



# SUPREME COURT OF QUEENSLAND

ANNUAL REPORT 2016-17



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

31 October 2017

The Honourable Yvette D'Ath MP  
Attorney-General and Minister for Justice  
Level 18, State Law Building  
50 Ann Street  
BRISBANE QLD 4000

Dear Attorney

I enclose my report, under s 19(1) of the *Supreme Court of Queensland Act 1991*, on the operation of the Supreme Court for the year ended 30 June 2017.

Yours sincerely

A handwritten signature in black ink that reads 'C. Holmes'.

Catherine Holmes  
Chief Justice

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# CHIEF JUSTICE'S OVERVIEW 2016-2017

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## Performance

The statistics contained in this overview pertain to the performance of the Supreme Court over the past year and have been collated on the basis of the requirements of the Australian Government's Productivity Commission for the production of its annual "Report on Government Services".

## Disposition of Caseload

### Trial Division

#### Criminal

On the criminal side, there were 2,362 lodgements. The trial division ended the year with 1,022 outstanding cases, having disposed of 2,050 matters (a clearance rate of 86.8%).

Of the outstanding cases, 10.7% were more than 12 months old (from date of presentation of indictment), and 2.5% more than 24 months old. Some of the last group would result from orders for re-trials made on appeal.

#### Civil

On the civil side, there were 2,983 lodgements. The trial division ended the year with 2,567 outstanding matters, having disposed of 2,789 matters (a 93.5% clearance rate).

Of the outstanding matters, 23.7% were more than 12 months old, and 23.7% more than 24 months old.

### Court of Appeal Division

The Court of Appeal division disposed of 394 criminal appeals this year (437 last year), representing a clearance rate of 104.2%. As of 30 June, 237 criminal appeals awaited disposition (225 last year).

The Court of Appeal also disposed of 245 civil appeals (282 last year), with a clearance rate of 90.1%, leaving 148 outstanding at the end of the year (104 last year).

## Observations on the Court's Caseload

In last year's report I remarked on a marked increase in criminal lodgements. That situation has worsened; criminal lodgements increased by 38% over the current year (an additional 650 defendants on last year). The Court increased its rate of completion of criminal matters, finalising the cases of an additional 566 defendants; but, as is self-evident, it was not enough to keep pace with the increase. A slight decrease (1.5%) in the number of civil lodgements was offset by the increasing numbers of estate administration applications.

By way of larger context, in the 2012-13 reporting year there were 838 criminal lodgements in the Supreme Court; in the current reporting year there were 2,361. The Court's criminal work load has almost tripled over those four years, but the number of judges sitting in the trial division is actually one fewer than in 2012-13 (two judges being presently allocated to the Queensland Civil and Administrative Tribunal).

In a further illustration of the Court's position, the Australian Government's Productivity Commission Report on Government Services 2017 shows the national average cost per finalised criminal matter for the 2015-16 year was \$23,494, while for Queensland it was \$8,494. For civil matters the national figure is \$6,865, while

for Queensland it was \$3,589. In each case, the Queensland figure is the lowest of any State or Territory. The ratio of staff numbers (a figure in which the Productivity Commission includes judges, support staff, registry staff and security officers) to finalisations of matters in both the civil and criminal jurisdictions was lower in Queensland than in any other State or Territory.

There comes a point where such figures become less a matter for congratulation than concern. There are personal costs in the form of stress and fatigue caused to judges and staff grappling with an insurmountable workload. There are larger adverse consequences, with economic implications: the inevitable decrease in clearance rates, the holding of prisoners on remand for longer periods with attendant human and financial costs, and, on the civil side, the inability to deal with matters and deliver judgments in that jurisdiction expeditiously.

It hardly needs to be said that the Court needs a significant addition to the number of judges. At the same time, the increase in both the size and complexity of the registry's workload necessitates not only an increase in the number of registry staff, but a greater number of positions of higher classification to promote both staff retention and greater professionalisation.

## The Court's ICT Systems

While the Court has a very limited capacity for electronic filing of documents, the management of cases largely remains as it was at the turn of the last century: process is lodged and files created and held in paper form. In 2010, the Future Courts Vision and Recommendations report proposed a move to entirely electronic management of matters before the courts. The report was endorsed by the courts themselves, the Law Society, the Bar Association and the Department of Justice and Attorney-General. Unfortunately, lacking the necessary funding, the Court is today no closer to a general electronic lodgement capability or a move to electronic case management.

The Court's existing ICT systems also give cause for concern; for example, the jury management system, which is used to manage the attendance and payment of jurors at criminal trials, is built on a technology platform no longer supported by the manufacturer. Should that system fail, the ability of the Court to conduct criminal trials would, obviously, be seriously affected. Other systems relied on by the Court are also in a state of neglect, including the Court of Appeal Management System, which has been largely unchanged since it was established in 1999.

Another issue is the lack of separation between the Court's IT systems and the Department of Justice and Attorney-General's network. That is a situation which has developed less through any intentional planning than the evolution of an increasingly electronic-based mode of operation; but it means that while the State Government is the single biggest litigant before the Court, there is no separation of the Court's information - both judicial information and court file content - from Departmental systems.

The Court should as soon as possible be provided with a separate ICT environment so that judicial information may be securely and independently managed, with recurrent funding for its maintenance. In order to rectify the under-investment in ICT systems to date, funding should be allocated on a recurrent basis to allow the replacement of existing systems; a move to digitisation of records; and the development of an electronic case management system which operates independently of Departmental systems.

## Chief Justice's Calendar

Over the reporting year, I sat in the Court of Appeal (eleven weeks), the criminal jurisdiction (five weeks), civil sittings (three weeks), Applications (four weeks). In the regional centres, I spent one week hearing criminal matters in Townsville and one week hearing criminal and civil matters in Cairns. The balance of my time was occupied with administrative and official responsibilities.

An important part of the Chief Justice's role is engagement with the profession. Accordingly, over the



year, I spoke at some thirty law-related conferences and functions, and attended many others, both in Brisbane and in regional centres. I attended two meetings of the Council of Chief Justices of Australia and New Zealand, on November 2016 in Perth and in April 2017 in Brisbane. An additional commitment was to undertake the role of Acting Governor on 11 occasions, for periods aggregating 54 days.

## Admissions

I presided at nine admissions ceremonies over the course of the year, at which 973 new practitioners were admitted.

## Judicial Resignations and Appointments

The Hon Justice Peter Lyons resigned as a Judge of the Supreme Court of Queensland on 25 November 2016.

The Hon Justice Susan Brown was appointed a Judge of the Supreme Court of Queensland on 16 December 2016.

The Hon Justice Margaret McMurdo AC resigned as President of the Court of Appeal on 26 March 2017.

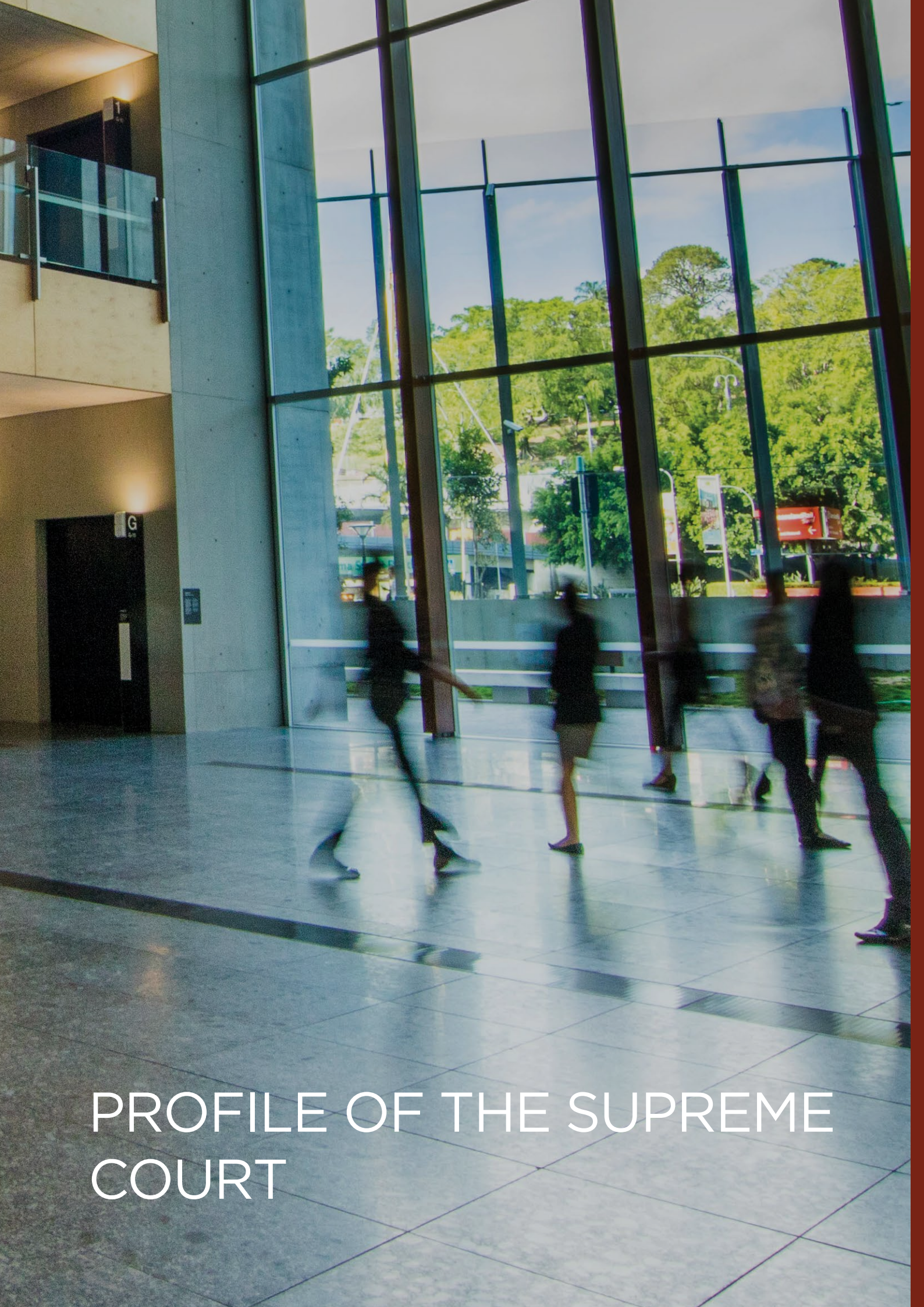
The Hon Walter Sofronoff QC was appointed a Judge of the Supreme Court of Queensland and as President of the Court of Appeal on 3 April 2017.

