



ANNUAL REPORT

2018-19



Crown
Solicitor's
Office

30 October 2019

The Hon Mark Speakman SC MP
Attorney General
Level 18, 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 2018 to 30 June 2019.

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

Yours faithfully

A handwritten signature in black ink, appearing to be "KS" followed by a long, sweeping flourish.

Karen Smith
Crown Solicitor

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CROWN SOLICITOR'S MESSAGE

The Crown Solicitor's Office provides high quality legal services to the State of NSW and its agencies.

Our mission

We are here to be the NSW Government's most trusted legal advisors. Our principal role is to advise and represent agencies so that they can deliver the NSW Government's policies, programs and projects in a lawful, effective and efficient manner. We act with integrity and professional independence, and are guided by the government sector core values. We use our knowledge of the law and government to provide high quality legal advice and representation. We build deep understanding and constructive relationships with our clients.

Our clients

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.¹

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

Our performance

The 2018-19 financial year operating result for the office was a net surplus of \$7.5M. We will make a distribution payment of \$4.6M from the distributable operating surplus, as approved by the Treasurer.

Our people

Our organisation's current success and future potential depend upon the talented and committed people that make up this office. As the largest provider of legal services to the NSW Government, the CSO attracts outstanding lawyers who are skilled and passionate about providing high quality legal services that make a difference to the lives of the people of NSW.

Our people provided feedback about their high engagement with work, and about where there were opportunities for us as an organisation to further improve. We are rolling out a new practice management system and other technologies that will support us to deliver an even more modern, diverse, inclusive and flexible workplace into the future.

I am honoured and privileged to be presenting the CSO's annual report for the financial year ended 30 June 2019. I acknowledge and thank both the former Acting Crown Solicitor, James Lonsdale, for ensuring the seamless delivery of legal services during the transition to my arrival in April 2019, and the former Crown Solicitor, her Honour Justice Armstrong, whose talent and commitment as a senior commercial and public lawyer has ensured that the CSO is held in high esteem across the sector.

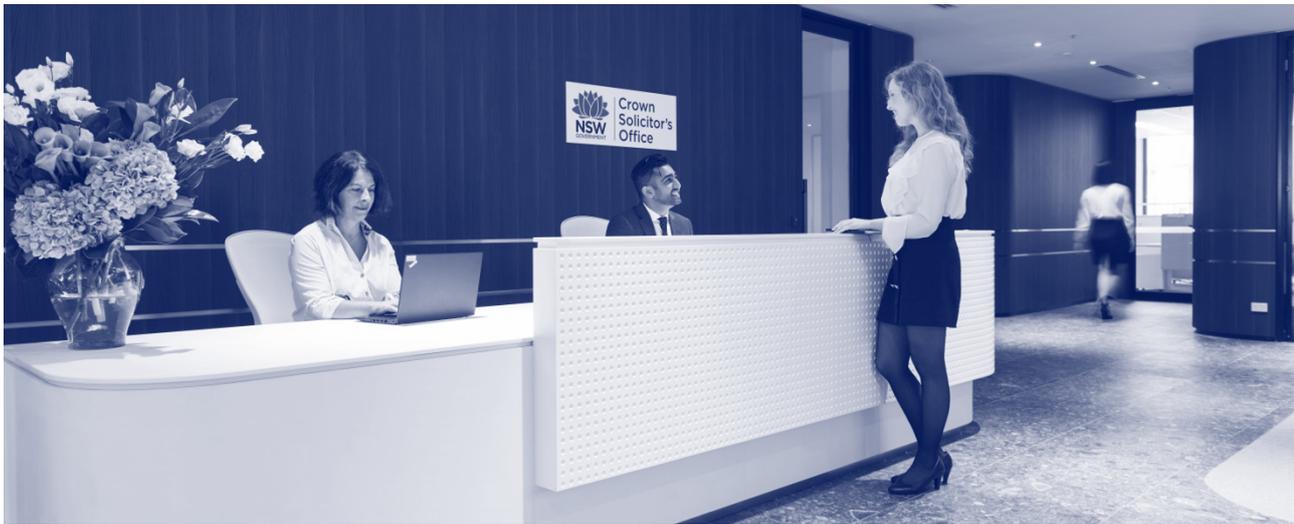
The office farewelled Justice Armstrong in October 2018. In her Supreme Court swearing-in speech, her Honour observed that the work of government lawyers "is vital to the rule of law. The rule of law requires that governments work within the boundaries of the law and, particularly, constitutional requirements. The work of government lawyers is to provide frank, fearless and independent advice aimed at ensuring this is the case."

Justice Armstrong's professional skill and dedication to legal practice is evident throughout the achievements presented in this report.

Karen Smith
Crown Solicitor

¹ *Legal Profession Uniform Law Application Act 2014, s. 44*

AGENCY OVERVIEW



The Crown Solicitor's Office (CSO) is a public service executive agency established under section 22 of the *Government Sector Employment Act 2013* and related to the Department of Justice.² We are the largest provider of legal services to the NSW Government and its agencies. The CSO is headed by the NSW Crown Solicitor, who is responsible to the Attorney General for the operations of the CSO.

OUR WORK

The Crown Solicitor acts as the solicitor on the record in many legal proceedings, representing the State, State agencies and ministers. Through her office, the Crown Solicitor is the sole provider of legal services in all matters which are regarded as core legal work.

Under Premier's Memorandum 2016-04, the Crown Solicitor must be engaged by government agencies (subject to that Memorandum) to perform "core legal 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.

² Following the Machinery of Government changes that came into effect on 1 July 2019, the newly formed Stronger Communities cluster brought together the former Justice and Family and Communities clusters. The Department of Justice is now known as the Department of Communities and Justice.

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

The CSO is considered a not-for-profit entity, as approximately 70% of its work is core legal work and is performed at cost recovery rates only.

The Crown Solicitor also competes with the private sector to deliver non-core legal work to government agencies. This work is priced in accordance with competitive neutrality principles, and generates a surplus from which the CSO makes its financial distribution payment and funds its capital expenditure.

The CSO delivers services under several legal services panel arrangements. In 2018-19, these were:

- NSW State Insurance Corporation/ Treasury Managed Fund (since 2012)
- NSW Government Legal Services Panel (since 2016)
- NSW Treasury Managed Fund (TMF)/NSW Health Medical Liability Legal Services Panel (since 2016)
- Australian Health Practitioner Regulation Agency panel (since 2018).

MANAGEMENT & STRUCTURE

DIVISIONS & PRACTICE GROUPS

The CSO has four legal divisions and twelve specialist practice groups that deliver legal services to the State of NSW.

GOVERNMENT LAW

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

CIVIL LAW DIVISION

COMMUNITY LAW

This practice group has extensive experience conducting highly sensitive and complex matters for the State, including public interest immunity claims, charitable trusts and non-employment related discrimination.

TORTS

(JUSTICE/LAW ENFORCEMENT AGENCIES)

This practice group undertakes all aspects of defence, and settlement, of civil claims, with a special focus on claims for intentional torts involving law enforcement agencies, including conduct of litigation at first instance and at all stages of appeal.

TORTS

(SERVICE/REGULATORY AGENCIES)

This practice group undertakes all aspects of defence and settlement of civil claims, with a special focus on health claims and negligence actions for State agencies, including conduct of litigation at first instance and all stages of appeal. The practice group also represents State agencies in coronial inquests.

COMMERCIAL & PROPERTY LAW DIVISION

COMMERCIAL LAW

This practice group provides advice on a wide range of commercial matters, including compliance with tender and procurement processes, and consumer and competition law; drafts transaction documentation; and handles general commercial and revenue litigation.

PROPERTY & NATIVE TITLE

This practice group handles all work regarding native title and Aboriginal land claims, as well as property transactions and advice regarding Crown land and compulsory acquisitions.

INQUIRIES & CRIMINAL LAW DIVISION

CRIMINAL LAW

This practice group specialises in criminal law and quasi-criminal law matters, spanning high risk offender post-sentence detention and supervision applications, summary prosecutions of regulatory and other criminal offences, reviews of conviction and sentence, contempt of court, prerogative of mercy and other criminal law/statutory interpretation advisory matters.

