

Implementing the International Framework for Court Excellence: The experience of the Land and Environment Court of New South Wales

**Presentation by the Hon. Justice Brian J Preston to the
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The International Framework for Court Excellence is launched

In October 2008, at the Court Quality Forum in Sydney, the [International Framework for Court Excellence](#) was launched.

The Framework was developed by an International Consortium for Court Excellence including the Australasian Institute of Judicial Administration (AIJA), Federal Judicial Centre (USA), National Centre for State Courts (USA) and Subordinate Courts of Singapore, assisted by the European Commission for the Efficiency of Justice (CEPEJ) and other organisations. The Framework provides a methodology for assessing court's performance against seven areas of court excellence and guidance for courts intending to improve their performance. The Framework takes a holistic approach to court performance. It requires a whole-court approach to delivering court excellence rather than simply presenting a limited range of performance measures directed to limited aspects of court activity.

The Land and Environment Court agrees to implement the Framework

The Land and Environment Court is a specialised statutory court established as a superior court of record. It has a wide administrative, civil, criminal and appellate jurisdiction in relation to planning, building, environmental, land, natural resources mining and other matters. The Court's jurisdiction is exercised (to varying extents) by judges, commissioners and registrars. Judges have the same rank, title, status and precedence as judges of the Supreme Court of New South Wales. Commissioners are not judicial officers but are appointed because of their special knowledge, experience and qualifications in disciplines of relevance to the Court's jurisdiction. These include town, country or environmental planning, urban design or heritage, science, land valuation, architecture, engineering, surveying, building construction, natural resources, Aboriginal land rights and law. Registrars exercise delegated judicial functions and are qualified in law.

Representatives of the Court participated in the Court Quality Forum at which the Framework was launched. The Court viewed the Framework as providing a useful methodology for the Court to employ to continue its pursuit of court excellence. Within weeks of the launch of the Framework, therefore, the Court agreed to adopt and to implement the Framework. The intention was two-fold: to assist in evaluating the utility of the newly developed Framework and to advance the Court's own planning and self-improvement processes.

Preparations to apply the Framework were settled in December 2008. The Court considered it would be beneficial to engage professional assistance in applying the

Framework. The Court approached the Director-General of the NSW Department of Justice and Attorney General, Mr Laurie Glanfield AM, who suggested an independent consultant, Mr Barry Walsh, who has had extensive experience in court administration. Mr Walsh was engaged to provide professional assistance to the Court in the process of applying the Framework.

Assessing the Court's current performance

The first step in applying the Framework was for the Court to assess how the Court was currently performing in each of the seven areas of court excellence described in the Framework, namely: court leadership and management; court planning and policies; court proceedings; public trust and confidence; user satisfaction; court resources (human, material and financial); and affordable and accessible court services. The Framework proposes a court undertake this task using the self-assessment questionnaire provided in Appendix A of the Framework. The Framework requires a court as a collegiate body to evaluate its performance by completion of the self-assessment questionnaire. However, the Framework envisages that this evaluation process should be participatory, with the various members of the Court including the judges, administrators and court employees all having an opportunity to participate in evaluating court performance and developing and implementing improvements.

To this end, the Court constituted a self-assessment team comprising 21 members of the Court, being 5 judges, 8 full-time commissioners, 6 acting or part-time commissioners and two registrars.

As envisaged in the Framework, the self-assessment team convened two meetings, the first a planning session and the second a session to settle by consensus the appropriate score for each statement in the questionnaire. The first session took place in February 2009. At this session the Framework and the procedure for carrying out the self-assessment exercise were explained. The self-assessment questionnaire was then examined closely and the outcome statements in each of the seven areas of court excellence, the subcategories of Approach, Deployment and Results for each outcome statement and the guidelines for scoring a court's performance for each statement and subcategory were explained. Sample outcome statements were used as examples to illustrate the self-assessment process. The purpose of this first session was to ensure that the members of the Court's self-assessment team understood the Framework, the self-assessment questionnaire and the rating system with a view to ensuring validity and consistency in approach between members in completing the self-assessment questionnaire.

After the first session, each of the Court's self-assessment team members completed the self-assessment questionnaire in their own time and returned the completed questionnaires to the independent consultant. This was done to preserve the confidentiality of the individual responses and ensure court members felt uninhibited in rating and, in rating frankly, each outcome statement and subcategory in the questionnaire.

Each individual member's rating scores for each outcome statement and subcategory were combined and displayed. For example, for the outcome statement

3.1, “Ensure proceedings maintain a balance between timeliness, efficiency and foreseeability, on the one hand, and the quality of court services and judicial decisions, on the other, so that they promote the core values of courts”, the combined rating scores were as follows:

	Approach	Deployment	Results
Rating	0 1 2 3 4 5	0 1 2 3 4 5	0 1 2 3 4 5
Combined Score	0 1 3 1 14 2	0 0 4 4 11 2	0 0 4 5 10 1

At the second session, held in March 2009, the combined rating scores were discussed by the Court’s self-assessment team, and, by consensus, the team selected the rating score for each statement and each subcategory which best represented the collective views of members of the self-assessment team. In most instances, this involved selecting the rating score which most members had assigned. So, in the example given for outcome statement 3.1, the rating of 4 was selected for each of the subcategories of Approach, Deployment and Results, as more members of the Court’s self-assessment team had assigned this rating score than any other rating score. Sometimes, however, discretion needed to be used in selecting the most appropriate rating score. For example, where the rating scores assigned by individual members were evenly distributed across the ratings, the score selected in such a case was that which was the better fit for the range of views of members. In all cases, the settled rating score was able to be selected by consensus.

By the conclusion of the second session, the rating score for each statement and each subcategory had been settled. The settled rating scores were then recorded in a table. A copy is attached (Attachment A).

The next step in applying the ratings system was to determine a final aggregate score using the methodology in the Framework. This involves, first, determining a total rating score for each subcategory (Approach, Deployment and Results) in each of the seven areas of court excellence; secondly, applying the weight assigned in the Framework to the total rating score for that subcategory to derive a weighted score; and thirdly, aggregating the weighted scores to derive a total weighted score.

Using this methodology, the Court’s total score was 209 out of a possible maximum of 435. When the weightings described in the Framework were assigned the total weighted score was 483. These figures are detailed in the table on the next page:

Areas	Total weighted scores	Total actual scores	Maximum possible scores
1. Court Leadership & Management	49	55	135
2. Court Planning & Policies	47	14	30
3. Court Processes & Proceedings	80	24	30
4. Public Trust & Confidence	112	23	45
5. User Satisfaction	45	15	60
6. Court Resources (Human, Material Financial)	62	56	90
7. Affordable & Accessible Court Services	88	22	45
Total score	483	209	435

The Framework provides a banding table which provides an objective benchmark against which a court may measure its performance. Total weighted scores, which add up to a maximum weighted score of 1,000, are divided into six bands: Band 1: 0 points; Band 2: 1-199 points; Band 3: 200-399 points; Band 3: 400-599 points; Band 5: 600-799 points; and Band 6: 800-1,000 points.

