

The Land and Environment Court of NSW



Annual Review

2009

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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 three years' Annual Reviews of reporting on an expanded range of quantitative performance indicators. Reference to these quantitative performance indicators reveals that the Court has been successful in achieving the objectives of equity, effectiveness and efficiency.

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

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

But even the inclusion of these qualitative indicators still leaves unevaluated the Court's material contribution to the community represented by the large volume of decisions made. The Court produced 655 substantive 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 **2009: 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 2007 and 2008.

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%;
- Improvements in all but two classes of the Court's jurisdiction in the timeliness of the caseload, as measured by the backlog indicator;
- A decrease in the time taken for finalisation of merits review appeals in Class 1;
- Maintenance of the high percentage of reserved judgments delivered within 90 days; 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

Legislation was passed in 2008 to give the Court jurisdiction to hear and dispose of proceedings under the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991*. Civil proceedings are dealt with in a new class of jurisdiction, Class 8, whilst criminal proceedings are dealt with in Class 5 of the Court's jurisdiction. These proceedings were formerly dealt with by the Mining Wardens' Courts which were abolished by the legislation. Although the legislation was assented to on 8 December 2008, the changes did not take effect until 7 April 2009.

To implement this new jurisdiction, the Court held stakeholder meetings in Sydney and Lightning Ridge, established and held meetings of a specialist Mining Court Users Group, and established special webpages on the Court's website on the mining jurisdiction.

The *Civil Procedure Amendment (Transfer of Proceedings) Act 2009* amended the *Civil Procedure Act 2005* to enlarge the power of the Supreme Court and the Land and Environment Court to transfer civil proceedings to the other court where it is more appropriate for the proceedings to be heard in the other court.

The Land and Environment Court Rules 2007 were amended so as to extend to all civil proceedings in Classes 1-4 and 8 of the Court's jurisdiction neutral evaluation and Part 55 of the Supreme Court Rules regarding contempt.

The Court has a reputation for innovation in court administration and implementing successful initiatives in performance improvement. Building upon these innovations and initiatives the Court became the first court in the world to adopt and

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implement the International Framework for Court Excellence. The Framework is derived from the collected experience of courts in Australasia, Canada, the USA, Singapore and Europe as a management improvement methodology. The Court assessed its performance by reference to internationally recognised court values and to seven generic areas of court excellence:

1. court leadership and management
2. court planning and policies
3. court proceedings
4. public trust and confidence
5. user satisfaction
6. court resources
7. affordable and accessible court services.

After assessing its performance, the Court developed a comprehensive program of action to improve its performance in each of these areas of court excellence. Through 2009, the Court has commenced the process of implementing the identified actions.

One of the measures taken by the Court in implementing the Framework is to adopt and publicise a statement of purpose. The statement of purpose of the Court is set out in Chapter 2 Court Profile.

The Court, in conjunction with the Judicial Commission of New South Wales, updated and enhanced the sentencing database for environmental offences, which is part of the Judicial Information Research System.

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. The twilight seminar series commenced in November 2008, with 6 seminars being held in 2009.

The Court commenced publication on a quarterly basis of a judicial newsletter summarising recent legislation and judicial decisions of relevance to the Court's jurisdiction. In 2009, the judicial newsletter was distributed to all Judges, full-time and Acting Commissioners and Registrars.

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 arranged for all full-time Commissioners and the Registrar to attend a mediation training course held by the Australian Commercial Disputes Centre to attain national accreditation as mediators.

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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 2009, 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 a new Mining Court User Group and informally with a variety of legal practitioners and professional bodies.

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

The Court also commenced an email notification service on two specific topic areas, trees and native vegetation as well as mining. Emails are sent to court users who have registered to receive notification of recent legislation, court policies, practice and procedure, and court decisions. The email notification service enables the Court to be proactive in communicating with court users and interested members of the public on specific topics of interest.

## 2 Court Profile

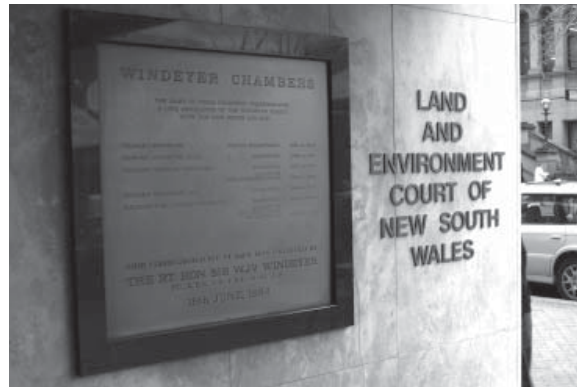
- The Court
- Statement of purpose
- The Court's jurisdiction
- The Court's place in the court system
- Who makes the decisions?
  - The Judges
  - The Commissioners
  - The Registrars
- Appointments and retirements
- Supporting the Court: the Registry



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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
- 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

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

In 2009, 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**

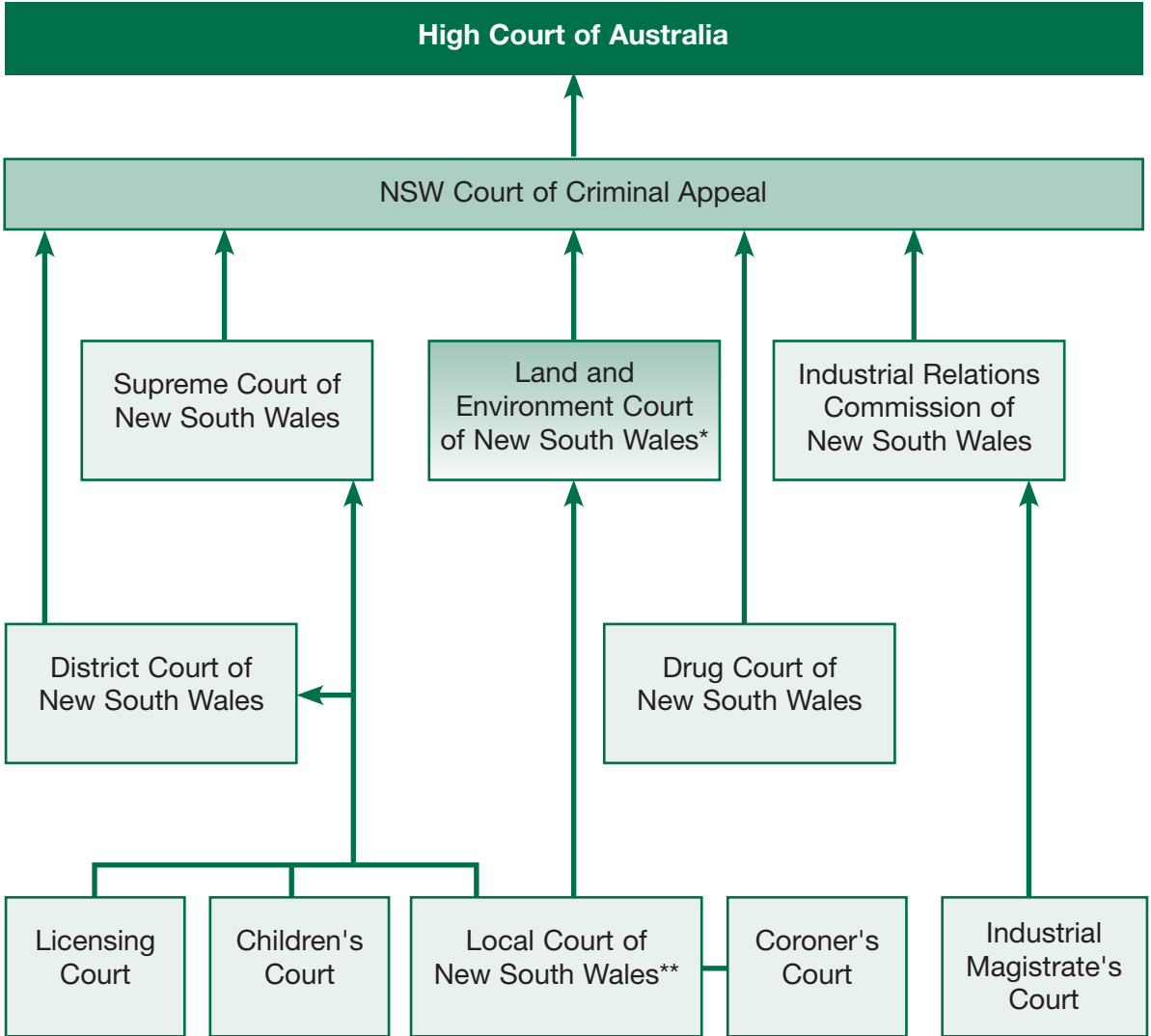
<b>Class 1</b>	environmental planning and protection appeals (merits review appeals)
<b>Class 2</b>	local government, trees and miscellaneous appeals (merits review appeals)
<b>Class 3</b>	land tenure, valuation, rating and compensation matters (merits review appeals)
<b>Class 4</b>	environmental planning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

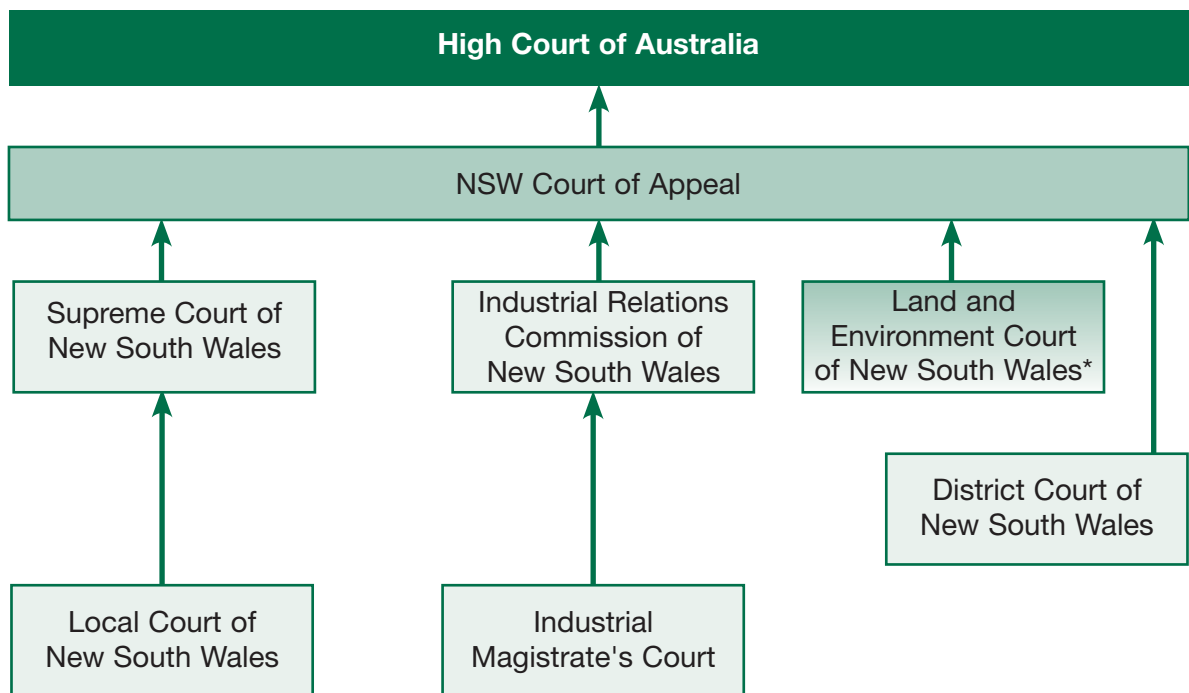
**Figure 2.1 New South Wales Court System – Criminal Jurisdiction**



