

**REPORT OF THE JUDGES OF THE
SUPREME COURT OF SOUTH AUSTRALIA
TO THE ATTORNEY-GENERAL
PURSUANT TO
SECTION 16 OF THE SUPREME COURT ACT 1935
FOR THE YEAR ENDED 31 DECEMBER 2007**

The Judges of the Supreme Court have assembled, as directed by Section 16 of the *Supreme Court Act 1935*, and have considered the matters referred to in that section. In consequence, they furnish this *Report* for the year ending 31 December 2007.

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CONSTITUTION OF THE COURT

On 31 December 2007 the Court was constituted of the following Judges, Masters and Principal Officers:

Chief Justice: The Honourable John Jeremy Doyle AC

Justices: The Honourable Kevin Patrick Duggan AM RFD
The Honourable Bruce Malcolm Debelle
The Honourable Margaret Jean Nyland AM
The Honourable David John Bleby
The Honourable Thomas Andrew Gray
The Honourable John Robert Sulan
The Honourable Ann Marie Vanstone
The Honourable Timothy Russell Anderson
The Honourable Richard Conway White
The Honourable Robyn Anne Layton
The Honourable Michael David
The Honourable Patricia Kelly

Masters: His Honour Judge Robert Martin Lunn
His Honour Judge Brian Withers

Principal Officers:

Registrar Supreme Court:

Ms Edith Bransbury, BA

Registrar of Probates and Registrar in Admiralty:

Mr AB Faunce-de Laune LLB

Deputy Registrar of Probates:

Mr Antony Reid-Smith LLB

Senior Deputy Registrar, Supreme Court:

Mr Errol Surman

Assistant Registrar of Probates:

Mr Michael Prime

Deputy Registrar, Combined Criminal Registry:

Mr Paul Ryan

Manager Registry Services, Civil Registry:

Ms Jan Baxter, BA

Manager, Court Libraries:

Ms Susan Carter, BA

JUDICIAL APPOINTMENTS AND RETIREMENTS

The Honourable Justice Kelly was appointed to the bench on 18 January 2007, in anticipation of Justice Perry's retirement on 2 April 2007. Justice Perry retired after 19 years' service as a Justice of the Supreme Court.

GENERAL

The Supreme Court, as a participating Court in the Courts Administration Authority ("CAA"), has contributed to the CAA's *Annual Report* for 2006–2007.

The information contained in that report is not repeated here.

Organisational Changes

The appointment of a new Registrar of the Supreme Court, Mr Steve Roder, took effect on 2 January 2008. Mr Roder is a qualified legal practitioner. He has practised as a barrister since 1990. For the first time for many years the Registrar of the Supreme Court is a legal practitioner. Mr Roder will hold the office of Registrar of the Supreme Court concurrently with the office of Registrar of Probates, following the retirement of Mr Faunce-de Laune. Although Mr Faunce-de Laune retired on 1 January 2008, it is appropriate to record that Mr Faunce-de Laune has served this Court for some 31 years, first in the capacity of Assistant Deputy Registrar of Probates and then as Registrar of Probates since 1981. The Judges acknowledge his long service to the Court and to the State, and the expertise that he demonstrated in his role as Registrar of Probates.

The prospect of the loss of this extensive experience, and the need for legal and technical expertise in the Civil and Probate Registries, led to a review of the two Registrar positions. The review also considered the need of the Supreme Court and District Court for strategic and corporate support services. The review findings led to a decision to appoint a legal practitioner as Registrar of the Supreme Court, and to appoint the same person as Registrar of Probates. The existing Registrar has been appointed, with effect from 2 January 2008, to the position of Director Higher Courts.

Supreme Court Buildings

The outdated Supreme Court infrastructure provides facilities of an unsatisfactory standard in which staff, the legal profession and the judges must work. This impacts on the Court's

ability to provide a safe, healthy and efficient work environment for its staff, the judges and users of the court. Staff are accommodated in cramped conditions. Public amenities are well below contemporary standards in every respect. Buildings do not meet disability access standards, and the Court is able to provide adequate disability access to only one of its courtrooms.

Major subsidence in the Registry building reported last year has not been fully rectified. Soil re-hydration along the southern boundary of the building has been only moderately successful. This caused significant disruption to the Registry during the year. Further pressure was placed on already crowded accommodation, with office space having to be vacated for a substantial part of the year after it was declared unsafe under OHS&W standards. The engineers' final report is awaited before reparation work can commence in 2008.

During the year, consultants investigated options for providing additional criminal courtrooms to address delays in hearing criminal trials. The options included the use of the Supreme Court site as a possible location for new courtrooms. A business plan, canvassing a number of options, has been prepared and provided to the Attorney-General.

Constraints imposed by the age and design of the Supreme Court buildings, and the high costs, limit what can be done to improve security for Judges and Masters who have to move through areas used by the public. Preliminary plans have been drawn up to provide an enclosed thoroughfare for judges moving between secure areas and one of the frequently used civil courtrooms. Funding is being sought for the commencement of building work in 2008. The risk to judges using public thoroughfares when involved in criminal work is still a concern.

