



LAND COURT OF QUEENSLAND

ANNUAL REPORT 2015-2016



LAND COURT OF QUEENSLAND

15 July 2016

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

Dear Attorney-General

As required by s 77A(1) of the *Land Court Act 2000*, I provide you with the ninth Annual Report on the operations of the Land Court for the year ended 30 June 2016.

Yours sincerely

Carmel MacDonald
President

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Introduction

This is the ninth independent annual report on the operations of the Land Court of Queensland. As explained in previous reports, prior to 2007/2008 the yearly report on the operations of the Land Court was incorporated into the annual report of the department then responsible for the financial administration of the Court.

The Land Court is currently established under the *Land Court Act 2000* which also provides for the constitution, composition, jurisdiction and powers of the Court.

History of the Land Court

Commissioners of Crown Lands

As reported in the 2007-2008 Annual Report, the predecessor of the Land Court, the Land Board, was constituted as an independent administrative and judicial authority under the *Crown Lands Act 1884*. However, the Colony of Queensland had separated from the mother Colony of New South Wales in 1859. This section provides a brief summary of the administration of Crown lands during the first twenty-five years of the new Colony, when a group of officials known as the Commissioners of Crown Lands, exercised not only administrative authority, but a range of judicial powers.

The beginnings of this system date back prior to separation to 1836, when Commissioners were first appointed to supervise the occupation of Crown land outside the boundaries of the settled areas of the Colony. Under New South Wales legislation, a Commissioner of Crown Lands was appointed for each district and was the sole representative of the Government outside the settled districts. Each Commissioner was a Justice of the Peace (Magistrate) and exercised extensive administrative and judicial powers in relation to the settlement and occupation of Crown Land.

Commissioners were also responsible for the maintenance of law and order in their districts and each Commissioner was provided with a small force of mounted constables called the Border Police Force, later to become the Native Police Force, composed of Aboriginal troopers and white officers, who patrolled the area of what was later to become Queensland. A comprehensive account of this part of the often controversial activities of the Native Police and of the Commissioners of Crown Lands is given in LE Skinner's "Police of the Pastoral Frontier - Native Police 1849 – 1859" (University of Queensland Press, 1975).

When Queensland was proclaimed a separate Colony on 6 June 1859, the responsibility for land administration automatically passed to the Queensland Government. A Board, comprising the Colonial Secretary, the Surveyor-General and the Clerk of the Executive Council, was established for the purpose of opening runs outside the settled districts. In 1860, the first Queensland Parliament passed a series of Acts dealing with Crown lands. This legislation provided, among other things, for the establishment of a Crown Lands Office and for the appointment of Commissioners of Crown Lands, each responsible for the administration of lands in the districts assigned to them, under the control of a Chief Commissioner of Crown Lands.

However, the Queensland Commissioners never had responsibility for the Native Police. That responsibility initially passed to the Colonial Secretary and then to the Commissioner of Police in 1864, following an inquiry into the practices of the Native Police undertaken by a Select Committee of the Legislative Assembly in 1861. Early Queensland Treasury statistics show that Commissioners had been appointed for the unsettled districts of Leichhardt, Maranoa and Kennedy, in addition to the settled districts of Moreton, Wide Bay and Burnett, Port Curtis and Darling Downs. The first Chief Commissioner was the noted explorer, Sir Augustus Gregory, who was also Queensland's first Surveyor-General.

It is of some interest that the first case reported in the Crown Land Law Reports, *Boyle v Fitzgerald*, was an action in 1861 in the newly established Supreme Court of Queensland, by an occupier of Crown land against the Commissioner of Crown Lands for the Maranoa District, alleging breach of duty. The case largely turned on whether the Commissioner was exercising administrative or judicial powers.

The powers and duties of the Commissioners were set out in the lands legislation in respect of a wide range of administrative and judicial matters. These were amended and expanded from time to time by various amendment Acts. The *Crown Lands Alienation Act 1868* refined and extended the legislation relating to the occupation and settlement of Crown land. Commissioners were granted extensive powers under the Act, provided that the Governor define and declare the duties of Commissioners in regulations. Each Commissioner was required to sit at the land offices in his district at certain stated times to be determined by the Governor in Council, and decide all questions in open court, subject to confirmation by the Governor in Council.