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

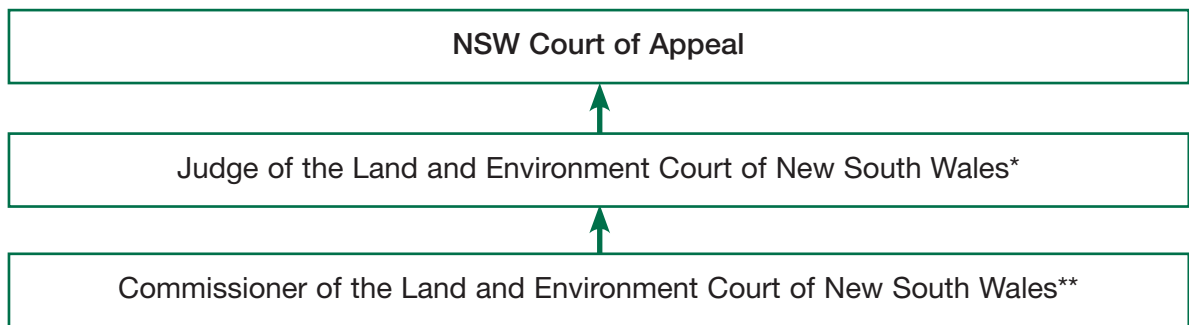
\*\* Appeals from the Local Court of New South Wales to the Land and Environment Court are with respect to an environmental offence under the *Crimes (Appeal and Review) Act 2001* and are in Classes 6 and 7 of the Land and Environment Court's jurisdiction.

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



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

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



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

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

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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 2009, the Judges, in order of seniority, were as follows:

#### Chief Judge

The Honourable Justice Brian John Preston

#### Judges

The Honourable Mr Justice David Henry Lloyd

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

#### Acting Judges

No Acting Judges were appointed during 2009.

### 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 2009, the Commissioners were as follows:

### ***Senior Commissioner***

Mr Tim Moore

### ***Commissioners***

Mr Trevor A Bly

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

### ***Acting Commissioners***

Associate Professor Dr Paul Adam – botanist and ecologist

Professor Dr Larissa Behrendt – member of the Aboriginal community

Ms Megan Davis – member of the Aboriginal community

Dr Mary Edmunds – anthropologist and mediator

Ms Rhonda Jacobsen – member of the Aboriginal community

Mr E Craig Miller – valuer and mediator

Dr David Parker – valuer

Professor Sharon Sullivan AO – heritage consultant

Mr Peter Thyer – arborist

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

As at 31 December 2009, the Registrars were as follows:

### ***Acting Registrar***

Ms Joanne Gray

### ***Acting Assistant Registrar***

Ms Maria Anastasi

## **Appointments and retirements**

### **Appointments**

The Honourable Justice Rachel Ann Pepper was appointed as a Judge on 1 May 2009.

Mr Tim Moore was appointed Senior Commissioner on 11 March 2009.

Ms Susan Dixon was appointed as a Commissioner on 6 July 2009.

Ms Linda Pearson was appointed as a Commissioner on 13 July 2009.

Ms Judy Fakes was appointed as a Commissioner on 2 October 2009.

Acting Magistrate John Bailey was appointed as an Acting Commissioner for the term 12 March 2009 to 30 June 2009.

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## Retirements

Dr John Roseth retired from the position of Senior Commissioner on 13 February 2009.

Mr Kevin Hoffman retired as a full time Commissioner on 19 March 2009 and was appointed as an Acting Commissioner of the Court until 31 May 2009.

Dr Mark Taylor resigned as a full-time Commissioner on 7 August 2009.

The following persons ceased to be Acting Commissioners during 2009:

Dr David Goldney (resigned on 20 July 2009).

Acting Magistrate John Bailey (term expired 30 June 2009).

## 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.

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### 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.

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### Commissioner Support

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

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 75% 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 civil 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 on 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 2009, the Court experienced an increase in the use of eCourt callover and recorded 984 registered eCourt users (up from 916 in 2008). 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 call-over 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



*On-site hearing*

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 2005-2009.

**Table 3.1 s 34 Conciliation Conferences 2005 – 2009**

	2005	2006	2007	2008	2009
<b>s 34 conferences</b>	17	29	214	552	481

The table shows a continued, significant utilisation of conciliation conferences in 2009.

### **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 2005-2009. 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 2005 – 2009**

		2005	2006	2007	2008	2009
<b>Classes 1 and 2</b>	Total:	8	15	9	3	5
	Internal	7	5	6	2	5
	External	1	10	3	1	0
	Number finalised pre-hearing	5	13	5	2	1
	% finalised pre-hearing	63	87	56	66	20
<b>Class 3</b>	Total:	9	30	15	8	8
	Internal	1	1	0	5	2
	External	8	29	15	3	6
	Number finalised pre-hearing	3	26	12	7	8
	% finalised pre-hearing	33	87	80	88	100
<b>Class 4</b>	Total:	7	7	7	13	14
	Internal	3	3	3	8	3
	External	4	4	4	5	11
	Number finalised pre-hearing	6	7	5	11	12
	% finalised pre-hearing	86	100	71	85	86
<b>All Classes</b>	Total:	24	52	31	24	27
	Internal	12	9	9	15	10
	External	13	43	22	9	17
	Number finalised pre-hearing	14	46	22	20	19
	% finalised pre-hearing	58	88	71	83	70

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 between 2007 and 2009 is relatively constant.

### 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

- Mining jurisdiction
- Transfer of civil proceedings between courts
- Amendments to Court rules
- International Framework for Court Excellence
- Sentencing database for environmental offences

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During 2009, reforms continued with respect to the following areas:

- Mining jurisdiction;
- Transfer of civil proceedings between courts; and
- Amendments to Court rules.

The Court adopted and commenced implementing the International Framework for Court Excellence.

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

## Mining jurisdiction

From 7 April 2009, the Court acquired jurisdiction to hear and dispose of civil proceedings under the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991*. The Court undertook a number of measures to assist parties, practitioners and other interested persons to understand the Court, the new mining jurisdiction and how it will be administered.

First, the Court established on its website new webpages on the mining jurisdiction of the Court. The webpages contain:

- An introduction to the mining jurisdiction.
- Information materials, including a powerpoint presentation on the mining jurisdiction and information sheets on Class 8 directions hearings, urgent interlocutory injunctions and service of documents.
- Court materials, including biographies on the Judges and the Commissioners for Mining, court forms, court fees and hearing dates,

- Court decisions on mining including of the Court as well as other courts.
- Reference materials, including legislation and rules and links to government websites relating to mining.

Secondly, the Court held meetings with stakeholders in Sydney and Lightning Ridge, at which presentations were made by the Chief Judge, Senior Commissioner and a Commissioner for Mining on the Court, the new mining jurisdiction and how it will be administered. Stakeholders had an opportunity to raise questions and concerns and make suggestions. A third meeting was later held in Broken Hill with local stakeholders.

Thirdly, the Court established a specialist Mining Court Users Group which meets on a quarterly basis. To overcome geographical inaccessibility, the meetings are held at 4.30pm in a courtroom equipped with telephone conference call facilities. This allows members to attend in Sydney or by telephone conference call from anywhere in New South Wales.

## Transfer of civil proceedings between courts

Historically, there has been a limited power of the Supreme Court of New South Wales to transfer proceedings commenced in that court to the Land and Environment Court. The limitations were that the transfer was only in one direction and that only proceedings that could or should have been commenced in the Land and Environment Court were able to be transferred.

The *Civil Procedure Amendment (Transfer of Proceedings) Act 2009* amended the *Civil Procedure Act 2005* (ss 149A-149E) to enlarge the power to transfer proceedings



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between the courts. From 9 June 2009, either the Supreme Court or the Land and Environment Court may transfer civil proceedings to the other court where it is more appropriate for the proceedings to be heard in the other court. The court to which civil proceedings are transferred has, and may exercise, all of the jurisdiction of the transferring court in relation to the transferred proceedings.

## Amendments to Court rules

The Land and Environment Court Rules 2007 were amended by the Land and Environment Court Rules (Amendment No 1) 2009 so as to extend to all civil proceedings in Classes 1-4 and 8 of the Court's jurisdiction:

- (a) the dispute resolution process of neutral evaluation; and
- (b) Part 55 of the Supreme Court Rules regarding contempt.

The procedure for entry of judgments and orders in all classes of the Court's jurisdiction was also amended to depart from the procedure in the Uniform Civil Procedure Rules 2005 to overcome practical problems being encountered. The amended Rules came into effect on 26 June 2009.

## 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.

Preparations to apply the Framework were settled in December 2008. The agreed methodology was to schedule two meetings of members of the Court, during which they would undertake the self-assessment questionnaire outlined in the Framework. These meetings took place in February and March 2009 and involved five Judges, eight full-time Commissioners, six Acting Commissioners and two Registrars of the Court. After the first meeting, each of the 21 participants completed the self-assessment questionnaire. The individual results were combined and discussed at the second meeting. The second meeting selected consensus answers to the self-assessment, which were considered representative of the collective views of the participants.

The consensus answers were weighted and converted to a score using the methodology in the Framework. The final weighted score placed the Court in Band 4 (out of 6) which is effectively in the upper middle range. The Framework describes the effect of Band 4 assessment in these terms:



<b>Approach</b>	<b>Deployment</b>	<b>Results</b>
A sound effective approach is in place. The approach is aligned with basic organisational needs identified in other categories.	Approach is deployed in most key areas of the organisation.	Good performance levels and/or improvement trends in most key indicators; or there are favourable comparisons and/or benchmarks in some areas; or results are reported for most key indicators.

The Framework envisages that the self-assessment process will be used to identify and prioritise areas which appear to be most in need of attention and to focus on improvement in those areas.

The Court convened an ad hoc planning committee comprising two Judges (including the Chief Judge), two full-time Commissioners (including the Senior Commissioner), an Acting Commissioner and two Registrars. The planning committee held a series of meetings between March to June 2009. The planning committee considered the matters in each of the seven areas of court excellence which appeared to need improvement.

The first matter was to prepare and adopt a statement of purpose. The adopted statement of purpose is set out in Chapter 2 Court Profile. The planning committee developed a table identifying the actions the Court would pursue to improve itself institutionally in response to the matters highlighted in the self-assessment. The table identifies the seven areas of court excellence. These 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.

