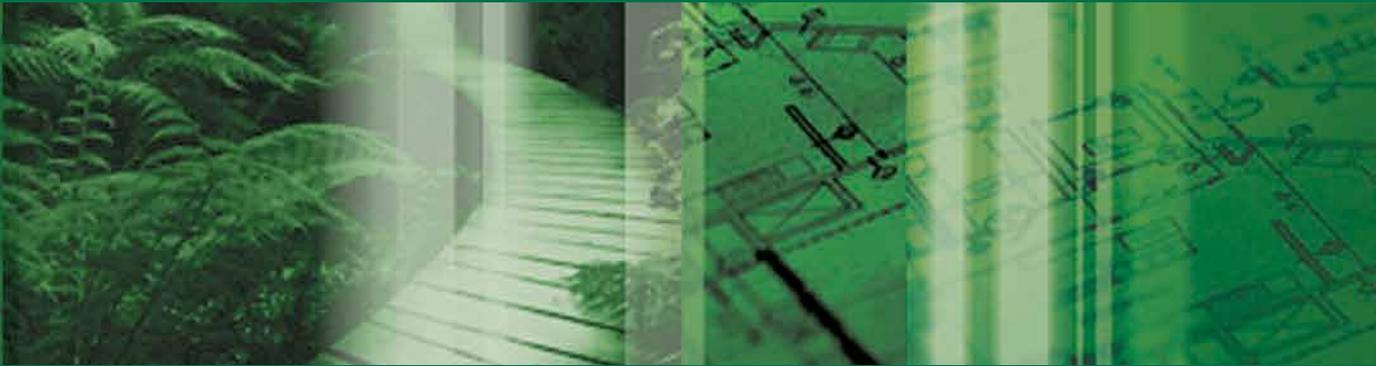


The Land and Environment Court of NSW



Annual Review

2010

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## Foreword From Chief Judge

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

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

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

litigation in the Court, the accessibility of the Court and the responsiveness of the Court to the needs of users.

But even the inclusion of these qualitative indicators still leave unevaluated the Court's material contribution to the community represented by the large volume of decisions made. The Court delivered 620 written judgments. These judgments are published on the Court's website [www.lawlink.nsw.gov.au/lec](http://www.lawlink.nsw.gov.au/lec) and elsewhere. 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**  
Chief Judge



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

# 1 **2010: An Overview**

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

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## 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 most areas of its work, the Court has been able to improve its performance in achieving this overriding objective relative to the results achieved in 2008 and 2009.

Of particular significance are:

- A decrease in the number of matters pending in the Court, to its lowest level in the last five years;
- Maintenance of productivity, as evidenced by the total clearance rate for all matters exceeding 100%;
- An improvement or maintenance in the timeliness of the pending caseload, as measured by the backlog indicator, in four classes but a decline in three classes of the Court's jurisdiction;
- An improvement or maintenance of the time taken to finalise cases in all classes of the Court's jurisdiction but one;
- Maintenance of the percentage of reserved judgments delivered within 14 and 30 days but a decline in the percentage delivered within 90 days;
- A decrease in the median number or pre-hearing attendances; and
- Maintenance of the high level of use of alternative dispute resolution mechanisms, particularly conciliation, as evidenced by the increased percentage of matters finalised by conciliation conferences or on-site hearings.

Chapter 5 Court Performance outlines the indicators, both quantitative and qualitative, for measuring the Court's performance and presents a detailed analysis of the results achieved. These measures include

information with respect to the Court's criminal jurisdiction.

## Reforms and developments

During 2010, reforms occurred in the following areas:

- New jurisdiction to resolve disputes about high hedges;
- New jurisdiction concerning criminal proceedings for mining offences;
- New Practice Notes and Policies; and
- Upgrading of the Court's website.

The Court continued implementing the International Framework for Court Excellence. The Court, in conjunction with the Judicial Commission of New South Wales, maintained 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 2010, the Court's Annual Conference was combined with the Australasian Conference of Planning and

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Environment Courts and Tribunals (ACPECT). The Court held 7 twilight seminars in 2010.

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

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

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

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

## **Consultation with court users**

In 2010, the Court continued to consult and work closely with users to improve systems and procedures through its Committees and User Groups. Consultation occurred both formally through the Court Users Group and also the Mining Court Users Group and informally with a variety of legal practitioners and professional bodies.

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

## 2 Court Profile

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

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## 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, 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

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government policy. The Court has summary criminal jurisdiction and appellate criminal jurisdiction in relation to environmental offences.

In 2010, 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**

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

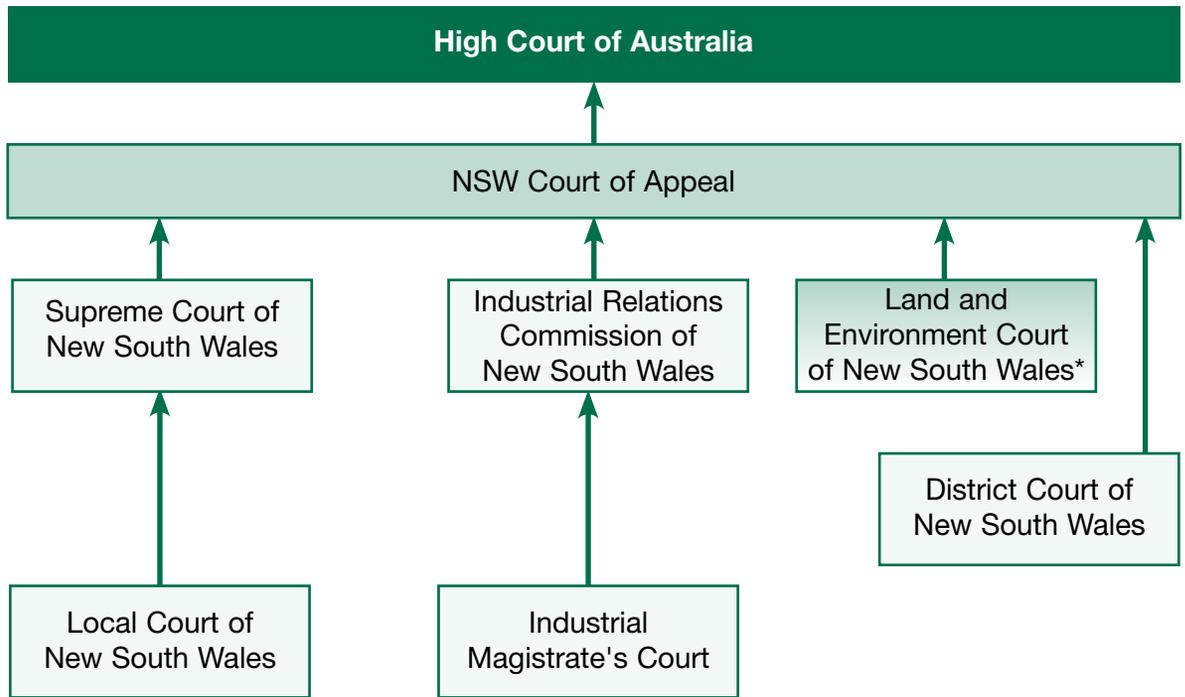


## The Court's place in the court system

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.

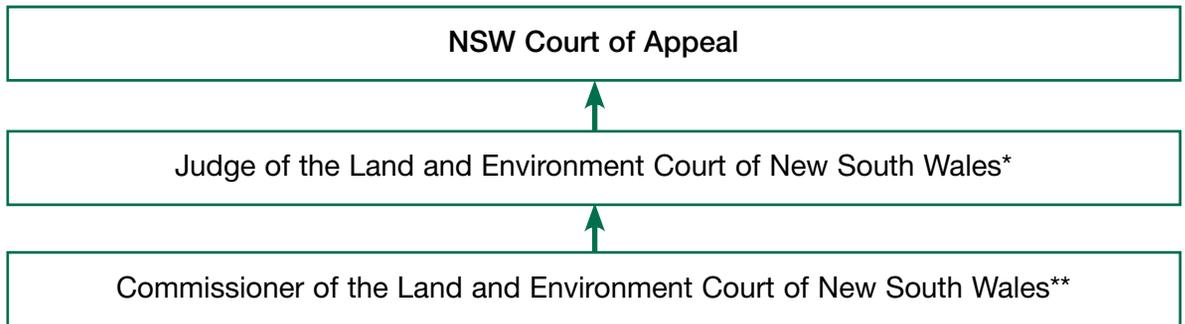


**Figure 2.2 New South Wales Court System – Civil Jurisdiction**



\* 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.

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## 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 2010, the Judges, in order of seniority, were as follows:

#### Chief Judge

The Honourable Justice Brian John Preston

#### Judges

The Honourable Justice Terence William Sheahan AO

The Honourable Justice Nicola Hope  
Margaret Pain

The Honourable Justice Peter Meldrum  
Biscoe

The Honourable Justice Rachel Ann Pepper

The Honourable Justice Malcolm Graeme  
Craig

#### Acting Judges

No Acting Judges were appointed during 2010.

### 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;



*Court hearing*

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

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

The primary function of Commissioners is to adjudicate, conciliate or mediate merits review appeals in Classes 1, 2, and 3 of the Court's jurisdiction. On occasion the Chief Judge may direct that a Commissioner sit with a Judge, or that two or more Commissioners sit together to hear Class 1, 2 and 3 matters.

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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).

At 31 December 2010, the Commissioners were as follows:

***Senior Commissioner***

Mr Tim Moore

***Commissioners***

Mr Robert R Hussey

Mr Graham T Brown

Ms Janette S Murrell

Ms Annelise Tuor

Ms Susan A Dixon

Ms Linda Pearson

Ms Judy A Fakes

Ms Susan I Morris

***Acting Commissioners***

Associate Professor Dr Paul Adam AM – botanist and ecologist

Professor Dr Larissa Behrendt – member of the Aboriginal community

Mr Russell Cowell – valuer

Dr Megan Davis – member of the Aboriginal community

Dr Mary Edmunds – anthropologist and mediator

Mr David Galwey – arboricultural consultant

Mr Philip Hewett – arboriculturist

Ms Rhonda Jacobsen – member of the Aboriginal community

Mr David Johnson – environmental consultant and environmental scientist

Mr E Craig Miller – valuer and mediator

Dr David Parker – valuer

Mr Michael Ritchie – environmental scientist and mediator

Dr Robert (Bob) Smith – environmental management consultant (regional, national and international)

Ms Jennifer Smithson – town planner

Professor Sharon Sullivan AO – heritage consultant

Mr Michael Whelan – surveyor, mediator and arbitrator

***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 Attorney General's Department. The Registrar, as Business Centre Manager, has reporting and budgetary responsibilities to the Director General of that department.

As at 31 December 2010, the Registrars were as follows:

***Registrar***

Ms Joanne Gray

***Acting Assistant Registrar***

Ms Maria Anastasi

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## Appointments and retirements

### Appointments

The Honourable Justice Malcolm Graeme Craig was appointed as a Judge on 2 March 2010.

Ms Susan Morris was appointed as a Commissioner on 28 June 2010.

### Retirements

Mr Trevor Bly retired from the position of full-time Commissioner on 19 February 2010.

The following person ceased to be an Acting Commissioner during 2010:

Mr Peter Thyer (term expired on 19 January 2010).

## Supporting the Court: the Registry

The Court Registry comprises the following four sections:

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### 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.

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*Lodging documents at the Registry*

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### 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.

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The Court provides copies of its decisions and daily court lists on the Court's website at [www.lawlink.nsw.gov.au/lec](http://www.lawlink.nsw.gov.au/lec)

# 3 Caseflow Management

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

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## 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, the *Civil Procedure Act 2005* and the Uniform Civil Procedure Rules 2005, and the Practice Notes issued by the Chief Judge. The Judges, Commissioners and Registrars work together to ensure cases are resolved in a just, timely and cost-efficient manner.

## Overview by class of jurisdiction

Caseload management varies with the type or class of proceeding.

### Class 1

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

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

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

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

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

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

### Class 2: Tree disputes

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

The Court manages a separate list for tree disputes. About 71% of the parties are self-represented. The application is returnable before a Commissioner assigned to manage the list. This first court attendance can be either a telephone conference or in court. The Commissioner explains the process of preparation for and hearing of the application.

