

Annual Report

2019-20



New South Wales
Crime Commission

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Disclaimer: The information contained in this Annual Report is based on the knowledge and understanding of relevant persons at the time of writing, October 2020. All persons using or accessing the information in this Annual Report should ensure that the information upon which they rely is up-to-date and checked with the appropriate officer of the New South Wales Crime Commission.

The Crime Commission Act 2012 provides the Minister with authority to give directions on the manner and time in which this Annual Report is prepared. Due to the Covid-19 pandemic, external agency information pertinent to the production of this Annual Report was delayed and resulted in a later submission date to the Minister's Office. The production of the Annual Report was coordinated by the Governance Unit and no external costs were incurred. Following the tabling of this Annual Report in Parliament, it will be available for public access from the Commission's website (www.crimecommission.nsw.gov.au) and OpenGov NSW (www.opengov.nsw.gov.au).



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The Hon. David Elliott MP
Minister for Police and Emergency Services
52 Martin Place
SYDNEY NSW 2000

Dear Minister

RE: ANNUAL REPORT FOR 2019-20

The Management Committee received and noted the Annual Report of the New South Wales Crime Commission 2019-20. Pursuant to section 82 of the *Crime Commission Act 2012* the report is transmitted to you with this letter.

Yours sincerely

The Hon. Anthony Whealy QC
Chairperson – Management Committee



The Hon. David Elliott MP
Minister for Police and Emergency Services
52 Martin Place
SYDNEY NSW 2000

Dear Minister

RE: ANNUAL REPORT FOR 2019-20

In accordance with the *Annual Reports (Departments) Act 1985*, the *Annual Reports (Departments) Regulation 2015* and the *Public Finance and Audit Act 1983*, it is my pleasure to submit to you the New South Wales Crime Commission Annual Report 2019-20 for presentation in Parliament.

Due to the Covid-19 pandemic, external agency information pertinent to the production of this Annual Report was delayed and the report is therefore submitted two weeks later than usual.

This Annual Report outlines the achievements made for the 2019-20 financial year, which were made possible by the hard work and commitment of New South Wales Crime Commission officers.

In accordance with section 82 of the *Crime Commission Act 2012*, the report has been furnished to the New South Wales Crime Commission Management Committee. A copy of the report will also be transmitted to the New South Wales Treasurer.

Yours sincerely

Peter Cotter APM
Commissioner

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THE COMMISSIONER'S FOREWORD

It is with great pride that I write this foreword to round off an extremely successful year for the New South Wales Crime Commission. Our mandate has always been to target, combat and disrupt organised and serious criminal activity in New South Wales backed by the full extent of the law and this year has produced significant achievements to meet these ends.

Working with our State and Commonwealth law enforcement partners, our analytical staff made valuable contributions to joint investigations to strip money launderers, drug producers and suppliers and murderers of their destructive impacts on the people of New South Wales. One such highlight was the dismantling of a drug distribution syndicate operating within the Dubbo region that will have an everlasting impact on the health and safety of communities in greater New South Wales.

The Commission had a record breaking year in asset confiscation with the estimated realisable value of confiscation orders totalling over \$30 million. Nearly \$40 million was returned to New South Wales Treasury that will go towards strategies to tackle crime and their damaging effects, assist law enforcement, provide for victims of crime and to rehabilitate.

The Commission continued to foster its partnerships with our law enforcement counterparts, in particular the New South Wales Police Force and the Australian Federal Police. Our commitment to maintaining these strong and supportive ties with our allies has allowed the Commission to add our expertise to the fight against organised and serious crime.

It has been a privilege to work with the dedicated staff of the Commission who are immensely talented in areas of law, asset confiscation, criminal investigation, governance and corporate responsibilities. It has been a unique year for staff on many fronts in dealing with an unprecedented health pandemic. In the face of this, they have demonstrated great resilience and strength of character to balance personal responsibilities with professional conduct, which has allowed the Commission to operate business as usual.

I thank staff for their contribution this year, especially my Executive Team who have provided strong leadership, ethical decision making and candid advice. I am also grateful for the support and governance of the Commission's Management Committee including the distinguished service of long time board member and now retired Australian Federal Police Commissioner, Andrew Colvin OAM APM and its Chairperson, Mr Anthony Whealy QC.

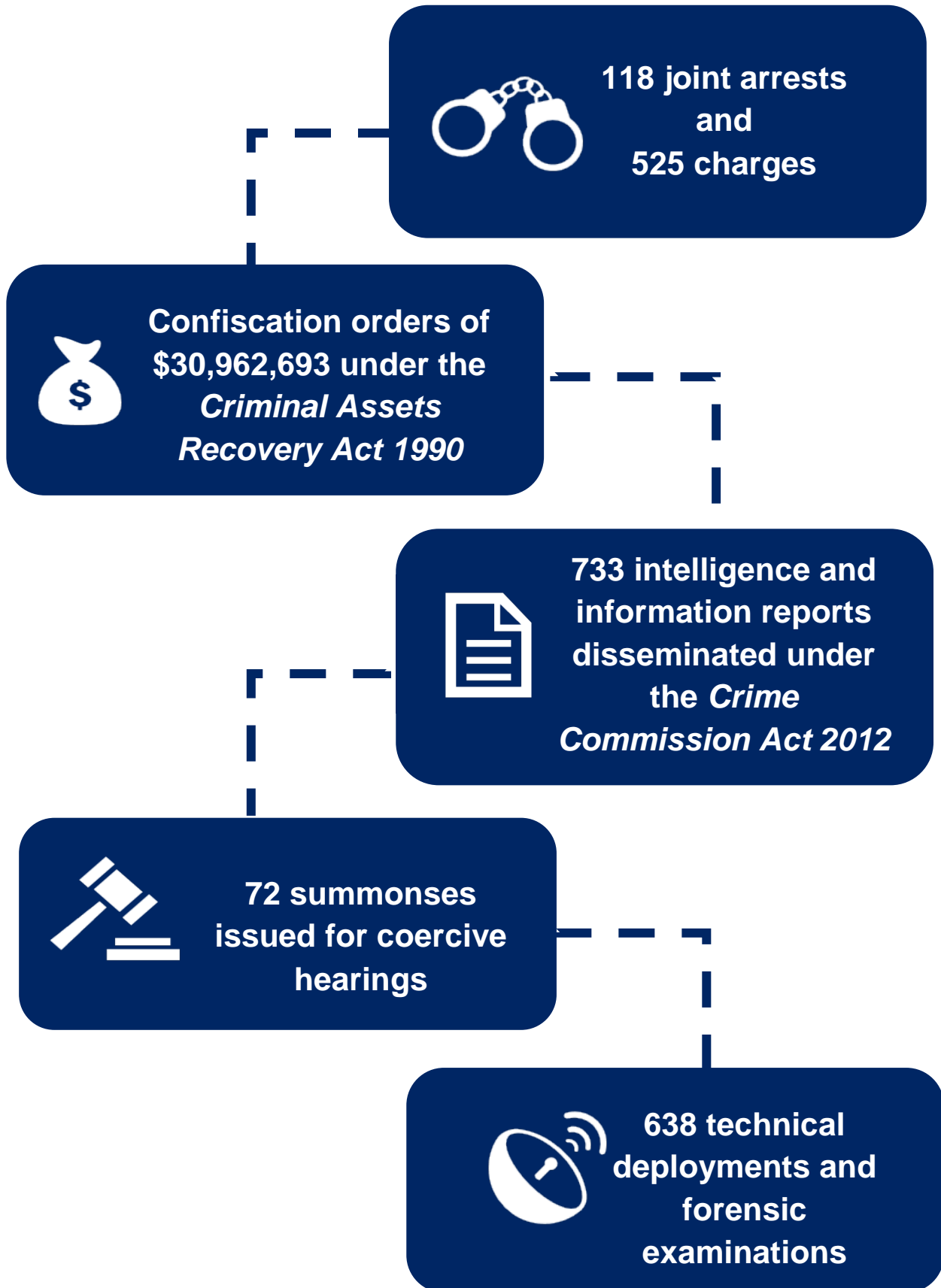
As my tenure as Commissioner comes to a close, I thank those people who have supported me. It has been my honour and sincere pleasure to have led an organisation that has achieved such outstanding results and is committed to fighting crime and keeping NSW safe. I warmly welcome Mr Michael Barnes as the new Commissioner and wish him all the best in his new role.



Peter Cotter APM
Commissioner



OUR HIGHLIGHTS 2019-20



CHAPTER ONE – NSW CRIME COMMISSION OVERVIEW

The New South Wales Crime Commission (the Commission) is constituted as a corporation under the *Crime Commission Act 2012* (the CC Act). First established as the State Drug Crime Commission in 1986, the Commission was later officially renamed the New South Wales Crime Commission, as it is known today.

The CC Act provides a mandate for the Commission to reduce the incidence of organised and other serious crime for a safer New South Wales (NSW). The Commission also exercises its functions under the *Criminal Assets Recovery Act 1990* (the CAR Act) to ensure that persons involved in criminal activity do not retain the proceeds or benefits of their crimes.

To fulfil its functions and objectives, the Commission consists of a Criminal Investigations Division (CID), Financial Investigations Division (FID), Corporate Services Division (CSD), Governance Unit and Legal Services Team. Details on the Commission's organisation structure as at 30 June 2020 is found at Appendix F.

During the 2019-20 reporting period, Mr Peter Cotter APM was Commissioner and Mr Peter Bodor QC was the Assistant Commissioner (Legal).

Functions and Objectives

The Commission aims to discharge its functions in a lawful, ethical and economical way. The principal functions of the Commission under the CC Act are:

- to investigate matters relating to 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 Office of the Director of Public Prosecutions (ODPP)
- 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 functions of the Commission under 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.

Management and Structure

Responsible Minister

During the reporting period, the administration of the CC Act and the CAR Act was assigned to the Hon. David Elliott MP, Minister for Police and Emergency Services.

Commissioner and Assistant Commissioner (Legal)

Mr Peter Cotter APM

With 36 years of policing experience, Mr Peter Cotter APM has worked in the major crime domains of homicide, armed robbery, extortion, kidnap for ransom, fraud, sexual assault and abuse of children as a practitioner, manager, and ultimately senior manager, Commander and Director. Prior to his appointment as Commissioner, Mr Cotter had been the Commander and Assistant Commissioner of the Forensic Evidence and Technical Services Command within the New South Wales Police Force (NSWPF). Mr Cotter holds a Bachelor of Laws Degree with Honours and is admitted as a Legal Practitioner in New South Wales (NSW). He also holds an Associate Diploma in Criminal Justice (Police). In the 2008 Australia Day Honours, Mr Cotter was awarded the Australian Police Medal for distinguished service.

Mr Peter Bodor QC

Mr Peter Bodor QC was admitted as a barrister in 1976 and appointed as Queen's Counsel in 1988. Prior to his appointment, Mr Bodor's career focused predominantly on criminal law trials, appeals and associated proceedings as both prosecutor and defender across the gamut of serious criminal offences in various Australian States and Territories and internationally. He also practised extensively in Royal Commissions, Commissions of Inquiry, Coronial Inquiries and at the Independent Commission Against Corruption. Mr Bodor also frequently advised and appeared as leading counsel to act on behalf of the NSWPF and other government agencies 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 his appointment as Commissioner from 8 November 2017 for 12 months whereupon Mr Bodor resumed his role as Assistant Commissioner (Legal).

Executive Team

The Commission's Executive Team as at 30 June 2020 consisted of the Commissioner, one Assistant Commissioner (Legal), one Executive Director (Criminal Investigations), one Executive Director (Financial Investigations), one Executive Director (Corporate Services) and one Internal Audit and Risk Manager (Governance). These officers were responsible for the management of the Commission and met monthly throughout the year.

The Executive Structure as at 30 June 2020 is found at Appendix G.

Management Committee

Functions

The Management Committee and its membership is constituted under subsections 49(1) and 50(1) of the CC Act respectively. Under section 51 of the Act, 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

During the reporting period, the Management Committee included:

- Chairperson, The Hon. Anthony Whealy QC (1 July 2019 to 30 June 2020)
- Commissioner of the NSW Crime Commission, Mr Peter Cotter APM (1 July 2019 to 30 June 2020)
- Commissioner of the NSW Police Force, Mr Michael Fuller APM (1 July 2019 to 30 June 2020)
- Chair of the Board of the Australian Criminal Intelligence Commission and Commissioner of the Australian Federal Police, Mr Andrew Colvin OAM APM (1 July 2019 to 17 September 2019)
- Chair of the Board of the Australian Criminal Intelligence Commission and Commissioner of the Australian Federal Police, Mr Reece Kershaw APM (19 November 2019 to 30 June 2020)

- Deputy Secretary Law Reform and Legal Services, Department of Communities and Justice, Ms Kathrina Lo (1 July 2019 to 18 February 2020)
- Acting Deputy Secretary Law Reform and Legal Services, Department of Communities and Justice, Mr Paul McKnight (19 May 2020 to 30 June 2020).

The Chairperson is appointed for a period of up to three years and is eligible for re-appointment after this time. Tenure for members is consistent with the term of appointment for his or her role.

Activities

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

The Management Committee referred 12 new matters to the Commission for investigation: seven homicide cases, three investigations into the importation and supply of prohibited drugs/money laundering activities, one investigation into kidnap for ransom and one investigation into destruction by fire.

The Management Committee authorised the renewal of 17 existing references and discontinued 10 references.

References Granted

Table 1

References Granted 2019-20			
Kain	Lockhart	Marlow	Northwood
Oban	Plumpton	Quidong	Rozelle
Tichborne	Ungarie	Viewmont	Windy

References Renewed

Table 2

References Renewed 2019-20			
Abbotsford	Blackwall	Crosslands	Dudley
Ebor	Eureka	Greta	Henley
Howlong	Indi	Kain	Kinchela
Nebraska	Osborne	Sherwood	Tallwood
Urana			

References Discontinued

Table 3

References Discontinued 2019-20			
Freshwater	Jennings	Jiliby	Lovedale
Minnesota	Sandgate II	Valla	Waterfall
Wayo	Yenda		

Statutory Review of the CC Act

Section 88 of the CC Act requires the Minister for Police and Emergency Services to undertake a review of the Act as soon as possible after a period of five years from its commencement date. The Commission and other stakeholders actively engaged with the review. The Commission made written submissions in response to a discussion paper produced by the Department of Communities and Justice (DCJ). In December 2019, the Minister's Office prepared a draft report that contained a number of recommendations for amendments to the CC Act. The Commission had no concerns about any of the proposed amendments. It is understood the report will go to Cabinet for consideration in the near future.

CHAPTER TWO – CRIMINAL INVESTIGATIONS DIVISION

The Commission's CID is responsible for discharging the criminal investigation functions under the CC Act. The Division's work is generally conducted in co-operation with one or more State or Commonwealth law enforcement agencies, which have the primary responsibility to undertake such investigations pursuant to a Management Committee Reference or a Joint Investigation Agreement.

The Commission may provide services such as coercive hearings, technical surveillance, human source tasking, analytical research and intelligence support to assist partner agencies in investigations.

Two investigative teams work closely with the NSWPF Organised Crime Squad (OCS) and one Homicide and Serious Crime Team works in conjunction with the NSWPF Homicide Squad. Investigative teams may also, on occasion, work with officers from a NSW Police Area Command (PAC) or District Area Command. The Commission has a small component of three analysts and a linguist attached to and located with the Joint Counter Terrorism Team (JCTT) and there is a Human Source Team and Intelligence Development Unit, which are primarily intelligence gathering units, to assist in current investigations and to identify emerging criminal groups or identities.

The CID Capability Team provides support to investigations through the provision of technical assistance and surveillance, forensic examination of computers and mobile phones, and the provision of electronic surveillance monitoring. The Warrant Administration Team facilitates the telecommunications interception process.

Officers from other agencies, including the Australian Federal Police (AFP), Department of Home Affairs (Home Affairs), Australian Criminal Intelligence Commission (ACIC) and 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, Australian Border Force (ABF) officers worked on-site at the Commission and made an invaluable contribution to the success of Commission investigations.

Participation in Joint Task Forces

During 2019-20 the Commission participated in four primary multi-agency task forces as well as other one-off joint task force agreements with the NSWPF Homicide Squad, Drugs and Firearms Squad, Criminal Groups Squad, and the AFP, ABF and ACIC.

Fintel Alliance

Led by AUSTRAC, Fintel Alliance is a public/private partnership between 28 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 and serious crime in NSW. In addition to providing the OCS with analytical services, the Commission also offers financial analysis, technical and linguistic support and access to the Commission's statutory powers.

Joint Counter Terrorism Team

Formally established in December 2007, the JCTT comprises officers from the AFP, NSWPF, Commission and the Australian Security and Intelligence Organisation (ASIO). Counter terrorism investigations are led by either the AFP or 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.

Joint Analyst Group

Led by the ACIC, the Joint Analyst Group (JAG) comprises intelligence analysts from the ACIC, NSWPF, AUSTRAC, Australian Taxation Office (ATO), Department of Home Affairs and the Commission. The JAG gathers intelligence to identify and profile regional priority organised crime targets, and prepares thematic and strategic intelligence reports informed by collective agency holdings.

Use of Statutory Powers and Authority

During the reporting period, the Commission exercised its powers under the CC Act and the CAR Act to discharge its functions. The powers conferred by the CC Act are 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:

- *Law Enforcement (Controlled Operations) Act 1997* (NSW) (LECO Act), which provides for authorisation of controlled operations involving what would otherwise be unlawful conduct
- *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW) (LEPR Act), which grants the Commission the authority to apply for a covert search warrant
- *Law Enforcement and National Security (Assumed Identities) Act 2010* (NSW) (LENSAI Act), which provides for the creation and use of assumed identities
- *Surveillance Devices Act 2007* (NSW) (SD Act), which provides for the use of surveillance devices (listening, optical, data and tracking devices) pursuant to a warrant
- *Telecommunications (Interception and Access) Act 1979* (Cth) (TIA Act), which provides for the interception, pursuant to a warrant, of certain telecommunications (e.g. telephone calls); for access to certain stored communications (e.g. SMS); and for access, pursuant to authorisation, to certain telecommunications data.

The figures in Table 4 relate to the CID and FID aspects of the Commission's work. Tables 5 to 10 set out how often the Commission exercised its statutory powers and authorities under other

legislation during 2019-20. Statistics on applications made by the Commission pursuant to the provisions of the CAR Act during the reporting period is found in Table 15 of this Annual Report.