CRIMINAL LAW (THRO)

This practice group specialises in terrorism-related matters, including applications under the *Terrorism (High Risk Offenders) Act 2017* (THRO Act) for terrorist offender post-sentence detention and supervision applications, and adult and juvenile parole of terrorism offenders.

INQUIRIES

This practice group specialises in complex inquisitorial proceedings, including coronial inquests, royal commissions and special commissions of inquiry, as well as parole related matters and matters concerning investigatory powers and procedures (such as forensic procedures and search warrants).

ADMINISTRATIVE LAW, EMPLOYMENT & CHILD PROTECTION DIVISION

CHILD PROTECTION

This practice group specialises in child protection law in the State and federal jurisdictions, contested and non-contested adoptions, and wills, estates, family provision and statutory wills for children.

CONSTITUTIONAL & ADMINISTRATIVE LAW

This practice group specialises in the area of constitutional law, intergovernmental agreements, statutory interpretation, administrative law, privacy and access to information.

EMPLOYMENT LAW & INDUSTRIAL RELATIONS

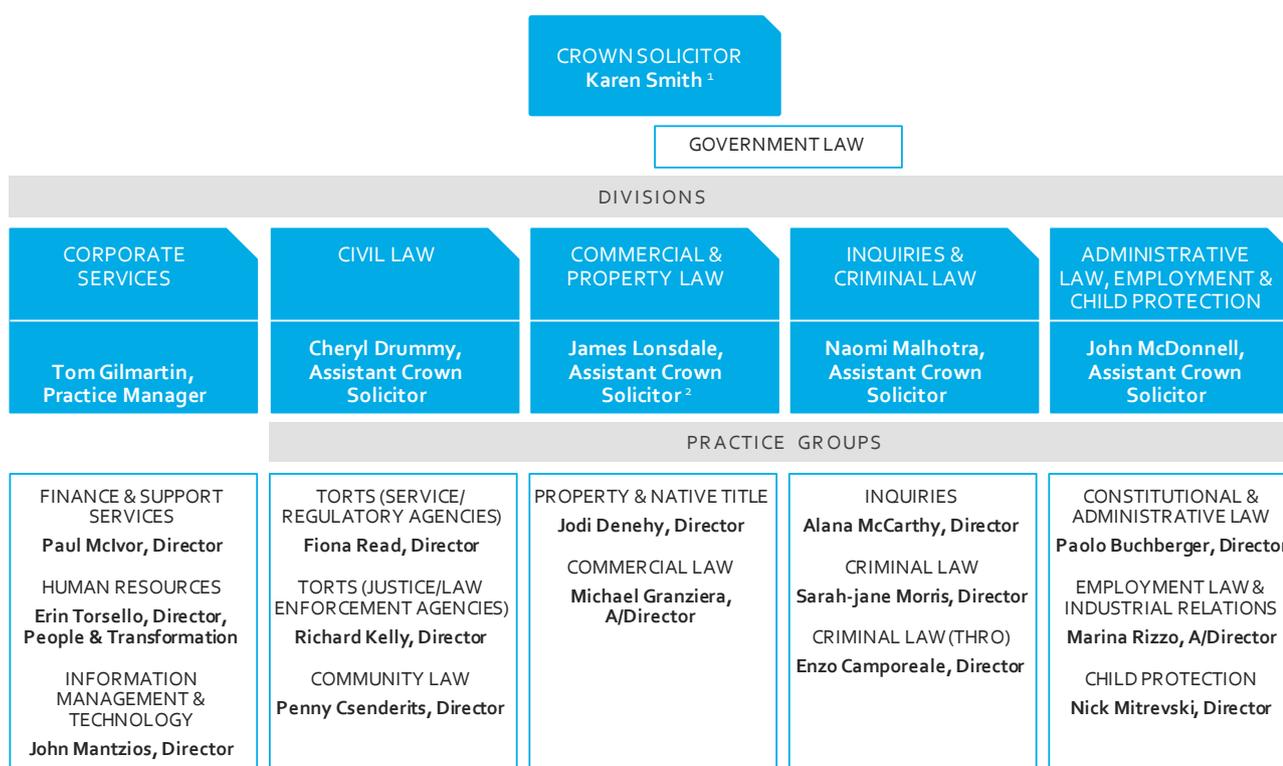
This practice group specialises in all aspects of employment law and industrial relations in both State and federal jurisdictions, including in relation to workplace discrimination, licensing and work, health and safety obligations.

EXECUTIVE STRUCTURE

As at 30 June 2019, the CSO Executive comprised:

- **Karen Smith**, Crown Solicitor
- **Cheryl Drummy**, Assistant Crown Solicitor
- **Felicity Shaw**, A/Assistant Crown Solicitor
- **Naomi Malhotra**, Assistant Crown Solicitor
- **John McDonnell**, Assistant Crown Solicitor
- **Tom Gilmartin**, Practice Manager.

As at 30 June 2019



¹ Karen Smith commenced as Crown Solicitor on 15 April 2019.

² James Lonsdale resigned on 18 October 2019. Felicity Shaw, Director, Commercial Law, has been acting in his role since 31 May 2019.

EXECUTIVE PROFILES



KAREN SMITH
CROWN SOLICITOR

Karen brings extensive experience to the role of Crown Solicitor, having spent more than 20 years as a lawyer with various NSW Government agencies. Most recently, Karen was General Counsel and Deputy Secretary at the Department of Premier and Cabinet, with responsibilities encompassing legal, governance and corporate services. She has provided expert and strategic legal advice to the Premier, Ministers, and senior government officials on critical legal and legislative issues.

Qualifications:
BEc, LLB, LLM



CHERYL DRUMMY
ASSISTANT CROWN
SOLICITOR

Cheryl leads the Civil Law division, with responsibility for all public interest immunity claims made on behalf of NSW government clients; advising the Attorney General in regards to Charitable Trusts; the defence of tortious claims brought against the State of NSW; representation of agencies in complex coronial inquests, and for the conduct of historical child abuse claims. A solicitor at the CSO for 17 years, Cheryl has extensive experience across a variety of legal areas. As Director of the Child Protection practice group, for five years Cheryl led the team's work relating to the protection of children including complex State care and protection and federal Family Law proceedings, and Supreme Court adoption and *parens patriae* applications. When part of the Community Law practice group (and later as Director of that group), Cheryl had carriage of significant matters including appellate decisions dealing with the interaction between public interest immunity and the open justice principle. Between February 2015 and July 2016, Cheryl was Special Counsel assisting the Special Commission of Inquiry into the Greyhound Racing Industry in NSW.

Qualifications:
BA(Politics), LLB(Hons)



JAMES LONSDALE
ASSISTANT CROWN
SOLICITOR

James led the Property & Commercial Law division until 31 May 2019.

James has more than 20 years' experience in government and private practice on a broad range of commercial law matters, with a particular focus on major procurement, construction, property and environmental planning work for government and quasi-government entities across Australia. James has advised on many significant projects, including the development and construction of gas-fired power stations; demolition and re-purposing of industrial and commercial land; the construction of pipelines, roads and electricity assets; the restructure of the state-owned electricity distribution businesses; and development and disposal of significant commercial properties. James also has significant in-house experience, most recently in the NSW State owned electricity businesses.

Qualifications:
LLB, LLM



NAOMI MALHOTRA
ASSISTANT CROWN
SOLICITOR

Naomi leads the Inquiries & Criminal Law division. Naomi has over 15 years' experience in government law and litigation, with expertise in criminal and inquisitorial matters. She practised in and later led, as Director, the CSO's Criminal Law practice group, managing the conduct of regulatory prosecutions and high-risk offender matters and providing complex advice regarding criminal-law related issues. In the Inquiries practice group, Naomi assisted Coroners and acted for government agencies in complex coronial inquests, and provided advice and representation to the State of NSW and numerous government agencies in special commissions of inquiry and State and Federal royal commissions. As Special Counsel, Naomi led the CSO team representing the State of NSW in the Royal Commission into Institutional Responses to Child Sexual Abuse, coordinating a whole-of-government response. Naomi previously practised in government law and dispute resolution in Western Australia, as a solicitor at the State Solicitor's Office, as in-house counsel at WA Police, and as a senior associate at King & Wood Mallesons.

