



Crown Solicitor's Office
Annual Report
2020-2021

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Crown
Solicitor's
Office

29 October 2021

The Hon Mark Speakman SC MP
Attorney General
52 Martin Place
SYDNEY NSW 2000

Dear Attorney General

I am pleased to submit for presentation to Parliament the annual report of the NSW Crown Solicitor's Office for the period 1 July 2020 to 30 June 2021.

The report has been prepared in accordance with the *Annual Reports (Departments) Act 1985*.

Yours faithfully

A handwritten signature in black ink that reads 'Karen Smith'.

Karen Smith
Crown Solicitor

CROWN SOLICITOR'S MESSAGE

It is my pleasure to introduce the annual report for the Crown Solicitor's Office (CSO) for the financial year ended 30 June 2021.

In a year filled with unexpected challenges, I am proud of the resilience, dedication and skill that CSO staff have displayed, enabling the CSO to deliver clear, authoritative legal advice and facilitate the effective and efficient resolution of legal disputes.

We have a strong tradition of providing high quality and cost-effective legal services to our clients – the NSW Government and its agencies.

With a constant emphasis on the CSO core values of client focus and a culture of continuous improvement, we will continue to build on the clarity and timeliness of our advices, the provision of strategic legal advice, and growing non-core legal work.

Legal growth areas

Through the year, the CSO continued to assist the State of NSW in responding to the COVID-19 pandemic as it unfolded. We provided advice and representation in response to issues related to the pandemic.

Growth in the diversity and volume of criminal law work streams led to practice group changes at the start of the financial year. Reflecting the diversity of these growing work streams, two new practice groups were formed within the Inquiries and Criminal Law division: the Public Safety and Justice and the Regulatory and Environment practice groups have replaced the CSO's Criminal Law practice group.

Training and value-adding services

In the early months of 2021, we delivered several sector-wide live-streamed seminars and training sessions to clients. One of these events was the CSO's inaugural induction training program for NSW Government solicitors, designed for legal staff new to the NSW Government sector.

Legal service panels

The CSO's appointment to the new icare legal services panel was announced in June 2021. The new NSW Government Legal Services (GLS) panel was also announced in June. The CSO sits alongside the GLS panel, enabling NSW Government agencies to engage the CSO for work that falls under the panel, at any time.

Our performance

The CSO achieved a net surplus of \$0.6M. The office will make a distribution payment of \$0.2M from the distributable operating surplus, as approved by the Treasurer.

Revenue of \$71.1M was materially on budget of \$71.3M, and \$2.1M lower than 2019-20. The volumes of work in legal practice groups remained broadly in line with the previous year and budget.

I look forward to meeting the challenges of the coming year.

Karen Smith
Crown Solicitor

AGENCY OVERVIEW

The CSO exists to be the NSW Government's most trusted legal advisors. Our principal objective is to advise and represent agencies to support them in delivering the NSW Government's policies, programs and projects in a lawful, effective and efficient manner. Our strategic direction is guided by the State Outcome, 'effective and efficient resolution of legal disputes.'

The CSO is the largest provider of legal services to the NSW Government and its agencies. The Crown Solicitor is the solicitor on the record for the purpose of legal proceedings when representing the State, agencies, or Ministers.

A public service executive agency established under the *Government Sector Employment Act 2013*, the office is headed by the NSW Crown Solicitor. The Crown Solicitor is responsible to the Attorney General for the general conduct and management of the functions and activities of the CSO.

The CSO is part of the Stronger Communities cluster. The cluster's Principal Department is the Department of Communities and Justice.

Clients

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

- the State of NSW
- a person suing or being sued on behalf of the State of NSW
- a Minister of the Crown acting in his or her official capacity
- a body established by an Act or other law of NSW
- a statutory officer or employee of the Public Service or any other service of the State of NSW or of a body established by an Act or other law of NSW
- a person holding office under an Act or other law of NSW 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.

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

Legal services

The legal services provided by the CSO include legal advice; representation in litigation; representation at inquests and other inquiries; negotiating property and commercial transactions; drafting documents and agreements, including intergovernmental agreements; assisting Royal Commissions and other inquiries; preparing publications; and training and information for government agencies.

Core legal work

Through her office, the Crown Solicitor is the sole provider of legal services to the NSW Government in all matters that are regarded as 'core legal work'.

Premier's Memorandum 2016-04 directs that the Crown Solicitor must be engaged by government agencies (subject to that Memorandum) to perform such work.

A matter constitutes core legal work where: the best interests of the NSW Government as a whole require a single source of authoritative legal advice and central management; or it relates to the statutory or common law functions of the Attorney General.

Approximately 70% of the CSO's work is core legal work, performed at cost recovery rates. The Crown Solicitor's legal fees and disbursements for core legal work are met from the Attorney General's Legal Fund, unless some other source of funding is available, such as the Treasury Managed Fund (TMF).

Contestable legal work

The CSO competes with the private sector to deliver non-core legal work to government agencies, including under the new icare legal services panel and alongside the NSW Government Legal Services Panel.

Legal practice groups

The CSO comprises several specialist practice groups.

Child Protection

Specialises in child protection law in the State and federal jurisdictions, contested and non-contested adoptions and statutory wills for children.

Commercial Law

Delivers targeted, specialist assistance in areas of commercial law that apply to agencies, including government procurement, public finance and Crown copyright. The team also acts in state revenue litigation and provides representation and assistance in sensitive contractual disputes.

Community Law

Specialises in highly sensitive and complex matters for the state, including public interest immunity claims, charitable trusts, and adult guardianship and non-employment related discrimination matters.

Constitutional and Administrative Law

Specialises in constitutional law, intergovernmental agreements, statutory interpretation, administrative law, privacy and access to information.

Employment Law and Industrial Relations

Manages all aspects of employment law and industrial relations in both State and federal jurisdictions, including in relation to workplace discrimination, licensing, and work, health and safety obligations.

Government Law

The Crown Solicitor heads a small practice group focussed on significant government legal issues, including Parliament and executive power.

Inquiries

Specialises in complex inquisitorial proceedings, including coronial inquests, royal commissions and special commissions of inquiry, and matters concerning investigatory powers and procedures.

Property and Native Title

Provides advice and representation in all native title and Aboriginal land rights matters for the state, as well as property transactions and representation and advice regarding Crown land, compulsory acquisitions and land valuation appeal matters.

Public Safety and Justice

Provides advice and conducts proceedings including in relation to post-sentence supervision and detention of high risk offenders, parole, reviews of convictions and allegations of contempt of court.

Regulatory and Environment

Conducts summary prosecutions for environmental and other regulatory offences, and advises regulators on issues including enforcement, criminal law and procedure, and evidence.

Torts (Service/Regulatory Agencies)

Specialises in the defence and settlement of civil claims, with a focus on personal injury and negligence actions against health and other state service agencies. The practice group also represents agencies in coronial inquests.

Torts (Justice/Law Enforcement Agencies)

Undertakes all aspects of the defence and settlement of civil claims, specialising in claims for intentional torts involving law enforcement and justice agencies, and historical abuse claims.

MANAGEMENT AND STRUCTURE

Organisational structure

As at 30 June 2021

Crown Solicitor
Karen Smith

Assistant Crown Solicitor
Civil Law Division
Cheryl Drummy

Director, Community Law
Penny Csenderits

Director, Torts (Justice and Law
Enforcement Agencies)
Richard Kelly

Director, Torts (Service and Regulatory
Agencies)
Fiona Read

Assistant Crown Solicitor
Commercial and Property Law Division
Felicity Shaw

Director, Commercial Law
Michael Granziera

Director, Property and Native Title
Jodi Denehy

Assistant Crown Solicitor
Inquiries and Criminal Law Division
Naomi Malhotra

Director, Inquiries
Alana McCarthy

Director, Public Safety and Justice
Brett Thomson

Director, Regulatory and Environment
Sarah-jane Morris

Director, THRO
Enzo Camporeale

Assistant Crown Solicitor
Administrative Law, Employment and
Child Protection Division
John McDonnell

Director, Child Protection
Nick Mitrevski

Director, Constitutional and
Administrative Law
Paolo Buchberger

Director, Employment Law and Industrial
Relations
Marina Rizzo

Corporate Services Division

Director, Finance and Support Services
Anna Brennan

Director, Information Management and
Technology
David Schneider

Director, People and Transformation
(Role vacant)

The CSO Executive

The CSO Executive comprises the Crown Solicitor and four Assistant Crown Solicitors, as at 30 June 2021.

Executive profiles



Karen Smith, Crown Solicitor

Karen was appointed to the role of Crown Solicitor in April 2019. She has spent more than 20 years as a lawyer with various NSW Government agencies. Prior to commencing as Crown Solicitor, Karen was General Counsel and Deputy Secretary at the Department of Premier and Cabinet, with responsibilities encompassing legal, governance and corporate services.

Qualifications: BEc, LLB, LLM



Cheryl Drummy, Assistant Crown Solicitor

Cheryl leads the Civil Law division. A solicitor at the CSO for 18 years, Cheryl has extensive experience across a variety of legal areas, including six years as Director of the Child Protection practice group.

Qualifications: BA(Politics), LLB(Hons)



Naomi Malhotra, Assistant Crown Solicitor

Naomi leads the Inquiries and Criminal Law division. Naomi has over 17 years' experience in government law and litigation, specialising in criminal and inquisitorial proceedings. She previously practised in, and later led as Director, the CSO's Criminal Law practice group.

Qualifications: BA, LLB (Hons)



John McDonnell, Assistant Crown Solicitor

John leads the Administrative Law, Employment and Child Protection division. His expertise includes representing State government agencies in relation to statutory interpretation, judicial and merits review, access to information and privacy.

Qualifications: BA, LLB



Felicity Shaw, Assistant Crown Solicitor

Felicity leads the Commercial and Property Law division. Her prior experience in the public sector (in both state and commonwealth agencies) involved a range of commercial initiatives, including asset divestments and infrastructure projects.

Qualifications: BSc, LLB (Hons), MEL, GAICD

OPERATIONS AND ACHIEVEMENTS

Delivering legal services to the State of NSW

The CSO accepted instructions in 3,926 new matters during 2020-21.

New practice groups

In July 2020, the CSO established two new practice groups within the Inquiries and Criminal Law division. The Public Safety and Justice, and the Regulatory and Environment practice groups replaced the CSO's Criminal Law practice group. The change was driven by the need to accommodate the diversity and growth of work streams managed by the Criminal Law practice group. The new structure supports delivery of more focussed and specialised legal services to our clients.

REGULATORY AND ENVIRONMENT

The new Regulatory and Environment practice group specialises in advising and representing agencies in relation to regulatory compliance and prosecutions, statutory interpretation in the environment and natural resources context, as well as criminal law, evidence and procedure.

Throughout the year, this practice group acted for the prosecutor in a range of prosecutions for environmental and other regulatory offences. This included several water and fisheries prosecutions in which convictions were secured and penalties imposed having regard to the harm to the regulatory system and impact on principles of ecologically sustainable development.

PUBLIC SAFETY AND JUSTICE

The newly established Public Safety and Justice practice group specialises in work including advice and proceedings concerning post-sentence supervision and detention of high risk offenders; reviews of convictions and allegations of contempt of court; and assisting police to protect victims of domestic violence.

During 2020-21, the CSO acted for the State of NSW in over 50 Supreme Court applications for extended supervision orders (ESOs) and continuing detention orders under the *Crimes (High Risk Offenders) Act 2006* (CHRO Act) and the *Terrorism (High Risk Offenders) Act 2017* (THRO Act). The CSO also acted in appeal proceedings related to these matters, including:

- *Tannous v State of NSW*, in which the NSW Court of Appeal accepted the State's submissions and dismissed the appeal by Mr Tannous challenging the Supreme Court's interpretation of the CHRO Act concerning the permissible duration of an ESO.
- *Cheema v State of NSW*, in which the NSW Court of Appeal accepted the State's submissions and dismissed the appeal by Mr Cheema who submitted that posting a single image online was insufficient to establish he had advocated support for terrorism or violent extremism, and that the THRO Act should be read down as it infringes the implied freedom of political communication.

We also acted for the State of NSW, the Secretary of the Department of Communities and Justice and the Commissioner of Corrective Services in parole matters concerning terrorist and other high risk offenders under the *Crimes (Administration of Sentences) Act 1999* and the *Children (Detention Centres) Act 1987*.

Employment and industrial relations

The CSO continued to provide employment and industrial relations advice and representation to agencies, receiving instructions in more than 180 new advice and litigation matters in 202-21. Matters involved issues such as disciplinary appeals, advice on COVID-19 workplace issues, termination, disciplinary action, discrimination and work health and safety matters.

We also provided advice and representation in proceedings concerning working with children clearances on behalf of the Children's Guardian, and advised and represented NSW Government agencies in relation to licensing matters, including reviewing refusals to grant tattooist and tattoo operator licences, firearms licences and applications to revoke firearms protection orders.

We acted in many matters involving high profile and complex NSW Government sector industrial issues, including urgent industrial disputes, complex award proceedings and industrial prosecutions.

Most significantly, we represented State agencies in confining public sector salary increases.

Complex inquests and inquiries

The CSO assisted the State Coroner and her deputies in inquests and fire inquiries that considered issues of public safety. This included matters relating to deaths in custody that resulted in recommendations aimed at suicide prevention and improving procedures for inmates returning from hospital, and several ongoing inquests involving missing persons which considered improvements to the way such matters are responded to and investigated.

We assisted in the inquest into the deaths of John, Jack and Jennifer Edwards, who each died as a result of gunshot wounds inflicted by John Edwards. The inquest resulted in recommendations concerning the response to domestic violence incidents and the regulatory scheme of firearms licensing in NSW. Details of this case are provided in the 'Significant matters' section of this report.

The CSO also represented agencies in significant inquests.

