

# Supreme Court of Queensland Annual Report 2007 – 2008



QUEENSLAND  
COURTS

Front cover: Students of all ages learn about court processes, jury duty and the Queensland judicial system during tours of the Supreme and District Courts in Brisbane.



**SUPREME COURT OF  
QUEENSLAND**  
CHAMBERS OF THE CHIEF JUSTICE

27 October 2008

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The Honourable K Shine MP  
Attorney-General and Minister for Justice and  
Minister Assisting the Premier in Western Queensland  
18th Floor  
State Law Building  
Cnr George and Ann Streets  
BRISBANE QLD 4000

Dear Attorney

I enclose my report, under s 119B(1) of the *Supreme Court of Queensland Act 1991*,  
on the operation of the Supreme Court for the year ended 30 June 2008.

Yours sincerely

A handwritten signature in cursive script that reads "Paul de Jersey".

The Hon P de Jersey AC  
Chief Justice

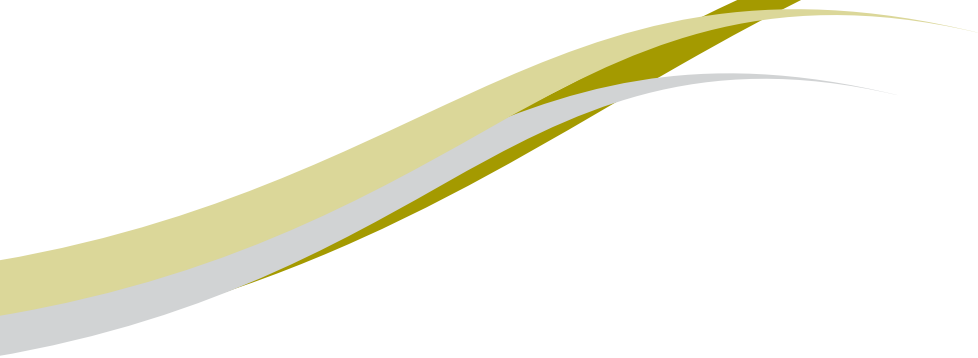


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## Chief Justice's overview



The Honourable Paul de Jersey AC  
Chief Justice

## Performance

The following statistics relating to the court's performance over the last year have been developed on the basis of the requirements of the Commonwealth Productivity Commission's annual *Report on Government Services* (RoGS).

Essentially, performance is indicated by clearance rates and backlog indicators.

The clearance rate indicates whether a court is keeping up with its workload. It involves a comparison of the number of lodgements with the number of finalisations. A figure above 100 per cent indicates a reduction in pending workload.

The backlog indicator compares the age of the pending caseload against nominated time standards.

## Disposition of caseload

### Trial division

#### Criminal

On the criminal side, the trial division ended the year with 436 outstanding cases and disposed of 1538 incoming matters (a 103 per cent clearance rate). Of the outstanding cases, 14.4 per cent were more than 12 months old (from date of presentation of indictment) and 4.6 per cent were more than 24 months old. Some cases may take this long due to appeals and rehearings.

I am grateful to Justice Mullins for her conscientious management of the criminal list, which is a major responsibility within the court.

### Civil

On the civil side, the trial division ended the year with 5042 outstanding cases and disposed of 5440 incoming matters (a 99.7 per cent clearance rate). Of the outstanding cases, 26 per cent were older than 12 months (from filing date) and 7.3 per cent were older than 24 months.

### Court of Appeal division

The Court of Appeal disposed of 399 criminal appeals this year (352 last year). This represents a clearance rate of 90.7 per cent. As of 30 June, 172 criminal appeals awaited disposition (111 last year).

The Court of Appeal also disposed of 266 civil appeals (267 last year). This represents a clearance rate of 112.7 per cent, and leaves 76 appeals outstanding at the end of the year (102 last year).

### Overall

Both divisions of the court performed satisfactorily.

## Registry management

Substantial work has been undertaken over the last year to rejuvenate registry operations. This work has included the closer integration of the state reporting bureau into the Supreme and District Courts operations and the merger of staff training resources for the three state courts. The Queensland Courts communications unit has also been established and the courts' website has been revised effectively to meet contemporary expectations. The revision of structures and systems within the registry has included the development of a team-based approach,



improving systems for statistical reporting, and attending more closely to aspects of learning and development.

## Rules Committee

Justice Muir chaired the Rules Committee from 20 August 2007, in anticipation of the retirement from the court of Justice Williams later in the year. After many years dedicated service, Magistrates Gribbin and Thacker ceased their membership of the committee during the course of the year.

At the end of the year, the members of the committee were: Chief Justice, Justice Muir (chair), Justice Wilson, Judge Robin QC, Judge McGill SC, Magistrate Wessling, Magistrate Morgan and Ms Hill, Director of Courts. The committee was assisted by Ms Waters, legal officer.

The committee met regularly throughout the year. A major project nearing completion is the drafting of a civil proceedings bill. This task was committed to the committee by s. 118C(2)(a) of the *Supreme Court of Queensland Act 1991*.

## Costs assessment

The *Uniform Civil Procedure Rules 1999* were amended at the end of 2007 to allow the Supreme Court to provide accreditation of legal practitioners as costs assessors. This followed months of work by the Rules Committee including consultation with the Bar Association of Queensland, the Queensland Law Society and the legal services commissioner. The new system involves the assessment of both party and party, and solicitor and client costs by costs assessors, although the registrar can still assess party and party costs.

The new system has been crafted to allow costs assessments to be carried out more expeditiously and less expensively. There is also an expectation that successful parties to litigation will recover more of their costs from the unsuccessful party.

Costs assessment is usually unnecessary and the rules encourage agreement on costs, as do related practice directions.

The amendment is a response to substantial dissatisfaction, within the profession and the litigating community, in relation to the former regime. Its effectiveness is being closely monitored by the Rules Committee and the new system is apparently working effectively.

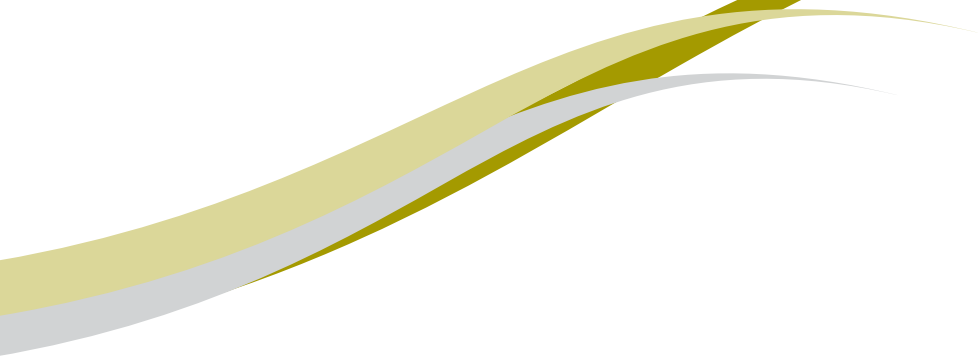
## Other monitoring mechanisms

The Chief Justice's Consultative Committee, comprising the Chief Justice, the President of the Court of Appeal, the Senior Judge Administrator and the office bearers of the professional associations met on 20 August 2007 to discuss matters of current importance in the courts and to the profession.

The Focus Group met on 21 August 2007, 30 November 2007 and 17 June 2008.

## Recording of proceedings

The digital recording system implemented during 2006 has persistently malfunctioned. Notwithstanding the best endeavours of technically qualified court and departmental staff, there is as yet no assurance that the recording system will be operating when courts convene.



Consequently, court sittings have been disrupted and courts have been adjourned while the system has been stabilised. This has occurred in both the criminal and civil courts. On occasions, the court has sat with no indication that the system has not been operating and those proceedings have not been recorded at all.

Serious attempts to resolve the difficulties with the system by departmental officers in conjunction with the supplier of the equipment, over a protracted period, have failed to deliver a system which will assuredly operate as it should. These attempts are continuing.

The guarantee that proceedings are recorded is essential to the integrity of the judicial process. It bears on the transparency and accountability of the process and is necessary to inform the Court of Appeal in the event of a challenge to a primary judgment. It is also essential that a transcript can be produced when required. The fulfilment of these guarantees is critical to the maintenance of public confidence in the judicial process.

These persistent problems have placed the staff of the state reporting bureau and the court technology group under undue pressure. Further resources are required in these areas, especially in terms of appropriately skilled staff. But there is a more fundamental question, and that is whether persisting with the current recording system can be justified, and whether the substantial expense of installing a reliable substitute will simply have to be borne.

I appreciate the efforts of the director-general and her officers in seeking to address these ongoing difficult issues. Their significance to public confidence in the operation of this branch of government warrants close and timely attention by executive government at the highest level.

## Continuing professional development

The judges held their thirteenth consecutive Annual Seminar on 13 – 14 August 2007. Presenters included Professor Mark Finnane (*Violence and the role of courts*); Dr Darryn Jensen (*Adjudicative inconsistency*); The Hon Peter McClellan, Chief Judge at Common Law, Supreme Court of New South Wales (*Managing expert witnesses as a group*); Dr Nicholas Aroney (*Work Choices – is there a reserved powers doctrine?*); Professor Lee Stuesser (*Queensland evidence law – an outsider's look*); Professor Sandra Berns (*Things that fall apart, the centre does not hold*); Dr Alan Davidson (*Part IV(A) of the Trade Practices Act v the autonomy principle in letters of credit*); Dr Nick James (*Critical*

*legal thinking*); Professor Cavanagh (*Lawyers as negotiators – the bad news*); Ms Pamela Schulz (*The media, the judiciary, the internet, and the use of language*); Professor John Hockings and Mr John Grealy (*What the public needs in our new courts building*); and Professor Paula Baron (*Liquidated damages claims and contracts*).

On 4 April 2008, the Minister for Police and Corrective Services and Sport, the Hon Judy Spence MP, and the Director-General, Corrective Services, Mr Frank Rockett, hosted and accompanied a number of judges on a tour of the Woodford Correctional Centre.



Staff from Queensland Corrective Services provided the Chief Justice and judges of the Supreme Court with a guided tour of the Woodford Correctional Facility.



## Chief Justice's calendar

Apart from the time allotted to the fulfilment of administrative and official responsibilities, I sat in the various jurisdictions of the court both in and out of Brisbane: Court of Appeal (12 weeks), the criminal court (seven weeks), civil sittings (two weeks), applications (five weeks), Townsville (one week), Southport (one week) and the Legal Practice Tribunal (one week).

An important part of my role is meeting with judges and practitioners in court centres around the state. The Supreme Court sits in 11 centres in addition to Brisbane. I endeavour to visit and sit at centres outside Brisbane biennially.

Accompanied by my wife, I attended the Central Queensland Law Association Annual Conference at Yeppoon from 10 – 12 August 2007 and the North Queensland Law Association Annual Conference in Mackay on 30 and 31 May 2008.

At the latter conference, the Mackay profession revived the 400 year old tradition of presenting the circuit judge with a pair of white kid gloves. A criminal sitting scheduled for Mackay in the ensuing week, before me, was cancelled for lack of cases. The presentation was organised by Mr John Aberdeen of Legal Aid Queensland and Ms Bronwyn Hartigan of the Mackay Bar.

I attended the Opening of the Law Year Service on 27 July 2007 at St Paul's Cathedral, Rockhampton.

With my wife, I attended a dinner hosted by the Downs and South West Queensland Law Association on 24 May 2008 in Toowoomba, for practitioners and law academics, as part of the association's annual Law Week celebrations.

On 13 June 2008 at Southport, I attended a function hosted by the Gold Coast District Law Association.

I attended two meetings of the Council of Chief Justices of Australia and New Zealand, in October in Melbourne and in March at Uluru.

I acted as Acting Governor or Deputy Governor on 11 occasions, for periods aggregating 30 days.

## The courthouses

### Brisbane

In the 2007 – 08 budget, the Queensland Government committed \$600 million to the new metropolitan Supreme and District courthouse project, with an initial \$236 million to be applied over the next two years. The 19 storey building will feature approximately 47 courtrooms and the latest technology. The external construction is of glass to symbolically reflect the transparency of the process within and maximum exposure to natural light in all courtrooms is a rigid stipulation. The building's forecourt will be a substantial grassed plaza, linked by pedestrian bridge across the Brisbane River to the Gallery of Modern Art which was designed by the same architectural firm, Architectus. This large financial commitment by the government will ensure that Queenslanders will at last have an inspiring metropolitan courthouse. The project is on track for completion in the year 2011, which will also mark the 150th anniversary of the Supreme Court.

