

Annual Report

2017–18



New South Wales
Crime Commission

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Annual Report 2017-18

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Contact Information

Address/Postal: 453-463 Kent Street
Sydney NSW 2000

Website: www.crimecommission.nsw.gov.au

Telephone: +61 2 9269 3888

Facsimile: +61 2 9269 3809

Reception Hours: Monday to Friday, 9.00am to 5.00pm

16 October 2018

The Hon. Troy Grant MP
Minister for Police
Level 20
52 Martin Place
SYDNEY NSW 2000

Dear Minister

RE: ANNUAL REPORT 2017-18

At its meeting today, the Management Committee received and noted the Annual Report of the Commission 2017-18. Pursuant to section 82 of the *Crime Commission Act* the Report is transmitted to you with this letter.

Yours faithfully



The Hon. Anthony Whealy QC
Chairman - Management Committee

16 October 2018

The Hon. Troy Grant MP
Minister for Police
Level 20
52 Martin Place
SYDNEY NSW 2000

Dear Minister

RE: ANNUAL REPORT FOR 2017-18

Pursuant to sections 11A and 12 of the *Annual Reports (Departments) Act 1985* (the Act), I submit to you this Commission's Annual Report for 2017-18 (in accordance with section 9 of the Act) and Report of Operations (in accordance with sections 10 and 11 of the Act). In accordance with section 6 of the Act, the two reports are included within the one document (the Report). The Report is being submitted to you for presentation to Parliament.

In accordance with section 82 of the *Crime Commission Act 2012*, the Report has also been furnished to the New South Wales Crime Commission Management Committee. Section 82 of the *Crime Commission Act 2012* provides for that Committee to transmit the Report to you with such comments on the Report as it sees fit.

Yours faithfully



Peter Bodor QC
Commissioner

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THE COMMISSIONER'S YEAR IN REVIEW

Over the period covered by this Annual Report there have been significant changes at the NSW Crime Commission (the Commission). Mr Peter Hastings QC, the inaugural Commissioner under the *Crime Commission Act 2012*, concluded his five-year term as head of the agency on 4 November 2017. The Commission is indebted to his tireless efforts and leadership by implementing the 2011 recommendations in the report of Mr David Patten to become a more accountable, robust, and modern organisation. The term of Assistant Commissioner (Operations) Peter Dein APM also came to a conclusion. Mr Dein effectively provided the benefit of his extensive policing experience to operational activities and relationship building with law enforcement partners.

In November 2017, Mr David Patten, Chairman of the Management Committee, retired ending his invaluable stewardship. Mr Patten's contribution is greatly appreciated and acknowledged. Mr Patten was succeeded by the Hon. Anthony Whealy QC, a former judge of the Supreme Court of NSW, who now presides as Chairman of the Management Committee.

On 1 July 2017, the Law Enforcement Conduct Commission (LECC) replaced and succeeded the Police Integrity Commission. The statutory mandate of the LECC insofar as it affects the Commission includes administrative, integrity and oversight functions.

On 20 December 2016, the Acting Ombudsman, Professor John McMillan AO, tabled his report on the Operation Prospect investigation into the Mascot references (1999-2002) to Parliament. In May 2017, the Acting Ombudsman delivered a 'report on developments' since his first report noting that some of the recommendations had not been acted upon by the Commission. Prior to leaving the Office of Commissioner, Peter Hastings QC acted upon recommendations of the Ombudsman by providing apologies to a number of individuals nominated in the 2016 Report. The Acting Ombudsman issued a 'second report on developments' on 1 December 2017, stating that he was not satisfied that the NSW Crime Commission had taken sufficient steps in response to his recommendations in the earlier reports. On consideration of that second and the previous reports, I acted upon the balance of the recommendations relating to individuals, thus bringing that controversy to an end.

As is evident from the contents of this Annual Report, the Commission has matured as an agency since 2012 and continues to achieve its statutory objectives. Primarily, the Commission is committed to supplement the capability of law enforcement in NSW by exercising powers to conduct compulsory examinations of witnesses, issuing compulsory notices to produce information and providing analytical services assisting investigations into organised and serious crime.

The Commission also performs the very important functions of identifying, restraining and confiscating criminal wealth and assets under the *Criminal Assets Recovery Act 1990*. It is pleasing to note that since the commencement of the 2012 Act until the end of the reporting period the Commission achieved an estimated realisable value of confiscation orders in the region of \$165 million in favour of the State of New South Wales, well exceeding the cost to Government.

It is principally because of the coercive powers that the Commission exists, although it does conduct other important functions set out in sections 10 and 11 of the Act. It is necessary for the Commission to operate in secrecy to combat organised and serious criminal activity, which clandestinely proliferates at an alarming rate. The powers vested in the Commission are not exercised capriciously but with legal discipline and rigour. Indeed, exercise of the Commission's powers is controlled by statute, internal governance, the Management Committee and external oversight.

Organised and serious crime in NSW is driven by the profit motive, primarily generated by the illicit drug trade, where violence and retribution within the criminal milieu pervades. Money laundering of illicit profits has infiltrated legal as well as illegal commercial enterprises and hundreds of millions of dollars is circulating within the economy of NSW as a result of organised and serious crime activity. Legitimate commercial activity, businesses, individuals and the revenue are all consequentially significant victims. It is those activities that the Commission targets. Unfortunately, the relative brevity of most sentences imposed on convicted facilitators and principals for money laundering offences is not reflective of the pernicious impact that activity has on perpetuating crime and has not been effective to act as a serious deterrent. Anecdotally, sentences are considered by many criminals as a bearable overhead to their criminal enterprises.

Organised and serious crime has grown dramatically over the last five to eight years. The proliferation, complexity and variety of organised crime activities are facilitated in large part by technology and encrypted communications, which are proving virtually impenetrable to law enforcement agencies. Current and emerging technologies impede investigations and make analysis of criminal activities and associations much more complex and resource intensive than in the past. The challenges presented by cyber-enabled crime confront law enforcement with resourcing burdens that can only be met by a commitment from Government to invest in technology and personnel to keep pace with the inevitable evolution of technology.

The domestic terrorism threat remains at the 'probable' level and has not abated over the last 12 months. The Commission continues to play an important part in counter terrorism investigations providing investigative support and intelligence to the Joint Counter Terrorism Team, comprised of the New South Wales Police Force, the Australian Federal Police, the Australian Security Intelligence Organisation and the Commission.

As previously reported, the 'efficiency dividends' continue to have serious adverse impact on the operational capacity of the Commission. It is important to recognise and acknowledge with great appreciation the dedication and resilience of the Commission staff.

A handwritten signature in black ink, appearing to read 'Peter Bodor', with a stylized flourish at the end.

Peter Bodor QC
Commissioner

OUR HIGHLIGHTS 2017-18



**113 arrests
and
444 charges**



**Confiscation orders
of \$29,344,946 under
the Criminal Assets
Recovery Act**



**668 intelligence &
information reports
disseminated under
the Crime
Commission Act**



**126 summonses
issued for coercive
hearings**



**712 technical
deployments
compared to 498 in
2016-17**

CHAPTER ONE - THE NSW CRIME COMMISSION

The NSW Crime Commission (the Commission) is constituted as a corporation under the *Crime Commission Act 2012* (the *CC Act*). The current Commissioner is Mr Peter Bodor QC, who, during the reporting period, took over this role from Mr Peter Hastings QC. Ms Maria Cinque SC is the current Assistant Commissioner. Prior to this, Mr Bodor QC was, together with Mr Peter Dein, one of two Assistant Commissioners under Mr Hastings QC.

The Commission has functions under the *CC Act* and the *Criminal Assets Recovery Act 1990* (the *CAR Act*). During the period, Mr Hastings QC, Mr Bodor QC, Mr Dein, Ms Cinque SC, and delegated staff members exercised the functions of the Commission under the *CC Act* and the *CAR Act*.

Functions, Aims and Objectives of the Commission

Established in 1986, the function of the Commission under the *CC Act* is to reduce the incidence of organised and other serious crime. The *CAR Act* has multiple objects; however, the overarching object is to attempt to ensure that persons involved in criminal activity do not retain the proceeds or benefits of their crimes.

The principal functions of the Commission are:

- to investigate matters relating to a relevant criminal activity, serious crime concerns, and the criminal activities of criminal groups referred to the Commission by the Management Committee for investigation;
- to assemble evidence that would be admissible in the prosecution of a person for a relevant offence arising out of any such matters and to furnish it to the Director of Public Prosecutions (the DPP);
- to furnish evidence obtained in the course of its investigations (being evidence that would be admissible in the prosecution of a person for an indictable offence against the law of the Commonwealth or another State or Territory) to the Attorney General or to the appropriate authority in the jurisdiction concerned;
- to re-investigate matters relating to any criminal activity that were the subject of a police inquiry (being an inquiry referred for review to the Commission by the Management Committee) and to furnish its findings to the Management Committee together with any recommendation as to action the Commission considers should be taken in relation to those findings;

- to furnish, in accordance with the *CC Act*, reports relating to organised and other crime that include, where appropriate, recommendations for legislative or regulatory change;
- to provide investigatory, technological and analytical services to such persons or bodies as the Commission thinks fit;
- with the approval of the Management Committee, to work in co-operation with such persons or authorities of the Commonwealth, the State or another State or Territory (including any task force and any member of a task force) as the Commission considers appropriate.

The Commission may:

- furnish any information the Commission obtains relating to the exercise of the functions of a government agency, or a report on that information, to the relevant Minister and make such recommendations relating to the exercise of the functions of the government agency, as the Commission considers appropriate;
- furnish any information relating to the conduct of a member of a government agency, in his or her capacity as such, that the Commission obtains, or a report on that information, to the head of that agency or (if the member is the head of the agency) to the relevant Minister and make such recommendations relating to the conduct of the member as the Commission considers appropriate;
- in accordance with any guidelines furnished by the Management Committee, disseminate intelligence and information to such persons or bodies of the Commonwealth, the State or another State or Territory (including any task force and any member of a task force) as the Commission thinks appropriate;
- co-operate and consult with such persons or bodies as the Management Committee thinks appropriate.

The principal objects of the *CAR Act* are:

- to provide for the confiscation, without conviction, of property of a person if the NSW Supreme Court (the Court) finds it to be more probable than not that the person has engaged in a serious crime related activity (SCRA);
- to enable the current and past wealth of a person to be recovered as a debt due to the Crown if the Court finds there is a reasonable suspicion that the person has engaged in a SCRA, or acquired the proceeds of a SCRA of another, unless they can show the wealth was acquired lawfully;

- to enable the proceeds of illegal activities to be recovered as a debt to the Crown if the Court finds it more reasonable than not that the person engaged in a SCRA, or acquired the proceeds of the SCRA or illegal activities of another, in the past six years;
- to provide for the confiscation, without conviction, of property of a person that is illegally acquired property held in a false name or is not declared in confiscation proceedings;
- to enable law enforcement authorities to identify and recover property effectively.

Under the *CAR Act*, the Commission takes action against alleged criminals and persons who have benefited from criminal actions through the civil Courts. Detailed information about the operation of the *CAR Act* and how confiscation proceedings work can be found on the Commission's website.

The Commission aims to discharge its functions in a lawful, ethical, economical, and effective way.

Responsible Minister

Administration of the *CC Act* and the *CAR Act* was, throughout the reporting period, assigned to the Hon. Troy Grant MP, Minister for Police and Minister for Emergency Services.

The Commissioner and Assistant Commissioners

Mr Peter Hastings QC

Commissioner Peter Hastings was a barrister for more than 35 years and was appointed Queen's Counsel in 1992. He practised extensively in criminal law, appearing for the prosecution and defence. Mr Hastings was Senior Counsel Assisting the Kennedy Royal Commission into Police Corruption in Western Australia between 2002 and 2004 and was Counsel for the Commissioner of Police in the Wood Royal Commission in 1995 and 1996. Mr Hastings was appointed Commissioner of the Commission on 31 October 2012 and retired from this position on 4 November 2017.

Mr Peter Bodor QC

Commissioner Peter Bodor was admitted as a barrister in 1976 and appointed as Queen's Counsel in 1988. Mr Bodor's career at the NSW Bar, as Crown Prosecutor and defender, focused predominantly on criminal law. He advised and appeared in all jurisdictions from the High Court to Local Courts across the full gamut of

serious criminal offences in various Australian states and territories, and internationally. He also practised extensively in Royal Commissions, Commissions of Inquiry, Coroners' inquiries and at the Independent Commission Against Corruption. Mr Bodor frequently advised and appeared as leading counsel briefed to act on behalf of the NSW Police Force (NSWPF) in inquiries, complex civil law trials and appeals. Since Mr Bodor's appointment as Assistant Commissioner (Legal) on 1 July 2015, he had acted as Commissioner on occasions as required before becoming Commissioner on 8 November 2017.

Mr Peter Dein APM

Assistant Commissioner (Operations) Peter Dein was Assistant Commissioner in charge of the NSW Police Counter Terrorism & Special Tactics Command until his retirement in July 2014. He has over 41 years' policing experience, with over three decades in serious and organised crime and high-risk national security commands. His academic qualifications include a Graduate Certificate in Management and a Bachelor of Laws degree, and he was admitted to the NSW Supreme Court as a Barrister. He is a graduate of the International Leadership in Counter Terrorism Program and has given expert presentations at international counter terrorism and national security conferences. Mr Dein was appointed Assistant Commissioner (Operations) on 1 February 2016 and retired from the role on 31 January 2018.

Ms Maria Cinque SC

Assistant Commissioner (Legal) Maria Cinque was admitted as a barrister in 1998 and appointed Senior Counsel in 2015. Ms Cinque was appointed in-house counsel at the Commonwealth Director of Public Prosecutions (CDPP) in 1998 and continued in that position until 2005, when she was appointed a Crown Prosecutor for the State of New South Wales. In those roles Ms Cinque has regularly appeared in the Supreme Court and the Court of Criminal Appeal, having appeared for the Crown in over 200 appeals in that Court, particularly in complex conviction appeals involving murder and other serious crimes. Ms Cinque continues to hold that appointment whilst seconded to the Commission since 22 January 2018 in the position of Assistant Commissioner (Legal).

Management Committee

Functions of the Management Committee

The functions of the Management Committee are:

- to refer, by written notice, matters relating to relevant criminal activities, serious crime concerns, or the criminal activities of a specified criminal group to the Commission for investigation;
- to refer, by written notice, police inquiries into matters relating to any criminal activities for re-investigation;

- to make arrangements for task forces to assist the Commission to exercise its functions;
- to approve the Commission to work in co-operation with such persons or authorities of the Commonwealth, the State or another State or Territory, including any task force or any member of a task force, as the Commission considers appropriate;
- to review and monitor generally the work of the Commission;
- to make decisions on when the Commission should co-operate and consult with other bodies and persons.

The Management Committee may also:

- give directions and furnish guidelines to the Commission with respect to the exercise of its functions;
- give directions and furnish guidelines to the Commission with respect to the internal management of the Commission.

The Commission must comply with directions or guidelines given by the Management Committee.

Conditions for References

The Management Committee is not to refer a matter to the Commission for investigation unless it is satisfied that:

- The use of the Commission's powers appears to be necessary to fully investigate the matter.
- The investigation of the matter by the Commission is in the public interest.
- The matter is sufficiently serious or prevalent to warrant its investigation by the Commission.

Membership of the Management Committee

The *CC Act* constituted the Management Committee. During the reporting period, the Management Committee included:

- Chairperson, the Hon. Anthony Whealy QC (21 November 2017 - 30 June 2018);
- Chairperson, Mr David Patten (1 July 2017 - 17 October 2017);
- Commissioner of the NSW Crime Commission, Mr Peter Bodor QC (21 November 2017 - 30 June 2018);
- Commissioner of the NSW Crime Commission, Mr Peter Hastings QC (1 July 2017 - 17 October 2017);

- Commissioner of NSW Police Force, Mr Michael Fuller APM (18 April 2017 – 30 June 2018);
- Chair of the Board of the Australian Criminal Intelligence Commission (ACIC), Mr Andrew Colvin (1 July 2017 – 30 June 2018);
- Secretary, Department of Justice, Mr Andrew Cappie-Wood (18 April 2017 – 30 June 2018).

Management Committee Activities

During the reporting period, the Management Committee met on a monthly basis.

The Management Committee referred seven new matters to the Commission for investigation: four homicide cases, one investigation into criminal activities, one money laundering matter, and one importation and supply of prohibited drugs matter.

The Management Committee authorised the renewal of 14 existing references and discontinued 21 references.

New References

Table 1

| | | | |
|------------|-----------|------------|--------|
| Abbotsford | Blackwell | Crosslands | Dudley |
| Ebor | Wayo | Yenda | |

Renewed References

Table 2

| | | | |
|-------------|-----------|----------|----------|
| Araluen | Eureka | Henley | Lovedale |
| Minnesota | Nebraska | Osborne | Rosedale |
| Sandgate II | Sherwood | Tallwood | Urana |
| Valla | Waterfall | | |

Discontinued References

Table 3

| | | | | |
|----------------|------------|------------|-----------|-----------|
| Abercrombie II | Brooklyn | Cabarita | Casuarina | Dalmeny |
| Enmore | Gravesend | Hollisdale | Jemalong | Kaputar |
| Marlee | Newport | Nightcap | Quiera | Raglan |
| Salisbury | Teralba II | Ursino II | Verona | Yarragrין |
| Zara | | | | |

CHAPTER TWO – CRIMINAL INVESTIGATIONS DIVISION

The Commission's Criminal Investigations Division (CID) is responsible for discharging the criminal investigation functions.

A typical Commission investigation is conducted jointly with one or more of the Commission's partner agencies pursuant to a Management Committee Reference or approval to work in a Joint Task Force. The Commission does not conduct criminal investigations in isolation and invariably conducts investigations in conjunction with a partner agency, which has the primary responsibility to undertake such investigations. The Commission provides a variety of services including coercive powers and analytical resources to assist the partner agency in the investigation.

The Commission has conducted a significant number of investigations in co-operation with the NSWPF Organised Crime Squad (OCS). The Commission also works closely with the Homicide Squad, other NSWPF squads, and with other State and Commonwealth task forces.

Due to financial constraints, the Commission has restructured its CID during the course of the past year. Previously there were seven investigation teams:

- Homicide and Serious Crime Team;
- Organised Crime Team 1;
- Organised Crime Team 2;
- Money Laundering Team;
- Joint Organised Crime Group (JOCG);
- Joint Counter Terrorism Team (JCTT);
- Human Source and Intelligence Unit.

As a result of the restructure, one of the Organised Crime teams and the Money Laundering team were deleted. The remaining members of those units were then distributed to other parts of the Commission including increasing the numbers in the Homicide and Serious Crime team, the remaining Organised Crime team and the JCTT.

The Commission created a unit called the Criminal Investigation Division Capability Team to manage the Commission's Technical Operations Team and the development of Palantir (analytical software), and to promote projects designed to increase the technical capability of the Commission, including educational up-skilling in relation to cryptocurrency and encryption. A small unit remained in a temporary Organised Crime Team to finalise the Commission's involvement in an

investigation with OCS that has been undertaken over the past four years and is due to conclude later in 2018.

Officers from other agencies, including the Australian Federal Police (AFP), the Australian Border Force (ABF), the Australian Criminal Intelligence Commission (ACIC) and the Australian Transaction Reports and Analysis Centre (AUSTRAC) often participate in Commission investigations, contributing their additional skills, resources and powers to each operation. As in other years, ABF officers worked on-site at the Commission and made an invaluable contribution to the success of Commission investigations. In recognition of the importance of co-location, the Commission also had staff located at AFP premises, although this concluded on 31 August 2018.

Participation in Joint Task Forces

During 2017-18 the Commission participated in four multi-agency task forces.

Fintel Alliance

Led by AUSTRAC, Fintel Alliance is a public-private partnership between 19 agencies, including law enforcement and intelligence agencies, and financial institutions. The task force's purpose is to investigate terrorism financing and money laundering, and the Commission provides it with criminal and financial analytical services, operational support, and access to the Commission's statutory powers.

Organised Crime Squad

During the reporting period the Commission and the OCS continued to investigate high-level organised crime in New South Wales. The Commission has provided three criminal investigation teams to work with the OCS but, as stated, this was reduced to two during the year. In addition to providing the OCS with access to the Commission's criminal analytical services, the Commission also provides the OCS with financial analysis, technical and linguistic support, operational technical support, and access to the Commission's statutory powers.

Joint Organised Crime Group

The JOCG was a multi-agency task force comprising representatives from the Commission, NSWPF, the AFP, the ABF and the ACIC. The Commission provided the JOCG with on-site analytical, financial, technical and linguistic services, operational support, and access to the Commission's statutory powers.

Unfortunately, due to matters outside of the Commission's control, a decision was made in mid-2018 that the JOCG would conclude as of 31 August 2018. From its inception in 1997, the JOCG was one of the most outstanding and successful joint

task forces operating in New South Wales. In the five years from 2013 to 2018, the JOCG achieved the following outcomes.

JOCG Results

Table 4

| Category | Measurement |
|--------------------------------------|----------------------|
| Arrests | 61 |
| Cash Seizures | \$8.9 million |
| Firearms Seizures | 10 |
| <i>Drug Seizures</i> | |
| Cocaine | 97.5 kilos |
| Heroin | 88 kilos |
| Methylenedioxymethamphetamine (MDMA) | 2,117 kilos |
| Crystal Methylamphetamine (Ice) | 3,211.44 kilos |
| Liquid Ice | 1,061 litres |
| Cannabis | 267 plants |
| Pseudoephedrine | 243 kilograms |
| Steroids | 130 mls & 66.2 grams |

Joint Counter Terrorism Team

Formally established in December 2007, the JCTT comprises officers from the AFP, NSWPF, the Commission, and the Australian Security Intelligence Organisation. Counter terrorism investigations are led by either the AFP or the NSWPF. The Commission provides the JCTT with on-site technical, analytical and linguistic services, operational support and access to the Commission's statutory powers, including hearings for the compulsory examination of witnesses.

Organised Crime Disruption Strategy

The Commission has developed and implemented an organised crime disruption strategy in order to guide some of its criminal investigation work. Part of this strategy includes the development of a map of persons whom the Commission believes to be involved in varying forms of organised crime in New South Wales. The Commission's map of organised crime is updated regularly in response to changes in its understanding of the criminal environment. This includes the

addition of new persons of interest and the removal of persons who are no longer involved in significant crime.

Before a person can be included in the Commission's map of organised crime, their activities are assessed by the Commission's Target Review and Intelligence Development Group, which is comprised of Commission management and senior NSWPF officers.

During 2017-18, a significant review of the Commission's map of organised crime was conducted, resulting in the removal of a number of entities who had left the jurisdiction permanently, had been disrupted through incarceration, or were assessed as no longer criminally significant.

Use of Statutory Powers and Authority

The Commission exercises its powers under the *CC Act* and the *CAR Act* to assist it in discharging its functions. The powers conferred by the *CC Act* were available to support the Commission's investigations and evidence gathering for both criminal prosecutions and proceedings under the *CAR Act*.

Additionally, the Commission is recognised as a law enforcement agency for the purposes of a number of other Commonwealth and State statutes that confer investigative powers and rights on law enforcement agencies. The Commission's position under these statutes is the same as that of other law enforcement agencies.

Aside from the *CC Act*, the principal statutes that the Commission uses for investigative purposes are as follows:

- the *Law Enforcement (Controlled Operations) Act 1997* (NSW) (the *LECO Act*), which provides for authorisation of controlled operations involving what would otherwise be unlawful conduct;
- the *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW) (the *LEPR Act*), which grants the Commission the authority to apply for covert search warrants;
- the *Law Enforcement and National Security (Assumed Identities) Act 2010* (NSW) (the *LENSAI Act*), which provides for the creation and use of assumed identities;
- the *Surveillance Devices Act 2007* (NSW) (the *SD Act*), which provides for the use of surveillance devices (listening, optical, data and tracking devices) pursuant to warrant;

- the *Telecommunications (Interception and Access) Act 1979* (Cth) (the *TIA Act*), which provides for the interception, pursuant to warrant, of certain telecommunications (e.g. telephone calls); for access, pursuant to warrant, to certain stored communications (e.g. short message service [SMS] messages); and for access, pursuant to authorisation, to certain telecommunications data.

The figures in Table 5 relate to the CID and FID aspects of the Commission’s work. Tables 6 to 10 set out how often the Commission exercised or used its statutory powers and authorities under other legislation. Statistics on applications made by the Commission pursuant to the provisions of the *CAR Act* can be found in Table 15 in Chapter Three of this annual report.

Crime Commission Act 2012

Table 5

| Use of the Legislation (and Section of Act) | CID | FID | Total |
|--|-----|------|-------|
| Applications for search warrants (section 17) | 6 | N/A | 6 |
| Search warrants granted | 6 | N/A | 6 |
| Summonses to appear at hearings (section 24) | 126 | N/A | 126 |
| Notices to State public agencies (section 28)* | 31 | 18 | 49 |
| Notices to produce (section 29)* | 421 | 1075 | 1496 |
| Arrest warrants (section 36) | 2 | N/A | 2 |

*The figure for notices issued pursuant to FID investigations are also reported at Table 13 in this annual report.

Law Enforcement (Controlled Operations Act) 1997

Table 6

| Use of the Legislation | Total |
|------------------------------|-------|
| Applications for authorities | 2 |
| Authorities granted | 2 |

Law Enforcement (Powers and Responsibilities) Act 2002

Table 7

| Use of the Legislation | Total |
|---|-------|
| Applications for covert search warrants | 0 |
| Covert search warrants granted | 0 |

*A copy of the Commission's Annual Report under the section 242A of the *LEPR Act* is reproduced at Appendix A.

Law Enforcement and National Security (Assumed Identities) Act 2010

Table 8

| Use of the Legislation | Total |
|---|-------|
| Applications to acquire and use an assumed identity | 1 |
| Applications granted | 1 |
| Authorities cancelled | 1 |

*A copy of the Commission's Annual Report under the section 35 of the *LENSAI Act* is reproduced at Appendix B.

Surveillance Devices Act 2007

Table 9

| Use of the Legislation | Total |
|---------------------------------------|-------|
| Applications made | 41 |
| Warrants sought in those applications | 113 |
| Warrants granted | 113 |
| Warrants refused | 0 |
| Emergency authorisations sought | 0 |
| Emergency authorisations approved | 0 |

*A copy of the Commission's Annual Report under the section 45(3) of the *SD Act* is reproduced at Appendix C.

Telecommunications (Interception and Access) Act 1979 (Cth)

Table 10

| Applications, Warrants etc. (and Section of Act) | Number |
|--|--------|
| Applications for A-party service warrants (section 46(1)(d)(i)) | 60 |
| Applications for A-party service warrants withdrawn | 0 |
| A-party service warrants refused | 0 |
| A-party service warrants issued | 60 |
| Applications for B-party service warrants (section 46(1)(d)(ii)) | 4 |
| Applications for B-party service warrants withdrawn | 0 |
| B-party service warrants refused | 0 |
| B-party service warrants issued | 4 |
| Applications for named person warrants (section 46A) | 67 |
| Applications for named person warrants withdrawn | 0 |
| Named person warrants refused | 0 |
| Named person warrants issued | 67 |
| Applications for stored communications warrants (section 116) | 4 |
| Applications for stored communications warrants withdrawn | 0 |
| Stored communications warrants refused | 0 |
| Stored communications warrants issued | 4 |
| Applications for entry warrants (section 48) | 0 |
| Applications for entry warrants withdrawn | 0 |
| Entry warrants refused | 0 |

| Applications, Warrants etc. (and Section of Act) | Number |
|--|--------|
| Entry warrants issued | 0 |
| TOTAL | 135 |

| Applications, Warrants etc. (and Section of Act) | Number |
|--|--------|
| Existing data authorisations (section 178) | 2893 |
| Prospective data authorisations (section 180) | 1149 |
| Destructions of intercepted material | 0 |
| Destructions of stored communications | 0 |

Controlled Entities

The Commission manages a number of controlled entities to facilitate its covert operations. These entities are not trading organisations and are not used for the purpose of conducting business or commerce. They are funded directly by the Commission and are accounted for in the consolidated accounts of the Commission. They do not have a material impact on the Commission's accounts.

Dissemination of Intelligence and Information

One of the functions of the Commission is to liaise with other agencies and to disseminate such intelligence and information to them as the Commission considers appropriate. Throughout the period, the Commission disseminated information and intelligence to its partner agencies pursuant to the *CC Act*, the *TIA Act* and the *SD Act*. Dissemination is not required in circumstances where the information or intelligence is being communicated from one staff member to another and, given that the Commission conducts much of its work pursuant to task force arrangements in which police and others are made members of staff of the Commission, the Commission's dissemination figures do not include a significant amount of intelligence passed to the police and other partner agencies.

In this reporting period, disseminations were sent to the following domestic and international entities:

ACIC, AFP, Attorney General's Department (Commonwealth), AUSTRAC, Australia Post, Australian Commission for Law Enforcement Integrity, Australian Security Intelligence Organisation, Australian Taxation Office, CDPP, Corrective Services NSW, Crime and Corruption Commission, Department of Foreign Affairs and Trade, Department of Health, Department of Human Services, Department of Immigration and Border Protection, DPP, Independent Commission Against Corruption, JCTT, JOCG, Law Enforcement Conduct Commission (LECC), legal firms, Liquor and Gaming NSW, New Zealand Police, NSW Ministry of Health, NSW Treasury (Treasury), NSWPF, Office of Police - NSW Department of Justice, private entities, Queensland Police Service (QPS), South Australia Police, USA-Attorney's Office, USA-Federal Bureau of Investigation (FBI), USA-Homeland Security, USA-Glendale Police, Victoria Police and Western Australia Police.

Disseminations

Table 11

| Crime Commission Act 2012 Section 13 | TIA Act Section 68 | TIA Act Section 139(2) | Surveillance Devices Act 2007 Section 40 (4) | Surveillance Devices Act 2007 Section 40 (5) | Total |
|--------------------------------------|--------------------|------------------------|--|--|-------|
| 668 | 47 | 0 | 17 | 0 | 732 |

Results of Investigations

The Commission reports on arrests and charges that arise from investigations in which it is involved. It is not practicable for the Commission to track or report on arrests, charges and seizures arising from its dissemination of intelligence information to other agencies, but those are significant.

The prosecution process usually commences with an arrest. The DPP or the CDPP then decides whether there is (or is not) sufficient evidence to commence or continue a prosecution of the matter. The Commission does not generally track or report on the results of prosecutions.

The Commission has previously noted the difficulties associated with measuring performance of its operations. Some of the measures used by the Commission are listed in Tables 5, 11 and 12 and include arrests and charges, the number of summonses and notices to produce issued by the Commission, the number of search warrants and the number of disseminations made by the Commission.

The Commission acknowledges that these measures are limited in how they reflect the performance of the Commission's CID. Factors beyond the control of the Commission and its partner agencies often distort performance. For example, an investigation may run for several years before a single arrest is made in the matter.

However, the lack of arrests does not reflect the performance of the investigation and instead it may mean that in one year the number of arrests and charges appear to be smaller, but in the next year there may appear to have been a significant improvement in performance. In addition, the basic numbers associated with arrests and charges reflect neither the significance of the nature of the offences involved nor the standing of the charged persons in criminal groups.