Crime Commission Act 2012

Table 4

Use of the Legislation (and section of Act)	CID	FID	Total
Applications for search warrants (section 17)	0	N/A	0
Search warrants granted	0	N/A	0
Summonses to appear at hearings (section 24)	72	N/A	72
Notices to State public agencies (section 28)	32	17	49
Notices to produce (section 29)	161	1265	1426
Arrest warrants (section 36)	0	N/A	0
Applications to the Supreme Court (section 33)	0	0	0
Other Court proceedings (section 35A)	1	0	1

Telecommunications (Interception and Access) Act 1979 (Cth)

Table 5

Applications/Warrants (and section of Act)	Total
Applications for A-party service warrants (section 46(1)(d)(i))	89
Applications for A-party service warrants withdrawn	0
A-party service warrants refused	0
Total A-party service warrants issued	89
Applications for B-party service warrants (section 46(1)(d)(ii))	3
Applications for B-party service warrants withdrawn	0
B-party service warrants refused	0
Total B-party service warrants issued	3
Applications for named person warrants (section 46A)	52
Applications for named person warrants withdrawn	0
Named person warrants refused	0
Total named person warrants issued	52
Applications for stored communications warrants (section 116)	3
Applications for stored communications warrants withdrawn	0
Stored communications warrants refused	0
Total stored communications warrants issued	3
Applications for entry warrants (section 48)	0
Applications for entry warrants withdrawn	0

Applications/Warrants (and section of Act)	Total
Entry warrants refused	0
Total entry warrants issued	0
Total all warrants	147

Table 6

Applications/Warrants (and section of Act)	Total
Destructions of intercepted material	0
Destructions of stored communications	2
Existing data authorisations (section 178)	4734
Prospective data authorisations (section 180)	1712

Law Enforcement (Controlled Operations Act) 1997

Table 7

Use of the Legislation	Total
Applications for authorities	0
Authorities granted	0

Law Enforcement (Powers and Responsibilities) Act 2002

Table 8

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 section 242A of the LEPR Act is reproduced at Appendix A.

Law Enforcement and National Security (Assumed Identities) Act 2010

Table 9

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 section 35 of the LENSAL Act is reproduced at Appendix B.

Surveillance Devices Act 2007

Table 10

Use of the Legislation	Total
Applications made	0
Warrants sought in those applications	0

Use of the Legislation	Total
Warrants granted	0
Warrants refused	0
Emergency authorisations sought	0
Emergency authorisations approved	0

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

Dissemination of Intelligence and Information

The Commission liaises with other agencies and disseminates intelligence and information to them as the Commission considers appropriate. Throughout the reporting period, the Commission disseminated information and intelligence to its partner agencies and others pursuant to the CC Act and the TIA Act.

Dissemination is not required 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 other law enforcement officers are made members of staff of the Commission, the Commission's dissemination figures do not include a significant amount of intelligence communicated in these circumstances. Table 11 shows the number of disseminations made pursuant to sections of the relevant Acts during the reporting period. Table 12 shows the recipient agencies of these disseminations.

Disseminations According to Section of Act

Table 11

CC Act section 13	TIA Act section 68	TIA Act section 139(2)	TIA Act section 67	SD Act section 40(4)	SD Act section 40(5)	Total
498	36	1	198	0	0	733

Disseminations by Agency

Table 12

Recipient Agency	Disseminations
Australian Building and Construction Commission	1
Australian Commission for Law Enforcement Integrity	1
Australian Competition and Consumer Commission	1
Australian Criminal Intelligence Commission	71
Australian Federal Police	63
Australian Securities and Investments Commission	1
Australian Security Intelligence Organisation	1
Australian Taxation Office	10
Australian Transaction Reports and Analysis Centre	5
Commonwealth Department of Public Prosecutions	4
Corrective Services NSW	12
Corrections Victoria	1
Crime and Corruption Commission	4
Department of Communities and Justice	1
Department of Home Affairs	31
Joint Counter Terrorism Team	2
Legal Practice	2
NSW Crown Solicitors Office	7
NSW Joint Analyst Groups	12
NSW Office of the Department of Public Prosecutions	92
NSW Police Force	387
Queensland Police Service	3
South Australia Police	2
Victoria Police	13
Western Australia Police	6
Total	733

Analysis of Investigation Results

There are always difficulties associated with measuring the performance of Commission operations; however, some effective measures at the Commission's disposal are listed in Table 4 and Table 11. The Commission acknowledges that there are factors beyond its control that may distort operational performance. For example, an investigation may run for several years before an arrest is made, but this is not reflective of the overall performance of an investigation.

Table 13 shows the total number of joint arrests and charges during the reporting period. The Commission does not generally track or report on results of prosecutions.

Joint Arrests and Charges

Table 13

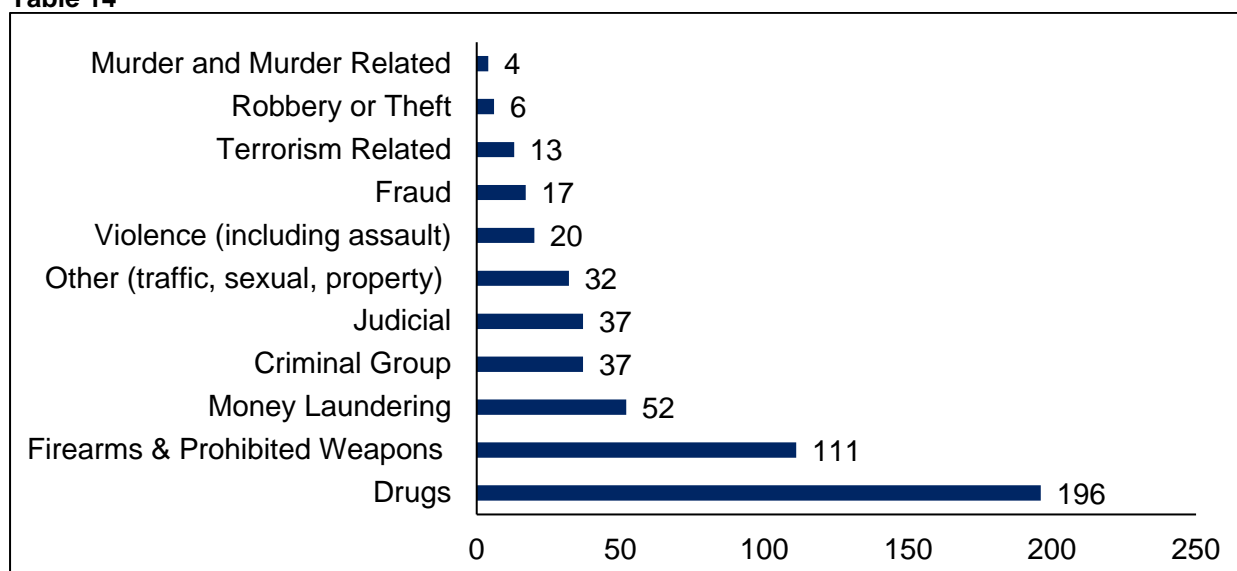
Arrests & Charges	Total
Joint arrests	118
Charges	525

Drug charges continued to dominate the results of organised crime investigations, which accords with the Commission's assessment that organised crime groups see the most growth and profit through the importation and sale of prohibited drugs.

Charges in relation to the sale and possession of firearms dramatically increased from 29 last year to 111 this year, representing an increase in identified firearm possession, use as currency and supply by organised crime groups. The number of charges by offence type during the reporting year is shown in Table 14.

Charges by Offence Type

Table 14



The Commission maintained its strategy of pursuing money laundering networks despite 'target hardening' by those being investigated. Together with the outbreak of the Covid-19 pandemic, there was a marked decrease in money laundering activity during the reporting year. Money laundering charges were still heavily prevalent in the charges laid during investigations, reflecting the Commission's efforts in dismantling these criminal networks.

Charges for murder and murder related offences declined. Despite this, the number of charges for other violent offences including assault, firearm offences, and robbery was higher. While the number of murder charges fluctuates in any given year, depending on the complexities of investigations, these figures are consistent with the move towards organised crime related kidnappings for ransom. These criminal groups are using kidnapping and, at times, exhibit extreme violence associated with demands to secure significant amounts of money from other criminals that most likely originate from organised crime and contraband sale. Charges in relation to the participation in a criminal group remained stable.

Patterns and Trends in the Nature and Scope of Organised Crime

During the reporting period, the Commission continued to investigate various organised crime networks operating in NSW. Almost all of these networks were involved in the importation and distribution of prohibited drugs, which continues to be the mainstay of income for organised crime in Australia.

Since early 2020, the effect of the Covid-19 pandemic and associated measures taken by governments around the world have affected organised crime activities in NSW. Some of these effects include the following.

Increase Prices of Wholesale Drugs

There has been a marked increase in the price of wholesale drugs since the start the pandemic with organised crime groups who successfully imported and distributed large quantities of prohibited drugs realising increased profits from their crimes.

In 2019 the Commission found the value of methylamphetamine (ice) ranged from approximately \$75,000 to \$85,000 per kilogram. As at June 2020 the value was \$125,000 to \$135,000 per kilogram, an increase of 58 percent. Astonishingly, in other instances the asking price was in excess of \$200,000 per kilogram.

Over this period Methylenedioxyamphetamine (MDMA), which had previously been selling for \$12,000 to \$15,000 per kilogram, sold for approximately \$20,000 to \$25,000 per kilogram. The price of cocaine also increased to over \$200,000 per kilogram.

The increase in value is mainly attributed to supply and demand issues as organised crime groups found it difficult to export prohibited drugs from source locations. Countries such as China and parts of Europe took strong action in relation to border activity, restricting travel and trade during the pandemic, which may have contributed to a reduced supply of prohibited drugs. Cocaine imported into Australia is produced in parts of South America and distributed extensively by Mexican cartels who may not have been as affected by the pandemic. The increased value of wholesale drugs did not transmit to higher street purity levels.

Changes in Money Laundering Activities

The vast amounts of money generated through drug sales require laundering. The Commission is aware of several established money laundering networks ceasing activities during the early part of 2020. This may have been due to the suspicion that Covid-19 is transmitted via bank notes and simply that society in general and all its commercial activities slowed or ceased.

The cessation of trading by casino operators and the termination of junket tours curtailed any opportunity of laundering illegal profits through casinos. Similarly, hotels and clubs with poker machines turning over large volumes of money ceased trading for a period of time during the reporting period.

The opportunity for money launderers to deposit money using unwitting third-party individuals and their bank account or identification details (known as 'cuckoo smurfing') has dramatically reduced as incoming international transfers declined. This resulted in the stockpiling of large amounts of money. From February to July 2020, there was a noted increase in the volume of money detections. In two police vehicle stops, one in Queensland and one in South Australia, officers seized a total of approximately \$7 million. In both cases, it was suspected that the money had been generated in NSW. This activity will likely continue until normal business transactions resume, thus providing law enforcement agencies opportunities to disrupt the money flow of established organised crime networks.

It is possible that Australia will be perceived as a safe haven for the legal and illegal transfer of international funds following the way it is handling its Covid-19 response. A similar observation was made following the global financial crisis several years ago, which saw a large volume of international funds flow into Australia because of the way that it had avoided the crisis. Being able to distinguish illegal funds or proceeds of crime from legitimate investment in Australia will be a significant challenge for Australian law enforcement.

Changes in Drug Importation Methodology

With reduced air travel from the Covid-19 pandemic, international drug syndicates were unable to dispatch shore parties to Australia to collect and distribute importations of prohibited drugs. As a result, it is likely local residents were recruited into these roles. There were also reduced opportunities for Australian syndicate members to travel to foreign countries to negotiate and arrange drug importations. The use of dedicated encrypted networks have increased and are now regarded as essential tools for organised crime networks.

During the reporting year, the United Kingdom's National Crime Authority revealed that it had compromised and shut down a significant encrypted network, resulting in hundreds of arrests and seizures of prohibited drugs (some destined for Australia), firearms, and millions in Euro. This was one of most significant disruptions to organised crime by any law enforcement agency worldwide in the last year.

Encrypted communication is extensively used in Australia, and predominately in NSW, by persons involved in organised crime. It is essential that both the Commission and other Australian law enforcement agencies develop long term strategies to deal with the providers of services or enablers to organised crime groups. Commission intelligence indicates that a high ranking member of an Outlaw Motor Cycle Gang is an investor in a large encrypted network and has associates involved in the distribution of the handsets in Australia.

Identity Crime as an Enabler

Identity crime continued to be a key enabler for organised and serious crime in Australia, and is almost essential with regard to the importation of prohibited drugs. Members of organised crime groups often set up online bank accounts using fraudulently obtained identities. Even though financial institutions monitor potential fraud and money laundering activities, accounts such as these will generally be subject to small cash deposits of less than \$10,000. Generally, financial institutions do not look for this type of methodology and, therefore, fraudulent accounts may facilitate multiple drug importations over several years before they are detected. Operating undetected, offenders use these funds to conduct their illegal activities including payments for 'burner' phones, company registrations, transportation, duties and taxes, and rentals of post office boxes, virtual offices and storage facilities.

During the reporting year, there were several instances of persons recently arrived into Australia who were in possession of fraudulent NSW driver licenses. In some cases, the card numbers matched the identity of real persons but the photographs were of the foreign offenders. These licenses were sufficient to deceive persons who were providing services to the foreign offenders such as the leasing of garages or storage facilities.

Emerging Trends

The most significant development during the reporting year was the increase in reported (or detected) cases of kidnapping. The Commission is aware of over a dozen cases in which the victims are alleged to have an involvement in organised crime in NSW. Victims are detained by force and in many cases, it is alleged that large sums of money have been paid for their release. In some cases, the Commission has information that ransoms are 'paid' in the form of prohibited drugs.

The violence inflicted upon the victims in several cases was severe and, in most cases, the victims were unwilling to co-operate with police investigations. Several cases were ultimately reported after friends and/or relatives were unable to negotiate the release of the victims privately. The Commission recently commenced investigation into several of these matters and will be conducting hearings to advance lines of enquiry in the future.

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 its functions under the CAR Act; however, financial inquiries are also 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.

As authorised by section 11 of the CC Act, the CID gathers intelligence and evidence in the course of its investigations for the FID to use in its confiscation actions. 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.

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 such as the NSWPF. The FID then assesses the referral to determine whether 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 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 therefore 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 NSW Treasury (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.

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 (Table 4). The combined total number of notices issued under these provisions during the reporting period was 1282, which is 144 more than the previous year's total of 1138. The number of notices issued is one measure of the level of output in the FID. This is the third year in succession where the number of notices issued has increased and the total for the year is the second highest recorded.

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 15.

Use of CAR Act Provisions

Table 15

Orders	Sought	Granted
Examination orders (section 12)	147	147
Examination orders (section 31D)	0	0
Statement of affairs orders (section 12)	105	105
Statement of affairs orders (section 31D)	0	0
Production orders (section 33)	19	19
Search warrants (section 38)	0	0
Search warrants (sections 44 and 45)	20	20
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, 1544 people were the subject of referrals and assessments compared to 1499 people last year. Proceedings were commenced against 114 defendants during the reporting period.

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

- the value of the potential defendant's assets is not high enough to make proceedings worthwhile
- 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 a NSWPF PAC 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 NSWPF investigators.

Confiscation and Restraining Orders

During the reporting year, the Commission commenced 103 confiscation cases and applications for confiscation orders were made against 114 defendants. Four 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:

- matters where 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. One of these four matters was a case of this type.
- cases in which the Commission has obtained a restraining order for a defendant's jointly owned interest in real property, generally property owned with a spouse, or in which more than one person may have an interest in the same property. 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. The other three matters were of this type.

During 2019-20, the Court made 110 restraining orders on the application of the Commission. All of the applications were made on an *ex parte* basis and were 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 orders are concerned, the Commission made 270 applications, consisting of 110 applications for UWOs, 75 applications for AFOs and 85 applications for PAOs.

The reason that more confiscation orders were applied for than the number of defendants against whom proceedings were commenced is because in respect of several defendants, the Commission made applications for more than one type of confiscation order. The main reason for this is that the Commission continues to make significant use of the provisions in the CAR Act that provide for the forfeiture of interests in:

- property used in commission of offences
- 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 75 applications for AFOs during the reporting period were applications for the forfeiture of large sums of cash, several of which exceed \$1 million. This is a trend that has

continued over several reporting periods. 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 used in connection with the cultivation of cannabis, or amounts referable to the value of that real property.

The large increase in applications for PAOs is not of any great significance. During this reporting period, a decision was made to include applications, in most cases, for both UWOs and PAOs. Previously the Commission would commonly make an application for an UWO only. Given that at the commencement of proceedings against a defendant the Commission is unlikely to know which order type a defendant has greater exposure to, a decision may be made to make applications for both. The CAR Act allows the Commission to apply for both orders against a defendant but the Court can only make the order that requires the greater amount.

Analysis of Confiscations

The estimated realisable value of confiscation orders that were made during the reporting period was \$30,962,693. By way of comparison with results in other reporting periods, the figure is approximately \$1,091,710 more than the average of the preceding five years (that average being \$29,870,983) and \$660,316 more than the figure for the last reporting period (which was \$30,302,377). Statistics for the reporting period in relation to these various confiscation outcomes are shown in Table 16.

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 were no matters that involved a breach of warranty (BOW).

Performance Measures

Table 16

Outcome	By Consent	Contested Hearing	Total
AFOs made	68	0	68
PAOs made	15	1	16
UWOs made	22	0	22
BOW	0	0	0
Proceedings finalised by confiscation order application(s) being dismissed or proceedings discontinued	6	0	6

During the reporting period, proceedings against 92 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 or subsequent 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 a UWO.

Table 16 shows that only one confiscation order was obtained as a result of a contested hearing. In that matter, *New South Wales Crime Commission v Hindmarch* [2019] NSWSC 1801, the Commission had commenced proceedings in 2012 by seeking a PAO against Mr Hindmarch, who was facing charges of supply prohibited drugs. In 2016 he was convicted of drug supply offences and, relying on that conviction to prove that he had engaged in 'serious crime related activity', the Commission sought the making of a PAO against Mr Hindmarch. That application came before Justice Davies of the Supreme Court for hearing in December 2019 where, in addition to evidence of Mr Hindmarch's conviction, evidence of the amount of his expenditure during the relevant six-year period was relied on by the Commission in accordance with section 28(3) of the CAR Act. Mr Hindmarch, while on notice of the application and having been served with the Commission's evidence, chose not to defend the application and did not appear at the hearing. On 20 December 2019 his Honour delivered judgment, ordering that Mr Hindmarch pay a PAO in the amount of \$390,136.

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 is 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. As shown in Table 16, proceedings against six defendants were finalised without a confiscation order being made. Two of these six disposals were of this type.

A description of the four others is as follows:

1. Proceedings against three defendants (in unrelated proceedings) were settled with no confiscation order being made after it was determined that the defendants' interests in property were of insufficient value to make the continued litigation of the proceedings viable. In one of these proceedings the defendant's only interest in property was whatever interest that she had in a large sum of cash that had been seized. During the course of the proceedings against her, another person claimed an interest in that same sum of cash, and that person consented to the forfeiture of his interest, while the original defendant provided a warranty that she had no interest in the cash.
2. In the final matter, although it could be proven that the defendant had engaged in a serious crime related activity, there was little evidence that he had derived proceeds of crime. It is significant to note, however, that when the proceedings had commenced the Commission had also commenced proceedings against this defendant's son. The proceedings against the son were resolved in the last reporting period by him consenting to a PAO of \$650,000.

Table 17 shows 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.

Estimated Realisable Value by Referral

Table 17

Source of Referral	Orders	Value (\$)
NSWPF	80	19,708,625
NSWPF & NSWCC	18	7,188,723
NSWPF & ACIC	4	1,875,000
NSWPF & Home Affairs	2	1,190,345
NSWCC	1	800,000
NSWCC, NSWPF, AFP, Home Affairs, ACIC	1	200,000
Total	106	30,962,693

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

Estimated Realisable Value by Order

Table 18

Type of Order	Orders	Estimated Realisable Value (\$)
AFO	68	22,771,684
UWO	22	4,362,978
PAO	16	3,828,031
BOW	0	0
Total	106	30,962,693

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.