### accessCourts

At the Christmas Greetings Ceremony on 12 December 2007, the Attorney-General launched 'accessCourts'. This initiative, funded by executive government, includes the provision of professional legal advice, free of charge, to unrepresented litigants and prospective litigants. Run by QPILCH, the Self-representation Civil Law Service (SRCLS) operates from an office servicing the Supreme and District Courts in Brisbane. Professional assistance

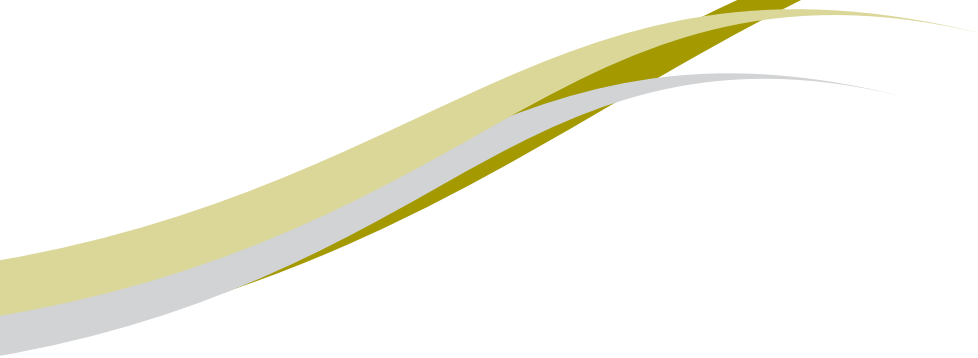
is provided at the courthouse by solicitors, which may lead to the involvement of other practitioners through the pro bono schemes of the Bar and the Queensland Law Society.

The Hon Martin Moynihan AO, QC chairs the SRCLS reference group. The SRCLS comprises three panels.

The advice panel was this year constituted by retired solicitors Lex MacGillivray and John Rowell, solicitor Nicole Nolan and barristers Darryl Rangiah, Gary Coveney and Scott McConnel.



Proposed new courthouse.



The advice panel is supported by a second panel of barristers willing to accept pro bono referrals for representation in cases with legal merit or to give more detailed assessment and advice. Its members this reporting year were Ken Barlow, John Bond SC, Vincent Brennan, Gary Coveney, Christopher Crawford, Jean Dalton SC, Tracy Fantin (Cairns), Nitra Kidson, Peter Lyons QC, Nicole Martin, Daniel O’Gorman SC, Darryl Rangiah, Hugh Scott-Mackenzie and Sarah Scott-Mackenzie. The third panel comprises solicitors firms willing to accept referrals in cases identified as having legal merit. This reporting year it consisted of Allens Arthur Robinson, Blake Dawson, Brian Bartley and Associates, Clayton Utz, Corrs Chambers Westgarth, Deacons, DLA Phillips Fox, Freehills, Minter Ellison, Murphy Schmidt, Nathan Lawyers and Piper Alderman.

An associated service is provided by Court Network for Humanity which coordinates trained volunteers to assist people throughout the court process.

This guidance facility is also very important. To a lay person, attending court can be a disconcerting and distressing experience, notwithstanding the best endeavours of lawyers, court officers and judges to ensure it is not. Being shepherded through the process, as necessary, by a properly trained volunteer, will for many provide comfort and reassurance.

The three-branched accessCourts initiative – the provision of legal advice, possibly attracting pro bono involvement by barristers and solicitors; targeted assistance from registry staff; and the more generally based volunteer assistance available to all court participants – is modelled on a service which has been provided at the Royal Courts of Justice in London with great effectiveness over some years.

The potential benefit to all court users, and especially those without means, and the courts themselves in easing the burdens of unrepresented litigants, are prospectively substantial.

It is assistance to those without means which particularly distinguishes this initiative. Its availability helps to address limitations on the accessibility of civil justice in the courts.

We hope this initiative may in due course be established at major regional centres.

### Website

<http://www.courts.qld.gov.au>

This site includes information about the day to day operations of the court and has, since September 2000, included details of expenditure on judges’ jurisprudential and other court or officially relevant travel.

The site registered 13,076,102 hits from launch to 30 June. It was redeveloped in the course of the year to provide more extensive and accessible court information.

## International aspects

Two judges from Shanghai, People's Republic of China, spent three months at the Supreme Court from 31 March 2008. The purpose of their attendance was to familiarise themselves with the processes of this court, and aspects of Australian law. The initiative was financially supported by grants from the Commonwealth Government

(Department of Foreign Affairs and Trade) and the Queensland Government (Department of Justice and Attorney-General).

The judges were Judge Huang Xiangqing, Chief Judge of the Second Criminal Division of Shanghai High People's Court and Judge Hu Yongqing, Deputy Chief Judge of the First Civil Division of Shanghai No.1 People's Intermediate People's Court.



International delegations often visit the Supreme Court to learn about Queensland's judicial system. Justice Byrne, Senior Judge Administrator, welcomed Judge Ma Yongzhu, President of the Anhui High Peoples Court, during his visit on 28 November 2007.

## Judicial appointments

Justice Muir was appointed a Judge of Appeal on 12 July 2007. His honour's appointment increased the complement of that division of the court from five to six judges.

On the same day, Mr Martin Daubney SC was appointed a Judge of the Supreme Court, to sit in the trial division. His honour filled the vacancy created by the resignation, on 7 July 2007, of Mr Justice Helman.

These judges were sworn in at a ceremony in the Banco Court on 18 July 2007.

Mr Glenn Martin SC was appointed a Judge of the Supreme Court on 30 August 2007 to sit in the trial division.

On 6 September 2007, Mr Duncan McMeekin SC was appointed a Judge of the Supreme Court to sit in the trial division, with effect from 15 October 2007. He was commissioned as the central judge from 14 January 2008. Since that date, the former Central Judge, Justice Dutney, has sat in the trial division in Brisbane.

On 30 January 2008, Mr Hugh Fraser QC was sworn in as a Judge of the Supreme Court and Judge of Appeal. His honour's appointment filled a vacancy in the Court of Appeal division resulting from the retirement of Justice Williams on 24 January.

On 7 February 2008 the Governor-in-Council appointed, as acting judges until 6 August 2008, Justice Mackenzie as an acting Judge of Appeal and Senior Judge Skoien as an acting Judge of the Supreme Court.

## Judicial retirements

Mr Justice Helman resigned as a Judge of the Supreme Court on 7 July 2007.

Justice Moynihan who was then Senior Judge Administrator, resigned as a Judge of the Supreme Court on 24 August 2007.

On 27 August 2007, Justice Byrne was sworn in as Senior Judge Administrator, having been appointed to that position for a period of five years by the Governor-in-Council.

On 24 January 2008, Justice Williams AO retired as a Judge of the Supreme Court and Judge of Appeal.

## Conclusion

I thank the judges, officers of the registry, the court's administrative staff, and the director-general and her staff, for their contribution to ensuring the effective discharge of the court's mission for another year.





**Profile of the  
Supreme Court**



The Honourable John Daniel Murray Muir  
*(appointed Judge of Appeal 13 July 2007)*

The Honourable Stanley George Jones, AO  
*(Far Northern Judge, Cairns)*

The Honourable Richard Noel Chesterman, RFD

The Honourable Margaret Anne Wilson

The Honourable Roslyn Gay Atkinson

The Honourable Peter Richard Dutney  
*(Central Judge until 13 January 2008)*

The Honourable Debra Ann Mullins

The Honourable Anthe Ioanna Philippides

The Honourable Philip Donald McMurdo

The Honourable James Sholto Douglas

The Honourable Ann Majella Lyons

The Honourable Alfred Martin Daubney  
*(appointed 13 July 2007)*

The Honourable Glenn Charles Martin  
*(appointed 31 August 2007)*

The Honourable Duncan Vincent Cook McMeekin  
*(appointed 15 October 2007; Central Judge from 14 January 2008)*

## Other appointments

### **Mental Health Court**

The Honourable Anthe Ioanna Philippides  
*(President)*

The Honourable Peter Richard Dutney  
*(appointed 14 February 2008)*

The Honourable Ann Majella Lyons  
*(appointed 14 February 2008)*

**Chair, Law Reform Commission** The Honourable Roslyn Gay Atkinson

### **Land Appeal Court**

The Honourable Margaret Jean White  
*(Southern District)*

The Honourable Keiran Anthony Cullinane  
*(Northern District)*

The Honourable Stanley Graham Jones, AO,  
*(Far Northern District)*

The Honourable Peter Richard Dutney

The Honourable Duncan Vincent Cook McMeekin



Judges of The Supreme Court.



THE LAW COURTS

**Court of Appeal division**

## Court of Appeal division

This section of the report is provided by the President of the Court of Appeal and is prepared in consultation with the judges of appeal.

## Workload

This year, 676 matters were commenced in the Court of Appeal (440 criminal and 236 civil).

Table 2: Annual caseload and performance indicators – Court of Appeal

	Number of cases			Clearance	Backlog indicator	
	Lodged	Finalised	Active	Rate	% > 12mths	% > 24mths
Criminal	440	399	172	90.7%	1.7%	0.6%
Civil	236	266	76	112.7%	0%	0%
Total	676	665	248	98.4%	1.2%	0.4%

The court's clearance rate of criminal matters this year has not exceeded 100 per cent. This can be attributed to the delays in late 2007 and early 2008, foreshadowed in last year's report, in receiving the transcripts of primary proceedings from the state reporting bureau. Transcripts form the core of appeal record books. This issue was especially problematic in the criminal jurisdiction. Legal Aid Queensland (LAQ) determines applications from appellants in criminal matters only after the receipt of the appeal record books. Matters cannot be listed for hearing until legal representation is decided. There have been delays in the listing of many criminal matters during the year. Despite that difficulty, the clearance rate of criminal cases remained relatively high at 90.7 per cent.

The court has used the hearing time made available through the delay in criminal matters to hear civil cases. As a result, the court's clearance rate of civil cases has exceeded 100 per cent this year. Overall, the court's clearance rate of cases remains pleasingly high at 98.4 per cent despite the SRB difficulties.

No civil cases awaiting finalisation have been filed for more than 12 months. Only 1.7 per cent of criminal matters (compared to 3.6 per cent last year) have been filed for more than 12 months. In those matters, the court has offered the parties hearing dates during the year, and the delay has been at the request of one or both parties.

Table 3: Judgments, criminal matters

Judgments	2005 – 06	2006 – 07	2007 – 08
Outstanding at start of year	5	12	6
Reserved	171	179	189
Ex tempore judgments delivered	125	95	119
Reserved judgments delivered	164	185	172
Outstanding at end of year	12	6	23

Table 4: Judgments, civil matters

Judgments	2005 – 06	2006 – 07	2007 – 08
Outstanding at start of year	16	16	14
Reserved	147	167	164
Ex tempore judgments delivered	39	54	41
Reserved judgments delivered	147	169	159
Outstanding at end of year	16	14	19

This year the number of reserved decisions in criminal matters and the number of undelivered judgments has increased. The number of undelivered judgments in civil matters has also increased slightly.

The median time for the delivery of reserved judgments in criminal matters has been maintained. In civil matters, it has improved from 29 to 22 days. Overall, the median time between hearings and the delivery of reserved judgments has been reduced.

Table 5: Time between hearings and the delivery of reserved judgments

Type of cases	Median number of days		
	2005 – 06	2006 – 07	2007 – 08
Criminal	18	18	18
Civil	18	29	22
All	18	23	21

The filings from the trial division in both civil and criminal matters are broadly comparable to last year with a slight decrease in civil filings and a slight increase in criminal filings. There has been a noticeable decrease in filings from the District Court in civil and Planning and Environment Court matters, but a significant increase from the District Court in criminal matters.

Table 6: Court in which matters were commenced

Court	Number of matters filed		
	2005 – 06	2006 – 07	2007 – 08
Trial division – civil	152*	158*	139*
Trial division – criminal	91*	81*	92*
District Court – civil	84	89	75
District Court – criminal	287	257	348
Planning and Environment Court	17	14	8
Other – civil (cases started, tribunals etc)	9	5	14
Magistrates Court – criminal	0	0	0
Other – criminal	0	0	0

\* These statistics include circuit court matters.

The number of sentence applications filed has increased from the preceding two years.

The number of conviction appeals, conviction and sentence appeals and applications for extensions of time has also risen slightly. The number of sentence appeals brought by the Queensland Attorney-General and the Commonwealth director of public prosecutions has increased slightly from the last two reporting years.



Table 7: Types of appeals filed

Appeal type	2005 – 06	2006 – 07	2007 – 08
<b>Civil</b>			
General including personal injury	133	154	126
Applications	75	71	80
Leave applications	36	25	22
Planning and Environment Court	17	16	8
Other	1	0	0
<b>Criminal</b>			
Sentence applications	184	145	211
Conviction appeals	50	55	58
Conviction and sentence appeals	56	53	65
Extensions (sentence applications)	24	18	39
Extensions (conviction appeals)	13	12	17
Extensions (conviction and sentence)	13	11	14
Sentence appeals (A-G/CwIth DPP)	20	17	22
Other	18	27	14

## Self-represented litigants

The number of self-represented litigants (Table 8) has decreased significantly in civil matters. Self-representation in criminal matters remained similar to last year. The decrease in civil self-represented litigants may be partly attributed to the QPILCH Self-representation Civil Law Service (SRCLS) which became operational in December 2007.

