



1

COURT PROFILE

JURISDICTION AND DIVISION

The court system in New South Wales is structured on a hierarchical basis

The Supreme Court is the superior court of record in New South Wales and, as such, has an inherent jurisdiction in addition to its specific statutory jurisdiction.

The Supreme Court of New South Wales: our place in the court system

The Supreme Court has appellate and trial jurisdictions. The appellate courts are the:

- Court of Appeal; and
- Court of Criminal Appeal.

The trial work of the criminal and civil jurisdictions is divided between two Divisions:

- Common Law Division; and
- Equity Division.

This structure facilitates the convenient dispatch of business in accordance with the provisions under section 38 of the *Supreme Court Act 1970*.

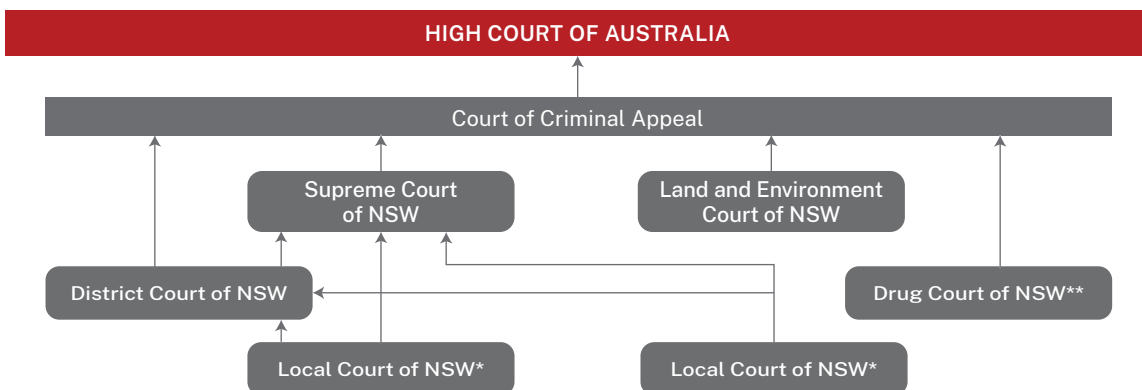
Section 23 of the *Supreme Court Act 1970* provides the Court with all jurisdiction necessary for the administration of justice in New South Wales. The Supreme Court has supervisory jurisdiction over other courts and tribunals in the State. The Court generally exercises this supervisory jurisdiction through its appellate courts.

The Land and Environment Court of New South Wales is a specialist court of statutory jurisdiction. The Judges of this court have the status of Supreme Court Judges.

The District Court of New South Wales is an intermediate court, and its jurisdiction is determined by statute. The Local Court of New South Wales sits at the base of the hierarchy of New South Wales courts and has broad criminal and civil jurisdictions.

The NSW Civil and Administrative Tribunal (NCAT) was established by the *Civil and Administrative Tribunal Act 2013*. The NCAT is the single point of access for specialist tribunal services in NSW, consolidating the work of 22 former tribunals. There are four divisions of the NCAT: the Administrative and Equal Opportunity Division, the Consumer and Commercial Division, the Guardianship Division and the Occupational Division.

