

The Land and Environment Court of NSW



Annual Review

2004

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Foreword From Chief Judge

In the introduction to last year's Annual Report I wrote of the changes in procedures which the Court had made. Twelve months on it is now apparent that my expectations in relation to the benefits of the changes are being realised.

Many of the reforms were directed towards moving the 'culture' in merit appeals so that problems could be solved rather than the litigation merely won or lost. Legal practitioners and their clients have responded positively to the changes and it is apparent that attitudes are changing. By providing an opportunity for applicants to amend their plans, with adequate protections for the council, development which is appropriate for individual sites can be identified and the Court's processes used to facilitate approval of that development at an early date.

It is a difficult task to obtain meaningful statistics in relation to the cost of appeals. Each matter turns upon its own matrix of issues. However, it is being reported to us that the changes which the Court has made are leading to significant reductions in the average cost of each appeal to councils. Because most appellants are not regular litigators it is not possible to identify the impact of the changes on the cost to appellants but I would expect their experience would be the same as that of local authorities.

There have now been in excess of 300 experts appointed by the Court. When the reforms were first introduced it was common to find parties joining in opposing the appointment. That rarely occurs now. However, it is of interest that it is not uncommon to find a party seeking to persuade the Court to appoint an independent expert. The benefit of having an impartial person assist in the evaluation of the project at an early stage, with the opportunity for appropriate amendments to plans, is no doubt seen to be a significant advantage.

Another impact upon the 'culture' in merit appeals comes from some of the Court's decisions with respect to costs. Although orders have been made in only a limited number of cases, they include cases where the behaviour of a council has been obstructive and without merit, as well as where the application was so lacking in quality that a council has been put to unreasonable expense.

If there is more than one expert the Court now takes the evidence, concurrently. This process has met with universal approval by decision-makers, experts and advocates. It has contributed significantly to limiting the time taken for the hearing and improved the quality of decision-making.

Perhaps the most significant change, which has gathered pace over the last 12 months, is the expression in Commissioners' decisions of the principles which have been applied in the resolution of a dispute. It is important to appreciate that although the principles do not have binding force they are identified in order to explain the reasoning in a particular appeal and provide guidance as to the approach which the Court will take in later appeals. They are being developed in order to promote consistency of decision-making by the Court and assist local government and others involved in the development control process to identify the principles applicable to individual problems.

It has been an exciting year for the Court and one in which very considerable progress has been made towards the objectives of providing high quality and cost effective resolution of merit appeals.

I express my appreciation for the contribution which the Judges and Commissioners, Registrar and Registry of the Court and the legal profession and many experts have made to the successful implementation of the reforms.

Justice Peter McClellan

Chief Judge

1 Reforms

On 1 March 2004 the Court issued Practice Direction No. 17 which reforms the Court's practices and procedures.

The reforms include the introduction of the following:

- Court appointed experts;
- Case management;
- Onsite hearings;
- Concurrent evidence;
- Cost orders; and
- Planning principles.

The purpose of the Practice Direction is 'to save costs and time by avoiding unnecessary appearances before the Court and to conduct proceedings efficiently'.

Statistical data collected since the introduction of the reforms suggests the objective has been achieved. Hearing times in merit appeals have been halved and Court users report a reduction of costs in the resolution of matters before the Court.

Court Appointed Experts

The Practice Direction operates on the presumption that the court will appoint an expert if there is a need for expert evidence.

As defined in the Expert's Code of Conduct, a Court appointed expert is 'an independent expert engaged by both parties to assist the court impartially on matters relevant to the expert's area of expertise.'

The Practice Direction provides for the parties to agree to the identity of the Court appointed expert before the first callover. In circumstances where the parties cannot agree the Registrar has the power to nominate and appoint the expert.

At the time of appointment the parties must also inform the Court of the expert's fees or the agreed remuneration, as each party is jointly and severally liable for these fees.

The Court has experienced an increase in the filing of amended plans in merit appeals since the appointment of Court appointed experts. The amended plans often flow from the recommendations made by the Court appointed expert. There has also been an increase in the number of matters resolved by Consent Orders in place of a contested hearing.