Four appellate litigants have been assisted by the SRCLS this reporting year. QPILCH, through its homeless persons' legal clinic, also instructed Ms J Dalton SC and Ms K Mellifont in the high profile case of *Rowe v Kemper*.<sup>1</sup>

The number of self-represented civil litigants and the number of self-represented litigants overall remains higher than in the 2006 – 07 reporting year. Self-represented litigants were involved in 30.3 per cent of criminal matters compared to 34.3 per cent last year, and 32 per cent of civil matters compared to 42.1 per cent last year. This remains a noticeably higher percentage than in matters before the trial division.

Cases involving self-represented litigants sometimes take longer to hear and determine because the standard of preparation and presentation can be poor and the litigants may be unable to articulate clearly the real points of the case. The outlines of argument of self-represented litigants may be filed late and are sometimes not served on their opponents. This results in case management, court mentions, adjournments, wasted court time and unnecessary costs.

Safety issues for members of the public, judges and their associates, and court and Department of Corrective Services staff can also arise when self-represented litigants present their own cases, especially when they are in custody. The Court of Appeal and the Banco Court do not have secure direct access from the court cells. On occasions it has been necessary to have additional security in these courtrooms in cases involving self-represented litigants. Despite the role of the self-represented litigants co-ordinator and QPILCH, these litigants continue to place a heavy burden on registry staff. They require more staff time, attention and support even though detailed information sheets are available to them. Registry correspondence on the files of self-represented litigants is approximately three times the norm.

As noted in the last seven annual reports, the Australian Institute of Judicial Administration's (AIJA) report, *Litigants in person management plans: issues for courts and tribunals*, raises the need for court staff to be given qualified immunity when assisting self-represented litigants with information and services and from rules governing unauthorised practice of law.<sup>2</sup> Some years ago, the strategic policy section of the Department of Justice and Attorney-General reviewed its indemnity policy but this has not addressed the issue of qualified statutory immunity for registry staff providing assistance for self-represented litigants.

During 1999 – 2000, the President and the judges of appeal, with the assistance of the Bar Association of Queensland and the Queensland Law Society, established a pro bono scheme to represent

<sup>1</sup> [2008] QCA 175

<sup>2</sup> At p 19; Goldschmidt et al, Meeting the Challenge of Pro Se Litigation (1998) American Judicature Society, State Justice Institute, Recommendation (II), 34-35.

appellants convicted of murder or manslaughter who had been refused legal aid. In 2002 – 03, the scheme was extended to juveniles and those with an apparent legal disability. The court has not been required to call on the scheme as much as anticipated because LAQ continues to adopt a generous approach to the granting of legal aid in these matters. The President and the judges of appeal commend this approach which enhances the quality of the criminal justice system in Queensland. The Court of Appeal thanks LAQ and the public spirited barristers listed in the Court of Appeal pro bono list who agreed to take part in the pro bono scheme. The scheme was used in three matters this year. The court is also grateful to other legal practitioners who often appear for no fee so that indigent litigants in the Court of Appeal can have access to justice.

Table 8: Matters heard where one or both parties were unrepresented

Number of cases	2005 – 06	2006 – 07	2007 – 08
Civil	42	93	66
Criminal	99	94	92
<b>TOTAL</b>	<b>141</b>	<b>187</b>	<b>158</b>

### Court of Appeal pro bono list for 2007 – 08

John Baulch SC (Townsville)	John Griffin QC	Frank Martin (Toowoomba)
David Boddice SC	Simon Hamlyn-Harris	Kerri Mellifont
Martin Burns	James Henry SC (Cairns)	Robert Mulholland QC
Brendan Butler SC	Jeffrey Hunter	Peter Mylne
Michael Byrne QC	Mark Johnson	Peter Nolan
Peter Callaghan SC	Stephen Keim SC	Gerard O'Driscoll (Rockhampton)
Anthony Collins (Townsville)	Tony Kimmins	Colin Reid
Ralph Devlin SC	Gary Long SC	Peter Richards
Bradley Farr SC	Dennis Lynch	Tim Ryan
Terry Gardiner	Kelly Macgroarty	Bret Walker SC
Tony Glynn SC	Alan MacSporran SC	Elizabeth Wilson

## Increase in requests for legally represented applicants and appellants in custody to be present at hearings

The long established practice is that appellants or applicants who are in custody and who are legally represented do not ordinarily attend their appellate court hearings. This practice has arisen for reasons of security and to save Queensland Corrective Services unnecessary expense. Self-represented appellants in custody attend the court, either in person or by video or audio link, when arguing their appeals or applications, unless they specifically request that the matter be dealt with on the papers. Over recent years, there has been a significant increase in requests from imprisoned legally represented applicants or appellants to be present at their court hearings. This year, 12 requests were made of which five were granted.

Section 671D *Criminal Code 1899* (Qld) confers a right to be present at the appeal hearing on an appellant who is in custody. Applications for leave to appeal, however, do not become appeals unless leave is granted. The established practice in criminal matters is to hear together applications for leave

to appeal and, if granted, the appeal, without determining in a preliminary hearing whether leave to appeal should be granted. Under s. 668D(1) *Criminal Code*, many appeals against conviction may proceed only by leave. It follows that the right of those in custody to be present under s. 671D is limited. Nevertheless, if there is a sustained increase in requests by legally represented criminal applicants and appellants in custody to be present at their appellate hearings, there are likely to be resource and security concerns for the court and Queensland Corrective Services. There is no secure, direct access from the court cells to either the Banco Court or the Court of Appeal. Queensland Corrective Services may wish to consider ordinarily arranging such appearances by video link.

## Organisation of work

The exercise of accrued leave entitlements by the judges of appeal again reduced the number of available judges for significant periods during the year. Similar patterns of leave must be expected and planned for in future years. Justice Jerrard has been on sick leave since the commencement of the 2008 court year. It is expected that he will resume his duties at the beginning of 2009. Acting appointments have been made to cover the period of his honour's absence. The President and the judges of appeal collectively sat 210 weeks this year, compared to 182 weeks last year and 160 weeks in 2005 – 06. The extra sitting weeks are attributable to the judges taking less long leave than in the previous two years.

The Court of Appeal sat as a Bench of three judges for 42 weeks during the year. It has continued to rely on regular assistance from the Chief Justice who sat for 12 weeks. Trial division judges also sat in the Court of Appeal for 64 weeks this year compared to 71 weeks last year and 66 weeks in 2005 – 06. Justice Muir sat in the trial division for two weeks in January 2008.

The President and the Senior Deputy Registrar (Appeals), Mr Neville Greig, have continued to work together with the judges of appeal to ensure the court is able to hear and determine urgent matters in a timely fashion. The following matters are heard as soon as possible:

- applications for leave to appeal and appeals against conviction concerning short custodial sentences
- appeals by the Attorney-General or the Commonwealth Director of Public Prosecutions against sentences where respondents have been released into the community
- all criminal cases involving children
- appeals against interlocutory decisions so that the determination of the action itself is not unnecessarily delayed pending appeal
- pressing commercial disputes which have been dealt with expeditiously in the trial division's commercial list
- other matters where urgency is demonstrated.

Consistent with those principles, the court was able to offer an early hearing in the high profile appeal, *R v KU & Ors; ex parte A-G (Qld)*<sup>3</sup>, a case involving juveniles.

The senior deputy registrar (appeals) has continued to identify, at an early stage, matters which are complex or where delay is a problem. These are case-managed by the President or a judge of appeal to ensure timely disposition.

<sup>3</sup> [2008] QCA 154.

## **An additional judge of appeal**

The President and the judges of appeal gratefully acknowledge the Attorney-General's acceptance of the recommendation made in past annual reports to provide an additional Court of Appeal judge. Justice Muir was appointed as a Judge of Appeal in July 2007. Justice Muir continued to sit in the trial division until September 2007.

Although the number of judges of appeal has now increased from five to six, it remains desirable for trial division judges to continue to sit regularly in the Court of Appeal, as the court benefits from their trial work experience.

## **State reporting bureau**

The performance of the state reporting bureau (SRB) has continued to provide difficulties for registry staff, the court, the profession and litigants during this year. SRB has had persistent and significant delays in providing transcripts from preliminary hearings in the preparation of appeal record books, both in civil and criminal matters. The consequential delays to the hearing of those appeals, noted in last year's report, increased during this reporting year. This problem peaked in late 2007. Major delays in the hearing of appeals generally have only been avoided by the resourceful approach to listing taken by the senior deputy registrar (appeals).

There have on occasions been delays in hearings because of faulty recording equipment in the Banco Court or the Court of Appeal. There have also been delays in the receipt of appeal transcripts.

The President and the judges of appeal appreciate the efforts made to remedy these issues by the Director, SRB, Ms Stephanie Attard, and her hard-working staff. But if the ongoing difficulties within SRB are not urgently resolved through adequate resourcing, they will seriously impact on the administration of justice in Queensland.

## Registry

The President and the judges of appeal value the high level of service provided by the senior deputy registrar (appeals) and the appeals registry staff. This service has been maintained through the loyalty, diligence and vision of the senior deputy registrar (appeals) despite the undesirably high turnover of appeal registry staff during the year. High staff turnover diverts extremely limited resources into the constant training of new staff and has a detrimental effect on the level of support given by staff to the public, the profession and the judges.

The Director of Courts, Ms Robyn Hill and the Deputy Director of Courts, Ms Julie Steel, are aware of the problem. The President and the judges of appeal value their commitment and efforts to remedy it and anticipate more staff continuity during the next reporting year.

The matter of unsatisfactory counter facilities for people with physical disabilities referred to in the two preceding annual reports has been only partially addressed. Plans have been drawn and approved but it remains unknown if and when the work will be carried out.

The limited availability and quality of storage space for Court of Appeal files noted in the two preceding annual reports has been remedied this year by the use of electronic appeal record books.

## Judgments and catchwords

The Court of Appeal has adopted the Australian Institute of Judicial Administration's recommendations regarding the electronic reporting of judgments. Since 1998, Court of Appeal judgments have been available free of charge on the internet through AustLII and on the Supreme Court Library website, [www.sclqld.org.au](http://www.sclqld.org.au). Court of Appeal judgments from 1992 onwards are also now available on the Supreme Court Library website. The director of SRB and her staff assist in the timely publication on the internet of ex tempore Court of Appeal judgments.

Federal courts and all state courts other than Queensland have a media or community liaison officer. Queensland courts should have such an officer, but in the absence of one, the research officer: <sup>4</sup>

- provides Court of Appeal judgments, both at initial publication and later, to the media
- encourages media representatives who report on Court of Appeal judgments to refer to the electronic report, including where possible, a hyperlink
- provides judgments at the time of publication to interested judges, magistrates, the Queensland Sentencing Information Service, the director of public prosecutions, Legal Aid Queensland and representatives from the Department of Justice and

<sup>4</sup> The position of research officer has been filled this year by Ms Zenovia Pappas, who acted in the position until December 2007, and Mr Bruce Godfrey who was appointed to the role on 17 December 2007.



- Attorney-General representatives. Judgments are also provided to the Supreme Court Library for publication on the internet, including through AustLII
- under the supervision of the judges, prepares and distributes to the media and other interested parties summaries of important Court of Appeal judgments
- in consultation with the Supreme Court Library and department staff, ensures that the Supreme Court Library and Queensland Courts website are updated with Court of Appeal judgments, changes to the *Criminal Practice Rules* and the *Uniform Civil Procedure Rules*, practice directions and information sheets.

Justice Williams' associate, under the judge's supervision, continued until the judge's retirement in January 2008 to prepare helpful brief outlines of Court of Appeal judgments. The research officer has now assumed this responsibility. The outlines are published on the Supreme Court Library website <<http://www.sclqld.org.au>>. Copies are widely distributed to interested Queensland judges, magistrates and others including the Queensland Law Society and the Bar Association of Queensland. These outlines are also published in *Proctor*, the journal of the Queensland Law Society.

## Information technology

### Electronic record books

During 2006 – 07, the senior deputy registrar (appeals) and his staff took advantage of upgraded photocopying equipment to implement a system of searchable electronic record books in all

appeals. As a result the Court of Appeal now has electronic record books for all matters. These can be downloaded onto CDs in PDF format or emailed as an attachment in addition to the traditional hard copy appeal record book. The electronic record books can be accessed by any computer using the free software Acrobat Reader. There is no need for users to purchase additional software.

The modest cost to the department in developing this project (estimated at no more than \$800) has already been recouped over the previous reporting year. Savings have continued over this reporting year and can be expected to continue over coming years. The economies are the result of no longer producing a hard copy of the appeal record for the court file and a reduction in the post-appeal storage costs of bulky record books. Additional savings can be expected as users become more familiar with the electronic format and it gradually replaces hard copies.