Qualifications:
BA, LLB (Hons)



JOHN MCDONNELL
ASSISTANT CROWN
SOLICITOR

John leads the Public Law, Employment & Child Protection division. He is a highly regarded expert in public law. His expertise includes representing State government agencies in relation to statutory interpretation, judicial and merits review, access to information and privacy. Recently, John advised the NSW Government on legal issues in relation to the amalgamation of local government areas, and acted for the State parties in the resulting legal challenges. Highly experienced in constitutional law, John has instructed in numerous High Court matters, including *Ha v State of NSW* (1997) 189 CLR 465 (s. 90 excises) and *Re Residential Tenancies Tribunal; Ex parte Defence Housing Authority* (1997) 190 CLR 410 (confirming the State's power to bind the Commonwealth).

Qualifications:
BA, LLB



TOM GILMARTIN
PRACTICE
MANAGER

As the CSO's Practice Manager, Tom leads the Corporate Services division, with responsibilities spanning risk management, human resources, learning and development, finance, support services, information management, technology and business systems support, marketing, and communications.

Prior to joining the CSO, Tom was the Chief Operating Officer at NSW Treasury, where he drove the highly successful move to agile working at 52 Martin Place, implemented new information communication technologies to support the new ways to work, and introduced a culture and workforce program and a new human capital management system.

Tom has also had a strong career in the private sector, including as the Chief Financial Officer at law firm, Clayton Utz, and Head of Shared Services at KPMG.

Qualifications:
GAICD, FCCA, NDB

OPERATIONS & ACHIEVEMENTS

DELIVERING LEGAL SERVICES TO THE STATE OF NSW

The Crown Solicitor accepted instructions in 4,172 new matters during the 2018-19 financial year.

An overview of significant achievements of the CSO is set out below, followed by a selection of some of the more significant cases our solicitors have been involved with.

Legislative & policy reform

The CSO provided confidential legal advice and assistance for major government policy and legislative initiatives, including the development and implementation of the *Government Sector Finance Act 2018*, the most significant public sector financial reforms in more than 30 years, and advised on major agency procurements and reforms, including the *Modern Slavery Act 2018*.

Major litigation & representation

The CSO represented agencies in a range of matters, including revenue litigation, liquor licensing, employment matters, child protection, adoptions, privacy, the *Government Information (Public Access) Act 2009* (GIPA Act), and judicial review proceedings.

We appeared for NSW Government agencies in a number of significant inquests, including for NSW Health at the Inquest into the deaths of six opiate users, and for the Department of Family and Community Services³ at the ongoing Inquest into the disappearance and suspected death of William Tyrrell. We also advised and represented NSW Government agencies in relation to public interest immunity claims.

Settlement of civil claims

The CSO continued to advise agencies on the resolution of historical child abuse claims, with a significant number of claims being made following the release of the final report of the Royal Commission into Institutional Responses to Child Sexual Abuse in December 2017.

³ Following the Machinery of Government changes that came into effect on 1 July 2019, the newly formed Stronger Communities cluster brought together the former Family and Communities and Justice clusters. The Department of Family and Community Services is now known as the Department of Communities and Justice.

In 2018-19, the CSO resolved more than 100 matters, and were instructed in over 200 claims. There was also significant work undertaken with the Department of Education with regards to the establishment of the Stolen Generation Redress Scheme.

Resolution of native title claims

The CSO continued to be the NSW Government's representative in native title claims. We helped facilitate a significant achievement for the State this year, with another consent determination in the oldest native title claim in NSW, which was brought by the Bundjalung People of Byron Bay. The determination represents the culmination of many years of advice, representation, negotiation and collaboration between government agencies and native title holders and their representatives, with the day itself a celebration amongst the local community.

Constitutional litigation

The CSO worked closely with the Solicitor General on significant constitutional cases in the High Court of Australia, and acted as the Secretariat for the Special Committee of Solicitors General. During 2018-19, the CSO acted in four matters in which the Attorney General intervened in the High Court:

- *Clubb v Edwards & Anor; Preston v Avery & Anor* [2019] HCA 11
- *Spence v Queensland* [2019] HCA 15
- *Unions NSW v New South Wales* [2019] HCA 1
- *Comcare v Banerji* [2019] HCA 23.

Advice & statutory interpretation

The CSO's advice brings consistency to the operation of NSW laws. We provided advice on a wide range of matters affecting the government sector, including in relation to:

- the person or body with authority to enter into contractual arrangements for and on behalf of the State
- the lawful use and disclosure of personal information by agencies
- the operation of non-disclosure or secrecy provisions in various statutes
- the status of Crown lands and other property held by agencies.

Transactions & major projects

The CSO drafted and reviewed various agreements and standard clauses, including in relation to intellectual property rights, major events, and agencies' commercial powers more generally.

High risk offenders

In 2018-19, the CSO formed a small, dedicated group to manage matters under the *Terrorism (High Risk Offenders) Act 2017* (THRO Act), and other terrorism-related matters.

In the reporting year, the Crown Solicitor was instructed to act for the State of NSW in 54 applications to the Supreme Court for extended supervision orders (ESOs) and continuing detention orders (CDOs) under the *Crimes (High Risk Offenders) Act 2006* and the THRO Act. The State, represented by the CSO, has had a nearly 90% success rate in these applications.⁴

The Crown Solicitor also acted for the State, the Department of Justice and the Commissioner of Corrective Services in many parole matters concerning terrorism and other high-risk offenders, under the *Crimes (Administration of Sentences) Act 1999* and the *Children (Detention Centres) Act 1987*.

⁴ Based on figures compiled since 2013. See 'High risk offenders kept under close watch', 7 July 2019, Ministerial media release, Department of Justice, viewed 1 October 2019 <https://www.justice.nsw.gov.au/Pages/media-news/media-releases/2019/high-risk-offenders-kept-under-close-watch.aspx>

Public interest immunity

The CSO advised and represented agencies in public interest immunity claims in more than 470 proceedings in civil jurisdictions and criminal trials. We appeared in the High Court in the matter of *HT v The Queen & Anor*, in which judgement is reserved.

Complex inquests & inquiries

The Crown Solicitor assisted the State Coroner and her deputies in numerous inquests, including in relation to the first Aboriginal death in NSW Police Force custody since the implementation of the Custody Notice Service (CNS), which followed recommendations arising from the Royal Commission into Aboriginal Deaths in Custody in 1991. The inquest into the death of Rebecca Maher resulted in the State Coroner recommending that the CNS be extended to include assistance to Aboriginal persons detained as intoxicated persons.

Since December 2018, the Crown Solicitor has been assisting Commissioner Howard SC in the Special Commission of Inquiry into the Drug 'Ice'. This inquiry is tasked with investigating the prevalence of amphetamine-type stimulants (ATS) in the community, their social impact and the adequacy of current responses to them, including options to strengthen law enforcement, education, and treatment and rehabilitation services. Commissioner Howard SC is due to deliver his report to the Governor by 28 January 2020.

The CSO was instructed in the Inquiry into the convictions of Kathleen Megan Folbigg for murder, manslaughter, and grievous bodily harm. Details of this inquiry are provided in the following section, 'Significant matters: a selection'.

Client training & seminars



The CSO delivered regular seminars and specialised training to clients. In 2018-19, we held nine CLE seminars for NSW Government lawyers and members of the NSW Public Sector, which were also live-streamed via webinar, reaching over 1,000 client contacts.

Senior legal officers provided specialised training on the *Government Information (Public Access) Act 2009* and NSW Privacy legislation, attended by staff from more than 30 departments and agencies. We also delivered in-house training sessions to various agencies on specific topics of relevance to their activities.

Responding to feedback

Each year, the CSO invites clients to complete a confidential, online client service survey to provide feedback on how the CSO is performing in its delivery of legal services. The survey includes a benchmark question to measure the CSO's agreed Program Performance Indicator (PPI) in relation to State Outcomes: "Overall, how do you rate the CSO's legal services compared with other law firms you use?." Sixty-eight per cent of clients rated the CSO's legal services better than or about the same as other law firms.

Survey results and other feedback we received from clients throughout the year indicated that overall, clients are happy with our service, and we also identified areas where we needed to improve or change the way we do things.