The CID is made up of the following roles:

- Administration Assistants;
- Electronic Surveillance Officers;
- Human Source Case Officers;
- Intelligence Analysts;
- Intelligence Managers;
- Intelligence Officers;
- Technical Officers;
- Warrant Administrators.

Each person employed within the division contributes towards the result achieved by the Commission’s investigations. The functions of the Commission are set out in section 10 of the *CC Act*. Principally, it is to conduct investigations, and the role most required to undertake investigations is the role of the Commission intelligence analyst.

The role of a Commission intelligence analyst is more aligned to that of a case officer or the officer in charge of an investigation, and this role is critical to the Commission’s undertaking of investigations. At present the Commission has 16 intelligence analysts and 6 intelligence managers. Several of the intelligence managers do not carry any caseloads as their duties relate to the management of their operational teams.

Arrests and Charges by Commission Reference

Table 12

| Reference Operation | Reference | Operation | Number of Arrests | Number of Charges |
|---------------------|------------|------------|-------------------|-------------------|
| Crosslands/Wongala | Crosslands | Wongala | 2 | 3 |
| Eureka/Millstream | Eureka | Millstream | 9 | 61 |

| Reference Operation | Reference | Operation | Number of Arrests | Number of Charges |
|---------------------|-----------|------------|-------------------|-------------------|
| Henley/Bungarn | Henley | Bungarn | 6 | 30 |
| Henley/Curtis | Henley | Curtis | 2 | 3 |
| Henley/Ryan | Henley | Ryan | 15 | 70 |
| JCTT/Almere | JCTT | Almere | 6 | 17 |
| JCTT/Eilean | JCTT | Eilean | 1 | 3 |
| JCTT/Hovorst | JCTT | Hovorst | 3 | 7 |
| JCTT/Peqin | JCTT | Peqin | 2 | 6 |
| JCTT/Rosenborg | JCTT | Rosenborg | 1 | 1 |
| JCTT/Silves | JCTT | Silves | 3 | 5 |
| JCTT/Vranduk | JCTT | Vranduk | 1 | 2 |
| JOCG/Astatine | JOCG | Astatine | 10 | 47 |
| JOCG/Catalonia | JOCG | Catalonia | 3 | 4 |
| JOCG/Koi | JOCG | Koi | 1 | 2 |
| JOCG/Sudwala | JOCG | Sudwala | 2 | 2 |
| Kinchela/Halfbeak | Kinchela | Halfbeak | 1 | 4 |
| Minnesota/Anent | Minnesota | Anent | 1 | 1 |
| OCS/Botel | OCS | Botel | 1 | 1 |
| OCS/Connaught2 | OCS | Connaught2 | 8 | 50 |
| OCS/Georgeson | OCS | Georgeson | 4 | 12 |
| OCS/Lucky | OCS | Lucky | 7 | 30 |

| Reference Operation | Reference | Operation | Number of Arrests | Number of Charges |
|---------------------|-----------|-----------|-------------------|-------------------|
| OCS/Mangowa | OCS | Mangowa | 4 | 21 |
| Osborne/Pippa | Osborne | Pippa | 2 | 4 |
| Osborne/Yarramba | Osborne | Yarramba | 2 | 8 |
| Sherwood/Mackane | Sherwood | Mackane | 2 | 7 |
| Urana/Estop | Urana | Estop | 10 | 39 |
| Valla/Jacoby | Valla | Jacoby | 2 | 2 |
| Waterfall/Hobler | Waterfall | Hobler | 2 | 2 |
| Total: | | | 113 | 444 |

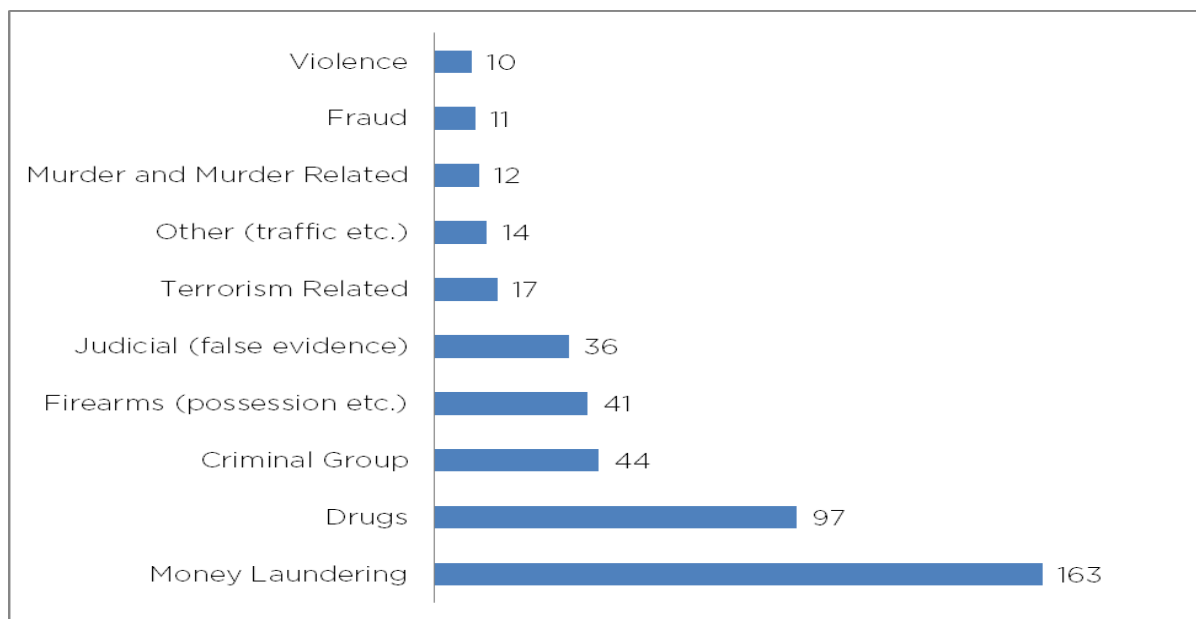
Table 12 represents results according to Commission references, or approvals to work in co-operation with a task force, under which the relevant investigations took place. There are occasions on which the investigation is pursued under more than one reference or approval. In such cases the statistics have not been duplicated, rather, the information has been assigned to the dominant reference or approval.

The Table reports figures for all of the references that led to the arrests in the reporting period or for the purpose of which the Commission exercised its statutory powers. It may be noted that some investigative steps occur after a person is arrested; other arrests may occur in the future under the same reference and those figures would be reported in future annual reports. It is also important to note that not all arrests are for the charges of the predominant type of offence being investigated under a particular reference.

The Commission does not itself make arrests, as that is a function of the NSWPF and the AFP. Therefore, the Commission's figures on arrests and seizures include only those arrests and seizures that come to the attention of the Commission, which may understate the real position.

Charges by Offence Type

Figure 1



Analysis of Arrests and Charges

The number of arrested persons has increased slightly, from 84 in 2016-17 to 113 this year; however, the number of charges laid against those persons has reduced from 525 in 2016-17 to 444 this year.

This is the third year in a row that money laundering charges have overtaken drug charges in number. These results reflect the investment by the Commission into targeting money laundering activities of criminal syndicates. The Commission's Organised Crime Team, working in conjunction with the NSWPF OCS, has been specifically targeting networks involved in professional money laundering activities, which is reflected in the Commission's results in this area. On many occasions during the course of those investigations, persons involved in the provision of funds to the professional networks are ultimately identified as being involved in other criminal activities, mostly in drug importation and distribution, and several of the money laundering investigations have led to successful drug prosecutions.

The number of firearm related charges has reduced significantly, from 125 in the 2016-17 year to 40 charges this year. The Commission does not specifically target firearm distribution and/or importation and incidentally detects these offences during its money laundering and drug investigations. It is likely that last year's result was an anomaly.

The number of drug charges has increased slightly this year, by approximately 20 percent, and this is mainly attributed to the Commission's continued effort in its large Eureka/Millstream investigation. That investigation will conclude within the next six months, with a significant number of persons being charged with conspiracy to both import and distribute large quantities of prohibited drugs.

Charges for both terrorism related offences and murder have remained static over the period.

Patterns and Trends in the Nature and Scope of Organised Crime

Section 82 of the *CC Act* requires the Commission's annual report to include a description of patterns and trends in the nature and scope of organised crime and other crime encountered by the Commission during its investigations over the course of the year.

During the past year, the Commission has continued to investigate various organised crime networks operating in New South Wales. Almost all of these networks have been involved in the importation and distribution of prohibited drugs, which continues to be the mainstay of income for organised crime in Australia.

Results reported in ACIC's *National Wastewater Drug Monitoring Program Report 4* of March 2018 indicate that since previous testing in August 2017 consumption of MDMA and fentanyl has remained stable and consumption of heroin has decreased, but consumption of both methylamphetamine and cocaine has increased. Encouraged by the demand for recreational drugs, traditionally established crime networks in Australia appear to be increasing their efforts to import larger quantities of drugs and, further, the Commission has noted new groups of players entering into the Australian market. These new entrepreneurial groups are landing drug consignments in the jurisdiction with no identified market at the time of the importation. They are imported in the expectation that there will almost certainly be a demand for any drugs that are available for sale. It is further evidence that Australia is very much a supply-driven market.

According to the *World Drug Report 2018*, published by the United Nations Office on Drugs and Crime (UNODC), total global opium production jumped 65 percent from 2016 to 2017, totalling 10,500 tons, the highest estimate on record, and opium production in Afghanistan reached almost 9,000 tonnes, an increase of 87 percent from the previous year.

Similarly, the UNODC reported that in 2016 global cocaine production also reached its highest ever level, an estimated 1,410 tonnes. There is no reason to believe that this production is likely to fall in 2018, and it is more than probable that production will increase, leading to even greater quantities of cocaine for exportation.

With Australians paying amongst the highest prices in the world for heroin and cocaine, yielding maximum profits for organised crime groups, it is likely there will be a continuance of organised criminal activity directed at the importation and distribution of prohibited drugs in the future.

During the past year there have been some significant ice seizures around the country, with 1.4 tonnes being seized in Western Australia. The wrapping associated with this seizure was linked to a drug laboratory discovered in Myanmar, with local authorities seizing 12 tonnes of completed product and over 50 tonnes of precursor chemicals. It was reported that this single laboratory could produce up to five tonnes of ice per month, or enough to supply a significant portion of the Australian market. Drug packaging similar to that identified at the Myanmar laboratory was seized in multiple locations around Australia during the previous six months, which is indicative of the probable fact that this laboratory was supplying a large part of the Australian illicit ice market.

The Commission has intelligence linking some Chinese organised crime identities previously known to have resided in Australia to the laboratory in Myanmar. These identities were associated with members of Outlaw Motorcycle Groups (OMCGs) in Australia, including the Hells Angels and the Comancheros. As reported in previous years, it is highly likely that senior members of the Hells Angels, Comancheros and Lone Wolves OMCGs are amongst the main entrepreneurs involved in sourcing, importing and distributing a large portion of the illicit drug market operating in Australia. Many members and associates of these groups now reside offshore in places such as Dubai, Istanbul, Athens, Thailand and Indonesia, from where they conspire with offshore associates to source drugs and remotely arrange logistics and transport to Australia, where their Australian counterparts arrange for receipt, storage and subsequent distribution.

It is essential that to make a significant impact into organised crime affecting Australia, local authorities must work in conjunction with agencies having international reach, including the AFP and the ACIC, and, where possible, forge alliances with offshore law enforcement bodies to utilise the intelligence and assistance required to cause maximum disruption to these networks.

There have been several investigations this year in which the Commission detected foreign nationals in the jurisdiction who were previously unknown to law enforcement and who have been engaged in the sale of, or attempted acquisition of, commercial quantities of cocaine or amphetamine. In such instances where the persons have been arrested or identified, they appear to have been opportunistic criminal entrepreneurs who travelled to Australia for the express purpose of dealing in prohibited drugs for profit. What is unusual, however, is that in several cases they did not know anyone in the jurisdiction with whom they could transact, and it appears that anonymised auctions are occurring on encrypted networks such as EncroChat, Ciphre or SkyECC (encrypted communication systems almost exclusively used by criminals) whereby overseas criminals who have landed

prohibited drugs in Australia seek buyers through the network of criminals using these encrypted communications.

When persons are arrested and questioned about the transactions that they conducted, they assert that they received communications from offshore to the effect that they should contact a particular person in the jurisdiction who is only identified by a first name, which is invariably false. The means of communication is generally by an encrypted email handle or an anonymised phone service. They communicate with these people and just show up with funds available to purchase drugs, which are being offered for sale usually at wholesale prices.

On other occasions, persons were arrested in the jurisdiction when it was apparent that large quantities of drugs had been sold, but there appeared to have been no exchange of cash in the jurisdiction, which suggests to the Commission that offshore transactions had been conducted for drug sales occurring in the jurisdiction.

In the past year, the Commission encountered cryptocurrencies being used on several occasions for the purpose of storing what is alleged to have been the proceeds of crime. These were isolated cases and it is likely that large-scale money laundering syndicates are yet to fully embrace any form of cryptocurrency for much the same reasons that mainstream society has not, being the difficulty in introducing cash into the system, the difficulty of converting cryptocurrency and the perceived volatility of the main cryptocurrencies. The risk to law enforcement is when or if cryptocurrencies become more accepted into mainstream commercial activity.

The Commission has not undertaken any investigations into drug activities on the Dark Net in the past year. According to the *World Drug Report 2018*, prior to being closed in July 2017, the Dark Net drug trading platform Alpha Bay hosted in excess of 250,000 listings for illegal drugs and chemicals, and during the period of its operation it had had in excess of 200,000 users and 40,000 vendors, although it is not yet clear what affect its closure has had on the Dark Net market.

In its Research Report No 10, *Organised Crime Research in Australia 2018*, the Australian Institute of Criminology reported on a project conducted on the Dark Net that analysed data relating to vendors, locations and transactions that was collected in January 2016. The Dark Net markets identified were Alphabay, Crypto Market, Darknet Heroes League, Dream Market, French Dark Net, Hansa Market, Nucleus, and Python Market. For the purpose of the analysis, the information related to the top seven origin countries, the United States, the United Kingdom, The Netherlands, Germany, Australia, Canada and France. A total of 1,838 crypto market vendors were detected operating worldwide at that time.

The vast majority of the vendors were offshore, with the USA (644) followed by the UK (265) having by far the majority of the market; Australia was identified as having 150 vendors. A total of 92,527 transactions were detected, with 6,274

identified in Australia. The vast majority of Australian transactions were domestic sales which, according to the report, could be attributed to the 'island effect', resulting from our isolation combined with our relatively long postal delivery times compared with the rest of the world. Furthermore, our relatively high prices for drugs in Australia make our vendors far less attractive compared with international competition.

Trafficking prohibited drugs on the Dark Net is not dissimilar to the hundreds of domestic drug runs operating throughout metropolitan Sydney, which the Commission has reported on in previous annual reports. The Dark Net is analogous to an encrypted telephone, which provides anonymity and communication security for those involved in the transaction. The sales numbers are not significant when compared to the more established distribution networks operated by organised crime throughout Australia. The Commission has not detected any of the more established organised crime networks involved in drug importations and distribution, such as OMCGs, 'Ndrangheta, Chinese triads or Eastern European groups, utilising the Dark Net to market their products in Australia.

All of these groups have embraced technology and are using cyber enablers to develop and advance their cause, including utilising various types of communication encryption, existing commercial (cyber) networks to track and/or monitor illegal drug consignments, and VPNs, trackers, cryptocurrency and IP money transfers. Sophisticated organised crime networks are not dissimilar to legitimate commercial businesses, which look to the digital age to improve security, reduce costs and increase profits.

Money laundering has continued to be a feature of many of the Commission's investigations in the past year, with the Commission having worked in conjunction with various partner agencies including the NSWPF OCS, ACIC, AUSTRAC and AFP. More than \$15 million in cash was seized during the year, which represented almost half of what is realised in confiscation actions by the Commission.

The services that have come under the most attention by the Commission are the hundreds of illegal Hawala or Hundi participants operating mainly in Sydney and other capital cities throughout Australia. Hawala is an informal value transfer system based not on the movement of cash or on traditional international cash transfers, but on a system of performance and honour of a large number of money brokers. The system performs a valuable service in many parts of the world as it is often faster, cheaper and more reliable than traditional banking networks. It provides a vital service in the Middle East, North Africa and the Indian Sub-Continent, although it is arguable whether such a service is needed in Australia, which has a well-developed and comprehensive banking system.

The vast majority of legitimate Hawala transactions in Australia would be estimated to be certainly less than \$5,000 per transaction, and possibly less than \$1,000 per transaction. The Commission has detected and interdicted dozens of

large-scale cash collections destined for Hawala operators where the individual transactions were usually between \$100,000 and \$500,000 in cash. The Commission concludes that these transactions are almost certainly the proceeds of crime, although being able to prove that to the requisite standard is often difficult.

The Commission has noted that sentences for money laundering are not consistent across the jurisdiction and are largely not serving as a deterrent. In several matters cash collectors have been detected collecting large amounts of cash (in multiples of \$100,000) where the money has been collected from car parks and other places from persons whom they did not know. They have been arrested, charged and put before the Courts, and several months later, on more than one occasion, those persons charged have been detected conducting similar transactions. It cannot be proved to a legal standard that each \$200,000 collected represents the sale of a kilogram of cocaine or two kilograms of ice, but without the services of the cash collectors and the Hawala dealers, organised crime networks would be forced back into traditional banking systems, where they are much more likely to be detected.

During the year the Commission was involved in an international investigation with the AFP and the United States FBI into the activities of Phantom Secure, a Canada-based communications company that sold and operated encrypted Blackberrys worldwide. Evidence gathered during the investigation revealed that key personnel in the company acknowledged that it existed to service the needs of organised crime, including drug traffickers, money launderers and murderers.

As recorded in previous annual reports, not a single legitimate customer was identified using the service, unsurprisingly, as it came at a cost of approximately \$2,500 for every six months of use. The investigation was extremely successful, resulting in the arrest in the United States of the CEO, who was charged with racketeering offences. The network was shut down, causing disruption to the 22,000 worldwide customers, of whom more than 10,000 resided in Australia.

Since the shutdown of Phantom Secure, other vendors have filled the void, with EncroChat and CiphR handsets being the most prominent. CiphR is another Canadian company with close links to one member of the Comanchero OMCG in Australia. Together with other law enforcement partners and government, the Commission is currently considering the need for legislation to combat the distribution and use of highly encrypted specialised handsets that are designed almost exclusively to assist organised crime in its endeavours to traffic drugs and commit crimes.

To combat the use of encrypted communications by organised crime networks, the Commission has increased its efforts in other areas such as the use of human sources, physical surveillance and technical surveillance. In 2013-14, the Commission's technical unit deployed on 489 occasions; by 2017-18, deployments had increased to 712. To maintain an effective deterrent to organised crime, it is

essential that agencies maintain research and expenditure on technology to assist with investigations of organised crime.

During several of the Commission's investigations in the past year, a large number of modified motor vehicles with secret compartments have been detected. These concealments are professionally installed, can be fitted to many different types of vehicles, and are generally electronically operated by the application of multiple switches throughout the vehicle, usually in a set combination to prevent law enforcement officers accidentally opening the compartment during a vehicle stop. The Commission has noted a preference among some groups to store drugs, firearms and cash concealed in secret compartments in vehicles that are often simply left parked on suburban streets, effectively hiding their contraband in plain sight. Intelligence indicates that several auto electricians and mechanical workshops are providing this service to selected customers. It has been reported to the Commission that the installation can cost in excess of \$10,000 and the practice is increasing.

As at the time of writing, the Commission has noted that organised crime related murders have reduced in frequency in the past year. This reduction is probably attributable to the arrest and incarceration of some high profile offenders in recent times.

At present, the Commission is involved in investigating 32 organised crime related murders, which are at various stages of investigation, including some that are before the Courts or the Coroner. The Commission has 19 current murder References, including some that require investigation of multiple related murders. Five new murder References were granted to the Commission during the year.

In summary, the movement of cash has continued at rates that are at least comparable to previous years; however, our ability to detect and disrupt this activity has weakened with the strong movement towards encrypted and/or data-based applications by money laundering networks. Although cash continues to rule, the Commission has noticed some use of cryptocurrencies as an efficient way of moving and storing illegally generated profits.

Organised crime figures based offshore continue to have a strong impact on drug importation, drug distribution and money laundering activities in New South Wales. Whilst some of the more significant players are expatriate Australians, many are foreign nationals tapping into a lucrative drug market. Ongoing collaboration with our partners at Commonwealth and international levels is critical if we want to have an impact on disrupting crime at that level. Whilst some syndicates send shore parties to move drugs and money in Australia, many overseas syndicates are exploiting vulnerable members of local communities and recruiting via cultural and loose family ties.

Having regard to the increased production of prohibited drugs in source countries, it is highly likely that Australia will experience a greater number of importations of larger quantities in years to come.

CHAPTER THREE – FINANCIAL INVESTIGATIONS DIVISION

The Commission employs expert forensic accountants and financial analysts who specialise in tracing the proceeds of crime and identifying assets held by, or on behalf of, those suspected of criminal misconduct, including proceeds and assets that have been subjected to money laundering and other efforts to hide them.

The primary purpose of the Commission's financial investigators is to support the discharge of the Commission's functions under the *CAR Act*, which is discussed below. However, financial inquiries are an invaluable aid in criminal investigations. Financial investigations are sometimes deployed as the leading investigative strategy, as organised criminal groups are primarily motivated by money. The FID's Criminal Investigation Support Team is co-located with the CID and provides forensic accounting contributions to the CID's work. As authorised by section 11 of the *CC Act*, the CID gathers intelligence and evidence in the course of its investigations under the Act for the FID to use in its confiscation action.

The Commission has protocols to ensure a proper separation of the two roles. In particular, the Commission does not trade information and intelligence for leniency in confiscation: that is, the Commission does not pursue confiscation action less vigorously or to a lesser extent because of a person's co-operation with the CID, nor does it seek information, intelligence or other co-operation when negotiating confiscation matters.

The Confiscation Process

The confiscation process begins when the FID receives a referral from another part of the Commission (generally the CID) or from a partner agency (generally the NSWPF). The FID then assesses the referral to determine whether or not the Commission should commence confiscation proceedings in the matter. In the event that the Commission determines that there are sufficient grounds to start confiscation proceedings, the Commission makes the relevant applications through the Supreme Court of New South Wales (the Court).

Confiscation proceedings are civil proceedings. As such, they are governed by the Court and statutory rules in respect of civil proceedings and the Commission is bound by the Model Litigant Policy for Civil Litigation. The Commission thus attempts to settle each matter by negotiation rather than proceeding directly to a contested hearing. The majority of the Commission's confiscation proceedings are settled following negotiations with the defendants and their lawyers.

If the proceedings are settled, the Commission prepares and presents orders to the Court. These orders include a certification that the Commission has complied with the Management Committee guidelines about negotiating the terms of settlement.

If the Commission is unable to reach agreement with the defendant, the matter proceeds to a contested hearing based on the evidence available at the time. The result of the hearing is an order, or orders, of the Court disposing of the proceedings either in favour of or against the Commission.

Once the Court has made orders in the matter, the Commission takes the actions necessary to give effect to the orders. In the case of an asset forfeiture order (AFO), the NSW Trustee and Guardian sells the assets and remits the proceeds to the Treasury. In the cases of a proceeds assessment order (PAO) and an unexplained wealth order (UWO), the Commission has a role in obtaining payment. In most cases, the debt due to the Crown is secured by real estate or other collateral, and interest accrues.

A full description of the confiscation process and the factors considered by the Commission in relation to confiscation proceedings can be found on the Commission’s website.

Use of Statutory Information Gathering Powers

In its efforts to gather information, material and evidence in confiscation matters, the Commission uses a range of statutory provisions that are appropriate in the circumstances.

The powers available to the Commission pursuant to the *CC Act*, and statistics on their use, are given in Table 5 in this report and are repeated in Table 13.

Use of Statutory Powers by FID

Table 13

| Summons and Notices Issued | No. Issued |
|------------------------------------|-------------|
| Summons (section 24) | 0 |
| Notice to produce (section 28) | 18 |
| Notice to produce (section 29) | 1075 |
| Total summonses and notices | 1093 |

The combined total number of notices issued under these provisions (1093) during the reporting period was 224 more than the previous year (869). It was reported last year that the figure was a significant drop in the figure from the preceding year (1207) and concern was expressed as to whether that drop in output would be continuing and also whether there would be a flow-on effect to confiscation outcomes. Fortunately, neither of these things has occurred despite continuing

budgetary pressures creating difficulties in attracting and retaining experienced staff. The recovery in this key measure of output is a very good outcome, especially when it is considered that the FID suffered an acute staffing crisis in the first half of the financial year.

The *CAR Act* also provides for the Commission to apply to the Court for the issuing of certain orders and warrants to gather evidence in confiscation proceedings. These include orders for the compulsory examination of persons under oath in the Court, orders for the defendant to provide a sworn statement of financial particulars, orders to produce documents and search warrants. The use of those provisions during the reporting period is shown in Table 14.

Use of CAR Act Provisions

Table 14

| Orders | No. Sought | No. Granted |
|---|------------|-------------|
| Examination orders (section 12) | 85 | 85 |
| Examination orders (section 31D) | 2 | 2 |
| Statement of affairs orders (section 12) | 84 | 84 |
| Statement of affairs orders (section 31D) | 0 | 0 |
| Production orders (section 33) | 11 | 11 |
| Search warrants (section 38) | 0 | 0 |
| Search warrants (sections 44 and 45) | 19 | 19 |
| Monitoring orders (section 48) | 0 | 0 |

Referrals

The Commission receives referrals for consideration of confiscation proceedings from a variety of sources, including other parts of the Commission and partner agencies. This year, 1526 people were the subject of referrals and assessments compared to 524 people last year. The large increase in referrals is as a result of an increase in the number of matters referred from the NSW Police Asset Confiscation Unit (ACU).

In mid-2016 the Commission met with members of the ACU and requested that all matters that are also referred to the DPP for consideration of the commencement of proceedings under the provisions of the conviction based *Confiscation of Proceeds of Crime Act 1989* (CoPoCA) also be referred to the Commission. This is a departure from previous years where only certain matters were referred to the

Commission by the ACU. By adopting the same referral criteria as the referrals to the DPP there is less of a possibility of missing viable confiscation matters.

Under the new arrangements, a larger number of matters that would have been previously assessed by the ACU are now assessed by the Commission. As shown in Table 15, proceedings were commenced against 105 defendants during the reporting period. This is an increase from the previous reporting period (during which proceedings were commenced against 92 defendants) of approximately 14 percent. It is not clear to what extent the increased volume of referrals assessed by the Commission contributed to the increase in viable confiscation matters being identified.

There are two main situations in which the Commission does not commence confiscation proceedings:

- if the value of the potential defendant's assets is not high enough to make proceedings worthwhile; or
- if the assessment process indicates that it is unlikely that the potential defendant has derived sufficient proceeds of crime to make the proceedings viable.

The Commission's analysis of referrals indicates that the Commission receives the majority of confiscation referrals from NSW Police Local Area Commands following the arrest and charging of a person with a relevant offence. These arrests are often the result of short-term investigations focused on a particular criminal activity with little reference to the potential recovery of proceeds of crime. These referrals form the bulk of referrals assessed by the FID but are the least likely to result in the start of confiscation proceedings.

In contrast, the matters that are most likely to result in significant confiscation outcomes are those that the Commission's CID has investigated. This is partly because the Commission is able to make an assessment of the person's financial position early in the investigation and work to uncover hidden assets throughout the inquiry, but also because of the serious and high-level criminality of the subjects of Commission investigations. The Commission is assisted in this endeavour by some of the most experienced police investigators in NSW.

Confiscation and Restraining Orders

As is noted above and was reported last year, FID has faced ongoing significant resource pressures during the reporting period due to the departure of several senior staff and a limited ability to replace them. It was reported last year that despite this, the number of cases commenced had not declined greatly over the previous reporting period. As discussed in the preceding section and can be seen in Table 15 below, this trend has now completely reversed as the number of cases

commenced (98) involving 105 defendants not only exceeds the figure for the last reporting period, but also exceeds the number for the period preceding the last reporting period.

Confiscation Cases

Table 15

| | 2015-16 | 2016-17 | 2017-18 |
|----------------------|---------|---------|---------|
| Cases commenced | 82 | 78 | 98 |
| Number of defendants | 102 | 92 | 105 |

Applications for confiscation orders were made against 105 defendants during the reporting period, and three of these were made without a concurrent application for a restraining order. There are two main circumstances in which the Commission will seek a confiscation order without an associated restraining order:

- when the defendant is not in a position to deal with the interest or interests in property that would otherwise be the subject of the restraining order application. Most commonly, this is where the interest is in an item of property, generally cash, which the NSWPF have seized. The NSWPF hold the property pursuant to non-CAR Act legislation;
- when the Commission has obtained a restraining order for a defendant's jointly owned interest in real property, generally property owned with a spouse. During the course of the proceedings, the Commission may determine that there are grounds for seeking a confiscation order against the second person as well as the original defendant.

During the reporting period, the Court made 102 restraining orders on the application of the Commission. All but one of the applications was made on an *ex parte* basis.

The only application that was not made on an *ex parte* basis was made with the consent of the defendant after the commencement of the proceedings and is the matter that is referred to in the following section headed 'Warranties'. In that matter a restraining order was unnecessary at the time the proceedings were commenced because the subject motor vehicle was held by the QPS.

The other two applications for confiscation orders that were not made with a concurrent application for a restraining order were in respect of defendants whose interests in property were effectively restrained by virtue of a restraining order being in force in respect of a joint owner of that same property.

Of the 102 restraining orders, one application was the only unsuccessful application. A subsequent application in respect of the same defendant was successful.

When the Court grants a restraining order, the Court requires the Commission, on behalf of the State, to give an undertaking as to damages. The Commission has not been sued on any such undertaking during this, or any other, reporting period.

As far as applications made for confiscation, as opposed to restraining, orders are concerned, the Commission made 166 applications for confiscation orders (compared with 110 in the last reporting period), consisting of 103 applications for UWOs (80 in the last reporting period), 63 applications for AFOs (23 in the last reporting period) and no applications for PAOs.

The reason that 61 more confiscation orders were applied for than the number of defendants against whom proceedings were commenced is because in respect of 61 defendants the Commission made applications for more than one type of confiscation order.

The main reason for this is that the Commission is making significant use of the provisions now found in the *CAR Act* that provide for the forfeiture of interests in property:

- used in commission of offences; or
- if the person used another person's property in the commission of an offence, other property owned by the person in substitution for the property used in the commission of the offence.

The majority of the 63 applications for AFOs during the reporting period were applications for the forfeiture of large sums of cash, several of which exceed \$1 million. Over the last few years, there has been a significant growth in the number of successful NSWPF operations that have resulted in the seizure of large sums of cash. These provisions have also been used successfully in confiscating real property, or amounts referable to the value of that real property used in connection with the cultivation of cannabis.