Technology

Potential efficiencies for the parties to proceedings and for the Court cannot be realised because of the lack of technology infrastructure. The Court is still in the position of requiring parties in long and complex cases to engage external service providers to provide the technology infrastructure to support electronic trials (e-trials) because it lacks appropriate facilities. This occurred at the end of 2006 for a trial that was listed for a 12-month civil hearing. The Court funded the physical modifications required to the courtroom to facilitate

the multi-party hearing. An 'e-trial strategy' will be developed in 2008 to address the technology and practical operational considerations arising in e-trials. This will inform preparations for future e-trials.

Electronic transcripts of trial were introduced in Court of Criminal Appeal hearings in 2006. This resulted in reduced production costs for the Court, immediate access to transcript during hearings, and enhanced search facilities. A post-implementation review was undertaken during the year and further refinements were made. An expected upgrade to software in 2008 will yield further efficiencies.

Video Conferencing Project

The Attorney-General's Department is managing a project that is intended to provide courts with adequate and up to date video conferencing facilities, and related facilities. The intention is to provide the courts with facilities that will enable them to comply with recent legislation, and improve efficiency. The main application of the facilities will be in the criminal jurisdiction. Members of the judiciary from the Supreme Court, District Court and Magistrates Court attended a workshop on 12 October 2007, to discuss the project. Members of the legal profession and officers from the Department for Correctional Services also took part. The next phase of the project will include consultation with the judiciary on court needs and the use the judiciary can make of such facilities.

Aboriginal Cultural Awareness Program

The cultural awareness program, which was established in accordance with recommendations of the Royal Commission into Aboriginal Deaths in Custody, continued during the year. Justice Sulan chairs the Aboriginal Cultural Awareness Committee, as well as chairing the committee that manages the Law Society Indigenous Mentoring Program. He also chairs the CAA's Courts Aboriginal Reference Group (CARG). He is a member of the AIJA National Indigenous Cultural Awareness Committee.

This year the Aboriginal Cultural Awareness Program comprised three seminars. The speaker for the first seminar in March was Professor Larissa Behrendt. Her seminar topic was "*The Role of the Judiciary in Achieving Social Justice for Aboriginal People*". The second seminar in August was presented by Professor Diane Bell and Professor Peter Sutton and was entitled "*Aboriginal Customary Law*". The speaker for the third seminar in

December was Professor Diana Eades, whose specialty topic was “*Aboriginal English in Courts*”.

Each seminar was well attended by members of the State and Commonwealth judiciary, and by court staff.

Several Committee members, and a number of Judges, Magistrates and Court staff attended the AIJA Indigenous Courts Conference held in Mildura, 4-7 September 2007. The Conference, attended by approximately 240 delegates from 79 organisations, covered a number of matters including:

- Courts with specific procedures for dealing with Indigenous offenders in Australia, New Zealand and elsewhere;
- Involving Indigenous Elders, members of the Indigenous communities, judicial officers and court administrators in the work of courts dealing with indigenous people;
- Victims of crime;
- The work of Aboriginal legal and liaison officers; and
- Restorative justice and adult conferencing in Indigenous Courts.

The Conference provided an excellent platform for interaction with similar committees and community groups on a wide range of issues.

Joint Rules Advisory Committee

The Joint Rules Advisory Committee (“JRAC”) comprises two Judges, a Master, and the Registrar of the Supreme Court; three Judges, a Master and the Registrar of the District Court; one Magistrate; the President of the Law Society; and three legal practitioners.

The role of JRAC is to prepare, review and revise the Rules of Court made pursuant to the *Supreme Court Act* and the *District Court Act*. The Rules regulate the procedures and practice in the Supreme and District Courts. JRAC also has a role in preparation and review of the Practice Directions of both the Supreme and District Courts.

It is JRAC's responsibility to ensure that the Rules of Court and Practice Directions are adequate to deal with the requirements of contemporary litigation, and assist in the efficient running of the courts.

In order to ensure that the legal profession is informed of amendments made to Rules and Practice Directions, and to ensure that amendments reflect practical needs, JRAC liaises directly with the profession by consulting with professional organisations such as the Law Society and the Bar Association.

On 4 September 2006 the Supreme Court Civil Rules 2006 and the District Court Civil Rules 2006, together with new Practice Directions, came into effect. The new Rules represented a major change from the previous Supreme Court Rules 1987 and District Court Rules 1992.

During the year JRAC monitored the operation of the new Rules and made recommendations for amendment as necessary. In addition, JRAC recommended changes to the Supreme Court's Corporations Rules, Probate Rules, Criminal Rules, Criminal Appeal Rules and Bail Review Rules and to the District Court's Criminal and Miscellaneous Rules. These amendments were made by the Judges of the respective courts.

In addition JRAC recommended changes to the Supreme and District Court Practice Directions, and prepared a consolidation of the Practice Directions applicable in the criminal jurisdiction of the Supreme Court and District Court.

The civil e-filing pilot program, which commenced in 2005 in both the Supreme and District Courts, is continuing. The program involved twelve firms from the Adelaide area filing documents with the court electronically. To date, its use has been very limited. Participants in the program have been consulted about their experiences with its operation. The experience of interstate courts with similar programs is also being assessed. This process will continue in 2008.

A member of JRAC is a member of the national committees, chaired by Justice Lindgren of the Federal Court, which are harmonising uniform rules of civil procedure on topics considered suitable for harmonisation. During the year uniform rules concerning freezing and search orders were incorporated into the Supreme and District Court Civil Rules.