Royal commissions

Since 2019, the CSO has been representing the State of NSW from a whole-of-government perspective in the Royal Commission into Aged Care Quality and Safety, and the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.

We also represented the State in the Royal Commission into National Natural Disaster Arrangements (also known as the Bushfires Royal Commission).

We provided significant volumes of information and witness statements to each royal commission concerning issues affecting multiple government agencies.

Two of these royal commissions were completed during 2020-21. The Bushfires Royal Commission delivered its final report on 28 October 2020, and the Aged Care Royal Commission delivered its final report on 26 February 2021.

In the ongoing Disability Royal Commission, the CSO advised and appeared for the State of NSW before several public hearings. These included hearings concerning:

- the experiences of First Nations people with disability and families in contact with the child protection system
- the challenges and supports provided to people with cognitive impairment involved in the criminal justice system and the interface with the NDIS
- the experiences of people with disability during the COVID-19 vaccine rollout.

Major litigation and representation

The CSO successfully represented agencies in a range of matters, including those related to revenue, liquor licensing, employment, child protection, adoptions, privacy, the *Government Information (Public Access) Act 2009*, judicial review, valuation of land under the *Valuation of Land Act 1916* and compensation with respect to the compulsory acquisition of land.

In complex intentional tort litigation, the CSO achieved success for the State in *Edwards v State of New South Wales* (Supreme Court malicious prosecution proceedings). The case involved a prosecution brought by the NSW Police Force and Director of Public Prosecutions in respect of charges of attempted murder. Judgment was delivered for the defendant following 11 days of hearing and submissions. Refer to the 'Significant matter's section that follows.

Settlement of civil claims

The CSO continued to be at the forefront of trauma-informed settlement approaches to survivors of institutional child abuse, consistent with the NSW Guiding Principles and Model Litigant policy. In 2020-21, we were instructed in over 300 claims related to institutional abuse for NSW Government agencies.

The CSO represented NSW Health agencies, including Local Health Districts and NSW Ambulance, in medical and privacy claims.

Resolution of native title and Aboriginal land claims

The CSO continued to be the NSW Government's representative in native title and Aboriginal land claims. We advised and represented a NSW Government agency in finalising consent determination proceedings in April 2021 (*Bandjalang People No 3 v Attorney-General of New South Wales* [2021] FCA 386), detailed in the 'Significant matters' section of this report.

We also advised and represented the State in settling various Aboriginal land claims, supporting government policy in this area.

Judicial reviews

The CSO advised and represented various agencies in judicial review matters before the Supreme Court, including *Hamzy v Commissioner of Corrective Services and the State of NSW* [2020] NSWSC 414. This involved a long-running set of judicial review and constitutional matters concerning various aspects of the management of inmates designated ‘Extreme High Risk Restricted’, who are housed at the High Risk Management Correctional Centre in Goulburn.

We advised in *Lu v Walding (No 2)* [2021] NSWLEC 21. This matter involved the validity of s. 101 of the *Environmental Planning and Assessment Act 1979* (now contained in s. 4.59 of that Act), which imposes a strict 3-month time limit on the commencement of proceedings for judicial review.

In the federal jurisdiction, the CSO appeared for the NSW Attorney General in *Attorney-General (Cth) v Ogawa* [2020] FCAFC 180. This matter involved the question of whether the formulation of the appellant’s advice to the Governor-General in respect of an exercise of the prerogative of mercy was amenable to judicial review.

Constitutional law

The CSO continued to advise and represent the Attorney General and agencies in relation to constitutional issues.

Matters in which the Attorney General intervened included *Jackmain (a pseudonym) v R* [2020] NSWCCA 150.

This matter considered whether s. 293 of the *Criminal Procedure Act 1986*, which renders evidence concerning a complainant’s sexual history or activities inadmissible, subject to limited exceptions but not to any overriding judicial discretion, is invalid (or invalid in part) by reason of the principle in *Kable*.

The Attorney General also intervened in *Wilson v Chan & Naylor Parramatta Pty Ltd* [2020] NSWCA 213. This matter considered whether a State tribunal (NSW Civil and Administrative Tribunal) can order costs consequential upon it deciding that it has no authority to decide a claim

because it raises a matter within federal jurisdiction.

Charitable trusts

The CSO acted for and advised the Attorney General and NSW Government agencies in a number of matters concerning charitable trusts, including applications for cy pres and administrative schemes, referrals from the Australian Charities and Not-for-profits Commission, and with respect to Supreme Court proceedings concerning the administration of trusts.

Several significant cases were decided, including: *Harmony – The Dombroski Foundation Ltd v Attorney General in and for the State of New South Wales* [2020] NSWSC 1276; *Hickey v Attorney General of the State of New South Wales* [2021] NSWSC 772, *Smolonogov v Our Lady of Kazan Russian Community of Lidcombe Inc* [2020] NSWSC 1484.

Welfare and protection of children

The CSO continued to see an increase in the number of instructions received to act on behalf of the Secretary, Department of Communities and Justice (DCJ) in not only the most complex and sensitive matters before the Children’s Court of NSW, but also new areas including contested applications on behalf of accredited adoption service providers such as Barnardos, Anglicare, Life Without Barriers, Family Spirit (formerly Catholic Care) and Key Assets.

We continued to advise and represent agencies in multiple jurisdictions, including the Children’s Court, District Court and Supreme Court (appeals, parens patriae applications and adoption applications). Our work on adoption applications is enhanced by our burgeoning expertise in genealogical research.

Public interest immunity

Public interest immunity matters continued to be a busy area of work in 2020-21, particularly in relation to police operations.

We acted in a broad range of matters concerning the protection of information subject to public interest immunity, in both criminal and civil matters, including in the Supreme Court and the Court of Criminal Appeal. Where appropriate, applications for suppression and non-publication orders were also, or alternatively, pursued.

Guardianship

The CSO acted for the Public Guardian and other agencies in matters before the Guardianship Division of the Civil and Administrative Tribunal, including in matters concerning the functions over which limited guardianship applies.

Advice and statutory interpretation

The CSO continued to provide authoritative and strategic advice to NSW Government agencies on a range of matters, including in circumstances where commercial, property and public law intersect. This encompassed advising in relation to:

- the powers of certain State entities to enter contractual arrangements
- public finance requirements attaching to significant commercial transactions
- the status of Crown lands and other property held by agencies
- key documentation for the State's self-insurance scheme
- procurement requirements, including the NSW Procurement Board Direction on Enforceable Procurement Provisions
- regulatory compliance by government agencies engaging in commercial activity
- schemes for limiting professional and occupational liability
- corporate duties involved in the management of government corporations.

Transactions and major projects

The CSO drafted and reviewed agreements for a range of significant commercial and property projects, as well as for job-creation policy initiatives. This encompassed commercial arrangements for several major public events and industry collaborations, as well as arrangements for the acquisition of land for national and state infrastructure projects.

NSW bushfires

The CSO continued to represent several NSW Government agencies in the coronial inquests and inquiries into the 2019-20 'Black Summer' bushfires. Extensive hearing dates are listed for 2021 and 2022.

Ongoing response to COVID-19

The CSO continued to provide legal advice and assistance to NSW Government agencies in response to the ongoing COVID-19 pandemic.

Legal service panel arrangements

Following a competitive tendering process, the CSO's appointment to the new icare legal services panel was announced in June 2021.

The CSO was also granted approval to sit alongside the new NSW Government Legal Services (GLS) panel. NSW Government agencies will have the discretion to engage the CSO for work that falls under the new GLS panel, at any time.

Both panel arrangements commence 1 July 2021.

Significant matters

Real wages maintained following Public Sector Salaries decisions

Application for Crown Employees (Public Sector – Salaries 2020) Award and Other Matters (No 2) [2020] NSWIRComm 1066; Applications for Variations to Crown Employees (Police Officers – 2017) Award and Paramedics and Control Centre Officers (State) Award [2021] NSWIRComm 1040

The Industrial Relations Secretary, Commissioner of Police, Health Secretary and other public sector employers resisted claims made by various unions for a 2.5% increase to salaries in approximately 45 public sector Awards over three separate proceedings.

The CSO prepared large volumes of evidence (including expert economic and fiscal evidence) within a short timeframe and negotiated a common litigation strategy between various instructing agencies.

Following an arbitration that ran over approximately 22 days of hearing, the Full Bench of the Industrial Relations Commission (IRC) determined that salaries and salary-related allowances of major public sector awards should be increased by 0.3% because evidence, in particular the economic evidence, adduced in the proceedings called for restraint in the particular circumstances of an economic crisis of the COVID-19 pandemic.

The Full Bench awarded an increase of 0.3% in employees' real wages and did not accept that a decrease in the real earnings of employees would be fair and reasonable.

As a result of the decision, the NSW Government achieved approximately \$2.2 billion in savings, which were able to be diverted to economic stimulus programs.

Additionally, the decision of the IRC will provide guidance in future matters relating to claims for increases to salaries, including the requirement for unions to establish that existing conditions of employment are not fair and reasonable.

Bandjalang #3 native title consent determination

Bandjalang People No 3 v Attorney-General of New South Wales [2021] FCA 386

The CSO acted for the Attorney General in the April 2021 Bandjalang #3 consent determination (*Bandjalang People No 3 v Attorney-General of New South Wales* [2021] FCA 386). Bandjalang #3 was the third consent determination in the Bandjalang series; the #1 and #2 determinations were handed down in 2013.

Bandjalang #3 involved 52 parcels of land held by 6 different Local Aboriginal Land Councils under the *Aboriginal Land Rights Act 1983* (ALRA).

The negotiated resolution of these remaining parcels was a significant achievement.

Particularly notable was the recognition of native title over a ceremonial ground at Bora Ridge. The Bora Ridge land parcel had been previously transferred to an Aboriginal Land Council under the ALRA in 1985.

However, with the consent of all parties, the determination provided for the disregarding of prior extinguishment as a result of that transfer, by way of section 47A of the *Native Title Act*.

The result in Bandjalang #3 was a positive one, but it is also testament to the complexity of the interaction between the ALRA and the *Native Title Act*.

Court's power to prohibit public assembly consistent with implied freedom

Commissioner of Police (NSW) v Gibson [2020] NSWSC 953

In proceedings brought by the Commissioner of Police, pursuant to s. 25 of the *Summary Offences Act 1988*, to prohibit a public assembly proposed for the Sydney CBD, the defendant alleged that the Supreme Court's jurisdiction to make a prohibition order was required to be exercised 'conformably' with the implied freedom and that that required the Commissioner's application to be refused.

The Attorney General, for whom the CSO acted, intervened in the proceedings to address this constitutional argument.

The Attorney General, identifying that the implied freedom is a limit on legislative power, submitted that the defendant's focus on the exercise of the Supreme Court's power under s. 25 was misconceived.

The Attorney General submitted that s. 25 of the *Summary Offences Act 1988*, which confers on the Supreme Court the power to prohibit a public assembly, did not impermissibly burden the implied freedom.

The Supreme Court (Ierace J) held, at [25], that the defendant's submissions on the unconstitutionality of granting a prohibition order were not made out. The Supreme Court, utilising proportionality analysis and the test set out in *McCloy v New South Wales* (2015) 257 CLR 178, concluded, at [21]-[25], that s. 25 of the *Summary Offences Act 1988* did not impermissibly burden the freedom of political communication on governmental and political matters implied from the *Constitution* (Cth).

The CSO also acted for the Commissioner of Police on an appeal on a distinct question concerning the Supreme Court's jurisdiction to hear the application for a prohibition order following alleged non-compliance with procedural requirements. The appeal was dismissed: *Padraic Gibson (on behalf of the Dungay family) v Commissioner of Police (NSW Police Force)* [2020] NSWCA 160.

Application for an extended supervision order under the *Terrorism (High Risk Offenders) Act*

State of New South Wales v Fayad (Final) [2021] NSWSC 294

In October 2020, the State of NSW filed a summons against Wassim Fayad seeking an extended supervision order (ESO) under the *Terrorism (High Risk Offenders) Act* (THRO Act), on the basis that he posed an unacceptable risk of committing a serious terrorism offence if not supervised. The state also applied for an interim supervision order (ISO). In November, Justice Peter Johnson imposed an ISO and made orders for the examination of Mr Fayad: *State of New South Wales v Fayad (Preliminary)* [2020] NSWSC 1681 at [292].

At the final hearing, the key issue for consideration was whether the Court was satisfied to a high degree of probability that Mr Fayad posed an unacceptable risk of committing a serious terrorism offence if not kept under supervision by way of an ESO.

In February 2021, Justice Robertson Wright ordered that Mr Fayad be subject to a two-year ESO, concluding that there was a significant risk that Mr Fayad held beliefs causing him to 'support violent extremism and terrorist organisations, to condone and promote the commission of terrorist acts by others, and to hold negative or disparaging views concerning Australia's democratic institutions and democratically established laws.'

Justice Robertson Wright noted that the evidence established that Mr Fayad associated with persons who have engaged in terrorism offences and advocated support for violent extremism and terrorist organisations. It was also noted that he had previously committed a violent offence promoting adherence to Islam and influenced other young individuals to participate in the offending.

Successful Federal Court decision on application of derivative Crown immunity to parties contracting with the State of NSW

Australian Competition and Consumer Commission v NSW Ports Operations Hold Co Pty Ltd and Ors [2021] FCA 720

The CSO acted for the State of NSW in Federal Court proceedings brought by the ACCC alleging that provisions in a Port Commitment Deed entered into by NSW Ports and the State upon the privatisation of Port Botany and Port Kembla contravened s. 45 of the *Competition and Consumer Act 2010* (Cth).

The Court dismissed the claim, finding that Crown immunity applied to the State and derivative Crown immunity applied to NSW Ports. If the Crown immunity and derivative Crown immunity findings were incorrect, the Court also held that the compensation provisions in the Port Commitment Deed did not have the purpose, effect or likely effect of substantially lessening competition.

