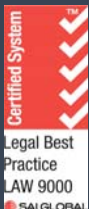


# ANNUAL REPORT 2016/17



Queensland  
Government  
**Crown Law**



This report is a formal document that details Crown Law's corporate and financial performance during the 2016-17 financial year.

[www.crownlaw.qld.gov.au](http://www.crownlaw.qld.gov.au)

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# CROWN SOLICITOR'S MESSAGE

The 2016-17 financial year was another successful 12 months for Crown Law thanks to the outstanding efforts of our team across the practice.

Despite a very competitive government law marketplace, Crown Law accomplished our business objectives and financial goals for 2016-17, while maintaining a strong client base. This was made possible through our strategic focus on continued growth, positive financial results, employment security for staff and most crucially, improved service for clients.

Crown Law again took on a variety of complex and significant legal matters during the financial year, most notably representing the State before the Royal Commission into Institutional Responses to Child Sexual Abuse. Under the leadership of Senior Deputy Crown Solicitor, Tony Keyes and Principal Lawyer, Ben Cramer, the State continued to assist the Royal Commission by producing documentation, appearing at relevant hearings, making submissions and responding to recommendations made to date that relate to the State. The Commission's final report is due to be delivered in December 2017.

The practice also continued its commitment to support Queensland Government clients in 2016/17 by offering 28 training programs, workshops and briefings focused on key public sector issues.

The highlight of our event calendar was the 2016 Crown Law Legal Conference. Attended by 67 legal and non-legal officers from 23 agencies across government, the one-day conference was well received across the board.

Crown Law also welcomed 44 new staff to the practice in 2016-17, which included 11 legal staff and 33 support members. A 51 per cent increase on the previous 12 months, the growth of the practice is crucial as we continue to foster a balanced work-life culture with a workforce of the highest quality.

We also saw an increase in client satisfaction from the last financial year, recording an impressive satisfaction rating of 4.59 out of a possible five. This rating indicates the continued confidence and trust our clients place in our lawyers' skill and expertise, which is an excellent sign for the practice moving forward. I would like to thank our clients for their continued support and investment over the last 12 months.

As we move into the latter part of 2017 and beyond, I am confident the commitment and drive of the practice will ensure Crown Law continues to prosper.

*“ I would like to thank our clients for their continued support and investment over the last 12 months. ”*



A handwritten signature in black ink, appearing to read 'G Cooper', written in a cursive style.

**GREG COOPER**  
**CROWN SOLICITOR**



# ABOUT CROWN LAW

Crown Law is a self-funded business unit of the Department of Justice and Attorney-General and the only law practice in Queensland dedicated exclusively to the State Government.

Crown Law strives to be the Queensland Government's first choice by providing premium quality legal services that protect and support the government in the public interest.

Employing 124 legal staff and 102 support staff, Crown Law offers a broad range of legal services to all Queensland State Government entities.

Our practice is structured to serve the needs of the Queensland Government only; as such, our goals are focused on maintaining strong relationships with government agencies to provide relevant, informed legal advice and representation.

## OUR SERVICES

Our breadth of expertise spans 17 major areas of law, with a host of speciality areas also offered to clients. Our primary areas of law are:

- advocacy
- anti-discrimination
- commissions of inquiry
- constitutional law
- corporate and commercial
- debt recovery
- dispute resolution
- employment law
- health law
- information and communication technology
- insurance and risk
- intellectual property
- native title
- planning and environment
- property law
- WorkCover.

Crown Law has been serving Queensland Government since 1859; we are practised at evolving to the changing needs of government. Our lawyers are dedicated to maintaining an unrivalled understanding of the needs, risks and circumstances that impact on all of our clients.

Our broader role in government is to provide legal education training to officers at all levels and from all roles, not just lawyers. We provide free and paid training workshops, information sessions, legal briefings and an annual legal conference to help our clients understand potential risks and how to mitigate them.

# OUR ORGANISATION

## ► Vision, purpose, values

Crown Law's values, vision and purpose are at the core of our ethos and shape the way we provide our services to the Queensland Government.



### VISION

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Crown Law will be the Queensland Government's first choice by being the best provider of legal services.



### PURPOSE

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Crown Law's purpose is to protect and support government in the public interest.



### VALUES

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**Integrity** – absolute impartiality and honesty.

**Excellence** – total attention to detail, consistency and client needs.

**Respect** – treat people as you would want to be treated.

**Responsibility** – everyone is to take responsibility for their own work and do their best.

Our values reinforce Crown Law's commitment to providing exceptional client service and maintaining a professional internal culture. We value our reputation for integrity and place an emphasis on providing the highest standards of fairness, honesty and openness for our clients.

## ▶ Model Litigant Principles

The principles of firmness and fairness form the foundation of the Model Litigant Principles in the Queensland Government. All legal practitioners acting for the State or its agencies in litigation, including lawyers in private firms, are expected to adhere to the Model Litigant Principles (available on the Crown Law website at [www.crownlaw.qld.gov.au/about/model-litigant-principles](http://www.crownlaw.qld.gov.au/about/model-litigant-principles)).

Merely complying with court rules, solicitors' and barristers' professional rules, although important, is not necessarily accepted as sufficient. There is an expectation from the community and the courts that the State is required to meet higher standards of conduct than that which might be expected from a private litigant. The courts also expect the highest standard of integrity and fairness from the State in its handling of litigation.

The Crown Solicitor ensures these principles are strictly observed by Crown Law officers during the conduct of litigation by and on behalf of the State.

## ▶ Organisational structure

Crown Law is led by the Crown Solicitor, the most senior officer in the practice.

The Crown Solicitor acts as the solicitor for the State and is responsible for providing legal advice to the Premier, Attorney-General, Ministers, Directors-General and a range of senior departmental officers.

