

The Land and Environment Court of NSW



Annual Review
2022

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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 505 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 **2022: 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 2021. Of particular significance are:

- A clearance rate greater than 100% in Classes 2, 4, 5 and 8.
- A clearance rate greater than 100% in the Class 4-8 cumulative category.
- An increase in the total number of matters finalised.
- An increase in the proportion of matters finalised via pre-hearing methods.
- A decrease in mean and median finalisation times in Class 1.
- A decrease in the time taken to finalise cases in Classes 1, 3, 5, 6 and 8.
- An increase in case processing timeliness in Classes 1, 2, 3, 4, 5 and 6, as indicated by substantial decreases in the backlog indicator (national time standard) for those classes.
- An increase in the percentage of reserved judgments being delivered within all of the Court's set time standards.
- A reduction in the number of pending matters in Classes 2, 4 and 5 (and, subsequently, the Class 4-8 cumulative category).
- A reduction in the median number of pre-hearing attendances in Class 1, Class 3, Class 4 and Class 8 matters.

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

- A decrease in the clearance rate in Classes 1 and 6.
- The overall clearance rate for all matters dropped below the 100% mark.
- An increase in the time taken to finalise cases in Classes 2 and 4.
- An increase in the pending caseload in Classes 1,3 and 6.
- A reduction in the number of finalised matters in Classes 1, 2 and 4.

Reforms and developments

During 2022, reforms occurred in the following areas:

- Updated Court Policies;
- New technology and equipment;
- New information on the Court's website;
- Technology and accessibility;
- 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 2022, the Court's Annual Conference was held at the Novotel in Parramatta. The Court held one twilight webinar, one field trip, a conference to celebrate the 40th anniversary of the Court and a conference of planning and environment courts and tribunals in Australia and New Zealand.

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 Judicial Newsletter continued to be published in 2022.

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 in a hybrid manner during 2022.

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

Consultation with court users

In 2022, 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?
 - The Judges
 - The Commissioners
 - The Registrars
- Appointments and retirements
- Supporting the Court: the Registry

The Court

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

Statement of purpose

The Court's purpose is to safeguard and maintain:

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

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

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



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

The Court's jurisdiction

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

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

In 2022, 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

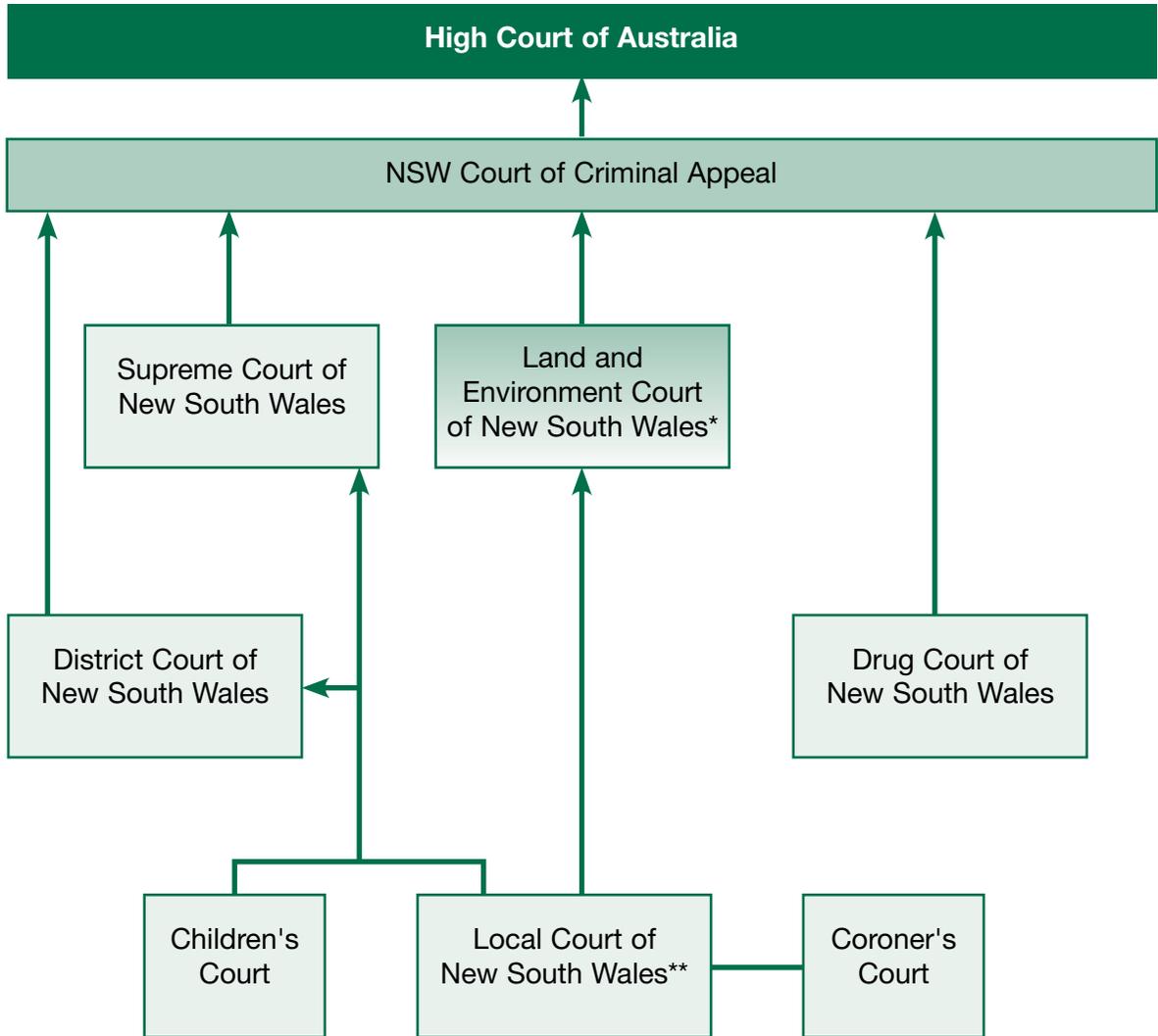
Class 1	environmental planning and protection appeals (merits review appeals)
Class 2	local government, trees and miscellaneous appeals (merits review appeals)
Class 3	land tenure, valuation, rating and compensation matters (merits review appeals)
Class 4	environmental planning and protection (civil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

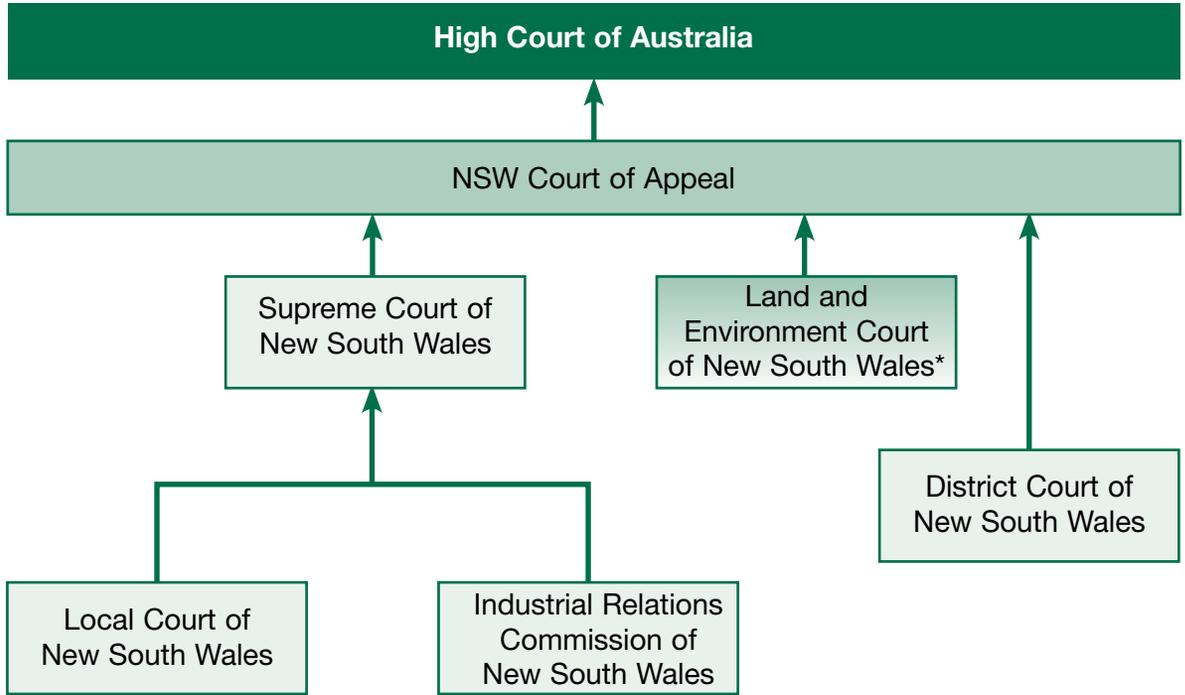
Figure 2.1 New South Wales Court System – Criminal Jurisdiction



* 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.

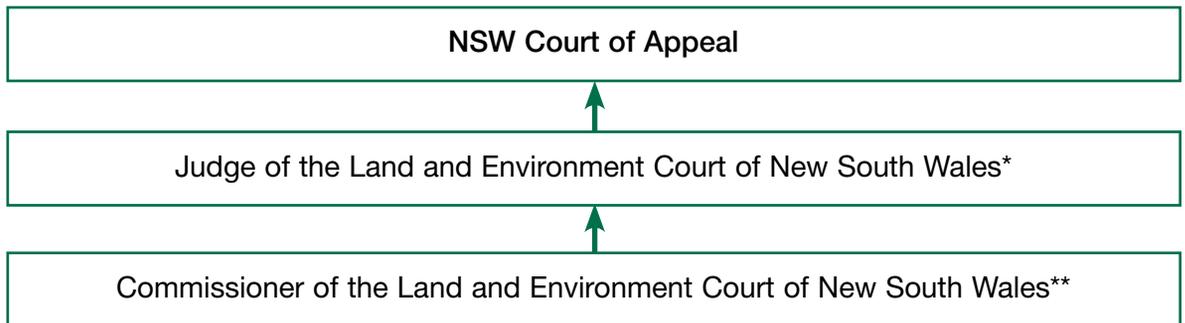
** Appeals from the Local Court of New South Wales to the Land and Environment Court are with respect to an environmental offence under the *Crimes (Appeal and Review) Act 2001* and are in Classes 6 and 7 of the Land and Environment Court's jurisdiction.

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 2022, 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 Honourable Justice Sarah Pritchard 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 2022, 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

Mr Alan Bradbury – lawyer

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

Ms Maureen Peatman – lawyer with experience in land valuation matters and planning

Mr Matthew Pullinger – architect and urban designer

Ms Lynne Sheridan – town planner

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 2022, the Registrars were as follows:

Director and Registrar

Ms Sarah Froh

Senior Deputy Registrar

Ms Donette Holm

Deputy Registrar

Ms Elizabeth Orr

Appointments and retirements

Appointments

Judges

The Hon. Justice Sarah Pritchard SC was appointed as a Judge of the Court on 30 October 2022.

Retirements

Mr Phillip Clay SC retired as an Acting Commissioner of the Court on 23 February 2022.

Ms Julie Bindon retired as an Acting Commissioner of the Court on 23 February 2022.

Dr Gary Shiels retired as an Acting Commissioner of the Court on 21 January 2022.

Ms Susan Morris retired as an Acting Commissioner of the Court on 26 November 2022.

Mr Christopher McEwen SC retired as an Acting Commissioner of the Court on 26 November 2022.

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

Caseflow 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 a 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, with an additional 6% represented by an authorized agent. The application is returnable before the Senior Deputy or Deputy Registrar who is assigned to manage the list. This first court attendance can be either a telephone conference or in court. The Senior Deputy or Deputy Registrar explains the process of preparation for and hearing of the application.

The Senior Deputy or Deputy 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 Senior Deputy or Deputy Registrar will fix a final hearing date, usually not more than four to five weeks after the first court attendance. The Senior Deputy or Deputy 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 2022, while some Covid-19 Pandemic restrictions remained, some directions hearings were still 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, and throughout 2022, 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 2022, Online Court was used in 1,019 civil matters in Classes 1, 2, 3, 4 and 8, and for 4,549 Online Court directions hearings.



