

2018 – 2019

Annual Report



LAND COURT
OF QUEENSLAND



LAND COURT OF QUEENSLAND

Chambers of President FY Kingham

29 October 2019

The Honourable Yvette D'Ath MP
Attorney-General and Minister for Justice
Leader of the House
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Dear Attorney

Re: Land Court of Queensland Annual Report 2018-19

As required by s 77A(1) of the *Land Court Act 2000*, I enclose my report on the operations of the Land Court of Queensland for the year ended 30 June 2019.

Yours sincerely

President FY Kingham



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President's Report



2018-19 has been a year of implementation and consolidation, with the Court embedding new structures, systems, and procedures. The Court has continued to consult with stakeholder groups, particularly in the resources sector, to ensure new procedures are well understood.

The Court completed its transition to a new Registry structure. This required significant reform to internal processes to accommodate support of judicial officers and some case management functions by associates, rather than Registry officers.

The Court implemented the new procedures adopted late in 17-18 for mediation by the Court's ADR Panel, for Court Managed Expert Evidence, and for mining objection hearings. In 2018-19, the Court issued practice directions about mining compensation hearings and conduct and compensation disputes, and for

eTrials and eFiling. The eTrials and eFiling practice directions updated, simplified and clarified the means for making greater use of digital platforms. The practice direction for mining compensation and conduct and compensation disputes requires the Court to actively manage these cases, and promote and facilitate agreement making. This significantly improved the clearance rate from 92% in 2017-18 to 115% this year.

Although there were record low numbers of land valuation appeals this year, two significant cases in other jurisdictions continue to draw on the Court's resources. One is the ongoing litigation surrounding the application by New Hope for stage 3 of the New Acland mine. This year, I conducted a limited re-hearing of the applications for and objections to the grant of mining and environmental approvals for that development. That was consequent upon Justice Bowskill's decision on judicial review of the recommendation by Member Smith. The Court of Appeal heard appeals against that decision in 2019. At the time of publication, final orders had not been made and it is not clear whether a further hearing will be required in the Land Court. In the meantime, costs issues are outstanding for the original hearing and the re-hearing.

The other case is a complex claim for compensation for loss of the opportunity to commercialise a coal resource. The case has a very lengthy history before the Court. It is listed for hearing in 2020. Member Stilgoe is ably performing the demanding role of Convenor of the Court Managed Expert Evidence (CMEE) procedure in that case

President's Report

The impact of the CMEE procedure in that and in other cases became evident in 2018-19. The clarity and comprehensiveness of joint expert reports is improving. Fewer issues about expert evidence are emerging on the eve of trial. The “without prejudice” case management conferences are being used effectively by the parties to resolve or define procedural issues, resulting in fewer interlocutory applications. Where issues cannot be resolved in the CMEE, I have made rulings that will allow the pre-trial preparation to continue with certainty about the scope of the work for the expert witnesses. This year, the Court promoted professional development and consistency of practice by judicial officers in their function as CMEE Convenor.

Overall, the Court's performance is pleasing. The clearance rate increased to 104.7%. Some 80% of matters were resolved before hearing. Judgments were delivered in a timely way, with most delivered within 3 months of hearing or final submissions. At the time of publication, none are outstanding from hearings finalised in 2018-19. I thank the Members, their associates, and the Judicial Registrar for their diligence and commitment to fairly and efficiently resolving cases allocated to them.

The Land Court Registry staff deserves special mention. The Registry has navigated a restructure at the same time as significant procedural reform. The success of the Members individually, and the Court as a whole, is in no small part due to their professionalism, integrity and productivity.

I also wish to express my appreciation of the ongoing support for the Court and advice to me and the Principal Registrar from departmental officers, most notably Mr David Mackie, Director-General for the Department of Justice and Attorney-General and Ms Jenny Lang, Deputy Director-General for Justice Services, and Ms Julie Steel, Executive Director for Supreme, District, and Land Courts' Service.

In closing, I note the retirement of Mr Paul Smith, a long serving Member of the Court. Member Wayne Cochrane has eloquently recorded Mr Smith's lengthy service and contribution to the Court in the tribute published in this Annual Report. I thank Mr Smith for his service and wish him improved health in his retirement.



President FY Kingham

Principal Registrar's Report



In my report last year I said how excited I was to be working alongside my team who had achieved such a great deal of accomplishments. This year I share the same sentiment. As the Principal Registrar, I lead a team of professionals who continue to deliver exceptional services through their ongoing commitment to improve the operations of the Land Court.

Over the last 12 months we have successfully implemented an extensive program of work, utilising the funds provided by the Queensland Government, to improve the operations of the Court. A great achievement given we are a small registry and that work was completed in conjunction with ongoing registry operational responsibilities.

Procedural Assistance Service

In June 2018 the Land Court launched the Procedural Assistance Service for self-represented parties. This is a service that observes the distinction between procedural assistance and legal advice and connects self-represented parties with suitable support services.

After extensive consultation with self-represented parties, government agencies and industry groups, a unique and visually distinct Procedural Assistance Service web site was designed and developed. In addition to the online information resources, hard copy versions were also produced and are available to support parties with limited opportunity to access the website.

Additionally a new service was implemented whereby parties are also able to contact the registry to book a one hour procedural assistance service session in person, via skype or phone. This is a vital service ensuring parties have fair and just access to court services regardless of circumstance.

Professional Development

Registry staff involved in court operations completed the Dispute Resolution Branch Mediation Skills training program that involve:

- Introduction to mediation skills level 1;
- Developing mediation skills and accreditation level 2;
- Advanced mediation skills level 3.

This program has provided valuable skills for registry staff, and the program is directly connected to the operations of the Court.