For each of these areas, the table describes each action to be undertaken by the Court and the expected outcome, the steps to achieve the action and the outcome, the persons responsible, the timing and the performance indicator to ascertain successful completion.

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The table was settled by September 2009. The Court then commenced to undertake the actions. The actions are being continued to be implemented. Through this process, the Court's performance in each of the seven areas of court excellence is being improved.

Amongst the actions undertaken in 2009 are:

- adoption and publication of the Court's statement of purpose;
- establishment of the Mining Court Users Group;
- management training for Registry staff;
- performance review for Commissioners;
- collecting statistics of case timeliness;
- targeting delayed pending cases;
- improving information on the Court's website, including establishing a mining jurisdiction webpage;
- extending the Court's email service on subject categories including trees and vegetation as well as mining;
- extending the continuing professional development program, including accredited mediation training for Commissioners and Registrars;
- preparation and publication of a court newsletter with the latest legislation, decisions and changes in practice and procedure;
- upgrading the Court's computer system and IT programs for case management, listing and eCourt; and
- updating audio visual equipment in selected courtrooms.

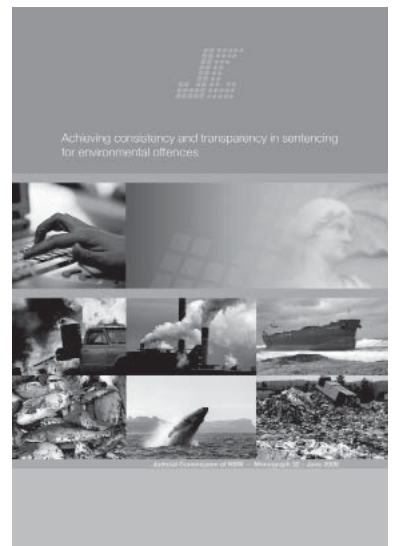
More actions will be taken in 2010.

## 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 2009, 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 sentencing statistics were audited on a quarterly basis by the Judicial Commission. The audits revealed satisfactory results.

The sentencing database was enhanced in 2009 by dividing sentencing data for each offence in order to take into account increases in maximum penalties.



# 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
  - Delivery of reserved judgments
  - Clearance rate
  - Attendance indicator
- Appeals
- Complaints
  - Complaints received and finalised
  - Patterns in complaints

## Overall caseload

The comparative caseload statistics between 2005 and 2009 are summarised in Table 5.1.

**Table 5.1 Caseload statistics**

		2005	2006	2007	2008	2009
<b>Class 1</b>	Registrations	1099	874	788	865	577
	Restored	80	131	90	57	43
	Pre-Trial Disposals	618	675	507	552	452
	Disposed by Hearing	519	524	485	357	253
	Pending	653	457	328	342	255
<b>Class 2</b>	Registrations	15	12	184	149	116
	Restored	1	1	8	6	10
	Pre-Trial Disposals	26	8	59	57	8
	Disposed by Hearing	3	5	100	103	120
	Pending	11	7	40	36	33
<b>Class 3</b>	Registrations	288	152	124	134	183
	Restored	16	18	14	15	5
	Pre-Trial Disposals	113	212	125	114	113
	Disposed by Hearing	80	115	43	58	28
	Pending	319	165	130	108	155
<b>Class 4</b>	Registrations	187	244	234	184	141
	Restored	42	39	45	47	22
	Pre-Trial Disposals	123	180	219	181	111
	Disposed by Hearing	80	87	89	87	64
	Pending	142	164	133	97	85
<b>Class 5</b>	Registrations	73	48	88	93	82
	Restored	14	6	7	8	9
	Pre-Trial Disposals	6	3	7	15	25
	Disposed by Hearing	67	68	68	71	94
	Pending	81	63	79	94	68
<b>Class 6</b>	Registrations	14	12	20	17	7
	Restored	1	0	1	0	0
	Pre-Trial Disposals	3	6	6	7	2
	Disposed by Hearing	6	12	9	9	14
	Pending	8	2	8	10	1

<b>Class 8</b>	Registrations	-	-	-	-	5
	Restored	-	-	-	-	0
	Pre-Trial Disposals	-	-	-	-	1
	Disposed by Hearing	-	-	-	-	2
	Pending	-	-	-	-	2
<b>TOTAL</b>	Registrations	1676	1342	1438	1442	1111
	Restored	154	195	165	133	89
	Pre-Trial Disposals	889	1083	923	923	740
	Disposed by Hearing	755	811	794	687	547
	Pending	1214	858	718	687	599

Table 5.1 shows the following trends between 2008 and 2009:

- Total registrations (1200) declined to their lowest level in five years. The decrease was across six classes of the Court's jurisdiction, with the exception of Class 3 (where registrations increased from 2008) and Class 8 (which only commenced in 2009). In relation to Class 1 registrations, the decrease is largely attributable to the decrease in appeals against determinations of development applications under the *Environmental Planning and Assessment Act 1979*. The NSW Department of Planning reported that local councils determined 13% less development applications in 2008-2009 and this reduction flowed through to the number of appeals against determinations.
- Total finalisations (1287) also decreased in 2009, a result of the decrease in registrations.
- Total finalisations continued to exceed total registrations in 2009, resulting in the total pending caseload (599) decreasing in 2009, indeed to its lowest level in five years.
- Merits review and other civil proceedings finalised in Classes 1, 2 and 3 (974) comprised 76% of the Court's finalised caseload in 2009.
- Civil and criminal proceedings in Classes 4, 5, 6, 7 and 8 (313) comprised 24% of the Court's finalised caseload in 2009.
- The means of finalisation in 2009 were 57% pre-trial disposals (including by negotiated settlement) and 43% by adjudication by the Court. This proportion has remained reasonably constant over the last five years, as Table 5.2 shows.

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

	2005	2006	2007	2008	2009
Total matters finalised – all classes	1644	1894	1718	1610	1287
Total pre-trial finalisations	889	1083	923	923	740
% matters finalised pre-trial	54	57	54	57	57

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, 30.7% of appeals in Classes 1, 2 and 3 were finalised by these means, a similar proportion to the previous year. Of the total of 299 matters, 176 were finalised at a s 34 conciliation conference and 123 by on-site hearings.

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

	2005	2006	2007	2008	2009
Total matters finalised	1359	1539	1319	1241	974
s 34 conferences and on-site hearings	184	175	277	370	299
% s 34 and matters finalised on-site	13.5	11.4	21.0	29.8	30.7

## Court performance by class of jurisdiction

A brief summary of the Court's performance in 2009 for each of the eight classes of jurisdiction is provided.

### Class 1

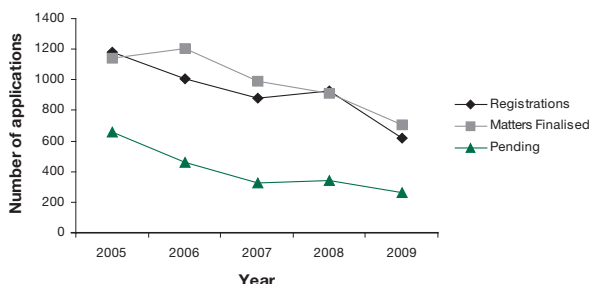
Class 1 matters finalised in 2009 constitute the bulk of the Court's finalised caseload (55%). 58% of all Class 1 matters finalised were appeals under s 97 of the *Environmental Planning and Assessment Act 1979* relating to development applications. 37% of the appeals under s 97 were applications where councils had not determined the development application within the statutory time period ("deemed refusals").

Of the remaining Class 1 matters finalised in 2009, 19% were applications to modify a development consent under s 96 of the *Environmental Planning and Assessment Act 1979* and 15% 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 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 2005 to 2009.

**Figure 5.1**

**Class 1 caseload: annual data 2005 to 2009**



**Class 2**

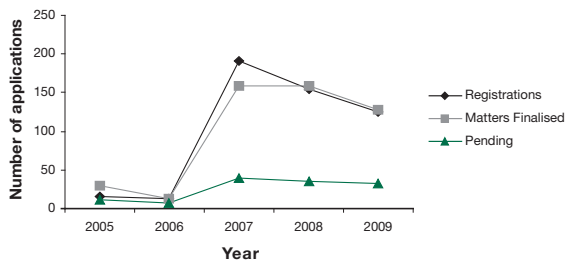
Class 2 registrations increased dramatically in 2007 due to the coming into force of the *Trees (Disputes Between Neighbours) Act 2006*. Class 2 registrations represented 11% of total registrations in the Court in 2009.

The number of Class 2 matters finalised in 2009 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 2005 to 2009.

**Figure 5.2**

**Class 2 caseload: annual data 2005 to 2009**



**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.

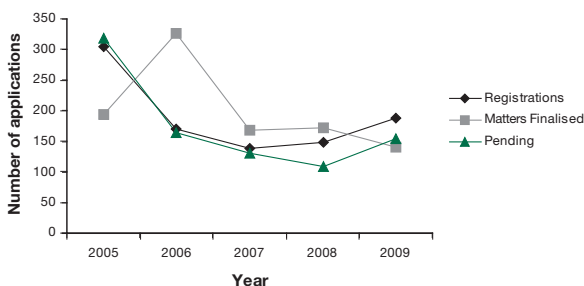
New registrations in Class 3 increased by 37% in 2009 from 2008. Valuation and rating appeals accounted for 70% of new Class 3 appeals in 2009. Compensation claims for compulsory acquisition of land constituted 18% of all Class 3 appeals registered in 2009.

Of the matters finalised in 2009, 54% were valuation or rating appeals, 31% were compensation claims and 15% were other matters.

Figure 5.3 represents graphically a comparison of the registrations, finalisations and pending caseload in Class 3 between 2005 and 2009.

**Figure 5.3**

**Class 3 caseload: annual data 2005 to 2009**

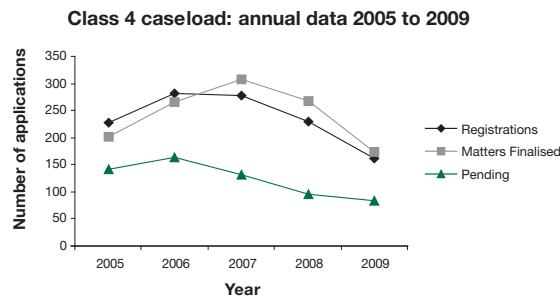




## Class 4

New Class 4 registrations fell by 23% and finalisations decreased by 35% in 2009. Of the Class 4 matters finalised in 2009, 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 2005 and 2009.