Electronic appeal record books are used by:

- judges and their associates both in and out of court
- counsel and self-represented litigants in the courtroom through the wi-fi connection in and out of court
- judges' secretaries to prepare judgments where there are lengthy quotes from the appeal record.

The only limitation is that searching is presently available solely for typed print, not handwritten documents.

## Court of Appeal case management system (CAMS)

CAMS is essential to ensure the efficient performance of the Court of Appeal. Sufficient funding for its maintenance is vital and has been provided during this reporting year. Ongoing adequate funding remains necessary for the continued efficient disposal of the work of the Court of Appeal.

CAMS is currently accessible from the computers of all Court of Appeal and trial division judges and associates.

## Courts wi-fi

A free broadband internet service using wireless technology is now available in the Banco Court and in the courtroom on the fifth floor. This allows appellate court users to access the Internet, email and potentially their organisations' information technology systems without connecting to a hard-wired computer. This should continue to increase the efficiency of court processes and reduce costs for users.

All judges sitting in the appellate jurisdiction now have access to individual court computers for legal research or electronic record book use.

## Audio and video link

The use of audio and video links in the Court of Appeal has continued to provide affordable access to justice for litigants outside Brisbane. Eighteen matters were heard this year by video link. Two matters were heard by audio link. This is a noticeable decrease from the 49 matters heard by video link and 12 matters heard by audio link last year.

This decrease is surprising because audio and videoconferencing:

- is often very cost effective and convenient for parties
- allows matters involving unrepresented litigants in custody from distant parts of the state to be heard remotely. This provides greater security and is of particular significance for Court of Appeal hearings because there is no secure access from the court cells to the courtrooms
- allows litigants in custody to avoid disruption to their rehabilitative programs.

The decreased use may be the result of fewer appeals from outside Brisbane this reporting year or the technical problems which have frequently resulted in lost court time and sometimes, adjourned hearings. Resources must be provided to ensure this equipment is maintained and improved.

## The judges' library

The President and the judges of appeal acknowledge the provision of resources for updating the judges' library in the Court of Appeal precinct during the year. It is important that funds continue to be made available for this small but well-used library which is an essential aid to the judges.

## Court of Appeal sittings, Townsville

The Court of Appeal's northern sittings were held in Townsville from 26 – 29 May 2008. Five judges took part: the President, Justice Muir and Justice Mackenzie from Brisbane; the Northern Judge, Justice Cullinane from Townsville; and the Far Northern Judge, Justice Jones from Cairns.

The Court of Appeal heard 16 matters during the sittings. These comprised 15 criminal matters (two applications for an extension of time, one appeal against conviction and sentence, one appeal against conviction, ten sentence applications and one urgent bail application) and one general civil appeal.

The Court of Appeal delivered *ex tempore* judgments in eight criminal matters, adjourned one criminal matter to a date to be fixed in Brisbane and reserved judgment in one civil and five criminal matters.

Barristers and solicitors from Townsville, Cairns, Mackay and Brisbane participated in the sittings. Seventy-five per cent of these barristers were based in north Queensland (43.75 per cent from Townsville and 31.25 per cent from Cairns) and 25 per cent were based in Brisbane.

The sittings were observed from the public gallery by students from three Townsville high schools, law students from James Cook University and members of the general public.

During the sittings, the judges of appeal, other members of the judiciary and associates met students and academics from James Cook University, including the vice-chancellor, at an informal evening function at University Hall. On the final night of the sittings, the judges dined with local judges and members of the legal profession at a dinner hosted by the North Queensland Bar Association.

It was especially fortuitous that Justice Mackenzie, an Acting Judge of Appeal, participated in the sittings. His honour was the northern Crown prosecutor based in Townsville in the late 1970s and will retire at the end of 2008 after a distinguished legal and judicial career. It is likely that this will have been his honour's last opportunity to visit north Queensland while in office.

Justice Mackenzie's distinguished contribution to the administration of justice was acknowledged at the professional functions attended by the judges.

The Court of Appeal plans to sit in north Queensland in 2009, probably in Cairns. This will be dependent on sufficient funding to the court to conduct the sittings and enough work to again justify costs.

## Appeals from the Court of Appeal to the High Court

The registry of the High Court of Australia has provided the following statistics for applications for special leave to appeal and appeals for this reporting year from the Court of Appeal to the High Court of Australia.<sup>5</sup>

There were 510 matters heard by the Court of Appeal this reporting year. In the same period there were three appeals from the Court of Appeal to the High Court of Australia. These were unsuccessful. These statistics reaffirm that the Court of Appeal is effectively the final appellate court for Queensland.

Table 9: Applications and appeals from the Court of Appeal to the High Court

Applications for special leave						
	Criminal			Civil		
	2005 – 06	2006 – 07	2007 – 08	2005 – 06	2006 – 07	2007 – 08
Granted	5	2	1	0	3	3
Refused	17	7	15	18	18	34
Appeals						
	Criminal			Civil		
	2005 – 06	2006 – 07	2007 – 08	2005 – 06 *	2006 – 07	2007 – 08
Allowed	4	0	0	9	0	0
Dismissed	5	2	1	3	0	3**

\* Eight of these were in related matters: *Queensland v Stephenson and Reeman v Queensland* [2006] HCA 20, B59-60 of 2005; *Davison v Queensland*, *Gibson v Queensland*, *Girard v Queensland*, *Orr v Queensland*, *Yarrie v Queensland*, *Orr v Queensland* [2006] HCA 21, B62-67 of 2005.

\*\* This figure includes one matter where special leave was revoked.

<sup>5</sup>Matters heard in the High Court of Australia in one reporting year were often heard by the Court of Appeal in an earlier reporting year.

## Conclusion

The Court of Appeal has again maintained its performance levels this year, despite Justice Jerrard's absence on sick leave for half the year and the difficulties arising from SRB.

The court could not have maintained its present high level of efficiency without the Attorney-General's timely temporary replacement of Justice Jerrard with Justice Mackenzie and, in his absence on long leave for four weeks in April and May, Justice White.

The Court of Appeal cannot perform effectively without the assistance of a properly resourced registry with reasonable continuity in skilled registry staff. The Court of Appeal and its registry will continue to require funding to maintain and refine CAMS, to hear matters by efficient video and audio link, to develop the electronic filing of appeals, to refine the preparation of electronic appeal record books and to foster best practice in information technology. Funding must also be maintained for the judges' library.

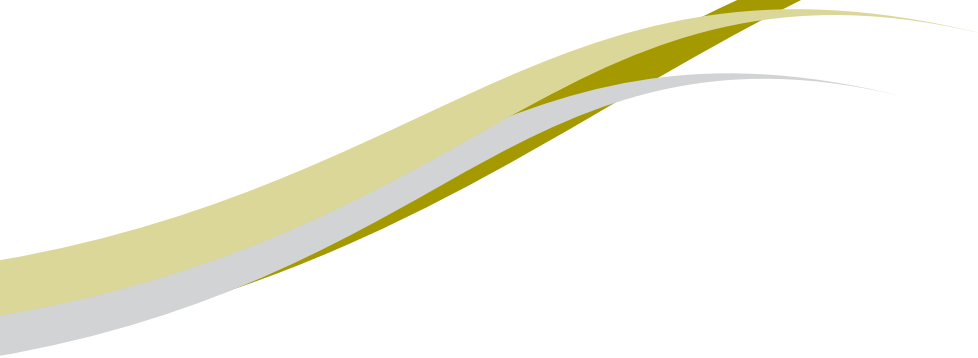
Careful planning is required to continue to refine the best methods of management of self represented litigants, both in the registry and in court. The judges look forward to monitoring the developments in assisting self-represented litigants during the next reporting year and thank the Attorney-General, the department, QPILCH, the self-represented litigants co-ordinator and the legal profession for their support of these initiatives.

The Court of Appeal relies heavily on a properly resourced and efficient SRB to:

- accurately record the primary hearings that are the subject of appeals
- provide, in a timely fashion, the transcripts of those hearings which form the core of all appeal record books
- efficiently record and where necessary transcribe appeal hearings
- efficiently and expeditiously transcribe the court's ex tempore reasons and judgments.

Despite the best efforts of the hard-working director of SRB and her staff, and the support of the director and deputy director of courts, there have been persistent and significant delays in providing these services during this year. It seems this may be attributed to unsatisfactory outcomes from the newly introduced digital recording system. Whatever the reasons, there has been consequential delays in the preparation, listing and hearing of appeals. If the problems in SRB are not remedied urgently, they will directly and detrimentally impact on the Court of Appeal's efficiency and the quality and efficiency of the administration of justice in Queensland.

The President and the judges of appeal thank those responsible for the Court of Appeal's efficient performance, and especially acknowledge the senior deputy registrar (appeals) and his staff for their loyal service in the challenging circumstances encountered in this reporting year.





**Trial division**

## The work of the trial division

The trial division resolves matters commenced by indictment (in criminal cases), claim or originating application (in civil proceedings) by trial, hearing or consensus.

The Senior Judge Administrator is responsible for the administration of the trial division.

Civil matters are heard by a single judge. Criminal trials are heard with a jury.

Trial division judges also regularly sit as judges of the Court of Appeal. They also constitute the Land Appeal Court, the Mental Health Court and at times, the Legal Practice Tribunal. Some act as members of bodies such as the Queensland Law Reform Commission and the Supreme Court Library Committee. Many also serve with groups that have a responsibility for developing and implementing procedures to improve the administration of justice including the Rules Committee and the Learning and Development Committee.

## The structure of the trial division

The court is divided into far northern, northern, central and southern districts, reflecting the decentralised nature of the state and its large area.

Fifteen trial division judges are based in Brisbane in the southern district. The director of courts and the sheriff of Queensland are also based in Brisbane. The southern district includes Toowoomba, Maryborough and Roma.

The central judge resides in Rockhampton, where he presides at civil and criminal sittings. He also conducts sittings in Bundaberg and Longreach, and most of the Mackay sittings.

The northern judge resides in Townsville. His district encompasses the regional centres of Mount Isa and Mackay.

The far northern judge resides in Cairns.

In Townsville, Rockhampton and Cairns, a registrar and support staff assist the regional judges.

More than two-thirds of the trial division workload arises in and around, and is dealt within, Brisbane.

Information about the organisation and practices of the trial division, including its calendars, electronic setdown for hearing, law lists, fact sheets, practice directions, and reasons for judgment is published on the Queensland Courts website <<http://www.courts.qld.gov.au>>.

## Comparison with last year

Despite an increase in the lodgements, clearance rates and backlog indicators have improved in both the criminal and civil jurisdictions.



## Criminal jurisdiction

Criminal lodgements increased from 1330 for 2006 – 07 to 1493 (an increase of 163 or 12.3 per cent).

Finalisations increased from 1354 for 2006 – 07 to 1538 (an increase of 184 or 13.6 per cent).

The clearance rate was 103 per cent. In 2006 – 07, the clearance rate was 101.8 per cent.

As at 30 June 2008, there were 436 active pending matters. There were 474 as at 30 June 2007 (a decrease of 8 per cent).

The number of cases older than 12 months and less than 24 months has decreased from 69 in 2006 – 07 to 43 (a decrease of 37.7 per cent).

As of 30 June 2008, 4.6 per cent of lodgements (20 cases) were older than 24 months. As of 30 June 2007, 4.6 per cent of lodgements (22 cases) were older than 24 months: a decrease of two cases (or 9.1 per cent).

The following table summarises the activity in the trial division's criminal list.

Table 10: Supreme Court trial division – criminal jurisdiction

	Number of defendants(1)			Clearance rate	Backlog indicator(2) % > 12 months	Backlog indicator % > 24 months
	Lodged	Finalised	Active		Presentation date	Presentation date
<b>Main centres</b>						
Brisbane	1070	1061	365	99.2%	13.7%	4.9%
Cairns	136	158	25	116.2%	16.0%	4.0%
Rockhampton	49	49	7	100.0%	14.3%	0.0%
Townsville	97	95	8	97.9%	12.5%	0.0%
<b>Total for main centres</b>	<b>1352</b>	<b>1363</b>	<b>405</b>			
<b>Regional centres</b>						
Bundaberg	27	35	7	129.6%	42.9%	0.0%
Longreach	0	0	0	0.0%	0.0%	0.0%
Mackay	45	57	6	126.7%	50.0%	16.7%
Maryborough	22	27	8	122.7%	12.5%	0.0%
Mount Isa	2	6	3	300.0%	0.0%	0.0%
Roma	4	6	0	150.0%	0.0%	0.0%
Toowoomba	41	44	7	107.3%	0.0%	0.0%
<b>Total for regional centres</b>	<b>141</b>	<b>175</b>	<b>31</b>			
<b>State total</b>	<b>1493</b>	<b>1538</b>	<b>436</b>	<b>103.0%</b>	<b>14.4%</b>	<b>4.6%</b>

Notes:

- (1) As defined by the RoGS rule, a defendant is one defendant with one or more charges and with all charges having the same date of registration. Defendants with outstanding Bench warrants or with secondary charges (such as breaches of orders) are excluded. Also excluded are defendants awaiting indictment presentation.
- (2) Backlog indicator: the number of active pending defendants with proceedings older than the specified time. Time is measured from date of lodgement (usually the date of indictment presentation) to the end of the reporting period.