There were 22 UWOs made during the reporting year, with an estimated realisable value of \$4,362,978; however, in addition to this, a further eight confiscation orders, with an estimated realisable value of \$2,970,440, were made in conjunction with the original application for an UWO being dismissed.

Noted above under the heading 'Confiscation and Restraining Orders', is 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. In this regard, in the summons that was filed to commence proceedings against 51 of the 92 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 51 defendants but for these provisions, it does show that these orders continue to make 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.

The Commission believes that using the estimated value of interests in property that 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 shown in Table 19.

Comparison with Previous Years

Table 19

	2017-18 (\$)	2018-19 (\$)	2019-20 (\$)
Estimated value of property subject of proceedings	83,213,994	75,182,716	77,075,940
Estimated value of realisable confiscation orders and order for the payment of ATO	29,344,946	30,302,377	30,962,693

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

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 cash, 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 (for example, 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 \$32,092,693. The difference of \$1,130,000 between this and the estimated realisable value of orders made of \$30,962,693 is explained by a defendant agreeing to forfeit the sum of \$1.13 million that he claimed had been stolen from him. Although he consented to the forfeiture of this amount it seems highly unlikely that it will ever be recovered.

The Commission does not generally report on the value of confiscation orders actually recovered. The main reason for this is that it is highly unlikely that a confiscation order will be recovered in the same year it is made and, in many cases, will not be recovered for several years, which would make comparisons between years extremely difficult. However, the Commission is responsible for collecting and monitoring all PAOs and AFOs that have been made and monitors the recovery, by the NSW Trustee and Guardian, of all interests in property that are the subject of AFOs.

Whilst there is at times significant delay between the making of a confiscation order and its eventual recovery, ultimately the proceeds of all confiscation orders are deposited to the Confiscated Proceeds Account operated by the NSW Treasury. The total value of all deposits to the Confiscated Proceeds Account during the reporting period was approximately \$39.9 million.

Exclusion and Hardship 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 have some or all of the forfeited interest in property excluded from the order on the grounds that the interest was not illegally acquired.

There was one case of this type, but the order was made at the end of June 2020, so it is unclear whether the defendant will make an exclusion application.

In another case, during the reporting period an application for exclusion was heard where the applicant was the former de-facto spouse of a defendant, Wayan Arya Subakti, whose interest in two pieces of real property had been forfeited in a previous reporting period. In 2016 Nicolitsa Togias commenced proceedings against the Commission by bringing applications pursuant to section 24 of the Act, seeking relief from hardship claimed to be caused by forfeiture of Mr Subakti's interests in a residential property at Glenwood and a commercial unit at Seven Hills in NSW. Ms Togias also made applications claiming exclusion of an asserted interest in the Glenwood property and the Seven Hills property pursuant to section 25(1) and 26(1) of the Act.

Ms Togias submitted that her interests in the forfeited Glenwood and Seven Hills properties were held on constructive trust by Mr Subakti and were indivisible from the interests of Mr Subakti. The Court determined that, if Ms Togias had any interest in the forfeited property, the forfeiture orders

did not operate to forfeit that interest and found Ms Togias' applications for exclusion were incompetent.

The application for relief from hardship pursuant to section 24 of the Act was brought on behalf of Ms Togias and her two daughters. Ms Togias submitted that the loss of the family home (the Glenwood property) and the commercial property (the Seven Hills property) would cause hardship to Ms Togias and her two children because she could not afford to purchase another home in Glenwood, or nearby, and the loss of the family home had caused psychological harm to the children. The Commission submitted that neither Ms Togias nor her children were 'dependant' on Mr Subakti, as defined in section 24(4) of the Act.

The Court again found in favour of the Commission, and found that Ms Togias was neither a de-facto partner nor a member of the household of Mr Subakti at the relevant time and accepted the Commission's submission that the 'relevant time' was the time that the forfeiture orders were made. In deciding what the 'relevant time' was, his Honour accepted the submissions of the Commission that it must be that a person is either a de-facto or a dependant at the time the assets forfeiture order was made. At [81], his Honour said:

It would be illogical to provide that a person who was a dependant at some anterior time, but who no longer was at the time of the making of an assets forfeiture order, may apply for relief from its operation. It would be similarly illogical that someone who was not a dependant at the time of the order, but became one at some subsequent time may apply for relief from its operation. If a person was a dependant at the time the order was made, but ceased to be so by the time an application came to be determined, that would be a matter for the Court to consider in deciding whether to make an order. (The term 'may order' suggests enlivenment of a discretionary power, rather than mandating the making of an order if the requirements of the section are met).

Furthermore, the Court found that the evidence strongly pointed to the proposition that Ms Togias was financially independent from Mr Subakti and, further, that the children were dependent upon Ms Togias for support, not Mr Subakti.

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 incurs only 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.

One of the matters referred to under the previous heading was a matter of this type, however the defendant consented to both the AFO being made and the PAO also being made on the basis that it will be quantified at a later date.

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. During the reporting year, 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*	10	40
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	10	40

*26 of the 40 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 for an order to be 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 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.

Table 21 shows there were three matters in which costs were ordered in favour of the Commission. One order was made by consent in the amount of \$4,000 and the other two are yet to be assessed.

Legal Costs

Table 21

Costs	
Number of costs orders in favour of the Commission	3
Estimated realisable value of those costs orders	Discussed above
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	\$53,786
Total cost of briefing outside counsel as percentage of realisable orders*	0.17%

*The Commission bears the full cost of counsel fees. The full amount realised from confiscation orders goes to 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 2018-19 (which was 0.29 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.

Key Figures

Table 22

Measure	2017-18	2018-19	2019-20
CAR Act restraining orders	102	124	110
Confiscation orders sought without a restraining order	3	4	4
AFOs made	46	46	68
Estimated realisable value of AFOs	\$22,034,386	\$18,870,945	\$22,771,684
PAOs made	22	8	16
Estimated realisable value of PAOs	\$4,130,400	\$3,502,500	\$3,828,031
UWOs made	15	22	22
Estimated realisable value of UWOs	\$3,104,242	\$7,898,932	\$4,362,978
Orders for BOWs	0	1	0
Estimated realisable value of BOWs	0	\$30,000	0
Orders for compensation of victims (COVs)	1*	0	0
Estimated realisable value of COVs	\$75,918	N/A	N/A
Total no. confiscation orders and COVs	84	77	106

Measure	2017-18	2018-19	2019-20
Total estimated realisable value of confiscation orders and COVs	\$29,344,946	\$30,302,377	\$30,962,693
Production orders (CAR Act)	11	4	19
Search warrants (CAR Act)	19	21	20
Monitoring orders (CAR Act)	0	0	0

*The order made in 2017-18 was 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

The National Co-operative Scheme on Unexplained Wealth (NCSUW) came into full operation in December 2018. Under the NCSUW:

- The Commonwealth can rely on offences of participating jurisdictions to commence unexplained wealth confiscation proceedings in appropriate matters (the participating jurisdictions are currently the Commonwealth, NSW, Australian Capital Territory and Northern Territory)
- There is a process of ‘deconfliction’ in cases where confiscation proceedings potentially, or have actually, been commenced in two or more participating jurisdictions against the same defendant
- Participating jurisdictions may utilise certain information gathering powers found in the Commonwealth *Proceeds of Crime Act 2002* and it provides for improved processes for Commonwealth agencies to provide information to be used in unexplained wealth criminal asset confiscation proceedings
- Sharing of confiscation proceedings is mandatory when there is cross-jurisdictional contribution in any confiscation proceedings or the criminal investigation that gives rise to those confiscation proceedings. The process provides for a default position of equal sharing between jurisdictions that have contributed in relation to the particular confiscation matter. Departure from the default position will occur only if a sub-committee formed by representatives of the contributing jurisdictions unanimously agrees that the confiscation proceeds be shared in another proportion.

During the reporting period, there have been meetings of the Co-operating Jurisdiction Committee, which is the committee of participating jurisdiction representatives with responsibility for considering and reporting on certain matters under the NCSUW, particularly the resolution of any ‘deconfliction’ issues and the sharing of confiscation proceeds.

In relation to the sharing of confiscation proceeds, a large number of matters were notified to the Co-operating Jurisdiction Committee during the reporting period. Several matters that were identified as involving cross-jurisdictional co-operation between the Commonwealth and NSW were considered by a sub-committee of those jurisdictions. An agreement was reached as to the recommended proportion in which the proceeds from those matters should be shared, but as at the end of the reporting period there had been no actual sharing by, or with, NSW under the NCSUW.

CHAPTER FOUR – CORPORATE SERVICES DIVISION

The CSD is responsible for supporting the Commission's operational functions through the provision of services and systems. The division provides the following services:

Business Services

- finance, budget, payroll and procurement
- building and facilities, work health and safety and risk management.

Human Services

- human resources and workforce management
- personnel security vetting.

Technology Services

- information communication technology (ICT) infrastructure and systems
- information and records management
- information security management.

Enterprise Services

- corporate strategic planning, performance and delivery
- enterprise business analysis
- program management office
- ICT compliance
- business continuity and emergency response management
- protective security framework and management
- cluster and ministerial liaison
- media and communications
- executive support.

Corporate Plan

The Commission maintained its current Corporate Plan during the reporting period with the Executive Team routinely monitoring, reviewing and revising progress made towards agreed goals and strategies.

The Commission continued to meet these goals and completed the majority of the planned activities during the reporting period. More specific divisional corporate plans are linked to the performance development plans of staff.

The 2019-20 Corporate Plan can be found at Appendix E of this report.

Human Resources

Under the CC Act, a significant number of officers and members of other law enforcement agencies (most numerous officers of the NSWPF) are deemed members of staff in order to facilitate effective investigations. A smaller number of people are employed to discharge the Commission's functions. These persons are remunerated from the Commission's budget and are considered employees of the Commission. The Commission's employees are part of the public service and employed by the NSW Crime Commission Staff Agency.

As at 30 June 2020, the NSW Crime Commission Staff Agency employed 132 employees. At the conclusion of 2019-20 and taking into account part-time working arrangements, the Commission had 126.3 full-time equivalent employees, including those on forms of extended leave.

The Commission had two statutory officers at 30 June 2020, one being the Commissioner, who was on secondment from the NSWPF, and the other being the Assistant Commissioner. The Statutory and Other Offices Remuneration Tribunal (SOORT) set the salary for the Commissioner at \$498,410 and the Assistant Commissioner at \$472,180 per annum. During the reporting period, the Commission employed seven public service senior executives (PSSEs). Their remuneration is established within the appropriate SOORT determinations.

Personnel numbers as at 30 June 2020 and as at 30 June in the three preceding years are shown in Table 23.

Personnel

Table 23

Personnel Category	2016-17	2017-18	2018-19	2019-20
Statutory officers	3	2	2	2
Senior Executive Service	9	9	7	7
GSE Act (ongoing)	119	111	114	116
GSE Act (casual)	1	0	0	0
GSE Act (temporary)	3	4	10	7

The Commission employed 75 females and 57 males. The majority of the employees of the Commission mainly or exclusively performed operational related tasks. These include employees within the CID, FID and Legal Services.

Some employees 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 employees were mainly or exclusively involved in administrative roles. Examples include the Executive Director (Corporate Services), Corporate Services employees and the staff of the Governance Unit.

Numbers and Remuneration of Senior Executives

Table 24 provides the average remuneration packages (inclusive of salaries, superannuation and allowances) for all the statutory officers and public service senior executives as at 30 June 2020 and a comparison with the previous financial year.

Remuneration Packages

Table 24

Band Level	Male	Female	Average Remuneration Package 2018-19 (\$)	Average Remuneration Package 2019-20 (\$)
SOORT	2	0	496,865	495,121
PSSE Band 3	0	0	0	0
PSSE Band 2	3	0	358,596	367,563
PSSE Band 1	3	1	222,454	228,016

The percentage of total remuneration packages for those officers classified as senior executives of the total employee related expenditure for the Commission in 2019-20 was 13 percent (for the 2018-19 period, it was 20 percent). For Statutory Officers, the percentage of total remuneration packages of the total employee related expenditure was 7 percent (the same as for the 2018-19 period).

The SOORT has set a special determination for the remuneration packages of the Executive Director Criminal Investigations and the Executive Director Financial Investigations.

Training and Development

The Commission continues its commitment to investing in its people through the provision of Commission-wide training programs designed to build organisational and individual capabilities.

During the reporting year, the Commission implemented new digital platforms to support learning, development and training. The first was a learning management system for internal training designed in-house. The second was a learning management portal with an external provider to deliver digital courses after a comprehensive training needs audit and analysis was undertaken during the year.

The Commission continues to provide opportunities for professional development and study support, including access to study leave and flexible working arrangements.

Employee Assistance Program

The Commission values the importance of having in place an Employment Assistance Program for both Commission staff and their families. This confidential service is actively promoted to staff.

Equal Employment Opportunity, Workforce Diversity, Multicultural Plan

The Commission is committed to a stronger NSW through cultural diversity. Whilst not a direct customer or citizen-facing agency, the Commission seeks to engage, as appropriate, with all sections of society to breakdown any barriers to participation. The Commission has continued to engage a workforce that is diverse in its make-up and representative of the community it serves. During the reporting year, the Commission provided staff training on reducing workplace discrimination, reviewed policies and procedures to recognise different cultural needs, promoted a work environment that is inclusive of culturally diverse backgrounds and practices with staff and services and, as appropriate, engaged with various diverse communities to assist with operational needs.

As at 30 June the Commission had in place an Equal Employment Opportunity Management Plan for the period 2017-21, which was prepared in accordance with Part 9A of the *Anti-Discrimination Act 1977 (NSW)* (ADA Act). The plan facilitates the identification and removal of systemic barriers to the participation and promotion in employment of workforce diversity groups. The Commission continues to support opportunities for Aboriginal and Torres Strait Islanders in the workforce. This has included internships through the Public Service Commission (PSC) and CareerTrackers. The Commission reviews its Equal Employment Opportunity Management Plan every four years and is currently reviewing the plan for the period 2021-23.

During the reporting period, the Commission also had an established Workforce Diversity Policy, which is due to be reviewed in 2021. This policy conveys workplace diversity requirements in recruiting for the Commission and ensures there is no unlawful discrimination against any person who can perform the inherent requirements of a role. The Commission's workforce diversity as at 30 June and a comparison with the preceding two years is shown in Table 25.

Workforce Diversity

Table 25

Workforce Diversity Group	Benchmark (%)	2018 (%)	2019 (%)	2020 (%)
Women	50	57.1	57.1	57.6
Aboriginal and/or Torres Strait Islander people	3.3	0	0.8	0.8
People whose first language spoken as a child was not English	23.2	26.6	27.9	29.6
People with disability	5.6	2.4	2.3	4
People with disability requiring work-related adjustment	N/A	0	0	0

The Commission has in place a Multicultural Plan for the period 2017-20 based on the key focus areas and outcomes for a multicultural NSW. The Commission is currently reviewing the plan for the period 2021-23.

Disability Inclusion Action Plans

The Commission's Disability Inclusion Action Plan 2018-22 was developed in accordance with the provisions of relevant legislation, including the *Disability Discrimination Act 1992 (Cth)*, the ADA Act and the *Disability Inclusion Act 2014 (NSW)*.

The Commission is committed to providing the necessary resources to treat staff and members of the public in an equitable, professional and compassionate manner concerning their disabilities. The Commission's Disability Inclusion Action Plan is monitored annually against stated outcomes and a report is then prepared for the Commissioner. The Commissioner reviews the plan every four years.

Agreements with Multicultural NSW

The Commission has a Memorandum of Understanding with Multicultural NSW, which provides professional interpreting services on a fee-exempt basis to any person whose first language is not English. The agreement ensures that persons appearing at Court in respect of proceedings under the CAR Act are not disadvantaged as a result of language difficulties. The Commission continued to arrange interpreting services on behalf of persons appearing at Court in accordance with the agreement during the reporting period.

Key Corporate Projects

During the reporting period, the CSD undertook a number of key corporate projects.

Development of an Employee Award

The Commission advanced an Employee Award for all non-executive Commission employees. The project is designed to align the Commission's workforce management strategy with the wider NSW public sector. Key project outcomes include a terms and conditions award, and a salaries award. The Commission has made a submission to the NSW Government to undertake this critical workforce transition and the process is expected to be completed in the 2020-21 financial year.

Information Security Management Systems

The Commission retained its accreditation of ISO 27001 certification of its Information Security Management System (ISMS) following an extensive audit. The audit did not identify any non-compliance, which reflects the growing maturity of the Commission's ISMS, and related ICT and information security systems.

The Commission's Cyber Security Annual Attestation Statement is found at Appendix H.

Business Continuity Management

The Commission implemented its business continuity management system and plan, specifically the Covid-19 Pandemic Response Plan (PRP), which supported remote work from home arrangements for staff on an ongoing basis. During this activation, the Commission continued its operational activities onsite and offsite to deliver its 'Safer Community' outcomes. ICT disaster recovery plans were successfully tested, and upgrades to core infrastructure provided resilience and recovery capabilities necessary for business continuity.

Protective Security Framework

The Commission continued the implementation, delivery and management of a project to mature a holistic protective security framework and strategy. The project aligns all security functions, practices, policies, procedures and systems to applicable NSW and Commonwealth Government policies and best practice in the areas of governance, ICT, information, personnel and physical/personal security. The project will be completed in 2020-21 to align with the revised Commonwealth Protective Security Policy Framework in October 2021.

ICT Enterprise Enhancement Projects

ICT services delivered a substantial enhancement project of a new Virtual Desktop Infrastructure (VDI) Transformation. The new VDI environment has significantly enhanced performance, stability and availability, and improved the delivery of applications. The project provided upgrades to Windows 10 and Microsoft Office 2016. ICT services also delivered enhanced enterprise ICT security service solutions through the deployment of secure Wi-Fi, Local Area Network security improvements, mobile device management and PGP encryption for communications with partner agencies.

The ICT and Finance teams delivered a series of new telecommunications contracts improving the offering and value to the Commission in voice, data and mobile communications. The project has also contributed significant costs savings to the Commission through reduced overall pricing and improved volume pricing. ICT services also rolled out pilot projects for collaboration and communication tools used to support the Commission during the recent PRP activation. This included operational specific tools for communications to support warrant applications.

The CSD continued the development and deployment of a digitisation strategy supporting operational and enterprise activities. This included the development of the Electronic Document and Records Management System, intelligent form creation and key workflows to increase the productivity of operations. Increased digitisation resulted in a reduction in the consumption of consumables, lessening the Commission's environmental impact.

ICT Operational Enhancement Projects

ICT services implemented the rollout of 'Just Connect', a technology solution that enables secure audio-visual communications with the NSW Department of Corrective Services. The contract for the Commission's key data analytics platform was renewed and the platform underwent a major hardware upgrade, which will be completed in 2020-21. The ICT and Information Management Teams deployed a new software designed to improve data and information searching across multiple Commission platforms.

Consultants

The Commission did not engage any consultants for the 2019-20 reporting period.

Promotion

During the reporting period, one Commission officer attended a residential school in New Zealand as part of an approved course of study through the PSC.

Financial Management

The Commission's cost centre accounting, and program-based approach to finances and budgeting is aligned to government and operational priorities and outcomes. For the 2019-20 reporting period, the Commission's Business Services Team operated a system of comprehensive financial management, budgeting and reporting functions.

