



Crown  
Solicitor's  
Office

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# NSW Crown Solicitor's Office Annual Report

for the period ended 30 June 2016

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27 October 2016

The Hon Gabrielle Upton, MP  
Attorney General  
Level 18, 52 Martin Place  
SYDNEY NSW 2000

Dear Attorney General,

I have pleasure in presenting to you the annual report of the Crown Solicitor's Office for the period 1 July 2015 to 30 June 2016.

The report has been prepared in accordance with the *Annual Reports (Departments) Act 1985* and the *Public Finance and Audit Act 1983* for presentation to Parliament.

Yours faithfully,

Lea Armstrong  
**Crown Solicitor**

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## Crown Solicitor's message

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*Crown Solicitor Lea Armstrong*

I am pleased to present the Annual Report for 2015/16 for the Crown Solicitor's Office ("CSO").

My first full financial year as Crown Solicitor has provided significant opportunities for development of the CSO. While continuing to successfully operate on a commercial basis, my aim has been to position the CSO in the best possible way to ensure that it can continue to thrive and to provide a professional high quality legal service to government.

I am committed to delivering quality advice and legal matter management to NSW government departments and agencies with integrity and professional independence. My primary focus remains on fulfilling the NSW Government's need for a strong legal advisor driven by public interest.

I am pleased to have developed a new CSO Senior Executive Structure (approved by the Public Service Commissioner in May 2016, as part of the executive restructuring required under the *Government Sector Employment Act 2013 - "GSE Act"*), with senior executive recruitment on track to be implemented by the end of January 2017. A new divisional structure will complement and support the Senior Executive reforms, including re-configurations of some of the CSO's Legal Practice Groups.

Over the 2015/16 year, the CSO was instructed in 3,972 legal matters; an 11% increase on 2014/15.

The CSO was also appointed to a number of the NSW Government Legal Services whole-of-government sub-panels for non-core legal work, was re-appointed to the NSW Treasury Managed Fund ("TMF")/NSW Health Medical Liability Legal Services Panel (in

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all categories in which tenders were submitted), and was included on the legal panel for the NSW Independent Pricing and Regulatory Tribunal.

New "core legal work" guidelines (Premier's Memorandum 2016-4) were published to provide greater certainty to NSW government agencies about core legal work required to be performed by the CSO.

The CSO has continued to offer specialised introductory and advanced training sessions for clients on the *Government Information (Public Access) Act 2009* ("GIPA Act") (125 attendees) and the *Privacy and Personal Information Protection Act 1998* ("PPIP Act") (72 attendees). Our monthly legal seminars also remain popular, with over 771 attendees and webinar participation increasing to over 382.

The annual client survey showed that 82% of our clients rate our services as better than or equal to that of other law firms that they use.

In 2015-16, the CSO achieved its highest financial performance on record with a net surplus for the year of \$10.009 million. This was \$9.265 million better than budgeted, partially the result of a \$6.685 million (or 12.9%) higher revenue than anticipated, particularly boosted by the ongoing work undertaken by CSO officers representing the State in the Royal Commission into Institutional Responses to Child Sexual Abuse, those assisting the Special Commission of Inquiry into the Greyhound Racing Industry in NSW, and those continuing work on the Lindt Siege Inquest. From this surplus, the CSO will pay a financial distribution of \$5.435 million to government, as approved by The Treasury.

I look forward to the upcoming year and, together with my officers, will continue to strive to deliver quality legal services, supporting the NSW Government into the future.



Lea Armstrong  
**Crown Solicitor**

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## Charter

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The CSO is an Executive Agency related to the Department of Justice (since 24 February 2014 pursuant to Sch. 1 to the *Government Sector Employment Act 2013*). The Crown Solicitor is the head of the agency and is responsible to the Attorney General for the operations of the CSO.

Pursuant to s. 44 of the *Legal Profession Uniform Law Application Act 2014*, the Crown Solicitor may act as solicitor for:

- the State of New South Wales
- a person suing or being sued on behalf of the State of New South Wales
- a Minister of the Crown in his or her official capacity as such a Minister
- a body established by an Act or other law of New South Wales
- an officer or employee of the Public Service or any other service of the State of New South Wales or of a body established by an Act or other law of New South Wales
- a person holding office under an Act or other law of New South Wales or because of the person's appointment to that office by the Governor or a Minister of the Crown
- any other person or body, or any other class of persons or bodies, approved by the Attorney General.

"Core legal work", as defined in Premier's Memorandum 2016-04, must be referred to the Crown Solicitor, and is performed on a cost recovery basis.

The Crown Solicitor's legal fees and disbursements for core legal work are met from the Attorney General's Legal Fund (previously the Core Fund), comprising an appropriation administered by Department of Justice unless some other source of funding is available, such as the Treasury Managed Fund ("TMF").

The CSO is considered a not-for-profit entity, as approximately 65% of its work is core legal work and is performed at cost recovery rates only.

The Crown Solicitor competes with the private sector for legal work that is not core legal work.

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## Aims and objectives

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The Crown Solicitor provides legal services to the State Government of NSW and the other entities specified in s. 44 of the *Legal Profession Uniform Law Application Act 2014*.

The Crown Solicitor is the solicitor on the record for the purpose of legal proceedings.

The Crown Solicitor, through her Office, is the largest provider of legal services to the NSW Government and its agencies and the sole provider of legal services in all matters which are regarded as being core legal work. The Crown Solicitor manages thousands of legal matters each year, many of which are long-running matters involving significant litigation.

Under the Premier's Memorandum 2016-04, the Crown Solicitor must be engaged by government agencies (subject to that Memorandum) to perform core legal work, being legal services in respect of a matter where:

- “(a) the best interests of the Government as a whole require a single source of authoritative legal advice and central management; or
- (b) it relates to the statutory or common law functions of the Attorney General.”

The Crown Solicitor also competes with the private legal profession to perform non-core legal work for government agencies, accounting for approximately 35% of fees revenue. This work is priced in accordance with competitive neutrality principles and generates a surplus from which the CSO makes its financial distribution payment and funds its capital expenditure.

In 2015/16, the Crown Solicitor was successful in tendering for inclusion on legal service provider panels for the Government Legal Services Panel (managed by Transport for NSW), the NSW Health (Medical Liability) and NSW Self Insurance Corporation (two year extension) and the Independent Pricing and Regulatory Tribunal (IPART).

CSO officers understand the sensitivities which attend the functions of the NSW State Government and work hard to ensure positive working partnerships are built with clients. They seek to use their unique knowledge to provide high quality legal advice and services, while maintaining integrity and professional independence.

The Crown Solicitor does not provide legal services to the general public.

The CSO's business initiatives are clearly linked to Department of Justice goals and directions in terms of the delivery of quality client services and responsiveness to the needs of the NSW Government and its agencies.

The CSO complies with all NSW government directions and policies and endeavours to understand clients' objectives, challenges and how they operate.



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The CSO exists to serve the public interest and endeavours to ensure legal costs for government are reasonable.

### Our Vision

Our vision is:

- to be the legal service provider of choice for NSW government agencies
- to be a legal services employer of choice.

### Our values

We share common values with the rest of the public service as articulated in the Ethical Framework published by the Public Service Commissioner.

These values are:

- integrity
- trust
- service
- accountability.

### Services provided

As at the end of 2015/16, some 350 legal and support staff were employed in 11 specialist legal practice groups:

- **Administrative Law** — advised clients in the areas of statutory interpretation and administrative law, and provided representation and advice on access to government information and privacy matters.
- **Child Protection** — provided litigation and advice services in all aspects of child protection law and practice and other areas of law relating to children.
- **Commercial Litigation and Property Law** — undertook commercial litigation, property litigation and transactions and advice matters in both the commercial and property areas.
- **Community Law** — provided advice and representation in a wide range of areas of law including charitable trusts, non-employment related discrimination, public interest immunity, guardianship and relator actions.
- **Constitutional and Native Title Law** — advised and represented the State in relation to matters arising under the (Commonwealth) Constitution and matters affecting native title and Aboriginal land rights claims.
- **Criminal Law** — advised and represented clients in a range of courts and tribunals and provided advice and litigation services in matters including those that relate to summary and regulatory prosecutions, applications for apprehended violence orders, sentencing and contempt of court.

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- **Employment Law** — delivered advice on employment and industrial law at Federal and State levels and acted for agencies in a wide range of employment issues including Work, Health & Safety prosecutions and dispute resolution whether by informal discussion, conciliation or mediation.
  - **Government and Commercial Law** — advised the Executive Government, Parliament, and a range of statutory office-holders including the Electoral Commissioner, on a wide range of matters, and managed matters relating to commercial transactions and agreements including asset divestments and long-term leasing, public finance and intellectual property.
  - **Inquiries** — assisted and represented clients at inquests and all forms of inquiry, in relation to matters involving investigatory processes, and assisted the State Coroner in complex coronial inquests and represented interested parties and assisted in special commissions.
  - **Torts Law (Justice/Enforcement Agencies)** — undertook all aspects of the defence and settlement of civil claims, in particular, those involving law enforcement agencies and claims for intentional torts.
  - **Torts Law (Service/Regulatory Agencies)** — undertook all aspects of the defence and settlement of civil claims involving other State agencies, including the conduct of litigation at first instance and at all stages of appeal.

The CSO will be undergoing a significant internal restructure from 1 September 2016, with the re-configuration of some of the legal practice groups from that date.

The **Business Services unit** provides administrative and business support to legal practice groups and clients. It comprises:

- Business Systems Support
- Finance and Support Services
- Information Services
- Marketing
- Resource Management and Planning.

In addition to legal services, the CSO provides a complimentary range of value-add services to its clients.

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## 5. Management and structure

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### The CSO Executive

As at 30 June 2016, the CSO Executive comprised the Crown Solicitor as head of the agency, the Deputy Crown Solicitor and the Practice Manager.

### Crown Solicitor

Ms Lea Armstrong was appointed to the role of Crown Solicitor on 26 June 2015 and commenced on 13 July 2015.

Pending her commencement, Mr John McDonnell was temporarily assigned to the role from 29 June 2015 until 10 July 2015.

### Deputy Crown Solicitor

Pending approval of the CSO's Senior Executive restructure, which commences (on a staged implementation basis) from 1 September 2016, the following senior legal officers were temporarily assigned to the Deputy Crown Solicitor role during 2015-16:

- Mr Paolo Buchberger (14 July 2015 to 12 January 2016)
- Mr John McDonnell (13 January 2016 to 30 June 2016).

### Practice Manager

The following CSO officers were temporarily assigned to the Practice Manager role during 2015-16, pending approval of the CSO's Senior Executive restructure and recruitment to the role:

- Ms Sandra Jones (1 July 2015–28 January 2016)
- Mr Richard Kelly (1 February 2016–24 June 2016)
- Ms Cheryl Drummy (27 Jun 2016–30 June 2016).

### CSO Executive as at 30 June 2016

#### Lea Armstrong, Crown Solicitor, BA (Hons), LLB (Hons), LLM

Lea Armstrong was appointed Crown Solicitor in June 2015. Lea is a solicitor with over 24 years' experience in government and commercial law, gained in both the public and private sectors. She has extensive experience in leading and directing the provision of legal services to NSW government agencies across a wide range of areas.

Prior to taking up her appointment as Crown Solicitor, Lea most recently occupied the role of General Counsel at the NSW Treasury, providing legal advice to the Secretary and across that department on the leasing of electricity networks, financial management reform, and a range of significant commercial and structural reforms.

During a previous period of employment at the CSO, she worked in a number of executive legal roles, including as General Counsel with a focus on major commercial

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transactions and reform projects for NSW government clients. She advised the State of NSW, for example, on the long-term leasing of its major ports, the sale of State-owned electricity assets, national energy market reform, the corporatisation of the Forestry Commission and the long-term licensing and sale of NSW Lotteries to the private sector.

Lea also has substantial experience in managing and delivering complex legislative projects, having worked extensively with key stakeholders (from both government and private sectors) and parliamentary counsel on innovative legislation at both the State and intergovernmental level.

### **John McDonnell, A/Deputy Crown Solicitor, BA, LLB**

John has been a solicitor at the CSO since 1985 and is a specialist in all areas of public law. In 2001, he was appointed to head the Administrative Law Practice Group and has extensive experience in advising and supervising advices and in representing agencies in relation to the areas of law practised by that group, namely, administrative law, statutory interpretation, FOI/GIPA and privacy.

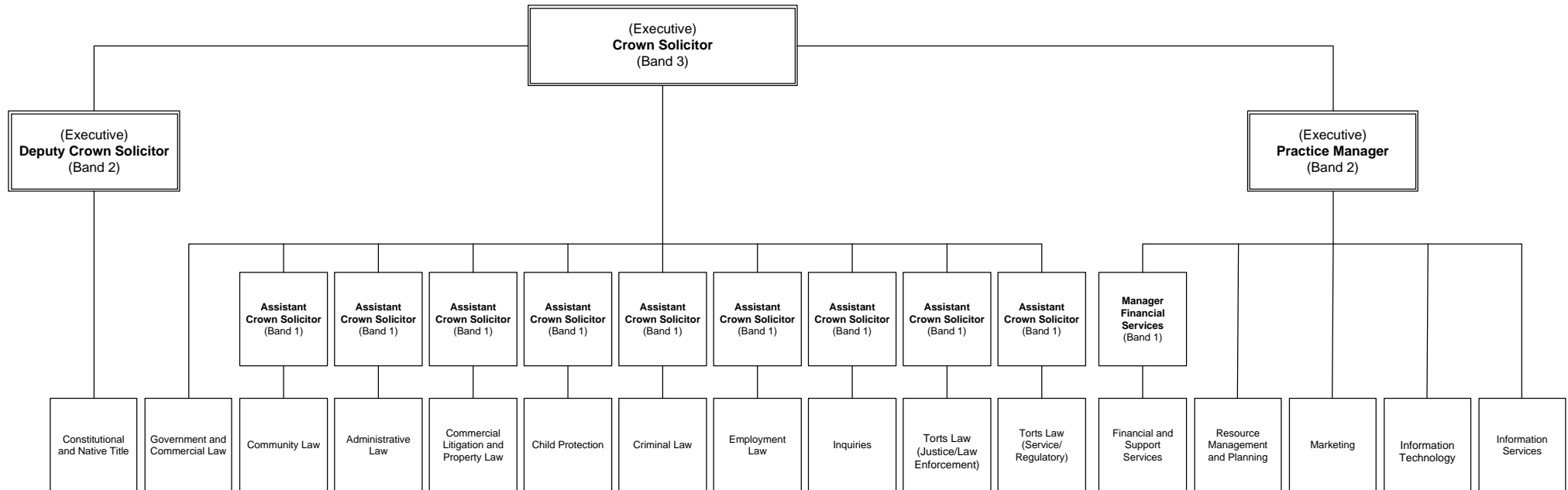
Between 2014 and 2016, John has been involved in supervising a number of challenges to the interpretation and validity of the Independent Commission Against Corruption's legislation, and during 2015-16, John has also been advising the Government on legal issues in relation to the amalgamations of local government areas and acting for the State of NSW in the resulting legal challenges.

John is also very experienced in constitutional law and has appeared personally in Local, District, Land and Environment, Supreme and Federal Court matters and instructed Counsel, generally the Solicitor General, in numerous High Court matters including *Ha v State of NSW* (1997) 189 CLR 465 (s. 90, excises) and *Re Residential Tenancies Tribunal; Ex parte Defence Housing Authority* (1997) 190 CLR 410 (State's power to bind the Commonwealth).

### **Cheryl Drummy, A/Practice Manager, BA, LLB (Hons)**

As the CSO's A/Practice Manager, Cheryl is responsible for Business Services including risk management, resource management and planning, learning and development, finance and support services, business systems support, information services and marketing. Prior to acting in this role, Cheryl was Special Counsel assisting the Special Commission of Inquiry into the Greyhound Racing Industry in NSW. For the five years prior to that, Cheryl led the Child Protection Practice Group, leading a team of lawyers in the provision of legal advice and representation and practising in all aspects of child protection law.

6. Organisation chart indicating functional responsibilities\*



\* Note: 1/7/15 to 30/6/16 — this structure no longer in effect from 1 September 2016.

## 7. Summary review of operations

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### Summary of significant matters

The following matters showcase the diversity of legal matters undertaken by legal officers on behalf of the Crown Solicitor during the reporting period.