In the *Crown Lands Alienation Act of 1876*, the title "Land Commissioner" was substituted for that of "Commissioner of Crown Lands". Under that Act, a Commissioner was required to hold an open court each month (later referred to as a "Commissioner's Court" in the 1884 legislation discussed below) at which "all applications shall be considered and approved or rejected or otherwise dealt with". The Commissioner was given power to hear and determine or enquire into matters under the

Act and to pronounce decisions in open court. There seems to be no provision for appeal against a Commissioner's decision, however the Act provided that "no decision of a Commissioner shall...be final until confirmed by the Minister".

The *Crown Lands Act 1884* consolidated the existing land laws, relieving the Minister for Lands of many of his administrative and judicial duties by the creation of the Land Board. That Act also provided for the appointment of Commissioners in much the same terms as the 1876 Act, except that s 27 provided that "No decision of a Commissioner shall be final unless and until it has been confirmed by the Board; and the Board shall forthwith consider and confirm, vary or reverse every such decision". Provision was also made for the Board to hear a party before varying or reversing a decision and for any order of the Board to be pronounced in open court.

The Land Court was substituted for the Land Board by *The Land Act 1897*, as from 1 March 1898. The extensive powers of Commissioners, both administrative and judicial, continued through numerous amendments to the lands legislation, with a right of appeal to the Land Court. The review of the *Land Act* in 1962 retained the office of Land Commissioner and the monthly Commissioner's Court. However, the Commissioner's Court was abolished by the *Land Act and Other Amendment Act 1981*.

The historic office of Commissioner was itself abolished by the *Lands Legislation Amendment Act 1991*. Around that time there was an extensive review of Crown lands legislation in the early 1990s (the Wolfe Review), culminating in the *Land Act 1994* presently in force.

Members and Judicial Registrar of the Land Court

President	Carmel Anne Catherine MacDonald BA, LLB, LLM
Members	Paul Anthony Smith BA, LLB Wayne Lindsay Cochrane BEcon, B Ed, MSc William Angus Isdale LLB, MPubAdmin
Part-time Member	Mark Douglas Evans LLB (Hons) (from 17 August 2014 to 16 August 2016) reappointed pursuant to s 17 of the <i>Land Court Act 2000</i>)
Judicial Registrar	Graham Joseph Smith LLB, Grad Dip Leg Prac, BBus, LLM, API, CPV

Jurisdiction

The Land Court is a court of record of the State of Queensland and has wide ranging jurisdiction, unlimited as to amount, conferred by the Acts identified below.

The Court deals with a diverse range of matters relating to land and resources, including:

- the determination of claims for compensation for compulsory acquisition of land;
- appeals against statutory valuations for revenue purposes;
- appeals against a wide range of Ministerial and departmental decisions under various Acts;
- disputes concerning mining and other resource activities throughout the State; and
- cultural heritage issues.

The Land Court hears and determines matters in a manner similar to the Supreme Court and District Court with some variations, as the procedure of the Court is governed by equity and good conscience and the Court is not bound by strict rules of evidence. Land Court Members are judicial officers appointed by commission and have all the powers of a Judge of the Supreme Court in exercising the Court's (judicial) jurisdiction.

The Land Court is divided into two divisions, the Cultural Heritage Division and the General Division. A Member of the Land Court may sit as a member of the Cultural Heritage Division or the General Division as nominated by the President.

Legislation giving the Land Court and Land Appeal Court jurisdiction as at 30 June 2016:

- *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*
- *Aboriginal and Torres Strait Islander Land Holding Act 2013*
- *Aboriginal Cultural Heritage Act 2003*
- *Aboriginal Land Act 1991*
- *Acquisition of Land Act 1967*
- *Alcan Queensland Pty. Limited Agreement Act 1965*
- *Amoco Australia Pty. Limited Agreement Act 1961*
- *Austral-Pacific Fertilizers Limited Agreement Act 1967*
- *Biological Control Act 1987*
- *Breakwater Island Casino Agreement Act 1984*
- *Central Queensland Coal Associates Agreement Act 1968*
- *Century Zinc Project Act 1997*
- *City of Brisbane Act 2010*
- *City of Brisbane Regulation 2012*