Reasons for delay in finalising cases include referral to the Mental Health Court and deferral because of other court proceedings and retrials.

## Criminal jurisdiction – Brisbane

Justice Mullins continues to supervise the listing of criminal matters in Brisbane. The criminal list manager is responsible for the management of the criminal list, including the daily listing of matters.

After consultation with the director of public prosecutions, Legal Aid Queensland, the commonwealth director of public prosecutions, representatives from the legal profession, court staff and the judges, a notification relating to listing at Brisbane was published on the court's webpage and has applied from September 2007.

The notification has introduced innovations. The legal representatives for the prosecution and the defendant submit a form to the criminal list manager that provides information relevant to the allocation of trial dates. It also contains a checklist of matters to be considered in preparation for trial.

Since early 2008, final hearings under the *Dangerous Prisoners (Sexual Offenders) Act 2003* are heard by a judge listed to sit in the criminal jurisdiction. The court exercises civil jurisdiction in dealing with applications under this Act. Unlike other types of civil proceedings, these applications are never resolved without a hearing and this had an impact on the hearing of other civil matters. Although the applications remain civil matters, they are now given fixed dates in criminal sittings.

## Civil jurisdiction

Civil lodgements increased from 5322 in 2006 – 07 to 5455 (an increase of 133 or 2.5 per cent).

Finalisations increased from 5167 in 2006 – 07 to 5440 (an increase of 273 or 5.3 per cent).

The clearance rate was 99.7 per cent. During 2006 – 07, it was 97.1 per cent.

As at 30 June 2008, there were 5042 active pending matters. There were 5319 as at 30 June 2007 (a decrease of 5.2 per cent).

The number of cases older than 12 months and less than 24 months has decreased from 1051 in 2006 – 07 to 941 (a decrease of 10.5 per cent).

As at 30 June 2008, 7.3 per cent of lodgements (368 cases) were older than 24 months. As at 30 June 2007, 8.4 per cent of lodgements (445 cases) were older than 24 months: a decrease of 77 cases (or 17.3 per cent).

Table 11: Supreme Court trial division – civil jurisdiction

2007 – 08	RoGS civil files			Clearance rate	Backlog indicator from filing date	
	Lodged	Finalised(1)	Active		% > 12 mths	% > 24 mths
Brisbane	4592	4533	4132	98.7%	25.6%	7.7%
Cairns	287	346	285	120.6%	26.3%	4.2%
Mackay	117	80	135	68.4%	30.4%	7.4%
Rockhampton	148	171	172	115.5%	32.6%	3.5%
Southport	0	2	1	0.0%	100%	0%
Townsville	245	279	257	113.9%	23.7%	7.4%
Bundaberg	12	6	17	50.0%	29.4%	0%
Longreach	0	0	1	0.0%	100%	100%
Toowoomba	22	11	17	50.0%	29.4%	0%
Mount Isa	12	4	14	33.3%	35.7%	7.1%
Maryborough	20	8	11	40.0%	0%	0%
<b>State total</b>	<b>5455</b>	<b>5440</b>	<b>5042</b>	<b>99.7%</b>	<b>26.0%</b>	<b>7.3%</b>

Table 12: Lodgements

	RoGS civil(2)	Non RoGS civil(3)	Non RoGS criminal	Probate	Total
Brisbane	4592	1007	607	6033	12239
Cairns	287	26	7	308	628
Mackay	117	1	15	1	134
Rockhampton	148	23	16	441	628
Townsville	245	73	63	539	920
Bundaberg	12	0	1	0	13
Longreach	0	0	0	0	0
Toowoomba	22	0	0	0	22
Mount Isa	12	0	0	0	12
Maryborough	20	3	1	0	24
Roma	0	0	1	0	1
<b>State total</b>	<b>5455</b>	<b>1133</b>	<b>711</b>	<b>7322</b>	<b>14621</b>

## Notes:

- (1) For reporting purposes a case is deemed finalised under RoGS rules if there has been no activity in it for one year.
- (2) The RoGS unit of measurement for the civil jurisdiction is a case. Secondary processes such as interlocutory applications are excluded.
- (3) The trial division also deals with matters which, for reporting purposes, have been grouped as non-RoGS civil, non-RoGS criminal, probate files and Legal Practice Tribunal files. RoGS files include claims in the majority of originating applications. Non-RoGS civil includes such proceedings as admission as a legal practitioner and appointment as a case appraiser.

## Civil jurisdiction, Brisbane

Innovations in listing arrangements in Brisbane have impacted on the applications jurisdiction as well as on obtaining trial dates.

The applications jurisdiction now offers greater flexibility for obtaining hearing dates as the number of hours available for listing has increased from 6 to 7.5 per judge per day.

The last callover of civil cases seeking trial dates was held in June 2008. Trial dates can now be allocated at any time by the civil list manager via an electronic request. The Queensland Courts website lists available dates and the procedure for securing the assignment of dates for a hearing.

## eTrials

Two civil trials were conducted as part of a pilot project in 2008 to develop eTrials. eTrials use technology developed by the information technology staff which has been adapted from readily available software with hardware supplied by the court. Other eTrials have been conducted using commercially available software supplied by the parties. However, it is hoped that the software developed in-house as part of the project will allow a wider range of proceedings to be conducted using the available equipment at a lower cost.

Under the project, parties provide information technology staff with the pleadings and proposed documentary exhibits scanned onto a DVD in the form of searchable PDFs. Metadata is included to describe the documents and allows them to be incorporated into an intranet database where they are readily marked as exhibits when tendered during

the trial. The documents can be called up on screens visible to the judge, associate, witnesses, lawyers, their clients and members of the public. They can be retrieved more quickly than paper-based exhibits and this enhances the efficient conduct of the proceedings. Transcripts of the oral evidence and copies of written submissions and the authorities referred to are added as the trial progresses. The role of the associate in managing the documents is important.

The display of the documents helps those following the proceedings, including the parties, members of the public and media representatives, to better understand the evidence and submissions. The judge, the associate and the lawyers can also search the database on their own computers independently of the documents currently being displayed. This helps with the examination of witnesses. The database is password protected but is accessible in the courtroom and from any other computer with an internet connection. This allows the lawyers and the judge to read the documents from their chambers outside of court hours.

It is estimated that approximately 20 per cent of court time is saved through this process. It also allows the judge to conveniently access the exhibits and the transcript of the evidence during the hearing and while writing the judgment. References in written submissions can be hyperlinked to the relevant exhibits, legal decisions and other evidence contained in the database.

These early eTrials have produced useful suggestions for improvements to the system.

## Case flow management

Case flow management of civil proceedings in Brisbane has been implemented to give practical effect to Rule 5 of the *Uniform Civil Procedure Rules 1999* (UCPR) and the rules imposing times for taking steps in litigation and the direction-making power of the court (UCPR r. 366; *Supreme Court Act 1991*, s. 118D(2)(a)). It is regulated by Practice Direction 4 of 2002. The aim is to ensure that proceedings progress to a timely and cost-effective resolution. Case flow management involves an integrated approach by registry staff and Justice Atkinson.

At the heart of the Queensland case flow management system is the concept that ordinarily a matter should be ready for trial within 180 days of the notice of intention to defend being filed. If no request for trial date has been filed by that time, the parties must propose an acceptable case management plan or the matter will be referred to the judge, who will give directions for the timely disposition of the proceedings. The judge ensures that any case management plan proposed at the directions hearing is comprehensive, including a date by which the request for trial date must be filed or the matter will be deemed resolved.

A review of the case flow system in 2007 revealed a need for changes to be made to allow the registry to send out a greater number of notices to parties where there had been no request for trial date filed within 180 days (CFM2 notices) and also refer matters more regularly for review to Justice Atkinson. The court implemented a new system for the case flow management of claims in January which permits the registry to finalise these matters.

The new system provides a greater service to the profession and litigants. The changes have been positively received by the profession with most now embracing the duty to proceed with litigation in an expeditious way.

While the case flow management system removes cases which are inactive, the majority of matters reviewed have proved to be active cases requiring resolution. This highlights the need for consistent and ongoing court management to progress these matters to trial. Many matters are now progressing to trial or another resolution which would previously have gone unresolved.

The court expects the legal profession and parties to progress matters to resolution through the early formulation of final pleadings to define the issues, communicate with all other parties involved to propose a case management plan and to prepare the matter for an early resolution through negotiation or mediation or trial, if it cannot be otherwise resolved. The case flow management system is designed to ensure that these expectations are met and to facilitate the just and expeditious resolution of the real issues in dispute with limited expenses.

## Commercial list

The commercial list, established by Practice Direction 3 of 2002, continues to provide an efficient means for the prompt resolution of commercial disputes.

The commercial list judges are Mr Justice Chesterman and Justice P McMurdo. Justice Muir, who had been a commercial list judge since the inception of the list, was appointed a judge of appeal in July.

The definition of a commercial cause in the practice direction allows a wide variety of disputes to be heard. The disputes most commonly brought to the commercial list involved alleged misuse of intellectual property, and contracts for the supply and sale of natural resources.

Administrative support is provided to the commercial list judges by the commercial list manager.

In the first instance, applications to place matters on the list are directed to the commercial list manager who accepts applications and supporting material by facsimile transmission and email to facilitate prompt listing. Where appropriate, orders placing matters on the list, and directions for the future conduct of actions, are made on the papers (without a hearing) to save time and cost.

In the year under review, 68 matters were placed on the commercial list. Seventeen actions proceeded to trial and 15 other actions settled before trial. Twenty-six matters were resolved after being placed on the commercial list.

The commercial list judges are flexible and relatively informal when considering applications to list cases, their management of the list, and the allocation of trial dates. This discourages interlocutory disputes and encourages the expeditious preparation of

actions for trial. Early trial dates produce the prompt resolution of disputes at the allotted trial or by settlement.

## Supervised case list

This list, constituted and managed under Practice Direction 6 of 2000, provides for the judicial management of civil cases if the hearing is estimated to take more than five days or where supervision is warranted because of considerations such as the complexity of the issues and the number of the parties. Justice Daubney assumed management of the list after the appointment of Justice P McMurdo as one of the commercial list judges in July.

Most cases are placed on the list at the request of one or more of the parties. However, cases are also placed on the list through the court's initiative, for example if an interlocutory hearing exposes the need for ongoing judicial supervision of the case. Most cases on the list fall within the general commercial law category. It also extends to a wide range of civil matters, including complex building and engineering claims, public liability and other insurance litigation, personal injuries claims, deceased estate disputes, de facto property claims and defamation cases.

The object of the list is to provide case management to allow the just and timely resolution of these complex disputes with the minimum commitment of resources by the court and litigants.

The supervised case list manager is responsible to Justice Daubney for the management of the list. Typically, parties are required to provide regular joint reports to the supervised case list manager outlining the status of the case, their proposal for its future management and any differences in their respective approaches. These reports allow ongoing supervision for each case, and assist the judge to determine



the nature and extent of judicial intervention which may be required for their effective management. Attendances before the judge on case reviews are scheduled on timetables moulded to fit each case. Wherever possible, the business of the list, including the making of directions, is conducted electronically to avoid costs associated with court appearances.

Nearly all cases on the list are resolved by settlement. Alternative dispute resolution (ADR), particularly mediation, is an entrenched feature of the litigation landscape in Queensland. Nearly all the practitioners with cases on this list are experienced in ADR and work with the managing judge to ensure that mediation is used in proceedings when it is likely to provide the most productive resolution.

In October, Justice Daubney commenced an ongoing consultation process regarding the management processes used in the list. This process has been undertaken with the support of the Bar Association of Queensland and the Queensland Law Society. Consultation sessions have been conducted with practitioners and other stakeholders to identify ways in which case management techniques can be updated and to ensure the lists ongoing relevance to the needs of practitioners and their clients. The following issues have been identified through this process:

- the need for early identification of cases which should be included on the list. Many cases are placed on the list only at a relatively late stage and after significant costs have been incurred without the benefit of managed direction
- more intensive supervision of, and reporting in relation to, disclosure. This is particularly desirable in cases involving large numbers of documents stored electronically, such as emails

- in conjunction with the eCourts initiative, the appropriate use of technology for preparation and hearings
- fostering the appropriate use of alternative procedures already provided in the UCPR, for example the use of referees
- providing more intensive supervision at the request for trial stage, including in relation to the use of documentary evidence for the trial
- appropriate use of trial techniques, such as the taking of the evidence of expert witnesses concurrently, to assist in the judicial resolution of issues and to promote time and cost efficiencies during trials.