#### ***Royal Commission into Institutional Responses to Allegations of Child Sexual Abuse (“Child Abuse Royal Commission”)***

The Child Abuse Royal Commission is investigating how institutions such as churches, schools, sports organisations and community and government agencies have responded to allegations of child sexual abuse. In July 2013, the Crown Solicitor was engaged to represent the State of NSW, including all NSW government agencies, before the Royal Commission. In 2015/2016, the CSO provided representation for the State's whole-of-government response at numerous public hearings before the Royal Commission, including hearings relating to the following:

- Centres for Performing Arts (Australian Institute of Music and RG Dance)
- Catholic and Anglican church authorities
- criminal justice issues relating to child sexual abuse in an institutional context (including consideration of the admissibility of tendency and coincidence evidence)
- sporting clubs and organisations (including the NSW Institute of Sport).

The CSO continues to represent the State at further hearings and respond to summonses issued by the Royal Commission seeking documents and statements from various State agencies. The Royal Commission is due to deliver its final report by 15 December 2017.

#### ***Special Commission of Inquiry into the Greyhound Racing Industry in NSW***

By Letters Patent issued on 6 May 2015, Commissioner Michael McHugh AC QC was appointed to inquire into and report on the Greyhound Racing Industry in NSW, including:

- identifying issues relating to the governance, integrity and animal welfare standards of the industry
- identifying contemporary best practice for adoption by the industry
- evaluating whether the issues identified during the course of the inquiry were able to be appropriately addressed, to permit the continuation of a greyhound racing industry in NSW that is sustainable and provides an ongoing economic and social contribution to the State.

The Crown Solicitor was Solicitor Assisting the Commissioner during the 16 months of the Inquiry. The Commission's report was provided to the NSW Governor in June 2016.

### Significant restructures and commercial transactions

During 2015-16, the Crown Solicitor advised the NSW Government on various legal aspects of some major NSW Government restructurings as well as commercial transactions. The Crown Solicitor continued to advise Treasury on various government-law aspects of the restructure of State-owned electricity assets. Ongoing advice and

assistance was provided, for example, in relation to the \$10 billion long term lease of the State-owned electricity transmission network. The Crown Solicitor also advised on key government aspects of the recent partial lease of Ausgrid's electricity distribution network, including on the State's retained interest in electricity distribution assets and the establishment and governance of the Electricity Retained Interest Corporation. In each of these transactions, the Crown Solicitor has worked in conjunction with private sector law firms engaged as legal advisers on these divestment projects.

### **Major administrative law litigation**

In January 2016, the Minister for Local Government proposed the amalgamation of many local government areas, reducing the number of local councils from 152 to 112. Upon referral by the Minister, the Chief Executive of the Office of Local Government delegated the statutory function of examining and reporting on the proposals to a number of delegates. Thirteen local councils commenced proceedings at various stages seeking to prevent the delegates providing their reports to the Boundaries Commission and the Minister and, where such reports had already been provided, to invalidate the reports on various administrative law grounds.

The Crown Solicitor was instructed to act in the ten separate proceedings (in the Land and Environment Court) for the various respondents, including the State of NSW, Minister for Local Government, Chief Executive of the Office of Local Government, the Boundaries Commission and the individual delegates who conducted the public inquiries. The issues were legally and factually complex and being conducted by the councils before different judges, sometimes at the same time. Given the Government's commitment to local government reform, they required prompt resolution and the meeting of difficult timeframes.

As at 30 June 2016 the State has been successful in defending the validity of all the delegates' reports.

### ***Duncan v Independent Commission Against Corruption* [2015] HCA 32 (9 September 2015)**

The Crown Solicitor acted on behalf of the Independent Commission Against Corruption ("ICAC"). The applicant had been found by ICAC to have engaged in corrupt conduct relating to the grant of a mining exploration licence to Cascade Coal Pty Ltd. The applicant unsuccessfully challenged the findings on administrative law grounds. In the interim, in *ICAC v Cunneen* [2015] HCA 14, the High Court, in effect, found that ICAC did not have jurisdiction to investigate "corrupt conduct", which included those in Mr Duncan's case. The NSW Government subsequently enacted Pt 13 of Sch. 4 of the *Independent Commission Against Corruption Act 1988* which, whilst it did not expressly change the substantive law, provided that anything done by ICAC prior to the date of the decision in *Cunneen* was taken to have been validly done.

The applicant challenged the validity of the legislation arguing that it constituted an impermissible direction by the legislature to the Supreme Court rather than a simple amendment to the law and an impermissible legislative intrusion upon the supervisory jurisdiction of the Supreme Court over administrative agencies.

The High Court unanimously upheld the validity of the challenged provisions finding that, as a matter of construction, the relevant provisions operated to retrospectively

amend the meaning of “corrupt conduct” so that it now comprised conduct found by the Court in *Cunneen* to be outside such conduct. The amendments did not constitute an impermissible direction to the court as to the exercise of jurisdiction but instead changed the substantive rights to be applied by the court in accordance with ordinary judicial practices. The Court found that the challenged provisions altered the substantive law but did not withdraw the supervisory jurisdiction of the Supreme Court.

*Decision: Appeal dismissed.*

***Bailey & Anor v Director General, Department of Natural Resources NSW & Ors [2015] NSWCA 318 (14 October 2015)***

In 2000, the plaintiffs cleared 84 hectares of native vegetation but did not obtain developmental consent under Pt 2 of the *Native Vegetation Conservation Act 1997* (“the Act”), since repealed. In 2003, the first plaintiff was prosecuted for clearing the native vegetation contrary to Pt 2, s. 21(2)(a) of the Act. The prosecution was unsuccessful both at first instance and on appeal.

In October 2006, the appellants commenced proceedings against the Director General and the State of NSW, seeking damages for malicious prosecution, negligent misrepresentation, misfeasance in public office and interference in the trade or business of the plaintiffs. All causes of action failed and the appellants appealed Fullerton J’s judgment with respect to malicious prosecution.

The Court of Appeal (Basten, Gleeson, Leeming JJA) held that it was reasonably open for the Director General to treat the exemptions in s. 12(f) of the Act as only applicable to developments which were otherwise lawful (which was not the present case as Mr Bailey had not obtained any of the necessary consents). Additionally, the Court held that, as the SEPP 46, Sch. 3 consistently referred to “minimal clearing”, it was unlikely that it was designed to encompass a large reservoir proposed by Mr Bailey.

*Decision: Appeal dismissed.*

***Attorney General for New South Wales v CMB [2015] NSWCCA 166 (25 June 2015)***

The Attorney General appealed against sentences imposed on “CMB” by the District Court (Ellis DCJ) for four counts of aggravated sexual assault and one count of aggravated indecent assault against his daughter. The proceedings were brought after the Director of Public Prosecutions (“DPP”) had declined to appeal the lower court decision.

CMB had previously been charged with ten sexual offences against his daughter (the first set of charges), following which he was referred to a diversionary program (“the Program”) under the *Pre-Trial Diversion of Offenders Act 1985* and the *Pre-Trial Diversion of Offenders Regulation 2005* (“the Regulation”). During assessment of his suitability for participation in the Program, CMB disclosed the subject offences (the second set of charges).

The Regulation was subsequently repealed, the consequence of which was that CMB could not be referred for assessment of his suitability for participation in the Program with respect to the second set of charges. In sentencing CMB for the second set of



charges, Ellis DCJ imposed good behaviour bonds on the condition that he complete the Program.

The NSW Court of Criminal Appeal ("NSWCCA") allowed the Attorney General's appeal, ordering that the sentences be set aside and that a term of imprisonment be imposed. On appeal to the High Court, the NSWCCA's orders were set aside on the grounds that the NSWCCA had erred by imposing on CMB the onus of persuading it to exercise its residual discretion to decline to intervene in the sentences despite having found error, and in its application of s. 23 of the *Crimes (Sentencing Procedure) Act 1999*. The High Court remitted the matter to the NSWCCA.

On remittal, the NSWCCA (Leeming, Simpson and Hamill JJA) held that Ellis DCJ had erred by taking into account an irrelevant consideration, namely, how the disclosure of the subject offences would have been dealt with under the Regulation had it remained in force. The Court nevertheless exercised its residual discretion to decline to intervene in the sentences having regard to a number of factors, including: that the DPP was largely responsible for leading Ellis DCJ into error; that CMB had served almost 12 months' imprisonment as a result of the NSWCCA's first judgment; and, that the conditions of CMB's imprisonment had been arduous due to his medical conditions and having been placed in protection.

*Decision: (On remittal) Appeal dismissed.*

### **Inquiry under the Coroners Act 2009 into fire at Wambelong Camp Ground, Warrumbungles National Park, NSW which commenced on 12 January 2013**

The Crown Solicitor acted on behalf of the Office of Environment & Heritage and NSW Rural Fire Service ("RFS"). The Inquiry explored criticisms made against the Incident Management Team for its response to the fire, including not directly fighting the fire overnight, placing a back burn in deteriorating weather conditions, and, in effect, increasing the amount of fire on the ground. The Inquiry explored the classification of the fire, the response of the relevant agencies, resourcing, the implementation of the back burn and emergency warnings, and issues such as hazard reduction.

The Coroner was largely supportive of the actions of the fire fighters, including the implementation of the back burn. He did, however, make a number of recommendations in respect of enhancing the fire prediction capability of the RFS, communication between the agencies and other stakeholders, emergency warnings, and hazard reduction.

### **Jones v Pearson [2015] NSWSC 1324 (14 September 2015)**

The Crown Solicitor acted for the Electoral Commissioner in the Court of Disputed Returns. Mr Peter Jones of the No Land Tax Party (the "Petitioner") filed a petition challenging the election in March 2015 of the Hon. Mr Mark Pearson (Animal Justice Party) to the Legislative Council.

The Petitioner alleged that conduct by a considerable number of people constituted "illegal practices" within the meaning of s. 164 of the *Parliamentary Electorates and Elections Act 1912* ("PE&E Act") and had reduced the number of votes received by the No Land Tax Party at the election.

The Petitioner sought leave to discontinue his petition after the Electoral Commissioner had filed a Notice of Motion seeking to strike out the petition. The Court stated that none of the matters alleged in the petition could, if proved, have constituted illegal practice within the meaning of s. 164 of the *PE&E Act*, and that this should have been obvious to the Petitioner. It also observed that there was a "strong likelihood" the Commissioner's strike-out motion would have been successful.

*Decision: Petitioner is granted leave to discontinue the proceedings.*

### ***Babington & Ors v Commonwealth & Anor* [2016] FCAFC 45 (21 March 2016)**

The Crown Solicitor acted for the State of New South Wales, the second respondent. The applicants, each a participant in the abalone fishing industry, initially took action against the Commonwealth and the State in the High Court, challenging the constitutional validity of Commonwealth and State laws regulating abalone fishing in State coastal waters. The High Court remitted the matter to the Federal Court, with a special case referred to the Full Court for its consideration.

The Full Court unanimously found the impugned legislation valid and rejected the constitutional challenge. The Full Court found that the *Fisheries Management Act 1994* ("*FM Act*") and relevant regulations were not invalid by reason of s. 51(x) of the *Constitution*, which confers Commonwealth legislative power with respect to "fisheries in Australian waters beyond territorial limits". Further, the Full Court determined that legislative power is not exclusive, and authority supports the valid application of State fisheries laws to waters beyond State territorial limits. The *FM Act* and relevant regulations were not found to be inconsistent (pursuant to s. 109 of the *Constitution*) with the *Fisheries Management Act 1991* (Cth) insofar as that Commonwealth Act applies to abalone fishing in State coastal waters.

The Court held that it was unnecessary to determine the validity of the *Constitutional Powers (Coast Waters) Act 1979* (NSW), the *Coastal Waters (State Powers) Act 1980* (Cth) and the *Coastal Waters (State Title) Act 1980* (Cth), which effectively confer State legislative power with respect to coastal waters beyond State territorial limits. That legislation was challenged on the basis that it effectively altered State territorial limits and so required approval by way of referendum pursuant to ss. 123 and 128 of the *Constitution*.

### ***HD v State of New South Wales* [2016] NSWCA 85 (26 April 2016)**

The Crown Solicitor acted for the State of New South Wales in an appeal by "HD" from the decision of the District Court (Robison DCJ) dismissing HD's claim for damages for false imprisonment and malicious prosecution in respect of his arrest and charge for the assault on his daughter "X". On 12 May 2012, an incident occurred at the appellant's home, resulting in the appellant's 15 year old daughter suffering facial injuries. Later that night, the daughter told her best friend that the appellant did it. The next day, her injuries were observed by her school Deputy Principal and, after speaking with her, he made a report to the police and arranged for her to attend hospital.

The Court of Appeal (Gleeson JA, Leeming JA and Emmett AJA) unanimously dismissed the appeal with costs finding that the appellant had not demonstrated any error in the primary judge's finding that the police had acted honestly and had reasonably concluded that the material available to them warranted instituting and maintaining the assault charge and the Apprehended Domestic Violence Order proceedings.

*Decision: Appeal dismissed.*

***Hamilton v State of New South Wales [2015] NSWSC 1430 (21 October 2015)***

The Crown Solicitor represented the defendant, the State of New South Wales, in civil proceedings commenced by the plaintiff for misfeasance in public office by the Commissioner of Police and the Director of Public Prosecutions ("DPP"). The plaintiff issued subpoenas to produce to the Commissioner and the DPP.

The DPP made a claim of client legal privilege over the documents sought by subpoena. The plaintiff challenged this and submitted that, even if the documents were privileged, the DPP had waived privilege by disclosing the documents to the Crown Solicitor (and possibly others) prior to the Crown Solicitor being instructed to act.

Associate Justice Harrison found that the documents were privileged as they were created for the dominant purpose of providing legal advice to the DPP and legal services relating to criminal proceedings in which the DPP was a party. Further, the DPP solicitors and NSW police officers were obliged not to disclose their contents. Further, there was no waiver as, when the documents were provided to the Crown Solicitor, the Crown Solicitor already acted for the DPP and the NSW Police Force in the substantive proceedings. In addition, privilege was not lost as the two agencies shared a common interest in the proceedings and were joint clients (ss. 122(5)(b) and (c) of the *Evidence Act 1995*).

*Decision: The claim by the DPP for client legal privilege is upheld.*

***OXS Pty Ltd v Sydney Harbour Foreshore Authority [2016] NSWCA 120 (23 May 2016)***

The Crown Solicitor represented the respondent, Sydney Harbour Foreshore Authority ("SHFA"). The appellant OXS Pty Ltd ("OXS") had been the lessee of restaurant premises at the Rocks owned by "SHFA". SHFA was prohibited from granting a lease with a term of more than five years without Ministerial consent. From 2011 to 2013, there was a course of correspondence and discussions between representatives of SHFA and OXS that led to OXS commencing proceedings against SHFA seeking to hold SHFA to the agreement for lease it had allegedly made. Alternatively, OXS claimed SHFA had engaged in misleading or deceptive conduct.

On the first issue of whether there was a concluded agreement for lease between the parties on the basis of a letter from SHFA to OXS, the Court of Appeal (Macfarlane, Gleeson, Leeming JJA) unanimously upheld the primary judge's finding that there was no intention by the parties to be immediately bound.

The second issue related to the Ministerial consent requirements and their effect on any agreement for lease. There was no consensus among their Honours with respect to the operation of s. 19(3) of the *Sydney Harbour Foreshore Amendment Act 1988*.

As to the third issue of whether there was misleading and deceptive conduct on the part of SHFA, the Court unanimously held that it was not misleading or deceptive for SHFA not to express any view as to the legal character of the correspondence between the parties because each party had access to legal advisors.

*Decision: Appeal dismissed.*

### Summary of other client services provided

The CSO provides specialised introductory and advanced training sessions for clients on the *Government Information (Public Access) Act 2009* ("GIPAA") and the *Privacy and Personal Information Protection Act 1998* ("PPIPA") with 195 on-site and 355 off-site participants during this financial year.

In 2015/16, the CSO's monthly CLE seminars attracted 772 attendees and webinars were offered for the benefit of 382 clients, many from regional areas.