Virtual court setting (teleconference) – Registrar’s Direction Hearings and online Court.



Virtual court setting (Microsoft Teams) – Conciliation conferences.

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



A paperless court hearing.



A Microsoft Teams court hearing.



Site inspections before a hybrid hearing (face-to-face and AVL).



Hybrid court setting (face-to-face and AVL).

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 - 2022. Table 3.1 shows a substantial increase in the total number of conciliation conferences held in 2021 and 2022 compared to 2019 and 2020. 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 34 and 34AA Conciliation Conferences 2017 – 2022

	2018	2019	2020	2021	2022
ss 34 and 34AA conferences	1,465	962	1,342	1,959	1,559

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 2018 to 2022. 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 2018 – 2022

		2018	2019	2020	2021	2022
Classes 1 and 2	Total:	5	7	9	21	23
	Internal	5	6	9	20	22
	External	0	1	0	1	1
	Number finalised pre-hearing	4	3	6	16	16
	% finalised pre-hearing	80	43	67	76	70
Class 3	Total:	4	4	2	3	4
	Internal	2	4	2	3	4
	External	2	0	0	0	0
	Number finalised pre-hearing	2	4	2	3	2
	% finalised pre-hearing	50	100	100	100	50
Class 4	Total:	11	22	19	26	32
	Internal	10	22	19	26	32
	External	1	0	0	0	0
	Number finalised pre-hearing	7	17	15	21	28
	% finalised pre-hearing	64	77	79	81	88

		2018	2019	2020	2021	2022
All Classes	Total:	20	33	30	50	59
	Internal	17	32	30	49	58
	External	3	1	0	1	1
	Number finalised pre-hearing	13	24	23	40	46
	% finalised pre-hearing	65	73	77	80	78

The total number of mediations increased significantly between 2020 and 2021 and remained elevated in 2022. The total number is 59 is the highest since 2006. The number of mediations increased in all eligible classes.

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.

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 2021, awarded in 2022. 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 2022, reforms occurred in the following areas:

- New Policies
- New technology and equipment
- New information on the Court's website
- Technology and accessibility
- 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 2022, 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. Consistent with the changing NSW Government restrictions, the Court's COVID-19 Pandemic Arrangements Policy was updated in February 2022 and eventually revoked on 28 November 2022. The new policy reinstated conducting listings in person, unless otherwise ordered.

Registrar lists on Tuesdays, Wednesday, Thursdays and Fridays each week were reinstated in late 2022 to be conducted in person, with Monday lists only conducted by AVL. The Friday List Judge and LVC list were also reinstated in late 2022 to be conducted in person. If a party wishes to appear in a list otherwise than in person, they may apply to do so by no later than 12pm the day before the attendance.

All other listings, such as conciliation conferences, mediations and hearings, are conducted at the place and by the mode ordered when the matter was listed or as otherwise directed by the court, with the view of transitioning back to all in person listings.

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 2022, AVL facilities were installed in nine courtrooms. A project was underway, but not completed, 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. The Court also arranged for the installation of public / guest wifi for use by all attendees within the court, which was completed in February 2023.



YouTube Livestream of proceedings before Justice Duggan.

New information on the Court's website

The Court's website was upgraded to improve accessibility and a global language translator was added.

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 was 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 2022 it assisted 77 unrepresented persons, a decrease of 8% 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 observation of adjudication, conciliation and mediation of matters in the Court. 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. Practical and ethical causes are 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 Judges, commissioners and staff of the Court.

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 2022. 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 2022 it assisted 92 unrepresented persons (an increase of 80%), across 100 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 2022, the Court leadership undertook informal self-assessment of the Court's performance, especially in light of the COVID-19 pandemic restrictions.

In 2022, 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 - 2021 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, performance review and conferences;
- improving case registration and case management systems;
- adaptively managing the Court's response to the COVID-19 Pandemic, including ceasing the Court's COVID-19 Pandemic Arrangements Policy in November, 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, return to in person court services; and
- updating a Dignity and Respect Policy, and administering court wide surveys, 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
- continuing the use of paperless trials in certain classes of cases;
- developing and implementing 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, awarded in 2022, 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; and
- continuing to receive and efficiently respond to, and appropriately action, complaints and inquiries regarding delays in reserved judgments, conduct of commissioners or processes of the Court.

6. Court resources:

- maintaining the Court’s human resources, by appointment of a new Judge, Senior Deputy Registrar and Deputy Registrar ;
- 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;
- developing 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;
- continuing to install 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, including enabling litigants to apply for a different mode of appearance if required following the return to in-person court lists and hearings
- continuing the Duty Lawyer Scheme to assist self-represented litigants;
- continuing the Tree Helpdesk to assist self-represented parties in tree disputes;
- continuing 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 2022 are available on the Court’s website at Publications and resources Other Resources - 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 and legal scholarship publications that are publicly electronically accessible by AustLii. 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 thirteen 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 2022, decisions of this Court had been cited 10,405 times across every State and Territory (including internal citations by this Court). 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 that state’s courts and tribunals (including 11 times in the WA Court of Appeal). By the end of 2022, Western Australian citations of decisions of this Court now totalled 233 times (including 18 times in the Court of Appeal), which represents a further 139 citations by courts and tribunals in Western Australia over the thirteen-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 2022.

Although the data able to be accessed internationally by AustLII for the purposes of preparing the metrics is comparatively limited, decisions of this Court have now been cited, since 2010, eleven times by New Zealand courts (including four by the High Court and three times by the Supreme Court); three times by the National Court of Papua New Guinea; and four times by South African courts (once by the Supreme Court of Appeal). By the end of 2022, decisions of this Court had been cited in courts and tribunals and other institutions throughout Australia and in ten other jurisdictions across 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 Criminal Injuries Compensation Assessor of Western Australia. The full list of citations in courts outside Australia is set out at the commencement of the detailed statistical analysis.

The Court's decisions have also been cited in a range of law journals and other legal scholarship (on 159 occasions). 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.

Other open access databases containing scholarly writings citing the Court's decisions include the Social Science Research Network (SSRN).

The Court's decisions have also been cited five times in Law Reform publications since the commencement of the AustLII metrics project.

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 2022 metrics on the Court's website at: http://www.leg.justice.nsw.gov.au/Pages/publications/database_metrics_and_statistics.aspx.

Sentencing database for environmental offences

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

In 2022, 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 2018 and 2022 are summarised in Table 5.1.

Table 5.1 Caseload Statistics

	2018	2019	2020	2021	2022
Class 1					
Registrations	1,001	904	732	779	1,066
Restored	9	19	11	16	2
Pre-Trial Disposals	641	636	659	655	683
Disposed by Hearing	242	219	215	306	206
Pending	705	790	643	488	673
Class 2					
Registrations	85	91	90	123	105
Restored	5	4	8	12	7
Pre-Trial Disposals	34	16	24	38	35
Disposed by Hearing	67	77	63	87	88
Pending	28	31	43	53	43
Class 3					
Registrations	107	84	82	116	148
Restored	0	0	3	5	3
Pre-Trial Disposals	68	79	77	74	109
Disposed by Hearing	38	10	12	16	18
Pending	95	93	85	114	135
Class 4					
Registrations	116	102	92	124	97
Restored	24	21	11	19	6
Pre-Trial Disposals	83	68	72	78	79
Disposed by Hearing	46	39	43	38	31
Pending	87	105	83	105	95
Class 5					
Registrations	156	164	116	192	118
Restored	0	1	4	3	42
Pre-Trial Disposals	22	24	29	75	152
Disposed by Hearing	36	65	36	76	55
Pending	166	249	300	343	298

Classes 6 & 7

Registrations	16	17	7	6	10
Restored	4	0	1	1	0
Pre-Trial Disposals	13	8	2	5	2
Disposed by Hearing	12	6	12	3	4
Pending	5	8	3	2	6

Class 8

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

TOTAL

Registrations	1,486	1,363	1,121	1,342	1,545
Restored	43	45	38	57	60
Pre-Trial Disposals	864	833	865	926	1,061
Disposed by Hearing	442	418	382	527	403
Pending	1,091	1,279	1,158	1,107	1,251

Tables 5.1 and 5.2 show the following trends:

- 2022 saw a significant increase in registrations. Class 1 registrations increased by over a third of the 2021 yearly total (34%). The 2022 total of 1,068 Class 1 registrations is the highest in the five year period above, and the highest total since 2005 (1,179). Class 2 registrations declined following a sharp increase the previous year, but remain the second highest in the last five years. Class 3 registrations increased significantly for the second consecutive year (25%). Class 3 registrations are the highest yearly total since 2016. Class 4 registrations decreased by 28%, to return to the 2020 level. Despite a significant decrease from 2021, Class 5 registrations remained high. The Court has registered over 120 Class 5 matters for five consecutive years.
- Total finalisations (1,464) increased from 2021 (1,453) to be the highest in the last five years. The proportion of matters finalising through pre-hearing methods increased in 2022, both in total and in all classes other than Classes 2, 6, 7 and 8. The increase in post-trial disposals was marked in Classes 1, 3 and 5. The proportion of restored matters increased overall but decreased significantly in Class 1. The overall number of restored matters remains low relative to the caseload.
- Because the increase in total registrations (1,605) exceeded the increase in finalisations (1,464) in 2022, the total pending caseload (1,251) increased. This increase follows two consecutive years where the pending caseload reduced over the course of the year.

- Merits review and other civil proceedings finalised in Classes 1, 2 and 3 (1,139) comprised 78% of the Court's finalised caseload (1,464) in 2022. This proportion is slightly lower than in 2021 (81%) and 2020 (84%).
- Civil and criminal proceedings finalised in Classes 4, 5, 6, 7 and 8 (325) comprised 22% of the Court's finalised caseload in 2022. This proportion is a slight increase from 2021 (19%) and 2020 (16%).
- The means of finalisation in 2022 were 72% pre-trial disposals (including by use of alternative dispute resolution processes and negotiated settlement) and 28% adjudicated by the Court. This is a significant increase in the proportion of pre-trial finalisations from 2021 (64%) following a decrease the previous year. The large shift can largely be explained by the significant increase in the number of Class 5 pre-trial disposals recorded this year.

Table 5.2 Means of Finalisation – All Matters

	2018	2019	2020	2021	2022
Total matters finalised – all classes	1,306	1,251	1,247	1,453	1,464
Total pre-trial finalisations	864	833	865	926	1,061
% matters finalised pre-trial	66	67	69	64	72

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, 48.5% 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. 48.5% is consistent with the recent results, a slight increase from the previous three years.

Of the total of 552 matters, 484 were finalised by s 34 and s 34AA conciliation conferences and 68 matters by on-site hearings. 2022 saw a significant increase in the number of matters finalised by on-site hearing. Both 2021 and 2020 saw a significant reduction in the amount of on-site hearing finalisations (down from 71 in 2019), largely due to COVID-19 social distancing restrictions. These measures become less restrictive over the course of 2022, allowing the Court to return to holding hearings on-site where appropriate.

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

	2018	2019	2020	2021	2022
Total matters finalised	1,090	1,037	1,050	1,176	1,139
s 34 and s 34AA conferences and on-site hearings	547	500	490	529	552
% s 34 and s 34AA and other matters finalised on-site	50.2	48.2	46.7	45.0	48.5

Court performance by class of jurisdiction

A brief summary of the Court's performance in 2022 for each of the eight classes of jurisdiction is provided.

Class 1

Registrations of Class 1 matters increased significantly in 2022. There were 1,068 Class 1 registrations in 2022, 273 more than the 2021 total of 795 (a 34% increase). However, Class 1 finalisations also decreased. There were 72 fewer Class 1 finalisations in 2022 (a decrease of 7%). Despite this, the total of 889 finalisations is the second highest since 2007. The number of registrations exceeding the number of finalisations resulted in the Class 1 pending caseload increasing significantly (an increase of 38%). This increase follows two consecutive years in which the Class 1 pending caseload has reduced. Class 1 represents 67% of all filings in 2022, a significant increase from 57% the previous year. The decrease in proportional percentage of Class 1 registrations experienced over recent years can largely be explained by significantly elevated level of Class 5 registrations. COVID-19 also likely affected the incoming matters in Class 1 as it has had wide ranging impacts on the planning and development industries.