Figure 1.1 NSW COURT SYSTEM CRIMINAL JURISDICTION

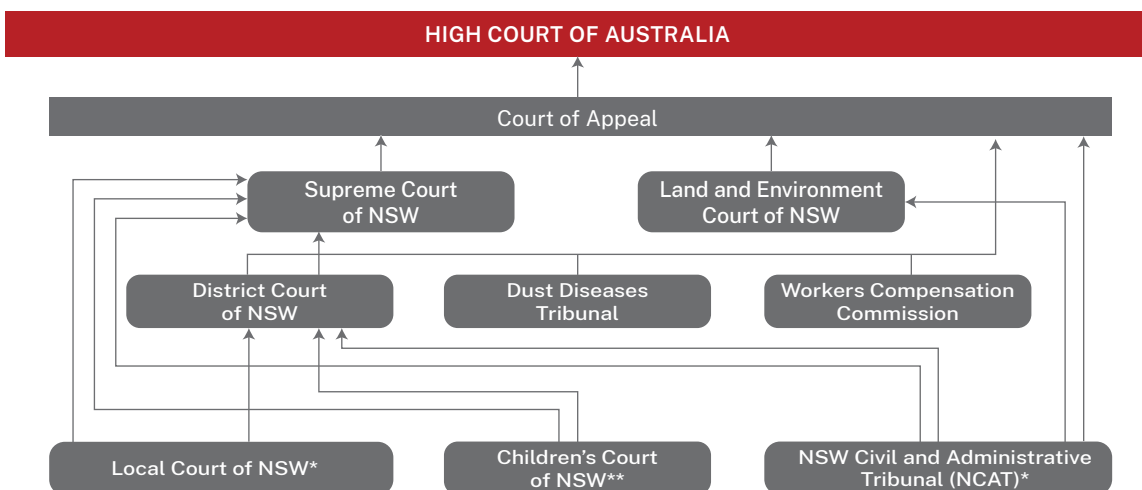


Note: The above diagram is a simplified representation of the appeal process in NSW. Actual appeal rights are determined by the relevant legislation.

* Appeals can be made to the District Court of NSW, or directly to the Supreme Court in certain circumstances.

** Some appeals from committal proceedings may be made directly to the Court of Criminal Appeal

Figure 1.2 NSW COURT SYSTEM CIVIL JURISDICTION



Note: The above diagram is a simplified representation of the appeal and judicial review process in NSW. Actual appeal rights are determined by the relevant legislation.

* Appeals from certain decision of NCAT may be made to the Court of Appeal, Supreme Court, Land and Environment Court or District Court. See *Civil and Administrative Tribunal Act 2013* ('the Act'), Part 6, Division 3. Also, certain decisions may be judicially reviewed by the Supreme Court or Court of Appeal under Section 34 of the Act; refer to section 48 of the *Supreme Court Act 1970* as to which decisions are assigned to the Court of Appeal.

** Appeals can be made to the District Court of NSW, or directly to the Supreme Court in certain circumstances

JUDGES

The judicial officers of the Supreme Court of New South Wales are its Judges and Associate Judges. The Registrars of the Court have limited decision-making powers.

The Governor of New South Wales formally appoints the Judges of the Court following a decision by Cabinet. Judicial appointments are made on the basis of a legal practitioner's integrity, high level of legal skills and the depth of his or her practical experience.

Appointment is pursuant to section 25 of the *Supreme Court Act 1970*. Section 25 specifies that the Court will include: a Chief Justice, a President of the Court of Appeal and such other Judges of Appeal, Judges and Associate Judges as the Governor may appoint from time to time. The Governor is also empowered to appoint qualified persons as Acting Judges of Appeal or Acting Judges when the need arises.

The Chief Justice is, by virtue of the office, a Judge of Appeal, and the senior member of the Court of Appeal. The other members of the Court of Appeal are the President and the Judges of Appeal. The Judges of the Court are assigned to specific Divisions and ordinarily confine their activities to the business of those Divisions. The Chief Justice may certify that a particular Judge should act as an additional Judge of Appeal in a particular matter before the Court of Appeal.

The *Supreme Court Act 1970* also provides that the Chief Justice may appoint Judges to administer a specific list within the Common Law or Equity Divisions.

Set out below are the Judges of the Court, in order of seniority, as at 31 December 2023.

