

Annual Report

2020-21



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, November 2021. 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. No such directions have been made with respect to this Annual Report. Due to the ongoing Covid-19 pandemic, external agency information pertinent to the production of this Annual Report was delayed and an extended submission deadline was granted by NSW Treasury to 10 December 2021. The production of the Annual Report was co-ordinated 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).



16 November 2021

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

Dear Minister

RE: ANNUAL REPORT FOR 2020-21

The Management Committee received and noted the Annual Report of the New South Wales Crime Commission 2020-21. Pursuant to section 82 of the *Crime Commission Act 2012* the report is transmitted to you with this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Anthony Whealy'.

The Hon. Anthony Whealy QC
Chairperson – Management Committee



16 November 2021

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

Dear Minister

RE: ANNUAL REPORT FOR 2020-21

In accordance with the *Annual Reports (Departments) Act 1985*, the *Annual Reports (Departments) Regulation 2015* and the *Government Sector Finance Act 2018*, it is my pleasure to submit to you the New South Wales Crime Commission Annual Report 2020-21 for presentation in Parliament. This Annual Report outlines the achievements made during the 2020-21 financial year, which were made possible by the hard work and commitment of New South Wales Crime Commission officers.

Due to the ongoing Covid-19 pandemic, external agency information pertinent to the production of this Annual Report was delayed and an extended submission deadline was granted by NSW Treasury to 10 December 2021.

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

A handwritten signature in black ink, appearing to read 'Michael Barnes'.

Michael Barnes
Commissioner

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COMMISSIONER'S FOREWORD

For the first quarter of the year covered by this report, the New South Wales Crime Commission was ably led by Mr Peter Cotter APM, who acted in the role for nearly two years before returning to his substantive position as an Assistant Commissioner of the New South Wales Police Force. I acknowledge the good work Mr Cotter did in the position and thank him for the generous assistance he provided to me upon my appointment.

This report evidences the many significant achievements of the Commission during the reporting period. For example, law enforcement operations in which Commission staff participated or assisted resulted in the arrest of 175 individuals and the preferring of 833 criminal charges. Proceeds of crime confiscation orders were made in relation to property estimated to be worth \$50,825,309 – the highest figure ever. In addition, 802 intelligence and information reports were disseminated to other law enforcement agencies.



It is the highly motivated and dedicated staff members who have made this possible. I commend them all. I thank the Commission's Executive, Mr Peter Bodor QC, Mr Timothy O'Connor, Mr Jonathan Spark and Mr Michael Wilde who have so ably led their respective divisions and ensured that the extensive and intrusive powers that NSW Parliament has granted to the Commission have been responsibly exercised.

We have been able to participate in the outstandingly successful operations detailed throughout this report because of the willingness of other agencies to collaborate with the Commission. The New South Wales Police Force, Australian Federal Police, Australian Criminal Intelligence Commission, Australian Security Intelligence Organisation and Australian Transactions Reports and Analysis Centre, among others, have all demonstrated great collegiality to ensure that law enforcement outcomes have been maximized by the sharing of intelligence and the undertaking of joint investigations. The assistance of the New South Wales Police Force has been key to the hugely successful proceeds of crime confiscation program by its referral of thousands of potential confiscation targets. I express my appreciation for the professional leadership of each of those bodies.


The report of the Statutory Review of the *Crime Commission Act 2012*, required by section 88 of the Act, was tabled in NSW Parliament mid-year and a number of recommendations that will assist the Commission to discharge its responsibilities were accepted by the Government. Work on implementing them has already begun. Further details are in the body of this report.

Because the Commission deals with such sensitive matters and has access to intrusive powers, it is essential that its governance is of the highest standard. Two important aspects of that are its Management Committee and Audit and Risk Committee.

Throughout the reporting period, the Management Committee has been chaired by the Honorable Anthony Whealy QC, and constituted by Commissioner of the New South Wales Police Force, Michael Fuller APM, Commissioner of the Australian Federal Police, Reece Kershaw APM, and Deputy Secretary Law Reform and Legal Services, Department of

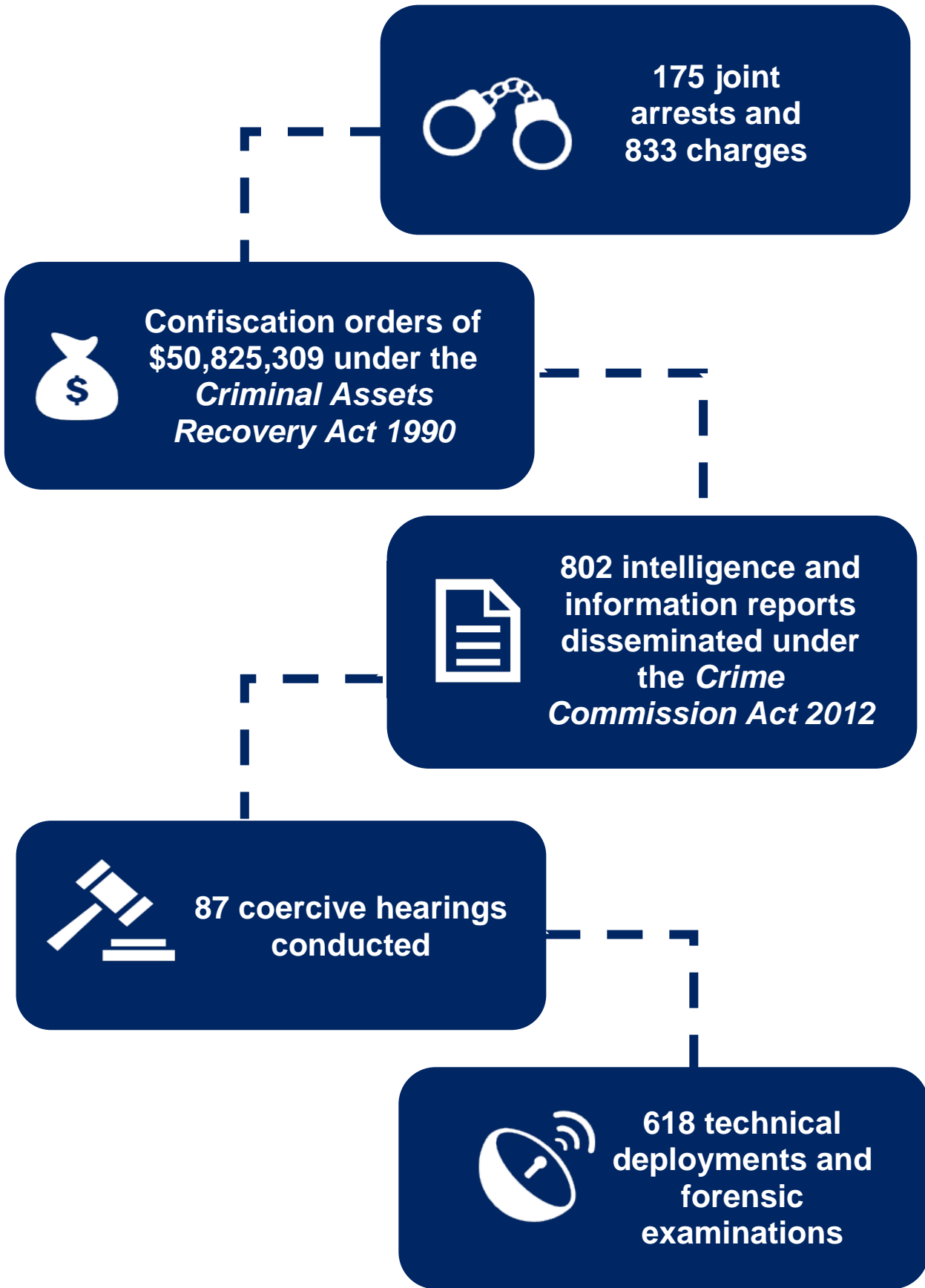
Communities and Justice, Mr Paul McKnight. The Commission is fortunate to receive the guidance of such an expert, experienced and conscientious committee. I thank each of the members most sincerely.

The Audit and Risk Committee Chair, Ms Joan Wilcox, and members Mr Paul Crombie and Mr Peter Lucas, have provided technical expertise and sensible, practical suggestions. I am very grateful for their assistance.

A handwritten signature in cursive script, appearing to read "Barnes".

Michael Barnes
Commissioner

OUR HIGHLIGHTS 2020-21



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), Legal Services Team and Governance Unit. Details on the Commission's organisation structure as at 30 June 2021 is found at Appendix F.

During the 2020-21 reporting period, Mr Peter Cotter APM was Commissioner from 1 July-23 August 2020 with current Commissioner, Mr Michael Barnes, commencing on 24 August 2020. Mr Peter Bodor QC was the Assistant Commissioner (Legal) for the duration of the reporting period.

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)

As at 30 June 2021, the Commission had one Commissioner as head of agency and one Assistant Commissioner (Legal).

Mr Michael Barnes

Mr Michael Barnes commenced his appointment as the NSW Crime Commissioner on 24 August 2020. From 2017 to 2020 Mr Barnes served as the NSW Ombudsman. Over the preceding 14 years, Mr Barnes first served as the inaugural Queensland State Coroner and then (from January 2014) the NSW State Coroner. Before he was a Chief Coroner, Mr Barnes served as Head, School of Justice Studies at the Queensland University of Technology, a post he took up after 9 years as the Chief Officer of the complaints section at the Queensland Criminal Justice Commission. Mr Barnes specialises in criminal and administrative law, and undertakes research and teaching in criminal justice, health law, and corruption and organised crime investigation.

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 NSW Police Force (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 2021 consisted of the Commissioner, one Assistant Commissioner (Legal), one Executive Director Criminal Investigations, one Executive Director Financial Investigations and one Executive Director Corporate Services. These officers were responsible for the leadership and management of the Commission and met monthly throughout the year.

The Executive structure as at 30 June 2021 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 2020 to 30 June 2021)
- Commissioner of the NSW Crime Commission, Mr Peter Cotter APM (1 July 2020 to 23 August 2020)
- Commissioner of the NSW Crime Commission, Mr Michael Barnes (24 August 2020 to 30 June 2021)

- Commissioner of the NSW Police Force, Mr Michael Fuller APM (1 July 2020 to 30 June 2021)
- Chair of the Board of the Australian Criminal Intelligence Commission and Commissioner of the Australian Federal Police, Mr Reece Kershaw APM (1 July 2020 to 30 June 2021)
- Deputy Secretary Law Reform and Legal Services, Department of Communities and Justice, Mr Paul McKnight (1 July 2020 to 30 June 2021).

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 10 new matters to the Commission for investigation: six homicide cases, one investigation into the importation of prohibited drugs, one investigation into money laundering activities, one investigation into a missing person and one investigation into violent crimes associated with a criminal syndicate. The Management Committee authorised the renewal of 15 existing references and discontinued nine references.

References Granted

Table 1

References Granted 2020-21			
Adelong	Braefield	Caddens	Dunmore
Earlwood	Geneva	Harden	Islington
Sofala	Yosemite		

References Renewed

Table 2

References Renewed 2020-21			
Abbotsford	Blackwall	Crosslands	Ebor
Henley	Kain	Kinchela	Lockhart
Marlow	Northwood	Plumpton	Rozelle
Sherwood	Tichborne	Viewmont	

References Discontinued

Table 3

References Discontinued 2020-21			
Dudley	Eureka	Greta	Howlong
Indi	Oban	Quidong	Ungarie
Urana			

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 (LEAs), 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 technical surveillance, human source tasking, analytical expertise, intelligence support and coercive hearings to assist in joint investigations.

Two CID investigative teams work predominantly with the NSWPF Organised Crime Squad (OCS), and one Homicide and Serious Crime Team works in conjunction with the NSWPF Homicide Squad. CID investigative teams may also work with officers from other State Crime Command Squads, Regional Enforcement Squads and Police Area Commands (PACs). The Commission has a small component of four staff 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 collection 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, digital forensics, and the provision of electronic surveillance monitoring. The Warrant Administration Team facilitates the telecommunications interception process and manages compliance with the Commission's obligations in relation to its use of intercepted material and telecommunications data.

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, a Department of Home Affairs liaison officer worked on-site at the Commission and made an invaluable contribution to the success of Commission investigations.

Participation in Joint Task Forces

During the 2020-21 reporting period, 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, Drug and Firearms Squad, Criminal Groups Squad, and the AFP, Australian Border Force (ABF) and ACIC. The Commission's special powers were extensively used in investigations to which the Commission was actively involved.

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 offered financial analysis, technical and linguistic support, and hearings for the compulsory examinations of witnesses.

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. Counter terrorism investigations are led by either the AFP or NSWPF. During the reporting period, the Commission

provided the JCTT with on-site technical, analytical and linguistic services, operational support and hearings for the compulsory examinations 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), 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.

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. The Commission provides the Task Force with criminal and financial analytical services and operational support.

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 LEA for the purposes of a number of other Commonwealth and State statutes that confer investigative powers and rights. The Commission's position under these statutes is the same as that of other LEAs.

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 (telephone calls); for access to certain stored communications (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 the 2020-21 reporting period. 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	0	0
Search warrants granted	0	0	0
Summonses to appear at hearings (section 24)	83	0	83
Notices to State public agencies (section 28)	21	12	33
Notices to produce (section 29)	159	990	1149
Arrest warrants (section 36)	0	0	0
Applications to the Supreme Court (section 33)	0	0	0
Other Court proceedings (section 35A)	0	0	0

Telecommunications (Interception and Access) Act 1979 (Cth)

Table 5

Applications/Warrants (and section of Act)	2020-21
Applications for A-party service warrants (section 46(1)(d)(i))	51
Applications for A-party service warrants withdrawn	0
A-party service warrants refused	0
Total A-party service warrants issued	51
Applications for B-party service warrants (section 46(1)(d)(ii))	0
Applications for B-party service warrants withdrawn	0
B-party service warrants refused	0
Total B-party service warrants issued	0
Applications for named person warrants (section 46A)	46
Applications for named person warrants withdrawn	0
Named person warrants refused	0
Total named person warrants issued	46
Applications for stored communications warrants (section 116)	0
Applications for stored communications warrants withdrawn	0
Stored communications warrants refused	0
Total stored communications warrants issued	0

Applications/Warrants (and section of Act)	2020-21
Applications for entry warrants (section 48)	0
Applications for entry warrants withdrawn	0
Total entry warrants issued	0
Total all warrants	97

Table 6

Applications/Warrants (and section of Act)	Total
Destructions of intercepted material	9
Destructions of stored communications	0
Existing data authorisations (section 178)	3538
Prospective data authorisations (section 180)	1592

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	0
Applications granted	0
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
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

Pursuant to the CC Act and the TIA Act, the Commission liaised with other government agencies, private corporations and individuals, and disseminated intelligence and information to them as appropriate throughout the reporting period.