- *Environmental Offsets Regulation 2014*
- *Environmental Protection Act 1994*
- *Foreign Ownership of Land Register Act 1988*
- *Forestry Act 1959*
- *Fossicking Act 1994*
- *Geothermal Energy Act 2010*
- *Greenhouse Gas Storage Act 2009*
- *Housing (Freeholding of Land) Act 1957*
- *Land Act 1994*
- *Land Regulation 2009*
- *Land Court Act 2000*
- *Land Valuation Act 2010*
- *Local Government Act 2009*
- *Local Government Regulation 2012*
- *Mineral Resources Act 1989*
- *Nature Conservation Act 1992*
- *Offshore Minerals Act 1998*
- *Petroleum Act 1923*
- *Petroleum and Gas (Production and Safety) Act 2004*
- *Queensland Nickel Agreement Act 1970*
- *Soil Conservation Act 1986*
- *State Development and Public Works Organisation Act 1971*
- *Sugar Industry Act 1999*
- *Surat Basin Rail (Infrastructure Development and Management) Act 2012*
- *Survey and Mapping Infrastructure Act 2003*
- *Thiess Peabody Coal Pty. Ltd. Agreement Act 1962*
- *Torres Strait Islander Cultural Heritage Act 2003*
- *Torres Strait Islander Land Act 1991*
- *Transport Infrastructure Act 1994*
- *Water Act 2000*
- *Water Supply (Safety and Reliability) Act 2008*
- *Wet Tropics World Heritage Protection and Management Act 1993*
- *Yeppoon Hospital Site Acquisition Act 2006*

Legislative Changes

The following significant changes to the jurisdiction of the Land Court and Land Appeal Court occurred in 2015-16:

- As mentioned in the previous annual report, the *Land Court Act 2000* was amended by the *State Development and Public Works Organisation and Other Legislation Amendment Act 2015* to, inter alia, extend the rule-making power in s 21 of the *Land Court Act* to enable rules to be made about all functions and powers conferred on the Land Court under the *Land Court Act* or another Act, including the making of rules for procedures when the Land Court, a Member or Judicial Registrar is exercising or performing an administrative function.
- The *Environmental Protection (Chain of Responsibility) Amendment Act 2016* commenced on 27 April 2016 and introduced significant amendments to the *Environmental Protection Act 1994*. Relevantly, the power of the Land Court to grant a stay of operation of particular original decisions under s 522 of the Act was circumscribed by the insertion of new sections 522A and 522B in the following terms:
 - Section 522A provides that a stay may not be granted in relation to a decision about the amount of financial assurance required under a condition of an environmental authority unless the administering authority has been given security for at least 75% of the amount it decided was required.
 - Section 522B provides that, in relation to a decision to issue an environmental protection order, a stay must not be granted if the Land Court is satisfied there would be an unacceptable risk of serious or material environmental harm if the stay were granted.
- The *Environmental Protection (Chain of Responsibility) Amendment Act 2016* also amended Schedule 2 of the *Environmental Protection Act 1994*, which lists original decisions in respect of which internal review and appeal to the Land Court is available. In particular, Schedule 2 of the *Environmental Protection Act 1994* was amended to give a right of appeal to the Land Court in relation to the following provisions of the Act:
 - Section 363AB – decision that a person is a related person of a company, in relation to the issuing of a “resource activity environmental protection order” (resource activity EPO) to the person;
 - Sections 363AC or 363AD – decision to issue a resource activity EPO;
 - Section 363AI – decision to issue a cost recovery notice relating to a resource activity EPO;
 - Section 363AI(3) – decision about an amount of costs or expenses claimed under a cost recovery notice relating to a resource activity EPO.