In respect of Crown immunity, the Court found that, while prior to privatisation the State was carrying on the businesses of operating the ports through the respective State Owned Corporations (Port SOCs), the process of

privatisation of the ports and entry into the compensation provisions was not in the course of carrying on those businesses, as the privatisation could only be effected under the *Ports Assets (Authorised Transactions) Act 2012* (PAAT Act) by the Treasurer and not the Port SOCs.

In respect of derivative Crown immunity, the Court found that the PAAT Act specifically conferred on the Treasurer a statutory capacity to effect the authorised transactions, involving the transfer of identified ports assets in which the State had proprietary rights of ownership.

This statutory right of the Treasurer may be contrasted to a general right or freedom possessed by the executive government to enter into contracts of supply considered insufficient to ground derivative Crown immunity in *Australian Competition and Consumer Commission v Baxter Healthcare Pty Limited* (2007) 232 CLR 1.

Supreme Court malicious prosecution proceedings

Edwards v State of New South Wales [2021] NSWSC 181

The CSO acted for the State of NSW on instructions from the NSW Police Force and the Director of Public Prosecutions (DPP) in Supreme Court civil proceedings. The plaintiff sought damages for false imprisonment and malicious prosecution arising from his arrest, and subsequent prosecution, for allegedly causing grievous bodily harm with intent to murder.

Following 11 days of hearing and submissions over 2019-2020, His Honour Justice Walton delivered judgment for the defendant in March 2021. His Honour found that the evidence did not support conclusions that there was an absence of reasonable and probable cause that the plaintiff was guilty, or that the NSW Police Force had acted with malice.

His Honour found that, given the DPP's role pursuant to s. 9 of the *Director of Public Prosecutions Act 1986*, police had no further decision-making role as to the charges and, as such, ceased to be a prosecutor as and from the date the DPP took over conduct of the prosecution.

As to the plaintiff's claim for false imprisonment, His Honour was satisfied that the continued arrest of the plaintiff to the time he was brought before a magistrate was lawful.

The plaintiff has filed an appeal.

Inquest into the deaths of John, Jack and Jennifer Edwards

The CSO assisted the State Coroner of NSW at the inquest into the deaths of John, Jack and Jennifer Edwards. The inquest involved consideration of issues relating to responses to domestic violence incidents by various agencies.

Jack and Jennifer Edwards were shot by their estranged father, John Edwards, in 2018. Mr Edwards then committed suicide. There was a history of domestic violence perpetrated by Mr Edwards against the children and his ex-wife, Olga Edwards. Family law proceedings were ongoing. Ms Edwards had made complaints to police about various incidents of domestic violence. Mr Edwards had also been subject to previous apprehended violence orders taken out against him by children from previous marriages. Mr Edwards was able to obtain a firearms licence and purchase guns.

The inquest focused on issues including the policies and procedures applied by police in recording and responding to allegations of domestic violence and stalking made by Ms Edwards against Mr Edwards; the processes and procedures applied by the Firearms Registry in granting firearms permits and licences to Mr Edwards, and by various rifle ranges and clubs in determining whether he ought to be granted membership to their respective clubs; the role and conduct of mandatory reporters and the Independent Children's Lawyer associated with the prior family law proceedings.

The State Coroner delivered findings in April 2021, making several recommendations including to the:

- NSW Police Force, directed at the prioritisation of mandatory training for officers in relation to their response to domestic violence incidents
- Firearms Registry, targeted at providing more specific guidance and training to decision-makers in relation to domestic violence, the existence of family law proceedings and the consideration of false and misleading information provided by applicants in earlier applications
- NSW Police Force and the Firearms Registry in relation to clarifying the questions in all application forms that relate to family law proceedings, and to continue to liaise with the federal family law courts to develop notification systems and the sharing of information that relates to family violence.

Value-adding services

[The CSO's event] made me consider aspects of the Government sector that I hadn't really thought about before but know will be relevant in the future.

Survey feedback, NSW Government Solicitors' Induction Training 2021

NSW Government Solicitors' Induction

The CSO convened its first induction training program for NSW government solicitors in February 2021. The program was designed for legal staff new to the NSW government sector. Over 3 days, 7 hours of livestreamed sessions introduced delegates to key NSW public law concepts and processes and NSW legislation.

CPD seminars

CSO solicitors shared their expertise and knowledge with NSW Government staff through a series of free CPD sessions.

We delivered a livestreamed CPD Conference in March 2021, with 6 hours of sessions over 3 days. An average of 160 delegates attended each session.

CPD seminars were also delivered on administrative law and commercial law subjects, keeping agencies informed of relevant issues impacting the NSW government sector.

Specialised training and education

The CSO delivered training to NSW Government agency staff on the *Government Information (Public Access) Act* and NSW privacy legislation to assist agencies to understand and meet their obligations under the relevant legislation. This included providing training tailored to specific agencies.

Other specialised topics we provided training and education on included subpoenas, public interest immunity, charitable trusts, the *Native Title Amendment Act*, adoption and permanent care. The CSO's research officers delivered an online family history research seminar to Department of Communities and Justice caseworkers and other staff around NSW.

Legal alerts and fact sheets

Legal alerts, published following key decisions, legislative updates and other critical legal developments, kept agencies up to date on key legal developments. In 2020-21, legal alerts addressed topics including the NSW Government Intellectual Property Framework 2020 and the *Native Title Legislation Amendment Bill 2020* (Cth). Our Public Interest Immunity fact sheet, published in August 2020, is one of the most accessed resources on the CSO website.

Newsletters

The CSO shared newsletters summarising significant legal developments and cases across multiple areas of law with NSW Government agency contacts.

In addition to the *ClientNews* newsletter, published in July, October and December 2020, the Regulatory and Environment practice group launched its *Insights* newsletter, delivering 7 issues on topics including:

- a prosecutor's obligation to tender mixed statements (*Nguyen v The Queen* [2020] HCA 23)
- clarity on the question of duplicity in charging for environmental offences (*Kiangatha Holdings Pty Ltd v Water NSW* [2020] NSWCCA 263)
- the parity principle and sentencing related offenders (*Li v R* [2021] NSWCCA 75)
- assessing probative value under s. 138, *Evidence Act* (*R v Riley* [2020] NSWCCA 283).

Secondments and reverse secondments

Twenty-six legal and administrative secondments and six reverse secondments were in place during 2020-21. These arrangements promote knowledge sharing and relationship building between the CSO and our client agencies. Secondments included to the Special Commission of Inquiry into the Ruby Princess, conducted by Commissioner Bret Walker SC.

Major projects

Information management and technology

Key initiatives during 2020-21 focused on our continued shift towards a more flexible, digital-first work environment, enhancing the office's digital capabilities whilst meeting business objectives and security requirements.

The CSO's investment in information and communication technology capabilities continued to place us in a strong position to support our staff working remotely due to the COVID-19 pandemic. We deployed enhanced video conferencing and collaboration technologies, including secure electronic file exchange facilities, to both enable and improve delivery of our services to our clients.

Major projects included completing an upgrade to Windows 10 and Office 365 for all office laptops (part of the Stronger Communities cluster's digital information and communication technology strategy). The small group of staff that still worked on desktop PCs were transitioned to laptops.

We continued to refine both our information and communication technology architecture roadmap and our digital-first information management and technology strategy.

New and upgraded tools and systems enabled us to continue providing services during the COVID-19 pandemic. Secure remote access to CSO systems and databases via 4G SIM and Virtual Private Network provided increased flexibility in working arrangements for staff. We deployed secure electronic file exchange facilities, which improved delivery of services to our clients.

Digital improvements reduced business continuity risk and enabled a further reduction in paper usage, and reduced printing costs and hard-copy records storage fees.

CYBER SECURITY

Responding effectively to increasing global and local cyber threats continued to be a focus for the CSO. The CSO supported the Department of Communities and Justice Cyber Security Modernisation program, which, over the last 12 months, delivered several critical improvements to mitigate malicious threats and cyber security risks.

Continuous improvement in security, privacy, controls and policies included the delivery of cyber security awareness training to all CSO staff. This will contribute to building the skills our workforce needs to maintain our infrastructure and security capability in alignment with the Digital.NSW Strategy.

DOCUMENT MANAGEMENT AND PRACTICE MANAGEMENT SYSTEMS

In 2020-21, the CSO completed a project to upgrade the Micro Focus Content Manager electronic document and records management system. As part of the project, and in line with the NSW Government's cloud-first strategy, the CSO upgraded Content Manager to a cloud managed service provider. The project will deliver both financial savings and improved cyber security measures.

We rolled out several upgrades to our practice management system, Thomson Reuters Elite, providing enhanced functionality and streamlining business processes. Other activities included modifications to Elite to support new legal panel arrangements (iCare and NSW Government Legal Services), in preparation for the arrangements effective from 1 July 2021.

LOOKING AHEAD

During 2021-22, technology focus areas for the CSO will be:

- continuing to enhance the Elite system to deliver further efficiencies and improve quality of services
- expanding our use of the Microsoft Office 365 environment to provide improved access to information by CSO staff
- reviewing the CSO website and staff intranet, with a view to upgrading these critical applications
- working closely with the Department of Communities and Justice to ensure our office's cyber security compliance.

HUMAN RESOURCES

Officers and employees by category

The figures below are estimates compiled from the Annual Workforce Profile, showing the current reporting period plus the previous three years for comparison.

Occupation classification (ANZSCO)	2017-18	2018-19	2019-20	2020-21
Managers	2	2	1	1
Professionals	245	251	270	247
Technicians and Trades Workers	1	1	3	3
Clerical and Administrative Workers	152	184	178	170

Note: Headcount as at 24 June 2021. These figures do not include agency staff.

Senior executives

Number of senior executives by band and gender

Band	CSO senior executive roles	2019-20		2020-21	
		Female	Male	Female	Male
Band 4	(Secretary)	-	-	-	-
Band 3	Crown Solicitor (Agency Head)	1	-	1	-
Band 2	Assistant Crown Solicitors and Practice Manager (Executive Director equivalent)	3	1	3	1
Band 1	Directors and Special Counsel	9	8	9	8
Total		13	9	13	9
		22		22	

Note: Three senior executive roles (two Band 2, one Band 1) were vacant as at the census date in both reporting periods.

Average total remuneration package for senior executives

Band	CSO Senior Executive roles	Average remuneration		
		2019-20	2020-21	Range
Band 4	(Secretary)	N/A	N/A	N/A
Band 3	Crown Solicitor (Agency Head)	\$487,017	\$487,017	\$345,551 to \$487,050
Band 2	Assistant Crown Solicitors and Practice Manager (Executive Director equivalent)	\$298,602	\$298,602	\$274,701 to \$345,550
Band 1	Directors and Special Counsel	\$235,750	\$236,781	\$192,600 to \$274,700

Note: salaries are averaged at the full-time rate.

Percentage of total employee-related expenditure (senior executives)

The percentage of total employee-related expenditure in 2020-21 associated with senior executives was 12.1%, compared with 12.6% for 2019-20.

Exceptional movements in wages, salaries, allowances

Employees of the CSO are covered by the *Crown Employees (Public Sector – Salaries 2020) Award*.

Section 240 of the *Statutory and Other Offices Remuneration Act 1975* requires the Statutory and Other Offices Remuneration Tribunal to make a determination of remuneration packages for senior executives on and from 1 July each year. There was no increase from 1 July 2020 and the 2019 ranges continued to apply in 2020-21.

Personnel policies and practices

The CSO continued to review and develop policies and practices to meet the needs of the business and our people.

We developed a Flexible Working Framework and Guidelines, to be implemented in early 2021-22. The Framework and Guidelines align to the CSO's approach to wellbeing and inclusion, and reinforces our commitment to attract, develop and retain a diverse workforce.

In 2020-21, we improved efficiencies in recruitment, onboarding, and performance development processes through the:

- launch of the SuccessFactors Performance Development module as part of the CSO's updated performance and development framework and policy
- transition from Taleo e-Recruitment to SuccessFactors Recruitment module, enabling hiring managers to conduct a paper-light online recruitment process
- launch of the SuccessFactors Onboarding module (including the implementation of an Online Criminal Record Check process), allowing us to digitally onboard and communicate with new employees.

Manager and employee resources were published on the intranet to support implementation of these modules.

In response to COVID-19, we adjusted our approach to the delivery of learning and development programs. We focussed on:

- developing our Learning and Development Framework
- delivering mandatory e-learning programs

- digitising our induction and onboarding program
- revising the delivery of our Leading Teams program
- rolling out the CSO Respectful Workplace Program and Respectful Workplace Bullying and Harassment Policy
- delivering learning programs associated with digitising systems and processes.

We aim to design and implement programs to support and develop our people, including the delivery of learning modules covering:

- management/leadership
- client service and engagement
- legal supervision
- performance and development
- continuing legal education/professional development.

Industrial relations policies and practices

The CSO continued to actively engage with employees and their industrial representatives through regular Joint Consultative Committee forums. We communicated and consulted with industrial representatives on the implementation of new team structures within our Information Management and Technology and Finance and Support Services teams.

DIVERSITY AND INCLUSION

Workforce diversity

Trends in the representation of EEO groups

% of total employees (headcount at census date)

EEO group	Benchmark/ target	2016	2017	2018	2019	2020	2021
Women ¹	50%	73.6%	73.3%	75.1%	74.7%	73.7%	73.2%
Aboriginal people and Torres Strait Islanders ²	3%	1.1%	0.6%	0.8%	0.7%	0.7%	0.5%
People whose first language was not English ³	23.3%	13.5%	16.6%	13.4%	11.7%	10.6%	11.4%
People with a disability ⁴	5.6%	2.63%	2.1%	1.8%	1.8%	1.5%	2.6%
People with a disability requiring work-related adjustments ⁵	N/A	1.6%	0.3%	0.8%	0.9%	0.7%	0.9%

Notes on trends in the representation of EEO groups:

1 The benchmark of 50% for representation of women across the sector is intended to reflect the gender composition of the NSW community.