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	TIA Act section	TIA Act section	TIA Act section	SD Act section	SD Act section	Total
13	68	67	139(2)	40(4)	40(5)	
572	35	194	0	1	0	802

Disseminations by Agency

Table 12

Dissemination by Recipient	Instances
Australian Commission for Law Enforcement Integrity	7
Australian Criminal Intelligence Commission	94
Australian Federal Police	82
Australian Security Intelligence Organisation	4
Australian Securities and Investments Commission	1

Dissemination by Recipient	Instances
Australian Taxation Office	2
Australian Transaction Reports and Analysis Centre	1
Commonwealth Department of Public Prosecutions	5
Corrective Services NSW	6
Courts	6
Defence and Defendants	44
Department of Home Affairs (Cth)	10
DHL (Logistics)	1
Independent Commission Against Corruption (NSW)	3
Independent Commission Against Corruption (SA)	2
Joint Counter Terrorism Team	3
Law Enforcement Corruption Commission	9
MasterCard	1
NSW Civil and Administrative Tribunal	1
NSW Crime Commission Hearing	3
NSW Crown Solicitors Office	1
NSW Joint Analyst Group	26
NSW Ministry of Health	1
NSW Office of the Department of Public Prosecutions	53
NSW Police Force	415
NSW Trustee and Guardian	1
Queensland Crime and Corruption Commission	1
Queensland Police Service	3
South Australia Police	2
UK National Crime Authority	2
US Drug Enforcement Agency	2
US Federal Bureau of Investigation	2
Victoria Police (VICPOL)	3
Western Australia Police	5
Total	802

Analysis of Investigation Results

There are always difficulties associated with measuring the performance of Commission operations; however, some 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 compared to the previous year. The Commission works closely with its partner agencies in relation to prosecutions and does not generally report on judicial outcomes in its annual report.

Joint Arrests and Charges

Table 13

Arrests and Charges	2019-20	2020-21
Joint arrests	118	175
Charges	525	833

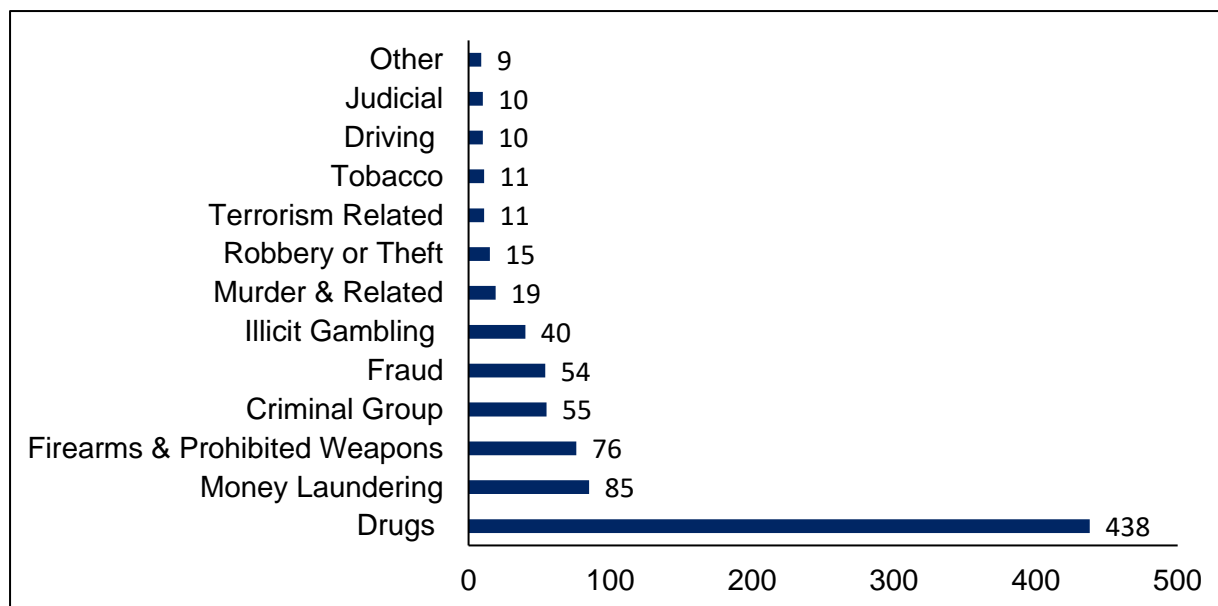
These figures demonstrate a significant increase in the number of joint arrests and charges since the last reporting year, and the highest number of charges since the 2010-11 reporting period. This is consistent with record high confiscation outcomes by the FID and collectively, these results demonstrate the Commission's impact on reducing the incidence of serious and organised crime in NSW.

Table 14 shows that drug related offences continued to dominate, accounting for more than half of all charges laid in joint Commission investigations this year. This is consistent with the Commission's assessment that organised crime in NSW is largely driven by the importation and distribution of prohibited drugs. The Commission does not measure its performance on the raw numbers of arrests and charges but on the extent to which these outcomes have a disruptive impact on serious and organised crime in NSW. Of drug charges, 137 related to the importation, supply or manufacture of commercial or large commercial quantities of prohibited drugs and more than half of the drug charges related to offences involving indictable or larger quantities of drugs. This demonstrates the Commission's commitment to investigating, detecting and disrupting the most serious iterations of drug crimes committed in NSW and consequently, the Commission's ability to have a meaningful impact on reducing the harms associated with this type of serious offending.

Also of note during the reporting year were the high numbers of money laundering, fraud, criminal group and firearms offences. These are serious offences in their own right but also enablers for other types of offending, particularly the distribution of prohibited drugs. The Commission takes a comprehensive approach to its investigation of serious and organised crime with a focus on both the substantive and enabling offences to reduce the opportunity for crimes to be successfully committed, their profitability and the societal impacts.

Charges by Offence Type

Table 14



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 and outside 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.

The effect of the Covid-19 pandemic and associated measures taken by governments around the world have affected organised crime activities in NSW. Throughout the reporting period the Commission identified the following effects:

- Continued high prices for prohibited drugs throughout Australia. Recent reports received by the Commission indicate the per kilogram price of cocaine, including at the wholesale level, is nearly double the pre-pandemic prices. This provides a substantial financial incentive for Organised Crime Groups (OCGs) to target this market.
- Use of the transport and logistics sector remaining highly sought after by OCGs. The ability of transportation and logistics companies to move goods between states during various Covid-19 lockdowns in 2020-21 provided OCGs with the means to distribute prohibited drugs and collect large quantities of cash. The Commission noted that there were several large cash seizures from vehicles interstate during the reporting period. Investigations discovered the intended destinations of the money found in these seizures were in NSW, mainly Sydney. This indicates that Sydney remains the organised crime hub of Australia.
- Continued use of dedicated encrypted communication devices (DECD) to conduct organised criminal activities in Australia and overseas.

- Increased size of prohibited drugs seizures. OCGs have incentives to increase the size of shipments as the degree of organisation needed to arrange a shipment of prohibited drugs does not necessarily increase as the quantity of drugs in the shipment increases.
- The pivot of the prohibited drug supply market to Europe. The Commission has intelligence that several OCGs based overseas, but with Australian links, have turned their attention to Europe. This appears to be due to a perceived reduction in the risk that their activities will be detected and the potential to achieve similar revenue through the sale of increased quantities of prohibited drugs. It is suspected that the larger interdictions and remote location of Australia have caused some groups to abandon their efforts to import drugs into Australia in the short term. Some of these offshore groups have established links to Australian OCGs, including the Comanchero Outlaw Motorcycle Gang (OMCG), Hells Angels OMCG, Lone Wolf OMCG, 'The Company' and nine persons referred to as the 'Aussie Cartel'. Such groups control the majority of the larger drug shipments targeting Australia.
- An increased number of heroin importations. The amount of undetected heroin entering into Australia appears to have increased significantly as it appears to be the only prohibited drug that has seen a price reduction during the last twelve months. This is likely due to the amount available for distribution or increased competition amongst groups involved in heroin importation to Australia.

Encrypted Communications

The success of the AFP and Federal Bureau of Investigation led Operation Ironside/Trojan Shield, which has been widely reported in the Media, was a significant disruption to organised crime operating in Australia and overseas. Despite the investigation resulting in the arrests of multiple offenders, and large drug and cash seizures, the Anøm encrypted messaging network only held an estimated five to ten percent of the DECD market in Australia. Prior to Operation Ironside/Trojan Shield, the Ciphre network was regarded as the biggest DECD operating in Australia, which gives an estimate of the size and extent of organised crime operating in Australia.

Since the conclusion of this operation, the Commission has identified a diversification of the DECD market not only by way of a movement towards new DECDs, but a change in the way DECDs are being used, including single OCGs using a combination of different DECDs. The number of users of new platforms such as 'Stealth' and 'No. 1 BC' are still small in Australia but it is logical to assume that subscription to these services will increase at the expense of the more established platforms. The Commission has also observed a return to other Internet based encrypted applications such as Wikr, Signal and to a lesser extent WhatsApp which, unlike DECDs, are also widely used for legitimate communications.

LEAs in Australia and overseas will continue to analyse and develop new strategies to address emerging encrypted applications and platforms. The use of human intelligence to penetrate existing platforms will cause OCGs to adapt their DECD tradecraft in an attempt to remain one step ahead. OCG members have speculated after the take downs of Phantom Secure in 2018, EncroChat in 2020 and Anøm in 2021, about who, or what platform will be next. This lack of confidence among OCGs in their ability to communicate securely is a success for LEAs that will continue to pursue multiagency and multinational efforts to dismantle these critical enablers for organised crime.

The Drug 'Commission'

The establishment of a drug 'Commission' by a prominent organised crime figure demonstrates an attempt to control and regulate the cocaine market, and maximise profits by imposing a tax

and threats of violence against competitors. The NSW Crime Commission assesses that the 'Commission' only involves a very small portion of the market excluding, for example, ethnic Chinese, South American, European and Mexican cartels.

It is unlikely that the larger aforementioned cartels would be influenced by attempts to regulate their conduct, and any attempt by the 'Commission' to do so, including by violence, would likely result in significant reprisals in Australia and overseas. During this reporting period, a joint investigation by the NSW Crime Commission, NSWPF OCS and US Drug Enforcement Agency uncovered a conspiracy to import three tonnes of cocaine into NSW by a European syndicate in direct competition with the Commission, demonstrating that competition in the market continues.

Kidnapping and Extortion

In the 2020-21 reporting period, the incidence of kidnappings and extortion has continued, and is expected to remain a feature of organised crime in the future. Where the motive is ransom, these incidents tend to be associated with smaller OCGs without the influence and resources to undertake their own drug importations. Motives that stem from information or revenge tend to be associated with the larger OCGs. There are anecdotal reports of drug 'rips' and the theft of cash stashes being the drivers behind such events.

Offshore Australian Networks

Dubai, Turkey, Lebanon and Greece remain locations of choice for Australian organised crime figures abroad. Australian LEAs are forging ever stronger relationships with authorities in these locations in order to progress investigations into offshore persons of interest. The Commission is aware of several offshore expatriate Australians who have renounced their Australian citizenship or sought citizenship from nations willing to sell citizenship and passports in order to hamper attempts at extradition and investigations in their overseas locations.

Drug Importation and Distribution Methodology

Persons with employment in, or past experience in, international and domestic logistics are highly sort after by OCGs. Their services, often referred to as 'the door', remain the single most significant enabler to the importation of prohibited drugs and other illicit commodities in Australia. Without an effective 'door', these organised crime activities are hindered.

The Commission has noted that OCGs frequently have contingency plans for responding to arrests made during drug importations. Networks have gone to the extent of setting up fake courier and delivery companies, with no truck fleets (or in the case of a recent investigation, only one truck). The companies have no real addresses and only exist through phone numbers, email address, or communication application handles (for example, WhatsApp and Wikr).

Drivers and associated handlers of the prohibited drugs when arrested allege that they were 'recruited' by answering internet based advertisements such as on SEEK jobs online or Airtasker. Commission investigations tend to suggest that in some cases the OCGs themselves advertise these jobs, arrange for willing participants to 'apply', and keep records on their electronic devices to provide a level defence in the event of an arrest. This sort of activity demonstrates increased sophistication by OCGs not only in the importation and distribution of prohibited drugs but also in their attempts to evade detection and prosecution. Criminals are exploiting opportunities afforded by emerging technological, business and social networking platforms. LEAs must similarly innovate to ensure that technical capabilities and legal frameworks can facilitate the early detection, successful investigation and prosecution of organised and serious crime.

Information available to the Commission suggests that OCGs are analysing the briefs of evidence in cases with similar offences in order to identify, respond to, and frustrate law enforcement methodologies.

OCGs have developed sophisticated forms of delivery of contraband to thwart law enforcement attempts at arresting high ranking members of their criminal networks. For example, 'dead drops' whereby a low ranked member of a criminal organisation takes possession of a consignment without any direct contact with the person before them in the supply chain, and delivers the consignment in accordance with instructions to a location or address, again without having personal contact with the person forming the link in the supply chain. This means that if the transferor is apprehended they are unable to identify any other members of the criminal group. As a result of these methods, LEAs generally only arrest relatively low level members of the group. These arrested persons are seen as 'cannon fodder' for OCGs as their assistance can be purchased for relatively small sums of money, and arrests considered acceptable losses given the potential profits and the protection of senior members afforded by the compartmentalisation of the criminal operations. These persons are easily replaceable and often ignorant or defiant of the potential gaol sentences they are at risk of receiving. The exploitation of such vulnerable persons highlight the prevalence of organised crime in NSW and the difficulties LEAs experience in communicating the dangers of prohibited drugs in the community.

Tobacco Smuggling

According to the ATO, the illicit tobacco market in Australia is worth approximately \$822 million a year in evaded revenue. This trade undermines legitimate farming in NSW with its illegal sourcing of water and has significantly deprived the community of taxes required to fund essential services.

Over the past twelve months, illegal tobacco importations and domestic tobacco crops have increased and continue to attract criminal syndicates with their low cost and lucrative profit margins that are often used to fund other illegal activities. In March 2021, the Illicit Tobacco Taskforce (ITTF), a multi-agency Task Force led by the ABF, disrupted three illicit tobacco growing operations across regional Victoria and NSW. Officers uncovered over 100 acres of illicit tobacco with a total combined potential value of more than \$84 million.

Organised Crime Family Disputes

While family groups continue to exist as OCGs in their own right, it is also common for OCGs with differing familial, ethnic and ideological backgrounds to align for purely opportunistic reasons. The well published feud between two organised crime families in South West Sydney has resulted in the rising prominence of one of these families who is closely associated with the Comanchero OMCG.

Organised Crime-Related Murders

The Commission has noted a general downturn in organised crime-related murders from late 2016 onwards due to the successful investigation of several high profile groups involved in over a dozen murders. In the 2020-21 reporting period, the Commission assisted the NSWPF in the investigation and prosecution of offenders in at least five particularly significant organised crime-related homicides.