Financial reporting was made to the Commission's Management Committee, Executive, Audit and Risk Committee, Stronger Communities Cluster and Treasury stakeholders. All internal and external Treasury financial systems were maintained and designed to provide clear, concise and accurate financial reporting.

Budgets

Table 26 provides an outline of the Commission's approved budget for 2019-20 and the budget allocation for the 2020-21 financial year. The Commission receives an annual grant allocation (paid fortnightly) from Government through the Stronger Communities Cluster/DCJ.

As a result of the Covid-19 pandemic, the NSW State Budget has been postponed until November 2020. The budget allocation figures listed below reflect the Treasury Prime (NSW Treasury accounting software) allocations as at 1 July 2020.

Budget Allocation

Table 26

	2019-20 Budget (\$,000)	2020-21 Budget (\$,000)
Employee related	17,612	16,966
Other operating expenses	5,867	5,517
Depreciation & amortisation	3,997	4,027
Interest expense	239	190
Total expenses	27,715	26,700
Cluster grant revenue	26,455	25,798
Acceptance by Crown Entity	708	725
Other Revenue	56	56
Total Revenue	27,219	26,579
Gain/Loss on disposal	-	-
Net result	-496	-121

During the reporting period, the 2019-20 budget had the following key adjustments:

- a reduction of \$0.306 million in savings measures to the employee related expense budget
- an authorised carry-forward of \$0.550 million from the 2019-20 financial year to the 2020-21 financial year to the capital budget
- an impairment of the Commission's lease asset of \$1.711 million as part of the new AASB-16 Lease accounting standards.

Asset Acquisitions

The Commission's purchase of major assets during the reporting period is shown in Table 27.

Purchase of Major Assets

Table 27

Asset	Cost (\$,000)
Operational equipment	115
ICT hardware	125
Computer software	119
Building refurbishment	23
Total	382

Payment of Accounts

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 thirty days of receipt of the invoice. The Commission's performance in paying its bills in a timely manner is shown in Tables 28 to 31. There were no instances of interest being paid for overdue payments.

Account Payment Performance

Table 28

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 overdue
Sep-19	4,214	0	0	0	0
Dec-19	4,180	1	50	14	0
Mar-20	4,159	30	27	0	0
Jun-20	4,777	0	0	0	0

Table 29

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 overdue
Sep-19	383	0	0	0	0
Dec-19	255	0	0	0	0
Mar-20	164	0	11	0	0
Jun-20	349	0	0	0	0

Table 30

Total accounts paid on time				
Quarter	Target (%)	Actual (%)	Total paid (\$)	Total due (\$)
Sep-19	85	100	4,213,873	4,213,873
Dec-19	85	99	4,180,304	4,245,662
Mar-20	85	94	4,158,986	4,215,410
Jun-20	85	100	4,776,930	4,776,948

Table 31

Accounts due or paid within each quarter				
Measure	Sep 2019	Dec 2019	Mar 2020	Jun 2020
All suppliers				
Number of accounts due for payment	577	533	442	468
Number of accounts paid on time	577	530	415	467
Actual percentage of accounts paid on time (based on number of accounts)	100%	99%	94%	100%
Dollar amount of accounts due for payment*	4,213,873	4,245,662	4,215,410	4,776,948
Dollar amount of accounts paid on time*	4,213,873	4,180,304	4,158,986	4,776,930
Actual percentage of accounts paid on time (based on dollar amount)	100%	98%	99%	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	141	113	81	74
Number of accounts paid on time	141	113	80	72
Actual percentage of accounts paid on time (based on number of accounts)	100%	100%	99%	97%
Dollar amount of accounts due for payment*	383,317	254,901	175,016	349,246
Dollar amount of accounts paid on time*	383,317	254,901	163,521	349,246
Actual percentage of accounts paid on time (based on dollar amount)	100%	100%	93%	100%

Accounts due or paid within each quarter				
Measure	Sep 2019	Dec 2019	Mar 2020	Jun 2020
All suppliers				
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.

Insurance Activities

Through the Treasury Managed Fund, the Commission insures against a range of risks including workers compensation, motor vehicle and property damage, and public liability. In the 2019-20 reporting period, the Commission made ten insurance claims. These claims related to property, legal liability and workers' compensation.

Building and Facilities Management

During the reporting period, overall management of the Commission's premises was part of a government-wide facilities management contract between the Building Services Team and Jones Lang LaSalle (on behalf of Property NSW). The collaboration undertook routine preventative and reactive programs of work to maintain services, enhance security facilities and upgrade the building as required.

The following building projects were delivered during the reporting period:

- a NSW Government energy emission initiative that resulted in the installation of energy efficient LED lighting to reduce the Commission's carbon footprint
- an upgrade to bathroom and shower facilities to increase water saving measures.

Waste Management

The Commission operates a continuous improvement program in its management of waste and recycling, energy, water consumption and purchasing practices to reduce environmental impact. Table 32 shows the Commission's processed waste for the 2019-20 reporting period.

Waste Processed

Table 32

Category	Waste Processed 2019-20 (Tonnes)
Cardboard recycled	11
Comingle recycled	2
Waste general	64

Throughout the reporting period the Commission:

- increased focus on improving waste avoidance and maximising recycling
- re-used office equipment and other resources wherever possible
- used only 100 percent recycled paper
- recycled all waste paper, cardboard and empty toner cartridges
- reduced energy consumption in relation to lighting and air conditioning
- disposed of obsolete electrical and computer equipment through approved recycling providers.

The Commission retained its Nabers 4 star rating for energy consumption and 3.5 star rating for water consumption.

Exemptions from the Reporting Provisions

Reporting provisions for work health and safety were last reported in the 2017-18 Annual Report. These provisions need only be reported on triennially and are therefore exempt from this Annual Report.

CHAPTER FIVE – LEGAL SERVICES

Legal services within the Commission are provided by the Commissioner and Assistant Commissioner (Legal), who are each required by the CC Act to possess ‘special legal qualifications’. Legal Services are also provided to the FID, CID and to further the Commission’s corporate needs.

The FID legal team reports to the Executive Director Financial Investigations, who in turn reports to the Assistant Commissioner (Legal). The CID and Corporate legal teams report directly to the Assistant Commissioner (Legal).

FID Legal Team

The Division’s FID Legal Team provides legal services to the FID and works with that division to conduct proceedings in Court pursuant to the CAR Act. That includes the commencement of proceedings, generally through restraining order applications, the management of interlocutory proceedings, including the examination of defendants and persons associated with them, and the conduct of contested examination hearings. Commission lawyers appear in Court, as advocates and/or to instruct counsel, depending on the nature of the proceedings at any point in time. The FID Legal Team also has carriage of any related or appeal proceedings stemming from CAR Act litigation including matters in the Court of Appeal, Federal Circuit Court, Family Court of Australia and, at times, the High Court.

In the 2019-20 reporting year, the Commission commenced CAR Act proceedings against 114 defendants. As at 30 June 2020, the Commission was engaged in 259 active litigation CAR Act proceedings (involving 288 defendants). The number of CAR Act matters in litigation has markedly increased over the years.

The FID Legal Team monitors and assesses the effectiveness of the CAR Act and makes recommendations for legislative change where appropriate.

Criminal Investigations and Corporate Legal Teams

The CID and Corporate Legal teams provide legal advice and services in support of the Commission’s criminal investigation operations and agency litigation. The Commission’s investigations take place within a complex legal framework.

The Commission is a service provider to traditional law enforcement agencies. In its day-to-day operations, the Commission encounters many State and Federal acts, and complex judgments of the Superior Courts that support, contradict or intercept with operational intent or governance obligations.

The team is responsible for all applications for warrants and other authorities pursuant to the SD Act, TIA Act, LECO Act, *Service and Execution of Process Act 1992* and the CC Act (search warrants). Further, where leave to examine a witness is required pursuant to section 35A of the CC Act, Commission lawyers prepare and present such applications to the Supreme Court.

CID lawyers assess and meet the Commission’s common law and statutory disclosure obligations, and respond to subpoenas served on the Commission as well as public interest immunity claims that may affect these responses. This legal team also spends significant time

responding to applications under section 45(4) of the CC Act following applications made to the Court for the publication or disclosure of evidence.

During the reporting year, the Commission refined its disclosure policy and procedures facilitating relevant disclosure processes directly to the ODPP and through the NSWPF or the AFP to the CDPP in accordance with their respective guidelines so that they, as the prosecutor, can acquit their disclosure obligations.

The Corporate Legal Team provides Executive legal support as well as manages the Commission's 'agency' litigation.

Judicial Decisions and Other External Scrutiny

The Commission was not subject to any judicial decisions or decisions of administrative tribunals and/or the Information Commissioner in the 2019-20 reporting period that had, or may have, a significant effect on the Commission's operations.

Recommendations for Legislative Change

During the 2019-20 reporting period, the Commission did not make recommendations for legislative change. Submissions in relation to the statutory review of the CC Act remained with the NSW Government and DCJ for final determination. The money laundering amendments sought in the previous reporting period also remained with the NSW Government and DCJ, where they are being advanced with all affected stakeholders.

CHAPTER SIX – GOVERNANCE UNIT

The Governance Unit consists of the Internal Audit and Risk Manager, the Policy Legal Officer, and the Policy and Governance Officer.

The Governance Unit helps Commission personnel to achieve the Commission's goals, uphold high ethical standards, and meet legislative obligations. It does this by providing both management and staff with analysis, advice, tools, and assurance, all of which aid effective decision-making and promote accountability.

The Commission's Corporate Governance Framework can be found at Appendix I.

The key functions of the Governance Unit include:

- maintaining and developing policies and procedures
- providing internal legal advice on administrative law
- maintaining the risk management framework
- conducting internal audits
- maintaining administrative, financial and operational delegations
- maintaining the legislative compliance register
- maintaining the fraud and corruption control plan
- handling complaints
- facilitating internal and external communications, and liaison with other agencies
- providing educational seminars and on-line training to staff
- overseeing the Commission's compliance with the *Government Information (Public Access) Act 2009* (GIPA Act) and the *Public Interest Disclosures Act 1994* (PID Act).

Governance Unit Performance Measures

KPIs for the Internal Audit function are reported every quarter to the Audit and Risk Committee. More broadly, the Governance Unit's performance and outputs are reflected in the statistics below:

- Five internal audits were completed, generating 32 agreed recommendations for improvement
- 91 percent of internal audit recommendations were accepted by management
- 95 percent of post-engagement survey results were positive
- 95 percent positive ratings were received in the annual survey of management attitudes towards Internal Audit

- The enterprise risk register was updated and restructured to improve manageability
- All applications for access to information received by the Commission were dealt with in the statutory timeframes
- Eight new and 34 revised policies and procedures were produced during the reporting period, while several other policies were either deleted or amalgamated
- Intranet content, including operational, financial and administrative delegations, was kept up-to-date and provided in an accessible form
- All complaints were handled effectively and in accordance with the requirements of the Law Enforcement Conduct Commission (LECC)
- All database access and statutory compliance audits were completed by the due dates
- Eight educational seminars were provided to staff and four mandatory on-line learning modules.

Internal Controls

Policies, Procedures and Delegations

The creation and maintenance of Commission policies, procedures and delegations is overseen by the Governance Unit in collaboration with relevant subject matter experts. Policies, procedures, delegations and other guidance are made available to staff through the Commission's intranet. Some of these materials are broken down further and made more easily accessible to staff via electronic 'toolkits'.

Internal Audit and Risk Management

The Commission continued to have an appointed Chief Audit Executive and Chief Risk Officer throughout the reporting 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 is supplied in 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. All audit reports were tabled at the quarterly meetings of the Commission's Audit and Risk Committee.

Risk Management

The Executive, Divisional and Fraud & Corruption risk registers were consolidated into a single register. Risks were consolidated and then grouped into broad themes in order to improve their manageability.

Two new in-house designed operational risk assessment tools were developed to augment the existing four. Such tools are used to better manage workplace health and safety risks across a range of Commission activities.

The Internal Audit & Risk Manager also joined the Commission's Business Operations Committee, which focuses on security and business continuity.

Audit and Risk Committee

The Commission's Audit and Risk Committee (ARC) continued to operate throughout the reporting period and meet on a quarterly basis. The ARC had a fully independent membership as required by TPP 15–03. ARC membership changed during the year. The new Chair, Ms Joan Wilcox, joined the committee in October 2019, while the ex-Chair Mr Peter Lucas continued to serve as an ordinary member for the whole year. Mr Paul Crombie acted as Chair until the end of September 2019 and then continued to serve as an ordinary member for the balance of the year. Member Mr Tim Holden left the Committee at the end of September 2019.

The ARC met every quarter to discharge its obligations under its charter. Permanent invitees to ARC meetings include the Commissioner, Internal Audit & Risk Manager (in the capacity of Chief Audit Executive and Chief Risk Officer), Executive Director Corporate Services, and representatives of the LECC and the Audit Office of NSW.

The Committee supported and oversaw the internal audit function by monitoring the development and execution of the risk-based 2019-20 Internal Audit Plan and also by monitoring the implementation of audit recommendations. The Committee also continued to effectively discharge its other oversight responsibilities, such as with risk management, the control framework, external accountability, compliance with applicable laws and regulations, and external audit.

Legislative Compliance

The Commission's Legislative Compliance Register was comprehensively reviewed and updated throughout the reporting period and, where applicable, mapped to Commission policy and procedures. This provided clarity and accountability over the Commission's compliance responsibilities and how it meets them.

Working Groups

From time to time, the Commission may form working groups, drawing membership from subject matter experts as required. The Governance Unit may provide support to these working groups. Two examples are the Legislative Working Group, which considers proposals for legislative change, and the Policy Working Group, which provides comment on draft policies and procedures. Neither of these working groups met during the reporting period.

Fraud and Corruption Control and the Code of Conduct

The Code of Conduct and the Fraud and Corruption Control Plan, both of which apply to all Commission employees, were reviewed and updated during the year. Other guidance documents relating to employee and stakeholder conduct were also updated, including the Complaints Handling Policy and Procedures; Conflicts of Interests Policy and Procedures; Gifts, Benefits and Hospitality Policy and Procedures; Personal Use of Commission Resources Policy; and the Statement of Business Ethics.

In December 2019 the Commission obtained a mandatory annual attestation from all Commission staff in relation to compliance with the Code of Conduct. The attestation also required staff to successfully complete an on-line learning module relating to the Code in order to ensure that staff understand how it applies to them.

Internal Communications

The Commission's intranet and other internal communication channels continued to provide staff with information and updates on a range of topics, such as the release of new policies and procedures.

During the reporting period, Commission staff attended a range of lunchtime seminars on operational and administrative topics of interest, such as mental health and resilience in the workplace, managing conflicts of interest, and legal disclosure.

Induction training on staff members' ethical obligations continued to be provided to all new employees upon commencing work at the Commission. This training included prescribed mandatory reading of relevant policies and procedures.

External Communications and Proactive Disclosure

Due to the nature of its business, the Commission is able to publish only limited information on its website. The Commission, however, proactively reviews its available policies and procedures to determine whether additional information relating to the Commission can be made available to members of the public.

In the 2019-20 reporting year, the Commission conducted an annual review of its program for the release of government information and made a number of its policies and procedures, and information relating to the Commission, available online.

External Stakeholder Relationships

The Commission's Stakeholder Management Plan continued to operate in the relevant reporting period. This plan documents key existing stakeholder relationships and the strategies for improving them.

Statutory Reporting

The Commission continued to meet its obligations in relation to statutory reporting, including providing reports and information required by State and Commonwealth legislation, such as those required by Ombudsmen and those required under the GIPA Act, PID Act, LEPR Act and the SD Act.

External Oversight of the Commission

During the reporting period, the Commission was subject to the following external oversight:

Commonwealth Ombudsman

The Commonwealth Ombudsman audits the Commission's and other agencies' compliance with requirements contained in the TIA Act and reports the results of such audits to the Australian Parliament. The Ombudsman conducted an audit in July 2019 that covered the two-year period of 1 July 2017 to 30 June 2019.

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 pertaining 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.

Law Enforcement Conduct Commission

The LECC oversees the Commission and its officers.

Under the *Law Enforcement Conduct Commission Act 2016* (NSW) (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. Under the LECC Act, the Commission is required to notify the LECC of any possible misconduct by an officer of the Commission. The LECC may choose to oversee any complaint investigations carried out by 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).

External Audit of Financial Statements

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*.

Complaints Handling

The Commission is committed to dealing with complaints made against its staff members and the operation of the Commission in an efficient and effective manner. The Commission maintains a Complaints Handling Policy and Procedures, which is regularly revised and amended in accordance with feedback received from the LECC. The Commission also has in place a variety of internal complaints/grievance handling policies, including an Internal Reporting Policy and Procedures, all of which are accessible by Commission staff via the intranet.

Complaints about the Commission can be made either directly to the Commission or to the LECC. Details of how to make such complaints are publicly available on the Commission's website. The Commission's complaints processes/systems are audited by the LECC on an annual basis, and the Commission is required to notify the LECC of complaints pursuant to the LECC Act.

In 2019-20, the Commission received three complaints that were relevant to Commission and/or Commission staff members. These complaints were investigated and closed. The LECC was notified of these complaints pursuant to section 14 of the LECC Act.

Additional Reporting Requirements

Internal Audit and Risk Management Annual Attestation Statement

The Commission's Internal Audit and Risk Management Annual Attestation Statement is supplied at Appendix J.

Privacy and Personal Information Protection Act Compliance

The Commission manages personal and health information in accordance with its Privacy Management Plan. The Commission's Privacy Management Plan is currently under review.

The Commission has an appointed Privacy Officer, who has a dedicated email address and contact details, to receive complaints and deal with privacy related issues.

There were no complaints received by the Commission, or internal reviews undertaken by the Commission about its compliance with the *Privacy and Personal Information Protection Act 1998* during the 2019-20 reporting period.

Public Interest Disclosures Compliance

The Commission's Annual Report pursuant to section 31 of the PID Act is supplied at Appendix K.

Government Information (Public Access) Compliance

The Commission's Annual Report pursuant to section 125 of the GIPA Act is supplied at Appendix D.

APPENDICES



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



Law Enforcement (Powers and Responsibilities) Act 2002

Section 242A

ANNUAL REPORT BY THE NEW SOUTH WALES CRIME COMMISSION

1 July 2019 – 30 June 2020

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 2019-20.

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 2019-20.

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 2019-20.

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 2019-20.

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 2019-20.

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 2019-20.

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 2019-20.

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 2019-20.

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 2019-20.

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 2019-20.

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 2019-20.

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

Peter Cotter APM
Commissioner
Date: 14 August 2020

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 2019 to 30 June 2020

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 has granted one authority and cancelled one authority under the Act in 2019-2020.

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 2019-2020.

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.

An audit was conducted under section 37 of the Act regarding the Commission's use of assumed identities during 2019-2020. 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 2019-2020.



Peter Cotter APM
Commissioner
Date: 5 August 2020

Appendix C: Surveillance Devices Act Report



Surveillance Devices Act 2007

Subsection 45(3)

ANNUAL REPORT BY THE NEW SOUTH WALES CRIME COMMISSION

1 July 2019 – 30 June 2020

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 did not make any applications seeking the issue of warrants to law enforcement officers under the Act in 2019-20. 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 2019-20. 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 2019-20. 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 2019-20 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 2019-20 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 2019-20.