2 The NSW Public Sector Aboriginal Employment Strategy 2019-25 sets a target of 3% Aboriginal employment at each grade of the public sector by 2025.

3 A benchmark from the Australian Bureau of Statistics (ABS) Census of Population and Housing has been included for people whose first language spoken as a child was not English. The ABS Census does not provide information about first language but does provide information about country of birth. The benchmark of 23.2% is the percentage of the NSW general population born in a country where English is not the predominant language.

4 The NSW Premier's Priorities aim to have 5.6% of government sector roles held by people with a disability by 2025.

5 Work is underway to improve the reporting of disability information in the sector to enable comparisons with population data. For this reason, no benchmark has been provided for People with a Disability Requiring Work-Related Adjustment.

Trends in the distribution of EEO groups

Distribution Index¹ (based on headcount as at 24 June)

EEO group	Benchmark/ target	2015- 16	2016- 17	2017- 18	2018- 19	2019- 20	2020- 21
Women	100	96	101	296	326	333	309
Aboriginal people and Torres Strait Islanders	100	N/A	N/A	N/A	N/A	N/A	2
People whose first language was not English	100	90	87	53	51	48	55
People with a disability	100	N/A	N/A	N/A	N/A	N/A	11
People with a disability requiring work-related adjustment	100	N/A	N/A	N/A	N/A	N/A	4

Notes on trends in the distribution of EEO groups:

1 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 employees. 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 employees. 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.

Workforce diversity strategy and achievements

The CSO is committed to attracting and building a diverse workforce.

We continued to pursue our strategy to increase Aboriginal representation in our workforce. On 1 July 2020, the CSO was granted a 6-year exemption by the Anti-Discrimination Board to advertise, designate and recruit two graduate solicitor roles per year for Aboriginal and Torres Strait Islander persons only.

During 2020-21, we partnered with the Australian Network on Disability and CareerTrackers to employ 3 legal interns. We also participated in the PACE (Positive Action towards Career Engagement) Mentoring Program to connect students and jobseekers with disability to mentors from the CSO.

Reinforcing our visible and active commitment to supporting a diverse and inclusive environment, the CSO's events calendar includes International Women's Day, Harmony Day, World Day for Cultural Diversity for Dialogue and Development, NAIDOC week, and International Day of People with Disability.

This year, our NAIDOC week campaign included sharing stories about our work and our people through interview-style articles, published both internally and through the CSO's LinkedIn network.

Strategies for 2021-22

In 2021-22, we will continue to develop the CSO's diversity and inclusion strategy and actions to support it. Our strategy aligns to the Stronger Communities diversity and inclusion plans, and the Public Service Commission's plans, including the NSW Public Sector Aboriginal Employment strategy (2019-2025).

We will progress our Aboriginal Employment and Engagement plan and actions to target early career roles and traineeships. We will continue to explore partnership opportunities with external providers to support our goal to increase Aboriginal representation in our workforce.

The CSO will be partnering with CareerSeekers to employ an intern at the CSO during 2021-22. CareerSeekers is a non-profit social enterprise that works with leading employers to create paid professional internship opportunities for refugees and people seeking asylum.

A partnership with CareerSeekers reinforces our commitment to the Stronger Communities diversity and inclusion plans and the Public Service Commission's plans, including the NSW Government commitment to employing 100 refugees across multiple agencies within the NSW Public Sector.

Disability inclusion action plan

The CSO is not required to have a disability inclusion action plan, under the terms of the *Disability Inclusion Act 2014*. However, the CSO is dedicated to supporting the NSW Government's commitment to remove systemic and attitudinal barriers, and to providing access to, and inclusion in, meaningful employment.

The CSO has maintained its Silver membership to the Australian Network on Disability. This membership provides us with access to resources and advice on development and implementation of disability and inclusion practices.

The CSO continued to apply the Department of Communities and Justice's *Reasonable Adjustments Guidelines* to ensure that employees with disabilities can work to their full potential and have equitable access to opportunities for development within the office.

Multicultural Policies and Services Program

The CSO is committed to implementing multicultural principles in the way we work and do business, and to supporting the themes of the Multicultural Policies and Services Program. We support our culturally, linguistically and religiously diverse workforce.

Multicultural strategies for 2021-22

The CSO will continue to focus on:

- increasing Aboriginal representation in our workforce, including options for targeted early-career roles and traineeships
- developing our people and leaders to foster an inclusive and diverse workplace, including through awareness of unconscious bias
- supporting and increasing opportunities for flexible working
- leveraging our strength in promoting and celebrating the diverse backgrounds of our people
- reinforcing our commitment to inclusion through our Diversity and Inclusion calendar.

The CSO's multicultural strategies are tied to our workforce diversity strategies. We will continue to develop a pipeline of diverse talent and implement talent.

Agreements with Multicultural NSW

The CSO does not have any agreements in place with Multicultural NSW. The CSO provides services directly to NSW Government agencies. The Crown Solicitor does not provide legal services to the general public.

WORK, HEALTH AND SAFETY

WHS performance

New EAP provider

In 2020-21, the CSO engaged a new Employee Assistance Program provider, Benestar. Through Benestar, staff can access qualified support, programs and resources around physical, mental, social and financial aspects of life.

Response to COVID-19

Maintaining a COVID-safe workplace and ensuring the health and wellbeing of our staff, contractors and visitors, continued to be a major focus for the CSO throughout 2020-21.

The CSO developed and implemented ways to identify and manage work health and safety risks associated with COVID-19. Our approach was informed by NSW Government advice and SafeWork NSW guidelines.

The office implemented a COVID-19 Safety Plan and registered as COVID Safe. Additional COVID-19 risk mitigation and management processes established in 2020-21 included developing a customised digital registration application for staff attending the office to monitor capacity in line with physical distancing requirements and provide contact-tracing capabilities.

Mental health and wellbeing

The CSO continued to invest in and promote programs and early intervention strategies for mental health and wellbeing.

In addition to addressing topics around mental health in the workplace, our mental health initiatives also responded to issues specific to the legal profession and were sensitive to the mental-health impacts of the COVID-19 pandemic.

The CSO partnered with the Black Dog Institute to facilitate our 'Managing for team wellbeing' training program. The program aims to improve the skills and confidence of people leaders across the office to recognise the signs of mental ill health and promote a mentally healthy work culture. Regular reinforcement activities are being developed to continue to support our people leaders in their management of wellbeing issues.

Benestar facilitated mental health training programs on vicarious trauma and compassion fatigue for the office's graduate solicitors.

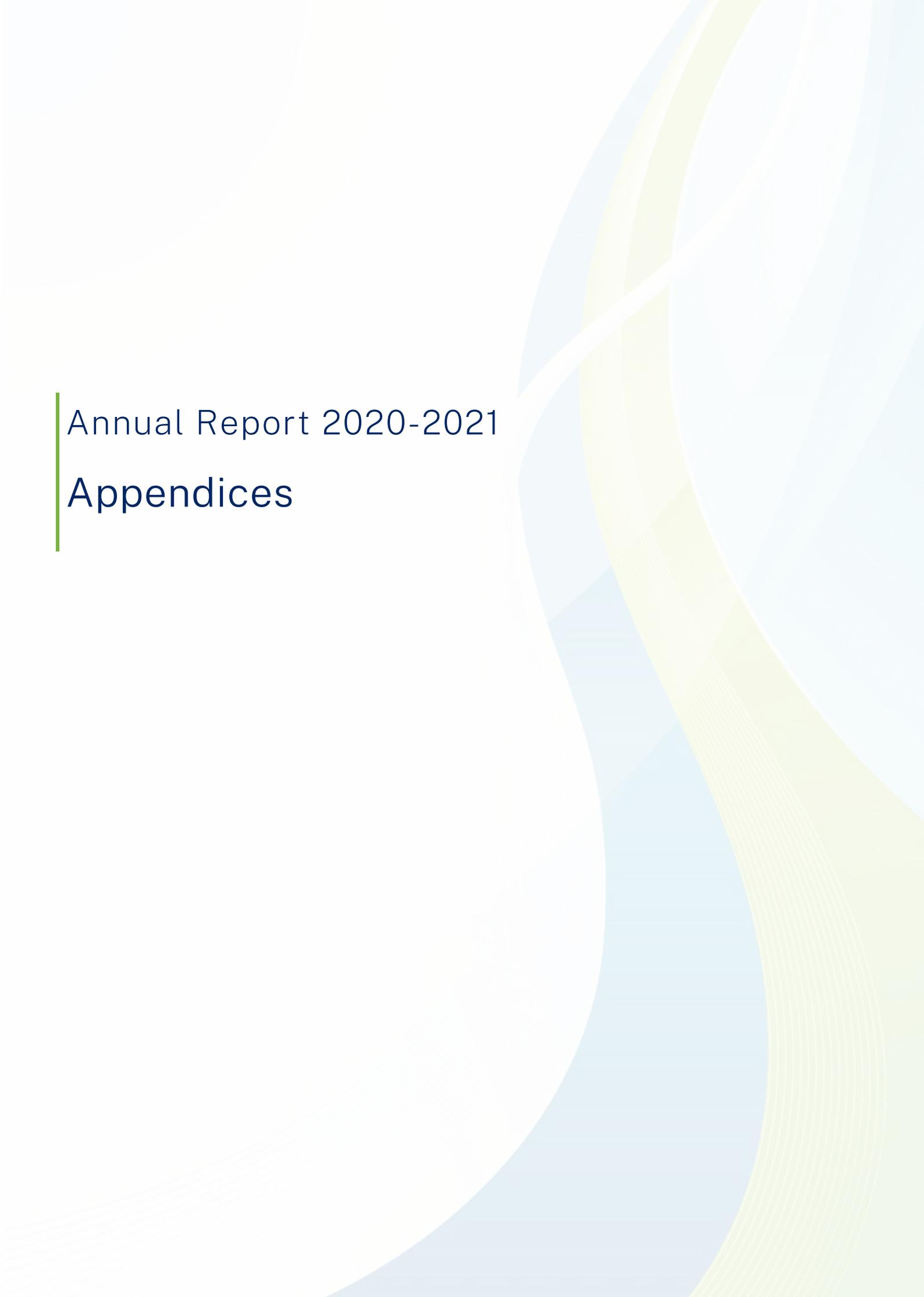
A clinical psychologist delivered a 'Well Check' program to CSO solicitors working with difficult and confronting legal content.

Leading mental health consultant, Robyn Bradey, delivered the following sessions to CSO staff in 2020-21:

- Building resilience in a pandemic
- Caring for elderly parents
- Demystifying mental illness
- Domestic violence
- Smart, cool and well: a guide for young lawyers
- Suicide: it could be any one of us
- Tough talk: how to have difficult conversations
- Why zebras don't get ulcers: stress management.

WHS statistics

The CSO responded to two workplace injuries that resulted in workers compensation claims. Both were physical injuries resulting in lost time. One claim remains open as at 30 June 2021. There were no prosecutions.



Annual Report 2020-2021

Appendices

1. Financial statements

Crown Solicitor's Office
Financial Statements

Crown Solicitor's Office

Annual Financial Statements

for the year ended 30 June 2021

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Crown Solicitor's Office

Financial Statements for the year ended 30 June 2021

Statement by the Crown Solicitor

Pursuant to Section 7.6(4) of the *Government Sector Finance Act 2018*, I state that:

- (a) The accompanying financial statements have been prepared in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), the requirements of the *Government Sector Finance Act 2018 (GSF Act)* and Treasurer's Directions issued under the Act.
- (b) The financial statements exhibit a true and fair view of the financial position as at 30 June 2021 and financial performance of the Crown Solicitor's Office for the year then ended.



Karen Smith
Crown Solicitor
20 September 2021

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 by the Crown Solicitor, the Statement of Comprehensive Income for the year ended 30 June 2021, the Statement of Financial Position as at 30 June 2021, the Statement of Changes in Equity and the Statement of Cash Flows, for the year then ended, notes comprising a Statement of Significant Accounting Policies, and other explanatory information.

In my opinion, the financial statements:

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

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

Basis for Opinion

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

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

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

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

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

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

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

Independent Auditor's Report (cont)

Crown Solicitor's Responsibilities for the Financial Statements

The Crown Solicitor is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards, the GSF Act, GSF Regulations and Treasurer's Directions. The Crown Solicitor's responsibility also includes such internal control as the Crown Solicitor determines is necessary to enable the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Crown Solicitor is responsible for assessing the Office's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting.

Auditor's Responsibilities for the Audit of the Financial Statements

My objectives are to:

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

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

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

The scope of my audit does not include, nor 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
- about any other information which may have been hyperlinked to/from the financial statements.



Michael Kharzoo
Director, Financial Audit

Delegate of the Auditor-General for New South Wales

24 September 2021
SYDNEY

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Start of Audited Financial Statements

Statement of Comprehensive Income

For the year ended 30 June 2021

		Actual 2021 \$'000	Budget 2021 \$'000	Actual 2020 \$'000
Expenses excluding losses	Notes			
Employee related expenses	2(a)	51,411	52,013	50,999
Operating expenses	2(b)	10,192	9,610	10,612
Depreciation and amortisation	2(c)	8,293	8,233	7,612
Finance costs	2(d)	685	559	828
Total expenses excluding losses		70,581	70,415	70,051
Revenue				
Sale of goods and services from contracts with customers	3(a)	70,219	71,262	72,538
Investment revenue	3(b)	19	-	92
Other revenue	3(c)	585	-	234
Acceptance by the Crown of employee benefits	3(d)	322	-	365
Total revenue		71,145	71,262	73,229
Operating result		564	847	3,178
Losses on disposal	4	5	-	-
Net result		559	847	3,178
Other comprehensive income		-	-	-
Total other comprehensive income		-	-	-
Total comprehensive income		559	847	3,178

The accompanying Notes form part of these financial statements.