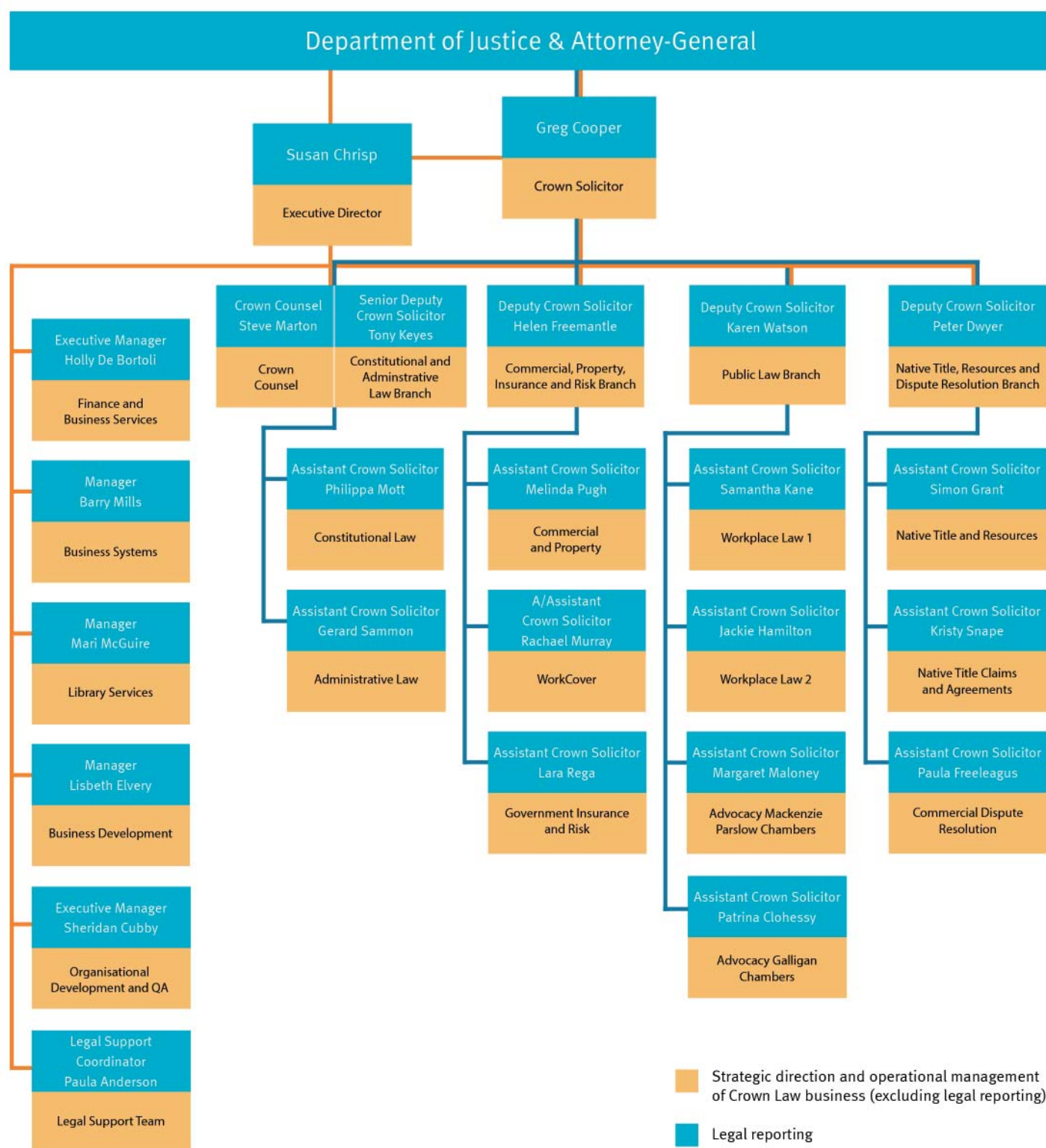
The Executive Director reports directly to the Crown Solicitor and is accountable for the strategic business direction and performance of the practice.

Each of Crown Law's four legal branches is led by a Senior Deputy Crown Solicitor or Deputy Crown Solicitor. The legal teams within each branch are managed by an Assistant Crown Solicitor who is responsible for the supervision of legal matters and the lawyers in their team. Their most senior legal support are the Special Counsel who manage the more complex matters for their team and branch. Crown Law has 16 Special Counsel.

The lawyers in Crown Law are supported by the Practice Management Branch of six teams, each led by a manager.

During the 2016/17 financial year, the Legal Support Team was established under the Practice Management Branch as a result of the annual Crown Law Strategic Business Planning meeting. The Legal Support Coordinator is responsible for the coordination, training and development of legal support across the practice.







# OUR LEADERSHIP TEAM



Direct leadership of Crown Law is provided by six experienced senior Crown Law executives who comprise the Strategic Leadership Team (SLT). These members include:

- the Crown Solicitor
- the Executive Director
- the Senior Deputy Crown Solicitor
- three Deputy Crown Solicitors.

Responsibilities of the SLT include developing and executing business strategies within Crown Law and ensuring that the practice continues to provide a high standard of legal service to all of our government clients.





## GREG COOPER

### Crown Solicitor

Greg was appointed Queensland's 22nd Crown Solicitor on 1 November 2008. Immediately prior to that appointment, Greg was the Deputy Crown Solicitor of the practice's Litigation Branch, having started his career with Crown Law in 1975.

Greg went on to specialise in constitutional law, common law and public law and was appointed Crown Counsel in 1998, giving him the opportunity to junior then Solicitor-General, Pat Keane QC in several matters before the High Court of Australia.

In his role as Crown Solicitor, Greg has continued to provide authoritative legal advice whilst overseeing the operations of four legal branches of 12 legal teams.

## SUSAN CHRISP

### Executive Director

Susan was appointed Executive Director of Crown Law in August 2007. This role is responsible for the practice's business operations and strategic direction, reporting directly to the Crown Solicitor.

Susan had previously managed the department's budget as Director of Finance and has also served as Assistant Director-General.

Susan has executive management experience in several roles in other State Government agencies, including the Department of the Premier and Cabinet, the Department of Health, Queensland Treasury, Transport, Family Services and Arts Queensland.



## TONY KEYES

### Senior Deputy Crown Solicitor

#### *Constitutional and Administrative Law Branch*

Tony offers Queensland Government clients the benefit of an extensive and varied career in law. Prior to his appointment as Senior Deputy Crown Solicitor in January 2009, Tony served four years as Executive Director of Law and Justice Policy in the Department of the Premier and Cabinet.

Tony has advised jointly with Solicitors-General on a range of complex, often sensitive legal and constitutional issues, including parliamentary privilege, public inquiries, criminal justice system reforms, Commonwealth and State electoral laws, health system reforms and Crown succession.

Tony regularly appears with the Solicitor-General in a range of matters including constitutional cases in the High Court of Australia. He has led the legal representation of, and appeared for the State in investigative hearings and policy forums of the Royal Commission into Institutional Responses to Child Sexual Abuse since 2013.

As Senior Deputy Crown Solicitor, Tony leads the Constitutional and Administrative Law Branch and provides expert representation and advice on complex questions of government law.



## HELEN FREEMANTLE

### Deputy Crown Solicitor

#### *Commercial, Property, Insurance and Risk Branch*

Helen originally joined Crown Law in 1996, specialising in commercial law and securities, followed by roles across government, including Queensland Health's legal unit and the water reform unit of the Department of Natural Resources and Water. She had previously had both public and private sector experience, including as a Senior Lawyer for the Australian Government Solicitor's Office in Brisbane.

Helen re-joined Crown Law in 2002 to lead the commercial and corporate governance practice and was appointed Deputy Crown Solicitor in February 2007.

In 2012, Helen further broadened her experience in the role of Acting Executive Director of Crown Law, resuming her legal role as head of the Commercial, Property, Insurance and Risk Branch in 2013.

Helen retired from Crown Law on 30 June 2017.

## PETER DWYER

### Deputy Crown Solicitor

#### *Native Title, Resources and Dispute Resolution Branch*

Peter was appointed a Deputy Crown Solicitor in early 2010 and leads Crown Law's Native Title, Resources and Dispute Resolution Branch. Peter is a highly-experienced government lawyer with expertise across a range of legal practice areas including commercial and contract law, corporate governance, dispute resolution, native title and resources law, employment law and intellectual property.

Prior to his career in Queensland Government which, in addition to Crown Law included a number of years in a senior legal position at Queensland Health, Peter practised as a commercial and property lawyer in the private sector including an in-house corporate role overseas.