The Commissioner 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

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

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

### **Class 3**

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

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

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

Commissioner with special knowledge and expertise in valuation of land.

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

### **Class 4**

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

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

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

### **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

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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.

### **Classes 6 and 7**

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

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

### **Class 8**

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

## **Types of directions hearings**

The Court offers court users three types of directions hearing:

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### **in court directions hearing**

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

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### **telephone directions hearing**

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

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### **eCourt directions hearing**

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

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In general, the initial allocations for directions hearings are:

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

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

In 2010, the Court experienced an increase in the use of eCourt callover and recorded 1079 registered eCourt users (up from 984 in 2009). The Court is recognised nationally as a leader in eCourt case management.

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

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

## Alternative Dispute Resolution

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

- Conciliation;
- Mediation; and
- Neutral evaluation.

### Conciliation

Conciliation is a process in which the parties to a dispute, with the assistance of an impartial conciliator, identify the issues in dispute, develop options, consider alternatives and endeavour to reach agreement. The conciliator may have an advisory role on the content of the dispute

or the outcome of its resolution, but not a determinative role. The conciliator may advise on or determine the process of conciliation whereby resolution is attempted, and may make suggestions for terms of settlement, give expert advice on likely settlement terms, and may actively encourage the parties to reach agreement.

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

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

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

If the parties are not able to agree either about the substantive outcome or that the Commissioner should dispose of the proceedings, the Commissioner terminates the conciliation conference and refers the proceedings back to the Court for the purpose of being fixed for a hearing before another Commissioner. In that event, the conciliation Commissioner makes a written report to the Court stating that no

agreement was reached and the conference has been terminated and setting out what in the Commissioner's view are the issues in dispute between the parties to the proceedings. This is still a useful outcome, as it scopes the issues and often will result in the proceedings being able to be heard and

determined expeditiously, in less time and with less cost.

Table 3.1 shows the comparison between the number of conciliation conferences in 2006-2010.

**Table 3.1 s 34 Conciliation Conferences 2006 – 2010**

	2006	2007	2008	2009	2010
<b>s 34 conferences</b>	29	214	552	481	632

The table shows a continued increase in utilisation of conciliation conferences, with 2010 recording the highest number of conciliation conferences in the last five years.

**Mediation**

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

The Court may, at the request of the parties or of its own volition, refer proceedings in Classes 1, 2, 3, 4 and 8 to mediation. The Court provides a mediation service at no cost to the parties by referral to the Court's mediator. The Court will 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 2006-2010. Internal mediations are those conducted by a Court mediator. External mediations are those conducted by a mediator not associated with the Court and agreed to by the parties.



*Mediation at the Court*

**Table 3.2 Mediations in 2006 – 2010**

		2006	2007	2008	2009	2010
<b>Classes 1 and 2</b>	Total:	15	9	3	5	3
	Internal	5	6	2	5	3
	External	10	3	1	0	0
	Number finalised pre-hearing	13	5	2	1	0
	% finalised pre-hearing	87	56	66	20	0
<b>Class 3</b>	Total:	30	15	8	8	6
	Internal	1	0	5	2	3
	External	29	15	3	6	3
	Number finalised pre-hearing	26	12	7	8	5
	% finalised pre-hearing	87	80	88	100	83
<b>Class 4</b>	Total:	7	7	13	14	6
	Internal	3	3	8	3	3
	External	4	4	5	11	3
	Number finalised pre-hearing	7	5	11	12	6
	% finalised pre-hearing	100	71	85	86	100
<b>All Classes</b>	Total:	52	31	24	27	15
	Internal	9	9	15	10	9
	External	43	22	9	17	6
	Number finalised pre-hearing	46	22	20	19	11
	% finalised pre-hearing	88	71	83	70	73

The table shows a decrease between 2006 and 2007 in the number of mediations in Classes 1, 2 and 3, attributable to the increased availability and utilisation of conciliation under s 34 of the Court Act, conciliation being another form of alternative dispute resolution. The number of mediations in these classes between 2008 and 2010 is relatively constant. There was a decrease in mediations in Class 4 in 2010.

### Neutral evaluation

Neutral evaluation is a process of evaluation of a dispute in which an impartial evaluator seeks to identify and reduce the issues of fact and law in dispute. The evaluator's role

includes assessing the relative strengths and weaknesses of each party's case and offering an opinion as to the likely outcome of the proceedings, including any likely findings of liability or the award of damages.

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

## 4 Reforms and Developments

- Disputes about high hedges
- Criminal proceedings for mining offences
- New Practice Notes and Policies
- Upgrading of the Court's website
- Implementing the International Framework for Court Excellence
- Sentencing database for environmental offences

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During 2010, reforms occurred in the following areas:

- New jurisdiction to resolve disputes about high hedges;
- New jurisdiction concerning criminal proceedings for mining offences;
- New Practice Notes and Policies; and
- Upgrading of the Court's website.

The Court continued implementing the International Framework for Court Excellence. The Court, in conjunction with the Judicial Commission of New South Wales, maintained the sentencing database for environmental offences maintained on the Judicial Information Research System (JIRS).

## Disputes about high hedges

The *Trees (Disputes Between Neighbours) Amendment Act 2010*, which commenced on 2 August 2010, introduced new jurisdiction to hear and determine applications concerning severe obstruction of sunlight and/or views by high hedges. In preparation for the commencement of this new jurisdiction, the Court revised and reissued the Practice Note Class 2 Tree Applications, which commenced on 23 July 2010, and revised the special Tree Dispute Information webpage on the Court's website to include additional information on the new high hedges jurisdiction. Two additional arborists were appointed as Acting Commissioners to deal with the new jurisdiction.

## Criminal proceedings for mining offences

From 15 November 2010, the Court acquired jurisdiction to hear and determine proceedings for offences under Part 17A of the *Mining Act 1992*. These proceedings are allocated to the Court's criminal jurisdiction, Class 5, rather than the Court's civil mining jurisdiction, Class 8.

## New Practice Notes and Policies

The Court made two new Practice Notes: a revised Practice Note Class 2 Tree Applications (commenced on 23 July 2010) and the new Practice Note Pre-Judgment Interest Rates (commenced on 1 July 2010).

The Court introduced new Court Policies through 2010:

- **Commissioners' Code of Conduct** (commenced on 18 January 2010):  
The policy adopts principles of conduct with which Commissioners should comply in the exercise of their functions as a Commissioner of the Court as well as their activities and conduct outside the Court. Judges are subject to the standards in the *Judicial Officers Act 1989*.
- **Commissioners' Performance Appraisal Policy** (commenced on 18 January 2010):  
The policy establishes a basis for annual performance appraisal of Commissioners as part of maintaining the highest standard of competency and personal integrity.

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- **Policy on Complaints against Commissioners of the Land and Environment Court** (commenced on 18 January 2010):  
The policy regulates the process of making, examining and dealing with complaints against Commissioners by any person including court users.
  - **Case Management Policy** (commenced on 28 May 2010):  
The policy promotes case management in proceedings and provides guidance on the use and conduct of case management conferences.
  - **Commissioner Mentoring Policy** (commenced on 28 May 2010):  
The policy describes the court's mentoring program for newly appointed Commissioners and Acting Commissioners.
  - **Site Inspections Policy** (commenced on 28 May 2010):  
The policy guides the inspection by the Court of sites that are the subject of dispute in proceedings, including on-site hearings and views as part of a court hearing.
  - **Identity Theft Prevention and Anonymisation Policy** (commenced on 30 June 2010):  
The policy aims to prevent identity theft by limiting disclosure of identity information in court decisions.

## Upgrading of the Court's website

The Court upgraded the Court's website in 2010 by:

- updating the Tree Dispute Information webpage with the new information on the high hedges jurisdiction;
- updating the Mining Jurisdiction webpage with new information on criminal proceedings for mining offences and decisions of courts, including the Land and Environment Court, on mining;
- launching a new Biodiversity webpage listing the statutes and subordinate legislation, decisions of the Court classified by categories and links to other websites and information on biodiversity and the law; and
- launching a new Heritage webpage listing the statutes and subordinate legislation, decisions of the Court classified by categories and links to other websites and information on heritage and the law.

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## 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, the Court commenced implementation of actions to improve the Court's performance in each of the seven areas of court excellence. The Court has undertaken actions in 2010 including continuing the actions described in the 2009 Annual Review as well as:

- Developing a comprehensive handbook for Commissioners.



- Implementing a formal process for review of the performance of Commissioners including adopting appropriate policies and undertaking appraisal sessions.
- Adopting and implementing a mentoring program for newly appointed Commissioners.
- Implementing achievement planning for all staff in the registry.
- Improving the reliability of the Court's registration and management system, including introduction of a new computerised court information system.
- Adopting numerous policies to achieve the Court's purpose and improve the quality of its performance.
- Improving information on the Court's website, including establishing webpages on specialised areas of the Court's jurisdiction.
- Publication of a court newsletter with the latest legislation, decisions and changes in practice and procedure.
- Expanding the coverage of the Court's performance in the Annual Review including in relation to the seven areas of court excellence.

More actions will be taken in 2011.

## 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 2010, the Court continued to provide statistics on sentences imposed by the Court in the year for environmental offences and for contempt proceedings. The statistics were loaded promptly onto JIRS. To ensure accuracy, the sentence statistics were audited on a quarterly basis by the Judicial Commission. The audits revealed satisfactory results.



# 5 Court Performance

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

## Overall caseload

The comparative caseload statistics between 2006 and 2010 are summarised in Table 5.1.

**Table 5.1 Caseload statistics**

		2006	2007	2008	2009	2010
<b>Class 1</b>	Registrations	874	788	865	577	584
	Restored	131	90	57	43	25
	Pre-Trial Disposals	675	507	552	452	410
	Disposed by Hearing	524	485	357	253	229
	Pending	457	328	342	255	223
<b>Class 2</b>	Registrations	12	184	149	116	151
	Restored	1	8	6	10	5
	Pre-Trial Disposals	8	59	57	8	29
	Disposed by Hearing	5	100	103	120	99
	Pending	7	40	36	33	61
<b>Class 3</b>	Registrations	152	124	134	183	193
	Restored	18	14	15	5	7
	Pre-Trial Disposals	212	125	114	113	205
	Disposed by Hearing	115	43	58	28	33
	Pending	165	130	108	155	120
<b>Class 4</b>	Registrations	244	234	184	141	129
	Restored	39	45	47	22	26
	Pre-Trial Disposals	180	219	181	111	95
	Disposed by Hearing	87	89	87	64	63
	Pending	164	133	97	85	83
<b>Class 5</b>	Registrations	48	88	93	82	43
	Restored	6	7	8	9	5
	Pre-Trial Disposals	3	7	15	25	8
	Disposed by Hearing	68	68	71	94	47
	Pending	63	79	94	68	57
<b>Class 6</b>	Registrations	12	20	17	7	9
	Restored	0	1	0	0	4
	Pre-Trial Disposals	6	6	7	2	6
	Disposed by Hearing	12	9	9	14	5
	Pending	2	8	10	1	2

<b>Class 8</b>	Registrations	-	-	-	5	6
	Restored	-	-	-	0	1
	Pre-Trial Disposals	-	-	-	1	2
	Disposed by Hearing	-	-	-	2	3
	Pending	-	-	-	2	4
<b>TOTAL</b>	Registrations	1342	1438	1442	1111	1115
	Restored	195	165	133	89	73
	Pre-Trial Disposals	1083	923	923	740	755
	Disposed by Hearing	811	794	687	547	479
	Pending	858	718	687	599	551

Table 5.1 shows the following trends between 2009 and 2010:

- Total registrations and restorations (1188), although at their lowest level in five years, was similar to 2009. The movement varied between the classes of the Court's jurisdiction. Registrations in Class 1 marginally declined from 2009, which was itself a year of lower registrations. Civil enforcement actions in Class 4 and criminal prosecutions in Class 5 also declined between 2009 and 2010. These declines in registrations in Classes 1, 4 and 5 were largely offset by increases in registrations in tree and hedge applications in Class 2, applications in Class 3 and criminal appeals in Class 6. Mining matters in Class 8 remained relatively constant.
- Total finalisations (1234) also decreased in 2010. The decline in finalisations was not uniform across the classes of the Court's jurisdiction. Finalisations in Classes 1, 4 and 5 declined, largely a result of lower registrations in those Classes. Finalisations in Classes 2, 3, 6 and 8 were similar to or increased from 2009.
- Total finalisations (1234) continued to exceed total registrations (1188) in 2010, resulting in the total pending caseload (551) decreasing in 2010, indeed to its lowest level in five years.
- Merits review and other civil proceedings finalised in Classes 1, 2 and 3 (1005) comprised 81% of the Court's finalised caseload in 2010.
- Civil and criminal proceedings in Classes 4, 5, 6, 7 and 8 (229) comprised 19% of the Court's finalised caseload in 2010.
- The means of finalisation in 2010 were 61% pre-trial disposals (including by use of alternative dispute resolution processes and negotiated settlement) and 39% by adjudication by the Court. This is an increase from 2009 and is the highest figure in five years, as Table 5.2 shows.