A summary of these services and other value added services provided to clients follows:

Value-add service type	Number between 1 July 2014 – 30 June 2015	Numbers of clients attending/receiving
<b>Client reports</b>	All CSO clients receive a client report detailing information about the status of their matters including costs.	150-200 individual clients receive reports monthly.
<b>Monthly CSO seminars and webinars</b>	Eight seminars and webinars were held for clients during the period.	772 – seminars 382 – webinars <b>TOTAL: 1,154 clients</b>
<b>CSO specialised Training – GIPA Act and PPIP Act</b>	14 <i>GIPA/PPIP Acts</i> on-site training programs were held for clients. Seven off-site programs were conducted during the period.	<i>GIPA Act</i> : 123 clients <i>PPIP Act</i> : 72 clients Off site: 355 clients <b>TOTAL: 550 clients</b>
<b>Specialised legal eBulletins</b>	Five specialised legal eBulletins were distributed to clients during the period.	<b>TOTAL: 3,236 clients</b>
<b>Additional off-site training</b>	CSO staff conducted 24 training sessions for client groups and spoke at four conferences during the period.	<b>TOTAL: 687 attendees at training sessions</b>
<b>Crown Solicitor's Client Newsletter</b>	One Client Newsletter from the Crown Solicitor was distributed to clients during the period.	CSO Client Newsletters are distributed to a database of some 3,000 clients.

## Summary of significant business support projects and activities

During this financial year, several business support initiatives were completed or significantly progressed.

In March 2015, the Crown Solicitor commenced a review of the CSO's legal support services, to assess best practice structures and processes for the provision of corporate/administrative support to the CSO's legal practice. This review is on-going.

Throughout 2015/16, further work was undertaken reviewing and developing new policies and procedures for the CSO to best align with the *GSE Act* capability framework. This included consulting on and implemented new Human Resources delegations and implementing a CSO Code of Conduct.

The migration of CSO business critical applications (servers and data) — TRIM, Open Practice, Business Objects, Winscribe and the Lotus Notes email archive server — to the Government Datacentre was completed between June and September 2015. This was part of the NSW Data Centre Reform Strategy which directed all NSW Government agencies to relocate their data centres and computer rooms to the approved Tier III facility by 2016.

## Financial performance

The CSO achieved a net surplus for the year of \$10.009M, \$9.265M better than the budgeted \$0.744M and will make a distribution payment of \$5.435M from the distributable operating surplus as approved by the Treasurer. The operational result reflected a higher level of demand for services managed with a lower than commensurate level of staff as evidenced in the above-budget billable hours for the year.

In addition to continued work on the Special Commission of Inquiry into Greyhound Racing in NSW, the Royal Commission of Inquiry into Institutional Responses to Child Sexual Abuse and in matters related to the Lindt Siege Inquiry, the number of new matters in which the Crown Solicitor was instructed increased by 11% compared to the previous year.

## Quantitative measures

Measure	2015/16 Actual	2015/16 Budget	2014/15 Actual
Net Surplus	\$10.009M	\$0.744M	\$2.285M
Growth in revenue from fees for non-core legal work and other services	18.6%*	3.6%	7.6%
New matters	3,972	N/A	3,579
Staff productivity (solicitors' average daily billable hours)	5.3	5.0	4.8
% of clients rating the CSO's overall performance as 'very good' or 'excellent'	73.5%	80%	75%

\*The growth of 18.6% was significantly contributed to by the unbudgeted continuance of the Special Commission of Inquiry into the Greyhound Racing and the Lindt Siege Inquiry, both of these matters having a one-off impact on revenue as they are not continuing sources of work. Growth in fees revenue from non-core legal work and other services, excluding the impact of these matters, was 3.5%.

The 2015/16 client survey results again incorporated benchmark questions to assess our performance relative to our competitors. A total of 203 clients responded to this survey.

The results for 2015/16 were pleasing and reflected the importance we place on client service. Eighty three per cent of clients rated our level of service as higher than or equal to other firms that they use and 84% rated our management of matters as higher than or equal to other firms that they use.

Additionally, 393 clients responded to our two-monthly end of matter surveys during the reporting period with 71.5% rating the quality of our legal work as "Excellent".

## 8. Human resources

### Number of officers and employees by category

The following table contains human resources information for the CSO for 2015/16. All information provided is an estimate compiled from the Annual Workforce Profile.

Occupation Classification (ANZSCO)	2011/12 *	2012/13 *	2013/14 **	2014/15	2015/16
Managers	N/A	N/A	5.00	2.00	4.00
Professionals	N/A	N/A	187.44	182.57	185.92
Technicians and Trades Workers	N/A	N/A	2.00	3.00	2.00
Community and Personal Services Workers	N/A	N/A	0.00	0.00	0.00
Clerical and Administrative Workers	N/A	N/A	150.44	135.05	139.51
Sales Workers	N/A	N/A	0.00	0.00	0.00
Machinery Operators and Drivers	N/A	N/A	0.00	0.00	0.00
Labourers	N/A	N/A	0.00	0.00	0.00

\* Non-casual FTE at census period based on information derived from workforce profile submission to PSC.

\*\* Information only available from 2013/14 onwards as the Crown Solicitor's Office prior to 24 February 2014 formed part of the Department of Justice.

### Senior executives

#### Number of senior executives by band and gender

Band	2013/14		2014/15		2015/16	
	Female	Male	Female	Male	Female	Male
Band 4 (Secretary)	0	0	0	0	0	0
Band 3 Crown Solicitor (Agency Head equivalent)	0	1	0	1	1	0
Band 2 Deputy Crown Solicitor and Practice Manager (Executive Director equivalent)	1	1	1	1	0	2
Band 1 Assistant Crown Solicitors (Director equivalent)	11	7	11	5	13	5
<b>Totals</b>	<b>12</b>	<b>9</b>	<b>12</b>	<b>7</b>	<b>14</b>	<b>7</b>
	<b>21</b>		<b>19</b>		<b>21</b>	

### The average total remuneration package for senior executives

Band	Range \$	Average remuneration 2013/14 \$	Average remuneration 2014/15 \$	Average remuneration 2015/16 \$
Band 4 (Secretary)	422,501 – 488,100	0	0	0
Band 3 Crown Solicitor (Agency Head equivalent)	299,751 – 422,500	336,850	336,247	370,000
Band 2 Deputy Crown Solicitor and Practice Manager (Executive Director equivalent)	238,301 – 299,750	261,300	213,751	233,976
Band 1 Assistant Crown Solicitors (Director equivalent)	167,100 – 238,300	184,748	189,383	191,731

### The percentage of total employee-related expenditure that relates to senior executives

The CSO's employee related expenditure in 2015/16 related to senior executives (both senior officers and senior executive service) was 12.41%, compared to 11.93% for the previous year.

The CSO had not yet implemented the Public Service Commission-approved Senior Executive structure during the reporting year. The above table represents the number of transitional senior executives and acting senior executives employed at the end of the year and remuneration levels equivalent to the senior executive bands as per instructions in Public Service Commission Circular PSSC 2014-09.

### Exceptional movements in wages, salaries or allowances

In 2015/16, there were no exceptional employee salary movements. Employees of the CSO are covered by the Crown Employees (Public Sector – Salaries 2008) Award. The Award provided for a 2.5% per cent salary increase from the first full pay period on or after 1 July 2015, for the following classifications:

- clerks
- legal officers
- senior officers.



## **Industrial relations policies and practices**

In 2015/16, there were no new industrial relations policies or practices implemented at the CSO. The CSO has provided ongoing consultation and communication to staff and their industrial representatives in regards to the GSE reforms being implemented at the CSO and across the Public Sector.

## **Personnel policies and practices**

During 2015/16, the CSO consulted on and implemented new Human Resources Delegations and a Code of Conduct.

## 9. Work health and safety

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The CSO recognises the importance of the health and safety of our people. This is reflected in the implementation of a newly developed CSO Work Health and Safety (“WHS”) Management System Framework. The Framework provides guidance on WHS risk management and the responsibilities of all workers, including senior management, supervisors, employees and contractors as well as providing a framework for the delivery of WHS policies, programs and initiatives across the CSO.

### Health and well-being

The CSO continues to invest in and promote health and wellbeing initiatives and early intervention strategies aiming to promote working safely, maintaining a healthy lifestyle and increased awareness of mental health. These initiatives include:

- the continued implementation of MINDinSIGHT promoting mental health awareness
- providing a confidential on-site/off-site counselling service through an approved provider
- encouraging and supporting healthy lifestyle initiatives
- providing WHS training and information to all staff, such as workplace mental health awareness for managers and staff, focusing on:
  - resilience
  - managing psychological injury for managers
- making the influenza vaccination available to all staff.

### Work health and safety statistics

There were 38 incidents reported during 2015/16, compared to 65 incidents reported during the previous financial year. Work is continuing to establish a reporting culture within the CSO. As part of the implementation of the WHS Management System Framework, work has commenced on the review of the Incident Reporting and Injury Management procedures. The reports can be broken down into the following categories:

- workplace injuries (12)
- hazards (10)
- near miss and other incidences (4)
- illness (10)
- reasonable adjustment (2).

The two highly represented hazards in this reporting period relate to slips, trips and falls and body stressing incidences.

There were no new worker’s compensation claims in 2015/16. During the reporting period, one worker’s compensation claim was declined and another previously approved claim remained open for medical expenses only.

## **Risk management**

The CSO continued to implement its local approach to managing risk in the area of workplace ergonomics by providing workstation assessments and recommended ergonomic equipment and, where needed, rehabilitation case management services to assist in the management of complex workplace issues and injuries.

A periodic staff awareness work health and safety email addresses a variety of health initiatives and safety alerts.

# Crown Solicitor's Office

## Annual Financial Statements

*for the year ended 30 June 2016*

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## **Crown Solicitor's Office**

### **Financial Statements for the year ended 30 June 2016**

#### **Statement by the Crown Solicitor**

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

- a) The accompanying financial statements have been prepared in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), the provisions of the Public Finance and Audit Act 1983, the Public Finance and Audit Regulation 2015, and financial Reporting Directions published in the Financial Reporting Code for NSW General Government Sector Entities or issued by the Treasurer.
- b) The financial statements exhibit a true and fair view of the financial position as at 30 June 2016 and financial performance of the Crown Solicitor's Office for the year then ended.
- c) As at the date of this statement, I am not aware of any circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.



Lea Armstrong  
**Crown Solicitor**  
16 September 2016

## Independent Auditor's Report



### INDEPENDENT AUDITOR'S REPORT

Crown Solicitor's Office

To Members of the New South Wales Parliament

#### Opinion

I have audited the accompanying financial statements of the Crown Solicitor's Office (the Office), which comprise the statement of financial position as at 30 June 2016, the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information.

In my opinion the financial statements:

- give a true and fair view of the financial position of the Office as at 30 June 2016, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (PF&A Act) and the Public Finance and Audit Regulation 2015.

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

#### Basis for Opinion

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

I am independent of the Office in accordance with the auditor independence requirements of:

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

I have also fulfilled my other ethical responsibilities in accordance with the Code.

## Crown Solicitor's Office Financial Statements

for the year ended 30 June 2016

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The PF&A Act further 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, but precluding the provision of non-audit services.

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

### **Crown Solicitor's Responsibility for the Financial Statements**

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

In preparing the financial statements, the Crown Solicitor must assess the Office's ability to continue as a going concern unless the Office's operations will cease as a result of an administrative restructure. The assessment must include, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting'.

### **Auditor's Responsibility 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 further description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: <http://www.auasb.gov.au/Home.aspx>. The description forms part of my auditor's report.

My opinion does *not* provide assurance:

- that the Office carried out its activities effectively, efficiently and economically
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where they may be presented.



David Daniels  
Director, Financial Audit Services

19 September 2016  
SYDNEY



**Crown Solicitor's Office  
Financial Statements**

for the year ended 30 June 2016

Start of Audited Financial Statements

**Statement of Comprehensive Income**

	Notes	Actual 2016 \$'000	Budget 2016 \$'000	Actual 2015 \$'000
<b>Expenses excluding losses</b>				
Operating expenses				
Employee related expenses	2(a)	37,593	39,650	36,314
Other operating expenses	2(b)	10,103	10,510	9,473
Depreciation and amortisation	2(c)	706	740	1,087
Finance costs	2(d)	27	109	79
<b>Total expenses excluding losses</b>		<b>48,429</b>	<b>51,009</b>	<b>46,953</b>
<b>Revenue</b>				
Transfers to the Crown Entity - distributions		-	(1,737)	
Sale of goods and services	3(a)	55,883	52,838	48,268
Investment revenue	3(b)	460	457	493
Other revenue	3(c)	2,095	195	478
<b>Total revenue</b>		<b>58,438</b>	<b>51,753</b>	<b>49,239</b>
<b>Gain/(Loss) on disposal</b>	4	-	-	<b>(1)</b>
<b>Net result</b>		<b>10,009</b>	<b>744</b>	<b>2,285</b>
<b>Other comprehensive income</b>				
<i>Items that will not be reclassified to net result</i>				
Superannuation actuarial gains/(losses)	21	(10,205)	-	(1,019)
<b>Total other comprehensive income</b>		<b>(10,205)</b>	<b>-</b>	<b>(1,019)</b>
<b>Total comprehensive income</b>		<b>(196)</b>	<b>744</b>	<b>1,266</b>

The accompanying notes form part of these financial statements.

**Crown Solicitor's Office**  
**Financial Statements**

as at 30 June 2016

## Statement of Financial Position

	Notes	Actual 2016 \$'000	Budget 2016 \$'000	Actual 2015 \$'000
<b>Assets</b>				
<b>Current assets</b>				
Cash and cash equivalents	7	26,544	16,088	21,158
Receivables	8	12,434	10,275	8,864
Other financial assets	9	8,904	6,545	7,803
Other	12	6,099	5,950	5,114
<b>Total current assets</b>		<b>53,981</b>	<b>38,858</b>	<b>42,939</b>
<b>Non-current assets</b>				
Property, plant and equipment	10			
- plant and equipment		786	830	538
- leasehold improvements		544	619	937
Total property, plant and equipment		1,330	1,449	1,475
Intangibles	11	443	5,186	519
Other	12	3,729	3,498	3,954
<b>Total non-current assets</b>		<b>5,502</b>	<b>10,133</b>	<b>5,948</b>
<b>Total assets</b>		<b>59,483</b>	<b>48,991</b>	<b>48,887</b>
<b>Liabilities</b>				
<b>Current liabilities</b>				
Payables	13	5,814	3,625	4,301
Provisions	14	15,734	11,801	10,399
<b>Total current liabilities</b>		<b>21,548</b>	<b>15,426</b>	<b>14,700</b>
<b>Non-current liabilities</b>				
Provisions	14	28,951	17,491	19,572
<b>Total non-current liabilities</b>		<b>28,951</b>	<b>17,491</b>	<b>19,572</b>
<b>Total liabilities</b>		<b>50,499</b>	<b>32,917</b>	<b>34,272</b>
<b>Net assets</b>		<b>8,984</b>	<b>16,074</b>	<b>14,615</b>
<b>Equity</b>				
Accumulated funds		8,984	16,074	14,615
<b>Total equity</b>		<b>8,984</b>	<b>16,074</b>	<b>14,615</b>

The accompanying notes form part of these financial statements.

## Statement of Changes in Equity

	Notes	Accumulated funds \$'000
<b>Balance at 1 July 2015</b>		<u>14,615</u>
<b>Net result for the year</b>		<u>10,009</u>
<b>Other comprehensive income:</b>		
Superannuation actuarial gain/(loss)		<u>(10,205)</u>
<b>Total other comprehensive income</b>		<u>(10,205)</u>
<b>Total comprehensive income for the year</b>		<u>(196)</u>
<b>Transactions with owners in their capacity as owners</b>		
Distribution payable to Crown Entity	5	<u>(5,435)</u>
<b>Balance at 30 June 2016</b>		<u><u>8,984</u></u>
		Accumulated funds \$'000
<b>Balance at 1 July 2014</b>		<u>14,736</u>
<b>Net result for the year</b>		<u>2,285</u>
<b>Other comprehensive income:</b>		
Superannuation actuarial gain/(loss)		<u>(1,019)</u>
<b>Total other comprehensive income</b>		<u>(1,019)</u>
<b>Total comprehensive income for the year</b>		<u>1,266</u>
<b>Transactions with owners in their capacity as owners</b>		
Distribution payable to Crown Entity	5	<u>(1,387)</u>
<b>Balance at 30 June 2015</b>		<u><u>14,615</u></u>

The accompanying notes form part of these financial statements.