Warranties

When proceedings are finalised by consent, the Commission requires a defendant to provide a warranty as to his, her or its interests in property as at the date of the signing of the final consent orders. If the Commission subsequently discovers that the defendant failed to disclose an interest in property, the provisions of the *CAR Act* provide for the forfeiture of the undisclosed interest. If the defendant disposed of the undisclosed interest before it was discovered, the provisions allow for an

order to be made requiring the defendant to pay to the Treasurer an amount equal to the value of the undisclosed interest.

During the reporting period there was one matter where a breach of warranty was detected. The original proceedings had been finalised on 7 October 2010. In the final orders made on that date the defendant consented to pay a PAO in the amount of \$40,000. The final consent orders included a warranty in which the defendant purported to disclose all his interests in property.

The defendant subsequently moved to Queensland and later became the subject of a QPS investigation. As a result of that investigation the QPS seized two motor vehicles from him. Investigating police from QPS then contacted the Commission in order to verify his claim that one of the seized vehicles should be returned to him because it had already been the subject of the Commission's proceedings that were finalised in 2010.

In fact, the vehicle had not been disclosed in the warranty in the 2010 consent orders and as a result, on 20 October 2017, the Commission commenced further proceedings against the defendant, by seeking both an order for the forfeiture of the undisclosed vehicle and an UWO. These proceedings were resolved on 12 January 2018, when further consent orders were made that provided for him to pay an UWO in the amount of \$40,000, representing the agreed value of the undisclosed vehicle at the time the warranty was provided.

Analysis of Confiscations

The estimated realisable value of confiscation orders that were made during the reporting period was \$29,344,946. This figure includes an order that provided for the payment of a defendant's \$75,918 liability to the Australian Taxation Office (ATO) from his restrained interests in property.

By way of comparison with results in other reporting periods, the figure is approximately \$1.83 million more than the average of the preceding 5 years (that average being \$27,511,266) but approximately \$750,000 less than the figure for the last reporting period (which was \$30,095,309).

Statistics for the reporting period in relation to these various confiscation outcomes are shown in Table 16.

Performance Measures

Table 16

| Outcome | By Consent | Contested Hearing | Total |
|--|------------|-------------------|-------|
| AFOs made | 45 | 1 | 46 |
| PAOs made | 21 | 1 | 22 |
| UWOs made | 14 | 1 | 15 |
| Order providing for payment to ATO | 1 | 0 | 1 |
| Proceedings finalised by confiscation order application(s) being dismissed or proceedings discontinued | 5 | 2 | 7 |

During the reporting period, proceedings against 80 defendants were finalised. The total number of these disposals differs from the total number of applications because some of the disposals related to applications made in the previous reporting period and some will not be finalised until the next reporting period. In addition to this, there are several matters in which more than one confiscation order was made against the defendant when the proceedings were finalised. This is a further reason why the total number of confiscation orders and orders dismissing or discontinuing proceedings differs from the number of disposals. For example, in some cases a defendant will consent to an AFO in respect of certain interests in property and will also agree to pay a monetary amount to the Crown by way of a PAO or an UWO.

Table 16 shows that three confiscation orders were obtained as a result of a contested hearing. A description of these three matters is as follows:

1. The first of these matters was *NSW Crime Commission v Fatos Rama* [2017] NSWSC 1396, a matter in which an application for summary judgment was heard in the previous reporting period, but judgment was delivered in this reporting period. Following a hearing on 18 May, 25 May and 2 June 2017, judgment was delivered by Justice Lonergan on 13 October 2017, with the Court granting summary judgment on the Commission's application for an UWO. The Court assessed the unexplained wealth of the defendant to be \$178,900, having regard to the known interests in property of the defendant at the time of the application for unexplained wealth (9 August 2013), being a sum of cash seized by police on 29 April 2010. The Court also made a restraining order in respect of the seized cash and further orders bringing the cash into the control of the NSW Trustee and Guardian, to be applied in

satisfaction of the UWO. The matter was heard in the absence of the defendant as he was unable to be located;

2. The second matter was *NSW Crime Commission v Hayward [2018] NSWSC 571*. In this matter the Commission had commenced proceedings on 30 April 2015 by successfully applying for a restraining order pursuant to section 10A of the *CAR Act* and also applying for a PAO (the PAO application). The restraining order was made by the Court and the defendant's interests, including his interest in real property in Hargraves, NSW (the Hargraves property), were restrained. On 18 November 2016, the defendant was convicted of offences of manufacturing a prohibited drug (at the Hargraves property), supplying a prohibited drug and dealing with proceeds of crime. With leave of the Court, the Commission amended its application to also seek a forfeiture order pursuant to the CoPoCA in respect of the Hargraves property (the CoPoCA application). The Commission sought summary judgment on the CoPoCA application and summary judgment and assessment of the PAO application, heard on 24 April 2018. The Court made the PAO and assessed that order in the sum of \$27,900. The Court, having considered the issue of hardship to the defendant, declined to make the order sought by the CoPoCA application;
3. Finally, in proceedings *NSW Crime Commission v Chun Kit Tan*, the Commission sought summary judgment on an application for forfeiture of two sums of cash pursuant to section 22(2B) of the *CAR Act*, contending that the cash was an available interest relating to serious crime use property. The defendant was charged with offences of dealing with proceeds of crime contrary to section 193C of the *Crimes Act 1900* in relation to the cash. On 22 March 2017, he pleaded guilty to those charges and was sentenced to a term of imprisonment. Following a hearing before the Court on 22 March 2018, Justice Fagan made orders as sought by the Commission, being satisfied that the Commission demonstrated prima facie the facts which supported the making of the forfeiture order and there being no identifiable defence. The matter was heard in the absence of the defendant as he was unable to be located.

Each year a number of proceedings are finalised, usually by consent, with no confiscation order being made against the defendant. The most common reason for this will be that the Commission will have commenced proceedings against two related defendants, either in one set of proceedings (for example, a person charged with drug offences and their spouse) or separate proceedings (for example, where each defendant's interest in the same property, usually a sum of cash, is restrained in each of those proceedings), and will ultimately resolve those proceedings with a confiscation order being made against one and the application against the other being dismissed. It can be seen from Table 16 above that proceedings were finalised against seven defendants without a confiscation order being made. Four of these seven disposals were of this type.

The fifth matter resolved by consent was the last remaining defendant in proceedings described in last year's annual report. These proceedings were commenced against the defendants by applying for UWOs and successfully applying for restraining orders based on a suspicion that funds deposited to various bank accounts in the names of the defendants were the proceeds of money laundering. However, in respect of all the defendants in the proceedings, including the final one resolved in this reporting period, further investigations conducted after the funds in those bank accounts were restrained revealed that the defendants had transferred legitimately acquired funds to Australia without any knowing involvement in any illegal activity in Australia using foreign remittance agents that used a hawala type of money transfer service. In view of this, the Commission consented to the Commission's application for a confiscation order being dismissed in the same way that it had in respect of all the other defendants as reported in the Commission's last annual report.

The Table also shows that the Commission's application for a confiscation order was dismissed against two defendants as a result of a contested hearing. These defendants were co-defendants in the same proceedings that had been commenced in November 2006. The Commission had commenced the proceedings against both defendants as they were to be charged with fraud offences that they were alleged to have committed against several elderly victims. However, before they were charged both defendants left Australia and have not been located since.

The Commission's proceedings were difficult to prosecute due to the age and health of the alleged victims and the fact that the police investigation did not progress in the absence of the alleged offenders. In addition to this, the defendants' identified interests in property had a combined value of less than \$100,000, making it difficult to justify expending the significant resources required to successfully prosecute the proceedings.

In view of these difficulties the Commission decided to refer the matter to the ATO. As a result of this referral, the ATO was able to raise income tax assessments against both defendants of amounts that exceeded the value of the property that was the subject of the restraining orders obtained in the Commission's proceedings. On 30 January 2018, pursuant to leave granted on 29 January 2018, the Commission filed a Notice of Discontinuance against both defendants so the ATO could continue recovery action to apply the defendants' previously restrained property to partially satisfy the ATO assessments.

The number of confiscation orders, and their estimated realisable values, with reference to the agencies that referred the matters to the Commission for assessment and possible proceedings are shown in Table 17.

Estimated Realisable Value by Referral

Table 17

| Source of Referral | Number of Orders | Value \$ |
|---|------------------|-------------------|
| NSW Police Force | 65 | 15,083,580 |
| Commission - NSW Police Force joint investigation | 12 | 8,922,327 |
| Commission, NSW Police Force, ACIC | 1 | 3,268,217 |
| NSW Police Force & ACIC | 3 | 1,850,822 |
| NSW Police Force & AFP | 2 | 180,000 |
| QLD Police | 1 | 40,000 |
| Total | 84 | 29,344,946 |

By reference to the type of order, the estimated realisable values of the various confiscation orders are shown in Table 18.

Estimated Realisable Value by Order

Table 18

| Type of Order | Number of Orders | Estimated Realisable Value \$ |
|------------------------|------------------|----------------------------------|
| AFO | 46 | 22,034,386 |
| PAO | 22 | 4,130,400 |
| UWO | 15 | 3,104,242 |
| Other - payment to ATO | 1 | 75,918 |
| Total | 84 | 29,344,946 |

In each year since the *CAR Act* was amended to include UWOs, it has been reported that, although many proceedings are commenced by seeking an UWO, they are often ultimately resolved by the proceedings being settled with the defendant consenting to the UWO being dismissed and one of the other confiscation orders being made instead.

It can be seen from Table 18 above that 15 UWOs were made, with an estimated realisable value of \$3,104,242. However, in addition to this, a further 13 confiscation orders, with an estimated realisable value of \$10,465,947, were made in conjunction with the original application for an UWO being dismissed.

In Table 18 it is reported that one matter was finalised against a defendant by an order being made that provided for the payment of a debt owed by him to the Australian Taxation Office from restrained funds that were held by the NSW Trustee and Guardian. On occasion, when it is in the public interest to do so, the Commission will agree to the settlement of a matter that involves such an order being made. In this matter the order ensured that the ATO debt was paid, which may not have happened had the order not been made.

Under the heading 'Confiscation and Restraining Orders' above, the number of matters commenced that rely, at least in part, on the amendments to the *CAR Act* to provide for the forfeiture of property used in the commission of offences is noted. In this regard it is significant to note that in the summons that was filed to commence proceedings against 21 of the 80 defendants against whom proceedings were finalised during the reporting period the Commission had sought these types of AFOs. While it cannot be said that a confiscation order or orders would not have been made against those 21 defendants for these provisions, it does show that these orders made a significant contribution to confiscation outcomes during the period.

Estimated Realisable Value of Confiscation Orders

Two of the principal objects of the *CAR Act* are the recovery of proceeds of illegal activity and the recovery of unlawfully obtained wealth. As such, the Commission believes that the estimated realisable value of confiscation orders made during the year provides the best measure of the effectiveness and results of confiscation proceedings.

As discussed in previous annual reports and detailed on the Commission's website, the Commission believes that using the estimated value of interests in property which are subject to restraining orders or, alternatively, the nominal value of confiscation orders to assess results of confiscation proceedings is problematic. Both figures can overestimate the amount that could be paid to the State and result in an inflated impression of the Commission's success in this area. The difference in the estimates is again highlighted in Table 19.

Comparison with Previous Years

Table 19

| | 2015-16 \$ | 2016-17 \$ | 2017-18 \$ |
|--|---------------|---------------|---------------|
| Estimated value of property subject of proceedings | 66,611,000 | 60,712,000 | 83,213,994 |
| Estimated value of realisable confiscation orders and order for the payment of ATO | 33,092,706 | 30,095,309 | 29,344,946 |

By way of comment on the two measures reported in Table 19 above:

1. *The estimated value of property subject of the proceedings*

This is the estimated value of all the interests in property of the defendant that would be available to satisfy any confiscation order that may be made against the defendant. Accordingly, in calculating this value only the interest of the defendant is estimated in, for example, real estate and other assets that are held jointly with another person. Similarly, the value is estimated after deducting the value of any debt that is secured over the relevant interest in property such as, for example, a loan secured by registered mortgage over real estate.

This measure is important in respect of each proceeding because it estimates the absolute maximum that the Commission could expect to realise from the proceedings. However, it can equally be seen that it does not necessarily reflect what is *actually* realised from the proceedings.

2. *The estimated realisable value of confiscation orders*

This is the measure of what will actually be recovered at the time the proceedings have been finalised, either by way of the Court making a confiscation order by consent or as a result of a contested hearing.

The estimated realisable value of a confiscation order is based on a range of factors depending on the type of confiscation order sought and the nature of the interest in the property.

In the case of AFOs in respect of money, the estimated realisable value is usually the same as the amount of money. In the case of interests in property that are forfeited and then have to be sold (with the proceeds then going to the Treasury), the estimate is less certain. The asset is taken into the control of the NSW Trustee and Guardian for disposal (e.g. by auction), and not only is an estimate less likely to be accurate, but the delay between

the making of the estimate and the disposal of the asset can affect the accuracy of the estimate.

In PAOs and UWOs, the first component is the amount specified in the Court's orders. If the defendant is estimated to have sufficient property interests that are liquid or can be liquidated, then the estimate equals the Court's order and it is likely that the amount will be realised. If it does not appear that the defendant has sufficient property interests to cover the debt, then the Commission's estimate of the realisable value of the order is its estimate of the realisable value of the available property interests, this estimate being necessarily somewhat less certain than in the type of case mentioned previously.

When measured by their gross rather than realisable value, the value of all confiscation orders made during the reporting period was \$29,951,380. The difference between this and the estimated realisable value of orders made (including the order for the payment of an ATO debt) of \$29,344,496 is explained as follows:

- in proceedings against one defendant, the defendant consented to the forfeiture of an amount of \$299,650 cash that had, unknown to the Commission, already been forfeited to the Crown pursuant to the provisions of the CoPoCA following his conviction in respect of an offence in relation to his dealing with that sum of cash;
- in proceedings against another defendant, who was facing serious drug charges in respect of which he had yet to go to trial, an order was made that forfeited any amount remaining from the sum of \$306,784 after allowing him access to this amount to pay his legal expenses in respect of the Commission's proceedings and his criminal proceedings. It was considered unlikely that there would be any amount remaining after the legal expenses had been incurred and paid, so this AFO was, for reporting purposes, considered to have had no realisable value. A second confiscation order, which was realisable, was also made against this defendant in the amount of \$487,500.

It is significant to note from Table 19 above that in the 2015-16 and 2016-17 reporting periods, the total value of interests in property that were the subject of proceedings commenced during the respective reporting periods was approximately double the realisable value of confiscation orders made in those same periods.

These measures are not directly comparable because the matters that are commenced each year are not all finalised in that same year they are commenced. However, in respect of those two earlier years, this difference was not pronounced, as both the absolute value of the figures and their proportional relationship remained relatively constant.

However, in the current year the estimated value of the property was a little less than three times the value of the estimated realisable value of confiscation orders. It is reasonable to assume that this higher value of property which is the subject of current proceedings will lead to a greater value of realisable confiscation orders in future periods.

Exclusion Orders

When the Commission resolves confiscation proceedings by consent, the terms of settlement usually include a term that the defendant will not challenge the making of the confiscation order. In some cases, the defendant will consent to the making of the order but will preserve his or her right to make an application for relief from the effect of the confiscation order.

This most commonly occurs when the Commission has applied for an AFO and the defendant has been convicted of a serious crime related activity. In such cases, the making of an AFO cannot be defended, but the defendant may consider that they can prove that some, or all, of the forfeited interest in property was acquired from legitimate sources. In such circumstances, the defendant may consent to the making of the order but retain their statutory right to seek to have some or all of the forfeited interest in property excluded from the order on the grounds that the interest was not illegally acquired.

During the reporting period there were no cases of this type and there were no other matters in which an exclusion order was made.

Summary Judgments and Appeals

In matters where all avenues to try to settle the proceedings have been unsuccessful, but the defendant has been convicted of a sufficiently serious offence, the Commission usually makes an application for summary judgment on its claim for a confiscation order. This generally occurs in matters where the Commission sought a PAO or an UWO at the commencement of proceedings. In such cases, the Commission seeks leave to amend its summons to seek an AFO as well as the PAO or UWO and, on proof of a SCRA, will obtain both orders. The Commission will also request that the quantum of the PAO or UWO be assessed at a later date.

By employing this strategy, the Commission only incurs the cost of the summary judgment application (which simply requires proof of the SCRA in respect of which the defendant has already been convicted) and, depending on whether the defendant files an application for exclusion, may not need to go to the considerable expense of quantifying the PAO. If the defendant files an exclusion

application, the Commission generally seeks to have the exclusion application heard at the same time as quantifying the PAO.

This strategy does have an impact on reported confiscation outcomes. In these matters, at the time the orders are made, the Commission reports on the estimated realisable value of the forfeited interests in property. Whether or not this will be the final outcome of the matter will depend on such contingencies as whether the defendant makes an exclusion application, the degree of success the defendant has in that application, and the amount that is finally quantified as a proceeds assessment matter.

Proceedings against three defendants were finalised by way of the Commission obtaining summary judgment during the reporting period. Those three matters are all described under the heading 'Performance Measures' above. It is significant to note that none of those matters were of the type described in the preceding paragraphs and the Commission considers that the orders are not likely to be further contested.

Living and Legal Expenses

The *CAR Act* makes allowances for applications for reasonable living and legal expenses under section 10B(3). People whose interests in property are restrained can make an application to the Court for an order varying the restraining order to allow for reasonable living expenses (of the defendant or his or her dependents) and/or reasonable legal expenses (of confiscation or criminal proceedings) to be met. Applications pursuant to section 10B(3) were made and determined as shown in Table 20.

Applications under section 10B(3)

Table 20

| Result Type | Living Expenses | Legal Expenses |
|---|-----------------|----------------|
| Orders made by consent* | 2 | 21 |
| Application for order dismissed by consent | 0 | 0 |
| Application for order granted after contested hearing | 0 | 0 |
| Application for order dismissed after contested hearing | 0 | 0 |
| Total | 2 | 21 |

*18 of the 21 legal expenses orders were made by consent as part of the finalisation of the confiscation proceedings by negotiated settlement.

Costs

A consequence of the Commission resolving almost all proceedings by negotiated settlement is that it is rare that an order is made that the Commission pay the defendant's costs for the proceedings or that the defendant pay the Commission's costs for the proceedings.

Within proceedings, the Commission will often defend applications made under section 10C of the *CAR Act* that allow the Court to set aside restraining orders if it believes the Commission has failed to satisfy the Court that there are reasonable grounds for the relevant suspicion, or for living expenses or legal expenses. Although an order for the payment of costs may be made in such matters, it is often the case that whether or not the amount is actually paid will depend on the outcome of the substantive proceedings.

The Commission employs lawyers and paralegals who work principally on confiscation litigation. Those legal staff draft legal documentation and appear for the Commission to make most applications for restraining orders and consent orders. In more complex cases, the Commission will occasionally brief counsel to make applications for restraining and consent orders. During the reporting period, counsel were briefed to conduct examinations of defendants and to appear for the Commission when matters were taken to final hearing.

There were three orders made for the defendants to pay the legal costs of the Commission. In respect of two of these matters the Commission does not expect to recover these costs (and therefore has not had them assessed) as each of the proceedings left the defendants without any interests in property from which costs could be recovered. The third matter resulted from an unsuccessful appeal against orders made in an ongoing complex matter, so the Commission will not seek to have the costs assessed until the result of the substantive proceedings has been determined. Table 21 reports issues relating to legal costs.

Legal Costs

Table 21

| | |
|---|-------------------------|
| Number of costs orders in favour of the Commission | 3 |
| Estimated realisable value of those costs orders | Unlikely to be assessed |
| Number of costs orders in favour of the defendant | 0 |
| Amount paid in respect of that costs order | N/A |
| Total cost of briefing outside counsel in the reporting period | \$98,045 |

| | |
|--|-------|
| Total cost of briefing outside counsel as percentage of realisable orders* | 0.33% |
|--|-------|

*The Commission bears the full cost of counsel fees. The full amount realised from confiscation orders goes to the Treasury. This figure, being the costs incurred in briefing outside counsel in proceedings that had been commenced, as a percentage of the total estimated realised value of all confiscation orders is less than the figure for 2016-17 (which was 0.43 percent).

Comparisons with Previous Two Years

Table 22 sets out figures for the reporting period and the previous two years in respect of several key measures.

Comparison of Performance Measures

Table 22

| Measure | 2015-16 | 2016-17 | 2017-18 |
|--|--------------|--------------|--------------|
| CAR Act restraining orders | 91 | 89 | 102 |
| Confiscation orders sought without a restraining order | 11 | 3 | 3 |
| AFOs made | 27 | 38 | 46 |
| Estimated realisable value of AFOs | \$11,356,403 | \$17,234,389 | \$22,034,386 |
| PAOs made | 25 | 25 | 22 |
| Estimated realisable value of PAOs | \$16,244,303 | \$8,901,900 | \$4,130,400 |
| UWOs made | 8 | 7 | 15 |
| Estimated realisable value of UWOs | 5,492,000 | \$3,228,119 | \$3,104,242 |
| Orders for breach of warranty (BOWs) | 0 | 0 | 0 |
| Estimated realisable value of BOWs | N/A | N/A | N/A |

| Measure | 2015-16 | 2016-17 | 2017-18 |
|--|--------------|--------------|--------------|
| Orders for compensation of victims (COVs)* | 0 | 1 | 1 |
| Estimated realisable value of COVs | 0 | 730,901 | 75,918 |
| Total no. of confiscation orders and COVs | 60 | 71 | 84 |
| Total estimated realisable value of confiscation orders and COVs | \$33,092,706 | \$30,095,309 | \$29,344,946 |
| Production orders (<i>CAR Act</i>) | 1 | 10 | 11 |
| Search warrants (<i>CAR Act</i>) | 31 | 22 | 19 |
| Monitoring orders (<i>CAR Act</i>) | 01 | 0 | 0 |

*This order was an order for the payment of an ATO liability from restrained property and not strictly an order for the compensation of a victim.

Sharing with Other Jurisdictions

NSW is able to share the proceeds of confiscation proceedings with other jurisdictions. This occurs in situations where confiscation proceedings under the *CAR Act* arise from a joint investigation involving the Commission and law enforcement agencies of another jurisdiction.

To facilitate the sharing of proceeds with other jurisdictions, the Commission makes a recommendation to the Minister for Police as to the matters and the proportions of the recovered amounts that should be shared. In the event that the Minister agrees with the recommendation, the Minister makes the recommendation to the Treasurer. If the Treasurer agrees, a Direction that the amount be shared is issued. Since sharing arrangements commenced in April 2009, the Treasurer has approved the sharing of results of many confiscation proceedings with the Commonwealth. However, NSW is yet to receive a payment as a result of sharing arrangements since April 2009.

Case Study – Mr X, his Trusts and his Professional Facilitator

The FID was referred the matter of Mr X on a few separate occasions (both internally and from an external partner) but was unable to commence proceedings because of a lack of suspected serious crime related activity and a lack of

identified interests in property. This was despite in excess of \$4 million having been deposited into Mr X's bank accounts and the accounts of his companies. Mr X was the subject of previous attention by multiple law enforcement agencies and had links to several significant organised crime figures.

The situation changed dramatically in 2017, when he was arrested and charged by NSWPF in relation to his alleged involvement in a clandestine drug laboratory in 2015. An unknown male DNA profile had been located on some of the equipment in the clandestine drug laboratory and his DNA was found to match one of the previously unknown DNA profiles.

Documents seized during a search warrant at Mr X's leased waterfront apartment revealed that Mr X was the ultimate beneficial owner of property held by a number of discretionary and fixed entitlement trusts.

Further, caveats were identified as having been lodged by Mr X in respect of 'call options' purchased by him for potential property developments. Based on this information, and the fact that he was now facing serious drug charges, the Commission was able to commence *CAR Act* proceedings and restrain his interest in the identified property, despite that property not being registered in his name.

A search warrant was conducted at Mr X's accountant's premises. The accountant was suspected to be a professional facilitator, and analysis of the accountant's financial records indicated that he was depositing large amounts of cash into previously dormant and unrelated shelf company accounts which was ultimately laundered through a number of other accounts and used to purchase a real property held by a trust identified from documents seized from Mr X's apartment. The accountant was linked to a number of other persons of interest and is likely to have provided similar services for other people who were engaged in criminal activities.

Further criminal charges were laid against Mr X in relation to the laundering of the proceeds of crime of several millions of dollars. Mr X and the Commission negotiated a settlement of his *CAR Act* proceedings on the basis that Mr X forfeited to the Crown interests in property with an estimated realisable value of about \$1.4 million.

This investigation was an excellent example of multi-disciplinary investigation utilising expertise and input from two partner agencies and both the Commission's CID and FID. It also demonstrated the effective use of the Commission's coercive powers to the benefit of both the criminal investigation and the *CAR Act* proceedings.

CHAPTER FOUR – CORPORATE SERVICES DIVISION

Executive Team

The Commission's Executive Team at 30 June 2018 consists of the Commissioner, an Assistant Commissioner, three Executive Directors and two Directors. These officers are responsible for the management of the Commission.

During the reporting period, the Executive Team consisted of Mr Hastings QC (Commissioner) (1 July – 4 November 2017), Mr Bodor QC (Assistant Commissioner (Legal)) and then as Commissioner (8 November 2017 – present) and replaced by Ms Maria Cinque SC (22 January – present), Mr Dein (Assistant Commissioner (Operations)) (1 July 2017 – 31 January 2018), the Executive Director (Criminal Investigations), the Executive Director (Financial Investigations), the Executive Director (Corporate Services), the Director (Legal Services) and the Director (Governance). The Executive Team met monthly throughout the year.

Corporate Plan

In July 2014, the Commission developed and published the 2014-16 Corporate Plan, which included clear tactical goals with detailed strategies as to how these will be achieved. An updated Corporate Plan was published in January 2017.

The Corporate Plan is routinely monitored, reviewed and revised by the Executive Team, noting progress made towards achieving the agreed goals and strategies. The Commission has progressed in all the specified goals areas and completed the majority of the activities during the reporting period. Revised divisional and enterprise plans and objectives were reviewed during 2017 and are linked to the performance development plans of staff.

The published 2017 Corporate Plan has been updated to reflect this progress. It can be reviewed at Appendix E of this report.

Organisation Structure

The Commission, as part of a 'reengineering review' conducted by the Office of Police, Department of Justice, has undertaken a review of the organisation structure of the Commission. During the course of the reporting period the Commission reduced its overall staffing as part of a natural attrition program to meet future labour expense caps as part of delivering mandated efficiency dividend targets. This has led to some internal changes to the organisation structure. It is anticipated that outcomes from the current statutory review and appointment process for the role of Commissioner will lead to a review of the



overall organisation structure of the Commission. The Commission routinely reviews its organisation structure when vacant roles arise.

A chart illustrating the Commission's organisation structure as at 30 June 2018 can be found at Appendix F.

Commission Personnel

Under the *CC Act*, a significant number of officers and members of other law enforcement agencies (most numerous, officers of the NSWPF) are deemed to be members of staff of the Commission in order to facilitate effective investigations.

A smaller number of people are employed by the Commission to enable the Commission to discharge its functions. These persons are remunerated from the Commission's budget and are considered to be employees of the Commission. Following the introduction of the *Government Sector Employment Act 2013 (GSE Act)*, the Commission's employees are part of the Public Service, employed by the NSW Crime Commission Staff Agency (a separate Public Service agency).

As at 30 June 2018, the NSW Crime Commission Staff Agency employed 126 staff members. As at the last pay fortnight in 2017-18, adjusting to take into account part-time working arrangements, the Commission had 119.6 full-time equivalent employees, including those on forms of extended leave.

The Commission had two statutory officers at 30 June 2018, being the Commissioner and the Assistant Commissioner (Legal). The statutory officer role of Assistant Commissioner (Operations) was vacant from January 2018 for the remainder of the reporting period. In its special determination dated 29 August 2017, which was effective from 1 July 2017, the Statutory and Other Offices Remuneration Tribunal set the remuneration of the Commissioner at \$484,590 per annum on a salary packaging basis and the Assistant Commissioners at \$449,430 per annum.

During the financial year the Commission employed a total of nine public service senior executives (PSSE). The remuneration of those public service senior executives is established within the appropriate Statutory and Other Offices Remuneration Tribunal for public service senior executives. On 9 November 2016, the Statutory and Other Officers Remuneration Tribunal issued a Special Determination which relates to two of these positions, being the Executive Director, Criminal Investigations and the Executive Director, Financial Investigations. The tribunal has set the remuneration packages for these positions and remains in place.

Table 23 provides the average remuneration packages (inclusive of salaries, superannuation and allowances) for the senior Executive Team including the

statutory officers and public service senior executives for the 2017-18 financial year, effective as at 30 June 2018.

Numbers and Remuneration of Senior Executives

Remuneration Packages

Table 23

| Band Level | Average Remuneration Package \$ | Male | Female | Total |
|-------------|------------------------------------|------|--------|-------|
| SOORT | 483,576 | 1 | 1 | 2 |
| PSSE Band 4 | 0 | 0 | 0 | 0 |
| PSSE Band 3 | 0 | 0 | 0 | 0 |
| PSSE Band 2 | 349,841 | 3 | | 3 |
| PSSE Band 1 | 210,035 | 4 | 2 | 6 |

The percentage of total remuneration packages for those officers classified as senior executives of the total employee related expenditure for the Commission was 16 percent (for the 2016-17 period it was 13 percent). For Statutory Officers the percentage of total remuneration packages of the total employee related expenditure for the Commission was 8 percent (for the 2016-17 period it was 8 percent).

Personnel numbers as at 30 June 2018 and as at 30 June in the three preceding years are shown in Table 24.

Personnel

Table 24

| Personnel Category | 2014-15 | 2015-16 | 2016-17 | 2017-18 |
|--------------------------|---------|---------|---------|---------|
| Statutory officers | 2 | 3 | 3 | 2 |
| Senior Executive Service | 0 | 0 | 9 | 9 |
| GSE Act (ongoing) | 133 | 132 | 119 | 111 |

| Personnel Category | 2014-15 | 2015-16 | 2016-17 | 2017-18 |
|---------------------|---------|---------|---------|---------|
| GSE Act (temporary) | 6 | 2 | 1 | 4 |
| GSE Act (casual) | 5 | 6 | 3 | 0 |

It is to be noted that of the Commission's 126 staff, 72 are female and 54 are male.

The majority of the personnel of the Commission mainly or exclusively performed operational tasks. Examples include intelligence officers, intelligence analysts, intelligence managers, forensic accountants, financial analysts, telecommunications interception administrators, electronic surveillance officers, staff of the Technical Operations Team, staff preparing transcripts, staff of the Information and Communication Technology (ICT) Team, staff working on specialist investigative systems and those involved in human source management.

Some personnel had a more even division of operational and managerial responsibilities (for example the Commissioner and Assistant Commissioner, Executive Directors, Directors and some managers). Other Commission staff, mainly or exclusively were involved in administrative roles. Examples include the Executive Director (Corporate Services); the Operations Support Manager; the staff of the Finance, Security and Building, Security Vetting and Information Management Teams; those ICT staff who provided corporate ICT support services; and the staff of the Governance Unit.