## Recognition

The Hon M P Moynihan AO QC, a distinguished member of this court from 13 February 1984 to 24 August 2007, died on 02 April 2017. His Honour was appointed as the first Senior Judge Administrator of the Court on 21 November 1991, a position which he held until his retirement, and the duties of which he fulfilled to great effect.

## Acknowledgement

I thank the Judges, officers of the Registry, the court's administrative staff, and the Director-General and his staff for their contribution to ensuring the effective discharge of the court's responsibilities for another year.



# PROFILE OF THE SUPREME COURT

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The Supreme Court comprises the Office of the Chief Justice and two divisions: the Court of Appeal Division and the Trial Division.

## Judges of the Supreme Court

(listed in order of seniority)

### Office of the Chief Justice

The Honourable Catherine Ena Holmes

### Court of Appeal Division

#### President

The Honourable Margaret Anne McMurdo AC (resigned 26 March 2017)

The Honourable Walter Sofronoff (appointed 3 April 2017)

#### Judges of Appeal

The Honourable Justice Hugh Barron Fraser

The Honourable Justice Robert William Gotterson AO

The Honourable Justice Philip Michael Hugh Morrison

The Honourable Justice Anthe Ioanna Philippides

The Honourable Justice Philip Donald McMurdo

### Trial Division

#### Senior Judge Administrator

The Honourable John Harris Byrne AO, RFD

#### Trial Division Judges

The Honourable Justice Roslyn Gay Atkinson AO

The Honourable Justice Debra Ann Mullins

The Honourable Justice Philip Donald McMurdo

The Honourable Justice James Sholto Douglas

The Honourable Justice Ann Majella Lyons

The Honourable Justice Alfred Martin Daubney

The Honourable Justice Glenn Charles Martin AM

The Honourable Justice Duncan Vincent Cook McMeekin (Central Judge)

The Honourable Justice Peter David Talbot Applegarth  
The Honourable Justice Peter James Lyons (resigned 25 November 2016)  
The Honourable Justice David Kim Boddice  
The Honourable Justice Jean Hazel Dalton  
The Honourable Justice David Octavius Joseph North (Northern Judge)  
The Honourable Justice James Dawson Henry (Far Northern Judge)  
The Honourable Justice David John Sandford Jackson  
The Honourable Justice David Graham Thomas (President, Queensland Civil and Administrative Tribunal) (resigned 27 June 2017)  
The Honourable Justice Peter James Flanagan  
The Honourable Justice Timothy Francis Carmody  
The Honourable Justice Martin Burns  
The Honourable Justice John Kennedy Bond  
The Honourable Justice Susan Elizabeth Brown (appointed 16 December 2016)

## **Other Appointments**

### **Mental Health Court**

The Honourable Justice Jean Hazel Dalton  
The Honourable Justice Peter James Flanagan

### **Land Appeal Court**

The Honourable Justice Peter James Lyons (Southern District) (until 26 November 2016)  
The Honourable Justice Jean Hazel Dalton (Southern District)  
The Honourable Justice Duncan Vincent Cook McMeekin (Central District)  
The Honourable Justice David Octavius Joseph North (Northern District)  
The Honourable Justice James Dawson Henry (Far Northern District)

### **Industrial Court**

The Honourable Justice Glenn Charles Martin AM



# COURT OF APPEAL DIVISION

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## Governance

### Organisational Structure

The Court of Appeal hears appeals:<sup>1</sup>

- in criminal and civil matters from the Trial Division of the Supreme Court of Queensland;
- in criminal and civil matters from the District Court of Queensland;
- from the Planning and Environment Court;
- from the Land Appeal Court; and
- from other tribunals, principally the Queensland Civil and Administrative Tribunal (QCAT).

An appeal from the Court of Appeal to the High Court of Australia can proceed only by way of special leave so that for most cases the Queensland Court of Appeal is Queensland's final appellate court.

In March 2017, the Hon Margaret Anne McMurdo AC retired from her position of President of the Court of Appeal. Her Honour served in this role from 1998. It is necessary, and a pleasure, to record the gratitude and the great respect that the members of the Court of Appeal feel for Margaret McMurdo. She has, as has been said, left the Court in a fit and healthy state. More than that, as President of the Court, she was the embodiment of leadership, of integrity and of real independence. She lived her oath of office and, by doing so, has set us an ideal against which we must measure ourselves. The members of the Court of Appeal wish her well in her busy years ahead.

The Hon Justice Walter Sofronoff was sworn in as President of the Court of Appeal on 3 April 2017. There are also five judges of appeal. During this year, they were:

- the Hon Justice Hugh Barron Fraser;
- the Hon Justice Robert William Gotterson AO;
- the Hon Justice Philip Hugh Morrison;
- the Hon Justice Anthe Ioanna Philippides; and
- the Hon Justice Philip Donald McMurdo.

The Court of Appeal sat as a bench of three judges for 42 weeks during the year, which is one more week than last year. The President and the judges of appeal together sat 208 individual judge weeks this year,<sup>2</sup> compared to 197 weeks last year.

The Chief Justice sat in the Court of Appeal, apart from admissions ceremonies, for 11 weeks. Trial Division judges sat in the Court of Appeal for 74 individual judge weeks this year compared to 71 weeks last year.

It remains desirable for the Chief Justice and the Trial Division judges to sit regularly in the Court of Appeal. The Court benefits from their experience, especially in trial work and sentencing, and could not dispose of its workload as efficiently without this assistance.

Ms Janette Conway acted as senior deputy registrar (appeals)<sup>3</sup> until March 2017 when Mr Brett Gillespie commenced acting in the role.

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<sup>1</sup> Including applications and references

<sup>2</sup> This expression refers to every week an individual judge sits in the Court of Appeal.

<sup>3</sup> For administrative purposes within the Department, this role is known as acting team leader (appeals).

The following categories of matters were again heard with particular expedition this year when identified by registry staff:

- appeals concerning short custodial sentences;
- appeals by the Attorney-General of Queensland or the Commonwealth Director of Public Prosecutions against sentences where respondents have been released into the community;
- matters involving children;
- appeals against interlocutory decisions so that the determination of the principal action is not unnecessarily delayed pending appeal;
- pressing commercial disputes which have been dealt with expeditiously in the Trial Division's commercial list; and
- other matters where urgency is demonstrated.

Registry staff continued to identify at an early stage matters which were complex or where delay was a particular concern. These matters were case managed by the President or a judge of appeal to ensure timely disposition.

The President and the judges of appeal valued the high level of service provided by Ms Conway, Mr Gillespie, Appeals Registry staff, associates and secretaries, all of whom have diligently served to the best of their ability and experience the public, the profession and the judges.

The President and the judges of appeal also valued the commitment and support of the Executive Director of the Supreme, District and Lands Courts Service, Ms Julie Steel, and her staff.

In hearings where security was an issue, the Court's protective services officers again assisted.

## Human Resourcing Issues

There were only minimal changes to the Court of Appeal Registry staff this year. Six of the eight staff were consistently with the Court of Appeal throughout the year and a ninth staff member joined as Overall Team Leader of the Court of Appeal and Adjudications. This staff continuity has reflected positively in the level of service provided to the judges and court users and has assisted in the timely disposition of the Court's work.

## Auscript

Transcripts have been obtained in a timely manner. As was the case for the last three reporting years, there has been no major delay in the receipt of transcripts for the preparation of appeal record books. In one in about ten requests there have been delays due to the volume of transcribing required or other internal Auscript delays. Once the expected delivery date has passed and no transcript has been received, Registry staff give Auscript a grace period of approximately ten days before chasing up the request. In most cases, a resolution has been found and suitable arrangements for the transcription timeline made.

Some matters are still transcribed incorrectly. When the accuracy of a portion of transcript is critical to a ground of appeal, it sometimes remains necessary for the judges to check the transcript against the original recording. On occasions, transcripts of appeal hearings are delivered outside Auscript's agreed timeline. Overall, the performance of Auscript this reporting year was satisfactory.

# Performance

## Disposal of Work

This year 650 matters were commenced in the Court of Appeal (378 criminal matters and 272 civil matters), up slightly from the 632 matters commenced last year (410 criminal matters and 222 civil matters). There has been a decrease in criminal matters and an increase in civil matters. There are 385 active matters, an increase from 329 last year. The Court finalised 639 matters, a noticeable decrease from the 719 matters finalised last year. See appendix 1, table 1.

The Court's clearance rate of criminal matters decreased slightly this reporting year, from 106.6% last year to 104.2%. The Court's clearance rate in civil matters decreased more significantly from 127.03% last year to 90.1%. Overall, 88.1% of Court of Appeal matters were finalised within 12 months of lodgement. See appendix 1, table 2. In all matters not finalised within 12 months of lodgement, the Court offered parties hearing dates during the year and the delay was occasioned at the request of one or both parties. Some delay in criminal matters was caused by the Legal Aid Queensland (LAQ) external review process pertaining to applications to LAQ where aid has been refused.