**Table 5.2 Means of finalisation – all matters**

	2006	2007	2008	2009	2010
Total matters finalised – all classes	1894	1718	1610	1287	1234
Total pre-trial finalisations	1083	923	923	740	755
% matters finalised pre-trial	57	54	57	57	61

The means of finalisation for proceedings in Classes 1, 2 and 3 included s 34 conciliation conferences and on-site hearings (mainly for Class 1 and 2 proceedings). As Table 5.3 shows, 32% of appeals in Classes 1, 2 and 3 were finalised by these means, a higher proportion than the previous year and the highest in the last five years. Of the total of 322 matters, 216 were finalised at a s 34 conciliation conference and 106 by on-site hearings.

**Table 5.3 Means of finalisation – Classes 1, 2 & 3**

	2006	2007	2008	2009	2010
Total matters finalised	1539	1319	1241	974	1005
s 34 conferences and on-site hearings	175	277	370	299	322
% s 34 and matters finalised on-site	11.4	21.0	29.8	30.7	32.0

## Court performance by class of jurisdiction

A brief summary of the Court's performance in 2010 for each of the eight classes of jurisdiction is provided.

### Class 1

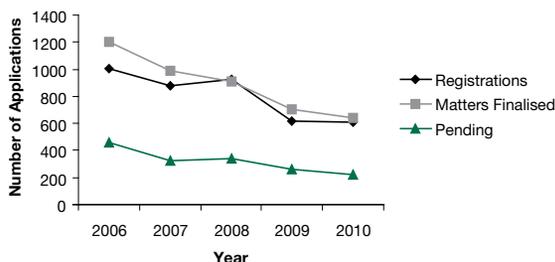
Class 1 matters finalised in 2010 constitute the bulk of the Court's finalised caseload (52%). 66% of all Class 1 matters finalised were appeals under s 97 of the *Environmental Planning and Assessment Act 1979* relating to development applications. 41% of the appeals under s 97 were applications where councils had not determined the development application within the statutory time period ("deemed refusals").

Of the remaining Class 1 matters finalised in 2010, 20% were applications to modify a development consent under s 96 of the *Environmental Planning and Assessment Act 1979* and 10% were appeals against council orders and the actual or deemed refusal by councils to issue building certificates. Applications for costs, appeals under s 56A of the Court Act against the Commissioners' decisions and appeals against prevention or remediation notices constituted the remaining matters in Class 1.

Figure 5.1 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 1 between 2006 to 2010.

**Figure 5.1**

**Class 1 caseload: annual data 2006 to 2010**



### Class 2

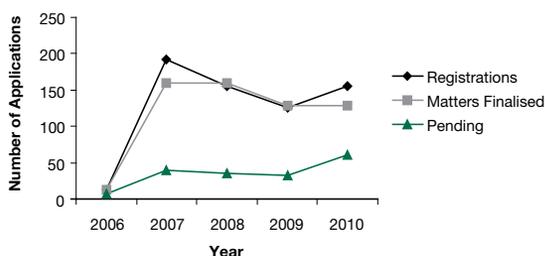
Class 2 registrations increased dramatically in 2007 due to the coming into force of the *Trees (Disputes Between Neighbours) Act 2006*. Class 2 registrations represented 13% of total registrations in the Court in 2010.

The number of Class 2 matters finalised in 2010 represented 10% of the Court's finalised caseload. These are overwhelmingly applications under the *Trees (Disputes Between Neighbours) Act 2006*.

Figure 5.2 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 2 between 2006 and 2010.

**Figure 5.2**

**Class 2 caseload: annual data 2006 to 2010**



### Class 3

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

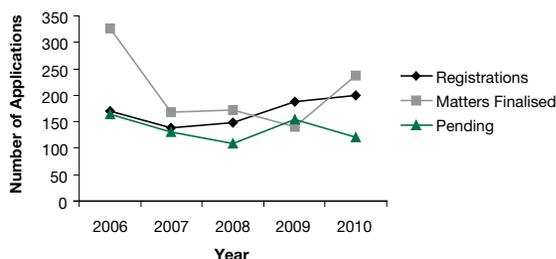
New registrations in Class 3 increased by 5% in 2010. Valuation and rating appeals accounted for 52% of new Class 3 proceedings in 2010. Compensation claims for compulsory acquisition of land constituted 22% of all Class 3 proceedings registered in 2010.

Finalisations also increased. Class 3 proceedings constitute 19% of the Court's finalised caseload in 2010. Of the matters finalised in 2010, 60% were valuation or rating appeals, 24% were compensation claims and 16% were other matters.

Figure 5.3 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 3 between 2006 and 2010.

**Figure 5.3**

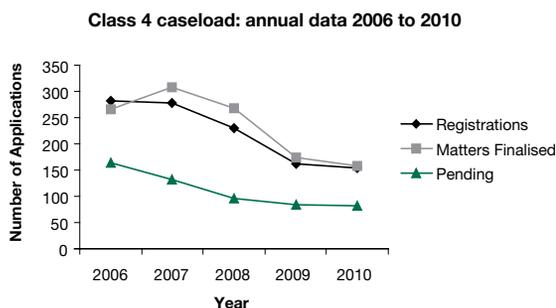
**Class 3 caseload: annual data 2006 to 2010**



## Class 4

New Class 4 registrations fell by 5% and finalisations decreased by 10% in 2010. Of the Class 4 matters finalised in 2010, 55% were civil enforcement proceedings initiated by local councils. The balance of 45% involved judicial review proceedings. Figure 5.4 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 4 between 2006 and 2010.

**Figure 5.4**



## Class 5

New Class 5 registrations fell 47% in 2010. Of the 43 prosecutions commenced, 19 (44%) were initiated by the Environment Protection Authority, 9 (21%) by the NSW Department of Environment, Climate Change and Water, 14 (33%) by local councils and one (2%) by the Minister for Planning. The number of prosecutions initiated by local councils increased to 33%, up from 20% in 2009.

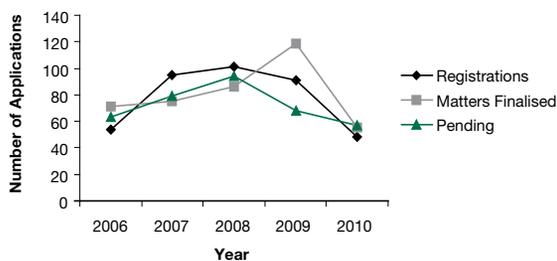
Of the 55 matters finalised in 2010, convictions were recorded in 40, 7 were withdrawn, 6 were dismissed and 2 were proved with no conviction entered. Fines for conviction ranged from \$500 to \$112,500. Community service orders of 460 hours were issued for 2 offences. The sentencing statistics with respect to the sentences

imposed by the Court for environmental offences are able to be accessed on the Judicial Information Research System (JIRS) maintained by the Judicial Commission of New South Wales.

Figure 5.5 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 5 between 2006 to 2010.

**Figure 5.5**

**Class 5 caseload: annual data 2006 to 2010**



## Classes 6 and 7

9 new Class 6 appeals were filed, 7 of which were finalised. There were no Class 7 appeals before the Court in 2010.

## 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*. Six mining matters were filed in 2010, 2 of which were finalised.

## 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

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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 2010 to increase court fees by 4.0% to be able to balance the Court's budget and ensure a high standard of court administration service quality (effective 1 July 2010). 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 steps 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 increase in steps with the increased 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.

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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. The Court continues to improve its practice and procedure with the intention of reducing these significant costs and hence improve the affordability of litigation in the Court.

### **Accessibility**

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

#### ***Geographical accessibility***

Geographical accessibility concerns ensuring parties and their representatives and witnesses are able to access the Court in geographical terms. New South Wales is a large state. The Land and Environment Court is located in Sydney which is a considerable distance from much of the population. To overcome geographical accessibility problems, the Court has adopted a number of measures, including conducting directions hearings and other attendances before the final hearing by means of telephone or eCourt; enabling communication between the Court and parties and their legal representatives by email and facsimile; conducting final hearings on the site of the dispute; and sitting in country courthouses proximate to the parties.

The Court identifies and especially case manages country matters. A matter is a country matter if it is outside the area bordered by the local government areas of Wollongong, Blue Mountains and Gosford. In 2010, 26% of matters finalised were country matters.

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

Secondly, the Court pioneered the use of eCourt directions hearings. This involves the parties or their representatives posting electronic requests to the Registrar using the internet and the Registrar responding. This also mitigates the tyranny of distance. Again, eCourt directions hearings are used extensively in country matters. Parties appeared by eCourt directions hearings in 47% of Class 1 country matters and 31% of Class 3 country matters.

Table 5.4 shows the percentage of pre-hearing attendances conducted by eCourt directions hearings and telephone directions hearings in Classes 1-4 in 2010.

**Table 5.4 eCourt and Telephone Directions Hearings**

<b>Class</b>	<b>No of cases</b>	<b>Total pre-hearing attendances</b>	<b>% of eCourt directions hearings</b>	<b>% Telephone directions hearings</b>
1	625	2,767	18	11
2	128	189	4	31
3	230	1,675	17	1.3
4	156	738	8	0.3
All	1,139	5,369	15.9	7.3

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. 24% of Class 1 country matters and 9% of Class 3 country matters had a s 34 conciliation conference.

Fourthly, conduct of the whole or part of a hearing on the site of the dispute also means that the Court comes to the litigants. An official on-site hearing involves conducting the whole hearing on-site. This type of hearing is required where there has been a direction that an appeal under ss 96, 96AA, 97, 121ZK or 149F of the *Environmental Planning and Assessment Act 1979* or s 7 of the *Trees (Disputes Between Neighbours) Act 2006* be conducted as an on-site hearing. The hearing is conducted as a conference presided over by a Commissioner on the site of the development. In 2010, 106 matters (in Classes 1 and 2) were conducted as an on-site hearing, of which 26 were country matters.

However, even for other hearings which may be conducted as a court hearing, it is the Court's standard practice that the hearing commence at 9.30am on-site. This enables not only a view of the site and surrounds but also the taking of evidence from residents and other persons on the site. This facilitates participation in the proceedings by witnesses and avoids the necessity for their attendance in the Court in Sydney. Nearly all country matters in Classes 1, 2 and 3 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 2010.



*Telephone directions hearing*

**Table 5.5 Country hearings in courthouses**

Courthouse	Number of Hearings						
	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6	Class 8
Albion Park	3			1			
Albury	2						
Ballina	6						
Byron Bay	2						
East Maitland	1						
Forster	1						
Gosford	1						
Kiama	1						
Kurri Kurri	1						
Lightning Ridge							1
Lismore	1						
Moama	1						
Milton			1				
Murwillumbah	4						
Nowra	1						
Orange				1			
Penrith	2	1					
Queanbeyan	1						
Singleton	1						
Tamworth	2						
Wagga Wagga	4						
Wauchope	1						
<b>TOTAL</b>	<b>36</b>	<b>1</b>	<b>1</b>	<b>2</b>			<b>1</b>

**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 programs. The Court is able to make special arrangements for witnesses with special needs. The Court can be accessed by persons with a disability. The Land and Environment Court

website contains a special page 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

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and judgments, publications, speeches and media releases, and self-help information, amongst other information. Primarily it does this by its website. However, the Court also has guides and other information available at the counter. Registry staff assist parties and practitioners, answer questions and provide information.