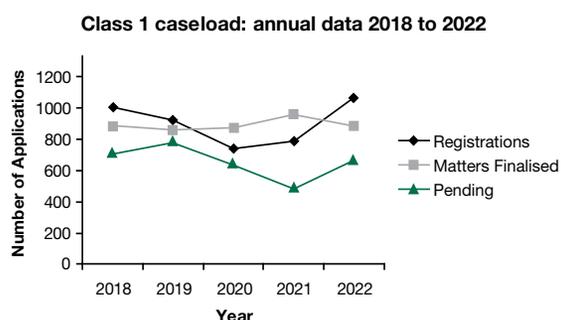
Class 1 matters constitute the bulk of the Court's finalised caseload (61%, down from 66% in 2021 and 70% in 2020). 69% of Class 1 matters finalised were appeals under s 8.7 of the *Environmental Planning and Assessment Act 1979* relating to development applications. 60% of the appeals under s 8.7 were applications where councils had not determined the development application within the statutory time period ("deemed refusals"). This is an

increase from the proportion of deemed refusals reported in 2021 (52%), but sees a return to the levels reported in 2020 (57%) and 2019 (61%). One explanation for the 2021 decrease might be the legislative amendments that extended the time for deemed refusals, which were repealed in March 2022.

Of the remaining Class 1 finalisations in 2022, 8% were applications to modify a development consent under s 8.9 of the *Environmental Planning and Assessment Act 1979* and 14% were appeals against council orders and the actual or deemed refusal by councils to issue building or occupation certificates. Third party objector appeals constituted roughly 0.5%. Applications for costs, s 56A appeals against the Commissioners' 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 2018 and 2022.

Figure 5.1



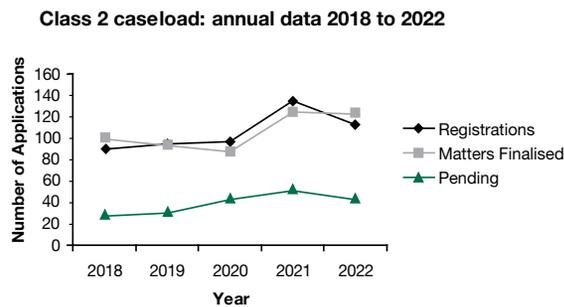
Class 2

Class 2 registrations represented 7% of total registrations in the Court in 2022 (down from 10% in 2021 and 8.5% in 2020). Registrations decreased notably from 2021: a 17% decrease from 135 to 112.

The number of Class 2 matters finalised in 2022 is 123, a similar result to 2021 (125). This number represents 8% of the Court’s finalised caseload for the year compared to 9% in 2021 and 7% in 2020. Applications under the Trees (*Disputes Between Neighbours*) Act 2006 represent a strong majority of Class 2 finalisations for 2022 (78%).

Figure 5.2 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 2 between 2018 and 2022.

Figure 5.2



Class 3

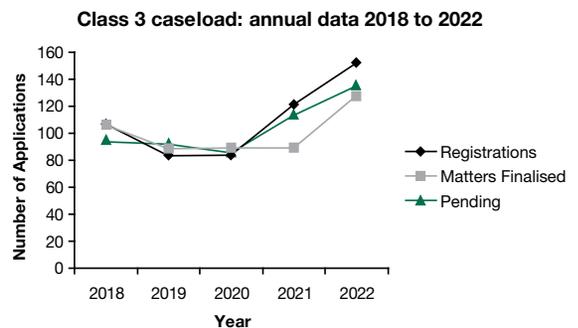
Class 3 of the Court’s jurisdiction encompasses a range of proceedings including claims for compensation as a result of the compulsory acquisition of land, valuation and rates category appeals and Aboriginal land rights claims.

Registrations in Class 3 increased significantly in 2022 (25%). Compensation claims for compulsory acquisition of land constituted 59% of all Class 3 appeals registered in 2022, up significantly from 37% in 2021 and 29% in 2020. Valuation and rating appeals accounted for 26%. Aboriginal land claim appeals constituted approximately 3% of Class 3 filings (4 filed in total).

Of the 127 Class 3 matters finalised in 2022, 48% were compensation claims (up from 31% in 2021), 21% were valuation or rating appeals (33% in 2021) and 31% were other matters. There were 18 Aboriginal land claim matters completed in the year (14%). Finalisations of Class 3 matters increased significantly from 2021 (41%). The pending caseload of Class 3 matters increased, a change of 18% as registrations again exceeded finalisations in 2022.

Figure 5.3 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 3 between 2018 and 2022.

Figure 5.3

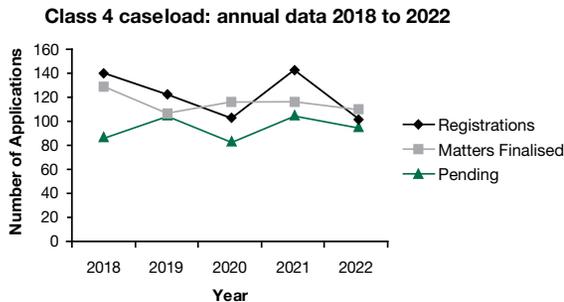


Class 4

Class 4 registrations decreased significantly in 2022 (28%), whilst finalisations decreased moderately (5%). Class 4 matters comprise 6% of all registrations and 7.5% of all finalisations in 2022. As a result of Class 4 finalisations exceeding registrations, the Class 4 pending caseload decreased (9.5%). Of the Class 4 matters registered in 2022, 45% were initiated by councils (down from 57% in 2021). Civil enforcement proceedings constituted 54.5% of finalised Class 4 matters and judicial review constituted 39%.

Figure 5.4 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 4 between 2018 and 2022.

Figure 5.4



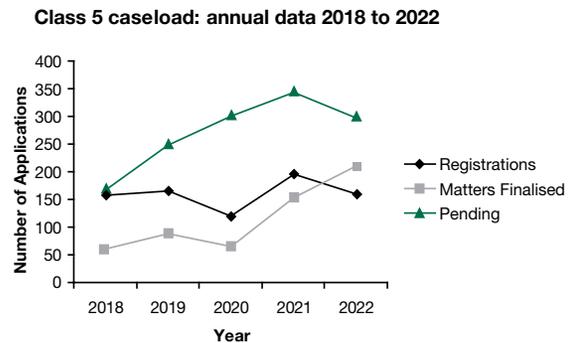
Class 5

Class 5 registrations decreased significantly following the record-breaking result in 2021 (a decrease of 18%). The Environment Protection Authority initiated 41% of new Class 5 registrations. The Natural Resources Access Regulator initiated 30.5%. The Department of Planning and Environment accounted for 27%. Local councils accounted for just 2%, down from 9% in 2021 (two matters, both by Burwood Council). Restored costs motions account for the remaining Class 5 registrations.

Class 5 finalisations increased significantly in 2022 from an already high total in 2021 (207 total, an increase of 37%). Convictions were recorded in 45 matters, 134 were withdrawn or otherwise discontinued and 26 were dismissed. Two motions for costs were upheld, whilst 18 motions for costs were amongst the 26 dismissed matters. Fines and remediation orders ranged from \$10,000 for the disposal of regulated material without consent / not in accordance with conditions of consent under the *Radiation Control Regulation 2013* to \$540,000 for development not in accordance with development consent under the *Environmental Planning and Assessment Act 1979*. There were no community correction or imprisonment orders made by the Court in 2022.

Figure 5.5 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 5 between 2018 and 2022.

Figure 5.5



Classes 6 and 7

There were 10 Class 6 appeals were filed in 2022 and 6 Class 6 matters finalised. There were no Class 7 appeals registered or finalised in 2022 and no active Class 7 matters at year end. There are 6 pending Class 6 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 was one Class 8 matters registered in 2022. There were two Class 8 matters finalised this year. There are two Class 8 matters pending at the end of 2022.

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 2022 to increase court fees by 3.05% to be able to balance the Court's budget and ensure a high standard of court administration service quality (effective 1 July 2022). 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 2022, 27% 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 the majority are country matters). In 2022 the decrease is caused by the increased proportion of Class 1 registrations, the strong majority of which are city based (81%).

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, and continuing into the beginning of 2022, all directions hearings conducted by the Registrar and nearly all directions hearings conducted by the List Judges were by telephone conferences. 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 79% of completed Class 1 country matters (51% using OLC more than once) and 53% of completed Class 3 country matters in 2022 (22% using OLC more than once).

Table 5.4 shows the percentage of pre-hearing attendances conducted by Online Court directions hearings in Classes 1-4 and 8 in 2022. The total percentage of Online Court directions hearings of 46% is very similar to the 47% recorded in 2021 and an increase on 42% for 2020.

Table 5.4 Online Court Directions Hearings

Class	No of cases	Total pre-hearing attendances	% Online Court directions hearings
1	759	7,802	49
2	78	265	24
3	94	951	43
4	88	925	29
8	0	0	0
All	1,019	9,943	46

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. 75% of finalised Class 1 country matters and 19% 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 ss 7 or 14B 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 2022, 7% of finalised matters (in Classes 1 and 2) were conducted as an on-site hearing, of which 34% were country matters. The country matters conducted as an on-site hearing were in Class 2, not Class 1. The number of on-site hearings increased in 2022 from 2020 and 2021, which were affected by 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 2022. 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
Armidale	1						
Ballina	1						
Coffs Harbour	1						
Goulburn	1						
Gunnedah	1						
Katoomba	2						
Moss Vale	2						
Murwillumbah	1						
Nowra	1						
Orange	1						
Queanbeyan	1						
Toronto	1						
Wollongong	1						
TOTAL	15						

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 trialled 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, or remotely via telephone, introduced 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 2022, all full-time Commissioners, a number of the Acting Commissioners and the Registrar and Deputy Registrars 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 2022, where in-person attendances at Court were restricted, 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) 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 2022, 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 2022 are set out in Table 5.6.

Table 5.6 Backlog Indicator (LEC time standards)

	Unit	LEC Standards	2018	2019	2020	2021	2022
Class 1							
Pending caseload	no.		705	790	643	488	673
Cases > 6 months	%	5	26.4	48	47.1	23.2	24.2
Cases > 12 months	%	0	7.2	17.5	24.3	7.6	5.7
Class 2							
Pending caseload	no.		28	31	43	53	43
Cases > 6 months	%	5	7.1	9.7	20.9	18.9	9.3
Cases > 12 months	%	0	0	3.2	9.3	1.9	0
Class 3							
Pending caseload	no.		95	93	85	114	135
Cases > 6 months	%	5	48.4	58.1	47.1	33.3	35.6
Cases > 12 months	%	0	27.4	38.7	31.8	17.5	20.0
Class 4							
Pending caseload	no.		87	105	83	105	95
Cases > 8 months	%	5	47.1	41.0	45.8	33.3	42.1
Cases > 16 months	%	0	25.3	22.9	19.3	16.2	14.7
Class 5							
Pending caseload	no.		166	249	300	343	298
Cases > 8 months	%	5	29.5	47.4	78.7	76.1	61.1
Cases > 16 months	%	0	12.1	17.3	41.3	40.2	47.7
Class 6							
Pending caseload	no.		5	8	3	2	6
Cases > 8 months	%	5	0	0	0	50	0
Cases > 16 months	%	0	0	0	0	0	0
Class 8							
Pending caseload	no.		5	2	1	2	1
Cases > 8 months	%	5	40	100	0	0	0
Cases > 16 months	%	0	0	100	0	0	0
Class 1 – 3							
Pending caseload	no.		828	914	771	655	851
Cases > 6 months	%	5	28.3	47.3	45.7	24.6	25.3
Cases > 12 months	%	0	9.3	19.1	24.3	8.6	7.6

Class 4 – 8

Pending caseload	no.		263	364	387	452	400
Cases > 8 months	%	5	35.0	44.8	70.8	65.7	55.5
Cases > 16 months	%	0	16.0	19.0	36.2	34.3	39.0

These backlog figures need some explanation:

- **Class 1:** The backlog percentage figures for pending caseloads greater than 12 months decreased in 2022 to the lowest figure in the last 5 years, although the percentage of pending matters exceeding 6 months marginally increased. The total pending caseload in Class 1 increased during 2022 as a result of registrations exceeding finalisations. The significant decrease 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 2022, the average finalisation time for Class 1 matters was roughly 7 months, whilst the median finalisation time was about 6 months.
- **Class 2:** There was a decrease in the amount of pending Class 2 matters at the end of 2022, as finalisations exceeded registrations. Most of these are tree disputes. There are 4 pending matters that have exceeded the 6 month time standard, 6 less than at the end of 2021. None of the pending matters have been active for more than 12 months, the first time this has been achieved since 2018.
- **Class 3:** The number of pending Class 3 matters further increased in 2022 following a notable growth in Class 3 registrations. There was a moderate increase in the proportion of matters exceeding both the 6 and 12 month time standards, but the rates are still significantly lower than those reported in 2018 – 2020.
- **Class 4:** The number of pending Class 4 matters decreased from 2021 following a significant decrease in registrations. There was an increase in the proportion of active matters exceeding the 8 month time standard, but a decrease in the proportion of matters exceeding the 16 month time standard. The proportion of Class 4 matters exceeding the 16 month time standard is the lowest since 2010. This indicates a significant amount of Class 4 matters finalise after 8 months but before 16 months. The average duration for finalised Class 4 matters in 2021 was slightly less than 11 months and the median slightly less than 8 months.
- **Class 5:** Although the registrations of Class 5 matters remained high, the pending caseload reduced in 2022 as a result of elevated finalisations (the highest since 1991). Recently filed Class 5 matters will continue to finalise en masse, as they are related prosecutions. The Court can expect the elevated level of Class 5 disposals to continue 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 an increase in the number of pending Class 6 matters in 2022 but the total caseload is small. Of the 6 pending appeals, none have been active for more than 8 months.
- **Class 8:** The pending caseload decreased to 1 in 2022. The active matter has not been active for more than 8 months.