Principal Registrar's Report

Senior Registrars completed the Learning to Lead Development Program designed for future leaders. This program is facilitated by The University of Queensland Business School. The program has assisted our Senior Registrar's to be in touch with technological advances, interchanging world views and changing dynamics including workforce expectations. They also had the opportunity to undertake a two day research and learning opportunity with the Victorian Civil Administration Tribunal.

The opportunity provided a comprehensive agenda covering important areas such as procedural assistance, in particular strategies for engaging with remote participants and self-represented parties, case management; which is a critical part of managing workflow, latest in land valuation management, reporting and statistics, customer service, web development and Court's innovation.

This was an exemplary professional development experience for registry staff and will contribute to the registry's continual offering of best practice as part of our continuous improvement program.

Community Engagement

Throughout the year my team and I have participated in community forums sharing valuable information about the services and the process of engaging with the Court. In May this year I attended the Mareeba Industry Information Session hosted by the Department of Natural Resources, Mines and Energy where I delivered a presentation about the new

opportunities to support self-represented parties through the implementation of the Procedural Assistance Service program.

Culture

Our focus this year has been to continue the great work strengthening our brand. Our main emphasis has been one of mentoring, nurturing and doing things together and as a small team this is one of the successes getting big things over the line. Supporting each other creating an inclusive environment is a commitment the entire team share a passion for. As the Principal Registrar leading this team of professionals I take this opportunity I say thank you.

Finance

Operating expenses 2018-19:	Amount:
Employee expenses	\$1,198,622.81
Supplies & services	\$403,484.78
Depreciation	\$62.75
Total Operating Expenses	\$1,602,170.34



Principal Registrar DM Campbell

Judicial Members

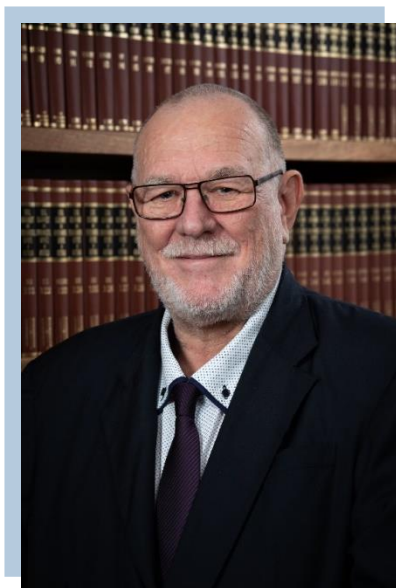
Land Court of Queensland

In 2018-19, the President, Members and Judicial Registrar of the Land Court were:

- President Fleur Yvette Kingham BA/LLB (Hons), LLM (Dist.), DUniv (Griffith University)
- Member Paul Anthony Smith BA/LLB (Retired 31 May 2019)
- Member Wayne Lindsay Cochrane BAB, MSc, BEc, BEd
- Member William (Bill) Angus Isdale LLB, MPubAdmin
- Member Peta Gwen Stilgoe OAM BA/LLB, LLM
- Judicial Registrar Graham Joseph Smith LLB, Grad Dip Leg Prac, Bbus, LLM, FAPI, CPV

Tribute to Member Paul Anthony Smith on his retirement

(By Member Cochrane)



On the 31st of May 2019 Member Paul Anthony Smith retired from the Land Court of Queensland, ill health precluding his continuing in the position he had served in since 2007 and after having sat as one of the founding Deputy Presidents (along with President Fleur Kingham of this Court) of the Queensland Land and Resources Tribunal between 2000 and 2007. That is to say Paul had

given very nearly 20 years of service to the State of Queensland as a member of the judiciary dealing with matters relating to land, water and mineral resources. There was a period of overlap of the Tribunal and this Court between 2004 and 2007 until such time as the Land and Resources Tribunal ceased to exist in any form. The decision to retire under the circumstances was a difficult one given his lengthy and productive association with the Land Court and his affection for the work he was doing. That this was the correct decision was evidenced by his being admitted to hospital for several weeks shortly after his retirement.

Paul came to the bench following a lengthy career in the Public Service beginning in 1975 in the then Department of Industrial Development and then at Crown Law as a clerical/administrative officer.

Having completed a Bachelor of Arts and a Bachelor of Laws degree he was admitted to the Queensland Bar in 1982 and thereafter embarked on an impressive career in Crown Law, beginning as a legal officer in various

Judicial Members

roles, being an Executive Legal Consultant from 1994 until 1997. He moved to a position as the Executive Director of Native Title services from 1998 until 2000 during which period he was heavily involved in the various phases of the Mabo case as well as the Wik case. He became recognised as an expert in the area of Native Title law and has authored many books and papers on the topic including “Mabo Three Years on: Current Developments in Native Title Law (1995)”, “Pastoral Leases and Native Title (The Wik Case: Issues and Implications) (1997)”. It seems likely that it was that involvement which galvanised Paul’s career long interest and involvement in Native Title work and then in the area of mining law.

With respect to his involvement in Native Title law, Justice Mullins observed at Paul’s valedictory, reminiscing about her encounters with him during the years 1990 and 2000, “Apart from his knowledge of the law, my memory of his Honour during those years of doing Native Title work was of his excellent administration and negotiating skills. It was a critical time in responding to Native Title claims, negotiating land use agreements and managing the effect on mining projects. The practice group moved from Crown Law to the Department of Premier and Cabinet and his Honour became the Executive Director, Native Title Services, Department of Premier and Cabinet from 1998 and during 1999 was acting Deputy Director-General of the Department and Cabinet. Member Smith’s knowledge and understanding of Native Title law and skills at engaging in constructive and empathetic negotiations with Indigenous peoples made him ideally qualified for appointment as

Deputy President of the Land and Resources Tribunal.”