In his current role, with responsibility for Crown Law's specialist native title, resources and commercial dispute resolution teams, Peter draws on his breadth of experience to provide strategic, solutions-focused advice to client agencies on significant, complex and sensitive matters.



## KAREN WATSON

### Deputy Crown Solicitor

#### *Public Law Branch*

As a long serving employee of Crown Law, Karen has an unsurpassed knowledge of Queensland Government public law, employment and discrimination law, management of disciplinary matters, and statutory interpretation.

Karen's experience in workplace and employment law began in 1998 when she became team leader of the workplace team. She was appointed to her current role of Deputy Crown Solicitor of the Public Law Branch in 2010, with responsibility for four large legal teams across workplace law and advocacy.

In addition, Karen provides advice on sensitive and significant workplace law matters to the highest levels of government. Karen is also in demand by client agencies as an expert legal trainer.

## ► Legal branches and teams

### Constitutional and Administrative Law Branch

#### Constitutional Law Team

With significant experience advising clients on complex topics in relation to constitutional law and statutory interpretation, Crown Law's Constitutional Law Team provides a range of legal services and advice which include:

- advising the Attorney-General on the conduct of and intervention in constitutional litigation
- providing support to the Solicitor-General when representing the State Government in litigation
- advising the State on complex constitutional law issues
- advising on the validity and effectiveness of draft legislation, if enacted
- advising on issues involving Cabinet and Parliament
- advising the Attorney-General in relation to the first law officer's functions and powers including pardons, indemnities, contempt of court and matters involving judicial officers
- advising on complex questions of statutory interpretation.

#### Administrative Law Team

Specialising in the operation and application of public sector administrative law, Crown Law's Administrative Law Team have unique expertise in advising and representing the State in matters under the *Judicial Review Act 1991*, the *Right to Information Act 2009* and the *Information Privacy Act 2009*.

The Administrative Law Team provides a range of services including:

- advice and representation in matters involving the *Judicial Review Act 1991*
- statutory decision-making and statements of reasons
- advice and representation in matters involving the *Right to Information Act 2009* and the *Information Privacy Act 2009*
- representation in administrative law appeals including in the Queensland Civil and Administrative Tribunal.

### Public Law Branch

#### Workplace Law Team

Working closely with other specialists across Crown Law, the Workplace Law Team provides advice and legal services in workplace relations and employment law, including practice areas which are unique to government.

Their legal services include:

- advising government agencies on their statutory powers and functions, including under the *Public Service Act 2008*, such as discipline and ill health retirement
- preparing correspondence for and on behalf of decision makers in ill health retirement and discipline processes
- advising agencies on policies and risk management
- advising on industrial relations, including the implications of the *Fair Work Act 2009*
- acting for government agency employers in WorkCover appeals and applications for review concerning psychological injuries
- acting for and advising in relation to complaints of unlawful discrimination, sexual harassment, victimisation and public interest disclosures
- advising and assisting agencies in relation to the preparation of appeals against discipline decisions under the *Public Service Act 2008*
- advising clients about workplace health and safety matters
- advising and representing the State in unfair dismissal, adverse action, industrial disputes and other proceedings under the *Industrial Relations Act 2016*
- drafting and advising on all aspects of employment contracts, including appointments, discipline and termination, dispute settlement and representation.

## Advocacy Chambers

An essential responsibility of many government agencies is the enforcement of regulations and legislation to protect the public from incompetent and improper conduct.

Crown Law's Advocacy Chambers play a central role in providing representation for and advising numerous agencies on the conduct of activities of professional, administrative, industrial and disciplinary boards and tribunals.

The chambers are divided into two specialist areas – Mackenzie Parslow Chambers and Galligan Chambers.

Lawyers and barristers in Mackenzie Parslow Chambers specialise in:

- matters relating to the *Dangerous Prisoners (Sexual Offenders) Act 2003*
- representing clients with regard to coronial inquests
- appearing for the Attorney-General in regard to matters of cy-pres and charitable trusts
- statutory prosecutions in relation to mining and resources, state revenue, electoral matters, fair trading and consumer law
- representing clients and preparing responses in regard to subpoenas served on departmental officers to give evidence or to produce documents for use in other court proceedings
- providing legal opinions and advice on statutory interpretation and associated preparation of material and court documents
- providing advice on evidence and investigation techniques and requirements
- appearing as amicus curiae on behalf of the Attorney-General for urgent applications
- providing advice on prospects of appeal, preparing appeal documentation and appearing at appeal hearings
- appearing in the Mental Health Review Tribunal and Mental Health Court.

Galligan Chambers comprises court-going advocates, barristers, solicitors and associated support staff with expertise in:

- representing State Government departments in enforcement and disciplinary proceedings before the District and Magistrates Courts, and tribunals including the Queensland Civil and Administrative Tribunal (QCAT)
- statutory prosecutions in relation to WorkCover fraud, public health, drugs, poisons and food safety and standards
- appearing before the Supreme and District Courts, the Mental Health Court and the Mental Health Review Tribunal, to represent the Attorney-General's interests
- providing advice on statutory investigation and enforcement provisions and procedures
- representing and advising clients with regard to coronial inquests, administrative reviews, statutory prosecutions and other inquiries.



## Native Title, Resources and Dispute Resolution Branch

This branch, led by Deputy Crown Solicitor, Peter Dwyer, delivers legal services in two main legal practice areas. The **Commercial Dispute Resolution** Team provides legal advice and representation in all courts on a range of matters including:

- commercial and contractual disputes
- debt recovery
- negligence claims
- nuisance claims
- land title fraud
- breaches of the Australian Consumer Law
- false imprisonment and malicious prosecution claims
- injunctive relief.

This team also advises and represents the State in matters brought before the Queensland Civil and Administrative Tribunal (QCAT) and responds to notices of non-party disclosure, subpoenas and summonses issued from all State courts in both civil and criminal matters.

Our lawyers specialise in all forms of alternate dispute resolution, having successfully negotiated the resolution of numerous disputes on behalf of client departments through mediation and participation in without prejudice conferences.

Our **Native Title** practice comprises two teams – Native Title Claims and Agreements and Native Title and Resources.

Crown Law has a long, distinguished history in this area of law, dating back to the landmark Mabo decision in the High Court in 1988. As with that famous case, Crown Law continues to act for the State and provide advice to all levels of the Queensland Government on matters concerning native title and Aboriginal and Torres Strait Islander cultural heritage.

Specifically, lawyers across our two native title teams specialise in:

- the conduct of native title determination applications filed in the Federal Court
- negotiating and drafting indigenous land use agreements
- proceedings in the Federal Court for review of registration test decisions
- right to negotiate and other proceedings in the National Native Title Tribunal
- advising on the extinguishment of native title and the 'future act' regime under the *Native Title Act 1993* (Cth)
- advising on:
  - native title issues relating to proposed legislation
  - native title and Aboriginal and Torres Strait Islander cultural heritage issues relevant to major infrastructure projects
  - the operation of mining and petroleum legislation.

Legislation key to the daily work of both teams includes the *Native Title Act 1993* (Cth), *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003*.

## Commercial, Property, Insurance and Risk Branch

This branch consists of three teams specialising in all aspects of government commercial law, property, planning and environment law, WorkCover claims, as well as personal injury claims against the State, including civil litigation.