If the national time standards are used, the results of the backlog indicator for the Court in 2022 are as shown in the table below:

Table 5.7 Backlog indicator (national time standards)

	Unit	National Standards	2018	2019	2020	2021	2022
Class 1							
Pending caseload	no.		705	790	643	488	673
Cases > 12 months	%	10	7.2	17.5	24.3	7.6	5.7
Cases > 24 months	%	0	0.3	0.5	2.8	1.6	0.6
Class 2							
Pending caseload	no.		28	31	43	53	43
Cases > 12 months	%	10	0	3.2	9.3	1.9	0
Cases > 24 months	%	0	0	0	0	0	0
Class 3							
Pending caseload	no.		95	93	85	114	135
Cases > 12 months	%	10	27.4	38.7	31.8	17.5	20
Cases > 24 months	%	0	10.5	6.5	21.2	2.6	0.7
Class 4							
Pending caseload	no.		87	105	83	105	95
Cases > 12 months	%	10	35.6	32.4	30.1	22.9	30.5
Cases > 24 months	%	0	13.8	15.2	7.2	9.5	4.2
Class 5							
Pending caseload	no.		166	249	300	343	298
Cases > 12 months	%	10	15.7	36.9	66.7	46.4	60.4
Cases > 24 months	%	0	3.6	4.8	19	34.4	22.2
Class 6							
Pending caseload	no.		5	8	3	2	6
Cases > 12 months	%	10	0	0	0	0	0
Cases > 24 months	%	0	0	0	0	0	0
Class 8							
Pending caseload	no.		5	2	1	2	1
Cases > 12 months	%	10	0	100	0	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 further improved for both the 12 month standard (now compliant with the national standard in this measure) and the 24 month standard (almost compliant) for Class 1 matters. The Court's performance in Class 3 improved significantly for the 24 month standard, despite an increase in the proportion of matters exceeding the 12 month standard. The Court's performance in Class 4 has improved significantly in 2022 compared to 2021 for the 24 month standard, but declined 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 a significant improvement in the second 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 2018-2022.

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

	2018	2019	2020	2021	2022
Class 1					
No. of cases	883	855	874	961	889
% < 6 months	37	25	27	32	51
% < 12 months	90	77	68	72	89
95% completed within (months)	14	16	20	22	15
Class 2					
No. of cases	101	93	87	125	123
% < 6 months	89	89	66	69	67
% < 12 months	98	99	99	97	94
95% completed within (months)	9	7	10	9	13
Class 3					
No. of cases	106	89	89	90	127
% < 6 months	28	29	38	40	45
% < 12 months	63	66	66	60	73
95% completed within (months)	34	27	23	37	25

Class 4

No. of cases	129	107	115	116	110
% < 8 months	67	63	57	58	51
% < 16 months	91	85	86	89	83
95% completed within (months)	22	23	22	20	32

Class 5

No. of cases	58	89	65	151	207
% < 8 months	28	26	22	9	22
% < 16 months	76	80	51	32	55
95% completed within (months)	18	22	26	35	38

Class 6

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

Class 8

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

In Class 1, there was a significant increase in the percentage of cases completed within 6 months and 12 months. 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 in 2018-2021. However, this measure reduced in 2022 for the first time since 2012-2013 to 15 months. The mean (7 months) and median (6 months) time for completion of Class 1 matters both decreased in 2022. The majority (51%) of finalised Class 1 matters were disposed of in less than 6 months for the first time since 2017.

In Class 2, the percentage of matters completed within 6 months decreased slightly, as did the percentage of matter completed within 12 months. The time

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

In Class 3, a greater percentages of cases were completed within 6 months and 12 months, with the 12 month standard improving significantly from the previous year to be the greatest in the last five years. This lead to a significant reduction in the time taken to complete 95% of the cases. The average (9.6 months, down from 13 months the previous year) and median (6.5 months, down from 8 months the previous year) finalisation times both improved notably from 2021.

In Class 4, the percentage of cases finalised in less than 8 months and 16 months

both slightly decreased. The time taken to complete 95% of the matters increased. The mean and median finalisation times both also increased. These figures reflect more older cases being finalised in 2022.

In Class 5, the percentage of cases finalised in less than 8 months and less than 16 months increased significantly but remains well below the set time standards. This is a product of 4 years of high registrations, with those cases being finalised in 2022. The time taken to complete 95% of cases further increased to slightly over 3 years. However, the average finalisation time decreased slightly to just over 19 months (21 months in 2021).

The Court's performance in complying with time standards for Class 6 matters was maintained in the 8 month category and improved in the 16 month category. All Class 6 matters were finalised within the 16 month target. The time taken to finalise 95% of cases decreased to 9 months, down from 13 months in 2021, and the average and median finalisation times also decreased.

The Court's performance in Class 8 increased significantly in the 8 month category and maintained the 16 month target of 100% that was achieved in 2021. 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 2022 for reserved judgments being delivered within all interval targets improved from 2021. 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	2018	2019	2020	2021	2022
% delivered within 14 days	50	30	24	19	21	32
% delivered within 30 days	75	52	50	46	48	51
% delivered within 90 days	100	78	80	78	78	79

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

	2018	2019	2020	2021	2022
Class 1	10	2	2	9	19
Class 2	0	0	0	0	15
Class 3	4	1	0	0	2
Class 4	5	2	1	1	0
Class 5	0	0	0	1	1
Classes 6 and 7	0	0	0	0	0
Class 8	0	1	0	0	0
Total	19¹	6²	3³	11⁴	37⁵

^{*1} In 2018, 68% of inquiries (13) concerned judges' reserved judgments and 32% (6) concerned commissioners' reserved judgments.

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

^{*3} In 2020, 33% of inquiries (1) concerned judges' reserved judgments and 67% (2) concerned commissioners' reserved judgments.

^{*4} In 2021, 27% of Inquires (3) concerned judges' reserved judgments and 73% (8) concerned commissioners' reserved judgments.

^{*5} In 2022, 14% of Inquires (5) concerned judges' reserved judgments and 86% (31) concerned commissioners' reserved judgments

The Chief Judge investigated each inquiry made in 2022 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

	2018	2019	2020	2021	2022
	%	%	%	%	%
Class 1	87.4	92.6	117.6	120.9	83.2
Class 2	112.2	97.9	88.8	92.6	109.8
Class 3	99.1	106.0	104.7	74.4	84.1
Class 4	92.1	87.0	111.7	81.1	106.8
Class 5	37.2	53.9	54.2	77.4	129.4
Class 6	125	82.4	175	120	60
Class 8	66.7	400	150	66.7	200
Classes 1-3	90.3	94.1	113.4	111.9	85.6
Classes 4-8	67.1	69.0	84.6	79.6	118.6
Total	85.4	88.6	107.6	103.9	91.2

These figures show that the total clearance rate decreased from 2021 and fell below the 100% mark, meaning the total pending caseload increased over the course of the year. The clearance rate for classes 1-3 decreased significantly, whilst the clearance rate for classes 4-8 increased significantly. The Class 1-3 clearance rate finished well below 100% (that is, more Class 1-3 matters were registered than finalised across the year) following two consecutive years over that mark. The Class 4-8 clearance rate finished above the 100% mark for the first time since 2016.

The Class 1 clearance rate decreased significantly following an historic high recorded in 2021 and fell below 100% for the first time since 2019. That is a product of the significant increase in registrations in 2022. In Class 2, finalisations exceeded registrations for the first time since 2018. In Class 3, the clearance rate improved despite the notable increase in filings, but remains below 100%. The Class 4 clearance rate increased significantly from 2021 and returned to the 100% target. The clearance rate in Class 5 increased significantly. This is the first time the Class 5 clearance rate has been over 100% since 2017, which pre-dates the significant and sustained increase in Class 5 filings that began in 2018. The Class 6 clearance rate decreased from 2021, whilst the Class 8 clearance rate increased significantly. These two categories feature such low volumes of cases that the changes are often extreme but have a negligible effect on the Court's yearly workload.

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 2018-2022.

Table 5.12 Median number of pre-hearing attendances by Class

	2018	2019	2020	2021	2022
Class 1	4	4	4	5	4
Class 2	1	1	3	2	2
Class 3: (all matters)	5	6	5	6	4
Compensation claims	4	7	8	15	4
Valuation objections	5	3	6	3	3
Miscellaneous	7	7	3	6	4
Class 4	4	4	4	5	4
Class 5	7	6	9	7	8
Class 6	2	2	3	1	1
Class 8	3	4	6	8	3

The table reveals that the median number of pre-hearing attendances decreased for Class 1 matters in 2022. The 2021 increase was likely caused by changes to case management practices made by the Court in response to the COVID-19 pandemic and related movement and gathering restrictions. For Class 2 matters, the number of pre-hearing attendances remained consistent. Overall, the number of pre-hearing attendances for all matters in Class 3 decreased, especially for compensation claims. The number of pre-hearing attendances in Class 4 also decreased.

The number of pre-hearing attendances in Class 5 increased. Table 5.12 shows that this measure for Class 5 has been fluctuating considerably over recent years. The number of pre-hearing attendances remained steady in Class 6 and decreased significantly 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 2022, 12 s 56A appeals were commenced, 6 appeals were settled pre-hearing, 6 appeals

were completed after a hearing, and 3 appeals were pending at 31 December 2022. Of the 6 appeals that were completed at hearing, none were upheld. This represents 0% of the number of matters in Classes 1, 2, 3 and 8 disposed of at a hearing by a Commissioner of the Court in 2022 (appeal rate is roughly 1%).

Table 5.13 s 56A Appeal outcomes

	2018	2019	2020	2021	2022
Total no. of appeals	15	13	10	11	12
No. finalised pre-hearing	1	2	3	4	6
No. of appeals to hearing	14	11	7	7	6
Outcome:					
Upheld	4	5	2	2	0
Dismissed	10	6	5	5	6

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 2018 to 2022.

In 2022, 9 appeals were determined by the Court of Appeal on appeal from the Land and Environment Court and whilst 6 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

	2018	2019	2020	2021	2022
Court of Appeal					
Appeal by right	18	14	7	7	6
Leave to appeal	4	5	5	5	3
Total matters determined	23*	19*	12*	12*	9*
Court of Criminal Appeal					
Appeal by right	3	2	1	3	4
Stated case, section 5AE	1	3	0	0	1
Leave to appeal	1	1	4	2	1
Total matters determined	5	6	5	5	6

* 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 2022, the Court received two formal complaints.