Chief Justice of NSW

The Hon. Andrew S Bell

President of the Court of Appeal

The Hon. Justice Julie Ward

Judges of Appeal

The Hon. Justice Anthony Meagher

The Hon. Justice Fabian Gleeson

The Hon. Justice Mark Leeming

The Hon. Justice Anthony Payne

The Hon. Justice Richard White

The Hon. Justice David Hammerschlag

The Hon. Justice Anna Mitchelmore

The Hon. Justice Jeremy Kirk

The Hon. Justice Christine Adamson

The Hon. Justice Kristina Stern

The Hon. Justice Ian Harrison

Chief Judge at Common Law

The Hon. Justice Ian Harrison

Chief Judge in Equity

The Hon. Justice David Hammerschlag

Judges

The Hon. Justice Michael Walton

The Hon. Justice Stephen Rothman AM

The Hon. Justice Derek Price AO

The Hon. Justice Michael Slattery AM AM (Mil) RAN

The Hon. Justice David Davies

The Hon. Justice Michael Ball

The Hon. Justice Peter Garling RFD

The Hon. Justice John Sackar

The Hon. Justice Ashley Black

The Hon. Justice James Stevenson

The Hon. Justice Stephen Campbell

The Hon. Justice Richard Button

The Hon. Justice Geoff Lindsay AM

The Hon. Justice Francois Kunc

The Hon. Justice Stephen Robb

The Hon. Justice Robertson Wright

The Hon. Justice Peter Hamill

The Hon. Justice Helen Wilson

The Hon. Justice Des Fagan

The Hon. Justice Natalie Adams

The Hon. Justice Julia Lonergan

The Hon. Justice Guy Parker

The Hon. Justice Kelly Rees

The Hon. Justice Lea Armstrong

The Hon. Justice Trish Henry

The Hon. Justice Mark Ierace

The Hon. Justice Richard Cavanagh

The Hon. Justice Kate Williams

The Hon. Justice Hament Dhanji

The Hon. Justice Elisabeth Peden

The Hon. Justice Mark Richmond

The Hon. Justice Michael Meek

The Hon. Justice Dina Yehia

The Hon. Justice Nicholas Chen

The Hon. Justice Sarah McNaughton

The Hon. Justice Richard Weinstein

The Hon. Justice Deborah Sweeney

The Hon. Justice Scott Nixon

The Hon. Justice Anthony McGrath

The Hon. Justice Sarah Huggett

Acting Judges of Appeal (in alphabetical order)

The Hon. Acting Justice John Basten

The Hon. Acting Justice John Griffiths

The Hon. Acting Justice Carolyn Simpson AO

Acting Judges

Set out below are details of those persons who held commissions as Acting Judges during the 2023 calendar year. Unless otherwise indicated, the judicial officer's commission was effective for the entire calendar year. Acting Judges are asked to preside over specific hearings as the need arises.

The Hon. Acting Justice Michael Elkaim

The Hon. Acting Justice RA Hulme

The Hon. Acting Justice Monika Schmidt AM

Associate Judges

The Governor appoints Associate Judges to the Court under section 111 of the *Supreme Court Act 1970*.

The work of an Associate Judge generally involves hearing applications that arise before trial, certain types of trial work and work on proceedings that the Court of Appeal or a Judge may refer to the Associate Judge.

Applications that arise before trial include:

- applications for summary judgment
- applications for dismissal of proceedings
- applications for extensions of time to commence proceedings under various Acts
- applications for the review of decisions of Registrars.

IN BANKRUPTCY
REGISTERED
COURT
LEGAL
PROFESSION
ONLY.

As at 31 December 2023, the Court's only Associate Judge was the Honourable Joanne Ruth Harrison (Common Law Division).

In the Common Law Division, an Associate Judge conducts hearings of actions for personal injury and possession of property in addition to appeals from the Local Court and various tribunals.

APPOINTMENTS

The Hon. Justice Michael Elkaim was sworn in as Acting Judge on 30 January 2023.

The Hon. Justice Christine Adamson was sworn in as a Judge of Appeal on 3 February 2023.

The Hon. Justice Kristina Stern was sworn in as a Judge and as a Judge of Appeal on 8 June 2023.

The Hon. Justice Ian Harrison was sworn in as Chief Justice in Common Law on 9 November 2023.

The Hon. Justice Richard Weinstein was sworn in as a Judge on 1 February 2023.

The Hon. Justice Deborah Sweeney was sworn in as a Judge on 8 February 2023.

The Hon. Justice Scott Nixon was sworn in as a Judge on 8 August 2023.

The Hon. Justice Anthony McGrath was sworn in as a Judge on 15 August 2023.

The Hon. Justice Sarah Huggett was sworn in as a Judge on 12 December 2023.

RETIREMENTS

The Hon. Justice Robert Macfarlan, Judge of Appeal, retired on 22 February 2023.

The Hon. Justice Paul Brereton AM RFD, Judge of Appeal, retired on 31 May 2023.

The Hon. Justice Robert Beech-Jones, Chief Judge in Common Law, retired on 19 October 2023.

The Hon. Justice Geoffrey Bellew, Judge, retired on 10 February 2023.

The Hon. Justice Philip Hallen, Judge, retired on 30 June 2023.

The Hon. Justice Rowan Darke, Judge, retired on 16 August 2023.

JUDICIAL EDUCATION

Upon appointment, Supreme Court and District judges usually attend the National Judicial Orientation Program, conducted by the National Judicial College of Australia, with assistance from the Judicial Commission of New South Wales. Held in various locations around Australia, this five-day orientation program assists newly appointed judicial officers with their transition to judicial office by facilitating the development and refinement of the skills and knowledge necessary for effective judging.

The Judicial Commission of New South Wales

The Judicial Commission offers an extensive education program for judicial officers, ranging from annual conferences, induction and orientation courses for new appointees to specialist conferences, seminars and webinars on specific aspects of law, procedure, judicial skills and social context issues. The programs are designed to keep judicial officers up to date with current developments and emerging trends. The Commission aims to continuously renew judicial skills and provide information about changes to the law, court procedure and community values. The Commission and the Supreme Court organise a range of educational programs equipping judicial officers with tools and knowledge required.