- The *Mineral Resources Act 1989* was amended by the *Mineral Resources (Aurukun Bauxite Resource) Amendment Act 2016* on 24 March 2016. The amendments give the Land Court the jurisdiction to hear objections to the grant of a mining lease for an Aurukun project. An Aurukun project is a project for the extraction, transportation and processing of bauxite on land that is, essentially, the land described as Restricted Area 315 under the *Mineral Resources Act 1989*. The amendments also provide that the At Risk agreement will now apply as a condition of mineral development licences and mining leases held for an Aurukun project. The “At Risk Agreement” is a document endorsed by Cabinet which provides for landowners, who are deemed to be suffering hardship because of the existence of a mineral resource and the announcement of the intention to mine, but where development timeframes are unknown, to be offered an option to purchase their property at fair market value by the holder of the overlying mineral development licence or mining lease. The Land Court is given jurisdiction to hear and decide the following matters in relation to the At Risk agreement:
 - (a) whether hardship, as defined under the agreement, exists;
 - (b) the fair market value of a property for the purposes of the agreement.

- The *Mineral Resources Act 1989* was also amended by the *North Stradbroke Island Protection and Sustainability and Other Acts Amendment Act 2016*. The Amending Act inserted new sections 345 to 348 into the *Mineral Resources Act 1989* to enable a landowner to seek compensation from the holder of an environmental authority who receives an authorisation to carry out rehabilitation activities on the land. If compensation cannot be agreed between the parties, the matter can be referred to the Land Court for determination. The relevant amendments commenced on 14 June 2016.

Land Court Caseload

As at 1 July 2015, there were 329 cases awaiting determination by the Land Court. During the reporting period, 649 new matters were filed in the Land Court registry and 610 matters were finalised with the result that there were 368 cases awaiting determination as at 30 June 2016.

The number of new matters filed in the Land Court this year (649) increased by 55 or 9% as compared with the 2014-15 reporting year (593). The increase was attributable to higher lodgements of valuation appeals and compulsory acquisition claims which increased by 15% (373→429) and 166% (9→24) respectively. It is thought that the increase in valuation appeals was caused by general increases across all property markets in those areas which were the subject of revaluation. The increase in acquisition matters was perhaps caused by an increase in infrastructure projects.

Lodgements of mining and environmental matters (161 and 21, respectively) were similar in numbers to those of the last financial year (167 and 26, respectively).

Types of Cases

Land Valuation Act 2010

The unimproved or site value of land as determined under the *Land Valuation Act 2010* is the basis for the assessment of rents for State leasehold land as well as for the assessment of local government rates and State land tax. Appeals against these valuations comprise the largest number of cases filed in the Land Court each year.

In 2015-16, 429 valuation appeals under the *Land Valuation Act 2010* were lodged in respect of the unimproved or site values of land throughout the State and 408 were finalised. Most valuation cases were resolved by or following alternative dispute resolution processes. Usually the more complex or contentious cases proceed to hearing.

Mineral Resources Act 1989

These are referrals under the *Mineral Resources Act 1989* of applications and objections for mining tenements and claims for compensation relating to the grant or renewal of such tenements.

Determinations of applications for and objections to mining claims or leases can be complex and time consuming. The Land Court commenced hearing one complex matter in March 2016 and it is ongoing. The case involves highly technical and complicated expert evidence in relation to multiple fields of expertise including water, dust, noise and economics.

Many of the compensation cases were dealt with on the papers without an oral hearing.

During 2015-16, 161 matters were lodged under this legislation and 140 were finalised.

Environmental Protection Act 1994

These are objections and appeals in relation to environmental issues associated with mining, petroleum and gas tenures. During 2015-16, 21 objections or appeals were lodged and 22 were finalised.

Acquisition of Land Act 1967

The determination of compensation following the compulsory acquisition of land is an important part of the Land Court's jurisdiction. Land is compulsorily acquired for various public purposes set out in

Schedule 1 of the *Acquisition of Land Act 1967* by various “constructing authorities”, ranging from State Government departments and local authorities to statutory authorities authorised to take land.

Compensation cases that proceed to hearing after negotiations between the parties fail to resolve the matter usually involve complex town planning, engineering, quantity surveying and valuation issues, with evidence from expert witnesses in those and other specialist disciplines. In 2015-16, 24 claims for compensation were filed and 24 were finalised. Hearing of compensation cases usually involves several days, with the more complex cases taking several weeks.

Local Government Regulation 2012; City of Brisbane Regulation 2012

These regulations enable local authorities to classify land into different categories for the purpose of levying differential rates, and provide for appeals to the Land Court against decisions by local authorities about the categorisation of land.

There were 6 appeals filed in the reporting year, and 13 appeals were finalised.