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

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

### ***Access for unrepresented litigants***

The Court also makes special efforts to assist unrepresented litigants, through its website and its published information and fact sheets, and by the Registry staff. The Court has a special fact sheet for “Litigants in Person in the Land and Environment Court of New South Wales”. The fact sheet contains information on:

- The Court’s jurisdiction;
- Legal advice and assistance;
- The Court’s schedule of fees;
- How to request a waiver, postponement or remission of fees;
- The availability of interpreters;
- Disability access information;
- User feedback – Land and Environment Court services;
- Information about the Court’s website; and
- Land and Environment Court contact information.

The Court’s website also has a special page on “self-help”. That page provides links to other web pages and to external links dealing with:

- Information sheets on each of the types of proceedings in the Court;
- Contacts in the Court;
- Frequently asked questions;
- A guide to the Court;
- Interpreters and their availability;
- Judgments of the Court;
- The jurisdiction of the Court;
- Languages and translation services;
- Legal advice and assistance;
- Legal research links;
- Litigants in person in Court;
- Mediation;
- Planning principles; and
- Tree dispute applications.

### ***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).

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The Court provides mediation services. In 2010, all of the full-time Commissioners, a number of Acting Commissioners, and the Registrar of the Court qualified for national accreditation as a mediator and can 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 contains a page 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 promotes and does 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 (Pt 4 r 4.2) also allow the Court not to require an undertaking as to damages or order security for costs or order costs if satisfied that proceedings have been brought in the public interest.

### **Responsiveness to the needs of users**

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

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

The Court has a Court Users Group to maintain communication with and feedback from Court users as to the practice and procedure and the administration of the Court. Information on and membership of the Court Users Group is in Appendix 1. In 2010, the Court also 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.

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In 2010, the Judges, Commissioners and the Registrar have participated in numerous conferences and seminars to enhance awareness of recent developments in the Court relating to both procedural and substantive law.

## Output indicators of effectiveness and efficiency

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

### Backlog indicator

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

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

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

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

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

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

The results of the backlog indicator measured against the Land and Environment Court time standards for 2010 are set out in Table 5.6.

**Table 5.6 Backlog indicator (LEC time standards)**

	Unit	LEC Standards	2006	2007	2008	2009	2010
<b>Class 1</b>							
Pending caseload	no.		457	328	342	255	223
Cases > 6 months	%	5	22.8	11.3	13.5	9.7	17.5
Cases > 12 months	%	0	10.1	3.4	2.0	1.6	4.9
<b>Class 2</b>							
Pending caseload	no.		7	40	36	33	61
Cases > 6 months	%	5	28.6	12.5	2.8	6.1	4.9
Cases > 12 months	%	0	14.3	2.5	0	3.0	0
<b>Class 3</b>							
Pending caseload	no.		165	130	108	155	120
Cases > 6 months	%	5	55.2	51.5	32.4	34.2	44.2
Cases > 12 months	%	0	38.8	40.0	13.9	16.8	15.0
<b>Class 4</b>							
Pending caseload	no.		164	133	97	85	83
Cases > 8 months	%	5	19.5	21.1	24.7	21.2	33.7
Cases > 16 months	%	0	12.2	8.3	10.3	10.6	14.5
<b>Class 5</b>							
Pending caseload	no.		63	79	94	68	57
Cases > 8 months	%	5	55.5	31.6	33.0	32.4	63.2
Cases > 16 months	%	0	11.1	10.1	14.9	10.3	15.8
<b>Class 6</b>							
Pending caseload	no.		2	8	10	1	2
Cases > 8 months	%	5	0	0	0	0	100.0
Cases > 16 months	%	0	0	0	0	0	0
<b>Class 8</b>							
Pending caseload	no.		-	-	-	2	4
Cases > 8 months	%	5	-	-	-	0	25.0
Cases > 16 months	%	0	-	-	-	0	0
<b>Class 1- 3</b>							
Pending caseload	no.		629	498	486	443	404
Cases > 6 months	%	5	31.3	21.9	16.9	18.5	23.5
Cases > 12 months	%	0	17.6	12.9	4.5	7.0	7.2

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**Class 4 – 8**

Pending caseload	no.		229	220	201	152	146
Cases > 8 months	%	5	29.3	24.1	27.4	26.3	45.9
Cases > 16 months	%	0	11.8	8.6	11.9	10.5	14.4

\*- not applicable

These backlog figures need some explanation:

- Class 1: The backlog figures for pending caseload greater than 6 months and 12 months both increased in 2010. The total pending caseload in Class 1 continued to fall to its lowest level in five years. The increase in backlog is a product of both an increase in the actual number of cases pending for greater than 6 months and 12 months, as well as the decrease in total pending caseload. The timeliness of case processing of Class 1 matters therefore declined slightly in 2010.
- Class 2: The backlog figure decreased in 2010 for cases pending for greater than 6 months and 12 months so as to meet the Court's time standards for both 6 and 12 months. This is a commendable result. The pending caseload increased because of the increase in registrations particularly in the second half of the year.
- Class 3: The backlog figures for pending caseload greater than 6 months increased but decreased slightly for cases greater than 12 months. Total pending caseload decreased. The increase in the backlog figure for cases greater than 6 months is a product of the decrease in total pending caseload. The actual number of cases pending for greater than 6 months in fact has remained the same for 2009 and 2010 but because of the decrease in total pending caseload, the percentage

increases. The decrease in the backlog figure for cases greater than 12 months is a product of both a decrease in the actual number of cases pending greater than 12 months as well as the decrease in total pending caseload. Hence, the timeliness of case processing of Class 3 matters was maintained in 2010.

- Class 4: There was an increase in the backlog figure for pending caseload exceeding 8 months and 16 months. The total pending caseload in Class 4 remained relatively constant. The increased backlog figures are a result of increases in the actual number of cases pending for greater than 8 and 16 months. Case processing timeliness for Class 4 matters therefore declined. One reason is that a number of cases have involved multiple interlocutory matters before any final hearing or relisting after the final hearing for applications for costs, determining appropriate orders and enforcement of orders including by contempt proceedings. Another reason is delay in reserved judgments in certain matters.
- Class 5: The backlog figures for pending cases exceeding both the 8 months and 16 months standards increased, and total pending caseload in Class 5 fell to its lowest level in the last five years. The increases are a result of an actual increase in the number of cases pending for greater than 8 months and 16 months. Case

processing timeliness for Class 5 matters therefore declined. One reason is that a few prosecutions involve multiple files (for example, one prosecution involves 16 files). Hence, delay in case processing of these prosecutions has a material effect on the overall backlog figures. Another reason is delay in reserved judgments in certain matters.

- Class 6: There were only two appeals, both by a litigant in person, which were

adjourned by consent resulting in an exceedence of the 8 months target but they were subsequently discontinued.

- Class 8: Because of the small total pending caseload, only 1 case exceeded the 8 months target. The Court's time standards were otherwise met.

If the national time standards are used, the results of the backlog indicator for the Court in 2010 are:

**Table 5.7 Backlog indicator (national time standards)**

	Unit	National Standards	2006	2007	2008	2009	2010
<b>Class 1</b>							
Pending caseload	no.		457	328	342	255	223
Cases > 12 months	%	10	10.1	3.4	2.0	1.6	4.9
Cases > 24 months	%	0	2.2	1.5	0.6	0.4	0
<b>Class 2</b>							
Pending caseload	no.		7	40	36	33	61
Cases > 12 months	%	10	14.3	2.5	0	3.0	0
Cases > 24 months	%	0	0	0	0	0	0
<b>Class 3</b>							
Pending caseload	no.		165	130	108	155	120
Cases > 12 months	%	10	38.8	40.0	13.9	16.8	15.0
Cases > 24 months	%	0	10.9	13.1	5.6	1.9	5.8
<b>Class 4</b>							
Pending caseload	no.		164	133	97	85	83
Cases > 12 months	%	10	17.1	15.8	15.5	15.3	21.7
Cases > 24 months	%	0	6.7	2.3	5.2	4.7	2.4
<b>Class 5</b>							
Pending caseload	no.		63	79	94	68	57
Cases > 12 months	%	10	42.9	13.9	28.7	23.5	52.7
Cases > 24 months	%	0	4.8	8.9	8.5	2.9	5.3

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**Class 6**

Pending caseload	no.		2	8	10	1	2
Cases > 12 months	%	10	0	0	0	0	0
Cases > 24 months	%	0	0	0	0	0	0

**Class 8**

Pending caseload	no.		-	-	-	2	4
Cases > 12 months	%	10	-	-	-	0	0
Cases > 24 months	%	0	-	-	-	0	0

This table shows that the Court's performance in Classes 1, 2, 6 and 8 betters the national standard. The Court's performance in Class 3 is above the national time standard but the explanation is that, although the number of older cases remained steady or decreased, because of the decrease in total pending caseload, the older cases represented a higher proportion of the total pending caseload. The Court's performance in Classes 4 and 5 is above the national standard and represents a decrease in case processing timeliness.

**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. 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 2006-2010.

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

	Year				
	2006	2007	2008	2009	2010
<b>Class 1</b>					
No. of cases	1199	993	909	703	639
% < 6 months	61	72	77	71	75
% < 12 months	89	94	97	95	97
95% completed within (months)	16	13	10	11	11
<b>Class 2</b>					
No. of cases	15	159	160	127	128
% < 6 months	60	96	94	98	95
% < 12 months	73	99	99	100	99
95% completed within (months)	16	5	7	5	6

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**Class 3**

No. of cases	327	168	172	137	238
% < 6 months	32	46	38	43	44
% < 12 months	57	70	66	74	81
95% completed within (months)	33	27	36	25	19

**Class 4**

No. of cases	267	310	268	175	158
% < 8 months	73	83	80	90	73
% < 16 months	91	93	94	93	94
95% completed within (months)	20	17	17	20	19

**Class 5**

No. of cases	68	75	86	119	55
% < 8 months	28	55	64	51	56
% < 16 months	75	84	94	76	76
95% completed within (months)	34	21	17	40	20

**Class 6**

No. of cases	18	15	15	18	11
% < 8 months	100	100	93	78	100
% < 16 months	100	100	100	100	100
95% completed within (months)	6	7	8	10	5

**Class 8**

No. of cases	-	-	-	3	5
% < 8 months	-	-	-	100	100
% < 16 months	-	-	-	100	100
95% completed within (months)	-	-	-	6	6

The table shows that in 2010, compared to 2009, the Court improved or maintained its performance by reducing or maintaining the time taken to finalise cases in Classes 1, 2, 3, 5, 6 and 8. In Class 4, the Court maintained the proportion of cases finalised within 16 months but the proportion of cases finalised within 8 months declined.

**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). An appreciable number of judgments (36%) are delivered ex tempore, thereby minimising delay. To minimise delay

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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 2010 remained relatively constant, compared to both 2009 and the last five years, for reserved judgments being delivered within 14 days and 30 days, but declined with regard to the 90 day standard. The Court's performance in meeting judgment timeliness standards is an average of the performance of all individual decision-makers. The decline in the Court's performance in meeting the 90 day standard was not caused by a uniform decline in the performance of all decision-makers in meeting this standard.

**Table 5.9 Reserved judgments compliance with time standards**

	<b>Standard</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
% delivered within 14 days	50	33	39	36	37	39
% delivered within 30 days	75	52	62	56	56	55
% delivered within 90 days	100	80	90	90	86	81

### **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 5.10.

**Table 5.10 Clearance rate**

	<b>2006</b> %	<b>2007</b> %	<b>2008</b> %	<b>2009</b> %	<b>2010</b> %
Class 1	119.3	113.0	98.6	113.7	104.9
Class 2	100.0	82.8	103.2	101.6	82.1
Class 3	192.4	121.7	115.4	75.0	119.0
Class 4	94.3	110.4	116.0	107.4	101.9
Class 5	131.5	78.9	85.1	130.8	114.6
Class 6	150.0	71.4	88.2	228.6	84.6
Class 8	-	-	-	60.0	71.4
Classes 1-3	129.5	109.2	101.2	104.3	104.1
Classes 4-8	102.0	100.8	105.7	118.4	102.7
<b>Total</b>	<b>123.4</b>	<b>107.1</b>	<b>102.2</b>	<b>107.3</b>	<b>103.9</b>

These figures show that the clearance rate in 2010 has continued to be commendable. The total clearance rate for all of the Court's caseload exceeds 100% (103.9%), thereby decreasing the total pending caseload.