### Registrar's court jurisdiction

Registrars continue to decide certain categories of applications under the *Corporations Act 2001* (Cwlth). They also deal with many applications for default judgment, for example, if a defendant has not filed a notice of intention to defend within the time allowed.

The court encourages the use of Rule 666 of the UCPR to obtain a consent order from the registrar to streamline proceedings and save costs. Some of these applications were refused for non-compliance with the regulating practice direction, for example if the party did not file an affidavit to support an exercise of discretion or if the consent was not signed by all parties. Some applications were referred to a judge.

## Trial division districts

### Southern district

The Brisbane-based judges service the southern district circuit, encompassing Roma, Maryborough and Toowoomba.

The southern district circuits are managed by Justice Philippides in accordance with the court's circuit protocol.

### Central district

Justice McMeekin was appointed as Central Judge and replaces Justice Dutney who had held the position for 7 1/2 years. Justice Dutney's involvement in the legal, social and sporting life of the region was much appreciated and acknowledged at a series of farewell functions held in the latter part of 2007. Justice McMeekin, the 12th Central Judge, was welcomed by the profession at a ceremony held in the Rockhampton Courthouse on the first sitting day of 2008.

The central judge is responsible for the work of the court in Rockhampton, Mackay, Bundaberg and Longreach.

Between 1 July and the end of 2007, Justice Dutney presided at five civil trials, one criminal trial and sentenced 44 other offenders. Of the 44 people sentenced, all were for drugs except four. Twelve of the offenders were women. Of the 44, 12 received actual periods of imprisonment. Two of those were women.

Justice Dutney sat in Rockhampton civil for five weeks, Rockhampton crime for five weeks, Mackay for four weeks, and Bundaberg for one week. He sat in the Court of Appeal for three weeks.

Justice McMeekin has presided over two criminal trials, and sentenced 35 offenders on their pleas of guilty. Thirty-three of those pleas related to drug matters. Four people were dealt with for breaches of previous orders. Three offenders were women. Overall, there were two fewer criminal trials than in 2006 – 2007.

Justice McMeekin presided at four civil trials, two each in Rockhampton and Mackay. There were no civil trials in Bundaberg.

All those seeking a trial for a civil matter are provided with a hearing date when a request for trial is filed or soon thereafter. Generally, hearings are conducted within a few weeks of listing. The judge sits in civil applications each month and, on average, disposes of between 15 and 20 matters as well as hearing applications when required.

For the six months ending June 2007, the judge sat for eight weeks in Rockhampton, three weeks in Mackay, two weeks in Bundaberg and one each in Brisbane and Townsville. No sittings were required in Longreach. The northern judge sat for two weeks in Mackay.

## Northern district

The Northern Judge, Justice Cullinane, sat principally in Townsville, with circuits in Mackay and Mount Isa. He sat in the Court of Appeal during its sittings in Brisbane and in Townsville.

In Townsville, there was a slight decrease in the number of criminal cases awaiting hearing at the start of the year and the number of criminal cases disposed of during the year.

There has not been a significant variance in the number of civil cases awaiting hearing at the start of the year.

The civil list remains up to date with almost all cases offered a prompt hearing date.

Thirty-seven practitioners were admitted.

## Far northern district

The Far Northern Judge, Justice Jones has conducted sittings for 28 weeks in Cairns and three weeks in Brisbane in the Court of Appeal, with eight weeks allocated to judgment writing and five weeks to long leave.

The judge received assistance throughout the year with separate sittings held by Justice Williams for four days and Justice Wilson for two weeks.

The judge attended sittings of the Court of Appeal held in Brisbane in September and in Townsville in May.

Thirteen new practitioners were admitted with most completing their academic legal training in the Townsville or Cairns campuses of James Cook University. The majority of these new practitioners took up positions in Cairns, which reflects the steady development of the city and the diversity of the demand for legal services in the region.

The judge and practitioners in Cairns are grateful for the continuing support of the Supreme Court Library in making available historical exhibitions. Two exhibitions were displayed for extended periods. *Shakespeare and the Law* was opened by Professor Richard Fotheringham of the University of Queensland. The exhibition *The criminal code – from Italy to Zanzibar* was marked with an address by Mr Jim Henry SC of the Cairns Bar.

## Legal Practice Tribunal

The members of the tribunal are Supreme Court judges with Chief Justice de Jersey as the chairperson. A lay panel and a practitioner panel have been established to help the tribunal. The lay panel comprises people who are not legal practitioners but have experience and knowledge of consumer protection, business, public administration or another relevant area. The practitioner panel comprises solicitors and barristers of at least five years experience. One member of each panel sits with the tribunal to decide disciplinary applications brought by the legal services commissioner.

Table 13: Legal Practice Tribunal

	Legal Practice Tribunal			Clearance	Backlog indicator	
	Lodged	Finalised	Active	Rate	% > 12 mths	% > 24 mths
Brisbane	15	18	19	120.0%	31.6%	0.0%

## Mental Health Court

The Mental Health Court is constituted by a judge of the Supreme Court, assisted by two experienced psychiatrists appointed under the *Mental Health Act 2000*. The judges appointed to the court are Justice Philippides, President, and Justices Dutney and Lyons. The panel of assisting psychiatrists consists of Drs J M Lawrence AM, J Varghese, E McVie, G Byrne, J Chalk and A Davison.

The court determines references concerning questions of unsoundness of mind and fitness for trial regarding people who are charged with offences on indictment. It also determines appeals from the Mental Health Review Tribunal and inquires into the lawfulness of patients' detention in authorised mental health services.

The court conducts some references and appeals by video links with regional hospitals and correctional and other centres. This practice is cost effective and eliminates additional stress for mentally ill patients and defendants. Patients and defendants retain the right to legal representation, with legal representatives generally appearing in the court in Brisbane. Court examination orders are an important function of the Mental Health Court in its deliberations on a reference or appeal from the Mental Health Review Tribunal. These orders are generally made on the recommendation of an assisting psychiatrist to the court and in the year 2007 – 08, 164 orders were made.

In the year under review, a number of initiatives were successfully implemented to deal with the increasing workload of the court. The court sat on 73 days and heard 332 references and 63 appeals, a total of 395 matters. This represents an increase in matters dealt with over the previous year of approximately 34 per cent.

The increase in the number of matters heard was achieved through a combination of strategies. From January 2008, the allocation of sittings for the court was increased by three weeks. From January 2008, additional judicial resources were allocated, with cases heard by two judges of the court during the sittings. The panel of assisting psychiatrists was also increased, with an additional three assisting psychiatrists made available. The court also continued to implement case management strategies, particularly in matters involving charges of serious offending.

The efficient management of the increased workload of the court was facilitated by additional funding of the registry which permitted the processing of higher volumes of cases. There was also a reduction in the total number of matters filed in 2007 – 08 compared with the previous year (298 matters compared with 316 matters). Some of these reductions followed amendments to the *Mental Health Act 2000* which facilitated the referral of matters by the director of mental health to the director of public prosecutions.

As a result of the strategies undertaken by the court, there has been a significant decrease in the number of cases awaiting hearing. Matters coming before the court are on average heard within six months of filing.

Table 14: Mental Health Court 2007 – 08

	Number of cases			Clearance
	Lodged	Finalised	Active **	Rate
References				
Director of mental health		200	63	
Director of public prosecutions		1	4	
Defendant or legal representative		128	61	
Court of law		3	1	
Attorney-General		0	6	
<b>Total references</b>	<b>243</b>	<b>332</b>	<b>135</b>	<b>136%</b>
Appeals				
Director of mental health		0	0	
Attorney-General		19	4	
Patient or legal representative		44	11	
<b>Total appeals</b>	<b>62</b>	<b>63</b>	<b>15</b>	<b>101%</b>
Applications to enquire into detention				
Patient				
<b>Total patients</b>	<b>0</b>	<b>0</b>	<b>0</b>	
<b>Total</b>	<b>305</b>	<b>395</b>	<b>150</b>	<b>129%</b>

\*\* Includes twenty adjourned

## Land Appeal Court

The Land Appeal Court hears appeals from the Land Court and is constituted by a judge of the Supreme Court of Queensland and two members of the Land Court of Queensland, other than the member whose decision is under appeal. The Land Appeal Court plays an important role in the appellate jurisdiction of Queensland. This court finalises most appeals and significantly limits the number of appeals to be determined by the Court of Appeal. In most matters,

including compensation proceedings under the *Acquisition of Land Act 1967*, the Land Appeal Court is the last resort regarding matters of fact. Only matters of law are heard and determined by the Court of Appeal. The Land Appeal Court has limited original jurisdiction under the *Biological Control Act 1987* and the *Foreign Ownership of Land Register Act 1988*.

The Land Appeal Court traditionally sits in the four Supreme Court districts in Queensland: the southern, central, northern and far northern districts. Justice White has this year been the judge appointed for the southern district. This year the central, northern and far northern judges of the Supreme Court held appointments for the Land Appeal Court in their respective districts, Justice Cullinane (northern), Justice Jones (far northern) and Justice McMeekin (central).

The Land Appeal Court has jurisdiction to hear appeals concerning matters arising out of a diverse range of legislation including:

- *Aborigines and Torres Strait Islander (Land Holding) Act 1985*
- *Aboriginal Land Act 1991*
- *Community Services (Aborigines) Act 1984*
- *City of Brisbane Act 1924*
- *Land Act 1994*
- *Land Tax Act 1915*
- *Local Government Act 1993*
- *Soil Conservation Act 1986*
- *State Government and Public Works Organisation Act 1971*
- *Wet Tropics World Heritage Protection and Management Act 1993*
- *Water Act 2000.*

Historically, appeals to the Land Appeal Court mainly involved compensation claims or associated matters concerning the compulsory acquisition of land under the *Acquisition of Land Act 1967* and revenue valuation appeals under the *Valuation of Land Act 1944*. However, since the transfer of the jurisdiction of the Land and Resources Tribunal to the Land Court, it is expected that appeals concerning proceedings under the *Mineral Resources Act 1989* and other resource legislation including the *Petroleum and Gas (Production and Safety) Act 2004* and *Petroleum Act 1923* will occupy a significant part of the sittings of the Land Appeal Court in the future.

While there was a slight drop in the number of appeals filed in the 2007 – 08 year, the complexity of most of those appeals resulted in an increase in the number of sitting days. A number of important appeals under the *Valuation of Land Act 1944* concerning major commercial sites located in the central business district of Brisbane (the CBD Appeals) and a noticeable increase in the number of interlocutory applications to the court were particularly significant. The Land Appeal Court has again taken advantage of the services of the court technology group in association with the Supreme and District Courts information technology section to conduct the hearings of the five CBD appeals electronically.

A recent and significant development in Land Appeal Court cases is the increasing number of self-represented appellants. This increase is expected to place additional pressure on the existing resources of the Land Appeal Court and the registry staff. This phenomenon has, at least in part, been responsible for the increase in the number of interlocutory applications dealt with by the Land Appeal Court.

Table 15: Appeals to the Land Appeal Court

	Filing dates		
	2005 – 06	2006 – 07	2007 – 08
Number of appeals lodged			
Far northern	0	0	0
Northern	1	0	0
Central	1	0	0
Southern	16	12	8
Nature of appeals			
Compensation ( <i>Acquisition of Land Act 1967</i> )	4	1	1
Valuation ( <i>Valuation of Land Act 1944</i> )	10	10	5
Costs ( <i>Acquisition of Land Act 1967</i> )	0	0	0
<i>Water Act 2000</i>	0	0	0
Costs ( <i>Water Act 2000</i> )	0	0	0
Application of rehearing ( <i>Acquisition of Land Act 1967</i> )	1	0	0
Land Tax	0	1	0
Compensation ( <i>Petroleum Act 1923</i> )	0	0	2



# SUPREME AND DISTRICT COURT INFORMATION KIOS



**Administrative support**

## Office of the director of courts

The office of director of courts co-ordinates registry and administrative services to provide essential support to the Supreme Court throughout the state.

Previously known as the principal registrar and administrator, the position was re-designated as director of courts during 2007. Ms Robyn Hill, the current director, is supported by executive, administrative staff and registry staff throughout Queensland.

Since July 2007, the corporate and operational areas of the court have undergone a major restructure. This was undertaken to improve file management and workflows, better support and develop staff, improve court financial and performance reporting, and better manage risk.

Within the registry, operational teams have been established as follows:

- criminal jurisdiction (including the management of juries)
- civil jurisdiction
- specialist jurisdiction (including the management of single judge appeals, tribunals and admission of legal practitioners)
- client services and records management
- Court of Appeal.