**Figure 5.4**



## Class 5

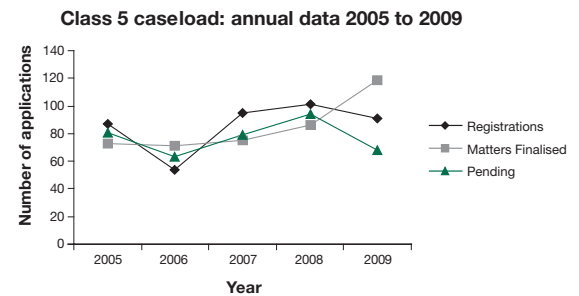
New Class 5 registrations fell 12% in 2009. The NSW Department of Environment, Climate Change and Water initiated 34% and the Environment Protection Authority initiated 22% of all new prosecutions. The number of prosecutions initiated by local councils decreased to 20%, down from 47% in 2008. Other statutory bodies initiated 24% of all new registrations.

Of the 119 matters finalised in 2009, convictions were recorded in 62, 28 were withdrawn, 6 were dismissed, 3 were proved with no conviction entered, and 20 were notices of motion. Fines for conviction ranged from \$2,000 to \$400,000. Community service orders ranging from 3

to 450 hours were issued for 14 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 2005 and 2009.

**Figure 5.5**



## Classes 6 and 7

7 new Class 6 appeals were filed, 6 of which were finalised. There were no Class 7 appeals before the Court in 2009.

## Class 8

On 7 April 2009, the Court acquired jurisdiction to hear and dispose of civil proceedings under the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991*. Five mining matters were filed in 2009, 3 of which were finalised.

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## Measuring Court performance

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

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

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

## Output indicators of access to justice

### Affordability

Access to justice is facilitated by ensuring affordability of litigation in the Court. One indicator of affordability is the fees paid by applicants. Lower court fees help keep courts accessible to those with less financial means. However, ensuring a high standard of court administration service quality (so as to achieve the objective of effectiveness) requires financial resources. These days, a primary source of revenue to fund court administration is court fees. The Land and Environment Court is no exception. It was necessary in 2009 to increase court fees by 4.3% to be able to balance the Court's budget and ensure a high standard of court administration service quality (effective 1 July 2009). 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.

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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.

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.

First, the Court regularly holds court hearings in country locations. Table 5.4 shows hearings held in a country courthouse for 2009.

**Table 5.4 Country hearings**

<b>Courthouse</b>	<b>Number of Hearings</b>						
	<b>Class 1</b>	<b>Class 2</b>	<b>Class 3</b>	<b>Class 4</b>	<b>Class 5</b>	<b>Class 6</b>	<b>Class 8</b>
Ballina	6	1					
Bathurst	1						
Byron Bay	3						
Broken Hill							1
Camden	1						
Cessnock	1						
East Maitland	1						
Forster			1				
Gosford	2						
Goulburn	2						
Grafton					1		
Katoomba	2						
Kiama	1						
Lithgow			2				
Macleay	1						
Maitland	1						
Moss Vale	2						
Murwillumbah	1				1		
Muswellbrook	1						
Newcastle	3						
Orange			1	1			
Picton	3						
Queanbeyan	3						
Raymond Terrace	1						
Scone	1						
Singleton	1						
Taree			1				
Yass	1						
Wagga Wagga	2						
<b>TOTAL</b>	<b>41</b>	<b>1</b>	<b>5</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>1</b>

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Secondly, for attendances before 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.

Thirdly, 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.

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 2009, 123 matters were conducted as an on-site hearing.

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.

### ***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 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.

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### ***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).

The Court provides mediation services. In 2009, 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 include mediation.

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### ***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 2009, 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. In 2009, 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 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 2009 are:

**Table 5.5 Backlog indicator (LEC time standards)**

	Unit	LEC Standards	2005	2006	2007	2008	2009
<b>Class 1</b>							
Pending caseload	no.		653	457	328	342	255
Cases > 6 months	%	5	29.1	22.8	11.3	13.5	9.7
Cases > 12 months	%	0	9.6	10.1	3.4	2.0	1.6
<b>Class 2</b>							
Pending caseload	no.		11	7	40	36	33
Cases > 6 months	%	5	45.5	28.6	12.5	2.8	6.1
Cases > 12 months	%	0	36.3	14.3	2.5	0	3.0
<b>Class 3</b>							
Pending caseload	no.		319	165	130	108	155
Cases > 6 months	%	5	44.8	55.2	51.5	32.4	34.2
Cases > 12 months	%	0	25.1	38.8	40.0	13.9	16.8
<b>Class 4</b>							
Pending caseload	no.		142	164	133	97	85
Cases > 8 months	%	5	28.8	19.5	21.1	24.7	21.2
Cases > 16 months	%	0	16.4	12.2	8.3	10.3	10.6



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**Class 5**

Pending caseload	no.		81	63	79	94	68
Cases > 8 months	%	5	29.1	55.5	31.6	33.0	32.4
Cases > 16 months	%	0	18.9	11.1	10.1	14.9	10.3

**Class 6**

Pending caseload	no.		8	2	8	10	1
Cases > 8 months	%	5	0	0	0	0	0
Cases > 16 months	%	0	0	0	0	0	0

**Class 8**

Pending caseload	no.		-	-	-	-	2
Cases > 8 months	%	5	-	-	-	-	0
Cases > 16 months	%	0	-	-	-	-	0

**Class 1- 3**

Pending caseload	no.		983	629	498	486	443
Cases > 6 months	%	5	34.6	31.3	21.9	16.9	18.5
Cases > 12 months	%	0	15	17.6	12.9	4.5	7.0

**Class 4 – 8**

Pending caseload	no.		231	229	220	201	152
Cases > 8 months	%	5	27.9	29.3	24.1	27.4	26.3
Cases > 16 months	%	0	16.7	11.8	8.6	11.9	10.5

These backlog figures need some explanation:

- Class 1: The backlog figures for pending caseload greater than 6 months and 12 months improved in 2009, and the total pending caseload in Class 1 fell to its lowest level in five years. The improvements in the backlog figures were due to an actual decrease of 35% in cases pending greater than 6 months and of 43% in cases pending greater than 12 months.
- Class 2: The backlog figure increased in 2009 so as to cause pending Class 2 cases slightly to exceed the Court's time standards for both 6 months and 12

months. However, because of the small pending caseload, the percentages in fact represent only 2 cases exceeding the 6 months standard and one case exceeding the 12 month standard.

- Class 3: The backlog figures for pending caseload greater than 6 months and 12 months increased by a couple of per cent. This was due to the number of older cases pending in the Court increasing proportionately more than the increase in the total pending caseload. To a significant extent, the increase in the number of older cases pending in 2009 related to three groups of complex valuation objections that were being case managed and will

be heard and determined together. The increase in total pending caseload was due to the large number of valuation objections filed in late 2009.

- Class 4: There was a slight improvement in the backlog figure for pending caseload exceeding 8 months and maintenance of the backlog figure for pending caseload exceeding 16 months. There was a decrease (by 12%) in the total pending caseload in Class 4. The number of older cases remained steady but represented a higher proportion of the pending caseload.
- Class 5: There were improvements in the backlog figures for pending cases exceeding both the 8 months and 16 months standards, and total pending caseload in Class 5 fell to its lowest level

since 2006. Many of the older cases disposed of in 2009 were those referred to in the 2008 Annual Review as being related prosecutions, involving difficulties and complexities, or having been prolonged by appeals against interlocutory rulings to the Court of Criminal Appeal. As predicted, as a number of these older cases were disposed of, the backlog figures improved.

- Class 6 and 8: The backlog figures met the Court's time standards for the small number of pending cases in these classes.

If the national time standards are used, the results of the backlog indicator for the Court in 2009 are:

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

	Unit	National Standards	2005	2006	2007	2008	2009
<b>Class 1</b>							
Pending caseload	no.		653	457	328	342	255
Cases > 12 months	%	10	9.6	10.1	3.4	2.0	1.6
Cases > 24 months	%	0	0.9	2.2	1.5	0.6	0.4
<b>Class 2</b>							
Pending caseload	no.		11	7	40	36	33
Cases > 12 months	%	10	36.3	14.3	2.5	0	3.0
Cases > 24 months	%	0	9.1	0	0	0	0
<b>Class 3</b>							
Pending caseload	no.		319	165	130	108	155
Cases > 12 months	%	10	25.1	38.8	40.0	13.9	16.8
Cases > 24 months	%	0	8.1	10.9	13.1	5.6	1.9
<b>Class 4</b>							
Pending caseload	no.		142	164	133	97	85
Cases > 12 months	%	10	20.0	17.1	15.8	15.5	15.3
Cases > 24 months	%	0	10.8	6.7	2.3	5.2	4.7

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**Class 5**

Pending caseload	no.		81	63	79	94	68
Cases > 12 months	%	10	19.5	42.9	13.9	28.7	23.5
Cases > 24 months	%	0	9.1	4.8	8.9	8.5	2.9

**Class 6**

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

**Class 8**

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

This table shows that the Court's performance in Classes 1, 2, 6 and 8 betters the national standard and in Classes 3 and 4 is slightly above but comparable to the national standard. The result for Class 5 is an improvement from 2008, and in particular the percentage of pending cases greater than 24 months has fallen to its lowest level in five years and is comparable to the national standard.

**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 are delivered ex tempore, thereby minimising delay. To minimise delay for reserved judgments the Court has adopted time standards.

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

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

These are strict standards compared to other courts.

As Table 5.7 shows, the Court's performance in 2009 matched that in 2008 for reserved judgments being delivered within 14 and 30 days, but was not quite as favourable with regard to the 90 day standard.

**Table 5.7 Reserved judgments compliance with time standards**

	<b>Standard</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
% delivered within 14 days	50	35	33	39	36	37
% delivered within 30 days	75	51	52	62	56	56
% delivered within 90 days	100	90	80	90	90	86

**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 5.8.

**Table 5.8 Clearance rate**

	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
	%	%	%	%	%
Class 1	96.4	119.3	113.0	98.6	113.7
Class 2	181.3	100.0	82.8	103.2	101.6
Class 3	63.5	192.4	121.7	115.4	75.0
Class 4	88.7	94.3	110.4	116.0	107.4
Class 5	83.9	131.5	78.9	85.1	130.8
Class 6	60.0	150.0	71.4	88.2	228.6
Class 8	-	-	-	-	60.0
Classes 1-3	90.7	129.5	109.2	101.2	104.3
Classes 4-8	86.1	102.0	100.8	105.7	118.4
<b>Total</b>	<b>89.8</b>	<b>123.4</b>	<b>107.1</b>	<b>102.2</b>	<b>107.3</b>

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These figures show that the clearance rate in 2009 has continued to be commendable. The total clearance rate for all of the Court's caseload exceeds 100% (107.3%), thereby decreasing the total pending caseload. The particularly high clearance rate of 228.6% for Class 6 was a product of the 59% decrease in registrations in that class.