All can be linked to the supply of prohibited drugs in some way and organised crime in general. The likelihood of further murders is significant due to the volatility of current disputes between certain criminal groups, the availability of firearms, the propensity of individuals and groups to resort to violence and the amount of funds available to the groups involved.

Money Laundering

Money laundering is still prevalent throughout NSW due to the large quantities of prohibited drugs being sold and the very high drug prices compared with most international jurisdictions. Efforts by OCGs to transfer funds offshore has been hampered by Covid-19 in the last twelve months. This has led to significant cash storage, and in several cases, large cash seizures being made by law enforcement. There have been several cash seizures in excess of \$5 million in different parts of Australia. It is assessed that this trend is likely to continue.

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 FID notices issued under these provisions during the reporting period was 1,002, which is 280 less than the previous year's total of 1282. This fairly significant drop in numbers reflects the tight budgetary situation during the reporting period which had an impact on output through one unfilled vacancy and periods during the year when several operational positions were vacant.

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)	127	127
Examination orders (section 31D)	0	0
Statement of affairs orders (section 12)	88	88
Statement of affairs orders (section 31D)	0	0
Production orders (section 33)	8	8
Search warrants (section 38)	0	0
Search warrants (sections 44 and 45)	9	9
Monitoring orders (section 48)	0	0

Referrals

The Commission receives referrals for consideration of confiscation proceedings from a variety of sources, including Commission divisions and partner agencies. This year, 769 people were the subject of referrals and assessments compared to 1544 people last year. This is a substantial decrease from the previous reporting period as a new triage system was implemented in an attempt to increase the quality of referrals from the NSWPF Asset Confiscation Unit and reduce the referral of matters that were not viable. Proceedings were commenced against 94 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 90 confiscation cases and applications for confiscation orders were made against 94 defendants. For all of these applications, confiscation orders were made with concurrent applications for restraining orders.

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.
- 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.

During 2020-21, the Court made 94 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 253 applications, consisting of 94 applications for UWOs, 70 applications for AFOs and 89 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.

Although the majority of the 70 applications for AFOs were made in respect of large sums of cash that had been seized by police at the time of the defendant's arrest there were also a number of applications for the forfeiture of real property used to commit offences such as cultivation of cannabis or to manufacture prohibited drugs.

Most of the applications for PAOs and UWOs involved a concurrent application for both orders against the same defendant. At the commencement of proceedings against a defendant the Commission is unlikely to know which type of order a defendant has greater exposure to, so the Commission will usually make applications for both. The CAR Act allows the Commission to apply for both orders but the Court can only make the order that requires payment for the greater amount.

Analysis of Confiscations

The estimated realisable value of confiscation orders that were made during the reporting period was \$49,872,454. Included in this figure are confiscation orders made against a single defendant with a total value of \$7,943,462. However in addition to these confiscation orders, an order was also made against that same defendant for him to pay various amounts to the ATO totalling \$914,604. In another unrelated matter, a similar order was made requiring the defendant to pay the ATO a total of \$38,251. In measuring the outcomes of confiscation proceedings these additional amounts should be added, bringing the total result for the year to \$50,825,309.

This figure is the highest in the history of the Commission. By way of comparison with results in other reporting periods, the figure is approximately \$20,065,703 more than the average of the preceding five years (that average being \$30,759,606) and \$19,862,616 more than the figure for the last reporting period (which was \$30,962,693). Statistics for the reporting period in relation to these various confiscation outcomes are shown in Table 16.

It is significant to note that in this year's figures there were two defendants who had confiscation order made against them of exceptionally high values. The first of these is the defendant referred to above, against whom the combined value of confiscation orders and the order to pay the ATO totalled approximately \$8.85 million.

The second was a defendant who had confiscation orders made against him with an estimated realisable value of approximately \$13.38 million. The majority of this outcome consisted of AFO forfeiting the defendant's interest in cryptocurrency. The value attributed to this cryptocurrency was its value at the date of forfeiture.

The CAR Act provides that upon forfeiture, the interest of the defendant in the cryptocurrency is vested in the NSW Trustee and Guardian on behalf of the Crown. It is the responsibility of the NSW Trustee and Guardian to dispose of the cryptocurrency and pay the proceeds of sale to the NSW Treasurer. Given the variability in the value of cryptocurrency it is unlikely that the proceeds of sale will be the same as the estimated realisable value at the time it was forfeited.

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

During the reporting period, proceedings against 84 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.

During the reporting period all of the proceedings that were finalised were the result of a negotiated settlement rather than a contested hearing.

Table 16

Outcome	By Consent	Contested Hearing	Total
AFOs made	58	0	58
PAOs made	8	0	8
UWOs made	26	0	26
BOW	0	0	0
Proceedings finalised by confiscation order application(s) being dismissed or proceedings discontinued	8	0	8

Each year a number of proceedings are finalised, usually by consent, with no confiscation order being made against the defendant. As shown in Table 16, proceedings against eight defendants were finalised without a confiscation order being made. In each of these matters the proceedings were resolved on the basis that the Commission's applications for confiscation orders were dismissed and each party was to pay its own costs.

A description of these matters is as follows:

1. In one matter proceedings commenced against a husband and wife. The proceedings were resolved by the wife agreeing to pay an unexplained wealth order of more than \$4 million. The proceedings were resolved against the husband on the basis of the Commission's application for a confiscation order against him being dismissed but him providing a guarantee for the payment of the wife's unexplained wealth order, with the guarantee being secured over his own interests in property.

2. In another matter the Commission commenced proceedings against a defendant who had been charged with serious drug offences. The only interest in property that could be identified were funds that were the proceeds of a loan repayment of approximately \$1 million to a trust. Ultimately, the Commission determined that it would be unable to prove that the defendant had effective control of this interest in property. Given that he had no other interests in property, it was futile to continue to litigate the proceedings because even if a confiscation order could be quantified against the defendant it would not be recoverable.
3. In two of the other unrelated matters the defendants were convicted of drug offences. These convictions meant that confiscation orders could undoubtedly be obtained against each of these defendants. However, the offences themselves did not result in either defendant deriving any proceeds of crime. Further, the Commission's extensive investigations into their financial affairs failed to identify any wealth that could not be explained by their legitimate sources of income. This meant that confiscation orders could not be quantified against either of these defendants.
4. The remaining four matters (two of which were related) involved defendants who had, at the time proceedings commenced against them, been charged with serious offences. However, in all of these cases the Commission's investigations revealed that it was unlikely that the offences with which they had been charged would be able to be proved. The investigations also revealed that even if the offences could have been proved it was highly unlikely that a confiscation order could be quantified against them. In such circumstances it was appropriate for the Commission to consent to its applications for confiscation orders against each of the defendants to be dismissed.

Table 17 shows the number of confiscation orders and their estimated realisable values (including the two orders to pay the ATO) 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	71	22,203,141
NSWPF & ACIC	6	13,958,723
NSWPF, Home Affairs, NSWCC	4	8,893,233
NSWPF & AFP	6	2,515,287
NSWPF, AFP, ACIC & Home Affairs	2	1,538,230
VICPOL	1	500,000
NSWPF, ACIC, NSWCC	1	365,000
ACIC	1	360,000
NSWPF, AFP & ACIC	1	331,695
NSWPF & Home Affairs	1	160,000
Total	94	50,825,309

Estimated Realisable Value by Order

Table 18

Type of Order	Orders	Estimated Realisable Value (\$)
AFO	58	29,898,630
UWO	26	17,805,229
PAO	8	2,168,595
BOW	0	0
Other – order to pay ATO	2	952,855
Total	94	50,825,309

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

	2018-19 (\$)	2019-20 (\$)	2020-21 (\$)
Estimated value of property subject of proceedings	75,182,716	77,075,940	70,067,914
Estimated value of realisable confiscation orders and order for the payment of ATO	30,302,377	30,962,693	50,825,309

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.

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.

As stated above under the heading 'Analysis of confiscations' there was one matter that involved the forfeiture of cryptocurrency where this distinction between the amount it is estimated will be realised at the time the order is made and the amount that is ultimately actually realised was particularly significant.

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 (CPA) operated by the NSW Treasury. The total value of all deposits to the CPA during the reporting period was approximately \$29.8 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.

As at the end of the reporting period there were no exclusion applications and no AFOs had been made in respect of which there was potential for the defendant to make an exclusion application.

Whenever the Commission settles proceedings by the making of an AFO it obtains a release from the defendant that he or she will not make an exclusion application or hardship application in respect of the interest in property that is the subject of the AFO.

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.

There were not any matters of this type during the reporting period.

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*	9	32
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	9	32

*21 of the 32 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 are no matters in which costs were ordered in favour of the Commission.

Legal Costs

Table 21

Costs	
Number of costs orders in favour of the Commission	0
Number of costs orders in favour of the defendant	0
Total cost of briefing outside counsel in the reporting period	\$21,447
Total cost of briefing outside counsel as percentage of realisable orders*	0.04%

*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 orders, is less than the figure for 2019-20 (which was 0.17 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	2018-19	2019-20	2020-21
CAR Act restraining orders	124	110	94
Confiscation orders sought without a restraining order	4	4	0
AFOs made	46	68	58
Estimated realisable value of AFOs	\$18,870,945	\$22,771,684	\$29,898,630
PAOs made	8	16	8
Estimated realisable value of PAOs	\$3,502,500	\$3,828,031	\$2,168,595
UWOs made	22	22	26
Estimated realisable value of UWOs	\$7,898,932	\$4,362,978	\$17,805,229
Orders for BOWs	1	0	0
Estimated realisable value of BOWs	\$30,000	0	0
Orders for compensation of victims (COVs)	0	0	2*
Estimated realisable value of COVs	N/A	N/A	\$952,855
Total no. confiscation orders and COVs	77	106	94
Total estimated realisable value of confiscation orders and COVs	\$30,302,377	\$30,962,693	\$50,825,309
Production orders (CAR Act)	4	19	8
Search warrants (CAR Act)	21	20	9
Monitoring orders (CAR Act)	0	0	0

*These orders were for the payment of ATO liabilities and not strictly orders for the compensation of a victim.

Sharing with other Jurisdictions

The National Cooperative 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 Cooperating 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 Cooperating 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. The first amounts were actually shared under the NCSUW because the final administration of those matters had been completed. Some of the matters shared were as a result of formal decisions made under the NCSUW in the last reporting period and others were shared pursuant to decisions made in the reporting period before last.

As at the end of the reporting period, NSW agreed to share 24 matters with other jurisdictions. All but two of these matters were to be shared with the Commonwealth, and the other two were to be shared equally between NSW, the Commonwealth and Western Australia, a jurisdiction not participating in the NCSUW. Of these matters, a total of 13 were actually shared by NSW with a total of \$2,244,752 being paid to the Commonwealth.

Conversely, as at the end of the reporting period, a total of 5 matters had agreed to be shared by the Commonwealth with NSW. None of these matters have actually been shared because the administration of the matters has not been completed.

CHAPTER FOUR – CORPORATE SERVICES DIVISION

The CSD is responsible for supporting all of the Commission's operational, corporate and enterprise level functions through the provision of services and systems. During the 2020-21 reporting period, the CSD provided a wide range of services and functions across the Commission, which are highlighted below.

Division Overview

Enterprise Services

The Enterprise Services Team delivered core functions, services and projects for the Commissioner, Executive Team and Commission whole of business. The team is led by the Executive Director Corporate Services and works in a matrix approach with other Corporate Services teams and divisions. The team includes the Chief Security Officer who has oversight of the Protective Security Framework (PSF), and responsibility for business continuity and performance reporting.

Throughout the reporting period, the Commission's Enterprise Services covered:

- Strategic planning, performance and delivery
- Business continuity management
- PSF management
- Media and communications
- Ministerial and Stronger Communities Cluster liaison
- Executive support
- Program and office management, coordination and support
- Information Security Management System (ISMS) compliance
- Business analysis.

Business Services

The Business Services Team operated a system of comprehensive financial management, budgeting, procurement, Human Resources/Payroll and reporting functions and services for the Commission. During the reporting year, a cost centre accounting and program based approach to finances and budgeting was aligned to achieve government and operational priorities. All internal financial systems and external Treasury systems were maintained and designed to provide clear, concise and accurate reporting. Financial reporting was also made to the Commission's Management Committee, Executive Team, Audit and Risk Committee (ARC), Stronger Communities Cluster and Treasury stakeholders.

The Facilities Management Team was responsible for the day to day operation of the Commission's premises, core building infrastructure, staff work health and safety (WHS) and the security function of the Commission during the reporting period. Overall management of the

Commission's premises was part of a government-wide facilities management contract between the Facilities Management 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.

Human Services

During the reporting period, the Human Services Team delivered Human Resources, staff welfare and support, workforce management, change management and personnel security services to the Commission including security vetting (Commonwealth and Commission based).

Technology Services

Throughout the 2020-21 reporting period, the Commission's Technology Services Team was responsible for:

- Information communication technology (ICT) managed services and outsourcing
- ICT operational systems support and management
- ICT infrastructure and systems support
- Information and records management
- ISMS
- Physical security services

ICT continued its focus on providing and supporting the critical ICT platforms and systems to expand information and intelligence gathering, conduct financial investigations and confiscation activities, and enhance intelligence and analytical capabilities. The continued development of key electronic workflows, the Commission's Electronic Document and Records Management System (EDRMS) and intelligent form creation offerings contributed to increased productivity.

The emphasis on Information security, governance and compliance initiatives have continued during the reporting period with the successful completion of the surveillance audit ensuring the Commission maintained its ISO 27001 certification. Business Continuity and ICT disaster recovery plans were successfully tested, and upgrades to core infrastructure provided the Commission with resilience and recovery capabilities that were necessary to keep business activities operational. Strengthening of mobility services and the introduction of collaboration suites have provided a platform for secure remote working and information sharing.

Corporate Plan

The Commission maintained its 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 linked to the performance development plans of staff were also maintained throughout the period.

The 2020-21 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 LEAs (most numerous, officers of the NSWPF) are deemed members of staff of the Commission in order to facilitate effective investigations.

A smaller number of people are employed to enable the Commission to discharge its functions. These persons are remunerated from the Commission's budget and are considered to be employees of the Commission. The Commission's employees are part of the Public Service and are employed by the NSW Crime Commission Staff Agency (a separate Public Service agency).

As at 30 June 2021, the NSW Crime Commission Staff Agency employed 121 employees. At the conclusion of 2020-21 and taking into account part-time working arrangements, the Commission had 114.49 full-time equivalent employees, including those on forms of extended leave.

The Commission had two statutory officers at 30 June 2021, one being the Commissioner and the other being the Assistant Commissioner (Legal). The Statutory and Other Offices Remuneration Tribunal (SOORT) set the salary for the Commissioner at \$498,410 and the Assistant Commissioner (Legal) at \$472,180 per annum.

During the financial year the Commission employed a total of seven Public Service Senior Executives (PSSEs) and their remuneration is established within the appropriate SOORT determinations.