## Statement of Cash Flows

		Actual 2016 \$'000	Budget 2016 \$'000	Actual 2015 \$'000
	Notes			
<b>Cash flows from operating activities</b>				
<b>Payments</b>				
Employee related		(37,898)	(41,007)	(35,963)
Other		(8,961)	(10,883)	(13,112)
<b>Total payments</b>		<b>(46,859)</b>	<b>(51,890)</b>	<b>(49,075)</b>
<b>Receipts</b>				
Legal Fees from clients		51,174	52,970	48,423
Interest received		381	442	392
Transfers to the Crown Entity		-	(1,737)	-
Other		2,624	705	950
<b>Total receipts</b>		<b>54,179</b>	<b>52,380</b>	<b>49,765</b>
<b>Net cash flows from operating activities</b>	18	<b>7,320</b>	<b>490</b>	<b>690</b>
<b>Cash flows from investing activities</b>				
Purchases of plant and equipment		(463)	(506)	(251)
Purchases of intangible assets		(84)	(4,809)	-
<b>Net cash flows from investing activities</b>		<b>(547)</b>	<b>(5,315)</b>	<b>(251)</b>
<b>Cash flows from financing activities</b>				
Financial distribution to the Crown Entity	5	(1,387)	350	-
<b>Net cash flows from financing activities</b>		<b>(1,387)</b>	<b>350</b>	<b>-</b>
<b>Net increase / (decrease) in cash</b>		<b>5,386</b>	<b>(4,475)</b>	<b>439</b>
Opening cash and cash equivalents		21,158	20,563	20,719
<b>Closing cash and cash equivalents</b>	7	<b>26,544</b>	<b>16,088</b>	<b>21,158</b>

The accompanying notes form part of these financial statements.

## **1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

### **(a) Reporting entity**

The Crown Solicitor's Office (CSO) is a NSW government entity. Although the CSO is managed under the Commercial Policy Framework and is required to deliver a surplus from non-core work for which it competes with the private sector, the majority of the CSO's revenue is from core legal work delivered on a cost recovery basis only. Accordingly, the CSO is classified as a not-for-profit entity (as profit is not its principal objective). The CSO has no cash generating units. The reporting entity is consolidated as part of the NSW Total State Sector Accounts.

The CSO as a reporting entity has no controlling or controlled entities.

These financial statements for the year ended 30 June 2016 have been authorised for issue by the Crown Solicitor, after recommendation by the Audit and Risk Committee on 15 September 2016.

### **(b) Basis of preparation**

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

- applicable Australian Accounting Standards (which include Australian Accounting interpretations);
- the requirements of the *Public Finance and Audit Act 1983* and *Public Finance and Audit Regulation 2015*; and
- the Financial Reporting Directions published in the Financial Reporting Code for NSW General Government Sector Entities or issued by the Treasurer.

Plant and equipment are measured at fair value. Other financial statements items are prepared in accordance with the historical cost convention except where specified otherwise.

Judgements, key assumptions and estimations that 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 with the exception of the detailed actuarial reports on superannuation provided by Pillar Administration which are reported in single Australian dollars (refer note 21).

### **(c) Statement of Compliance**

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

### **(d) Insurance**

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

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

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

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

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont.)**

**(e) Accounting for the Goods and Services Tax (GST) (cont.)**

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

**(f) Income recognition**

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

**(i) Rendering of services**

Revenue from the provision of legal services is recognised when time is recorded on matters, as the amounts of revenue can be reliably measured and it is probable that economic benefits will flow to the CSO.

The CSO pays disbursements on behalf of clients, while providing legal services. No economic benefits flow to the CSO as the amounts are reimbursed at cost. As a result, legal disbursements are not recognised in the CSO's Statement of Comprehensive Income.

**(ii) Investment revenue**

Interest revenue is recognised using the effective interest method as set out in AASB 139 *Financial Instruments: Recognition and Measurement*.

**(iii) Other revenue**

Other revenue comprises monies received from outside entities not categorised in the revenue headings mentioned above. The revenue is recognised when the fee in respect of services provided is receivable or when the amount of revenue for the service performed can be reliably measured and it is probable that economic benefits will flow to the CSO.

**(g) Assets**

**(i) Acquisition of assets**

Assets acquired are initially recognised at cost. 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 Australian Accounting Standards.

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

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.

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont.)**

**(g) Assets (cont.)**

**(ii) Capitalisation thresholds**

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. Prior to 1 July 2015, the capitalisation threshold was \$10,000. The change does not result in any material difference.

**(iii) Revaluation of 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 (TPP 14-01). This policy adopts fair value in accordance with AASB 13 *Fair Value Measurement* and AASB 116 *Property, Plant and Equipment*.

Plant and equipment is measured at the highest and best use by market participants that is physically possible, legally permissible and financially feasible. The highest and best use must be available at a period that is not remote and take into account the characteristics of the asset being measured, including any socio-political restrictions imposed by government. In most cases, after taking into account these considerations, the highest and best use is the existing use.

Non-specialised assets with short useful lives are measured at depreciated historical cost as an approximation of fair value. The CSO has assessed that any difference between fair value and depreciated historical cost is unlikely to be material. All of the CSO's plant and equipment at 30<sup>th</sup> June 2016 are non-specialised assets with short useful lives.

**(iv) Impairment of 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. As plant and equipment is carried at fair value, or an amount that approximates fair value, impairment can only arise in the rare circumstances such as where the costs of disposal are material. Specifically, impairment is unlikely for not-for-profit entities given that AASB136 modifies the recoverable amount test for non-cash generating assets of not-for-profit entities to the higher of fair value less costs of disposal and depreciated replacement cost, where depreciated replacement cost is also fair value.

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont.)**

**(g) Assets (cont.)**

**(v) Depreciation of plant and equipment**

Depreciation is provided for on a straight-line basis for all depreciable assets so as to write off the depreciable amount of each asset as it is consumed over its useful life to the CSO.

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

The depreciation/amortisation rates used for each class of assets are as follows:

		<b>% Rate</b>
<b>Plant &amp; Equipment</b>		
Make good assets	Over the term of operating lease	
Computer equipment, voice and data communications and laptops acquired prior to 30 <sup>th</sup> June 2012		25
Computer equipment, voice and data communications and laptops acquired after 1 July 2012		20
Desktop PCs		20
Furniture and fittings		10
Other plant and equipment		20
Leasehold improvements	Over the term of operating lease	
<b>Intangible assets</b>		
Software acquired before 30 June 2012		25
Software acquired after 1 July 2012		20
Software – major projects	10% or over the useful life of the asset where that is assessed at less than 10 years	

**(vi) Restoration costs**

The estimated cost of dismantling and removing an asset and restoring the site is included in the cost of an asset, to the extent it is recognised as a liability.

**(vii) Maintenance**

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



**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont.)**

**(g) Assets (cont.)**

**(viii) Leased assets**

A distinction is made between finance leases, which effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of the leased assets, and operating leases under which the lessor does not transfer substantially all the risks and rewards.

Operating lease payments are recognised as an expense in the periods in which they are incurred.

There are no finance lease arrangements.

**(ix) Intangible assets**

Intangible assets are recognised only if it is probable that future economic benefits will flow to the CSO 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.

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.

Intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for the CSO's intangible assets, the assets are carried at cost less any accumulated amortisation and impairment losses.

The CSO's intangible assets are amortised using the straight-line method over a period ranging from four to ten years.

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

**(x) Loans and Receivables**

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. These financial assets are recognised initially at fair value. Subsequent measurement is at amortised cost using the effective interest method, less an allowance for any impairment of receivables. Any changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

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

**(xi) Other financial assets**

Work in progress (WIP) represents staff time measured at the rate directly chargeable to the client and which remains unbilled as at balance date.

WIP is assessed for impairment annually and is not carried at an amount in excess of its assessed recoverable amount.

Recoverable disbursements are legal disbursements incurred on behalf of clients that will be reimbursed at cost by clients and which remain unbilled as at balance date.

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont.)**

**(g) Assets (cont.)**

**(xii) Impairment of financial assets**

All financial assets, except those measured at fair value through profit and loss, are subject to an annual review for impairment. An allowance for impairment is established when there is objective evidence that the CSO will not be able to collect all amounts due.

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

Any reversals of impairment losses are reversed through the net result for the year, where there is objective evidence. Reversals of impairment losses of financial assets carried at amortised cost cannot result in a carrying amount that exceeds what the carrying amount would have been had there not been an impairment loss.

**(xiii) Derecognition of financial assets and financial liabilities**

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

- where substantially all the risks and rewards have substantially been transferred or
- where the CSO has not transferred substantially all the risks and rewards, if the CSO has not retained control.

Where the CSO has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset is recognised to the extent of the CSO's continuing involvement in the asset.

A financial liability is derecognised when the obligation specified in the contract is discharged or cancelled or expires.

**(xiv) Trust Funds**

The Crown Solicitor operates a Trust Account in accordance with clause 14 of the *Legal Profession Uniform Law Application Regulation 2015*. As the CSO only performs a custodial role in respect of these monies, and because the monies cannot be used for the achievement of the CSO's own objectives, these funds are not recognised in the financial statements.

**(h) Liabilities**

**(i) Payables**

These amounts represent liabilities for goods and services provided to the CSO and other amounts. Payables are recognised initially at fair value. Subsequent measurement is at amortised cost using the effective interest method. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial.

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont.)**

**(h) Liabilities (cont.)**

**(ii) Employee benefits and other provisions**

(a) Salaries and wages, annual leave, sick leave and on costs

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

Annual leave is not expected to be settled wholly before twelve months after the end of the annual reporting period in which the employees render the related service. As such, it is required to be measured at present value in accordance with AASB 119 *Employee Benefits* (although short-cut methods are permitted). Actuarial advice obtained by Treasury has confirmed that using the nominal annual leave balance plus the annual leave entitlements accrued while taking annual leave (calculated using 7.9% of the nominal value of annual leave) can be used to approximate the present value of the annual leave liability. The CSO has assessed the actuarial advice based on the CSO's circumstances and determined that the effect of discounting is immaterial to annual leave.

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.

(b) Long service leave and superannuation

The CSO contributes to the Agency Funded Crown LSL Pool and these payments are included in Employee Related Expenses. The amount of payments expected to be made to the employees is recognised as LSL liabilities and the amounts expected to be reimbursed by the Crown Finance entity as assets.

Long service leave is measured at present value in accordance with AASB 119 *Employee Benefits*. This is based on the application of certain factors (specified in NSWTC15/09) to employees with five or more years of service, using current rates of pay. These factors were determined based on an actuarial review to approximate present value.

The defined benefit superannuation liability is not assumed by the Crown and the CSO recognises the net defined benefit liability (asset) in the financial statements. Actuarial gains and losses are recognised immediately in other comprehensive income in the year in which they occur.

Superannuation is actuarially assessed prior to each reporting date and is measured at the present value of the estimated future payments. The amount recognised is the net total of the present value of the defined benefit obligation at the reporting date, minus the fair value at the date of any plan assets out of which the obligation is to be settled directly.

The actuarial assessment of superannuation uses the Projected Unit Credit Method and reflects estimated future salary increases and the benefits set out in the terms of the plan. The liabilities are discounted using the market yield rate on government bonds of similar maturity to those obligations. Actuarial assumptions are unbiased and mutually compatible and financial assumptions are based on market experience for the period over which the obligations are to be settled.

All remeasurements arising from defined benefit plans are recognised in other comprehensive income in the year in which they occur.

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont.)**

**(h) Liabilities (cont.)**

**(ii) Employee benefits and other provisions (cont.)**

(c) 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.

**(iii) Other provisions**

Other provisions exist when there is a present legal or constructive obligation as a result of a past event; it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation.

A provision for the restoration costs of leasehold improvement assets is recognised. The provision is discounted at 1.89% which is the rate based on the market yield on Commonwealth government bonds as per TC11/17.

**(i) Fair Value Hierarchy**

A number of the CSO's accounting policies and disclosures require the measurement of fair values for both financial and non-financial assets and liabilities. The CSO does not hold financial and non-financial assets and liabilities that are valued at fair value using valuation techniques.

Refer note 20 for further disclosures regarding fair value measurements of financial assets.

**(j) Equity and reserves**

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

**(k) Budgeted amounts**

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 are not reflected in the budgeted amounts. Major variances between the original budgeted amounts and the actual amounts disclosed in the primary financial statements are explained in note 17.

**(l) Comparative information**

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

**(m) Financial Distributions**

It is NSW Treasury Policy that Government businesses are to recognise dividends or financial distributions in the year to which they relate, even though payment may not occur until the following year. The CSO provides for the financial distributions on the basis of a payout ratio of 70% of the CSO's distributable operating surplus. This is the net operating surplus before adjustment for Defined Benefits superannuation liability and before any other adjustments for material non-cash items. The Treasurer approves the distribution to be paid based on consideration of the Crown Solicitor's recommended dividend prior to 30 June.

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont.)**

**(n) Changes in accounting policy, including new or revised Australian Accounting Standards**

**(i) Effective for the first time in 2015-16**

The accounting policies applied in 2015-16 are consistent with those of the previous financial year. There were no new or revised accounting standards that impacted the CSO for the first time in 2015-16.

**(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 Accounting Standards have not been applied and are not yet effective, as per NSW Treasury Circular TC 16/02:

- AASB 9 and AASB 2014-7 regarding financial instruments
- AASB 14 and AASB 2014-1(Part D) regarding Regulatory Deferral Accounts
- AASB 15, AASB 2014-5 and AASB 2015-8 regarding Revenue from Contracts with Customers
- AASB 16 regarding leases
- AASB 1056 Superannuation Entities
- AASB 1057 and AASB 2015-9 Application of Australian Accounting Standards
- AASB 2014-3 regarding accounting for acquisitions of interests in joint operations
- AASB 2014-4 regarding acceptable methods of depreciation and amortisation
- AASB 2014-6 regarding bearer plants
- AASB 2014-9 regarding equity method in separate financial statements
- AASB 2014-10 and AASB 2015-10 regarding sale or contribution of assets between an investor and its associate or joint venture
- AASB 2015-1 regarding annual improvements to Australian Accounting Standards 2012-2014 cycle
- AASB 2015-2 regarding amendments to AASB 101 (disclosure initiative)
- AASB 2015-5 Amendments to Australian Accounting Standards – Investment Entities: Applying the Consolidation Exception
- AASB 2015-6 Amendments to Australian Accounting Standards – Extending Related Party Disclosures to Not-for-Profit Public Sector Entities
- AASB 2015-7 Amendments to Australian Accounting Standards – Fair Value Disclosures of Not-for-Profit Public Sector Entities

The impact of the new standards and interpretations on issue but not effective has been assessed and other than AASB 16 leases, the impact is considered to be insignificant.

AASB 16 is applicable to annual reporting periods beginning on or after 1 January 2019. For leases where the CSO is the lessee, AASB 16 will require the CSO to recognise assets and liabilities on the statement of financial position where the lease term is for more than 12 months unless the underlying asset is of low value. There will be no impact on the total amount of cash flows reported.

**(o) Change in accounting estimate – Lease make good provision**

During the current financial year, the CSO received new information in the form of legal advice regarding the calculation of the accommodation lease make good provision. Consequently the CSO has adjusted the value of the lease make good provision in line with this new information. The effect of this change in estimate was to make the following adjustments:

Lease make good provision (as at 30 June 2016)	Reduced by \$987,000 to \$944,000
Written down value of lease improvement asset (as at 30 June 2016)	Reduced from \$128,000 to \$67,000
Other revenue (for the period 2015/16)	Increased by \$925,000 to \$2,095,000

In addition, finance costs are expected to be lower by \$23,000 in 2016/17 and \$15,000 in 2017/18, with lease improvement depreciation expenses expected to be lower by \$34,000 in 2016/17 and \$27,000 in 2017/18.

