



THE HIGH COURT OF NEW ZEALAND | TE KŌTI MATUA O AOTEAROA

2021 - The Year in Review

I am pleased to present a short report on events of note during 2021 in the High Court of New Zealand - Te Kōti Matua o Aotearoa.

Hon Justice Susan Thomas

Chief High Court Judge | Te Kaiwhakawā Matua

August 2022

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Overview

Despite the cumulative impacts of nearly two years of COVID-19, the High Court had a productive year. 2021 was a year of two halves. In the first half, the High Court worked hard to clear criminal jury trials impacted by the 2020 lockdown. In the second half of 2021, when the Delta variant impacted criminal jury trials, the High Court focused on its civil work. Civil cases, except those involving witnesses, were largely able to proceed remotely.

In the civil jurisdiction, the longer-term reduction in new business continued, although the sharp increase in new judicial reviews that began in 2020 continued for the first half of 2021, matched by an increase in disposals. Of note, Wellington dealt with 11 judicial reviews related to COVID-19 decisions, and Auckland dealt with a number relating to managed isolation requirements.

Insolvency new business, which had been declining steadily since early 2009, increased by 17% since 2020. These filings are being monitored closely in anticipation of an increase in company liquidations following the removal of government COVID-19 financial support measures.

The Canterbury Earthquake List of insurance and defective repair cases continues to reduce. Disposal of cases by settlement continues to be the predominant outcome.

Steady progress continues to be made on the Marine and Coastal Area (Takutai Moana) Act 2011 case list. Case management is complex, involving multiple claimant groups, and can require long periods of hearing time. Indicatively, the hearing time required will increase significantly from mid-2024.

In the criminal jurisdiction, more criminal trials were disposed of in 2021 than in 2020, up 25 cases from 113 to 138. More criminal trials were held, up 28 cases from 55 to 83. Proportionately fewer cases were disposed of by guilty pleas (42%) than in 2020 (49%).

Criminal trials are getting longer, reflecting the complexity of cases and the number of multiple defendant trials. Estimated hearing time increased from an average of 15.2 days at the end of 2020, to an average of 16.3 days at the end of 2021.

COVID-19 and the High Court

In the first half of the sitting year the High Court was largely able to conduct its business unimpeded by COVID-19 restrictions. The High Court made good progress to clear the criminal jury trials vacated due to COVID-19 in 2020. By 31 August, 43 of the 49 trials vacated during the 2020 lockdown had been disposed of.

Delta variant

On Tuesday 17 August 2021, a single community case of the Delta variant resulted in the country moving to Alert Level 4, a return to full lockdown. All non-priority proceedings and jury trials were adjourned. From 20 August, the High Court heard matters in accordance with its Alert Level 4 protocol, with a presumption hearings would occur using remote participation.

The Auckland circuit was particularly impacted by the Delta variant. Auckland and Northland remained at Alert Level 4 when the rest of New Zealand moved to Alert Level 3 on 31 August.

While rest of the country moved to Alert Level 2 on 21 September, Auckland, Northland and then Waikato operated at Alert Level 3 for some, or all of the remainder of the year.

Restrictions on movement from Alert Level 3 to Alert Level 2 areas had a significant impact beyond Auckland due to the number of cases outside Auckland involving Auckland-based lawyers, parties and witnesses.

Criminal jurisdiction significantly impacted

The criminal jurisdiction was significantly impacted by the Delta variant. Twenty-nine criminal trials with trial dates in August to December 2021 had their trial dates vacated due to the Delta outbreak. As at 31 December 2021, five of those trials had been heard, 23 had been allocated new trial dates in 2022 and 2023, and one trial still required a new trial date.

Cumulative impact on criminal jury trials

Two years of COVID-19 has had a cumulative impact on the number of criminal jury trials on hand, and the earliest available date these trials may be scheduled. The remaining 24 jury trials vacated due to Delta in 2021 will now form part of the schedule for 2022 and 2023. There are also four remaining jury trials vacated in 2020 due to the first COVID-19 outbreak. High Court criminal trials involve defendants facing serious charges, most of whom will be in custody. The impact of delay is felt keenly by defendants, victims, and whānau.

Civil jurisdiction less impacted

In comparison to the 2020 lockdown, High Court civil work was much less impacted by the Delta outbreak in August 2021. Nationally, general proceedings dealt with by hearing increased in 2021, up 14 from 105 to 119. However, some cases involving witnesses were not able to proceed in the second half of 2021, particularly in the Auckland circuit.

Sector cooperation

Throughout 2021, the cooperative and constructive relationship with the profession, the Ministry of Justice and other justice sector agencies was essential to the High Court's ability to ensure access to justice, and to keep those coming to Court safe. High Court judges went to extraordinary lengths to preserve criminal trials, and the pressure of presiding over long civil cases heard remotely also deserves acknowledgment.

The High Court Managers, Judicial Resource Managers and the National Roster Manager made an enormous contribution to continuing the work of the High Court throughout the year. I also acknowledge our security officers and all court staff. Much was asked of everyone and staff have shown patience, commitment, and skill in the management of all court work.

High Court COVID-19 response

The High Court COVID-19 response continued to evolve as we learnt more about the virus and measures to reduce the risk of transmission.

Throughout 2021, High Court COVID-19 protocols were published on the Courts of New Zealand website to explain how the Court would operate at the Alert Levels. From 3 December, the Government's COVID-19 Protection Framework replaced Alert Levels.

In response to the new Government framework, proof of vaccination status or a recent negative COVID-19 test was required to enter the High Court. Additional health and safety

measures were put in place for those required to attend court who did not meet these entry requirements, for example pursuant to a summons, legislative requirement, or judicial direction.

The High Court operated under transitional Red and Orange level protocols for the remainder of 2021 to provide the Ministry of Justice time to operationalise the measures required under the new framework and protocols.

The High Court also released the following specific protocols:

[Participation in Remote Hearings](#)

[Remote viewing of hearings](#)

Open justice through remote technology

The increased capacity to work remotely had positive spinoffs for open justice. Hearings of high public interest were accessible to a wider audience through live and recorded streaming of cases. Virtual Meeting Room also enabled accredited media, families and support people access to hearings they may not have attended in person. For example, the Auckland High Court live streamed criminal callovers to enable victims and whānau to observe the list.