Table 5.15 Complaint particulars

Complaints pending as at 31 December 2022	0
Complaints made during 2022	
Total number of complaints	2
Complaints examined but dismissed	2
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	2
Complaints pending as at 31 December 2022	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 2022, Commissioners exercised the functions of undertaking conciliations, mediations, on-site hearings or court hearings in Classes 1, 2 and 3 and 8. There were 1,141 matters disposed of in 2022 in those classes. Complaints, therefore, occurred in only 0.18% 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 2022. More than one criterion may be used for each complaint. The table shows that each of the 2 complaints were dismissed.

Table 5.16 Criteria for dismissing complaints

No misconduct was established	2
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 2022. 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

	2022
Bias, collusion or conflict of interest	
Delay	1
Dissatisfaction with substantive outcome or wrong decision	
Dissatisfaction with procedural and evidentiary rulings	
Error interpreting or applying the law	
Failure of Court to enforce judgment or orders	
Failure to give fair hearing	1
Impairment	
Inadequate reasons for judgment	
Inappropriate behaviour or comments or discourtesy	
Incompetence	

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 concerns about the conduct of the parties and their experts at a conciliation conference and hearing of an appeal concerning a proposed dwelling house. No concern was expressed about the conduct of the Commissioner hearing the appeal. The complainant was concerned about the nature and timing of the evidence

tendered, the joint conferencing and expert reports of the parties' experts, the Council's acceptance of plans and documents that were allegedly factually erroneous, amongst other matters. The complainant sought for the Chief Judge to review the matter before the Commissioner delivered judgment. The complainant was advised that it was inappropriate to intervene before the Commissioner delivers judgment. If the complainant felt that the Council did not raise the complainant's concerns or put matters before the Commissioner at the hearing, the complainant could approach the Council and ask it to apply to reopen its case to put these concerns and matters before the Commissioner.

Another complaint expressed concern about the mediation process used in a case. A Council had issued orders, and brought proceedings in the Court to enforce the orders, requiring a hoarder to reduce the items he had hoarded on his property. The Court referred the matter to mediation before a Commissioner, where the parties settled the matter and the proceedings were discontinued. As had been agreed, the Council issued a revised order requiring the hoarder to remove specified items by a new date. The hoarder did not comply. The Council brought further proceedings to enforce the order. The Court again referred the matter to mediation before a Commissioner. However, a few days before the mediation was due to commence, the Council discontinued the proceedings. The Council's complaint concerned the Court's referral of the matters to mediation, revealing a misunderstanding of the process and use of mediation to resolve the dispute.

6 Education and Community Involvement

- Continuing professional development
 - Continuing professional development policy
 - Annual Court Conference 2022
 - Land and Environment Court Anniversary Conference
 - Australasian Conference of Planning and Environment Courts and Tribunals 2022
 - 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 2022

The Annual Court Conference for 2022 was held on Thursday 19 May and Friday 20 May 2022 at Novotel Sydney, Parramatta.

Six 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:

- Judicial and tribunal review of State non-statutory executive action
- Planning of Western Parkland City
- Early intervention and dispute resolution
- Remote sensing evidence

- Urban design considerations in merit based assessments
- Field Trip: Western Sydney Airport site and surrounds.



Field Trip: Western Sydney Airport site visit, June 2022

Land and Environment Court Anniversary Conference

The court held a full-day conference on 29 August 2022 to celebrate the 40th anniversary of the establishment of the Court on 1 September 1980. The conference had been planned for 2020, but needed to be postponed to 2022 because of COVID-19 Pandemic restrictions. The conference explored the Court's contributions to planning and environmental law, administrative law and criminal law and to environmental dispute resolution over four decades.

Topics covered included:

- From Reactive to Proactive, Decision-Making by the Land and Environment Court
- The Place of the Land and Environment Court in the Planning System of New South Wales
- The Land and Environment Court and the Transnationalisation of Climate Law
- Transnational Dimensions of the Land and Environment Court

- Land and Environment Court's International Outreach: Diffusion in India
- Biodiversity and the Land and Environment Court
- Environmental Principles and the Construction of a New Body of Legal Reasoning
- The Land and Environment Court and Recognition of Indigenous Peoples' Environmental Rights
- The Administrative Law Expertise of the Land and Environment Court
- Ecocentrism and Criminal Proceedings for Offences Against Environmental Laws
- Access to Justice and the Development of Jurisprudence in the Land and Environment Court
- Alternative Dispute Resolution in the Land and Environment Court
- The Land and Environment Court: Normative Legitimacy and Adjudicative Integrity

The presenters were also authors of chapters in the book, launched at the conference, by E. Fisher and B Preston (Eds), *An Environmental Court in Action, Function, Doctrine and Process* (Hart Publishing 2022).

ACPECT Conference 2022

The Court hosted the Australasian Conference of Planning Environmental and Courts and Tribunals (ACPECT) conference on 30 August 2022. Topics covered included:

- Climate litigation in Australasian ECTs
- Indigenous Peoples' cultural heritage and customary rights
- Jurisdiction-by-jurisdiction update

National Mediator Accreditation

In 2022, all Commissioners, the Registrar, Senior Deputy Registrar and Deputy 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.

Twilight seminar series

The Court commenced its twilight seminar series in November 2008. The seminars are held after court hours from 4.30pm to 6.00pm. The Court held one twilight seminar and one field trip in 2022. This was less than in previous years because of the holding of the two major conferences in 2022, the Land and Environment Court Anniversary Conference and the ACPECT Conference.

27 April	Twilight seminar, "Court of Appeal and Court of Criminal Appeal Decision involving LEC Appeals", presented by the Hon Justice M Leeming, Judicial Commission of NSW, Sydney
<hr/>	
26 July	Twilight seminar field trip, Green Square Library, 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 2022, 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 2018 to 2022

	Target	2018	2019	2020	2021	2022
Overall satisfactory rating	85%	90%	94%	NA	91%	88%

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 2022, all of which exceeded the 85% standard.

Table 6.2 Participant evaluation of Land and Environment Court Twilight seminar series 2017 to 2022

	Target	2018	2019	2020	2021	2022
Overall satisfactory rating	85%	94%	89%	97%	88%	93%

* Note: 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; 2022 was based on 1 webinar and 1 field trip.

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 2022, 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 2022 are summarised below:

The Hon. Justice Brian John Preston SC, Chief Judge

Conferences and seminars

23 February	"History of Jurisprudence", presented by Dr Coel Kirkby, University of Sydney, tutorial for the Francis Forbes Society for Australian Legal History, Banco Court, Supreme Court of NSW
28 March	2022 Opening of the Law Term Dinner, Law Society of NSW, Chief Justice Andrew Bell, Hyatt Regency, Sydney
7 April	Great books symposium, The Waste Land by T.S. Eliot presented by Barry Spurr, Australia's first Professor of Poetry, Sydney
27 April	Twilight seminar, "Court of Appeal and Court of Criminal Appeal Decision involving LEC Appeals", presented by the Hon Justice M Leeming, Judicial Commission of NSW, Sydney
7-8 May	International Webinar: Global Challenges of Modern Times hosted by Chandigarh University, Chandigarh, India
11 May	Royal Society of NSW Poggendorff Lecture, "Are our weeds becoming new native species?", presented by Professor Angela Moles FRSN, Palm House, Royal Botanical Gardens, Sydney
19-20 May	Land and Environment Court 2022 Annual Conference, "Managing and regulating competing land uses arising from development pressure", Novotel, Parramatta
30 May-3 June	United Nations Stockholm +50 Conference, Stockholm, Sweden
2-15 July	IUCN Academy of Environmental Law 2022 Annual Colloquium, Queensland University of Technology, Brisbane
21-22 July	Australian Institute of Administrative Law (AIAL) 2022 Conference, Canberra
26 July	Twilight seminar field trip, Green Square Library, Sydney
27 July	Mahla Pearlman Oration 2022, "For Fools Rush in Where Angels Fear to Tread: Criticism of the Judiciary Amidst the Climate Crisis", presented by Mr Bret Walker AO SC, Federal Court, Sydney
3 August	Royal Society of NSW Lecture 'Marsupials: Their secrets are all in their genes!' presented by Professor Kathy Belov AO FRSN FAA, Professor of Comparative Genomics and Pro Vice-Chancellor (Global Engagement), via Zoom
29 August	The Land and Environment Court Anniversary Conference, NSW Parliament House, Sydney

29-30 August	Australasian Conference of Planning and Environment Courts and Tribunals, NSW Parliament House, Sydney
31 August	2022 Annual Forbes Lecture, Dr Susan Bartie, 'Legal Life Histories and the Creation of Legal Fields', Supreme Court of NSW, Sydney
1 September	Environmental Courts and Tribunals - A Guide for Policy Makers 2021, a joint webinar hosted by the National University of Singapore and the Asia-Pacific Centre for Environmental Law
6 September	Seminar, "The Interaction of Policy and Law in Environmental Governance", Australian Institute of Administrative Law (NSW) Chapter & Environment and Planning Law Association, Sydney
25 October	Durham Global Environmental Law Lecture Series, Lecture by Justice Nambitha Dambuza of the Supreme Court of Appeal of South Africa, "Respect for the Environment in Indigenous Cultures: Learnings for Development of Environmental Law"
10-11 November	Environment and Planning Law Association Annual Conference, Dubbo

Speaking Engagements

18 January	<i>The Influence of the Paris Agreement on Australian Climate Change Litigation: Rocky Hill Mine</i> , a guest lecture presented to Professor Lavanya Rajamani's International Environmental Law Course, Oxford University, UK, via Zoom
22 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>The Courts, the Legal Profession and Climate Change</i> , closing keynote lecture to the Climate Law Conference, hosted by the Continuing Legal Education Society of British Columbia, Vancouver, Canada, via Zoom.
9 March	<i>Decarbonisation: The Role of the Judiciary</i> , keynote presentation to the Natural and Environmental Research Council 'Decarbonisation and Climate Change' Interdisciplinary Workshop, Northumbria University, UK, via Blackboard Collaborate
22 March	Chair, Meeting of the LAWASIA Environmental Law Committee, via Zoom.
22 March	<i>Satellite Evidence Before Domestic Courts: Reflections on the NSW Experience</i> , a presentation given to the Oxford Workshop on satellite monitoring and enforcement, All Souls College, Oxford University, UK via Zoom.
31 March	<i>Climate Conscious Lawyering and Rule of Law</i> , a presentation given to the Climate Change and Rule of Law Conference, University College London, United Kingdom, via Zoom.

13 April	Updates on the Land and Environment Court, address to Urban Taskforce Boardroom Luncheon, Allens, Sydney.
6 May	<i>Climate litigation: Government and corporate accountability</i> , a presentation given to the Climate Change Litigation Conference at Università degli studi dell'Insubria, Milan, Italy, via Zoom.
7 May	<i>Climate litigation: Government and corporate accountability</i> , a presentation given to the International Conference on Environmental Diversity and Environmental Jurisprudence at Chandigarh University, Chandigarh, India, via Zoom.
20 May	<i>Remote sensing evidence: Types, uses and issues</i> , a presentation to the Land and Environment Court Conference, Parramatta
21 May	<i>The contribution of the Land and Environment Court to Ecologically Sustainable Development</i> , a presentation to Masters of Sustainability students, University of Sydney
25 May	Chair, External Advisory Committee on Master of Construction Law at Western Sydney University.
31 May	<i>Climate litigation: Government and corporate accountability</i> , Symposium on Judges and the Environment, Panel 3, 'Climate Change and Courts – A Global Dialogue' at the Symposium of Judges at Stockholm +50 Official Associated Event hosted by the Global Judicial Institute on the Environment and ADB, Stockholm, Sweden
21 June	Chair, Closing Panel Round Table at the Australia-China Joint Workshop on Biodiversity Law and Governance, Macquarie University, via Zoom
6 July	<i>Judicial Responses to Climate Change and Green Finance</i> , International Seminar on Judicial Response to Climate Change, Supreme People's Court of the People's Republic of China, via Zoom
15 July	<i>Changing how we view change: the artist's insights</i> , presentation to the IUCN Academy of Environmental Law Annual Colloquium, Brisbane
21 July	<i>The interaction of policy and law in environmental governance</i> , keynote address to the Australian Institute of Administrative Law Conference, Realm Hotel, Canberra
2 August	<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
6 August	<i>Climate litigation: government and corporate accountability</i> , keynote presentation delivered to the inaugural session of the Gujarat Law Society University International Conference, Gujarat, India, via Zoom
9 August	<i>Legal Responsibility in Construction and Development</i> , lecture presented to the Australian Institute of Building ACT Chapter, University of Canberra, ACT