**Crown Solicitor's Office**  
**Notes to and forming part of the financial statements**  
*for the year ended 30 June 2016*

**2. EXPENSES EXCLUDING LOSSES**

**(a) Employee related expenses**

	<b>2016</b>	<b>2015</b>
	<b>\$'000</b>	<b>\$'000</b>
Salaries and wages (including recreation leave)	31,512	30,327
Superannuation - defined benefit plans	675	838
Superannuation - defined contribution plans	2,685	2,485
Long service leave	689	625
Workers' compensation insurance	147	180
Payroll tax and fringe benefit tax	1,883	1,859
Redundancy payments	2	-
	<b>37,593</b>	<b>36,314</b>

**(b) Other operating expenses**

Auditor's remuneration		
- audit of the financial statements	60	56
- audit of the Trust Account	9	7
Operating Lease Rental Expense – minimum lease payments	4,267	3,965
Consultants	109	105
Contractors	1,136	783
Electricity	153	168
Fees for services rendered	1,293	1,448
Fees - other	662	700
Insurance	70	68
Printing	240	193
Publications and Subscriptions	506	469
Repairs and routine maintenance*	790	564
Stores & Stationery	214	162
Other operating expenses	594	785
	<b>10,103</b>	<b>9,473</b>

\* Reconciliation - Total maintenance

Maintenance expense - contracted labour and other (non-employee related) as above	790	564
Employee related maintenance expense included in Note 2(a)	-	-
Total maintenance expenses included in Note 2(a) and Note 2(b)	<b>790</b>	<b>564</b>

**(c) Depreciation and amortisation expense**

**Depreciation:**

Plant and equipment	214	260
Leasehold Improvements	332	337
Total depreciation	<b>546</b>	<b>597</b>

**Amortisation:**

Intangibles	160	490
Total amortisation	<b>160</b>	<b>490</b>

Total depreciation and amortisation	<b>706</b>	<b>1,087</b>
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**Crown Solicitor's Office**  
**Notes to and forming part of the financial statements**  
*for the year ended 30 June 2016*

**2. EXPENSES EXCLUDING LOSSES (cont.)**

**(d) Finance costs**

	2016 \$'000	2015 \$'000
Unwinding of discount rate for the make good of premises	27	79
	<b>27</b>	<b>79</b>

**3. REVENUE**

**(a) Sale of goods and services**

	2016 \$'000	2015 \$'000
Rendering of services – legal fees	55,883	48,268
	<b>55,883</b>	<b>48,268</b>

**(b) Investment revenue**

Interest revenue	460	493
	<b>460</b>	<b>493</b>

**(c) Other revenue**

Other services provided	1,170	474
Lease make good provision adjustment*	925	-
Senior Executive motor vehicle contributions	-	4
	<b>2,095</b>	<b>478</b>

\*Refer note 1(o).

**4. GAIN/(LOSS) ON DISPOSAL**

	2016 \$'000	2015 \$'000
Plant and Equipment	-	(1)
	<b>-</b>	<b>(1)</b>

**5. FINANCIAL DISTRIBUTION TO THE CROWN ENTITY**

As a government business operating under the Commercial Policy Framework, the CSO is required to make a financial distribution to owners of 70% of the distributable operating surplus. This is the net operating surplus before adjustment for Defined Benefits Superannuation liability and before any other adjustments for material non-cash items. The operating surplus is generated from legal work for which the CSO competes against the private sector. This distribution is in accordance with TPP14-04 *Financial Distributions Policy for Government Businesses*. The amount due is recognised in the year to which it relates, even though payment is made in the following year. A provision for a distribution payment of \$5,435,000(2015:\$1,387,000) has been recognised this year in accordance with the Treasurer's approval.



**Crown Solicitor's Office**  
**Notes to and forming part of the financial statements**  
*for the year ended 30 June 2016*

**6. SERVICE GROUPS OF THE ENTITY**

The CSO operates as a single service group. The Crown Solicitor's Office service group covers the provision of legal services to the NSW Government. The Crown Solicitor must be engaged by government agencies to perform tied legal services described in Premier's Memorandum 1995-39. The Crown Solicitor's Office also competes with the private legal profession for untied legal work.

The expenses, revenue, assets and liabilities of the service group are presented in the primary financial statements.

**7. CASH AND CASH EQUIVALENTS**

	<b>2016</b>	<b>2015</b>
	<b>\$'000</b>	<b>\$'000</b>
Cash at bank and on hand	26,544	21,158
	<u><b>26,544</b></u>	<u><b>21,158</b></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 are the same in both the Statement of Financial Position and Statement of Cash Flows.

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

**8. RECEIVABLES**

	<b>2016</b>	<b>2015</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>Current receivables</b>		
Sale of goods and services	11,708	8,125
Less: Allowance for Impairment	-	-
Prepayments	316	552
Interest receivable	237	158
GST recoverable from the Australian Taxation Office	148	29
Long Service Leave recoverable	25	-
	<u><b>12,434</b></u>	<u><b>8,864</b></u>

**Movements in the allowance for impairment**

Balance at 1 July	-	(84)
Amounts written off during the year	-	84
Increase/(decrease) in allowance recognised in profit or loss	-	-
<b>Balance at 30 June</b>	<u><b>-</b></u>	<u><b>-</b></u>

Details regarding credit risk, liquidity risk and market risk, including financial assets that are either past due or impaired, are disclosed in Note 20.

**Crown Solicitor's Office**  
**Notes to and forming part of the financial statements**  
*for the year ended 30 June 2016*

**9. OTHER FINANCIAL ASSETS**

	2016	2015
	\$'000	\$'000
Work in Progress	7,635	6,881
Recoverable Disbursements	1,269	922
	<b>8,904</b>	<b>7,803</b>

**10. PLANT AND EQUIPMENT**

	Plant and equipment \$'000	Leasehold Improvements \$'000	Total \$'000
<b>At 1 July 2015 - fair value</b>			
Gross carrying amount	898	1,418	2,316
Accumulated depreciation and impairment	(360)	(481)	(841)
Net carrying amount	<b>538</b>	<b>937</b>	<b>1,475</b>

	Plant and equipment \$'000	Leasehold Improvements \$'000	Total \$'000
<b>At 30 June 2016- fair value</b>			
Gross carrying amount	1,326	1,276	2,602
Accumulated depreciation and impairment	(540)	(732)	(1,272)
Net carrying amount	<b>786</b>	<b>544</b>	<b>1,330</b>

**Reconciliation**

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

	Plant and equipment \$'000	Leasehold Improvements \$'000	Total \$'000
<b>Year ended 30 June 2016</b>			
Net carrying amount at start of year	538	937	1,475
Additions	462	-	462
Disposals	-	-	-
Depreciation expense	(214)	(332)	(546)
Accounting estimate adjustment – make good provision*	-	(61)	(61)
Net carrying amount at end of year	<b>786</b>	<b>544</b>	<b>1,330</b>

\*Refer note 1(o).

	Plant and equipment \$'000	Leasehold Improvements \$'000	Total \$'000
<b>At 1 July 2014 - fair value</b>			
Gross carrying amount	649	1,418	2,067
Accumulated depreciation and impairment	(101)	(144)	(245)
Net carrying amount	<b>548</b>	<b>1,274</b>	<b>1,822</b>

**10. PLANT AND EQUIPMENT (cont.)**

	Plant and equipment \$'000	Leasehold Improvements \$'000	Total \$'000
<b>At 30 June 2015- fair value</b>			
Gross carrying amount	898	1,418	2,316
Accumulated depreciation and impairment	(360)	(481)	(841)
Net carrying amount	<b>538</b>	<b>937</b>	<b>1,475</b>

**Reconciliation**

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

	Plant and equipment \$'000	Leasehold Improvements \$'000	Total \$'000
<b>Year ended 30 June 2015</b>			
Net carrying amount at start of year	548	1,274	1,822
Additions	251	-	251
Disposals	(1)	-	(1)
Depreciation expense	(260)	(337)	(597)
Net carrying amount at end of year	<b>538</b>	<b>937</b>	<b>1,475</b>

**11. INTANGIBLE ASSETS**

	Software \$'000	Total \$'000
<b>At 1 July 2015</b>		
Cost (gross carrying amount)	1,259	1,259
Accumulated amortisation and impairment	(740)	(740)
Net carrying amount	<b>519</b>	<b>519</b>

<b>At 30 June 2016</b>		
Cost (gross carrying amount)	1,343	1,343
Accumulated amortisation and impairment	(900)	(900)
Net carrying amount	<b>443</b>	<b>443</b>

**Reconciliation**

A reconciliation of the carrying amount of each class of intangible assets at the beginning and end of the current reporting period is set out below:

	Software \$'000	Total \$'000
<b>Year ended 30 June 2016</b>		
Net carrying amount at start of year	519	519
Additions	84	84
Amortisation (recognised in "depreciation and amortisation")	(160)	(160)
Net carrying amount at end of year	<b>443</b>	<b>443</b>

**Crown Solicitor's Office**  
**Notes to and forming part of the financial statements**  
*for the year ended 30 June 2016*

**11. INTANGIBLE ASSETS (cont.)**

	<b>Software \$'000</b>	<b>Total \$'000</b>
<b>At 1 July 2014</b>		
Cost (gross carrying amount)	1,259	1,259
Accumulated amortisation and impairment	(250)	(250)
Net carrying amount	<u>1,009</u>	<u>1,009</u>
	<b>Software \$'000</b>	<b>Total \$'000</b>
<b>At 30 June 2015</b>		
Cost (gross carrying amount)	1,259	1,259
Accumulated amortisation and impairment	(740)	(740)
Net carrying amount	<u>519</u>	<u>519</u>

**Reconciliation**

A reconciliation of the carrying amount of each class of intangible assets at the beginning and end of the prior reporting period is set out below:

	<b>Software \$'000</b>	<b>Total \$'000</b>
<b>Year ended 30 June 2015</b>		
Net carrying amount at start of year	1,009	1,009
Additions	-	-
Amortisation (recognised in "depreciation and amortisation")	(490)	(490)
Net carrying amount at the end of year	<u>519</u>	<u>519</u>

**12. CURRENT/NON-CURRENT ASSETS – OTHER**

	<b>2016 \$'000</b>	<b>2015 \$'000</b>
Crown Acceptance of long service leave liability - current	6,099	5,114
Crown Acceptance of long service leave liability – non-current	530	445
Defined Benefits superannuation – Prepaid contributions – non-current	3,199	3,509
	<u>9,828</u>	<u>9,068</u>

**13. PAYABLES**

	<b>2016 \$'000</b>	<b>2015 \$'000</b>
Accrued salaries, wages and on-costs	10	976
Creditors	5,205	2,886
Accruals	599	439
	<u>5,814</u>	<u>4,301</u>

Details regarding credit risk, liquidity risk and market risk, including a maturity analysis of the above payables, are disclosed in note 20.

**Crown Solicitor's Office**  
**Notes to and forming part of the financial statements**  
*for the year ended 30 June 2016*

**14. CURRENT/NON-CURRENT PROVISIONS**

	<b>2016</b>	<b>2015</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>Current</b>		
<b>Employee benefits and related on-costs</b>		
Annual leave	2,665	2,534
Long service leave	6,099	5,114
Related Oncost	1,535	1,364
	<b>10,299</b>	<b>9,012</b>
<b>Other provisions</b>		
Distribution to the Crown Entity	5,435	1,387
	<b>5,435</b>	<b>1,387</b>
<b>Total current provisions</b>	<b>15,734</b>	<b>10,399</b>
<b>Non Current</b>		
<b>Employee benefits and related on-costs</b>		
Long Service Leave	530	445
Long Service Leave - Related Oncost	82	70
Superannuation (note 21)	27,395	17,153
	<b>28,007</b>	<b>17,668</b>
<b>Other provisions</b>		
Make good	944	1,904
	<b>944</b>	<b>1,904</b>
<b>Total non-current provisions</b>	<b>28,951</b>	<b>19,572</b>
	<b>2016</b>	<b>2015</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>Aggregate employee benefits and related on-costs</b>		
Provisions - current	10,299	9,012
Provisions - non-current	28,007	17,668
Accrued salaries, wages and on-costs (note 13)	10	976
	<b>38,316</b>	<b>27,656</b>

**a) Annual Leave**

The liability at 30 June 2016 was \$2,665,000 (2015: \$2,534,000). This is based on leave entitlements at 30<sup>th</sup> June using remuneration rates to be payable post 30 June.

Of this liability, the value expected to be taken within 12 months is \$2,328,000(2015: \$2,220,000) and \$337,000 (2015: \$314,000) after 12 months. This calculation is based on the current levels of annual leave taken by staff and the minimum required to be taken to achieve the target of 30 days by June 2017.

**14. CURRENT/NON-CURRENT PROVISIONS (cont.)**

**b) Long Service Leave**

The total liability at 30<sup>th</sup> June 2016 was \$6,629,000 (2015: \$5,559,000) which is shown as current \$6,099,000 (2015: \$5,114,000) and non-current \$530,000 (2015: \$445,000). This liability comprises:

	<b>2016</b>	<b>2015</b>
	<b>\$'000</b>	<b>\$'000</b>
Short term – expected to be settled within 12 months	729	723
Long term – not expected to be settled within 12 months	5,900	4,836
	<b>6,629</b>	<b>5,559</b>

The CSO contributed \$712,000 (2015:\$687,000) to the Crown Finance Entity pool account during this financial year including leave entitlement transfers received from other agencies. Reimbursements from the Crown Finance Entity because of payments to staff or transfers of entitlement to other agencies were \$612,000 (2015:\$1,415,000).

**c) Make good**

Make good provision represents estimated restoration costs that the CSO is obliged to incur to restore premises to an acceptable condition as agreed with the owners of the premises, upon expiry of operating lease arrangements.

**d) Distribution Payable to the Crown Entity**

A provision for financial distribution to the Crown Entity of \$5,435,000 (2015:\$1,387,000) is made based on the Treasurer's approval dated 29 June 2016 of the Crown Solicitor's recommendation for the 2015-2016 financial year (refer note 5).

**Movements in provisions (other than employee benefits)**

	<b>Distribution</b>	
	<b>Payments</b>	<b>Make good</b>
<b>2016</b>	<b>\$'000</b>	<b>\$'000</b>
Carrying amount at the beginning of financial year	1,387	1,904
Additional provisions recognised	5,435	-
Amounts used	(1,387)	-
Unwinding/change in the discount rate	-	27
Adjustment to make good provision*	-	(987)
<b>Net carrying amount at end of the year</b>	<b>5,435</b>	<b>944</b>

\* Refer note 1(o).

## 15. COMMITMENTS FOR EXPENDITURE

### (a) Capital Commitments

There were no capital commitments as at 30 June 2016 or 30 June 2015.

	2016 \$'000	2015 \$'000
<b>(b) Operating Lease Commitments</b>		
Future non-cancellable operating lease rentals not provided for and payable		
Not later than one year	4,717	4,783
Later than one year and not later than five years	3,838	10,248
Later than five years	-	-
<b>Total (including GST)</b>	<b>8,555</b>	<b>15,031</b>

These operating lease commitments relate to leases currently held in relation to the occupancy of office premises.

The total Operating Lease Commitments in respect of leased premises include input tax credits of \$778,000 (2015:\$1,366,000) that are expected to be recoverable from the Australian Taxation Office.

## 16. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

The CSO has no contingent liabilities or contingent assets at 30 June 2016. There were no contingent liabilities or contingent assets at 30 June 2015.

## 17. BUDGET REVIEW

### Net result for the year

The net surplus for the year of \$10,009,000 is \$9,265,000 greater than budget.

Revenue of \$58,438,000 is \$6,685,000 greater than budget. \$1,737,000 of this variance arises from the incorrect presentation in the budget of the distribution paid during the year in respect of 2014-15. A further \$925,000 is the result of an accounting estimate adjustment to the make good provision for the CSO's leased premises (refer note 1(o)). The remaining variance of \$4,023,000 is attributable to significant and unbudgeted increased activity for the year including Commissions of Inquiry and assisting in inquests.

Employee related expenditure of \$37,593,000 is \$2,057,000 less than budget. This is partially offset by above-budget agency staff expenditure of \$515,000. The remaining variance of \$1,542,000 is attributable to a combination of less staff than budgeted and a difference in budgeted salary profile.

Other operating expenses of \$10,103,000 are \$407,000 less than budget including savings in shared service charges from the Department of Justice.

Finance Costs of \$27,000 represent the unwinding of the discount rate on the make good provision in respect of leased premises. This is \$82,000 less than budget as result of bond rate and CPI movements.

**Crown Solicitor's Office**  
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**17. BUDGET REVIEW (cont.)**

**Assets and liabilities**

Total Assets of \$59,483,000 are \$10,492,000 greater than budget; \$15,123,000 higher in current assets offset by \$4,631,000 less in non-current assets. The above-budget operational result for the year combined with a delay in planned capital expenditure on a new Practice Management System increased cash balances by \$10,456,000 above budget. Receivables and other financial assets (Work in Progress and unbilled disbursements) of \$21,338,000 are \$4,518,000 above budget as a result of the higher than budgeted activity for the year.