Admission ceremonies

Restrictions on physical gatherings impacted admission ceremonies at which new lawyers are admitted to the Bar. In a High Court first, admission ceremonies were held by MS Teams. The Auckland registry alone conducted 311 admissions remotely. The Wellington and Christchurch registries used MS Teams to enable families to watch admission ceremonies. This significant undertaking was much appreciated by the new lawyers, their employers and whānau.

Workload

Judgment timeliness

In 2021, the Court delivered 3591 criminal and civil judgments. The Court exceeded its standard of 90% of civil judgments being delivered within three months of hearing or last submissions - the result was 91.6%.

The High Court reports twice yearly on “judgments outstanding beyond a reasonable time” as required by s 170 of the Senior Courts Act 2016. In the absence of extenuating circumstances, the Court considers judgments over six months old to be delayed beyond a reasonable time.

There were four judgments outstanding beyond a reasonable time as at 31 March and two as at 30 September 2021.

The [High Court Delayed Judgment reports](#) for 31 March and 30 September 2021 are available on the Courts of New Zealand website.

High Court Annual statistics

The [Annual statistics for the High Court](#) are available on the Courts of New Zealand website:

- Year to 31 December 2020 – published 17 May 2021, and
- Year to 30 June 2021 – published 17 November 2021.

Civil

Civil overview

Table 1 Summary of new civil business and disposals for the year ended 31 December 2021

	Civil proceedings	Civil appeals
New work		
2021	2015	258
2020	2173	238
Disposals		
2021	1908	239
2020	2273	238
Disposals by trial adjudication		
2021	351	
2020	327	
Disposals by non- trial adjudication		
2021	459	
2020	631	

In 2021, 2,015 new civil proceedings were filed, a decrease of 158 cases (7%) compared to 2,173 cases filed in 2020. "Civil proceedings" includes general proceedings, originating applications and judicial reviews. However, compared to the first half of 2021, there was an increase in civil proceedings filed in the second half of the year.

Nationally, 1,908 civil proceedings were disposed of in 2021, a decrease of 365 cases (16%) compared to the 2,273 cases in 2020. In the second half of 2021, fewer general proceedings and originating applications were disposed of, and there was an increase in judicial reviews disposed of.

In 2021, there were 2,702 civil proceedings on hand (awaiting hearing or judgment), an increase of 35 cases (1%) compared to 2,667 civil cases at the same time in 2020.

A breakdown by registry is available at [High Court civil proceedings workload statistics](#).

Cases involving historic abuse in state institutions

As at 31 December 2021, there were 492 cases on hand in the Wellington registry involving allegations of historic abuse in state institutions. No cases were scheduled for a defended fixture at that time. Cases do not currently require management as the parties are not actively pursuing court adjudication at this stage.

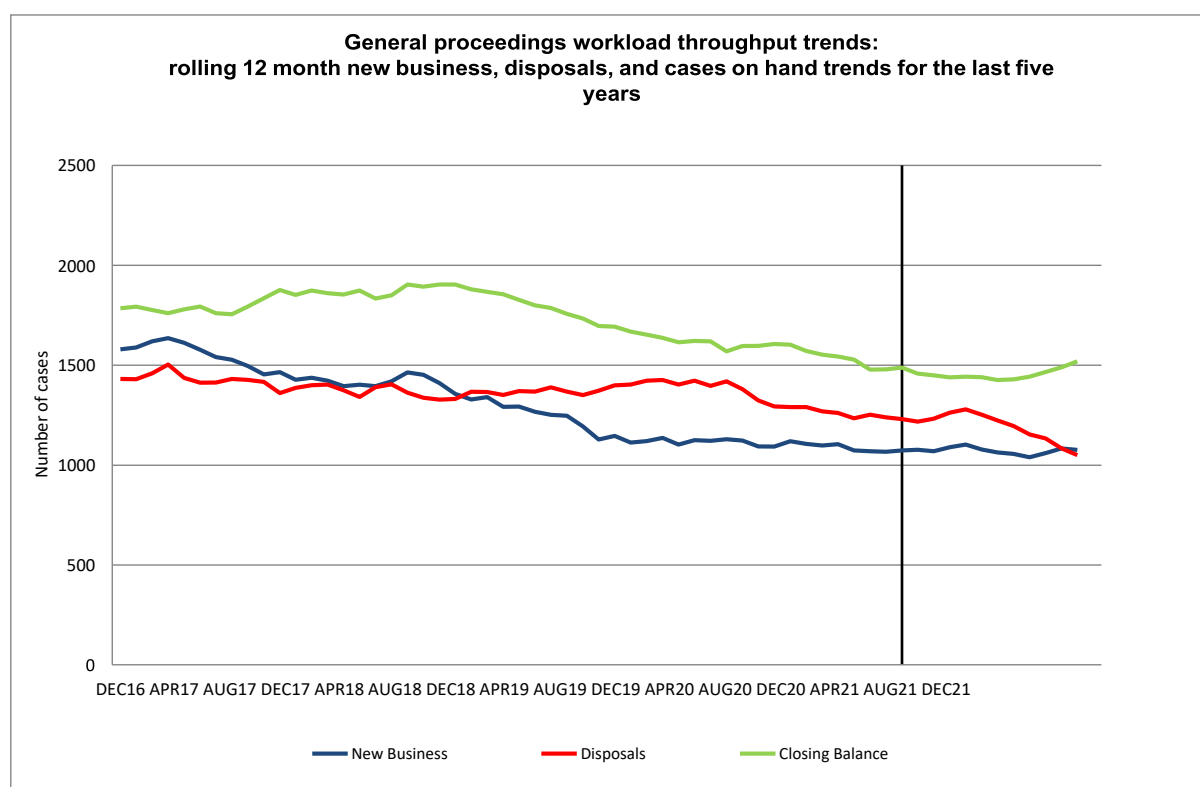
General Proceedings

In 2021, 1076 general proceedings were filed, an increase of 20 cases (2%) compared to 1,056 cases filed in 2020. Fewer general proceedings were disposed of in 2021, 1027 compared to 1,189 cases in 2020, a decrease of 162 cases (14%).