Supreme and District Courts senior management group (l-r) Stephanie Attard, Director, State Reporting Bureau and Courts Corporate Services; Kevin Meiklejohn, Executive Manager (Reporting Operations), State Reporting Bureau; Ashley Hill, Director, Information Management; Robyn Hill, Director of Courts; Julie Steel, Deputy Director of Courts; and Bruce Hubert, Director, Court Technology Group.

A new courts corporate services unit was established in September 2007. This unit is responsible for managing finance, general administration and judicial and client support. It also focuses on business development and improvement. This new structure has enabled the registry to remove duplication in the provision of a range of administrative support functions.

In early 2007, a list of business priorities was agreed on by Chief Justice de Jersey for improvements to the registry and court administration. The list of priorities was extensive but significant progress has been made and many of the priorities were completed or in the final stages of completion by November 2007.

At the close of 2007, Chief Justice de Jersey endorsed an updated list of business priorities for the court. Work on addressing these priorities is ongoing and supports the court's commitment to improving the delivery of court services.

Engagement with the legal profession has been ongoing throughout this period and will continue in the coming year. Ms Hill would especially like to acknowledge the active and ongoing support of Ms Megan Mahon, President of the Queensland Law Society (QLS), Mr Peter Eardley, Chair of the QLS Litigation and Rules Committee, and Dr de Groot, Chair of the Succession Law Committee.

Ms Hill would also like to acknowledge the tremendous dedication and commitment displayed by court staff in this period of change and the extraordinary support and assistance she has received from the judiciary and the staff in the Department of Justice and Attorney-General.

In July 2007, the Continuous Process Improvement Program evolved into the Future Courts Program. The program is developing innovative and ready to use online services for litigants, their legal representatives and the broader community and improving registry operations through the use of new technology and process innovation. The program is also developing a single case management system for all Queensland courts. Program achievements this year include:

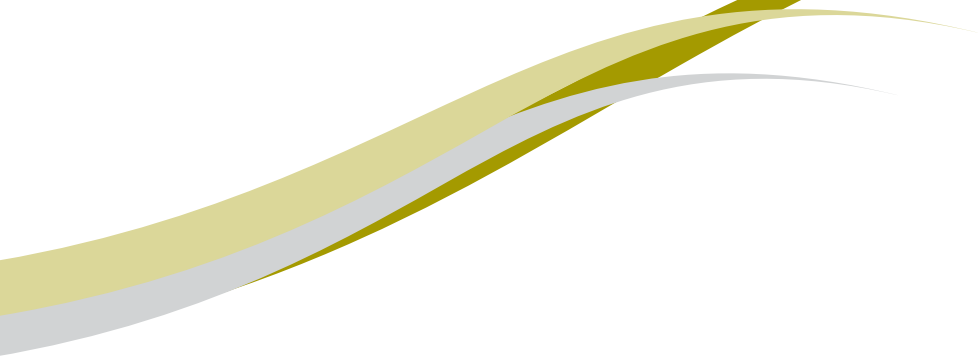
- development and deployment of the Civil Information Management System Lite (CIMSLite) database to regional registries in Queensland
- development of the eTrials Pilot Project which allows evidence to be submitted and viewed online in civil trials. Two eTrials in the Supreme Court have been conducted successfully.
- implementation of a performance management and reporting framework to ensure consistent reporting across Queensland courts. The framework has been adopted by the Queensland Government chief information officer.

Consistent with the Future Courts agenda, there has been an emphasis on delivering consistent and responsive registry service during the past 12 months. Senior managers and other key registry staff have attended business process management training conducted by the Queensland University of Technology. This has improved the capacity of the registry to review and improve its own processes and court infrastructure in a sustainable and consistent manner.



Registrars of the Supreme and District Courts (l-r) Ian Enright, Neil Hansen, Max Dahlke, Susie Faulkner, Clare Scott, Tracy Dutton, Vera Maccarone, Kristine Gillespie, Renae Wilson, Jo Stonebridge, Paul Wigley and Neville Greig.





The registry process review is overseen by the Future Courts Program to ensure that quality uniform processes, capable of application across Queensland, are developed and implemented. A major objective is the production of detailed procedures to be made available to court staff throughout Queensland via the intranet.

Other important achievements for the year include changes to the costs assessments regime pursuant to the *Uniform Civil Procedure Rules 1999 (UCPR)*, and the commencement of the accessCourts initiative.

### Cost assessments

In December 2007, significant amendments to the UCPR enabled cost assessments to be undertaken by appropriately qualified external costs assessors instead of court registrars. This has provided enormous benefits to the parties and the legal profession as assessments are performed by expert assessors with greater speed and efficiency.

### accessCourts

The accessCourts initiative incorporates three separate services to support self-represented litigants and others who are unfamiliar with the court system. The services are provided by the Queensland Public Interest Law Clearing House (QPILCH), Court Network for Humanity and the registry. This initiative will ensure that self-represented litigants are not disadvantaged in their dealings with the processes of the Supreme and District Courts in Brisbane.

- The QPILCH Self-representation Civil Law Service offers free legal advice to self-represented litigants who commence civil proceedings in the courts.
- Court Network for Humanity provides court-based support services to give court users, including litigants and the families of those involved in criminal proceedings, a better understanding of the justice system. Trained volunteers provide a range of services from showing a court user around the court to actually attending court to provide emotional support.
- The Self-represented Litigants Service includes two full-time registry staff members who assist court users and provide non-legal advice about court processes and procedures.

Other significant achievements, including those associated with the state reporting bureau and the information management division of the court are discussed in other areas of this report.

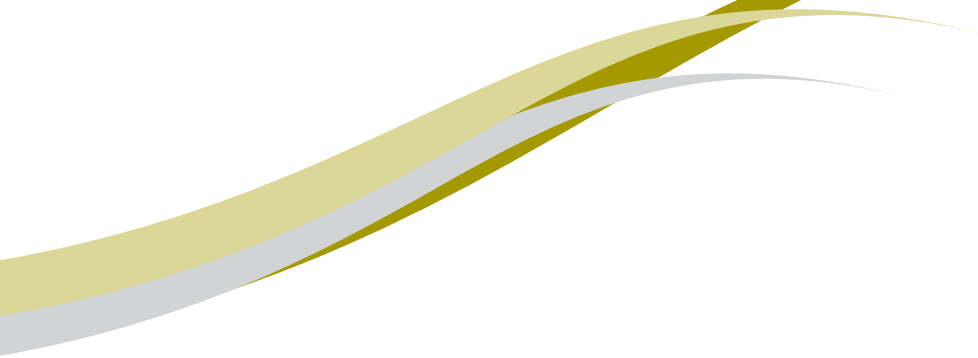
## Learning and development

One of the most significant developments in the past year has been the creation of the courts capability development unit (CCDU). This unit includes the amalgamation of a number of units which were previously responsible for assisting staff in the performance of their work. CCDU undertakes staff training across the Supreme, District and Magistrates Courts. This allows for a more integrated, uniform and whole of courts approach across Queensland.

The CCDU is supported in its role by the Learning and Development Committee which includes both judicial and departmental representatives. The committee is committed to ensuring enhanced learning opportunities are available for all court staff with a particular focus in the past year on the identification of course subjects to assist staff. A training needs analysis was conducted and a training and development cell, which consists of 12 staff from across the state, has also been created to ensure staff input. This will maximise the consistent and accessible delivery of relevant programs to the maximum number of staff across the state and enhance the quality courts service currently being

delivered to the community. The CCDU has partnered with Queensland TAFE to create a Diploma in Court Services and a Certificate IV in Court Services with the intention that the courses will have national accreditation.

The committee has also invested considerable time to ensure the learning and development needs of the community, court staff, the profession and the judiciary are appropriately reflected in the plans for the new Supreme and District Courts building.







**Information technology**

## Information management

The information management division focuses on the delivery of technology, communications and sentencing information. The division incorporates:

- Information technology – provides technology and systems support to the registries and judges of the Supreme Court
- Queensland sentencing information service (QSIG) – provides a comprehensive collection of sentencing information to assist decision-makers, on and before the Bench
- Queensland courts communications (QCC) – develops and manages the communication materials used by the Supreme, District and Magistrates Courts throughout Queensland.

## Information technology

In 2007 – 08, information technology was allocated funding by the Department of Justice and Attorney-General to implement a range of initiatives including the expansion of courtroom technology.

Personal computers were installed on all court Benches and associates' desks in civil courtrooms of the Brisbane Law Courts Complex.

The computers allow judges to access information such as legislation and case law from the Bench. This technology was previously only available in regional and criminal courtrooms.

eTrial capabilities have also been developed and can be established in any Supreme Court within just a few hours.

eTrials allow parties in civil matters to electronically manage and present evidence. This process allows hearings to proceed more efficiently as all parties, the judge and witnesses can view evidence at the same time.

The implementation of CIMSLite in all Supreme Court registries has also led to further efficiencies in the civil jurisdiction.

CIMSLite has enhanced CIMS (Civil Information Management System). CIMSLite is a simple, web-based program that can be used in all Supreme Court registries. All civil files are now managed through this program and can be searched online using the eSearch facility on the courts website. More than 780,000 searches were conducted in 2007 – 08 (an increase of 64 per cent from 2006 – 07).

The implementation of an electronic document and records management system in the registry has also streamlined operations and will be an important part of future information technology systems developed for the court.

## Queensland sentencing information service

The majority of Queensland sentencing information service (QSIG) resources are dedicated to the addition and enhancement of legal content. However in 2007 – 08, staff also worked with the Judicial Commission of New South Wales to enhance functionality and increase access to this service.

QSIG systems and interfaces have been enhanced and access was extended to private legal practitioners during this period. More than 100 entities (including sole practitioners and law firms) now access the free service.

QSiS staff have also travelled to regional centres throughout the year to provide training to judicial officers and other QSiS users.

### Queensland courts communications

Queensland courts communications (QCC) was established in 2007 – 08 to enhance the communications activities of all Queensland Courts.

During this period, staff developed and began implementing a contemporary visual identity to be used in all publications and correspondence in the Magistrates, District and Supreme Courts.

The Queensland Courts website was also re-launched in December 2007. It provides information about court processes and programs. The new site is easy to navigate and targets key audiences such as jurors, the legal profession and self-represented litigants. More than 227,324 individuals visited the website in the six months to June 2008.

### Court technology group

The court technology group (CTG) was established to provide strategic leadership and operational support for courtroom-based technologies such as audio visual playback and the digital recording of proceedings. Following an organisational restructure in the Department of Justice and Attorney-General in March 2008, CTG became accountable to the director of courts, Supreme and District Courts. The information management division will work closely with CTG during 2008 – 09 to improve the technology installed in Supreme Courts throughout Queensland.

### Supreme and District Courts technology

The courtroom technology operating in Queensland Supreme and District Courts supports the digital recording of court proceedings and the playback of digital evidence. Selected courts also cater for videoconferencing and vulnerable witness testimony to improve the delivery of justice services throughout the state.

### Digital recording

The digital recording of the proceedings in Supreme and District Courts throughout Queensland is now in operation. Monitoring and recording is operated by the state reporting bureau (SRB) and is conducted remotely. All recordings are automatically transferred using the department's secure network to a central archive in Brisbane where they are stored and accessed for either playback review or distribution for transcription. This centralised approach ensures the record of all court sittings is securely maintained and managed, without the previous risks associated with the physical transport and storage of tape-based recordings.

## Evidence playback

Digital evidence playback is now a common requirement in court as the Queensland Police Service expands its use of digital formats for records of interview. The courts are managing this change with the statewide deployment of evidence playback trolleys (62 in 2007 – 08) and the upgrade of existing closed circuit television/video-court facilities. The playback trolleys provide large screen plasma, DVD/VCR and connection facilities for computer-based evidence.

## Videoconferencing

Videoconferencing continues to be an effective way for evidence to be provided by witnesses in remote locations (intrastate, interstate or overseas), protected or vulnerable witness, and defendants in correctional institutions. Queensland Supreme and District Courts now have 31 in-court videoconference systems and access to 36 vulnerable witness rooms that link with systems to allow remote witness videoconferencing in courts.

A program to standardise in-court technology systems was commenced in 2007. To date the following has been achieved:

### **Brisbane Law Courts Complex**

- Full video-court installations in courts 24, 25, 26, 27, 28 and 29. Video-court upgrades to the Court of Appeal, courts 15 and 18.
- Electronic trial system in the Banco Court.

### **Cairns**

- Full video-court upgrades in courts 2 and 4 and the associated vulnerable witness room.

### **Townsville**

- Full video-court upgrades in courts 3 and 4 and the associated vulnerable witness room.

### **Maroochydore**

- Full video-court upgrade in court 2 and the associated vulnerable witness room.
- Audiovisual court upgrade in court 1.

### **Southport**

- Full video-court upgrades in courts 13, 14, 15, 16 and 17 and the associated vulnerable witness room.

Over the coming year, new videoconferencing/video-court systems will be installed in six centres to improve community access to justice.