Total liabilities of \$50,499,000 are \$17,582,000 more than budget; \$6,122,000 in current liabilities and \$11,460,000 in non-current liabilities. The increase in current liabilities is primarily a result of the provision for financial distribution of \$5,435,000 to the Crown Entity. The increase in non-current liabilities includes an increase in the actuarial valuation of the Defined Benefit State Superannuation Scheme liability of \$10,242,000.

**Cash flows**

Cash increased by \$5,386,000 compared to a budgeted reduction of \$4,475,000. \$6,830,000 of this variance is due to the above-budget operational performance for the year and \$4,768,000 reflects the delay in planned capital expenditure. The \$1,737,000 variance in cashflows from financing activities arises from the incorrect budget presentation of the distribution paid in respect of 2014-15.

**18. RECONCILIATION OF OPERATING CASH FLOWS TO NET RESULT**

	<b>2016</b>	<b>2015</b>
	<b>\$'000</b>	<b>\$'000</b>
Net cash inflow from operating activities	7,320	690
Depreciation and amortisation	(706)	(1,087)
Net capital movements	10,205	2,406
Decrease/(increase) in provisions	(10,666)	(3,199)
Increase/(decrease) in prepayments and other assets	5,369	360
Decrease/(increase) in creditors	(1,513)	3,116
Net gain(loss) on disposal of plant and equipment	-	(1)
<b>Net result</b>	<b>10,009</b>	<b>2,285</b>

**19. TRUST FUNDS**

The Crown Solicitor receives money in trust for clients usually pending settlement of clients' transactions. These monies are excluded from the financial statements, as the CSO cannot use them for the achievement of its objectives. Interest earned on funds held in the Crown Solicitor's trust account is retained by NSW Treasury.

	<b>2016</b>	<b>2015</b>
	<b>\$'000</b>	<b>\$'000</b>
Cash balance at the beginning of the financial year	22,319	10,481
Add: Receipts	16,191	41,682
Less: Expenditure	19,134	29,844
<b>Cash balance at the end of the financial year</b>	<b>19,376</b>	<b>22,319</b>



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**20. FINANCIAL INSTRUMENTS**

The CSO's principal financial instruments are outlined below. These financial instruments arise directly from the CSO's operations. The CSO does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

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

The Crown Solicitor 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 CSO, to set risk limits and controls and to monitor risks. Compliance with policies is reviewed by the Audit and Risk Committee on a regular basis.

**(a) Financial instrument categories**

<b>Financial Assets</b>	<b>Note</b>	<b>Category</b>	<b>2016 \$'000</b>	<b>2015 \$'000</b>
Class:				
Cash and cash equivalents	7	N/A	26,544	21,158
Receivables <sup>1</sup>	8	Loans and receivables (at amortised cost)	11,970	8,283
Other financial assets	9	Receivables (at amortised cost)	8,904	7,803
			<b>47,418</b>	<b>37,244</b>
<b>Financial Liabilities</b>				
		<b>Category</b>	<b>2016 \$'000</b>	<b>2015 \$'000</b>
Class:				
Payables <sup>2</sup>	13	Financial liabilities measured at amortised cost	5,789	4,213
			<b>5,789</b>	<b>4,213</b>

Notes

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

**(b) Credit risk**

Credit risk arises when there is the possibility of the CSO's debtors defaulting on their contractual obligations, resulting in a financial loss to the CSO. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for impairment).

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

**Cash**

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (TCorp) 11am unofficial cash rate, adjusted for a management fee to NSW Treasury.

**20. FINANCIAL INSTRUMENTS (cont.)**

**(b) Credit Risk (cont.)**

**Receivables – trade debtors**

All trade debtors are recognised as amounts receivable at balance date in accordance with the asset recognition criteria. Collectability of trade debtors is reviewed on an ongoing basis. Debts, which are known to be uncollectable are written off, only after all avenues of debt collection have been exhausted. An allowance for impairment is raised when there is objective evidence that the CSO will not be able to collect all amounts due. This evidence includes past experience, current and expected changes in economic conditions and debtor credit ratings. No interest is earned on trade debtors. Payment terms are between 14 and 30 days.

The CSO's debtors are primarily other NSW government entities and credit risk is assessed as very low. Based on past experience, debtors that are not past due \$6,131,000(2015:\$3,517,000) and less than six months past due \$396,000(2015: \$736,000) are not considered impaired and together these represent 100 per cent (2015: 99.9 per cent) of the total trade debtors. There are no Debtors more than 6 months overdue (2015: \$2,000). There are no debtors which are currently not past due or impaired whose terms have been renegotiated.

	Total <sup>1,2</sup> \$'000	Past due but not impaired <sup>1,2</sup> \$'000	Considered impaired <sup>1,2</sup> \$'000
<b>2016</b>			
< 3 months overdue	380	380	-
3 months - 6 months overdue	16	16	-
> 6 months overdue	0	0	-
	<b>396</b>	<b>396</b>	-
<b>2015</b>			
< 3 months overdue	712	712	-
3 months - 6 months overdue	24	24	-
> 6 months overdue	2	2	-
	<b>738</b>	<b>738</b>	-

**Notes**

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

**(c) Liquidity risk**

Liquidity risk is the risk that the CSO will be unable to meet its payment obligations when they fall due. The CSO continuously manages risk through monitoring future cash flows, which coordinates the payment of creditors with cash receipts from debtors.

The CSO has effective billing and debtor management policies and procedures in place to maintain levels of debt within established KPIs and to ensure that work in progress is billed in a timely fashion.

**Crown Solicitor's Office**  
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**20. FINANCIAL INSTRUMENTS (cont.)**

**(c) Liquidity risk (cont.)**

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSW TC 11/12. For small business suppliers, where terms are not specified, payment is made not later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. For small business suppliers, where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise. For payments to other suppliers, the payment of simple interest is at the discretion of the Crown Solicitor. Interest incurred this year was \$1,149.46 (2015:\$1,520.44) and the rate of interest applied during the year was an average of 10.20% (2015:10.61%).

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

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

**Maturity analysis and interest rate exposure of financial liabilities**

	Weighted average effective interest rate	Nominal Amount \$'000	Fixed Interest Rate \$'000	Variable Interest Rate \$'000	Non- interest bearing \$'000	< 1 year \$'000	1 -5 years \$'000	> 5 years \$'000
<b>2016</b>								
Payables	-	5,789	-	-	5,789	5,789	-	-
	-	<b>5,789</b>	-	-	<b>5,789</b>	<b>5,789</b>	-	-
<b>2015</b>								
Payables	-	4,213	-	-	4,213	4,213	-	-
	-	<b>4,213</b>	-	-	<b>4,213</b>	<b>4,213</b>	-	-

The amounts disclosed are the contractual undiscounted cash flows of each class of financial liabilities based on the earliest date on which the CSO can be required to pay.

**(d) 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 CSO has no exposure to foreign currency risk and does not enter into commodity contracts.

**Interest rate risk**

Exposure to interest rate risk arises primarily through the CSO's interest bearing assets. The sensitivity analysis is performed based on a reasonably possible change of +/- 1 per cent, 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 CSO's exposure to interest rate risk is set out below.

**Crown Solicitor's Office**  
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**20. FINANCIAL INSTRUMENTS (cont.)**

**Interest rate risk (cont.)**

	Carrying amount \$'000	Impact of 1% Increase		Impact of 1% decrease	
		Profit \$'000	Equity \$'000	Profit \$'000	Equity \$'000
<b>2016</b>					
<i>Financial assets</i>					
Cash and cash equivalents	26,544	265	265	(265)	(265)
Receivables	11,970	-	-	-	-
Other financial assets	8,904	-	-	-	-
<i>Financial liabilities</i>					
Payables	5,789	-	-	-	-
<b>2015</b>					
<i>Financial assets</i>					
Cash and cash equivalents	21,158	212	212	(212)	(212)
Receivables	8,283	-	-	-	-
Other financial assets	7,803	-	-	-	-
<i>Financial liabilities</i>					
Payables	4,213	-	-	-	-

**(e) Fair Value measurement**

Financial instruments are generally recognised at cost. All of the CSO's cash is held within the Treasury Banking System and is recognised at cost. The amortised cost of financial instruments recognised in the statement of financial position approximates the fair value, because of the short term nature of the financial instruments.

**Crown Solicitor's Office**  
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**21. DEFINED BENEFIT SUPERANNUATION**

The following information has been prepared by the Scheme actuary.

**30 June 2016 Superannuation Position Basis – AASB 119**

	<b>SASS</b>	<b>SANCS</b>	<b>SSS</b>	<b>Total</b>
	<b>30 June</b>	<b>30 June</b>	<b>30 June</b>	<b>30 June</b>
	<b>2016</b>	<b>2016</b>	<b>2016</b>	<b>2016</b>
<b>Member Numbers</b>				
Contributors	16	20	4	
Deferred benefits	0	0	0	
Pensioners	0	0	41	
Pensions fully commuted	0	0	1	
<b>Superannuation Position for AASB 119 purposes</b>				
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Accrued liability (Note 1)	6,965,466	1,080,224	68,496,669	76,542,358
Estimated reserve account balance	(8,314,223)	(2,930,887)	(41,101,481)	(52,346,591)
	(1,348,757)	(1,850,663)	27,395,188	24,195,767
1. Deficit/(surplus)				
2. Future Service Liability (Note 2)	1,073,431	370,040	557,803	2,001,273
3. Surplus in excess of recovery available from schemes (-1.-2. and subject to a minimum of zero)	0	0	0	0
4. Net (asset)/liability to be recognised in statement of financial position (1.+3.)	(1,348,757)	(1,850,663)	27,395,188	24,195,767

**Note 1:**

The accrued liability includes a contribution tax provision. This is calculated based on grossing up the deficit/(surplus) less the allowance for past service expenses and insurable death and disability liabilities at a contribution tax rate of 15%.

**Note 2:**

The Future Service Liability (FSL) does not have to be recognised by an employer. It is only used to determine if an asset ceiling limit should be imposed (AASB 119 para 64). Under AASB 119, any prepaid superannuation asset recognised cannot exceed the present value of any economic benefits that may be available in the form of refunds from the plan or reductions in future contributions to the plan. Where the "surplus in excess of recovery" is zero, no asset ceiling limit is imposed. (Note: this also includes a contribution tax provision).

**AASB 119 – Disclosure items 30 June 2016**

***Nature of the benefits provided by the fund – Para 139(a)(i)***

The Pooled Fund holds in trust the investments of the closed NSW public sector superannuation schemes:

- State Authorities Superannuation Scheme (SASS)
- State Superannuation Scheme (SSS)
- Police Superannuation Scheme (PSS)
- State Authorities Non-contributory Superannuation Scheme (SANCS).

These schemes are all defined benefit schemes – at least a component of the final benefit is derived from a multiple of member salary and years of membership. Members receive lump sum or pension benefits on retirement, death, disablement and withdrawal.

All the Schemes are closed to new members.

## **21. DEFINED BENEFIT SUPERANNUATION (cont.)**

### ***Description of the regulatory framework - Para 139(a)(ii)***

The schemes in the Pooled Fund are established and governed by the following NSW legislation: Superannuation Act 1916, State Authorities Superannuation Act 1987, Police Regulation (Superannuation) Act 1906, State Authorities Non-Contributory Superannuation Act 1987, and their associated regulations.

The schemes in the Pooled Fund are exempt public sector superannuation schemes under the Commonwealth Superannuation Industry (Supervision) Act 1993 (SIS). The SIS Legislation treats exempt public sector superannuation funds as complying funds for concessional taxation and superannuation guarantee purposes.

Under a Heads of Government agreement, the New South Wales Government undertakes to ensure that the Pooled Fund will conform with the principles of the Commonwealth's retirement incomes policy relating to preservation, vesting and reporting to members and that members' benefits are adequately protected.

The New South Wales Government prudentially monitors and audits the Pooled Fund and the Trustee Board activities in a manner consistent with the prudential controls of the SIS legislation. These provisions are in addition to other legislative obligations on the Trustee Board and internal processes that monitor the Trustee Board's adherence to the principles of the Commonwealth's retirement incomes policy.

An actuarial investigation of the Pooled Fund is performed every three years. The last actuarial investigation was performed as at 30 June 2015. The next actuarial investigation will be performed at 30 June 2018.

### ***Description of other entities' responsibilities for the governance of the fund - Para 139(a)(iii)***

The Fund's Trustee is responsible for the governance of the Fund. The Trustee has a legal obligation to act solely in the best interests of fund beneficiaries. The Trustee has the following roles:

- \* Administration of the fund and payment to the beneficiaries from fund assets when required in accordance with the fund rules;
- \* Management and investment of the fund assets; and
- \* Compliance with other applicable regulations.

### ***Description of risks - Para 139(b)***

There are a number of risks to which the Fund exposes the Employer. The more significant risks relating to the defined benefits are:

- Investment risk - The risk that investment returns will be lower than assumed and the Employer will need to increase contributions to offset this shortfall.
- Longevity risk – The risk that pensioners live longer than assumed, increasing future pensions.
- Pension indexation risk – The risk that pensions will increase at a rate greater than assumed, increasing future pensions.
- Salary growth risk - The risk that wages or salaries (on which future benefit amounts for active members will be based) will rise more rapidly than assumed, increasing defined benefit amounts and thereby requiring additional employer contributions.
- Legislative risk - The risk is that legislative changes could be made which increase the cost of providing the defined benefits.

The defined benefit fund assets are invested with independent fund managers and have a diversified asset mix. The Fund has no significant concentration of investment risk or liquidity risk.

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**21. DEFINED BENEFIT SUPERANNUATION (cont.)**

*Description of significant events - Para 139(c)*

There were no fund amendments, curtailments or settlements during the year.