The Court, with a total weighted score of 483, fell within Band 4, which is effectively the upper middle range. The Framework describes Band 4 as:

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

Identifying areas for improvement

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

Although the Court convened a large self-assessment team to complete the self-assessment questionnaire, it was considered more efficient to convene a smaller ad hoc planning committee to develop an improvement or action plan. The ad hoc planning committee was representative of the Court membership having 2 judges

(including the Chief Judge), 2 commissioners (including the Senior Commissioner), an acting commissioner and 2 registrars. The consultant continued to assist in the planning process. The planning committee held a series of meetings between March and June 2009.

The planning committee first examined the statements and subcategories in each area where low rankings had been assigned by the Court in the self-assessment questionnaire. These suggested matters which needed improvement. A table was prepared highlighting these matters. The table is attached (Attachment B). The matters were discussed by the planning committee in its meetings.

In developing the improvement or action plan, the planning committee addressed six questions:

1. What issues raised by the self-assessment process can or should be addressed quickly and in the short term?
2. What initiatives or activities may be required in response to the result of the self-assessment?
3. What support and co-operation is most relevant or necessary in addressing any changes that may be required?
4. What resources may be needed to support those changes?
5. What timetables should apply?
6. How will the success of changes be measured or evaluated?

The first priority identified by the planning committee was for the Court to draft and adopt what the Framework refers to as a vision statement or a mission statement expressing the court's fundamental purpose and values. After numerous drafts, the planning committee settled on a simple statement of purpose. The adopted statement of purpose is as follows:

“The Court’s purpose is to safeguard and maintain:

- the rule of law
- equality of all before the law
- access to justice
- fairness, impartiality and independence in decision making
- processes that are consistently transparent, timely and certain
- accountability in its conduct and its use of public resources
- the highest standards of competency and personal integrity of its judges, commissioners and support staff.

To assist in fulfilling its purpose, the Court aims to achieve excellence in seven areas:

Court leadership and management: To provide organisational leadership that promotes a proactive and professional management culture, pursues innovation and is accountable and open.

Court planning and policies: To formulate, implement and review plans and policies that focus on fulfilling the Court's purpose and improving the quality of its performance.

Court proceedings: To ensure the Court's proceedings and dispute resolution services are fair, effective and efficient.

Public trust and confidence: To maintain and reinforce public trust and confidence in the Court and the administration of justice.

User satisfaction: To understand and take into account the needs and perceptions of its users relating to the Court's purpose.

Court resources: To manage the Court's human, material and financial resources properly, effectively and with the aim of gaining the best value.

Affordable and accessible court services: To provide practical and affordable access to information, court processes and services."

The statement of purpose broadly accords with the structure of the Framework, incorporating the court values and the seven areas of court excellence. This was deliberate as it enabled the Court to use the Framework structure to guide the design of the Court's action plan.

The planning committee determined that the action plan could most effectively be communicated in the form of a table. The planning committee endeavoured to ensure that the design of the document could be used for a variety of purposes. The design includes these elements:

- **Framework structure:** The table follows the heading and numbering structure of the Framework allowing direct comparisons between the areas self assessed and the matters for future action.
- **Consistency with statement of purpose:** Although the Court's statement of purpose picks up the seven areas of court excellence described in the Framework, it also modified them in various ways intended to improve clarity of expression and to be better adapted to the Court's specific role and context. These differences have been carried into the action plan, thereby ensuring mutual consistency and assuring the necessary connection between the Court's goals and its active improvement programs.
- **Framework area outcome statements:** The table restates each of the area outcome statements that appear in the Framework so that the reader can readily

relate each proposed action to the area outcome it is aimed at fulfilling. In most cases this was done without amendment. However, in some instances amendments were made to better accord with terminology used in the Australian court context.

- **Self-assessment scores:** The table prints the self-assessment score (settled by the Court) against each of the Framework outcome statements so that the reader can access the significance of each proposed action in terms of the urgency or importance that the Court attaches to it. Outcome statement 1.1 of the Framework, for example, is concerned with the need for a court to have a statement of purpose and the table indicates in parentheses that the Court gave itself a rating of 1-1-1 (a low score for that outcome) because the Court had not formally adopted a statement of purpose at that time. The timetable for steps to achieve the outcome of having a statement of purpose reveals that the Court placed a high priority on achieving this outcome early.
- **Action items:** The table lists each action that the Court intends to implement to achieve each outcome statement and, in respect of each, identifies the steps to be taken to achieve the action and outcome, the person(s) responsible for undertaking each step, the timing of the steps, and the performance indicators to demonstrate achievement. The table has a very extensive list of actions, at least one for each area outcome statement specified in the Framework. Many actions were initiatives that the Court had already commenced and was still developing. Nevertheless, the planning committee found it relatively easy to relate each of its various ongoing initiatives to the relevant area outcome statements in the Framework.

At various stages in the planning process, the planning committee consulted with the larger membership of the Court, including those persons who had been involved in the Court's self-assessment team. Comments were sought on the drafts of the statement of purpose and the drafts of the action plan. These comments were considered by the planning committee and incorporated into further iterations of the documents.

As many members of the Court as was practicable were asked to participate in developing and implementing particular steps to achieve actions and outcomes under the Framework. This accorded with the Framework's exhortation that court leadership should ensure that the process of planning for improvement provides ample opportunity for judicial officers, court employees and the court's professional partners to be consulted and involved. It also addressed one of the weaknesses identified through the self-assessment process by involving court employees in communicating and implementing the court vision, goals and outcomes and identifying challenges and solutions.

The action plan continued to be settled by the planning committee up until 1 September 2009. The settled action plan is attached (Attachment C).

Implementing action for improvement

The Court thereafter began the process of undertaking the actions for improvement identified in the settled action plan.

Area 1: Court leadership and management

In Area 1, Court leadership and management, the planning committee identified 18 actions to achieve the outcome statements in this area of court excellence.

Statement of purpose

In relation to the first outcome statement 1.1 of articulating the Court's purpose, the Court developed, adopted and published a statement of purpose. This action was promptly undertaken and informed all other actions developed and implemented by the Court. The statement of purpose has been publicised on the Court's website and the Court's publications, including the Court's Annual Reviews.

Working with professional partners and court users

In relation to outcome statement 1.2, pursuing working relationships with professional partners and court users, the Court has continued its Court Users Group. This group has representatives from key stakeholders, including professional partners and court users. The membership is recorded in the Court's Annual Reviews. The Court Users Group meets four times a year and provides an important forum for two-way communication on the Court and its performance. Information on the Court Users Group is provided in the Court's Annual Reviews.

The Court also established a specialist Mining Court Users Group after the Court was vested with the jurisdiction of the former Mining Warden's Court in 2009. The Mining Court Users Group also includes the key stakeholders in this area of the Court's jurisdiction. The Mining Court Users Group meets four times a year.