The median time for the delivery of reserved judgments in criminal matters was 70 days. In civil matters it was 108 days. Overall, the median time between hearing and delivery of reserved judgments was 78 days. See appendix 1, table 5.

## Origin of Appeals

Filings from the Trial Division increased noticeably this year in civil matters from 112 to 138 and decreased slightly in criminal matters from 117 to 115. Filings from the District Court also increased noticeably in civil matters from 69 to 94 and decreased in criminal matters from 292 to 262. Planning and Environment Court filings increased from three to four. Applications and appeals, principally from QCAT, also decreased this reporting year from 38 to 36. See appendix 1, table 6.

Filings of general civil appeals increased noticeably this year in civil matters from 99 to 135 and filings of civil applications also increased from 108 to 119. Filings of sentence applications decreased noticeably from 185 to 147 but filings of conviction only appeals increased from 88 to 98. Filings of combined conviction and sentence appeals marginally decreased from 40 to 38. Filings of sentence appeals brought by the Queensland Attorney-General and the Commonwealth Director of Public Prosecutions decreased marginally to four compared to six last year and three in 2014/2015. See appendix 1, table 7.

During the reporting year there were 32 applications for special leave to appeal from the Court of Appeal to the High Court of Australia, six of which were granted.<sup>4</sup> See appendix 1, table 10. The High Court delivered six judgments from the Court of Appeal this reporting year, allowing four appeals and dismissing two appeals.<sup>5</sup> See appendix 1, table 11.

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<sup>4</sup> *Commissioner of the Australian Federal Police v Hart & Ors; Commonwealth of Australia v Yak 3 Investments Pty Ltd as Trustee for Yak 3 Discretionary Trust & Ors; Commonwealth of Australia & Anor v Flying Fighters Pty Ltd & Ors* [2017] HCATrans 69; *Koani v The Queen* [2017] HCATrans 70; *Craig v The Queen* [2017] HCATrans 73; *Pike & Anor v Tighe & Anor* [2017] HCATrans 127; *GAX v The Queen* [2017] HCATrans 96; *Pickering v The Queen* [2017] HCATrans 50.

<sup>5</sup> *R v Baden-Clay* (2016) 258 CLR 308; [2016] HCA 35; *Ainsworth v Albrecht* (2016) 90 ALJR 1118; [2016] HCA 40; *Pickering v The Queen* (2017) 91 ALJR 590; [2017] HCA 17; *GAX v The Queen* (2017) 91 ALJR 698; [2017] HCA 25; *Graham v The Queen* (2016) 90 ALJR 820; [2016] HCA 27; *Lyons v Queensland* (2016) 90 ALJR 1107; [2016] HCA 38.



# Reasons of the Court

This year there were 376 outcomes for the Court of Appeal. The reasons in 13 of these outcomes were delivered as a judgment of the Court or with all Judges concurring without separate reasons. 290 outcomes were delivered with three separate concurring reasons. 12 outcomes were delivered with two joint concurring reasons and one separate reasons.

Out of the total 376 outcomes, 29 involved dissents. 22 outcomes were delivered with two joint concurring reasons and one dissent and seven outcomes were delivered with separate concurring reasons and one dissent. There were 32 outcomes where reasons were delivered by a single judge. See appendix 1, table 12.

These statistics have not previously been provided so comparison with the results of past reporting years is not possible.

# Cairns Sittings

The Court of Appeal's northern sitting for 2017 was held in Cairns from Monday 29 May to Friday 2 June.

Five judges participated: the President, Justice Fraser and Justice Gotterson from Brisbane, Justice North from Townsville and Justice Henry from Cairns. The Court heard five appeals against conviction, three sentence applications, one sentence application by the Attorney-General, one criminal application and two general civil appeals.

A total of 12 barristers, over one half of whom were regionally based, participated in the sittings (five or 41.7% from Brisbane, four or 33.3% from Townsville, three or 25% from Cairns). Of the 19 appearances by barristers, two (10.5%) were female.

The judges also participated in a dinner with the North Queensland Bar Association, a welcome function with the students of James Cook University and the Far North Queensland Law Association welcome function.

# Women Barristers in the Court of Appeal

The public, the legal profession, the President and the judges of appeal remain concerned about the underrepresentation of women at the Bar in Queensland.<sup>6</sup>

This year, women counsel appeared in 17.4% of all Court of Appeal appearances. This is a decrease from 19.7% last year and indicates underrepresentation in the Court of Appeal given 22.5% of members of the Bar with practising certificates are female.<sup>7</sup>

Women counsel appeared in 22.4% of criminal matters, compared to 28.5% last year, and in 10.2% of civil matters, compared to 10.8% last year.

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<sup>6</sup> See, for example, Kirby J 'The Future of Appellate Advocacy' (2006) 27 *Aust Bar Review* 141 at 155-159; Hunter, Prof R 'Discrimination Against Women Barristers: Evidence from a Study of Court Appearances and Briefing Practices' (2005) 12 *International Journal of the Legal Profession* 3.

<sup>7</sup> This includes both Class A and Class B practising certificates as at 8 August 2017. Class A practising certificates are those barristers in private practise. Class B practising certificates are employed barristers who have taken out practising certificates and include barristers in Crown Law, the Director of Public Prosecutions (Qld), the Director of Public Prosecutions (Cth), LAQ, Police Prosecutors, the Aboriginal and Torres Strait Islander Legal Service and academics.

# Self-Represented Litigants

Self-represented litigants generally place additional burdens on appeals registry and court staff as well as the judges.

The number of self-represented litigants in cases where judgment was delivered in the Court of Appeal has increased from 94 matters last year to 110 matters this year. At least one party was self-represented in 36 civil matters in which judgment was delivered this reporting year (24.7%), compared to 41 last year (22.9%) and 32 in 2014-2015. At least one party was self-represented in 74 criminal matters in which judgment was delivered this reporting year (32.2%), compared to 53 last year (24%) and 50 in 2014-2015. See appendix 1, table 8.

Many matters involving self-represented litigants are finalised before the hearing. This reporting year 189 matters involving self-represented litigants were finalised either before or after the hearing (29% of matters lodged this year). This included 75 civil appeals (27.6% of matters lodged this year) and 114 criminal appeals (30.2% of matters lodged this year). See appendix 1, table 9.

## LawRight

The Queensland Public Interest Law Clearing House (QPILCH) was rebranded as LawRight in February 2017. LawRight and its Self-Representation Service (SRS) again provided valuable assistance to self-represented litigants in the Court of Appeal.

All community legal centres recently changed the data reporting system to CLASS, departing from the old system of CLSIS. As CLASS does not yet have a reporting function, the figures below may be slightly inaccurate.

- SRS received six applications for assistance from potential and current litigants. Of these, two concerned potential appeals and four concerned current appeals.
- Of the current appellants, none obtained private representation. Three appellants were given advice that they did not have promising prospects and two of these appellants discontinued their appeals. No current appellants have been successful in continuing their appeals. One was unsuccessful and one matter is yet to be determined.
- No potential appellants obtained representation. Two were advised not to continue with their appeals. No potential appellants have been successful, as one matter is yet to be determined and the other appellant accepted advice not to commence their appeal.

The President and the judges of appeal thank LawRight, its directors, Linda MacPherson and Sue Garlick, SRS solicitor, Ben Tuckett, and SRS paralegal, Courtney Blomfield. Thanks are also given to Tony Woodyatt, LawRight's former director who retired this year. The invaluable service of LawRight and SRS is viewed by other Australian jurisdictions as a model to be emulated. SRS assists not only self-represented litigants but also appeals registry and court staff, the judges and, indirectly, the broader community.

## Self-Represented Success Rates

Self-represented litigants had greater success in the Court of Appeal this year compared to last year. A total of 27.6% of self-represented criminal litigants (compared to 18.9% last year) and 13.9% of self-represented civil litigants (compared to 4.9% last year) were successful in their appeals. It remains desirable to see an increase in legal aid funding and pro bono assistance at the appellate level.

## Pro Bono Assistance

The Court of Appeal criminal law pro bono scheme, first established in 1999-2000, continued to operate this year. With the assistance of the Bar Association of Queensland and the Queensland Law Society, the scheme provided unrepresented appellants convicted of murder or manslaughter, juveniles and those under an apparent legal disability with legal representation for their appeals. This year 18 appellants were assisted. The President and the judges of appeal thank the publicspirited barristers listed in appendix 2. Particular thanks are extended to the following barristers who assisted pro bono for applications in the Supreme Court in the last year:

Stephen Lee

Jens Streit

Stephen Colditz

Peter Travers

Damien O'Brien QC

Hugh Scott-MacKenzie RFD

Finally, the Court of Appeal extends its thanks to the following law firms for their assistance in the pro bono scheme:

Holding Redlich

Fuller and White

Minter Ellison

Ashurst

## Technology and Infrastructure

This year the Court heard 32 matters where at least one party appeared by video link, compared to 22 last year. The quality of these links remained variable. Problems continued again this year through sub-standard facilities at the other end of links, including in regional courts and correctional centres.

The senior deputy registrar (appeals) and his staff continued to provide record books in searchable electronic form to judges and parties.

Courts wi-fi was again available free of charge during the hearing of appeals in the Banco Court and in the Court of Appeal.

The President and the judges of appeal, whether in court, in chambers, or remotely, accessed computers for legal research, electronic record books and electronic transcripts of appeal hearings.

This year there were no appeals fully prepared and conducted electronically.