In 2004 the Court appointed over 300 Court appointed experts.

Case Management

As stated the avoidance of unnecessary cost and delay remains a high priority of the Court.

Practice Direction No. 17 now requires the parties to identify the issues and the need for expert evidence before the first callover.

Parties are directed to consider whether case management may assist resolution of the issues. In more complex matters it has become the practice of the Court to refer the matter to a Judge or Commissioner for that purpose.

Onsite Hearings

Practice Direction No. 17 requires all merit appeals to commence on the site the subject of the proceedings at 9.30am (unless the site is unsuitable). The consensus from Court users is that commencing onsite allows for matters to be dealt with more efficiently, and provides an opportunity for resident objectors to give their evidence in a more comfortable atmosphere.

Concurrent Evidence

It is now the practice of the Court to take the evidence of more than one expert concurrently. The process requires all witnesses to be sworn at the same time. The Judge or Commissioner then manages a discussion in which experts and practitioners talk about the relevant issues. There is still opportunity for limited cross-examination if necessary.

Concurrent evidence has significantly reduced hearing times.

Cost Orders

A number of important changes have been made to the Court's powers to order costs in merit appeals. Part 16 Rule 4(2) of the *Land and Environment Court Rules* now provides:

'No order for costs will be made in proceedings to which this rule applies unless the Court considers that the making of costs orders is, in the circumstances of the particular case, fair and reasonable.'

The Court has used its power to order costs in merit appeals where amended plans have been filed shortly before or during the hearing (*Archiworks Architects Pty Ltd v Sutherland Shire Council* 2004 NSWLR 690). The traditional constraint to the Court's power to order costs in merit appeals has been removed, with the test now being 'fair and reasonable' rather than 'exceptional circumstances'.

The Court has recorded an increase in the awarding of costs in merit appeals particularly where amended plans have been filed close to or during the hearing.

Planning Principles

To ensure consistency of decision making in merit appeals the Chief Judge has encouraged the Commissioners to publish planning principles in their judgments. In 2004 the Court published 25 planning principles, which have been applied by the Court.

Consultation with Court Users

The Court has been concerned to involve the community in developing the reform initiatives.

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

In 2004 the Court's Judges, Commissioners and the Registrar have participated in several conferences and seminars to enhance awareness of recent developments in the Court.

The reforms will continue to evolve to meet the needs and concerns of the community and all those who use the Court.

2 Court Profile

The Court's Jurisdiction

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

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

Sections 16 to 21B of the Act provide for 7 Classes of jurisdiction in the Court. The Classes are described as follows:

Class 1	environmental planning and protection appeal division (merit planning appeals).
Class 2	local government and miscellaneous appeal division (merit building appeals).
Class 3	land tenure, valuation, rating and compensation matters.
Class 4	environmental planning and protection (civil enforcement).
Class 5	environmental planning and protection (summary criminal enforcement).
Class 6	appeals from convictions relating to environmental offences (appeals from Magistrates in Local Courts prosecutions for environmental offences).
Class 7	appeals from informant relating to environmental offences (appeals from Magistrates in Local Courts prosecutions for environmental offences).

Who makes the decisions: The Judges, Commissioners and Registrar

The Judges

Judges have the same rank, title and status as the Judges of the Supreme Court.

Judges preside over all Class 4, 5, 6 and 7 matters, and can hear matters in all other Classes of the Court's jurisdiction.

As at 31 December 2004, the Judges, in order of seniority, were as follows:

Chief Judge

The Hon. Justice Peter David McClellan

Judges

The Hon. Justice Neal Raymond Bignold

The Hon. Justice Robert Neville Talbot

The Hon. Mr Justice David Henry Lloyd

The Hon. Justice Terence William Sheahan AO

The Hon. Justice Dennis Antill Cowdroy OAM

The Hon. Justice Nicola Hope Margaret Pain

The Commissioners

Commissioners are appointed for a term of 7 years. The qualifications and experience required for a Commissioner are specified in section 12 of the *Land and Environment Court Act 1979* and include the areas of:

- local government administration;
- town planning;
- environmental science;
- architecture, engineering, surveying;
- building;
- natural resources management; and
- urban design or heritage.