### Commercial and Property Team

The Commercial and Property Team manage matters across a range of practice areas which include:

- commercial contract drafting, administration and governance
- standing offer arrangements, consultancy contracts and tender and procurements processes
- contracts under Government Information Technology Contracting
- advice on government funding
- probity issues
- governance, structuring and regulatory issues for government agencies
- intergovernmental agreements
- competition and consumer law
- taxation and public sector finance
- charities and trusts
- commercial dealings with intellectual property including assignments, licenses, consultancy and research and development agreements
- copyright, trademarks, patents, designs and confidential information
- information privacy
- information technology, online and e-commerce transactions.

The property specialists in this team focus on:

- major infrastructure projects such as roads and hospitals
- commercial leases and residential tenancies
- dealings with Crown land and freehold land under the *Land Title Act 1994*
- statutory covenants, licenses and easements
- title correction and conveyancing
- resumption and compensation agreements under the *Acquisition of Land Act 1967*
- aspects of indigenous land use agreements which relate to property
- all aspects of the *Sustainable Planning Act 2009* including infrastructure agreements
- regulatory framework under the *Environmental Protection Act 1994*
- indigenous management agreements under the *Aboriginal Land Act 1991* and *Nature Conservation Act 1992*
- conservation agreements under the *Nature Conservation Act 1992*.

The team managing planning and environment matters has extensive experience in advising and representing clients on:

- development approval processes under a broad range of State and Commonwealth legislation
- the roles of agencies in the development approval processes under the *Sustainable Planning Act 2009*
- injunctive relief relating to land use matters and development offences
- compulsory acquisition of land under the *Acquisition of Land Act 1967*, *State Development and Public Works Organisation Act 1971* and *Transport Planning and Coordination Act 1994*
- legislative requirements for development undertaken on behalf of the State
- drafting and interpretation of State and local planning instruments under the *Sustainable Planning Act 2009*
- State powers under the *Sustainable Planning Act 2009*
- validity of conditions imposed by State agencies in relation to development approvals
- community infrastructure designation processes
- aspects of the *Queensland Heritage Act 1994* and *Environmental Protection Act 1994*

- powers under the *Transport Infrastructure Act 1994* including powers in relation to State-controlled infrastructure
- water allocations and entitlements under the *Water Act 2000*
- representing departments, agencies and Ministers in courts and tribunals including the Planning and Environment Court, Land Court, Supreme Court, Court of Appeal and the High Court of Australia.

## WorkCover

Crown Law's WorkCover Team advises and acts for WorkCover Queensland, State Government departments and other public sector entities in the management of common law workers' compensation claims.

These include claims on behalf of emergency services personnel such as police, corrective services, ambulance and fire officers, who may have sustained an injury during the course of their work, as well as claims arising from incidents at building sites, in national parks and at schools.

Lawyers in this team also specialise in managing psychiatric injury claims arising from bullying and harassment, trauma, excessive workloads and asbestos exposure.

They advise on the involvement of third parties, such as CTP insurers, matters of liability, quantum and evidence, and liaises with client agencies on the conduct of matters and resolution of claims.

Work the team regularly undertakes includes:

- identification and evaluation of risk management in personal injuries litigation
- conducting and preparing for complex trials in all jurisdictions
- dispute resolution including mediations, conducting conferences and negotiating settlements
- conducting complex civil proceedings.

Lawyers from our WorkCover Team have represented the State in the District, Supreme and High Courts in some of Queensland's largest and most complex WorkCover litigation cases.

## Government Insurance and Risk

Crown Law's personal injury civil litigation outside WorkCover matters is managed in the Government Insurance and Risk Team.

In addition to complex and often contentious personal injury matters, the team also provide legal services in dispute resolution, risk management and public liability. Core work for the Government Insurance and Risk Team includes:

- conducting complex civil proceedings including personal injury, occupier's liability, medical negligence and stress claims
- providing high-level complex legal advice on a wide range of personal injury matters
- dispute resolution including negotiating settlements, conducting mediations, directions hearings and settlement conferences
- conducting and preparing for complex trials in all jurisdictions
- identification and evaluation of risk management in personal injuries litigation
- conducting insurance and public liability litigation
- appearing as an advocate at applications, callovers, taxations and directions hearings.

Legislation key to their daily work includes the *Personal Injuries Proceedings Act 2002* and the *Civil Liabilities Act 2003*.

## Practice Management Branch

The Practice Management Branch (PMB) provides operational corporate support functions to the practice. The services provided by PMB are streamlined and efficiently managed to allow our lawyers to focus on their core business. PMB is led by Executive Director, Susan Chrisp and each team within the PMB provides a range of unique corporate services to Crown Law staff.

### Finance and Business Services

The Finance and Business Services Team is responsible for finance and asset management including coordination of client billing, expenses and disbursements, travel arrangements, accommodation, furnishings and other general stores and inventory, along with records management, archiving, retention and disposal and copy room services to the practice.

### Business Systems

The Business Systems Team is Crown Law's dedicated IT support. The team works in coordination with DJAG's IT Services to provide hardware and software services and support. The Business Systems Team is responsible for the Crown Law Helpdesk, an independent helpdesk service separate from the DJAG Helpdesk. The Crown Law Helpdesk provides IT software training and remote access support along with an out of hours service.

### Business Development

The Business Development (BD) Team is responsible for client relationship management through the Client Management Framework and feedback from client satisfaction surveys. These areas are crucial to the practice in terms of maintaining good client communications through feedback. The BD team also maintain the practice's online presence, communications, events, legal service tenders, publications, corporate design and staff photos.

### Organisational Development and Quality Assurance

The Organisational Development (OD) Team provides a range of human resource services to Crown Law in areas of recruitment and selection, learning and development, performance management, workplace health and safety, health and wellbeing and quality assurance. OD manages staff feedback and business improvements across the practice.

### Library Services

The Crown Law Library maintains the library intranet site, provides reference and research services and training, and maintains the library collection.

### Legal Support Team

The Legal Support Staff Team leads the coordination of all secretarial and administrative support in Crown Law.



# OUR PEOPLE

Crown Law is committed to attracting and retaining experienced staff who strive to deliver outstanding client service to the Queensland Government.

Our practice currently employs 124 legal officers with 54 secretarial support staff. In addition, there are 48 staff across six teams in the Practice Management Branch.