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 2019-20.

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 2019-20.

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 Tables 1 - 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
0	0	0	0	0	0	0	0

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 Cotter APM
 Commissioner
 Date: 14 August 2020

Appendix D: Government Information (Public Access) Act Report



Government Information (Public Access) Act 2009 (NSW)

Section 125

ANNUAL REPORT BY THE NEW SOUTH WALES CRIME COMMISSION

1 July 2019 – 30 June 2020

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 annual GIPA Report). 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 subsection 125(2) of the Act, was submitted to the Information and Privacy Commission ('IPC') on 18 August 2020 through the IPC online 'GIPA Tool' reporting application.

The *Government Information (Public Access) Regulation 2018* ('the Regulation') makes provision for the information to be included in the annual GIPA report and the form in which the annual GIPA report is to be prepared.

1. Subsection 7(3) of the Act - Review

Subclause 8(a) of the Regulation requires the annual GIPA 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 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 2019–20 reporting year, the Commission conducted an annual review of its program for the release of government information. The program was updated to release a number of updated Commission policy and procedure documents, and the Commission’s external website was revised to include additional information about the Commission. The Commission’s Agency Information Guide was also updated in the relevant reporting period, and continues to be made available to members of the public on the Commission’s website.

2. Number of Access Applications

Subclause 8(b) of the Regulation provides that the annual GIPA 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 2019–20 reporting year, the Commission received one valid access application, which was subsequently withdrawn.

3. Number of Applications Refused

Subclause 8(c) of the Regulation provides that the annual GIPA 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 of the Act (information for which there is conclusive presumption of overriding public interest against disclosure).

During the 2019-20 reporting year, no access applications were refused with reference to Schedule 1 of the Act by the Commission.

4. Statistical Information About Access Applications

Subclause 8 (d) of the Regulation requires an agency’s annual GIPA report to set out statistical 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 nine tables to be included in the annual GIPA report relating to statistical information about access applications. The nine tables on the following pages detail the statistical information of the Commission during the 2019–20 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)	0	0	0	0	0	0	0	0

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
by legal representative)								
Members of the public (other)	0	0	0	0	0	0	0	1

*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	1
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)	2
Application is for excluded information of the agency (section 43 of the Act)	1
Application contravenes restraint order (section 110 of the Act)	0
Total number of invalid applications received	3
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

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 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 Cotter APM
Commissioner
Date: 18 August 2020

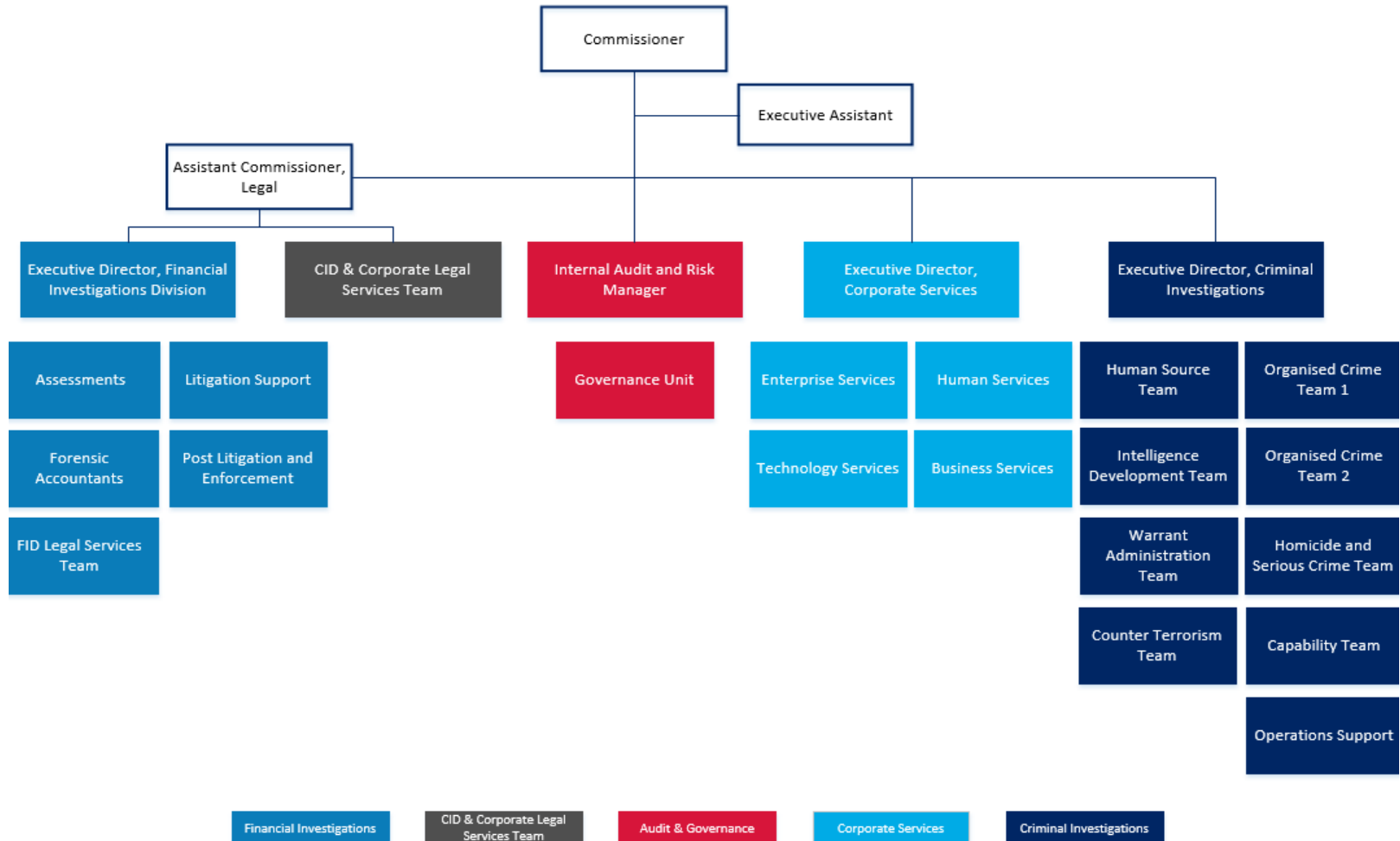
Appendix E: Corporate Plan

Goals	Strategies	Outcomes
Delivering 'safer communities' outcomes	1. Focus on developing and enhancing analytical capabilities in delivering operational outcomes	Arrests, Charges, Warrants, Disseminations
	2. Focus on 'coercive hearings' as a cornerstone of investigations in delivering operational outcomes	Arrests, Charges, Warrants, Disseminations
	3. Focus on developing and enhancing covert surveillance capabilities in delivering operational outcomes	Arrests, Charges, Warrants, Disseminations
	4. Focus on enhancing the confiscations capability model to deliver increased returns to the Confiscated Proceeds Account (CPA)	Increased confiscations to the CPA
Investing in operational capabilities and outcomes	1. Develop a proposal to enhance the successful confiscations model to expand capabilities and outcomes	Financial investigations business case
	2. Undertake a review of data analytical technologies leading to an operations analytical technology roadmap	Analytical technology roadmap
	3. Implement secure enterprise and operational ICT systems to support secure Commission operations	Secure ICT solutions
Investing in our people	1. Develop a strategy/implementation plan to transition staff to an Industrial Award aligned to the NSW public sector	Approved Industrial Award
	2. Undertake a Commission-wide training needs audit and analysis to develop a Commission Training Plan	Training program
	3. Review organisational design and resources to drive operational roles	Increased operational roles

Goals	Strategies	Outcomes
Corporate enterprise capabilities	<ol style="list-style-type: none"> 1. Design a program and strategy to deliver an integrated Protective Security Framework 2. Refresh and upgrade enterprise end user infrastructure to improve security and system performance 3. Undertake a holistic review of the preparedness of business continuity managements systems 4. Improve the presentation and monitoring/reporting of enterprise risk management activities 5. Refine policies, procedures and other guidance to improve readability, accessibility and better practice 	<p>Compliant security framework</p> <p>Improved operating systems</p> <p>Revised Business Continuity Plan</p> <p>Achievement of objectives</p> <p>Improved compliance</p>

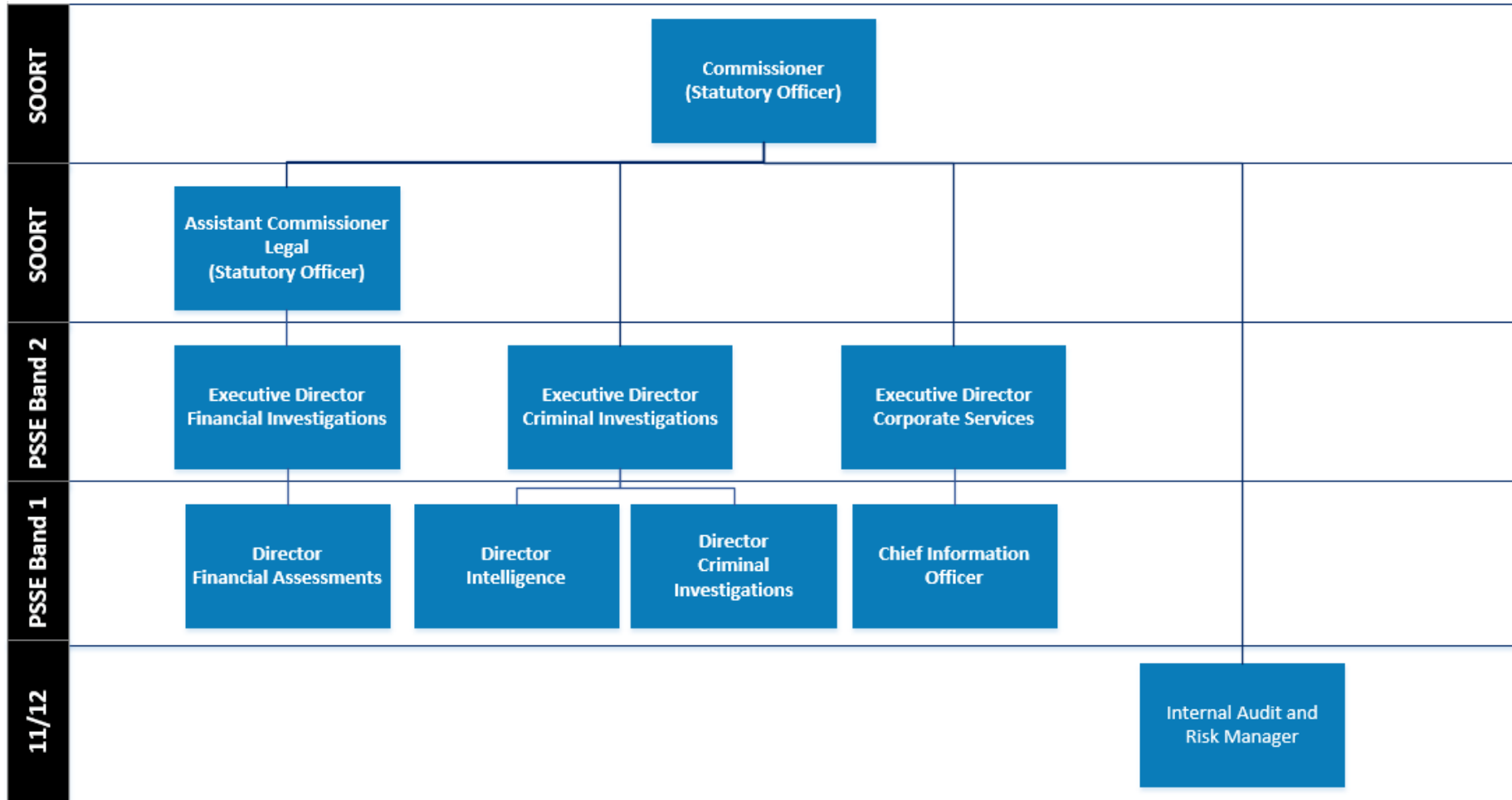
Appendix F: Organisation Structure

As at 30 June 2020



Appendix G: Executive Structure

As at 30 June 2020



Appendix H: Cyber Security Annual Attestation Statement



453-463 Kent Street, Sydney
Sydney NSW 2000, Australia
Tel +61 2 9269 3888 | Toll Free 1800 02 3143
Fax +61 2 9269 3809, +61 2 9269 9733 (Confiscation)
Eaglenet 57022
Email crimecommission@crimecommission.nsw.gov.au

Monday 20 July 2020

Mr Tony Chapman
Government Chief Cyber Security Officer
Chief Cyber Security NSW
Department of Customer Service

Dear Mr Chapman

Cyber Security Annual Attestation Statement for the 2019-2020 Financial Year for the New South Wales Crime Commission

I, Peter Cotter APM, am of the opinion that the New South Wales Crime Commission (the Commission) has managed cyber security risks in a manner consistent with the Mandatory Requirements set out in the NSW Government Cyber Security Policy.

Risks to the information and systems of the Commission have been assessed and are managed in accordance with the Commission's Risk Management Framework, which incorporates the risk assessment and management techniques outlined in the global standard ISO 27005. An Information Security Risk Management Plan has been implemented, and the Commission undertakes a monthly risk review in accordance with that plan.

Governance is in place to manage the cyber-security maturity and initiatives of the New South Wales Crime Commission. A Security Steering Committee was established in 2018, and broadened to incorporate a holistic management of risk for a wider range of corporate services, and renamed the Business Operations Committee in 2019. The management of cyber-security maturity and initiatives of the New South Wales Crime Commission is one of the responsibilities of that committee. The Commission created a new role of ICT Compliance Manager, and the occupant of this position is responsible for coordinating and managing all activities relating to governance and compliance requirements.

The Commission's cyber incident response plan is incorporated within its ISMS and Business Continuity Management Framework, which has been activated in response to the Covid-19 pandemic outbreak during the reporting period.

The New South Wales Crime Commission's ISMS is ISO 27001 certified.

An independent review/audit of the Agency's ISMS or effectiveness of controls or reporting against the mandatory requirements of the NSW Cyber Security Policy was undertaken and found to be appropriate or being properly addressed in a timely manner.

The Commission's assessment against all mandatory requirements in the NSW Cyber Security Policy for the previous financial year, including a maturity assessment against the Australian Cyber Security Centre (ACSC) Essential 8 requirements is attached.

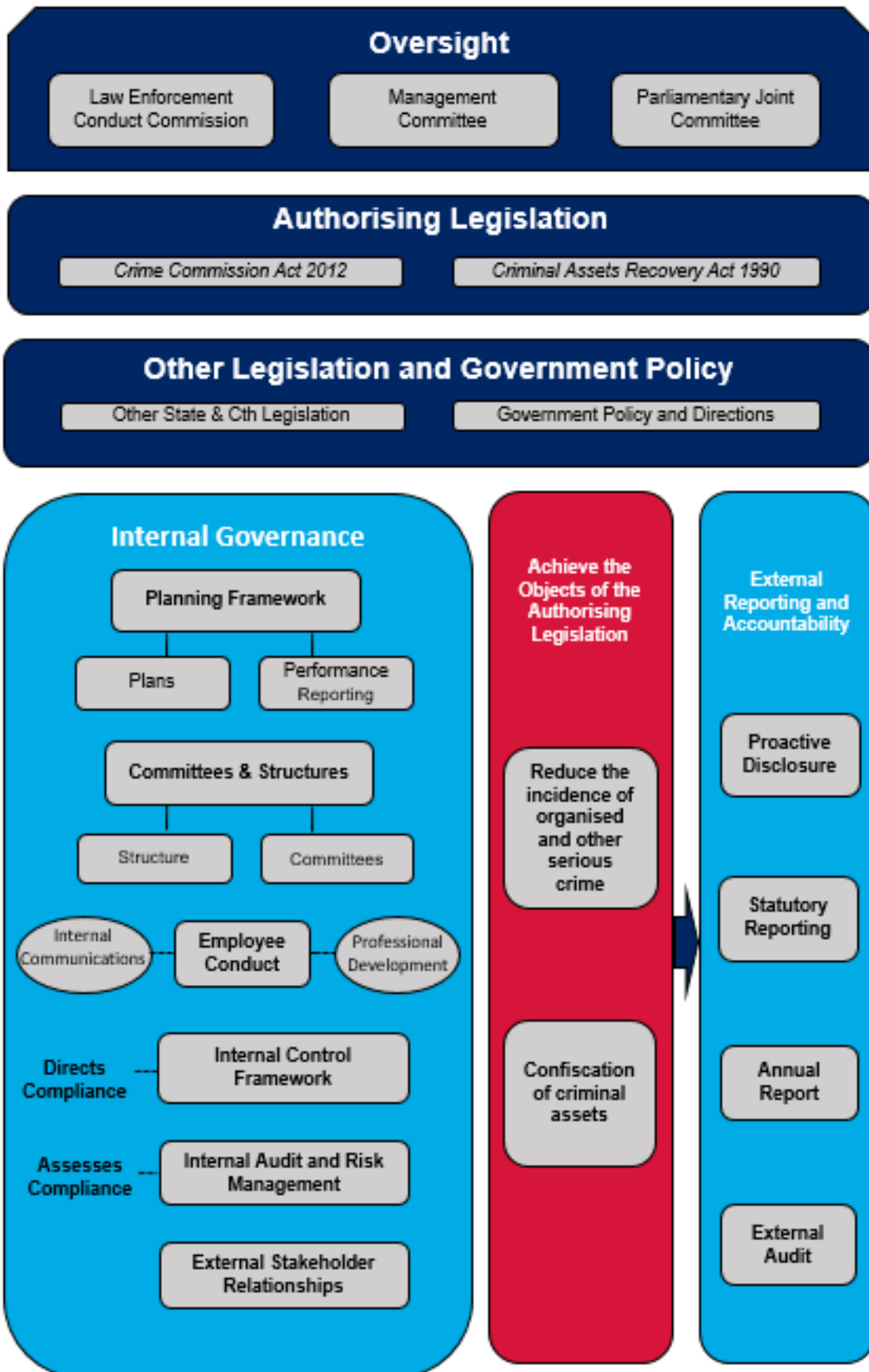
For further information about this matter please contact Mike Wilde, Executive Director, Corporate Services on 02 9269 9717 or at mwilde@crimecommission.nsw.gov.au.