**Reconciliation of the Net Defined Benefit Liability/(Asset) - Para 140(a)**

	<b>SASS</b> Financial Year to 30 June 2016 \$	<b>SANCS</b> Financial Year to 30 June 2016 \$	<b>SSS</b> Financial Year to 30 June 2016 \$	<b>Total</b> Financial Year to 30 June 2016 \$
<b>Net Defined Benefit Liability/(Asset) at start of year</b>	<b>(1,614,589)</b>	<b>(1,894,531)</b>	<b>17,153,322</b>	<b>13,644,202</b>
Current service cost	239,748	59,681	0	299,429
Net Interest on the net defined benefit liability/(asset)	(52,167)	(58,158)	518,282	407,957
Past service cost	0	0	0	0
(Gains)/losses arising from settlements	0	0	0	0
Actual return on Fund assets less Interest income	(16,693)	1,703	(48,058)	(63,048)
Actuarial (gains)/losses arising from changes in demographic assumptions	13,244	(10,613)	1,728,022	1,730,653
Actuarial (gains)/losses arising from changes in financial assumptions	301,489	87,699	8,851,360	9,240,548
Actuarial (gains)/losses arising from liability experience	(5,583)	13,281	(711,149)	(703,450)
Adjustment for effect of asset ceiling	0	0	0	0
Employer contributions	(214,207)	(49,726)	(96,591)	(360,525)
Effects of transfers in/out due to business combinations and disposals	0	0	0	0
<b>Net Defined Benefit Liability/(Asset) at end of year</b>	<b>(1,348,757)</b>	<b>(1,850,663)</b>	<b>27,395,188</b>	<b>24,195,767</b>

**Reconciliation of the Fair Value of Fund Assets – Para 140(a)(i)**

	<b>SASS</b> Financial Year to 30 June 2016 \$	<b>SANCS</b> Financial Year to 30 June 2016 \$	<b>SSS</b> Financial Year to 30 June 2016 \$	<b>Total</b> Financial Year to 30 June 2016 \$
<b>Fair value of Fund assets at beginning of the year</b>	<b>7,779,900</b>	<b>3,005,691</b>	<b>41,947,983</b>	<b>52,733,574</b>
Interest income	227,388	89,165	1,238,221	1,554,774
Actual return on Fund assets less Interest income	16,693	(1,703)	48,058	63,048
Employer contributions	214,207	49,726	96,591	360,525
Contributions by participants	86,277	0	73,222	159,499
Benefits paid	27,366	(192,314)	(2,423,214)	(2,588,162)
Taxes, premiums & expenses paid	(37,607)	(19,678)	120,618	63,334
Transfers in	0	0	0	0
Contributions to accumulation section	0	0	0	0
Settlements	0	0	0	0
Exchange rate changes	0	0	0	0
<b>Fair value of Fund assets at end of the year</b>	<b>8,314,223</b>	<b>2,930,887</b>	<b>41,101,481</b>	<b>52,346,591</b>

**Crown Solicitor's Office**  
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**21. DEFINED BENEFIT SUPERANNUATION (cont.)**

**Reconciliation of the Defined Benefit Obligation – Para 140(a)(ii)**

	<b>SASS</b> Financial Year to 30 June 2016 \$	<b>SANCS</b> Financial Year to 30 June 2016 \$	<b>SSS</b> Financial Year to 30 June 2016 \$	<b>Total</b> Financial Year to 30 June 2016 \$
<b><i>Present value of defined benefit obligations at beginning of the year</i></b>	<b>6,165,311</b>	<b>1,111,161</b>	<b>59,101,305</b>	<b>66,377,776</b>
Current service cost	239,748	59,681	0	299,429
Interest cost	175,221	31,007	1,756,504	1,962,731
Contributions by participants	86,277	0	73,222	159,499
Actuarial (gains)/losses arising from changes in demographic assumptions	13,244	(10,613)	1,728,022	1,730,653
Actuarial (gains)/losses arising from changes in financial assumptions	301,489	87,699	8,851,360	9,240,548
Actuarial (gains)/losses arising from liability experience	(5,583)	13,281	(711,149)	(703,450)
Benefits paid	27,366	(192,314)	(2,423,214)	(2,588,162)
Taxes, premiums & expenses paid	(37,607)	(19,678)	120,618	63,334
Transfers in	0	0	0	0
Contributions to accumulation section	0	0	0	0
Past service cost	0	0	0	0
Settlements	0	0	0	0
Exchange rate changes	0	0	0	0
<b><i>Present value of defined benefit obligations at end of the year</i></b>	<b>6,965,466</b>	<b>1,080,224</b>	<b>68,496,669</b>	<b>76,542,358</b>

**Reconciliation of the effect of the Asset Ceiling - Para 140(a)(iii)**

	<b>SASS</b> Financial Year to 30 June 2016 \$	<b>SANCS</b> Financial Year to 30 June 2016 \$	<b>SSS</b> Financial Year to 30 June 2016 \$	<b>Total</b> Financial Year to 30 June 2016 \$
<b><i>Adjustment for effect of asset ceiling at beginning of the year</i></b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Interest on the effect of asset ceiling	0	0	0	0
Change in the effect of asset ceiling	0	0	0	0
<b><i>Adjustment for effect of asset ceiling at end of the year</i></b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

The adjustment for the effect of asset ceiling has been determined based on the maximum economic benefit available to the entity in the form of reductions in future employer contributions.



**Crown Solicitor's Office**  
**Notes to and forming part of the financial statements**  
*for the year ended 30 June 2016*

**21. DEFINED BENEFIT SUPERANNUATION (cont.)**

**Fair value of Fund assets - Para 142**

All Pooled Fund assets are invested by SAS Trustee Corporation (STC) at arm's length through independent fund managers, assets are not separately invested for each entity and it is not possible or appropriate to disaggregate and attribute fund assets to individual entities. **As such, the disclosures below relate to total assets of the Pooled Fund.**

**As at 30<sup>th</sup> June 2016**

Asset category	Total (A\$'000)	Quoted prices in active markets for identical assets		
		Level 1 (A\$'000)	Significant observable inputs Level 2 (A\$'000)	Unobservable inputs Level 3 (A\$'000)
Short Term Securities	2,050,414	2,044,454	5,960	-
Australian Fixed Interest	2,720,590	2,724	2,717,865	-
International Fixed Interest	834,374	(1,358)	835,731	-
Australian Equities	9,720,877	9,171,767	549,087	24
International Equities	12,093,667	9,026,207	2,078,766	988,694
Property	3,650,267	1,113,253	618,946	1,918,068
Alternatives	7,115,949	470,130	3,122,185	3,523,634
<b>Total*</b>	<b>38,186,138</b>	<b>21,827,178</b>	<b>9,928,540</b>	<b>6,430,420</b>

The percentage invested in each asset class at the reporting date is:

Asset Category	As at 30 June 2016
Short Term Securities	5.4%
Australian Fixed Interest	7.1%
International Fixed Interest	2.2%
Australian Equities	25.5%
International Equities	31.7%
Property	9.6%
Alternatives	18.6%
<b>Total*</b>	<b>100.0%</b>

\*Additional to the assets disclosed above, at 30 June 2016 Pooled Fund has provisions for receivables/(payables) estimated to be around \$2.83 billion. This gives total estimated assets of \$41.01 billion.

*Level 1 - quoted prices in active markets for identical assets or liabilities. The assets in this level are listed shares; listed unit trusts.*

*Level 2 - inputs other than quoted prices observable for the asset or liability either directly or indirectly. The assets in this level are cash; notes; government, semi-government and corporate bonds; unlisted trusts where quoted prices are available in active markets for identical assets or liabilities.*

*Level 3 - inputs for the asset or liability that are not based on observable market data. The assets in this level are unlisted property; unlisted shares; unlisted infrastructure; distressed debt; hedge funds.*

Derivatives, including futures and options, can be used by investment managers. However, each manager's investment mandate clearly states that derivatives may only be used to facilitate efficient cashflow management or to hedge the portfolio against market movements and cannot be used for speculative purposes or gearing of the investment portfolio. As such, managers make limited use of derivatives.

## 21. DEFINED BENEFIT SUPERANNUATION (cont.)

### Fair value of entity's own financial instruments - Para 143

The disclosures below relate to total assets of the Pooled Fund.

The fair value of the Pooled Fund assets as at 30 June 2016 include \$189.6 million in NSW government bonds.

Of the direct properties owned by the Pooled Fund:

- SAS Trustee Corporation occupies part of a property 100% owned by the Pooled Fund with a fair value of \$222 million (30 June 2015: \$159 million).
- Health Administration Corporation occupies part of a property 50% owned by the Pooled Fund with a fair value of \$243 million (30 June 2015: \$204 million).

### Significant Actuarial Assumptions at the Reporting Date - Para 144

As at	30 June 2016
Discount rate	1.99% pa
Salary increase rate (excluding promotional increases)	2.50% 2016/2017 to 2018/2019; 3.50% 2019/2020 and 2020/2021; 3.00% pa 2021/2022 to 2025/2026; 3.50% pa thereafter
Rate of CPI increase	1.5% 2015/2016; 1.75% 2016/2017; 2.25% 2017/2018; 2.50% pa thereafter
Pensioner mortality	The pensioner mortality assumptions are as per the 2015 Actuarial Investigation of the Pooled Fund. These assumptions are disclosed in the actuarial investigation report available from the trustee's website. The report shows the pension mortality rates for each age.

### Sensitivity Analysis - Para 145

The entity's total defined benefit obligation as at 30 June 2016 under several scenarios is presented below. The total defined benefit obligation disclosed is inclusive of the contribution tax provision which is calculated based on the asset level at 30 June 2016.

Scenarios A to F relate to sensitivity of the total defined benefit obligation to economic assumptions, and scenarios G and H relate to sensitivity to demographic assumptions.

	Base Case	Scenario A -1.0% discount rate	Scenario B +1.0% discount rate
Discount rate	1.99%	0.99%	2.99%
Rate of CPI increase	as above	as above	as above
Salary inflation rate	as above	as above	as above
Defined benefit obligation (A\$)	76,542,358	89,291,150	66,266,813

## 21. DEFINED BENEFIT SUPERANNUATION (cont.)

	<b>Base Case</b>	<b>Scenario C</b> <b>+0.5% rate of CPI</b> <b>increase</b>	<b>Scenario D</b> <b>-0.5% rate of CPI</b> <b>increase</b>
Discount rate	as above	as above	as above
Rate of CPI increase	as above	above rates plus 0.5% pa	above rates less 0.5% pa
Salary inflation rate	as above	as above	as above
Defined benefit obligation (A\$)	76,542,358	82,244,041	71,372,779

	<b>Base Case</b>	<b>Scenario E</b> <b>+0.5% salary</b> <b>increase rate</b>	<b>Scenario F</b> <b>-0.5% salary</b> <b>increase rate</b>
Discount rate	as above	as above	as above
Rate of CPI increase	as above	above rates plus	above rates less
Salary inflation rate	as above	0.5% pa	0.5% pa
Defined benefit obligation (A\$)	76,542,358	76,879,849	76,222,655

	<b>Base Case</b>	<b>Scenario G</b> <b>Higher</b> <b>mortality *</b>	<b>Scenario H</b> <b>Lower</b> <b>mortality**</b>
Defined benefit obligation (A\$)	76,542,358	75,644,121	77,932,464

\*Assumes the long term pensioner mortality improvement factors for years post 2021 also apply for years 2016 to 2021.

\*\*Assumes the short term pensioner mortality improvement factors for years 2016-2021 also apply for years after 2021.

The defined benefit obligation has been recalculated by changing the assumptions as outlined above, whilst retaining all other assumptions.

### Asset-Liability matching strategies - Para 146

The Trustee monitors its asset-liability risk continuously in setting its investment strategy. It also monitors cashflows to manage liquidity requirements. No explicit asset-liability matching strategy is used by the Trustee.

### Funding arrangements - Para 147(a)

Funding arrangements are reviewed at least every three years following the release of the triennial actuarial review and was last reviewed following completion of the triennial review as at 30 June 2015. Contribution rates are set after discussions between the employer, STC and NSW Treasury.

Funding positions are reviewed annually and funding arrangements may be adjusted as required after each annual review.

**Crown Solicitor's Office**  
**Notes to and forming part of the financial statements**  
for the year ended 30 June 2016

**21. DEFINED BENEFIT SUPERANNUATION (cont.)**

**Surplus/deficit**

The following is a summary of the 30 June 2016 financial position of the Fund calculated in accordance with AAS 25 "Financial Reporting by Superannuation Plans":

	<b>SASS</b> 30 June 2016 \$	<b>SANCS</b> 30 June 2016 \$	<b>SSS</b> 30 June 2016 \$	<b>Total</b> 30 June 2016 \$
Accrued benefits	6,258,839	1,095,412	33,090,230	40,444,481
Net market value of Fund assets	(8,314,223)	(2,930,887)	(41,101,481)	(52,346,591)
<b>Net (surplus)/deficit</b>	<b>(2,055,384)</b>	<b>(1,835,475)</b>	<b>(8,011,251)</b>	<b>(11,902,110)</b>

**Contribution recommendations**

Recommended contribution rates for the entity are:

	<b>SASS</b> multiple of member contributions	<b>SANCS</b> % member salary	<b>SSS</b> multiple of member contributions
	1.9	2.50%	1.5

**Economic assumptions**

The economic assumptions adopted for the 30 June 2015 actuarial investigation of the Pooled Fund are:

**Weighted-Average Assumptions**

Expected rate of return on Fund assets backing current pension liabilities	7.8% pa
Expected rate of return on Fund assets backing other liabilities	6.8% pa
Expected salary increase rate (excluding promotional salary increases)	3.0% to 30 June 2019 then 3.5% pa thereafter
Expected rate of CPI increase	2.5% pa

**Expected contributions - Para 147(b)**

	<b>SASS</b> Financial Year to 30 June 2017 \$	<b>SANCS</b> Financial Year to 30 June 2017 \$	<b>SSS</b> Financial Year to 30 June 2017 \$	<b>Total</b> Financial Year to 30 June 2017 \$
Expected employer contributions	163,926	50,638	109,833	324,397

**Maturity profile of defined benefit obligation - Para 147(c)**

The weighted average duration of the defined benefit obligation is 14.1 years.

**Crown Solicitor's Office**  
**Notes to and forming part of the financial statements**  
*for the year ended 30 June 2016*

**21. DEFINED BENEFIT SUPERANNUATION (cont.)**

**Profit and Loss Impact**

	<b>SASS</b> Financial Year to 30 June 2016 \$	<b>SANCS</b> Financial Year to 30 June 2016 \$	<b>SSS</b> Financial Year to 30 June 2016 \$	<b>Total</b> Financial Year to 30 June 2016 \$
Current service cost	239,748	59,681	0	299,429
Net interest	(52,167)	(58,158)	518,282	407,957
Past service cost	0	0	0	0
(Gains)/Loss on settlement	0	0	0	0
<b>Defined benefit cost</b>	<b>187,581</b>	<b>1,524</b>	<b>518,282</b>	<b>707,387</b>

**Other Comprehensive Income**

	<b>SASS</b> Financial Year to 30 June 2016 \$	<b>SANCS</b> Financial Year to 30 June 2016 \$	<b>SSS</b> Financial Year to 30 June 2016 \$	<b>Total</b> Financial Year to 30 June 2016 \$
Actuarial (gains) losses on liabilities	309,151	90,367	9,868,233	10,267,750
Actual return on Fund assets less Interest income	(16,693)	1,703	(48,058)	(63,048)
Effects of transfers in/out due to business combinations and disposals	0	0	0	0
Adjustment for effect of asset ceiling	0	0	0	0
<b>Total remeasurement in Other Comprehensive Income</b>	<b>292,458</b>	<b>92,070</b>	<b>9,820,175</b>	<b>10,204,703</b>

**22. EVENTS AFTER THE REPORTING PERIOD**

No events have occurred between the financial reporting date and the date of these financial statements that require adjustment to, or disclosure in, these financial statements.

**End of audited financial statements.**

## 11. APPENDICES

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Appendix 1	Accounts payment performance
Appendix 2	Consultants
Appendix 3	Consumer response
Appendix 4	Credit card certification
Appendix 5	Digital information security policy attestation
Appendix 6	Disability Action Plan
Appendix 7	Diversity and Multicultural Outcomes
Appendix 8	<i>Government Information (Public Access) Act 2009</i>
Appendix 9	Insurance Activities
Appendix 10	Internal audit and risk management policy attestation
Appendix 11	Legal Change
Appendix 12	Other – cost to produce report and access
Appendix 13	Overseas visits by employees and officers
Appendix 14	<i>Privacy and Personal Information Protection Act 1998</i>
Appendix 15	Public Interest Disclosures
Appendix 16	Sustainability

## Appendix 1: Accounts payment performance

### Aged Analysis at the end of each quarter Year ended 30 June 2016

Quarter	Current (i.e. within due date) \$'000	Less than 30 days overdue \$'000	Between 30 and 60 days overdue \$'000	Between 60 and 90 days overdue \$'000	More than 90 days overdue \$'000
<b>All suppliers*</b>					
September	2,978	-	-	-	-
December	4,647	-	-	-	-
March	3,223	-	-	-	-
June	5,205	-	-	-	-
<b>Small business suppliers</b>					
September	-	-	-	-	-
December	-	-	-	-	-
March	-	-	-	-	-
June	-	-	-	-	-

\*Note: These balances (with the exception of \$9,093 in June) represent the amounts owing to Department of Justice at the end of month for reimbursement of payroll and other costs. These amounts are settled with the Department of Justice in the following month. All other creditors are paid in the month that the invoice is received / approved for payment.

### Accounts paid within each quarter (excluding Department of Justice)

Measure	September \$'000	December \$'000	March \$'000	June \$'000
<b>All suppliers</b>				
No of accounts due for payment	3,115	4,391	2,841	3,207
No of accounts paid on time	3,104	4,377	2,815	3,181
Actual % of accounts paid on time (based on no of accounts)	99.6%	99.7%	99.1%	99.2%
Dollar amount of accounts due for payment	\$10,141	\$10,046	\$9,041	\$11,764
Dollar amount of accounts paid on time	\$10,109	\$10,009	\$8,928	\$11,729
Actual % of accounts paid on time (based on \$)	99.7%	99.6%	98.8%	99.7%
No of payments for interest on overdue accounts	2	2	5	4
Interest paid on overdue accounts	\$394.11	\$198.71	\$314.57	\$242.07
<b>Small business suppliers</b>				
No of accounts due for payment	632	601	541	602
No of accounts paid on time	621	587	515	576
Actual % of accounts paid on time (based on no of accounts)	98.3%	97.7%	95.2%	95.7%
Dollar amount of accounts due for payment	\$2,120	\$2,315	\$1,948	\$2,497
Dollar amount of accounts paid on time	\$2,088	\$2,278	\$1,835	\$2,462
Actual % of accounts paid on time (based on \$)	98.5%	98.4%	94.2%	98.6%
No of payments for interest on overdue accounts	2	2	5	4
Interest paid on overdue accounts	\$394.11	\$198.71	\$314.57	\$242.07

## **Payment of mandatory interest to small business suppliers**

The CSO incurred interest during the year to declared small business suppliers totalling \$1,149.46. The main reasons for payment delay are the misplacement of invoices and/or invoices lost in the post.