His knowledge of the twists and turns of the various pieces of legislation which comprise mining law in Queensland is encyclopaedic. I should record that on numerous occasions I found it expeditious to simply walk down the hallway of chambers and ask Paul to help me clarify my thinking about some matter involving interpretation of the Mineral Resources Act rather than struggling (as I ought to have done) with the intricacies of the legislation. Oftimes my dilemma would be resolved by Paul simply inquiring whether I had considered section so and so.

The author of this tribute first encountered Paul Smith by appearing in front of him in the Land and Resources Tribunal in a mining matter at a time when that was a relatively new and developing area of specialization for both solicitors and barristers. Early advice about the pitfalls of appearing before Deputy President Smith went along the lines of “Just make sure you know the details of your brief and have read the legislation carefully and you should be alright.” That turned out to be sound advice because over the ensuing years I came to understand that Deputy President Smith had an encyclopaedic knowledge of the various and relevant statutory provisions and had always acquired a detailed knowledge of the material on the various Court files. He was never in court unprepared or unaware of what was in the material. In my experience I always found Paul to be a patient and fair member of the judiciary. In court he had an almost avuncular way of dealing with (sometimes poorly prepared and confused) litigants who

Judicial Members

were appearing in person rather than by legal representation. Similarly he always retained the utmost respect for and tolerance of the various legal practitioners who appeared before him, even in the face of sometimes quite aggressive advocacy.

Paul's contribution to the practice of law has been substantial particularly in the area of Alternative Dispute Resolution and mediation and in the utilization of computer technology in the Courts. In 1998 he was awarded a Churchill Fellowship to enable him to research the established methods for reaching successful negotiated agreements on native title in Canada and the USA. Earlier in 1995 he had been awarded an Australia Day achievement medal. He also underwent negotiation and mediation training at Harvard Law School.

In the context of his embracing computer technology Paul pioneered the development of e-trial technology for the Land Court and in fact sat on the first eTrial conducted in this Court (Hancock Coal). His advice to other members of this Court with respect to eTrials has been invaluable.

Paul's contribution to the law and legal education has not been restricted to activity in Australia. Extra-judicially Paul has held a number of visiting professorial positions in the Ukraine (for which area he has a special affection) the Czech Republic and in Russia. He has also been actively involved in the Centre for International Legal studies programme visiting China and presenting papers in parts of China with Australian delegations.

Outside his involvement in and contribution to the law and the legal profession Paul is a man of wide interests. His love for travel is well known but less so his lifetime of involvement in sporting organisations especially those involving handball and hockey. He has been both a player and an administrator of both those sports. His involvement in hockey was not only as a player and administrator but also as an umpire. He is a life member of the Ipswich Hockey Association. In the realm of handball he has been variously the President of the Oceania Continent Handball Federation from 2011 until 2014 as well as President of the Australian Handball Federation. He was also a delegate representing Handball on the Australian Olympic Committee.

Paul is also a devoted family man who has had the relentless support of his wife Debra whom he married in 1983. He is extremely proud of his three sons, Nathaniel, Jason and Blair. He is a committed Christian, actively involved in the Presbyterian Church in Ipswich. Paul is very actively involved in the charitable work of the community and to the author's knowledge has been involved in the setting up of two charitable organisations which are devoted to trying to improve the lives of the disadvantaged and downtrodden in the Ipswich area.

It is entirely fitting then to record that in his entry in Who's Who Australia, Paul's work ethic is described in the following terms; "Always seek out the good in others while doing your best, with God's grace, to remove the bad in yourself."

Judicial Members

Land Appeal Court of Queensland

In 2018-19, the Judges of the LAC were:

- The Honourable Justice Dalton (Southern Region), until 1 January 2019, then The Honourable Justice Mullins
- The Honourable Justice Crow (Central Region)
- The Honourable Justice North (Northern Region)
- The Honourable Justice Henry (Far Northern Region)

The Honourable Justice Debra Mullins AO

Justice Mullins commenced as the Southern District Land Appeal Court judge for a three-year term, from 1 January 2019.

When her Honour was admitted to the Bar, she was one of only a small number of women barristers in Queensland, and a feature of her career has been her generous assistance to subsequent generations of legal professionals through mentoring junior women barristers, law students, and the legal community generally.

Property law of all kinds became one of her Honour's areas of expertise at the Bar, and a highlight was her appointment as Queensland's fourth counsel in the Wik case. She was also frequently briefed for the State of Queensland in Native Title matters.

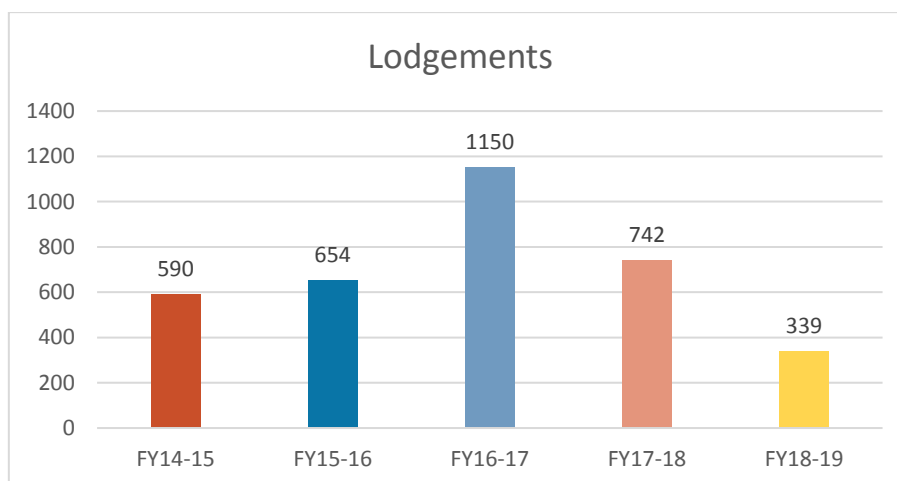
Her Honour was appointed to the Supreme Court of Queensland in 2000.