All Court of Appeal judgments delivered during this year were again available free of charge on the internet through:

- AustLII; and
- the Supreme Court Library website which includes:
  - a link to a database maintained by the Supreme Court Library containing selected High Court and intermediate appellate court judgments relating to the Criminal Codes of Queensland, Western Australia, Tasmania and the Northern Territory; and
  - a link to a database of civil appellate decisions of general interest to Australian intermediate

appellate courts maintained on the New South Wales Court of Appeal web page but to which all intermediate appellate courts contribute.

The Court's research officer, Mr Bruce Godfrey, again coordinated the publication of Court of Appeal judgments, ensuring compliance with profuse and sometimes complex legislative naming prohibitions.

- Mr Godfrey arranged hard copies and electronic links to the judgments for all major Brisbane media outlets.
- He prepared judgment outlines which were:
  - published on the Supreme Court Library website;
  - distributed to interested Queensland judicial officers, the Queensland Law Society, and the Bar Association of Queensland; and
  - published in *Proctor*, the Queensland Law Society journal.

During the year, the President and judges of appeal were again assisted by the wellresourced judges' library.

## Future Directions and Challenges

President McMurdo left the Court in a productive and efficient state. The challenge now is to maintain that condition. The increase in the numbers of new filings, both in criminal and in civil matters and in the Supreme Court and the District Court will mean that the Court of Appeal will become busier while the number of available judges will remain the same. This is not a reason to feel disturbed. It is a reason to contemplate new systems that will allow for the more efficient and prompt dispatch of business without compromising the quality of justice delivered by the Court. The Court of Appeal is now reviewing methods of listing, methods of rostering courts, the statutory avenues available for the disposition of work and amendments to practice directions to ensure that judges are assisted in coming to grips as quickly as possible with the essential issues in a case. Any changes that are introduced will be monitored closely and data kept to allow an objective study to be made about the efficacy of any changes.

## Appendix 1

**Table 1: Annual Caseload – Number of Cases**

	Lodged	Heard	Finalised*	Active (including reserved judgements not yet delivered)
Criminal	378	268	394	237
Civil	272	163	245	148
<b>TOTAL</b>	<b>650</b>	<b>431</b>	<b>639</b>	<b>385</b>

\*Includes matters abandoned, withdrawn, discontinued, struck out or stayed

## Table 2: Performance Indicators

	Clearance Rate %	% finalised within 12mths	% finalised > 12mths old	% finalised > 24mths old	% Active > 12mths old	% Active > 24mths old
Criminal	104.2%	88.3%	10.7%	1.0%	12.2%	2.5%
Civil	90.1%	87.8%	9.8%	2.5%	1.4%	0.7%
<b>TOTAL</b>	<b>98.3%</b>	<b>88.1%</b>	<b>10.3%</b>	<b>1.6%</b>	<b>8.1%</b>	<b>1.8%</b>

## Table 3: Judgments, Criminal Matters

Judgements	2014-2015	2015-2016	2016-2017
Outstanding at start of year	32	37	30
Reserved	177	177	231
<i>Ex tempore</i> judgments delivered	49	84	45
Reserved judgments delivered	175	193	222
Outstanding at end of year	37	30	52

## Table 4: Judgments, Civil Matters

Judgements	2014-2015	2015-2016	2016-2017
Outstanding at start of year	27	41	45
Reserved	138	145	112
<i>Ex tempore</i> judgments delivered	51	76	82
Reserved judgments delivered	122	155	115
Outstanding at end of year	41	44	36

## Table 5: Time between Hearing and Delivery of Reserved Judgments

Type of cases	Median number of days		
	2014-2015	2015-2016	2016-2017
Criminal cases	49	70	70
Civil cases	74	95	108
<b>ALL CASES</b>	<b>59</b>	<b>85</b>	<b>78</b>

## Table 6: Court in which Matters were Commenced

Court	Number of matters field		
	2014-2015	2015-2016	2016-2017
Trial division – civil	144*	112*	138*
Trial division – criminal	77*	117*	115*
District court – civil	92	69	94
District court – criminal	265	292	262
Planning and Environment Court	4	3	4
Other – civil (cases stated, QCAT, tribunals, etc.)	42	38	36
Magistrates Court – criminal	0	0	0
Other – criminal	0	1	1

## Table 7: Types of Appeals Field

Appeal type	2014-2015	2015-2016	2016-2017
<b>Civil</b>			
General including personal injury	137	99	135
Applications	124	108	119
Leave applications	9	12	12
Planning and environment	7	1	1
Others	5	2	5
<b>Criminal</b>			
Sentence applications	156	185	147
Conviction appeals	64	88	98
Conviction and sentence appeals	43	40	38
Extensions (sentence applications)	14	20	20
Extensions (conviction appeals)	12	13	15
Extensions (conviction and sentence)	8	10	5
Sentence appeals (A-G/Cth DPP)	3	6	4
Other	42	48	51

## Table 8: Matters Determined where One or Both Parties Self-Represented\*

Number of cases	2014-2015	2015-2016	2016-2017
Civil	32	41	36
Criminal	50	53	74
<b>TOTAL</b>	<b>82</b>	<b>94</b>	<b>110</b>

\*The above table represents final outcomes from the Court of Appeal, i.e. judgments delivered. In some matters there is more than one outcome. For example, when there are multiple parties in criminal matters, each party has a separate outcome, despite only one QCA number being allocated to the overall decision.

**Table 9: Matters Finalised\* where One or Both Parties Self-Represented\***

Number of cases	2014-2015	2015-2016	2016-2017
Civil	68	118	75
Criminal	75	116	114
<b>TOTAL</b>	<b>143</b>	<b>234</b>	<b>189</b>

\*Includes matters abandoned, withdrawn, discontinued, struck out or stayed.

**Table 10: Applications for Special Leave to Appeal to the High Court of Australia**

	Criminal 2016-2017		Civil 2016-2017
Granted	4	Granted	2
Refused	11	Refused	15

**Table 11: Appeals from the Court of Appeal to the High Court of Australia**

	Criminal 2016-2017		Civil 2016-2017
Allowed	3	Allowed	1
Dismissed	1	Dismissed	1

**Table 12: Reasons of the Court**

Judgment of the Court or all concurring without separate reasons	Three separate concurring reasons	Two joint concurring reasons and one separate reason	Two joint concurring reasons, one dissent	Separate concurring reasons, one dissent	Single judge	Total outcomes for the Court of Appeal
13	290	12	22	7	32	376

# Appendix 2

## Court of Appeal Pro Bono List for 2016-2017

Simone Bain	Tony Glynn QC	Frank Martin (Toowoomba)
Andrew Boe	Simon Hamlyn-Harris	Mark McCarthy
Michael J Byrne QC	Andrew Hoare	Kerri Mellifont QC
Peter Callaghan SC	Saul Holt QC	Bruce Mumford
Anthony W Collins (Tville)	Kylie Hillard	Peter Nolan
Michael Copley QC	Jeffrey Hunter QC	Gerard O'Driscoll
Janice Crawford	Mark Johnson	Tom Polley (Rockhampton)
Graeme Crow QC (R'ton)	Viviana Keegan	Benedict Power
Patrick Cullinane (Mackay)	Stephen Keim SC	Colin Reid
Robbie Davies	Tony Kimmins	Peter Richards
Peter Davis QC	Simon Lewis	Soraya Ryan QC
Ralph Devlin QC	Dennis Lynch	Tim Ryan
Angus Edwards	Gregory Lynham (Tville)	Julie Sharp
Tracy Fantin (Cairns)	Eoin Mac Giolla Ri	Joshua Trevino (Cairns)
Mark Green	Donald MacKenzie	Bret Walker QC
Justin Greggerly	Alan MacSporran QC	Neville Weston
John Griffin QC	Gregory Maguire	Elizabeth Wilson QC





# TRIAL DIVISION

# 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.

Criminal trials are usually heard with a jury. Civil cases are almost always determined by judge alone.

Criminal trials mainly concern murder, manslaughter and more serious drug offences including the importation of border controlled drugs and drug trafficking.

In its civil jurisdiction, the Court deals with a wide range of cases, including contests about commercial matters, building and engineering contracts, civil wrongs, wills and estates, conveyancing, insurance and judicial review of administrative decisions. The Court was given jurisdiction to deal with class actions this year. It is likely that such actions will require a significant allocation of judicial resources in the future.

Trial division judges also sit on the Court of Appeal and the Land Appeal Court. Two judges serve on the Mental Health Court and a number of judges devote extra time to manage the Criminal List, the Dangerous Prisoner Sexual Offenders List, the Commercial List, the Case Flow List, and the Supervised Case List which includes the Self Represented Case List. That additional management has assisted in the expeditious determination of many of those matters. A judge is President of the Queensland Civil and Administrative Tribunal and since 2015 an additional judge has been allocated to that Tribunal. That additional allocation has meant that the number of judges who are available to determine matters in the trial division has decreased at a time when the workload has significantly increased.

Some judges also act as members of bodies such as the Queensland Law Reform Commission and many are involved with groups that have a responsibility for implementing procedures to improve the administration of justice, including the Rules Committee and the Streamlining Criminal Justice Committee.

## The Structure of the Trial Division

The Court is divided into far northern, northern, central and southern regions, reflecting the decentralised nature of the State and its large area.

Most of the trial division judges are based in Brisbane in the southern region. That region 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, Longreach and Mackay.

The Northern Judge resides in Townsville. His region encompasses Mount Isa and Mackay.

The Far Northern Judge resides in Cairns.

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

More than eighty percent of the workload arises in and around, and is dealt with, in, Brisbane.

Information about the organisation and practices of the trial division, including its calendars, law lists, fact sheets, Practice Directions, and reasons for judgment, are published on the Queensland Courts website:

**[www.courts.qld.gov.au](http://www.courts.qld.gov.au)**.

# Developments

The number of criminal cases which were finalised in the last twelve months is the highest it has ever been.