Community Relations Committee

This year the Community Relations Committee (CRC) comprised five judicial officers, three senior executives of the CAA (State Courts Administrator, Director and Principal Registrar of the Magistrates Court and the Sheriff); the Communications Manager, who is the executive officer of the Committee; the Courts Education Officer and the Senior Media Liaison Officer.

The CRC meets monthly. Various sub-committees met between meetings. During 2007 the CRC undertook a number of activities:

- The CRC continued to consult with the Community Reference Group. The group consists of representatives of the community who consider and report on the effectiveness of activities initiated by the Courts and by the CRC.
- Annual media forum. The CRC hosted a lunchtime forum attended by representatives of the press, heads of judiciary, registrars and members of the CRC.
- In conjunction with the Legal Studies Teachers' Association, the Committee presented a mock sentencing exercise for school principals and teachers. Students from Scotch College filmed the mock sentencing exercise. The film and sound track will be edited by the Court's Education Officer and will eventually be used in schools as a teaching aid.
- The CRC presented mock sentencing exercises and seminars at Court open days at Adelaide, Berri, Port Pirie, Port Lincoln and Port Augusta.
- The CRC supported the Court's Education Officer on 'roadshows' to country towns. These roadshows included mock courts and information sessions for teachers, students, parents and members of the various local communities.
- The Committee coordinated judges and magistrates as guest speakers for community groups and for media interviews.
- The CRC introduced a Courts Newsletter on the Authority's Internet site.
- The Committee decided to apply to the Department of Premier and Cabinet for the appointment of a Justice Thinker in Residence as part of the Government's Thinkers in Residence program. A sub-committee appointed by the CRC has begun approaching possible suitable candidates.
- Judicial Officers from all jurisdictions supported the Court's Education Officer in professional development for Legal Studies teachers and students by participating in

mock trials, information sessions and workshops. In addition, the Education Officer held workshops and court tours for 12,340 school students. The Communications branch co-ordinated visits and presentations about the courts to more than 590 members of community groups.

During the year, Judge Trenorden resigned as Chair of the Committee and as a member of the Committee. The Committee recorded its appreciation to Her Honour for the work she had done in her 5 years as Chair.

Judicial Education Reference Group

This year there was no meeting of this Reference Group. However, the product of its work in previous years was taken up by the National Judicial College of Australia, which used the workshop materials prepared by the Reference Group for a workshop in Darwin. No further work has been undertaken, as it relies on funding being made available from the Justice Strategy Division, Department of Justice.

Changes in the Law

As in previous years, the Chief Justice commented on a number of Bills and legislative proposals. A committee of judges considered some of these. In accordance with practice, by and large comment was restricted to the practical application of the proposals, as distinct from policy issues.

KEY PERFORMANCE INDICATORS

Key Performance Indicators (KPIs) are used to indicate trends in the handling of the Court's work. Other statistical reports record lodgments, disposals and time taken at various stages. The KPIs indicate whether the court is coping and is expected to cope with its workload. KPI reports are prepared for the civil and criminal jurisdictions. Each of these is referred to below with an explanation of how they are derived and the result for the year ending 31 December 2007.

Criminal Jurisdiction Backlog

Two timeliness standards are applied. The first of these is that "no more than 10% of lodgments pending completion are to be more than 12 months old". The second is that "no lodgments pending completion are to be more than 24 months old".

The lodgment figures reported for the criminal jurisdiction include matters committed for trial, matters committed for sentence, breach of bond matters, matters transferred from summary court, ex-officio's laid and various other minor applications.

Table 1 indicates that the number of lodgments that are more than 12 months old have declined from 22% in 2006 to 20% in 2007. There has also been a slight reduction in lodgments more than 24 months old from 8% in 2006 to 7% in 2007.

Various factors influence the Court's ability to meet the standards, however, it is expected that the work of the Criminal Justice Taskforce will lead to improvements in the Court's performance against its targets.

Table 1 – Combined (Supreme Court and District Court) Criminal Backlog

	2005	2006	2007
Number of lodgments pending as at years end	1387	1394	1285
Number of lodgments more than 12 mths old (but less than 24 mths old)	246 (18%)	302 (22%)	252 (20%)
Lodgments more than 24 mths old	226 (16%)	115* (8%)	93 (7%)

* A data cleansing process in 2006 established that a large number of lodgments had been incorrectly reported as pending. This error, now corrected, is reflected by the large reduction of non-finalised lodgments from 2005 to 2006.

Table 2 shows that the backlog of lodgments in the Supreme Court has reduced significantly for lodgments more than 24 months old, but has increased slightly for lodgements between 12 and 24 months old. In 2007, the majority of criminal trials proceeded at first listing, and a number of older cases were finalised, which has contributed to the reduction in backlog.

Table 2 – Supreme Court Criminal Backlog – Non-Appeal

	2005	2006	2007
Number of lodgments pending as at years end	100	71	43
Number of Lodgments more than 12 mths old (but less than 24 mths old)	25 (25%)	10 (14%)	8 (19%)
Lodgments more than 24 mths old	14 (14%)	10 (14%)	2 (5%)

Table 3 shows an improvement in the backlog of matters going to appeal. There are currently no appeal matters older than 12 months, with a significant reduction in the number of lodgments that were not finalised as at 31 December 2007.