On 10 June 2019, Justice Mullins was appointed an Officer of the Order of Australia "for distinguished service to the law, and to the judiciary, to professional development and legal education, and to women".

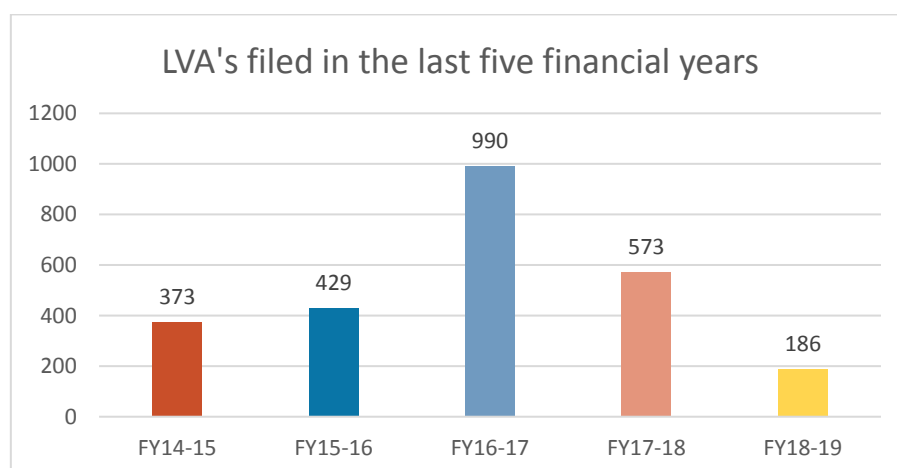
Performance Reporting

Lodgements

The Court's jurisdiction is diverse, involving claims and appeals that may be brought under many Acts dealing with land and resources issues. However, the overwhelming bulk of the Court's caseload is comprised of appeals against statutory land valuations and cases involving mining projects and associated environmental approvals. A significant change in the number of cases or their complexity, can have significant implications for the statistics and for the resources of the Court.

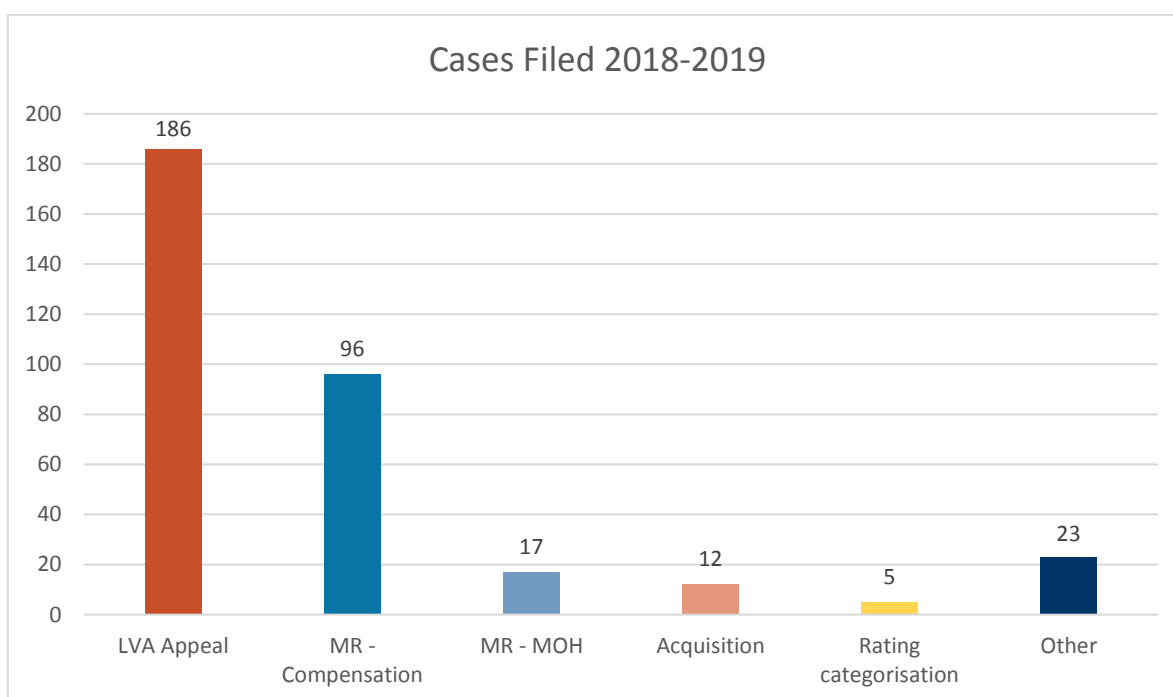


In 2018-19, 339 cases were filed. That compares with 748 cases in 2017-18. The reduction in new filings is due to the smaller number of land valuation appeals filed in 2018-19; 186 appeals (55%), compared with 573 (77%) in 2017-18. The variance in land valuation appeals flowed from the Valuer-General's land valuation program for 2018. The focus of that program was rural and regional revaluations, and excluded significant urban centres, such as Brisbane City, Moreton Bay, Ipswich, Logan and Redland City local government areas.



Performance Reporting

In other jurisdictions, 113 (33%) of new cases filed were in the resources jurisdiction. Of those, 96 (85%) were compensation cases and 17 (15%) were mining objection hearings. 12 new claims were made for compensation for acquisition of land (4%), and 5 rating categorisation appeals (1%) were filed. The remaining 23 cases (7%) involved reviews of a range of administrative decisions about water, land, and environmental protection.