The clearance rate for Class 3 was only 75%. However, proceedings in Class 3 of the Court's jurisdiction are of different types. The clearance rate for compensation claims for the compulsory acquisition of land was 117% and the clearance rate for miscellaneous appeals (including Aboriginal land claims) was 108%. Both of these exceed the 100% goal. The only type of proceedings in Class 3 in which the clearance rate dropped below 100% was valuation objections where the rate was 58%. Valuation objections comprised 71% of Class 3 registrations in 2009. Hence, the low clearance rate for valuation objections disproportionately affected the clearance rate for Class 3 matters. To a significant extent, the lower clearance rate for valuation objections in 2009 was a result of three groups of large, complex valuation objections. One group of 32 valuation objections were filed by one applicant late in 2009 and there was not sufficient time in the reporting period, having regard to their complexity, to dispose of them. The Court's disposition of a second group of 9 valuation objections by an applicant was delayed by an appeal to the Court of Appeal. The third group of 20 valuation objections by one applicant, by consent of the parties, was subject to extended conciliation (which ultimately was successful).

The clearance rate for Class 8 is a product of the small number of total cases in the Class (5 registrations and 3 finalisations in 2009)

and the filing of two cases later in the year. One of the pending cases at the end of 2009 was disposed of in January 2010.

### **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 5.9 below compares the median number of pre-hearing attendances for each class of proceedings completed in 2006-2009.

**Table 5.9 Median number of pre-hearing attendances by Class**

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

The table reveals that the number of pre-hearing attendances remained constant for Classes 1-4 but increased for Classes 5 and 6. The increase in 2009 in the number of pre-hearing attendances for matters in Class 5 and for compensation claims and valuation objections in Class 3 are a continued legacy of the finalisation in 2009 of older cases that, prior to 2009, already had many pre-hearing attendances. As these older cases are cleared from the pending caseload, the figures should improve.

## 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 5.10, in 2009 the Court registered 21 s 56A appeals. Of these, 8 were completed at hearing, 2 were settled pre-hearing and 11 remained pending at 31 December 2009. Of the 8 that were completed at hearing, 3 were upheld. This represents 0.7% of the number of matters in Classes 1, 2 and 3 disposed of by a decision of the Court in 2009 (401 matters).

**Table 5.10 s 56A appeal outcomes**

	2005	2006	2007	2008	2009
Total no. of appeals	19	12	29	14	21
No. finalised pre-hearing	7	3	8	3	2
No. of appeals to hearing	11	4	13	10	8
Outcome:					
Upheld	2	2	4	3	3
Dismissed	9	2	9	7	5

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

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

In 2009, 19 appeals were lodged with the Court of Appeal and 2 appeals were lodged with the Court of Criminal Appeal. The number of appeals to these appellate courts in 2009 is shown in Table 5.11 below.

This year 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 this year's table compared to previous years' tables also means it is not possible for a comparative table to be presented for the past 5 years.

**Table 5.11 Appeals to the appellate courts**

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

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## 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 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 this year's Annual Review, the Court also reports on its handling of complaints and patterns in the nature and scope of complaints.

## Complaints received and finalised

In 2009, the Court received 14 complaints about the conduct of Commissioners and Registrars exercising the functions of the Court. Table 5.12 gives particulars about the complaints made and dealt with in 2009 and the outcomes.

**Table 5.12 Complaint particulars**

	<b>2009</b>
Complaints pending as at 31 December 2008	0
Complaints made during 2009	14
<b>Total number of complaints</b>	<b>14</b>
Complaints examined but summarily dismissed	13
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>13</b>
Complaints pending as at 31 December 2009	1

As can be seen from Table 5.12 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 2009, Commissioners conciliated or determined 731 matters in Classes 1, 2 and 3. Complaints, therefore, represent only 1.8% 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.



Table 5.12 also shows that 100% of finalised complaints were dismissed because the examination disclosed no misconduct of the Commissioners or Registrar. One complaint however, did expose shortcomings in the Court's practice and procedure for the listing and the conduct of on-site hearings for applications under the *Trees (Disputes Between Neighbours) Act 2006*, which prompted reform by the Court.

The criteria used for dismissing the complaints is summarised in Table 5.13:

**Table 5.13 Criteria for dismissing complaints**

No misconduct was established	54%
The complaint related to a judicial or other function that is or was subject to adequate appeal or review rights	46%

### 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 5.14. 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, although they were not upheld.

**Table 5.14 Common causes for complaint**

	2009
Bias, collusion or conflict of interest	15%
Delay	5%
Dissatisfaction with outcome or wrong decision	50%
Failure of Court to enforce judgment or orders	15%
Failure to give fair hearing	10%
Impairment	0%
Inadequate reasons for judgment	5%
Inappropriate behaviour or comments or discourtesy	0%
Incompetence	0%
<b>Total</b>	<b>100%</b>

### Substitution for appeals

Half 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.

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### ***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 very high proportion of complaints are made by legally unrepresented litigants (62%) or persons such as local residents, who objected to development proposed in development appeals but were not a party (31%). Only 1 complaint (7%) was made by a person who was legally represented at the hearing.

### ***Complaints in tree disputes***

A significant proportion of complaints relate to disputes between neighbours about trees (23%). All of the complainants were not legally represented.

## 6 Education and Community Involvement

- Continuing professional development
  - Continuing professional development policy
  - Annual Court conference
  - Twilight seminar series
  - National Mediator Accreditation
  - 360 degree feedback program
  - Other educational activities
- Performance indicators and program evaluation
- 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

Six Judges, seven Commissioners, nine Acting Commissioners and the Acting Registrar attended the Land and Environment Court's Annual Conference at the Quarantine Station, Manly on 7-8 May 2009. The conference was organised in partnership with the Judicial Commission of New South Wales. The two day conference programme included sessions on:

- Practice and procedure update;
- Criminal law update;



*Commissioners Brown, Tuor & Bly at the annual court conference*

- Beyond the blunt instrument: understanding the underlying objectives to achieve better urban outcomes;
- Adaptive reuse of heritage buildings;
- Computer forensics;
- Planning for climate change;
- Courtroom theatre skills; and
- Case law update.

Taking advantage of the venue conference, members of the Court toured the Quarantine Station to learn how it was adapted for re-use while conserving the heritage aspects of the site.



*Quarantine Station heritage tour*

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## 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. Six seminars were held in 2009:

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23 February	<i>Judicial Attributes</i> , His Honour Magistrate David Heilpern
27 May	<i>Procedural Fairness in Merits Review Hearings</i> , Ms Narelle Bell
16 June	<i>Self-represented Litigants</i> , Justice Nicola Pain
5 August	<i>Biodiversity offsets Part I: Applying a concept within a planning and legal framework</i> , Acting Commissioner Dr Paul Adam
2 September	<i>Biodiversity offsets Part II: Applying a concept within a planning and legal framework, focusing on biocertification and biobanking</i> , Acting Commissioner Dr Paul Adam
29 September & 7 October	<i>Access to Information: Online Legal Research</i> , Ms Anna Clifton

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## National Mediator Accreditation

In 2009, nine full-time Commissioners, a Judge and the Acting Registrar undertook a five day mediation training course and a sixth day of accreditation and assessment conducted by the Australian Commercial Disputes Centre. All participants successfully completed the course requirements and will receive accreditation under the National Mediator Accreditation System.

## 360 degree feedback program

In 2009, two Judges participated in the 360 degree feedback program run by the Judicial Commission of New South Wales. This program provides judicial officers with candid, constructive feedback on their communication, demeanour, courtesy and working relationships from people with whom they interact on a daily basis. The process is confidential and participants receive one-on-one professional advice

from the facilitator psychologist to help them identify their strengths and areas requiring further development.

The program which commenced in May 2009 was the second 360 degree program run by the Judicial Commission of New South Wales and involved eight Judges from different courts. The Land and Environment Court was allocated a quota of two Judges to participate in the program.

## 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 2009, both the collective target as well as the individual standard for each Judge and full-time Commissioner was 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. Table 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 2005 to 2009**

	Target	2005	2006	2007	2008	2009
Overall satisfaction rating	85%	87%	92%	90%	89%	88%

Note: The 2005 conference was a joint conference with the Victorian Civil and Administrative Tribunal.

The Court's twilight seminar series commenced in 2008 but had its full year of operation in 2009. Table 6.2 shows the overall satisfaction of the twilight seminar series in 2008 and 2009, both of which also exceeded the 85% standard.

**Table 6.2 Participant evaluation of Land and Environment Court twilight seminar series 2008 and 2009**

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

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

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## Education and participation in the community

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

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



*Japanese legal delegation*



*Thai judicial delegation*

## Individual Judges' and Commissioners' activities

The Judges' and Commissioners' activities during 2009 are summarised below:

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

#### Conferences and seminars

23 February	Twilight seminar, Judicial Attributes, Magistrate David Heilpern, Judicial Commission of New South Wales
27 May	Twilight seminar, Procedural Fairness in Merit Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales
16 June	Twilight seminar, Self-Represented Litigants, Justice Nicola Pain, Judicial Commission of New South Wales
24 July	Australian Institute of Judicial Administration Incorporated (AIJA), Report on Government Services Seminar, Melbourne
4 August	Bringing the R word back in: Regulation, Environment Protection and Natural Resource Management, Academy of the Social Sciences in Australia, Policy Roundtable, Canberra

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5 August	Twilight seminar, Biodiversity offsets Part I: Applying a concept within a legal framework, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales
13 August	Climate Change and Development, 2009 Biennial Ingram Lecture, Professor David Freestone from The George Washington University Law School, University of New South Wales
22-23 August	Supreme Court of New South Wales Annual Conference, Hunter Valley
2 September	Twilight seminar, Biodiversity offsets Part II, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales
29 September	Twilight seminar, Access to Information, Ms Anna Clifton, Judicial Commission of New South Wales
30 September	Environment and Planning Law Association twilight seminar, Mining Warden Jurisdiction at the Court, Sydney

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### Speaking engagements

8 February	<i>A Judge's perspective on using sentencing databases</i> , National Judicial College of Australia, Judicial Reasoning 'Art or Science?' Conference, Australian National University, Canberra
18 February	Launch of <i>A Practitioner's Guide to the Land and Environment Court of NSW</i> (3 <sup>rd</sup> Ed), NSW Young Lawyers, Law Society of NSW, Sydney
24 February	<i>Environmental Crime Sentencing Database</i> , Environmental Crime in Australia Roundtable, Australian Institute of Criminology, Canberra
18 March	<i>Biodiversity and the Law</i> , lecture to students of Biodiversity Law, Macquarie University, Sydney
23 March	<i>Mining Matters in the Land and Environment Court of New South Wales</i> , presentation to stakeholders at the Department of Primary Industries' offices, Sydney
25 March	<i>Mining Matters in the Land and Environment Court of New South Wales</i> , presentation to stakeholders, Lightning Ridge Bowling Club, Lightning Ridge
7 April	<i>Sustainable Development Law in the Courts: The Polluter Pays Principle</i> , 16 <sup>th</sup> Commonwealth Law Conference, Hong Kong
10 April	<i>Adjudication of environmental disputes</i> , presentation to undergraduate and postgraduate students of the Environmental and Resources Law Institute, School of Law, Shanghai Jiao Tong University, Shanghai, China
15 April	Address at ceremony to honour Emeritus Professor Ben Boer, Sydney Law School, University of Sydney
21 April	<i>Aspects of Sentencing</i> , lecture to students of Environmental Law and Policy and Pollution Law, University of Sydney