Personnel numbers as at 30 June 2021 and as at 30 June in the three preceding years are shown in Table 23. During the reporting period, the Commission employed 69 females and 52 males.

Personnel

Table 23

Personnel Category	2017-18	2018-19	2019-20	2020-21
Statutory officers	2	2	2	2
Senior Executive Service	9	7	7	7
GSE Act (ongoing)	111	114	116	108
GSE Act (casual)	0	0	0	0
GSE Act (temporary)	4	10	7	4

The majority of Commission employees mainly or exclusively performed operational related tasks. These include employees within the CID, FID, Legal Services Team and a number of employees within the CSD.

Some employees had a more even division of operational and managerial responsibilities (for example the Commissioner and Assistant Commissioner (Legal), executive directors, directors and some managers). Other Commission employees were mainly or exclusively involved in administrative roles. Examples include the Executive Director (Corporate Services), and Corporate Services and Governance employees.

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 PSSEs at 30 June 2021 and a comparison with the previous financial year 2019-20.

Remuneration Packages

Table 24

Band Level	Male	Female	Average Remuneration Package 2019-20 (\$)	Average Remuneration Package 2020-21 (\$)
SOORT	2	0	495,121	495,865
PSSE Band 3	0	0	0	0
PSSE Band 2	3	0	367,563	367,563
PSSE Band 1	3	1	228,016	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 2020-21 was 13 percent (for the 2019-20 reporting period it was also 13 percent). For statutory officers the percentage of total remuneration packages of the total employee related expenditure for the Commission in 2020-21 was 7 percent (for the 2019-20 reporting period it was also 7 percent).

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

Throughout the reporting period, the Commission continued its commitment to investing in its staff through the provision of Commission-wide and operationally specific training programs designed to build organisational and individual skills and capabilities.

The Commission continued to offer courses to staff via its online learning management system and promoted a variety of professional development courses through an external training provider. Opportunities were also offered to staff for study support including access to study leave and flexible working arrangements.

Employee Assistance Program

The Commission values the importance of an Employment Assistance Program for both Commission staff and their families. During the reporting period this confidential service was actively promoted to staff.

Equal Employment Opportunity

The Commission is committed to delivering a stronger NSW through diversity and continued to enable an equitable access to services and programs for all staff during the 2020-21 year.

The Commission has in place an Equal Employment Opportunity Management Plan 2017-2021, which has been prepared in accordance with Part 9A of the *Anti-Discrimination Act 1977*. The

plan facilitates the identification and removal of systemic barriers to the participation and promotion in employment of workforce diversity groups.

Promotion

During the reporting period no Commission officers travelled overseas as part of their official duties.

Key Corporate Projects

The CSD undertook a number of key corporate and enterprise projects during the reporting period. These enterprise projects are focused on providing and supporting important infrastructure to operational teams, and driving enterprise system improvements to ICT performance and security compliance requirements. Projects were prioritised to support the Commission in delivering core operational outcomes and in the remediation of significant risks to the Commission. Major projects undertaken during the 2020-21 reporting period included:

Implementation of an Employee Award

The Commission finalised the implementation of an Employee Award for all non-executive Commission employees. The Commission transitioned all non-executive employees to the *Crown Employee (Public Service Conditions of Employment) Reviewed Award 2009* and *Crown Employees (Public Sector – Salaries 2020)*. This delivered a key workforce management strategy aligning the Commission with the wider NSW State Public Sector.

Protective Security Framework Implementation Project

The Commission finalised the implementation of the PSF to align a singular strategic framework for security functions, practices, policies, procedures and systems to applicable NSW and Commonwealth Government policies and best practice in the areas of:

- Governance security
- ICT security
- Information Security
- Personnel Security
- Physical/Personal Security.

The PSF is aligned to the Commonwealth Protective Security Policy Framework and undergoes an annual maturity assessment.

Business Continuity Management Pandemic Response

To deliver the NSW Government's 'Safer Communities' outcomes, the Commission maintained its business continuity management systems and plans including the extended deployment of its Covid-19 Pandemic Response Plan. The response maintained support for Commission-wide work from home arrangements and the deployment of a new flexible work arrangements policy.

ICT Managed Services Tender

The Commission commenced a major project for re-tender of the current outsourced ICT managed services contract with approved NSW Government suppliers. The Commission is currently working with the support of the Department of Customer Services GovDC Team. The project will deliver a scope of works to support all ICT managed services including enterprise and operational systems, networks and infrastructure. The project is scheduled to be completed within the 2021-22 financial year.

Building and Facilities Capital Works Project

Commencing in the latter part of the 2020-21 reporting period, the Commission, working with Property NSW, commenced a project to deliver major improvements to the building infrastructure and facilities. Upon completion, the major capital works will deliver an upgraded air conditioning system, fire control panel system, carpeting and other minor improvements to the building and facilities. The project will be completed in the first quarter of 2021-22.

Energy Efficiency Savings Project

In line with the NSW Government energy emission initiative, the Commission undertook a major project to replace all lighting systems across the premises with energy saving LED lights, and the implementation of water consumption saving systems. In addition, the Commission has included a number of initiatives to reduce energy consumption.

Building and Facilities Bathroom Refurbishment Program

The Commission delivered a bathroom refurbishment program upgrading most bathrooms across the site. This included implementation of related energy and water savings initiatives.

Secure WIFI Project

The Commission delivered a site-wide secure WIFI network and environment as part of the digital mobility ICT strategy. The secure network is a key enabler to the ICT Desktop Enhancement Project. A series of proof of concept trials has demonstrated the benefits of the network.

ICT Desktop Enhancement Project

The Commission has commenced a wholesale desktop replacement project aligned to its digital mobility ICT strategy. This reflects the wider adoption of flexible working practices supported by ICT managed services such as secure WIFI. A move towards full mobility with laptop and other mobile devices is planned in the next reporting year.

Electronic Documents Records Management System Upgrade Project

The Commission implemented a major upgrade to its primary EDRMS during the reporting year which provided a more robust platform of improvements to the core functionality interface.

Financial Management

Budgets

Table 25 provides an outline of the Commission's approved budget for 2020-21 and the budget allocation for the 2021-22 financial year. The Commission receives an annual grant allocation (paid fortnightly) from government through the Stronger Communities Cluster.

Budget Allocation

Table 25

	2020-21 Budget (\$,000)	2021-22 Budget (\$,000)
Employee related	16,596	18,563
Other operating expenses	5,486	8,979
Depreciation and amortisation	4,027	3,654
Interest expense	190	140
Total expenses	26,299	31,336
Cluster grant revenue	25,412	30,701
Acceptance by Crown Entity	710	772
Other revenue	56	57
Total revenue	26,178	31,530
Gain / loss on disposal	-	-
Other gains / (losses)	-	1,274
Net result	-121	1,468

During the reporting period the 2020-21 budget had the following key adjustments:

- a minor decrease to the employee related budget of \$0.088 million which was a reflection of the decreased payroll tax rate for 2020-21 financial year
- an increase to the other operating expenditure budget of \$0.450 million which was to fund the non-lease component of the right of use asset leased through Property NSW
- a decrease to the depreciation and amortisation budget of \$0.895 million which reduced due to the lower asset value from the previous year impairment.

The Commission has received additional funding which is to begin in the 2021-22 financial year. This funding will continue into the future and is to enhance the capability of its FID.

Asset Acquisitions

The Commission's purchase of major assets during the reporting period is shown in Table 26.

Purchase of Major Assets

Table 26

Asset	Cost (\$,000)
Operational equipment	267
ICT hardware	593
Computer software	27
Building refurbishment	66

Asset	Cost (\$,000)
Security system upgrade	279
Total	1,232

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 27-30. There were no instances of interest being paid for overdue payments.

Account Payment Performance

Table 27

Aged analysis at the end of each quarter – all suppliers (\$,000)					
Quarter	Current (within due date)	Less than 30 days overdue	31 to 60 days overdue	60 to 90 days overdue	More than 90 days overdue
Sep-20	4,551	11	0	0	0
Dec-20	3,691	40	0	0	0
Mar-21	3,469	9	1	0	0
Jun-21	5,260	9	0	0	0

Table 28

Aged analysis at the end of each quarter – small business suppliers (\$,000)					
Quarter	Current (within due date)	Less than 30 days overdue	31 to 60 days overdue	60 to 90 days overdue	More than 90 days overdue
Sep-20	110	0	0	0	0
Dec-20	74	5	0	0	0
Mar-21	63	0	0	0	0
Jun-21	165	0	0	0	0

Table 29

Total accounts paid on time				
Quarter	Target (%)	Actual (%)	Total paid (\$)	Total due (\$)
Sep-20	85	100	4,551,391	4,561,957
Dec-20	85	99	3,691,046	3,730,838
Mar-21	85	100	3,469,602	3,479,494
Jun-21	85	100	5,259,628	5,269,494

Table 30

Accounts due or paid within each quarter				
Measure	Sep-20	Dec-20	Mar-21	Jun-21
All suppliers				
Number of accounts due for payment	455	434	382	489
Number of accounts paid on time	454	417	378	482
Actual percentage of accounts paid on time (based on number of accounts) (%)	100	96	99	99
Dollar amount of accounts due for payment (\$)*	4,561,957	3,730,838	3,479,494	5,269,494
Dollar amount of accounts paid on time (\$)*	4,551,391	3,691,046	3,469,602	5,259,628
Actual percentage of accounts paid on time (based on dollar amount) (%)	100	99	100	100
Number of payments for interest on overdue accounts	0	0	0	0
Interest paid on overdue accounts	0	0	0	0
Small business suppliers				
Number of accounts due for payment	63	58	30	62
Number of accounts paid on time	63	57	30	60
Actual percentage of accounts paid on time (based on number of accounts) (%)	100	98	100	97

Accounts due or paid within each quarter				
Measure	Sep-20	Dec-20	Mar-21	Jun-21
All suppliers				
Dollar amount of accounts due for payment (\$)*	109,878	79,059	63,078	165,337
Dollar amount of accounts paid on time (\$)*	109,878	74,241	63,078	164,855
Actual percentage of accounts paid on time (based on dollar amount) (%)	100	94	100	100
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 2020-21 reporting period, the Commission made five insurance claims. Of the five claims, three related to property and two related to workers compensation.

Consultants

The Commission engaged an external consultant to assist with two minor engagements during the 2020-21 reporting period at a total expense of \$11,700. The engagements included assistance in developing the Commission's strategic plan and conducting a minor review of a critical operational area of the Commission.

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.

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. The Commission has improved on previous energy savings by further reducing waste, energy consumption and taking up recycling opportunities.

Throughout the reporting period the Commission:

- Re-used or re-purposed resources including office equipment, materials and other resources wherever possible
- Used only 100 percent recycled paper and implemented initiatives to reduce paper consumption
- Recycled all waste paper, cardboard and empty toner cartridges
- Reduced energy consumption with new lighting, air conditioning and other equipment
- Disposed of obsolete electrical and computer equipment through approved recycling providers.

The Commission retained its Nabers 4 star rating for energy consumption and increased to a 4 star rating for water consumption.

Workplace Health and Safety

The Commission has a suite of policies and other documents for WHS. These include the *WHS Policy and Procedures*, *Bullying, Harassment and Discrimination Policy and Procedures*, and *Work-Related Grievance Handling Policy and Procedures*. Throughout the reporting period, the Commission continued to review and improve its WHS risks and mitigation strategies, which form part of the Commission's commitment to continuous improvement in this area.

The Commission is committed to addressing WHS issues in a proactive fashion. During the past three years the Commission has provided training in resilience and anti-discrimination. General safety and security awareness training sessions were also provided to all Commission staff. The Commission continues to engage the services of an Employee Assistance Provider to make it easier for staff to access any assistance that they may need. Monthly wellbeing newsletters were also provided to all staff during the reporting year.

The Commission had in place a WHS Manager and a WHS staff representative who meet regularly to review all WHS issues and practices during the 2020-21 reporting period. The staff representative provided advice to members of staff and the WHS Manager regarding WHS in the workplace. Monthly Hazard Assessment Check Sheet reports were completed in addition to a comprehensive six-monthly WHS risk and site assessment.

Since the last triennial report in the Commission's 2017-18 Annual Report there have been four workers compensation claims and no prosecutions under the *Work Health and Safety Act 2011*.

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'.

Throughout the 2020-21 reporting period, Legal Services were provided to the FID, CID and to further the Commission's corporate needs. Counsel Assisting, and the CID and Corporate legal teams report directly to the Assistant Commissioner (Legal). The FID also seeks high level and complex legal advice and approvals for settlements from the Assistant Commissioner (Legal).

Counsel Assisting

The Commission established the role of Counsel Assisting in 2019 to provide a specialised function responsible for conducting the coercive examination of witnesses summonsed to Commission hearings. That role has evolved to provide additional strategic guidance to investigations, legal advice and research.

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 hearings for applications made in CAR Act proceedings. 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 the High Court. FID Legal monitors and assesses the effectiveness of the CAR Act and makes recommendations for legislative change where appropriate.

The number of CAR Act matters in litigation has steadily increased over the years. In the 2020-21 reporting period, the Commission commenced 90 CAR Act proceedings against 94 defendants. As at 30 June 2021, the Commission was engaged in 271 active litigation CAR Act proceedings (involving 299 defendants).

Criminal Investigations and Corporate Legal Team

The Commission's investigations take place within a complex legal framework, and 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 CID and Corporate Legal 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.

During the 2020-21 reporting period, the CID and Corporate Legal team provided legal advice and services in support of the Commission's criminal investigation operations and agency litigation. The team assessed and met the Commission's common law and statutory disclosure obligations, and responded to subpoenas served on the Commission as well as public interest immunity claims that may affect these responses. The legal team also spent a 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.

The Commission refined its disclosure policy and procedures during the reporting period facilitating relevant disclosure processes directly to the NSW ODPP and through the NSWPF or the AFP to the Commonwealth Director of Public Prosecutions in accordance with their respective guidelines so that they, as the prosecutor, can acquit their disclosure obligations.

Recommendations for Legislative Change

The Commission remains vigilant to emerging developments in criminal activity, money laundering and criminally acquired wealth and assets identifying and refining any need for legislative change. It has made recommendations to NSW Government when appropriate to ensure that relevant legislation meets contemporary challenges. In addition to making recommendations for legislative change on an ongoing basis, the Commission has worked closely with the Department of Communities and Justice (DCJ) to consider the recommendations emerging from the statutory review of the CC Act, which was tabled before the NSW Parliament on 15 December 2020.

CHAPTER SIX – GOVERNANCE UNIT

During the 2020-21 reporting period, the Governance Unit consisted of the Internal Audit and Risk Manager, the Policy Legal Officer (until October 2020), and the Policy and Governance Officer. In May 2021, the Lawyer, Corporate role was created reporting to the Assistant Commissioner (Legal) within the Legal Services Unit. The role works closely with the Governance Unit team to fulfil some of the functions of the Policy Legal 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 during the 2020-21 reporting period included:

- 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 online 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).