The action plan recommended the Court consider the desirability of establishing other specialist Court Users Groups. After consideration, however, the Court determined that there is not currently the demand to establish further Court Users Groups and the two current Court User Groups are sufficient to pursue working relationships with professional partners and court users. The Court is also able to hold, and has in the past held, from time to time, ad hoc meetings of professional partners and court users to consult on particular issues in specialised areas of the Court's jurisdiction, such as tree disputes and Aboriginal land claims.

Communicating with court users

In relation to outcome statement 1.3, concerning communicating with court users, the Court prepared a communication strategy. The communication strategy recommended methods of improving passive communication, active communication and informal communication. The communication strategy noted that the Court employs two methods of passive communication, the first through its Annual Review and the second through its website and information on it. The communication strategy recommended ways of improving each of these methods of passive communication. In particular, it recommended measures to upgrade the Court's

website, in terms of layout, useability and information content. In relation to active communication, the communication strategy noted that the methods currently employed are the Court members speaking at conferences, seminars or public meetings, distributing leaflets, and use of electronic mailboxes to send email notifications. The communication strategy recommended ways of better utilising each of these methods and in particular seeking opportunities to promote the Court and its vision, goals, programs and outcomes. In relation to informal communication to members of the public or media observing court proceedings, the communication strategy recommended the adoption of a media policy as well as mechanisms to better enable the public and media to be notified and observe court proceedings. The various recommendations in the communication strategy were then incorporated into other actions in the Court's action plan.

Promoting managerial development

In relation to outcome statement 1.4, promoting a professional management culture, the Court is continuing and extending training and education in leadership and management skills. Court leaders and managers have enrolled in appropriate leadership and management courses. Amongst the courses that have been or are being undertaken are: a Tribunal Leadership Course organised by the Council of Australasian Tribunals (COAT) attended by the Chief Judge; an Executive Leadership Course being undertaken by the Registrar; a Diploma of Management – Leadership being undertaken by one of the senior managers; courses in risk management and developing women for management undertaken by the Registrar; courses in being a great team leader and a great manager and managing and preventing workplace grievances undertaken by senior managers; and achievement planning courses attended by registrars and senior managers, which provide training in performance management and in conducting performance reviews of staff.

Planning and acting strategically

In relation to outcome statement 1.5, concerning planning and acting strategically, the Chief Judge, the Senior Commissioner and the Registrar have met regularly to review the Court's progress in implementing the action plan and its continued usefulness and relevance. The Court proposes to reconvene the ad hoc planning committee by the end of the year to review the Court's performance in implementing the action plan and to recommend appropriate responses.

Involving court personnel in advancing the Court's purpose and strategies

In relation to outcome statement 1.6, the action plan identified six actions to involve all judges, commissioners and court personnel in advancing the Court's purpose and strategies. As noted earlier, the Court involved the Court members in the implementation of the Framework and actions under the action plan. In addition, the Court holds regular meetings (usually monthly) of judges and commissioners to enable two-way communication and to involve judges and commissioners in identifying challenges and solutions.

The Court has involved acting (or part-time) commissioners through participation in continuing professional development activities, namely the twilight seminars and

court conference. At the court conference in 2009, a special meeting of acting commissioners was organised by the Senior Commissioner. New acting commissioners have participated in an induction training day, at which the Court's vision, goals, programs and outcomes were identified.

The Court has developed a comprehensive handbook for commissioners, both full-time and acting, which has been made available to all commissioners. The handbook is available electronically as well as in hard copy. The handbook covers nine chapters on:

1. The Court and its members;
2. Functions of judges, commissioners and registrars;
3. Court practice and procedure;
4. The Court file: creation, maintenance and access;
5. Case management of proceedings;
6. Resolution of proceedings;
7. Decision-making;
8. Conduct of judges and commissioners; and
9. Resources and remuneration of commissioners.

The handbook refers to the Court's statement of purpose and integrates into the text of the handbook the shared court values and the desired outcomes for achieving court excellence. The handbook refers to all of the Court's practice notes and policies. These practice notes and policies also embed the court values and desired outcomes.

The Court has implemented a process for regular performance review of commissioners. The Court has adopted a code of conduct, a policy on complaints against commissioners, a policy on delay in reserved judgments and a policy on performance appraisal of commissioners. The process of performance review allows for two-way appraisal and communication concerning achieving the Court's purpose and outcomes.

The Court has adopted a mentoring policy for new commissioners and implements a mentoring program. Through this mechanism experienced mentors are able to communicate to the new commissioners the Court's visions, goals, programs and outcomes.

Each of the Court's policies on conduct, complaints, delays in reserved judgments, performance appraisal and mentoring are published on the Court's website, thereby ensuring transparency and accountability and instilling public trust and confidence in the Court.

The Court has implemented achievement planning for all employees in the registry. Achievement planning is the formal process by which court managers can actively involve all court employees in implementing the Court's purpose, programs and

outcomes and in identifying challenges and solutions through two-way communication. Achievement planning allows managers to set targets for performance of their staff and review that performance on a regular basis. The achievement planning process involves: setting performance targets for work performed, which align with the Court's purpose; identifying training needs and enrolling in appropriate training courses; identifying areas of career progression and setting appropriate goals; reviewing performance against agreed targets; and providing general feedback on performance. The achievement planning process has been implemented in the registry by managers completing the achievement planning course and engaging in an achievement planning workshop to identify common targets that align with the Court's purpose and goals. Those managers have then held achievement planning meetings with employees to implement the achievement planning process. All staff undertake individual staff performance reviews and conduct regular achievement planning.

The implementation of achievement planning has resulted in increased motivation for registry staff. It has also provided the staff with an understanding of how their duties align with the Court's purpose and goals and allows them to be actively involved in the pursuit of those goals.

Improving case registration and management to obtain quantitative data

In relation to outcome statement 1.7, concerning promoting a case registration and management that promotes efficiency and effectiveness and makes it possible to monitor and evaluate the Court's performance with reliable quantitative data, the Court has implemented processes to improve the reliability of its case registration and management system. The Court has introduced a new computerised court information system (CITIS) which has improved the reliability of registration of matters, recording of directions and orders, listing of matters for hearing, recording of exhibits and documents, and the integrity of case files. All registry staff and court employees have been trained in the new system. The court information system enables the Court to monitor and evaluate the Court's performance with reliable quantitative data. The Court has also issued an internal policy for judges and commissioners on recording court orders and court processes and publishing judgments to improve the efficiency, effectiveness and reliability of data on the court information system.

Collecting qualitative data

In relation to outcome statement 1.8, concerning establishing programs for collecting reliable information pertaining to quality indicators, the action plan recommended various surveys to be undertaken of court employees, professional partners and court users. The Court registry conducted a survey in late 2009 of registry users. The survey results showed overall satisfaction with the standard of service provided by registry staff. Responses also demonstrated the ongoing need for improved physical facilities in the registry and throughout the court building. Many of these physical facilities will be upgraded through the refurbishment project proposed to be undertaken in the next six months.