The CSO's nominated Key Relationship Managers analysed survey results, identified and prioritised key areas for improvement, and developed actions to address them. We will monitor and measure the results of our service improvement activities over the following 12-24 months.

Value-add services

LOW-COST & FREE VALUE-ADD SERVICES DELIVERED TO CLIENTS IN 2018-19

CLE SEMINARS & WEBINARS

Monthly seminars and webinars addressed issues of current relevance to government departments and agencies

SPECIALISED TRAINING

Specialised training on the *Government Information (Public Access) Act 2009* and NSW privacy legislation provided clients with current information to help them understand and meet their obligations under the relevant Acts

CLIENT TRAINING & EDUCATION

The CSO delivered tailored training and educational seminars to specific clients on key legal issues relevant to their organisation

LEGAL ALERTS

Legal alerts kept clients updated on key decisions, legislative updates and other critical legal developments as they occurred

CLIENTNEWS

Clients received a regular e-newsletter, ClientNews, summarising recent legal developments and significant cases

CLIENT REPORTS

Monthly reports provided clients with critical information to track active matters and help inform decision-making

SIGNIFICANT MATTERS: A SELECTION

Roads and Maritime Services v Leeman [2018] FWCFB 5772

The CSO acted on behalf of the appellant, Roads and Maritime Services (RMS), in appeal proceedings concerning whether NSW statutory corporations could be constitutional corporations, such that they could be subject to the Fair Work Commission's jurisdiction with respect to stop-bullying orders.

The Full Bench of the Fair Work Commission dismissed an appeal from first instance decision that RMS is a "constitutional corporation", and that the Commission has jurisdiction to hear stop bullying applications.

The Full Bench of the Fair Work Commission dismissed the appeal from the above decision of the Commission that it had jurisdiction to hear stop bullying applications under s. 789FC of the *Fair Work Act 2009* (Cth).

In *Victoria Leeman* [2018] FWC 3584, the Fair Work Commission had determined that it had jurisdiction to hear Ms Leeman's application for an order to stop bullying under s. 789FC of the Act. The Commission held that Ms Leeman was relevantly "at work in" RMS for the purposes of s. 789FD(1)(a) of the Act, and that RMS was a constitutional corporation.

The Full Bench did not consider that the Commission erred in concluding that RMS was a trading corporation and therefore a "constitutionally-covered business" for the purpose of s. 789FD of the Act. The Full Bench concluded that RMS's trading activities, which generated up to \$232 million, or 3.5 per cent, of its total revenue, were substantial and of significance. It went on to say this conclusion permitted RMS to be characterised as a trading corporation and that RMS's public purposes and functions and its close relationship to the State of NSW, including being subject to Ministerial direction, could not "deprive" RMS of that character. RMS had submitted that these factors should be considered together with the proportion of trading activity in characterising the statutory corporation, and that the Senior Deputy President at first instance had failed to do so.

State of New South Wales v Dunn [2019] NSWSC 426

The CSO acted for the State of NSW in Supreme Court proceedings seeking a continuing detention order (CDO), to be followed by an extended supervision order (ESO), against the defendant. This was the first time that the NSW Supreme Court ordered that a person be subject to a continuing detention order, pursuant to the *Terrorism (High Risk Offenders) Act 2017*.

The State of NSW commenced Supreme Court proceedings seeking, in respect of the defendant (Mr Dunn, a pseudonym), a CDO of 18 months, to be followed by an ESO of three years. Section 34 of the Act provides that a CDO may be made in respect of certain eligible detained or supervised offenders if the Court is satisfied that the offender poses an unacceptable risk of committing a serious terrorism offence if not kept in detention. The State presented evidence of statements made by the defendant advocating support for terrorist acts, including threats to attack the City to Surf fun run.

Wilson J ordered that the defendant be subject to a CDO of nine months, followed by an ESO of three years. Her Honour accepted the State's submission that the risk of the defendant committing a serious terrorism offence was unacceptable. She observed that the defendant's expressions of violent hatred for authority figures predated his diagnosed schizophrenia, and that his ideology could not be entirely explained by mental illness. Her Honour reasoned that a nine-month CDO would give the defendant time to stabilise, followed by a period of supervision during which his risk could be managed.

Inquiry into the convictions of Kathleen Megan Folbigg

The CSO was instructed as Solicitor Assisting the Honourable Reginald Blanch AM QC in this high-profile inquiry into the convictions of Kathleen Folbigg for the murder, manslaughter and grievous bodily harm of her four children.

Over the 11 month inquiry, the CSO assisted the Judicial Officer to gather and review relevant evidence including expert evidence as to advancements in the areas of genetics and SIDS/SUDI, and instructed Counsel Assisting in three weeks of public hearings.

The inquiry concluded there was no reasonable doubt as to Ms Folbigg's guilt, or as to any matter that may have affected the nature or severity of Ms Folbigg's sentence.

Ms Folbigg submitted a petition to the Governor requesting an inquiry into her convictions for three counts of murder, one count of manslaughter, and one count of maliciously inflicting grievous bodily harm in respect of her four children between 1989 and 1999. In August 2018, the Governor directed that an inquiry be held into Ms Folbigg's convictions due to a doubt or question concerning evidence as to the incidence of reported deaths of three or more infants in the same family attributed to unidentified natural causes.

The inquiry examined trial procedure, reviewed medical literature and conducted genetic testing of the deceased children and Ms Folbigg. At the inquiry's three phases of hearings, expert witnesses gave evidence in relation to SIDS/SUDI, forensic pathology, genetics, paediatric neurology and cardiology, and immunology. Ms Folbigg also gave evidence about her diary entries and her possession and disposal of those diaries.

In the report on the results of the inquiry, released to the public on 22 July 2019, the Judicial Officer, the Hon Reg Blanch AM QC concluded that there was no reasonable doubt as to Ms Folbigg's convictions. Instead, the evidence that emerged at the inquiry, and in particular Ms Folbigg's own explanations and behaviour in respect of her diaries, made her guilt of the offences for which she was convicted even more certain.

The Judicial Officer also found that there was no reasonable doubt as to any matter that may have affected the nature or severity of Ms Folbigg's sentence.

Comcare v Banerji [2019] HCA 23

The CSO acted for the Attorney-General intervening in these High Court proceedings, which challenged the validity of Commonwealth public service legislation prohibiting certain political communication not dissimilar to NSW legislation.

A prohibition on political communication by public servants, even if "anonymous", serves a legitimate and important purpose in maintaining an apolitical and professional public service and, in the circumstances considered by the High Court, is not contrary to the implied freedom of political communication.

The respondent's employment in the Australian Public Service was terminated as a result of comments made on Twitter that were considered to be harsh and extreme in their criticism of the government. The comments were made under a pseudonym and did not reveal the nature of the respondent's employment. An issue arose, in the context of a workers compensation claim, as to whether the termination was "reasonable administrative action taken in a reasonable manner".

The Administrative Appeals Tribunal found that it was not, because it was contrary to the implied freedom of political communication and was therefore not authorised by the *Public Service Act 1999* (Cth). An appeal from that decision to the Federal Court was removed to the High Court.

The High Court unanimously found that the challenged provisions impose a burden on the implied freedom because they restrict the capacity of Commonwealth public servants to engage in political communication, but that they were justified by reference to the legitimate purpose of maintaining a professional and apolitical public service. The Court rejected an argument that anonymous communications could not undermine the actual or perceived impartiality or professionalism of the public

service, including because there is a risk that communications, which are anonymous when made, may later become identifiable.

The Court also rejected an alternative argument that the implied freedom was a mandatory relevant consideration in the exercise of the statutory discretion to terminate the respondent's employment. However, a plurality considered that some statutory powers might be conditioned by a requirement to consider the implied freedom. Gageler and Edelman JJ were both critical of that analysis, which they considered to give rise to "conceptual confusion".

***Elzahed v Kaban* [2019] NSWSC 670**

The CSO acted for the respondent in the plaintiff's appeal against her Local Court conviction and sentence for disrespectful behaviour, contrary to s. 200A of the *District Court Act 1973*, for failing to stand before a Judge. The CSO had also acted for the prosecutor in the Local Court, helping to secure the conviction, which was the first of its kind. The Supreme Court dismissed the plaintiff's appeal against conviction. Judgment in the sentencing appeal is reserved.