10 August	<i>The Role of ECTs in Delivering Environmental Justice</i> , presented to the joint webinar of the Asia Pacific Centre for Environmental Law, ADB and ARIEL, via Zoom
29 August	Welcome remarks and Conference Chair on the occasion of The Land and Environment Court Anniversary Conference, NSW Parliament House, Sydney
30 August	<i>Trends in Climate Litigation in New South Wales</i> , a presentation to the Australasian Conference of Planning and Environment Courts and Tribunals, NSW Parliament House, Sydney
6 September	<i>The interaction of policy and law in environmental governance</i> , keynote address to the Australian Institute of Administrative Law (NSW) and Environment and Planning Law Association Joint Symposium, Supreme Court of NSW, Sydney
19 September	<i>Legal Responsibility in Construction and Development</i> , lecture presented to School of Engineering and IT, University of Technology Sydney, Sydney
20 September	<i>Climate consciousness</i> , presentation to the Rotary Club of Sydney, Sydney
22 September	<i>Promoting people-centred environmental justice</i> , OECD Global Access to Justice Roundtable 2022: Session 9 – Responsive and effective justice systems for a changing world, Riga, Latvia, via Zoom
4 October	<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
6 October	<i>Prospects and pitfalls for climate litigation based on the right to a healthy environment in Australia</i> , presented to an Online Symposium jointly organized by University of Canberra, La Trobe University and UTS, via Zoom.
19 October	<i>Public interest litigation (PIL) for the Planet</i> , lecture presented to the First Annual Green Rights & Warrior Lawyers Virtual Academy, University of British Columbia, Vancouver, Canada, via Zoom
27 October	<i>The right to a clean, healthy and sustainable environment: how to make it operational and effective</i> , presented to the UN Permanent Mission of France, New York, USA
28 October	<i>The right to a clean, healthy and sustainable environment: how to make it operational and effective</i> presented to the New York Judicial Institute, White Plains, New York, USA
7 November	<i>Climate litigation: government accountability</i> , presented to the World Jurist Association webinar, via Zoom
11 November	<i>Court Update – Land and Environment Court of New South Wales</i> , presented to the Environment and Planning Law Association Annual Conference, Dubbo

16 November	<i>The Planning Hour Series – In Conversation with Chief Justice Brian Preston</i> , Planning Institute of Australia, Sydney
20 November	Chair, Environmental Law Session on Distributive Environmental Justice, LAWASIA Annual Conference, Sydney
20 November	<i>The Integration & Institutionalisation of ADR in Courts</i> , a presentation to the Alternative Dispute Resolution session 'New Paradigms: A Problem-Solving Approach – The Integration of ADR into Courts, Commissions and Tribunals', LAWASIA Annual Conference, Sydney
20 November	Chair, LAWASIA Environmental Law Committee meeting, Sydney
30 November	<i>The Evolution of Environmental Regulation</i> , keynote address to 2022 AELERT Conference, Sydney
30 November	<i>The Role of ECTs in Delivering Environmental Justice: Theory and Practice</i> , keynote address to Environment and Land Court 10th Anniversary LEC @10 Conference, Nairobi, Kenya, via Microsoft Teams
14 December	<i>Occasional address to Western Sydney University School of Law & School of Social Sciences graduation ceremony</i> , Western Sydney University, Sydney

Publications

B J Preston, "The Interaction of Policy and Law in Environmental Governance" (2022) 29 AJ Admin L 230.

B J Preston, "There are three states of mind needed to solve today's environmental crises" [2022] (Jan/Feb) *Law Institute Journal* 23.

E Fisher and B Preston (eds) *An Environmental Court in Action: Function, Doctrine and Process* (Hart Publishing, 2022).

B J Preston, "The Many Facets of a Cutting Edge Court: A Study of the Land and Environment Court of New South Wales" Chapter 1 in E Fisher and B Preston (eds), *An Environmental Court in Action: Function, Doctrine and Process* (Hart Publishing, 2022) 1-30.

B J Preston, Blogpost, "Biodiversity in the court: the certainty of contests about uncertainty", REALaw.blog, 25 November 2022, <<https://wp.me/pcQ0x2-wx>>.

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

Visiting Professor, Durham Law School, Durham University, UK

Member, International Research Advisory Board, Durham University

Chair, External Advisory Committee, Masters of Construction Law, Western Sydney 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, Governing Board, 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

Wales Associate Member, European Union Forum of Judges for the Environment

Acting Member, Land Court and Land Appeal Court of Queensland

Member, the Francis Forbes Society for Australian Legal History

Delegations and international assistance

8 February	Interview conducted by Professor Margaret Young, Committee member for the International Law Association on 'International Law and the Anthropocene' White Paper to be presented at the 150 th anniversary of the International Law Association, via Zoom
2 March	Meeting with Ms Karin Frode, PhD student Monash University about her research on solidarity, via Zoom
24 March	Meeting with Ms Camille Mora, Sustainability Masters Student at the University of Sydney about her research on sustainability analysis in climate litigation, via MS Teams

7 April	Meeting of the International Building Quality Centre Working Group on Good Practice Building Dispute Resolution, University of Canberra, via Zoom
13 May	Meeting of the International Bar Association Working Group "Lawyers as Gatekeepers", via Zoom
17 May	Meeting of the International Building Quality Centre Working Group on Good Practice Building Dispute Resolution, University of Canberra, via Zoom
27 June	Meeting with Dr Tiina Paloniitty, University of Helsinki, Finland in relation to her research on processes and knowledges involved in judicial decision-making, via MS Teams
28 June	Meeting of the International Bar Association Working Group "Lawyers as Gatekeepers", via Zoom
5 September	Meeting of the International Building Quality Centre Working Group on Good Practice Building Dispute Resolution, University of Canberra, via Zoom
13 September	Meeting and Interview with Mr Daan van Uhm and Ms Julia Marinissen, Utrecht University to discuss their scientific study on the expression of ecocentrism in judgments of environmental courts, via MS Teams
19 September	Meeting with Dr Daley Birkett, Macquarie University to discuss his research on ecocide.
21 September	Meeting of the International Building Quality Centre Working Group on Good Practice Building Dispute Resolution, University of Canberra, via Zoom
5 October	Meeting of the Governing Board of the Global Judicial Institute on the Environment, Oslo, Norway, via Zoom
2 November	Meeting of the International Building Quality Centre Working Group on Good Practice Building Dispute Resolution, University of Canberra, via Zoom
16 November	Meeting with Ms Sallie Yang, United Nations Environment Programme, to discuss the development of Intermediary Course on Environment and Climate Law for Asia-Pacific Judges, via Zoom
20 November	Meeting of LAWASIA Environmental Committee, Sydney
1 December	Meeting with Professor Don Smith, Professor of the Practice of Law Environmental and Natural Resources Law Program, University of Denver (USA) Sturm College of Law, to discuss and record a presentation on climate change litigation, 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

17 March	Climate change litigation: international and Australian developments and trends, NSW Bar Association
23 March	SEPP Update, Environment and Planning Law Association (NSW), on-line
30 March	Local Government Update, Environment and Planning Law Association (NSW), on-line
27 April	Twilight seminar, "Court of Appeal and Court of Criminal Appeal Decision involving LEC Appeals", presented by the Hon Justice M Leeming, Judicial Commission of NSW, Sydney
13 May	Sharma: The future of climate litigation in Australia, University of Sydney, on-line
20 May	Land and Environment Court 2022 Annual Conference, "Managing and regulating competing land uses arising from development pressure", Novotel, Parramatta
25 May	Twilight Session: Maximising the Law Courts Resources, Michael Unwin, on-line
29 June	Twilight Session: Field Trip to Green Square Library, Sydney NSW

27 July	Mahla Pearlman Oration 2022, "For Fools Rush in Where Angels Fear to Tread: Criticism of the Judiciary Amidst the Climate Crisis", presented by Mr Bret Walker AO SC, Federal Court, Sydney
29-30 August	Land and Environment Court Anniversary Conference and Australasian Conference of Planning and Environment Courts and Tribunals, NSW Parliament House, Sydney
1 September	International Law Sanctions and Australian Courts, ILA (Aust branch), on-line

Speaking Engagements

17 February	<i>Climate Change Litigation in Australia</i> , King's College London The Dickson Poon School of Law, On-line
8 September	<i>Strengthening Environmental Rights: Top Down or Bottom Up?</i> Society of Legal Scholars 113th Annual Conference
4 October	<i>Challenges for judges addressing global environmental problems</i> , Oslo International Environmental Law Conference, on-line
14 October	<i>Climate Change Litigation in the Asia-Pacific</i> , Asian Australian Lawyers Association National Cultural Diversity Summit, on-line
17 October	<i>Restorative Justice</i> , Climate Law and Government Centre, King's College London
8 November	KCL Climate, Energy, Governance & Finance workshop, King's College London
1 December	<i>Insights into Environmental Judging</i> , University College London

Publications

'Nothing Lasts Forever: Managing Future Risk From Climate Change Impacts on the Australian Coast' (with J Turner) (2022) 38(5) *Environmental and Planning Law Journal* 482

Membership of legal, cultural or benevolent organisations

Fellow, Australian Academy of Law

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

Chair, Land and Environment Court Education Committee

Member, Australian Association of Constitutional Law

Member, Australian Association of Women Judges

Member, Australian Institute of Administrative Law

Member, Australian Institute of Company Directors

Member, Australian Judicial Officers Association

Member, International Law Association (Australian Branch)

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

Member, LAWASIA

Member, Law Council of Australia (International Law Section)

Member, National Environmental Law Association

Member, NSW Bar Association

Member, World Commission on Environmental Law IUCN

The Hon. Justice Rachel Ann Pepper

Conferences and seminars

8 March	Australian Academy of Law, <i>Senior trial judges from England and Australia speak about judging</i> , webinar, Sydney
10 March	Dr Anita Heiss, <i>The Inaugural United Nations International Day of Women Judges</i> , the Australian Association of Women Judges, webinar, Brisbane
15 March	Emeritus Professor John Maynard, <i>A Story of Resistance: Fred Maynard & the Australian Aboriginal Progressive Association</i> , Ngara Yura Committee, webinar, Sydney
17 March	<i>Climate Change Litigation</i> , New South Wales Bar Association, webinar, Sydney
7 April	Second ASEAN Environmental Law Conference, Transforming Principles into Practice, Session 9: Environmental Courts – A Roundtable Discussion, ADB/UNEP, webinar, Sydney
3 May	Emeritus Professor Judy Atkinson, AM, <i>Judicial Wellbeing and Dadirri</i> , Ngara Yura Committee, webinar, Sydney
19-20 May	Land and Environment Court 2022 Annual Conference, "Managing and regulating competing land uses arising from development pressure", Novotel, Parramatta
24 May	<i>Review of Non-Statutory Government Action</i> , Australian Academy of Law, webinar, Adelaide
14 July	IUCN Academy of Environmental Law 2022 Conference, <i>Re-Imagining Environmental Law</i> , Brisbane
29 October	AJIA Indigenous Youth Justice Conference, Sydney

Speaking Engagements

18 February	Speaker, <i>The Environment is All Rights: Human Rights, Constitutional Rights and Environmental Rights</i> , Centre for International & Public Law, ANU College of Law, ANU 75 th Anniversary
5 March	Speaker: <i>The Future of Climate Change Litigation</i> , NSW Bar Association, Sydney
6 April	Keynote speaker, <i>Diverse Women in Law 2022 Volunteer Training Workshop</i> , Sydney
25 May	Interview, <i>Asian Australian Lawyers Association & Corrs Chambers Westgarth IDAHOBIT Video</i> , Asian Australian Lawyers Association, Sydney
1 June	Chair, The Honourable Justice Stephen Gageler AC, <i>2022 AIAL National Lecture Series, Lecture 1 – Administrative Law within the Common Law Tradition</i> , Australian Institute of Administrative Law, Federal Court of Australia, Sydney
22 June	Speaker, <i>Turning the Tide: Climate Change Litigation: From Ripple to Tsunami</i> , National Environmental Law Association, Sydney
14 July	Speaker, <i>The Environment is All Rights: Human Rights, Constitutional Rights and Environmental Rights</i> , IUCN Academy of Environmental Law 2022 Conference, Brisbane
14 July	Speaker, <i>Turning a Ripple into a Torrent: Riding the Waves of Climate Change Litigation</i> , IUCN Academy of Environmental Law 2022 Conference, Brisbane
6 September	Chair, <i>The Interaction of Policy and Law in Environmental Governance</i> , AIAL (NSW Chapter) and EPLA, seminar, Sydney
6 October	Moderator, <i>First Nations Speak Series</i> , Dr Miriam-Rose Ungunmerr-Baumann AM, Ngara Yura Committee, Sydney
20 October	Judge, Grand Final Environmental Law Moot, Macquarie University, Sydney
10 November	Chair, 2022 joint presentation for the Ngara Yura Committee of the Judicial Commission of NSW and the Francis Forbes Society for Australian Legal History, Federal Court of Australia, <i>The Fallacy of protectionism</i> , McCallum CJ, ACT Supreme Court
30 November	Chair, Gender Diversity, AIJA Indigenous Youth Justice Conference, Sydney