The clearance rate for Class 2 matters is less than 100% due to the increase in registrations (for hedge applications) late in the year, leaving insufficient time to clear these matters before year end. There is no delay in processing Class 2 cases, as the backlog figures reveal.

The clearance rate for matters in Classes 6 and 8, although less than 100%, is a product of the small number of cases. The difference between registration and finalisations in both Classes was just two cases.

### **Attendance indicator**

The attendance indicator is an output indicator of efficiency where court attendances act as a proxy for input costs. The more attendances, the greater the costs both to the parties and to public resources. The number of attendances is the number of times that parties or their representatives are required to be present in Court to be heard by a judicial officer or mediator (including appointments that are adjourned or rescheduled).

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

Fewer attendances may suggest a more efficient process. However, intensive case management can increase the number of attendances although there may be 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 5.11 below compares the median number of pre-hearing attendances for each class of proceedings completed in 2006-2010.

**Table 5.11 Median number of pre-hearing attendances by Class**

	2006	2007	2008	2009	2010
Class 1	5	3	4	4	4
Class 2	3	1	1	1	1
Class 3: (all matters)	4	5	7	7	6
Compensation claims	7	10	9	12	9
Valuation objections	4	3	5	6	6
Miscellaneous	2	5	6	4	5
Class 4	4	3	4	4	3
Class 5	6	3	4	5	5
Class 6	2	2	1	2	2
Class 8	-	-	-	2	1

The table reveals the number of pre-hearing attendances decreased in Classes 3, 4 and 8 and remained constant for Classes 1, 2, 5 and 6 between 2009 and 2010. For Class 1 matters, the median number of attendances is increased by the arrangement of conciliation conferences before any final hearing. The median number of pre-hearing attendances for matters with no conciliation conference is 3 but for matters with a conciliation conference the median is 5.

The increase in pre-hearing attendances through use of conciliation conferences is, however, beneficial as it can lead to resolution of the matter by agreement of the parties without the necessity of a final hearing or to a reduction in the issues and hearing time.

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## 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 5.12, in 2010 the Court registered 14 s 56A appeals. Of these, 5 were completed at hearing, 2 were settled pre-hearing and 7 remained pending at 31 December 2010.

Of the 5 that were completed at hearing, 2 were upheld. This represents 0.6% of the number of matters in Classes 1, 2 and 3 disposed of by a decision of a Commissioner of the Court in 2010 (343 matters).

**Table 5.12 s 56A Appeal outcomes**

	2006	2007	2008	2009	2010
Total no. of appeals	12	29	14	21	14
No. finalised pre-hearing	3	8	3	2	2
No. of appeals to hearing	4	13	10	8	5
Outcome:					
Upheld	2	4	3	3	2
Dismissed	2	9	7	5	3

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

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

In 2010, 19 appeals were lodged with the Court of Appeal and no appeals were lodged with the Court of Criminal Appeal. The number of appeals to these appellate courts in 2010 is shown in Table 5.13 below.

Commencing in 2009, the table reflects the distinctions drawn in the legislation and rules between, firstly, a notice of appeal and a summons seeking leave to appeal and, secondly, a notice of appeal and a notice of intention to appeal. In respect of the second distinction, rather than immediately appeal, a party may lodge a notice of intention to appeal, the effect of which is to extend the time within which an appeal may be lodged. However, many parties do not subsequently lodge an appeal.

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

The different categories used in the table for 2009 and 2010 compared to previous years' tables also means it is not possible for a comparative table to be presented for years earlier than 2009.

**Table 5.13 Appeals to the appellate courts**

	2009	2010
<b>Court of Appeal</b>		
Notice of appeal	19	19
Notice of intention to appeal	14	21
Summons seeking leave to appeal	4	0
<b>Court of Criminal Appeal</b>		
Notice of appeal	2	2
Notice of intention to apply for leave to appeal	6	0
Summons seeking leave to appeal	6	0
Notice of intention to appeal	7	5
Stated cases	0	0

## 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.

**Complaints received and finalised**

In 2010, the Court received 2 complaints about the conduct of Commissioners and Registrars exercising the functions of the Court. Table 5.14 gives particulars about the complaints made and dealt with in 2010 and the outcomes.

**Table 5.14 Complaint particulars**

	<b>2010</b>
Complaints pending as at 31 December 2009	1
Complaints made during 2010	2
<b>Total number of complaints</b>	<b>3</b>
Complaints examined but dismissed	3
Complaints not dismissed but dealt with by the Chief Judge	0
Complaints referred by Chief Judge to Complaint Committee	0
Complaints withdrawn	0
<b>Total number of complaints finalised</b>	<b>3</b>
Complaints pending as at 31 December 2010	0

As can be seen from Table 5.14 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 2010, Commissioners exercised the functions of undertaking conciliations, on-site hearings or court hearings in 691 matters in

Classes 1, 2 and 3. Complaints, therefore, represent only 0.3% of matters dealt with by Commissioners. This small proportion of complaints to matters dealt with by Commissioners is a pleasing indication of the high standard 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 criteria used for dismissing the complaints is summarised in Table 5.15. The table shows that 100% of finalised complaints were dismissed because the examination disclosed no misconduct of the Commissioners or Registrar.

**Table 5.15 Criteria for dismissing complaints**

No misconduct was established	100%
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 judgment writing for Commissioners.

**Causes for complaint**

The common causes of complaint are set out in Table 5.16. The percentage refers to the relative frequency of that cause of complaint being raised in the total complaints for the year. Many complaints raise multiple causes and these are captured

by this approach. It is to be emphasised that these are the categories of allegations made in complaints, whether or not they were upheld.

**Table 5.16 Common causes for complaint**

	<b>2010</b>
Bias, collusion or conflict of interest	33%
Delay	33%
Dissatisfaction with outcome or wrong decision	33%
Failure of Court to enforce judgment or orders	0%
Failure to give fair hearing	0%
Impairment	0%
Inadequate reasons for judgment	0%
Inappropriate behaviour or comments or discourtesy	0%
Incompetence	0%
<b>Total</b>	<b>100%</b>

***Substitution for appeals***

Many of the complaints made amount, in essence, to a complaint that the Commissioner or Registrar made the wrong decision. These complaints are often made in apparent substitution of an appeal against the decision of the Commissioner or Registrar. They are usually made when a party to litigation is aggrieved by an unfavourable decision but for one reason or another (including financial reasons) does not wish to appeal. Instead, a personal complaint is made against the decision-maker, either directly challenging the outcome or indirectly doing so by alleging that the outcome could only have resulted from bias or collusion or the fault by the decision-maker. Such complaints are dealt

with on their merits. However, a complaint about a Commissioner or Registrar is not a substitute for an appeal and the Chief Judge cannot correct allegedly erroneous decisions.

***Misunderstanding as to the role of the Court***

A number of complaints reveal a lack of understanding as to the role of the Court. A common misunderstanding is that the Court has a police role to investigate and enforce on its own initiative compliance with judgments and orders the Court has made. The Court, of course, has no such role. It is a matter for parties in whose favour judgment and orders are made, or government authorities with enforcement powers, to move the Court for orders enforcing any judgment and orders. The Court only then will determine the appropriate enforcement orders.

***Complaints by legally unrepresented litigants and objectors***

A high proportion of complaints are made by legally unrepresented litigants or persons such as local residents, who objected to development proposed in development appeals but were not a party (67%). Only one complaint (33%) was made by the legal representative of a party.

## 6 Education and Community Involvement

- Continuing professional development
  - Continuing professional development policy
  - Annual Court conference/ACPECT 2010
  - Twilight seminar series
  - National Mediator Accreditation
  - Other educational activities
- Performance indicators and program education
- Publications
- Education and participation in the community
- Individual Judges' and Commissioners' activities

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## 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 (2 days) of professional development activities a year.

### Annual Court conference/ACPECT 2010

The Annual Court Conference for 2010 was combined with the Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT) 2010 Conference held on 31 August and 1-3 September 2010. Six Judges, nine Commissioners, 11 Acting Commissioners, the Registrar and Acting Registrar joined the other national and international judicial delegates attending the ACPECT 2010 Conference. The conference was organised in partnership with the Judicial Commission of New South Wales. The three day conference programme included sessions on:

- Human Rights and the Environment;
- Ethics and the Environment;

- The Internationalisation of Environmental Law;
- Creating and Improving Environmental Courts and Tribunals;
- Jurisdiction, Structure and Civil Practice and Procedure: New Zealand, Queensland, Victoria, Tasmania, South Australia, Western Australia and NSW;



*Welcome to country and cleansing and water blessing ceremony at ACPECT 2010 Conference*



*Dr Simon Longstaff, The Hon. Keith Mason AC QC and The Hon. Jerrold Cripps QC at ACPECT 2010 Conference*



*International judicial delegates at ACPECT 2010 Conference*

- Criminal Trial Case Management: Recent Developments in NSW;
- Planning Principles and Precedents in Merits Review;
- Jurisdiction, Structure and Civil Practice and Procedure in Overseas Courts and Tribunals;
- Climate Change;
- The Regulation of Harm against the Environment;

- Judicial Review In Environmental Proceedings;
- Planning for Bushfires; and
- Alternative Dispute Resolution.

The conference corresponded with the 30th anniversary of the Land and Environment Court and a celebratory gala dinner was held at Parliament House on 1 September 2010.



*The Hon. Paul Stein AM QC and The Hon. Mahla Pearlman AM at 30<sup>th</sup> anniversary gala dinner*

### **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. Seven seminars for the Court and one cross-jurisdictional seminar were held in 2010:

17 February	<i>Introduction to Online Legal Research</i> , Ms Anna Clifton
24 February	<i>Advanced Online Legal Research</i> , Ms Anna Clifton
8 April	<i>Ex Tempore Judgments Workshop</i> , Mr Tom Wodak
8 June	<i>Mastering Conflict: Concepts from Global Negotiation Insight Institute</i> , Ms Tina Spiegel
24 August	<i>Update on Principles of Procedural Fairness in Merits Review Hearings</i> , Ms Narelle Bell
26 October	<i>Assessing the Credibility of Witnesses</i> , The Hon. Acting Justice Graham Barr, Supreme Court of New South Wales
16 November	<i>Introduction to Computer Research</i> , Ms Anna Clifton
18 November	<i>Uses and Abuses of Expert Evidence</i> , The Hon. Justice Ian Binnie, Supreme Court of Canada (cross-jurisdictional twilight seminar series)

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## National Mediator Accreditation

In 2010, one full-time Commissioner completed the mediation training course conducted by the Australian Commercial Disputes Centre and received accreditation under the National Mediator Accreditation System.

## Other educational activities

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

## Performance indicators and program 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 2010, 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 program to receive feedback on whether the educational objectives were met and to measure the program's usefulness, content and delivery. The ratings derived from the evaluation forms assist in measuring the success of the education programs. Figure 6.1 shows the overall satisfaction with the Court's annual conference over the past five years. This has exceeded the target of 85%.

**Table 6.1 Participant evaluation of Land and Environment Court Annual Conferences 2006 to 2010**

	Target	2006	2007	2008	2009	2010
Overall satisfaction rating	85%	92%	90%	89%	88%	87%

Note: The 2010 annual conference was combined with the Australasian Conference of Planning and Environment Courts and Tribunals

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 2008 to 2010 all of which exceeded the 85% standard.

**Table 6.2 Participant evaluation of Land and Environment Court Twilight Seminar Series 2008 and 2010**

	Target	2008	2009	2010
Overall satisfaction rating	85%	87%	89%	90%

Note: 2008 was based on 2 seminars, 2009 was based on 6 seminars and 2010 was based on 7 seminars.