The survey of registry users was only one aspect of the surveys recommended by the action plan. The consultant engaged to assist the Court in the self-assessment phase provided a discussion paper on other types of user surveying. However, surveying of employees and users involves expertise not held by the Court. Accordingly, a qualified consultant will need to be appointed to design the baseline survey, administer it, collate the survey results and report on the outcome, as well as design and implement follow up surveys. The Court will need to make a submission to government for financial resources to engage a qualified consultant to undertake these surveys.

Establishing adaptive management

In relation to outcome statement 1.9, concerning establishing processes to regularly review and improve all seven areas of court excellence, the action plan recommended continuation and extension of the Court's processes for adaptive management.

The Court has been at the forefront of courts in New South Wales in developing and applying performance indicators, both quantitative and qualitative, to monitor and adaptively manage its performance in achieving the objectives of court administration of equity, effectiveness and efficiency. The Court reports on its performance in its Annual Reviews (see Chapter 5) and in papers and articles (see B J Preston, "Operating an environmental court: the experience of the Land and Environment Court of New South Wales" (2008) 25 EPLJ 385 at 396-405); the Annual Reviews, papers and articles are published on the Court's website.

The process of implementing the Framework, including undertaking the self-assessment exercise, developing the improvement or action plan and implementing actions under the plan, has involved adaptive management. The Chief Judge, Senior Commissioner and Registrar have continued to meet regularly to review the Court's implementation of the action plan. The ad hoc planning committee will be reconvened by the end of the year to review the Court's performance in implementing the action plan and recommend adaptive management responses.

The Court continues to look for new methods of measuring performance in relation to the seven areas of court excellence.

Area 2: Court planning and policies

In Area 2, Court planning and policies, the Court has formulated and implemented many policies, as identified in the action plan.

Establishing goals and policies

In relation to outcome statement 2.1, concerning establishing short, medium and long term goals and policies, the planning committee identified the need to develop a five year strategy and establish a process for monitoring and review of that strategy. The planning committee envisaged that the strategy would run for a five year period from 2010 to 2014. However, the Court has found that implementation of the action plan, which is the initial phase, has taken longer than was envisaged. It is not

appropriate to formulate and implement a five year strategy until this initial phase has been completed. Accordingly, the Court has adjusted the timeframe for developing the five year strategy until 2011 to 2015.

The Court has developed numerous policies to achieve the Court's purpose and improve the quality of its performance. The policies include:

- **Case management policy:** The policy promotes case management in proceedings and provides guidance on the use and conduct of case management conferences.
- **Site inspections policy:** The Court undertakes inspections of sites that are the subject of dispute in court proceedings. The site inspections policy guides the conduct of these site inspections.
- **Commissioners' code of conduct:** The policy adopts principles of conduct with which commissioners should comply in the exercise of their functions as a commissioner of the Court as well as their activities and conduct outside the Court. Judges are subject to the standards in the *Judicial Officers Act 1989*.
- **Policy on complaints against Commissioners of the Land and Environment Court:** The policy regulates the process of making, examining and dealing with complaints against commissioners by any person, including Court users.
- **Delay in reserved judgments policy:** The policy provides for the making of inquiries and taking responsive action in relation to delays in the delivery of reserved judgments by commissioner and judges.
- **Commissioners' performance appraisal policy:** The policy establishes a basis for annual performance appraisal of commissioners as part of maintaining the highest standard of competency and personal integrity.
- **Identify theft prevention and anonymisation policy:** The policy aims to prevent identity theft by limiting disclosure of identity information in court decisions.
- **Guidelines for the waiver, remission and postponement of fees:** The guidelines are an interim measure pending adoption of a formal policy for waiver, postponement and remittance of court fees and collection of fines. The formal policy needs to be adopted as a uniform policy across all courts and tribunals in New South Wales.

The action plan also proposed preparation of a policy on access to information in court files. However, this proposal was overtaken by the legislature enacting the *Court Information Act 2010* and the *Government Information (Public Access) Act 2009*. These Acts now provide for access to information in court files.

Regular review of goals and results

In relation to outcome statement 2.2, concerning regular review of the Court's performance in meeting its goals and its adopted strategies, policies and procedures, the Chief Judge, Senior Commissioner and Registrar have regularly met to review the Court's implementation of the action plan. The ad hoc planning committee will meet again by the end of the year in order to review the Court's performance in implementing the action plan and recommend adaptive management responses.

Area 3: Court proceedings

In Area 3, Court proceedings, the action plan recommended actions to ensure court proceedings and dispute resolution services are fair, effective and efficient.

Balancing quality and efficiency

In relation to outcome statement 3.1, concerning balancing the objectives of timeliness, efficiency and effectiveness with the quality of court services and judicial decisions, the Court has continued its program of reform of its practice and procedure and case management. The Court adopted the modern civil practice and procedure in the *Civil Procedure Act 2005* and Uniform Civil Procedure Rules 2005 and revised its own Land and Environment Court Rules 2007. The overriding purpose of these rules of civil procedure is to ensure the just, quick and cheap resolution of all proceedings.

The Court has adopted totally revised practice notes for many of its classes of jurisdiction. These allow differential case management according to the class and type of proceeding. The result is that all matters of practice and procedure are generally self contained in the practice note for that type of proceeding, rather than scattered across different practice notes. The action plan recommended reviewing and extending the practice notes for other categories of cases. This review is being undertaken, but is being delayed pending certain external events taking place. For example, preparation of a practice note for criminal proceedings in Class 5 of the Court's jurisdiction is awaiting legislative reform to allow case management in criminal proceedings. Preparation of a practice note for civil mining matters in Class 8 of the Court's jurisdiction has been delayed as the number of cases in this jurisdiction was less than was anticipated in the first year of operation and the Court is awaiting a larger sample of cases in order to formulate the appropriate practice and procedure for these types of cases. Revision of the practice notes for compensation and valuation matters in Class 3 of the Court's jurisdiction is being undertaken after consultation with, and seeking the co-operation of, legal professional partners and court users in relation to the changes to better achieve the just, quick and cheap resolution of these matters.

The Court has provided guidance on particular aspects of proceedings by issuing policies on case management and site inspections. These policies are publicised on the Court's website.

The action plan recommended the preparation of provisions in practice notes concerning eliminating unnecessary adjournments and minimising the duration of

necessary adjournments between court attendances. The practice notes will be revised to incorporate such provisions, although currently there are already provisions discouraging such adjournments. The action plan also recommended that practice notes formulate targets for the number of pre-hearing attendances for categories of cases. Some practice notes do currently incorporate such a provision although others will be revised to incorporate such a provision. This will be done when the practice notes are otherwise reviewed and extended.