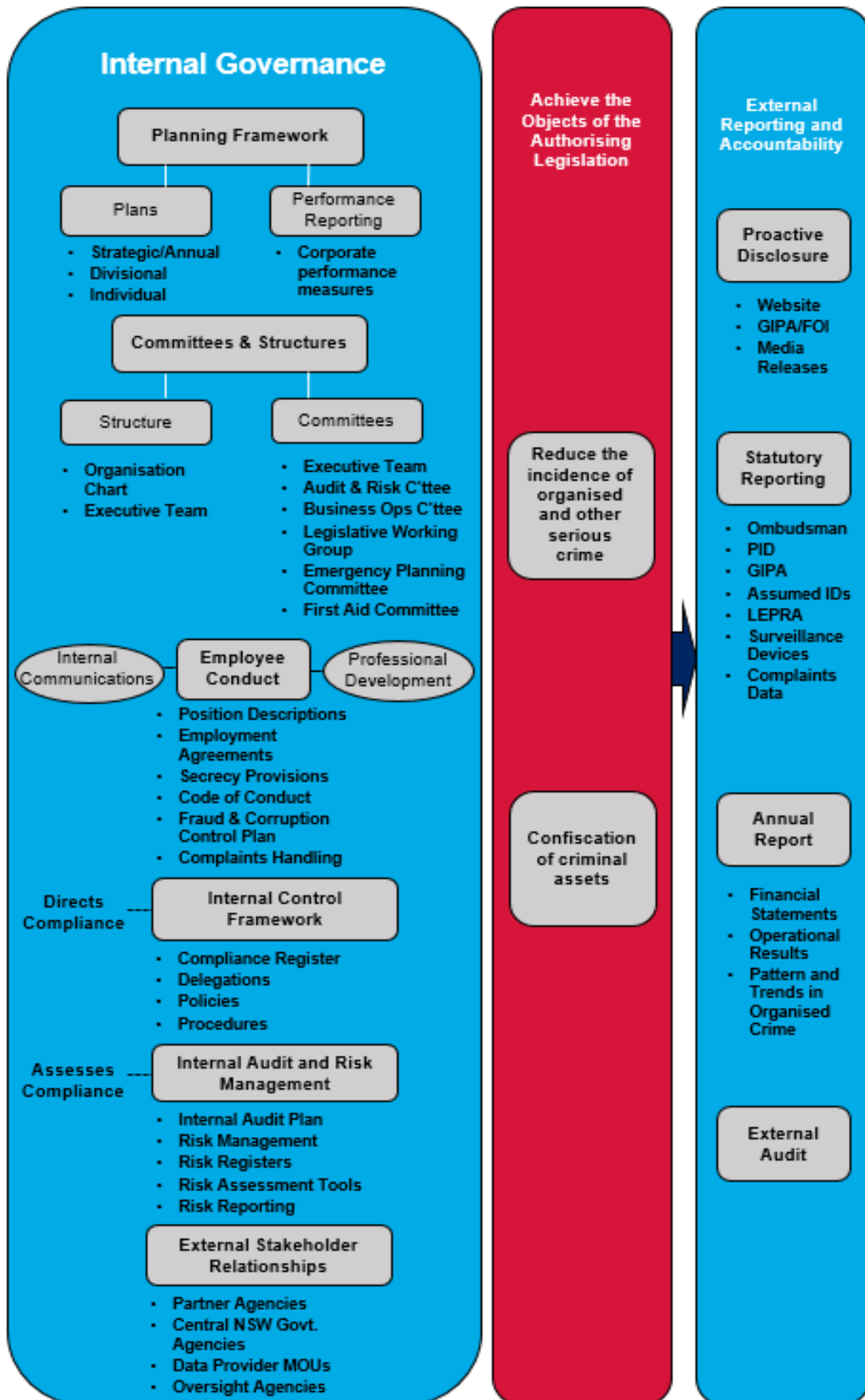
Yours sincerely

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

Peter Cotter, APM
Commissioner

Appendix I: Governance Framework





Appendix J: Internal Audit and Risk Management Attestation



**New South Wales
Crime Commission**

INTERNAL AUDIT AND RISK MANAGEMENT ATTESTATION STATEMENT FOR THE 2019-20 FINANCIAL YEAR FOR THE NEW SOUTH WALES CRIME COMMISSION

I, Peter Cotter APM, 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	Compliant

processes, risk management and control frameworks, and its external accountability obligations

- 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, **Joan Wilcox:**
 - Initial term (commenced as chair) 1 October 2019 to 30 September 2023 (four year term)
- Independent Member, **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)
 - Third term as member 1 July 2020 to 11 August 2021 (one year, one and a half month term to the maximum of 8 years as a member)
- Independent Member, **Paul Crombie:**
 - Initial term as member 1 July 2016 to 30 June 2019 (three year term)
 - Term as interim Chair 1 July 2019 to 30 September 2019 (three month term)
 - Second term as member 1 October 2019 to 30 June 2021 (one year, nine month 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)
 - Third term 1 July 2019 to 30 September 2019* (three month term)

*Ceased membership



Peter Cotter APM
Commissioner
Date: 14 August 2020

Contact Officer: Scott Webb
Internal Audit & Risk Manager
E: swebb@crimecommission.nsw.gov.au
T: 9269 3888

Appendix K: Public Interest Disclosures Act Report



New South Wales
Crime Commission

Public Interest Disclosures Act 1994 (NSW)

Section 31

REPORT BY THE NEW SOUTH WALES CRIME COMMISSION

1 July 2019 – 30 June 2020

Section 31 of the *Public Interest Disclosures Act 1994* (NSW) ('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 to the Commission;
- no Public Interest Disclosures were received by the Commission; and
- there were no outstanding Public Interest Disclosures carried over from the prior reporting period, and as such, 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 easily accessible 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?

In the relevant reporting period, 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 continue to have access to the names and details of current Disclosure Officers and the Internal Reporting Policy via the Commission's Intranet. The Commission's Intranet contains a specific webpage titled 'Grievances and Internal Reporting'. Information about the Act and a link to the Internal Reporting Policy appear on that page. This information is highlighted to new employees during induction training; and
 - Commission employees were advised about new or revised policies and were reminded of their obligations to abide by Commission policies, which are all available to staff to read and print through its intranet. References and links to the Internal Reporting Policy also appear throughout other Commission policies.
3. In November 2019, all Commission employees completed mandatory training in relation to the Commission's Code of Conduct. Section 7.3 of the Code of Conduct provides employees with information relating to the *Public Interest Disclosures Act 1994* (NSW), including references to relevant legislation, policies and procedures.



Peter Cotter APM
Commissioner
Date: 18 August 2020

GLOSSARY AND ABBREVIATIONS

Term	Definition
ABF	Australian Border Force
ACIC	Australian Criminal Intelligence Commission
AFO	Asset Forfeiture Order
AFP	Australian Federal Police
ARC	Audit and Risk Committee
ATO	Australian Taxation Office
AUSTRAC	Australian Transaction Reports and Analysis Centre
BOW	Breach of Warranty
CAR Act	<i>Criminal Assets Recovery Act 1990</i>
CC Act	<i>Crime Commission Act 2012</i>
CDPP	Commonwealth Director of Public Prosecutions
CID	Criminal Investigations Division
COV	Compensation of Victims
Cth	Commonwealth
DCJ	Department of Communities and Justice
FID	Financial Investigations Division
GIPA Act	<i>Government Information (Public Access) Act 2009</i>
GSE Act	Government Sector Employment Act 2013
ICT	Information and Communication Technology
ISMS	Information Security Management System
JCTT	Joint Counter Terrorism Team
LECC	Law Enforcement Conduct Commission
LECO Act	<i>Law Enforcement (Controlled Operations) Act 1997</i>
LENSAI Act	<i>Law Enforcement and National Security (Assumed Identities) Act 2010 (NSW)</i>
LEPR Act	<i>Law Enforcement (Powers and Responsibilities) Act 2002</i>
MDMA	Methylenedioxymethamphetamine
NCSUW	National Co-operative Scheme on Unexplained Wealth
NSWPF	NSW Police Force
OCS	Organised Crime Squad

ODPP	Office of the Director of Public Prosecutions (NSW)
OILECC	Office of the Inspector of the Law Enforcement Conduct Commission
PAC	Police Area Command
PAO	Proceeds Assessment Order
PID Act	<i>Public Interest Disclosures Act 1994</i>
PJC	Parliamentary Joint Committee
PSC	Public Service Commission
PSSEs	Public Service Senior Executives
Reporting period	1 July 2019 to 30 June 2020
SCRA	Serious crime related activity
SD Act	<i>Surveillance Devices Act 2007</i>
SOORT	Statutory and Other Offices Remuneration Tribunal
The Commission	NSW Crime Commission
The Court	Supreme Court of NSW
TIA Act	<i>Telecommunications (Interception and Access) Act 1979 (Cth)</i>
Treasury	NSW Treasury
UWO	Unexplained Wealth Order

COMPLIANCE INDEX

The Commission includes in its Annual Report certain information specified in the *Annual Reports (Departments) Act 1985*, *Annual Reports (Departments) Regulation 2010*, *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	Page/Comment
Access	2
Additional matters for inclusion	2, 56
Agreements with Multicultural NSW	41
Aims and objectives	10-11
Application for extension of time	Not applicable
Applications to the Supreme Court under section 33 <i>CC Act</i> and other Court proceedings	18
Budgets	43-44
Charter	10-11
Compliance with <i>Privacy and Personal Information Protection Act 1998</i>	56
Consultants	43
Consumer response	56
Court proceedings involving the Commission	18, 49-50
Cyber security annual attestation	42, 76-77
Disability inclusion action plans	41
Disclosure of controlled entities	None to be disclosed
Disclosure of subsidiaries	Not applicable
Disseminations	20-21
Economic or other factors	Not applicable
Exemptions	48
Financial statements	88
Funds granted to non-government community organisations	Not applicable
<i>Government Information (Public Access) Act 2009</i>	56, 67-71
Human resources	39-41
Identification of audited financial statements	88
Implementation of price determination	Not applicable
Inclusion of unaudited financial statements	Not applicable
Information furnished to investigative agencies	20-21
Internal audit and risk management attestation	56, 80-81
Investment performance	Not applicable
Land disposal	Not applicable

Legal change	15, 50
Letters of submission	3, 4
Liability management performance	Not applicable
Management, structure and activities	10-56
Matters referred for investigation	14
Multicultural policies and services program	40-41
Numbers and remuneration of senior executives	39-40
Patterns and trends in the nature and scope of organised crime	23-25
Payment of accounts	45-47
Promotion	43
Prosecutions resulting from investigations	21
Public availability of annual report	2
Public Interest Disclosures (PID)	56, 82-83
Recommendations for changes in laws or for administrative action	50
Requirements arising from employment arrangements	Not applicable
Research and development	Disclosure would adversely affect business
Risk management and insurance activities	47, 52-53
Summary review of operations	10-56
Time for payment of accounts	45-47
Warrants issued under section 36 CC Act 2012	18
Workforce diversity	41
Work health & safety	Exempt

AUDITED FINANCIAL STATEMENTS



**NEW SOUTH WALES CRIME COMMISSION
CONSOLIDATED
FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2020**

New South Wales Crime Commission

Financial Statements for the year ended 30 June 2020

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 2020 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.



Michael Barnes
Commissioner

Dated: 7 October 2020



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 Statements of Comprehensive Income for the year ended 30 June 2020, the Statements of Financial Position as at 30 June 20, the Statements of Changes in Equity and the Statements of Cash Flows for the year then ended, notes comprising a Statement of Significant Accounting Policies and other explanatory information of the Commission and the consolidated entity. The consolidated entity comprises the Commission and the entities it controlled at the year's end or from time to time during the financial year.

In my opinion, the financial statements:

- give a true and fair view of the financial position of the Commission and the consolidated entity as at 30 June 2020, and of their financial performance and 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 and the consolidated entity 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 (including Independence Standards)' (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

The Commission's annual report for the year ended 30 June 2020 includes other information in addition to 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 in Accordance with section 45F of the PF&A Act.

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 ability of the Commission and the consolidated entity to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting.

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/ar3.pdf. The description forms part of my auditor's report.

The scope of my audit does not include, nor provide assurance:

- that the Commission or the consolidated entity carried out their 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

Delegate of the Auditor-General for New South Wales

9 October 2020
SYDNEY

Start of audited financial statements.

NEW SOUTH WALES CRIME COMMISSION

Statement of Comprehensive Income for the year ended 30 June 2020

	Notes	Consolidated			Statutory Corporation	
		Actual	Budget	Actual	Actual	Actual
		2020	2020	2019	2020	2019
		\$'000	\$'000	\$'000	\$'000	\$'000
Expenses excluding losses						
Employee-related expenses	2(a)	17,582	17,612	18,267	-	-
Operating expenses	2(b)	6,320	5,867	7,704	6,320	7,704
Personnel services	2(c)	-	-	-	16,825	17,143
Depreciation and amortisation	2(d)	3,205	3,997	1,144	3,205	1,144
Finance Costs	2(e)	144	239	-	144	-
Total expenses excluding losses		27,251	27,715	27,115	26,494	25,991
Revenue						
Grants and contributions	3(a)	25,599	26,455	24,021	25,599	24,021
Acceptance by the Crown Entity of employee benefits and other liabilities	3(b)	757	708	1,124	-	-
Other income		69	56	21	69	21
Total revenue		26,425	27,219	25,166	25,668	24,042
Operating result		(826)	(496)	(1,949)	(826)	(1,949)
Gains / (losses) on disposal	4	(8)	-	(5)	(8)	(5)
Other gains / (losses)	5	(1,711)	-	-	(1,711)	-
Net result		(2,545)	(496)	(1,954)	(2,545)	(1,954)
Other comprehensive income		-	-	-	-	-
TOTAL COMPREHENSIVE INCOME		(2,545)	(496)	(1,954)	(2,545)	(1,954)

The accompanying notes form part of these financial statements.

NEW SOUTH WALES CRIME COMMISSION

Statement of Financial Position as at 30 June 2020

	Notes	Consolidated			Statutory Corporation	
		Actual	Budget	Actual	Actual	Actual
		2020	2020	2019	2020	2019
		\$'000	\$'000	\$'000	\$'000	\$'000
ASSETS						
Current Assets						
Cash and cash equivalents	6	1,327	518	938	1,327	938
Receivables	7	680	605	664	680	664
Non-current assets held-for-sale		-	111	-	-	-
Total Current Assets		2,007	1,234	1,602	2,007	1,602
Non-Current Assets						
Receivables	8	1	10	9	1	9
Property, plant and equipment	9					
Land and buildings		111	8,151	111	111	111
Plant and equipment		1,336	1,298	1,640	1,336	1,640
Right-of-use assets	10	7,451	-	-	7,451	-
Intangible assets	11	1,498	1,482	1,735	1,498	1,735
Total Non-Current Assets		10,397	10,941	3,495	10,397	3,495
Total Assets		12,404	12,175	5,097	12,404	5,097
LIABILITIES						
Current Liabilities						
Payables	12	668	461	427	307	361
Lease Liabilities	13	2,255	2,705	-	2,255	-
Provisions	15	2,179	1,716	1,797	2,603	1,922
Total Current Liabilities		5,102	4,882	2,224	5,165	2,283
Non-Current Liabilities						
Lease Liabilities	14	6,970	5,597	-	6,970	-
Provisions	16	63	65	59	-	-
Total Non-Current Liabilities		7,033	5,662	59	6,970	-
Total Liabilities		12,135	10,544	2,283	12,135	2,283
Net Assets		269	1,631	2,814	269	2,814
EQUITY						
Accumulated funds	17	269	1,631	2,814	269	2,814
Total Equity		269	1,631	2,814	269	2,814

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 2020

	Accumulated	
	Funds	Total
	\$'000	\$'000
Balance at 1 July 2019	2,814	2,814
Net result for the year	(2,545)	(2,545)
Other comprehensive income	-	-
Total comprehensive income for the year	(2,545)	(2,545)
Balance at 30 June 2020	269	269
Balance at 1 July 2018	4,768	4,768
Net result for the year	(1,954)	(1,954)
Other comprehensive income	-	-
Total comprehensive income for the year	(1,954)	(1,954)
Balance at 30 June 2019	2,814	2,814

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 2020

	Notes	Consolidated			Statutory Corporation	
		Actual	Budget	Actual	Actual	Actual
		2020	2020	2019	2020	2019
		\$'000	\$'000	\$'000	\$'000	\$'000
CASH FLOWS FROM OPERATING ACTIVITIES						
Payments						
Employee related		(16,145)	(16,782)	(17,012)	-	-
Personnel Services		-	-	-	(16,145)	(17,012)
Finance Costs		(144)	(239)	-	(144)	-
Other		(7,376)	(6,590)	(8,629)	(7,376)	(8,629)
Total Payments		(23,665)	(23,611)	(25,641)	(23,665)	(25,641)
Receipts						
Grants and contributions		25,599	26,455	24,021	25,599	24,021
Other		1,064	656	983	1,064	983
Total Receipts		26,663	27,111	25,004	26,663	25,004
NET CASH FLOWS FROM OPERATING ACTIVITIES	21	2,998	3,500	(637)	2,998	(637)
CASH FLOWS FROM INVESTING ACTIVITIES						
Proceeds from sale of property, plant and equipment		-	-	10	-	10
Purchase of property, plant and equipment		(212)	(591)	(571)	(212)	(571)
Purchase of intangibles		(170)	(341)	(98)	(170)	(98)
NET CASH FLOWS FROM INVESTING ACTIVITIES		(382)	(932)	(659)	(382)	(659)
CASH FLOWS FROM FINANCING ACTIVITIES						
Repayment of principal portion of lease liabilities		(2,227)	(2,566)	-	(2,227)	-
NET CASH FLOWS FROM FINANCING ACTIVITIES		(2,227)	(2,566)	-	(2,227)	-
NET INCREASE / (DECREASE) IN CASH AND CASH EQUIVALENTS						
		389	2	(1,296)	389	(1,296)
Opening cash and cash equivalents		938	516	2,234	938	2,234
CLOSING CASH AND CASH EQUIVALENTS	6	1,327	518	938	1,327	938

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 NSW 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.

These consolidated financial statements for the year ended 30 June 2020 have been authorised for issue by the Commissioner on 7 October 2020.

(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* (the Act) and *Public Finance and Audit Regulation 2015* and
- Treasurer's Directions issued under the Act.

Property, plant and equipment and assets 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

Income, expenses and assets are recognised net of the amount of goods and services tax (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.

1. Summary of Significant Accounting Policies (continued)

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 ATO are classified as operating cash flows.

(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

The Commission applied AASB 1058 *Income of Not-for-Profit Entities*, AASB 15 *Revenue from Contracts with Customers* and AASB 16 *Leases* for the first time. The nature and effect of the changes as a result of adoption of these new accounting standards are described below. Several other amendments and interpretations apply for the first time in financial year 2019-20, but do not have an impact on the financial statements of the Commission.

(i) Effective for the first time in financial year 2019-20

AASB 15 Revenue from Contracts with Customers

AASB 15 supersedes AASB 111 *Construction Contracts*, AASB 118 *Revenue* and related Interpretations and it applies, with limited exceptions, to all revenue arising from contracts with customers. AASB 15 establishes a five-step model to account for revenue arising from contracts with customers and requires that revenue be recognised at an amount that reflects the consideration to which an entity expects to be entitled in exchange for transferring goods or services to a customer.

AASB 15 requires entities to exercise judgement, taking into consideration all of the relevant facts and circumstances when applying each step of the model to contracts with their customers. The standard also specifies the accounting for the incremental costs of obtaining a contract and the costs directly related to fulfilling a contract. In addition, the standard requires relevant disclosures.

In accordance with the transition provisions in AASB 15, the Commission has adopted AASB 15 retrospectively with the cumulative effect of initially applying the standard recognised at the date of initial application, i.e. 1 July 2019.

The adoption of AASB 15 did not have any impact on the Statement of Comprehensive Income, Financial Position, Other Comprehensive Income and the Statement of Cash Flows for the financial year.

AASB 1058 Income of Not-for-Profit Entities

AASB 1058 replaces most of the existing requirements in AASB 1004 *Contributions*. The scope of AASB 1004 is now limited mainly to contributions by owners (including parliamentary appropriations that satisfy the definition of a contribution by owners), administrative arrangements and liabilities of government departments assumed by other entities.