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

## Publications

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

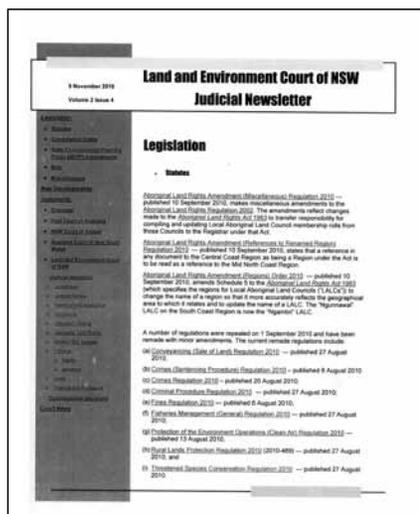
In August 2010, the Court, in conjunction with the Judicial Commission of New South Wales, produced the *Land and Environment Court of NSW Commissioners' Handbook*. The Handbook provides guidance, especially to Commissioners and Registrars, on the Court and its jurisdiction; the members of the Court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

for commissioners. The Handbook is published on line by the Judicial Commission on a closed website for members of the Court.

Beginning in January 2010, the Court publishes quarterly on the Court's website a Judicial Newsletter for the benefit of members of the Court and the wider public to better enable them to keep up to date with recent legal developments. The Newsletter provides summaries of recent legislation and judicial decisions of the High Court of Australia, NSW Court of Appeal, NSW Court of Criminal Appeal, NSW Supreme Court and Land and Environment Court, as well as of other courts in Australia and overseas, concerning matters of relevance to the Court's jurisdiction. In the electronic version of the Newsletter published on the Court's website, 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



Malaysian delegation 2010

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of the Court have actively participated in capacity building and information exchange by presenting papers and participating as trainers in a variety of conferences, seminars,

workshops, giving lectures at educational institutions and presiding at moot courts.

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

## Individual Judges' and Commissioners' activities

The Judges' and Commissioners' activities during 2010 are summarised below:

### The Hon. Justice Brian John Preston, Chief Judge

#### Conferences and seminars

16 March	CPD Seminar, Law and the Relevance of Values, Professor D Dutton, University of Canterbury, Mr Justin Gleeson SC and Mr Stephen Gageler SC (Chair), New South Wales Bar Association
18 March	EPLA twilight seminar, Practice and procedure in the Land and Environment Court, Mr Patrick Larkin and Ms Janet McKelvey, Sydney
25 March	CPD Seminar, <i>Manitoba Fisheries v The Queen</i> : The Origins of Canada's De Facto Expropriation Doctrine, Professor Jim Phillips, New South Wales Bar Association
4-7 May	Australian Institute of Judicial Administration Incorporated (AIJA), Non-Adversarial Justice: Implications for the Legal System and Society Conference, Melbourne
18 May	CPD Seminar, Constituting Law: Law, Economics & Regulation, The Hon. Ian Callinan AC QC and The Hon. Mr Malcolm Turnbull MP, Banco Court, Sydney
2 June	CPD Seminar, The High Court in Kirk – Jurisdictional Errors and Misconstruing Statutes, Administrative Law and Constitutional Law Section, New South Wales Bar Association
8 June	Twilight seminar, Mastering Conflict: Concepts from Global Negotiation Institute, Ms Tina Spiegel, Judicial Commission of New South Wales
4 August	EPLA twilight seminar, The changes to the <i>Trees (Disputes Between Neighbours) Act 2006</i> , Commissioner Judy Fakes, Sydney
20-22 August	Supreme Court of New South Wales Annual Conference, Port Stephens
24 August	Twilight seminar, Update on Procedural Fairness in Merits Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales
1-3 September	Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney
26 October	Twilight seminar, Accessing the Credibility of Witnesses, Acting Justice Barr, Judicial Commission of New South Wales

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## Speaking engagements

4 April	<i>Global warming, the environment and litigation: A commentary</i> , International Council of Advocates and Barristers, Fifth World Bar Conference, Sydney
13 April	<i>Operating an Environment Court</i> , lecture to students of Planning Law Macquarie University, Sydney
30 April	<i>Climate Change in the Courts</i> , presentation to Corrs Chambers Westgarth's Planning, Environment and Local Government Group, Sydney
29 July	<i>Judicial Specialisation in Environmental Law: the Land and Environment Court of NSW</i> , Asian Judges Symposium on Environmental Decision Making, the Rule of Law, and Environmental Justice, ADB Headquarters, Manila, Philippines
26 August	<i>Commentary on paper by Dr M Groves, 'Federal constitutional influences on State judicial review'</i> , Australian Association of Constitutional Law (AACL) seminar, Sydney
1 September	<i>Welcome Remarks</i> at the Opening Session, Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney
1 September	<i>Remarks</i> to the Gala dinner for the 30th anniversary of the Land and Environment Court of NSW, Parliament House, Sydney
13-14 September	<i>Environmental Litigation</i> , postgraduate course, Sydney Law School, University of Sydney
18 & 19 September	<i>Expert witnesses – Lessons learned from specialised environment courts, Balancing expert opinion: Role of Judges and Commissioners and Environment court dispute resolution process</i> , Promoting Improved Court Policies and Practices on the Environment in Thailand, Bangkok, Thailand
23 September	<i>Operating an environmental court: The experience of the Land and Environment Court of NSW</i> , Australian Institute of Architects (NSW Chapter) CPD Program, Sydney
5 October	<i>Implementing the International Framework for Court Excellence: The experience of the Land and Environment Court of New South Wales</i> , Asia-Pacific Courts Conference, Singapore
14 October	<i>Climate change litigation: International and domestic perspectives</i> , University of Southern Queensland Public Lecture, Ipswich, Queensland
22 October	Panel discussion on <i>How will the challenges of preserving the world's biodiversity affect the practice of law in Australia and New Zealand in the future – challenges and opportunities for the young practitioner</i> , National Environmental Law Association (NELA) National Conference, Canberra

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3 November	<i>Climate Change Litigation</i> , Climate Change Governance after Copenhagen Conference, Hong Kong
13 November	<i>Climate Change Litigation: a conspectus</i> , 23 <sup>rd</sup> LAWASIA Conference, New Delhi, India
22 November	<i>Operating an Environment Court</i> , lecture to Horticulture students of TAFE NSW, Northern Sydney Institute
1 December	<i>Update on the Land and Environment Court</i> , a presentation to Urban Development Institute of Australia (UDIA) Luncheon, Sydney

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### **Publications**

“Foreword” in D E Fisher, *Australian Environmental Law: Norms, Principles and Rules*, 2<sup>nd</sup> Edition, Thomson Reuters, Sydney, 2010

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“An institute for enhancing effective environmental adjudication” by S Abed de Zavala, A H Benjamin, H G Davide Jr, A Dunn, P Hassan, D W Kaniaru, R Macrory, B J Preston, N A Robinson and M Wright, (2010) 3(1) *Journal of Court Innovation* 1

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“A judge’s perspective on using sentencing databases” (2010) 9(4) *The Judicial Review* 421; also published in (2010) 3(1) *Journal of Court Innovation* 247

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“Leadership by the courts in achieving sustainability” (2010) 27(5) *Environmental and Planning Law Journal* 321; also published in (2010) *Resource Management Theory & Practice* 17

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“Climate change in the courts” (2010) 36(1) *Monash University Law Review* 15

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“Climate change litigation”, in R Lyster (ed), *In the Wilds of Climate Law*, Australian Academic Press, Sydney, 2010, 208.

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“Reflection on water use and justice”, in J McKay, G Karemane and A Gray, *Picturing Freshwater Justice in Rural Australia*, Cooperative Research Centre for Irrigation Futures, Adelaide, 2010, 84.

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“The role of courts in relation to adaptation to climate change”, in T Bonyhady, A Macintosh and J McDonald (eds), *Adaptation to Climate Change: Law and Policy*, Federation Press, Sydney, 2010, 157.

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### **Membership of legal, cultural or benevolent organisations**

Official member, Judicial Commission of New South Wales

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

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

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

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Member, Australian Centre for Climate and Environmental Law (ACCEL) (Sydney)

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

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General Editor, Local Government Planning and Environment NSW Service

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

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Member, Advisory Board, TREENET

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Adjunct Professor, Sydney Law School, University of Sydney

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### **Delegations and international assistance**

13 January	Meeting with Mr Ray Purdy, Senior Research Fellow, AHRC Programme on Satellites and the Law, Faculty of Laws, University College London to discuss his study on enforcement of environmental laws using satellites and examples in New South Wales
23 March	Delegation of Chinese lawyers arranged by the Australia-China Legal Professional Development Program, Commonwealth Attorney General's Department
16 April	Delegation of Malaysian academics, Assoc Prof Dr Nor Shahriza Abd Karim, Tn. Hj Zainal Abidin Nordin and Assoc Prof Dr Ainul Jaria Bt Maidin, studying workings of the Land and Environment Court and the New Zealand Environment Court to propose a model for environmental adjudication for Malaysia
27 May	Delegation of Pacific Island lawyers, arranged by the Environmental Defender's Office (NSW), on the Land and Environment Court and environmental law and justice
8 July	Meeting with Justice Iain Ross, President, Victoria Civil and Administrative Tribunal (VCAT) to discuss the Land and Environment Court's implementation of the International Framework for Court Excellence
19-23 July	Meetings with Ms Mariana Frietas from Environmental Court in Curitiba, Brazil on the Land and Environment Court, its functions, operations and practice and procedure, for research for PhD thesis
12 August	Delegation of Vietnamese lawyers, arranged by the NSW Department of Environment, Climate Change and Water, the Asian Environmental Compliance and Enforcement Network (AECEN) and the Australasian Environmental Law Enforcement and Regulators Network (AELERT) on the Land and Environment Court and understanding the adjudication process
11-15 October	Meetings with Ms Sasha Blackmore, Barrister from London, UK, on the Land and Environment Court, its functions, operations and practice and procedure, for research paper on establishing an environment court for England and Wales

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## The Hon. Justice Terence William Sheahan AO

### Conferences and seminars

14 January	The Sydney Institute Lecture, Practical Environmentalism, The Hon. Tony Abbott MHR, Sofitel Sydney Wentworth
17 February	Twilight seminars, Online legal research, Ms Anna Clifton, Judicial Commission of New South Wales
24 February	Twilight seminar, Advanced Online Legal Research, Ms Anna Clifton, Judicial Commission of New South Wales
18 February	The Inaugural George Winterton Lecture, The Executive Power, Chief Justice R S French AC, Sydney Law School, The University of Sydney
1 March	The Sydney Institute Lecture, A New Age of Energy, The Hon. Martin Ferguson AM MP, Mallesons, Sydney
3 March	The Maurice Byers Lecture, Rules that ought not to be applied – the ultimate iconoclasm, Mr David Bennett AC QC and Mr Tom Bathurst QC (Chair), New South Wales Bar Association
8 March	The new world of Administrative Tribunals in Britain, Rt. Hon Lord Justice Carnwath C.V.O, Anglo Australasian Lawyers Association (AALA), New South Wales Bar Association
4-7 May	Australian Institute of Judicial Administration Incorporated (AIJA), Non-Adversarial Justice: Implications for the Legal System and Society Conference, Melbourne
8 June	Twilight seminar, Mastering Conflict: Concepts from Global Negotiation Institute, Ms Tina Spiegel, Judicial Commission of New South Wales
22 June	Constitutional Trends, Professor Greg Craven, Carroll & O’Dea Solicitors, Sydney
28 July	Address to Sydney Law School on the origins of the Bill of Rights of the US Constitution and jurisprudence of the US Supreme Court, Chief Justice Roberts, US Supreme Court, University of Sydney
5 August	Appointment Processes for Senior Counsel and Judges: Size matters, The Hon. A M Gleeson AC QC, Anglo Australian Lawyers Association (AALA), The University and Schools Club, Sydney
10 August	Twilight seminar, Classification and Placement of Prisoners, Mr Terry Halloran, Judicial Commission of New South Wales
20 August	Should there be criminal trials without juries? Should there be acquittals? The recent English experience, Rt Hon. Lord Justice Leveson, Anglo Australian Lawyers Association (AALA), The University and Schools Club, Sydney