Internal Controls

Policies, Procedures and Delegations

The creation and maintenance of Commission policies, procedures and delegations was overseen by the Governance Unit in collaboration with relevant subject matter experts. Policies, procedures, delegations and other guidance were made available to staff through the Commission's intranet.

Internal Audit and Risk Management

The Commission continued to have an appointed Chief Audit Executive and Chief Risk Officer throughout the reporting year. From March to July 2021, Thomas Thornton, Director Audit for the DCJ acted as Chief Audit Executive and oversaw the Commission's Governance function.

The Commission maintained effective internal audit and risk management functions that were compliant with Treasury Guidelines and Policy Paper *TPP 20-08 Internal Audit and Risk Management Policy for the General Government Sector*. The Commission's Audit and Risk Management Attestation statement is supplied at Appendix J.

Internal Audit

The Commission used a co-sourced model to undertake a program of risk-based internal audits, with in-house resources augmented from time to time with those of an external service provider. Operational, administrative and compliance audits were undertaken during the reporting period. All audit reports were tabled at the quarterly meetings of the Commission's ARC.

Risk Management

The Commission maintained a consolidated enterprise risk register which covered Executive, Divisional, and Fraud and Corruption risks. The Commission's risk management framework, overseen by the ARC, was consistent with AS/NZS 31000:2018.

Audit and Risk Committee

The ARC continued to operate throughout the reporting period and met on a quarterly basis to discharge its obligations under its charter. The ARC had a fully independent membership as required by *TPP 20-08*. Ms Joan Wilcox was Chair of the ARC with Mr Peter Lucas and Mr Paul Crombie as independent members.

Permanent invitees to ARC meetings include the Commissioner, Internal Audit and Risk Manager (in the capacity of Chief Audit Executive and Chief Risk Officer), Executive Director Corporate Services, and representatives of the Law Enforcement Conduct Commission (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 2020-21 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 continued to be 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.

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.

The People Matter Employee Survey Working Group was formed in November 2020 to address key issues raised by staff in the 2020 NSW Government People Matter Employee Survey. The Working Group consisted of managers from each Division and a member of staff from the Governance Unit. The group provided a number of recommendations for improvement in an action plan to the Commission's Executive Team based on its analysis of key issues and themes of the survey.

The Commission maintains a Legislative Working Group, which considers proposals for legislative change, and a Policy Working Group, which provides comment on draft policies and procedures. Neither of these working groups met during the reporting period.

Fraud, 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 during the year. Other guidance documents relating to employee and stakeholder conduct were also updated.

In April 2021 the Commission obtained a mandatory annual attestation from all Commission staff in relation to compliance with its Code of Conduct. The attestation required staff to successfully complete an online learning module relating to the Code in order to ensure staff understood how it applied to them. In addition, in May 2021, Commission staff attended a LECC seminar on fraud and corruption prevention in the public sector.

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, a number of seminars were offered to Commission staff on operational and administrative topics of interest such as corruption prevention, memory recall in the legal setting, and psychological techniques for investigations.

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. In accordance with section 7(3) of the GIPA Act, the Commission proactively reviewed its available policies and procedures during the reporting period and continues to review information that can be made available to members of the public.

External Stakeholder Relationships

The Commission's Stakeholder Management Plan operated 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 the Ombudsmen, and those required under the GIPA Act, PID Act, LEPR Act and the SD Act.

Annual reports covering the Commission's statutory obligations for 2020-21 are found in the *Appendices* of this Annual Report.

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 SD Act, and reports the results of such audits to the Australian Parliament. The Ombudsman conducted an audit of Commission records from 22-25 February 2021 that covered:

- telecommunications data
- surveillance device warrants
- stored communications warrants
- relevant policies, procedures and instruments of authorisations.

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 oversight any complaint investigation 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 7.6 of the *Government Sector Finance Act 2018 and the Government Sector Finance Regulation 2018*.

Complaints Handling

The Commission is committed to dealing with complaints made against its staff members and operations in an efficient and timely 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 and 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.

During the reporting period, the Commission received a total of 27 complaints that were recorded in the Commission's Complaints Register.¹ Of these complaints:

- Eight related to the Commission or Commission staff. For these eight complaints:
 - six were investigated and closed or required no further action by the Commission
 - one was referred to the LECC under section 14 of the LECC Act
 - one remains an ongoing investigation.
- Nine complaints related to the NSWPF and/or NSWPF officers, and were referred to the LECC (as necessary).

The remaining complaints received related to either individuals, local or state government agencies and/or private organisations. In these instances, the complainant was appropriately directed to the NSWPF or the relevant agency/organisation that could assist in actioning the complaint.

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 being finalised.

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 2020-21 reporting period.

Public Interest Disclosures Compliance

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

¹ The Commission received three submissions via its website during the 2020-21 reporting period that were incorrectly categorised as 'spam'. This error was rectified in the 2021-22 reporting period; however, given the time that had passed since receiving the submissions and actioning them, those submissions were automatically removed from the Commission's system. It is unknown whether these three submissions were complaints relevant to the Commission and/or its staff. As a result they have not been included in the complaints statistics for 2020-21 reporting period.

Government Information (Public Access) Compliance

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

PREPARATION OF ANNUAL REPORT AND EXEMPTIONS

Due to modifications to clause 19 of the *Government Sector Finance Regulation 2018*, this Annual Report has been prepared in accordance with *Annual Reports (Departments) Act 1985* (ARDA) requirements.

As the Commission is considered a 'small' Department under these changes, certain provisions need only be reported on triennially. Reporting provisions for workforce diversity, the Disability Inclusion Action Plan and multicultural policies and services were last reported in the 2019-20 Annual Report and are therefore exempt from this Annual Report.

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 2020 – 30 June 2021

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 2020-2021.

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 2020-2021.

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 2020-2021.

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 2020-2021.

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 2020-2021.

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 2020-2021.

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 2020-2021.

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 2020-2021.

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 2020-2021.

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 2020-2021.

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 2020-2021.



Michael Barnes
Commissioner
Date: 5 August 2021

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 2020 – 30 June 2021

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 did not grant any but cancelled one authority under the Act in 2020-2021.

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 2020-2021.

4. Fraud or Unlawful Activity

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

Under section 37 of the Act the Commission's Internal Audit and Risk Manager assisted by an independent auditor conducted an audit of the Commission's use of assumed identities during 2020-2021. 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 2020-2021.



Michael Barnes
Commissioner
Date: 20 October 2021

Appendix C: Surveillance Devices Act Report



New South Wales
Crime Commission

Surveillance Devices Act 2007 Subsection 45(3)

ANNUAL REPORT BY THE NEW SOUTH WALES CRIME COMMISSION

1 July 2020 – 30 June 2021

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 2020-2021. 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 2020-2021. 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 2020-2021. 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 2020-2021 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 2020-2021 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 2020-2021.

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 2020-2021.

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 2020-2021.

9. Warrants Issued and Emergency Authorisations Given by Device Type

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

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

Table 1. Devices authorised by warrant, by device type

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



Michael Barnes
 Commissioner
 Date: 22 July 2021

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 2020 – 30 June 2021

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 26 July 2021 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 2020-21 reporting period, the Commission conducted an annual review of its program for the release of government information. 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 2020-21 reporting year, the Commission received no valid access applications.

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 2020-21 reporting period, 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 2020-21 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	0

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

Table B: Number of applications by type of application and outcome								
	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Personal information applications*	0	0	0	0	0	0	0	0
Access applications (other than personal information applications)	0	0	0	0	0	0	0	0
Access applications that are partly personal information applications and partly other	0	0	0	0	0	0	0	0

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

Table C: Invalid applications	
Reason for invalidity	Number of applications
Application does not comply with formal requirements (section 41 of the Act)	3
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	4
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

Table D: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 of the Act	
	Number of times consideration used*
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
Information about complaints to Judicial Commission	0
Information about authorised transactions under <i>Electricity Network Assets (Authorised Transactions) Act 2015</i>	0
Information about authorised transaction under <i>Land and Property Information NSW (Authorised Transaction) Act 2016</i>	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 NCAT	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 transferred
Agency-initiated transfers	0
Applicant-initiated transfers	0



Michael Barnes
 Commissioner
 Date: 5 August 2021

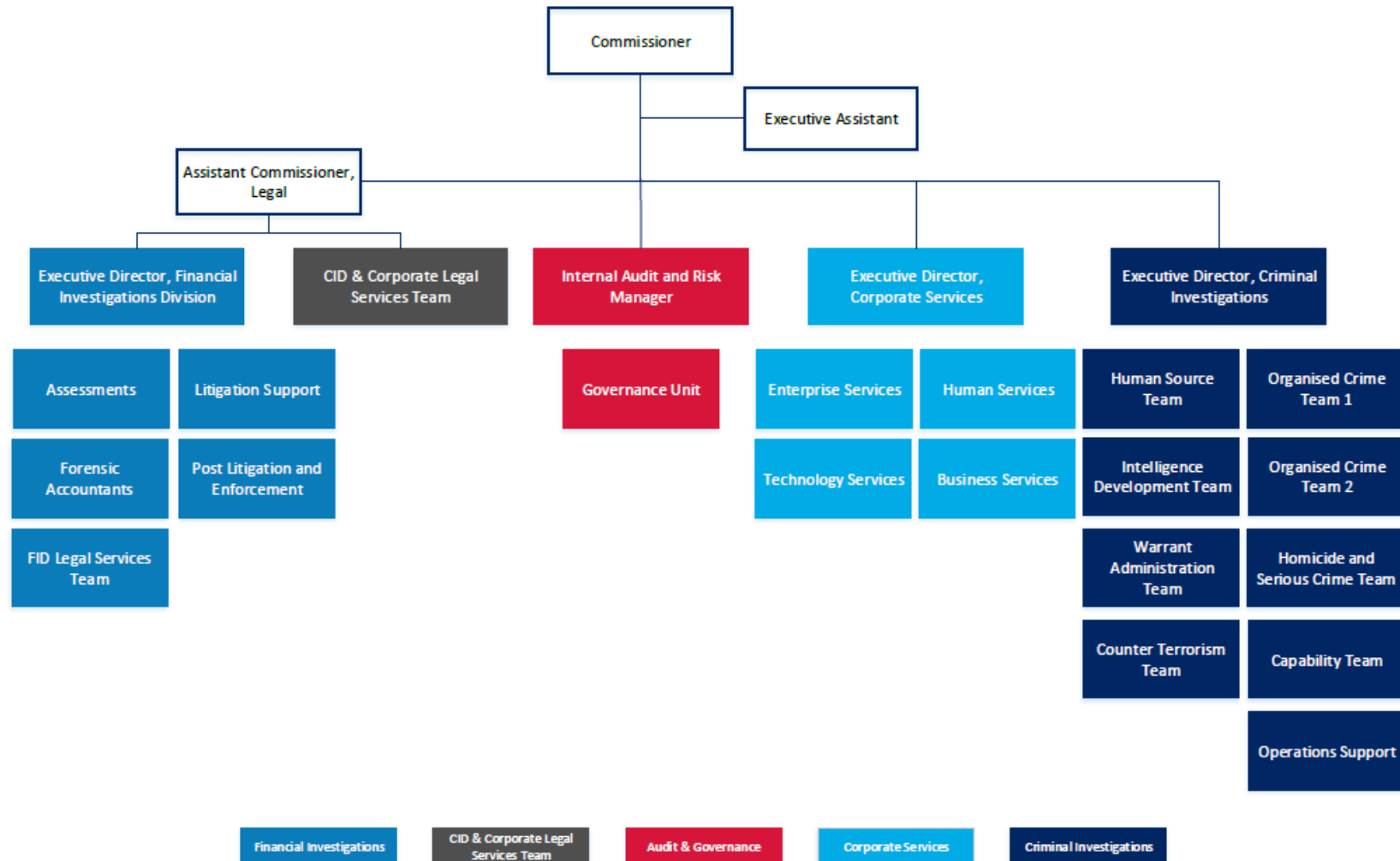
Appendix E: Corporate Plan

Goals	Strategies	Outcomes
Delivering 'safer communities' outcomes	1. Focus on developing and sustaining 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 sustaining covert surveillance capabilities in delivering operational outcomes	Arrests, charges, warrants, disseminations
	4. Focus on continuing to enhance the confiscations capability model to deliver increased returns to the CPA	Increased confiscations to the CPA
Investing in operational capabilities and outcomes	1. Enhancing the successful model for confiscations through expanding the financial investigations capability	Approved Government business case
	2. Implementing a data analytics technology investment strategy to enhance operational outcomes	Enhanced data analytics platform
	3. Continue to implement a data analytics expansion strategy to improve intelligence outcomes	Improved data analytics and information
Investing in our people	1. Delivery of a conditions and salaries industrial award aligned to the NSW Public Sector for Commission staff	Approved industrial award
	2. Implementation of enterprise training program/plan and learning platforms for Commission staff	Program and learning platforms
	3. Efficiency and effectiveness review of corporate and back office functions, staffing and structures	Future state report

Goals	Strategies	Outcomes
Corporate enterprise capabilities	1. Implementation of an integrated Protective Security Framework aligned to best practice	Compliant security framework
	2. Establish outcome-based budget plans and support systems, linked to 'safer community' outcomes	Outcome-based budget and plan
	3. Design and deliver an enterprise and corporate strategic plan for 2020-25 including business and functional plans	2020-25 strategic plan and roadmap
	4. Design and implement a digital strategy to deliver technology and process optimised solutions	Digital strategy
	5. Further improve and refine policies, procedures and other guidance to improve readability and accessibility to encourage better practice	Improved compliance
	6. Establish an ethical culture program, including messaging, training, compliance and feedback mechanisms	Respectful workplace
	7. Align risk management and internal audit with strategy	Achieve objectives and improve accountability