Information and Communication Technology

During this reporting period, ICT continued to develop and implement enterprise-level projects. Following the successful implementation of the Data Centre Migration project and with the ongoing improvements in ICT service delivery, there is a focus on compliance, productivity, environmental sustainability and cost reduction. These activities reflect the ICT Strategic Plan for 2015-2020. A digital transformation program of work has begun with an upgrade to the electronic document management system, further rollouts of electronic workflows throughout the coming financial year, and a concerted effort to improve internal processes and reduce printed material. The Commission has established a fully compliant Information Security Management System, attaining ISO 27001 certification on 19 September 2018, which demonstrates its commitment to clients, staff and other important stakeholders.

Corporate Projects

The Corporate Services Division has finalised or progressed the implementation of a number of enterprise-level projects during the reporting period. These projects have addressed ICT performance, compliance and security requirements following the transformation of its core ICT infrastructure and services. The projects have substantially remediated areas of significant risk to the Commission and created a platform of stability, value for money, effectiveness and efficiency.

Major projects undertaken include the following:

Data Centre Migration Project and Decommissioning

The Commission finalised the complex and challenging data centre migration project and the decommissioning of the in-house data centre during the first half of the financial year. The Commission has migrated to a secure hybrid Platform as a Service environment within the Government Data Centre Consolidation program (GovDC). The finalisation of the project has established for the Commission a disaster recovery capability within the GovDC environment, full data and systems back-up, enhanced ICT security systems, and improved core infrastructure and systems reliability.

Information Security Management Systems

A core outcome of the Commission's ICT strategy and strategic plans was a full review of the Commission's Information Security Management System (ISMS) following transformation of the data centre to Platform as a Service. This project has included the end-to-end revision of all ISMS-related policies, procedures and processes aligned to appropriate NSW State and Commonwealth standards, and appropriate industry best practice. This has been a significant project involving stakeholders throughout the Commission and also formed part of the emerging security framework for the Commission.

ISO/IEC 27001 Information Security Management System Standards

A key project related to ISMS is the Commission's effort towards attaining ISO 27001 accreditation for its Information Security Management System. This project commenced in 2017-18 in partnership with the Commission's Platform as a Service provider. The standard is a minimum requirement from many partner organisations and covers many of the core standards and requirements of NSW State and Commonwealth standards for information and ICT security. The Commission has made significant progress in implementing appropriate policies, procedures, systems and processes to achieve the accreditation. This was completed in the first half of the 2018-19 financial year.

Business Continuity Management

Following the data centre migration project and decommissioning of the in-house data centre, the Commission has undertaken an extensive review of its business

continuity management system, plans, policies and procedures. The whole business continuity management system has been revised in light of significant changes in ICT, security requirements and an emerging security framework which is also being implemented. The revised business continuity management system has been completed and is being rolled out across the system following testing exercises in 2018-19.

Financial Management, Budget and Reporting

During the financial year the Commission has implemented a number of projects that have enhanced budget and financial management reporting, systems and processes. The focus of financial projects has been to enhance process and system compliance, financial and budget forecasting, the refinement of cost centre management and costs analysis. These have supported the delivery of efficiencies and savings in all core budget and financial areas of the Commission including meeting efficiency dividends and other related government savings programs.

Training

The Commission continues to develop a culture of continuous learning for all Commission staff. Performance Development Plans record the learning and training needs of staff to ensure they are able to achieve their objectives. Learning opportunities include experiential learning, on the job training, secondment opportunities and access to formal internal and external training courses. A training budget is in operation for each division to provide funding for prioritised learning opportunities and for appropriate training courses. During the reporting period an additional budget provision was made to provide Commission-wide training opportunities and bespoke investment into key capability areas. The focus of this additional investment was to provide opportunities to enhance staff capabilities and skill sets, to provide networking opportunities and keep staff abreast of current and best practices.

The Commission also provides opportunities for continued professional development and facilitates a study support scheme, including access to study leave and flexible working arrangements.

During the reporting period, regular educational seminars (including expert guest speakers from academia and partner agencies) were held to update staff on operational and technical matters.

Employee Assistance Program

The Commission's external Employee Assistance Provider operated during the reporting period and is actively promoted to staff. The Commission has supported

internal initiatives to promote staff wellbeing and resilience as part of its wider commitment to employee wellbeing and welfare.

Consultants

The Commission engaged one consultant at a cost of \$7,436 for media and public relations services during the 2017–18 reporting period.

Agreements with Multicultural NSW

In September 2006, the Commission entered into a Memorandum of Understanding with the Community Relations Commission (now Multicultural NSW) to ensure that persons appearing at Court in respect of proceedings under the *CAR Act* are not disadvantaged as a result of language difficulties.

The agreement provides that Multicultural NSW will provide professional interpreting services on a fee-exempt basis to any person whose first language is not English and who may experience difficulty in comprehending or fully participating in proceedings under the *CAR Act*.

The Commission continues to arrange interpreting services on behalf of persons appearing at Court in accordance with the agreement.

Budgets

The Commission has continued to develop financial management information systems to support budget and financial management at the Commission. This has included the provision of detailed and timely financial analysis as part of the budget and financial management reports provided to the Executive, Management Committee, Justice Cluster and Treasury. The Commission adopted and implemented the new Treasury PRIME system during the reporting period and has continued to develop wider knowledge of the system for reporting, submission of financial information and proposals to Treasury. The Commission, as with other agencies and departments, has faced the challenge of increasing efficiency dividends and savings programs. These have been met to date in the current financial reporting period and present a number of challenges at the Commission in the forward estimates period.

Exemptions from the Reporting Provisions

The statistics for the below mentioned provisions are exempt from this reporting period as they are a triennial requirement:

- workforce diversity (reported in the 2016–17 annual report);
- disability inclusion action plans (reported in the 2016–17 annual report);
- multicultural policies and services program (reported in the 2016–17 annual report).

Waste Management

The Commission in the past year has made some significant progress in waste management and specifically in widening its recycling of waste and materials. This has followed the engagement with new suppliers for waste removal and recycling. This new system has embedded in changes throughout the Commission through the deployment of recycling bins and targeted recycling. The approach has also provided a substantial saving in annual waste management costs during the same period. Previously all waste was classified as general waste and minimal recycling was undertaken.

Since the commencement of the new contract, the Commission has processed the following amount of waste for the 2017–18 period in its first full year of operation:

Waste

Table 25

| Category | Waste Processed (tonnes) |
|--------------------|--------------------------|
| Cardboard recycled | 15 |
| Comingle recycled | 3 |
| Waste general | 68.3 |

Additional measures adopted by the Commission include:

- increased focus on improving waste avoidance and maximising recycling;
- re-using office equipment and other resources wherever possible;
- using only 100 percent recycled paper;
- recycling all waste paper, cardboard and empty toner cartridges;
- active projects to adopt energy efficient practices and reduce consumption;
- focused reduction of energy consumption including lighting and air conditioning;

- purchasing energy-efficient equipment;
- disposing of obsolete electrical and computer equipment (e-waste) through approved recycling providers.

The Commission’s premises have been given a Nabers 1.5 star rating, which is recognised as a low rating. This reflects the age and condition of the premises. The Commission’s Security and Building Services Team is working with key suppliers and the Commission’s landlord to continue reviews to reduce consumption of energy and resources.

In the 2016–17 reporting period, the Commission reduced electricity consumption through better energy management practices. This trend continued for the 2017–18 reporting period with significant reductions in electricity consumption.

Payment of Accounts

Account Payment Performance

The Commission’s policy on accounts payable is that, where practicable, claims for payments are processed within the supplier’s terms or, if no terms are stated, within 30 days of receipt of the invoice. The Commission’s performance in paying its bills in a timely manner is shown in Tables 26 to 29.

Time for Payment of Accounts

Table 26

| Aged Analysis at the End of Each Quarter - All Suppliers (\$'000) | | | | | |
|---|---------------------------------|---------------------------------|-----------------------------|-----------------------------|------------------------------------|
| Quarter | Current (Within Due Date) | Less Than 30 Days Overdue | 31 to 60 Days Overdue | 60 to 90 Days Overdue | More Than 90 Days Overdue |
| Sep 2017 | 3,872 | 20 | 0 | 0 | 0 |
| Dec 2017 | 4,262 | 45 | 0 | 0 | 0 |
| Mar 2018 | 3,831 | 4 | 0 | 0 | 0 |
| Jun 2018 | 5,735 | 3 | 0 | 0 | 0 |

Table 27

| Aged Analysis at the End of Each Quarter - Small Business Suppliers (\$'000) | | | | | |
|--|---------------------------------|---------------------------------|-----------------------------|-----------------------------|------------------------------------|
| Quarter | Current (Within Due Date) | Less Than 30 Days Overdue | 31 to 60 Days Overdue | 60 to 90 Days Overdue | More than 90 Days Overdue |
| Sep 2017 | 252 | 0 | 0 | 0 | 0 |
| Dec 2017 | 269 | 0 | 0 | 0 | 0 |
| Mar 2018 | 318 | 0 | 0 | 0 | 0 |
| Jun 2018 | 663 | 1 | 0 | 0 | 0 |

Table 28

| Total Accounts Paid on Time | | | | |
|-----------------------------|-------------|-------------|------------------|-----------------|
| Quarter | Target % | Actual % | Total Paid \$ | Total Due \$ |
| Sep 2017 | 85 | 99 | 3,871,580 | 3,891,498 |
| Dec 2017 | 85 | 98 | 4,262,203 | 4,307,184 |
| Mar 2018 | 85 | 100 | 3,830,701 | 3,834,524 |
| Jun 2018 | 85 | 99 | 5,734,542 | 5,737,117 |

Table 29

| Accounts Due or Paid within Each Quarter | | | | |
|--|----------|----------|----------|----------|
| Measure | Sep 2017 | Dec 2017 | Mar 2018 | Jun 2018 |
| All suppliers | | | | |
| Number of accounts due for payment | 518 | 476 | 429 | 565 |
| Number of accounts paid on time | 511 | 465 | 427 | 559 |

| Accounts Due or Paid within Each Quarter | | | | |
|---|-----------------|-----------------|-----------------|-----------------|
| Measure | Sep 2017 | Dec 2017 | Mar 2018 | Jun 2018 |
| Actual percentage of account paid on time (based on number of accounts) | 99% | 98% | 100% | 99% |
| Dollar amount of accounts due for payment* | 3,891,498 | 4,307,184 | 3,834,554 | 5,737,117 |
| Dollar amount of accounts paid on time* | 3,871,580 | 4,262,203 | 3,830,701 | 5,734,542 |
| Actual percentage of accounts paid on time (based on amount) | 99% | 99% | 100% | 100% |
| Number of payments for interest on overdue accounts | 0 | 0 | 0 | 0 |
| Interest paid on overdue accounts | 0 | 0 | 0 | 0 |
| Small business suppliers | | | | |
| Number of accounts due for payment | 137 | 109 | 164 | 157 |
| Number of accounts paid on time | 137 | 106 | 164 | 155 |
| Actual percentage of account paid on time (based on number of accounts) | 100% | 97% | 100% | 99% |
| Dollar amount of accounts due for payment* | 251,524 | 268,921 | 317,619 | 663,523 |
| Dollar amount of accounts paid on time* | 251,524 | 268,888 | 317,619 | 662,931 |
| Actual percentage of accounts paid on time | 100% | 100% | 100% | 100% |

Accounts Due or Paid within Each Quarter

| Measure | Sep 2017 | Dec 2017 | Mar 2018 | Jun 2018 |
|---|----------|----------|----------|----------|
| (based on amount) | | | | |
| Number of payments for interest on overdue accounts | 0 | 0 | 0 | 0 |
| Interest paid on overdue accounts | 0 | 0 | 0 | 0 |

*Dollar amounts are inclusive of GST.

Grants to Non-Government Organisations

The Commissioner did not grant any funds to non-government community organisations during the reporting period.

Land Disposal

The Commission did not dispose of any land during the year.

Overseas Travel

During 2017 - 2018, seven Commission officers travelled overseas:

- one officer attended an encryption conference and operational meetings in the USA (costs met by the NSW Government);
- one officer attended work related meetings in the UK whilst on leave (some costs were met by the NSW Government);
- one officer attended joint investigation operations as part of an ongoing investigation with other overseas investigative agencies in Spain and the UK (costs met by the NSW Government);
- two officers attended operational testing and evaluation meetings in Germany. One of those officers also attended operational evaluation meetings in the UK and Israel as part of the evaluation of a number of operational capability systems (costs were met by the NSW Government);
- one officer attended a forensic linguistics course in the USA (costs met by the Commission);

- one officer attended the Executive Master of Public Administration in Singapore (some costs met by the Commission).

Insurance Activities

Through the Treasury Managed Fund, the Commission insures against a range of risks that include such things as workers' compensation, motor vehicle damage, property damage and public liability.

In 2017-18, the Commission made two insurance claims, compared to four claims made in 2016-17. These claims related to property and workers' compensation.

Purchase of Major Assets

The Commission's purchasing of major assets during the reporting period is shown in Table 30.

Table 30

| Asset | Cost \$ |
|---------------------------|------------------|
| Operational equipment | 560,305 |
| ICT hardware | 165,812 |
| Computer software | 161,951 |
| Building refurbishment | 15,112 |
| Interactive technologies | 52,489 |
| Security upgrades | 84,319 |
| Other plant and equipment | 52,986 |
| Total | 1,092,974 |

Building Management

The Commission is located on Kent Street Sydney. Overall management of the Commission's premises during the reporting period was undertaken by JLL (Jones Lang LaSalle) on behalf of Property NSW (PNSW) as part of a government-wide facilities management contract.

The Commission works with JLL to undertake routine preventative and reactive program of works to maintain service, enhance security provisions, and upgrade key environmental systems such as the air conditioning units. This is a challenging program which reflects dealing with an aged and often beyond end-of-life building infrastructure. There have been some improvements in environmental conditions but other areas of the building face substantial challenges and working pressures.

The Commission and PNSW are assessing the potential disposal of the building and the relocation of the Commission to another premises. A business case identifying options for the relocation is being developed and is expected to continue into the 2018-19 reporting period.

Work Health and Safety

The Commission has established Work Health and Safety (WH&S) Policy and Procedures, Bullying, Harassment and Discrimination Policy and Procedures, and Work Related Grievance Handling Policy and Procedures.

The Commission continues to review and improve its WH&S risks and mitigation strategies, which form part of the Commission's commitment to continuous improvement in this area.

The Commission is committed to addressing WH&S issues in a proactive fashion. Resilience training was provided to all Commission staff in April 2018. The Commission continues to engage the services of an employee assistance provider to make it easier for staff to access any assistance that they may need.

The Commission currently has in place a WH&S Manager and WH&S staff representative who meet regularly to review all WH&S issues and practices. The staff representative provides advice to members of staff regarding the outcome of WH&S issues that have been raised previously.

In 2017, a monthly HACS report (Hazard Assessment Check Sheet) was implemented as part of ongoing improvements to WH&S in addition to comprehensive six-monthly WH&S risk and sites assessments.

For the 2017-18 reporting year, there were three Commission staff injuries sustained within the workplace, with only one leading to a Workers Compensation Claim. Since the last WH&S triennial report in 2014-15, there were nine Commission staff injuries for the 2015-16 period. Five of these injuries were sustained outside the Commission's premises; four were sustained within the workplace. There were no workers compensation claims in this period. For the 2016-17 reporting period, there were four Commission staff injuries. Of these four, only one was sustained within the workplace, which led to a workers compensation claim.

There have been no prosecutions under the *Work Health and Safety Act 2011* since the last triennial report in 2014-15.

CHAPTER FIVE – LEGAL SERVICES DIVISION

The Legal Services Division (LSD) provides legal services to the Commissioner, the Assistant Commissioner and the staff of the Commission. Legal services are provided through three business units: the Financial Investigations Division (FID) Legal team, the Criminal Investigations Division (CID) Legal team and the Division's Litigation, Executive and Corporate Support operation. Resources are generally colocated with each business unit, although they are shared across the units on a needs basis.

FID Legal Team

The Division's FID Legal team provides legal services to the Financial Investigation Division and works with that division to conduct proceedings in Court pursuant to the *CAR Act*. This work involves the commencement of proceedings, generally through a restraining order application, the management of interlocutory proceedings, including the examination of defendants and persons associated with them, and the conduct of contested hearings. Commission lawyers appear in Court with and without counsel, depending on the nature of the proceeding at any point in time.

FID Legal monitors the effectiveness of the *CAR Act* and makes recommendations for legislative change where this is appropriate. An important development of the *CAR Act* this year took place in the following circumstances:

- when the Commission reaches a settlement with a defendant in proceedings under the *CAR Act* it is common for it to receive a warranty from the defendant in relation to the state of his or her assets as at the signing of the orders;
- if the Commission subsequently finds out that the warranty was disingenuous and that the defendant was concealing assets from the Commission and the Court, the *CAR Act* provides that the Commission can commence proceedings against these newly identified assets (see sections 31A and 31B);
- however, in the past, the Act has not made provision for the Commission to obtain a restraining order in these circumstances. This culminated in a risk that discovered assets could be disposed of in a manner that defeated the new proceedings;
- FID Legal identified this gap in the Act and proposed amendments that were adopted in the Justice Legislation Amendment Bill (No. 2) that passed both Houses of Parliament this year. The Bill was assented to on 21 June



2018 and new provisions within the *CAR Act* commenced that facilitated the restraint of property in these circumstances.

FID Legal has proven itself to be an essential cog in the administration of the Commission's highly successful criminal asset recovery operation. As the Commission workforce transitions into an Enterprise Bargaining Agreement, the Division will be seeking to establish an FID Legal structure that can support an expanding criminal asset recovery operation.

CID Legal Team

The Division's CID Legal team provides legal advice and legal services in support of the Commission's criminal investigation operations. The Commission's investigations take place within a complex legal framework. CID Legal provides ongoing legal advice at all stages to ensure compliance with legal requirements. The team is responsible for all applications for warrants and other authorities made pursuant to the *SD Act*, the *TIA Act*, the *LECO Act* and the *CC Act* (search warrants). CID Legal makes applications for leave to examine witnesses when this is required pursuant to section 35A of the *CC Act*. CID Legal staff operate as counsel assisting in coercive examinations conducted pursuant to the *CC Act*. They guide investigations in relation to meeting the Commission's disclosure responsibilities as regulated by section 15A of the *Director of Public Prosecutions Act 1986 (NSW) (DPP Act)*. They represent the Commission in criminal proceedings when applications are made for access to Commission hearing material following applications made by parties pursuant to sub-section 45(4) and sub-section 45(5) of the *CC Act*. They manage the Commission's response to subpoenas served on the Commission, and they work with the Crown Solicitor's Office to deal with issues of public interest immunity that may affect these responses.

A significant initiative affecting the operation of CID Legal has been the introduction in April 2018 of the Commission's Disclosure Policy and Procedures. This document guides Commission investigations in relation to compliance with the ongoing disclosure responsibilities pursuant to section 15A of the *DPP Act*. Features of this policy include a process to facilitate early disclosure at the commencement of proceedings, and ensuring that disclosure routinely takes place through the NSWPF so that agency, as the informant, can regulate the flow of information to the prosecutor. It is anticipated that the policy will strengthen and guide the Commission's relationship with the NSWPF and the DPP with respect to the conduct of prosecutions, and ensure an effective and appropriate flow of Commission information to relevant criminal justice processes.

CID Legal performs a central role in supporting the Commission's investigation operation. As this operation develops and adapts, adjustments will need to be

made to the structure and size of the CID Legal team to ensure that it is able to meet the growing and changing call on its services.

Litigation, Corporate and Executive Support

The Division's Litigation, Corporate and Executive Support (LCES) manages the Commission's non-CAR Act litigation and provides legal services in support of the Commission's corporate and executive operations. Key responsibilities for the LCES this year have included managing the Commission's response to the NSW Ombudsman's Operation Prospect Report, and litigation arising from circumstances canvassed in that report, managing the Commission's interactions with the LECC, and guiding the Commission's response to legal challenges to the operation of the CC Act and, in particular, challenges to processes facilitated by section 35A of the Act.

LCES is currently comprised of a Commission Solicitor who draws from the resources of the other teams as this is needed. It is becoming increasingly apparent that more resources are essential for this area. The special circumstances of the Commission inhibit the extent to which legal services can be outsourced and complicate such outsourcing when it takes place. The burden this creates in relation to the provision of corporate legal services tends to fall back on LCES.

The LSD has been sustained by experienced and dedicated professional staff who continued to provide high-quality legal services through challenging and uncertain times. It is well-placed to continue to meet the ongoing and changing legal support needs of the Commission. However, it is a small division and as changes are introduced careful consideration needs to be given to the corresponding resource implications for this important service operation.

CHAPTER SIX - GOVERNANCE UNIT

During the reporting period, the Commission's Governance Unit was headed by the Director Governance, who managed a small team with specialties in policy, business analysis, and internal audit and risk management.

The corporate governance arrangements at the Commission have continued to mature. Since the unit was formed over five years ago, significant inroads have been made in improving policies and procedures and associated processes that guide staff in the efficient, effective and accountable conduct of their business. The Corporate Governance Framework continued to guide the work of the unit. This framework can be found at Appendix I.

The Governance Unit helped maintain and support the following governance elements of the Commission:

Planning Framework

The Corporate Plan was linked to Divisional Plans, progress against which was monitored periodically. Commission employees' individual Performance Management Plans were linked to their Divisional Plans in order to ensure that their performance and development were aligned with organisational objectives. Performance Management Plans are revised annually, and progress is formally reviewed mid-cycle and informally reviewed throughout the year.

Performance Reporting

Management reports that include statistical performance data regarding Commission activities and results achieved are produced routinely. Such reports are provided to the various forums and meetings of the Commission in order to inform resource allocation and decision-making. Past research undertaken to develop quantitative indicators of the Commission's disruptive influence on serious and organised crime is still under consideration and has yet to be adopted, reflecting the inherent difficulty of quantifying such indicators reliably, objectively, and meaningfully.

Internal Controls

Policies, Procedures and Delegations

A comprehensive suite of corporate and operational policies and procedures was maintained. Where required, some policies and procedures were revised during the year as a result of changes to personnel, structures, systems, other agencies' requirements, audit recommendations and/or the adoption of a new policy



position for the Commission. Commission staff are consulted during the revision process and advised when the new policies and procedures become effective.

The existing financial, administrative and operational delegations were also amended as required.

Internal audits that were undertaken examined the adequacy and effectiveness of the policies and procedures in place within the Commission.

Internal Audit and Risk Management

The Commission continued to have an appointed Chief Audit Executive and Chief Risk Officer throughout the year and maintained effective internal audit and risk management functions that were compliant with Treasury Guidelines and Policy Paper TPP 15-03 *Internal Audit and Risk Management Policy for the NSW Public Sector*. The Commission's Audit and Risk Management Attestation statement can be found at Appendix J.

Internal Audit

The Commission used a co-sourced model to undertake a program of risk-based internal audits, with in-house resources augmented from time to time with those of an external service provider. Operational, administrative and compliance audits were undertaken during the reporting period. These audits generated 149 recommendations for improvement, 142 (95 percent) of which were accepted by management.

All audit reports were tabled at the quarterly meetings of the Commission's Audit and Risk Committee (refer separate heading below).

Internal Audit compiled a suite of Key Performance Indicators (KPIs), ranging from conformance with internal auditing standards to benchmarks for timeliness and auditee satisfaction. All KPIs were reported quarterly to the Audit and Risk Committee, which oversaw Internal Audit's performance.

Risk Management

Organisational risk registers were maintained at both the Executive and Divisional levels. In recognition of the importance of integrity to the Commission's operations, a separate fraud and corruption risk register was also maintained. These registers were reviewed and updated periodically. Individual risks were also updated contemporaneously where needed.

In-house designed risk assessment tools were also used by Commission staff to better manage workplace health and safety risks across a range of Commission activities.

Audit and Risk Committee

The Commission's Audit and Risk Committee (ARC) continued to operate throughout the reporting period and met on a quarterly basis. The ARC had a fully

independent membership as required by TPP 15-03. The ARC was chaired by Mr Peter Lucas, with Mr Tim Holden and Mr Paul Crombie as the other members.

The ARC met every quarter to discharge its obligations under its charter. A number of permanent invitees also attended the ARC meetings held during the reporting period. These included the Commissioner, the Director Governance (in the capacity of Chief Audit Executive and Chief Risk Officer), the Senior Internal Auditor, the Executive Director Corporate Services, the LECC's Commissioner for Oversight, and representatives of the Audit Office of NSW.

The Committee supported and oversaw the Internal Audit function by monitoring the development and execution of the risk-based 2017-18 Internal Audit Plan and also by monitoring the implementation of audit recommendations.

The Committee also discharged its other oversight responsibilities in relation to the Commission's risk management, control framework, external accountability, compliance with applicable laws and regulations, and external audit.

Business Analysis and Process Improvement

The Business Analyst continued to work closely with the Information and Communication Technology (ICT) Team and the Information Management Team in developing and implementing automated workflows and system improvements to support Commission staff. Automated workflows previously implemented have resulted in reduced manual handling, faster processing times and better reporting.

Legislative Compliance

New administrative requirements and legislative changes continued to be monitored and recorded to ensure the Commission meets its legislative obligations.

Working Groups

The Governance Unit provided secretariat support to the Legislative Working Group, which met on an ad hoc basis throughout the year. Chaired by the Commissioner, the group considered proposals regarding legislative change that may have impacted the Commission and provided comments as required. In addition, the group reviewed and commented on, for the consideration of the Ministry, any proposals to amend the *CC Act*.

The Policy Working Group membership was drawn from staff from across the Commission. It provided feedback and comment on draft policies and procedures as part of the development process. The group provided valuable practical input into this process.

From time to time the Commission may form other working groups, drawing membership from subject matter experts as required. The Governance Unit often provided support to these working groups.

Employee Conduct

Fraud and Corruption Control and the Code of Conduct

The Fraud and Corruption Control Plan continued to operate, as did the Commission's Code of Conduct. In August 2017 staff provided an annual attestation of compliance with the Code of Conduct.

A number of revisions were made to Commission policies and the Code of Conduct to acknowledge the creation of the LECC and its oversight role, as well as the abolition of both the Office of the Inspector of the Crime Commission (OICC) and the Police Integrity Commission (PIC).

Ethics Committee

The Commission's Ethics Committee met on a quarterly basis to discuss ethical issues that were faced, or were reported by Commission staff, and aimed to provide guidance to staff on these issues. The membership of the Ethics Committee was comprised of representatives from across the Commission.

Internal Communications

The Commission's intranet provided up-to-date information for staff on a range of topics and was the communications portal for staff announcements and alerts. Posters in lift lobbies also informed staff about upcoming events and the release of new policies.

Commission staff attended monthly lunchtime seminars on operational and administrative matters of interest that featured a variety of speakers and topics. Typically, speakers were from academia or law enforcement and they delivered presentations on topics of interest, such as the Dark Web.

The Commissioner delivered two half-yearly staff update presentations, which provided a contemporaneous overview of issues and matters impacting on the work of the Commission and its staff.

External Communications

In September 2017, the Commission developed and launched a new website with a modern look and feel. The website was well received and was the prime source of information about the Commission available to members of the public.

External Stakeholder Relationships

The Stakeholder Management Plan developed in 2016 continued to operate. In its initial state, the plan is designed to document existing relationships so that strategies to improve relationships with key stakeholders can be developed.

Proactive Disclosure

Due to the nature of the Commission's business, the Commission has published limited information on its website. The published information remains comparatively static. Information available on the website includes the current Corporate Plan, the Organised Crime Disruption Strategy, Confiscations Factsheet and the Code of Conduct. The website includes links to relevant websites.

Statutory Reporting

Under 'Right to Information' the Commission published material as required by the *Government Information (Public Access) Act 2009* (the *GIPA Act*). This includes an Agency Information Guide, the Disclosure Log and the Code of Conduct. Our information relating to Government contract disclosure requirements was also published on the website. The Commission continued to meet its obligations in relation to statutory reporting, including providing reports and information required at either a State or Commonwealth level. This included those required by the Ombudsman and those required under the *Public Interest Disclosures Act 1994* (*PID Act*), *LEPR Act* and *SD Act*.

Annual Report

Both the *CC Act* and the *Annual Reports (Departments) Act 1985* require the Commission to report annually and submit the reports to the Minister (with a copy to the Treasurer). In preparing this report, the Commission has sought to provide the public with as full an account of itself and its activities as is lawful, economical and not prejudicial to its functions.

The Governance Unit co-ordinated production of the 2017-18 Annual Report, which will be available on the Commission's website after it is presented to Parliament (www.crimecommission.nsw.gov.au). The *CC Act* provides the Minister with authority to give directions on the manner and time of the preparation of the annual report (but not its contents). No such directions have been made with respect to this annual report. No extension of time for the submission of this report was sought or granted. No consultants were retained for any aspect of the preparation of this annual report and no external costs were incurred.

External Audit

The Audit Office of NSW provides reasonable assurance that the Commission's financial statements:

- give a true and fair view of the financial position, financial performance and cash flows of the Commission in accordance with Australian Accounting Standards;
- are in accordance with section 45F of the *Public Finance and Audit Act 1983* and the Public Finance and Audit Regulation 2015.

External Oversight of the Commission

Commonwealth Ombudsman

The Commonwealth Ombudsman audits the Commission's compliance with requirements contained in the *TIA Act*.

The last stored communications audit occurred on 18 September 2017 and was for the 2016-17 period. The last audit for the 2016-17 telecommunications data period occurred on 16 October 2017. The Ombudsman has advised that at this stage no inspections are scheduled for the 2018-19 period.

The inspection findings for the stored communications data covering the 2016-17 period were released by the Commonwealth Ombudsman on 31 July 2018. The telecommunications data report for the 2016-17 period was released on 15 June 2018.

Parliamentary Joint Committee

Since the commencement of the *CC Act*, the Commission has been subject to oversight of the Parliamentary Joint Committee (PJC), which also reviews performance of the Office of the Ombudsman and the LECC.

In accordance with section 71 of the *CC Act*, the functions of the PJC are as follows:

- to monitor and review the Commission, the Management Committee and the Inspector's exercise of their functions;
- to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission and the Management Committee or connected with the exercise of their respective functions to which, in the opinion of the PJC, the attention of Parliament should be directed;
- to examine each annual and other report of the Commission and report to both Houses of Parliament on any matter appearing in, or arising out of, any such report;
- to inquire into any question in connection with its functions which is referred to it by both Houses of Parliament and report to both Houses on that question.

The Office of the Inspector of the Commission and the Policy Integrity Commission

Prior to 1 July 2017, three different agencies had various oversight functions with respect to the Commission: the OICC, the PIC, and the NSW Ombudsman.

A review by the NSW Government in 2015 identified unnecessary overlap in the responsibilities and functions of these agencies in their oversight of the Commission. To strengthen efficiency in administration, a recommendation was made that the OICC and the police compliance branch of the NSW Ombudsman be merged with the PIC.

The Hon. Graham Barr QC was the Inspector of the Commission until 30 June 2017 and had responsibilities for auditing operations of the Commission, dealing with complaints and misconduct regarding the Commission and its officers, and assessing the effectiveness and appropriateness of Commission procedures.