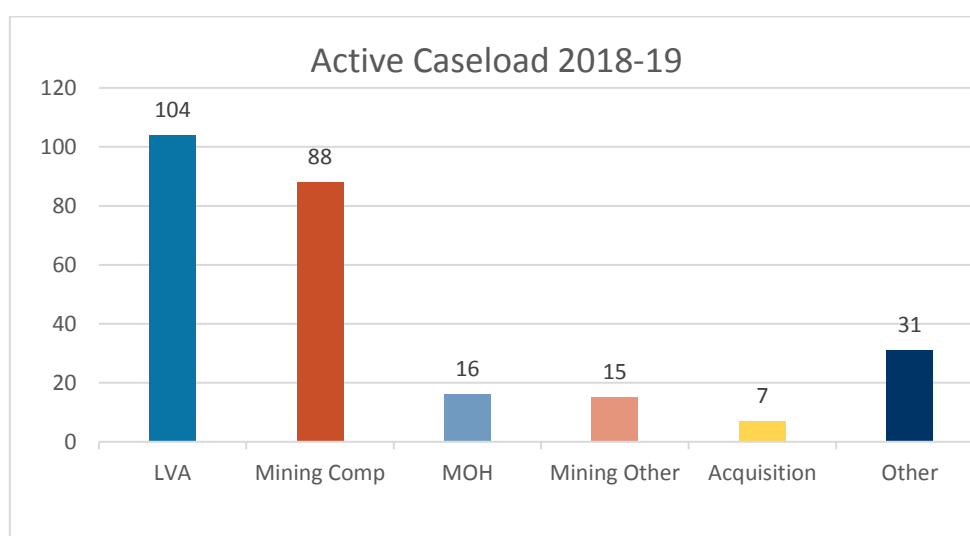
Clearance rates

The Court has set a target clearance rate of between 97.5% and 102.5%. In 2018-19, the Court exceeded the top end of that target range, with 339 matters lodged and 355 finalised, resulting in a clearance rate of 104.7%. The Court exceeded the target range for clearance rate in resources compensation, administrative reviews, and land valuation appeals. It also achieved a 100% clearance rate for acquisition of land claims. It did not achieve the target clearance rate in mining and environment cases. The number of cases is small and delays in a few cases significantly affect the statistics in that jurisdiction.

Performance Reporting

Active caseload

At the end of the reporting period, the active caseload was 261 cases comprised of 104 land valuation appeals (40%), 88 resource compensation cases (34%), 16 mining objection hearings (6%), 15 other mining cases (6%), 7 claims for compensation for acquisition of land (2%), and 31 administrative reviews and other types of cases (12%).



Active cases greater than two years old

At the end of the reporting period, 17% or 45 of the active cases were greater than two years old. 30 of those cases are claims for compensation for resource activities. Of those cases, 23 involve one company, which is in liquidation and subject to protracted litigation in the Supreme Court of Victoria. That has delayed progress of those cases in this Court since they were filed in 2016.

In addition, the Court experiences delays in this jurisdiction because of the way in which the cases commence. Until recently, the Department of Natural Resources, Mines, and Energy referred the question of compensation to the Court for determination, for renewals of mining claims and mining leases. Because of amendments to the Mineral Resources Act 1989, the Court will only hear claims for compensation for the renewal of a mining claim or mining lease made after October 2018, if either the miner or the landowner applies to the Court. This will reduce the number of cases where neither party has asked the Court to decide compensation. The Court expects this will increase the parties' participation in the Court process and reduce the time to finalisation. Recently, the department advised the Court it is yet to refer approximately 200 cases. It may be some time, then, before the Court experiences the full benefit of the amendments.

Performance Reporting

Active cases less than 2 years

The Court has set the following targets for timeliness across the entire caseload:

- 3 out of 4 cases will be finalised between 6 and 9 months after lodgement
- 9 out of 10 cases will be finalised between 9 and 12 months after lodgement
- on average, cases will be finalised between 6 and 9 months after lodgement.

The Court met the first and third of those targets but did not meet the second, because of the time to finalisation in 9 out of 10 cases in complex mining cases, land valuation appeals exceeding \$5m, and some compensation claims and administrative reviews. A few difficult cases in some of those jurisdictions had a disproportionate impact on the Court's statistics.

They include the ongoing litigation about stage 3 of the New Acland Coal mine, a complex claim for compensation for loss of opportunity to commercialise a coal resource, and some claims for compensation for acquisition of land or for damages associated with a railway.

The New Acland case cannot progress until the Court of Appeal makes final orders in the appeals from Justice Bowskill's decision on judicial review of Member Smith's recommendation, made in 2017. At the time of publication, it was not clear whether that matter will be remitted to the Court for re-hearing. In the meantime, the applications and objections before the Court cannot be finalised. As for the other cases, the Court is actively managing them, including through the

Court Managed Expert Evidence (CMEE) procedure, and they are on track for hearing as early as is practicable.

Outcomes

The Court set the following targets for finalisation outcomes:

- between 20% to 30% of cases will be determined before alternative dispute resolution (ADR)
- between 40% to 60% of cases will be determined by ADR
- between 10% to 20% will be determined by a decision of the Court.

The Court exceeded the target of 20% - 30% being determined before ADR, and met the target of between 10% and 20% being determined by decision. The percentage of cases resolved by ADR was marginally lower reflecting the lower number of LVAs filed in 2018-19. As with previous years, the Court's performance in ADR was driven by the successful use of preliminary conferences to resolve land valuation appeals involving valuations of \$5 million or less.