The primary function of Commissioners is to hear and determine merit appeals in Class 1, 2, and 3 of the Court's jurisdiction. On occasion the Chief Judge may direct that a Commissioner sit with a Judge, or that 2 Commissioners sit together to hear Class 1, 2 and 3 matters.

Section 12 of the *Land and Environment Court Act 1979* also provides for the appointment of Commissioners who have suitable knowledge, qualifications and experience to deal with disputes under the *Aboriginal Land Rights Act 1983*. These Commissioners are appointed on a casual basis and hear matters when the need arises.

At 31 December 2004, the Court comprised the following Commissioners:

Senior Commissioner

Dr John Roseth

Commissioners

Mr Anthony J Nott
Mr Stafford J Watts
Mr Trevor A Bly
Mr Robert R Hussey
Mr Kevin G Hoffman
Mr Graham T Brown
Ms Janette S Murrell
Ms Annelise Tuor
Mr Tim Moore

The Registrar

The Court Registrar, Ms Susan Dixon, has the overall administrative responsibility for the Court, as well as exercising quasi-judicial powers such as conducting call-overs 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 Attorney General's Department. The Registrar, as Business Centre Manager, has reporting and budgetary responsibilities to the Director General of that department.

Appointments

Ms Susan Dixon was appointed to the position of Registrar in February 2004.

Justice Sheahan continued as President of the Workers Compensation Commission whilst retaining his commission as a Judge of the Court.

Supporting the Court: The Registry

The Court Registry comprises the following four sections:

Client Services

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

Listings

This section provides listing services, including preparation of the Court's daily and weekly program and publishes the daily Court list to 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 and the CaseLaw judgment database.

Commissioner Support

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

The Court provides copies of its Judges' decisions and daily court lists on the Court's website at www.lawlink.agd.nsw.gov.au/lec.

3 Caseflow Management

The Chief Judge determines the day to day caseflow management strategy of the Court. This strategy is reflected in the Court's rules and Practice Directions.

Callover

The Court's primary case management tool is the callover before the Registrar in Class 1, 2 and 3 matters and before a Judge in Class 4, 5 and 6 matters.

The Court offers Court users three types of callover:

actual callover

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

telephone callover

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

eCourt callover

where representatives of the parties post electronic instructions to the Registrar using the Internet.

Parties can elect to move between actual and telephone and eCourt callover at any time and are encouraged to use the most cost effective method.

In 2004 the Court experienced an increase in the use of eCourt callover and recorded in excess of 300 registered eCourt users. The Court is recognised nationally as a leader in eCourt case management.

The List Judge of the Court manages the criminal list as required.

The Duty Judge of the Court deals with all urgent interlocutory applications and any urgent matters arising, which are outside the jurisdiction of the Registrar.

Hearing Options

The *Land and Environment Court Act 1979* provides that all Class 1 matters filed pursuant to section 97 of the Act shall be dealt with by the Court as an onsite hearing or a court hearing. The Registrar determines at callover the type of hearing having regard to the issues in dispute, the submissions of the parties and the suitability of the site.

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

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

In 2004 the Court determined 187 matters as onsite hearings and 375 as Court hearings and section 34 conciliation conferences.

Alternative Dispute Resolution

The Court encourages Alternative Dispute Resolution (ADR). Part 5A of the *Land and Environment Court Act 1979* empowers the Court to refer matters to mediation at the request of the parties where the Court considers such referral will assist the resolution of the matter.

The Court provides a mediation service at no cost to the parties by referral to the Court's mediator. The Court also publishes a list of approved mediators from whom the parties can nominate a mediator.

4 Court Performance

Planning appeals comprised 69% of the Court's caseload for 2004.

The Court disposed of 1,305 merit appeals and the total disposals exceeded new registrations by 7%.

There were 187 onsite hearings in 2004 and 39 section 34 conciliation conferences.

The Court recorded that in 2004, 58% of all matters before Court were disposed of prior to hearings.