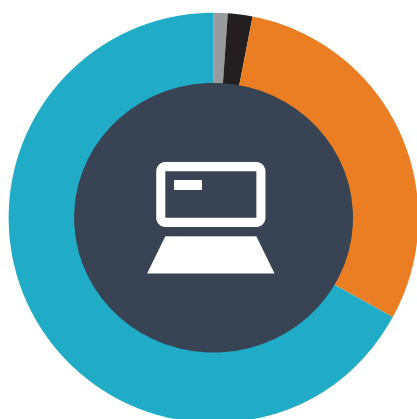
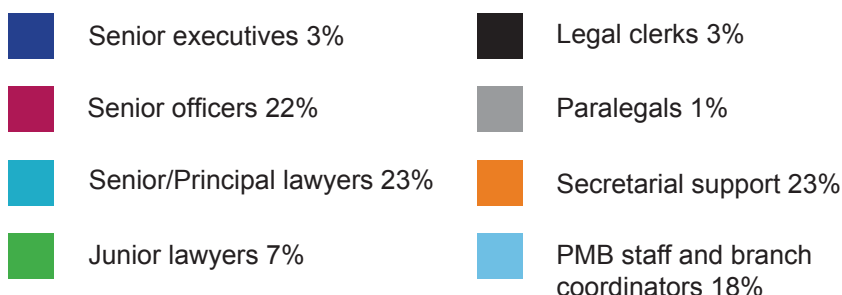
Crown Law prides itself on workforce diversity, equal opportunity and flexible work/life balance options. Crown Law puts this belief into practice by offering employees flexible working arrangements such as compressed hours, job share arrangements, part-time employment and telecommuting. In addition to work/life balance benefits, approximately 75 per cent of our 226 staff are women.



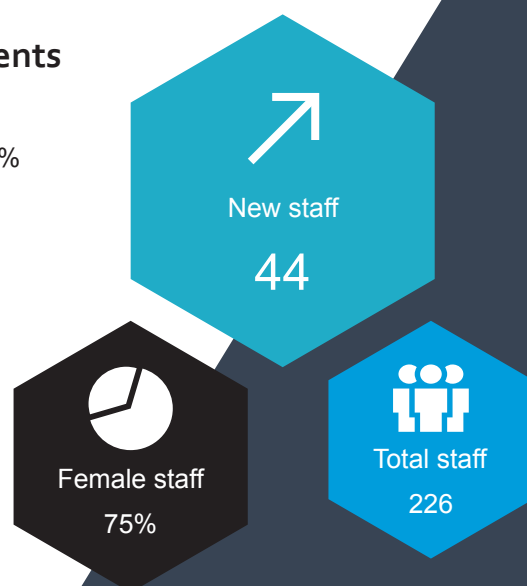
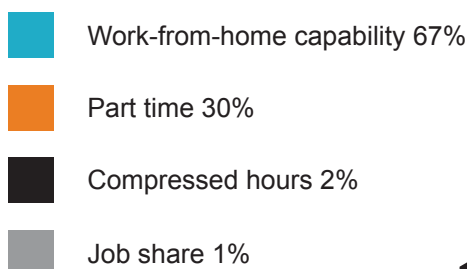
(From left) The Hon Yvette D'Ath with Crown Solicitor's Award winner, Melinda Pugh, Director-General, David Mackie and Crown Solicitor, Greg Cooper at the 2017 Crown Law Excellence Awards.



## Crown law staff



## Flexible working arrangements



# OUR CLIENTS

## ▶ Client Service Charter

Crown Law's Client Service Charter is aligned with our vision, purpose and core values. The charter guides all staff in the provision of client service that is:

- accessible
- accurate
- timely and responsive
- solution focussed
- value for money
- commercially attuned.

## ▶ Client Management Framework

Crown Law implemented the Client Management Framework in 2008 to improve consistency in client service by providing a formal reporting structure between Client Relationship Managers (CRMs) in the practice and the Strategic Leadership Team. The reporting structure is intended to make CRMs more accountable for the service delivered to their individual clients.

The roles and responsibilities within the framework create a pathway for implementing strategic business development activities based on shared and individual client needs and service expectations.

The Strategic Leadership Team is responsible for the overall management of the framework and setting the strategic direction for improving client service within the practice. Overall service quality is monitored and, where necessary, client service issues addressed.

CRMs are usually at the Assistant Crown Solicitor level or higher and are allocated at least one key client. The CRM role is designed to be a single point of contact – on behalf of all of Crown Law – for that client. The key responsibility of a CRM is to ensure a consistently high level of client service.

CRMs are expected to take a pro-active approach to managing client expectations on a day-to-day basis and matching service delivery to their needs.

## ***Valentine v D & C Masters Painters & Decorators PL [2016] QDC 16-203***

The plaintiff in this matter was a painter who worked for a painting contractor, which had been engaged by the Department of Housing and Public Works to repaint a property. The plaintiff sued both his employer and the department. The plaintiff was injured when he slipped on a door mat at the property.

The plaintiff sought to argue that the department should have ensured that the mat, as a potentially dangerous item, was removed from the premises by the tenant prior to the painting commencing.

The judge found that the risk posed by a door mat was not foreseeable, given that it was a type of mat one expects to see at the front doors of houses throughout Queensland and there was nothing about the mat that called for it to be inspected as part of a risk assessment. The judge expressed the view that the fact that the plaintiff did slip on the mat was immaterial, as the issue of a 'foreseeable' risk had to be assessed prospectively.

This matter confirms that the State of Queensland is able to rely on a competent contractor to carry out risk assessments where the contract between the parties requires that such risk assessments be conducted, provided that the State conducts its own regular inspections as required in its capacity as a landlord. The State is not required to remove items such as door mats, which pose minimal risks and which people in their daily lives are able to negotiate without mishap.

## ***Hayes v State of Queensland [2016] QCA 191***

Crown Law successfully defended the State in claims brought by four State employees seeking damages in relation to psychiatric injuries suffered by each of them as a result of stress in their workplace in connection with disciplinary processes. The four claims were heard together as they arose from the same set of circumstances in a particular work unit. The State was successful in the initial trial and on appeal.

At trial, the court found that although the plaintiffs had established causation between their injuries and their employment, they had not established that there was any negligence on the part of the State.

The plaintiffs appealed to the Court of Appeal and in July 2016 the Court of Appeal dismissed the appeal, finding that while the State did owe a continuing duty of care while investigating complaints made against the plaintiffs, so to avoid psychiatric injury, the medical evidence did not establish causation.

The plaintiffs then sought special leave to appeal to the High Court. The High Court dismissed the applications for special leave and reaffirmed the Court of Appeal's decision.

This case represents a very positive outcome for the State in defending workers' compensation claims.

## ***Griffiths v Northern Territory [No 3] [2016] FCA 900 ('Timber Creek')***

On 24 August 2016, Justice Mansfield handed down his decision in the first case involving judicial consideration of the calculation of native title compensation: see *Griffiths v Northern Territory of Australia* (No 3) [2016] FCA 900 ('Timber Creek').

The Northern Territory and the Commonwealth were the respondents, whilst South Australia and Queensland intervened in relation to constitutional issues raised by the applicant's claims. Queensland was represented by the Solicitor-General, Peter Dunning QC and Senior Deputy Crown Solicitor, Tony Keyes.

In their written submissions to the Court, the Commonwealth valued the effect on native title at \$1.2 million and the applicant at figures between \$4.7 and \$22 million. The Court's findings of a total of \$3.3 million comes in at twice the amount estimated by the Commonwealth but well short of that contended for by the applicant.

All three parties appealed aspects of his Honour's findings, although none of the appeals concerned the constitutional issues. Consequently, Queensland did not intervene in the appeals. The appeals were heard by the Full Court of the Federal Court in February 2017. At the time of writing, the Full Court's judgment was reserved.