The increasing number of lodgements has meant that the number of pending criminal matters has effectively increased despite the increased disposition rate.

There were more trials and sentences this year than last. But the lodgements, recorded as number of defendants in the statistical tables, increased at an even greater rate.

This reflects a continuing trend.

The composition of the trial division was affected by these changes:

Justice Peter Lyons – retired 28 November 2016

Justice Sue Brown – appointed 16 December 2016

Justice David Thomas – appointed to the Administrative Appeals Tribunal and the Federal Court on 28 June 2017.

## Criminal Jurisdiction

This year finalisations by trial were identical to last year (58 defendants).

The average length of a trial decreased from 6 days to 5.15 days.

However, the trend of the last five years of a significant increase in the number of lodgements continued this year.

For the reporting year, the number of lodgements increased by 37.9%, from 1,712 to 2,362. That, by itself, is a substantial increase, but its effect is even greater given that, in the three years preceding this year, there had been an increase in lodgements of more than 104%.

The consequence of that increase is compounded by a significant increase in the average number of charges for each defendant, which increases the length and complexity of trials and sentence hearings.

As a result of an increase in the number of dedicated sentencing weeks in Brisbane, the Court significantly increased the number of sentences determined this year. The number of sentences dealt with grew by 44.4%, from 1,093 to 1,578.

Whilst that change led to a 38.1% increase in the number of lodgements finalised, from 1,484 to 2,050, and a slight overall increase in the clearance rate, from 86.7% to 86.8%, a concerning feature is the increase of 39% in active pending matters, from 735 to 1,022.

The inability to reduce the active pending matters, notwithstanding a significant overall increase in the disposal of criminal matters, highlights the need for additional judicial resources to meet the increasing demand in the criminal jurisdiction alone.

That need is even more significant when consideration is given to the lodgements and finalisations in Brisbane.

The number of lodgements in Brisbane increased by 39.8%, from 1,300 to 1,817. The number of matters finalised increased by 44.8%, from 1,034 to 1,497. That includes a 31.3% increase in trials, from 32 to 42, and a 51.8% increase in sentences, from 742 to 1,126.

Notwithstanding that the number of sentences dealt with increased by over 50%, the number of active pending matters in Brisbane increased by 39.8%, from 735 to 1,022. Fortunately, the proportion of active pending matters older than 12 months but less than 24 months fell slightly, by 1.3%, and the number of active pending matters older than 24 months only increased very slightly, by 0.1%.

## Summary of Activity on Criminal List - By Location

Centre	Number of defendants <sup>(1)</sup>			Clearance rate <sup>(2)</sup>	Backlog Indicator <sup>(3)</sup>	
	Lodged	Finalised	Active		% > 12mths	% > 24mths
Brisbane	1,817	1,497	885	82.4%	11.3%	2.6%
Cairns	141	137	25	97.2%	12.0%	8.0%
Rockhampton	97	101	13	104.1%	7.7%	-
Townsville	140	116	46	82.9%	4.3%	-
<b>Main centre Totals</b>	<b>2,195</b>	<b>1,851</b>	<b>969</b>	<b>84.3%</b>	<b>10.9%</b>	<b>2.6%</b>
<b>Regional centres</b>						
Bundaberg	9	13	4	144.4%	-	-
Longreach	-	-	-	-	-	-
Mackay	85	82	21	96.5%	4.8%	4.8%
Maryborough	5	7	12	140.0%	-	-
Mount Isa	4	8	1	200.0%	-	-
Roma	2	5	-	250.0%	-	-
Toowoomba	62	84	15	135.5%	13.3%	-
<b>Regional centre Totals</b>	<b>167</b>	<b>199</b>	<b>53</b>	<b>119.2%</b>	<b>5.7%</b>	<b>1.9%</b>
<b>State Total</b>	<b>2,362</b>	<b>2,050</b>	<b>1,022</b>	<b>86.8%</b>	<b>10.7%</b>	<b>2.5%</b>

(1) Defendant: As defined by the RoGS rule: A 'defendant' is defined as 'one defendant; with one or more charges; and with all charges having the same date of registration'. Defendants with outstanding bench warrants and defendants with secondary charges such as breaches of court orders are excluded. Also excluded are defendants who have been committed to the Supreme Court and are awaiting presentation of indictment.

(2) Clearance Rate: Finalisations/Lodgments.

(3) Backlog Indicator: the number active defendants with proceedings older than the specified time.

## Civil Jurisdiction

Lodgements decreased this year by 45(1.5%), from 3,028 in 2015-16 to 2983.

Finalisations decreased by 345, from 3,134 during 2015-16 to 2789 (a decrease of 11%).

The clearance rate decreased from 103.5% in 2015-16 to 93.5%.

There was an increase of 156 (6.5%) in active pending matters (2,567 at 30 June 2017, up from 2,411 last year).

The number of cases older than 12 months and less than 24 months increased from 393 as at 30 June 2016 to 429 (an increase in the percentage of active pending matters of 9.2%).

Cases more than 24 months old decreased by 4 in 2016-17, and stood at 180 cases at 30 June 2017.

Many claims are dealt with by registrars, which is one reason why a decrease in lodgements does not result in a corresponding reduction in judicial workloads.

## Summary of Activity on Civil List - By Location

Centre	RoGS civil files <sup>(1)</sup>			Clearance rate <sup>(3)</sup>	Backlog Indicator <sup>(4)</sup>	
	Lodged	Finalised	Active		% > 12mths	% > 24mths
Brisbane	2,637	2,495	2,266	94.6%	23.7%	7.5%
Cairns	105	82	72	78.1%	15.3%	4.2%
Rockhampton	102	88	114	86.3%	29.8%	4.4%
Townsville	80	78	52	97.5%	11.5%	1.9%
<b>Main centre Totals</b>	<b>2,924</b>	<b>2,743</b>	<b>2,504</b>	<b>93.8%</b>	<b>23.5%</b>	<b>7.1%</b>
<b>Regional centres</b>						
Bundaberg	8	5	8	62.5%	25.0%	-
Longreach	-	-	-	-	-	-
Mackay	36	30	44	83.3%	36.4%	4.5%
Maryborough	3	-	-	-	-	-
Mount Isa	1	-	2	-	50.0%	-
Roma	2	1	2	50.0%	-	-
Toowoomba	9	10	7	111.1%	14.3%	-
<b>Regional centre Totals</b>	<b>59</b>	<b>46</b>	<b>63</b>	<b>78.0%</b>	<b>31.8%</b>	<b>3.1%</b>
<b>State Total</b>	<b>2,983</b>	<b>2,789</b>	<b>2,567</b>	<b>93.5%</b>	<b>23.7%</b>	<b>7.0%</b>

(1) The RoGS unit of measurement for the civil jurisdiction is a case. Secondary processes such as interlocutory applications are excluded.

(2) The trial division also deals with matters which, for reporting purposes, have been grouped as non-RoGS civil, non-RoGS criminal and probate. 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.

(3) Clearance Rate: Finalisations/Lodgments.

(4) Backlog Indicator: the number active defendants with proceedings older than the specified time.

# Civil Jurisdiction - Brisbane

## Case Flow Management

During the year under review, the Case Flow List was managed by Justice Daubney.

Practice Direction No 17 of 2012 continues to govern case flow management in the Civil jurisdiction of the Supreme Court in Brisbane. The requirements of the Practice Direction are explained in a plain English guide.

Much of the work of the Case Flow List is able to be done “on the papers”, thereby minimizing the costs associated with personal appearances before the court. Efficiency in this process requires the co-operation of the parties’ representatives and extensive input by the Case Flow Manager and the managing Judge’s Associate, and considerable oversight and supervision by the managing judge. There remains, however, a significant need for pro-active or interventionist judicial management, which is accommodated by eight Case Flow Review days during the year. The case flow process ensures that matters on the list do not stagnate and costs are minimised wherever possible.

In the year ending 30 June 2017 there were 539 case flow orders, compared with 721 in the previous year. Ongoing co-operation by parties has resulted in a satisfactory rate of consent orders in compliance with the Practice Direction, and as a result 319 (or about 60 %) of the orders were able to be made on the papers without the necessity for an appearance.

Event Type	Result	Financial Year			Grand Total
		2014-2015	2015-2016	2016-2017	
Decision on Papers	Final Order	18	5	2	25
	Order	338	410	317	1,065
<b>Decision on Papers Total</b>		<b>356</b>	<b>415</b>	<b>319</b>	<b>1,090</b>
	Adjourned After Commencement	7	1	4	12
	Adjourned Before Commencement	12	14	40	66
	Delisted	-	-	1	1
	Discontinued	5	7	-	12
	Final Order	5	-	2	7
	No Appearance	-	1	-	1
	No Order Made	2	5	4	11
	Order	188	163	105	456
	Settled	-	3	-	3
	Vacated - Event Not Required	65	112	64	241
<b>Review Total</b>		<b>284</b>	<b>306</b>	<b>220</b>	<b>810</b>
<b>Grand Total</b>		<b>640</b>	<b>721</b>	<b>539</b>	<b>1,900</b>

Source: Queensland Higher Courts civil database (QCivil)

Notes:

1. The QCivil systems are “live” operational systems in which records are updated as the status of court matters change (for example, a defendant being resented as a result of a Court of Appeal decision) and or input errors are detected and rectified. This constant updating and data verification may result in a slight variance of figures over time.

## DPSOA

One or two applications for a continuing detention or supervision order, annual review of a detention order, or contravention of a supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003* are heard each Monday by a judge sitting in the applications jurisdiction. Justice Mullins and Justice Burns manage the DPSOA matters and conduct the reviews that precede substantive hearings.

## Commercial List

The commercial list provides for the management and prompt hearing of proceedings involving issues of a commercial character. The current commercial list judges are Justice Jackson and Justice Bond.