Time Standards

The reforms to the Court's practices and procedures have had a positive impact on the Court's disposal rates. The time standards for the disposal of matters are as follows:

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

In 2004 the percentage of matters in Classes 1, 2 and 3 completed within the specified 6 months time standard increased by 11% when compared with 2003. In Classes 4 and 5 70% of matters were completed within the 8 month time standard which was consistent with 2003.

The Court also monitors the time taken for judgments to be handed down. This time standard is determined from the date of the last day of hearing to the delivery date of the judgment. The current time standards for Court 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

In 2004 the number of judgments delivered within the 30 days time standard increased.

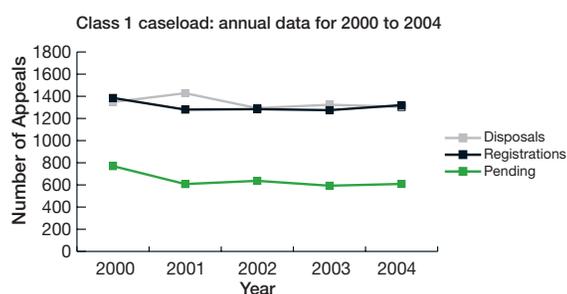
Court Performance by Class Of Jurisdiction

Below is a brief summary of the Court's performance in 2004 for each of the 7 Classes of jurisdiction. Reference should be made to appendix 1 (Court Statistics) for more detailed information in relation to the performance activity in 2004.

Class 1 development appeals

Class 1 matters continue to constitute the bulk of the Court's caseload (69%).

In 2004, 71% of all Class 1 matters disposed of were appeals under section 97 of the *Environmental Planning and Assessment Act 1979* against council determination of development applications. 63% of Class 1 registrations were 'deemed' refusal applications being applications where the council has failed to make a decision within 40 days.



Of the remaining matters disposed of in 2004, 11% were applications to amend a development consent and 8% were appeals against council orders and the failure of councils to issue building certificates. Applications for costs and appeals against the Court's decisions constituted the remaining matters in Class 1.

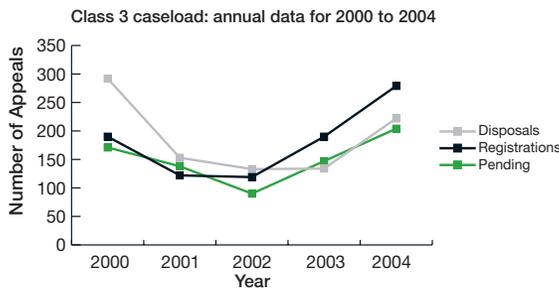
Class 2 building appeals

The number of registrations in Class 2 has been steady for the last few years. Class 2 matters represent less than 2% of all registrations. In 2003, 121 matters (the “Telecommunications Cases”) were stood over awaiting the outcome of proceedings in the High Court of Australia. Judgment was handed down in early 2004 and the matters were subsequently disposed of in the Court in 2004. The disposal of these matters has been included as a footnote in Table 1 of appendix 1.

Class 3 miscellaneous appeals

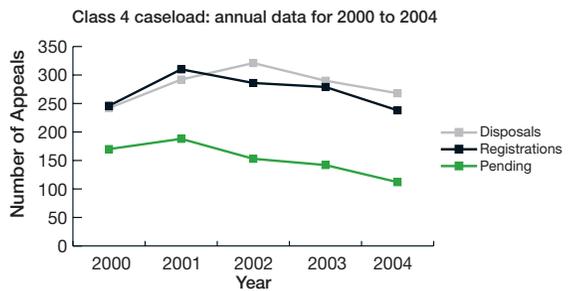
Class 3 of the Court’s jurisdiction encompasses a range of proceedings including resumption matters, valuation and rating appeals and some Aboriginal land rights matters.

Registrations in Class 3 continued to rise in 2004, with new registrations increasing by 23%. Reversing the trend of the previous 2 years, new registrations of compensation appeals in resumption of land matters fell in 2004. Resumption of land matters constituted 32% of all disposals in 2004. Valuation appeals accounted for 50% of Class 3 appeals and 54% of these valuation appeals were disposed of pre-hearing.