## ***Gaye Prudence Lyons v State of Queensland***

On 11 December 2013, the Queensland Civil and Administrative Tribunal dismissed a complaint by Gaye Lyons which alleged the State had directly and indirectly discriminated against her on the basis of her impairment. In particular, Ms Lyons claimed she was precluded from being selected as a juror because she has a hearing impairment in that she is deaf.

The tribunal at first instance found there had not been any unlawful discrimination on the basis that, in essence, the Deputy Registrar had believed the *Jury Act 1995* did not permit a person to perform jury service if that person required the assistance of an Auslan interpreter in order to do so, and because to do so would contravene the confidentiality of jury deliberations. This decision was subsequently affirmed on appeals to the Appeal Tribunal and the Supreme Court (Court of Appeal).

In October 2016, the Full Bench of the High Court delivered its judgment unanimously dismissing Ms Lyons' appeal. The High Court's decision confirms the ability of the District Court to continue its practice of not permitting persons who are deaf to perform service on a jury on the basis that they are ineligible to do so.

Walter Sofronoff QC (as his Honour then was), Kerri Mellifont QC and Angus Scott of Counsel appeared on behalf of the State at the hearing of the appeal before the High Court.

## ***R v Thien Dinh Chau***

Crown Law prosecuted this matter upon indictment in the District Court, on behalf of the Office of Fair Trading.

Mr Chau was the principal of a real estate agency in Inala. Over a period of almost 11 months, Mr Chau misused his real estate agency trust account and wrongly received \$237,503.90. He acquired this money by making hundreds of unauthorised withdrawals from the trust account. He received rental money from tenants which he failed to bank, applying it to his own use.

On other occasions, he banked the rental money and then failed to pay what was owing to the landlords, again, applying it to his own use. Mr Chau made full admissions to the offences when detected and entered a plea of guilty before Everson DCJ to one count of fraud.

Everson DCJ took into account Mr Chau's cooperation with authorities, lack of previous convictions and a diagnosis of a major depressive disorder at the time of the offending behaviour. Mr Chau was sentenced to a term of imprisonment for four years, to be suspended after serving a term of 15 months. The operational period of the suspended sentence is five years.

## ***Rodomon Pty Ltd (In liquidation) v State of Queensland***

On 19 November 2014, the State (through the Department of Public Works and indemnified by QGIF) was served with proceedings by Rodomon Pty Ltd (in liquidation) claiming payment of the sum of \$7,077,864.29 under a deed of indemnity between Rodomon and the State in 2002, arising out of an encroachment by the State on a property owned by Rodomon in Mary Street in the city.

Rodomon was constructing a residential tower on the property adjoining the State land. When construction commenced, the encroachment was found. As a consequence of the encroachment in 2002 the parties negotiated an extremely broad deed of the indemnity in favour of Rodomon.

The project was completed in 2005. In 2007, Rodomon was placed in liquidation.

The proceedings were commenced by the liquidators of Rodomon who sought to claim the alleged additional costs incurred, including consequential losses associated with delays to the project caused by the encroachment. The matter settled at mediation and was subject to creditor approval, which has now been obtained.



## ***Beattie v Nexus Delivery Pty Ltd and State of Queensland***

The State is the proponent for and owner of the land on which the Toowoomba Second Range Crossing Project (the project) is being constructed on its behalf by Nexus Infrastructure Pty Ltd (Nexus).

The State negotiated the Cultural Heritage Management Agreement (CHMA) with the Western Wakka Wakka Aboriginal Party which was executed on 7 October 2014. The CHMA was ultimately novated by the State to Nexus at financial close (in August 2015) and has been managed by Nexus since that time.

On 11 October 2016, Mr Beattie filed an application for an injunction in the Land Court seeking to restrain Nexus from progressing certain construction works. The State was not a party to the initial application. An urgent interim injunction was granted on 12 October until 17 October 2016. Nexus and Beattie attended a mediation, however that mediation was unsuccessful.

On 17 October, the State, although not a party at that stage, appeared and successfully argued against the interim injunction being extended. The interim injunction was lifted thereby allowing the works which were the subject of the project to continue. On 20 October 2016, the State successfully applied to be joined as a party to the proceedings.

A further mediation was held on 12 December 2016 and then again in late December culminating in the matter settling on 21 December 2016. Orders were made by consent that the proceedings be dismissed with no order as to costs.

## **Royal Commission into Institutional Responses to Child Sexual Abuse**

Senior Deputy Crown Solicitor, Tony Keyes and Principal Lawyer, Ben Cramer represented the State at the Royal Commission into Institutional Responses to Child Sexual Abuse in the week commencing 6 March 2017.

The hearing (case study 51) investigated the responses of Commonwealth, State and Territory Governments to the Commission's recommendations from its previous Redress and Civil Litigation and Working With Children Checks reports, and forthcoming recommendations about reportable conduct and mandatory reporting schemes, out-of-home care data collection and child-safe standards. The hearing was conducted by a full bench of all six royal commissioners.

The hearing was a useful opportunity to take stock of a number of nationally significant recommendations and proposals. Royal Commission Chairperson, the Honourable Justice Peter McClellan AM, reminded governments that the recommendations represented a unique opportunity to make genuine national progress on a range of child safety measures. The Commission is established jointly by letters patent of all Australian Governments, and its final report is due to be delivered in December 2017.

## ***Buchan v Department of Transport and Main Roads BS4420/16***

The applicant's claim concerned a decision by a Department of Transport and Main Roads (DTMR) officer representing the State of Queensland as landowner to terminate a licence agreement over the land.

Under the *Land Act 1994*, departmental representatives of the State have the power to deal with, lease or licence land owned by the State. There may be circumstances where decisions made under the Land Act would be susceptible to judicial review under the *Judicial Review Act 1991* (JRA).

But in this case, the decision to terminate the licence agreement was not made under the Land Act but under the licence agreement. And once an agreement, like the licence agreement in this case, is made, it is the agreement between the parties which is the origin of the rights and liabilities as between the parties: *General Newspapers Pty Ltd v Telstra Corporation* (1993) 45 FCR 164; *Griffith University v Tang* (2005) 221 CLR 99.

On that basis, DTMR, represented by Crown Law, applied to have the application dismissed. The application was dismissed and the applicant ordered to pay the respondent's costs on the standard basis.

The application for a statutory order for review was filed on Tuesday 3 May 2016. Crown Law received instructions to act on Friday 6 May 2016. The application was dismissed on Tuesday 10 May 2016. Finalising the matter within one week saved the client substantial cost and time that would have been incurred had the matter proceeded to a contested hearing.

## ***Roane-Spray v State of Queensland* [2016] QDC 348**

The plaintiff in this matter sued the State for injuries alleged to have been received when she fell off an ambulance stretcher whilst being unloaded from an ambulance.

The State denied liability and sought to rely on s 27 of the *Civil Liability Act 2003* as a complete defence to the claim. The court found that the ambulance officer was employed by the State of Queensland and therefore the State was vicariously liable for the actions of its ambulance officers. However, the court also held that although the State was the employer, it was not a prescribed entity for the benefit of the s 27 defence. Rather, the prescribed entity is the Queensland Ambulance Service.

The finding in this case would mean the State would potentially not be able to rely on s 27 in cases involving similar agencies which perform duties to enhance public safety, such as Queensland Fire and Rescue, SES and the Rural Fire Brigade.