The expansion of the videoconference network will also allow Queensland correctional centres to use existing video-court facilities for court appearances and minimise the transport of prisoners.

The most recently constructed facility is at the Arthur Gorrie Correctional Centre (opened in June 2008). The purpose built video-court centre houses seven video-court cells, four telephone booths and two large holding cells. This facility will enable south-east Queensland courts to schedule daily or weekly links for video-court appearances.



**Related organisations**

## State reporting bureau

The state reporting bureau (SRB) provides recording and transcription services for the Supreme, District and Magistrates Courts, Industrial Court and Industrial Relations Commission. SRB also provides reporting services for the Medical Assessment Tribunal, Mental Health Court, Industrial Court, Land Appeal Court and Legal Practice Tribunal.

Services are provided in Brisbane and at 35 regional and circuit centres in Queensland.

Reporting services are provided in Brisbane, Cairns, Townsville and Rockhampton and the circuit centres of Mount Isa, Bundaberg, Longreach, Maryborough, Toowoomba and Roma for the Supreme Court trial division.

Reporting services are provided in Brisbane, Cairns, Townsville, Rockhampton, Innisfail, Hughenden, Charters Towers, Bowen, Mackay, Gladstone, Bundaberg, Maryborough, Maroochydore, Gympie, Kingaroy, Emerald, Clermont, Mount Isa, Cloncurry, Longreach, Dalby, Roma, Toowoomba, Goondiwindi, Stanthorpe, Warwick, Ipswich, Southport, Charleville and Cunnamulla for the District Court.

Digital recording for Queensland Courts is now in operation. Monitoring and recording of courts is conducted remotely by SRB to allow staff to distribute work across all 10 SRB centres.

This year the bureau implemented a number of initiatives to improve services and service delivery to its clients.

These have included:

- the automation of operational reporting within the bureau

- the creation of a courts corporate services unit as a result of the amalgamation of courts administration and SRB's business services units
- the streamlining and standardisation of transcript production with the assistance and cooperation of the judiciary
- the creation of an in-house training program to train existing audio reporters as CAT reporters
- the implementation of a working from home pilot within SRB
- the commencement of a three stage project to develop an automated online service for:
  - the ordering and payment for court transcripts
  - online access to court transcripts for subscribers and internal users
  - the electronic distribution of court transcripts to subscribers and internal users.

## Supreme Court of Queensland Library

The Supreme Court of Queensland Library (SCQL) embraces a dual role within the Queensland community by providing a bridge to the past – through legal heritage programs – and a gateway to the future – through legal information services.

Although SCQL maintained a high level of activity across a variety of historical research and preservation projects, the two most significant events of 2007 – 08 were the result of a renewed focus on innovative information service delivery. The first was the launch of the SCQL website in November 2007, which provides centralised

online access to legal resources for all Queensland practitioners. The second was the closure of the Queensland Law Society (QLS) member library in December 2007, and the resumption of primary responsibility by the SCQL for the delivery of library services to Queensland solicitors.

These important achievements are milestones of a much broader and far-reaching transformation taking place within libraries; a transformation driven by rapidly evolving technology and changing business models within the publishing industry. The QLS experience demonstrated the potential of library consolidation to realise greater cost efficiency without compromising user service.

The SCQL vision, as we move towards the new Supreme and District Courts building in 2011 – 12, is to serve as the primary legal information service for Queensland, eliminate duplication across publicly-funded law libraries and expand the range of legal resources available to the wider community.

### Queensland's online legal library

The SCQL Online Project, of which the website is part, streamlines library services and facilitates remote access to content, 24 hours a day, seven days a week, for all Queensland legal practitioners registered with the library.

After nearly a decade as the administrator of the joint Queensland Courts / Library website, SCQL launched its dedicated library website <<http://www.sclqld.org.au>> in November 2007. The site registered 988,384 page views in the seven months to 30 June 2008. Features include:

- free, remote access to selected SCQL subscription services for registered members of the legal

profession, including the extensive, full-text *Making of Modern Law* and *HeinOnline* databases

- a database of full-text Queensland judgments, with enhanced search and browse options
- a searchable database of profiles on members of the Queensland judiciary and judicial speeches, papers and publications
- free access to the Queensland Legal Updater – a new current awareness service offering a selected, weekly review of important happenings in the law
- a secure document delivery request system for legal practitioners, firms and libraries.

The launch of the website, together with a redeveloped Judicial Virtual Library intranet for judges, completes the first phase of a broader online services strategy. In 2008 – 09, the substantial upgrade and development of the SCQL online catalogue will continue to further facilitate seamless, remote access to the library's research collection. The sophisticated catalogue system, also used by the University of Queensland and Queensland University of Technology, will provide a robust platform for the centralised delivery of services and resources.

### Serving legal practitioners across Queensland

Following the closure of the Queensland Law Society (QLS) member library in December 2007, SCQL successfully resumed primary responsibility for the delivery of library services to Queensland solicitors. SCQL has maintained the service standards previously enjoyed by QLS members, and now provides the following benefits to all Queensland practitioners:

- 24 hours a day, seven days a week, remote access to selected online subscription services via the new SCQL website
- 24 hour access to the SCQL collection in Brisbane
- legal research and product training programs
- free weekly current awareness service via *Queensland Legal Updater*.

The further consolidation of publicly-funded law library services will generate substantial savings by eliminating duplicate resources and aggregating negotiating power to form a more influential purchasing consortium. As the primary legal information provider in Queensland, SCQL will be well positioned to offer users access to the largest and most efficient legal information service in this state.

### Expanding services and collections

The SCQL provides core information services including reference, document delivery and research assistance, and offers a range of value-added services, including:

- judicial current awareness service, which circulated more than 4,236 articles and speeches to Queensland judges and magistrates this year
- legal research and product training for judges, associates, legal practitioners and court staff
- judgment bulletins and indices, via the SCQL website and *Queensland Legal Indices*
- biographical sources on members of the judiciary.

Key developments in 2007 – 08 include:

- launch of a new weekly current awareness service, the *Queensland Legal Updater*
- creation of an in-house database *InfoBase* for managing information services requests and generating statistical reports
- creation of a searchable database of profiles of members of the Queensland judiciary and their speeches and publications, via the SCQL website.

In 2007 – 08, registered users of the new SCQL Online website enjoyed access to thousands of full-text titles via selected subscription services, including:

- *HeinOnline*
- *Making of Modern Law and Eighteenth Century Collections Online (Law)*
- *Oxford English Dictionary*
- *LegalTrac*
- *Oxford Dictionary of National Biography Online*
- *Who's Who and Who Was Who Online*.

SCQL will continue to pursue advantageous licensing agreements with legal publishers to facilitate fast and convenient access to core legal titles. Securing broad and flexible terms of access will be vital to achieving the vision of a single online gateway to legal information for Queensland lawyers.

### Legal heritage and community programs

The SCQL undertakes a series of programs to preserve Queensland's legal history and to foster community awareness, participation and support



for legal heritage through scholarly publications, exhibitions, lectures and conferences. The success of these programs has garnered substantial support and sponsorships for the library and will continue to sustain the development of new projects.

This year, the SCQL published two new titles, commenced research and drafts for three future works and continued to promote previous publications. New titles released in 2007 – 08 were:

- *Supreme Court history yearbook 2007*, which is the third volume in this series providing an enduring record of the Queensland legal year
- *Capturing law and history: 100 years of Queensland law reporting*, written by Helen Gregory and published to coincide with the centenary of the Incorporated Council of Law Reporting on 9 November 2007.

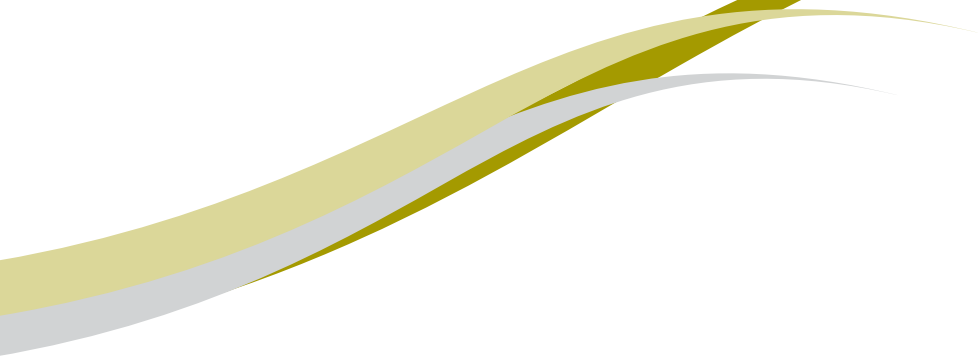
Highlights of the Supreme Court History Program (SCHP) and Historical Document Digitisation Program include:

- digitisation of the Feez Ruthning Collection of Opinion Books, dating from 1874 and generously donated to the library in 2006 by Allens Arthur Robinson
- digitisation of the Supreme Court Registry's Register of Commission of Judges, recording all Queensland judicial commissions since the appointment of Justice AJP Lutwyche in 1859
- two new oral history series, comprising 24 interviews undertaken for an exhibition marking the 40th anniversary of the Supreme Court fire and a forthcoming publishing project on the history of the District Court of Queensland

- a further 13 oral history interviews undertaken during the year, including an extensive series of interviews conducted by the librarian with former Minister for Justice and Attorney-General, Mr Denver Beanland
- continued development of the SCHP Oral History Collection through the acquisition of 54 new recordings and transcripts from the National Library of Australia of interviews undertaken with prominent Australian legal personalities.

A further five lectures and two exhibitions were hosted by the SCQL during the year:

- the inaugural *BH McPherson Oration on Legal History* was held in July 2007 and featured a lecture by the Honourable BH McPherson CBE entitled *Queensland's Only Naval Prize Case*
- *Law Reporting in Queensland: Past and Future*, also by the Honourable BH McPherson CBE, was held to coincide with the centenary of the Incorporated Council of Law Reporting and the launch of Helen Gregory's book, *Capturing law and history: one hundred years of Queensland law reporting*
- *Judges on screen: popular culture and the representation of judges* was delivered by the Honourable Justice Glenn Martin in September 2007
- An exhibition commemorating the 40th anniversary of the Supreme Court fire, which destroyed the original courthouse in 1968, was held during Queensland Law Week, 10 to 16 May 2008
- The Constitution Founders Lecture was held in June 2008 in collaboration with the National Archives of Australia Advisory Council, and featured two



papers by the Honourable Paul de Jersey AC, Chief Justice of Queensland, and the Honourable Justice Patrick Keane

- MajGen the Hon. JL Kelly CBE Reserve Forces Day Memorial Lecture, was delivered by the Honourable Justice HG Fryberg in June 2008 and was accompanied by an exhibition, *Serving their Country*, honouring the contribution made by members of the judiciary who have served in the armed forces.

The development and achievements of these programs over the past decade have strengthened the SCQL's presence in the legal, academic and wider communities. In 2008 – 09, the library will contribute to the broader Q150 celebrations by organising a conference entitled Queensland Constitution: Origins and Evolution Conference. The event will be hosted in collaboration with the UQ Centre for Public, International and Comparative Law and held on 3 July 2009.

For the future, consideration is being given to the creation of a permanent historical exhibition in the new Supreme and District Courts building. The concept, inspired by the *Memory of a nation* exhibition at the National Archives of Australia, envisions a dedicated space illustrating the history of law and the courts in Queensland, focusing on milestones, landmark events and notable personalities that have shaped the development of law in this state.

SCQL has been curating public displays on topics of legal historical interest in the current Rare Books Precinct since 2000. However the presentation of these has been necessarily limited by the existing improvised display area. The creation of a museum

quality exhibit space, developed and maintained by professional curators, would ensure the preservation of Queensland's legal history and provide many opportunities to share this history with the wider community.

### The SCQL Committee

The strength of the SCQL rests wholly with the governing committee which comprises members of the judiciary and the legal profession, including nominees of the Queensland Law Society and the Bar Association of Queensland, and the nominee of the Attorney-General and Minister for Justice.

Special acknowledgement is due to the Honourable Justice Mackenzie, Mr Ian Walker and Ms Ulla Zeller who each concluded their terms on the Library Committee this year. The Honourable Justice Mackenzie, Chair of the Supreme Court Library Committee from 2004 to 2007, provided valuable leadership throughout a period when the library was expanding, forging new relationships and defining its future role. Mr Walker, a member since 2000, was instrumental in effecting positive change as a strong proponent for innovation and adoption of new technologies and Ms Zeller, a member since 2005, facilitated valuable liaison and collaboration with the Department of Justice and Attorney-General.

In 2007 – 08, the committee welcomed the appointment of the new Chair, the Honourable Justice Dutney, former member of the Supreme Court History Program Sub-Committee; Ms Julie Grantham, Director-General of the Department of Justice and Attorney-General; and Mr David O'Brien, Partner at Minter Ellison. Under such leadership SCQL is well equipped to become a primary legal information service for Queensland.

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