Land Court Workload 2015-16

Types of Cases	Filed	Finalised	Active as at 30 June 2016
Land Valuation Act appeals	429	408	162
Mineral Resources Act objections and compensation referrals	161	140	149
Environmental Protection Act objections and appeals	21	22	23
Acquisition of Land Act claims	24	24	23
Local Government Regulation appeals	6	12	5
Land Act appeals	4	1	3
Petroleum and Gas (Production and Safety) Act appeals	1	Nil	2
Water Act appeals	1	1	Nil
Other matters	2	1	1
Total	649	609	368

Applications for Judicial Review

Challenges to Land Court rulings and recommendations in respect of referrals under the *Mineral Resources Act 1989* and the *Environmental Protection Act 1994* are made to the Supreme Court, by way of application for judicial review. No new applications were made in the current reporting period. However, an application for judicial review of a Land Court decision made in the previous reporting period was dismissed by the Supreme Court in September 2015 – see *Coast and Country Association of Queensland Inc v Smith & Anor; Coast and Country Association of Queensland Inc v Minister for Environment and Heritage Protection & Ors* [2015] QSC 260. The Supreme Court’s decision in that case was subsequently appealed to the Court of Appeal. The matter was heard by the Court of Appeal on 7 June 2016, with judgment reserved.

Land Appeal Court

The Land Appeal Court hears appeals from the Land Court and from the Land Tribunal established under the *Aboriginal Land Act 1991*. The Land Appeal Court also has limited original jurisdiction under the *Biological Control Act 1987* and the *Foreign Ownership of Land Register Act 1988*.

Membership of the Land Appeal Court

The Land Appeal Court 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. By convention, the Supreme Court Judge 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.

The Land Appeal Court sits at Brisbane, Rockhampton, Townsville and Cairns, the headquarters of the four Supreme Court districts in Queensland. From time to time, the Chief Justice nominates a Supreme Court Judge to act as a Member of the Land Appeal Court at Brisbane pursuant to s 62(1) of the *Land Court Act 2000*. The Honourable Justice Peter Lyons was the Judge nominated for the 2015-16 financial year. The Central Judge, the Honourable Justice DVC McMeekin, the Northern Judge, the Honourable Justice DOJ North and the Far Northern Judge, the Honourable Justice JD Henry, are Members of the Land Appeal Court for those districts.

The Honourable Justice Peter Lyons

On 30 June 2016, the Honourable Justice Peter Lyons completed seven years as the Supreme Court judge nominated by the Chief Justice to act as a member of the Land Appeal Court at Brisbane.

Justice Lyons’ appointment to the Land Appeal Court (from 1 July 2009) was particularly welcome as he came to the Court with extensive relevant experience having practised in the Land Court, Land Appeal Court and the Planning and Environment Court, prior to his appointment to the Supreme Court.

Justice Lyons has made a substantial and significant contribution to the work of the Land Appeal Court in the last seven years. He has provided outstanding intellectual leadership and support for the Court, undertaken more than his share of the workload and participated enthusiastically in the Court's activities.

The Members of the Land Court are extremely grateful to Justice Lyons and join with me in thanking him for his distinguished contribution to the Land Appeal Court.

Land Appeal Court Proceedings

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 for the evidence not previously being given.

There was one appeal lodged in the Land Appeal Court in 2015-16, compared to 3 appeals filed in 2014-15. The appeal related to land in the Southern District.

Nature of Appeals	2014-15	2015-16
Compensation (<i>Acquisition of Land Act 1967</i>)	2	1
<i>Mineral Resources Act 1989</i>	1	Nil

Further Appeals

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

There were no applications for leave to appeal filed in the Court of Appeal during the reporting period.

Court of Appeal Filing Date	2014-15	2015-16
Applications for leave to appeal to Court of Appeal	1	Nil

During the reporting period, special leave to appeal was granted by the High Court in the matter of *Moreton Bay Regional Council v Mekpine Pty Ltd*. On 10 March 2016, the High Court allowed the appeal, set aside the judgment of the Court of Appeal and, in effect, reinstated the decision of the Land Appeal Court (see [2016] HCA 7).