Ms Elzahed's conviction for disrespectful behaviour related to nine occasions on which she failed to stand for a District Court judge in the course of civil proceedings to which she was a party. The key grounds of the conviction appeal were that: the proceedings were not validly authorised by the Solicitor General; the offences charged could not succeed as the prosecutor did not contend Ms Elzahed was under a legal duty to stand; and s. 200A was invalid as infringing the implied freedom of political communication.

The Court dismissed the conviction appeal, reasoning that: s. 200A(8) of the Act only requires satisfaction by the Attorney General/delegate that there are no good or sufficient reasons why proceedings should not be commenced; the legal obligation imposed by s. 200A is to not intentionally engage in behaviour which is disrespectful to the Court. The failure to stand, by reason of the provision, amounted to a failure to perform an act which was a legal obligation imposed by law and, although unnecessary to determine, there was no

evidence that Ms Elzahed had been engaging in political communication when refusing to stand.

The ground of appeal asserting that s. 200A was invalid under Ch. III of the *Constitution*, as it "affected" the exercise of federal jurisdiction, was also dismissed. While an offence against s. 200A must necessarily occur in a courtroom, the commission of the offence is independent of the jurisdiction exercised. Assuming, without deciding, that Ch. III contains an implication that a law may not unduly burden a party's participation in the exercise of Commonwealth judicial power, s. 200A is not inconsistent with that implication.

***Transport for NSW v Waters;* *Transport for NSW v Waters (No 2)* [2018] NSWCATAP 200; [2019] NSWCATAP 96**

The CSO acted for Transport for NSW (TfNSW) in proceedings at first instance and on appeal in the NSW Civil and Administrative Tribunal (NCAT). The CSO was first instructed in September 2016, and instructed on the appeal in March 2018.

The CSO achieved a successful result on appeal. The Appeal Panel of the NSW Civil and Administrative Panel affirmed that the collection by TfNSW of personal information about the travel movements of persons using Gold Opal cards does not breach s. 8 of the *Privacy and Personal Information Protection Act 1998*.

The appellant sought review of TfNSW's conduct in collecting travel information from the use of his Gold Opal card. He was successful at first instance. TfNSW appealed on the grounds that: (1) the Tribunal failed to respond to a substantial and clearly articulated argument; and (2) the Tribunal applied the wrong test. On 23 August 2018, the Appeal Panel allowed TfNSW's appeal on ground 2, holding that the Tribunal incorrectly formulated the test for contravention of s. 8(1)(b) of the *Privacy and Personal Information Protection Act 1998* by asking itself whether the collection was for a purpose that was not reasonably necessary. The correct question was whether the collection was reasonably necessary for the "lawful purpose" identified for the purposes of s. 8(1)(a). The

Appeal Panel decided that it would determine TfNSW's appeal by way of a new hearing. On 18 April 2019, the Appeal Panel accepted TfNSW's submission that it collects the travel information in order to calculate and charge the correct fare, to make payments to transport operators and otherwise to manage the ticketing system. That purpose is the same whether the travel information is collected from a Gold Opal card or an unregistered card. The Appeal Panel considered that to be a lawful purpose directly related to TfNSW's functions and that the collection was reasonably necessary for that purpose. It held that s. 8(1)(b) does not require a comparison between collection of information as personal information and collection of information in de-identified form; that is, the relevant question is not whether it is reasonably necessary to collect information as personal information.

Nicholls obo the Bundjalung People of Byron Bay and Attorney General of NSW and Others – NS6020 of 2001

The CSO acted for the Attorney General as the Minister for Native Title in NSW in relation to the oldest native title claim in NSW, brought by the Bundjalung People of Byron Bay. The determination represents the culmination of many years of negotiation.

On 30 April 2019, the native title claim was resolved when Justice Robertson made a determination, by consent of the parties and pursuant to ss. 87(2) and 94A of the *Native Title Act 1993* (Cth), recognising the native title rights and interests of the Bundjalung People of Byron Bay. The claim, originally lodged in 2001, was the last of three applications made by the Bundjalung People of Byron Bay, the first two having been resolved earlier by an Indigenous Land Use Agreement (ILUA), which did not recognise native title rights and interests. After resolution of the other proceedings, in 2012, the claimants decided to actively pursue a native title determination.

The determination recognises native title in certain lands on the north coast of NSW from the Brunswick River and Mullumbimby south to Cape Byron and on to Broken Head and Jews Point. The determination also includes waters 100

metres east of the mean low water mark in the Pacific Ocean and captures the Cape Byron Marine Park.

The determination reflects an agreement on land tenure between the State and the native title holders whereby native title is held to exist in certain lands in the claim area but also that native title was extinguished in other lands. Specifically, non-exclusive, non-commercial rights and interests are recognised. This will provide certainty for State agencies undertaking operations in the area and will assist in ensuring compliance with the *Native Title Act*.

The Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) ICN 2663, pursuant to s. 56(2) of the *Native Title Act*, will hold the determined native title in trust for the common law native title holders. The determination will take effect upon the registration of an ILUA negotiated prior to the determination which is expected to occur later in 2019. That ILUA will govern the relationship between the State and the native title holders going forward.

Attorney General for NSW v XX (S268/2018)

The CSO acted for the Attorney General in the first application to the Court of Criminal Appeal (CCA) for orders that an acquitted person be retried for a life sentence offence. The CSO also acted for the Attorney General seeking special leave to the High Court of Australia to appeal the CCA's decision to dismiss the application.

The decision has significant implications for the victims' families and the Bowraville community, as well as the criminal justice system more generally, as it clarifies the scope of the statutory exception to double jeopardy.

The High Court, in refusing special leave, found no reason to doubt the Court of Criminal Appeal's decision that evidence that was available at the time of trial is not "fresh" for the purposes of Div. 2, Pt 8, *Crimes (Appeal and Review) Act 2001*.

The Attorney General sought orders that XX be retried for the murders of Clinton Speedy and Evelyn Greenup, with the objective of doing so jointly with the murder of Colleen Walker (known

as the Bowraville murders). Section 100 of the *Crimes (Appeal and Review) Act 2001* empowers the Court of Criminal Appeal (CCA) to order an acquitted person be retried for a life sentence offence if satisfied there is “fresh” evidence against the person, among other things.

Evidence is “fresh” if “it was not adduced in the proceedings in which the person was acquitted”, and “it could not have been adduced in those proceedings with the exercise of reasonable diligence” (s. 102(2)). The Attorney submitted that evidence relating to Colleen Walker’s disappearance was “fresh” because, while it was not admissible at the time of the Speedy and Greenup trials, it would be if the three trials were heard together now because of changes to the rules of evidence.

The CCA dismissed the application (*Attorney-General v XX* [2018] NSWCCA 198). Evidence was “fresh” only if it could not have been “tendered” or “brought forward” in the proceedings “with the exercise of reasonable diligence”, irrespective of whether it was admissible.

In his special leave application to the High Court, the Attorney General submitted that the CCA erred in discounting admissibility in assessing whether evidence could have been adduced with reasonable diligence. The respondent submitted that the CCA’s construction of “adduced” was correct.

On 22 March 2019, the High Court refused the Attorney General’s application for special leave to appeal. There was no reason to doubt the correctness of the CCA’s decision that evidence which is available is not fresh and that “adduced” refers only to the step of a party putting evidence before a court, and not its admission by the court.

MAJOR PROJECTS

Major elements of the CSO's comprehensive Workplace Modernisation Program, started in mid-2017, were completed in 2018-19. The Program addressed information technology and our practice management system, records and archives, and office accommodation. We continued to build on these core elements of the business to secure the CSO's future ability to deliver effective and efficient legal services to the State of NSW.

The office accommodation element of the Program, completed in February 2019, involved an upgrade to the CSO's office fit-out and move to an open plan design, in line with the NSW Government Fitout Design Principles. At the same time, the office continued to make significant progress on its transition to a new practice management system, Thomson Reuters Elite. Elite will improve the CSO's flexibility to meet client needs, enhance business intelligence and reporting capabilities, and improve risk management and efficiency.