Class 4 civil enforcement

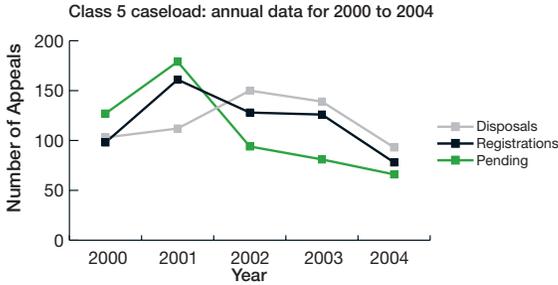
Class 4 registrations and finalisations fell in 2004. These matters are concerned with challenges to the validity of planning instruments and development consent and orders restraining illegal development. Of the Class 4 matters disposed of in 2004, 56% were initiated by councils (down from 63% in 2003).



Class 5 criminal enforcement

The number of Class 5 registrations in 2004 fell to its lowest level in 6 years. The Environment Protection Agency initiated 39% of all new registrations, while the number of matters initiated by local councils decreased to 35% - down from 45% in 2003. Other statutory bodies initiated 26% of all new registrations.

Class 5 matters are initiated by summonses. Of the 93 matters disposed of in 2004, convictions were recorded on 39 summonses and there were 19 pre-trial disposals where the summonses were withdrawn. The remainder were dismissed. Fines for conviction ranged from \$1,500 to \$135,000 for a pollution offence relating to waterways.



Class 6 & 7 appeals from Local Court

Seven new Class 6 appeals were filed in 2004, 5 of which were disposed of in 2004. In 2003 the court had its first Class 7 appeal filed. The matter was finalised in 2004.

Appeals

There are 2 types of appeals that can be generated from decisions of the Court.

Firstly, Commissioner decisions may be appealed to a Judge of the Court pursuant to section 56A of the *Land and Environment Court Act 1979*. Section 56A appeals are confined to errors of law and do not permit a review of the Commissioner's merit decision. In 2004 the Court registered 14 section 56A appeals. Of these, 7 were completed at hearing, 5 were settled pre-hearing and 2 remain pending.

Secondly, appeals from Judge decisions in Class 1 to 4 are heard in the Court of Appeal. Appeals from Judge decisions in Class 5 are heard in the Court of Criminal Appeal. In 2004, 24 appeals with appointment were lodged with the Court of Appeal and 3 appeals were lodged with the Court of Criminal Appeal.

Appendix 1 - Court Statistics

Definitions

- **Disposals:** Completed matters (either by Court adjudication or at the pre-hearing stage).
- **Pending:** Current active files.
- **Pre-Hearing disposals:** Matters that have been completed prior to the substantive hearing. These matters are completed by discontinuance, consent orders or mediation.
- **Registrations:** New initiating process.
- **Restorations:** Matters that have been completed by the Court, but have been reactivated by the parties e.g. for a costs or a modification application.
- **Time for disposal:** Calculated by deducting the date of registration from the date of completion.

Table 1. Caseload Statistics

	YEAR				
	2000	2001	2002	2003	2004
CLASS ONE					
Registrations	1254	1077	1124	1206	1211
Restored	131	203	160	69	112
Pre-Trial Disposals	629	697	708	635	742
Disposed by Hearing	719	731	585	689	563
Pending	770	608	637	593	611
CLASS TWO					
Registrations	34	47	32	27	32
Restored	3	5	5	3	1
Pre-Trial Disposals	6	2	17	7	13
Disposed by Hearing	40	24	11	13	2
Pending	127	153	116	*5	23
CLASS THREE					
Registrations	177	107	113	188	232
Restored	13	15	6	2	47
Pre-Trial Disposals	209	92	105	71	161
Disposed by Hearing	83	61	28	63	61
Pending	171	138	90	147	204
CLASS FOUR					
Registrations	211	243	239	251	196
Restored	35	67	47	28	43
Pre-Trial Disposals	120	145	218	127	176
Disposed by Hearing	122	147	103	163	96
Pending	170	188	153	142	109
CLASS FIVE					
Registrations	96	146	124	120	77
Restored	2	15	4	6	1
Pre-Trial Disposals	3	1	25	23	30
Disposed by Hearing	100	111	125	116	63
Pending	127	179	94	81	66
CLASS SIX					
Registrations	2	3	1	5	7
Restored	0	0	1	0	0
Pre-Trial Disposals	0	0	0	1	3
Disposed by Hearing	1	3	2	4	4
Pending	2	2	0	1	2
TOTAL					
Registrations	1774	1623	1632	1798	1755
Restored	184	305	223	109	204
Pre-Trial Disposals	967	937	1073	868	1125
Disposed by Hearing	1065	1077	854	1919	789
Pending	1366	1268	1090	1086	1015

* Pending matters (less 121 adjourned telecommunications matters which were disposed of in 2004).