The PIC was mandated to prevent, detect and investigate allegations of serious misconduct against current and former officers of the Commission. In carrying out its duties, the *Police Integrity Commission Act 1996* provided that any members of the public, officials or Members of Parliament could raise complaints regarding Commission officers.

Law Enforcement Conduct Commission

On 1 July 2017, the functions hitherto exercised by the OICC, the PIC and the NSW Ombudsman were transferred to the LECC, which was established as a single civilian law enforcement body to oversight the Commission and its officers.

The LECC has two defined objectives: detecting and investigating misconduct and corruption of former and current Commission officers that could amount to serious maladministration, and managing complaints handling.

Under the *LECC Act*, a person may make a complaint to the LECC about a matter that involves or may involve misconduct of a Commission officer, which the LECC may investigate. During the reporting period, the Commissioner was under a duty to notify the LECC of any possible misconduct by an officer of the Commission.

The Office of the Inspector of the Law Enforcement Conduct Commission

The LECC is held accountable for its actions by an independent statutory officer, The Hon. Terry Buddin SC from the Office of the Inspector of the Law Enforcement Conduct Commission (OILECC). Additionally, the role has the powers and responsibilities to conduct inspections or audits of the Commission's records and operations pursuant to:

- Section 11(1) of the *Telecommunications (Interception and Access) (New South Wales) Act 1987*;

- Section 242(3) of the *LEPR Act* (annual reports are publicly available through the OILECC website);
- Section 49(1) of the *SD Act* (bi-annual reports are publicly available through the OILECC website);
- Sections 22 and 23(2) of the *LECO Act* (annual reports are publicly available through the OILECC website).

The Commission is an agency for the purposes of the *Law Enforcement Conduct Commission Act 2016* and in some circumstances its conduct is liable to investigation by the LECC.

Complaint Handling

The Commission is committed to properly addressing complaints effectively and efficiently in a timely and ethical fashion. The Commission maintains a Complaints Handling Policy and Procedure, which covers both internal and external complaints. The Commission also has a work-related Grievance Handling Policy and an Internal Reporting Policy.

Complaints about the Commission can be made by members of the public or others either directly to the Commission or to the LECC. Details of how to make such complaints are on the Commission's website.

The Commission receives on average approximately one communication per week from external sources that constitutes some form of 'complaint'. In a typical year, only a handful of such communications might relate to the Commission's decisions or services, or the conduct of its employees. The remainder of these communications have nothing to do with the Commission and require no action, apart from redirection to an appropriate agency.

In relation to internal complaints, the Commission encourages staff to raise any complaints with their supervisors and the Executive Team. The Commission's Executive Team meets regularly and complaints are a standing agenda item.

During the reporting period, the Commission received one internal complaint and six external complaints that were relevant to Commission decisions, services or the conduct of its employees (i.e. a total of seven relevant complaints received from all sources). The LECC was notified under section 33 of the *LECC Act* of four of these complaints.

Other Reporting Requirements

Internal Audit and Risk Management Attestation Statement

This is supplied in Appendix J.

Privacy and Personal Information Protection Act Compliance

The Commission continued to maintain a Privacy Management Plan. The Commission has an appointed privacy officer, who has a dedicated email address to receive complaints – privacyofficer@crimecommission.nsw.gov.au. There were no complaints or reviews under the *Privacy and Personal Information Protection Act 1998* during 2017–18.

Public Interest Disclosures

The Commission has an Internal Reporting Policy that has been communicated to staff and is accessible on the intranet.

Pursuant to the *PID Act*, the Commission nominated both male and female Disclosure Officers, a Disclosures Co-ordinator, and Disclosures Support Persons.

During the reporting period, the Commission did not receive any public interest disclosures.

The Commission's Annual Report under section 31 of the *PID Act* is reproduced at Appendix K.

Law Enforcement and National Security (Assumed Identities) Compliance

The Commissioner's report pursuant to section 35 of the *LENSAI Act* is supplied in Appendix B.

Government Information (Public Access) Compliance

The Commission is bound by the *GIPA Act*, although its investigative and reporting functions are listed in Schedule 2 to that Act.

Any requests for information pursuant to the *GIPA Act* can be made to the Commission in writing, addressed as follows:

Government Information Officer

NSW Crime Commission

453 - 463 Kent Street

SYDNEY NSW 2000

Email: governmentinformationofficer@crimecommission.nsw.gov.au

Telephone or personal inquiries can be made during regular business hours. Telephone numbers and the mailing address for inquiries can be found on the

inside cover of this report. A form to make applications under the *GIPA Act* for access to information is available on the Commission's website.

The Commission's *GIPA Act* Annual Report for 2017-18 can be found at Appendix D.



GLOSSARY AND ABBREVIATIONS

| Term | Definition |
|-------------------|--|
| ABF | Australian Border Force |
| ACIC | Australian Criminal Intelligence Commission |
| ACU | Asset Confiscation Unit (NSW Police Force) |
| AFO | Asset forfeiture order |
| AFP | Australian Federal Police |
| ARC | Audit and Risk Committee |
| ATO | Australian Taxation Office |
| AUSTRAC | Australian Transaction Reports and Analysis Centre |
| <i>CAR Act</i> | <i>Criminal Assets Recovery Act 1990</i> |
| CDPP | Commonwealth Director of Public Prosecutions |
| CID | Criminal Investigation Division |
| CoPoCA | Confiscation of Proceeds of Crime Act 1989 |
| COV | Compensation of victims |
| <i>CC Act</i> | <i>Crime Commission Act 2012</i> |
| Cth | Commonwealth |
| DPP | Director of Public Prosecutions (NSW) |
| FBI | Federal Bureau of Investigation (USA) |
| FID | Financial Investigation Division |
| <i>GIPA Act</i> | <i>Government Information (Public Access) Act 2009</i> |
| <i>GSE Act</i> | <i>Government Sector Employment Act 2013</i> |
| ICT | Information and Communication Technology |
| ISMS | Information Security Management System |
| JCTT | NSW Joint Counter Terrorism Team |
| JOCG | Joint Organised Crime Group |
| LECC | Law Enforcement Conduct Commission |
| <i>LECO Act</i> | <i>Law Enforcement (Controlled Operations) Act 1997</i> |
| <i>LENSAI Act</i> | <i>Law Enforcement and National Security (Assumed Identities) Act 2010 (NSW)</i> |
| <i>LEPR Act</i> | <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> |
| LSD | Legal Services Division |
| NSWPF | NSW Police Force |
| OCS | Organised Crime Squad (NSW Police Force) |
| OICC | Office of the Inspector of the Crime Commission |
| OILECC | Office of the Inspector for the Law Enforcement Conduct |

| | |
|------------------|---|
| | Commission |
| OMCG | Outlaw Motorcycle Group |
| PAO | Proceeds assessment order |
| PIC | Police Integrity Commission |
| <i>PID Act</i> | <i>Public Interest Disclosures Act 1994</i> |
| PJC | Parliamentary Joint Committee on the Ombudsman, Law Enforcement Conduct Commission and the Crime Commission |
| PNSW | Property NSW |
| PSSE | Public Service Senior Executive |
| QPS | Queensland Police Service |
| reporting period | 1 July 2017 to 30 June 2018 |
| SCRA | Serious crime related activity |
| <i>SD Act</i> | <i>Surveillance Devices Act 2007</i> |
| The Commission | NSW Crime Commission |
| <i>TIA Act</i> | <i>Telecommunications (Interception and Access) Act 1979 (Cth)</i> |
| <i>Treasury</i> | NSW Treasury |
| UWO | Unexplained wealth order |
| WH&S | Work Health & Safety |

COMPLIANCE INDEX

The Commission is required to include in its Annual Report certain information specified in the *Annual Reports (Departments) Act 1985*, *Annual Reports (Departments) Regulation 2010*, the *CC Act*, and Treasury circulars. The specified information categories, and the locations within this report where the information may be found, are as follows:

| Requirement | Location/Comment |
|---|---------------------|
| Access | Back of front cover |
| Additional matters for inclusion in annual reports | 74 |
| Agreements with Multicultural NSW | 58 |
| Aims and objectives | 5-7 |
| Application for extension of time | Not applicable |
| Budgets | 57, 58 |
| Charter | 5-7 |
| Compliance with the <i>Privacy and Personal Information Protection Act 1998</i> | 78 |
| Consultants | 58 |
| Consumer response | Not applicable |
| Court proceedings involving the Commission | 67-69 |
| Description of patterns or trends, and the nature and scope, of organised and other crime | 25-31 |
| Digital information and information systems security attestation | Appendix H |
| Disability Inclusion Action Plans | Not applicable |
| Disclosure of controlled entities | 19 |
| Disclosure of subsidiaries | Not applicable |
| Economic or other factors | Not applicable |
| Exemptions | 58-59 |
| Form of Annual Report | 74 |
| Financial statements | 116 |
| Funds granted to non-government community organisations | Not applicable |
| <i>Government Information (Public Access) Act 2009</i> | Appendix D |
| Human resources | 53-55 |

| Requirement | Location/Comment |
|---|--|
| Identification of audited financial statements | 116 |
| Implementation of price determination | Not applicable |
| Inclusion of unaudited financial statements | Not applicable |
| Information furnished to investigative agencies | 19-20 |
| Internal audit and risk management attestation | Appendix J |
| Investment performance | Not applicable |
| Land disposal | 63 |
| Legal change | 72 |
| Letters of submission | i, ii |
| Liability management performance | Not applicable |
| Management and activities | 7-51 |
| Management and structure | Appendices F and G |
| Matters referred to the Commission for investigation | 10 |
| Multicultural Policies and Services Program | Not applicable |
| Numbers and remuneration of senior executives | 54 |
| Payment of accounts | 60-63 |
| Printing and distribution requirements | 74 |
| Promotion | Not applicable |
| Prosecutions resulting from investigations | 20 |
| Public availability of annual report | www.crimecommission.nsw.gov.au |
| Public Interest Disclosures | Appendix K |
| Recommendations for changes in laws or for administrative action | Not applicable |
| Requirements arising from employment arrangements | Not applicable |
| Research and development | Disclosure would adversely affect business |
| Risk management and insurance activities | 64, 71 |
| Summary review of operations | 1-3, 12-51 |
| Time for payment of accounts | 60-63 |
| Warrants issued by the Commissioner under section 36 of the <i>Crime Commission Act</i> | 16 |

| Requirement | Location/Comment |
|----------------------|------------------|
| Workforce diversity | Not applicable |
| Work health & safety | 65-66 |

APPENDICES



Appendix A: Section 242A Law Enforcement (Powers and Responsibilities) Act Report



New South Wales
Crime Commission

Law Enforcement (Powers and Responsibilities) Act 2002

Section 242A

**ANNUAL REPORT BY THE
NEW SOUTH WALES CRIME COMMISSION**

1 July 2017 – 30 June 2018

Section 242A of the *Law Enforcement (Powers and Responsibilities) Act 2002* ('the Act') requires the Commissioner for the New South Wales Crime Commission ('the Commission') to report annually on the exercise of powers under Part 5 of the Act with respect to covert search warrants by staff members of the Commission. The report is to be provided, within 4 months after each 30 June, to the Minister for Police and the Attorney General and is to be tabled in each House of Parliament as soon as practicable after it is received by the Attorney General.

1. Applications for Covert Search Warrants

Paragraph 242A (3) (a) of the Act provides that the report is to specify the number of applications for covert search warrants made under Part 5 of the Act and the number of those applications that were granted.

The Commission made no such applications in 2017–2018.

2. Applications for Telephone Covert Search Warrants

Paragraph 242A (3) (b) of the Act provides that the report is to specify the number of applications for telephone covert search warrants and the number of those applications that were granted.

The Commission made no such applications in 2017–2018.

3. Covert Search Warrants Executed

Paragraph 242A (3) (c) of the Act provides that the report is to specify the number of covert search warrants executed.

The Commission did not execute any covert search warrants under the Act in 2017–2018.

4. Seizures

Paragraph 242A (3) (d) of the Act provides that the report is to specify the number of covert search warrants under which any things were seized.

The Commission did not seize any things under a covert search warrant under the Act in 2017–2018.

5. Substitution of Things

Paragraph 242A (3) (e) of the Act provides that the report is to specify the number of covert search warrants under which any things were placed in substitution for seized things.

The Commission did not place any things in substitution for things seized under a covert search warrant under the Act in 2017–2018.

6. Return or Retrieval of Things

Paragraph 242A (3) (f) of the Act provides that the report is to specify the number of covert search warrants under which any things were returned or retrieved.

The Commission did not return or retrieve any things under a covert search warrant under the Act in 2017–2018.

7. Sections 75A and 75B Powers

Paragraph 242A (3) (g) of the Act provides that the report is to specify the number of covert search warrants under which the powers referred to in sections 75A and 75B of the Act were exercised.

The Commission did not exercise the powers mentioned in sections 75A and 75B under a covert search warrant under the Act in 2017–2018.

8. Things Tested

Paragraph 242A (3) (h) of the Act provides that the report is to specify the number of covert search warrants under which any things were tested.

The Commission did not test any things under a covert search warrant under the Act in 2017–2018.

9. Arrests

Paragraph 242A (3) (i) of the Act provides that the report is to specify the number of arrests made in connection with searchable offences in respect of which covert search warrants were executed and the number of those arrests that have led to the laying of charges in relation to the searchable offences concerned.

There have been no such arrests, and there have been no arrests that have led to the laying of charges in relation to searchable offences, in 2017–2018.

10. Complaints

Paragraph 242A (3) (j) of the Act requires the Commission to specify the number of complaints that were made under any Act about conduct relating to the execution of a covert search warrant by an executing officer and the number of those complaints that are, or have been, the subject of an investigation under any Act.

No such complaints were made, and no complaints are or have been the subject of an investigation under any Act, in 2017–2018.

11. Other Matters

Paragraph 242A (3) (k) of the Act requires the Commission to specify any other matters requested by the Minister for Police or the Attorney General.

The Commission has received no requests made under this provision in 2017–2018.



Peter Bodor QC
Commissioner
6 September 2018

Appendix B: Law Enforcement and National Security (Assumed Identities) Act Report



Law Enforcement and National Security (Assumed Identities) Act 2010

Section 35

ANNUAL REPORT BY THE NEW SOUTH WALES CRIME COMMISSION

1 July 2017 to 30 June 2018

Section 35 of the *Law Enforcement and National Security (Assumed Identities) Act 2010* ('the Act') requires the Commissioner for the New South Wales Crime Commission ('the Commission') to report annually on authorities for assumed identities. The report is to be provided to the Minister as soon as practicable after the end of each financial year.

1. Authorities Granted and Authorities Cancelled

Paragraph 35 (1) (a) of the Act provides that the report is to specify the number of authorities granted, and the number of authorities cancelled, during the year.

The Commission granted one authority and cancelled one authority under the Act in 2017-2018.

2. Description of Activities Undertaken

Paragraph 35 (1) (b) of the Act provides that the report is to contain a general description of the activities undertaken by authorised persons when using assumed identities under the Act during the year.

The general nature of the activities undertaken by the Commission's assumed identities is to support the covert activities of the Commission in relation to its criminal investigations. This includes the operation of covert bank accounts and covert vehicles.

3. Applications Refused

Paragraph 35 (1) (c) of the Act provides that the report is to specify the number of applications for authorities that were refused during the year.

The Commission refused no applications under the Act in 2017-2018.

4. Fraud or Unlawful Activity

Paragraph 35 (1) (d) of the Act provides that the report is to contain a statement as to whether or not any fraud or other unlawful activity was identified by an audit conducted under section 37 of the Act during the year.

Under section 37 of the Act the Commission's Internal Audit and Risk Manager conducted an audit of the Commission's use of assumed identities during 2017-2018. This audit did not identify any instances of fraud or unlawful activity.

5. Other Information

Paragraph 35 (1) (e) of the Act requires the Commission to specify any other information relating to authorities and assumed identities and the administration of the Act that the Minister considers appropriate.

The Commission has no other information to report pursuant to this provision in 2017-2018.



Peter Bodor QC
Commissioner
3 September 2018



Surveillance Devices Act 2007

Subsection 45 (3)

**ANNUAL REPORT BY THE
NEW SOUTH WALES CRIME COMMISSION**

1 July 2017 – 30 June 2018

Pursuant to subsection 45 (1) of the *Surveillance Devices Act 2007* ('the Act'), the Attorney General is to prepare a report as soon as practicable after the end of each financial year, and in any event within 3 months after the end of the financial year, that includes the information sought in paragraphs 45 (1) (a)-(c) of the Act.

Subsection 45 (3) of the Act provides that the Attorney General may require the chief officer of a law enforcement agency, including the New South Wales Crime Commission ('the Commission'), to furnish such information relating to the use of surveillance devices by law enforcement officers of the agency as is necessary to enable the Attorney General to prepare the report.

1. Applications for Warrants

Paragraph 45 (1) (a) of the Act provides that the annual report is to include the number of applications for warrants by, and the number of warrants issued to, law enforcement officers during the financial year concerned.

The Commission made **41** applications seeking the issue of **113** warrants to law enforcement officers under the Act in 2017-2018, all of which were granted. This information has been presented in Table 1 below.

2. Applications for Emergency Authorisations

Paragraph 45 (1) (b) of the Act provides that the annual report is to also include the number of applications for emergency authorisations by, and the number of emergency authorisations given to, law enforcement officers during the financial year concerned.

The Commission did not make any emergency authorisation applications in 2017-2018. This information has been presented in Table 2 below.

3. Remote Applications

Paragraph 45 (1) (b1) of the Act provides that the annual report is to specify the number of remote applications made by law enforcement officers during the financial year concerned for surveillance device warrants to be issued in this jurisdiction and executed in a participating jurisdiction.

The Commission did not make any such remote applications in 2017-2018. This information has been presented in Table 3 below.

4. Refused applications for surveillance device warrants to be issued in this jurisdiction and executed in a participating jurisdiction

Paragraph 45 (1) (b2) of the Act provides that the annual report is to specify the number of applications made by law enforcement officers for surveillance device warrants to be issued in this jurisdiction and executed in a participating jurisdiction that were refused during the financial year concerned and the reasons for refusal.

The Commission did not make any such applications in 2017-2018 and as such no applications were refused, so there are no reasons for refusal to particularise. This information has been presented in Table 4 below.

5. Applications for extensions of surveillance device warrants issued in this jurisdiction and executed in a participating jurisdiction

Paragraph 45 (1) (b3) of the Act provides that the annual report is to specify the number of applications for extensions of surveillance device warrants issued in this jurisdiction and executed in a participating jurisdiction, made by law enforcement officers during the financial year concerned, the number of extensions granted or refused and the reason why they were granted or refused.

The Commission did not make any such applications in 2017-2018 and as such no applications were granted or refused, so there are no reasons for the granting or refusal to particularise. This information has been presented in Table 5 below.

6. Number of Arrests

Paragraph 45 (1) (b4) of the Act provides that the annual report is to specify the number of arrests made by law enforcement officers during the financial year concerned on the basis (wholly or partly) of information obtained by the use of a surveillance device under a surveillance device warrant or emergency authorisation issued in this jurisdiction and executed in a participating jurisdiction.

There were no such arrests in 2017-2018.

7. Number of Prosecutions

Paragraph 45 (1) (b5) of the Act provides that the annual report is to specify the number of prosecutions that were commenced in this jurisdiction during the financial year concerned in which information obtained by the use of a surveillance device under a surveillance device warrant or emergency authorisation issued in this jurisdiction and executed in a participating jurisdiction was given in evidence, and the number of those prosecutions in which a person was found guilty.

To the best of the Commission's knowledge, no such prosecutions were commenced in 2017-2018.

8. Other Information

Paragraph 45 (1) (c) of the Act provides that the annual report is to specify any other information relating to the use of surveillance devices and the administration of the Act that the Attorney General considers appropriate.

The Commission did not receive any request for other information from the Attorney General that is considered appropriate to specify in 2017-2018.

9. Warrants Issued and Emergency Authorisations Given by Device Type

Subsection 45 (2) of the Act requires that the information mentioned in paragraphs 45 (1) (a) - (b3) of the Act must be presented in such a way as to identify the number of warrants issued and emergency authorisations given in respect of each different kind of surveillance device.

This information has been presented in Table 1, Table 2, Table 3, Table 4 and Table 5 below.

Table 1. Devices authorised by warrant, by device type

| | | Number of devices by device type | | | | | |
|------------------------|---------------------------|----------------------------------|------------------------------|------------------|---------------------------|--|--|
| Number of applications | Number of warrants issued | Listening devices | Optical surveillance devices | Tracking devices | Data surveillance devices | Combination listening / tracking devices | Combination listening / optical surveillance devices |
| 41 | 113 | 565 | 524 | 299 | 45 | 209 | 265 |

Table 2. Devices authorised by an emergency approval, by device type

| | | Number of devices by device type | | | | | |
|------------------------|---------------------------|----------------------------------|------------------------------|------------------|---------------------------|--|--|
| Number of applications | Number of warrants issued | Listening devices | Optical surveillance devices | Tracking devices | Data surveillance devices | Combination listening / tracking devices | Combination listening / optical surveillance devices |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

Table 3. Devices authorised by remote applications for warrants to be issued in this jurisdiction and executed in a participating jurisdiction, by device type

| | | Number of devices by device type | | | | | |
|------------------------|---------------------------|----------------------------------|------------------------------|------------------|---------------------------|--|--|
| Number of applications | Number of warrants issued | Listening devices | Optical surveillance devices | Tracking devices | Data surveillance devices | Combination listening / tracking devices | Combination listening / optical surveillance devices |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

Table 4. Refusals of applications for warrants to be issued in this jurisdiction and executed in a participating jurisdiction, by device type

| | | Number of devices by device type | | | | | |
|------------------------|---------------------------|----------------------------------|------------------------------|------------------|---------------------------|--|--|
| Number of applications | Number of warrants issued | Listening devices | Optical surveillance devices | Tracking devices | Data surveillance devices | Combination listening / tracking devices | Combination listening / optical surveillance devices |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

Table 5. Refusals of applications for extensions of warrants to be issued in this jurisdiction and executed in a participating jurisdiction, by device type

| | | Number of devices by device type | | | | | |
|------------------------|---------------------------|----------------------------------|------------------------------|------------------|---------------------------|--|--|
| Number of applications | Number of warrants issued | Listening devices | Optical surveillance devices | Tracking devices | Data surveillance devices | Combination listening / tracking devices | Combination listening / optical surveillance devices |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |



Peter Bodor QC
Commissioner
6 September 2018



Government Information (Public Access) Act 2009

Section 125

**ANNUAL REPORT BY THE
NEW SOUTH WALES CRIME COMMISSION**

1 July 2017 – 30 June 2018

Section 125 of the *Government Information (Public Access) Act 2009* ('the Act') requires the New South Wales Crime Commission ('the Commission') (being an agency within the meaning of the Act), within 4 months after the end of each reporting year, to prepare an annual report on its obligations under the Act. The report is to be submitted to the Minister and a copy is to be provided to the Information Commissioner. The Commission's reporting as required under section 125 of the Act was submitted to the Information and Privacy Commission ('IPC') on 22 August 2018 through the IPC online 'GIPA Tool' reporting application.

The *Government Information (Public Access) Regulation 2009* ('the Regulation') makes provision for the information to be included in the annual report and the form in which the annual report is to be prepared.

1. Subsection 7 (3) Review

Subclause 7 (a) of the Regulation requires the annual report to specify the details of the review carried out by the Commission under subsection 7 (3) of the Act during the reporting

year and the details of any information made publicly available by the Commission as a result of the review.

Subsection 7 (3) of the Act provides that agencies must, at intervals of not more than 12 months, review its program for the release of government information ('the program') under section 7 of the Act to identify the kinds of government information held by the agency that should in the public interest be made publicly available and that can be made publicly available without imposing unreasonable additional costs on the agency.

In the 2017-2018 reporting year the Commission did not conduct an annual review of its program for the release of government information. While a formal review of the program was not conducted, such a review is currently underway and the Commission's Agency Information Guide was updated in the reporting period.

2. Number of Access Applications

Subclause 7 (b) of the Regulation provides that the annual report must include the total number of access applications received by the agency during the reporting year (including withdrawn applications but not including invalid applications).

During the 2017–2018 reporting year, the Commission did not receive any access applications.

3. Number of Applications Refused

Subclause 7 (c) of the Regulation provides that the annual report must include the total number of access applications received by the agency during the reporting year that the agency refused, either wholly or partly, because the application was for the disclosure of information referred to in Schedule 1 to the Act (information for which there is conclusive presumption of overriding public interest against disclosure).

During the 2017–2018 reporting year, the Commission did not receive any applications and no applications were refused.

4. Statistical Information About Access Applications

Subclause 7 (d) of the Regulation requires an agency's annual report to set out information in the form required by Schedule 2 to the Regulation, relating to the access applications (if any) made to the agency during the reporting year.

Schedule 2 prescribes eight tables to be included in the annual report relating to statistical information about access applications. The eight tables on the following pages detail the statistical information of the Commission during the 2017–2018 reporting year.

| Table A: Number of applications by type of applicant and outcome* | | | | | | | | |
|---|------------------------|------------------------|------------------------|----------------------|-------------------------------|---------------------------------|---|-----------------------|
| | Access granted in full | Access granted in part | Access refused in full | Information not held | Information already available | Refuse to deal with application | Refuse to confirm/ deny whether information is held | Application withdrawn |
| Media | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Members of Parliament | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Private sector business | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Not for profit organisations or community groups | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Members of the public (application by legal representative) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Members of the public (other) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

*More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision. This also applies to Table B.

| Table B: Number of applications by type of application and outcome | | | | | | | | |
|--|------------------------|------------------------|------------------------|----------------------|-------------------------------|---------------------------------|--|-----------------------|
| | Access granted in full | Access granted in part | Access refused in full | Information not held | Information already available | Refuse to deal with application | Refuse to confirm / deny whether information is held | Application withdrawn |
| Personal information applications* | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | | | |
|--|---|---|---|---|---|---|---|---|
| Access applications (other than personal information applications) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Access applications that are partly personal information applications and partly other | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

*A **personal information application** is an access application for personal information (as defined in clause 4 of Schedule 4 to the Act) about the applicant (the applicant being an individual).

| Table C: Invalid applications | |
|---|------------------------|
| Reason for invalidity | Number of applications |
| Application does not comply with formal requirements (section 41 of the Act) | 0 |
| Application is for excluded information of the agency (section 43 of the Act) | 0 |
| Application contravenes restraint order (section 110 of the Act) | 0 |
| Total number of invalid applications received | 0 |
| Invalid applications that subsequently became valid applications | 0 |

| Table D: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 of the Act | |
|---|-------------------------------------|
| | Number of times consideration used* |
| Overriding secrecy laws | 0 |
| Cabinet information | 0 |
| Executive Council information | 0 |
| Contempt | 0 |
| Legal professional privilege | 0 |
| Excluded information | 0 |
| Documents affecting law enforcement and public safety | 0 |
| Transport safety | 0 |
| Adoption | 0 |
| Care and protection of children | 0 |
| Ministerial code of conduct | 0 |
| Aboriginal and environmental heritage | 0 |

*More than one public interest consideration may apply in relation to a particular access application and, if so, each such consideration is to be recorded (but only once per application). This also applies in relation to Table E.

Table E: Other public interest considerations against disclosure: matters listed in table to section 14 of the Act

| | Number of occasions when application not successful |
|--|---|
| Responsible and effective government | 0 |
| Law enforcement and security | 0 |
| Individual rights, judicial processes and natural justice | 0 |
| Business interests of agencies and other persons | 0 |
| Environment, culture, economy and general matters | 0 |
| Secrecy provisions | 0 |
| Exempt documents under interstate Freedom of Information legislation | 0 |

Table F: Timeliness

| | Number of applications |
|--|------------------------|
| Decided within the statutory timeframe (20 days plus any extensions) | 0 |
| Decided after 35 days (by agreement with applicant) | 0 |
| Not decided within time (deemed refusal) | 0 |
| Total | 0 |

Table G: Number of applications reviewed under Part 5 of the Act (by type of review and outcome)

| | Decision varied | Decision upheld | Total |
|--|-----------------|-----------------|----------|
| Internal review | 0 | 0 | 0 |
| Review by Information Commissioner* | 0 | 0 | 0 |
| Internal review following recommendation under section 93 of Act | 0 | 0 | 0 |
| Review by ADT | 0 | 0 | 0 |
| Total | 0 | 0 | 0 |

*The Information Commissioner does not have the authority to vary decisions, but can make recommendation to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made.