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22 April	Occasional address to Macquarie University Faculty of Arts, Macquarie Law School Graduation Ceremony, Sydney
13 May	<i>Land and Environment Court update</i> , Urban Development Institute Australia (NSW Branch), Planning and Tax Reform Corporate Luncheon, Sydney
19 May	<i>Land and Environment Court of New South Wales: Overview and Operating an Environmental Court: Lessons from Australia, and Sustainable Development Law in the Courts</i> , Environmental Judiciary Forum, Sun Yat-Sen University School of Law, Guangzhou, China
22-23 May	<i>Land and Environment Court of New South Wales: Overview</i> , Vermont Law School Workshop on Environmental Litigation and Environmental Courts, Beijing, China
25 & 27 May	<i>Land and Environment Court of New South Wales: Overview</i> , lectures to students of Planning Law, Macquarie University
28 May	<i>Admissibility and Reliability of Expert Evidence</i> , Environment Institute of Australia and New Zealand, Environmental Expert Witness Course, Sydney
2 June	<i>Sustainable Development Law in the Courts: The Polluter Pays Principle</i> , Responsible Business Forum Breakfast Seminar, Sydney
22 June	<i>Sentencing for environmental offences</i> , a presentation to the “Strengthening Environmental Adjudication in Thailand” Judicial Workshops and Roundtables, Bangkok, Thailand
23 June	<i>Admissibility and Reliability of Expert Evidence and Role of Expert Witnesses and Expert Evidence in Environmental Adjudication</i> , presentations to the “Strengthening Environmental Adjudication in Thailand” Judicial Workshops and Roundtables, Bangkok, Thailand
24 June	<i>The Land and Environment Court of New South Wales: Moving towards a multi-door courthouse and Overview of Land and Environment Court of New South Wales</i> , presentations to the “Strengthening Environmental Adjudication in Thailand” Judicial Workshops and Roundtables, Bangkok, Thailand
25 June	<i>Specialised Court Procedures: Lessons Learned from Australia</i> , a presentation to the “Strengthening Environmental Adjudication in Thailand” Judicial Workshops and Roundtables, Bangkok, Thailand
2 July	Keynote address to opening night of Young NELA (NSW) Launch, Sydney
27 July	<i>The Land and Environment Court: Moving towards a multi-door courthouse</i> , Multi-door Court House Symposium, Law Council of Australia, Canberra
6-8 August	<i>Environmental Dispute Management</i> , postgraduate course, Australian National University, Canberra

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20 August	<i>Climate Change Litigation in the Land and Environment Court of New South Wales and Other Courts</i> , Australasian Conference of Planning and Environment Courts and Tribunals (ACPECT), Christchurch, New Zealand
4-8 September	<i>Operating an environmental court: The experience of the Land and Environment Court of New South Wales</i> , Judges and Environmental Law: A Handbook for the Sri Lankan Judiciary launch and Judges' Forum, Colombo, Sri Lanka
10-11 September	<i>Biodiversity Law</i> , postgraduate course, Sydney Law School, University of Sydney
28 September	<i>Structure of the LEC, jurisdiction, classes, civil &amp; criminal cases and taking evidence</i> , presentation to Thai delegation attending the University of New South Wales' Environmental Law Training Program, University Campus, Sydney
30 September	Opening address at Department of Environment and Climate Change's Legal Services Branch Development Day, Royal Botanical Gardens, Sydney
2 October	<i>Leadership by the Courts in Achieving Sustainability</i> , Resource Management Law Association Conference, "Capital Leadership – In the National Interest?", Wellington, New Zealand
20 October	<i>Climate Change in the Land and Environment Court of New South Wales and Elsewhere</i> , Planning and Climate Change Conference, Centre for Regulatory Studies and Monash Sustainability Institute, Monash University, Melbourne
10 December	<i>Jurisprudence on ecologically sustainable development: Paul Stein's Contribution</i> , address at the Symposium in honour of Paul Stein AM, Law Council of Australia, Sydney

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## Publications

"Climate Change Litigation" (2009) 9(2) *The Judicial Review* 205, also published in (2009) 26 *Environmental and Planning Law Journal* 169

"Sustainable development law in the courts: The polluter pays principle" (2009) 26 *Environmental and Planning Law Journal* 257

"Avenues for litigating the effects of climate change" (2009) 21 *Judicial Officers' Bulletin* 55, also published in (2009) 47 *Law Society Journal* 29

"Foreword" in W Gumley and T Daya-Winterbottom (eds), *Climate Change Law: Comparative, contractual and regulatory considerations*, Thomson Reuters, Sydney, 2009

"Water and Ecologically Sustainable Development in the Courts" (2009) 6 *Macquarie Journal of International & Comparative Environmental Law* 129

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## Membership of legal, cultural or benevolent organisations

Official member, Judicial Commission of New South Wales

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

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

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

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

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

Member, Editorial Board, Local Government Planning and Environment NSW Service

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

Member, Advisory Board, TREENET

Adjunct Professor, Sydney Law School, University of Sydney

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## Delegations and international assistance

12 February Meeting with Ms Frances McCartney, Environmental Law Centre, Scotland on comparative international study of courts in Australia and UK and new environmental courts for UK

4 March Delegation of Chinese lawyers arranged by the Australia-China Legal Professional Development Program, Commonwealth Attorney-General's Department

5 March Meeting with Japanese lawyers, Mr Yoshikazu Suzuki and Mr Junichiro Araki, to discuss use and operation of ADR in the Land and Environment Court

15-19 March Delegation of Judges from Supreme Court of Thailand, Environmental Division, week-long program of lectures sharing international experiences and best practices on environmental adjudication and courts

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*Thai judicial delegation outside the court*

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3 June	Meeting with Ms Judith Bellis, General Counsel and Director from Justice Canada on implementing court excellence
4 June	Delegation of Pacific Island lawyers, arranged by the Environmental Defender's Office (NSW), on the Land and Environment Court and environmental law and justice
13 August	Meeting with Ms Simone Fowlie, Supreme Court of Australian Capital Territory to discuss the Land and Environment Court's implementation of the International Framework for Court Excellence
24 August	Meeting with Justice Kevin Bell, President of the Victorian Civil and Administrative Appeals Tribunal on the Land and Environment Court's implementation of the International Framework for Court Excellence and use of ADR in the Court.
18 September	Delegation of Judges from Supreme Court of Indonesia, including Judge Bambang Mulyono, on environmental adjudication and courts
8 October	Meeting with Mr Rinzin, Assistant Attorney-General of Bhutan and colleague on environmental adjudication and courts
14 October	Meeting with Mr Terry O'Donoghue, CEO and Mr Andrew Tenni, Director, Corporate Services of the Victorian Civil and Administrative Appeals Tribunal to discuss the Land and Environment Court's implementation of the International Framework for Court Excellence
19 October	Meeting with Chief Magistrate Ian Gray and Mr Stewart Fenwick, Project Manager – New Directions, Magistrates' Court of Victoria to discuss the Land and Environment Court's implementation of the International Framework for Court Excellence
26 October	Meeting with Dr Amnan Wongbandit, Head of Natural Resources and Environmental Law, Thammasat University, Thailand and three colleagues
30 October	Meeting with Chief Justice David Smith (Queen's Bench of New Brunswick, Canada), Chief Justice Catherine Fraser (Court of Appeal, Alberta) and Chief Justice Jacqueline Matheson (Supreme Court, Prince Edward Island) to discuss the functions and operation of the Land and Environment Court
9 December	Meeting with Mr Graeme Neate, President, National Native Title Tribunal on best practices for courts and tribunals
16 December	Delegation from Department of Justice (Vic) to discuss the operation of the Judicial Commission of New South Wales and potential benefits to Victoria of a similar commission

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## The Hon. Mr Justice David Henry Lloyd

### Conferences and seminars

7-8 February	National Judicial College of Australia, Judicial Reasoning ‘Art or Science?’ Conference, Australian National University, Canberra
23 February	Twilight seminar, Judicial Attributes, Magistrate David Heilpern, Judicial Commission of New South Wales
27 May	Twilight seminar, Procedural Fairness in Merits Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales
May	360 degree feedback program, Judicial Commission of New South Wales
16 June	Twilight seminar, Self-Represented Litigants, Justice Nicola Pain, Judicial Commission of New South Wales
10-11 October	Judicial Conference of Australia Colloquium, Melbourne
25-29 October	4th International Conference on the Training of the Judiciary, International Organisation for Judicial Training, Sydney

### Speaking engagements

15-20 March	National Judicial Orientation Programme, National Judicial College of Australia, Melbourne
10 July	Judgment Writing Workshop, Environmental Resources and Development Court, Adelaide
8 August	Australia Advocacy Institute, Advocacy Workshop, Sydney
17-18 September	Cross-jurisdictional Judgment Writing Programme, Judicial Commission of New South Wales, Sydney
1-3 October 2009	Judgment Writing Programme, National Judicial College of Australia, Perth
8-14 November	National Judicial Orientation Programme, National Judicial College of Australia, Melbourne

### Membership of legal, cultural or benevolent organisations

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

Chair, Steering Committee, National Judicial Orientation Programme, National Judicial College of Australia

Chair, Land and Environment Court Education Committee (to 8 May 2009)

Member, Governing Council of the Judicial Conference of Australia

Member, Synod of the Anglican Church of Australia, Diocese of Sydney

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## The Hon. Justice Terence William Sheahan AO

### Conferences and seminars

19 February	Twilight seminar, Recent Amendments to the Evidence Act, Mr Stephen Odgers SC, Supreme Court of New South Wales
23 February	Twilight seminar, Judicial Attributes, Magistrate David Heilpern, Judicial Commission of New South Wales
2-5 March	National Judicial College of Australia, “Phoenix Judges Program”, Australian National University, Canberra
7 April	The Maurice Byers Lecture, Beyond the text: a vision of the structure and function of the Constitution, Mr Stephen Gageler SC, New South Wales Bar Association
22 May	Annual Conference, Council of Australasian Tribunals (COAT) NSW Chapter
27 May	Twilight seminar, Procedural Fairness in Merit Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales
May	360 degree feedback program, Judicial Commission of New South Wales
16 June	Twilight seminar, Self-Represented Litigants, Justice Nicola Pain, Judicial Commission of New South Wales
23 June	The Sydney Institute lecture, Theory of Climate Change, Dr Ian Plimer
30 June	The Sydney Institute lecture, Climate Change – Two Views, Mr Ian Dunlop and Mr Ray Evans
7 July	The Sydney Institute lecture, A Progress Report on the National Human Rights Consultation, Prof Frank Brennan and Dr Helen Irving
5 August	Twilight seminar, Biodiversity offsets Part I: Applying a concept within a legal framework, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales
24 August	Visit to Svea Environmental Court of Appeal, Stockholm, Sweden
16 September	The Harry Whitmore Lecture, Professor John McMillan, COAT (NSW)
30 September	Environment and Planning Law Association twilight seminar, Mining Warden Jurisdiction at the Court, Sydney
7 October	Twilight seminar, Access to Information, Ms Anna Clifton, Judicial Commission of New South Wales
13 October	Oxford Health Alliance Seminar on Sustainability, University of Sydney
22 October	Circle Sentencing in New South Wales, launch of new educational DVD by Professor Mick Dodson AM, Supreme Court of New South Wales
27 October	ADR Workshop, International Conference on Judicial Education, Sydney