The percentage of general proceedings adjudicated by trial had been trending upwards for some years. In 2021, 11.3% of general proceedings were disposed of by trial, up from 8.5% in 2020.

The general proceedings clearance rate decreased in 2021, 97% down from 113% in 2020. While there was a small increase in new business, the decreased clearance rate was due to fewer disposals. There were 2,010 general proceedings on hand (awaiting hearing or judgment) as at 31 December 2021, an increase of 16 cases (1%) compared to 1,994 general proceedings at the same time in 2020.

Graph 1: Five-year trends for general proceedings



Graph 1 shows the overall trend for general proceedings has been a reduction in new business, with a reasonably steady rate of disposals until early 2020. In combination, this meant the number of cases on hand was trending down from around August 2018. From early 2020, disposals were uneven, but overall the number of disposals decreased. The reduction in disposals, coupled with a slight upswing in new business, has led to an increase in cases on hand at the end of 2021.

A breakdown by registry is available at [High Court civil proceedings workload statistics](#).

The Christchurch registry had 198 general proceedings on hand at 31 December 2021, a decrease of 61 cases (24%) compared to 259 cases at the same time in 2020. The decrease

was primarily due to the continuing reduction in filings of earthquake-related cases. Of the cases on hand in Christchurch, 38% were earthquake-related cases compared to 47% in 2020.

Median waiting time to trial

The median waiting time to trial for active general proceedings was 445 days, an increase of 54 days (14%) compared to 391 days in 2020. Waiting time to trial is measured from the date the case was deemed ready for hearing to the future hearing date.

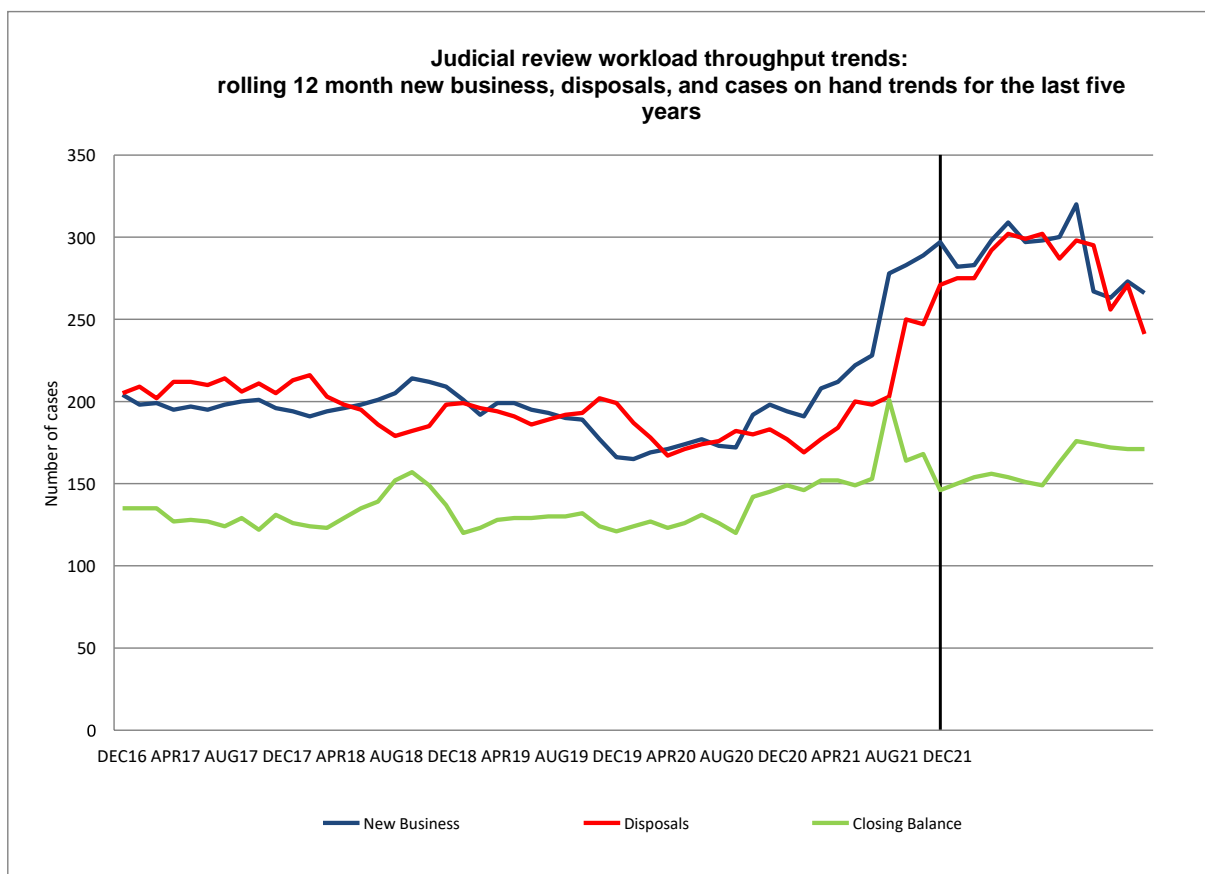
A breakdown by registry is available at [High Court civil proceedings waiting time for scheduled hearings.](#)

Judicial Reviews

Fewer judicial reviews were filed in 2021, 266 cases, a decrease of 30 cases (10%), compared to 296 cases filed in 2020. Judicial reviews disposed of also reduced by 27 cases (10%), 241 compared to 268 cases in 2020.

There were 171 judicial reviews on hand (awaiting hearing or judgment), an increase of 24 cases (16%) compared to 147 judicial reviews at the same in 2020.

Graph 2: Five-year trends in judicial reviews



Graph 2 shows as an overall trend new judicial reviews and disposals are closely linked. New judicial reviews increased significantly in 2020 and the first half of 2021 before beginning to reduce. Consequently, disposals also increased through 2020 and the first half of 2021.

Of note, in 2021 some judicial reviews arose due to the government decisions made under the COVID-19 Public Health Response Act 2020 and associated Public Health Orders.