The action plan recommended that the Court formalise and refine the process for reporting on pending cases that are nearing and exceeding time standards and for taking appropriate case management measures to bring about finalisation of these cases. Amongst the measures undertaken by the Court to target delayed pending cases are:

- physically marking each court file on its creation with a bold sticker stating the target finalisation date so that each person dealing with the file is made aware of that date and can take action consistent with achieving the target;
- preparation every two weeks of a list of all cases exceeding time standards of 6, 8, 12, 16 and 24 months and distribution of the list to the Chief Judge, Senior Commissioner and Registrar as well as judicial officers undertaking lists and case management, so that measures can be taken to bring about finalisation of these cases;
- preparation every 3 months of comprehensive caseload statistics including registrations; finalisations; pending caseload (total and respective percentages greater than the time standards of 6, 8, 12, 16 and 24 months); clearance rate; backlog indicator; compliance of finalised cases with time standards; compliance of reserved judgments with time standards for delivery; means of finalisation of cases, including by ADR; appeal numbers and outcomes; and number of hearing attendances, and distribution of this quarterly caseload report to the Chief Judge and Registrar; and
- identification of inactive or delayed matters and taking action to bring about their finalisation.

The Court has worked to improve judgment timeliness by:

- providing training in judgment writing (for reserved judgments) and decision-making (for ex tempore judgments) for judges, commissioners and registrars;
- requiring judges, commissioners, and registrars to report monthly to the Chief Judge on the status of their reserved judgments and part heard cases and the appropriate adaptive management measures they intend to take to facilitate delivery of reserved judgments and the finalisation of part heard cases; and
- monitoring by the Chief Judge of the performance of judges and commissioners in achieving judgment timeliness and the provision of the monitoring results on a confidential basis to individual decision-makers to assist in self-improvement.

Compliance with standards of judgment timeliness is a factor that is taken into account in performance appraisal of commissioners.

The action plan recommended, and the Court has implemented, a process for collecting and reporting on a quarterly basis statistics on timeliness and delay for categories of cases, including the overall time (days) from filing to finalisation; the time from filing to the first day of hearing; the time from the first to the last day of hearing; and the time from the last day of hearing to delivery of judgment. These statistics are collected for each class of the Court's jurisdiction and relevant categories of cases in each class. The Chief Judge, Senior Commissioner and Registrar review these statistics and identify trends and make recommendations for appropriate adaptive management responses.

The action plan recommended that the Court undertake a regular review of the Court's policies on practice and procedure in response to data on case category timeliness with a view to reducing delays and improving overall category timeliness. This process of review is occurring informally between the Chief Judge, Senior Commissioner and Registrar as well as through the process of review of the Court's practice notes.

The action plan also proposed increasing the accessibility and facilitating the use of appropriate dispute resolution. The Court has been active in promoting appropriate dispute resolution in the Court. Initiatives include:

- **Conciliation:** The Court promoted legislative reform to be able to offer conciliation in a broader range of matters (in Classes 1, 2 and 3 of the Court's jurisdiction). The Court arranged with the Australian Commercial Disputes Centre for all commissioners to be trained in conciliation. The Court publicised and conducted seminars for professional partners and court users on conciliation in the Court. The Court has published papers and articles on the Court's conciliation program (see B J Preston "Conciliation in the Land and Environment Court of NSW, Nature and Benefits" (2007) 13 LGLJ 110). These are published on the Court's website under Speeches and Papers. The success of the program is evidenced by the increase in conciliation conferences from 17 in 2005 to 481 in 2009.
- **Mediation:** The Court has arranged for all full-time commissioners and the registrar to undertake mediation training with the Australian Commercial Disputes Centre to obtain national accreditation as mediators, thereby providing quality assurance to users of mediation in the Court.
- **Multi-door courthouse:** The Court has been in the forefront of promoting the Court as a dispute resolution centre, providing an array of dispute resolution services under the one roof. The aim is to match the forum (the appropriate dispute resolution process) to the fuss (the particular dispute). The Court's initiatives in this regard have been published (see B J Preston, "The Land and Environment Court of New South Wales: Moving towards a multi-door courthouse - Part I" (2008) 19 ADRJ 72 and Part II (2008) 19 ADRJ 144) and are on the Court's website.

- **Restorative justice conferencing:** The Court has pioneered restorative justice conferencing (victim offender meditation) in appropriate criminal proceedings for environmental offences (see *Garrett v Williams* (2007) 151 LGERA 92 and the articles by M Hamilton, “Restorative justice intervention in an environmental law context: *Garrett v Williams*, prosecutions under the Resource Management Act 1991 (NZ), and beyond” (2008) 25 EPLJ 263) and J M McDonald, “Restorative justice process in caselaw” (2008) 33 ALJ 40).
- **Submissions on reform to implement ADR:** The Court has been active in making submissions and recommendations to the Attorney General of NSW on legislative and administrative reforms to increase the use and effectiveness of ADR in NSW. These submissions and recommendations have been recognised as constructive: see, for example, the ADR Blueprint Reports.
- **Improved information on ADR:** The Court is in the process of designing, preparing and publishing an interactive web portal on ADR in the Court, with materials explaining ADR processes, how to prepare for them and how they are conducted. Information will also be made available in hard copy in the form of kits and pamphlets.

Balancing judicial and staff roles

In relation to outcome statement 3.2, ensuring an effective and efficient division of labour between judges, commissioner and registrars, and court staff, the Court is in the process of increasing the human resources in the registry to provide greater support for commissioners and the registrar to improve the timeliness, efficiency and effectiveness of typing and production of judgments and orders. This involves restructuring of the registry staff and obtaining government approval for additional staff and financial resources.

The review undertaken in relation to this outcome statement also identified that the Court’s internal procedures for recording orders and other court processes, entering orders, and delivering and publishing judgments could be improved. In response, the Court has issued an internal policy for judges and commissioners on recording court orders and court processes and publishing judgments which will improve the effectiveness and efficiency of the process.

The Court has also taken other measures to facilitate an effective and efficient division of labour between commissioners and registry staff in relation to preparation and delivery of commissioners’ judgments. These include improving access to commissioners to the latest speech recognition and dictation software and training in its use; adopting a uniform approach to the delivery of transcript of commissioners’ judgments; and adopting procedures for the notification of and preparation for the delivery of reserved judgments of commissioners.

Area 4: Public trust and confidence

In Area 4, Public trust and confidence, the Court has undertaken a number of programs to maintain and reinforce public trust and confidence in the court and the administration of justice.