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18 November	Australian Academy of Law lecture, <i>The Forgotten Freedom: Freedom from Fear</i> , The Hon JJ Spigelman AC, Chief Justice, Supreme Court of New South Wales
10 December	The Future of Environmental Law, Law Council of Australia, Symposium in honour of Mr Paul Stein AM, Sydney

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### Speaking engagements

16 March	<i>The Land and Environment Court's use of ADR at the Court</i> , presentation to delegation of Thai Supreme Court Judges
27 March	<i>Developments of ADR in New South Wales</i> , presentation to Collaborative Law Conference, Sydney
22 April	<i>Introduction to the Court</i> , presentation to Planning Law Students, Macquarie University
11 August	<i>ADR at the Court</i> , lecture to Planning Law Students, University of Sydney
2 October	<i>Judicial Experiences</i> , lecture to Planning Law Students, University of NSW

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## The Hon. Justice Nicola Hope Margaret Pain

### Conferences and seminars

2-5 March	National Judicial College of Australia, "Phoenix Judges Program", Australian National University, Canberra
13 August	Climate Change and Development, 2009 Biennial Ingram Lecture, Professor David Freestone from The George Washington University Law School, University of New South Wales
27-29 August and 3-5 September	Australian Commercial Disputes Centre, Mediation Training Program
27 October	4th International Conference on the Training of the Judiciary, International Organisation for Judicial Training (IOJT), Sydney
27 November	Adjudicated Property Moot Court – Royal Institution of Chartered Surveyors (RICS) Oceania, The Land Court of Queensland

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### Speaking engagements

18 March	<i>Why A Specialist Environmental Court?</i> , presentation to delegation of Thai Supreme Court Judges
25 May	<i>The Land and Environment Court</i> , presentation to visiting students of Planning Law, Macquarie Law School, Macquarie University

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3 June	<i>The Land and Environment Court</i> , presentation to delegation of Papua New Guinean and Solomon Islands' lawyers, organised by the Environmental Defender's Office (NSW)
16 June	<i>Self-Represented Litigants</i> , Twilight seminar, Judicial Commission of New South Wales
25 June	<i>The (Legal) Impact and Challenges of Climate Change</i> , District and County Court Judges' Conference, Sydney
22 October	<i>2008-2009 Court of Appeal Case Review</i> , Environment and Planning Law Association Conference, Powerhouse Museum, Sydney
2 November	<i>The role of courts and tribunals in enhancing access to justice in environmental litigation</i> , Seventh Annual Colloquium of the IUCN Academy of Environmental Law, Wuhan, China

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## The Hon. Justice Peter Meldrum Biscoe

### Conferences and seminars

19 February	Twilight seminar, Recent Amendments to the Evidence Act, Mr Stephen Odgers SC, Supreme Court of New South Wales
23 February	Twilight seminar, Judicial Attributes, His Honour Magistrate David Heilpern, Judicial Commission of New South Wales
16 June	Twilight seminar, Self-Represented Litigants, Justice Nicola Pain, Judicial Commission of New South Wales
5 August	Twilight seminar, Biodiversity offsets Part I: Applying a concept within a legal framework, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales
13 August	Climate Change and Development, 2009 Biennial Ingram Lecture, Professor David Freestone from The George Washington University Law School, University of New South Wales
19-21 August	Australasian Conference of Planning and Environment Courts and Tribunals, Christchurch, New Zealand
26-29 October	4th International Conference on the Training of the Judiciary, International Organisation for Judicial Training (IOJT), Sydney

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### Speaking engagements

19 March	<i>Practice and Procedure</i> , presentation to delegation of Thai Supreme Court Judges
15 April	<i>Ecologically Sustainable Development: Legal Principles</i> , lecture to postgraduate course in Environmental Law and Policy conducted by the Institute of Environmental Studies, University of New South Wales

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26 May	<i>Climate Change Litigation</i> , NSW Young Lawyers CLE Seminar
30 July	<i>The New Cross Vesting Provisions and Mining Jurisdiction of the Land and Environment Court</i> , College of Law Seminar, Environment and Planning Law Update
5 August	<i>Operation of the LEC, how it works and what to expect</i> , Australian Environment Business Network (NSW) New Environmental Laws Conference – State of Play, Sydney
21 August	<i>Land and Environment Court of New South Wales: Practice and Procedure</i> , Australian Conference of Planning and Environment Courts and Tribunals, Christchurch, New Zealand
3 September	<i>Scientific Experts in the Land and Environment Court</i> , presentation to science students enrolled in Environmental Forensics Law, Bachelor of Environmental Forensics, University of Technology, Sydney
10 September	<i>Climate Change, Stormwater and the Law</i> , Stormwater Industry Association NSW Seminar, “Adapt, Mitigate or Perish: The Effects of Climate Change on Stormwater Management”

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

Chair, Land and Environment Court Education Committee (from 9 May 2009)

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

NSW Attorney General’s Working Party on Civil Procedure

Caselaw Governance Committee

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## **The Hon. Justice Rachel Ann Pepper**

### **Conferences and seminars**

27 May	Twilight seminar, Procedural Fairness in Merits Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales of New South Wales
17 June	The Legal Consequences of Inadequate Reasons, NSW Bar Association, Sydney
5 August	Twilight seminar, Biodiversity offsets Part I, Applying a concept within a legal framework, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales
17-18 September	Judgment writing course, Judicial Commission of New South Wales, Sydney
22 September	Australian Association for Constitutional Law lecture on <i>Pape</i> case, Sydney

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7 October Twilight seminar, Access to Information, Ms Anna Clifton, Judicial Commission of New South Wales

8-13 November National Judicial Orientation Program, Adelaide

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### Speaking engagements

15 May Adjudicator, 2009 NSW Golden Gavel Competition, NSW Young Lawyers, Sydney

30 May Mock Trial Judge for May 2009 Bar Practice Course

30 July API Associate Professional Certificate in Expert Evidence – Court Appointed Experts Discussion

31 July API Associate Professional Certificate in Expert Evidence – Moot Court

14 September *What Courts Want From Barristers* (with The Hon. Justice Jayne Jagot, Federal Court of Australia), Bar Readers Extension Course

27 November *Constitutional Crisis in Fiji: Qarase v Bainimarama*, Centre for Comparative Constitutional Studies Conference, University of Melbourne

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### Publications

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

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## Mr Tim Moore, Senior Commissioner

### Conferences and seminars

23 February Twilight seminar, Judicial Attributes, Magistrate David Heilpern, Judicial Commission of New South Wales

14 April In-house seminar at the Court by Department of Planning on SEPP Exempt and Complying Development

27 May Twilight seminar, Procedural Fairness in Merit Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales

5 August Twilight seminar, Biodiversity offsets Part I: Applying a concept within a legal framework, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales

2 September Twilight seminar, Biodiversity offsets Part II, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales

29 September Twilight seminar, Access to Information, Ms Anna Clifton, Judicial Commission of New South Wales

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## Speaking engagements

23 March	<i>Mining Matters in the Land and Environment Court of New South Wales</i> , presentation to stakeholders at the Department of Primary Industries' offices, Sydney
25 March	<i>Mining Matters in the Land and Environment Court of New South Wales</i> , presentation to stakeholders, Lightning Ridge Bowling Club, Lightning Ridge
30 April	<i>Role of the Land and Environment Court</i> , UTS Postgraduate Planning and Property Course
3 May	Expert Evidence Seminar, International Society of Arboriculture, Australia Chapter (ISAAC) Conference, Newcastle
4 May	<i>Trees (Disputes Between Neighbours) Act 2006 – Legislation in Action</i> , ISAAC Conference, Newcastle
21 May	<i>The Relevance of the Court's Planning Principles to the DA Process</i> , NEERG Seminar, Sydney
30 July	APC Expert Evidence Seminar, Australian Property Institute, Sydney
10 August	<i>Mining Matters in the Land and Environment Court of New South Wales</i> , presentation to stakeholders, Broken Hill
3 September	<i>Role of the Land and Environment Court</i> , Postgraduate Planning and Property Course, University of Technology Sydney
30 September	<i>Mining Matters in the Land and Environment Court of New South Wales</i> , Environment and Planning Law Association twilight seminar, Sydney
5 November	Expert Evidence Seminar, Riverina Organisation of Councils
25 November	<i>Mining Matters in the Land and Environment Court of New South Wales</i> , Australian Mining and Petroleum Law Association, Sydney

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## Mr Trevor Bly, Commissioner

### Conferences and seminars

23 February	Twilight seminar, Judicial Attributes, Magistrate David Heilpern, Judicial Commission of New South Wales
27 May	Twilight seminar, Procedural Fairness in Merit Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales
16 June	Twilight seminar, Self-Represented Litigants, Justice Nicola Pain, Judicial Commission of New South Wales
5 August	Twilight seminar, Biodiversity offsets Part I: Applying a concept within a legal framework, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales

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27-29 August and 3-5 September	Australian Commercial Disputes Centre, Mediation Training Program
2 September	Twilight seminar, Biodiversity offsets Part II, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales
30 September	Environment and Planning Law Association twilight seminar, Mining Warden Jurisdiction at the Court, Sydney
7 October	Twilight seminar, Access to Information, Ms Anna Clifton, Judicial Commission of New South Wales

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## Mr Robert Hussey, Commissioner

### Conferences and seminars

23 February	Twilight seminar, Judicial Attributes, Magistrate David Heilpern, Judicial Commission of New South Wales
21 May	Engineers Australia, Review of Australian Rainfall and Runoff
22 May	Managing the Approval System, Urban Development Institute of Australia (NSW) training course
16 June	Twilight seminar, Self-Represented Litigants, Justice Nicola Pain, Judicial Commission of New South Wales
5 August	Twilight seminar, Biodiversity offsets Part I: Applying a concept within a legal framework, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales
19-21 August	Australasian Conference of Planning and Environment Courts and Tribunals, Christchurch (ACPECT) Conference, Christchurch, New Zealand
27-29 August and 3-5 September	Australian Commercial Disputes Centre, Mediation Training Program
2 September	Twilight seminar, Biodiversity offsets Part II, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales

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## Mr Graham Brown, Commissioner