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1-3 September	Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney
15 September	The Harry Whitmore Lecture, Freedom of Information, Justice R McColl, COAT (NSW Chapter)
8-10 October	Judicial Conference of Australia Colloquium, Hobart
26 October	Twilight seminar, Accessing the Credibility of Witnesses, Acting Justice Barr, Judicial Commission of New South Wales
18 November	Twilight seminar, Uses and Abuses of Expert Evidence, The Hon. Justice Ian Binnie, Supreme Court of Canada, (cross-jurisdictional twilight seminar series)

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### **Speaking engagements**

18 March	<i>Tribunal Justice</i> , Queensland Civil Administrative Tribunal (QCAT) members' training conference
9 September	<i>Judicial Decision-Making</i> , lecture to students of Planning Law, University of Sydney
21 September	<i>An Update on ADR and the LEC</i> , North Metropolitan Law Society
2 October	<i>Judicial Decision-Making</i> , lecture to students of Local Government Law, University of New South Wales
11 October	<i>Judicial Decision-Making</i> , lecture to students of Planning Law, University of Technology, Sydney
4 November	<i>ADR in the LEC</i> , lecture to students of Planning Law, Macquarie University Sydney
18 November	<i>How and Why to Stay Out of the LEC</i> , presentation to ICAA Property Group

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### **Membership of legal, cultural or benevolent organisations**

Court nominee on Governing Council of the Judicial Conference of Australia

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Member, Council of Southern Cross University

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Board member, UNICEF Australia National Committee

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Member, Australian Committee of the Oxford Health Alliance

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Member, Management Committee, Edmund Rice Business Ethics Initiative

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Associate and Mentor, Graduate School of Government, University of Sydney

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Justice Kevin Bell (Vic), Justice Nicola Pain and Mrs Judith Preston at ACPECT 2010 Conference



Justice Terry Sheahan AO, Dr Jenni Hardy, Commissioner Graham Brown and Commissioner John Hodgson (SA) at ACPECT 2010 Conference

## The Hon. Justice Nicola Hope Margaret Pain

### Conferences and seminars

24 February	Twilight seminar, Advanced Online Legal Research, Ms Anna Clifton, Judicial Commission of New South Wales
8 June	Twilight seminar, Mastering Conflict: Concepts from Global Negotiation Institute, Ms Tina Spiegel, Judicial Commission of New South Wales
23-23 July	Delivering Administrative Justice, 2010 National Administrative Law Forum Faculty of Law, University of Sydney
24 August	Twilight seminar, Update on Procedural Fairness in Merits Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales
1-3 September	Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney
26 October	Twilight seminar, Accessing the Credibility of Witnesses, Acting Justice Barr, Judicial Commission of New South Wales
18 November	Twilight seminar, Uses and Abuses of Expert Evidence, The Hon. Justice Ian Binnie, Supreme Court of Canada, (cross-jurisdictional twilight seminar series)

### Speaking engagements

27 May	<i>Overview of Land and Environment Court of NSW</i> , lecture to delegation of Pacific Island lawyers, arranged by the Environmental Defender's Office (NSW)
4 June	<i>The (Legal) Impact and Challenges of Climate Change</i> , Newcastle Law Society

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## Membership of legal, cultural or benevolent organisations

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

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

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Member, Land and Environment Court Education Committee

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Chair, Land and Environment Court Library Committee

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## The Hon. Justice Peter Meldrum Biscoe

### Conferences and seminars

17 February	Twilight seminar, Introduction to Online Research, Ms Anna Clifton, Judicial Commission of New South Wales
2 June	CPD Seminar, The High Court in Kirk – jurisdictional errors and misconstruing statutes, Administrative Law and Constitutional Law Section, New South Wales Bar Association
8 June	Twilight seminar, Mastering Conflict: Concepts from Global Negotiation Institute, Ms Tina Spiegel, Judicial Commission of New South Wales
22-23 July	2010 National Administrative Law Forum, Delivering Administrative Justice, Faculty of Law, University of Sydney
16 August	Trial efficiency and case management under the Criminal Procedure Act, Rt Hon. Lord Justice Leveson, Banco Court, Sydney
18 August	Fifth John Lehane Memorial Lecture, Influence of European Law on the Common Law in English Courts, Lord Hoffman, Banco Court, Sydney
24 August	Twilight seminar, Update on Procedural Fairness in Merits Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales
1-3 September	Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney
26 October	Twilight seminar, Accessing the Credibility of Witnesses, Acting Justice Barr, Judicial Commission of New South Wales
18 November	Twilight seminar, Uses and Abuses of Expert Evidence, The Hon. Justice Ian Binnie, Supreme Court of Canada, (cross-jurisdictional twilight seminar series)

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## Speaking engagements

- 2 September *Jurisdiction, Structure and Civil Practice and Procedure: South Australia, Western Australia and NSW* with Her Honour Judge Christine Trenorden and Senior Member David Parry, Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney
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- 3 September *Closing Remarks*, Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney
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## Membership of legal, cultural or benevolent organisations

Chair, Land and Environment Court Education Committee

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

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*Judge Christine Trenorden and Justice Peter Biscoe at ACPECT 2010 Conference*



*Judge Merideth Wright (Vermont), Professor and Mrs Passos de Freitas (Brazil) at ACPECT 2010 Conference*

## The Hon. Justice Rachel Ann Pepper

### Conferences and seminars

- 9 March Australian Association of Constitutional Law (AACL) seminar, Constitutional Issues and the Strength of Aboriginal Property Rights, Mr Sean Brennan
- 
- 28 April Australian Association of Constitutional Law (AACL) seminar, Update on pending Constitutional Law cases, Federal Court, Sydney
- 
- 16 August Trial efficiency and case management under the Criminal Procedure Act, speech by the Rt Hon. Lord Justice Leveson, Banco Court, Sydney
- 
- 23 August CPD Twilight seminar, Use of Concurrent Expert Evidence, Justice Steven Rares and Mr B Coles QC
- 
- 24 August Twilight seminar, Update on Procedural Fairness in Merits Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales
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26 August	Australian Association of Constitutional Law (AACL) seminar, Federal Constitutional Influences on State Judicial Review, Dr Matthew Groves, Federal Court, Sydney
1-3 September	Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney
15 September	Launch of <i>The Strange Alchemy of Life and Law</i> , an Evening with Albie Sachs, Freehills Library, Sydney
20 October	Australian Association of Constitutional Law (AACL) seminar, Boilermakers Revisited, Dr James Stelios
22-23 October	Environment and Planning Law Association (NSW) (EPLA) Annual Conference, The Pavilion, Kiama
26 October	Twilight seminar, Accessing the Credibility of Witnesses, Acting Justice Barr, Judicial Commission of New South Wales
18 November	Twilight seminar, Uses and Abuses of Expert Evidence, The Hon. Justice Ian Binnie, Supreme Court of Canada, (cross-jurisdictional twilight seminar series)

### Speaking engagements

30 April	Q&A Session, Open Day for Female Law Students, New South Wales Bar Association
29 May	Mock Trial Judge for May 2010 Bar Practice Course
2 June	<i>Class 5 Practice and Procedure</i> , CLE lecture, NSW Young Lawyers Environmental Law Committee
8 June	<i>Joint and Court-Appointed Experts</i> , API and University of NSW, Associate Professional Certificate in Expert Evidence
29 September	<i>Contribution of Women to Environmental Law in Australia</i> , Environmental Law Networking Forum, Women Lawyers Association of NSW, Martin Place Chambers, Sydney
22 October	<i>Drafting of Class 4 and Class 5 Initiating Documents</i> , with Mr R Lancaster SC, Environment and Planning Law Association (NSW) (EPLA) Conference, The Pavilion, Kiama

### Publications

Federal Court Rules annotations contributing author, *Practice and Procedure High Court and Federal Court of Australia*, LexisNexis 2000

### Membership of legal, cultural or benevolent organisations

Chair, Land and Environment Court Judicial Newsletter Committee

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## The Hon. Justice Malcolm Graeme Craig

### Conferences and seminars

18-23 April	National Judicial Orientation Program, Sofitel, Broadbeach, Queensland
28 May	Environmental Defender's Office National Conference, Public Interest Law in Australia: 25 Years On and Conference Dinner
2 June	CPD Seminar, The High Court in Kirk, Dr Andrew Edgar, New South Wales Bar Association
8 June	Twilight seminar, Mastering Conflict: Concepts from Global Negotiation Institute, Ms Tina Spiegel, Judicial Commission of New South Wales
24 August	Twilight seminar, Update on Procedural Fairness in Merits Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales
1-3 September	Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney
7-8 September	Judgment Writing Workshop, Professor James Raymond, Judicial Commission of New South Wales
22-23 October	Environment and Planning Law Association (NSW) (EPLA) Annual Conference, The Pavilion, Kiama
26 October	Twilight seminar, Accessing the Credibility of Witnesses, Acting Justice Barr, Judicial Commission of New South Wales
18 November	Twilight seminar, Uses and Abuses of Expert Evidence, The Hon. Justice Ian Binnie, Supreme Court of Canada, (cross-jurisdictional twilight seminar series)

### Membership of legal, cultural or benevolent organisations

Member, Caselaw Governance Committee

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## Mr Tim Moore, Senior Commissioner

### Conferences and seminars

17 February	CLE Seminar, The Social Impacts of Alcohol
8 April	Twilight seminar, Ex Tempore Judgments, Mr Tom Wodak, Judicial Commission of New South Wales
8 June	Twilight seminar, Mastering Conflict: Concepts from Global Negotiation Institute, Ms Tina Spiegel, Judicial Commission of New South Wales
8 June	Australian Property Institute (API) Expert Witness Course
24 August	Twilight seminar, Update on Procedural Fairness in Merits Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales

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1-3 September Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney

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### **Speaking engagements**

22 March *Mining Jurisdiction*, CLE Seminar, College of Law Students, Sydney

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13 May *The Role of the Court*, lecture to postgraduate Planning students from University of Technology, Sydney

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2 September *The Role of the Court*, lecture to postgraduate Planning students from University of Technology, Sydney

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15 September *What the Court expects of Conditions of Consent*, Getting it Just Right: Understanding and applying s 96 and s 82A and Conditions of Consent, NEERG Seminar, The Mint, Sydney

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23 October *Contrasting Conciliation v Mediation in the Land and Environment Court*, Environment and Planning Law Association (NSW) (EPLA) Conference, The Pavilion, Kiama

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## **Mr Robert Hussey, Commissioner**

### **Conferences and seminars**

8 April Twilight seminar, Ex Tempore Judgments, Mr Tom Wodak, Judicial Commission of New South Wales

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20 April Institute of Engineers seminar, Top Ryde Shopping Centre, Sydney

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8 June Twilight seminar, Mastering Conflict: Concepts from Global Negotiation Institute, Ms Tina Spiegel, Judicial Commission of New South Wales

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24 August Twilight seminar, Update on Procedural Fairness in Merits Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales

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1-3 September Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney

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26 October Twilight seminar, Accessing the Credibility of Witnesses, Acting Justice Barr, Judicial Commission of New South Wales

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## **Mr Graham Brown, Commissioner**

### **Conferences and seminars**

17 February Twilight seminar, Introduction to Online Research, Ms Anna Clifton, Judicial Commission of New South Wales

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8 April Twilight seminar, Ex Tempore Judgments, Mr Tom Wodak, Judicial Commission of New South Wales

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24 August	Twilight seminar, Update on Procedural Fairness in Merits Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales
1-3 September	Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney
26 October	Twilight seminar, Accessing the Credibility of Witnesses, Acting Justice Barr, Judicial Commission of New South Wales
18 November	Twilight seminar, Uses and Abuses of Expert Evidence, The Hon. Justice Ian Binnie, Supreme Court of Canada, (cross-jurisdictional twilight seminar series)

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### Speaking engagements

27 May	<i>Overview of the role of Commissioners at the Land and Environment Court of NSW</i> , lecture to delegation of Pacific Island lawyers, arranged by the Environmental Defender's Office (NSW)
22 October	<i>Statement of Facts and Contentions Drafting Workshop</i> , Environment and Planning Law Association Annual Conference, Kiama
26 October	<i>Modern Approaches to the Built Environment</i> , Local Government Association of NSW Annual Conference, Albury