This year saw a shift from mediation by judicial officers to mediation by Convenors from the Court's ADR Panel. That trend will continue, particularly in mining compensation cases and land access disputes, where the Court frequently orders mediation by an ADR Panel Convenor.

The increased use of the ADR Panel has freed the Members and Judicial Registrar to perform the role of Convenor of the Court Managed

Performance Reporting

Expert Evidence (CMEE) procedure, which is proving useful in more effective and efficient pre-trial preparation of expert evidence. In 2018-19, two cases resolved directly because of the CMEE process. The Members have also observed enhancements in the quality, clarity and comprehensiveness of the joint expert reports filed in the course of a CMEE.

Timeliness of judgements

The Court's performance in timeliness for delivering judgments continued to improve in 2018-19. At the end of the reporting period there were only four outstanding judgments; three reserved for less than three months and one for less than 12 months of hearing or final submissions. All four were delivered before publication of this report and there is no current backlog for matters heard in 2018-19.

Self-represented litigants

In mining resources cases, 53% of applicants, and 73% of respondents were self-represented. Compared with 2017-18 figures, this represents a reduction in self-representation for applicants and an increase in self-representation by respondents.

In land valuation appeals in 2018-19, a much higher proportion of the appellants were self-represented; 60% up significantly from 24% in 2017-18. The level of self-representation for the Valuer-General remained stable at 76%. Many of the cases involve appeals against land valuations of \$5 million or less. Generally, the Valuer-General is represented by valuers in the preliminary conference. If the matter does not

resolve there, they may then engage an in-house or external lawyer.

The continuing high level of self-representation presents a particular challenge for the Court. Many parties are regionally located with some limitations in access to information and to the internet. The Court's Procedural Assistance Service, which the Principal Registrar has reported on, is intended to meet the procedural needs of the Court's parties, while managing the significant call on the Registry's resources to service those needs.

Appeals and Judicial Review

Rights of appeal or review

A party to a proceeding in the Land Court can appeal the decision to the Land Appeal Court. The LAC also has limited original jurisdiction under the Biological Control Act 1987 and Foreign Ownership of Land Register Act 1988.

However, the LAC has no jurisdiction to review decisions made by the Court under a recommendatory provision, such as when the Court makes a recommendation on an application for a mining lease. Those cases are subject to judicial review.

Appeals to the LAC

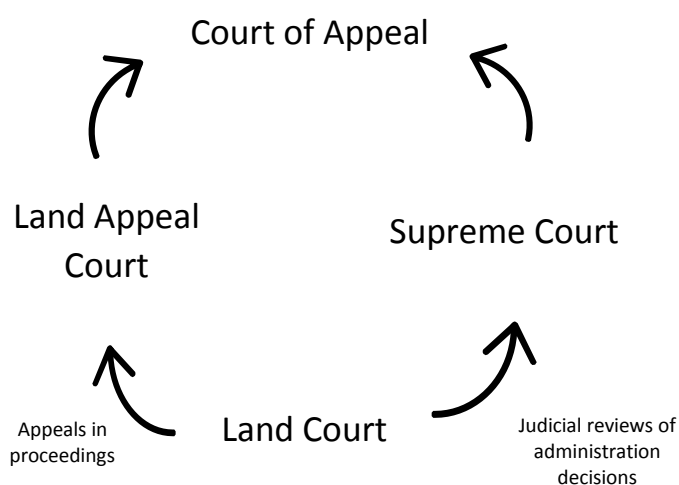
Appeals to the LAC are by way of rehearing on the record. The LAC has power to admit new evidence in limited circumstances. The LAC sits as a panel of three members. One member is a Judge of the Supreme Court from the region in which the land is located, and the other two are Members of the Land Court, other than the Member whose decision is under appeal. By convention, the Judge presides, but the members sit as equals and the LAC's decision is the decision of the majority.

Nine appeals were lodged in the LAC in 2018-19, compared with seven appeals filed in 2017-18. The LAC heard all but one of the appeals in the Southern Region during the year. In the eight appeals that it heard, the LAC upheld three and dismissed one, by consent. The LAC remitted two matters to the Land Court for rehearing. The LAC has reserved its judgment in the remaining four appeals, which are related.

A party may appeal from a decision of the LAC to the Court of Appeal on the ground of error or mistake in law or jurisdiction. Two applications for leave to appeal were before the Court of Appeal during the reporting period. The Court of Appeal made consent orders in one and dismissed the other.

Judicial Review

The Supreme Court heard and dismissed one judicial review application in 2018-19. The Court of Appeal hears appeals from decisions on judicial review. In the reporting period, The Court of Appeal heard two related appeals from a judicial review of a Land Court decision (*New Acland Coal Pty Ltd v Smith*). Prior to publication, the Court of Appeal published reasons for upholding one appeal and dismissing the other, but did not issue final orders



Alternative Dispute Resolution

Preparing for Case Appraisal

The Land Court has jurisdiction to determine disputes about access to land for coal seam gas, petroleum and other energy resource developments and for mining exploration. However, a party cannot apply to the Court to determine the terms of access, including compensation, unless the parties have first engaged in a statutory negotiation process, including the use of alternative dispute resolution (ADR) prescribed by the Mineral and Energy Resources (Common Provisions) Act 2014.

This year, the statutory negotiation provisions were amended:

- to include case appraisal as one of the ADR options during the statutory negotiation process; and
- to provide that the Land Court can decide disputes during the statutory negotiation process about the type of ADR they will engage in and the person who will facilitate the ADR.

The Court has implemented an expeditious system for the Principal Registrar to decide the pre-filing disputes. It also prepared for the ADR Panel to offer case appraisal. The next annual report will cover the case appraisal process, the selection and training of case appraisers and the implementation of case appraisal in land access matters.