Communicating court achievements and outcomes

In relation to outcome statement 4.1, to establish communication processes to ensure that the community understands and is aware of the work of the court and its processes and decisions, the action plan identified ways to improve court communication, including preparation and publishing, especially on the Court's website, information on the Court, its personnel and its processes. Action undertaken includes:

- **Improved information on court personnel:** the Court has included biographical information on each judge, commissioner, acting commissioner and registrar on the Court's website. Providing biographical information improves the understanding of the community and court users of the expertise of the persons who are performing dispute resolution services at the Court. The Court also publicises its continuing professional development program for judges, commissioners and registrars. This also improves the perception of the community and court users of the expertise of these persons.
- **Improved information on court processes:** the Court publishes on the Court's website information on many court processes. This material is being revised and extended. The Court has recently issued policies on case management and site inspections as part of the program to upgrade information on the dispute resolution services offered by the Court. Further information will be made available on interlocutory court attendances, court hearings, conciliation conferences, mediations and neutral evaluation processes.
- **Improved information on ADR:** the Court is in the process of upgrading its information on the appropriate dispute resolution services offered by the Court.
- **Improved means of communication:** as part of the process of upgrading information on appropriate dispute resolution services, the Court is examining ways to provide information in interactive modes and by means of video and audio programs. The Court already offers a video on the use of concurrent evidence at hearings (prepared in conjunction with the Judicial Commission of New South Wales).
- **Improved information on the Court's decisions:** the Court is represented on a working party to upgrade the NSW Caselaw website, including reviewing the utility and helpfulness of the categories of the Court's decisions in Caselaw. The Court has improved its homepage so as to increase the legibility and understandability of information on the Court's decisions. The Court has also, as part of the program of revising and extending webpages on specialist areas of jurisdiction in the Court, categorised the Court's decisions. This has occurred in relation to tree disputes, mining, biodiversity and heritage.
- **Improving and extending webpages on specialist areas of jurisdiction:** the Court has established specialised webpages for categories of disputes, including disputes under the *Trees (Disputes Between Neighbours) Act 2006*; mining disputes under the *Mining Act 1992* and *Petroleum (Onshore) Act 1991*; disputes raising issues of biodiversity; disputes raising issues of heritage; and decisions

establishing planning principles. These innovative and informative webpages explain the specialised area of jurisdiction and provide links to relevant primary and subordinate legislation; decisions of the Court, as well as other courts in Australia, relevant to the specialised area of jurisdiction, grouped under relevant categories of decisions; external governmental and non-governmental sites on the specialised area of jurisdiction; as well as other useful information. The Court is in the process of preparing a new webpage on valuation objections, another specialised area of jurisdiction of the Court. The webpages have been highly commended by court users, professional partners, government and non-government organisations, university and educational institutions, and the public.

- **Publicising sentencing decisions database:** the Court, in conjunction with the Judicial Commission of NSW, has been a world leader in developing a sentencing database for environmental crime. The sentencing database is part of the Judicial Information Research System (JIRS) maintained by the Judicial Commission of New South Wales. It is accessible to all judicial officers free and to other persons by subscription. Sentencing statistics for environmental offences display sentencing graphs and a range of objective and subjective features relevant to the environmental offences. The user is able to access directly the remarks on sentencing behind each graph. The Court has publicised this innovative sentencing database (see B J Preston and H Donnelly, “Achieving consistency and transparency in sentencing for environmental offences”, Judicial Commission of New South Wales Monograph 32, June 2008; B J Preston and H Donnelly, “The establishment of an environmental crime sentencing database in New South Wales” (2008) 32 *Criminal Law Journal* 214; B J Preston and H Donnelly, “Environmental crime sentencing database – a world first” (2008) 20(4) *Judicial Officers’ Bulletin* 27; B J Preston, “A Judge’s Perspective on Using Sentencing Databases” (2010) 9(4) *The Judicial Review* 421). The Court reports on the sentencing database in its Annual Reviews.

An action recommended in the communication strategy was for the Court to identify opportunities for court personnel to speak about the Court, its processes and its decisions, and its performance. To that end, the Chief Judge, Senior Commissioner and Registrar, amongst other court personnel, have identified opportunities for speaking on these topics to professional partners and court users. The Court reports on speaking engagements by court personnel in its Annual Review (see Chapter 6).

The communication strategy also identified the need for the Court to prepare and implement a media policy concerning access to the Court and its hearings, decisions and information. The communication strategy also recommended that the Court identify circumstances where media releases and other ways of providing information to the media could beneficially be undertaken.

One major way the Court provides information is through its website. The Court maintains an “Announcements” section on the homepage of its website. Categories of announcements include press releases; new policies, practice notes and practice directions; appointments of judges and commissioners; and news and information regarding the Court’s website including new features or new information available on the Court’s website.

The Court has also notified the media of news and initiatives of the Court which has resulted in articles being published about these initiatives. For example, articles have been published on the Court's work in developing and implementing performance indicators, both quantitative and qualitative, to monitor and adaptively manage its performance so as to achieve the objectives of court administration of equity, effectiveness and efficiency ("A judicial numbers man you can count on", *Australian Financial Review*, 28 August 2009, p. 19).

The Court identified that another effective means of publicising its decisions would be to publish a court newsletter. Accordingly, the Court now produces and publishes a comprehensive quarterly newsletter summarising recent legislation, judicial decisions of the Court, as well as decisions of other courts in areas of the Court's jurisdiction, and changes in practice, procedure and policies of the Court. The Court is the first court in New South Wales, and perhaps elsewhere, to make available such information in such a format. The newsletters are publicly accessible on the Court's website on its homepage under Legal Resources. The newsletter is published electronically so that links are available to all legislation, decisions and policies summarised in the newsletter.

The action plan also identified the need for the Court to be proactive in communicating to the community and court users decisions as they are made. To this end, the Court has established an email notification system for specialised areas of the Court's jurisdiction, currently tree and native vegetation as well as mining. Emails are sent to court users, professional partners and members of civil society who have registered to receive notification of recent legislation, court policies, practice and procedure and court decisions relevant to these specialised areas of the Court's jurisdiction. The Court is investigating extending this email notification service to other specialised areas of the Court's jurisdiction.

The Court publishes speeches, papers and articles of judges and commissioners on the Court's website. The feedback that the Court has received is that these speeches are extensively referenced and used both in Australia and overseas.

The Court publishes an Annual Review. The Court has made concerted efforts to provide considerably more information on the Court and its personnel, processes and performance than has been customary for other courts. The product is a valuable source of information that is referenced and used by professional partners, court users and the public. The Court's Annual Reviews are available on the Court website and are also distributed in hard copy and on CD to hundreds of organisations and persons interested in the Court and its work.

The Court has worked closely with a legal professional organisation, NSW Young Lawyers, in the production of "A Practitioner's Guide to the Land and Environment Court of NSW" (3rd ed, 2009). The guide improves access to justice by providing concise, plain English explanations of the Court and its practice and procedure. The guide is provided in hard copy by the registry to self represented litigants and practitioners unfamiliar with the jurisdiction. It is also accessible electronically on the Court's website under Publications.

The action plan also identified the need to continue the preparation and distribution of information on the Court, its personnel and its processes and decisions. The Court is upgrading its website and information on the appropriate dispute resolution services offered by the Court, extending the webpages on specialised areas of the Court's jurisdiction, and providing more interactive means of accessing information about the Court. A longer term project is to produce information for schools and community organisations.

Accounting for performance

In relation to outcome statement 4.2, concerning reporting on and accounting for the Court's performance, the action statement identified 5 actions. Three of the actions involved the Court reporting in its Annual Review on its performance in the seven areas of court excellence identified in the Framework; complaints received about court members and their resolution; and on the Court's performance in continuing professional development. The Court undertook these actions in the Annual Review 2009.