Table No. 2 Disposals and Appeals

	2000	2001	YEAR 2002	2003	2004
Means of Disposal in Class 1, 2 & 3					
Total Disposals - all Classes	2030	2036	1927	1919	1909
Total pre-trial disposals	970	950	1073	868	1124
% pre-trial disposal	47	47	56	45	59
s 34 and onsite conferences	54	93	57	76	226
% s 34 and onsite disposals	3.9	6	4.3	5.1	14.7
Total disposals	1392	1454	1321	1486	1541
Mediations	30	10	5	2	14
Disposal of Cases - compliance with time standards in Class 1, 2 & 3					
% within 6 months	79	66	63	58	69
95% completed within (months)	10	17	19	12	12
Disposal of Cases - compliance with time standards in Class 4, 5 & 6					
% within 8 months	71	73	66	72	71
95% completed within (months)	14	21	20	15	24
Reserved Judgments - compliance with time standards					
% judgments delivered within 14 days	40	32	30	39	42
% judgments delivered within 30 days	56	51	56	61	64
% judgments delivered within 90 days	95	85	90	90	88
Appeals to the Appellate Courts - Court of Appeal					
Appeal with appointment	26	24	29	27	24
Appeal without appointment	12	13	25	33	43
Total	38	37	54	60	67
Court of Criminal Appeal					
Conviction and Sentence	1	4	2	2	1
Severity of Sentence	1	1	0	0	0
Sentence only	0	0	0	0	2
Crown Appeals	0	1	0	0	0
Costs	0	0	0	0	1
Stated case, section 5AE *	2	1	0	0	1
Total	3	7	2	2	5

* Section 5AE Criminal Appeal Act 1912 No. 16
EPA v Goulburn Wool Scour Pty Limited - 50003 of 2003

Appendix 2 - Court Users Group Court Committees

Court Users Group

A Court Users Group was established in 1996 as a consultative committee comprising of representatives from interested organisations. The Group meets 3 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 2004

The Hon. Justice Peter David McClellan, Chief Judge (Chairperson)	Land and Environment Court
The Hon. Mr Justice David Henry Lloyd	Land and Environment Court
Dr John Roseth, Senior Commissioner	Land and Environment Court
Mr Stafford J Watts, Commissioner	Land and Environment Court
Ms Susan Dixon, Registrar	Land and Environment Court
Mr Terry Byrnes	Environment and Planning Law Association
Ms Isabella Patrice Ferguson	Maddocks
Ms Rachel Fitzhardinge	Department of Infrastructure, Planning and Natural Resources
Ms Katherine Gardner	The Law Society of New South Wales
Mr Chris Hallam	Institution of Engineers
Mr Ian Hemmings	Environment and Planning Law Association
Dr Jeff Kildea	The Bar Association of NSW
Mr Stan Kondilios	Maddocks
Mr Ian Lacey	Ethnic Communities' Council of NSW Inc
Mr Peter Lee	Local Government Association of NSW
Mr Craig Leggatt	Nature Conservation Council of NSW Inc
Mr Tony McGlynn	Department of Infrastructure, Planning and Natural Resources
Ms Ilona Miller	Environmental Defenders Office
Mr Michael Neustein	Royal Australian Institute of Architects (NSW Chapter)
Mr John O'Grady	Australian Institute of Landscape Architects
Mr Gordon Plath	Environment Protection Authority
Mr Mark Purdy	Local Government Association of NSW
Mr Eugene Sarich	Australian Institute of Building Surveyors & Australian Institute of Environmental Health)
Mr Chris Shaw	Property Council of Australia
Mr Stuart Simington	Housing Industry Association
Mr John Sheehan	Australian Property Institute Inc
Mr Gary Shiels	Planning Institute of Australia (NSW Division)
Ms Mary-Lynne Taylor	Urban Development Institute of Australia
Mr Peter Tomasetti	Barrister
Mr Michael Whelan	Institution of Surveyors NSW Inc
Mr Ian Woodward	Local Government Lawyers Group