In Wellington, 11 judicial reviews filed related to COVID-19 decisions, five of which were of high national importance. Matters heard and decided under urgency included:

- the legality of vaccination mandates for certain jobs
 - *K, B, L, N & Ors v Minister of COVID-19 Response & Ors* [2021] NZHC 3012, *Four Midwives, NZDSOS and NZTSOS v Minister for COVID-19 Response* [2021] NZHC 3064
- the request for data in relation to Māori vaccination rates
 - *Te Pou Manakana Limited v Attorney General* [2021] NZHC 2942.
- a challenge to the decision to stop processing visa applications for Afghan nationals following the fall of the Afghan government to the Taliban
 - *Afghan Nationals v The Minister for Immigration* [2021] NZHC 3154

The Auckland registry dealt with judicial reviews in relation to people seeking an exemption on compassionate or business grounds to the requirement for people entering New Zealand to spend time in managed isolation.

COVID-19 related High Court judgments are available on the Courts of New Zealand website [COVID-19 related judgments High Court](#).

Originating Applications

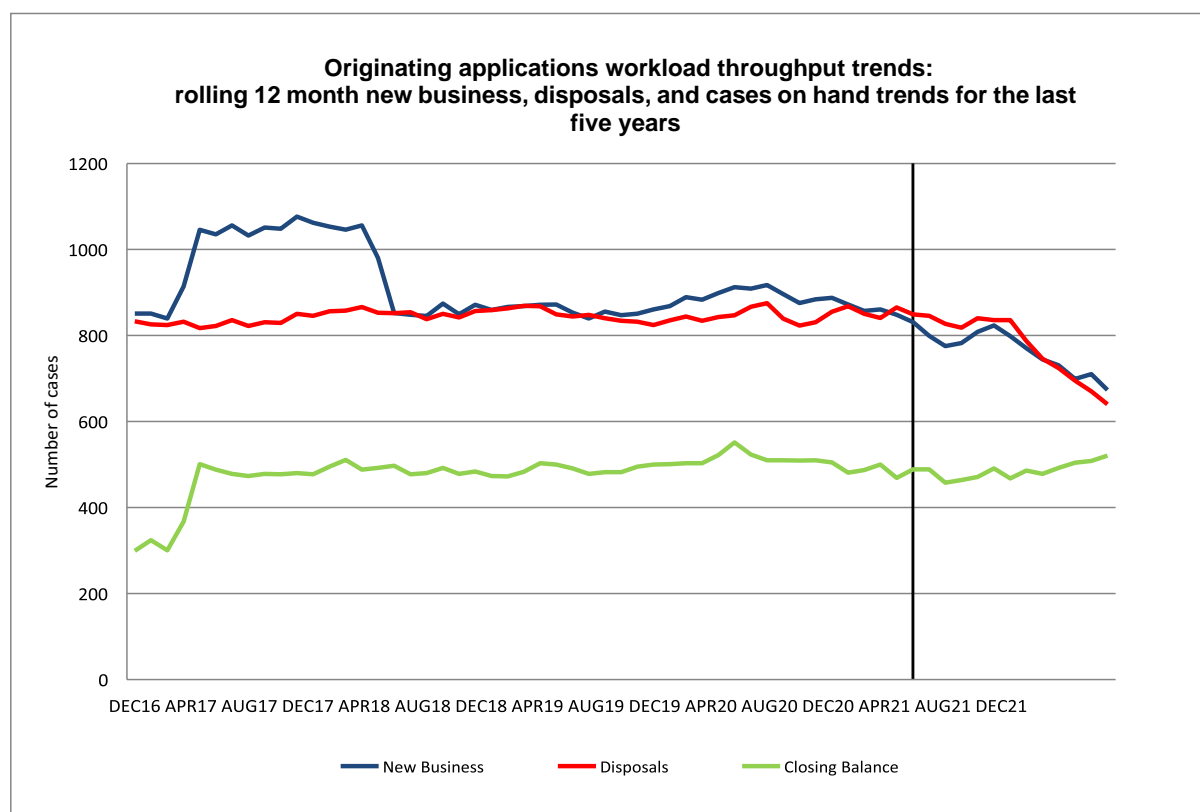
In 2021, 673 originating applications were filed, a decrease of 148 cases (18%), compared to the 821 cases filed in 2020.

Originating applications disposed of also decreased, down 176 cases (22%), from 816 cases in 2020 to 640 cases in 2021.

There were 521 originating applications on hand (awaiting hearing or judgment), a decrease of five (1%) compared to 526 at the same time in 2020.

Graph 3 shows an overall trend of new business and disposals largely tracking together since early 2018. The downward trend in both new business and disposals is particularly marked since December 2020.

Graph 3: Five-year trends in originating applications



Marine and Coastal Area (Takutai Moana) cases

The Marine & Coastal Area (Takutai Moana) Act 2011 (MACA) required applicants to file claims before 3 April 2017. To safeguard their position, many applicants issued a proceeding in the High Court, while also seeking to enter into direct engagement with the Crown.

By the statutory deadline in 2017, 193 cases were filed. An additional six cases were filed in 2021 as section 98 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 gave hapū of Ngāti Porou two years from 29 May 2019 to make applications under MACA for protected customary activities. As at 31 December 2021, there were 202 active MACA cases.

One case filed under the previous legislation (Foreshore and Seabed Act), considered a priority application under MACA, had the judgment delivered in 2021, with two other cases having hearings in 2021 and awaiting judgment. One case has a hearing scheduled in February 2022. There are eight priority cases outstanding.

Of the other 194 MACA cases, two fixtures have been allocated, one in Gisborne in September 2022 and one in Wellington in September 2023, involving two and six claims respectively. Court adjudication is not being actively pursued in the other cases as applicants are still addressing matters with the Crown.

MACA cases require significant hearing time

Overlapping applications for customary marine title based on exclusive use and occupation have been made covering all parts of the takutai moana. In some cases, there are more than 30 overlapping claimants. Case management of MACA cases is complex given the overlapping claims, and cases can require lengthy hearing time.

The future impact of MACA hearings on the High Court will be significant. Large blocks of hearing time will be needed, particularly in the Auckland circuit from mid-2024, and smaller but still substantial blocks of time in Hamilton, Wellington and Napier registries from mid-2024, and in the South Island from 2025.