The State is appealing the judgment on the grounds that the finding that the defence in s 27 of the *Civil Liability Act 2003* was not available to the State, constitutes a legal error. The appeal will be heard on 4 August 2017.

# LEGAL EDUCATION AND TRAINING

Over the past 20 years, Crown Law has maintained a formal program of legal education for government. We have conducted hundreds of workshops and seminars in that time to assist government officers to understand at a practical level the application of the legal and legislative framework in which the Queensland public sector operates.

We take pride in the quality and relevance of our training which is provided to legal and non-legal officers at all levels of government in a variety of free and paid formats.

## ► Annual Crown Law Legal Conference

Each year, Crown Law hosts a legal conference for Queensland Government officers as part of our legal education program. Sixty-seven legal and non-legal officers from 23 agencies across government attended the one-day conference on Wednesday 20 July 2016.

The conference was opened by the Attorney-General and Minister for Justice and Minister for Training and Skills, The Honourable Yvette D'Ath.

The keynote speaker was the Solicitor-General, Peter Dunning QC who co-presented on 'Statutory interpretation by the High Court – the past 12 months' with Crown Counsel, Steve Marton.

Eight further topics were presented by 13 lawyers from across the practice:

1. Prosecution submissions on sentence – post-Barbaro developments in Queensland (*Barbaro v The Queen*; *Zirilli v The Queen* (2014) 305 ALR323)
2. Status of the Harper Review of competition law
3. Elements of misleading or deceptive conduct
4. When silence can be misleading or deceptive
5. Managing claims for psychiatric injury by government workers (*Palmer & Ors v State of Queensland*)
6. Managing an ill employee
7. Parliamentary privilege, public interest immunity and legal professional privilege in commissions of inquiry
8. New projects and preliminary native title considerations.

The 2017 Crown Law Legal Conference will be held on Thursday 3 August 2017.



*Crown Counsel, Steve Marton (left) and the Solicitor-General, Peter Dunning QC present their report on statutory interpretation at the 2016 Crown Law Legal Conference.*

## Legal training

As part of Crown Law's commitment to providing relevant legal education to all levels of government, the practice hosted a total of 28 events for 749 government officers during 2016/17.

Our training program includes full-day and half-day training workshops, training packages tailored to an agency's legislative requirements, lunchtime legal briefings and in-house legal education sessions. All of Crown Law's training options are available to clients in Queensland Government.

The Constitutional Law Team, hosted six statutory interpretation training workshops throughout the year for 82 clients.

Other training sessions throughout the year included:

- Privacy and the investigation pathway for Queensland Health
- Procedural fairness for Queensland Health
- Penalty Infringement Notices – issuing, critical errors, withdrawal and cancellation for Queensland Health.

## Continuing Legal Education

Crown Law's Continuing Legal Education (CLE) Program continued throughout 2016/17 with legal staff and clients attending presentations on:

- Basic advocacy skills, court etiquette and persuasive communication
- Responding to subpoenas and notices of non-party disclosure
- Mental Health Act
- From the bench by Chief Magistrate Rinaudo
- High Court's decision on natural justice in *Isbester*
- Constitutional law update
- The art of drafting pleadings and submissions by Solicitor-General, Peter Dunning QC.

## Online learning

To assist lawyers and non-lawyers in the Queensland Government develop and maintain their legal knowledge, Crown Law offers a free online Continuing Professional Development (CPD) Training Program.

Developed by senior Crown Law lawyers, the four modules provide practical legal training that can be conducted at the user's own pace. The module content has been developed to provide legal and non-legal officers with a clearer understanding of the legal framework of government and the principles that guide it.

During the 2016/17 year, there were 53 enrolments in the online CPD program from officers in 13 agencies.

Our four online CPD modules available free to all government officers are:

- Introduction to government law
- Model Litigant Principles
- Legal professional privilege
- Statutory interpretation.



# CROWN LAW LIBRARY

The Crown Law Library is provided for business units and statutory bodies that fall under the Department of Justice and Attorney-General, including commissions of inquiries and taskforces.

In the period of July 2016 – June 2017 the Crown Law Library recorded the following reference and research statistics:

- received and processed 5095 reference services requests
- 581 research hours spent on 1253 queries
- distributed print and electronic items with a circulation of 5760
- supplied 8616 pages
- published 55 current awareness publications.

The Library also conducted a number of training sessions throughout the year for government officers, including:

## Individual training

- Induction training – all lawyers and some paralegals and secretaries received induction training sessions.
- Refresher training – staff are able to request individualised refresher training at any time.
- Returning staff training – for staff returning from secondment or long leave, refresher training sessions are recommended.

## Team training

Team training, which is designed to address your particular research needs, can be organised at any time for legal teams or small groups of practitioners. Topics include:

- practice area specific research tools
- subject tools combined – criminal law, statutory interpretation, legislation
- publishers platforms – CCH, LexisNexis, Westlaw AU, Austlii
- Thomson Reuters Westlaw International caselaw, secondary materials and news.

# CROWN LAW CHOIR

Formed in 2002, the Crown Law Choir consists of volunteer singers from across the legal system.

At its inception, the Choir was made up almost exclusively of Crown Law staff, but has since grown to include members from the Department of Justice and Attorney-General, the Law Courts and the private Bar.

Fluctuating between 20-35 members throughout the year, the Crown Law Choir performed 11 times since July 2016. Opening in July with their feature performance at St John's Cathedral for the Supreme Court's Opening of the Law Year Church Service, the Choir then performed 10 times throughout December to raise money for charity. The Choir performed at the below locations in December 2016:

- State Law Building foyer
- 400 George Street foyer
- Federal Court
- Magistrates Court

- Supreme Court, Banco Court foyer
- 1 William Street foyer.

The Choir was invited to perform at 1 William Street at the personal request of Director-General, David Mackie. Supporting the charity *Aunties and Uncles* in 2016, the Crown Law Choir raised close to \$1300, which will help mentor two disadvantaged children for 12 months.



# PERFORMANCE AND ACCOUNTABILITY

As part of the Queensland State Government, Crown Law is bound, as are all agencies, to monitor and report on staff performance and remain accountable at all times.

The following priority areas from Crown Law's strategic business plan direct our efforts and support continuous improvement:

- Improve practice profitability – market analysis of potential growth areas and target opportunities
- Client engagement and service improvements – continued engagement with clients through workshops, training sessions, industry forums and networking events
- Whole-of-practice awareness of billing, communication and estimates – targeted training for staff around billing strategies, communicating and negotiating with clients, scoping work and commercial realities of work
- Developing our people – greater mentoring, reward and recognition of staff and development of an advocacy skills training program
- Whole of practice effective use of legal support staff – establishment of a central coordinator of legal support staff to assist in their deployment, development and performance management.

## Quality assurance

Crown Law has once again maintained certification against both the ISO9001-2008 and LAW9000 Legal Best Practice standards. This is Crown Law's seventh year of certification, which was subject to an external audit conducted by SAI Global.

Certification under the International Organisation for Standardisation's ISO9001:2008 that Crown Law has strong management practices focused on realising clients' expectation of quality and outcomes.