Library Committee

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

Members

The Hon. Justice Neal Raymond Bignold

Ms Janette S Murrell, Commissioner

Ms Yvonne Brown, Director, Library Services, Attorney Generals Department

Mr Jack Hourigan, Manager, NSW Law Libraries

Rule Committee

The Rule Committee meets throughout the year to consider proposed changes to the *Land and Environment Court Rules* 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 Peter David McClellan, Chief Judge

The Hon. Justice Neal Raymond Bignold

Education Committee

The Education Committee organised the Annual Conference for its judicial officers at Terrigal from 6-7 May 2004.

The Conference invited speakers from Parliamentary Counsel, Green Building Council of Australia and the Judicial Commission of New South Wales.

Professor Bruce Thom addressed the conference on coastal management and organised a field trip.

Members

The Hon. Mr Justice David Henry Lloyd (Chair)

Mr Trevor A Bly, Commissioner

Ms Susan Dixon, Registrar

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

Mrs C Denison, Conference Co-ordinator, Judicial Commission of New South Wales

Appendix 3 - Other Court Activity

The Judges and Commissioners of the Court continue to actively contribute, both in Australia and overseas, in matters regarding the law and legal education. Their contribution includes activities such as presenting papers and speeches at conferences and seminars, submitting articles for publication, giving lectures at educational institutions, meeting judicial officers from courts around the world and hosting delegations.

The Judges' and Commissioners' activities during 2004 are summarised below:

The Hon. Justice Peter David McClellan, Chief Judge

Conferences

26-27 February	Australasian Conference of Planning and Environmental Courts and Tribunals (Hobart) - (ACPECT Conference (Hobart))
31 March	Environmental and Planning Law Association (EPLA) Conference
18-19 May	Sydney Futures Forum (Technology Park, Redfern)

Speaking Engagements

15 February	Law Society of NSW - Specialist Accreditation Department, <i>Local Government & Planning Law - Expert Evidence</i>
21 February	The Centre for Law and Economic - University of Technology, Sydney, <i>Planning Law Day, Appeals to LEC</i>
1 March	Price Waterhouse Coopers Legal Environment & Planning Group, 2nd <i>Development Law Master Class</i>
12 March	Keynote address to Annual Property Law Conference, Parliament House, Philip Harris Memorial Lecture, <i>Future Directions for Property Law</i>
24 March	Address to NEERG Seminar
29 April	NSW Young Lawyers Environmental Law Committee. Launch of 2nd Edition of 'Practitioners Guide to the Land and Environment Court'
13 May	Opened Young Planners Seminar
14 May	Address to NEERG Seminars Pty Ltd for new councillors, <i>Merit Appeals - Future Directions</i>
10 June	Local Government Executive Briefing Seminar, <i>Purpose and Practical Experiences in Recent Reforms</i>
15 June	Australian Environment Business Network, <i>NSW Environmental Laws - State of Play</i>
18 June	Address to NSW Law Society - Local Government Lawyers Group
27 July	Local Government Association of NSW, <i>Recent Changes & Reforms at the Land and Environment Court</i>