Project highlights



Ongoing improvements to the office's systems and processes are allowing the CSO to deliver outcomes faster, better and more cost-effectively through strategic prioritisation of business needs, better control over project delivery through active tracking, and stakeholder and resource management. The CSO Chief Information Officer and ICT team delivered initiatives to maintain and enhance the office's digital capabilities while meeting business objectives and security requirements.

Key achievements in 2018-19 included:

- upgrading our core network capability, future-proofing the organisation as well as providing increased bandwidth and improved network stability
- introducing video conferencing facilities, enabling collaborating with police, courts and external parties; audio-visual technology in meeting rooms; and a digital room booking system
- delivering an internal WiFi system for both staff and guests of the CSO
- introducing new collaboration technologies, including the introduction of Jira, an agile issue tracking and management tool, following a successful trial
- upgrading to Adobe Acrobat DC, which was rolled to more than 400 end-users
- introducing the ability to send text messages to mobile phones from Outlook, which has enabled legal teams to effectively meet client requests to receive urgent and important updates via sms (for example, upcoming court dates).

Other major IT projects included the provision of laptops with remote access to the CSO network to 80% of the workforce to support flexible working, collaboration, and agile work practices as our solicitors attend courts and tribunals, mediation and client meetings.

The office moved its file-share server to a secure, off-site location, ensuring that effective disaster recovery capability is maintained. Additionally, we developed and established robust IT service continuity exercises for all CSO systems, and implemented financial controls and IT asset management processes and tools.

The office implemented and tested a disaster recovery plan for its document management system, HPE Content Manager, which provided a model for other agencies to follow.

The CSO received its core managed IT services through the Department of Justice's Digital & Technology Services (DTS) cluster model. This included infrastructure as a service from GovDC, cloud IT service management via the DTS Service Portal (SNOW), and other enterprise contracts with commercial providers such as Microsoft for commodity and collaboration tools. Applications and solutions specific to the CSO were sourced, designed, implemented and operated within the same governance framework.



Under a broad Service Improvement Program (SIP), the structure of the CSO's Information Services area was reviewed in 2018-19, and some key roles redesigned to ready the organisation for transition to a digital working state.

The reception function was reviewed as part of the program, to better meet both client and staff needs by shifting the existing role to a single-focus corporate concierge service.

Additionally, we established an in-house Service Centre to provide high quality, timely and efficient mail and document handling services. This model will help us to respond more effectively to future technology and process improvements, and to scale with our evolving business and client needs.

SIP also includes a technology stream, started in February 2019, which will support the digitisation of our records through improved search functionality, better integration between systems, and enhanced user interfaces.

FINANCIAL PERFORMANCE

The CSO achieved a net surplus of \$7.5M, \$6.1 M better than the budgeted \$1.4M. The office will make a distribution payment of \$4.6M from the distributable operating surplus, as approved by the Treasurer.

The operational result comprised revenue that was \$12M greater than budget, and \$6.9M higher than 2017-18. Expenses were \$5.9M greater than budget, which is consistent with supporting the increased activity reflected in the higher than budgeted revenues.

Higher than budgeted workload included new matters under the *Terrorism (High Risk Offenders) Act 2017*, and the Inquiry into the convictions of Kathleen Megan Folbigg, and the Special Commission of Inquiry into the Drug 'Ice'.

MEASURES

MEASURE	2017-18		2018-19	
	ACTUAL	BUDGET	ACTUAL	BUDGET
Net surplus	\$9.5M	\$1.4M	\$7.5M	\$1.4M
New matters	4,104	n/a	4,172	n/a
Employee productivity (solicitors' average daily billable hours)	5.1hrs	5.0hrs	4.9hrs	5.0hrs
% of clients rating the CSO's legal services as better than or equal to that of other law firms they use*	91%	85%	68%	85%

* Data comes from the CSO's annual client service survey

OUR PEOPLE



The CSO Human Resources team, led by the Director, People and Transformation, developed a two year plan to support the CSO to build its workforce capability and enhance its culture and composition to meet today’s needs as well future business requirements.

Achievements and initiatives included workforce planning and talent management, enhancing the culture of performance, promoting inclusion, delivering client-focussed services, enabling and supporting leaders to lead high-performing teams, and enhancing our health and wellbeing programs.

WORKFORCE DIVERSITY ACHIEVEMENTS

Supporting a diverse & inclusive culture

Developing the awareness and capability of our people in relation to diversity and inclusion remained a focus, supported by online training modules covering ‘Aboriginal Cultural Inclusion’, and ‘Valuing Diversity’, which aim to enhance understanding of the value of diversity in the workplace.

The office also participated in the Justice cluster Inclusion and Diversity Council⁵, and implemented policies and processes to support and enable flexible work practices.

The CSO also celebrated events across the year that reinforced our visible and active commitment to providing an inclusive environment. Our events calendar includes International Women’s Day, Harmony Day, Australia’s Biggest Morning Tea, and NAIDOC week.

⁵ After 1 July 2019, this became the Stronger Communities Cluster Inclusion and Diversity Council.

Attracting & building a diverse workforce

The CSO continued its association with GradAustralia to promote career opportunities and increase awareness of the CSO as an attractive NSW Government employer, including through GradAustralia's GenerationOne Indigenous Careers Guide publication.

Reinforcing and refining our recruitment practices remained a priority, including ensuring gender diversity and independence on recruitment panels, and promotion of our commitment to inclusion in all our recruitment advertisements and selection processes.

Workforce diversity strategies

The CSO identified key opportunities for the coming year to reinforce our commitment to diversity and inclusion in our workforce:

- developing and implementing a diversity and inclusion strategy for the CSO
- implementing partnerships with external providers to support focus on increasing Aboriginal representation in our workforce
- building on the CSO's Aboriginal Employment and Engagement plan, including options for targeted early career roles and traineeships, and participation in the Aboriginal internship program through CareerTrackers
- reviewing options for establishing and participating in Employee Resource Groups across the cluster.

MULTICULTURAL POLICIES & SERVICES PROGRAM

The CSO is committed to supporting its culturally, linguistically and religiously diverse workforce, and to meeting its obligations under the *Multicultural NSW Act 2000* (NSW), including integrating the multicultural principals into the work of the office.

As part of the recent redesign of the CSO work environment, consideration was given to creating spaces to meet the diverse needs of our people, including a purpose-built parent's room and designated "wellbeing rooms" that can be used as prayer rooms.

The office continued its participation in the Justice cluster Inclusion and Diversity Council, promoted e-learning modules for all staff on aspects of multicultural diversity and inclusion, celebrated Harmony Day across the office, and continued its association with GradAustralia's GenerationOne Indigenous Careers Guide publication.

Our strategies for the year ahead are tied to our workforce diversity strategies. They include actions such as increasing workforce diversity survey response rates to improve multicultural community workforce data, and continuing to leverage our strength in promoting and celebrating the diverse backgrounds of our people.

AGREEMENTS WITH MULTICULTURAL NSW

The CSO is committed to implementing multicultural principles in the way we work and do business, and supporting the themes of the Multicultural Policies and Services Program.

Improving outcomes for women leadership: The CSO's recruitment practices are regularly reviewed and developed to reflect our commitment to inclusion in all of our recruitment activities, including for gender diversity and CALD backgrounds.

The CSO's workforce profile data provides information on ethnicity and language. Information is provided voluntarily by staff. As at 30 June 2019, 12% of staff who had completed the question on ethnicity identified as being from a racial, ethnic, or ethno-religious minority; and 12% stated that English was not their first spoken language. Sixty per cent of the CSO's senior executives were female as at 30 June 2019.

Internal policies and practices, such as flexible work practices, contribute to improving the attraction and retention of women in leadership. A comprehensive leadership develop program, rolling out in early in the 2019-20 financial year, will provide further support for women from all backgrounds in leadership roles across the office.

Provision of language services: The CSO does not provide services to the public, though through our work with government agencies we occasionally have need to engage interpreters and/ or translation services (for example, in relation to witness and witness statements).

Services for humanitarian entrants: The CSO does not provide services to refugees or humanitarian entrants.

Planning for 2019-20

The CSO has identified several initiatives and opportunities for action, including those outlined below.