Statement of Financial Position

As at 30 June 2021

	Notes	Actual 2021 \$'000	Budget 2021 \$'000	Actual 2020 \$'000
Assets				
Current assets				
Cash and cash equivalents	8	13,052	9,420	3,633
Receivables	9	17,992	26,024	30,390
Contract assets	10	9,489	8,035	8,035
Other current assets	14	9,698	9,905	9,737
Total current assets		50,231	53,384	51,795
Non-current assets				
Plant and equipment	11			
- Plant and equipment		1,071	1,409	1,624
- Leasehold improvements		13,024	13,949	14,705
Total plant and equipment		14,095	15,358	16,329
Right-of-use asset	12	34,383	31,825	39,448
Intangible assets	13	10,098	8,624	9,046
Other non-current assets	14	959	847	847
Total non-current assets		59,535	56,654	65,670
Total assets		109,766	110,038	117,465
Liabilities				
Current liabilities				
Payables	16	7,248	9,742	10,008
Borrowings	17	4,508	4,576	4,206
Provisions	18	16,359	16,998	17,468
Total current liabilities		28,115	31,316	31,682
Non-current liabilities				
Borrowings	17	31,651	28,462	36,163
Provisions	18	2,859	2,806	2,805
Total non-current liabilities		34,510	31,268	38,968
Total liabilities		62,625	62,584	70,650
Net assets		47,141	47,454	46,815
Equity				
Accumulated funds	19	47,141	47,454	46,815
Total equity		47,141	47,454	46,815

The accompanying Notes form part of these financial statements.

Statement of Cash Flows

For the year ended 30 June 2021

	Notes	Actual 2021 \$'000	Budget 2021 \$'000	Actual 2020 \$'000
Cash flows from operating activities				
Payments				
Employee related		(50,884)	(51,887)	(48,850)
Suppliers for goods and services		(15,529)	(9,530)	(9,608)
Finance costs		(758)	(559)	(804)
Total payments		(67,171)	(61,976)	(59,262)
Receipts				
Legal Fees from clients		84,588	75,361	60,379
Interest received		19	-	93
Other		649	-	234
Total receipts		85,256	75,361	60,707
Net cash flows from operating activities	23	18,085	13,385	1,445
Cash flows from investing activities				
Purchase of plant and equipment		(911)	(1,253)	(483)
Purchase of intangible assets		(2,108)	(637)	(4,591)
Net cash flows from investing activities		(3,019)	(1,890)	(5,075)
Cash flows from financing activities				
Financial distribution to the Crown	6	(1,438)	(1,438)	(4,553)
Payment of principal portion of lease liabilities		(4,209)	(4,271)	(3,955)
Net cash flows from financing activities		(5,647)	(5,709)	(8,508)
Net increase/(decrease) in cash and cash equivalents		9,419	5,786	(12,137)
Opening cash and cash equivalents		3,633	3,633	15,770
Closing cash and cash equivalents	8	13,052	9,419	3,633

The accompanying Notes form part of these financial statements.

1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES

(a) Reporting entity

The Crown Solicitor's Office ("CSO") is a NSW government entity and is controlled by the State of New South Wales, which is the ultimate parent. 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.

These financial statements for the year ended 30 June 2021 have been authorised for issue by the Crown Solicitor, after recommendation by the Audit and Risk Committee, on 9 September 2021.

(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 (AAS) (which include Australian Accounting interpretations);
- The requirements of the Government Sector Finance Act 2018 (GSF Act) and
- Treasurer's Directions issued under the GSF Act.

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

Judgements, key assumptions and estimations 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, which is the CSO's presentation and functional currency.

(c) Statement of Compliance

The Financial Statements and Notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

(d) 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.

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.

(e) 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.

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

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

AASB 1059 Service Concession Arrangements: Grantors and several other amendments and interpretations apply for the first time in FY2020-21, but do not have an impact on the financial statements of the CSO.

(ii) Issued but not yet effective

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

The following new AAS have not been applied and are not yet effective, as per NSW Treasury Circular TC 20/08:

- AASB 17 Insurance Contracts
- AASB 1060 General Purpose Financial Statements – Simplified Disclosures for For-Profit and Not for-Profit Tier 2 Entities
- AASB 2020-1 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current
- AASB 2020-3 Amendments to Australian Accounting Standards – Annual Improvements 2018–2020 and Other Amendments
- AASB 2020-5 Amendments to Australian Accounting Standards – Insurance Contracts
- AASB 2020-6 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current – Deferral of Effective Date
- AASB 2020-7 Amendments to Australian Accounting Standards – Covid-19-Related Rent Concessions: Tier 2 Disclosures
- AASB 2020-8 Amendments to Australian Accounting Standards – Interest Rate Benchmark Reform – Phase 2
- AASB 2014-10 Amendments to Australian Accounting Standards: Sale or Contribution of Assets Between an Investor and its Associate or Joint Venture

The CSO has assessed the impact of the new standards and interpretations on issue but not yet effective where relevant and considers the impact to be not material.

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

Management have assessed that there has been no material impact of COVID-19 on the end of year financial statements, including in areas of judgement or estimates. The majority of CSO's staff were able to transition to remote working, supported by the implementation of a new practice management system in 2019 and other collaboration tools. Courts and other parties adopted audio-visual technology so that service provision could continue during

Crown Solicitor's Office
Notes to the Financial Statements

lockdowns and other restrictions on movement. The overall volume of work received by the CSO during the year remained relatively constant however during the initial months of COVID-19 the CSO did observe a change in the mix of new matters, receiving more urgent requests for advice and fewer new litigation matters.

2. EXPENSES EXCLUDING LOSSES

(a) Employee related expenses

	2021	2020
	\$'000	\$'000
Salaries and wages (including annual leave)	43,484	43,296
Superannuation - defined benefit plans	306	346
Superannuation - defined contribution plans	3,469	3,427
Long service leave	928	1,067
Workers' compensation insurance	348	146
Payroll tax and fringe benefit tax	2,401	2,717
Redundancy costs	475	-
	51,411	50,999

(b) Operating expenses

	2021	2020
	\$'000	\$'000
Auditor's remuneration		
- audit of the financial statements	76	85
- audit of the Trust Account	14	10
Consultants	36	15
Contractors	2,974	3,652
Efficiency Dividend	948	700
Fees - archive	430	453
Fees – shared services agreement	2,239	1,677
Fees – other	414	607
Insurance	68	74
Outgoings and cleaning	327	301
Printing	318	220
Publications and subscriptions	455	465
Repairs and routine maintenance*	746	1,002
Stores & stationery	191	296
Telephone and data	380	367
Other operating expenses	576	688
	10,192	10,612

* Reconciliation - Total maintenance
Maintenance expense - contracted labour and other (non-employee related)
as above

746	1,002
746	1,002

Recognition and Measurement

Maintenance expense

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

Insurance

The 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.

Lease expense

Lease payments associated with short-term or low-value assets are recognised as an expense. CSO does not currently have any such leases.

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

(c) Depreciation and amortisation

	2021 \$'000	2020 \$'000
Depreciation		
Plant and equipment	510	457
Leasehold improvements	1,666	1,700
Right-of-use asset	5,065	4,875
Total depreciation	<u>7,241</u>	<u>7,032</u>
Amortisation		
Intangible assets	1,052	580
Total amortisation	<u>1,052</u>	<u>580</u>
Total depreciation and amortisation	<u>8,293</u>	<u>7,612</u>

Refer to Notes 11, 12 and 13 for recognition and measurement policies on depreciation and amortisation.

(d) Finance costs

	2021 \$'000	2020 \$'000
Interest expense on lease liabilities	758	804
Unwinding of discount and effect of changes in discount rate on make good provisions	(73)	24
	<u>685</u>	<u>828</u>

Recognition and Measurement

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

3. REVENUE

Recognition and Measurement

Income is recognised in accordance with the requirements of AASB 15 Revenue from Contracts with Customers or AASB 1058 Income of Not-for-Profit Entities, dependent on whether there is a contract with a customer defined by AASB 15 Revenue from Contracts with Customers. Comments regarding the accounting policies for the recognition of income are discussed in the following paragraphs.

(a) Sale of goods and services from contracts with customers

	2021	2020
	\$'000	\$'000
Rendering of services – legal fees from contracts with customers	<u>70,219</u>	<u>72,538</u>
	70,219	72,538

Recognition and Measurement

The CSO's primary revenue-generating activity is the provision of legal services to NSW Government agencies and other approved bodies.

Revenue from rendering of services is recognised when the CSO satisfies performance obligations by transferring the promised legal services. The CSO typically satisfies its performance obligations over time as services are rendered and time is incurred. It is assessed that another legal firm would not have to substantially re-perform the work completed by the CSO to date, as the client effectively gains control of the services as the CSO performs its obligations. The CSO's performance under a contract does not create an asset with an alternative use to the CSO due to the highly specialised nature of the work it performs.

Revenue is recognised under the output method. The CSO recognises the revenue to which it has a right to invoice, in the amount that corresponds directly with the value to the client of the CSO's performance completed to date. Revenue is recognised as time is incurred. Payments are typically due once accrued fees reach \$1000 or more, or every three months, whichever comes first.

The revenue is measured using the applicable hourly rate specified in the contracts. No element of financing is deemed present as payments are due when service is provided.

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.

CSO clients and funding panels may receive funding under appropriations from the Consolidated Fund. Appropriations for each financial year are set out in the Appropriation Act for that year.

(b) Investment revenue

	2021	2020
	\$'000	\$'000
Interest revenue	19	92
	<u>19</u>	<u>92</u>

Recognition and Measurement

Interest revenue

Interest income is calculated by applying the effective interest rate to the gross carrying amount of a financial asset except for financial assets that subsequently become credit-impaired. For financial assets that become credit impaired, the effective interest rate is applied to the amortised cost of the financial asset (i.e. after deducting the loss allowance for expected credit losses).

(c) Other revenue

	2021	2020
	\$'000	\$'000
Other services provided	585	234
	<u>585</u>	<u>234</u>

Recognition and Measurement

Other services provided

Other services provided comprise monies received from outside entities not categorised in the revenue headings above. The revenue is recognised when the CSO satisfies a performance obligation by transferring a promised service to a customer. The revenue is recognised at the amount of the transaction price that is allocated to the performance obligation.

(d) Acceptance by the Crown of employee benefits

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

	2021	2020
	\$'000	\$'000
Superannuation – defined benefit	322	365
	<u>322</u>	<u>365</u>

Refer to Note 18 for recognition and measurement policies on employee benefits

4. LOSSES ON DISPOSAL

	2021 \$'000	2020 \$'000
Plant and equipment	1	-
Intangible assets	4	-
	5	-

5. OTHER GAINS/(LOSSES)

Recognition and Measurement

Impairment losses

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

Trade receivables and contract assets – Note 25

Plant and equipment – Note 11

Intangible Assets – Note 13

Leases – Note 12

6. FINANCIAL DISTRIBUTION TO THE CROWN IN RIGHT OF THE STATE OF NEW SOUTH WALES ("CROWN")

As a government business operating under the Commercial Policy Framework, the CSO is required to make a financial distribution to owners. The CSO provides for the financial distribution on the basis of a payout ratio of 70% of the CSO's forecast distributable operating surplus for the year as at 30 April. This is the forecast net operating surplus before adjustments for material non-cash items. The operating surplus is generated mainly from legal work for which the CSO competes against the private sector. This distribution is in accordance with TPP16-04 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 \$0.233m (2020: \$1.438m) has been recognised this year in accordance with the Treasurer's approval.

7. STATE OUTCOME GROUP STATEMENTS

The CSO operates under the single State Outcome of Efficient and Effective Legal System. The CSO provides legal services to the NSW Government. The Crown Solicitor must be engaged by government agencies to perform core legal services described in Premier's Memorandum 2016-04. The CSO also competes with the private legal profession for non-core (general) legal work.

The expenses, revenues, assets and liabilities of the State Outcome are presented in these financial statements.

8. CURRENT ASSETS - CASH AND CASH EQUIVALENTS

	2021	2020
	\$'000	\$'000
Cash at bank and on hand	13,052	3,633
	<u>13,052</u>	<u>3,633</u>

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

Cash and cash equivalent assets recognised are the same in both the Statement of Financial Position and Statement of Cash Flows.

Refer Note 25 for details regarding credit risk and market risk arising from financial instruments.

9. CURRENT ASSETS - RECEIVABLES

	2021	2020
	\$'000	\$'000
Current receivables		
Trade receivables from contracts with customers	15,105	27,371
Less: Allowance for expected credit losses		
-Trade receivables from contracts with customers	-	-
	<u>15,105</u>	<u>27,371</u>
Prepayments	458	457
Recoverable Disbursements	2,356	2,562
GST recoverable from the Australian Taxation Office	6	-
Long Service Leave recoverable	67	-
	<u>17,992</u>	<u>30,390</u>

Details regarding credit risk of trade debtors that are neither past due nor impaired are disclosed in Note 25.

Recognition and Measurement

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

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

Subsequent measurement

The CSO holds receivables with the objective to collect the contractual cash flows and therefore measures them at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

Impairment

Receivables are subject to an annual review for impairment. The CSO recognises an allowance for expected credit losses (ECLs) for all debt financial assets not held at fair value through profit or loss. ECLs are based on the difference between the contractual cash flows and the cash flows that the CSO expects to receive, discounted at the original effective interest rate. The amount of impairment loss is recognised in the net result for the year.

For trade receivables, the CSO applies a simplified approach in calculating ECLs. The CSO recognises a loss allowance based on lifetime ECLs at each reporting date.

Recoverable disbursements

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.

10. CONTRACT ASSETS

	2021 \$'000	2020 \$'000
Contract assets - current	9,489	8,035
Less: impairment allowance	-	-
	<u>9,489</u>	<u>8,035</u>
Contract receivables (included in Note 9)	15,105	27,371

Recognition and Measurement

Contract assets relate to the CSO's right to consideration in exchange for legal services rendered, but not billed at the reporting date in respect of its contracts with clients. Contract assets arise because revenue is recognised as time is incurred while payments are typically due once accrued fees reach \$1,000 or more, or every three months, whichever comes first. Contract assets are assessed annually and not carried at an amount that exceeds its net recoverable amount. The contract asset balance is materially in line with prior year.