Table 3 – Court of Criminal Appeal Backlog

	2005	2006	2007
Number of lodgments pending as at years end	47	65	33
Number of Lodgments more than 12 mths old (but less than 24 mths old)	7 (15%)	0 (0%)	0 (0%)
Lodgments more than 24 mths old	2 (4%)	0 (0%)	0 (0%)

Criminal Jurisdiction Clearance Ratio

The clearance ratio is the ratio of lodgments to finalisations over a reporting period. This indicates whether the court is heading for, keeping out of, or getting out of 'trouble' in terms of meeting time standards in the future.

The standard is 100 per cent, which indicates that the Court is disposing of matters at the same rate as lodgments occur. A figure above 100% indicates that more cases are disposed of than are received.

Table 4 indicates that the lodgments for the combined criminal jurisdiction have increased slightly in 2007, with the number of matters finalised greater than 2006. In 2007, the court disposed of more cases than were lodged, and so has achieved a clearance rate of over 100%.

Table 4 – Combined (Supreme Court and District Court) Criminal Clearance Ratio

	2005	2006	2007
Number of Lodgments	1851	1921	1995
Number of Finalisations	1665	1741	2119
Clearance Ratio (%)	90%	91%	106%

As reflected in the backlog tables and in Table 5 below, the Supreme Court is currently disposing of matters at a rate exceeding lodgments. This means that the Supreme Court is reducing the backlog of older cases.

Table 5 – Supreme Court Criminal Clearance Ratio - Non-Appeal

	2005	2006	2007
Number of Lodgments	225	206	177
Number of Finalisations	229	228	201
Clearance Rate (%)	102%	111%	114%

Table 6 indicates that in 2007, the number of appeal finalisations exceeded the number of lodgments, which has significantly reduced the number of appeal matters not finalised.

Table 6 – Court of Criminal Appeal Clearance Ratio

	2005	2006	2007
Number of Lodgments	138	142	107
Number of Finalisations	150	122	140
Clearance Rate (%)	109%	86%	131%

Civil Jurisdiction Backlog

The Court's civil workload is also measured using the two timelines standards applied to the criminal jurisdiction (Pg.10).

The figures reported for the civil jurisdiction non-appeal backlog (Table 7) excludes Probate and Admission applications. Most of the matters are at the pre-trial stage before the Masters. While the timeline standards are still not being met they have improved over the reporting period.

Table 7 – Supreme Court Civil Backlog – Non-Appeal

	2005	2006	2007
Number of lodgments pending as at years end	761	654	601
Number of lodgments more than 12 mths old (but less than 24 mths old)	175 (23%)	117 (18%)	100 (17%)
Lodgments more than 24 mths old	167 (22%)	132 (20%)	106 (18%)

In Table 8 the figures for the appeals backlog include Full Court appeals, all Magistrates' Court appeals and other miscellaneous category appeals. The time standards are being met

for both timelines in this jurisdiction. The number of Full Court appeals set down for listing has decreased in 2007 by 21%.

Table 8 – Supreme Court Civil Backlog Appeals (Includes Magistrates' Civil and Criminal* Appeals)

	2005	2006	2007
Number of lodgments pending as at years end	144	122	72
Number of lodgments more than 12 mths old (but less than 24 mths old)	37 (26%)	12 (10%)	3 (4%)
Lodgments more than 24 mths old	10 (7%)	5 (4%)	2 (3%)

* The Magistrates' Criminal Appeals are instituted in the civil jurisdiction in accordance with the Supreme Court Civil Rules 2006. The administration of these matters is managed within civil jurisdiction resources.

GENERAL STATISTICS

This section of the *Report* sets out a number of tables containing statistics relating to the work of the Court.

It is important to note that there are other aspects of the Court's work, and of the work of the three Registries (Civil, Probate and Combined Criminal), that are not reflected in these tables.

Time Standards

The time standard for civil trials from listing conference to start of trial has been set at 6 to 8 weeks. In 2007 the time between listing conference and trial was between 1 week and 29 weeks. The average time was approximately 19 weeks. At the end of 2007 cases were being listed for dates from 20 to 28 weeks in the future. The Court is able to offer earlier dates, but often the parties ask for later dates.

Table 9 - Target Standards and Actual Achievements

	Target	2005 Actual	2006 Actual	2007 Actual
<u>Civil Cases</u> Listing Conference to Start Trial	6-8 wks	2-25 wks	3-28 wks	1-29 wks
<u>Criminal Cases</u> Arraignment to Start Trial (180 days standard)	80%	4%*	9%*	5%*
Arraignment to Start Trial (365 days standard)	100%	44%*	70%*	77%*
<u>Single Judge Appeals</u>	Next List	No Delay	No Delay	No Delay
<u>Full Court Civil Appeals</u>	Next List	No Delay	No Delay	No Delay

*as at October 2005, 2006 and 2007

The average time between institution and setting down for hearing of an appeal to the Full Court decreased in 2007 from last year (19%, n=19 days) even though this time is not within the control of the Court. Appeals are automatically dismissed if they are not set down (ready to be heard) within 6 months.

Table 10 also shows the time taken from setting down to hearing has not changed significantly, while the period from hearing to the delivery of judgment in the Full Court has improved (25%, n=24 days). In 2007, a total of 16 matters had a delay of over 100 days from hearing to judgment, an improvement of 24% from last year.