A case is placed on the list if a commercial list judge considers that it is appropriate for inclusion, having regard to its nature, the issues in dispute and whether there are circumstances of urgency.

A party wishing to have a case placed on the list files an application and supporting material by email, which includes a Commercial List Statement setting out the relevant matters. The two commercial list judges alternate on a monthly basis to hear these listing applications. A case listed by one of the judges is managed by that judge, who makes directions and generally hears any contested interlocutory applications as well as the trial. Trial dates will be allocated by the judge at a point when it is clear that remaining interlocutory steps will be completed by those dates.

The commercial list judges endeavour to provide early hearing dates for interlocutory disputes and trials. Priority is accorded to commercial list cases in the calendars for those judges.

Practitioners are encouraged to propose directions for the conduct of their cases which recognise the particular importance of expedition in the resolution of commercial disputes. Alternative dispute resolution in this list will be facilitated by the court, but on the footing that it should not significantly delay the progress of the case towards a final hearing and determination.

By Practice Direction 21 of 2016 a process for the electronic document filing and management of proceedings on the commercial list was established. Both existing and new proceedings are being managed under the new arrangements.

As at 30 June 2017, there were 77 cases on the list. During the prior year, 64 cases were added to the list. In total, 63 cases on the list were finally resolved, of which 18 were finally resolved by judgment or after trial. There were 342 other hearings, being 130 interlocutory hearings (including listing applications and other interlocutory applications) and 212 reviews.

## Supervised Case List and SRL Supervised Case List

The supervised case list provides for the judicial management of civil cases where the hearing is estimated to take more than five days or where supervision is needed because of the complexity of the matter, the number of parties or some other reason.

The list also supervises cases in accordance with *Practice Direction 10 of 2014* where one or more of the parties is a self-represented litigant.

These lists were managed in 2016-2017 by Justices Applegarth and Flanagan. The aim of supervision is to effect a just and timely resolution of disputes with the minimum commitment of resources by the court and litigants – saving time and reducing costs.

Cases are placed on the supervised case list at the request of one or more of the parties. They are also placed on this list at the court's initiative, such as where a Judge conducting an interlocutory hearing sees the need for ongoing judicial management of the case. Cases are also regularly referred to this list after a case flow review. Many cases on this list fall within the general "commercial law" category. Cases on the list

cover a wide range of civil matters, including complex building and engineering claims, public liability and other insurance litigation, personal injury claims and defamation claims. Cases on the list involving self-represented litigants cover a full range of civil cases.

Cases in which a party is or becomes self-represented are placed on the supervised case list at the initiative of the court. However, that does not ordinarily occur until at least one party has filed a defence, or otherwise taken a step in the proceeding to oppose the granting of relief sought by another party. Self-represented parties are encouraged to take those steps they need to take before their matter is set down for trial.

The supervision of cases involving self-represented parties can be time-consuming for judges, both in the conduct of reviews and in attending to email and other communications from self-represented parties. In fact, many matters involving one or more self-represented party may require more supervision by a supervised case list Judge than a far more complex piece of commercial litigation in which the parties are represented. Many cases involving self-represented litigants concern disputes with banks and other lenders in which pleadings are complicated and self-represented litigants have difficulty in complying with court rules about pleadings.

The Court, self-represented parties and the justice system gain important support from LawRight's self-representation service. Its contribution achieves efficiencies and saves court time and public resources.

Once a case on the supervised case list is ready for trial and has a trial plan, it is usually placed on the list of cases awaiting trial dates, and it will be allocated trial dates when they become available. Cases on the supervised case list compete with other cases for the allocation of available trial dates before judges listed in civil sittings.

The Judges conducting reviews typically seek to ensure that all issues in the case are identified by the pleadings; to ensure that substantial efforts are made to resolve the case, or, so far as possible, issues within the case; to maximise the efficiency and utility of expert evidence at trial; and to see that matters on this list are only given trial dates when there is a high likelihood that the trial will be able to start on the allocated date, and be completed within the estimated time.

A Supervised Case List Manager, who manages and assists with other lists, administers the Supervised Case Lists of the two judges. Parties, including many self-represented litigants, communicate directly with the Associates to the two judges, and the Associates have a significant workload in attending to those communications, settling orders, reviewing compliance with orders and arranging reviews. Given their many other judicial duties, the Judges who conduct the Supervised Case List have limited time to closely case manage cases on the list. They anticipate that the appointment of a Resolutions Registrar, who works closely with the judges, will improve case management and the timely resolution of matters requiring supervision.

## Regions

### Southern Region

Justice Peter Applegarth assumed management of the Southern region circuits in June 2015.

### Central Region

The Central Judge is based in Rockhampton and is responsible for the work of the Court in Rockhampton, Bundaberg and Longreach. He shares the work of the Mackay region with the Northern and Far Northern Judges.

As in previous years, there has been no need to allocate any sitting time to Longreach. Ten weeks were



allocated to sittings in Rockhampton for civil work, and eight for criminal work. Four weeks were allocated to sittings in Mackay and two to Bundaberg. The Central Judge sat in the Court of Appeal in Brisbane for three weeks.

The trend of increasing criminal lodgements in Rockhampton has continued. For the period 1 July 2016 – 30 June 2017 there were 97 indictments lodged. These lodgements principally relate to offences against the *Drugs Misuse Act*. In this period, two criminal trials were needed in Rockhampton, both matters relating to drug offences. Similarly with civil lodgements – the number of lodgements has increased by nearly 16% over the course of the year. While official clearance rates in Rockhampton are below 100% (i.e. the rate at which the number of matters finalised matches the number of lodgements), this does not reflect on the availability of the court to litigants. As has been the practice for many years, parties are offered trial dates as soon as they indicate their readiness.

The trend of a decreasing need for sitting time in Bundaberg and Mackay has been reversed. The bulk of the criminal work in both centres relates to offences against the *Drugs Misuse Act*. As well, there have been several substantial civil trials.

Application days were held in Rockhampton on an approximately six weekly basis, with the number of matters heard still at a fraction of the numbers of three and four years ago. On these days ceremonies are conducted, if needed, for those seeking admission to the profession and who have a connection to Central Queensland. There were 7 such practitioners in 2016-17. Most continue to practise in the region.

Finally, it is worth noting that substantial monies have now been set aside in the State budget to correct the unfortunate problems with water entry into the Virgil Power Building in Rockhampton. That work will be undertaken over the next year.

## Northern Region

The Northern Judge is responsible for the work of the court and within the northern district of the Court in Townsville. He shares the work in the circuit centre at Mackay with the Central and the Far Northern Judges and in Mount Isa with the Far Northern Judge.

In addition to Criminal and Civil sittings in Townsville in 2016-2017, the Northern Judge sat in the Court of Appeal for three weeks in Brisbane in July and August, and for one week in May and June when the Court of Appeal conducted its northern sittings in Cairns. His Honour sat in Mackay at two circuit sittings and in Mount Isa at one sitting.

Civil lodgements and finalisations in Townsville remained stable and consistent with the previous year. However, in crime there was a 55.6% increase in criminal lodgements. This is without precedent in recent years. With the cooperation of the profession, there was an 11.5% increase in criminal finalisations but notwithstanding the clearance rate was only 82.9%. The increase in lodgements in the criminal jurisdiction in Townsville is consistent with a state-wide trend consequent upon the increase in the number of indictments presented to the Court alleging trafficking in methylamphetamine (ice).

Justice North continued the court's involvement with the profession in its professional development. In May he attended the North Queensland Law Association's annual conference held at Hamilton Island and participated in its programme. Additionally, his Honour attended a number of professional CPD seminars coordinated by the Townsville District Law Association and the North Queensland Bar Association.

Admission ceremonies were conducted throughout the year in Townsville. In all, 41 new lawyers were admitted (26 of whom were women). Most of the admittees have made arrangements to further their careers in northern or regional Queensland.