Civil Appeals

In 2021, 258 civil appeals were filed, up 20 cases (8%) compared to the 238 cases filed in 2020. One more civil appeal was disposed of in 2021 compared to 2020, 239 cases in total.

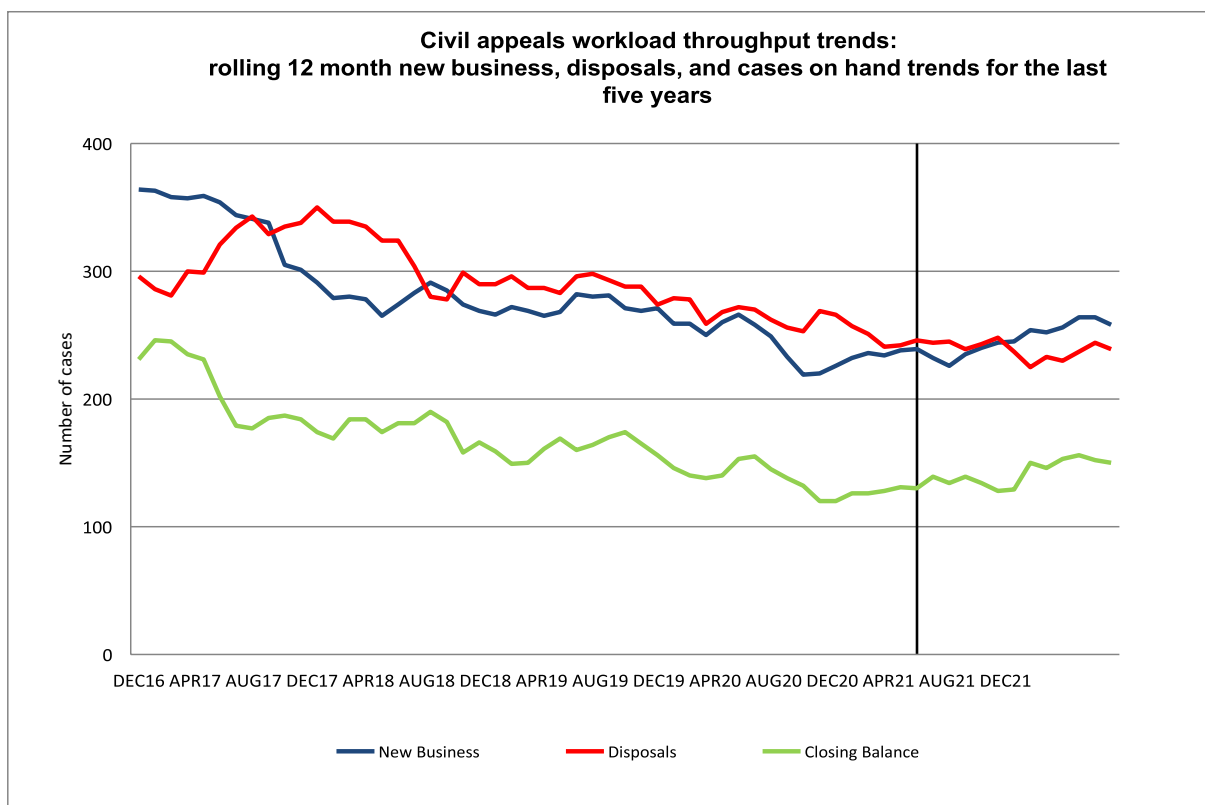
There were 150 civil appeals on hand (awaiting hearing or judgment) at the end of 2021, an increase of 10 cases (7%) compared to 140 civil appeals at the same time in 2020.

A breakdown by registry is available at [High Court civil appeals workload statistics](#).

Five-year trends in civil appeals

Graph 4 shows an overall trend of new business and disposals trending down, matched by a general reduction in appeals on hand until around mid-2020. Since then, new business increased, outstripping disposals, so the number of appeals on hand increased over 2021.

Graph 4: Five-year trends in civil appeals



Insolvency Proceedings

In 2021, 1,200 insolvency proceedings were filed, an increase of 171 cases (17%) compared to the 1,029 cases filed in 2020. More insolvency proceedings were disposed of in 2021, 1,195 cases compared to 1,169 in 2020, up 26 cases (2%).

There were 324 insolvency proceedings on hand (awaiting hearing or judgment), an increase of four cases (1%) compared to 320 insolvency proceedings at the same time in 2020.¹

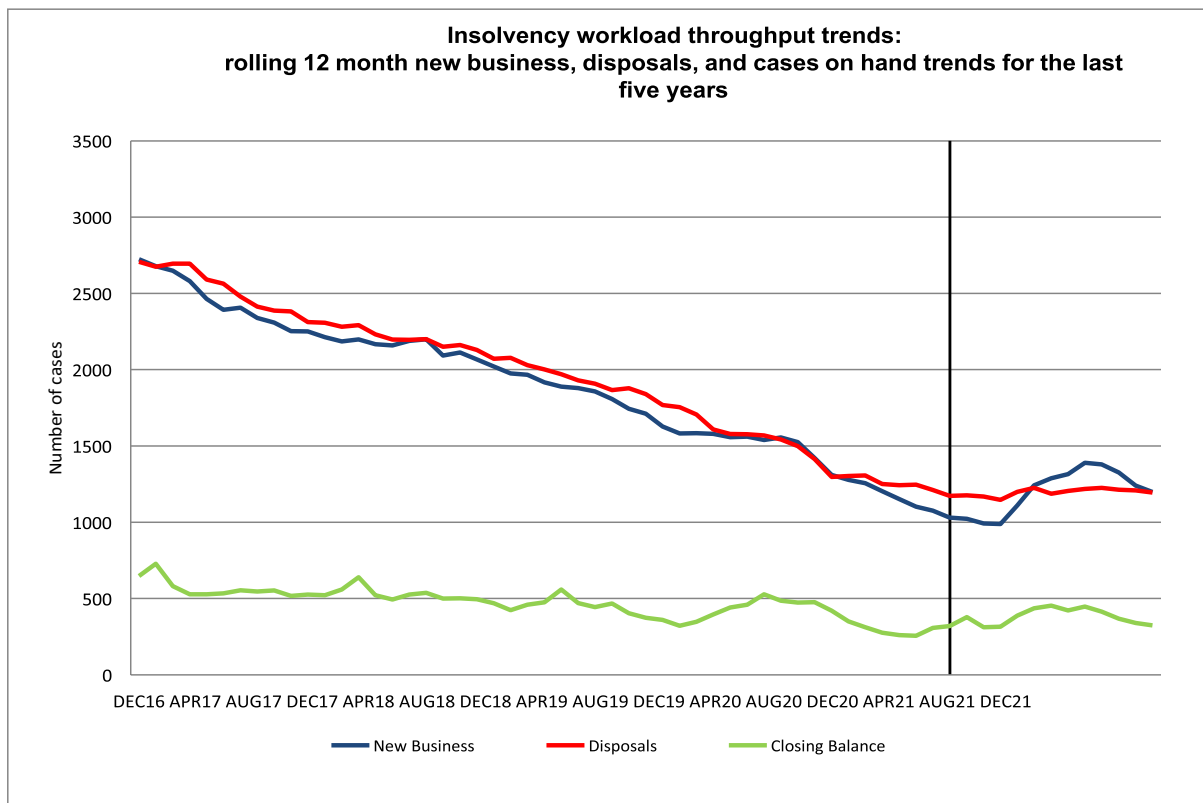
A breakdown by registry is available at [High Court insolvency workload statistics](#).