In relation to criminal appeals, the time between leave being granted and the appeal hearing has remained constant over the reporting period. The time to deliver judgment has increased by 25% (n=12) in 2007.

Table 10 - Full Court and Court of Criminal Appeal Average Time Intervals

FULL COURT	2005	2006	2007
<i>Average time taken (days)</i>			
Institution to setting down (not under the Court's control)	96	99	80
Setting down to hearing	36	40	41
Hearing to judgment delivery	90	98	74
COURT OF CRIMINAL APPEAL	2005	2006	2007
<i>Average time taken (days)</i>			
Application to leave being granted	64	56	57
Leave granted to hearing	61	42	42
Hearing to judgment delivery	46	48	60

FULL COURT AND COURT OF CRIMINAL APPEAL

Three judges usually constitute the Full Court (for civil appeals) and the Court of Criminal Appeal (CCA). Appeals and applications to the Full Court decreased this year (13%, n=11). Appeals and applications heard by the CCA also decreased. The total number of matters disposed by Full Court and CCA hearings consequently decreased from the previous year (20%, n=44). This data is displayed in Tables 11 and 12 below.

Table 11 - Leave to Appeal Applications to the Court of Criminal Appeal

	2005	2006	2007
Applications for Leave to Appeal (dealt with by Single Judge)	127	121	96

Table 12 - Appeals and Applications to the Full Court and Court of Criminal Appeal

	2005	2006	2007
Full Court (Appeals and Applications)	93	85	74
Court of Criminal Appeal (Appeals and Applications)	143	141	108
Total	236	226	182

Table 12 includes applications for leave to appeal. Table 13 records appeals that were heard by the Full Court and CCA. The difference between these tables reflects cases in which leave to appeal was refused, leave applications or appeals were abandoned, or appeals remain unheard at date of report.

Table 13 - Disposals by Hearing

	2005	2006	2007
Full Court	84	70	58
Court of Criminal Appeal	95	103	93
Total	179	173	151

Table 14 - Full Court - Average Hearing Lengths

	2005	2006	2007
Full Court — Average Actual Length (hours)	3.10	3.21	3.13

SINGLE JUDGE APPEALS

Each month, one judge is allocated to work in this jurisdiction, with occasional assistance from another judge. Appeals from Magistrates in the criminal (summary) jurisdiction outnumber civil appeals, by approximately two to one. The civil appeals are from Masters of this Court, from interlocutory (preliminary) orders in the District Court, from Magistrates in the civil jurisdiction, and from various Tribunals and Boards. Table 15 below shows the number of appeals that were disposed of by way of judgement.

The number of cases disposed of overall decreased (15%, n = 31).

Table 15 – Disposals by Judgment - Single Judge Appeals

Cases Disposed	2005	2006	2007
Criminal Appeals	150	135	139
Civil Appeals	65	67	32
Total Disposed	215	202	171

THE CIVIL JURISDICTION

Lodgments

Table 16 shows a 4% increase in matters instituted in the civil jurisdiction of the Supreme Court. The number of lodgement of companies applications also increased this year (44%, n=66).

Table 16 - Civil Jurisdiction - Matters Instituted

No. of Summonses	2003	2004	2005	2006	2007
Summonses	1159	1020	1158	1167	1197
Companies Applications - Company Liquidation	264	206	154	149	215
Other Company Matters	111	137	81	104	61
Total	1534	1363	1393	1420	1473

LAND AND VALUATION DIVISION

The Land and Valuation Division (LVD) is a specialist division of the Court. Two judges hear matters in this jurisdiction. The Division hears a variety of matters relating to land issues. The specialist nature of this Division enables speedy determination of actions. Hearings include judicial review of planning decisions, compensation for compulsory acquisition of land and planning appeals from the Environment, Resources and Development Court. During 2007, 35 actions were disposed of, leaving 23 unresolved. Approximately one half of all actions involved Government agencies such as the Commissioner of Highways, the

Valuer-General and the Surveyor-General, and a further one quarter involved Local Government Councils. The remaining one quarter of actions were disputes between individuals or corporations.

The following is an analysis of the categories of matters dealt with.

Table 17 - Land and Valuation Division

Type of Action	Percentage		
	2005	2006	2007
Compulsory Acquisition	13%	17%	50%
Planning Appeals	30%	20%	17%
Judicial Review	9%	17%	12%
Encroachment	4%	5%	2%
Partition and Sale	19%	15%	9%
Revenue Appeal	6%	10%	5%
Other	19%	17%	5%
Total	100%	100%	100%

The number of actions commenced in this Division has varied with no particular trend and has ranged from 17 actions in 2006 to 38 cases in 2003. The average number per annum for the last five years is 28 actions.

Table 18 - LVD Actions Commenced

	2003	2004	2005	2006	2007
Summons Issued	38	26	32	17	26

CIVIL TRIALS

The number of civil cases ordered to proceed to trial (excluding long and complex cases) in 2007 remained constant, whilst the number of cases disposed of by trial decreased slightly (6%, n=1).

Table 19 - Civil Trials

CIVIL TRIALS	2003	2004	2005	2006	2007
Orders to proceed to trial	49	44	44	36	36
Cases fixed for trial	33	30	43	39	37
Disposals after fixing of trial date*	36	52	31	24	31
Cases disposed of by trial*	23	19	24	17	16
Cases awaiting trial at end of year	23	26	21	17	15

* The number of cases disposed of by trial is included in the figure of 'Disposals after fixing of trial date'.