## **Initiatives to improve payment performance**

The CSO continues to support satisfactory payment performance through:

- use of electronic funds transfer as the preferred method of paying creditors
- payment of major suppliers by way of consolidated invoicing
- reminding CSO staff of the payment performance requirements and advising all new staff as part of staff induction.

The project to replace the current Practice Management System will incorporate centralised receipting and use of electronic workflow for approval of invoices.



## 11.2 Appendix 2: Consultants

### Consultant expenditure over \$50,000

Company name	Amount	Description	Nature of services
Julian Midwinter	\$60,000	Review of Legal Support Services	Management Services
<b>Total expenditure</b>	<b>\$60,000</b>		

### Consultant expenditure under \$50,000

Consultancy category	Amount	Number
Management Services	\$49,462	2
<b>Total expenditure</b>	<b>\$49,462</b>	

Total consultant expenditure in 2016-17 was \$109,462

## 11.3 Appendix 3: Consumer response

The CSO regularly surveys clients through its annual client survey and its bi-monthly end of matter surveys. Feedback and suggestions from clients are followed up with clients and staff and inform our client service strategies.

The CSO has a formal procedure for handling complaints (from clients or any other person), and this procedure is made known to all staff via the CSO Procedures Manual and the CSO Intranet, and to clients and interested members of the public via the CSO website. A record is kept of all complaints.

There were no significant complaints in this reporting period.

11.4 Appendix 4: Credit card certification

**Crown Solicitor's Office**  
**Certification of Corporate Credit Card Usage 2015/16**

In accordance with the Treasurer's Direction 205.01, it is hereby certified that the use of corporate credit cards has been in accordance with government guidelines.

  
\_\_\_\_\_  
Lee Armstrong  
Crown Solicitor

*16/8/2016*

AD2014.1.7 D2016/509285

## Appendix 5: Digital information security policy attestation statement



**Crown  
Solicitor's  
Office**

ICT Board  
c/o ICT Policy  
Department of Finance & Services  
2-24 Rawson Place  
SYDNEY NSW 2000

### **Digital Information Security Annual Attestation Statement for the 2015-2016 Financial Year for NSW Crown Solicitor's Office**

I, Lea Armstrong, NSW Crown Solicitor, am of the opinion that Department of Justice, Information Technology Services (our shared service provider) had an Information Security Management System in place during the 2015-16 financial year that is consistent with the Core Requirements set out in the NSW Government Digital Information Security Policy.

The controls in place to mitigate identified risks to the digital information and digital information systems of NSW Crown Solicitor's Office are adequate with the exception of formal disaster recovery plans which are in the process of achieving full compliance following the completion of implementation of full build and testing of the Disaster Recovery environment in the GovDC.

The NSW Crown Solicitor's Office is in the process of implementing systems which will integrate with existing Electronic Document & Records Management System, email system and Microsoft Office for compliance with the NSW Government Information Classification, Labelling and Handling Guidelines, and will continue to incorporate these changes into business processes.

There is no agency under the control of the NSW Crown Solicitor's Office which is required to develop an independent Information Security Management System pursuant to the NSW Government Digital Information Security Policy.

For the purpose of compliance with the NSW Government Digital Information Security Policy, the NSW Crown Solicitor's Office has relied on the attestation by Department of Justice, Information Technology Services that they have maintained certified compliance with AS/NZS ISO/IEC 27001 Information technology - Security techniques - Information Security Management Systems - Requirements by an accredited third party during the 2015-2016 financial year.

Yours faithfully

Lea Armstrong  
**Crown Solicitor**

**CROWN SOLICITOR'S OFFICE** A/HL 50 132 005 544 50-70 Elizabeth Street Sydney NSW 2000 GPO Box 25 Sydney 2001 DX 19 Sydney  
Telephone 02 9224 5000 Fax 02 9224 5011 Email [crownsol@cso.nsw.gov.au](mailto:crownsol@cso.nsw.gov.au) [www.cso.nsw.gov.au](http://www.cso.nsw.gov.au)

AD2013.60 D2C15/531650

## 11.6 Appendix 6: Disability inclusion action plan

In the previous reporting period, the CSO indicated that the Department of Justice Disability Action Plan 2014-16 would continue to apply until a CSO specific plan was developed. The CSO Disability Inclusion Plan (replacing Disability Action Plans pursuant to the *Disability Inclusion Act 2014*) will be included in the program schedule for policy development and progressed in the next reporting period.

The CSO continues to apply the Reasonable Adjustment policy across the office and, in this reporting period, we continued to monitor and support our managers in ensuring that effective reasonable adjustments were implemented and maintained for seven cases, three of which were long-term cases. The CSO continues to participate in the Stepping into Law program and recruited a student to undertake work experience during the semester break.

As part of promoting workplace awareness and ensuring workplace support for those with a disability, the CSO continues to work collaboratively with government disability services such as Job Access, Australia Network on Disability and other rehabilitation providers to assist in the recruitment and placement of future candidates.

## Appendix 7: Diversity and multicultural outcomes

For the reporting period, the CSO participated in the following programs:

- CSO Graduate Solicitor Rotation program — this program rotates graduate solicitors through four practice groups over a two year period. It aims to develop skills in advice writing, litigation and transactional work and exposes graduates to different areas of law. Graduates in this program assist senior solicitors in the conduct of legal matters and undertake targeted training activities in the first two years to ensure that capability levels of a Grade I-III solicitor are achieved by the end of the program.
- Stepping into Law program — employs university students with disabilities. The program creates a workplace culture within the CSO that values diversity and promotes the employment of people with disabilities. The CSO engaged one intern during the reporting year.
- Lucy Mentoring program — gives young women an opportunity to work with senior legal staff, providing them with support, guidance and encouragement to advance their career. Two university students have been mentored during the reporting period.
- Law student promotions — via career fairs and guides provide information on career pathways and experiences. The CSO participated in four career fairs and law series and contributed to three university law career guides.

The CSO is continuing to work on GSE reforms and Senior Executive Implementation. It is expected that targeted recruitment programs will commence in the next reporting period.

The CSO continued to be a member of the Department of Justice Equity and Diversity Alliance and actively promoted:

- learning and development programs
- flexible working arrangements
- reasonable adjustments in the workplace
- career development opportunities through office-wide expressions of interest.

A CSO-specific diversity plan will be developed in the new reporting period as part of the scheduled program for review and development of policies.

## Statistical Information on EEO target groups

**Table 1. Trends in the representation of EEO Groups <sup>(1)</sup>**

EEO Group	Benchmark or target	% of Total Staff <sup>(2)</sup>				
		2012	2013	2014*	2015	2016
Women	50%	N/A	N/A	73.1%	73.8%	73.6%
Aboriginal people & Torres Strait Islanders	2.6% <sup>(3)</sup>	N/A	N/A	1.6%	1.4%	1.1%
People whose first language was not English	19%	N/A	N/A	15.2%	15.4%	13.5%
People with a disability	N/A <sup>(4)</sup>	N/A	N/A	2.9%	3.4%	2.63%
People with a disability requiring work-related adjustment <sup>(5)</sup>	1.1% (2011) 1.3% (2012) 1.5% (2013) 1.5% (2015)	N/A	N/A	2.4%	1.1%	1.6%

**Table 2. Trends in the distribution of EEO Groups <sup>(6)</sup>**

EEO Group	Benchmark or target	Distribution Index <sup>(7)</sup>				
		2012	2013	2014*	2015	2016
Women	100	N/A	N/A	91	92	96
Aboriginal people & Torres Strait Islanders	100	N/A	N/A	N/A	N/A	N/A
People whose first language was not English	100	N/A	N/A	93	86	90
People with a disability	100	N/A	N/A	N/A	N/A	N/A
People with a disability requiring work-related adjustment	100	N/A	N/A	N/A	N/A	N/A

NOTE: Information for the above tables is provided by the Workforce Information Unit, NSW Public Service Commission.

\*Information only available from 2014 onwards as the Crown Solicitor's Office formed part of the Department of Justice prior to February 2014.

<sup>(1)</sup> Based on staff numbers as at 30 June

<sup>(2)</sup> Excludes casual staff

<sup>(3)</sup> Minimum target by 2016

<sup>(4)</sup> Percent employment levels are reported but a benchmark level has not been set

<sup>(5)</sup> Minimum annual incremental target

<sup>(6)</sup> A Distribution Index of 100 indicates that the centre of the distribution of the Workforce Diversity group across salary levels is equivalent to that of other staff. Values less than 100 mean that the Workforce Diversity group tends to be more concentrated at lower salary levels than is the case for other staff. The more pronounced this tendency is, the lower the index will be. In some cases, the index may be more than 100, indicating that the Workforce Diversity group is less concentrated at lower salary levels. The Distribution Index is not calculated where Workforce Diversity group or non-Workforce Diversity group numbers are less than 20.

## 11.8 Appendix 8: *Government Information (Public Access) Act 2009*

### **Details of the agency's review under s. 7(3) *GIPA Act***

The CSO became an Executive Agency (related to the Department of Justice) on 24 February 2014. On 12 December 2014, the CSO was declared not to be a separate agency for the purpose of the *GIPA Act* and taken to be a part of, and included in the Department of Justice (cl. 6 of Sch. 4 to the *GIPA Act* and cl. 12 and Sch. 3 to the *GIPA Regulation*). Accordingly, the CSO does not exercise functions in relation to *GIPA* applications – these are dealt with by the Department of Justice.

### **Total number of access applications received during the year**

- None

### **Total number of access applications refused, wholly or in part, because of conclusive presumption against disclosure**

- None

### **Statistical information**

- Not applicable

### **Subsidiary agencies**

- The CSO has no subsidiary agencies

## 11.9 Appendix 9: Insurance activities

Major insurance risks for the CSO are the security of its staff, property and other assets, as well as the risk of work-related injuries, which may result in workers' compensation insurance claims. Accordingly, the CSO has full workers' compensation, property, liability and miscellaneous insurance cover provided by the Treasury Managed Fund ("TMF"). The TMF is a government-wide self-insurance scheme that provides a systematic and coordinated approach to the practice of risk management. Under this scheme, benchmarking was introduced to gauge risk management performance with insurance premiums determined by a combination of benchmarks and the CSO's claims experience.

QBE Insurance manages the CSO's workers' compensation insurance and GIO General Ltd manages the CSO's other insurances. To reduce the number and value of workers' compensation insurance claims, the CSO monitors its claims experience on an ongoing basis, with a focus on work, health and safety and claims management.

Risk management policies and procedures are also continually being reviewed with the aim of enhancing our risk management profile, thereby reducing future premiums.

## Appendix 10: Internal audit and risk management policy attestation



**Crown  
Solicitor's  
Office**

**Your Ref:**  
**My Ref:** AD2015.56  
Cheryl Drummy **Tel** (02) 92245041  
crownsol@csso.nsw.gov.au

21 October 2016

Mr Sean Osborn  
Directory, Financial Management & Accounting Policy  
NSW Treasury  
52 Martin Place  
SYDNEY NSW 2000

**By email**

Dear Mr Osborn,

**Internal Audit and Risk Management Attestation Statement for the 2015 - 2016 Financial Year for the NSW Crown Solicitor's Office**

I, Lea Armstrong, am of the opinion that the Crown Solicitor's Office has internal audit and risk management processes in operation that are, excluding the exceptions or transitional arrangements described below, compliant with the eight (8) core requirements set out in the *Internal Audit and Risk Management Policy for the NSW Public Sector*, specifically:

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

**CROWN SOLICITOR'S OFFICE** ABN 50 132 005 544 60-70 Elizabeth Street Sydney NSW 2000 GPO Box 25 Sydney 2001 DX 19 Sydney  
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<b>Audit and Risk Committee</b>	
3.1 An independent Audit and Risk Committee with appropriate expertise has been established	Compliant
3.2 The Audit and Risk Committee is an advisory committee providing assistance to the agency head on the agency's governance processes, risk management and control frameworks, and its external accountability obligations	Compliant
3.3 The Audit and Risk Committee has a Charter that is consistent with the content of the 'model charter'	Compliant

### ***Exceptions or Transitional Arrangements***

Nil.

### ***Membership***

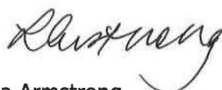
The prior chair and independent members of the Audit and Risk Committee were:

- Chair, Brian Suttor, May 2013 - September 2015
- Independent Member 1, Ian Neale, May 2013 - September 2015
- Independent Member 2, Paul Crombie, May 2013 - September 2015
- Independent Member 3, Joan Wilcox, May 2013 - September 2015
- Independent Member 4, Arthur Butler, May 2013 - September 2015

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

- Chair, Carolyn Burlew, October 2015
- Independent Member 1, John Pearson, March 2016
- Independent Member 2, David Antaw, November 2015
- Independent Member 3, Leah Fricke, November 2015
- Independent Member 4, Ralph Kelly, November 2015

Yours faithfully



Lea Armstrong  
**Crown Solicitor**

Contact Office: Cheryl Drummy A/Practice Manager, Tel (02) 9224-5041

AD2015.56.0001

## 11.11 Appendix 11: Legal change

On 29 June 2016, Premier's Memorandum M2016-03 – Model Litigant Policy for Civil Litigation and Guiding Principles for Civil Claims for Child Abuse was issued.

## 11.12 Appendix 12: Other – costs to produce report and access

No costs were incurred in the production of this report.

This report may be requested on CD-ROM by contacting: [csomarketing@cso.nsw.gov.au](mailto:csomarketing@cso.nsw.gov.au)

This report can be accessed at the CSO's website — [www.cso.nsw.gov.au](http://www.cso.nsw.gov.au) — under the Policy and Tabled Documents section.

## 11.13 Appendix 13: Overseas visits by employees and officers

There were no overseas visits by CSO employees or officers during the reporting period.

## 11.14 Appendix 14: *Privacy and Personal Information Protection Act 1998*

During 2015/16, the CSO received no requests for privacy internal reviews under the *Privacy and Personal Information Protection Act 1998* ("PPIP Act").

The Crown Solicitor has sought (but not yet received) the approval of the Department of Justice to the making of a regulation under s. 4B(1)(a), *PPIP Act* declaring the CSO not to be regarded as a separate public sector agency and, instead, to be regarded for the purposes of the *PPIP Act* as part of and included in the Department of Justice.

## 11.15 Appendix 15: Public Interest Disclosures

There were no Public Interest Disclosures ("PID") to the CSO in the reporting period.

The CSO has a PID Policy in place. The policy has been emailed to all staff, is included in the Staff Manual, the Office's intranet site and is published on its public website.

## 11.16 Appendix 16: Sustainability

The CSO is committed to implementing sustainable practices in its workplace.

The CSO joined the NSW Office of Environment and Heritage ("OEH") Sustainability Advantage program in 2011 and has been a Bronze Partner in the Sustainability Advantage program since 2014.

The CSO's Sustainability Committee identifies and promotes the sustainability targets. Sections on both its intranet and public website outline its sustainability credentials and

achievements, along with details in the CSO Staff Manual. Sustainability targets are built into the CSO's Business Plan.

The Sustainability Advantage program supports the CSO in identifying how it can measure and reduce its impact on the environment, along with lowering expenditure on resources and energy, improving productivity, instigating innovative practices and enhancing its reputation.

In March 2016, the CSO Sustainability Committee ran a successful awareness campaign to encourage reduction of energy usage that contributed to a reduction of 7.8 per cent energy usage over that time.

During the reporting period, the CSO participated in the Government Resource Efficiency Policy Reporting Working group, which has led to development work on the user portal, Centralised Analysis System for Performance of Energy and Resources, CASPER.

Additionally, Committee members attended Australian Legal Sector Alliance events, jointly run by OEH, which aims to improve sustainability in the legal sector.