Five-year trends in insolvency

Insolvency work reflects the state of the economy (with a slight lag). Insolvency filings had been dropping consistently since the high in early 2009 following the 2007 - 2008 global financial crisis. However, there was an increase in new business in 2021 due to an increase in filings of company liquidation applications in March – August 2021. These trends are illustrated in the graph 5.

The expected impact of COVID-19 on businesses has not as yet eventuated and is likely to have been moderated by the government’s COVID-19 financial support for businesses, coupled with the Department of Inland Revenue not actively pursuing actions. As these measures are removed, it is anticipated company liquidations may increase.

Graph 5: Five-year trends in insolvency



High Court Earthquake List

The Earthquake List was established in the High Court to manage litigation resulting from the Canterbury earthquakes in 2010 and 2011. Its purpose is to deal with earthquake related cases as swiftly as the Court’s resources permit.

¹ The 31 December 2020 balance figures noted are those noted in the December 2020 year-end statistics. The Ministry updates its figures for 12 months, so changes can occur following last data entry or error correction.

As at 31 December 2021, there were 77 active earthquake cases (both insurance and defective repairs), down from 123 at the same time in 2020. Disposal of list cases by settlement continues to be the predominant outcome.

New filings increased slightly in 2021, 22 compared with 13 in 2020. However, the overall trend is a reduction in new filings with 29 new filings in 2019 and 227 in 2018.

On 27 October 2021, the final annual Christchurch List meeting was held. This event, marking 10 years since the second earthquake, provided an opportunity for the list judges and practitioners to reflect on what had been achieved. Thanks to Osborne J and AJ Lester, the current list judges, and those who served before: Miller, Kós, Wylie, and Gendall JJ.

The [Christchurch Earthquake Litigation List](#) report as at 30 September 2021 is available on the Courts of New Zealand website.

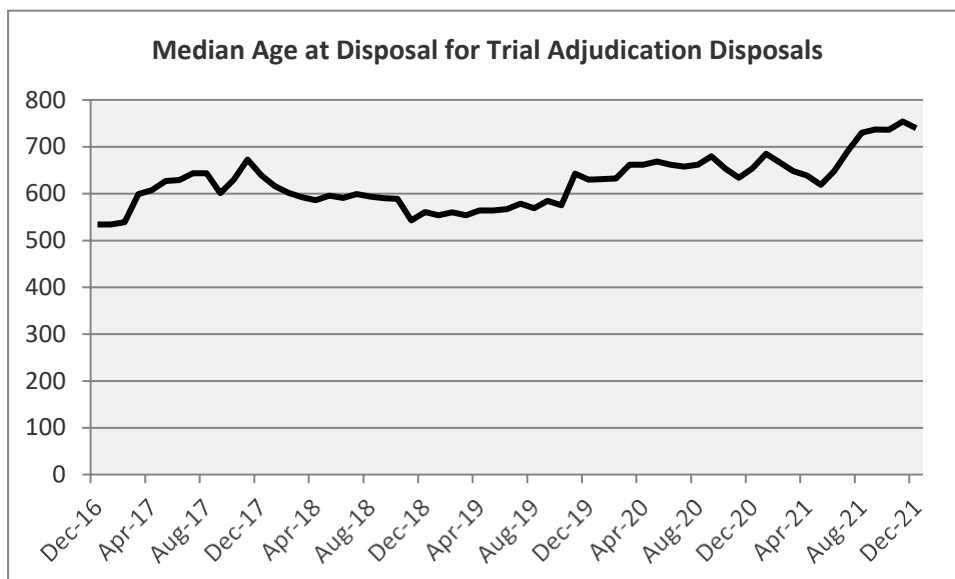
Time to trial

The median time to trial for general proceedings has increased from 391 days as at 31 December 2020 to 445 days as at 31 December 2021.