Case Management

The Land Court has adopted a number of case management procedures:

- Appellants in revenue valuation appeals where the valuation is less than \$5 million are offered alternative dispute resolution through preliminary conferences. If the valuation is \$5 million or more, the appellant is generally only offered a preliminary conference by the Court in exceptional circumstances because the appellant will have had the opportunity to participate in an independently chaired objection conference, pursuant to the *Land Valuation Act 2010*. Preliminary conferences are usually conducted by the Judicial Registrar and have achieved considerable success (for further details, see below).
- Directions hearings are held in appropriate cases, with orders made seeking identification of issues, and the filing of expert reports addressing those issues.
- A court supervised mediation process is offered in the larger, more complex cases in an attempt to resolve or narrow the issues in dispute. This can result in substantial time and cost savings for the parties and the Court. Court supervised mediations may be conducted by a Member of the Court or the Judicial Registrar. If a Member convenes the mediation, that Member will not preside over any subsequent hearing of the matter, including an appeal to the Land Appeal Court.
- Each Member takes responsibility for case management of matters arising in specific geographical areas and conducts regular reviews of those matters.

Regional Hearings

Although based in Brisbane, the Land Court also sits in regional areas of Queensland. Normally, a matter is dealt with in the district where the land the subject of the dispute is located. During 2015-16, the Court sat on 40 days outside Brisbane at the following centres:

- Bundaberg
- Caboolture
- Cairns
- Caloundra
- Charters Towers
- Chinchilla
- Dalby
- Gladstone
- Goondiwindi
- Gympie
- Ingham
- Kingaroy
- Mackay
- Mossman
- Noosa
- Rockhampton
- Southport
- Toowoomba
- Townsville
- Warwick

Alternative Dispute Resolution

As an alternative to its adjudicative role, the Land Court also provides Alternative Dispute Resolution (ADR) processes by a judicial officer, either a Member or the Judicial Registrar.

Preliminary Conference

A preliminary conference is essentially a conciliation process, not merely a preliminary meeting. It is “preliminary” only in the sense that it precedes any adjudication of a matter. The conference is designed to identify the issues in dispute, discuss those issues and attempt to reach an agreement. The term “preliminary conference” is preferred to “conciliation conference”, as it indicates that if no agreed outcome is reached, the matter can proceed to hearing and adjudication.

Preliminary conferences are offered to all parties in appeals against valuations under the *Land Valuation Act 2010* except in cases where the valuation is \$5 million or more. In those cases, the parties should have already participated in an objection conference process (chaired by an independent chairperson) in accordance with the legislation.

Preliminary conferences are generally not offered in cases with complex compensation issues or questions of law, or where there is need to consider detailed technical evidence, as such cases do not lend themselves to the conference process. However, the parties in a growing number of such cases are seeking mediation by a Member of the Land Court or the Judicial Registrar (see below).

The Court will convene preliminary conferences only where parties to a dispute agree to pursue that option. In rare cases, even though the parties request a preliminary conference, the Court may elect to hear a matter, usually in locations infrequently visited by the Court. Failure to resolve such a matter by preliminary conference would result in the Court having to revisit the centre.

Most preliminary conferences are conducted by the Judicial Registrar who has extensive experience in dispute resolution. Although preliminary conferences may also be conducted by a Member, that Member may not, without the agreement of the parties, preside over a hearing of the same matter. There are too few Members of the Land Court for two Members to be potentially precluded from hearing an appeal to the Land Appeal Court. Nevertheless, a

Member will conduct preliminary conferences in certain circumstances. For example, a Member who is hearing cases in a regional centre may, as an adjunct, conduct a limited number of preliminary conferences in that centre, avoiding the expense of the Judicial Registrar also visiting the centre.

The adoption of the preliminary conference process has resulted in considerable resource savings for the Land Court. The standard preliminary conference takes much less time than a Court hearing, following which additional time would be required for judgment writing. The majority of preliminary conferences result in settlement and an outcome which is acceptable to all parties.

During the year, the Court conducted 393 preliminary conferences. 349 cases were finalised in 2015-16 as a result of conferences held during this and the previous reporting period.