The CSO recognises revenue to which it has a right to invoice, in the amount that corresponds directly with the value to the client of the CSO's performance completed to date therefore no revenue will be recognised in the current year from performance obligations satisfied in previous periods. CSO services are contracted on the basis of a cost estimate not a fixed price and without a fixed time period. Therefore, it is not possible to quantify the transaction price allocated to the remaining performance obligations from contracts with customers.

11. PLANT AND EQUIPMENT

	Plant and equipment \$'000	Leasehold Improvements \$'000	Total \$'000
At 1 July 2019 - fair value			
Gross carrying amount	1,646	17,775	19,421
Accumulated depreciation and impairment	(742)	(1,505)	(2,247)
Net carrying amount	904	16,270	17,174
Year ended 30 June 2020			
Net carrying amount at start of year	904	16,270	17,174
Additions*	1,177	135	1,312
Depreciation expense-asset owned	(457)	(1,700)	(2,157)
Net carrying amount	1,624	14,705	16,329
At 1 July 2020- fair value			
Gross carrying amount	2,748	17,909	20,657
Accumulated depreciation and impairment	(1,124)	(3,204)	(4,328)
Net carrying amount	1,624	14,705	16,329
Year ended 30 June 2021			
Net carrying amount at start of year	1,624	14,705	16,329
Additions	7	21	28
Disposals	(1)	-	(1)
Depreciation expense-asset owned	(510)	(1,666)	(2,176)
Other movement	(49)	(36)	(85)
Net carrying amount	1,071	13,024	14,095

*Additions of \$1.3m include \$1.0m held in Work in Progress for the Windows 10 upgrade and office accommodation fit out.

Recognition and Measurement

Acquisition of plant and equipment

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

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

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

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

Capitalisation thresholds

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.

Restoration costs

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

Depreciation of plant and equipment

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

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

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

Plant & Equipment	% Rate
Make good assets	Over the term of lease
Computer equipment, voice and data communications and laptops	25
Desktop PCs	25
Furniture and fittings	10
Other plant and equipment	20
Leasehold improvements	Over the term of lease
Software projects	10% or over the useful life of the asset where that is assessed at less than 10 years

Right-of-Use Assets acquired by lessees

AASB 16 Leases (AASB 16) requires a lessee to recognise a right-of-use asset for most leases. The CSO has elected to present right-of-use assets separately in the Statement of Financial Position.

Further information on leases is contained at Note 12.

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*.

The CSO's plant and equipment are non-specialised assets with short useful lives. They are measured at depreciated historical cost, which for these assets approximates fair value. The CSO has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

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

Refer to notes 15 and 25(e) for further information regarding fair value.

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. Since 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.

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

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

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

12. LEASES

The CSO leases 6 floors under 6 separate leases at 60-70 Elizabeth St, Sydney. The contracts are for fixed periods of 7 years with an extension option of 3 years. There are no variable payments in the 7 year term. Lease terms are negotiated collectively with the same terms and conditions. The lease agreements do not impose any covenants, but leased assets may not be used as security for borrowing purposes. The entity does not provide residual value guarantees in relation to leases.

In determining the lease term, management considers all facts and circumstances that create an economic incentive to exercise an extension option, or not exercise a termination option. Extension options (or periods after termination options) are only included in the lease term if the lease is reasonably certain to be extended (or not terminated). The assessment is reviewed if a significant event or a significant change in circumstances occurs which affects this assessment and that is within the control of the lessee.

AASB 16 requires a lessee to recognise a right-of-use asset for most leases. The right-of-use asset and corresponding liability are initially measured at the present value of the future lease payments.

The CSO has elected to recognise payments for short-term leases and low value leases as expenses on a straight-line basis, instead of recognising a right-of-use asset and lease liability. Short-term leases are leases with a lease term of 12 months or less. Low value assets are assets with a fair value of \$10,000 or less when new. The CSO currently has no such leases.

Right-of-use assets under leases

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

	Buildings	Total
	\$'000	\$'000
Balance at 1 July 2020	39,448	39,448
Depreciation expense	(5,065)	(5,065)
Balance at 30 June 2021	<u>34,383</u>	<u>34,383</u>

	Buildings	Total
	\$'000	\$'000
Balance at 1 July 2019	44,323	44,323
Depreciation expense	(4,875)	(4,875)
Balance at 30 June 2020	<u>39,448</u>	<u>39,448</u>

Lease liabilities

The following table presents liabilities under leases.

	2021	2020
	\$'000	\$'000
Balance at 1 July	40,368	44,323
Interest expenses	758	804
Payments	(4,967)	(4,759)
Balance at 30 June	<u>36,159</u>	<u>40,368</u>

The following amounts were recognised in the statement of comprehensive income during the period in respect of leases where the CSO is the lessee:

	2021	2020
	\$'000	\$'000
Depreciation expense of right-of-use assets	5,065	4,875
Interest expense on lease liabilities	758	804
Total amount recognised in the statement of comprehensive income	<u>5,823</u>	<u>5,679</u>

The CSO had total cash outflows for leases of \$4.967m during this financial year (2020: \$4.759m).

Recognition and measurement

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

The CSO recognises lease liabilities to make lease payments and right-of-use assets representing the right to use the underlying assets.

i. Right-of-use assets

The CSO recognises right-of-use assets at the commencement date of the lease (i.e. the date the underlying asset is available for use). Right-of-use assets are initially measured at the amount of initial measurement of the lease liability (refer ii below), adjusted by any lease

payments made at or before the commencement date and lease incentives, any initial direct costs incurred, and estimated costs of dismantling and removing the asset or restoring the site.

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

- Buildings 10 years

If ownership of the leased asset transfers to the entity at the end of the lease term or the cost reflects the exercise of a purchase option, depreciation is calculated using the estimated useful life of the asset.

The right-of-use assets are also subject to impairment under AASB 136 *Impairment of Assets*. The CSO assesses, at each reporting date, whether there is an indication that an asset may be impaired. If any indication exists, or when annual impairment testing for an asset is required, the CSO estimates the asset's recoverable amount.

When the carrying amount of an asset exceeds its recoverable amount, the asset is considered impaired and is written down to its recoverable amount. After an impairment loss has been recognised, it is reversed only if there has been a change in the assumptions used to determine the asset's recoverable amount. The reversal is limited so that the carrying amount of the asset does not exceed its recoverable amount, nor exceed the carrying amount that would have been determined, net of depreciation, had no impairment loss been recognised for the asset in prior years. Such reversal is recognised in the net result.

ii. Lease liabilities

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

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

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

The lease payments are discounted using the CSO's incremental borrowing rate, being the NSW Treasury Corporation rate that the CSO would have to pay to borrow the funds necessary to obtain an asset of similar value to the right-of-use asset in a similar economic environment with similar terms, security and conditions.

After the commencement date, the amount of lease liabilities is increased to reflect the accretion of interest and reduced for the lease payments made. In addition, the carrying amount of lease liabilities is remeasured if there is a modification, a change in the lease term,

a change in the lease payments (e.g., changes to future payments resulting from a change in an index or rate used to determine such lease payments) or a change in the assessment of an option to purchase the underlying asset.

The CSO's lease liabilities are included in borrowings.

13. INTANGIBLE ASSETS

	Software \$'000	Total \$'000
At 1 July 2019		
Cost (gross carrying amount)	6,044	6,044
Accumulated amortisation and impairment	(1,009)	(1,009)
Net carrying amount	<u>5,035</u>	<u>5,035</u>
Year ended 30 June 2020		
Net carrying amount at start of year	5,035	5,035
Additions*	4,591	4,591
Amortisation (recognised in "depreciation and amortisation")	(580)	(580)
Net carrying amount at end of year	<u>9,046</u>	<u>9,046</u>
At 1 July 2020		
Cost (gross carrying amount)	10,635	10,635
Accumulated amortisation and impairment	(1,589)	(1,589)
Net carrying amount	<u>9,046</u>	<u>9,046</u>
Year ended 30 June 2021		
Net carrying amount at start of year	9,046	9,046
Additions**	2,108	2,108
Disposals	(4)	(4)
Amortisation (recognised in "depreciation and amortisation")	(1,052)	(1,052)
Net carrying amount at end of year	<u>10,098</u>	<u>10,098</u>

*Additions of \$4.6m include \$0.7m for upgrades to the Practice Management System held in Work in Progress.

**Additions of \$2.1m include \$0.7m for upgrades to the Electronic Document Management System and Practice Management System held in Work in Progress.

Recognition and Measurement

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

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

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

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

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

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

14. CURRENT/NON-CURRENT ASSETS – OTHER

	2021	2020
	\$'000	\$'000
Crown Acceptance of long service leave liability - current	9,698	9,737
Crown Acceptance of long service leave liability – non-current	959	847
	<u>10,657</u>	<u>10,584</u>

15. FAIR VALUE MEASUREMENT OF NON-FINANCIAL ASSETS

Fair value measurement and hierarchy

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

When measuring fair value, the valuation technique used maximises the use of relevant observable inputs and minimises the use of unobservable inputs. Under AASB 13, the CSO categorises, for disclosure purposes, the valuation techniques based on the inputs used in the valuation techniques as follows:

- Level 1 - quoted (unadjusted) prices in active markets for identical assets / liabilities that the CSO can access at the measurement date.
- Level 2 – inputs other than quoted prices included within Level 1 that are observable, either directly or indirectly.
- Level 3 – inputs that are not based on observable market data (unobservable inputs).

The CSO recognises transfers between levels of the fair value hierarchy at the end of the reporting period during which the change has occurred.

(a) Fair value hierarchy

		2021			Total fair value
		Level 1 \$'000	Level 2 \$'000	Level 3 \$'000	\$'000
Right-of-Use Asset	12	-	-	34,383	34,383
		-	-	34,383	34,383

		2020			Total fair value
		Level 1 \$'000	Level 2 \$'000	Level 3 \$'000	\$'000
Right-of-Use Asset	12	-	-	39,448	39,448
		-	-	39,448	39,448

There were no transfers between levels of the fair value hierarchy during the periods.

(b) Valuation techniques, inputs and processes

Right-of-Use Asset under lease

The Right-of-Use Asset is valued using market evidence (that is, based on a market selling price), with adjustments for varying characteristics including condition, location and comparability and is therefore categorised at Level 3.

The Direct Comparison Method has been utilised as the primary method of valuation. In this approach, the relative merits of the asset and rental prices of comparable spaces are analysed and compared, having regard to matters such as location, aspect, quality and condition of improvements and current market sentiment.

Plant and Equipment and Leasehold Improvements

These assets are classified as non-specialised assets. For non-specialised assets with short useful lives, recognition at historical depreciated costs as an acceptable surrogate for fair value is allowed. Historical cost is an appropriate surrogate because any difference between fair value and depreciated historical cost is unlikely to be material.

(c) Reconciliation of recurring Level 3 fair value measurements

	ROUA \$'000	Total \$'000
Fair value as at 1 July 2020	39,448	39,448
Depreciation	(5,065)	(5,065)
Fair value as at 30 June 2021	34,383	34,383
Fair value as at 1 July 2019	44,323	44,323
Depreciation	(4,875)	(4,875)
Fair value as at 30 June 2020	39,448	39,448

16. CURRENT LIABILITIES - PAYABLES

	2021	2020
	\$'000	\$'000
Accrued salaries, wages and on-costs	792	739
Creditors	4,046	6,784
Accrued expenses	2,410	2,354
GST payable to the Australian Taxation Office	-	131
	<u>7,248</u>	<u>10,008</u>

Details regarding liquidity risk, including a maturity analysis of the above payables, are disclosed in Note 25.

Recognition and Measurement

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

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

17. CURRENT/NON-CURRENT LIABILITIES – BORROWINGS

	2021	2020
	\$'000	\$'000
Current borrowings		
Lease liability (see Note 12)	<u>4,508</u>	<u>4,206</u>
	4,508	4,206
Non-Current borrowings		
Lease liability (see Note 12)	<u>31,651</u>	<u>36,163</u>
	31,651	36,163

Details regarding liquidity risk, including a maturity analysis of the above payables, are disclosed in Note 25.

Recognition and Measurement

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

Changes in liabilities arising from financing activities:

	Financial Distribution payable \$'000	Leases \$'000	Total liabilities from financing activities \$'000
1 July 2019	4,553	44,323	48,876
Cash flows	(4,553)	(4,759)	(9,312)
Interest	-	804	804
Provision for Distribution 30 June 2020	1,438	-	1,438
30 June 2020	<u>1,438</u>	<u>40,368</u>	<u>41,806</u>
1 July 2020	1,438	40,368	41,806
Cash flows	(1,438)	(4,967)	(6,405)
Interest	-	758	758
Provision for Distribution 30 June 2021	233	-	233
30 June 2021	<u>233</u>	<u>36,159</u>	<u>36,392</u>

18. CURRENT/NON-CURRENT LIABILITIES - PROVISIONS

	2021 \$'000	2020 \$'000
Current		
Employee benefits and related on-costs		
Annual leave	4,112	4,130
Long service leave	9,698	9,737
Related Oncost	1,920	2,163
	15,730	16,030
Other provisions		
Distribution to the Crown	233	1,438
Restructure costs	396	-
	629	1,438
Total current provisions	16,359	17,468
Non-Current		
Employee benefits and related on-costs		
Long service leave	959	847
Long service leave - related oncost	141	126
	1,100	973
Other provisions		
Make good	1,759	1,832
	1,759	1,832
Total non-current provisions	2,859	2,805
Aggregate employee benefits and related on-costs		
Provisions – current	15,730	16,030
Provisions - non-current	1,100	973
Accrued salaries, wages and on-costs (Note 16)	792	739
	17,622	17,742

Movements in provisions (other than employee benefits)

	Distribution Payments \$'000	Make good (non-current) \$'000
Carrying amount at 1 July 2020	1,438	1,832
Additional provisions recognised	233	-
Change in the discount rate of make good provision	-	(73)
Amounts paid out	(1,438)	-
Carrying amount at 30 June 2021	233	1,759

(a) Annual Leave

The liability at 30 June 2021 is based on leave entitlements at 30 June using remuneration rates to be payable post 30 June.