Age at Disposal for trial adjudication disposals

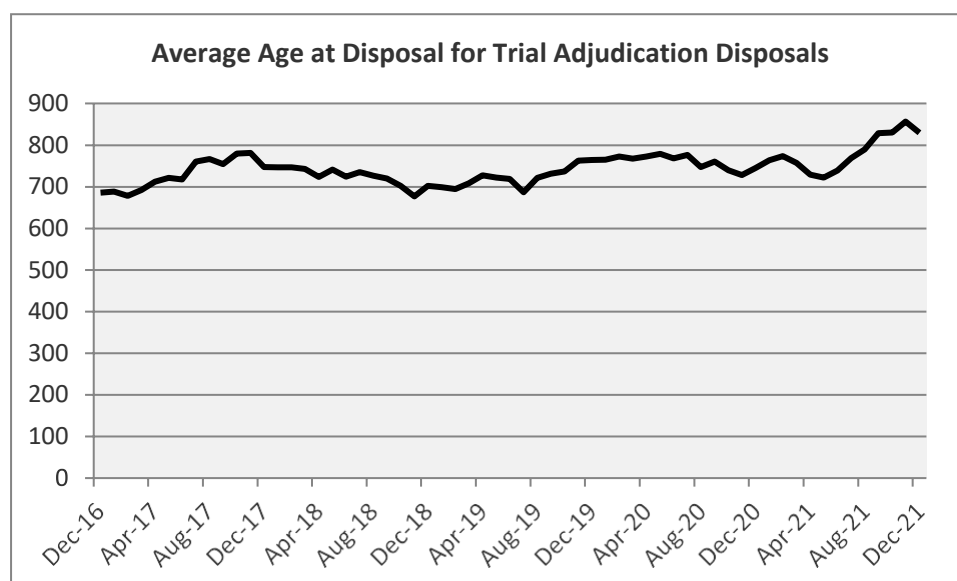
Graphs 6 and 7 show the median and average age of cases at disposal has increased over the period 2016 -2021.

Graph 6 Median Age at Disposal for Trial Adjudication Disposals



The median age at disposal for general proceedings trial adjudication disposals increased, up from 654 days in 2020 to 740 days in 2021.

Graph 7 Average Age at Disposal for Trial Adjudicated Disposals



The average age at disposal for general proceedings trial adjudication disposals also increased, up from 746 days in 2020 to 830 days in 2021.

Nature of claim

Table 2 Top six “nature of claim” categories for matters filed. Cumulative total from 1 January 2013 to 31 December 2021, compared with period to 31 December 2020

Nature of Claim type	Rank 2021 (2020)	Number of claims 2021 (2020)	% of total 2021 (2020)
Contractual disputes	1 (1)	1494 (1359)	14% (13%)
Debt Recovery	2 (3)	1174 (1123)	11% (11%)
Natural disasters (Chch EQ)	3 (2)	1161 (1142)	11% (11%)
Estate litigation	4 (4)	886 (775)	8% (8%)
Other trust litigation	5 (5)	777 (703)	7% (7%)
Other real property disputes	6	501	5%
Other	(6)	(469)	(5%)

2021 was the ninth year 30 categories of “nature of claim” data has been collected for new general proceedings. The data is recorded cumulatively from 1 January 2013 to better understand whether some claim types progress to settlement or trial differently and thus need different levels of case management. Table 2 shows only minor changes to the top six categories between 2020 and 2021.

Criminal

Table 3 Summary of criminal new business and disposals for the year ended 31 December 2021

	Criminal trials (new trials and retrials directed)	Criminal appeals
New work		
2021	171	1368
2020	149	1362
Disposals		
2021	138	1409
2020	113	1361
Trials Held		
2021	83	
2020	55	
Other Disposals		
2021	52	
2020	58	

Criminal trials

In 2021, 171 new criminal trials were received by the High Court, an increase of 22 cases (15%) compared to 149 new criminal trials in 2020.

Slightly fewer Category 4 cases were received in 2021 (82 cases - 48%), compared to 87 cases, (58%) of new criminal trials in 2020. However, a quarterly breakdown of Category 4 cases in 2021 shows an increase in the October to December quarter.

Table 4 Category 4 cases received by quarter, 2021

Jan – March 2021	April – June 2021	July – Sept 2021	Oct – Dec 2021
14	21	17	30

New Protocol and other cases received (57 cases) increased in 2021 compared to 2020 (49 cases). Split and reactivated cases and cases where re-trials were directed also increased in 2021 (32 cases - 19%) compared to 2020 (13 cases – 9%).

Court of Trial Protocol

Under s 66 of the Criminal Procedure Act 2011, the Chief Judges of the High and District Court established the Court of Trial Protocol. The Protocol identifies cases and classes of case which must be considered for transfer to the High Court. Protocol offences include serious sexual, violence and drug offending.

A committee of High Court and District Court Judges, chaired by Lang J, reviewed new and amended Category 2 or 3 offences enacted since the Protocol was last published and made recommendations to the Chief Judges. The updated protocol came into force on 1 December 2021.

The current list of offences can be found at [Court of Trial Protocol 2021 Gazette Notice](#)

Protocol cases

In 2021, 498 cases required a protocol determination by the High Court, a decrease of 26 cases (5%) compared to 524 cases in 2020. Cases directed to be heard in the High Court in 2021 decreased slightly, from 51 to 49. However, the estimated number of hearing days required for some of those trials were quite large, particularly for multi-defendant trials in Auckland, Hamilton and Rotorua.

Criminal trial disposals

In 2021, 138 criminal trials were disposed of, an increase of 25 cases (22%) compared to 113 cases in 2020. “Disposed cases” are defined as having a final outcome – sentence, acquittal, dismissal, withdrawal, or joined to another case. More cases were disposed of by guilty plea, but these formed a lower as percentage of the overall cases, 52 cases (42%) in 2021 compared with 46 (49%) in 2020.

Criminal trials on hand

There were 170 criminal trials on hand at 31 December 2021, the same as at 31 December 2020. However, more cases were awaiting trial in 2021, 160 cases compared to 143 in 2020. The remainder were awaiting sentencing, 10 in 2021 compared to 27 cases in 2020. The greater number of cases awaiting trial in 2021 is due to a combination of jury trials being vacated due to the Delta outbreak in the second half of the year and the increase of new business.

A breakdown by registry is available at [High Court criminal trials workload statistics](#).

Trials are getting longer

The number of trials and the estimated hearing days for those trials have increased from 31 December 2020 to 31 December 2021, as shown in table 5.

Table 5 Estimated hearing days for year ending 31 December 2020 and 2021

	Cases	Estimated hearing days	Average days per trial
31 December 2020	143	2173	15.2
31 December 2021	160	2601	16.3

More criminal trials held

In 2021, 83 criminal trials were held, an increase of 28 cases (51%) compared to 55 cases in 2020. Cases disposed of by guilty plea on the first day of trial increased, up from seven cases (13%) in 2020 to 13 cases (16%) in 2021.

COVID-19 impacted the number of trials held in 2020 and 2021. The 2020 lockdown affected all trials between late March and the end of July 2020. The Delta outbreak in August 2021 had the greatest impact on trials in the Auckland registry and circuit.