### Conferences and seminars

23 February	Twilight seminar, Judicial Attributes, Magistrate David Heilpern, Judicial Commission of New South Wales
13 May	Twilight seminar, Statement of Facts and Contentions. How to do it right! Commissioner Annelise Tuor, Environment and Planning Law Association, Sydney
27 May	Twilight seminar, Procedural Fairness in Merits Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales
11 June	Sydney and New Orleans – The role of city governments in adapting to climate change, CityTalks 2009, Sydney
16 June	Twilight seminar, Self-Represented Litigants, Justice Nicola Pain, Judicial Commission of New South Wales
5 August	Twilight seminar, Biodiversity offsets Part I: Applying a concept within a legal framework, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales
19-21 August	Australasian Conference of Planning and Environment Courts and Tribunals, Christchurch, New Zealand
27-29 August and 3-5 September	Australian Commercial Disputes Centre, Mediation Training Program
2 September	Twilight seminar, Biodiversity offsets Part II, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales
7 October	Twilight seminar, Access to Information, Ms Anna Clifton, Judicial Commission of New South Wales

### Speaking engagements

25 March	<i>Resident objectors...how, when, where and why?</i> – A Court's perspective, Environment and Planning Law Association twilight seminar, Sydney
29 May	<i>Modes of Courtroom Evidence</i> , Environment Institute of Australia and New Zealand, Sydney
30 July	Associate Professional Certificate in Expert Evidence, The Australian Property Institute and University of Sydney, Sydney
22 October	<i>Commissioner Panel</i> , Environment and Planning Law Association Conference, Sydney

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## Ms Jan Murrell, Commissioner

### Conferences and seminars

13 May	Twilight seminar, Statement of Facts and Contentions. How to do it right! Commissioner Annelise Tuor, Environment & Planning Law Association, Sydney
27 May	Twilight seminar, Procedural Fairness in Merits Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales
16 June	Twilight seminar, Self-Represented Litigants, Justice Nicola Pain, Judicial Commission of New South Wales
5 August	Twilight seminar, Biodiversity offsets Part I: Applying a concept within a legal framework, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales
19-21 August	Australasian Conference of Planning and Environment Courts and Tribunals, Christchurch, New Zealand
27-29 August and 3-5 September	Australian Commercial Disputes Centre, Mediation Training Program
29 September	Twilight seminar, Access to Information, Ms Anna Clifton, Judicial Commission of New South Wales

### Speaking engagements

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

### Conferences and seminars

23 February	Twilight seminar, Judicial Attributes, Magistrate David Heilpern, Judicial Commission of New South Wales
31 March	Setting the New Planning Agenda, Prof Tim Beatley and Prof Peter Newman, Planning Institute of Australia
8 April	Planning in NSW, Kristina Keneally, University of Sydney
27 May	Twilight seminar, Procedural Fairness in Merits Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales
4-5 June	Being Fair, Being Quick and Being Inexpensive – 12th Australian Institute of Judicial Administration (AIJA) Tribunals Conference
11 June	Sydney and New Orleans – The role of city governments in adapting to climate change, CityTalks 2009, Sydney

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16 June	Twilight seminar, Self-Represented Litigants, Justice Nicola Pain, Judicial Commission of New South Wales
5 August	Twilight seminar, Biodiversity offsets Part I: Applying a concept within a legal framework, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales
27-29 August and 3-5 September	Australian Commercial Disputes Centre, Mediation Training Program
2 September	Twilight seminar, Biodiversity offsets Part II, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales

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### Speaking engagements

13 May	<i>Statement of Facts and Contentions. How to do it right!</i> , Environment and Planning Law Association twilight seminar, Sydney
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## Dr Mark Taylor, Commissioner

### Conferences and seminars

23 February	Twilight seminar, Judicial Attributes, Magistrate David Heilpern, Judicial Commission of New South Wales
27 May	Twilight seminar: Procedural Fairness in Merits Review Hearings, Ms Narelle Bell, Judicial Commission of New South Wales
16 June	Twilight seminar, Self-Represented Litigants, Justice Nicola Pain, Judicial Commission of New South Wales
5 August	Twilight seminar, Biodiversity offsets Part I: Applying a concept within a legal framework, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales

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### Speaking engagements

5-12 July	<i>Environmental lead exposure in children from Mount Isa, Queensland Australia</i> , The 12th Annual Europe-Asia Medical and Legal Conference, Lipari, Aeolian Islands, Sicily, Italy
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### Publications

Kuypers, T, Ling M, Kilgore, D, Taylor, M P, (2009) "Reed bed versus slow sand filtration: a cost comparison", *Water*, 1, 34-38

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Findlay, S, Taylor, M P, Davies, P, and Fletcher, A (2009) "Development and application of a rapid assessment tool for urban stream networks", *Water and Environment Journal*, DOI: 10.1111/j.1747-6593.2009.00178.x

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Taylor, M P and Ives, C (2009) "Legislative and policy challenges for the protection of biodiversity and bushland habitats: An evidence-based approach", *Environmental Planning and Law Journal*, 26, (1), 35-48

Taylor, M P, Mackay, A K, Kuypers, T L and Hudson-Edwards, K A (2009) "Mining and Urban Impacts on Semi-arid Freshwater Aquatic Systems: The Example of Mount Isa, Queensland" *Journal of Environmental Monitoring*, 11 (5), 977-986.

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## Ms Susan Dixon, Commissioner

### Conferences and seminars

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|-------------|--|
| 5 August    | Twilight seminar, Biodiversity offsets Part I: Applying a concept within a legal framework, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales |
| 2 September | Twilight seminar, Biodiversity offsets Part II, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales   |
| 7 October   | Twilight seminar, Access to Information, Ms Anna Clifton, Judicial Commission of New South Wales   |
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### Speaking engagements

- |              |  |
|--------------|--|
| 10 August    | <i>Mining Matters in the Land and Environment Court of New South Wales</i> , presentation to stakeholders, Broken Hill             |
| 30 September | <i>Mining Matters in the Land and Environment Court of NSW</i> , Environment and Planning Law Association twilight seminar, Sydney |
| 22 October   | <i>Commissioner Panel</i> , Environment and Planning Law Association Conference, Sydney  |
| 25 November  | <i>Mining Matters in the Land and Environment Court of NSW</i> , Australian Mining and Petroleum Law Association, Sydney           |
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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

5 August	Twilight seminar, Biodiversity offsets Part I: Applying a concept within a legal framework, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales
13 August	Climate Change and Development, 2009 Biennial Ingram Lecture, Professor David Freestone from The George Washington University Law School, University of New South Wales
27-29 August and 3-5 September	Australian Commercial Disputes Centre, Mediation Training Program
2 September	Twilight seminar, Biodiversity offsets Part II, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales
23 September	The Institutional Design of the NSW Planning System: Councils, Panels and the Minister, John Roseth and John Mant, Australian Centre for Climate and Environmental Law, University of Sydney, Sydney
28 September	Administrative Law Update, New South Wales Bar Association, Sydney
29 September	Twilight seminar, Access to Information, Ms Anna Clifton, Judicial Commission of New South Wales
7 October	How We Came to See Cities as Collections of Land Uses, Dr Mariana Valverde, University of Sydney, Sydney
10 December	The Future of Environmental Law, Law Council of Australia, Symposium in honour of Mr Paul Stein AM, Sydney

### Speaking engagements

30 September	<i>Mining Matters in the Land and Environment Court of New South Wales</i> , Environment and Planning Law Association twilight seminar, Sydney
25 November	<i>Mining Matters in the Land and Environment Court of New South Wales</i> , Australian Mining and Petroleum Law Association, Sydney

### Publications

*Administrative Law Decisions*, Natural Resources Editor

R Lyster, Z Lipman, N Franklin, G Wiffen and L Pearson, *Environmental and Planning Law in New South Wales* (2nd ed, 2009), Federation Press

L Pearson & P Williams "The New South Wales planning reforms: Undermining external merits review of land-use decision-making?" (2009) 26 *Environmental and Planning Law Journal* 19

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## Ms Judy Fakes, Commissioner

### Conferences and seminars

17 February	Urban Forestry Symposium, Canberra
23 February	Twilight seminar, Judicial Attributes, Judicial Commission of New South Wales
25 March	Urban Forestry: Striving for a Natural Balance Seminar, Sydney
4-5 May	Australian Chapter of the International Society of Arboriculture Conference, Newcastle
27 May	Twilight seminar, Procedural Fairness in Merits Review Hearings, Judicial Commission of New South Wales
5 August	Twilight seminar, Biodiversity offsets Part I: Applying a concept within a legal framework, Acting Commissioner Dr Paul Adam, Judicial Commission of New South Wales
7 October	Twilight seminar, Access to Information, Ms Anna Clifton, Judicial Commission of New South Wales
19, 23 and 28 October	Australian Commercial Disputes Centre, National Mediation Training Program

### Speaking engagements

26 June	<i>AS4970:2009 – Protection of trees on development sites; likely implications for local government</i> , Local Government Tree Resources Association, Sydney
4-5 September	<i>TREENET 2000-2009; Planting Workshop</i> , TREENET Symposium, Adelaide

# **Appendices**

**Appendix 1 – Court Users Group**

**Appendix 2 – Court Committees**

# Appendix 1 – Court Users Group

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## 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 2009

The Hon. Justice Brian Preston,

Chief Judge (Chair)	Land and Environment Court
Senior Commissioner Tim Moore	Land and Environment Court
Acting Registrar Joanne Gray	Land and Environment Court
Mr Damon Anderson	Department of Water and Energy
Mr Peter Callaghan SC	Institute of Arbitrators and Mediators
Mr Mark Campbell	Australian Property Institute
Mr Grant Christmas	Local Government Association of New South Wales and Shires Association of New South Wales
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
Ms Helen MacFarlane	Urban Development Institute of Australia
Mr Warwick Mayne-Wilson	Australian Institute of Landscape Architects
Mr Michael Neustein	Royal Australian Institute of Architects (NSW Chapter)
Cr Michael Reymond	Local Government Representative
Ms Kirsty Ruddock	Environmental Defender's Office (NSW)
Mr Eugene Sarich	Australian Institute of Building Surveyors and Australian Institute of Environmental Health

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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

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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

The Hon. Justice Terence William Sheahan AO (from 3 September 2009)

The Hon. Justice Peter Meldrum Biscoe

The Hon. Justice Rachel Ann Pepper

### Education Committee

The Education Committee organised the Annual Conference for the Judges and Commissioners of the Court.

#### Members

The Hon. Mr Justice David Henry Lloyd (Chair) (to 8 May 2009)

The Hon. Justice Peter Meldrum Biscoe (Chair) (from 9 May 2009)

The Hon. Justice Nicola Hope Margaret Pain (from 9 May 2009)

Commissioner Trevor Bly (to 8 May 2009)

Commissioner Linda Pearson (from appointment on 13 July 2009)

Ms Joanne Gray, Acting Registrar

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

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)

Commissioner Jan Murrell

Ms Anna Clifton, Court Librarian

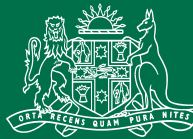
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Court**  
of New South Wales

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