Publications

Rachel Pepper, 'Environmental and Planning Law in the Age of Statutes' (2022) 29(2) *Australian Journal of Administrative Law* 99

Membership of legal, cultural or benevolent organisations

Fellow, 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)

Editor, Environmental Law Section, Australian Law Journal

National Executive Committee, Australian Institute of Administrative Law

Chair, Mahla Pearlman Oration Organising Committee

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

Member, Indigenous Justice Committee, Australian Institute of Judicial Administration

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 Institute of Administrative Law

Member, Australian Association of Constitutional 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

Delegations and international assistance

2022	Working Group, IUCN, UNEP, ADB, Regional Environmental Dispute Mechanism
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The Hon. Justice Timothy John Moore

Conferences and seminars

15 March	Ngara Yura Webinar - A story of resistance: Fred Maynard & the Australian Aboriginal Progressive Association, presenter Emeritus Professor John Maynard (University of Newcastle)
27 April	Twilight seminar, "Court of Appeal and Court of Criminal Appeal Decision involving LEC Appeals", presented by the Hon Justice M Leeming, Judicial Commission of NSW, Sydney
19-20 May	Land and Environment Court 2022 Annual Conference, "Managing and regulating competing land uses arising from development pressure", Novotel, Parramatta
25 May	Cross Jurisdictional Webinar: Maximising the Law Courts Resources, presenter Mr Michael Unwin, Librarian, Library Services, Courts and Tribunals
29 August	Land and Environment Court Anniversary Conference, NSW Parliament House, Sydney
30 August	Australasian Conference of Planning and Environment Courts and Tribunals, NSW Parliament House, Sydney

Speaking Engagements

22 February	Update from the Land and Environment Court (Class 1 appeals), presentation to legal practitioners and other professionals specialising in planning and environment law matters, UNSW, UNSW Campus Sydney
8 March	Role of the Expert Witness, presentation to Ryde TAFE arborists, Court 10B, Land and Environment Court, Sydney
28 July	Trees (Disputes between neighbours) Act and LEC cases, presentation to accredited mediators, Community Justice Centres, 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

Member, Land and Environment Court Education 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

6 July	Presentation, “Judicial Responses to Climate Change and Green Finance”, presented by the Hon Justice Brian Preston, Chief Judge of the Land and Environment Court, via webinar
6 July	The University of Sydney Law School and The Federation Press Book Launch, “Dynamic and Principled: The Influence of Sir Anthony Mason”, launched by the Hon Justice Stephen Gageler AC, in the presence of Sir Anthony Mason and Professor William Gummow, Supreme Court of NSW
29 August	Land and Environment Court 40th Anniversary Conference and Book Launch, “An Environmental Court in Action: Function, Doctrine and Process” (Hart Publishing, 2022) edited by Professor Elizabeth Fisher and Justice Brian Preston, NSW Parliament House, Sydney
30 August	Australasian Conference of Planning and Environment Courts and Tribunals, NSW Parliament House, 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

7-18 March	Judge in Residence, Australian National University
23 March	Twilight Webinar, “SEPPS Update”, presented by Chris Drury and Alan McKelvey, Environment and Planning Law Association, via Zoom
30 March	Twilight Webinar, “Local Government Update”, presented by Jonathan Schipp, Environment and Planning Law Association, via Zoom
19-20 May	Land and Environment Court 2022 Annual Conference, "Managing and regulating competing land uses arising from development pressure", Novotel, Parramatta
25 May	Twilight Webinar, “Maximising the Law Courts Resources”, presented by Michael Unwin, Judicial Commission of NSW, via Cisco Webex

1 June	“Administrative law within the common law tradition”, presented by the Hon Justice Stephen Gageler AC, AIAL National Lecture Series, Lecture 1, Court 1 Federal Court of Australia
27 July	Mahla Pearlman Oration 2022, "For Fools Rush in Where Angels Fear to Tread: Criticism of the Judiciary Amidst the Climate Crisis", presented by Mr Bret Walker AO SC, Federal Court, Sydney
29-30 August	Land and Environment Court Anniversary Conference and Australasian Conference of Planning and Environment Courts and Tribunals, NSW Parliament House, Sydney
19 October	Twilight Webinar, "Greenfield subdivisions – planning do’s and don’t’s", presented by Michael Barker and Scott Barwick from SJB and Ian Hemmings SC, Environment and Planning Law Association, Crown Street, Surry Hills
27 October	Twilight Webinar, “Unthinkable Heritage Law”, presented by Dr Lucas Lixinski from the Faculty of Law & Justice, UNSW Sydney, Environment and Planning Law Association, via Zoom
6 December	Twilight Webinar, “Biodiversity in LEC”, presented by Acting Commissioner Adams, Environment and Planning Law Association, via Zoom

Speaking Engagements

5 April	Presenter, “Tips and Traps for Young Practitioners”, Macquarie University, via Microsoft Teams
27 April	Presenter, “Tips and Traps for Young Practitioners”, Macquarie University, via Microsoft Teams
19 May	Chair, “Judicial and tribunal review of State non-statutory executive action”, presented by the Hon Acting Justice John Griffiths, NSW Court of Appeal, at the LEC Annual Conference, Novotel Parramatta

Membership of legal, cultural or benevolent organisations

Member, Women Lawyers Association of NSW

Member, Judicial Conference of Australia

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

17 February	Webinar, "Considerations leading up to remote hearings", National Center for State Courts, via Zoom
14 April	Webinar, "What are we learning about remote hearings", National Center for State Courts, via Zoom
27 April	Twilight seminar, "Court of Appeal and Court of Criminal Appeal Decision involving LEC Appeals", presented by the Hon Justice M Leeming, Judicial Commission of NSW, Sydney
18-20 May	Land and Environment Court 2022 Annual Conference, Novotel Sydney, Parramatta
6 July	Webinar, "International Seminar on Judicial Responses to Climate Change", hosted by The Supreme People's Court of the People's Republic of China, Asian Development Bank and ClientEarth, via Zoom
26 July	LEC Field Trip: Green Square Library, Green Square
29 August	Land and Environment Court Anniversary Conference, NSW Parliament House, Sydney
30 August	Australasian Conference of Planning and Environment Courts and Tribunals, NSW Parliament House, Sydney
6 September	Seminar, "The Interaction of Policy and Law in Environmental Governance", presented by Hon Justice B Preston, Chief Judge of the Land and Environment Court, Australian Institute of Administrative Law (NSW) Chapter & Environment and Planning Law Association, Sydney
10-11 November	Environment and Planning Law Association 2022 Annual Conference, Dubbo Zoo, Dubbo

Speaking Engagements

March to November	Mentor, Mentoring Program/Clinic Placement for final year law students, Macquarie University
1 March	Guest Speaker, ADR in the LEC, Land and Environment Court of NSW Student Clinic
13 May	Guest Speaker, ADR in the LEC, NSW Bar Practice Course, Sydney
10 August	Guest Speaker, "LAWS6041 Environmental Litigation – Alternative Dispute Resolution" University of Sydney, Camperdown
16 August	Guest Speaker, "Alternative Dispute Resolution", Land and Environment Court of NSW Student Clinic, Sydney
30 August	Guest Speaker, "Virtual Courtrooms: Technical Jurisprudential Challenges and Solutions - Lessons Learned by the Land and Environment Court of New South Wales", Australasian Conference of Planning and Environment Courts and Tribunals, Parliament House, Sydney

9 September	Guest Speaker, "Alternative Dispute Resolution", NSW Bar Practice Course, Sydney
11 November	Guest Speaker, "Court, Practice and Technology Update: Virtual Courtrooms: Technical Jurisprudential Challenges and Solutions and Section 34 Conciliation Conferences", Environment and Planning Law Association 2022 Annual Conference, Dubbo Zoo, Dubbo

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

10 February	Teaching in HyFlex workshop, Dr Eszter Kalman, University of Sydney
16 March	Twilight seminar, Understanding the proposed NSW rezoning reforms, Ben Pechey, Jacqui Parker and Rebecca Hiscock, Environmental Planning Law Association (NSW) Inc
23 March	Twilight seminar, SEPP update, Janet McKelvey, Environmental Planning Law Association (NSW) Inc
27 April	Twilight seminar, "Court of Appeal and Court of Criminal Appeal Decision involving LEC Appeals", presented by the Hon Justice M Leeming, Judicial Commission of NSW, Sydney
19-20 May	Land and Environment Court 2022 Annual Conference, "Managing and regulating competing land uses arising from development pressure", Novotel, Parramatta
25 May	Twilight webinar, Maximising the Law Courts Resources, Michael Unwin, Librarian, Library Services Courts and Tribunals, Judicial Commission of New South Wales
24 August	Twilight webinar, Updates from the Land and Environment Court, Registrar Sarah Froh, Senior Deputy Registrar Holm, Deputy Registrar Orr, Environmental and Planning Law Association (NSW) Inc

29 August	Land and Environment Court Anniversary Conference, NSW Parliament House, Sydney
30 August	Australasian Conference of Planning and Environment Courts and Tribunals, NSW Parliament House, Sydney
6 September	Seminar, "The Interaction of Policy and Law in Environmental Governance", presented by Hon Justice B Preston, Chief Judge of the Land and Environment Court, Australian Institute of Administrative Law (NSW) Chapter & Environment and Planning Law Association, Sydney
20 September	Law Association NSW Frottage City, Jean-Louis Cohan, Sheldon H. Solow, Professor of History of Architecture at New York University's Institute of Fine Arts, The Inaugural Penelope Lecture, University of Sydney School of Architecture, Design and Planning, The Utzon Room, Sydney Opera House
29 September	Insulated Sandwich Panel: Composition, BIM, Installation; Australian Institute of Architects NSW Chapter CPD event, online webinar

Speaking Engagements

9-10 March	Lecturer, LAWS6354 Environmental Planning and Impact Assessment Law, Sydney Law School, University of Sydney
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Publications

'The proposed changes to clause 4.6 of the Standard Instrument - Principal Local Environmental Plan' (2022) 23(4) *Local Government Law Journal* Issue, 191-198

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

Full International Member of Australia ICOMOS

Member of Built Environment Committee, Australian Institute of Architects 2022

Ms Danielle Dickson, Commissioner

Conferences and seminars

27 April	Twilight seminar, "Court of Appeal and Court of Criminal Appeal Decision involving LEC Appeals", presented by the Hon Justice M Leeming, Judicial Commission of NSW, Sydney
3 May	Ngara Yura Webinar: Judicial Wellbeing and Dadirri, Emeritus Professor Judy Atkinson (Honorary), A.M. PhD Founder / Patron / Elder and Lead Facilitator We Al-li, Judicial Commission of New South Wales, Webinar
4 May	FLIP Buzzwords: eJustice, Law Society of NSW, Anne- Marie Rice, Chris D'Aeth, Michael Legg, Natalie Wade, Joanne van der Plaats, Webinar
19-20 May	Land and Environment Court 2022 Annual Conference, "Managing and regulating competing land uses arising from development pressure", Novotel, Parramatta
25 May	Cross-Jurisdictional Webinar: Maximising the Law Courts Resources, Prof Michael Unwin, Judicial Commission of New South Wales, Webinar
8 June	A fireside chat with Paul Callaghan: Staying Well in the Law with Aboriginal Lore, Law Society of NSW, Sydney
26 July	Twilight seminar field trip, Green Square Library, Sydney
27 July	Mahla Pearlman Oration 2022 - Legal Practice Section of the Law Council of Australia and the Environment and Planning Law Association of New South Wales, Bret Walker AO SC, Federal Court, Sydney
29 August	The Land and Environment Court Anniversary Conference, NSW Parliament House, Sydney
30 August	Australasian Conference of Planning and Environment Courts and Tribunals, NSW Parliament House, Sydney
6 September	Seminar, "The Interaction of Policy and Law in Environmental Governance", presented by Hon Justice B Preston, Chief Judge of the Land and Environment Court, Australian Institute of Administrative Law (NSW) Chapter & Environment and Planning Law Association, Sydney