	2021 \$'000	2020 \$'000
Short term – expected to be settled within 12 months	3,910	4,180
Long term – not expected to be settled within 12 months	785	656
	<u>4,695</u>	<u>4,836</u>

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 2021.

(b) Long Service Leave

The total liability at 30 June 2021 was \$10.657m (2020: \$10.584m) which is shown as current \$9.698m (2020: \$9.737m) and non-current \$0.959m (2020: \$0.847m). This liability comprises:

	2021 \$'000	2020 \$'000
Short term – expected to be settled within 12 months	1,125	961
Long term – not expected to be settled within 12 months	9,532	9,623
	<u>10,657</u>	<u>10,584</u>

The CSO contributed \$0.969m (2020: \$0.910m) to the Crown pool account during this financial year including leave entitlement transfers received from other agencies. Reimbursements from the Crown because of payments to staff or transfers of entitlement to other agencies were \$0.733m (2020: \$0.466m).

Recognition and Measurement

Employee benefits and related on-costs

Salaries and wages, annual leave and sick leave

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

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

Actuarial advice obtained by Treasury has confirmed that using the nominal annual leave balance plus the annual leave entitlements accrued while taking annual leave (calculated using 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. All annual leave is classified as a current liability even where the CSO does not expect to settle the liability within 12 months as the CSO does not have an unconditional right to defer settlement.

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

Long service leave and superannuation

The 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 as assets.

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

Superannuation assumed by the Crown

The CSO's liability for defined benefit superannuation is assumed by the Crown. CSO accounts for the liability as having been extinguished; resulting in the amount assumed being shown as part of the non-monetary revenue item described as 'Acceptance by the Crown of employee benefits'. The superannuation expense for the period is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (i.e. Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (i.e. State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

Consequential on-costs

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

Other provisions

Provisions are recognised when: the CSO has 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. When the CSO expects some or all of a provision to be reimbursed, for example, under an insurance contract, the reimbursement is recognised as a separate asset, but only when the reimbursement is virtually certain. The expense relating to a provision is presented net of any reimbursement in the Statement of Comprehensive Income.

If the effect of the time value of money is material, provisions are discounted at a pre-tax rate that reflects the current market assessments of the time value of money and the risks specific to the liability. When discounting is used, the increase in the provision due to the passage of time (i.e. unwinding of discount rate) is recognised as a finance cost.

(c) Make good

Make good provisions represent 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. CSO occupies levels 4-9 of 60-70 Elizabeth Street Sydney. Levels 4-9 have been refurbished.

The make good provisions for levels 4-9 have a non-current liability payable at the expiry of the leases. The non-current provision is discounted at 1.10% which is the rate based on the market yield on Commonwealth government bonds as per TC11-17. The increase in the provision due to the passage of time (i.e. unwinding of discount rate) is recognised as a finance cost. The increase in the provision due to a change in other assumptions is recognised in the leasehold improvement asset.

(d) Distribution Payable to the Crown

A provision for financial distribution to the Crown of \$0.233m (2020: \$1.438m) is made based on the Treasurer's approval dated 25 June 2021 of the Crown Solicitor's recommendation for the 2020-2021 financial year (refer Note 6).

19. EQUITY

Recognition and Measurement

Accumulated Funds

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

20. COMMITMENTS FOR EXPENDITURE

(a) Capital Commitments

	2021 \$'000	2020 \$'000
Aggregate capital expenditure for the enhancement of the Practice Management System (PMS), content management system (2021) and enhancement of the (PMS), content management system, and new laptops (2020) contracted for at balance date and not yet provided for:		
Within one year	149	193
Later than one year and not later than five years	-	-
Later than five years	-	-
Total (including GST)	149	193

Total commitments for capital expenditure include input tax credits of \$0.02m (2020: \$0.02m) that are expected to be recoverable from the Australian Taxation Office.

21. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

The CSO has no contingent liabilities or contingent assets at 30 June 2021. There were no contingent liabilities or contingent assets at 30 June 2020.

22. BUDGET REVIEW

The budgeted amounts are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period. Subsequent amendments to the original budget (e.g. adjustment for transfer of functions between entities as a result of Administrative Arrangements Orders; or supplementary funding) are not reflected in the budgeted amounts.

Major variances between the original budgeted amounts and the actual amounts disclosed in the financial statements are explained as follows.

Net result

The net surplus for the year of \$0.559m is \$0.288m less than budget of \$0.847m.

Revenue of \$71.145m is materially on budget of \$71.262m, and \$2.084m lower than 2019-20. The volumes of work in each legal practice group have remained broadly in line with prior year and budget.

Employee Related Expenses are \$0.602m lower than budget as a result of the slight reduction in revenue and as a result of the eventual mix of employees and agency staff engaged during the year. CSO continues to recruit appropriately qualified staff and contractors to ensure that sufficient resources are available to meet client demand whilst maintaining target productivity measures.

Other Operating Expenses are \$0.582m above budget consistent with the variance in employee and agency mix described above.

Depreciation & Amortisation is in line with budget.

Finance costs represent the interest expense from lease liabilities as a result of adopting AASB 16. Cost in the current year of \$0.685m is higher than budget by \$0.126m due to a correction in the rental escalation rate in future years.

Assets and liabilities

Total assets of \$109.766m are materially on budget of \$110.038m. Improved cash collection and a focus on old Work in Progress has resulted in Cash and Cash Equivalents being \$3.632m higher than budget and Receivables being \$8.032m lower than budgeted. Non-current assets are higher than budget primarily due to the remeasurement of the office lease Right-of-Use Asset, which is \$2.557m higher than budget. Intangibles are \$1.474m greater than budget due to allocation of expenditure, offset by other plant and equipment which is \$1.263m lower than budget.

Total Liabilities of \$62.625m are materially on budget of \$62.584m. Payables are \$2.494m lower than budget while borrowings relating to the Right-of-Use Asset are \$3.189m higher than budget. Provision for distribution to Crown Entity is \$0.314m lower than budget.

Cash flows

Cash and Cash Equivalents increased by \$9.419m compared to a budgeted increase of \$5.786m. The variance of \$3.633m is due to an improvement in collection of Receivables.

23. RECONCILIATION OF OPERATING CASH FLOWS TO NET RESULT

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

	2021	2020
	\$'000	\$'000
Net cash flows from operating activities	18,086	1,445
Depreciation and amortisation expense	(8,293)	(7,612)
Decrease/(increase) in provisions	240	(3,215)
Increase/(decrease) in receivables, prepayments and other assets	(12,399)	18,417
Increase/(decrease) in contract assets	1,454	(1,970)
Decrease/(increase) in payables	1,476	(3,887)
Net loss on disposal of assets	(5)	-
Net result	559	3,178

24. TRUST FUNDS

The Crown Solicitor operates a Trust Account in accordance with the *Legal Profession Uniform Law Application Regulation 2015*. As the CSO performs only 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. Interest earned on funds held in the Crown Solicitor's Trust Account is retained by NSW Treasury.

	2021	2020
	\$'000	\$'000
Cash balance at the beginning of the financial year	9,779	12,159
Add: Receipts	17,949	10,018
Less: Expenditure	(25,616)	(12,398)
Cash balance at the end of the financial year	2,112	9,779

25. 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 CSO on a regular basis.

(a) Financial instrument categories

Class	Note	Category	Carrying Amount	
			2021 \$'000	2020 \$'000
Financial Assets				
Cash and cash equivalents	8	Amortised cost	13,052	3,633
Receivables ¹	9	Amortised cost	17,461	29,933
Contract assets ²	10		9,489	8,035
			40,002	41,601
Financial Liabilities				
Payables ³	16	Financial liabilities measured at amortised cost	7,214	9,848
Borrowings	17	Financial liabilities measured at amortised cost	36,159	40,368
			43,373	50,216

Notes 1. Excludes statutory receivables and prepayments (i.e. not within scope of AASB 7).

2. While contract assets are also not financial assets, they are explicitly included in the scope of AASB 7 for the purpose of the credit risk disclosures.

3. Excludes statutory payables and unearned revenue (i.e. not within scope of AASB 7).

The CSO determines the classification of its financial assets and liabilities after initial recognition and, when allowed and appropriate, re-evaluates this at each financial year end.

(b) Derecognition of financial assets and financial liabilities

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

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

When the CSO has transferred its rights to receive cash flows from an asset or has entered into a pass-through arrangement, it evaluates if, and to what extent, it has retained the risks and rewards of ownership. Where the CSO has neither transferred nor retained substantially all the risks and rewards or transferred control, the asset continues to be recognised to the extent of the CSO's continuing involvement in the asset. In that case, the CSO also recognises an associated liability. The transferred asset and the associated liability are measured on a basis that reflects the rights and obligations that the CSO has retained.

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

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

(c) Offsetting financial instruments

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

(d) Financial Risks

(i) Credit risk

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

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

The CSO considers a financial asset in default when contractual payments are 90 days past due. However, in certain cases, the CSO may also consider a financial asset to be in default when internal or external information indicates that the CSO is unlikely to receive the outstanding contractual amounts in full before taking into account any credit enhancements held by the CSO.

Cash and cash equivalents

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.

Receivables – trade receivables and contract assets

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

The CSO applies the AASB 9 simplified approach to measuring expected credit losses which uses a lifetime expected loss allowance for all trade debtors and contract assets.

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

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

Trade receivables and contract assets are written off when there is no reasonable expectation of recovery. Indicators that there is no reasonable expectation of recovery include, amongst others a failure to make contractual payments for a period of greater than 90 days past due.

The CSO is not materially exposed to concentrations of credit risk to a single debtor or groups of debtors at 30 June 2021. The CSO's debtors are primarily other NSW government entities and credit risk is assessed as very low.

The loss allowance for trade receivables and contract assets as at 30 June 2021 and 30 June 2020 was determined to be \$nil.

(ii) 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.

During the current year and prior year, there were no defaults of borrowings. 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.

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 \$nil (2020: \$nil) and the rate of interest applied during the year was 0% (2020: 0%).

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

Maturity analysis and interest rate exposure of financial liabilities

	Weighted average effective interest rate	\$'000 Interest Rate Exposure				Maturity Dates		
		Nominal Amount	Fixed Interest Rate	Variable Interest Rate	Non- interest bearing	< 1 year	1 -5 years	> 5 years
2021								
Payables	-	7,214	-	-	7,214	7,214	-	-
Lease liabilities	2.0%	38,716	38,716	-	-	5,183	22,741	10,792
		45,930	38,716	-	7,214	12,397	22,741	10,792
2020								
Payables	-	9,848	-	-	9,848	9,848	-	-
Lease liabilities	2.0%	43,684	43,684	-	-	4,967	22,050	16,666
		53,532	43,684	-	9,848	14,815	22,050	16,666

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.

(iii) Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. The CSO has no exposure to foreign currency risk and does not enter into commodity contracts.

The effect on profit and equity due to a reasonably possible change in risk variable is outlined in the information below, for interest rate risk and other price risk. A reasonably possible change in risk variable has been determined after taking into account the economic environment in which the entity operates and the time frame for the assessment (i.e. until the end of the next annual reporting period). The sensitivity analysis is based on risk exposures in existence at the Statement of Financial Position reporting date. The analysis is performed on the same basis as for 2020. The analysis assumes that all other variables remain constant.

Interest rate risk

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates. 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 +/- 0.05 per cent (2020: +/- 0.10%), consistent with current trends in interest rates (based on official RBA interest rate volatility over the last five years). The basis will be reviewed annually and amended where there is a structural change in the level of interest rate volatility.

The following table demonstrates the sensitivity to a reasonably possible change in interest rates:

	2021 \$'000		2020 \$'000	
	+0.05%	-0.05%	+0.10%	-0.10%
Net Result	7	(7)	4	(4)
Equity	7	(7)	4	(4)

(e) Fair Value measurement

(i) Fair Value compared to carrying amount

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

The CSO does not hold financial assets and financial liabilities where the fair value differs from carrying amount.

(ii) Fair Value recognised in the Statement of Financial Position

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 assets and liabilities that are valued at fair value using valuation techniques.

Management assessed that cash, trade receivables, trade payables, and other current liabilities approximate their fair values, largely due to the short-term maturities of these instruments.

26. RELATED PARTY DISCLOSURES

The CSO's key management personnel compensation was as follows:

Short term employee benefits:

	2021 \$'000	2020 \$'000
Salaries	1,432	1,532
Other monetary allowances	224	308
Other long-term employee benefits	-	39
Total remuneration	<u>1,656</u>	<u>1,879</u>

The CSO did not enter into any transactions during the year with key management personnel, their close family members or controlled or jointly controlled entities thereof.

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

The CSO provides legal services to the NSW Government and its agencies. \$48.327m (2020: \$51.453m) of the CSO's fee for service revenue is related to the delivery of services on core legal matters which must be referred to the Crown Solicitor under the Premier's

Memorandum 2016-04. This work is funded from the Attorney General's Legal Fund, an appropriation administered by the Department of Communities and Justice (DCJ). The remainder of CSO's revenue for services and other revenue is paid by various NSW government agencies or the Treasury Managed Fund.

The CSO receives shared services from DCJ in the areas of payroll, information and technology systems support and library services. The CSO incurred \$2.207m (2020: \$1.677m) in fees to DCJ for these services.

