors

Member, Australian Dispute Centre

Member, Environment and Planning Law Association

Member, University of Wollongong School of Law Advisory Committee

Member, Diverse Women in Law

Chair, Australian Design Centre

Australian Hispanic Lawyers Plus, Founding Member

Member, Law Society of NSW

Nationally Accredited Mediator

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 2021

The Hon. Justice Brian Preston, Chief Judge (Chair)	Land and Environment Court
Senior Commissioner Susan Dixon	Land and Environment Court
Ms Sarah Froh, Registrar	Land and Environment Court
Mr Shaun Carter	Royal Australian Institute of Architects (NSW Chapter)
Mr Peter Castor	Institute of Australian Consulting Arboriculturists
Ms Kirsty Chambers	Australian Property Institute
Ms Ellen Chapple	Environment Protection Authority
Ms Rebecca Cunningham	Housing Industry of Australia
Ms Elizabeth Densley	Planning Institute of Australia (NSW Division)
Mr Brendan Dobbie	Environmental Defenders Office
Ms Roslyn McCulloch	Law Society Development and Planning Committee, Law Society of New South Wales
Mr Aaron Gadiel	NSW Urban Taskforce
Ms Erin Gavin	NSW Department of Planning and Environment
Mr Sam Haddad	Engineers Australia
Ms Christina Harrison	The Institution of Surveyors NSW Inc
Ms Donette Holm	NSW Department of Planning and Environment
Mr James Innes	NSW Independent Planning Commission
Mr Clifford Ireland	New South Wales Bar Association

Mr James Johnson	Nature Conservation Council of New South Wales
Ms Alyce Kliese	Property Council of Australia
Ms Penny Murray	Urban Development Institute of Australia
Ms Roslyn McCulloch/ Dr James Smith	Environment and Planning Law Association NSW
Mr Ben Salon	NSW Young Lawyers Environment and Planning Law Committee
Mr Eugene Sarich	Australian Institute of Building Surveyors and Australian Institute of Environmental Health
Mr Alex Singh	Local Government In-House Counsel Network
Mr Ian Woodward	Local Government Lawyers Group
Ms Carly Wood	Australian Institute of Landscape Architects
Ms Jessica Wood	Local Government NSW



Meeting of the Court Users Group 6 September 2019

Mining Court Users Group

A Mining Court Users Group was established in 2010 as a consultative committee comprising of representatives of the Court and representatives of mining related organisations and mining lawyers. The Group meets as needed 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.

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 (as need arises) 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, Chief Judge

The Hon. Justice Nicola Pain

The Hon. Justice John Robson

Education Committee

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

Members

The Hon. Justice Nicola Pain (Chair)

The Hon. Justice Tim Moore

Senior Commissioner Susan Dixon

Commissioner Danielle Dickson

Ms Sarah Froh, Registrar

Ms Una Doyle, Education Director, Judicial Commission of NSW (Convenor)

Library Committee

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

Members

The Hon. Justice John Robson (Chair)

Senior Commissioner Susan Dixon

Ms Sarah Froh, Registrar

Mr Michael Unwin

Ms Larissa Reid

Ms Susan Ramsay

Ms Vanessa Blackmore

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

The Hon. Justice Tim Moore (Chair)

The Hon. Justice Brian Preston, Chief Judge

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Legislation

Statutes and Regulations:

- **Commonwealth:**

The *Native Title Legislation Amendment Act 2021 (Cth)* amends the *Native Title Act 1993 (Cth)*, including a range of adjustments to native title claims resolution, agreement making, Indigenous decision-making and dispute resolution processes. This Act received Royal Assent on 16 February 2021, with ss 1-3 commencing. Section 2 tabulates the commencement dates for the associated schedules: Sch 1 (Role of the applicant); Sch 2 (Indigenous land use agreements); Sch 3 (Historical extinguishment); Sch 4 (Allowing a registered native title body corporate to bring a compensation application); Sch 5 (Intervention and consent determinations); Sch 6 (Other procedural changes); Sch 7 (National Native Title Tribunal); and Sch 8 (Registered native title bodies corporate) proclaimed to commence on 25 March 2021. Schedule 9 (Just terms compensation and validation) commenced on 17 February 2021.