LAW9000 builds on the ISO9001:2008 base set of standards and practices, adding requirements for legal practices, including:

- knowledge, understanding and compliance with processes and standards
- demonstrating how processes add value to business and client outcomes
- evaluating ongoing results of system performance, effectiveness and outcomes
- continuous improvement of processes based on objective management.

## Client satisfaction surveys

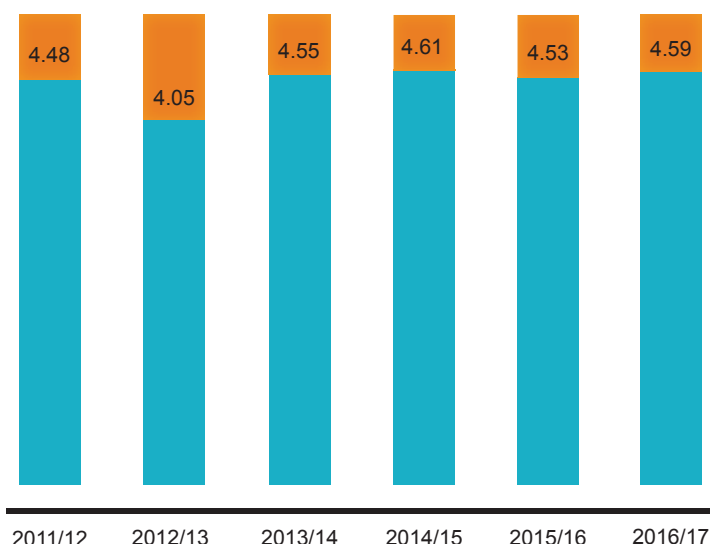
Since 1998, Crown Law has utilised formal and informal client feedback to inform our business strategies to improve how we deliver legal services to the Queensland Government.

Client satisfaction surveys are conducted quarterly across a cross-section of recent clients seeking their ratings and comments on a range of performance measures including:

- the accessibility of our lawyers
- our level of technical skill and knowledge
- our communication with clients
- promptness of service
- value for money.

Crown Law's overall satisfaction rating for 2016-17 based on these surveys was 4.59 out of 5. This is an increase from the previous financial year.

Client satisfaction survey ratings 2012-17



## Operating results

Crown Law reported a profit of \$711,000 for the 2016/17 financial year. The practice also reported 97% productivity for the 2016/17 financial year.

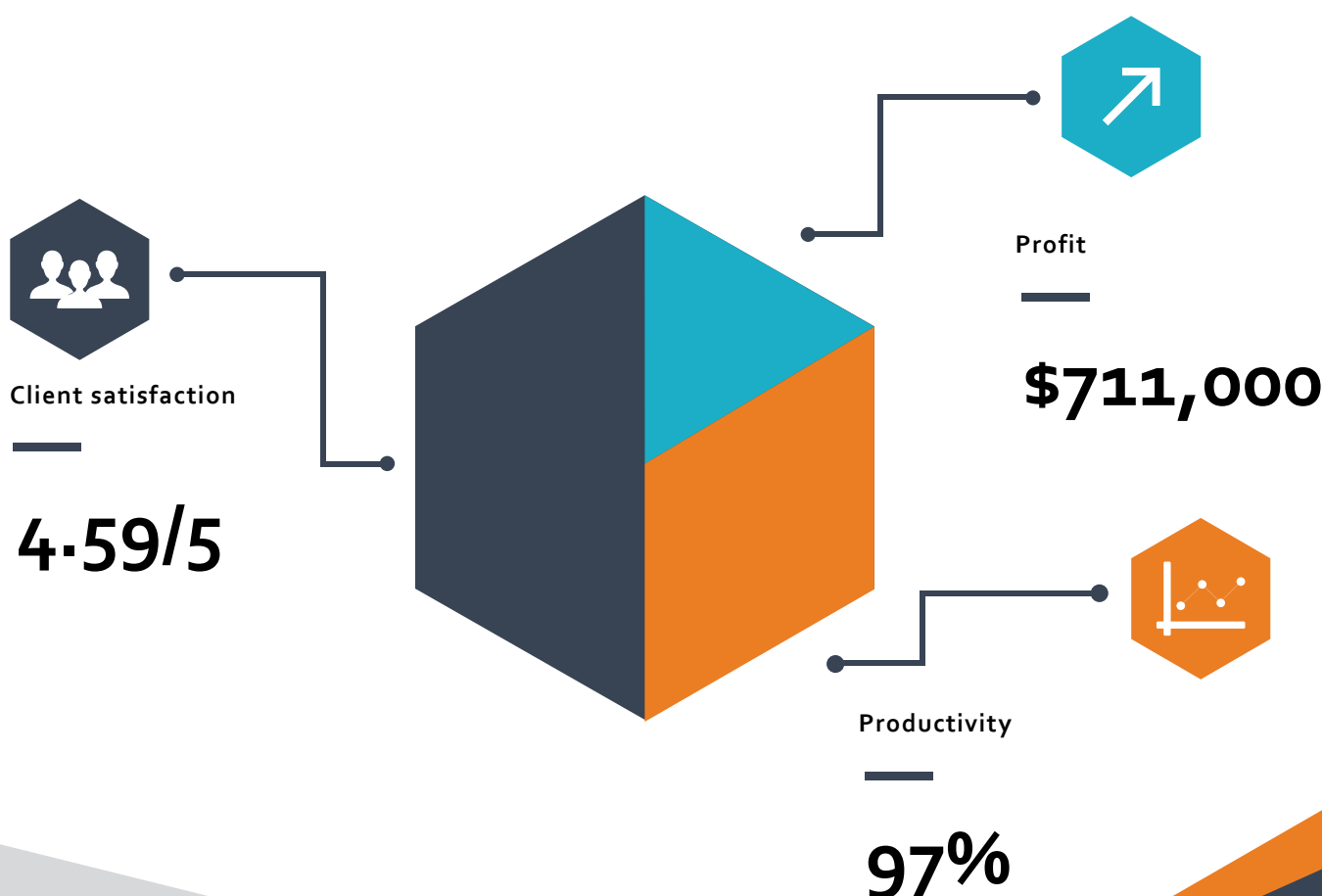
### Annual profit/(loss) comparison

| Year   | 2011-12    | 2012-13    | 2013-14      | 2014-15      | 2015-16    | 2016-17    |
|--|------------|------------|--------------|--------------|------------|------------|
| <b>Profit/loss (\$000)</b>                         | <b>190</b> | <b>416</b> | <b>1,517</b> | <b>1,235</b> | <b>576</b> | <b>711</b> |
| Contribution to Legal Services Coordination Unit * | 500        | 443        | 427          | 490          | 500        | <b>500</b> |
| Dividend paid to Queensland Treasury               | —          | —          | 635          | 375          | —          | —          |
| Funds retained by Crown Law                        | (310)      | (27)       | 455          | 371          | 76         | <b>211</b> |

\*The Legal Services Coordination Unit is not part of Crown Law

### Annual productivity comparison

| 2011-12 | 2012-13 | 2013-14 | 2014-15 | 2015-16 | 2016-17    |
|---------|---------|---------|---------|---------|------------|
| 100%    | 93%     | 97%     | 96%     | 98%     | <b>97%</b> |



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