Membership of legal, cultural or benevolent organisations

Member, Land and Environment Court Education Committee

Member, Law Society of NSW

Mr Michael Chilcott, Commissioner

Conferences and seminars

27 April	Twilight seminar, "Court of Appeal and Court of Criminal Appeal Decision involving LEC Appeals", presented by the Hon Justice M Leeming, Judicial Commission of NSW, Sydney
18-20 May	Land and Environment Court of NSW Annual Conference. Various speakers. Judicial Commission of NSW
25 May	Webinar: Maximising the Law Courts Resources. Michael Unwin. Judicial Commission of NSW
20 July	EIANZ PEP Talk: 'NSW Crime Prevention Through Environmental Design - John Maynard, Crime prevention and community safety specialist. EIANZ
26 July	Twilight seminar field trip, Green Square Library, Sydney
27 July	Mahla Pearlman Oration 2022, "For Fools Rush in Where Angels Fear to Tread: Criticism of the Judiciary Amidst the Climate Crisis", presented by Mr Bret Walker AO SC, Federal Court, Sydney
29 August	Land and Environment Court Anniversary Conference, NSW Parliament House, Sydney
30 August	Australasian Conference of Planning and Environment Courts and Tribunals, NSW Parliament House, Sydney
15 September	First Nations Series - Emily McDaniel, Director, First Nations at the Powerhouse Museum. Ngara Yura Committee of Judicial Commission of NSW
6 October	First Nations Series - Dr Miriam Rose AM, 2021 Senior Australian of the Year. Ngara Yura Committee of Judicial Commission of NSW
25-27 October	EIANZ 2022 Annual Conference. Various speakers. Townsville. EIANZ
28 October	EIANZ Annual Conference Field Trip: Reef restoration. Magnetic Island. EIANZ
10 November	First Nations Series - Making the Past Visible: The fallacy of protectionism. Hon Lucy McCallum. Ngara Yura Committee of Judicial Commission of NSW
17 November	ADC Annual Address. Hon. Robert French. Australian Dispute Centre
25 November	Seminar: Nature positive Futures: How voluntary biodiversity markets can support regenerating Australia. Laruen Waterford, Pollination. NELA

Membership of legal, cultural or benevolent organisations

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

Member, Rotary Club of Sydney

Ms Joanne Gray, Commissioner

Conferences and seminars

11 March	70 th Anniversary Women Lawyers Association of NSW, The Honourable Margaret Beazley AC QC, Sheraton Grand Sydney Hyde Park
27 April	Twilight seminar, "Court of Appeal and Court of Criminal Appeal Decision involving LEC Appeals", presented by the Hon Justice M Leeming, Judicial Commission of NSW, Sydney
19-20 May	Land and Environment Court 2022 Annual Conference, "Managing and regulating competing land uses arising from development pressure", Novotel, Parramatta
26 July	Twilight seminar field trip, Green Square Library, Sydney
27 July	Mahla Pearlman Oration 2022, "For Fools Rush in Where Angels Fear to Tread: Criticism of the Judiciary Amidst the Climate Crisis", presented by Mr Bret Walker AO SC, Federal Court, Sydney
24 August	Environment and Planning Law Association Twilight Seminar, "Update from the Land and Environment Court" presented by Registrar Sarah Froh
29 August	Land and Environment Court Anniversary Conference, NSW Parliament House, Sydney
17 November	ADR Address of the Supreme Court of NSW, "ADR and the Elusive Butterfly of Social Justice", presented by The Hon Robert French AC.

Membership of legal, cultural or benevolent organisations

Member, Law Society of NSW

Nationally Accredited Mediator

Ms Sarah Bish, Commissioner

Conferences and seminars

23 March	Twilight seminar, SEPP update, Environmental Planning Law Association (NSW), via Zoom
30 March	Twilight seminar, Drafting for a Disaster: New SEPPS, Environmental
29 August	Land and Environment Court Anniversary Conference, NSW Parliament House, Sydney
18-19 May	Land and Environment Court Conference
2-4 June	Land and Environment Court 2021 Annual Conference, Rydges Hotel, Newcastle
25 May	Cross Jurisdictional Webinar: Maximising the Law Courts Resources

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

18 – 20 May	Land and Environment Court 2022 Annual Conference, Managing and regulating competing land uses arising from development pressure, Novotel Hotel, Parramatta, Judicial Commission of New South Wales
26 July	Twilight seminar field trip, Green Square Library, Sydney
27 July	Mahla Pearlman Oration 2022, "For Fools Rush in Where Angels Fear to Tread: Criticism of the Judiciary Amidst the Climate Crisis", presented by Mr Bret Walker AO SC, Federal Court, Sydney
29 August	Land and Environment Court Anniversary Conference, NSW Parliament House, Sydney
30 August	Australasian Conference of Planning and Environment Courts and Tribunals, NSW Parliament House, Sydney
6 September	Seminar, "The Interaction of Policy and Law in Environmental Governance", presented by Hon Justice B Preston, Chief Judge of the Land and Environment Court, Australian Institute of Administrative Law (NSW) Chapter & Environment and Planning Law Association, Sydney
8-10 November	Urban Transitions 2022, Integrating Urban and Transport Planning, Environment and Health for Healthier Urban Living, Sitges Spain, Elsevier
6 December	Twilight seminar, Biodiversity in the Land and Environment Court, Commissioner Professor Paul Adam, Environment and Planning Law Association, webinar

Membership of legal, cultural or benevolent organisations

Fellow, Planning Institute of Australia

Registered Planner

Nationally Accredited Mediator

Mr Timothy Horton, Commissioner

Conferences and seminars

21 June	Lecture: Conserving culture: adapting old building for new audiences, John McAslan
24 June	Webinar: 'Race to Net Zero Carbon building 2030', University of NSW
26 July	Twilight seminar field trip, Green Square Library, Sydney
28 July	Seminar: Lacaton & Vassal: Living in the City, University of Sydney
29 August	Land and Environment Court Anniversary Conference, NSW Parliament House, Sydney
30 August	Australasian Conference of Planning and Environment Courts and Tribunals, NSW Parliament House, Sydney
6 September	Seminar, "The Interaction of Policy and Law in Environmental Governance", presented by Hon Justice B Preston, Chief Judge of the Land and Environment Court, Australian Institute of Administrative Law (NSW) Chapter & Environment and Planning Law Association, Sydney
17 November	5 th annual ADR address of the Supreme Court of NSW – 'ADR and the elusive butterfly of social justice', The Hon. Robert French AC
18 November	Webinar: 'Embodied Carbon in the Built Environment: What Is It? And How Can We Reduce It?', University of NSW

Membership of legal, cultural or benevolent organisations

Fellow, Australian Institute of Architects

Nationally Accredited Mediator

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

Associate Member, Society of Construction Law

Ms Elizabeth Espinosa, Commissioner

Conferences and seminars

16 February	Commissioners Meeting, Chief Justice Brian Preston, Land and Environment Court of NSW
11 March	70 th Anniversary Women Lawyers Association of NSW, The Honourable Margaret Beazley AC QC, Sheraton Grand Sydney Hyde Park
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
28 March	2022 Opening of Law Term Dinner, Law Society of NSW, His Honour Chief Justice Andrew Bell, Hyatt Regency Sydney

8 April	Celebrating Women in the Judiciary, Women Lawyers Association of NSW, Sydney
27 April	Twilight seminar, "Court of Appeal and Court of Criminal Appeal Decision involving LEC Appeals", presented by the Hon Justice M Leeming, Judicial Commission of NSW, Sydney
3 May	Ngara Yura Webinar: Judicial Wellbeing and Dadirri, Emeritus Professor Judy Atkinson (Honorary), A.M. PhD Founder / Patron / Elder and Lead Facilitator We Al-li, Judicial Commission of New South Wales, Webinar
4 May	FLIP Buzzwords: eJustice, Law Society of NSW, Anne- Marie Rice, Chris D'Aeth, Michael Legg, Natalie Wade, Joanne van der Plaat, Webinar
16 May	Past Presidents Lunch, Law Society of NSW, Joanne van der Plaat, Sydney
19-20 May	Land and Environment Court 2022 Annual Conference, "Managing and regulating competing land uses arising from development pressure", Novotel, Parramatta
25 May	Cross-Jurisdictional Webinar: Maximising the Law Courts Resources, Prof Michael Unwin, Judicial Commission of New South Wales, Webinar
31 May	Diverse Women in Law 2022 Mentoring Program Launch, Honourable Justice Loukas-Karlsson, Her Honour Judge Yehia (DWL Chairperson), Ruth Heazlewood and Belinda Hughes, Wotton & Kearney, Sydney
8 June	A fireside chat with Paul Callaghan: Staying Well in the Law with Aboriginal Lore, Law Society of NSW, Sydney
27 July	Mahla Pearlman Oration 2022 - Legal Practice Section of the Law Council of Australia and the Environment and Planning Law Association of New South Wales, Bret Walker AO SC, Federal Court, Sydney
11 August	UOW Advisory Board Reception, Prof Patricia M Davidson PhD, MEd, RN, RAAN, Vice-Chancellor and President University of Wollongong, Innovation Campus, North Wollongong
29 August	Land and Environment Court Anniversary Conference, NSW Parliament House, Sydney
30 August	Australasian Conference of Planning and Environment Courts and Tribunals, NSW Parliament House, Sydney
6 September	Seminar, "The Interaction of Policy and Law in Environmental Governance", presented by Hon Justice B Preston, Chief Judge of the Land and Environment Court, Australian Institute of Administrative Law (NSW) Chapter & Environment and Planning Law Association, Sydney
6 October	2022 Fellowship and Alumni Awards Celebration, University of Wollongong, City Beach Function Centre, Wollongong
3 November	Women Lawyers Association of NSW Silk appointment celebration, Her Honour Justice Jayne Jagot, Sydney

17 November	Diverse Women in Law Annual General Meeting, Allens, Sydney
22 November	Women Lawyers Association of NSW, 2022 Annual General Meeting, College of Law Sydney
6 December	Law Society of NSW Annual Members Dinner and Awards Night, Museum of Contemporary Art, Sydney
9 December	Women Lawyers Association of NSW, Wollongong Chapter End of Year Celebration, Wollongong

Speaking Engagements

24 May	Master of Ceremony, "Important role champions and allies play In progressing diverse talent in the Profession", Diverse Women in Law 2022 welcome to sponsor industry event, Minter Ellison, Sydney
25 November	Australian Design Centre on Tour - Made/Worn Contemporary Australian Jewellery, Living Treasures Masters of Australian Craft: Prue Venables and Profile Contemporary Jewellery and Object Award, Exhibition Opening guest speaker, Hazelhurst Arts Centre

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 and Nationally Accredited Mediator, 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

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 2022

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 John Robson

Senior Commissioner Susan Dixon

Commissioner Tim Horton

Ms Sarah Froh, Registrar

Ms Una Doyle, then Ms Catherine Kenny, Education Director, Judicial Commission of NSW

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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ISSN 1832-8563

Published October 2023 by State of New South Wales through the Department of Justice and The Land and Environment Court of NSW.

Printed on Monza Satin – 100% recycled and FSC® certified mixed source paper. (ecoDesign ecoPrint FSC Cert no. C092723)





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

Website

www.lec.nsw.gov.au

Email

lecourt@justice.nsw.gov.au

Street Address

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

Registry Hours

Monday – Friday 8.30am to 4.30pm

Document Exchange

DX 264 Sydney

Postal Address

**GPO Box 3565
Sydney NSW 2001**

Telephone **(02) 9113 8200**

Facsimile **(02) 9113 8222**