Mediation

Court supervised mediation is a process by which the parties participate, together with the assistance of a judicial officer, in systemically isolating disputed issues in order to develop options leading to a settlement. The Court does not consider that it is appropriate to offer case appraisal by a Member or the Judicial Registrar, in which a neutral evaluator attempts to assess the relevant strengths and weaknesses of each party's case and offers an opinion as to the likely outcome.

Where parties elect to pursue mediation, the Court will usually adopt that option. Mediation is generally confined to the larger more complex cases, including those involving substantial monetary amounts. Court supervised mediations are conducted by a Member of the Court or the Judicial Registrar.

Thirty-six cases were mediated by Land Court Members or the Judicial Registrar and 15 matters settled as a result of Court supervised mediations held in this and the previous reporting year. A further 6 matters were finalised in this period as a result of court ordered mediations which were carried out externally. Even where settlement was not achieved, the issues were narrowed in most cases resulting in substantial resource benefits for the parties and the Court.

If a mediation is unsuccessful, the parties retain the right to have the matter heard and determined by the Land Court. Where a Member conducts a mediation which does not lead to a settlement, that Member cannot subsequently hear the matter. Neither that Member, nor

the Member who subsequently heard the matter, can be a Member of the Land Appeal Court, if there is an appeal.

Land Court and Tribunal Registry

The Registrar of the Land Court, Deputy Registrars and other officers of the registry provide administrative support to the Land Court. The Registrar is responsible for the budget, resource management and administrative functions of the Court. The Registrar is also charged with keeping minutes of the proceedings and records of the decisions of the Land Court, and performing all the functions given to the Registrar under the *Land Court Act 2000* or any other Act. The Land Court registry is under the control of the Registrar.

The registry staff are:

Registrar: Mr Kevin Hayden

Senior Deputy Registrar: Mr Jeffrey Hobson

**Senior Case Manager/
Office Manager:**

Ms Betty Lippiatt

Deputy Registrars: Ms Diane Blewett

Mr Gregory Grodecki LLB, Grad Dip Leg Prac

Ms Eliane Yuille LLB

Mr Chris De Marco

Administrative Officers: Ms Glenda Jones

Ms Terri Bastiani

Ms Margaret Christison

Research Officer: Ms Letitia Farrell LLB (Hons), BBus(Acc) (Hons) (returned from maternity leave on 6 June 2016)

Mr Peter O'Sullivan LLB (Hons), BEcon (acting appointment)

Publication of Court Decisions

Major decisions of the Land Appeal Court and Land Court are published in annual volumes of the Queensland Land Court Reports with head notes. The reports have been published continuously since the Court was first constituted in 1898, and were known as the Crown Land Law Reports Queensland from 1859 to 1974.

During the 2015-16 reporting period, the Land Court collaborated with the Supreme Court Library Queensland to enable access to decisions of the Land Appeal Court and Land Court through the Supreme Court Library's website (www.sclqld.org.au/caselaw/QLC). The earliest judgment dates from 1985, and a continuing collaboration with the Supreme Court Library will ensure that Court judgments are made available to users promptly after being handed down. I would like to thank the Land Court's Librarian, Ms Helen Bannerman, and Ms Margaret Christison of the Land Court registry, for their efforts in making this development possible.

Selected decisions of the Land Appeal Court and Land Court are reported in the Local Government and Environment Reports of Australia, as well as being available online at www.austlii.edu.au/databases.html.

Continuing Judicial Development

Each Member of the Land Court is provided with allowances which are to be used for the purposes of continuing judicial education and development, including attendance at legal and professional conferences and seminars.

In May 2016, Mrs MacDonald attended a conference entitled "Women Judges and the Rule of Law" organised by the International Association of Women Judges in Washington DC, USA.

Assistance to Universities and the Professions

Moots

In August 2015, Mr Paul Smith presided over moots held as part of the Queensland University of Technology (QUT) Shine Lawyers moot competition.

In May 2016, retired Judicial Registrar Mr O'Connor, together with Senior Deputy Registrar Hobson, facilitated moots for University of Queensland (UQ) students which took place in the Land Court courtroom of the Brisbane Magistrates Court building.

Publications and Lectures

In April 2016, Mrs MacDonald and Mr Graham Smith co-presented a paper about the Land Court and ADR Processes to the Resolution Institute in Brisbane.