- Developing and implementing a diversity and inclusion strategy for the CSO, aligning to the cluster's diversity and inclusion plans, and the Public Service Commission's plans, including the NSW Public Sector Aboriginal Employment strategy (2019-2025).
- Implementing partnerships with external providers to help increase Aboriginal representation in our workforce, including recruitment providers to assist with attracting indigenous applicants, and CareerTrackers to participate in their internship program.
- Developing our people and leaders to foster an inclusive and diverse workplace, including through awareness of unconscious bias
- Building a pipeline of diverse talent, and implementing talent and succession planning processes and reporting. This will help us to better identify the diversity of our talent pipeline and options to further develop groups, including women in leadership, people from CALD backgrounds, and Indigenous staff.
- Reviewing options to participate in cluster-wide initiatives, including Male Champions of Change and refugee placement programs.
- Supporting and increasing opportunities for flexible working
- Reinforcing our commitment to inclusion through our Diversity & Inclusion Events calendar.

DISABILITY INCLUSION ACTION PLAN

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

The office maintained its Silver membership of the Australian Network on Disability, through which we participated in the Stepping Into internship program. Through Stepping Into, we provided two paid internships for university students who identified as having a disability. The students were provided with hands-on work experience as paralegals in one of our busy practice groups for up to eight weeks. Workplace adjustments were made to ensure the students were able to successfully complete their placement.

Participating in the Australian Network on Disability also allowed us to access resources and advise on development and implementation of disability and inclusion practices.

STATISTICAL INFORMATION ON EEO TARGET GROUPS

TRENDS IN THE REPRESENTATION OF EEO GROUPS							
% OF TOTAL EMPLOYEES (BY FINANCIAL YEAR)							
EEO GROUP	BENCHMARK/ TARGET	2014*	2015	2016	2017	2018	2019
Women ¹	50%	73.1%	73.8%	73.6%	73.3%	75.1%	74.7%
Aboriginal people & Torres Strait Islanders ²	2.6%	1.6%	1.4%	1.1%	0.6%	0.8%	0.7%
People whose first language was not English ³	19%	15.2%	15.4%	13.5%	16.6%	13.4%	11.7%
People with a disability ⁴	N/A	2.9%	3.4%	2.63%	2.1%	1.8%	1.8%
People with a disability requiring work-related adjustments ⁵	1.1% (2011) 1.3% (2012) 1.5% (2013) 1.5% (2015)	2.4%	1.1%	1.6%	0.3%	0.8%	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 2014-17 introduced an aspirational target of 1.8% by 2021 for each of the sector's salary bands. If the aspirational target of 1.8% is achieved in salary bands not currently at or above 1.8%, the cumulative representation of Aboriginal employees in the sector is expected to reach 3.3%.

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 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.

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 INDEX ¹ (BASED ON EMPLOYEE NUMBERS AS AT 30 JUNE)							
EEO GROUP	BENCHMARK/ TARGET	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
Women	100	91	92	96	101	296	326
Aboriginal people & Torres Strait Islanders	100	N/A	N/A	N/A	N/A	N/A	N/A
People whose first language was not English	100	93	86	90	87	53	51
People with a disability	100	N/A	N/A	N/A	N/A	N/A	N/A
People with a disability requiring work-related adjustment	100	N/A	N/A	N/A	N/A	N/A	N/A

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.

OFFICERS & 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)	2015-16	2016-17	2017-18	2018-19
Managers	4	2	2	2
Professionals	186	208	245	251
Technicians and Trades Workers	2	2	1	1
Clerical and Administrative Workers	140	115	152	184

Note: These figures do not include agency staff numbers.

EXCEPTIONAL MOVEMENTS IN WAGES, SALARIES OR ALLOWANCES

Employees of the CSO are covered by the *Crown Employees (Public Sector – Salaries 2018) Award*. The Award provided for a 2.5% per cent salary increase from the commencement of the first full pay period on or after 1 July 2018.

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.

PERSONNEL POLICIES & PRACTICES

The CSO continues to review and evolve its policies and practices to meet the needs of the business and its people. In 2018-19, the office updated its Working from Home Policy to reflect the ongoing upgrades to our technology and workspaces, and to further support flexible working.

As an organisation committed to providing career development pathways, the CSO also introduced changes our graduate solicitor rotation program, to support the professional development of our graduate solicitors and provide structured opportunities for transition to ongoing solicitor roles at the CSO.

INDUSTRIAL RELATIONS POLICIES & PRACTICES

The CSO continues to actively engage with employees and their industrial representatives, recognising that it is seen as important channel for the support of staff, particularly during periods of change.

SENIOR EXECUTIVES

Number of senior executives by band & gender

BAND		2017-18		2018-19	
		FEMALE	MALE	FEMALE	MALE
Band 4	(Secretary)	-	-	-	-
Band 3	Crown Solicitor (Agency Head)	1	-	1	-
Band 2	Assistant Crown Solicitors & Practice Manager (Executive Director equivalent)	2	3	2	3
Band 1	Directors & Special Counsel	12	5	9	5
	Total	15	8	12	8
			23		20

Average total remuneration package for senior executives

BAND	CSO SENIOR EXECUTIVE ROLES	AVERAGE REMUNERATION		RANGE
		2017-18	2018-19	
Band 4	(Secretary)	-	-	-
Band 3	Crown Solicitor (Agency Head)	\$405,998	\$440,578	\$337,101 to \$475,150
Band 2	Assistant Crown Solicitors & Practice Manager (Executive Director equivalent)	\$285,731	\$297,015	\$268,001 to \$337,100
Band 1	Directors & Special Counsel	\$217,912	\$231,961	\$187,900 to \$268,000

Percentage of total employee-related expenditure (senior executives)

The percentage of total employee-related expenditure in 2018-19 associated with senior executives was 13.5%, compared with 14.9% for the previous year.

WORK, HEALTH, SAFETY & WELLBEING

The health, safety and overall wellbeing of our staff continued to be a priority for the CSO in 2018-19. The CSO's WHS Management System Framework was reviewed and updated to remain current and incorporate best-practice wherever feasible, taking a whole of person approach.

WELLBEING STRATEGY

The purpose of the CSO's wellbeing strategy is to bring wellbeing to life for our staff and support holistic health management. We continued to invest in and promote health and wellbeing programs and early intervention strategies to promote health, safety and wellbeing.

Mental health, in particular, is a multi-faceted area of focus. We delivered education and wellbeing programs to our managers and staff, and implemented a range of initiatives to bring teams together and encourage conversations as we continued to work towards de-stigmatising mental health.

HEALTH & WELLBEING INITIATIVES

The CSO offered all staff access to a broad program of health and wellbeing related activities.

Recognising that mental health and wellbeing in the legal profession is an issue of critical importance, the CSO maintained its comprehensive training programs addressing mental health. These included sessions delivered by leading mental health consultant and trainer, Robyn Bradey, who works through the Law Society of NSW, spanning topics such as:

- building employee resilience, mindfulness, and dealing with change
- managing psychological injury for managers
- tough talk
- successful leadership.

We engaged Kate Turner through Birchtree Counselling to deliver vicarious trauma briefing sessions to raise awareness, help employees

understand and conceptualise vicarious resilience, and provide a wellbeing check-in.

Initial work was undertaken to source support for our people leaders to identify staff with potential wellbeing concerns, and to equip them with the knowledge and skills to have early wellbeing conversations. We engaged the Black Dog Institute to deliver a series of programs in the 2019-20 financial year.

All staff had access to the CSO's Employee Assistance Program (EAP), which provides confidential counselling through an approved provider. The office also introduced monthly in-house counselling sessions, delivered by EAP approved provider, increasing accessibility of the service.

Addressing other aspects of staff health and wellbeing, the CSO offered free flu vaccinations and subsidised corporate seated massages. Our physical wellbeing program was also maintained, which provided access to in house yoga and Pilates classes, and sound therapy (meditation) sessions.

The new office fit-out, completed in early 2019, included the creation of five designated "wellbeing rooms", available to all staff. These rooms provide a private space for taking time out, meditation, or prayer.

WHS STATISTICS

The CSO responded to five workplace injuries in 2018-19 that resulted in workers compensation claims. One claim included lost time, while four were medical expenses only. One claim remains open.

WHS RISK MANAGEMENT

Mitigating risks associated with ergonomics remained a priority for the CSO. In addition to a continuous education process for staff, the office provided workstation assessments, appropriate ergonomic equipment, and effective rehabilitation case management services to help manage complex workplace issues and injuries.