## Far Northern Region

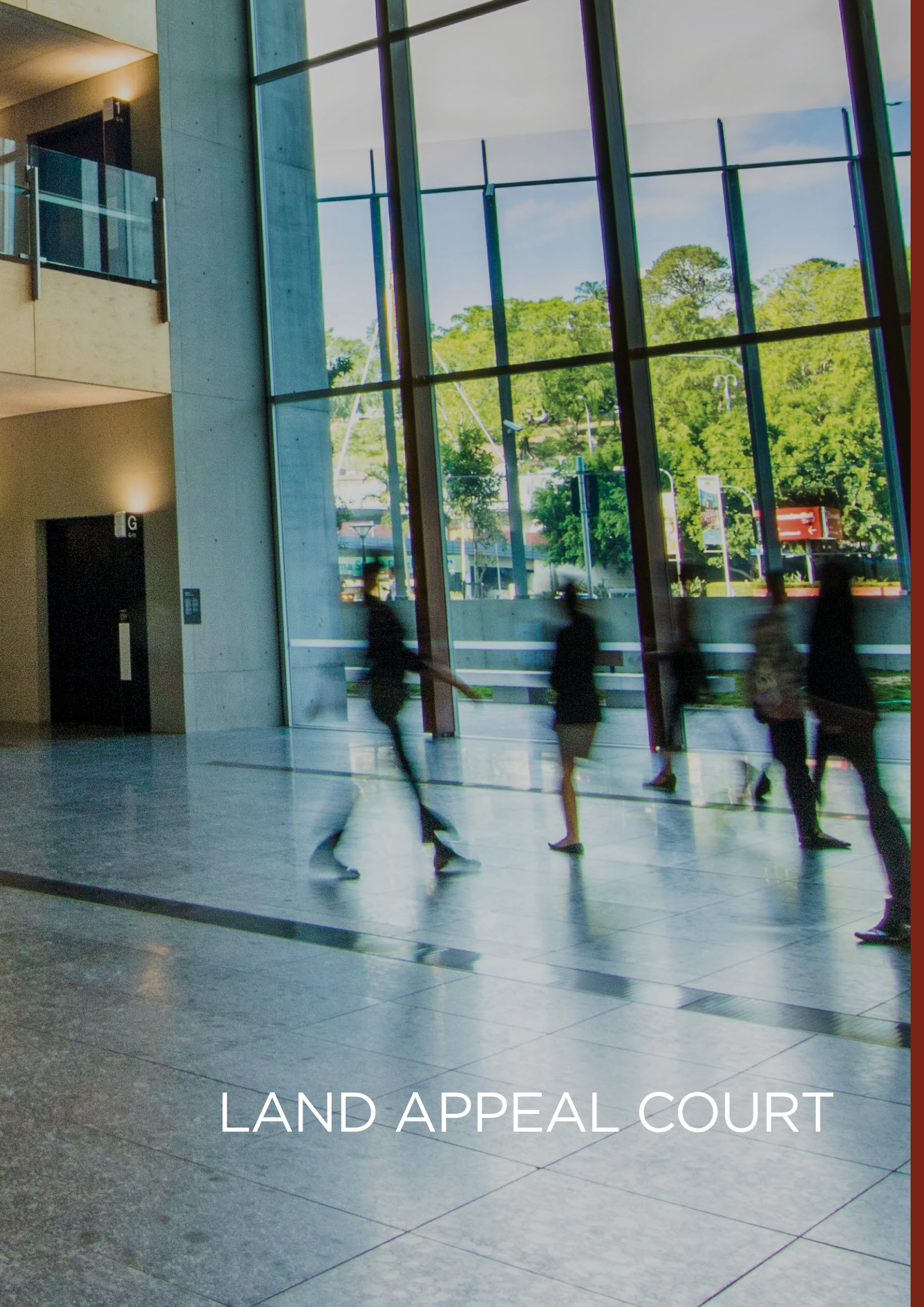
The Far Northern Judge, Justice Henry, sat at Cairns for 16 weeks in the civil jurisdiction, and 15 weeks in the criminal jurisdiction. He sat at Cairns with the Court of Appeal in its one week northern circuit. He circuted to Brisbane for three weeks in the Court of Appeal and Mackay for five weeks. His Mount Isa circuit did not eventuate with the sole matter then before the court being disposed of in Cairns. He had four judgment writing weeks.

In Cairns, Applications days are conducted approximately fortnightly and Applications mornings are conducted every Wednesday and Friday, ensuring that matters are disposed of promptly.

In the 2016/17 year, the number of matters lodged in the criminal jurisdiction increased by 44% to 141 from 98 last year. In the civil jurisdiction, lodgements increased by 52% to 105 compared to 69 the previous year. These increases are very significant. The increase in criminal lodgements in the main reflects a concerning increase in serious drug offending, particularly in respect of methylamphetamine. The cause of the increase in civil lodgements is likely more multi-faceted but the increase is consistent with the delayed impact in the courts of an upswing in commercial activity in Far North Queensland in recent years.

In conjunction with the Bar Association of Queensland and Queensland Law Society, the court coordinated the Cairns Judiciary 2016/17 CPD Series – a series of professional development sessions delivered by Cairns resident Supreme and District Court Judges and local silk Dr Michael Jonsson QC.

During the year, 28 new practitioners were admitted: (21 women and 7 men). Most took up positions in the far north having completed law degrees at the Cairns campus of James Cook University. Links with legal education were maintained by the court's support of the James Cook University law student mooting competition and its teaching support for the university's law subject, *"Advocacy and Criminal Sentencing"*.



# LAND APPEAL COURT

# LAND APPEAL COURT

The Land Appeal Court hears appeals from the Land Court and is constituted by a Judge of the Supreme Court and two Members of the Land Court, other than the Member whose decision is under 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 may sit at Brisbane, Rockhampton, Townsville and Cairns, the headquarters of the four Supreme Court regions in Queensland. From time to time, the Chief Justice nominates a Supreme Court Judge to act as a Member of the Land Appeal Court for the Southern Region. The Honourable Justice Jean Dalton was the Judge nominated for the 2016-2017 financial year. The Honourable Justice D V C McMeekin was the Member of the Land Appeal Court for the Central Region. The Honourable Justice D O J North was the Member of the Land Appeal Court for the Northern Region. The Honourable Justice J D Henry was the Member of the Land Appeal Court for the Far Northern Region.

A party to a proceeding in the Land Appeal Court may appeal from a decision of that Court to the Court of Appeal on the ground of error or mistake in law or jurisdiction. A further appeal could lie to the High Court of Australia, but only with special leave.

Appeals to the Land Appeal Court are by way of rehearing, usually on the record of the Court below. The Land Appeal Court has power to admit new evidence, but only if the Court is satisfied that such evidence is necessary to avoid grave injustice and that adequate reason can be shown why the evidence was not previously given. By convention, the Supreme Court Judge Member presides, but all Members of the Land Appeal Court sit as equals and the decision of the majority is the decision of the Land Appeal Court.

There were five appeals lodged in the Land Appeal Court in 2016-17, compared with one appeal filed in 2015-16.

Nature of Appeals	District Lodged	2016-2017	Status
<i>Mineral Resources Act 1989</i>	Central	2	Heard(in Southern District) Awaiting Decision
<i>Aboriginal and Torres Strait Islander Land Holding Act 2013</i>	Far Northern	2	Withdrawn
<i>Environmental Protection Act 1994</i>	Far Northern	1	Determined (in Southern District)

There were two applications for leave to appeal filed in the Court of Appeal during the reporting period, compared to none filed in 2015-16. Of those two matters, leave to appeal was refused in one. The other matter is reserved by the Court of Appeal.

There were no applications for special leave filed in the High Court during the reporting period.



# EXECUTIVE DIRECTOR'S OVERVIEW

# EXECUTIVE DIRECTOR'S OVERVIEW

The Office of the Executive Director, Supreme District and Land Courts Service is responsible for the management and coordination of registry administration, as well as the provision of judicial support services for the Supreme Court of Queensland.

Ms Julie Steel is the Executive Director and is supported by executive, administrative and registry staff throughout Queensland.

In addition to the Executive Director role, Ms Steel is the Vice President of Court Network, having been a Board member since 2011. She became the Vice President of Protect All Children Today in 2015, having been a Board member since 2014, and is an ex-officio member of the Incorporated Council of Law Reporting, and of the Legal Practitioners Admissions Board. Ms Steel is also a member of the Public Records Review Committee at Queensland State Archives, and of the Supreme Court Library Committee, and regularly attends meetings of the Rules Committee.

## Registry Services

Court registries are responsible for:

- receiving and sealing documents for filing and service;
- providing information about court processes and the progress of particular matters;
- maintaining court records and ensuring that documents such as Verdict and Judgment Records are created and distributed to give effect to orders of the court;
- organising resources to enable matters to progress through the system and hearings to proceed; and
- performing all necessary administrative work associated with the criminal and civil jurisdictions of the court.

There are permanent Supreme Court registries at Brisbane, Cairns, Rockhampton and Townsville, and a further 11 centres throughout the state are visited on circuit. Local Magistrates Court registry staff perform the registry role in those centres.

Registrars within the permanent registries have the responsibility of determining certain applications without the necessity for judicial involvement, including probates, letters of administration, winding up orders, default judgments and warrants to enforce the court's civil orders.

## Registry Workloads

Criminal lodgements increased again during 2016-17 and continue to present substantial challenges to the registry. Across the state, there was an increase of 38% (1,712 to 2,362) and in Brisbane, the increase was 39.8% (1,300 to 1,817).

This increase is part of a trend which has seen lodgements increase across the state by 182% between 2012-13 and 2016-17, with the total number of charges for matters before the court increasing by 242% over the same period (3,360 to 11,503).

The increasing charges and defendants before the court is causing significant workload pressures for the registry which is reflected predominantly in data entry and the creation of Verdict and Judgment Records (VJRs). In 2012-13, there were approximately 2,600 VJRs created across Queensland as a result of matters

being finalised or adjourned before the Supreme Court. That number increased by more than 140% to 6,400 during 2016-17. In Brisbane, the increase was even more pronounced with approximately 2,200 VJRs issued in 2012-13 compared to 5,600 in 2016-17, an increase of over 150%.

The increasing lodgements led to an increase in the number of trials proceeding across the state, from 70 during 2015-16 to 87, and an increase in the number of empanelled jurors from 895 to 1,103. In Brisbane, trials proceeding and empanelled jurors also increased, respectively from 34 to 55, and 434 to 703. The increase in trials also impacted the registry's management of jurors, with more than 46,000 Summons to a Juror issued during 2016-17, an increase of 20% on the 38,300 Summons that were issued in 2015-16.

Civil lodgements decreased across the state by 1.5% (3,028 to 2,983) and in Brisbane by 3% (2,718 to 2,637) in 2016-17. That decrease was offset by the continuing growth of estate administration applications, which increased across the state by 5.9% (from 10,086 to 10,686) and by 5.6% in Brisbane (8,176 to 8,631).

The total number of estate administration applications has increased by 15.8% since 2012-13, when a total of 9,227 applications were received. Additional funding for the registry was provided by the government for an additional registrar to be permanently appointed in Brisbane and support the timely management of estate administration applications. The continuing growth in this area will be closely monitored.

A temporary role of Resolution Registrar was created for the court until 30 June 2018 with recruitment commencing in 2016-17. The role will work closely with the judges of the Trial Division to either resolve cases likely to proceed to trial before a judge, or reduce the issues in dispute so as to shorten the length of civil trials. The success of this role will be evaluated and submissions potentially made for permanent funding.