Table H: Applications for review under Part 5 of the Act (by type of applicant)

| | Number of applications for review |
|---|-----------------------------------|
| Applications by access applicants | 0 |
| Applications by persons to whom information the subject of access application relates (see section 54 of the Act) | 0 |

Table I: Applications transferred to other agencies under Division 2 of Part 4 of the Act (by type of transfer)

| | Number of applications for review |
|--------------------------------------|--|
| Agency-initiated transfers | 0 |
| Applicant-initiated transfers | 0 |

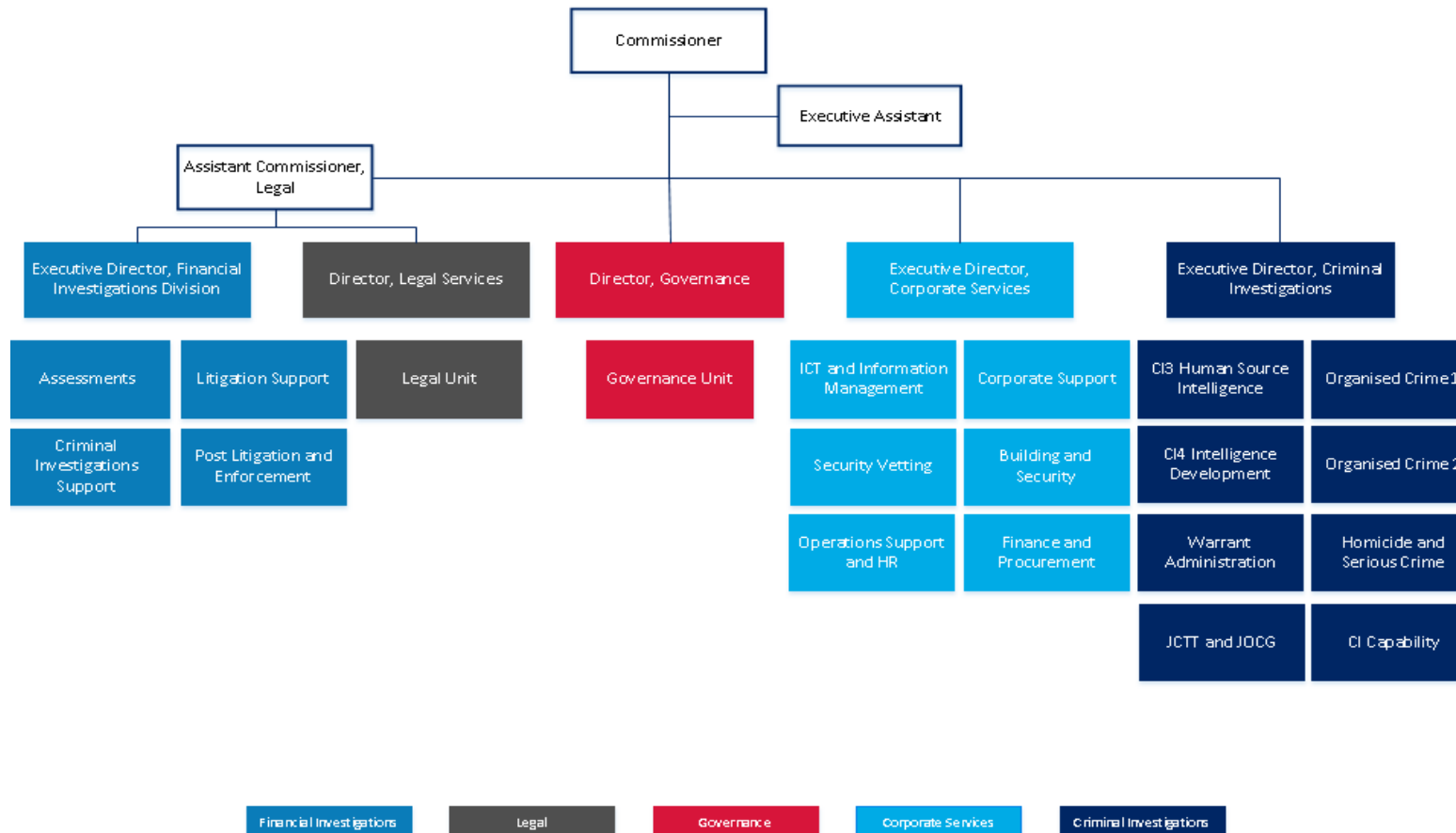


Peter Bodor QC
Commissioner
22 August 2018

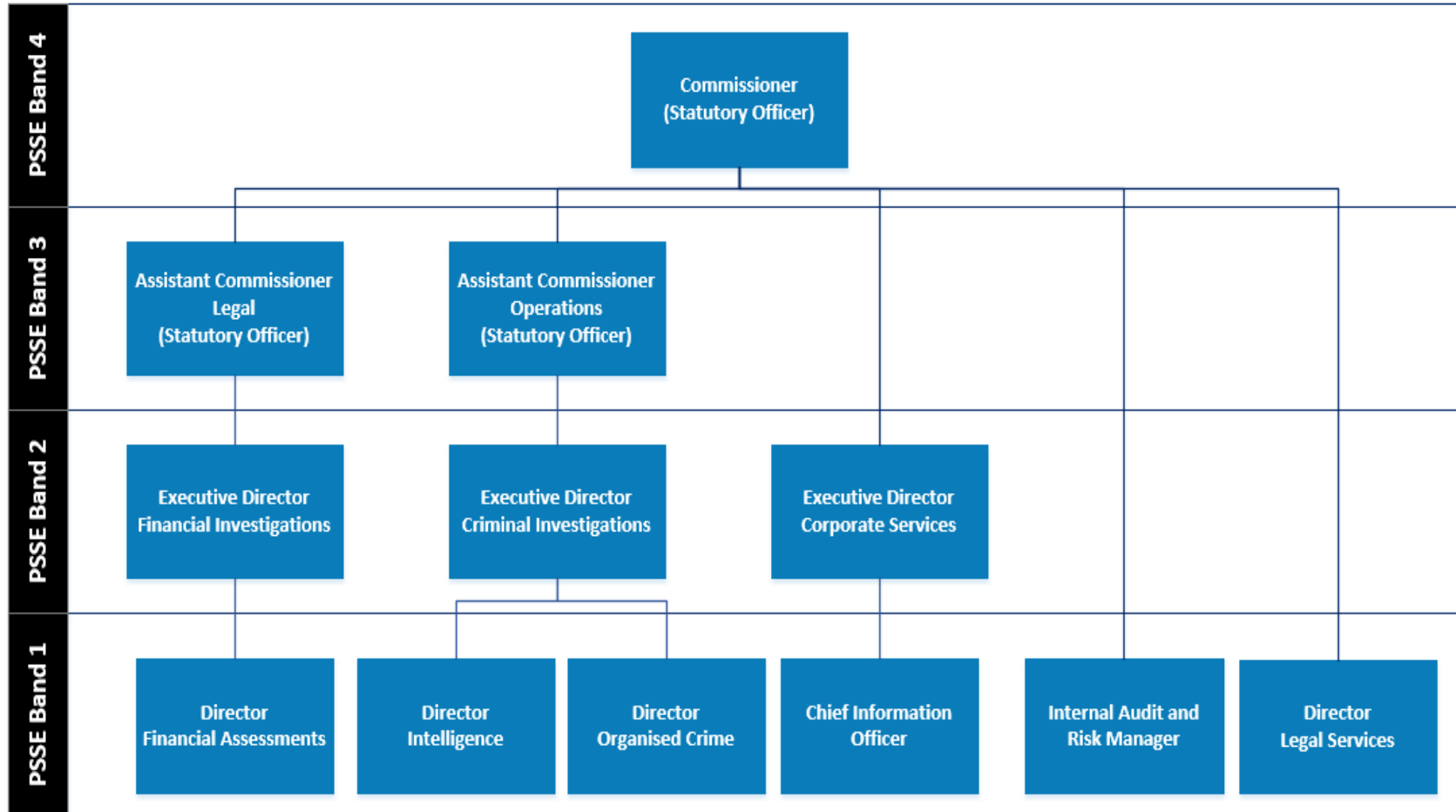
Appendix E: Corporate Plan

| Goals What do we want to achieve? | Strategies What will we do to achieve it? | Progress as at 30 June 2018 |
|---|--|-----------------------------|
| Disruption of organised and other serious crime | 1. Refine the Strategic Review | Completed |
| | 2. Expand information and intelligence gathering | Ongoing |
| | 3. Enhance intelligence analysis capabilities | Ongoing |
| Maximised confiscation values | 1. Broaden identification of confiscation matters | Ongoing |
| | 2. Expand educational role with partner agencies | Ongoing |
| | 3. Implement new confiscation techniques | Completed |
| Improved capability of our people | 1. Enhance investigative expertise | Ongoing |
| | 2. Enhance workforce capability | Ongoing |
| | 3. Undertake succession planning for key positions | Ongoing |
| Corporate capability and capacity | 1. Enhance ICT services | Complete |
| | 2. Mature governance arrangements | Complete |

Appendix F: Organisation Chart As at 30 June 2018



Appendix G: Executive Structure As at 30 June 2018



Appendix H: Digital Information Security Systems Attestation



17 July 2018

453-463 Kent Street, Sydney
PO Box Q566, QVB Post Office
Sydney NSW 1230, Australia
DX 13018 Market Street, Sydney
Tel +61 2 9269 3888 | Toll Free 1800 02 3143
Fax +61 2 9269 3809, +61 2 9269 9733 (Confiscation)
Eaglenet 57022

Digital Information Security Annual Attestation Statement for the 2017-2018 Financial Year for New South Wales Crime Commission

I, Peter Bodor QC am of the opinion that New South Wales Crime Commission had an Information Security Management System in place during the 2017-2018 financial year that is consistent with the Core Requirements set out in the *NSW Government Digital Information Security Policy*.

The controls in place to mitigate identified risks to the digital information and digital information systems of New South Wales Crime Commission are adequate.

There is no agency under the control of the New South Wales Crime Commission which is required to develop an independent ISMS in accordance with the NSW Government Digital Information Security Policy.

Risks to the digital information and digital information system of the New South Wales Crime Commission have been assessed with an independent ISMS developed in accordance with the *NSW Government Digital Information Security Policy*.

Information security is a key focus area for the New South Wales Crime Commission, as such a risk based approach has been taken to mitigate and manage information security risks within the organisation. A number of planned, periodic activities to manage and operate our Information Security Management System were carried out over the last reporting period. Independent testing of our security controls was also carried out over this period.

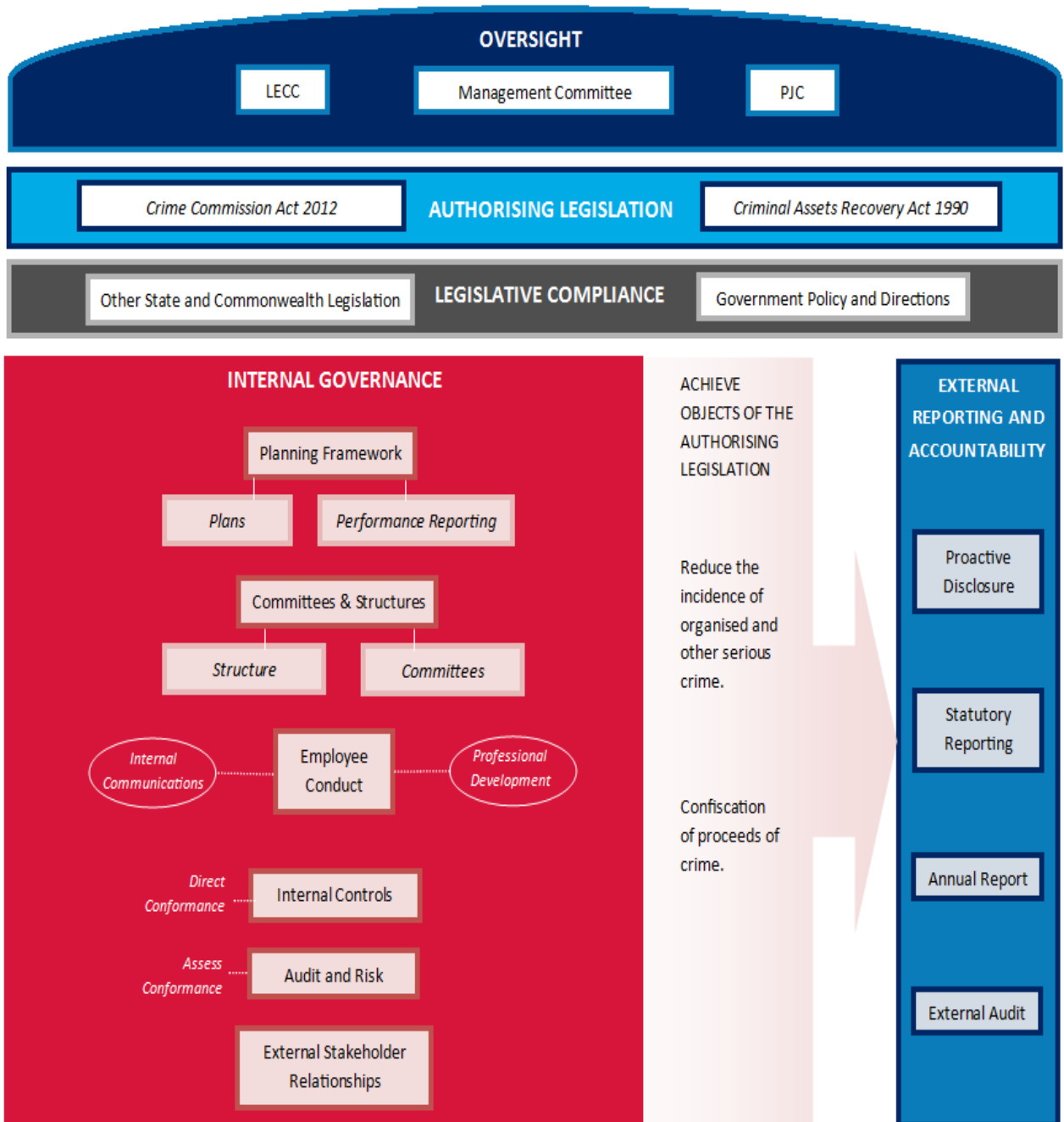
The New South Wales Crime Commission's ISMS has continued to mature over the last 12 months, as such is closer aligned to the ISO 27001:2013 standard. A third party accredited certification body has been engaged by the Commission as part of the ISO 27001 certification process. Certification to the ISO 27001 standard is targeted for this financial year.

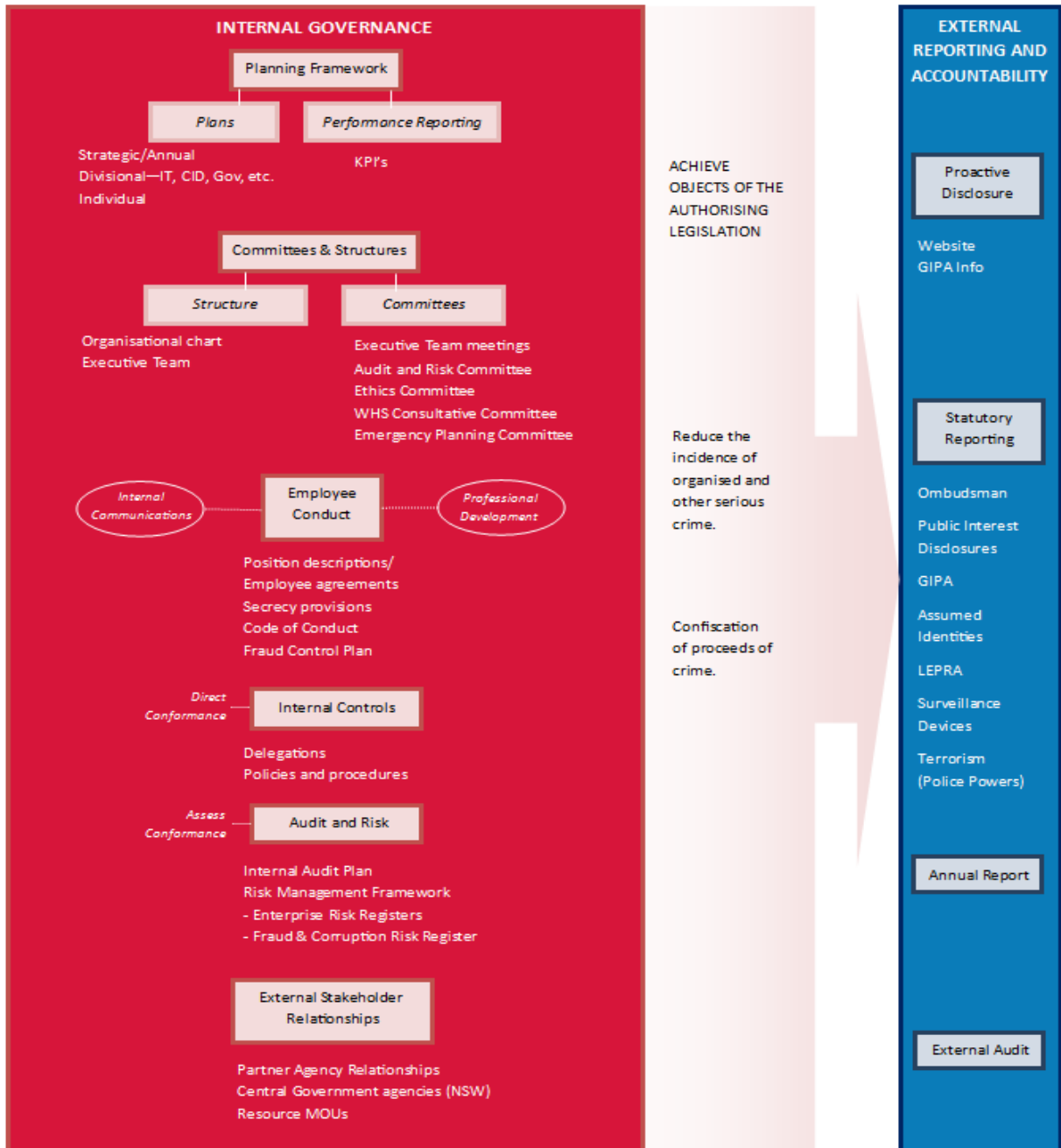
For further information about this matter please contact Mike Wilde on 02 9269 3808 or at mwilde@crimecommission.nsw.gov.au.



Peter Bodor QC
Commissioner
NSW Crime Commission

Appendix I: Governance Framework





Appendix J - Internal Audit and Risk Management Attestation



INTERNAL AUDIT AND RISK MANAGEMENT ATTESTATION STATEMENT FOR THE 2017-2018 FINANCIAL YEAR FOR THE NEW SOUTH WALES CRIME COMMISSION

I, Peter Bodor QC, am of the opinion that the New South Wales Crime Commission has internal audit and risk management processes in operation that are compliant with the eight (8) core requirements set out in the *Internal Audit and Risk Management Policy for the NSW Public Sector*, specifically:

| Core Requirements | | For each requirement, please specify whether compliant, non-compliant, or in transition |
|----------------------------------|--|--|
| Risk management Framework | | |
| 1.1 | The agency head is ultimately responsible and accountable for risk management in the agency | Compliant |
| 1.2 | A risk management framework that is appropriate to the agency has been established and maintained and the framework is consistent with AS/NZS ISO 31000:2009 | Compliant |
| Internal Audit Function | | |
| 2.1 | An Internal Audit function has been established and maintained | Compliant |
| 2.2 | The operation of the internal audit function is consistent with the International Standards for the Professional Practice of Internal Auditing | Compliant |
| 2.3 | The agency has an Internal Audit Charter that is consistent with the content of the 'model charter' | Compliant |

Audit and Risk Committee

- | | | |
|-----|---|------------------|
| 3.1 | An independent Audit and Risk Committee with appropriate expertise has been established | Compliant |
| 3.2 | The Audit and Risk Committee is an advisory committee providing assistance to the agency head on the agency's governance processes, risk management and control frameworks, and its external accountability obligations | Compliant |
| 3.3 | The Audit and Risk Committee has a Charter that is consistent with the content of the 'model charter' | Compliant |

Membership

The chair and members of the Audit and Risk Committee are:

- Independent Chair, **Peter Lucas:**
 - Initial term as member 12 August 2013 to 30 June 2014 (ten and a half month term served of a four year appointment)
 - Initial term as chair 1 July 2014 to 30 June 2018 (four year term)
 - Second term as chair 1 July 2018 to 30 June 2019 (one year term to the maximum of five years cumulative for a chair)
 - Second term as member 1 July 2019 to 30 June 2020 (one year term)
- Independent Member, **Timothy Holden:**
 - Initial term 1 July 2015 to 30 June 2018 (three year term)
 - Second term 1 July 2018 to 30 June 2019 (one year term)
- Independent Member, **Paul Crombie:**
 - Initial term 1 July 2016 to 30 June 2019 (three year term)



Peter Bodor QC
NSW Crime Commissioner

Contact Officer: **Scott Webb**
Senior Internal Auditor
E: swebb@crimecommission.nsw.gov.au
T: 9269 3888



Public Interest Disclosures Act 1994 (NSW)

Section 31

**REPORT BY THE
NEW SOUTH WALES CRIME COMMISSION**

1 July 2017 – 30 June 2018

Section 31 of the *Public Interest Disclosures Act 1994* ('the Act') requires public authorities, including the New South Wales Crime Commission ('the Commission'), to report on certain matters arising under the Act within 4 months after the end of each reporting year. The report must provide the statistics and information prescribed by clause 4 (2) and clause 4 (2A) of the *Public Interest Disclosures Regulation 2011* and is to be submitted to the Minister responsible for the Commission, being the Minister for Police and Emergency Services, and a copy of the report is to be provided to the Ombudsman. The required statistics and information are below.

Statistics

During the reporting period:

- no public officials made a Public Interest Disclosure ID to the Commission
- no Public Interest Disclosures were received by the Commission, and
- no Public Interest Disclosures were finalised.

Further information

During the reporting period, did the Commission have a public interest disclosures policy in place?

The Commission had a public interest disclosures policy, titled 'Internal Reporting Policy', in place throughout the reporting period.

Pursuant to the *Government Information (Public Access) Act 2009* (NSW), the Commission's Internal Reporting Policy has been publicly available, free of charge, on the Commission's external website (www.crimecommission.nsw.gov.au) since 1 October 2011.

For staff of the Commission, the Internal Reporting Policy is also available on the Commission's Intranet.

During the reporting period, what actions has the Commissioner, as head of the Commission, taken to ensure that his staff awareness responsibilities under section 6E (1) (b) of the Act have been met?

The Commissioner's measures have included:

1. Throughout the reporting period, posters issued by the Ombudsman have continued to be displayed on noticeboards and in meal rooms throughout the Commission with the aim of promoting:
 - the key objectives of the Act;
 - the current Disclosure Officers of the Commission to whom disclosures can be made; and
 - directing staff as to where the Commission's Internal Reporting Policy can be accessed.
2. Throughout the reporting period, Commission employees have continued to have access to the names of current Disclosure Officers and the Internal Reporting Policy via the Commission's Intranet.
3. Throughout the reporting period, Commission employees have been advised about any new or revised policies and to consider and abide by Commission policies, which

are all available to staff to read and print through its intranet. One of the intranet pages is titled 'Complaints & Grievances'. Information about the Act and a link to the Internal Reporting Policy appear on that page.

4. In August 2017 Commission employees were directed to declare compliance with the Commission's Code of Conduct. Section 7.3 of this Code advises employees that the *Public Interest Disclosures Act 1994* provides certain protections against reprisals for officers who voluntarily report concerns about corrupt conduct, maladministration, and serious and substantial waste. The section advises employees that disclosures may be made in the first instance to one of the Commission's Disclosure Officers.
5. On 21 December 2017, Ms Sandra Duke and Deputy Ombudsman Mr Chris Wheeler of the NSW Ombudsman's office delivered general awareness training about public interest disclosures to Commission staff.



Peter Bodor QC
Commissioner
25 August 2018

AUDITED FINANCIAL STATEMENTS



**NEW SOUTH WALES CRIME COMMISSION
CONSOLIDATED
FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2018**

New South Wales Crime Commission

**Financial Statements for the
year ended 30 June 2018**

STATEMENT BY COMMISSIONER

Pursuant to section 45F of the *Public Finance and Audit Act 1983*, I state that:

- (a) The accompanying financial statement and notes have been prepared in accordance with:
- applicable Australian Accounting Standards (which include Australian Accounting Interpretations)
 - the requirements of the *Public Finance and Audit Act 1983* and *Public Finance and Audit Regulation 2015* and Treasurer's Directions.
- (b) The statements present a true and fair view of the financial position as at 30 June 2018 and financial performance of the Commission for the year then ended.
- (c) There are no circumstances that would render any particulars included in the Financial Statements misleading or inaccurate.



Peter Bodor, QC

Commissioner

Dated: 17 September 2018



INDEPENDENT AUDITOR'S REPORT

New South Wales Crime Commission

To Members of the New South Wales Parliament

Opinion

I have audited the accompanying financial statements of the New South Wales Crime Commission (the Commission), which comprise the Statement of Comprehensive Income for the year ended 30 June 2018, the Statement of Financial Position as at 30 June 2018, the Statement of Changes in Equity and the Statement of Cash Flows, for the year then ended, notes comprising a Summary of Significant Accounting Policies and other explanatory information.

In my opinion, the financial statements:

- give a true and fair view of the financial position of the Commission as at 30 June 2018, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (PF&A Act) and the Public Finance and Audit Regulation 2015

My opinion should be read in conjunction with the rest of this report.

Basis for Opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under the standards are described in the 'Auditor's Responsibilities for the Audit of the Financial Statements' section of my report.

I am independent of the Commission in accordance with the requirements of the:

- Australian Auditing Standards
- Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants' (APES 110).

I have fulfilled my other ethical responsibilities in accordance with APES 110.

Parliament promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies
- precluding the Auditor-General from providing non-audit services.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Other Information

Other information comprises the information included in the Commission's annual report for the year ended 30 June 2018, other than the financial statements and my Independent Auditor's Report thereon. The Commissioner of the Commission is responsible for the other information. At the date of this Independent Auditor's Report, the other information I have received comprises the Statement by the Commissioner.

My opinion on the financial statements does not cover the other information. Accordingly, I do not express any form of assurance conclusion on the other information.

In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

If, based on the work I have performed, I conclude there is a material misstatement of the other information, I must report that fact.

I have nothing to report in this regard.

The Commissioner's Responsibilities for the Financial Statements

The Commissioner is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards and the PF&A Act, and for such internal control as the Commissioner determines is necessary to enable the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Commissioner is responsible for assessing the Commission's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting except where the Commission's operations will cease as a result of an administrative restructure.

Auditor's Responsibilities for the Audit of the Financial Statements

My objectives are to:

- obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error
- issue an Independent Auditor's Report including my opinion.

Reasonable assurance is a high level of assurance, but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.

A description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: www.auasb.gov.au/auditors_responsibilities/ar4.pdf. The description forms part of my auditor's report.

My opinion does not provide assurance:

- that the Commission carried out its activities effectively, efficiently and economically
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented
- about any other information which may have been hyperlinked to/from the financial statements.



Nathan Carter
Director, Financial Audit Services

26 September 2018
SYDNEY

Start of audited financial statements.

NEW SOUTH WALES CRIME COMMISSION

Statement of Comprehensive Income for the year ended 30 June 2018

| | Notes | Consolidated | | | Statutory Corporation | |
|---|-------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| | | Actual 2018 \$'000 | Budget 2018 \$'000 | Actual 2017 \$'000 | Actual 2018 \$'000 | Actual 2017 \$'000 |
| Expenses excluding losses | | | | | | |
| Employee-related expenses | 2(a) | 16,129 | 17,881 | 17,732 | - | - |
| Operating expenses | 2(b) | 8,279 | 8,957 | 7,374 | 8,279 | 7,374 |
| Personnel services | 2(c) | - | - | - | 15,837 | 16,986 |
| Depreciation and amortisation | 2(d) | 1,365 | 1,280 | 1,649 | 1,365 | 1,649 |
| Total expenses excluding losses | | 25,773 | 28,118 | 26,755 | 25,481 | 26,009 |
| Revenue | | | | | | |
| Grants and contributions | 3(a) | 26,482 | 27,373 | 24,846 | 26,482 | 24,846 |
| Acceptance by the Crown Entity of employee benefits and other liabilities | 3(b) | 292 | 673 | 746 | - | - |
| Other income | | 29 | 54 | 27 | 29 | 27 |
| Total revenue | | 26,803 | 28,100 | 25,619 | 26,511 | 24,873 |
| Gains / (losses) on disposal | 4 | (779) | (852) | 15 | (779) | 15 |
| Net result | | 251 | (870) | (1,121) | 251 | (1,121) |
| Other comprehensive income | | - | - | - | - | - |
| TOTAL COMPREHENSIVE INCOME | | 251 | (870) | (1,121) | 251 | (1,121) |

The accompanying notes form part of these financial statements.

NEW SOUTH WALES CRIME COMMISSION

Statement of Financial Position as at 30 June 2018

| | Notes | Consolidated | | | Statutory Corporation | |
|--------------------------------------|-------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| | | Actual 2018 \$'000 | Budget 2018 \$'000 | Actual 2017 \$'000 | Actual 2018 \$'000 | Actual 2017 \$'000 |
| ASSETS | | | | | | |
| Current Assets | | | | | | |
| Cash and cash equivalents | 5 | 2,234 | 599 | 900 | 2,234 | 900 |
| Receivables | 6 | 660 | 579 | 718 | 660 | 718 |
| Non-current assets held-for-sale | 10 | 111 | - | - | 111 | - |
| Total Current Assets | | 3,005 | 1,178 | 1,618 | 3,005 | 1,618 |
| Non-Current Assets | | | | | | |
| Receivables | 7 | 13 | 23 | 18 | 13 | 18 |
| Property, plant and equipment | 8 | | | | | |
| Land and buildings | | - | 111 | 111 | - | 111 |
| Plant and equipment | | 1,665 | 1,517 | 1,863 | 1,665 | 1,863 |
| Intangible assets | 9 | 2,200 | 2,505 | 3,066 | 2,200 | 3,066 |
| Total Non-Current Assets | | 3,878 | 4,156 | 5,058 | 3,878 | 5,058 |
| Total Assets | | 6,883 | 5,334 | 6,676 | 6,883 | 6,676 |
| LIABILITIES | | | | | | |
| Current Liabilities | | | | | | |
| Payables | 11 | 386 | 493 | 426 | 326 | 363 |
| Provisions | 12 | 1,678 | 1,716 | 1,687 | 1,789 | 1,796 |
| Total Current Liabilities | | 2,064 | 2,209 | 2,113 | 2,115 | 2,159 |
| Non-Current Liabilities | | | | | | |
| Provisions | 13 | 51 | 65 | 46 | - | - |
| Total Non-Current Liabilities | | 51 | 65 | 46 | - | - |
| Total Liabilities | | 2,115 | 2,274 | 2,159 | 2,115 | 2,159 |
| Net Assets | | 4,768 | 3,060 | 4,517 | 4,768 | 4,517 |
| EQUITY | | | | | | |
| Accumulated funds | 14 | 4,768 | 3,060 | 4,517 | 4,768 | 4,517 |
| Total Equity | | 4,768 | 3,060 | 4,517 | 4,768 | 4,517 |

The accompanying notes form part of these financial statements.

NEW SOUTH WALES CRIME COMMISSION

Statement of Changes in Equity for the year ended 30 June 2018

| | Accumulated Funds \$'000 | Total \$'000 |
|--|--------------------------------|-----------------|
| Balance at 1 July 2017 | <u>4,517</u> | <u>4,517</u> |
| Net result for the year | <u>251</u> | <u>251</u> |
| Other comprehensive income | <u>-</u> | <u>-</u> |
| Total comprehensive income for the year | <u>251</u> | <u>251</u> |
| Balance at 30 June 2018 | <u>4,768</u> | <u>4,768</u> |
| | | |
| Balance at 1 July 2016 | <u>5,638</u> | <u>5,638</u> |
| Net result for the year | <u>(1,121)</u> | <u>(1,121)</u> |
| Other comprehensive income | <u>-</u> | <u>-</u> |
| Total comprehensive income for the year | <u>(1,121)</u> | <u>(1,121)</u> |
| Balance at 30 June 2017 | <u>4,517</u> | <u>4,517</u> |

The above Statement of changes in equity refers to the Consolidated Entity and the Statutory Corporation as the figures are the same in both instances.

The accompanying notes form part of these financial statements.

NEW SOUTH WALES CRIME COMMISSION

Statement of Cash Flows for the year ended 30 June 2018

| | Notes | Consolidated | | | Statutory Corporation | |
|---|-------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| | | Actual 2018 \$'000 | Budget 2018 \$'000 | Actual 2017 \$'000 | Actual 2018 \$'000 | Actual 2017 \$'000 |
| CASH FLOWS FROM OPERATING ACTIVITIES | | | | | | |
| Payments | | | | | | |
| Employee related | | (15,842) | (16,757) | (16,955) | - | - |
| Personnel Services | | - | - | - | (15,842) | (16,967) |
| Other | | (9,149) | (9,958) | (8,120) | (9,149) | (8,120) |
| Total Payments | | (24,991) | (26,715) | (25,075) | (24,991) | (25,087) |
| Receipts | | | | | | |
| Sales of goods and services | | 68 | 42 | 19 | 68 | 19 |
| Grants and contributions | | 26,482 | 27,373 | 24,846 | 26,482 | 24,846 |
| Other | | 855 | 600 | 829 | 855 | 829 |
| Total Receipts | | 27,405 | 28,015 | 25,694 | 27,405 | 25,694 |
| NET CASH FLOWS FROM OPERATING ACTIVITIES | 18 | 2,414 | 1,300 | 619 | 2,414 | 607 |
| CASH FLOWS FROM INVESTING ACTIVITIES | | | | | | |
| Proceeds from sale of property, plant and equipment | | 13 | - | 16 | 13 | 16 |
| Purchase of property, plant and equipment | | (931) | (991) | (322) | (931) | (322) |
| Purchase of intangibles | | (162) | (341) | (7) | (162) | (7) |
| NET CASH FLOWS FROM INVESTING ACTIVITIES | | (1,080) | (1,332) | (313) | (1,080) | (313) |
| CASH FLOWS FROM FINANCING ACTIVITIES | | | | | | |
| Repayments of borrowings and advances | | - | - | (12) | - | - |
| NET CASH FLOWS FROM FINANCING ACTIVITIES | | - | - | (12) | - | - |
| NET INCREASE / (DECREASE) IN CASH AND CASH EQUIVALENTS | | | | | | |
| | | 1,334 | (32) | 294 | 1,334 | 294 |
| Opening cash and cash equivalents | | 900 | 631 | 606 | 900 | 606 |
| CLOSING CASH AND CASH EQUIVALENTS | 5 | 2,234 | 599 | 900 | 2,234 | 900 |

The accompanying notes form part of these financial statements.