Two other actions involved measuring the Court's performance ranking and the reputation of the Court. One means by which the Court's performance has been able to be evaluated is by reference to a comprehensive, worldwide study of environmental courts and tribunals (ECTs), published by the Access Initiative of the World Resources Institute (see G Pring and C Pring, *Greening Justice: Creating and Improving Environmental Courts and Tribunals*, The Access Initiative of the World Resources Institute, 2009). That study identified the Court as a "leading example of a specialised court" and "best practice" example (see, for example, pp v, 110 and 111). The literature used by judges of the Court was extensively used and referenced in the study (see, for example, pp 2, 5, 6, 14, 62, 65, 89 and 90 and in the bibliography at pp 98, 100, 101 and 102). The Court's work on ADR was expressly recognised (p 65) and the study identified the Court as one of the "outstanding ECT examples of visionary ADR access to justice" (see pp 72 and 112). The study recognised the Court's pioneering work in evaluating court performance and outcomes, describing the Court as a "model" in this regard (p 89 and see also p 90 where the Court's literature in court performance and evaluation is extensively referenced and discussed).

Another means of evaluating the Court's reputation is to have regard to the demand for the Court to exchange knowledge and experience with other courts and tribunals and court administration bodies, both nationally and internationally. The Court's knowledge and experience has been in significant demand. The Court has hosted numerous judicial, governmental, academic and other delegations and worked with courts and tribunals in China, Kenya, Indonesia, Philippines, Thailand and Trinidad and Tobago. The Court's work in this regard is reported in the Court's Annual Reviews (Chapter 6).

The Court has engaged the Australasian Legal Information Institute (AustLII) to undertake the action of measuring the reputation of the Court including by measuring the degree to which the Court's judgments are cited by other courts in Australia and overseas and in academic literature (articles and books). That project is currently being implemented.

Ensuring financial responsibility

In relation to outcome statement 4.3, concerning ensuring financial responsibility, the Court's expenditure is subject to regular financial review and audit external to the Court. The revenue and expenditure of the Court is monitored by the finance section of the Department of Justice and Attorney General. Monthly reports on revenue and expenditure are provided by the finance section to the Registrar of the Court. The Registrar is required to provide explanations to the Assistant Director-General on any unfavourable variances from the budget, which appear in the monthly reports. The NSW Audit Office conducts an audit of the financial processes in place in the Court and how those processes are used for revenue and expenditure in the financial year.

Area 5: User satisfaction

In Area 5, User satisfaction, the Court's action plan identified the need for the Court to undertake surveys to measure professional satisfaction as well as user satisfaction. The consultant has provided a discussion paper on the taking of such surveying. As noted, the Court does not have the capacity to undertake such survey and will need to make submissions to government for financial resources to engage a consultant to design and implement such surveying. These tasks still need to be undertaken.

Nevertheless, the measures the Court is taking in other areas of court excellence do provide opportunities for the Court to assess user satisfaction. For example, the Court's establishment and operation of Court User Groups and its participation in conferences, seminars and public forums do provide opportunities for the Court to receive feedback from professional partners and court users.

Area 6: Court resources

In Area 6, Court resources, the Court continues to improve its management of the Court's human, material and financial resources.

Managing human resources

In relation to outcome statement 6.1, concerning managing human resources, the Court is working with the Department of Justice and Attorney General on a proposal to develop a workload model for the Court. Such a model might describe the relationship between court case categories and the average time needed by a judge or commissioner and court staff to prepare and finalise cases and assist in predicting the personnel budget needed to meet anticipated workloads.

Aligning professional and institutional values

In relation to outcome statement 6.2, concerning aligning professional and institutional values, the steps taken by the Court to actively involve all court personnel in the self-assessment process under the Framework in the development and implementation of the action plan assist in aligning professional and institutional values.

Continuing education of court personnel

In relation to outcome statement 6.3, concerning continuing education and training of judges, commissioners and court staff, the Court has been active in establishing and implementing a continuing professional development program. The Court is committed to the professional development of judges and commissioners, from induction and onwards. The Court conducts induction training for new commissioners and arranges for judges to attend the National Judicial Orientation Program. The Court has produced a comprehensive handbook for commissioners which provides a valuable source of information to improve the knowledge and skills of commissioners. The Court has a mentoring program for new commissioners. The Court has adopted a continuing professional development policy for all judges and commissioners of the court. The policy commits judges and commissioners to five days (30 hours) of continuing professional development a year. The Court provides a two day court conference and 6 to 8 twilight seminars (1.5 hours each) in conjunction with the Judicial Commission of New South Wales. The Court encourages individual judges and commissioners to attend other professional development activities and programs. The Court monitors the continuing professional development participation of judges and commissioners for each calendar year.

The Court evaluates the continuing professional development program both quantitatively and qualitatively to ensure that they meet the needs of the judges, commissioners and registrars of the Court. Quantitatively, the Court monitors and reports in its Annual Review on the Court's performance in achieving the collective target of the Court as well as the individual standards for each judge and full-time commissioner. Qualitatively, the Court distributes evaluation forms to each participant in each educational program to receive feedback on whether the educational objectives were met and to measure the program's usefulness, content and delivery. The ratings derived from the evaluation forms assist in measuring the success of the education programs. The Court has a target of 85% satisfaction. The Court reports on its performance in achieving the qualitative target in its Annual Review.

The Court also arranges for specific training to meet identified skill needs of judges, commissioners and registrars. Amongst the specific training programs, the Court has arranged:

- a 3 day arboriculture course for commissioners and the registrars to assist in hearing and disposing of disputes under the *Trees (Disputes Between Neighbours) Act 2006*;
- a 3 day conciliation course for commissions and registrars, conducted by the Australian Commercial Disputes Centre, to assist in conducting conciliation under s 34 of the *Land and Environment Court Act 1979*;
- a 6 day mediation course for commissioners and registrars, conducted by the Australian Commercial Disputes Centre, to obtain national mediation accreditation;

- a one day judgment writing course for commissioners; and
- a one day ex tempore judgment workshop for commissioners.

The Court, in conjunction with the Judicial Commission of New South Wales, is investigating other educational activities for enhancing communication skills, court craft and dispute resolution techniques for judges and commissioners.

Another means of enhancing knowledge and skills of judges and commissioners is the publication of a court newsletter with the latest legislation, decisions and changes in practice and procedure. The Court publishes its judicial newsletter quarterly. The judicial newsletter is published electronically and distributed to every judge, commissioner and registrar.

The action plan also identified the need to extend professional and managerial training for registrars and registry staff. As noted earlier, steps are being taken for registrars, managers and registry staff to undertake professional and managerial training.

The Court also arranged for training of registry staff and judges' staff in improving client service in their dealings with court users and the public, including at the registry counter, in court and in written, telephone and email communications.

Managing material resources

In relation to outcome statement 6.4, concerning managing material resources, the action plan identified the need to improve the reliability and speed of court transcription services. Court transcription services are provided by the Reporting Services Branch of the Department of Justice and Attorney General. The Court is endeavouring to negotiate a service level agreement with that branch. Unfortunately, due to financial difficulties being encountered by that branch, agreeing on a satisfactory service level agreement has not yet been possible. However, negotiations are still continuing.