## Court Network Volunteers

Court Network's 120 volunteers again provided a range of support services to court users through its Court Network outreach and support services in Cairns, Townsville and Brisbane and the Victim Support Unit in Brisbane.

The volunteers provide court users with non-legal information, practical and emotional support, and advocacy and referrals to enable them to access justice. During 2016-17, volunteers assisted 9,457 court users through the Brisbane Information Kiosk, 3,528 court users through the Brisbane Supreme and District Court Networker service, 256 in Cairns and a further 813 in Townsville. Since the program commenced, in excess of 53,000 court users in Queensland have been assisted.

The Victim Support Unit provided coordinated cross-jurisdictional support for adult victims in the criminal justice system. During the year, 263 new clients were assisted in Brisbane and Ipswich. In total, more than 1,326 hours of services were provided to VSU clients. Since commencing in September 2013, more than 950 victims have been assisted.

## Acknowledgements

The ongoing enthusiasm, commitment and professionalism of registry staff in discharging their duties are without doubt, some of the most significant assets of the Court. Workloads are managed efficiently and the many challenges and changes that arise are embraced.

The continuing support and assistance of legal practitioners and judges, particularly in the face of the difficulties which sometimes arise in providing registry services, is greatly appreciated. Their willingness to engage with the registry to improve services is equally appreciated.



# SUPREME COURT OF QUEENSLAND LIBRARY



# SUPREME COURT OF QUEENSLAND LIBRARY

The Supreme Court Library Queensland (SCLQ) was established under statute to serve the administration of justice in Queensland through provision of legal information services to the Queensland judiciary, legal profession and public. As the primary legal information provider for the state's judiciary and legal profession, the library provides a comprehensive suite of services including reference, research and document delivery, training and support, and publication of the official unreported decisions of Queensland courts and tribunals, together with a variety of current awareness services offering access to the latest developments in Queensland law. All of these services are freely available to Queensland's Supreme Court judges and their support staff across the state.

The library maintains print collections in eight provincial courthouses in addition to the main library collection in Brisbane at the QEII Courts of Law. The library also continues to service the Brisbane Court of Appeal library and chambers collections by undertaking regular maintenance of print subscription services and processing new acquisitions. In 2016/17 our combined print collection comprised over 160,000 items, with the library purchasing 283 new monographs during the year, and maintaining subscriptions to 417 print journals, legislation services and law reports series.

For members of the judiciary their statewide desktop access to an expanding collection of online resources available via the library's Judicial Virtual Library (JVL) is their most comprehensive, current and reliable source of legal information. In 2016/17 the library catalogue enabled access to more than 65,000 online full text titles, including 35 new online titles purchased by the library during the year. During 2015/16 the library negotiated expanded access rights for many library members to 138 of the most popular online publications as part of its Virtual Legal Library (VLL) offering to the legal profession, and during 2016/17 many eligible Queensland legal practitioners registered for and began using this ground breaking service – accounting for almost a quarter of all use of the library's online collections.

The library provides a range of current awareness services to judges and their associates, including the *Judicial Daily Update* service, a daily news and current awareness newsletter tailored for the Queensland judiciary. It also publishes and distributes the *Queensland Legal Updater* (QLU), a weekly email bulletin designed to update legal professionals on changes to legislation and developments in case law relevant to legal practice in Queensland. Use of the judicial current awareness services increased by 12% during the year, while use of QLU increased by 21% – with over 4100 subscribers.

As the publishing arm of the Queensland courts, the library has maintained its commitment to timely publication of the official version of full text judgments from Queensland courts and tribunals. Most decisions are published online within an hour of being handed down, making the SCLQ website the primary and most current and authoritative access point for Queensland case law. In 2016/17 the library published 2192 new decisions from Queensland courts and tribunals, including 326 judgments from the Court of Appeal and 307 from the Trial Division of the Supreme Court. By the end of June 2017 the total number of full text Queensland decisions available from the library website was just under 37,800.

From 1 July 2013 all responsibility for provision and maintenance of the Queensland Sentencing Information Service (QGIS) was transferred to the library from the Department of Justice and Attorney-General (DJAG). In the four years since then use of the service has continued to steadily increase. During 2016/17 there were 29,152 visits to the QGIS database (an average of 80 unique visits a day), resulting in over 420,000 page views. In the course of the year subscriptions to QGIS increased by 39%, from 417 to 578. QGIS is relied upon by prosecutors, defence and the judiciary to promote consistency and fairness in sentencing criminal offenders and is available to all judges and their associates.

Our library's websites are the primary means of accessing our information resources and services for the majority of our customers. In 2016–17 more than 6.6 million page views were recorded from the SCLQ

public website, JVL, VLL and library catalogue combined. Legal research tools developed by the library, including the Criminal Codes Appellate Decisions Database, Queensland Legal Indices, and the Uniform Civil Procedure Rules Bulletin, are available via the CaseLaw Plus tab on the website. In all, CaseLaw services (including the official unreported judgments collection) recorded more than 5.1 million page views over the year. During 2016/17 the library continued to work with the Incorporated Council for Law Reporting to develop a joint Queensland Judgments website to enable free public access to reported and unreported decisions of the Supreme Court from late 2017.

Throughout the year the library's Information Services team continued to assist the judiciary and legal profession with navigating the legal research tools within the library's print and online collections. The team responded to a total of 9419 information enquiries, comprising 3643 reference, 1528 research and 4248 basic requests. A total of 8518 documents were supplied in response to these queries. During 2016/17 the library maintained weekly afternoon clinics on level 15 of the QEII Courts of Law building to assist judges and their associates with their legal information needs.

The library's heritage and education programs are designed to foster broad appreciation of Queensland's legal heritage and to promote an understanding of the Queensland justice system and its role in society. Highlights during 2016/17 included:

- A total of 6134 visitors participated in the popular schools education program, including 1646 participants in judges information sessions.
- Following the conclusion at the end of 2016 of the WW1 centenary exhibition *In Freedom's Cause: the Queensland legal profession and the Great War*, in June 2017 the library's new exhibition designed to support the schools program—*Without fear or favour: exploring Queensland's legal system*—was opened to the public in the Sir Harry Gibbs Legal Heritage Centre.
- The 2017 Supreme Court Oration was presented by The Hon Susan Kiefel AC, Chief Justice of Australia, and two of the six Selden Series lectures were presented by serving Supreme Court of Queensland judges (The Hon Justice Margaret McMurdo AC and The Hon Justice John Bond), with a further two presented by former judges (The Hon Margaret White AO and The Hon Richard Chesterman AO RFD QC).
- The Queensland Legal Yearbook 2015 (edited by Mr John McKenna QC) reviewed the year's legal events and statistics, and contained transcripts of court ceremonies and speeches by members of the judiciary in 2015.

Looking ahead to 2017-18, there will be a continued focus by the library on providing a high level of support to Queensland's busy judges and their support staff. This will include supporting adoption of the 'go anywhere' electronic versions of popular legal loose-leaf publications designed to be downloaded to tablets and other mobile devices, as well as training and support in identifying, locating and making more effective and efficient use of the range of print, electronic and online resources available to the judiciary. We look forward to increased use of the Virtual Legal Library service by eligible Queensland legal practitioners, to the launch of the Queensland Judgments website, and to redeveloped SCLQ CaseLaw services. Together these initiatives will contribute to improved legal information services for the Queensland judiciary, legal profession and public.




SUPREME COURT JUDGES'  
ASSOCIATES 2017

# SUPREME COURT JUDGES' ASSOCIATES 2017

	<b>Judge</b>	<b>Associate</b>
Chief Justice	The Honourable Justice Catherine Holmes	Sally Latter
	<b>Court of Appeal</b>	
President	The Honourable Justice Margaret McMurdo AC (resigned 26 March 2017)	Kate Gover
	The Honourable Justice Walter Sofronoff (appointed 3 April 2017)	Katie Wheatley
	The Honourable Justice Fraser	Joshua Storey
	The Honourable Justice Gotterson AO	Kate West
	The Honourable Justice Morrison	Emily MacDonald
	The Honourable Justice Philippides	Eloise Gluer
	The Honourable Justice Philip McMurdo	Michael Maynard
	<b>Trial Division</b>	
Senior Judge Administrator	The Honourable Justice Byrne AO, RFD	Amparo Santiago
	The Honourable Justice Atkinson	Laura Uptin
	The Honourable Justice Mullins	Courtney Rickersey
	The Honourable Justice Douglas	Allister Harrison
	The Honourable Justice Ann Lyons	Hannah McAlister
	The Honourable Justice Daubney	Hugo Clarke-Ryan
	The Honourable Justice Martin AM	Milaan Latten
	The Honourable Justice Applegarth	Jasmine Zamprogno
	The Honourable Justice Peter Lyons (resigned 25 November 2016)	Natasha Purvis
		Mohammud Jaamae
		Hafeez-Baig
	The Honourable Justice Boddice	Joel Oliver
	The Honourable Justice Dalton	Angela Taraborrelli
	The Honourable Justice Jackson	Liz Stanley
	The Honourable Justice Thomas (resigned 27 June 2016)	Fiona Annetts
	The Honourable Justice Flanagan	Isabella Vecchio
	The Honourable Justice Carmody	Tony Calligeros
	The Honourable Justice Burns	Charlotte Anderson-James
	The Honourable Justice Bond	Mohammud Jaamae
		Hafeez-Baig
	<b>Regional</b>	
Central Judge	The Honourable Justice McMeekin	Dominic Jorgensen
Northern Judge	The Honourable Justice North	Tegan Grasso
Far Northern Judge	The Honourable Justice Henry	Brydie Bilic



  
AUDA ET FIDELIS  
**QUEEN ELIZABETH II**  
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