1. Summary of Significant Accounting Policies

(a) Reporting entity

The New South Wales Crime Commission (the Commission), is a New South Wales government entity and is controlled by the State of New South Wales, which is the ultimate parent. The Commission is a not-for-profit entity (as profit is not its principal objective) and it has no cash generating units.

The New South Wales Crime Commission, as a reporting entity, comprises of itself and one other entity under its control, the New South Wales Crime Commission Staff Agency.

In the process of preparing the consolidated financial statements for the economic entity, consisting of the controlling and controlled entities, all inter-entity transactions and balances have been eliminated, and like transactions and other events are accounted for using uniform accounting policies.

The consolidated financial statements for the year ended 30 June 2018 have been authorised for issue by the Commissioner on 17 September 2018.

(b) Basis of consolidation and preparation

The Commission's consolidated financial statements include the financial statements of the economic entity and the New South Wales Crime Commission Staff Agency.

The Commission's financial statements are general purpose financial statements which have been prepared on an accruals basis and in accordance with:

- applicable Australian Accounting Standards (AAS) (which include Australian Accounting Interpretations)
- the requirements of the *Public Finance and Audit Act 1983* and *Public Finance and Audit Regulation 2015* and
- the Financial Reporting Directions mandated by the Treasurer.

Property, plant and equipment and assets held for sale are measured at fair value. Other financial statement items are prepared in accordance with the historical cost convention except where specified otherwise.

Judgements, key assumptions and estimations management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency, which is the Commission's presentation and functional currency.

(c) Statement of compliance

The financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

(d) Administered activities

The Commission administers, but does not control, certain activities on behalf of the Crown Entity. It is accountable for the transactions relating to those administered activities but does not have the discretion to deploy the resources for the achievement of the Commission's own objectives.

Transactions and balances relating to the administered activities are not recognised as the Commission's income, expenses, assets and liabilities, but are disclosed in the accompanying schedules as 'Administered Assets'.

The accrual basis of accounting and applicable accounting standards have been adopted.

(e) Accounting for the Goods and Services Tax (GST)

Income, expenses and assets are recognised net of the amount of GST, except that the:

- amount of GST incurred by the Commission as a purchaser that is not recoverable from the Australian Taxation Office (ATO) is recognised as part of an asset's cost of acquisition or as part of an item of expense and
- receivables and payables are stated with the amount of GST included.

Cash flows are included in the statement of cash flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities which are recoverable from, or payable to, the Australian Taxation Office are classified as operating cash flows.

1. Summary of Significant Accounting Policies (continued)

(f) Comparative information

Except when an AAS permits or requires otherwise, comparative information is presented in respect of the previous period for all amounts reported in the financial statements.

(g) Changes in accounting policies, including new or revised AAS

(i) Effective for the first time in 2017-18

The accounting policies applied in 2017-18 are consistent with those of the previous financial year except as a result of the following new or revised AAS that have been applied for the first time in 2017-18.

- AASB 2016-2 *Amendments to Australian Accounting Standards - Disclosure Initiative: Amendments to AASB 107*

The implementation of the above standard did not materially impact the financial statements.

(ii) Issued but not yet effective

NSW public sector entities are not permitted to early adopt new AAS, unless Treasury determines otherwise.

The following new AAS have not been applied and are not yet effective:

- AASB 9 *Financial Instruments*
- AASB 15, AASB 2014-5, AASB 2015-8 and 2016-3 regarding *Revenue from Contracts with Customers*
- AASB 16 *Leases*
- AASB 1058 *Income of Not-for-profit Entities*
- AASB 2016-7 *Amendments to Australian Accounting Standards - Deferral of AASB 15 for Not-for-Profit Entities*
- AASB 2016-8 *Amendments to Australian Accounting Standards - Australian Implementation Guidance for Not-for-Profit Entities*
- AASB 2017-5 *Amendments to Australian Accounting Standards - Effective Date of Amendments to AASB 10 and AASB 128 and Editorial Corrections*
- AASB 2017-6 *Amendments to Australian Accounting Standards - Prepayment Features with Negative Compensation*

The possible impact of these standards in the period of initial application is still being assessed.

2. Expenses Excluding Losses

| | Consolidated | | Statutory Corporation | |
|---|---------------|---------------|-----------------------|----------|
| | 2018 | 2017 | 2018 | 2017 |
| | \$'000 | \$'000 | \$'000 | \$'000 |
| (a) Employee related expenses | | | | |
| Salaries and wages (including annual leave) | 13,536 | 14,644 | - | - |
| Superannuation - defined benefit plans | 94 | 102 | - | - |
| Superannuation - defined contribution plans | 1,165 | 1,233 | - | - |
| Long service leave | 255 | 632 | - | - |
| Workers' compensation insurance | 73 | 73 | - | - |
| Payroll tax and fringe benefit tax | 827 | 938 | - | - |
| Other | 179 | 110 | - | - |
| | <u>16,129</u> | <u>17,732</u> | <u>-</u> | <u>-</u> |

2. Expenses Excluding Losses (continued)

| | Consolidated | | Statutory Corporation | |
|--|--------------|--------------|-----------------------|---------------|
| | 2018 | 2017 | 2018 | 2017 |
| | \$'000 | \$'000 | \$'000 | \$'000 |
| (b) Other operating expenses include the following: | | | | |
| Auditor's remuneration | | | | |
| - audit of the financial statements | 48 | 47 | 48 | 47 |
| Operating lease rental expense | | | | |
| - minimum lease payments | 2,266 | 2,034 | 2,266 | 2,034 |
| Maintenance* | 148 | 19 | 148 | 19 |
| Insurance | 20 | 20 | 20 | 20 |
| Office utilities | 236 | 226 | 236 | 226 |
| Office supplies | 315 | 204 | 315 | 204 |
| Computer services | 2,648 | 1,761 | 2,648 | 1,761 |
| Travel expenses | 82 | 67 | 82 | 67 |
| Motor vehicle expenses | 15 | 4 | 15 | 4 |
| Service and legal fees | 660 | 1,270 | 660 | 1,270 |
| Telecommunications | 801 | 661 | 801 | 661 |
| Maintenance agreements | 658 | 973 | 658 | 973 |
| Other | 382 | 88 | 382 | 88 |
| | 8,279 | 7,374 | 8,279 | 7,374 |
| <i>* Reconciliation - Total Maintenance</i> | | | | |
| Maintenance expense - contracted labour and other (non-employee related), as above | 148 | 19 | 148 | 19 |
| Personnel services maintenance expense included in Note 2(a) | 52 | 50 | - | - |
| Total maintenance expenses included in Note 2(a) and 2(b) | 200 | 69 | 148 | 19 |
| (c) Personnel services | | | | |
| New South Wales Crime Commission Staff Agency | - | - | 15,837 | 16,986 |
| | - | - | 15,837 | 16,986 |

Recognition and Measurement

Maintenance expense

Day-to-day servicing costs or maintenance are charged as expenses as incurred, except where they relate to the replacement or an enhancement of a part or component of an asset, in which case the costs are capitalised and depreciated.

Insurance

The Commission's insurance activities are conducted through the New South Wales Treasury Managed Fund Scheme of self-insurance for Government entities. The expense (premium) is determined by the Fund Manager based on past claims experience.

Operating leases

An operating lease is a lease other than a finance lease. Operating lease payments are recognised as an operating expense in the Statement of Comprehensive Income on a straight-line basis over the lease term. The lease arrangements relates to the premises rental agreement with Property NSW.

2. Expenses Excluding Losses (continued)

| | Consolidated | | Statutory Corporation | |
|---|--------------|--------|-----------------------|--------|
| | 2018 | 2017 | 2018 | 2017 |
| | \$'000 | \$'000 | \$'000 | \$'000 |
| (d) Depreciation and amortisation expense | | | | |
| Depreciation | | | | |
| Plant and equipment | 159 | 171 | 159 | 171 |
| Computer equipment | 258 | 401 | 258 | 401 |
| Motor vehicles | 23 | 26 | 23 | 26 |
| | 440 | 598 | 440 | 598 |
| Amortisation | 925 | 1,051 | 925 | 1,051 |
| Total Depreciation and amortisation | 1,365 | 1,649 | 1,365 | 1,649 |

Refer to Notes 8 and 9 for recognition and measurement policies on depreciation and amortisation.

3. Revenue

Recognition and Measurement

Income is measured at the fair value of the consideration or contribution received or receivable. Comments regarding the accounting policies for the recognition of income are discussed below.

| | | | | |
|------------------------------|--------|--------|--------|--------|
| (a) Grants and contributions | | | | |
| Recurrent grants | 25,400 | 24,514 | 25,400 | 24,514 |
| Capital grants | 1,082 | 332 | 1,082 | 332 |
| | 26,482 | 24,846 | 26,482 | 24,846 |

Recognition and Measurement

Income from grants (other than contribution by owners) is recognised when the entity obtains control over the contribution. The entity is deemed to have assumed control when the grant is received or receivable.

Contributions are recognised at their fair value. Contributions of services are recognised when and only when a fair value of those services can be reliably determined and the services would be purchased if not donated.

(b) Acceptance by the Crown Entity of employee benefits and other liabilities.

The following liabilities and/or expenses have been assumed by the Crown Entity or other entities:

| | | | | |
|----------------------------------|-----|-----|---|---|
| Superannuation - defined benefit | 94 | 98 | - | - |
| Long service leave | 194 | 643 | - | - |
| Payroll tax | 4 | 5 | - | - |
| | 292 | 746 | - | - |

4. Gain / (Loss) on Disposal

| | | | | |
|--|-------|-----|-------|-----|
| Written down value of assets sold/scrapped | (792) | (1) | (792) | (1) |
| Proceeds from disposal | 13 | 16 | 13 | 16 |
| | (779) | 15 | (779) | 15 |

5. Current Assets - Cash and Cash Equivalents

| | | | | |
|--------------------------|-------|-----|-------|-----|
| Cash at bank and on hand | 2,234 | 900 | 2,234 | 900 |
| | 2,234 | 900 | 2,234 | 900 |

5. Current Assets - Cash and Cash Equivalents (continued)

For the purposes of the Statement of Cash Flows, cash and cash equivalents include cash at bank and cash on hand.

Cash and cash equivalent assets recognised in the statement of financial position are reconciled at the end of the financial year to the statement of cash flows as follows:

| | Consolidated | | Statutory Corporation | |
|---|--------------|--------|-----------------------|--------|
| | 2018 | 2017 | 2018 | 2017 |
| | \$'000 | \$'000 | \$'000 | \$'000 |
| Cash and cash equivalents (per Statement of Financial Position) | 2,234 | 900 | 2,234 | 900 |
| Closing cash and cash equivalents (per Statement of Cash Flows) | 2,234 | 900 | 2,234 | 900 |

Refer Note 20 for details regarding credit risk, liquidity risk and market risk arising from financial instruments.

6. Current Assets - Receivables

| | | | | |
|-------------------------------------|-----|-----|-----|-----|
| Operational expenses to be recouped | 78 | 55 | 78 | 55 |
| Other debtors | 190 | 143 | 190 | 143 |
| Prepayments | 392 | 520 | 392 | 520 |
| | 660 | 718 | 660 | 718 |

Details regarding credit risk of trade debtors that are neither past due nor impaired, are disclosed in Note 20.

7. Non-Current Assets - Receivables

| | | | | |
|------------------------------------|----|----|----|----|
| Professional costs to be recovered | 13 | 18 | 13 | 18 |
| | 13 | 18 | 13 | 18 |

Recognition and Measurement

Income from professional costs recovered comprises revenue awarded to the Commission from litigation proceedings. This income is recognised following the making of a costs order by a court.

All 'regular way' purchases or sales of financial assets are recognised and derecognised on a trade date basis. Regular way purchases or sales are purchases or sales of financial assets that require delivery of assets within the time frame established by regulation or convention in the marketplace.

Receivables, including trade receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market.

Receivables are initially recognised at fair value plus any directly attributable transaction costs. Subsequent measurement is at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

Short term receivables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

Impairment

Receivables are subject to an annual review for impairment. These are considered to be impaired when there is objective evidence that, as a result of one or more events that occurred after the initial recognition of the financial asset, the estimated future cash flows have been affected.

The Commission first assesses whether impairment exists individually for receivables that are individually significant, or collectively for those that are not individually significant. Further, receivables are assessed for impairment on a collective basis if they were assessed not to be impaired individually.

7. Non-Current Assets - Receivables (continued)

The amount of the allowance is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted at the original effective interest rate. The amount of the impairment loss is recognised in the net result for the year.

Any reversals of impairment losses are reversed through the net result for the year, if objectively related to an event occurring after the impairment was recognised. Reversals of impairment losses cannot result in a carrying amount that exceeds what the carrying amount would have been had there not been an impairment loss.

8. Non-Current Assets - Property, Plant and Equipment

| | <u>Consolidated</u> | | | <u>Statutory Corporation</u> | | |
|-------------------------------------|---------------------|---------------------|---------|------------------------------|---------------------|---------|
| | Land and buildings | Plant and equipment | Total | Land and buildings | Plant and equipment | Total |
| | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 |
| At 1 July 2017 - fair value | | | | | | |
| Gross carrying amount | 111 | 8,508 | 8,619 | 111 | 8,508 | 8,619 |
| Accumulated depreciation | - | (6,645) | (6,645) | - | (6,645) | (6,645) |
| Net carrying amount | 111 | 1,863 | 1,974 | 111 | 1,863 | 1,974 |
| At 30 June 2018 - fair value | | | | | | |
| Gross carrying amount | - | 5,511 | 5,511 | - | 5,511 | 5,511 |
| Accumulated depreciation | - | (3,846) | (3,846) | - | (3,846) | (3,846) |
| Net carrying amount | - | 1,665 | 1,665 | - | 1,665 | 1,665 |

Reconciliation

A reconciliation of the carrying amount of each class of property, plant and equipment at the beginning and end of the reporting period is set out below:

| | Land and buildings | Plant and equipment | Total | Land and buildings | Plant and equipment | Total |
|--------------------------------------|--------------------------------|---------------------|---------|--------------------|---------------------|---------|
| | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 |
| | Year ended 30 June 2018 | | | | | |
| Net carrying amount at start of year | 111 | 1,863 | 1,974 | 111 | 1,863 | 1,974 |
| Additions | - | 931 | 931 | - | 931 | 931 |
| Assets Held-for-sale | (111) | - | (111) | (111) | - | (111) |
| Disposals | - | (689) | (689) | - | (689) | (689) |
| Depreciation expense | - | (440) | (440) | - | (440) | (440) |
| Net carrying amount at end of year | - | 1,665 | 1,665 | - | 1,665 | 1,665 |
| At 1 July 2016 - fair value | | | | | | |
| Gross carrying amount | 111 | 8,303 | 8,414 | 111 | 8,303 | 8,414 |
| Accumulated depreciation | - | (6,163) | (6,163) | - | (6,163) | (6,163) |
| Net carrying amount | 111 | 2,140 | 2,251 | 111 | 2,140 | 2,251 |
| At 30 June 2017 - fair value | | | | | | |
| Gross carrying amount | 111 | 8,508 | 8,619 | 111 | 8,508 | 8,619 |
| Accumulated depreciation | - | (6,645) | (6,645) | - | (6,645) | (6,645) |
| Net carrying amount | 111 | 1,863 | 1,974 | 111 | 1,863 | 1,974 |

8. Non-Current Assets - Property, Plant and Equipment (continued)

Reconciliation

A reconciliation of the carrying amount of each class of property, plant & equipment at the beginning and end of the previous reporting period is set out below:

| | <u>Consolidated</u> | | | <u>Statutory Corporation</u> | | |
|--------------------------------------|-----------------------|------------------------|--------|------------------------------|------------------------|--------|
| | Land and buildings | Plant and equipment | Total | Land and buildings | Plant and equipment | Total |
| | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 |
| Year ended 30 June 2017 | | | | | | |
| Net carrying amount at start of year | 111 | 2,140 | 2,251 | 111 | 2,140 | 2,251 |
| Additions | - | 322 | 322 | - | 322 | 322 |
| Disposals | - | (1) | (1) | - | (1) | (1) |
| Depreciation expense | - | (598) | (598) | - | (598) | (598) |
| Net carrying amount at end of year | 111 | 1,863 | 1,974 | 111 | 1,863 | 1,974 |

Recognition and Measurement

Acquisition of property, plant and equipment

Property, plant and equipment are initially measured at cost and subsequently revalued at fair value less accumulated depreciation and impairment. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other AAS.

Fair value is the price that would be received to sell an asset in an orderly transaction between market participants at measurement date.

Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent; i.e. deferred payment amount is effectively discounted over the period of credit.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

Capitalisation thresholds

Property, plant and equipment and intangible assets costing \$5,000 and above individually (or forming part of a network costing more than \$5,000) are capitalised.

Major inspection costs

When a major inspection is performed, its cost is recognised in the carrying amount of the plant and equipment as a replacement if the recognition criteria are satisfied.

Restoration costs

The present value of the expected cost for the restoration or cost of dismantling of an asset after its use is included in the cost of the respective asset if the recognition criteria for a provision are met.

Depreciation of property, plant and equipment

Except for certain non-depreciable assets, depreciation is provided for on a straight-line basis so as to write off the depreciable amount of each asset as it is consumed over its useful life to the Commission.

All material identifiable components of assets are depreciated separately over their useful lives.

| Depreciation asset category | Rate (%) |
|-----------------------------|----------|
| Computer equipment | 10 - 33 |
| Plant and equipment | 8 - 33 |
| Motor vehicles | 15 |

8. Non-Current Assets - Property, Plant and Equipment (continued)

Revaluation of property, plant and equipment

Physical non-current assets are valued in accordance with the 'Valuation of Physical Non-Current Assets at Fair Value' Policy and Guidelines Paper (TPP14-01). This policy adopts fair value in accordance with AASB 13 and AASB 116.

Property, plant and equipment is measured at the highest and best use by market participants that is physically possible, legally permissible and financially feasible. The highest and best use must be available at a period that is not remote and take into account the characteristics of the asset being measured, including any socio-political restrictions imposed by government. In most cases, after taking into account these considerations, the highest and best use is the existing use. In limited circumstances, the highest and best use may be a feasible alternative use, where there are no restrictions on use or where there is a feasible higher restricted alternative use.

The Commission assesses each class of property, plant and equipment with sufficient regularity to ensure that the carrying amount at each asset in the class does not differ materially from its fair value at the reporting date. The Commission has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

The majority of the Commission's assets are non-specialised with short useful lives and therefore measured at depreciated historical cost, as an approximation of fair value.

The residual values, useful lives and methods of depreciation of property, plant and equipment are reviewed at each financial year end.

Impairment of property, plant and equipment

As a not-for-profit entity with no cash generating units, impairment under AASB 136 *Impairment of Assets* is unlikely to arise. Since property, plant and equipment is carried at fair value or an amount that approximates fair value, impairment can only arise in rare circumstances such as where the costs of disposal are material.

The Commission assesses, at each reporting date, whether there is an indication that an asset may be impaired. If any indication exists, or when annual impairment testing for an asset is required, the Commission estimates the asset's recoverable amount. When the carrying amount of an asset exceeds its recoverable amount, the asset is considered impaired and is written down to its recoverable amount.

As a not-for-profit entity, an impairment loss is recognised in the net result to the extent the impairment loss exceeds the amount in the revaluation surplus for the class of asset.

After an impairment loss has been recognised, it is reversed only if there has been a change in the assumptions used to determine the asset's recoverable amount. The reversal is limited so that the carrying amount of the asset does not exceed its recoverable amount, nor exceed the carrying amount that would have been determined, net of depreciation, had no impairment loss been recognised for the asset in prior years. Such reversal is recognised in net result and is treated as a revaluation increase. However, to the extent that an impairment loss on the same class of asset was previously recognised in net result, a reversal of that impairment loss is also recognised in net result.

9. Intangible Assets

| | Consolidated | Statutory |
|---|---------------------|--------------------|
| | Total | Corporation |
| | \$'000 | Total |
| | \$'000 | \$'000 |
| At 1 July 2017 | | |
| Cost (gross carrying amount) | 7,799 | 7,799 |
| Accumulated amortisation and impairment | (4,733) | (4,733) |
| Net carrying amount | <u>3,066</u> | <u>3,066</u> |
| At 30 June 2018 | | |
| Cost (gross carrying amount) | 6,441 | 6,441 |
| Accumulated amortisation and impairment | (4,241) | (4,241) |
| Net carrying amount | <u>2,200</u> | <u>2,200</u> |

9. Intangible Assets (continued)

| | Consolidated Total \$'000 | Statutory Corporation Total \$'000 |
|--|---------------------------------|---|
| Year ended 30 June 2018 | | |
| Net carrying amount at start of year | 3,066 | 3,066 |
| Additions | 162 | 162 |
| Disposals | (103) | (103) |
| Amortisation (recognised in "depreciation and amortisation") | (925) | (925) |
| Net carrying amount at end of year | <u>2,200</u> | <u>2,200</u> |
| At 1 July 2016 | | |
| Cost (gross carrying amount) | 7,792 | 7,792 |
| Accumulated amortisation and impairment | (3,682) | (3,682) |
| Net carrying amount | <u>4,110</u> | <u>4,110</u> |
| At 30 June 2017 | | |
| Cost (gross carrying amount) | 7,799 | 7,799 |
| Accumulated amortisation and impairment | (4,733) | (4,733) |
| Net carrying amount | <u>3,066</u> | <u>3,066</u> |
| Year ended 30 June 2017 | | |
| Net carrying amount at start of year | 4,110 | 4,110 |
| Additions | 7 | 7 |
| Disposals | - | - |
| Amortisation (recognised in "depreciation and amortisation") | (1,051) | (1,051) |
| Net carrying amount at end of year | <u>3,066</u> | <u>3,066</u> |

The majority of Intangible assets represent computer software, including specialised enterprise software.

Recognition and Measurement

The Commission recognises intangible assets only if it is probable that future economic benefits will flow to the entity and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition. Following initial recognition, intangible assets are subsequently measured at fair value only if there is an active market. If there is no active market for the entity's intangible assets, the assets are carried at cost less any accumulated amortisation and impairment losses.

All research costs are expensed. Development costs are only capitalised when certain criteria are met.

The useful lives of intangible assets are assessed to be finite.

The Commission's intangible assets are amortised using the straight-line method over a period of 3 to 10 years.

The amortisation period and the amortisation method for an intangible asset with a finite useful life are reviewed at least at the end of each reporting period.

Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than its carrying amount, the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss.

10. Non-Current Assets Held-for-Sale

| | Consolidated | | Statutory Corporation | |
|-----------------------------|--------------|----------|-----------------------|----------|
| | 2018 | 2017 | 2018 | 2017 |
| | \$'000 | \$'000 | \$'000 | \$'000 |
| Assets held-for-sale | | | | |
| Land and buildings | 111 | - | 111 | - |
| | <u>111</u> | <u>-</u> | <u>111</u> | <u>-</u> |

The Commission is currently in the process of selling 3 car spaces which are located in Sydney.

Recognition and Measurement

The Commission has certain non-current assets classified as held-for-sale, where their carrying amount will be recovered principally through a sale transaction, not through continuing use. Non-current assets held-for-sale are recognised at the lower of their carrying amount and fair value less costs of disposal. These assets are not depreciated while they are classified as held-for-sale.

11. Current Liabilities - Payables

| | | | | |
|--------------------------------------|------------|------------|------------|------------|
| Accrued salaries, wages and on-costs | 60 | 63 | - | - |
| Creditors | 129 | 86 | 129 | 86 |
| Accrued other operating expenses | 197 | 277 | 197 | 277 |
| | <u>386</u> | <u>426</u> | <u>326</u> | <u>363</u> |

Details regarding liquidity risk, including a maturity analysis of the above payables are disclosed in Note 20.

Recognition and measurement

Payables represent liabilities for goods and services provided to the Commission and other amounts. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

Payables are financial liabilities at amortised cost, initially measured at fair value, net of directly attributable transaction costs. These are subsequently measured at amortised cost using the effective interest method. Gains and losses are recognised net result when the liabilities are derecognised as well as through the amortisation process.

12. Current Liabilities - Provisions

Employee benefits and related on-costs

| | | | | |
|----------------------------------|--------------|--------------|--------------|--------------|
| Provision for personnel services | - | - | 1,789 | 1,796 |
| Annual leave | 1,091 | 1,155 | - | - |
| Long service leave on-costs | 587 | 532 | - | - |
| Total Provisions | <u>1,678</u> | <u>1,687</u> | <u>1,789</u> | <u>1,796</u> |

Aggregate employee benefits and related on-costs

| | | | | |
|---|--------------|--------------|----------|----------|
| Expected to be settled within 12 months | 978 | 1,050 | - | - |
| Expected to be settled after 12 months | 700 | 637 | - | - |
| | <u>1,678</u> | <u>1,687</u> | <u>-</u> | <u>-</u> |

13. Non-Current Liabilities - Provisions

| | Consolidated | | Statutory Corporation | |
|---|--------------|--------------|-----------------------|----------|
| | 2018 | 2017 | 2018 | 2017 |
| | \$'000 | \$'000 | \$'000 | \$'000 |
| Employee benefits and related on-costs | | | | |
| Long service leave on-costs | 51 | 46 | - | - |
| Total provisions | 51 | 46 | - | - |
| Aggregate employee benefits and related on-costs | | | | |
| Provisions - current | 1,678 | 1,687 | - | - |
| Provisions - non-current | 51 | 46 | - | - |
| Accrued salaries, wages and on-costs (Note 11) | 60 | 63 | - | - |
| | 1,789 | 1,796 | - | - |

Recognition and Measurement

Employee benefits and related on-costs

Salaries and wages (including non-monetary benefits) and paid sick leave that are expected to be settled wholly within 12 months after the end of the period in which the employees render the service are recognised and measured at the undiscounted amounts of the benefits.

Annual leave is not expected to be settled wholly before twelve months after the end of the annual reporting period in which the employees render the related service. As such, it is required to be measured at present value in accordance with AASB 119 *Employee Benefits* (although short-cut methods are permitted).

Actuarial advice obtained by Treasury has confirmed that using the nominal annual leave balance plus the annual leave entitlements accrued while taking annual leave (calculated using 9.29% of the nominal value of annual leave) can be used to approximate the present value of the annual leave liability. The Commission has assessed the actuarial advice based on the Commission's circumstances and has determined that the effect of discounting is immaterial to annual leave. All annual leave is classified as a current liability even where the Commission does not expect to settle the liability within 12 months as the entity does not have an unconditional right to defer settlement.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

Long service leave and superannuation

The Commission's liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. The Commission accounts for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as 'Acceptance by the Crown Entity of employee benefits and other liabilities'.

Long service leave is measured at the present value of expected future payments to be made in respect of services provided up to the reporting date. Consideration is given to certain factors based on actuarial review, including expected future wage and salary levels, experience of employee departures, and periods of service. Expected future payments are discounted using Commonwealth government bond rate at the reporting date.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (i.e. Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (i.e. State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

Consequential on-costs

Consequential costs to employment are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised. This includes outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax.

14. Equity

Recognition and Measurement

Accumulated Funds

The category 'Accumulated Funds' includes all current and prior period retained funds.

15. Commitments

| | Consolidated | | Statutory Corporation | |
|--|--------------|--------|-----------------------|--------|
| | 2018 | 2017 | 2018 | 2017 |
| | \$'000 | \$'000 | \$'000 | \$'000 |
| (a) Capital Commitments | | | | |
| Aggregate capital expenditure for the acquisition of computer related items contracted for at balance date and not provided for: | | | | |
| Within one year | 23 | - | 23 | - |
| Later than one year and not later than five years | - | - | - | - |
| Later than five years | - | - | - | - |
| Total (including GST) | 23 | - | 23 | - |
| (b) Operating Lease Commitments | | | | |
| <i>Commission as lessee</i> | | | | |
| Future minimum rentals payable under non-cancellable operating lease as at 30 June are, as follows: | | | | |
| Within one year | 2,379 | 2,379 | 2,379 | 2,379 |
| Later than one year and not later than five years | 9,515 | 9,515 | 9,515 | 9,515 |
| Later than five years | 2,379 | 4,757 | 2,379 | 4,757 |
| Total (including GST) | 14,272 | 16,651 | 14,272 | 16,651 |

16. Contingent Liabilities and Contingent Assets

Contingent Liabilities

The Commission commenced the financial year with one contingent liability which is yet to be settled. Due to legal restrictions, the details of the contingent liability cannot be disclosed, but is covered by the Commission's insurance policy.

Contingent Assets

The Commission is not aware of any contingent assets that will materially affect its financial position as at the reporting date.

17. Budget Review

The budgeted amounts are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period. Subsequent amendments to the original budget (e.g. adjustment for transfer of functions between entities as a result of Administrative Arrangements Orders) are not reflected in the budgeted amounts. Major variances between the original budgeted amounts and the actual amounts disclosed in the financial statements are explained below.

17. Budget Review (continued)

Net result

The actual net result at 30 June 2018 was higher than the budget by \$1.121m, primarily due to underspending in the areas of employee-related and operating expenses.

Employee-related expenses were \$1.752m under the budget. This was a result of a planned underspend to ensure the Commission would not exceed its employee labour expense cap in outer years following the application of efficiency dividends. In addition the underspend increased as a result of a reengineering review of the Commission which prevented the use of a carry forward for the development of an industrial award and vacancies for SOORT appointees held open during the reengineering review. Further underspends were the result of higher levels of staff turnover and delays in recruitment throughout the year and a significant decrease to the long service liability.

Operating expenses were under budget by \$678k. This was a result of lower than anticipated external legal expenses including substantially an uncommitted component relating to Patten Protected funding. There was also a one off ICT saving in relation to the Platform as a Service contract.

As the Commission draws down its recurrent and capital grants on an as needs basis and the reduction in the long service leave liabilities, revenue is also \$1.297m under budget.

Assets and liabilities

The total of net assets at 30 June 2018 was greater than the budget by \$1.708m. This is primarily due to total assets being higher than the budget, a result of a greater than anticipated cash balance at year end.