A breakdown by registry is available at [High Court criminal trials held](#).

Median time to trial

The median waiting time to trial as at 31 December 2021 was 487 days, an increase of 81 days (20%) compared to 406 days at the same time in 2020.

A breakdown by registry is available at [High Court criminal trial waiting time for scheduled hearings](#).

Criminal appeals

In 2021, 1,368 criminal appeals were filed, an increase of six cases (<1%) compared to 1,362 filed in 2020. Criminal appeals disposed of in 2021 also increased, by 48 cases (4%), 1409 in 2021 compared to 1,361 cases in 2020.

Fewer conviction appeals (includes conviction, and conviction and sentence appeals) and sentence appeals were filed in 2021 than in 2020, down from 532 to 484 (48 cases – 9%) while more bail appeals were filed in 2021, up from 698 in 2020 to 761 (63 cases – 9%).

There were 168 criminal appeals on hand (awaiting hearing or judgment) at the end of 2021, down by 12 cases (7%) compared to 180 criminal appeals at the end of 2020.

A breakdown by registry is available at [High Court criminal appeals workload statistics](#).

The judicial complement and their responsibilities

As at 31 December 2021, the High Court complement was 47, made up of 40 judges and seven associate judges (AJ)s. Toogood, Gendall & Nation JJ were acting judges from February to December, and Davison J was an acting judge from November to December. Funding for Acting Judges was allocated in Budget 2020 to assist with increased active workloads arising from lockdowns and an anticipated increase in COVID-19 related litigation.

During the year:

- ☐ six judges retired: Gendall and Nation JJ in January, Clark J and AJ Bell in April, AJ Smith in October, and Davison J in November.
- ☐ six judges were appointed: Harland and Isac JJ in January, Robinson J in July, Eaton J and AJ Taylor in October, and Harvey J in November.

Harvey J was sworn in at the Māori Land Court in Rotorua, in a bilingual High Court swearing in ceremony.

Whata J was appointed for a one-year term as a Law Commissioner, from October. He is leading Te Aka Matua o te Ture's work in relation to tikanga Māori, with a particular focus on the relationship between tikanga Māori and State law.

Court of Appeal

Senior High Court Judges sit on divisions of the Court of Appeal. In 2021, 20 Judges provided 68 sitting weeks to the Court of Appeal.

List judges

List judges oversee the workload in their circuit and provide advice and counsel to the Chief High Court Judge on matters of policy for the Court. The list judges in 2021 were:

- ☒ Moore J (Auckland - civil)
- ☒ Fitzgerald J (Auckland - criminal)
- ☒ Lang J (Waikato/Bay of Plenty liaison)
- Brewer J (Whangārei liaison)
- ☒ Mallon J (Wellington circuit - civil)
- ☒ Simon France J (Wellington circuit - criminal)
- ☒ Dunningham J (Christchurch circuit - civil)
- ☒ Mander J (Christchurch circuit - criminal)
- ☒ AJ Bell and then AJ Andrew from October (National Associate Judge liaison).

The case management list judges in 2021 were:

- ☒ Christchurch earthquake list: Osborne J and AJ Lester
- ☒ Auckland judicial review list: Walker J and then Jagose J
- ☒ Auckland appeal lists: Powell J (civil) and Downs J (criminal)
- ☒ Auckland summary judgments and caveats: Gault J
- ☒ Probate lists: Whata J (Auckland), Cull J (Wellington) and Dunningham J (Christchurch)
- ☒ Marine and Coastal Area (Takutai Moana) Act matters: Churchman J (Wellington).

Commercial panel

Complex commercial cases may be heard by a specialist judge drawn from the commercial panel. These cases cover high-value disputes (over \$2 million), complex and difficult matters of commercial law, and proceedings brought by public authorities to enforce regulatory standards of commercial behaviour.

As at 31 December 2021 the commercial panel comprised: Thomas, Venning, S France, Lang, Mallon, Wylie, Ellis, Peters, Katz, Muir, Fitzgerald, Jagose, Osborne JJ.

Other developments in the High Court

Review of the High Court Rules

Since late 2018, the Rules Committee has been engaged in a significant review of the rules of practice and procedure to improve access to civil justice. The Committee has several statutory and appointed High Court members: Cooke J (chair), Muir J, and the Chief High Court Judge, ex officio. During 2021, the Committee has undertaken significant consultation, issuing a second consultation document in May 2021. Submissions closed on 2 July 2021.

High Court Criminal Disclosure Working Group

The Working Group, chaired by Brewer J, was convened by the Chief High Court Judge with representatives from the New Zealand Police, Crown Prosecutors, and the defence bar to identify recurring problems and themes relating to timely disclosure in High Court criminal trial cases. The Working Group will provide a report recommending practical solutions in the new year.

Te Reo Māori order of ceremony

Three versions of the order of ceremony for admissions - in English, Te Reo for moving counsel/candidate, and a full Te Reo Māori ceremony were promulgated for Judges presiding over admission ceremonies.

Looking ahead to 2022

The rollout of a vaccination programme, the ready availability of Rapid Antigen Testing and good quality masks will assist the High Court's ability to conduct most of its usual work, in person or remotely, despite future waves of COVID-19.

The High Court will begin operating under the COVID-19 Protection Framework from 31 January 2022. High Court jury trials will resume on 8 February 2022.

Court specific legislation is expected to be introduced in early 2022. Amongst other things, the temporary legislation is intended to give the Chief High Court Judge and Chief District Court Judge powers to set additional requirements in relation to the management of jury trials. If passed, the legislation will add to the array of measures already adopted by the High Court as it adapts to COVID-19.

In 2022, the High Court Criminal Disclosure Working Group will provide its report, offering practical solutions to improve criminal disclosure and reduce delays to trials arising from disclosure issues.

Of note in the civil jurisdiction, the Rules Committee will be preparing its final report in 2022 on improvements to access to civil justice, including recommendations in relation to the High Court operations.

Company liquidations may increase markedly in 2022, due to a change in business conditions after the government financial support is removed and Department of Inland Revenue ceases to not actively pursuing actions. Judicial reviews relating to COVID-19 decisions seem set to continue into the new year.