As at 31 December 2007, the Court was listing trials 6 to 7 months from the Listing Conference. On most occasions the Court was able to offer earlier dates, but parties (for various reasons) asked for later dates. Table 20 shows that the average trial length (for cases tried to judgment) has remained constant.

Table 20 - Civil Trial Details

	2003	2004	2005	2006	2007
Average Trial Length (days)	1.8	1.22	4.38	2.7	2.9
Number of trials exceeding five days	6	4	4	5	4

LONG AND COMPLEX CIVIL CASES

A panel of four judges (Debelle, Bleby, White and Anderson JJ) with the assistance of Masters Lunn and Withers last year managed the list of long and complex cases. Long and complex cases are cases expected to take more than fifteen hearing days or involve complex issues of law or fact.

The management of these cases requires the judges to conduct pre-trial proceedings and, where appropriate, examine the possibility of alternative dispute resolution. The judges endeavour to condense and define the issues with a view to reducing the length of the trial. On occasions parties appeal against decisions made by a judge in these pre-trial proceedings, causing delay in the listing of the action for trial.

Most of the management conferences were of short duration. Some pre-trial applications took a considerable hearing time and required reasons for judgment. The management of these cases is a task over and above the ordinary workload of the four judges.

At the beginning of the year the list comprised sixteen actions and another eight were added during the year. Of those twenty-four actions, six were referred to mediation. A total of nine matters were resolved by consent orders. Seven of those actions had been listed for trial before an allocated judge. Three of the outstanding actions were part heard in 2006 and were to resume in 2007. Two of those three actions were settled without the hearing resuming and the third continued for a further twenty days before the parties reached a compromise. If that action had not been compromised, the trial was anticipated to occupy most of 2007. A total

of eight trials were listed in 2007 with an aggregate sitting time of 90 weeks. All listed actions were resolved except one in which the trial has been adjourned to 2008.

At the end of the year, there were fifteen matters in the long and complex list. Seven matters have been listed for trial and eight remain in the list under active management, a substantial reduction in number from those at the beginning of the year. The Court has been advised that two of the seven listed matters will be discontinued leaving five matters listed for hearing.

Table 21 - Long and Complex Cases

	2003	2004	2005	2006	2007
No. of cases in the Long and Complex list at years end	16	20	13	16	15
No. of Cases with estimates of six weeks or greater	7	6	3	3	4
Range of Estimated length (in weeks)	5-26	1-26	2-52	3-52	3-52
Total No. of trial days sat on Long and Complex matters	41	14	29	101	46

MASTERS' JURISDICTION

Hearings in court, in chambers and specially returnable applications considered by the Masters increased in 2006 to 2,967 (6%, n=170). The number of in-court hearings has increased (11%, n=62) and possession applications also increased (6%, n=117). There has been a decrease in the number of hearings for urgent applications.

Table 22 - Applications Dealt with by Masters

	2003	2004	2005	2006	2007
Hearings in Court	741	754	509	592	654
Hearings in Chambers: • Possession and interlocutory applications	2205	2187	1940	2089	2206
• Specially Returnable (urgent) applications and other matters listed	156	228	116	116	107
Total	3102	3166	2565	2797	2967

Case Flow Management

The status hearing (the first hearing) is used to get the parties ready for a settlement conference as soon as possible. If the parties are unable to resolve the matter at the settlement conference the matter is adjourned to a final directions hearing. All pre-trial procedures are expected to be finalised before this hearing. The implementation of the new Supreme Court Rules in September 2006 does not change this principle.

Table 23 - Number of Conferences

Number of Conferences	2003	2004	2005	2006	2007
Status Hearing (SH)					
• No. of SH's held	263	288	355	500	372
• No. at 1 st hearing *	166	179	138	168	147
Settlement Conferences (SC)					
• No. of SC's held	185	116	184	160	138
• No. at 1 st hearing *	133	80	98	95	80
Final Directions Hearing (FDH)					
• No. of FDH's held	350	397	512	392	517
• No. at 1 st hearing *	126	111	93	70	92

* A 'first hearing' records the number of cases involving a first hearing of the relevant conference type (i.e. each case is counted only once for this figure, it is counted at the time of the first conference of this type).

The primary responsibility for the case flow management system rests with the Masters of the Court. They oversee all cases in the general civil list and ensure that solicitors appearing for parties, as far as possible, meet the prescribed time standards (see Table 9).

Table 24 - Conference Results

	2003	2004	2005	2006	2007
Status Hearing (SH)					
% adjourned to a further SH	58%	61%	100%	100%	100%
% of cases which Settle at SH	7%	4%	9%	6%	5%
% adjourned to delay list or a different caseflow conference	54%	60%	53%	67%	52%
% unclassified "other"	34%	35%	48%	37%	37%
Settlement Conference (SC)					
% adjourned to a further SC	39%	45%	88%	68%	90%
% of cases which Settle at SC	19%	15%	20%	20%	29%
% adjourned to Listing Conference to assign trial date	2%	3%	4%	0%	1%
% adjourned to delay list or different caseflow conference	29%	43%	34%	47%	29%
% unclassified "other"	47%	56%	33%	19%	24%
Final Directions Hearing (FDH)					
% adjourned to a further FDH	100%	100%	100%	100%	100%
% of cases which settle at FDH	4%	7%	8%	14%	9%

% adjourned to Listing Conference to assign trial date	29%	18%	24%	17%	10%
% adjourned to delay list or a different caseflow conference	6%	16%	20%	11%	14%
% adjourned to Settlement Conference list	NA*	NA*	28%	7%	11%
% unclassified "other"	72%	75%	100%	100%	100%

*Until 2005 these were recorded in the 'unclassified "other" category'.