The Court's annual conference, attended by the majority of judicial officers, was held in Newcastle in August 2023 at two locations one of which was the University of Newcastle's inner city teaching facility. The program encompassed a diverse range of topics providing the opportunity to improve the skills and knowledge of judicial officers. The conference also involved the University of Newcastle School of Law and Justice staff and students strengthening ties across the legal profession. Speakers included:

Professor Tania Sourdin and Mr Ken Hwee Tan – "Judges and Technology: a dystopia or an opportunity?"

The Honourable Virginia Bell AC SC – "200 Years of Criminal Cases in the Supreme Court of NSW"

Dr Michael Fullilove AM – "Global tour d'horizon"

Professor Barbara McDonald – "Scope of Liability in Tort (and some Contracts), with particular attention to s 5D of the *Civil Liability Act 2002* (NSW)"

Professor Richard Buckland – "Cybercrime"

The Honourable Justice Robert Beech-Jones and the Honourable Justice Natalie Adams – "Developments in Criminal Law"

Dr Sheelagh McCracken – "PPSA: misconceptions, assumptions and a statement of the obvious"

Dr Harry Hobbs – "Understanding and Responding to Pseudolaw"

Professor Maria Fiatarone Singh AM – "Optimising Resilience with Lifestyle Choices: Judging the Evidence"

Cross-jurisdictional programs aim to facilitate discussion about current issues and provide opportunities for exchanging ideas between members of different courts. In addition, there are online resources permanently available to judges of the Supreme Court. Bench books and other research tools are available online via the JIRS database and are updated regularly. Where possible, Supreme Court judges are also able to view and participate in programs remotely either via the live streaming of certain programs or viewing a number of programs that have been recorded.

The Ngara Yura Committee

The Judicial Commission's Ngara Yura Program was initially established in 1992 in response to the final recommendations of the Royal Commission into Aboriginal Deaths in Custody that judicial officers should receive instruction and education on matters relating to Aboriginal customs, culture, traditions and society. Judicial officers have an important responsibility to 'listen, learn and lead' when dealing with Indigenous Australians who come before them. The Ngara Yura Program aims to increase awareness among judicial officers about contemporary Aboriginal social and cultural issues, and their effect on Aboriginal people in the justice system. Aboriginal people appear before all state courts in NSW as parties and witnesses in both criminal and civil proceedings. In order for justice to be done and be seen to be done, it is essential that judicial officers understand a wide range of issues relating to Aboriginal people, most particularly their history and customs (including behavioural norms and languages/dialects spoken and understood). The Ngara Yura Program also provides Aboriginal people with an opportunity to learn about the judicial process. The following Ngara Yura programs were attended by one or more judicial officers:

Ngara Yura Program seminars and webinars in 2023

4 February 2023: Exchanging Ideas Symposium which discussed constitutional reform, treaty and truth telling with member of the profession and First Nations representatives.

24 May 2023: Muru Ngubadi, the Path of Respect

Ngara Yura Program site visit

23 September 2023: Aboriginal Heritage Office and local rock engravings at Freshwater

Cross-Jurisdictional: First Nations Speaker Series with The Law Society of NSW and the NSW Bar Association

8 November 2023: Victor Steffensen, author, filmmaker, musician and consultant on fire management

28 November 2023: Ms Tammi Gissell, Collections Coordinator, First Nations-The Powerhouse Museum

Education Committee

The Supreme Court Education Committee, in partnership with the Judicial Commission of New South Wales, plans and organises continuing judicial education for judges of the Court.

Members

The Hon. Justice Anna Mitchelmore (Chair)

The Hon. Justice Tony Payne

The Hon. Justice Peter Hamill

The Hon. Justice Mark Ierace

The Hon. Justice Elisabeth Peden

The Hon. Justice Scott Nixon (from November)

Mr Chris D'Aeth, Executive Director and Principal Registrar

Ms Sarah Collins, Manager Programs, Judicial Commission of NSW (Convenor) (until March 2023)

Ms Anne-Elise Smith, Manager, Programs, Judicial Commission of New South Wales (Convenor) (From March 2023)

National Judicial Orientation Program

26-31 March 2023: Justice Sarah McNaughton and Justice Kate Williams attended the National Judicial Orientation Program in Brisbane.