AASB 1058 applies to income with a donation component, i.e. transactions where the consideration to acquire an asset is significantly less than fair value principally to enable a not-for-profit entity to further its objectives; and volunteer services. AASB 1058 adopts a residual approach, meaning that entities first apply other applicable Australian Accounting Standards (e.g. AASB 1004, AASB 15, AASB 16, AASB 9, AASB 137) to a transaction before recognising income.

Not-for-profit entities need to determine whether a transaction is/contains a donation (accounted for under AASB 1058) or a contract with a customer (accounted for under AASB 15).

AASB 1058 requires recognition of receipt of an asset, after the recognition of any related amounts in accordance with other Australian Accounting Standards, as income:

- when the obligations under the transfer is satisfied, for transfers to enable the Commission to acquire or construct a recognisable non-financial asset that will be controlled by the Commission
- immediately, for all other income within the scope of AASB 1058.

1. Summary of Significant Accounting Policies (continued)

In accordance with the transition provisions in AASB 1058, the Commission has adopted AASB 1058 retrospectively with the cumulative effect of initially applying the standard at the date of initial application, i.e. 1 July 2019. The Commission has adopted the practical expedient in AASB 1058 whereby existing assets acquired for consideration significantly less than fair value principally to enable the Commission to further its objectives, are not restated to their fair value.

The adoption of AASB 1058 did not have any impact on the Statement of Comprehensive Income, Financial Position, Other Comprehensive Income and the Statement of Cash Flows for the financial year.

AASB 16 Leases

AASB 16 supersedes AASB 117 *Leases*, Interpretation 4 *Determining whether an Arrangement contains a Lease*, Interpretations 115 *Operating Leases – Incentives and Interpretation*, 127 *Evaluating the Substance of Transactions Involving the Legal Form of a Lease*. The standard sets out the principles for the recognition, measurement, presentation and disclosure of leases and requires lessees to recognise most leases on the balance sheet.

Lessee Accounting

AASB 16 requires the Commission to account for all leases under a single on-balance sheet model similar to the accounting for finance leases under AASB 117. As the lessee, the Commission recognises a lease liability and right-of-use asset at the inception of the lease. The lease liability is measured at the present value of the future lease payments, discounted using the interest rate implicit in the lease, or the lessee's incremental borrowing rate if the interest rate implicit in the lease cannot be readily determined. The corresponding right-of-use asset is measured at the value of the lease liability adjusted for lease payments before inception, lease incentives, initial direct costs and estimates of costs for dismantling and removing the asset or restoring the site on which it is located.

The Commission has adopted the partial retrospective option in AASB 16, where the cumulative effect of initially applying AASB 16 is recognised on 1 July 2019 and the comparatives for the year ended 30 June 2019 are not restated.

In relation to leases that had previously been classified as 'operating leases' under AASB 117, a lease liability is recognised at 1 July 2019 at the present value of the remaining lease payments, discounted using the lessee's incremental borrowing rate at the date of initial application. The weighted average lessee's incremental borrowing rate applied to the lease liabilities on 1 July 2019 was 1.41%.

The corresponding right-of-use asset is initially recorded on transition at an amount equal to the lease liability, adjusted by the amount of any prepaid or accrued lease payments relating to that lease recognised in the statement of financial position as at 30 June 2019. The exception is right-of-use assets that are subject to accelerated depreciation. These assets are measured at their fair value at 1 July 2019.

In applying AASB 16 for the first time, the Commission has used the following practical expedients permitted by the standard:

- not reassess whether a contract is, or contains, a lease at 1 July 2019, for those contracts previously assessed under AASB 117 and Interpretation 4
- applying a single discount rate to a portfolio of leases with reasonably similar characteristics
- relying on its previous assessment on whether leases are onerous immediately before the date of initial application as an alternative to performing an impairment review
- not recognise a lease liability and right-of-use asset for short-term leases that end within 12 months of the date of initial application
- excluding the initial direct costs from the measurement of the right-of-use asset at the date of initial application
- using hindsight in determining the lease term where the contract contained options to extend or terminate the lease.

1. Summary of Significant Accounting Policies (continued)

The effect of adoption AASB 16 as at 1 July 2019 (increase/ (decrease)) is as follows:

	<u>\$'000</u>
Assets	
Right-of-use assets	11,452
Total assets	<u>11,452</u>
Liabilities	
Lease liabilities	11,452
Total liabilities	<u>11,452</u>
Equity	
Accumulated funds	<u>-</u>

The lease liabilities as at 1 July 2019 can be reconciled to the operating lease commitments as of 30 June 2019, as follows:

	<u>\$'000</u>
Operating lease commitments as at 30 June 2019 (GST included)	15,813
(Less): GST included in operating lease commitments	<u>(1,438)</u>
Operating lease commitments as at 30 June 2019 (GST excluded)	14,375
Weighted average incremental borrowing rate as at 1 July 2019	(401)
Non-lease components	<u>(2,522)</u>
Lease liabilities as at 1 July 2019	<u>11,452</u>

(ii) Issued but not yet effective

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

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

- *AASB 2018-7 Amendments to Australian Accounting Standards - Definition of Material*
- *AASB 2019-1 Amendments to Australian Accounting Standards - References to the Conceptual Framework*
- *AASB 2019-7 Amendments to Australian Accounting Standards - Disclosure of GFS Measures of Key Fiscal Aggregates and GAAP/GFS Reconciliations.*

The possible impact of these remaining standards in the period of initial application are not expected to materially impact the financial statements.

2. Expenses Excluding Losses

	Consolidated		Statutory Corporation	
	2020	2019	2020	2019
	\$'000	\$'000	\$'000	\$'000
(a) Employee related expenses				
Salaries and wages (including annual leave)	14,504	14,546	-	-
Superannuation - defined benefit plans	80	88	-	-
Superannuation - defined contribution plans	1,211	1,178	-	-
Long service leave	719	1,132	-	-
Workers' compensation insurance	85	84	-	-
Payroll tax and fringe benefit tax	895	850	-	-
Other	88	389	-	-
	<u>17,582</u>	<u>18,267</u>	<u>-</u>	<u>-</u>
(b) Other operating expenses				
Auditor's remuneration				
- audit of the financial statements	53	49	53	49
Operating lease rental expense				
- minimum lease payments	592	2,223	592	2,223
Maintenance*	97	209	97	209
Insurance	17	16	17	16
Office utilities	219	239	219	239
Office supplies	189	205	189	205
Computer services	2,049	1,921	2,049	1,921
Travel expenses	55	69	55	69
Motor vehicle expenses	19	17	19	17
Service and legal fees	873	540	873	540
Telecommunications	1,043	941	1,043	941
Maintenance agreements	1,064	894	1,064	894
Other	50	381	50	381
	<u>6,320</u>	<u>7,704</u>	<u>6,320</u>	<u>7,704</u>
<i>* Reconciliation - Total Maintenance</i>				
Maintenance expense - contracted labour and other (non-employee related), as above	97	209	97	209
Personnel services maintenance expense included in Note 2(a)	54	53	-	-
Total maintenance expenses included in Note 2(a) and 2(b)	<u>151</u>	<u>262</u>	<u>97</u>	<u>209</u>
(c) Personnel services				
New South Wales Crime Commission Staff Agency	-	-	16,825	17,143
	<u>-</u>	<u>-</u>	<u>16,825</u>	<u>17,143</u>

2. Expenses Excluding Losses (continued)

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.

Lease expense (up to 30 June 2019)

Operating leases

Up to 30 June 2019, operating lease payments are recognised as an operating expense in the Statement of Comprehensive Income on a straight-line basis over the lease term. An operating lease is a lease other than a finance lease.

Lease expense (from 1 July 2019)

Operating leases

From 1 July 2019, the Commission recognises the lease payments associated with the following types of leases as an expense on a straight-line basis:

- Leases that meet the definition of short-term. i.e. where the lease term at commencement of the lease is 12 months or less. This excludes leases with a purchase option.
- Leases of assets that are valued at \$10,000 or under when new.

Variable lease payments not included in the measurement of the lease liability (i.e. variable lease payments that do not depend on an index or rate, initially measured using the index or rate as at the commencement date). These payments are recognised in the period in which the event or condition that triggers those payments occurs.

	Consolidated		Statutory Corporation	
	2020	2019	2020	2019
	\$'000	\$'000	\$'000	\$'000
(d) Depreciation and amortisation expense				
Depreciation				
Buildings and Improvements - Right of Use Asset	2,290	-	2,290	-
Plant and equipment	221	175	221	175
Computer equipment	261	385	261	385
Motor vehicles	26	21	26	21
	<u>2,798</u>	<u>581</u>	<u>2,798</u>	<u>581</u>
Amortisation	407	563	407	563
Total Depreciation and amortisation	<u>3,205</u>	<u>1,144</u>	<u>3,205</u>	<u>1,144</u>

Refer to Notes 9, 10 and 11 for recognition and measurement policies on depreciation and amortisation.

(e) Finance costs

Interest expense from lease liabilities	144	-	144	-
Total interest expense	<u>144</u>	<u>-</u>	<u>144</u>	<u>-</u>

2. Expenses Excluding Losses (continued)

Recognition and Measurement

Finance costs consist of interest and other costs incurred in connection with the borrowing of funds. Borrowing costs are recognised as expenses in the period in which they are incurred, in accordance with Treasury's Mandate to not-for-profit NSW GGS entities.

3. Revenue

	Consolidated		Statutory Corporation	
	2020	2019	2020	2019
	\$'000	\$'000	\$'000	\$'000
(a) Grants without sufficiently specific performance obligations				
Recurrent grants	25,217	23,350	25,217	23,350
Capital grants	382	671	382	671
	<u>25,599</u>	<u>24,021</u>	<u>25,599</u>	<u>24,021</u>

Recognition and Measurement

Until 30 June 2019

Income from grants (other than contribution by owners) is recognised when the Commission obtains control over the contribution. The Commission 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.

From 1 July 2019

Income from grants without sufficiently specific performance obligations is recognised when the Commission obtains control over the granted assets (e.g. cash).

- (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	80	88	-	-
Long service leave	672	1,031	-	-
Payroll tax	5	5	-	-
	<u>757</u>	<u>1,124</u>	<u>-</u>	<u>-</u>

- (c) Deemed appropriations

	2020	2019
	\$'000	\$'000
Movement of Section 4.7 GSF Act - deemed appropriations:		
Opening balance*	-	-
Adjustment for appropriations deemed on commencement of section 4.7	938	-
Add: additions of deemed appropriations	26,663	26,300
Less: expenditure charged against deemed appropriations	(26,274)	(26,300)
Closing balance	<u>1,327</u>	<u>-</u>

*The opening balance prior to the commencement of the GSF Act is zero in accordance with the Government Sector Finance Act Regulation 2018

3. Revenue (continued)

The Commission receives funding from the Department of Communities and Justice who receives appropriations from the Consolidated Fund. Appropriations for each financial year are set out in the Appropriation Act for the year. Due to COVID-19, the State Budget and related 2020-21 Appropriation Bill has been delayed and is anticipated to be tabled in Parliament in November/December 2020. However, pursuant to section 4.10 of the GSF Act, the Treasurer has authorised Ministers to spend specified amounts from the Consolidated Fund. This authorisation is current from 1 July 2020 until the earlier of 31 December 2020 (or another day prescribed by the regulations) or enactment of the 2020-21 annual Appropriation Act.

4. Gain / (Loss) on Disposal

	Consolidated		Statutory Corporation	
	2020	2019	2020	2019
	\$'000	\$'000	\$'000	\$'000
Written down value of assets sold/scrapped	(8)	(15)	(8)	(15)
Proceeds from disposal	-	10	-	10
	<u>(8)</u>	<u>(5)</u>	<u>(8)</u>	<u>(5)</u>

5. Other Gains / (Losses)

Impairment loss on Right of Use Assets	(1,711)	-	(1,711)	-
	<u>(1,711)</u>	<u>-</u>	<u>(1,711)</u>	<u>-</u>

Recognition and Measurement

Impairment losses on non-financial assets

Impairment losses may arise on non-financial assets held by the entity from time to time. Accounting for impairment losses is dependent upon the individual asset (or group of assets) subject to impairment. Accounting Policies and events giving rise to impairment losses are disclosed in the following notes:

Trade receivables and contract assets - Note 23

Property, plant and equipment - Note 9

Leases - Note 10

Intangible assets - Note 11

6. Current Assets - Cash and Cash Equivalents

Cash at bank and on hand	1,327	938	1,327	938
	<u>1,327</u>	<u>938</u>	<u>1,327</u>	<u>938</u>

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:

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

	Consolidated		Statutory Corporation	
	2020	2019	2020	2019
	\$'000	\$'000	\$'000	\$'000
Cash and cash equivalents (per Statement of Financial Position)	1,327	938	1,327	938
Closing cash and cash equivalents (per Statement of Cash Flows)	1,327	938	1,327	938

Refer Note 23 for details regarding credit risk, liquidity risk and market risk arising from financial instruments.

7. Current Assets - Receivables

Operational expenses to be recouped	31	27	31	27
Other debtors	154	220	154	220
Prepayments	495	417	495	417
	680	664	680	664

Details regarding credit risk of trade debtors that are neither past due nor impaired, are disclosed in Note 23.

8. Non-Current Assets - Receivables

Professional costs to be recovered	1	9	1	9
	1	9	1	9

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. No allowance for expected credit losses has been made.

Receivables are initially recognised at fair value plus any directly attributable transaction costs. Trade receivables that do not contain a significant financing component are measured at the transaction price.

Subsequent measurement

The Commission holds receivables with the objective to collect the contractual cash flows and therefore measures them 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.

Impairment

The Commission recognises an allowance for expected credit losses (ECLs) for all debt financial assets not held at fair value through profit and loss. ECLs are based on the difference between the contractual cash flows and the cash flows that the Commission expects to receive, discounted at the original effective interest rate.

For trade receivables, the Commission applies a simplified approach in calculating ECLs. The Commission recognises a loss allowance based on lifetime ECLs at each reporting date. The Commission has established a provision matrix based on its historical credit loss experience for trade receivables, adjusted for forward-looking factors specific to the receivable. As at 30 June 2020 it was assessed that no ECL was required.

9. 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 2019 - fair value						
Gross carrying amount	111	5,663	5,774	111	5,663	5,774
Accumulated depreciation	-	(4,023)	(4,023)	-	(4,023)	(4,023)
Net carrying amount	111	1,640	1,751	111	1,640	1,751
At 30 June 2020 - fair value						
Gross carrying amount	111	5,787	5,898	111	5,787	5,898
Accumulated depreciation	-	(4,451)	(4,451)	-	(4,451)	(4,451)
Net carrying amount	111	1,336	1,447	111	1,336	1,447

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:

	<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 2020						
Net carrying amount at beginning of year	111	1,640	1,751	111	1,640	1,751
Additions	-	212	212	-	212	212
Disposals	-	(8)	(8)	-	(8)	(8)
Depreciation expense	-	(508)	(508)	-	(508)	(508)
Net carrying amount at end of year	111	1,336	1,447	111	1,336	1,447

	<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 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
At 30 June 2019 - fair value						
Gross carrying amount	111	5,663	5,774	111	5,663	5,774
Accumulated depreciation	-	(4,023)	(4,023)	-	(4,023)	(4,023)
Net carrying amount	111	1,640	1,751	111	1,640	1,751

9. 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	Plant and	Total	Land and	Plant and	Total
	buildings	equipment		buildings	equipment	
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Year ended 30 June 2019						
Net carrying amount at beginning of year	-	1,665	1,665	-	1,665	1,665
Additions	-	571	571	-	571	571
Reclassification from Assets-Held-for-Sale	111	-	111	111	-	111
Disposals	-	(15)	(15)	-	(15)	(15)
Depreciation expense	-	(581)	(581)	-	(581)	(581)
Net carrying amount at end of year	111	1,640	1,751	111	1,640	1,751

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.

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

Depreciation asset category	Rate (%)
Computer equipment	20 - 33
Plant and equipment	10 - 50
Motor vehicles	15

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 takes 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.

10. Leases

The Commission leases premises at 453-463 Kent Street Sydney through an Occupancy Agreement with Property NSW for a 15-year duration which commenced in 2009. The current agreement expires on 30 June 2024 and may have extension options available. The current Occupancy Agreement has a potential financial exposure as a result of variable lease payments and reviews of lease costs every two years. Property NSW undertake a market assessment of the property value and make lease payment changes accordingly. These are currently unquantifiable at this time. Lease terms are negotiated on an individual basis and contain a wide range of different terms and conditions. The lease agreements do not impose any covenants, but leased assets may not be used as security for borrowing purposes. The Commission does not provide residual value guarantees in relation to leases.

10. Leases (continued)

From 1 July 2019, AASB 16 *Leases* (AASB 16) requires a lessee to recognise a right-of-use asset and a corresponding lease liability for most leases.

Right-of-use assets under leases

The following table presents right-of use assets that do not meet the definition of investment property.

	Land and Buildings \$'000	Plant and Equipment \$'000	Infrastructure Systems \$'000	Total \$'000
Initial recognition at 1 July 2019	11,452	-	-	11,452
Additions	-	-	-	-
Depreciation expense	(2,290)	-	-	(2,290)
Impairment loss	(1,711)	-	-	(1,711)
Balance at 30 June 2020	<u>7,451</u>	<u>-</u>	<u>-</u>	<u>7,451</u>

Lease liabilities

The following table presents liabilities under leases, including leases in respect of investment properties.

	Lease liabilities
Initial recognition at 1 July 2019	11,452
Additions	-
Interest expenses	144
Payments	<u>(2,371)</u>
Balance at 30 June 2020	<u>9,225</u>

The following amounts were recognised in the statement of comprehensive income for the year ending 30 June 2020 in respect of leases where the Commission is the lessee:

	\$'000
Depreciation expense of right-of-use assets	2,290
Interest expense on lease liabilities	144
Total amount recognised in the statement of comprehensive income	<u>2,434</u>

The Commission had total cash outflows for leases of **\$2.371m** in financial year 2019-20.

Future minimum lease payments under non-cancellable leases as at **30 June 2019** are, as follows:

	Operating Lease \$'000	Finance Lease \$'000
Within one year	3,163	-
Later than one year and not later than five years	12,650	-
Later than five years	-	-
Total (including GST)	<u>15,813</u>	-
Less: GST recoverable from the Australian Taxation Office	1,438	-
Total (excluding GST)	<u>14,375</u>	-

The reconciliation between the total future minimum lease payments for finance leases and their present value as at 30 June 2019 are, as follows:

10. Leases (continued)

	2019
	\$'000
Total minimum finance lease payments	14,375
Less: future finance charges	(401)
Less: non-lease components	(2,522)
Present value of minimum lease payments	<u>11,452</u>

Recognition and measurement (under AASB 16 from 1 July 2019)

The Commission assesses at contract inception whether a contract is, or contains, a lease. That is, if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration.

The Commission recognises lease liabilities to make lease payments and right-of-use assets representing the right to use the underlying assets, except for short-term leases and leases of low-value assets.

i. Right-of-use assets

The Commission recognises right-of-use assets at the commencement date of the lease (i.e. the date the underlying asset is available for use). Right-of-use assets are initially measured at the amount of initial measurement of the lease liability (refer ii below), adjusted by any lease payments made at or before the commencement date and lease incentives, any initial direct costs incurred, and estimated costs of dismantling and removing the asset or restoring the site.