Bills of Costs and Schedules of Costs

Table 25 - Contentious Bills — Masters' Jurisdiction

	2005	2006	2007
Bills / Schedules filed	58	24	43
Bills / Schedules taxed	54	48	38

Table 26 - Non-Contentious Bills — Registrar's Jurisdiction

	2005	2006	2007
Bills / Schedules filed	21	16	3
Bills / Schedules taxed	22	16	3

THE COMBINED CRIMINAL JURISDICTION

Lodgments

The lodgments figure of 1,974 in Table 27 refers to lodgments in the Combined (Supreme and District Court) Criminal Jurisdiction. Most of these matters are dealt with by the District Court.

Table 27 - Combined Criminal – Lodgments

	2003	2004	2005	2006	2007
Lodgments	1976	1773	1964	1921*	1974

* The counting rules in relation to lodgments were varied slightly in 2006 in line with the 2005-2006 CAA Annual Report. As a result of this some lodgement types that were previously counted have been excluded, i.e. Bench Warrants, Change of plea, Change of venue, and re-trials.

The disposal figure of 533 in Table 28 records those matters disposed of after cases have reached the trial list. Many other matters are disposed of without being listed for trial. The

number of cases disposed of (Table 28) increased by (3%, n=17) in 2007. The number of trials outstanding as at 31 December 2007 has decreased slightly (8%, n=36). Contributing to this decrease is a slight increase in the number of matters committed for sentence to the District Court in 2007, and the increase in the listings formula in the District Court, which has contributed to a higher number of trial disposals.

The average length of trial has decreased in 2007. The higher averages of earlier years can be attributed to a small number of long trials between 2003 to 2004 in the Supreme Court. For District Court trials only, the average trial length decreased from 6 days in 2006 to 5.3 days in 2007. The number of matters heard to verdict increased from 127 in 2003 to 166 in 2007. These numbers recorded in Table 29 do not include sitting time for trials that did not continue to verdict.

The number of trials outstanding in 2007 compared to that of 2003 reflects increasing delays in the District Court (Table 28). A committee chaired by a Judge of that Court has examined this problem. It appears that delay by the parties in preparing for trial is contributing to the increasing backlog of cases. The number of lodgments compared to the number of cases that the Courts are able to finalise each year is also a contributing factor to the delay in the District Court.

Table 28 - Combined Criminal — Trial List Disposals

	2003	2004	2005	2006	2007
Disposals*	388	364	388	516	533
Average length of trial (in days) — commencement of trial to verdict	8.3	8.1	6.6	6.5	5.7
Listed Trials Outstanding (at end of year)	229	261	299	466	430

* Includes non-verdict trial disposals (i.e. dispute as to fact hearings, guilty pleas and nolle prosequi)

Table 29 - Combined Criminal — Length of Trials Proceeding to Verdict

	2003	2004	2005	2006	2007
Trials to Verdict	127	150	154	176	166
1 – 2 days	22%	17%	7%	8%	5%
3 – 4 days	32%	37%	34%	32%	39%
5 – 10 days	32%	35%	45%	48%	45%
Over 10 days	15%	11%	14%	11%	11%

ADMISSION TO PRACTICE

The *Legal Practitioners Act* establishes the Legal Practitioners Education and Admission Council (LPEAC) and the Board of Examiners. The Chief Justice chairs LPEAC. The other members of the Council include the Attorney-General, three Judges (from the Supreme and Federal Courts), the Deans of Law of Flinders University and Adelaide University, representatives of the legal profession and a law student representative.

LPEAC has the responsibility to set the academic and practical requirements for admission, to participate in the development of uniform national standards relating to admission qualifications, to review the effectiveness of legal education and training courses and to perform any other functions assigned to LPEAC pursuant to the provisions of the *Legal Practitioners Act*.

LPEAC met on twelve occasions during 2007.

During the year LPEAC considered an application from the University of South Australia for accreditation, for the purposes of the LPEAC Rules, of a proposed degree in law to be offered from 2008. After extensive consultation with representatives of the University of South Australia, LPEAC resolved that it was satisfied that the Bachelor of Laws degree to be offered by the University will fulfil the academic requirements for admission to practice specified in the LPEAC Rules. LPEAC will review the situation at the end of 2009 in light of the first two years' experience with the degree, and in the light of proposals for 2010.

LPEAC reviewed the degrees in law offered by the Flinders University and the University of Adelaide. The reviews were the first reviews of these degrees since LPEAC decided in 2001 that the degrees fulfilled the academic requirements for admission. When LPEAC made those decisions it stated that it proposed to review the position after about five years. LPEAC resolved that the degrees offered by Flinders University and Adelaide University required a satisfactory level of understanding and competence for the purpose of the LPEAC Rules.