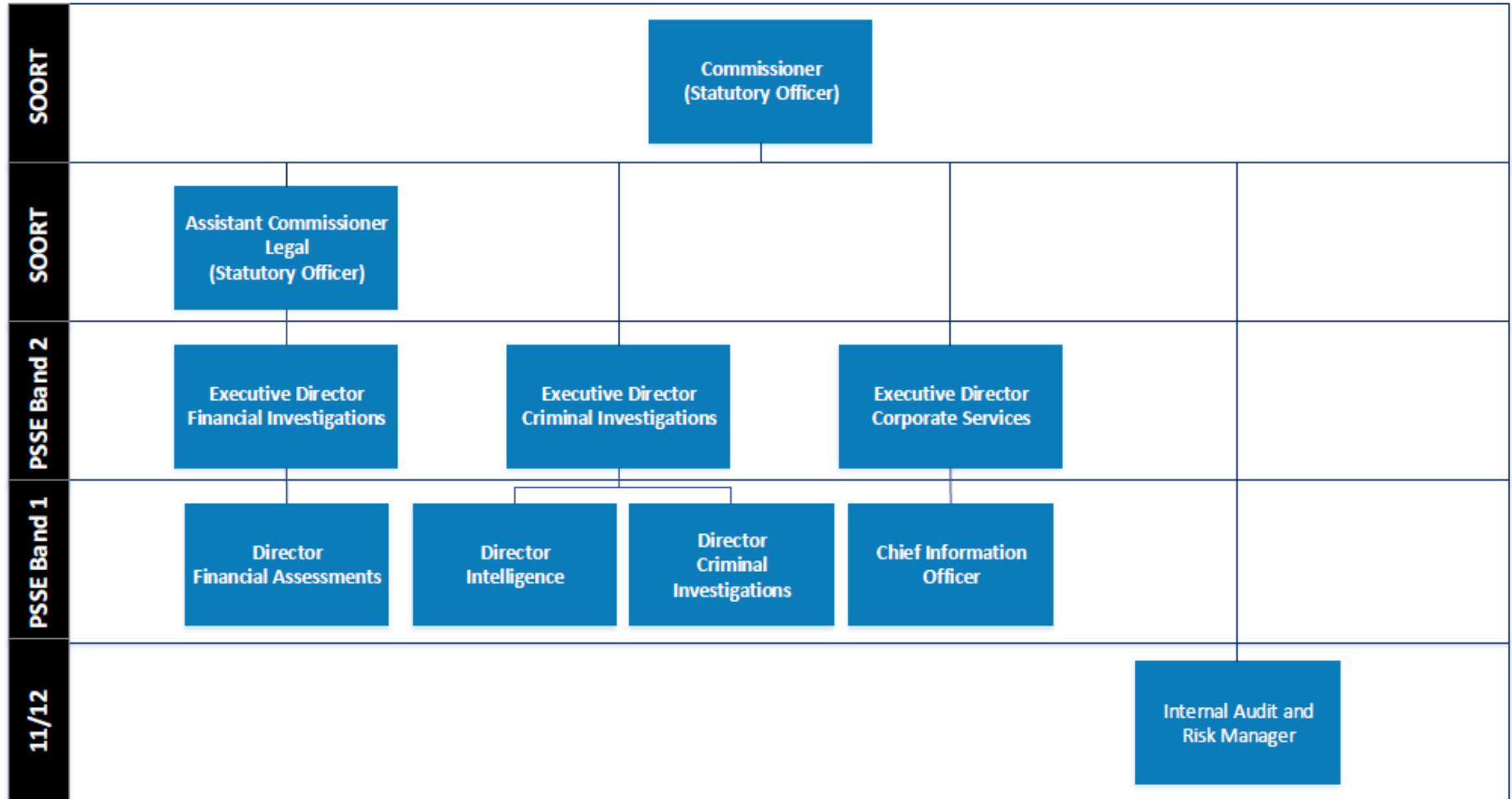
Appendix F: Organisation Structure

As at 30 June 2021



Appendix G: Executive Structure

As at 30 June 2021



Appendix H: Cyber Security Annual Attestation Statement



New South Wales
Crime Commission

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Eaglenet: 57022
Website: www.crimecommission.nsw.gov.au

Thursday 26 August 2021

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 2020-21 Financial Year for the New South Wales Crime Commission

I, Michael Barnes, 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 cybersecurity maturity and initiatives of the 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 Commission is one of the responsibilities of that committee. In 2018, 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 the ISMS and Business Continuity Management Framework, which has been activated in response to the Covid-19 pandemic outbreak.

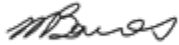
The Commission's ISMS has been certified since 2018 and was recertified in July 2021.

An independent review/audit of the Commission's ISMS for effectiveness of controls and 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.

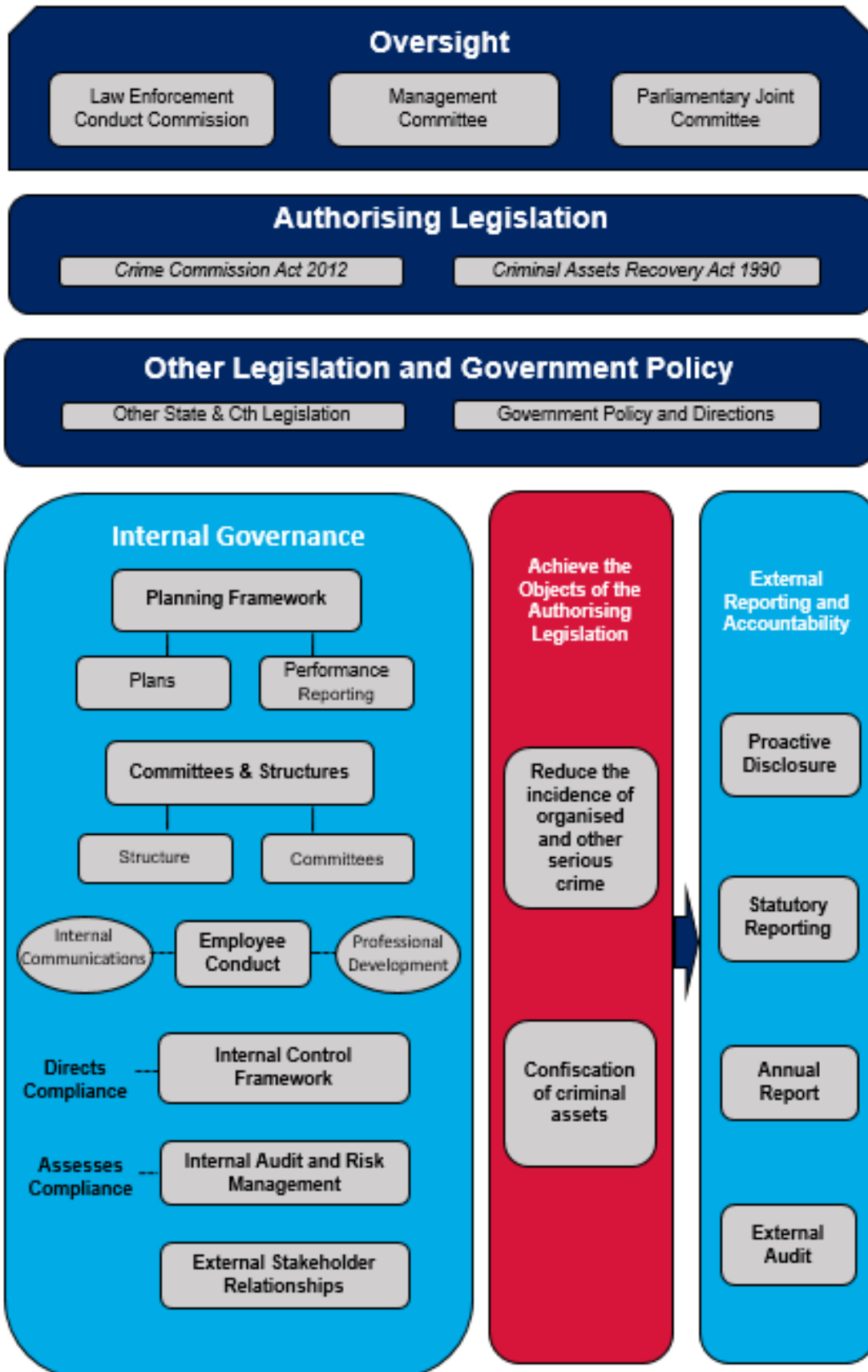
For further information about this matter please contact Mike Wilde, Executive Director Corporate Services on 02 9269 9717 or at mwilde@crimecommission.nsw.gov.au.

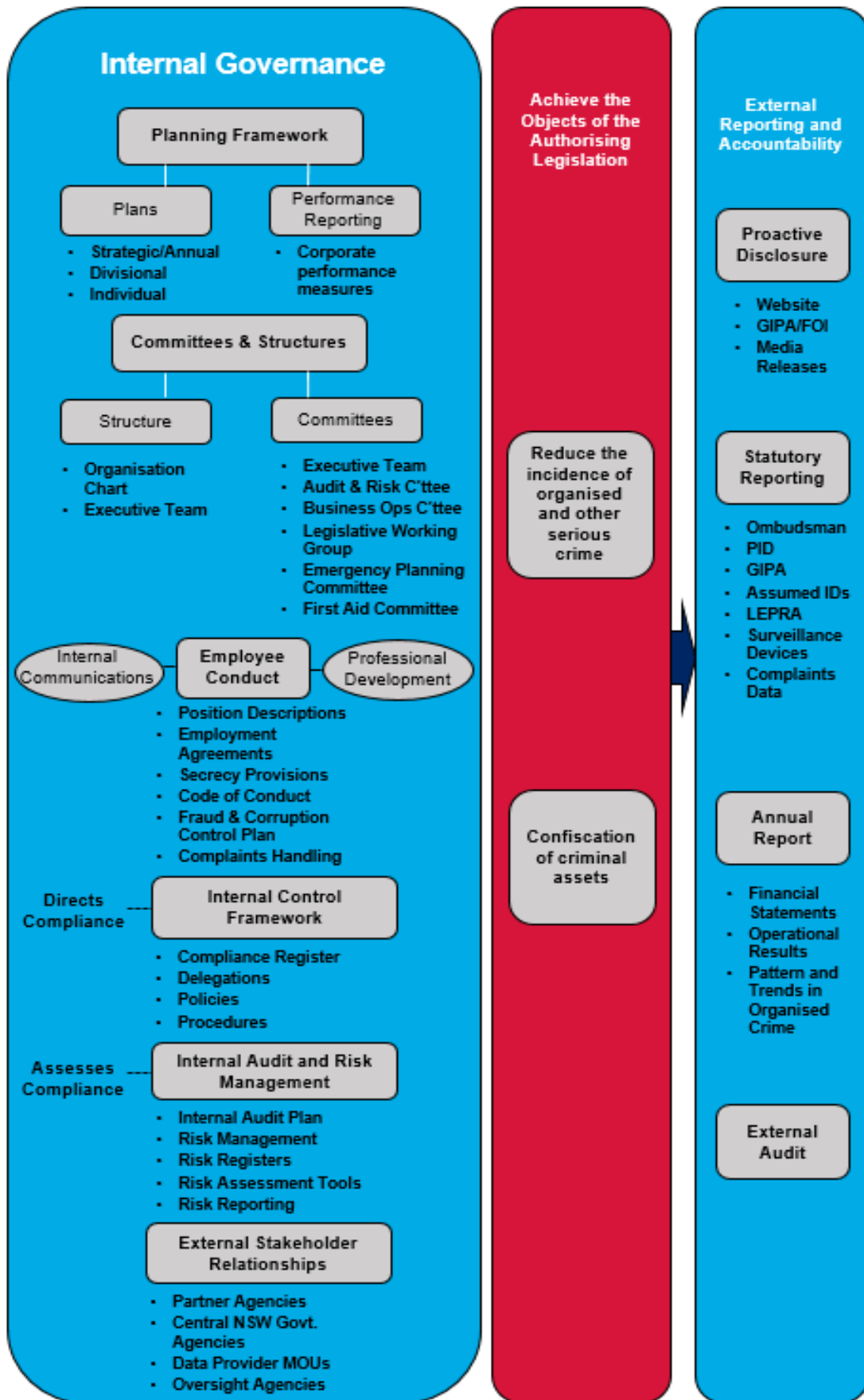
Yours sincerely

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

Michael Barnes
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 2020-21 FINANCIAL YEAR FOR THE NEW SOUTH WALES CRIME COMMISSION

I, Michael Barnes, am of the opinion that the NSW Crime Commission has internal audit and risk management processes in operation that are, excluding the exemptions or transitional arrangements described below, compliant with the seven (7) Core Requirements set out in the *Internal Audit and Risk Management Policy for the General Government Sector*, specifically:

Core Requirements	For each requirement, please specify whether compliant, non-compliant, or in transition
Risk management Framework	
1.1 The Accountable Authority shall accept ultimate responsibility and accountability for risk management in the agency.	Compliant
1.2 The Accountable Authority shall establish and maintain a risk management framework that is appropriate for the agency. The Accountable Authority shall ensure the framework is consistent with AS ISO 31000:2018.	Compliant
Internal Audit Function	
2.1 The Accountable Authority shall establish and maintain an internal audit function that is appropriate for the agency and fit for purpose.	Compliant
2.2 The Accountable Authority shall ensure the internal audit function operates consistent with the International Standards for Professional Practice for Internal Auditing.	Compliant
2.3 The Accountable Authority shall ensure the agency has an Internal Audit Charter that is consistent with the content of the 'model charter'.	Compliant

Audit and Risk Committee

- | | | |
|-----|---|------------------|
| 3.1 | The Accountable Authority shall establish and maintain efficient and effective arrangements for independent Audit and Risk Committee oversight to provide advice and guidance to the Accountable Authority on the agency's governance processes, risk management and control frameworks, and its external accountability obligations. | Compliant |
| 3.2 | The Accountable Authority shall ensure 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)



Michael Barnes
Commissioner
Date: 5 August 2021

Contact Officer: Todd Smithson
Internal Audit and Risk Manager
E: tsmithson@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

ANNUAL REPORT BY THE NEW SOUTH WALES CRIME COMMISSION

1 July 2020 – 30 June 2021

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
- no outstanding Public Interest Disclosures were 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:

1. Posters issued by the NSW Ombudsman 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
 - where staff can access the Commission's Internal Reporting Policy.
2. Commission staff continued to have access to the names and details of current Disclosure Officers and the Internal Reporting Policy via the Commission's Intranet. Information about the Act and a link to the Internal Reporting Policy appear on the intranet webpage 'PID Officers'. This information is highlighted to new staff during induction training.
3. Commission staff were advised about new or revised policies, and were reminded of their obligations to abide by Commission policies, which are all available to read and print through the intranet. References and links to the Internal Reporting Policy also appear throughout other Commission policies.
4. In April 2021, all Commission staff completed mandatory training in relation to the Commission's Code of Conduct. Section 7.3 of the Code of Conduct provides staff with information relating to the Act, including references to relevant legislation, policies and procedures.