Court facilities available to ADR

Panel Convenors

Land Court ADR Panel Convenors are able to use, free of charge, the Court's conference facilities for mediations, both pre-filing and post filing, case appraisal conferences and to hold semi regular meetings for various points of discussion. Regionally based convenors can also access the conference courts remotely if they have one or more participants based in Brisbane.

The current conference court facilities are on Level 8, Brisbane Magistrates Court, and have been fitted out with two distinct uses in mind:

- to facilitate meetings where everyone is in the room and interacting with the content via a large electronic whiteboard which provides limitless space to explore ideas (Chamber Court 41)
- to facilitate day-to-day teleconferencing and video conferencing, via a large wide screen television display (Chamber Court 42)

Alternative Dispute Resolution

Both chamber courts:

- comfortably accommodate up to 15 people
- enable personal laptops to connect to the display via USB, HDMI or VGA cables (SharePoint)
- enable up to four mobile phones or tablets to connect and display wirelessly on screen using personal data if displaying webpages, no data required to connect to the room
- permit personal laptops linked with a courtroom dongle to be controlled and displayed using the large screen
- have Polycom device which can connect up to two people via teleconference
- have a printer.

Keeping Statistics

The registry has recently (post reporting period) developed a system to track the number of pre-filing mediations facilitated by an ADR Panel Convenor and the number of enquiries an ADR Panel Convenor receives. The tracking system is simplistic; Convenors record on a spreadsheet or by another means suitable to them, the number of mediations facilitated (pre-filing) and enquiries received and provide to the Land Court registry bi-annually.

Statistics on case appraisals facilitated by an ADR Panel Convenor are also be tracked by the registry; this is attained by the Convenor emailing the registry indicating that a case appraisal has been completed.

Court supervised mediations are tracked by the registry through the Case Management system.

Librarian's Report



This year was a year of consolidation for the Land Court Library in the remodelled space on level 9 of the Magistrates Court Building, and with a full complement of associates assisting the members.

Judgment style guide

A revised and updated edition of the Judgment Style Guide was completed this year.

The work was prompted by the need for a resource to assist associates on 12-month appointments to prepare Court decisions professionally, consistently, in line with legal best practice, and to enhance accessibility. The Style Guide has been welcomed by members of the Court, and the quality of the production of judgments has improved.

Queensland Land Court Reports

The Court publishes annual volumes of the Queensland Land Court Reports in which selected decisions of the Land Court, all decisions of the Land Appeal Court, and reviews and appeals heard in superior courts are reported. The QLCRs have been produced continuously since 1974, and prior to that as the Crown Land Law Reports, the first volume of which covered the period 1859–1900.

This year, the Court published the 2016 volume in which 26 cases were reported: one High Court of Australia decision, two Court of Appeal decisions, one Supreme Court decision, six Land Appeal Court decisions, and 16 Land Court decisions.

Detailed headnotes which summarise legal argument and distil the legal conclusions are written by the Judicial Registrar, with assistance from the Research Officer. The selection of authoritative decisions together with the value-added headnotes provide legal practitioners with a means of ‘filtering out as mere noise the cases that are simply restatements of existing principles.’

Librarian's Report

The 2016 reported decisions considered the following Acts:

Acts considered	Number of decisions
Acquisition of Land Act 1967	9
Environmental Protection Act 1994	3
Judicial Review Act 1991	2
Land Court Act 2000	1
Land Valuation Act 2010	5
Mineral Resources Act 1989	5
MRA and EPA	1

Future work will include digitising the rest of the paper collection of approximately 2500 paper decisions from 1963 to 1994.

In the next reporting period, we expect to make a collection of decisions of the Land Tribunal available through the CaseLaw database. These decisions largely relate to applications by individuals and entities to be made a party to proceedings in land claims under the Aboriginal Land Act 1991.

We look forward to continuing our productive relationship with the staff of the Supreme Court Library next year.

Partnership with Supreme Court Library Queensland

The Court appreciates the need to make its decisions readily accessible on platforms that practitioners use, and to this end has worked with the Supreme Court Library to make them available through the Queensland CaseLaw database.

In the reporting period, Supreme Court Library published 59 Land Court decisions and 8 Land Appeal Court decisions at the Court's request.

Supreme Court Library also started work on the project of digitising Land Court and Land Appeal Court decisions that had previously been unavailable online. The Library scanned 63 paper decisions which completed the Land Court and Land Appeal Court collections from 1995 to 2002, and made them available through CaseLaw.

Stakeholder Engagement

Land Court and Referring Agencies Annual Conference 2018

This year the annual conference was held in Mareeba, North Queensland. The conference continues to provide referring agencies and the Court with opportunities to discuss developments in practices and procedures.

The conference program included the following topics for discussion:

- the introduction of new Practice Directions dealing with ADR, expert evidence and site inspections and Practice Directions for the new mining objections hearings. This session provided an overview of these developments, with a focus on how they may impact on and assist the referring agencies in their functions.
- Alternative Dispute Resolution round table discussion – where the new Practice Direction for compensation matters changes the focus from in-house ADR (convened by the Judicial Registrar or a Member) to external ADR providers. This session explored the opportunities to discuss ways to facilitate and enhance the availability of pre-filing ADR.
- Procedural Assistance Workshop - a presentation followed by a workshop facilitated by the Principal Registrar to outline the challenges and opportunities aimed at providing a high level of support for self-representative litigants. Outcomes from this session were provided to the registry to progress the procedural assistance service;
- Department of Environment and Science provided the participants with an overview of the Financial Assurance Reforms with the Mineral and Energy Resources (Financial Provisioning) Bill 2018 that was introduced into the Queensland Parliament on February 2018. This presentation provided an overview of the reforms with a particular focus on the rehabilitation reforms;
- Department of Natural Resources, Mines and Energy delivered a presentation in relation to the recently established Engagement and Compliance Unit and its role and function conducting engagement activities with stakeholders, carrying out field inspections and ensuring compliance with legislation across all mining, gas and petroleum resource activities within the State.