11 August	Keynote address to Environmental & Planning Law Conference, <i>Recent Amendments to Land and Environment Court rules and practice directions</i>
11 August	Expert Witness Forum at Urban Development Institute
25 August	Opening Address to CLE, <i>Current Issues in Local Government</i>
7 September	Annual Government Lawyers' CLE Convention & Dinner, Parliament House, <i>Problems of Evidence</i>
9 September	NEERG Seminars Pty Ltd, <i>New Rules/New Roles - What is Expected of Experts</i>
17 September	Meeting with Inner West Architects Network
18 September	Keynote address to 22nd AIJA Annual Conference, <i>The Value of Civil Claims - How should Courts and Tribunals allocate resources?</i>
20 October	NEERG Seminar, <i>SEPP 5</i>
3 November	Property Council of Australia, Residential Forum - LEC Reforms
4 November	Address to South Sydney Regional Organisation of Councils
5 November	Address to Consumer Tenancy Tribunal
12 November	NSW University, Planning Law and Practice short course
17 November	College of Law, Expert Evidence Seminar
18 November	Address to Northern Planners
22 November	The CLE Centre, Building & Development Day, <i>Appeals to LEC</i>
30 November	Baulkham Hills Council, <i>Practice & Procedures</i>

Delegations and International Assistance

22-23 March	National Environmental Tribunal from Nairobi, Kenya
3 September	Dr Nguyen Van Hien, Chief Justice of Vietnam

Commissions in Other Courts

May	Sat as Judge of the Court of Appeal
October	Sat as Judge of the Court of Appeal and Court of Criminal Appeal

The Hon. Justice Robert Neville Talbot

Conferences

8-9 October Environmental Planning Law Association (Wollongong)

Speaking Engagements

14 May Environmental Defender's Office, Sydney, *The role of the Land and Environment Court in pollution control and enforcement*

The Hon. Mr Justice David Henry Lloyd

In 2004 Justice Lloyd was appointed as a member of the Consultative Committee, National Judicial College of Australia (nominee of the Judicial Conference of Australia) in addition to being chairman of the National Judicial Orientation Programme and a member of the Steering Advisory Committee on Judicial Education (Judicial Commission) of New South Wales.

Speaking Engagements

1-4 March *Environmental Law in Practice*; Indonesian Judicial Training Programme, joint project of the Judicial Commission of the New South Wales Institute for Judicial Administration

4-5 August Co-presented a 2-day course on judgment writing skills with Prof. J Raymond (New York, USA); Course delivered to judicial members of the New South Industrial Relations Commission

Delegations and International Assistance

July Delegation from the Beijing People's Congress of China, project of Australia-China International Exchange Association

July Delegation from Doshisa University, Faculty of Law, Kyoto, Japan and Kanzai University, Law School, Osaka, Japan

The Hon. Justice Nicola Hope Margaret Pain

Conferences

26-28 February ACPECT Conference (Hobart)

Speaking Engagements

27 February ACPECT Conference, Hobart, *The Challenges posed to State and Territory Planning Courts and Tribunals by the Federal Telecommunications Regime*

3 May Delivered an informal paper on environmental protection to the Environmental Defenders Office, Sydney

Dr John Roseth, Senior Commissioner

Conferences

26-28 February ACPECT Conference (Hobart)

Mr Trevor A Bly, Commissioner

Conferences

24-25 February Planning Institute of Australia (Hobart)

26-28 February ACPECT Conference (Hobart)

8-9 October Environmental Planning Law Association (Wollongong)

Mr Kevin G Hoffman, Commissioner

Conferences

March New Directions in Urban Design & Architecture in Bavaria, Sydney University (Sydney)

April Urban Design Program Review UCLA (Los Angeles, USA)

April Town Planning & Urban Design Review (Vancouver, Canada)

July Royal Institute of Architects Awards Presentation (Sydney)

October New Sustainable Assessment BASIX (Sydney)

8-9 October Environmental Planning Law Association (Wollongong)

Speaking Engagements

May Faculty of Built Environment UNSW, Presentation of Urban Design Scholarships

November Department of Architecture, University of Newcastle, Presentation of Urban Design Award

Ms Janette S Murrell, Commissioner

Conferences

26-28 February ACPECT Conference (Hobart)

Speaking Engagements

29 April NSW Young Lawyers, *Practice and Procedure in the Land and Environment Court*

13 May Joint function of NSW Young Lawyers and Young Planners, *Demystifying the Land and Environment Court - Mock Trial*

1 October Young Planners Forum, *Twenty Five Years of the EP&A Act*

6 October Guest speaker at Marsdens Annual Local Government Management Forum, *Recent Changes in the Land and Environment Court for Merit Appeals*



**Land and Environment
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of New South Wales

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