The right-of-use assets are subsequently measured at cost. They are depreciated on a straight-line basis over the shorter of the lease term and the estimated useful lives of the assets, as follows:

- building and improvements

If ownership of the leased asset transfers to the Commission at the end of the lease term (30 June 2024) or the cost reflects the exercise of a purchase option, depreciation is calculated using the estimated useful life of the asset (5 years).

The right-of-use assets are also subject to impairment. 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. 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 the net result.

The COVID-19 outbreak occurring throughout the 2019-20 financial year had an unprecedented effect on the NSW and global economies. COVID-19 significantly impacted the market rent for the Commission's Occupancy Agreement and therefore the value of the right-of-use asset in the Statement of Financial Position.

The Commission has therefore undertaken an impairment assessment for the above right-of-use asset, to determine whether the carrying amount exceeded its recoverable amount. The impacted right-of-use asset was written down to its recoverable amount by reference to the right-of-use asset's fair value less costs of disposal and an impairment loss is recognised.

The Commission recognised an impairment loss for the right-of-use asset during the 2019-20 financial year of \$1.711m. Impairment losses for right-of-use assets are included in Other Gains/(Losses) in the Statement of Comprehensive Income.

The right-of-use asset for which an impairment loss has been recognised during the financial year is as follows:

- The Commission's Occupancy Agreement was impaired due to the significant decline in market rent. It has been written down to its recoverable amount of \$7.451m, which is determined by reference to its fair value less costs of disposal. The impairment loss recognised during the financial year is \$1.711m. The valuation technique used in the fair value measurement is classified as level 3 according to AASB 13 fair value hierarchy

10. Leases (continued)

ii. Lease liabilities

At the commencement date of the lease, the Commission recognises lease liabilities measured at the present value of lease payments to be made over the lease term. Lease payments include:

- fixed payments (including in substance fixed payments) less any lease incentives receivable;
- variable lease payments that depend on an index or a rate;
- amounts expected to be paid under residual value guarantees;
- exercise price of purchase options reasonably certain to be exercised by the Commission; and
- payments of penalties for terminating the lease, if the lease term reflects the Commission exercising the option to terminate.

Variable lease payments that do not depend on an index or a rate are recognised as expenses (unless they are incurred to produce inventories) in the period in which the event or condition that triggers the payment occurs.

The lease payments are discounted using the interest rate implicit in the lease. If that rate cannot be readily determined, which is generally the case for the Commission's leases, the lessee's incremental borrowing rate is used, being the rate that the Commission would have to pay to borrow the funds necessary to obtain an asset of similar value to the right-of-use asset in a similar economic environment with similar terms, security and conditions.

After the commencement date, the amount of lease liabilities is increased to reflect the accretion of interest and reduced for the lease payments made. In addition, the carrying amount of lease liabilities is remeasured if there is a modification, a change in the lease term, a change in the lease payments (e.g., changes to future payments resulting from a change in an index or rate used to determine such lease payments) or a change in the assessment of an option to purchase the underlying asset.

The Commission's lease liabilities are included in borrowings.

iii. Short-term leases and leases of low-value assets

The Commission has no short-term leases or leases of low-value assets.

iv. Leases that have significantly below-market terms and conditions principally to enable the Commission to further its objectives

The Commission has no leases that have significantly below-market terms and conditions.

These right-of-use assets are depreciated on a straight-line basis over the shorter of the lease term and the estimated useful lives of the assets, subject to impairment. They are not subject to revaluation.

Recognition and measurement (under AASB 117 until 30 June 2019)

The determination of whether an arrangement is (or contains) a lease is based on the substance of the arrangement at the inception of the lease. The arrangement is, or contains, a lease if fulfilment of the arrangement is dependent on the use of a specific asset or assets and the arrangement conveys a right to use the asset (or assets), even if that asset (or those assets) is not explicitly specified in an arrangement.

Until 30 June 2019, a lease was classified at the inception date as a finance lease or an operating lease. A lease that transferred substantially all the risks and rewards incidental to ownership to the Commission was classified as a finance lease.

Where a non-current asset was acquired by means of a finance lease, at the commencement of the lease, the asset was recognised at its fair value or, if lower, at the present value of the minimum lease payments. The corresponding liability was established at the same amount. Lease payments were apportioned between finance charges and reduction of the lease liability so as to achieve a constant rate of interest on the remaining balance of the liability. Finance charges were recognised in finance costs in the statement of comprehensive income.

Property, plant and equipment acquired under finance leases was depreciated over the useful life of the asset. However, if there was no reasonable certainty that the Commission would obtain ownership by the end of the lease term, the asset would be depreciated over the shorter of the estimated useful life of the asset and the lease term.

An operating lease is a lease other than a finance lease. Operating lease payments were recognised as an operating expense in the statement of comprehensive income on a straight-line basis over the lease term.

11. Intangible Assets

	Consolidated	Statutory
	Total	Corporation
	\$'000	Total
		\$'000
At 1 July 2019		
Cost (gross carrying amount)	5,871	5,871
Accumulated amortisation and impairment	(4,136)	(4,136)
Net carrying amount	<u>1,735</u>	<u>1,735</u>
At 30 June 2020		
Cost (gross carrying amount)	6,041	6,041
Accumulated amortisation and impairment	(4,543)	(4,543)
Net carrying amount	<u>1,498</u>	<u>1,498</u>
Year ended 30 June 2020		
Net carrying amount at start of year	1,735	1,735
Additions	170	170
Disposals	-	-
Amortisation (recognised in "depreciation and amortisation")	(407)	(407)
Net carrying amount at end of year	<u>1,498</u>	<u>1,498</u>
At 1 July 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>
At 30 June 2019		
Cost (gross carrying amount)	5,871	5,871
Accumulated amortisation and impairment	(4,136)	(4,136)
Net carrying amount	<u>1,735</u>	<u>1,735</u>
Year ended 30 June 2019		
Net carrying amount at start of year	2,200	2,200
Additions	98	98
Disposals	-	-
Amortisation (recognised in "depreciation and amortisation")	(563)	(563)
Net carrying amount at end of year	<u>1,735</u>	<u>1,735</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 Commission 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 Commission'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.

12. Current Liabilities - Payables

	Consolidated		Statutory Corporation	
	2020	2019	2020	2019
	\$'000	\$'000	\$'000	\$'000
Accrued salaries, wages and on-costs	361	66	-	-
Creditors	64	81	64	81
Accrued other operating expenses	243	280	243	280
	<u>668</u>	<u>427</u>	<u>307</u>	<u>361</u>

Details regarding liquidity risk, including a maturity analysis of the above payables are disclosed in Note 23.

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.

13. Current Liabilities - Lease Liabilities

Lease liability (see Note 10)	2,255	-	2,255	-
	<u>2,255</u>	<u>-</u>	<u>2,255</u>	<u>-</u>

14. Non-Current Liabilities - Lease Liabilities

Lease liability (see Note 10)	6,970	-	6,970	-
	<u>6,970</u>	<u>-</u>	<u>6,970</u>	<u>-</u>

Details regarding liquidity risk, including a maturity analysis of the above payables are disclosed in Note 23.

Recognition and measurement

Financial liabilities at amortised cost

Borrowings classified as financial liabilities at amortised cost are 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 in net result when the liabilities are derecognised as well as through the amortisation process.

Finance lease liabilities are determined in accordance with AASB 117 until 30 June 2019. From 1 July 2019, lease liabilities are determined in accordance with AASB 16.

Changes in liabilities arising from financing activities

	Total liabilities from	
	Leases \$'000	financing activities \$'000
1 July 2018		
Cash flows	-	-
New leases	-	-
30 June 2019	<u>-</u>	<u>-</u>
Recognised on adoption of AASB 16	11,452	11,452
1 July 2019	<u>11,452</u>	<u>11,452</u>
Cash flows	(2,227)	(2,227)
New leases	-	-
30 June 2020	<u>9,225</u>	<u>9,225</u>

15. Current Liabilities - Provisions

	Consolidated		Statutory Corporation	
	2020	2019	2020	2019
	\$'000	\$'000	\$'000	\$'000
Employee benefits and related on-costs				
Provision for personnel services	-	-	2,603	1,922
Annual leave	1,456	1,117	-	-
Long service leave on-costs	723	680	-	-
Total Provisions	2,179	1,797	2,603	1,922
Aggregate employee benefits and related on-costs				
Expected to be settled within 12 months	1,107	787	-	-
Expected to be settled after 12 months	1,072	1,010	-	-
	2,179	1,797	-	-

16. Non-Current Liabilities - Provisions

Employee benefits and related on-costs				
Long service leave on-costs	63	59	-	-
Total provisions	63	59	-	-
Aggregate employee benefits and related on-costs				
Provisions - current	2,179	1,797	-	-
Provisions - non-current	63	59	-	-
Accrued salaries, wages and on-costs (Note 12)	361	66	-	-
	2,603	1,922	-	-

Recognition and Measurement

Employee benefits and related on-costs

Salaries and wages, annual leave and sick leave

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 Commission 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'.

16. Non-Current Liabilities - Provisions (continued)

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.

17. Equity

Accumulated Funds

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

18. Commitments

	Consolidated		Statutory Corporation	
	2020	2019	2020	2019
	\$'000	\$'000	\$'000	\$'000
Capital Commitments				
Aggregate capital expenditure for the acquisition of computer related items contracted for at balance date and not provided for:				
Within one year	356	-	356	-
Later than one year and not later than five years	-	-	-	-
Later than five years	-	-	-	-
Total (including GST)	356	-	356	-

19. Contingent Liabilities and Contingent Assets

Contingent Liabilities

The Commission commenced the financial year with two contingent liabilities, yet to be settled by 30 June 2020. Due to legal restrictions, the details of these contingent liabilities cannot be disclosed. Both contingent liabilities are covered by the Commission's insurance policy, and are being actively managed. One of the matters has since settled following 30 June 2020 with no financial impact to the Commission.

The Commission, following a review of the current occupancy agreement for its premises and discussions with Property NSW, has raised a potential contingent liability to cover any requirement at the election of Property NSW to undertake a physical 'make good' provision. Noting the age of the premises, length of occupancy and future potential plans for the site it has been determined a provision for make good is not required, as an outflow of economic benefits is not considered probable at this time.

Contingent Assets

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

20. 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 over page.

20. Budget Review (continued)

Net Result

The final net result as at 30 June 2020 was $-\$2.545\text{m}$ compared to the budget of $-\$0.496\text{m}$. The significant variation was a result of a negative market value assessment leading to an impairment loss on the right of use asset due to the impact of the current COVID-19 pandemic on the property rental market. The Commission has reviewed and adopted advice from Property NSW for the market value assessment.

Employee related expenditure was in line with the original budget with a slight positive variation of $\$0.030\text{m}$, however when compared to the revised budget of $\$17.306\text{m}$ the Commission exceeded this by $\$0.276\text{m}$. The result was affected by low staff turnover, increased annual leave expense due to higher annual leave balances and the end of year actuarial adjustment for extended leave. All of these were the result of factors related to the overall impact of the COVID-19 Pandemic.

Operating expenditure of $\$6.320\text{m}$ exceeded both the original ($\$5.867\text{m}$) and revised ($\5.797m) budgets, this was due to an accounting entry relating to the introduction of AASB16 *Leases* and relates to expenditure for the non-lease component of the right of use asset.

Depreciation and amortisation was lower than the budget by $\$0.792\text{m}$ due to delayed capital expenditure and the revaluation of the right of use asset to exclude the non-lease component.

The substantial (unbudgeted) loss of $-\$1.711\text{m}$ is the result of the market impairment adjustment relating to the right-of-use asset, reflecting the COVID-19 Pandemic impact on property values.

Revenue was $\$0.794\text{m}$ under the original budget as a result of capital grants not being drawn down in entirety due to approved carry-forward amounts. When compared to the revised budget ($\$26.363\text{m}$) a small variation was recorded.

Assets and Liabilities

Total current assets were higher than the original budget by $\$0.773\text{m}$ due to a higher than anticipated cash balance at year end. Total non-current assets were lower than the original budget by $\$0.544\text{m}$ as a result of a lower net carrying amount for right-of-use assets at year end.

Total current liabilities were higher than the original budget by $\$0.220\text{m}$ and is attributed to higher employee related accruals (due to a delay in the award implementation) and higher than budgeted leave provisions due to the COVID-19 pandemic and related leave cancellations. Total non-current liabilities were higher than the budget by $\$1.371\text{m}$ and is related to the Commission's lease liability related to the implementation of AASB 16 *Leases*.

Net assets at 30 June 2020 were $\$0.269\text{m}$. The large variation to budget is primarily due to the difference between the carrying right-of-use asset value (after the impairment adjustment) versus the corresponding lease liabilities (both current and non-current) which are not reduced by impairment.

Cash flows

The cash flows from operating activities were lower than the original budget by $\$0.502\text{m}$.

The cash flows from investing activities varied from the budget by $\$0.550\text{m}$ due to a carry forward request into 2020/21 due to delays in capital projects.

The cash flows from financing activities were lower than the budget by $\$0.339\text{m}$ and relate to the repayments of the building lease.

21. 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	
	2020	2019	2020	2019
	\$'000	\$'000	\$'000	\$'000
Net cash used on operating activities	2,998	(637)	2,998	(637)
Depreciation & amortisation	(3,205)	(1,144)	(3,205)	(1,144)
Allowance for impairment	(1,711)	-	(1,711)	-
Decrease / (increase) in provisions	(386)	(127)	(681)	(133)
Increase / (decrease) in prepayments and other assets	8	-	8	-
Decrease / (increase) in payables	(241)	(41)	54	(35)
Net gain / (loss) on sale of plant and equipment	(8)	(5)	(8)	(5)
Net result	(2,545)	(1,954)	(2,545)	(1,954)

22. 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 \$91k was being held on behalf of the Commission as at 30 June 2020 (\$90k as at 30 June 2019).

23. 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 including derivative 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.

(a) Financial instrument categories

As at 30 June 2020

Financial Assets	Note	Category	Carrying Amount	
			2020	2019
Class:			\$'000	\$'000
Cash and cash equivalents	6	N/A	1,327	938
Receivables ¹	7	Amortised Cost	32	36

Financial Liabilities	Note	Category	Carrying Amount	
			2020	2019
Class:			\$'000	\$'000
Payables ²	12	Financial liabilities measured at amortised cost	666	416

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).

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.

(b) Derecognition of financial assets and financial liabilities

A financial asset (or, where applicable, a part of a financial asset or part of a group of similar financial assets) is derecognised when the contractual rights to the cash flows from the financial assets expire; or if the Commission transfers its rights to receive cash flows from the asset or has assumed an obligation to pay the received cash flows in full without material delay to a third party under a 'pass-through' arrangement; and either:

- the Commission has transferred substantially all the risks and rewards of the asset; or
- the Commission has neither transferred nor retained substantially all the risks and rewards of the asset, but has transferred control.

23. Financial Instruments (continued)

When the Commission has transferred its rights to receive cash flows from an asset or has entered into a pass-through arrangement, it evaluates if, and to what extent, it has retained the risks and rewards of ownership. 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 credit losses or 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 receivables

Collectability of trade receivables is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand.

The Commission applies the AASB 9 simplified approach to measuring expected credit losses which uses a lifetime expected loss allowance for all trade receivables.

To measure the expected credit losses, trade receivables have been grouped based on shared credit risk characteristics and the days past due.

The expected loss rates are based on historical observed loss rates. The historical loss rates are adjusted to reflect current and forward-looking information on macroeconomic factors affecting the ability of the customers to settle the receivables. The Commission has identified these to be the most relevant factors, and accordingly adjusts the historical loss rates based on expected changes in these factors.

Trade receivables are written off when there is no reasonable expectation of recovery. Indicators that there is no reasonable expectation of recovery include, amongst others, a failure to make contractual payments for a period of greater than 30 days past due.

23. Financial Instruments (continued)

The loss allowance for trade receivables as at 30 June 2020 and 30 June 2019 was determined as follows:

	30 June 2020					Total
	Current	< 30 days	30-60 days	61-90 days	> 91 days	
Expected credit loss rate (%)	-	-	-	-	-	-
Estimated total gross carrying amount at default (\$'000)	24	7	-	-	1	32
Expected credit loss (\$'000)	-	-	-	-	-	-

	30 June 2019					Total
	Current	< 30 days	30-60 days	61-90 days	> 91 days	
Expected credit loss rate (%)	-	-	-	-	-	-
Estimated total gross carrying amount at default (\$'000)	22	-	-	-	9	31
Expected credit loss (\$'000)	-	-	-	-	-	-

Notes:

The analysis excludes statutory receivables, prepayments, as these are not within the scope of AASB 7. Therefore, the 'total' will not reconcile to the receivables total in Note 7 or 8.

The Commission is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors as at 30 June 2020. Most of the Commission's debtors have a 'AAA' credit rating.

Collectability of trade receivables is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. Debtors 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 and expected changes in economic conditions and debtor credit ratings. No interest is earned on trade receivables. Sales are made on 30 day terms.

Based on past experience, debtors that are not past due (2020: \$24k; 2019: \$22k) and less than 3 months past due (2020: \$7k; 2019: nil) are not considered impaired. Together, these represent 97% (2019: 76%) of the total trade debtors. No provision for doubtful debts have been recognised as all amounts are considered to be collectable.

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 of borrowings. 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.

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 TC11-12. 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 following table summarises the maturity profile of the Commission's financial liabilities based on contractual undiscounted payments, together with the interest rate exposure.

23. Financial Instruments (continued)

Maturity analysis and interest rate exposure of financial liabilities

		\$'000						
		Interest Rate Exposure				Maturity Dates		
	Weighted Average Effective Int. Rate	Nominal Amount	Fixed Interest Rate	Variable Interest Rate	Non- interest Bearing	<1 yr	1-5 yrs	>5 yrs
2020								
<i>Payables</i> ¹		666	-	-	666	666	-	-
<i>Lease liabilities</i>	1.41%	9,482	9,482	-	-	2,370	7,112	-
		10,148	9,482	-	666	3,036	7,112	-
2019								
<i>Payables</i> ¹		416	-	-	416	416	-	-
		416	-	-	416	416	-	-

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 Commission 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 2019. 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.

		\$'000				
		Carrying Amount	-1% Profit	Equity	1% Profit	Equity
2020						
Financial Assets						
Cash and cash equivalents		1,327	(13)	(13)	13	13
2019						
Financial Assets						
Cash and cash equivalents		938	(9)	(9)	9	9

23. Financial Instruments (continued)

(e) Fair value measurement

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. Management assessed cash, trade receivables and trade payables approximates their fair value, largely due to the short-term maturities of these instruments.

24. Related Party Disclosures

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

	Consolidated	
	2020	2019
	\$'000	\$'000
Short-term employee benefits	2,065	1,973
Total Remuneration	2,065	1,973

The Statutory Corporation received \$2.065m 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 Commission's rendering of services.

	2020	2019
	\$000	\$000
Income		
NSW Department of Communities and Justice	25,599	24,021
Expenditure		
NSW Treasury Managed Fund	104	104
Property NSW	2,963	2,223
NSW Police Force	560	320
NSW Department of Communities and Justice	-	113

25. 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

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