The CSO resides in leased premises and made payments for rent and outgoings due under the lease to Property NSW. These amounts totalled \$5.294m (2020: \$5.469m).

Other transactions with entities that are controlled/jointly controlled or significantly influenced by the NSW Government that are collectively, but not individually, significant include:

- Payments to, and reimbursements from, the Long Service Leave pool in relation to CSO employees.
- Interest revenue received from the NSW Treasury banking system.
- Payments to the Government Records Repository for storage of CSO records.
- Payments to the NSW Treasury Managed Fund for workers' compensation insurance and other insurances.
- Payments to Government Advertising in respect of the advertising of job vacancy notices.

27. 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 these financial statements.

End of audited financial statements.

2. Payment of accounts

The Faster Payment Terms policy took effect from 1 December 2018 and the reporting obligations for this policy sit with the Office of the NSW Small Business commissioner.

Initiatives to improve payment performance

The CSO targets satisfactory payment performance through the provision of Purchasing Cards, where appropriate, to ensure prompt payment of low-value invoices; use of EFT as the preferred method of paying creditors; payment of major suppliers by way of consolidated invoicing; and ensuring that CSO employees are aware of and abide by the payment performance requirements.

The CSO's practice management system, Thomson Reuters Elite, supports centralised receipt of supplier invoices and use of electronic workflow for approval, and is expected to deliver continuous improvement to our payment performance.

Time for payment of accounts

Interest payments are not applicable for late payments but are at the discretion of agencies to pay. The CSO's supplier payment policy does not include a condition to pay interest on late accounts.

3. Promotion

In the 2020-21 financial year, there were no overseas visits by CSO officers or employees.

4. Management and activities

Financial performance

The CSO achieved a net surplus of \$0.6M, \$0.2M less than the budgeted \$0.8M. The office will make a distribution payment of \$0.2M from the distributable operating surplus, as approved by the Treasurer.

Revenue of \$71.1M was materially on budget of \$71.3M, and \$2.1M lower than 2019-20. The volumes of work in each legal practice group remained broadly in line with the previous year and budget.

Performance measures

Measure	2019 -20		2020-21	
	Actual	Budget	Actual	Budget
Net surplus	\$3.2M	\$1.4M	\$0.6M	\$0.8M
New matters	4,161	n/a	3,926	n/a
Employee utilisation ¹ (solicitors' average daily billable hours)	4.8hrs	4.7hrs	4.6hrs	4.7hrs
% of clients rating the CSO's legal services as better than or equal to that of other law firms they use ²	97%	85%	90%	85%

1 Solicitors' average daily billable hours are adjusted for any write-offs or discounts applied prior to invoicing.

2 Data comes from the CSO's annual client service survey.

5. Consultant expenditure

Total consultant expenditure in 2020-21 was \$36,257, comprising two engagements.

There were no engagements costing \$50,000 or more.

6. Risk management and insurance

Risk management activities

The CSO maintains a Risk Management Framework and internal audit function, in addition to having independent Audit and Risk Committee oversight, to comply with the *Internal Audit and Risk Management Policy for the General Government Sector* (TPP 20-08).

ENTERPRISE RISK MANAGEMENT FRAMEWORK

The CSO's Risk Management Framework governs the approach of the office to risk management. The Framework is based on the Department of Communities and Justice's framework and is designed to conform to TPP20-08 (which is consistent with *AS ISO 31000:2018 Risk management – Guidelines*).

Our Executive team continually reviews the CSO's risk register to identify new and emerging risks. Risk mitigation plans are developed for each identified risk, and monitoring and reporting arrangements are put in place.

Risk management is also included as part of the CSO project management framework, specifically in relation to projects under the information and communication technology strategic plan.

CORRUPTION PREVENTION STRATEGY

The CSO's internal Fraud and Corruption Control Policy sets standards and provides guidance on how to control fraud and corruption, and how to report corrupt conduct. The policy applies to all staff, volunteers, consultants, contractors and outsourced service providers performing work for the CSO.

The policy also outlines key roles and responsibilities in relation to controlling fraud and corruption.

BUSINESS CONTINUITY FRAMEWORK

The CSO's Business Continuity Framework provides guidance on how the CSO will recover and maintain services following a critical disruptive event. The framework outlines how the CSO prepares, responds to and recovers from a disruption.

The CSO's Business Continuity Plan is reviewed and tested regularly, with established governance committees ready to respond to a disruptive event.

CYBER SECURITY

The CSO has cyber security policies and procedures and embeds cyber security into risk management practices and assurance processes. Each year, the CSO undertakes a formal cyber security maturity self-assessment, and the Crown Solicitor provides an annual attestation on cyber security (refer to Appendix 7. Cyber security, in this report).

The CSO has a suite of information security policies to provide oversight and guidance to CSO staff. The CSO maintains a Cyber Security Incident Response Plan and provides cyber security training to staff, developed under the *NSW Cyber Security Policy* (DCS-2021-02).

The *NSW Cyber Security Policy* recognises the growing need for effective cyber security. Ensuring the security of agency data is paramount as government services are increasingly delivered through digital channels. Those accessing CSO services or operating within CSO ICT environment need to be confident that the digital services they use are stable, secure and resilient to cyber-attack.

INTERNAL AUDIT

The CSO's Internal Audit Plan is based on the CSO's Risk Register and typical financial controls risks, alongside input from the Department of Communities and Justice.

Further risk management measures in place at the CSO include the Legislative Compliance Management Policy, which provides the principles and tools to ensure operations are conducted in accordance with legal, constitutional and NSW Government policy requirements, and the Register of Material Legislation.

Additionally, the CSO Staff Manual, a central directory of current policies accessible to all staff, includes policies covering key areas such as Code of Conduct, Public Interest Disclosures, Managing Gifts and Benefits and supervision requirements.

Insurance activities

The Treasury Managed Fund (TMF), a government-wide self-insurance scheme managed by icare's Insurance for NSW on behalf of the NSW Treasury, provides full workers' compensation, property, liability and miscellaneous insurance cover to the CSO.

On behalf of icare, QBE Insurance provided workers' compensation and Gallagher Bassett provided General Lines insurance claims management service for the CSO during 2020-21.

The CSO monitors its claims on an ongoing basis, with a focus on occupational health and safety and claims management, with the aim of reducing the number and value of workers' compensation insurance claims.

Risk management policies and procedures are continually reviewed to enhance the CSO's risk management profile and reduce future premiums.

Internal audit and risk management policy attestation statement

Internal Audit and Risk Management Attestation Statement for the 2020-2021 Financial Year for the Crown Solicitor's Office

I, Karen Smith am of the opinion that the Crown Solicitor's Office has internal audit and risk management processes in operation that are, excluding the exemptions or transitional arrangements described below, compliant with six (6) of the seven (7) Core Requirements set out in the *Internal Audit and Risk Management Policy for the General Government Sector*, specifically:

Core Requirements	For each requirement, please specify whether compliant, non-compliant, or in transition
Risk Management Framework	
1.1 The Accountable Authority shall accept ultimate responsibility and accountability for risk management in the agency.	Compliant
1.2 The Accountable Authority shall establish and maintain a risk management framework that is appropriate for the agency. The Accountable Authority shall ensure the framework is consistent with AS ISO 31000:2018.	Compliant
Internal Audit Function	
2.1 The Accountable Authority shall establish and maintain an internal audit function that is appropriate for the agency and fit for purpose.	Compliant
2.2 The Accountable Authority shall ensure the internal audit function operates consistent with the International Standards for Professional Practice for Internal Auditing.	Compliant
2.3 The Accountable Authority shall ensure the agency has an Internal Audit Charter that is consistent with the content of the 'model charter'.	Compliant
Audit and Risk Committee	
3.1 The Accountable Authority shall establish and maintain efficient and effective arrangements for independent Audit and Risk Committee oversight to provide advice and guidance to the Accountable Authority on the agency's governance processes, risk management and control frameworks, and its external accountability obligations.	Compliant
3.2 The Accountable Authority shall ensure the Audit and Risk Committee has a Charter that is consistent with the content of the 'model charter'.	In Transition

Membership

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

- Independent Chair, Carolyn Burlew, 1 August 2019 to 31 July 2022
- Independent Member 1, Christine Feldmanis, 1 August 2019 to 31 July 2022
- Independent Member 2, Abby Bloom, 1 August 2019 to 31 July 2022
- Independent Member 3, John Hunter, 25 October 2019 to 22 June 2021
- Independent Member 4, Garry Dinnie, 1 February 2021 to 31 March 2024
- Independent Member, Denise Aldous, 1 August 2019 to 31 December 2020

Shared Arrangements

I, Karen Smith advise that the Crown Solicitor's Office has entered into an approved shared arrangement with the following agencies:

- Department of Communities and Justice
- Legal Profession Admission Board
- Office of the Ageing and Disability Commissioner

The resources shared include the Audit and Risk Committee, the Chief Audit Executive and the internal audit functions. The shared Audit and Risk Committee is a Principal Department Led Shared Audit and Risk Committee.

Departures from Core Requirements

I, Karen Smith advise that the internal audit and risk management processes for the Crown Solicitor's Office depart from the following Core Requirements set out in the *Internal Audit and Risk Management Policy for the General Government Sector*:

- The departure from the Core Requirements is due to the agency implementing measures to achieve compliance with new policy requirements consistent with the permitted transitional arrangements.

Departure	Reason for departure and description of practicable alternative measures implemented/being implemented
In Transition	
<ul style="list-style-type: none"> ▪ Core Requirement 3.2 	<ul style="list-style-type: none"> ▪ The Crown's Solicitor's Office completed and submitted an Audit and Risk Committee Charter to Treasury in September 2020 which did not reflect all the Accountable Authorities in the Principal Department Led Shared Arrangements. ▪ A revised Audit and Risk Committee Charter has been completed and will be signed by all Accountable Authorities consistent with the 'model charter' and in compliance with the new policy requirements in September 2021. This step will ensure that all the Accountable Authorities will be compliant with Core Requirement 3.2 and be fully compliant by October 2021. ▪ I, Karen Smith, note I am not required to apply to the agency's Portfolio Minister for being "in transition" from Core Requirement 3.2 for this reporting period.

These processes, including the practicable alternative measures being implemented, demonstrate that the Crown Solicitor's Office has established and maintained frameworks, including systems, processes and procedures for appropriately managing audit and risk within the Crown Solicitor's Office.

Karen Smith

 Karen Smith
 Crown Solicitor
 20 September 2021

S. Langridge

 Sandra Langridge
 Audit and Risk Committee Secretariat
 Contact: 02 8061 9291

7. Cyber security policy attestation



Crown
Solicitor's
Office

23 August, 2021

Cyber Security Annual Attestation Statement for the 2020-2021 Financial Year for Crown Solicitor's Office

I, Karen Smith, NSW Crown Solicitor, am of the opinion that Department of Communities and Justice (formerly Department of Justice), Information Technology Services (our shared service provider) had an Information Security Management System in place during the 2020-2021 financial year that is consistent with the Mandatory Requirements set out in the NSW Cyber Security Policy

For the purpose of compliance with the NSW Cyber Security Policy, the Crown Solicitor's Office has relied on the attestation by the Department of Communities and Justice, Information Technology Services and certification of their department's ISMS against the ISO270001 standard.

Governance is in place to manage the cyber security maturity and initiatives of the Crown Solicitor's Office.

The controls in place to mitigate identified risks to the digital information and digital information systems of Crown Solicitor's Office are reasonable.

The Crown Solicitor's Office is continuing to work with Department of Communities and Justice to review and refine the agency's governance and cyber security response posture.

Yours faithfully

A handwritten signature in black ink that reads 'Karen Smith'.

Karen Smith
Crown Solicitor

8. Consumer response

There were no client complaints received during the reporting year.

The CSO's procedure for handling complaints is publicly available on the CSO website, which outlines to whom feedback and complaints should be made, how a complaint will be dealt with, and what outcomes can be expected. The page also provides information about privacy and confidentiality protections and includes links to alternative complaint-handling agencies. A record is kept of all complaints received. The page is available at <http://www.cso.nsw.gov.au/Pages/feedback-and-complaints.aspx>.

The CSO also proactively seeks feedback from clients. Each year, we invite key clients to complete a confidential, online client service survey to provide feedback on how the CSO is performing in its delivery of legal services.

Clients are also given opportunities to provide feedback following our events (including CPD seminars, conferences and training sessions) through confidential online surveys. This feedback is used to improve the way we deliver these services and to develop new services.

9. Government Information (Public Access) Act

The CSO is declared not to be a separate agency, but is taken to be part of, and included in, the Department of Communities and Justice under clause 13 of Schedule 3 to the *Government Information (Public Access) Regulation 2018*, made pursuant to clause 6 of Schedule 4 to the *Government Information (Public Access) Act 2009* (GIPA Act). Accordingly, the CSO does not exercise functions in relation to GIPA Act applications; these are dealt with by the Department of Communities and Justice. The CSO has no subsidiary agencies.

10. Privacy and personal information

The CSO received one request for internal review under the *Privacy and Personal Information Protection Act 1998* (PPIP Act) during the 2020-21 financial year. That review was completed within the financial year.

The CSO is a separate agency for the purposes of the PPIP Act. No agencies have been prescribed by regulation for the purposes of s. 4B(1)(a) of the Act. In compliance with the provisions of the PPIP Act, the CSO has a Privacy Management Plan.

11. Public interest disclosures

There were no public interest disclosures to the CSO in the 2020-21 reporting period.

The CSO has a public interest disclosure (PID) policy in place. The policy, and an internal disclosures form, is made available to all staff via the CSO intranet and publicly on the CSO website.

12. Legal change

Significant judicial decisions and legislative changes affecting clients of the CSO are outlined in the body of this report.

13. Report production

No costs, other than existing salaries, were incurred in the production of this report.

A copy of this report is made available to the public on the CSO website (www.cso.nsw.gov.au) or upon request (csomarketing@cso.nsw.gov.au).