Stakeholder Engagement

Resource Community Information Sessions

The Court has participated in a number of community information sessions organised by either the GasFields Commission (Qld) or the Department of Natural Resources Mines and Energy. The focus of the sessions has been on the land access regime for coal seam gas, petroleum and other energy resource developments and for mining exploration. The sessions were intended to explain reforms to the statutory negotiation process under the Mineral and Energy Resources (Common Provisions) Act 2014 and the creation of the Land Access Ombudsman to assist in resolving disputes about land access agreements. The Court was invited to explain its approach to

such disputes and the alternative dispute resolution (ADR) options available before and after a case is filed in the Court.

Members and staff of the Court participated in sessions in central Queensland and the southern Downs. As well as providing information about the Court's procedures to miners, landowners, local government representatives and other interested parties, the Court obtained valuable feedback about the information and assistance required by parties representing themselves in cases in the Court. The Court will continue to participate in community education programs where they are consistent with the Court's functions and the Court's resources permit.

Land Valuation Appeals Pilot (By Member Isdale)

In order to make the effective resolution of disputes involving land valuation as prompt and economical as possible, the Court has commenced a pilot program from March 2019. Scheduled to run for around one year before it is evaluated, it has streamlined the case management of land valuation appeals, which are a major part of the Court's work.

A primary focus is to reduce the number of times that an appeal needs to come before a Member of the Court before it is resolved by a decision.

As the Member who has oversight of this list I have the responsibility for the implementing the pilot.

When an appeal is filed, standardised, structured orders are automatically issued out of the Land Court Registry, establishing a timetable for the progress of the appeal. Through my Associate, I monitor the progress of the appeals against the timetable established by the orders and will intervene as required to bring appeals before the Court if orders are not being complied with. This ensures that appeals are not able to fail to progress without that being quickly observed and steps being taken to require parties to remedy any default promptly.

This intervention will assist in avoiding appeals not being progressed by litigants and becoming aged and progressively more difficult to resolve.

Stakeholder Engagement

The directions in use are standardised to conform with the categories of valuation

appeals which are characteristically observed. These categories are:

Valuations not exceeding \$5 million where the appellant will call valuation evidence only
In these cases, the parties are directed to a preliminary conference process controlled by the Judicial Registrar. A large number of appeals are able to be resolved at this point. If the appeal is to proceed beyond this, the process has the effect of identifying and limiting the issues remaining to be decided.
Valuation not exceeding \$5 million and the appellant is not calling any expert evidence
This group is also directed to the preliminary conference process. The difference is that the process is more abbreviated as there is no expert valuation report to be prepared jointly by competing experts.
Valuations exceeding \$5 million and valuations not exceeding \$5 million where the appellant will call valuation and other expert evidence
In these cases the process is necessarily more detailed and the standard orders allow for whatever categories of expert evidence that the parties choose to call. This is typically not limited to valuation opinion and will often include experts in town planning, engineering, traffic engineering, noise, water and environmental considerations. A timetable is automatically provided for the disclosure and inspection of documents and the disclosure of the key elements of the anticipated expert evidence. At that point, Member Isdale will commence case management of the appeal towards a hearing, through directions hearings and reviews

The expected outcome of the pilot

After it has been operated for at least one year, the pilot will be reviewed. The outcomes will be discussed with the valuation reference group of stakeholders and future practices will be considered based on what has been learned. It is confidently expected that judicial time will be shown to have been effectively utilised as evidenced by appeals being completed in shorter time periods with less Court time being applied in dealing with procedural aspects of appeals. This will allow Court utilisation to be focused towards more judicial decision-making on points of law and

decisions on the merits of appeals and away from time-consuming procedural steps.

The anticipated outcome will be better use of the Court's resources and more timely and economical resolution of these appeals with fewer appearances being required in Court during the progress of a typical valuation appeal.



Organisation and Administration

Judicial Support

The Executive Assistant and Associates provide judicial support to the President, Members and Judicial Registrar of the Court.

In 2018-19, the Executive Assistant and the Associates of the Land Court were:

- Executive Assistant, Mr Tyson Joseph Lee
- Associate to President Kingham, Mr Nick Wray-Jones
- Associate to Member Cochrane, Ms Krystal Cunningham-Foran
- Associate to Member Isdale, Ms Amanda Lamb
- Associate to Member Stilgoe, Mr Ewan Raeside

Land Court Registry

The Land Court Registry provides administrative support to the Court, including budget and resource management.

In 2018-19, the Registry Officers of the Land Court were:

- Principal Registrar, Mr Darren Campbell
- Senior Registrar, Business Operations, Ms Nichole Padovan
- Senior Registrar, Court Management, Mr Chris De Marco
- Deputy Registrar, Mr Gregory Grodecki
- Deputy Registrar, Mr Guy Lietzow-Chinn
- Court and Administration Officer, Mr Paulo Frutuoso

Location and contact details

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Level 8, Brisbane Magistrates Court Building,
363 George Street, Brisbane Qld 4000

Business hours:

8.30 am to 4.30 pm, Monday to Friday
(excluding public holidays and other
designated court holidays)

Postal address:

GPO Box 5266, Brisbane Qld 4001

Phone:

(07) 3406 7777 (business hours)

Email:

landcourt@justice.qld.gov.au

Website:

<http://www.courts.qld.gov.au/courts/land-court>