Total current assets were higher than the budget by \$1.827m due to a higher than anticipated cash balance at year end, and the reclassification of non-current assets held for sale.

Total non-current assets were lower than the budget by \$278k due to delays in capital acquisitions, and reclassifying land as held for sale.

Total current liabilities were lower than the budget by \$145k due to lower than expected operating accruals and employee related provisions.

Total non-current liabilities were slightly under budget by \$14k.

Cash flows

The cash flows from operating activities were higher than the budget by \$1.114m primarily due to underspends in employee-related and other expenses for the financial year.

The cash flows from investing activities were lower than the budget by \$252k due to project delays. This amount will be carried forward into the 2018-2019 financial year.

18. Reconciliation of Cash Flows from Operating Activities to Net Result

Reconciliation of cash flows from operating activities to the net result as reported in the Statement of Comprehensive Income as follows:

| | Consolidated | | Statutory Corporation | |
|---|----------------|----------------|-----------------------|----------------|
| | 2018 \$'000 | 2017 \$'000 | 2018 \$'000 | 2017 \$'000 |
| Net cash used on operating activities | 2,414 | 619 | 2,414 | 607 |
| Depreciation & amortisation | (1,365) | (1,649) | (1,365) | (1,649) |
| Adjustment for salary packaged vehicle lease | - | (12) | - | - |
| Decrease / (increase) in provisions | 4 | 30 | 7 | (33) |
| Increase / (decrease) in receivables and other assets | (63) | 15 | (63) | 27 |
| Decrease / (increase) in borrowings | - | 12 | - | - |
| Decrease / (increase) in creditors | 40 | (151) | 37 | (88) |
| Net gain / (loss) on sale of plant and equipment | (779) | 15 | (779) | 15 |
| Net result | 251 | (1,121) | 251 | (1,121) |

19. Administered Assets

As part of a previous operational practice during the course of criminal investigations, the Commission seized funds under various legislative powers, which were not a result of confiscations under the *Criminal Assets Recovery Act 1990*. These funds were received following activities such as search warrants, notices to produce and other activities. In some cases this included funds with no clear position as to its title or disposition. The funds were paid into an escrow account pending determination of such issues. The account is interest bearing and it is reconciled as to principal and interest on a regular basis. The balance is not treated as an asset of the Commission. These funds are administered by the New South Wales Trustee and Guardian. An amount of \$88k was being held on behalf of the Commission as at 30 June 2018 (\$86k as at 30 June 2017).

20. Financial Instruments

The Commission's principal financial instruments are outlined below. These financial instruments arise directly from the Commission's operations or are required to finance the Commission's operations. The Commission does not enter into or trade financial instruments for speculative purposes.

The Commission's main risks arising from financial instruments are outlined below, together with the Commission's objectives, policies and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout these Financial Statements.

The Commissioner has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the Commission, to set risk limits and controls and to monitor risks. Compliance with these policies is reviewed by the Audit and Risk Committee on a continuous basis. The Commission determines the classification of its financial assets and liabilities after initial recognition and, when allowed and appropriate, re-evaluates that at each year end.

(a) Financial instrument categories

| Financial Assets | Note | Category | Carrying Amount | |
|---------------------------|------|---|-----------------|--------|
| | | | 2018 | 2017 |
| | | | \$'000 | \$'000 |
| Class: | | | | |
| Cash and cash equivalents | 5 | N/A | 2,234 | 900 |
| Receivables ¹ | 6 | Loans and receivables at amortised cost | 91 | 73 |

| Financial Liabilities | Note | Category | Carrying Amount | |
|-----------------------|------|--|-----------------|--------|
| | | | 2018 | 2017 |
| | | | \$'000 | \$'000 |
| Class: | | | | |
| Payables ² | 11 | Financial liabilities measured at amortised cost | 367 | 424 |

Notes:

1. Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).
2. Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

(b) Derecognition of financial assets and financial liabilities

A financial asset is derecognised when the contractual rights to the cash flows from the financial assets expire; or if the Commission transfers the financial asset:

- where substantially all the risks and rewards have been transferred; or
- where the Commission has not transferred substantially all the risks and rewards, if the entity has not retained control

20. Financial Instruments (continued)

Where the Commission has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset continues to be recognised to the extent of the Commission's continuing involvement in the asset. In that case, the Commission also recognises an associated liability. The transferred asset and the associated liability are measured on a basis that reflects the rights and obligations that the Commission has retained.

Continuing involvement that takes the form of a guarantee over the transferred asset is measured at the lower of the original carrying amount of the asset and the maximum amount of consideration that the Commission could be required to repay.

A financial liability is derecognised when the obligation specified in the contract is discharged or cancelled or expires. When an existing financial liability is replaced by another from the same lender on substantially different terms, or the terms of an existing liability are substantially modified, such an exchange or modification is treated as the derecognition of the original liability and the recognition of a new liability. The difference in the respective carrying amounts is recognised in the net result.

(c) Offsetting financial instruments

Financial assets and financial liabilities are offset and the net amount is reported in the Statement of Financial Position if there is a currently enforceable legal right to offset the recognised amounts and there is an intention to settle on a net basis, or to realise the assets and settle the liabilities simultaneously.

(d) Financial risks

i. Credit Risk

Credit risk arises when there is the possibility that the counterparty will default on their contractual obligations, resulting in a financial loss to the Commission. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment).

Credit risk arises from the financial assets of the Commission, including cash and receivables. No collateral is held by the Commission. The Commission has not granted any financial guarantees.

Credit risk associated with the Commission's financial assets, other than receivables, is managed through the selection of counterparties and establishment of minimum credit rating standards.

Cash and cash equivalents

Cash comprises of cash on hand and bank balances within the New South Wales Treasury Banking System.

Receivables - trade debtors

All trade debtors are recognised as amounts receivable at balance date. Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. Debts which are known to be uncollectible are written off. An allowance for impairment is raised when there is objective evidence that the Commission will not be able to collect all amounts due. This evidence includes past experience, and current expected changes in economic conditions and debtor credit ratings. Minimal interest is earned on professional fees. Sales are made on 30 day terms.

The Commission is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors. Based on past experience, debtors that are not past due (2018: \$34k; 2017: \$32k) and less than 3 months past due (2018: \$41k; 2017: \$23k) are not considered impaired. Together, these represent 84% (2017: 75%) of the total trade debtors. No provision for doubtful debts have been recognised as all amounts are considered to be collectable.

20. Financial Instruments (continued)

| | 2018 \$'000 | 2017 \$'000 |
|---|----------------|----------------|
| Neither past due nor impaired | 34 | 32 |
| Past due but not impaired | | |
| < 3 months overdue | 41 | 23 |
| 3 months - 6 months overdue | 2 | - |
| > 6 months overdue | 13 | 18 |
| | 91 | 73 |
| Impaired | | |
| < 3 months overdue | - | - |
| 3 months - 6 months overdue | - | - |
| > 6 months overdue | - | - |
| | - | - |
| Total receivables - gross of allowance for impairment | - | - |

Notes:

1. Each column in the table reports "gross receivables"
2. The ageing analysis excludes statutory receivables, as these are not within the scope of AASB 7 and excludes receivables that are not past due and not impaired. Therefore the "total" will not reconcile to the receivables in Note 6 or 7.

ii. Liquidity risk

Liquidity risk is the risk that the Commission will be unable to meet its payment obligations when they fall due. The Commission continuously manages risk through monitoring future cash flows and maturities planning to ensure adequate holding of high quality liquid assets.

During the current and prior year, there were no defaults on any loans payable. No assets have been pledged as collateral. The Commission's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk.

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSW TC 11/12. For small business suppliers, where terms are not specified, payment is made not later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. For small business suppliers where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise.

The table below summarises the maturity profile of the Commission's financial liabilities, together with the interest rate exposure.

20. Financial Instruments (continued)

Maturity analysis and interest rate exposure of financial liabilities

| | Weighted Average Effective Int. Rate | \$'000 | | | Maturity Dates | | | |
|------------------------------|---|------------------------|---------------------------|------------------------------|-----------------------------|-------|---------|--------|
| | | Interest Rate Exposure | | | | | | |
| | | Nominal Amount | Fixed Interest Rate | Variable Interest Rate | Non- interest Bearing | <1 yr | 1-5 yrs | >5 yrs |
| 2018 | | | | | | | | |
| <i>Payables</i> ¹ | | 367 | - | - | 367 | 367 | - | - |
| | | 367 | - | - | 367 | 367 | - | - |
| 2017 | | | | | | | | |
| <i>Payables</i> ¹ | | 424 | - | - | 424 | 424 | - | - |
| | | 424 | - | - | 424 | 424 | - | - |

Notes:

1. The amounts disclosed are the contractual undiscounted cash flows of each class of financial liabilities based on the earliest date on which the Commission can be required to pay. The tables include both interest and principal cash flows and therefore will not reconcile to the statement of financial position.

iii. Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. The Commission's exposures to market risk are primarily through interest rate risk on the Commission's cash and cash equivalents. The Commission has no exposure to foreign currency risk and does not enter into commodity contracts.

The effect on profit and equity due to a reasonably possible change in risk variable is outlined in the information below, for the interest rate risk. A reasonably possible change in risk variable has been determined after taking into account the economic environment in which the entity operates and the time frame for the assessment (i.e. until the end of the next annual reporting period). The sensitivity analysis is based on risk exposures in existence at the statement of financial position date. The analysis is performed on the same basis as for 2017. The analysis assumes that all other variables remain constant.

Interest rate risk

A reasonably possible change of +/- 1% is used, consistent with current trends in interest rates. The basis will be reviewed annually and amended where there is a structural change in the level of interest rate volatility. The Commission's exposure to interest rate risk is set out below.

| | Carrying Amount | \$'000 | | | |
|---------------------------|--------------------|--------|--------|--------|--------|
| | | -1% | | 1% | |
| | | Profit | Equity | Profit | Equity |
| 2018 | | | | | |
| Financial Assets | | | | | |
| Cash and cash equivalents | 2,234 | (22) | (22) | 22 | 22 |
| 2017 | | | | | |
| Financial Assets | | | | | |
| Cash and cash equivalents | 900 | (9) | (9) | 9 | 9 |

20. Financial Instruments (continued)

(e) Fair value measurement

i. Fair value compared to carrying amount

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The fair value measurement is based on the presumption that the transaction to sell the asset or transfer the liability takes place either in the principal market for the asset or liability or in the absence of a principal market, in the most advantageous market for the asset or liability.

Financial instruments are generally recognised at cost. The amortised cost of financial instruments recognised in the statement of financial position approximates the fair value, because of the short term nature of many of the financial instruments.

21. Related Party Disclosures

The Commission's key management personnel compensation are as follows:

| | Consolidated | |
|------------------------------|--------------|--------|
| | 2018 | 2017 |
| | \$'000 | \$'000 |
| Short-term employee benefits | 2,107 | 2,298 |
| Total Remuneration | 2,107 | 2,298 |

The Statutory Corporation received \$2.1m in respect of key management personnel services provided by the NSW Crime Commission Staff Agency.

The Commission did not enter into any transactions including any on arm's length terms and conditions with key management personnel, their close family members and controlled or jointly controlled entities thereof.

The Commission entered into transactions with other entities that are controlled/ jointly controlled/ significantly influenced by NSW Government. These transactions are a significant portion of the entity's rendering of services.

| Income | | |
|---------------------------------------|--------|--------|
| New South Wales Department of Justice | 26,482 | 24,846 |
| Expenditure | | |
| Treasury Managed Fund | 97 | 98 |
| Legal Aid NSW | - | 200 |
| Property NSW | 2,266 | 2,035 |

22. Events after the Reporting Period

There have been no significant events after the reporting period which would materially affect these financial statements.

End of audited financial statements.

**NEW SOUTH WALES CRIME COMMISSION STAFF AGENCY
FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2018**

New South Wales Crime Commission Staff Agency

**Financial Statements for the
year ended 30 June 2018**

STATEMENT BY COMMISSIONER

Pursuant to section 45F of the *Public Finance and Audit Act 1983*, I state that:

- (a) The accompanying financial statements and notes have been prepared in accordance with:
- applicable Australian Accounting Standards (which include Australian Accounting Interpretations)
 - the requirements of the *Public Finance and Audit Act 1983* and *Public Finance and Audit Regulation 2015* and Treasurer's Directions.
- (b) The statements present a true and fair view of the financial position as at 30 June 2018 and financial performance of the New South Wales Crime Commission Staff Agency for the year then ended.
- (c) There are no circumstances that would render any particulars included in the Financial Statements misleading or inaccurate.



Peter Bodor, QC
Commissioner

Dated: 17 September 2018



INDEPENDENT AUDITOR'S REPORT

New South Wales Crime Commission Staff Agency

To Members of the New South Wales Parliament

Opinion

I have audited the accompanying financial statements of the New South Wales Crime Commission Staff Agency (the Staff Agency), which comprise the Statement of Comprehensive Income for the year ended 30 June 2018, the Statement of Financial Position as at 30 June 2018, the Statement of Changes in Equity and the Statement of Cash Flows, for the year then ended, notes comprising a Summary of Significant Accounting Policies and other explanatory information.

In my opinion, the financial statements:

- give a true and fair view of the financial position of the Staff Agency as at 30 June 2018, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (PF&A Act) and the Public Finance and Audit Regulation 2015.

My opinion should be read in conjunction with the rest of this report.

Basis for Opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under the standards are described in the 'Auditor's Responsibilities for the Audit of the Financial Statements' section of my report.

I am independent of the Staff Agency in accordance with the requirements of the:

- Australian Auditing Standards
- Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants' (APES 110).

I have fulfilled my other ethical responsibilities in accordance with APES 110.

Parliament promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies
- precluding the Auditor-General from providing non-audit services.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Other Information

Other information comprises the information included in the Staff Agency's annual report for the year ended 30 June 2018, other than the financial statements and my Independent Auditor's Report thereon. The Commissioner of the Staff Agency is responsible for the other information. At the date of this Independent Auditor's Report, the other information I have received comprises the Statement by the Commissioner.

My opinion on the financial statements does not cover the other information. Accordingly, I do not express any form of assurance conclusion on the other information.

In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

If, based on the work I have performed, I conclude there is a material misstatement of the other information, I must report that fact.

I have nothing to report in this regard.

The Commissioner's Responsibilities for the Financial Statements

The Commissioner is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards and the PF&A Act, and for such internal control as the Commissioner determines is necessary to enable the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Commissioner is responsible for assessing the Staff Agency's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting except where the Staff Agency's operations will cease as a result of an administrative restructure.

Auditor's Responsibilities for the Audit of the Financial Statements

My objectives are to:

- obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error
- issue an Independent Auditor's Report including my opinion.

Reasonable assurance is a high level of assurance, but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.

A description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: www.auasb.gov.au/auditors_responsibilities/ar4.pdf. The description forms part of my auditor's report.

My opinion does not provide assurance:

- that the Staff Agency carried out its activities effectively, efficiently and economically
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented
- about any other information which may have been hyperlinked to/from the financial statements.



Nathan Carter
Director, Financial Audit Services

26 September 2018
SYDNEY

Start of audited financial statements.

NEW SOUTH WALES CRIME COMMISSION STAFF AGENCY

Statement of comprehensive income for the year ended 30 June 2018

| | | Actual 2018 \$'000 | Actual 2017 \$'000 |
|---|-------|--------------------------|--------------------------|
| | Notes | | |
| Expenses excluding losses | | | |
| Employee related | 2 | 16,129 | 17,732 |
| Total Expenses excluding losses | | 16,129 | 17,732 |
| Revenue | | | |
| Personnel Services - NSW Crime Commission | | 15,837 | 16,986 |
| Acceptance by the Crown Entity of employee benefits and other liabilities | | 292 | 746 |
| Total revenue | | 16,129 | 17,732 |
| Net result | | - | - |
| Other comprehensive income | | - | - |
| TOTAL COMPREHENSIVE INCOME | | - | - |

The accompanying notes form part of these financial statements.

NEW SOUTH WALES CRIME COMMISSION STAFF AGENCY

Statement of Financial Position as at 30 June 2018

| | Notes | Actual 2018 \$'000 | Actual 2017 \$'000 |
|--------------------------------------|-------|--------------------------|--------------------------|
| ASSETS | | | |
| Current Assets | | | |
| Receivables | 3 | 1,789 | 1,796 |
| Total Current Assets | | 1,789 | 1,796 |
| Total Assets | | 1,789 | 1,796 |
| LIABILITIES | | | |
| Current Liabilities | | | |
| Payables | 4 | 60 | 63 |
| Provisions | 5 | 1,678 | 1,687 |
| Total Current Liabilities | | 1,738 | 1,750 |
| Non-Current Liabilities | | | |
| Provisions | 6 | 51 | 46 |
| Total Non-Current Liabilities | | 51 | 46 |
| Total Liabilities | | 1,789 | 1,796 |
| Net Assets | | - | - |
| EQUITY | | | |
| Accumulated funds | | - | - |
| Total Equity | | - | - |

The accompanying notes form part of these financial statements.

NEW SOUTH WALES CRIME COMMISSION STAFF AGENCY

Statement of Changes in Equity for the year ended 30 June 2018

| | Accumulated | |
|--|--------------------|---------------|
| | Funds | Total |
| | \$'000 | \$'000 |
| Balance at 1 July 2017 | | |
| Net result for the year | - | - |
| Other comprehensive income: | - | - |
| Total other comprehensive income | - | - |
| Total comprehensive income for the year ending 30 June 2018 | - | - |
| Balance at 1 July 2016 | | |
| Net result for the year | - | - |
| Other comprehensive income: | - | - |
| Total other comprehensive income | - | - |
| Total comprehensive income for the year ending 30 June 2017 | - | - |

The accompanying notes form part of these financial statements.

NEW SOUTH WALES CRIME COMMISSION STAFF AGENCY

Statement of Cash Flows for the year ended 30 June 2018

| | Actual 2018 \$'000 | Actual 2017 \$'000 |
|---|--------------------------|--------------------------|
| Notes | | |
| CASH FLOWS FROM OPERATING ACTIVITIES | | |
| Payments | | |
| Employee related | (16,129) | (17,732) |
| Total Payments | (16,129) | (17,732) |
| Receipts | | |
| Cash reimbursements from the Crown Entity | 292 | 746 |
| Other - NSW Crime Commission | 15,837 | 16,986 |
| Total Receipts | 16,129 | 17,732 |
| NET CASH FLOWS FROM OPERATING ACTIVITIES | - | - |
| CASH FLOWS FROM INVESTING ACTIVITIES | | |
| NET CASH FLOWS FROM INVESTING ACTIVITIES | - | - |
| CASH FLOWS FROM FINANCING ACTIVITIES | | |
| NET CASH FLOWS FROM FINANCING ACTIVITIES | - | - |
| NET INCREASE / (DECREASE) IN CASH AND CASH EQUIVALENTS | - | - |
| Opening cash and cash equivalents | - | - |
| CLOSING CASH AND CASH EQUIVALENTS | - | - |

The accompanying notes form part of these financial statements.

1. Summary of Significant Accounting Policies

(a) Reporting entity

The New South Wales Crime Commission Staff Agency (the Staff Agency) is a NSW Government Entity, established pursuant to the *Government Sector Employment Act 2013*. It is a not-for-profit entity (as profit is not its principal objective). It is consolidated as part of the New South Wales Crime Commission's accounts. It is domiciled in Australia and its principal office is 453 - 463 Kent Street, Sydney.

The Staff Agency is a controlled entity of the New South Wales Crime Commission.

The Staff Agency's objective is to provide personnel services to the New South Wales Crime Commission.

The financial statements for the year ending 30 June 2018 was authorised for issue by the Commissioner on 17 September 2018.

(b) Basis of preparation

The Staff Agency's financial statements are general purpose financial statements which have been prepared on an accruals basis and in accordance with:

- applicable Australian Accounting Standards (AAS) (which include Australian Accounting Interpretations)
- the requirements of the *Public Finance and Audit Act 1983* and *Public Finance and Audit Regulation 2015* and
- the Financial Reporting Directions mandated by the Treasurer.

Generally, the historical cost basis of accounting has been adopted and the financial statements do not take into account changing money values or current valuations. However, certain provisions are measured at other than historical cost. See Notes 5 and 6.

Judgements, key assumptions and estimations management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency, which is the Staff Agency's presentation and functional currency.

(c) Statement of compliance

The financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

(d) Income recognition

Income is measured at the fair value of the consideration or contribution received or receivable. Income from the rendering of personnel services is recognised when the service is provided and only to the extent that the associated recoverable expenses are recognised.

(e) Financial instruments

A financial instrument is any contract that gives rise to a financial asset of one entity and a financial liability or equity instrument of another entity.

Financial assets and financial liabilities are initially measured at fair value. Transaction costs that are directly attributable to the acquisition or issue of financial assets and financial liabilities (other than financial assets and financial liabilities at fair value through profit or loss) are added to or deducted from the fair value of the financial assets or financial liabilities, as appropriate, on initial recognition. The Staff Agency did not hold any of these types of assets as at 30 June 2018 or 2017. Transaction costs directly attributable to the acquisition of financial assets or financial liabilities at fair value through profit or loss are recognised immediately in net result.

The Staff Agency determines the classification of its financial assets and liabilities after initial recognition and, when allowed and appropriate, re-evaluates this at each financial year end.

(i) Financial assets

• Loans and receivables

Receivables and loans that have fixed or determinable payments that are not quoted in an active market are classified as loans and receivables. Loans and receivables are measured at amortised cost using the effective interest method, less any impairment.

1. Summary of Significant Accounting Policies (continued)

Short-term receivables with no stated interest rate are measured at the original invoice amount unless the effect of discounting is material.

(ii) Financial liabilities

Financial liabilities are classified as either 'at fair value through profit or loss' or 'at amortised cost'.

• Financial liabilities at amortised cost (including borrowings and trade payables)

Financial liabilities at amortised cost are initially measured at fair value, net of transaction costs. These are subsequently measured at amortised cost using the effective interest method, with interest expense recognised on an effective yield basis. Gains and losses are recognised in net result when the liabilities are derecognised as well as through the amortisation process.

Payables represent liabilities for goods and services provided to the Staff Agency and other amounts. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

(f) Comparative information

Except when an AAS permits or requires otherwise, comparative information is presented in respect of the previous period for all amounts reported in the financial statements.

(g) Changes in accounting policies, including new or revised AAS

(i) Effective for the first time in 2017-18

The accounting policies applied in 2017-18 are consistent with those of the previous financial year except as a result of the following new or revised AAS that have been applied for the first time in 2017-18.

- *AASB 2016-2 Amendments to Australian Accounting Standards - Disclosure Initiative: Amendments to AASB 107*
- *AASB 2016-4 Amendments to Australian Accounting Standards - Recoverable Amount of Non-Cash-Generating Specialised Assets of Not-for-Profit Entities*
- *AASB 2016-7 Amendments to Australian Accounting Standards - Deferral of AASB 15 for Not-for-Profit Entities*
- *AASB 2017-2 Amendments to Australian Accounting Standards - Further Annual Improvements 2014-2016 Cycle*

The implementation of the above standards do not materially impact the financial statements.

(ii) Issued but not yet effective

NSW public sector entities are not permitted to early adopt new AAS, unless Treasury determines otherwise.

The following new AAS have not been applied and are not yet effective:

- *AASB 9 Financial Instruments*
- *AASB 1058 Income of Not-for-profit Entities*
- *AASB 2016-8 Amendments to Australian Accounting Standards - Australian Implementation Guidance for Not-for-Profit Entities*

The possible impact of these standards in the period of initial application are not expected to materially impact the financial statements.

2. Expenses Excluding Losses

| | 2018 | 2017 |
|---|---------------|---------------|
| | \$'000 | \$'000 |
| Employee related expenses | | |
| Salaries and wages (including annual leave) | 13,536 | 14,644 |
| Superannuation - defined benefit plans | 94 | 102 |
| Superannuation - defined contribution plans | 1,165 | 1,233 |
| Long service leave | 255 | 632 |
| Workers' compensation insurance | 73 | 73 |
| Payroll tax and fringe benefit tax | 827 | 938 |
| Other | 179 | 110 |
| | <u>16,129</u> | <u>17,732</u> |

3. Current Assets - Receivables

| | | |
|----------------------|--------------|--------------|
| NSW Crime Commission | 1,789 | 1,796 |
| | <u>1,789</u> | <u>1,796</u> |

Details regarding credit risk, liquidity risk and market risk including financial assets that are neither due nor impaired are disclosed in Note 10.

4. Current Liabilities - Payables

| | | |
|--------------------------------------|-----------|-----------|
| Accrued salaries, wages and on-costs | 60 | 63 |
| | <u>60</u> | <u>63</u> |

Details regarding liquidity risk, including a maturity analysis of the above payables are disclosed in Note 10.

5. Current Liabilities - Provisions

Employee benefits and related on-costs

| | | |
|-----------------------------|--------------|--------------|
| Annual leave | 1,091 | 1,155 |
| Long service leave on-costs | 587 | 532 |
| | <u>1,678</u> | <u>1,687</u> |

Aggregate employee benefits and related on-costs

| | | |
|---|--------------|--------------|
| Expected to be settled within 12 months | 978 | 1,050 |
| Expected to be settled after 12 months | 700 | 637 |
| | <u>1,678</u> | <u>1,687</u> |

6. Non-Current Liabilities - Provisions

Employee benefits and related on-costs

| | | |
|-----------------------------|-----------|-----------|
| Long service leave on-costs | 51 | 46 |
| | <u>51</u> | <u>46</u> |

6. Non-Current Liabilities - Provisions (continued)

| | 2018 | 2017 |
|---|--------------|--------------|
| | \$'000 | \$'000 |
| Aggregate employee benefits and related on-costs | | |
| Provisions - current | 1,678 | 1,687 |
| Provisions - non-current | 51 | 46 |
| Accrued salaries, wages and on-costs (Note 4) | 60 | 63 |
| | <u>1,789</u> | <u>1,796</u> |

Recognition and Measurement

Employee benefits and related on-costs

Salaries and wages (including non-monetary benefits) and paid sick leave that are expected to be settled wholly within 12 months after the end of the period in which the employees render the service are recognised and measured at the undiscounted amounts of the benefits.

Annual leave is not expected to be settled wholly before twelve months after the end of the annual reporting period in which the employees render the related service. As such, it is required to be measured at present value in accordance with AASB 119 *Employee Benefits* (although short-cut methods are permitted).

Actuarial advice obtained by Treasury has confirmed that using the nominal annual leave balance plus the annual leave entitlements accrued while taking annual leave (calculated using 9.29% of the nominal value of annual leave) can be used to approximate the present value of the annual leave liability. The Staff Agency has assessed the actuarial advice based on the Staff Agency's circumstances and has determined that the effect of discounting is immaterial to annual leave. All annual leave is classified as a current liability even where the Staff Agency does not expect to settle the liability within 12 months as the Staff Agency does not have an unconditional right to defer settlement.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

Long service leave and superannuation

The Staff Agency's liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. The Staff Agency accounts for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as 'Acceptance by the Crown Entity of employee benefits and other liabilities'.

Long service leave is measured at the present value of expected future payments to be made in respect of services provided up to the reporting date. Consideration is given to certain factors based on actuarial review, including expected future wage and salary levels, experience of employee departures, and periods of service. Expected future payments are discounted using Commonwealth government bond rate at the reporting date.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (i.e. Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (i.e. State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

Consequential on-costs

Consequential costs to employment are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised. This includes outstanding amounts of payroll tax, workers' compensation insurance premiums and fringe benefits tax.

7. Commitments for Expenditure

There are no capital or operating lease commitments at year end.

8. Contingent Liabilities

The Staff Agency is not aware of any contingent liabilities that will materially affect its financial position as at the reporting date (2017: nil).

9. Contingent Assets

The Staff Agency is not aware of any contingent assets that will materially affect its financial position as at the reporting date (2017: nil).

10. Financial Instruments

The Staff Agency's principal financial instruments are outlined below. These financial instruments arise directly from the Staff Agency's operations or are required to finance the Staff Agency's operations. The Staff Agency does not enter into or trade financial instruments, including derivative financial instruments for speculative purposes.

The Staff Agency's main risks arising from financial instruments are outlined below, together with the Staff Agency's objectives, policies and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout these Financial Statements.

The Commissioner has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the Staff Agency, to set risk limits and controls and to monitor risks. Compliance with policies is reviewed by the Internal Audit and Risk Committee on a continuous basis.

(a) Financial instrument categories

| Financial Assets | Note | Category | Carrying Amount | Carrying Amount |
|--------------------------|-------------|---|------------------------|------------------------|
| | | | 2018 | 2017 |
| | | | \$'000 | \$'000 |
| Receivables ¹ | 3 | Loans and receivables at amortised cost | 1,789 | 1,796 |

| Financial Assets | Note | Category | Carrying Amount | Carrying Amount |
|-------------------------|-------------|--|------------------------|------------------------|
| | | | 2018 | 2017 |
| | | | \$'000 | \$'000 |
| Payables ² | 4 | Financial liabilities measured at amortised cost | 60 | 63 |

Notes

1. Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

2. Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

(b) Financial risks

i. Credit Risk

Credit risk arises when there is the possibility that the counterparty will default on their contractual obligations, resulting in a financial loss to the Staff Agency. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment).

Credit risk arises from the financial assets of the Staff Agency, solely receivables. No collateral is held by the Staff Agency. The Staff Agency has not granted any financial guarantees as it is managed by the New South Wales Crime Commission.

Receivables - trade debtors

Receivables are primarily from the NSW Crime Commission and Employee Debtors. As such, there is no credit risk or interest risk in relation to these balances. The carrying amount approximates fair value.

10. Financial Instruments (continued)

ii. Liquidity risk

Liquidity risk is the risk that the Staff Agency will be unable to meet its payment obligations when they fall due. The Staff Agency continuously manages risk through monitoring future cash flows, planning to ensure adequate holding of high quality liquid assets.

During the current and prior year, there were no defaults of loans payable. No assets have been pledged as collateral. The Staff Agency's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment risk.

iii. Market risk

Market risk is a risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. The Staff Agency has no exposure to market risk as no borrowings or cash are held by the Staff Agency.

(c) Fair value measurement

Fair value compared to carrying amount

Financial instruments are generally recognised at cost. The amortised cost of financial instruments recognised in the statement of financial position approximates the fair value, because of the short term nature of many of the financial instruments.

10. Related Party Disclosures

The Staff Agency's key management personnel compensation are as follows:

| | 2018 | 2017 |
|------------------------------|--------------|--------------|
| | \$'000 | \$'000 |
| Short-term employee benefits | 2,107 | 2,298 |
| Total Remuneration | <u>2,107</u> | <u>2,298</u> |

The Staff Agency did not enter into any transactions including any on arm's length terms and conditions with key management personnel, their close family members and controlled or jointly controlled entities thereof.

The Staff Agency entered into transactions with other entities that are controlled/ jointly controlled/ significantly influenced by NSW Government. These transactions in aggregate are a significant portion of the Staff Agency's rendering of services to the NSW Crime Commission.

11. Events after the Reporting Period

There have been no significant events after the reporting period, which would materially affect these financial statements.

End of audited financial statements.

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