THE REGISTRARS

Registrars of the Court are appointed under section 120 of the Supreme Court Act 1970 pursuant to the provisions of the Government Sector Employment Act 2013. The Chief Justice may also certify officers of the Supreme Court or Local Court to act as Deputy Registrars of the Court from time to time.

Registrars are allocated to work within the Court of Appeal, the Court of Criminal Appeal or to one of the Court's Divisions. They are permitted to work outside particular Divisions, if required.

Registrars are delegated power of the Court by the Chief Justice under the s 13 of the *Civil Procedure Act 2005* to undertake some of the functions formerly performed by Judges and Associate Judges under the *Supreme Court Rules 1970*, *Uniform Civil Procedure Rules 2005*, and other various Acts.

In addition to determining uncontested probate applications, the work of the Registrars commonly includes:

- defended applications in relation to security for costs, discovery, interrogatories, provision of particulars, and subpoenas;
- costs disputes if the amount in question is unlikely to exceed \$20,000;
- unopposed applications for the transfer of cases to or from the District Court;
- conducting examinations under various Acts, including the *Corporations Act 2001* (Cth), the *Proceeds of Crime Act 1987* (Cth), the *Proceeds of Crime Act 2002* (Cth), and the *Criminal Assets Recovery Act 1990* (NSW);
- dealing with applications for orders under many of the provisions of the *Corporations Act 2001* (Cth), such as the winding up of companies;
- hearing applications as referred to them by an Associate Judge;
- issuing court orders and writs of execution; and
- entering default judgments.

The *Supreme Court Rules 1970* and delegations under the *Civil Procedure Act 2005* permit Registrars to directly assist the Judges in caseload management. For instance, in the Court of Appeal, the Registrar deals with most interlocutory applications, excluding applications to stay judgment pending an appeal. In the Common Law Division, a Registrar conducts directions hearings in the General List, and also assists the Possession List and Professional Negligence List Judges.

The Registrars may also be called upon to mediate cases. During 2023, nine of the Court's Registrars were qualified mediators and available to conduct mediations throughout the year on a rostered basis.

Deputy Registrars are rostered to act as Duty Registrar and to provide procedural assistance each day to court users in person, or by email or telephone. They also attend to the issue of court orders, writs of execution and other miscellaneous matters.

Set out below are the Registrars of the Court, as at 31 December 2023:

**Executive Director and
Principal Registrar**

Chris D'Aeth

**Director, Assistant Principal
Registrar and Prothonotary**

Rebel Kenna

Registrar, Court of Appeal

Karen Jones

**Registrar, Court of Criminal
Appeal**

George Galanis

**Acting Registrar, Common
Law Case Management**

Jennifer Hedge

Registrar in Equity

Leonie Walton

Registrar, Corporations List

Leonie Walton

Senior Deputy Registrars

Brendan Bellach

Suzin Yoo

Lynda Gerritsen

Sivashna Chetty

Peter Clayton

Deputy Registrars

Anita Chang

Shashi Palagummi

Peter Onisforou

Claudia Czerwinski

Tara Aftanas



The work of the Registry

The Registry provides administrative and clerical support to the Court.

In civil matters, the Registry is responsible for:

- accepting documents filed at the Court
- securing the custody of court documents including exhibits and documents produced under subpoena
- listing matters for hearing
- issuing court process
- attending to the information needs of the Court's users by providing procedural guidance
- maintaining the Court's physical files and computer records
- ensuring that all the necessary facilities are available for hearings.

In criminal matters, the Registry provides support in processing committals, bail applications, applications under Part 7 of the *Crimes (Appeal and Review) Act 2001*, and Common Law Division criminal summary jurisdiction proceedings.

In respect of the Court of Appeal, the Registry provides specialised administrative and clerical support to the Court of Appeal Judges and offers procedural guidance to litigants and their representatives. Similarly, for the Court of Criminal Appeal the Registry provides support to the Judges hearing criminal appeals and also issues orders concerning the custody of prisoners.

Management of the Registry

The Chief Justice directs the priorities to be pursued by the Registry. In general, the priorities reflect the central aim of meeting the expectations of Court users competently, efficiently and professionally.

Operational management of the Registry is handled by the Executive Director and Principal Registrar of the Court. The Executive Director is responsible for securing and managing the resources provided to the Court by the New South Wales Department of Communities and Justice. The Executive Director also provides executive support to the Court's judicial officers and develops strategies to improve the delivery of Registry services. These duties are undertaken in close consultation with the Chief Justice, other judicial officers, the Department, key professional bodies and Court users.