LPEAC is currently undertaking a review of the Graduate Diploma of Legal Practice offered by the Law Society of South Australia.

LPEAC sought comment from the Universities on the accreditation and review process that it had undertaken. It has convened a small working party to develop a template to guide future reviews.

In 2007 LPEAC resolved to support a proposal from the Law Admissions Consultative Committee (LACC) for a uniform policy on English language testing for overseas applicants for admission to the Australian Legal Profession. LACC is a national committee. LACC also consulted with LPEAC, and other admitting authorities, on uniform principles for admission in Australia of practitioners from other countries and on proposals to specify uniform periods of restricted practice for overseas applicants for admission.

LPEAC considered a proposed Rule change to amend the academic requirements for admission so as to require applicants for admission to undertake the study of professional conduct (other than Trust Accounting) as part of the academic requirements for admission. The Universities and the Law Society were consulted and indicated their support for the Rule change. Transitional arrangements for students are being considered before LPEAC amends its rules in this respect.

LPEAC received a proposal from the Law Society for the introduction of a Mandatory Continuing Professional Development Scheme for legal practitioners in South Australia. Implementation of the scheme will require changes to the LPEAC rules. LPEAC has asked the Society for further information about the proposal. LPEAC has also requested the

Society to prepare, for its consideration, a draft set of rules for the scheme. The Council awaits this information before it considers the proposal.

In the coming year, LPEAC expects that it will have to consider amendments to the LPEAC Rules as a result of the anticipated enactment by the South Australian Parliament of the uniform Legal Profession Act.

The Board of Examiners is established under the Act and the Chief Justice appoints its members. The Board comprises a Master of the Court, two persons nominated by the Attorney-General and 12 legal practitioners. The Master, Judge Withers, is the Presiding Member. The Board of Examiners inquires into applications for admission and reports to the Court whether an applicant has complied with the requirements for admission. The Board met on 11 occasions during 2007. During 2007 there were 251 applications for admission, compared with 244 in 2006.

LPEAC consults regularly with the Board of Examiners on matters relating to admission to practice. To facilitate communications between the two bodies Judge Withers attends meetings of LPEAC as an observer.

Table 30 - Applications for Admission
(Not including applications under mutual recognition)

	2003	2004	2005	2006	2007
Applications for Admission	336	230	274	244	251

The *Mutual Recognition Act* enables a practitioner who holds interstate qualifications to gain admission in other Australian states. During 2007 applicants admitted under this Act increased by (3%, n=7). The number of overseas degrees assessed has decreased (8%, n=2).

Table 31 - Mutual Recognition Applications

	2003	2004	2005	2006	2007
Mutual Recognition Applications	50	48	52	62	49

Table 32: Mutual Recognition — Applications by State

	2003	2004	2005	2006	2007
New South Wales	14	26	28	39	26
Victoria	10	10	5	5	7
Queensland	4	2	7	8	2
ACT	3	2	3	3	4
Western Australia	9	0	4	1	2
Northern Territory	5	4	2	3	5
Tasmania	0	1	1	0	1
Unclassified	0	0	0	0	0
Trans-Tasman	5	3	2	3	2

Table 33 - Overseas Degrees Assessed

	2003	2004	2005	2006	2007
Degrees Assessed	21	21	14	26	24

PROBATE REGISTRY

The largest proportion of the work of the Probate Registry consists of the issue (in non-contentious cases) of grants of probate or administration in respect of the estate of deceased persons. In issuing such grants the Registrar of Probates exercises the powers of the Court in matters prescribed by the Rules of Court.

In the year under review, there were 5,027 grants of representation, compared with 4,727 in the year before. There were a further 28 interstate or overseas grants from foreign courts that were sealed in the Supreme Court of South Australia compared with 43 in the previous year.

The increase in the number of demands made by personal applicants (i.e. by person without legal representation) has a significant impact on registry resources. Up to 25% of the time of the Assistant Registrar is taken up dealing with such applications. The Deputy Registrar also deals with personal applications. This aspect of the Registry's work will be reviewed in the coming year.

Table 34 - Probate Registry — Grants and Orders

	2005	2006	2007
Grants Issued	4743	4727	5027
Grants resealed in South Australia	40	43	28
Orders made in Chambers	232	270	310
Enquiries and Searches	12731	9720	1076*
Personal Applicants	312	313	342

* From 2007 only searches are recorded.

THE LIBRARY

Increases in the costs associated with collection development have continued to place severe pressure on the library's budget and have been the major focus of the Library during 2007. Collection maintenance amounts to over 60% of the Library's budget and despite increased publisher discounts being negotiated, and a rigorous review of the subscriptions held, the shortfall between available funding and collection maintenance costs has emerged during the year, as a significant risk to the future of the Library.

A request to the Attorney-General has been prepared seeking an increase in the library levy component of the annual Admission/Readmission Legal Practitioners fee to \$100 per annum with CPI increases. A review of other revenue sources will be undertaken early in 2008.

During 2007 the Library Service continued to be well patronised with an average of over 2,300 visits to the Library and 780 requests for reference assistance every month.

DATED this 27th day of February 2008

A handwritten signature in cursive script, appearing to read 'J. Doyle'.

CHIEF JUSTICE

On behalf of the Judges of the Supreme Court