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## Ms Jan Murrell, Commissioner

### Conferences and seminars

17 February	Twilight seminar, Introduction to Online Research, Ms Anna Clifton, Judicial Commission of New South Wales
8 April	Ex Tempore Judgments Workshop, His Honour Judge Tom Wodak, Judicial Commission of New South Wales
8 June	Twilight seminar, Mastering Conflict: Concepts from Global Negotiation Institute, Ms Tina Spiegel, Judicial Commission of New South Wales
1-3 September	Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney
26 October	Twilight seminar, Accessing the Credibility of Witnesses, Acting Justice Barr, Judicial Commission of New South Wales
18 November	Twilight seminar, Uses and Abuses of Expert Evidence, The Hon. Justice Ian Binnie, Supreme Court of Canada, (cross-jurisdictional twilight seminar series)

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### Speaking engagements

10 August	<i>The Role of Commissioners in the Court</i> , presentation to Planning Law Students in Masters in Planning Course, University of Sydney
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## Ms Annelise Tuor, Commissioner

### Conferences and seminars

17 February	Twilight Seminar, Online Research, Ms Anna Clifton, Judicial Commission of New South Wales
8 April	Twilight seminar, Ex Tempore Judgments, Mr Tom Wodak, Judicial Commission of New South Wales
14 April	PRC Seminar, Planning Australia's Major Cities, Ms Dorte Ekelund, Planning Research Centre, University of Sydney
3 May	PRC Sunset Series Seminar, Views of Future Planning, The Hon. Tony Kelly MLC, Minister for Planning, Planning Research Centre, University of Sydney
8 June	Twilight seminar, Mastering Conflict: Concepts from Global Negotiation Institute, Ms Tina Spiegel, Judicial Commission of New South Wales
24 August	Twilight seminar, Update on Procedural Fairness in Merits Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales
1-3 September	Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney
25 October	City Talk, Sydney's Energy Revolution – Building a Low Carbon City
26 October	Twilight seminar, Accessing the Credibility of Witnesses, Acting Justice Barr, Judicial Commission of New South Wales

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## Ms Susan Dixon, Commissioner

### Conferences and seminars

18 March	EPLA twilight seminar, Practice and procedure in the Land and Environment Court, Mr Patrick Larkin and Ms Janet McKelvey, Sydney
8 April	Twilight seminar, Ex Tempore Judgments, Mr Tom Wodak, Judicial Commission of New South Wales
8 June	Twilight seminar, Mastering Conflict: Concepts from Global Negotiation Institute, Ms Tina Spiegel, Judicial Commission of New South Wales
4 August	EPLA twilight seminar, The changes to the <i>Trees (Disputes Between Neighbours) Act 2006</i> , Commissioner Judy Fakes, Sydney
24 August	Twilight seminar, Update on Procedural Fairness in Merits Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales
1-3 September	Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney
22-23 October	Environment and Planning Law Association (NSW) (EPLA) Conference, The Pavilion, Kiama

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16 November	Twilight seminar, Introduction to Online Research, Ms Anna Clifton, Judicial Commission of New South Wales
18 November	Twilight seminar, Uses and Abuses of Expert Evidence, The Hon. Justice Ian Binnie, Supreme Court of Canada, (cross-jurisdictional twilight seminar series)

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### **Membership of legal, cultural or benevolent organisations**

Member, Council of Australasian Tribunals

Member, Institute of Arbitrators and Mediators Australia

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## **Ms Linda Pearson, Commissioner**

### **Conferences and seminars**

24 February	Twilight seminar, Advanced Online Legal Research, Ms Anna Clifton, Judicial Commission of New South Wales
8 April	Twilight seminar, Ex Tempore Judgments, Mr Tom Wodak, Judicial Commission of New South Wales
4-7 May	Non Adversarial Justice: Implications for the Legal System and Society, ALJA and Monash University, Melbourne
8 June	Twilight seminar, Mastering Conflict: Concepts from Global Negotiation Institute, Ms Tina Spiegel, Judicial Commission of New South Wales
22-23 July	Delivering Administrative Justice: Australian Institute of Administrative Law National Administrative Law Forum, Sydney
26 August	Australian Association of Constitutional Law (AACL) seminar, Federal Constitutional Influences on State Judicial Review, Dr Matthew Groves, Justice Brian Preston and Mr Mark Robinson, Federal Court, Sydney
1-3 September	Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney
21-24 September	Australia/New Zealand Faculty Development Program 2010: National Judicial Institute (Canada) in collaboration with National Judicial College of Australia, Institute of Judicial Studies New Zealand, Judicial Commission of New South Wales, Judicial College of Victoria, Australasian Institute of Judicial Administration
29 September	The Contribution of Women to Environmental Law in Australia, The Hon. Justice Rachel Pepper, Women Lawyers Association of NSW seminar, Martin Place Chambers, Sydney
26 October	Twilight seminar, Accessing the Credibility of Witnesses, Acting Justice Barr, Judicial Commission of New South Wales

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## Speaking engagements

2 September	<i>Planning Principles and Precedents</i> , Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney
22 October	<i>Class 1 Statement of Facts and Contentions</i> , Environmental and Planning Law Association (NSW) Inc (EPLA), Kiama NSW

## Publications

L Pearson, L Pearson & C Pearson "Sustainable Urban Agriculture: Stocktake and Opportunities" (2010) 8 International Journal of Agricultural Sustainability 7-19

## Membership of legal, cultural or benevolent organisations

Member, Administrative Review Council

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

Member, Land and Environment Court Judicial Newsletter Committee

## Ms Judy Fakes, Commissioner

### Conferences and seminars

17 February	Twilight seminar, Introduction to online legal research, Ms Anna Clifton, Judicial Commission of New South Wales
18 March	EPLA twilight seminar, Practice and procedure in the Land and Environment Court, Mr Patrick Larkin and Ms Janet McKelvey, Sydney
8 April	Twilight seminar, Ex Tempore Judgments, Mr Tom Wodak, Judicial Commission of New South Wales
8 June	Twilight seminar, Mastering Conflict: Concepts from Global Negotiation Institute, Ms Tina Spiegel, Judicial Commission of New South Wales
24-29 July	International Society of Arboriculture International Conference, Chicago
24 August	Twilight seminar, Procedural Fairness in Merit Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales
1-3 September	Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney
29 September	The Contribution of Women to Environmental Law in Australia, The Hon. Justice Rachel Pepper, Women Lawyers Association of NSW seminar, Martin Place Chambers, Sydney
26 October	Twilight seminar, Accessing the Credibility of Witnesses, Acting Justice Barr, Judicial Commission of New South Wales

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## Speaking engagements

4 August	The changes to the <i>Trees (Disputes Between Neighbours) Act 2006</i> , EPLA Twilight seminar, Sydney
20 August	<i>Hedges and the Trees Act</i> , Local Government Tree Resources Association, Sydney
12 November	<i>Trees &amp; Neighbours: A model for dispute resolution</i> , New Zealand Arboriculture Association Conference, Auckland, New Zealand

## Membership of legal, cultural or benevolent organisations

Member, Royal Botanic Gardens Horticulture Committee

Member, TREENET Management Committee

Member, Standards Australia Arboriculture Committee

Member, International Society of Arboriculture

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## Ms Susan Morris, Commissioner

### Conferences and seminars

4 August	EPLA twilight seminar, The changes to the <i>Trees (Disputes Between Neighbours) Act 2006</i> , Commissioner Judy Fakes, Sydney
1-3 September	Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Sydney
26 October	Twilight seminar, Accessing the Credibility of Witnesses, Acting Justice Barr, Judicial Commission of New South Wales
18 November	Twilight seminar, Uses and Abuses of Expert Evidence, The Hon. Justice Ian Binnie, Supreme Court of Canada, Judicial Commission of New South Wales

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# **Appendices**

**Appendix 1 – Court Users Groups**

**Appendix 2 – Court Committees**

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# 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 2010

The Hon. Justice Brian Preston, Chief Judge (Chair)	Land and Environment Court
Senior Commissioner Tim Moore	Land and Environment Court
Registrar Joanne Gray	Land and Environment Court
Mr Damon Anderson	Department of Water and Energy
Ms Christina Bunbury	Australian Institute of Landscape Architects
Mr Peter Callaghan SC	Institute of Arbitrators and Mediators
Mr Mark Campbell	Australian Property Institute
Mr Ross Fox	Department of Environment and Climate Change
Mr Aaron Gadiel	NSW Urban Taskforce
Mr Chris Hallam	Engineers Australia
Mr Ian Hemmings	Environment and Planning Law Association
Mr James Johnson	Nature Conservation Council of New South Wales
Dr Jeff Kildea	New South Wales Bar Association
Mr Frank Loveridge	Local Government Association of New South Wales and Shires Association of New South Wales
Ms Helen MacFarlane	Urban Development Institute of Australia
Ms Janet McKelvey	Environment and Planning Law Association
Mr Michael Neustein	Royal Australian Institute of Architects (NSW Chapter)
Cr Michael Reymond	Local Government Representative

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Ms Kirsty Ruddock	Environmental Defender's Office
Mr Eugene Sarich	Australian Institute of Building Surveyors and Australian Institute of Environmental Health
Mr Chris Shaw	Property Council of Australia
Mr Gary Shiels	Planning Institute of Australia (NSW Division)
Mr Stuart Simington	Housing Industry Association
Ms Anna Summerhayes	Department of Planning
Ms Mary-Lynne Taylor	Urban Development Institute of Australia
Ms Julie Walsh	Law Society Development and Planning Committee and Law Society of New South Wales
Mr Colin Weatherby	Institution of Surveyors New South Wales Inc
Mr Ian Woodward	Local Government Lawyers Group

## Mining Court Users Group

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

## Members during 2010

The Hon. Justice Brian Preston, Chief Judge (Chair)	Land and Environment Court
Senior Commissioner Tim Moore	Land and Environment Court
Commissioner Susan Dixon	Land and Environment Court
Mr Stewart Armstrong	Industry & Investment NSW
Mr Matt Brand	NSW Farmers Association
Mr W Browne	Browne, Jeppesen & Sligar Solicitors
Mr Nicholas Dan	Bilbie Dan Solicitors & Attorneys
Mr Mark Faraday	Kemp Strang Lawyers
President Pat Fletcher	Grawin-Glengarry Sheeppark Miners' Association
Mr Rodney George	Department of Primary Industries NSW
Mr Bob Harrison	Mining Titles Services Pty Ltd
Mr Russell Hetherington	Hetherington Mining and Exploration Titles Services Pty Ltd
Mr Patrick Holland	MinterEllison

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Mr Robert Jarratt	Jarratt, Webb & Graham Pty Ltd
Mr Peter Long	Slater & Gordon Lawyers
Mr Lindsay Moore	Moore & Co Solicitors
Ms Maxine O'Brien	Lightning Ridge Miners' Association
Mr Stuart Percy	Stuart Percy & Associates Solicitors
Ms Kirsty Ruddock	Environmental Defender's Office
Ms Sue-Ern Tan	NSW Minerals Council
Mr Andrew White	Sparke Helmore Lawyers

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## Appendix 2 – Court Committees

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### Court Committees

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

### Rules Committee

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

#### Members

The Hon. Justice Brian John Preston, Chief Judge

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The Hon. Justice Terence William Sheahan AO

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The Hon. Justice Peter Meldrum Biscoe

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The Hon. Justice Rachel Ann Pepper

### Education Committee

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

#### Members

The Hon. Justice Peter Meldrum Biscoe (Chair)

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The Hon. Justice Nicola Hope Margaret Pain

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Commissioner Linda Pearson

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Ms Joanne Gray, Registrar

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

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Ms R Sheard, Conference Co-ordinator, Judicial Commission of New South Wales

## Library Committee

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

### Members

The Hon. Justice Nicola Hope Margaret Pain (Chair)

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Commissioner Jan Murrell

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Ms Anna Clifton, Court Librarian

## 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 Rachel Ann Pepper (Chair)

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Commissioner Linda Pearson

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Ms Vicki Ferguson, Information & Research Officer

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Ms Holly Kendall, Tipstaff to Justice Pepper

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of New South Wales**

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