In February 2016, Mrs MacDonald delivered a paper entitled “The Role of the Land Court in Compulsory Acquisition Cases” at a seminar organised by the Queensland Environmental Law Association in Brisbane.

In November 2015, Mr Cochrane presented a paper entitled “Expert Evidence – The View from the Bench” at the annual conference of the Australian Property Institute on the Gold Coast.

In November 2015, Mr Graham Smith participated in a public discussion on the subject “Responding to the Challenges of Delivering ADR Services in Courts and Tribunals”. Mr Smith sat as a panel member along with other ADR experts and the event was facilitated by the Griffith University Law School in Brisbane.

In July 2015, Mr Graham Smith presented a paper to the Australian Property Institute in Brisbane reviewing major valuation and related cases from the previous 12 months.

Judicial Delegations

On 25 August 2015, the Land Court hosted a delegation of Judges from the Guizhou High People’s Court in China. Members Smith, Cochrane and Isdale, together with Justice Margaret McMurdo and Justice Mullins from the Supreme Court of Queensland and retired Justice Fryberg, met with the delegation and delivered a presentation about the workings and operations of the Land Court and the role of the Land Court in the compulsory acquisition process.

In September 2015, Member Smith was part of a Judicial Delegation to China, led by Justice Mullins from the Supreme Court of Queensland. The delegation visited courts in several regions in China and Member Smith presented a paper entitled “Compulsory Acquisition of Property for Government Purposes and Compensation for Loss of Rights” at various seminars. Member Smith, together with retired Justice Fryberg, then travelled to Taiwan as part of a

smaller Judicial Delegation. The delegation attended joint meetings of the Taiwanese judiciary in various courts and also attended the Taiwanese Judicial College.

Library

The Land Court has established and maintained an extensive specialist library which contains many historical volumes not available electronically. The library is an essential tool to the efficient and effective performance of the Land Court.

The library is maintained by part-time Librarian, Ms Helen Bannerman BA (Hons), Grad Dip Lib Sc, who also maintains a register of the Court's judgments. A library committee comprising Mr Paul Smith, Mr Graham Smith, the Registrar, the Research Officer and the Librarian supervise the library collection and co-ordinate the preparation and printing of the volumes of the Land Court Reports, of which the Judicial Registrar is the editor.

Finance

The funding for the Land Court is provided by the Queensland Government through the Department of Justice and Attorney-General. Various financial statements are included in the Annual Report of that Department.

As with the Judges of the Supreme and District Court, the salary and allowances of the Members of the Land Court are provided for by the *Judicial Remuneration Act 2007*.

The operating expenses of the Land Court for the 2015-16 financial year are shown in the table below. The expenses exclude Members' salaries and allowances which are appropriated separately.

Operating Expenses 2015-2016	\$
Employee Expenses	1,161,066
Supplies and Services	235,488
Depreciation and amortisation	3,722
Total Operating Expenses	1,400,276

Accommodation

The Land Court is located in the Brisbane Magistrates Court building, 363 George Street, Brisbane. The registry and courtrooms of the Land Court are situated on level 8 and the Members' chambers are located on level 9.

Concluding Remarks

I retire as President of the Land Court on 15 July 2016.

As this is my final report, I take this opportunity to thank the Members and staff of the Court for their hard work and support during my time as a Member and President of the Court. The Court's caseload has continued to increase in complexity during that period, particularly concerning disputed major resource projects. I am very grateful to all for their role in ensuring that the Court has dealt with all matters as efficiently and effectively as possible.

I would like especially to mention the loyalty, assistance and support I have received from the Registrar of the Land Court, Mr Kev Hayden, the Senior Deputy Registrar, Mr Jeff Hobson and Executive Assistant, Ms Glenda Jones. It would not have been possible to carry out my duties without their good humour, cooperation and positive commitment to our joint endeavours. I thank them for that.

I must also thank the former President of the Land Court, Mr JJ Trickett, for his contributions to the annual reports. Since 2008, Mr Trickett has written the section recording the history of the Land Court in each report, other than in the 2013-2014 annual report. No formal history of the Court has ever been written and these contributions are building up to an invaluable record of the Court's activities, personnel and jurisdiction.

Land Court of Queensland
Annual Report
2015-2016

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