Michael Barnes
Commissioner
Date: 5 August 2021

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
ARDA	<i>Annual Reports (Departments) Act 1985</i>
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>
CID	Criminal Investigations Division
COV	Compensation of Victims
CPA	Confiscated Proceeds Account
Cth	Commonwealth
DCJ	Department of Communities and Justice
DECD	Dedicated Encrypted Communication Devices
EDRMS	Electronic Document and Records Management System
FID	Financial Investigations Division
GIPA Act	<i>Government Information (Public Access) Act 2009</i>
ICT	Information and Communication Technology
JAG	Joint Analyst Group
JCTT	Joint Counter Terrorism Team
LEA	Law Enforcement Agency
LECC	Law Enforcement Conduct Commission
LECC Act	<i>Law Enforcement Conduct Commission Act 2016 (NSW)</i>
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>
NCSUW	National Cooperative Scheme on Unexplained Wealth
NSWPF	NSW Police Force
OCS	Organised Crime Squad

Term	Definition
ODPP	Office of the Director of Public Prosecutions (NSW)
OILECC	Office of the Inspector of the Law Enforcement Conduct Commission
OMCG	Outlaw Motorcycle Gang
PAC	Police Area Command
PAO	Proceeds Assessment Order
PID Act	<i>Public Interest Disclosures Act 1994</i>
PJC	Parliamentary Joint Committee
PSF	Protective Security Framework
PSSEs	Public Service Senior Executives
Reporting period	1 July 2020 to 30 June 2021
SCRA	Serious crime-related activity
SD Act	<i>Surveillance Devices Act 2007</i>
SOORT	Statutory and Other Offices Remuneration Tribunal
TIA Act	<i>Telecommunications (Interception and Access) Act 1979 (Cth)</i>
The Commission	NSW Crime Commission
The Court	Supreme Court of NSW
Treasury	NSW Treasury
UWO	Unexplained Wealth Order
VICPOL	Victoria Police

COMPLIANCE INDEX

The Commission includes in its Annual Report certain information specified in the ARDA, *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(s)/Comment
Access	2
Additional matters for inclusion	2, 58
Agreements with Multicultural NSW	49
Aims and objectives	11-12
Application for extension of time	2, 4
Applications to the Supreme Court under section 33 CC Act and other Court proceedings	18
Budgets	45-46
Charter	11-12
Compliance with <i>Privacy and Personal Information Protection Act 1998</i>	59
Consultants	49
Consumer response	57-58
Court proceedings involving the Commission	18, 52-53
Cyber security annual attestation	79-80
Disability inclusion action plans	Exempt
Disclosure of controlled entities	None to be disclosed
Disclosure of subsidiaries	Not applicable
Disseminations	20-21
Economic or other factors	Not applicable
Exemptions	59
Financial statements	91
Funds granted to non-government community organisations	Not applicable
<i>Government Information (Public Access) Act 2009</i>	59, 70-74
Human resources	42-44
Identification of audited financial statements	91
Implementation of price determination	Not applicable
Inclusion of unaudited financial statements	Not applicable
Information furnished to investigative agencies	20-21

Requirement	Page(s)/Comment
Internal audit and risk management attestation	83-84
Investment performance	Not applicable
Land disposal	Not applicable
Legal change	8, 51-52
Letters of submission	3-4
Liability management performance	Not applicable
Management and structure	12-15, 77
Management and activities	11-59
Matters referred for investigation	15
Multicultural policies and services program	Exempt
Numbers and remuneration of senior executives	43
Patterns and trends in the nature and scope of organised crime	23-27
Payment of accounts	47-49
Promotion	44
Prosecutions resulting from investigations	22
Public availability of annual report	2
Public Interest Disclosures (PID)	58, 85-86
Recommendations for changes in laws or for administrative action	52
Requirements arising from employment arrangements	Not applicable
Research and development	Disclosure would adversely affect business
Risk management and insurance activities	49, 54-55, 58, 83-84
Summary review of operations	11-59
Time for payment of accounts	Not applicable
Warrants issued under section 36 CC Act 2012	18
Workforce diversity	Exempt
Work health & safety	50

AUDITED FINANCIAL STATEMENTS



**NEW SOUTH WALES CRIME COMMISSION
CONSOLIDATED
FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2021**

New South Wales Crime Commission

**Financial Statements for the
year ended 30 June 2021**

STATEMENT BY COMMISSIONER

Pursuant to section 7.6 of the *Government Sector Finance Act 2018*, 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 *Government Sector Finance Act 2018*, *Government Sector Financial Regulation 2018* and Treasurer's Directions.
- (b) The statements present a true and fair view of the financial position as at 30 June 2021, financial performance of the Commission for the year then ended, and cash flows.
- (c) There are no circumstances that would render any particulars included in the Financial Statements misleading or inaccurate.



Michael Barnes
Commissioner

Dated: 2 November 2021



INDEPENDENT AUDITOR'S REPORT

New South Wales Crime Commission

To Members of the New South Wales Parliament

Opinion

I have audited the accompanying financial statements of the New South Wales Crime Commission (the Commission), which comprise the Statement by Commissioner, the Statement of Comprehensive Income for the year ended 30 June 2021, the Statement of Financial Position as at 30 June 2021, the Statement of Changes in Equity and the Statement 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:

- have been prepared in accordance with Australian Accounting Standards and the applicable financial reporting requirements of the *Government Sector Finance Act 2018* (GSF Act), the *Government Sector Finance Regulation 2018* (GSF Regulation) and the Treasurer's Directions
- presents fairly the financial position, financial performance and cash flows of the Commission and the consolidated entity.

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.

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, the GSF Act, GSF Regulations and Treasurer's Directions. The Commissioner's responsibility also includes 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.



Nirupama Mani
Director, Financial Audit

Delegate of the Auditor-General for New South Wales

3 November 2021
SYDNEY

Start of audited financial statements.

NEW SOUTH WALES CRIME COMMISSION

Statement of Comprehensive Income for the year ended 30 June 2021

	Notes	Consolidated			Statutory Corporation	
		Actual	Budget	Actual	Actual	Actual
		2021	2021	2020	2021	2020
		\$'000	\$'000	\$'000	\$'000	\$'000
Expenses excluding losses						
Employee-related expenses	2(a)	16,807	16,596	17,582	-	-
Operating expenses	2(b)	5,719	5,486	6,320	5,719	6,320
Personnel services	2(c)	-	-	-	16,807	17,582
Depreciation and amortisation	2(d)	3,000	4,027	3,205	3,000	3,205
Finance Costs	2(e)	113	190	144	113	144
Total expenses excluding losses		25,639	26,299	27,251	25,639	27,251
Revenue						
Grants and contributions	3(a)	25,324	25,412	25,599	25,799	26,356
Acceptance by the Crown in right of the State of New South Wales of employee benefits and other liabilities	3(b)	475	710	757	-	-
Other income		38	56	69	38	69
Total revenue		25,837	26,178	26,425	25,837	26,425
Operating result		198	(121)	(826)	198	(826)
Gains / (losses) on disposal	4	(26)	-	(8)	(26)	(8)
Other gains / (losses)	5	(223)	-	(1,711)	(223)	(1,711)
Net result		(51)	(121)	(2,545)	(51)	(2,545)
Other comprehensive income		-	-	-	-	-
TOTAL COMPREHENSIVE INCOME		(51)	(121)	(2,545)	(51)	(2,545)

The accompanying notes form part of these financial statements.

NEW SOUTH WALES CRIME COMMISSION

Statement of Financial Position as at 30 June 2021

	Notes	Consolidated			Statutory Corporation	
		Actual	Budget	Actual	Actual	Actual
		2021	2021	2020	2021	2020
		\$'000	\$'000	\$'000	\$'000	\$'000
ASSETS						
Current Assets						
Cash and cash equivalents	6	958	1,316	1,327	958	1,327
Receivables	7	854	681	680	854	680
Total Current Assets		1,812	1,997	2,007	1,812	2,007
Non-Current Assets						
Receivables	8	-	1	1	-	1
Property, plant and equipment	9					
Land and buildings		111	111	111	111	111
Plant and equipment		1,813	1,587	1,336	1,813	1,336
Right-of-use assets	10	5,383	6,289	7,451	5,383	7,451
Intangible assets	11	1,072	1,200	1,498	1,072	1,498
Total Non-Current Assets		8,379	9,188	10,397	8,379	10,397
Total Assets		10,191	11,185	12,404	10,191	12,404
LIABILITIES						
Current Liabilities						
Payables	12	789	668	668	542	307
Lease Liabilities	13	2,287	2,914	2,255	2,287	2,255
Provisions	15	2,145	2,179	2,179	2,464	2,603
Total Current Liabilities		5,221	5,761	5,102	5,293	5,165
Non-Current Liabilities						
Lease Liabilities	14	4,680	5,590	6,970	4,680	6,970
Provisions	16	72	63	63	-	-
Total Non-Current Liabilities		4,752	5,653	7,033	4,680	6,970
Total Liabilities		9,973	11,414	12,135	9,973	12,135
Net Assets		218	(229)	269	218	269
EQUITY						
Accumulated funds	17	218	(229)	269	218	269
Total Equity		218	(229)	269	218	269

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 2021

	Accumulated	
	Funds \$'000	Total \$'000
Balance at 1 July 2020	269	269
Net result for the year	(51)	(51)
Other comprehensive income	-	-
Total comprehensive income for the year	(51)	(51)
Balance at 30 June 2021	218	218
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

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 2021

	Notes	Consolidated			Statutory Corporation	
		Actual	Budget	Actual	Actual	Actual
		2021	2021	2020	2021	2020
		\$'000	\$'000	\$'000	\$'000	\$'000
CASH FLOWS FROM OPERATING ACTIVITIES						
Payments						
Employee related		(16,472)	(15,886)	(16,145)	-	-
Personnel Services		-	-	-	(16,472)	(16,145)
Finance Costs		(113)	(190)	(144)	(113)	(144)
Other		(6,495)	(5,486)	(7,376)	(6,495)	(7,376)
Total Payments		(23,080)	(21,562)	(23,665)	(23,080)	(23,665)
Receipts						
Grants and contributions		25,324	25,412	25,599	25,324	25,599
Other		877	56	1,064	877	1,064
Total Receipts		26,201	25,468	26,663	26,201	26,663
NET CASH FLOWS FROM OPERATING ACTIVITIES	21	3,121	3,906	2,998	3,121	2,998
CASH FLOWS USED IN INVESTING ACTIVITIES						
Purchase of property, plant and equipment		(1,157)	(891)	(212)	(1,157)	(212)
Purchase of intangibles		(75)	(341)	(170)	(75)	(170)
NET CASH FLOWS USED IN INVESTING ACTIVITIES		(1,232)	(1,232)	(382)	(1,232)	(382)
CASH FLOWS USED IN FINANCING ACTIVITIES						
Payment of principal portion of lease liabilities		(2,258)	(2,685)	(2,227)	(2,258)	(2,227)
NET CASH FLOWS USED IN FINANCING ACTIVITIES		(2,258)	(2,685)	(2,227)	(2,258)	(2,227)
NET INCREASE / (DECREASE) IN CASH AND CASH EQUIVALENTS						
		(369)	(11)	389	(369)	389
Opening cash and cash equivalents		1,327	1,327	938	1,327	938
CLOSING CASH AND CASH EQUIVALENTS	6	958	1,316	1,327	958	1,327

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 2021 have been authorised for issue by the Commissioner on 2 November 2021.

(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 *Government Sector Finance Act 2018* (GSF Act) and
- Treasurer's Directions issued under the GSF Act.

Property, plant and equipment and assets are measured using the fair value basis. 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 in right of the State of New South Wales (the Crown). 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.

1. Summary of Significant Accounting Policies (continued)

(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.

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

(i) Effective for the first time in financial year 2020-21

AASB 1059 Service Concession Arrangements: Grantors

AASB 1059 Service Concession Arrangements: Grantor (AASB 1059) is effective for financial reporting periods commencing on or after 1 January 2020. Therefore, for the Commission AASB 1059 will be effective from 1 July 2020.

Based on the entity's assessment, the first-time adoption of AASB 1059 will not impact on the transactions and balances recognised in the financial statements for the year ending 30 June 2021.

(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 2020-1 *Amendments to Australian Accounting Standards - Classification of Liabilities as Current or Non-current*
- AASB 2020-3 *Amendments to Australian Accounting Standards - Annual Improvements 2018-2020 and Other Amendments*
- AASB 2020-6 *Amendments to Australian Accounting Standards - Classification of Liabilities as Current or Non-current - Deferral of Effective Date*

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

(h) Impact of COVID-19 on Financial Reporting 2020-21

The Commission confirms that COVID-19 has not had a significant impact on its finances or its ability to operate as usual.

2. Expenses Excluding Losses

	Consolidated		Statutory Corporation	
	2021	2020	2021	2020
	\$'000	\$'000	\$'000	\$'000
(a) Employee related expenses				
Salaries and wages (including annual leave)	14,144	14,504	-	-
Superannuation - defined benefit plans	57	80	-	-
Superannuation - defined contribution plans	1,247	1,211	-	-
Long service leave	432	719	-	-
Workers' compensation insurance	89	85	-	-
Payroll tax and fringe benefit tax	775	895	-	-
Other	63	88	-	-
	<u>16,807</u>	<u>17,582</u>	<u>-</u>	<u>-</u>
(b) Other operating expenses				
Auditor's remuneration				
- audit of the financial statements	51	53	51	53
Building management fees	592	592	592	592
Maintenance*	59	97	59	97
Insurance	41	17	41	17
Office utilities	192	219	192	219
Office supplies	185	189	185	189
Computer services	1,950	2,049	1,950	2,049
Travel expenses	19	55	19	55
Motor vehicle expenses	25	19	25	19
Service and legal fees	458	873	458	873
Telecommunications	837	1,043	837	1,043
Maintenance agreements	1,273	1,064	1,273	1,064
Other	37	50	37	50
	<u>5,719</u>	<u>6,320</u>	<u>5,719</u>	<u>6,320</u>
<i>* Reconciliation - Total Maintenance</i>				
Maintenance expense - contracted labour and other (non-employee related), as above	59	97	59	97
Personnel services maintenance expense included in Note 2(a)	57	54	-	-
Total maintenance expenses included in Note 2(a) and 2(b)	<u>116</u>	<u>151</u>	<u>59</u>	<u>97</u>
(c) Personnel services				
New South Wales Crime Commission Staff Agency	-	-	16,807	17,582
	<u>-</u>	<u>-</u>	<u>16,807</u>	<u>17,582</u>

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.

2. Expenses Excluding Losses (continued)

Lease expense

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	
	2021	2020	2021	2020
	\$'000	\$'000	\$'000	\$'000
(d) Depreciation and amortisation expense				
Depreciation				
Buildings and Improvements - Right of Use Asset	1,845	2,290	1,845	2,290
Plant and equipment	251	221	251	221
Computer equipment	377	261	377	261
Motor vehicles	26	26	26	26
	<u>2,499</u>	<u>2,798</u>	<u>2,499</u>	<u>2,798</u>
Amortisation	501	407	501	407
Total Depreciation and amortisation	<u>3,000</u>	<u>3,205</u>	<u>3,000</u>	<u>3,205</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	113	144	113	144
Total interest expense	<u>113</u>	<u>144</u>	<u>113</u>	<u>144</u>
	<u>113</u>	<u>144</u>	<u>113</u>	<u>144</u>

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

(a) Grants without sufficiently specific performance obligations				
Recurrent grants	24,092	25,217	24,092	25,217
Capital grants	1,232	382	1,232	382
Personnel services benefits and liabilities provided free of charge by NSW Crime Commission Staff Agency	-	-	475	757
	<u>25,324</u>	<u>25,599</u>	<u>25,799</u>	<u>26,356</u>

Recognition and Measurement

Income from grants without sufficiently specific performance obligations is recognised in line with AASB 1058 when the Commission obtains control over the granted assets (e.g. cash).