The Independent Review of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act)* identified a need for legally enforceable standards to underpin the effective operation of the *Protection and Biodiversity Conservation Amendment Bill 2021 (Cth)* would establish a framework for the application of National Environmental Standards; an Assurance Commissioner to undertake monitoring of bilateral agreements under the EPBC Act. The Bill of Representatives (second reading) moved 25 February 2021.

- **Strata:**

The *Strata Schemes Management Amendment (Sustainability Infrastructure) Act 2021 No. 1 (NSW)* includes amendments to sustainability infrastructure in strata schemes. 'sustainability infrastructure' and 'sustainability in Owners' corporation must consider certain sustainability infrastructure resolution. A special corporation that is a sustainability infrastructure majority of the value of the votes cast to be successful in other special resolutions.

- **Planning:**

Environmental Planning and Assessment Amendment (Development Applications) Act 2021 No. 1 (NSW) this amendment removes the requirement for a consent development application for designated development.

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Legislation

Statutes and Regulations:

- **Commonwealth:**

*Hazardous Waste (Regulation of Exports and Imports) Amendment Act 2021 - the substantive amendments within this Act (Schs 1-5) will amend the *Hazardous Waste (Regulation of Exports and Imports) Act 1989 (principal Act)* to implement Australia's obligations under the *Basel Convention on the Control or Transboundary Movements of Hazardous Wastes and their Disposal*. The amendments contained within the schedules have yet to commence, with Schs 1-3 and Sch 4, Pts 1 and 2 and Sch 5 commencing either by proclamation or, if no proclamation is made, then they will automatically commence six months and one day after the date of assent. Schedule 4, Pt 3 will commence on the later of immediately after Schs 1-3, Pts 1 and 2 of Sch 4 and Sch 5, or immediately after commencement of the *Federal Circuit and Family Court of Australia Act 2021*, assented 1 March 2021 but to commence upon proclamation.*

The Act will insert references to the standard provisions of the *Regulatory Powers (Standard Provisions) Act 2014* into s 4. The Act will also add new audit powers; will update existing criminal offences; and will introduce new strict liability offences and civil penalties to cover non-compliance relating to the export, import, and transit of hazardous waste. The Act will introduce new offences where non-compliance results in injury or damage to humans or the environment (subs 33B(3)(g), 33D(3)(g), 33F(4)(g), 38D(1)(d)). Amendments will authorise information sharing between Commonwealth, State and Territory governments; amend record keeping requirements; and information-gathering powers to protect, use and disclose information. The Hazardous Waste Technical Group will be replaced with a requirement for the Minister to consult with one or more of the following: a person identified by the Minister who is considered to have the expertise or qualifications relevant to the decision; an industry group; an environmental group or a state or territory government body (Pt 6 - *New Consultation Mechanism*).

Schedule 1 will insert plastic as a hazardous waste through its inclusion in the definition (s 4):

or (e) plastic wastes, including mixtures of such wastes, covered by Annex II to the "Basel Convention" to s 4 of the Act.

Schedule 2 concerns Regulatory Powers, and will insert definitions for "audit", "Australian Jurisdiction", "civil penalty provision", and "evidentiary material" into s 4. Sections will be added to the principal Act that will outline the extraterritorial operation of the Act (s 9A) and the geographical operation for offences (s 9B). Schedule 3 will insert provisions relating to record keeping, information, and confidentiality. Schedule 4 will make amendments to the offence and civil penalty provisions of the Act. Part 1 of Sch 4 will incorporate the definitions for "executive officer", "OECD country", and "recovery operation" into s 4 of the principal Act.

The provisions will also insert amendments to the *Environment Protection and Biodiversity Conservation Act 1999* to harmonise the legislative instruments.

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