The action plan also identified the need to upgrade the Court's computer system and IT programs for case management, listings and e-Court. As noted earlier, the Court has installed a computer information system (CITIS) which has significantly improved the Court's capabilities in respect of case management and listings. The Court provides an electronic court system for court users called e-Court. As the Court's jurisdiction has expanded, the need to also expand the e-Court service has arisen. The Court has almost finalised the process of extending e-Court to all classes of the Court's jurisdiction.

The Court has reviewed the capabilities of computers and software for all commissioners, including providing up to date software for judgment writing, and has provided training on the proper utilisation of such software to maximise effectiveness and efficiency. The result has been that all commissioners are now provided with sufficient material resources to write and publish decisions and orders. Judges are already provided with adequate staff and material resources.

Managing adequate and safe facilities

In relation to outcome statement 6.5, concerning managing adequate and safe facilities, the Court participated in a review of the security arrangements undertaken by the Department of Justice and Attorney General for the Court building and for judges, commissioners and court staff. Identified shortfalls in security arrangements will need to be addressed by the Department of Justice and Attorney General.

Managing financial resources

In relation to outcome statement 6.6, concerning managing financial resources, the Court participates in cyclical, rationalised budget processes. As with most courts, there is pressure to maintain or reduce expenditure. This creates constraints on undertaking comprehensive actions. Nevertheless, the Court has been fortunate in securing support of the Department of Justice and Attorney General to undertake identified actions under the action plan. The Department of Justice and Attorney General has been very supportive of and has funded actions to engage a consultant to assist the Court in the self-assessment process under the Framework; to increase the accessibility and use of ADR including upgrading the Court's website and information on ADR; to train commissioners and registrars in conciliation and mediation; to undertake the project with AustLII to measure the reputation of the Court; to investigate the proposal to develop workload models; to upgrade the Court's computer system and IT programs for case management, listings and e-court; to upgrade the physical resources of the registry and public areas of the Court; amongst other activities.

Area 7: Affordable and accessible services

In Area 7, Affordable and accessible services, the Court is pursuing actions to provide practical and affordable access to information, court processes and services.

Pursuing affordable services

In relation to outcome statement 7.1, pursuing affordable services, the action plan identified three actions: first, reducing the cost of litigation; secondly, reviewing the affordability of Court fees; and thirdly, preparing and implementing a policy on waiver, postponement or remittal of fees. In relation to the first action, the Court is undertaking a review of its case management and practice and procedure with a view to reducing costs. However, further work needs to be done to implement this action. In relating to the second action, the NSW Government annually reviews the level and types of court fees charged and determines whether they should be changed. The Court's views are sought as part of this review.

In relation to the third action, the Department of Justice and Attorney General is preparing a policy on waiver, postponement or remittal of fees for all courts. The Court's views are being sought as part of this process of preparing this policy. The Court has in the interim adopted guidelines on the waiver, postponement and remittal of court fees.

Ensuring physical access

In relation to outcome statement 7.2, ensuring easy physical access to and within the court building, the Court has made a submission to the Department of Justice and Attorney General for refurbishment of the Court's registry area and public areas. That submission has been approved and the construction work is anticipated to be undertaken within the next 6 months. The refurbishment involves:

- facilitating full-time staffing of the registry counter through an ergonomic counter workstation;
- an improved "face to face" model of client service where a court user will be greeted upon arrival in the registry by a person rostered to serve at the counter;
- providing additional public space at the counter for inspection of court files;
- providing publicly accessible computer terminals, printers, photocopiers and workstations for the public;
- providing a counter at which a disabled person can be seated for counter service;
- separation between the registry counter and "back-of-house" area to allow privacy for court users at the counter;
- providing a meeting room that can be used for consultation between registry staff and court users, and by registry staff and court users;
- providing a display stand supplying free of charge brochures, pamphlets and information on the court and its processes; and
- improved signage throughout the court building ensuring easy and legible access to court facilities, including registry, courtrooms, mediation rooms and conference rooms.

The upgraded registry and public areas will be a significant improvement in terms of legibility and accessibility for court users and the public and providing high quality client service interactions.

The Court continues to monitor and evaluate geographical accessibility of the Court, including holding of country and metropolitan hearings, on-site hearings, court hearings commenced on-site to take local evidence, teleconference hearings, e-Court hearings and video conferencing. The Court records statistics on country and metropolitan hearings held in court and on-site hearings. The listings section of the registry, the Registrar and the Senior Commissioner look at future listings to examine opportunities for grouping hearings in country areas. The listings section, Senior Commissioner and Registrar also look for opportunities for teleconference hearings to be conducted, especially for interlocutory attendances instead of court hearings. For example, in relation to tree disputes, instead of directions hearings being held in the local courts in the metropolitan centres of Hornsby and Sutherland, teleconference hearings are now being undertaken.

The action plan also recommended that the Court undertake a review of the extent, quality and ready availability of facilities and services for, and information on, access for persons with special needs. In relation to physical facilities, the upgrade of the registry and public areas of the Court that will be undertaken in the next 6 months should ensure accessibility for persons with special needs. In relation to services and information, the Court is collaborating with the Department of Justice and Attorney General for a review of the adequacy of its services and information for persons with special needs.

Ensuring virtual access

In relation to outcome statement 7.3, ensuring virtual access, such as electronic/remote access, the Court has upgraded the audiovisual equipment in its courtrooms to provide DVD/VCR facilities. The continuing advances in technology have allowed professional partners, such as legal practitioners, court users and the public to access the internet by wireless through their mobile telephone company or internet service provider, without the Court having to provide mechanisms for access to the internet. This has meant that internet access is available in virtually all courtrooms and public areas of the Court.

As part of the refurbishment of the registry area, the Court will provide computer terminals in the public area of the registry, enabling court users to access the Court's website and links from the Court's websites, printing and photocopying facilities, and information and materials on the Court and its processes.

The Court is undertaking a review of its website including its content, accessibility and useability and is undertaking action to improve these features.

Finally, the Court has almost completed a project of extending its e-court service to all classes of its jurisdiction. The Court will promote the e-court service, including updating the e-court users manual and providing forms and information on e-court. The result will be that registered e-court users, mostly legal practitioners, can commence proceedings in all classes of the Court's jurisdiction online, file documents online and view the online record of documents filed in all classes. This will result in:

- significant time and cost savings to parties in circumstances where they will no longer need to attend the registry to commence their proceedings or to file certain documents;
- improvements in the quality and accessibility of client service interactions; and
- delivery of up to date services by the internet to all parties in all classes of the Court's jurisdiction.

Conclusion

As the Framework notes, excellence is a continual journey. The Court has embarked on and has travelled part way along the path of that journey. In doing so,

it has identified and addressed many areas for improvement. The Court is now a better performing court in the areas of court excellence than it was before. But there is more work to be done. The Court is still implementing the action plan it formulated in response to the Court's self-assessment of its performance. It will also need to review and re-examine its performance in relation to the changing environment in which the Court operates. The Framework has been and will continue to be a valuable tool in the Court's journey to court excellence.