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.

Income from appropriations, other than deemed appropriations (of which the accounting treatment is based on the underlying transaction), does not contain enforceable and sufficiently specific performance obligations as defined by AASB 15. Therefore, appropriations (other than deemed appropriations) are recognised as income when the Commission obtains control over the assets comprising the appropriations. Control over appropriations is normally obtained upon the receipt of cash.

3. Revenue (continued)

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

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

	Consolidated		Statutory Corporation	
	2021	2020	2021	2020
	\$'000	\$'000	\$'000	\$'000
Superannuation - defined benefit	57	80	-	-
Long service leave	415	672	-	-
Payroll tax	3	5	-	-
	<u>475</u>	<u>757</u>	<u>-</u>	<u>-</u>

(c) Deemed appropriations

	2021	2020
	\$'000	\$'000
Cluster grants	25,324	25,599
Total spending authority from parliamentary appropriations, other than deemed appropriations	25,324	25,599
Add:		
Own source revenue earned during the year	877	1,064
Own source revenue balance brought forward from prior years	1,327	938
Total	<u>27,528</u>	<u>27,601</u>
Less: total expenditure	<u>(26,570)</u>	<u>(26,274)</u>
Variance	958	1,327
Less:		
The spending authority from appropriations lapsed at 30 June	-	-
Own source revenue balance carried forward to following years	<u>958</u>	<u>1,327</u>

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.

Appropriations authorities and spending limits, under the Appropriations Act, and from deemed appropriations are given to the relevant responsible minister(s) and not directly to individual agencies. Officers of agencies reporting to those ministers are then delegated authority to incur expenditure under delegation instruments issued by those ministers. Therefore, compliance with aggregate spending limits under the Appropriation Act and deemed appropriations should normally be assessed at the responsible minister(s)' level unless the delegation instrument for an agency expressly creates a sub-limit for the agency as a whole (which is unusual). The Commission has confirmed that its delegation instruments do not have sub-limits for the agency as a whole.

4. Gain / (Loss) on Disposal

Written down value of assets sold/scrapped	(26)	(8)	(26)	(8)
	<u>(26)</u>	<u>(8)</u>	<u>(26)</u>	<u>(8)</u>

5. Other Gains / (Losses)

Impairment loss on Right of Use Assets	(223)	(1,711)	(223)	(1,711)
	<u>(223)</u>	<u>(1,711)</u>	<u>(223)</u>	<u>(1,711)</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

	Consolidated		Statutory Corporation	
	2021	2020	2021	2020
	\$'000	\$'000	\$'000	\$'000
Cash at bank and on hand	958	1,327	958	1,327
	<u>958</u>	<u>1,327</u>	<u>958</u>	<u>1,327</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:

Cash and cash equivalents (per Statement of Financial Position)	958	1,327	958	1,327
Closing cash and cash equivalents (per Statement of Cash Flows)	<u>958</u>	<u>1,327</u>	<u>958</u>	<u>1,327</u>

Refer to 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	26	31	26	31
Other debtors	269	154	269	154
Prepayments	559	495	559	495
	<u>854</u>	<u>680</u>	<u>854</u>	<u>680</u>

Details regarding credit risk of trade debtors that are neither past due nor impaired, are disclosed in Note 8 and 23(d).

8. Non-Current Assets - Receivables

Professional costs to be recovered	-	1	-	1
	<u>-</u>	<u>1</u>	<u>-</u>	<u>1</u>

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.

8. Non-Current Assets - Receivables (continued)

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 2021 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
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
At 1 July 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
Year ended 30 June 2021						
Net carrying amount at beginning of year	111	1,336	1,447	111	1,336	1,447
Additions	-	1,157	1,157	-	1,157	1,157
Disposals	-	(26)	(26)	-	(26)	(26)
Depreciation expense	-	(654)	(654)	-	(654)	(654)
Net carrying amount at end of year	111	1,813	1,924	111	1,813	1,924

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

	<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 30 June 2021 - fair value						
Gross carrying amount	111	6,620	6,731	111	6,620	6,731
Accumulated depreciation	-	(4,807)	(4,807)	-	(4,807)	(4,807)
Net carrying amount	111	1,813	1,924	111	1,813	1,924

Recognition and Measurement

Acquisition of property, plant and equipment

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

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

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

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

Capitalisation thresholds

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

Major inspection costs

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

Restoration costs

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

Depreciation of property, plant and equipment

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

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

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

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

Revaluation of property, plant and equipment

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

Property, plant and equipment is measured at the highest and best use by market participants that is physically possible, legally permissible and financially feasible. The highest and best use must be available at a period that is not remote and 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. There were no changes to lease payments in the year to date. 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)

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	Total \$'000
Balance at 1 July 2019	11,452	11,452
Additions	-	-
Depreciation expense (Note 2 (d))	(2,290)	(2,290)
Impairment loss (Note 5)	(1,711)	(1,711)
Balance at 30 June 2020	<u>7,451</u>	<u>7,451</u>

	Land and Buildings \$'000	Total \$'000
Balance at 1 July 2020	7,451	7,451
Additions	-	-
Depreciation expense (Note 2 (d))	(1,845)	(1,845)
Impairment loss (Note 5)	(223)	(223)
Balance at 30 June 2021	<u>5,383</u>	<u>5,383</u>

Lease liabilities

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

	2021 \$'000	2020 \$'000
Balance at 1 July	9,225	11,452
Additions	-	-
Interest expenses (Note 2(e))	113	144
Payments	(2,371)	(2,371)
Balance at 30 June	<u>6,967</u>	<u>9,225</u>

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

	2021 \$'000	2020 \$'000
Depreciation expense of right-of-use assets (Note 2(d))	1,845	2,290
Interest expense on lease liabilities (Note 2(e))	113	144
Total amount recognised in the statement of comprehensive income	<u>1,958</u>	<u>2,434</u>

The Commission had total cash outflows for leases of \$2.371m in financial year 2020-21.

Recognition and measurement

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.

10. Leases (continued)

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 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.

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

10. Leases (continued)

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.

11. Intangible Assets

	Consolidated	Statutory Corporation
	Total	Total
	\$'000	\$'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>
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>
The majority of Intangible assets represent computer software, including specialised enterprise software.		
At 1 July 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 2021		
Net carrying amount at start of year	1,498	1,498
Additions	75	75
Disposals	-	-
Amortisation (recognised in "depreciation and amortisation")	(501)	(501)
Net carrying amount at end of year	<u>1,072</u>	<u>1,072</u>
At 30 June 2021		
Cost (gross carrying amount)	6,117	6,117
Accumulated amortisation and impairment	(5,045)	(5,045)
Net carrying amount	<u>1,072</u>	<u>1,072</u>

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.

11. Intangible Assets (continued)

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	
	2021 \$'000	2020 \$'000	2021 \$'000	2020 \$'000
Accrued salaries, wages and on-costs	247	361	-	-
Creditors	177	64	177	64
Accrued other operating expenses	365	243	365	243
	<u>789</u>	<u>668</u>	<u>542</u>	<u>307</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 in the net result when the liabilities are derecognised as well as through the amortisation process.

13. Current Liabilities - Lease Liabilities

Lease liabilities (see Note 10)	<u>2,287</u>	<u>2,255</u>	<u>2,287</u>	<u>2,255</u>
	<u>2,287</u>	<u>2,255</u>	<u>2,287</u>	<u>2,255</u>

14. Non-Current Liabilities - Lease Liabilities

Lease liabilities (see Note 10)	<u>4,680</u>	<u>6,970</u>	<u>4,680</u>	<u>6,970</u>
	<u>4,680</u>	<u>6,970</u>	<u>4,680</u>	<u>6,970</u>

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

Recognition and measurement

Borrowings represent lease liabilities only.

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.

15. Current Liabilities - Provisions

	Consolidated		Statutory Corporation	
	2021 \$'000	2020 \$'000	2021 \$'000	2020 \$'000
Employee benefits and related on-costs				
Provision for personnel services	-	-	2,464	2,603
Annual leave	1,414	1,456	-	-
Long service leave on-costs	731	723	-	-
Total Provisions	2,145	2,179	2,464	2,603
Current annual leave obligations expected to be settled after 12 months	517	427	-	-
Current long service leave obligations expected to be settled after 12 months	653	646	-	-
	1,170	1,073	-	-

16. Non-Current Liabilities - Provisions

Employee benefits and related on-costs				
Long service leave on-costs	72	63	-	-
Total provisions	72	63	-	-
Aggregate employee benefits and related on-costs				
Provisions - current	2,145	2,179	-	-
Provisions - non-current	72	63	-	-
Accrued salaries, wages and on-costs (Note 12)	247	361	-	-
	2,464	2,603	-	-

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 9.88% 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. 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 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	
	2021	2020	2021	2020
	\$'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	341	356	341	356
Later than one year and not later than five years	-	-	-	-
Later than five years	-	-	-	-
Total (including GST)	<u>341</u>	<u>356</u>	<u>341</u>	<u>356</u>

19. Contingent Liabilities and Contingent Assets

Contingent Liabilities

The Commission commenced the financial year with three contingent liabilities. The first contingent liability has been settled through the Crown Solicitor's Office and the Commission's insurers with no financial impact to the Commission. The second potential contingent liability remains active, but due to legal restrictions, the details cannot be disclosed as there is a current non-disclosure order. This is being actively managed through the Crown Solicitor's Office and covered by the Commission's insurance policy.

The third potential contingent liability relates to the Commission's premises and a potential requirement at the election of Property NSW to undertake a physical 'make good' provision. However, 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.

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 2021 was -\$0.051m against the original budget of \$-0.121m.

Employee related expenditure was \$16.807m against the original budget of \$16.596m, an overspend of \$0.211m.

When compared to the revised budget of \$16.508m, the overspend was \$0.299m. The overall overspend reflects a reducing budget chiefly driven by the impact of savings measures.

In 2020/21 the Commission reduced its establishment by 11 positions to meet the reduced budget and deliver the required savings.

Operating expenditure was \$5.719m against the original budget of \$5.486m, an overspend of \$0.233m. Against the revised budget of \$5.936m, there was an underspend of \$0.217m.

The revised budget reflected a revision late in the financial year to an adjustment to the Commission's building rental expenditure as part of the AASB 16 Leases accounting standard.

Depreciation and amortisation was \$3.000m against a budget of \$4.027m, an underspend of \$1.027m. Against the revised budget of \$3.132m there was a \$0.132m underspend.

The budget revision was a result of the revaluation of the right of use asset to exclude the non-lease component, and an impairment loss.

Revenue was \$25.837m against an original budget of \$26.178m, a variation of \$0.341m. Against the revised budget of \$26.090m there is a variation of \$0.253m.

The variation is related to the lower than anticipated revenue provided by the Crown in relation to employee benefits.

Assets and Liabilities

Total current assets were lower than the original budget by \$0.185m. The total non-current assets were lower than the original budget by \$0.809m as a result of lower net carrying amount for Right-of-Use asset at year end

Total current liabilities were lower than the original budget by \$0.540m and non-current liabilities were lower than the budget by \$0.901m, both a result of lower than anticipated lease liability.

Net assets at 30 June 2021 were \$0.218m against an original budget of -\$0.229m.

Cash flows

The cash flows from operating activities were lower than the budget by \$0.785m.

The cash flows used in investing activities reconcile with the budget.

The cash flows used in financing activities were lower than the budget by \$0.427m.

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	
	2021	2020	2021	2020
	\$'000	\$'000	\$'000	\$'000
Net cash used on operating activities	3,121	2,998	3,121	2,998
Depreciation & amortisation	(3,000)	(3,205)	(3,000)	(3,205)
Allowance for impairment	(223)	(1,711)	(223)	(1,711)
Decrease / (increase) in provisions	25	(386)	139	(681)
Increase / (decrease) in prepayments and other assets	173	8	173	8
Decrease / (increase) in payables	(121)	(241)	(235)	54
Net gain / (loss) on sale of plant and equipment	(26)	(8)	(26)	(8)
Net result	(51)	(2,545)	(51)	(2,545)

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 \$93k was being held on behalf of the Commission as at 30 June 2021 (\$91k as at 30 June 2020).

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 2021

Financial Assets	Note	Category	Carrying Amount	
			2021	2020
			\$'000	\$'000
Class:				
Cash and cash equivalents	6	N/A	958	1,327
Receivables ¹	7	Amortised Cost	26	32

Financial Liabilities	Note	Category	Carrying Amount	
			2021	2020
			\$'000	\$'000
Class:				
Payables ²	12	Financial liabilities measured at amortised cost	747	666

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 2021 and 30 June 2020 was determined as follows:

	30 June 2021					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	3	1	-	-	26
Expected credit loss (\$'000)	-	-	-	-	-	-

	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)	-	-	-	-	-	-

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 2021. 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 (2021: \$22k; 2020: \$24k) and less than 3 months past due (2021: \$4k; 2020: \$7k) are not considered impaired. Together, these represent 100% (2020: 97%) of the total trade debtors. No allowance for expected credit loss has 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				Maturity Dates		
		Interest Rate Exposure						
	Weighted Average Effective Int. Rate	Nominal Amount	Fixed Interest Rate	Variable Interest Rate	Non- interest Bearing	<1 yr	1-5 yrs	>5 yrs
2021								
<i>Payables</i> ¹		747	-	-	747	747	-	-
<i>Lease liabilities</i>	1.41%	7,119	7,119	-	-	1,742	5,377	-
		<u>7,866</u>	<u>7,119</u>	<u>-</u>	<u>747</u>	<u>2,489</u>	<u>5,377</u>	<u>-</u>
2020								
<i>Payables</i> ¹		666	-	-	666	666	-	-
<i>Lease liabilities</i>	1.41%	9,482	9,482	-	-	2,370	7,112	-
		<u>10,148</u>	<u>9,482</u>	<u>-</u>	<u>666</u>	<u>3,036</u>	<u>7,112</u>	<u>-</u>

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 2020. 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
2021						
Financial Assets						
Cash and cash equivalents		958	(10)	(10)	10	10
2020						
Financial Assets						
Cash and cash equivalents		1,327	(13)	(13)	13	13

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	
	2021	2020
	\$'000	\$'000
Short-term employee benefits	1,991	2,065
Total Remuneration	1,991	2,065

The Statutory Corporation received \$1.991m 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.

	2021	2020
	\$000	\$000
Income		
NSW Department of Communities and Justice	25,324	25,599
Expenditure		
NSW Treasury Managed Fund	135	104
Property NSW	2,963	2,963
NSW Police Force	73	560

25. Events after the Reporting Period

On 25 September 2021 a major business continuity disaster led to significant water damage to 50% of the Commission premises. An insurance claim has been submitted however the costs associated with the make safe and restoration have not yet been quantified.

End of audited financial statements.



New South Wales
Crime Commission

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