ANNUAL REPORT
APPENDICES

FINANCIAL STATEMENTS



**Crown
Solicitor's
Office**

Crown Solicitor's Office

Annual Financial Statements

for the year ended 30 June 2019

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Crown Solicitor's Office

Financial Statements for the year ended 30 June 2019

Statement by the Crown Solicitor

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

- (a) The accompanying financial statements have been prepared in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), the provisions of the *Public Finance and Audit Act 1983* (the Act), the Public Finance and Audit Regulation 2015 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 2019 and financial performance of the Crown Solicitor's Office for the year then ended.
- (c) As at the date of this statement, I am not aware of any circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.



Karen Smith
Crown Solicitor
19 September 2019

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 comprises the Statement of Comprehensive Income for the year ended 30 June 2019, the Statement of Financial Position as at 30 June 2019, 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:

- give a true and fair view of the financial position of the Office as at 30 June 2019, and of its financial performance and its cash flows for the year then ended in accordance with Australian Accounting Standards
- are in accordance with section 45E of the *Public Finance and Audit Act 1983* (PF&A Act) and the *Public Finance and Audit Regulation 2015*.

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

Basis for Opinion

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

I am independent of the 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' (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.

**Crown Solicitor's Office
Financial Statements**
for the year ended 30 June 2019

Other Information

The Office's annual report for the year ended 30 June 2019 includes other information in addition to the financial statements and my Independent Auditor's Report thereon. The Crown Solicitor is responsible for the other information. At the date of this Independent Auditor's Report, the other information I have received comprise the Statement by the Crown Solicitor.

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

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

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

I have nothing to report in this regard.

The 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 and the PF&A Act, and for 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, unless it is not appropriate to do so.

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.

Crown Solicitor's Office
Financial Statements
for the year ended 30 June 2019

My opinion does not provide assurance:

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



Chris Harper
Director, Financial Audit Services
Delegate of the Auditor-General for New South Wales

26 September 2019
SYDNEY

**Crown Solicitor's Office
Financial Statements**
for the year ended 30 June 2019

Start of Audited Financial Statements

Statement of Comprehensive Income

	Notes	Actual 2019 \$'000	Budget 2019 \$'000	Actual 2018 \$'000
Expenses excluding losses				
Employee related expenses	2(a)	45,487	42,578	40,688
Operating expenses	2(b)	16,178	13,190	13,486
Depreciation and amortisation	2(c)	2,189	2,103	738
Finance costs	2(d)	-	49	36
Total expenses excluding losses		63,854	57,920	54,948
Revenue				
Sale of goods and services	3(a)	70,409	58,200	62,530
Investment revenue	3(b)	364	376	523
Other revenue	3(c)	234	58	1,096
Acceptance by the Crown Entity of employee benefits	3(d)	385	715	375
Total revenue		71,392	59,349	64,524
Operating result		7,538	1,429	9,576
Gains/(losses) on disposal	4	-	-	(54)
Net result		7,538	1,429	9,522
Other comprehensive income		-	-	-
Total other comprehensive income		-	-	-
Total comprehensive income		7,538	1,429	9,522

The accompanying Notes form part of these financial statements.

**Crown Solicitor's Office
Financial Statements**

As at 30 June 2019

Statement of Financial Position

	Notes	Actual 2019 \$'000	Budget 2019 \$'000	Actual 2018 \$'000
Assets				
Current assets				
Cash and cash equivalents	8	15,770	20,962	33,801
Receivables	9	11,873	21,334	10,737
Other financial assets	10	11,982	-	9,493
Other current assets	13	8,010	6,139	7,231
Total current assets		47,635	48,435	61,262
Non-current assets				
Property, plant and equipment	11			
- plant and equipment		904	864	1,075
- leasehold improvements		16,270	13,687	4,304
Total property, plant and equipment		17,174	14,551	5,379
Intangible assets	12	5,035	3,972	2,232
Other non-current assets	13	696	520	629
Total non-current assets		22,905	19,043	8,240
Total assets		70,540	67,478	69,502
Liabilities				
Current liabilities				
Payables	14	5,556	6,648	7,116
Provisions	16	17,539	18,297	17,975
Total current liabilities		23,095	24,945	25,091
Non-current liabilities				
Provisions	16	2,370	627	2,321
Total non-current liabilities		2,370	627	2,321
Total liabilities		25,465	25,572	27,412
Net assets		45,075	41,906	42,090
Equity				
Accumulated funds	17	45,075	41,906	42,090
Total equity		45,075	41,906	42,090

The accompanying Notes form part of these financial statements.

Crown Solicitor's Office
Financial Statements
For the year ended 30 June 2019

Statement of Changes in Equity

	Notes	Accumulated funds \$'000
Balance at 1 July 2018		42,090
Net result for the year		7,538
Other comprehensive income		<u>-</u>
Total other comprehensive income		<u>-</u>
Total comprehensive income for the year		<u>7,538</u>
Transactions with owners in their capacity as owners		
Distribution payable to Crown Entity	6	<u>(4,553)</u>
Balance at 30 June 2019		<u>45,075</u>

		Accumulated funds \$'000
Balance at 1 July 2017		38,394
Net result for the year		9,522
Other comprehensive income		<u>-</u>
Total other comprehensive income		<u>-</u>
Total comprehensive income for the year		<u>9,522</u>
Transactions with owners in their capacity as owners		
Distribution payable to Crown Entity	6	<u>(5,826)</u>
Balance at 30 June 2018		<u>42,090</u>

The accompanying Notes form part of these financial statements.

**Crown Solicitor's Office
Financial Statements**

For the year ended 30 June 2019

Statement of Cash Flows

	Notes	Actual 2019 \$'000	Budget 2019 \$'000	Actual 2018 \$'000
Cash flows from operating activities				
Payments				
Employee related		(45,280)	(41,722)	(39,129)
Suppliers for goods and services		(22,210)	(14,368)	(18,612)
Total payments		(67,490)	(56,090)	(57,741)
Receipts				
Legal Fees from clients		66,983	57,367	63,063
Interest received		365	376	808
Other		5,961	493	4,026
Total receipts		73,309	58,236	67,897
Net cash flows from operating activities	21	5,819	2,146	10,156
Cash flows from investing activities				
Purchases of plant and equipment		(15,016)	(9,526)	(1,678)
Purchases of intangible assets		(3,008)	(2,021)	(1,493)
Net cash flows from investing activities		(18,024)	(11,547)	(3,171)
Cash flows from financing activities				
Financial distribution to the Crown Entity	6	(5,826)	(964)	(5,200)
Net cash flows from financing activities		(5,826)	(964)	(5,200)
Net increase / (decrease) in cash and cash equivalents		(18,031)	(10,365)	1,785
Opening cash and cash equivalents		33,801	31,326	32,016
Closing cash and cash equivalents	8	15,770	20,961	33,801

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 2019 have been authorised for issue by the Crown Solicitor, after recommendation by the Audit and Risk Committee, on 13 September 2019.

(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 *Public Finance and Audit Act 1983* (the Act) and *Public Finance and Audit Regulation 2015*; and
- Treasurer's Directions issued under the Act.

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

Judgements, key assumptions and estimations 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 2018-19

The accounting policies applied in 2018-19 are consistent with those of the previous financial year except as a result of new or revised accounting standards that have been applied for the first time in 2018-19. The adoption of these standards has not caused any material adjustments to the reported financial position, performance or cash flows of the CSO.

The CSO has adopted *AASB 9 Financial Instruments* (AASB 9), which resulted in changes in accounting policies in respect of recognition, classification and measurement of financial assets and financial liabilities; derecognition of financial instruments and impairment of financial assets. AASB 9 also significantly amends other standards dealing with financial instruments such as the revised *AASB 7 Financial Instruments: Disclosures* (AASB 7).

The CSO applied AASB 9 retrospectively but has not restated the comparative information which is reported under *AASB 139 Financial Instruments: Recognition and Measurement* (AASB 139). Had any adjustments arisen from the adoption of AASB 9 these would have been recognised directly in accumulated funds and other components of equity. There was no effect of adopting AASB 9 on the CSO's statement of financial position as at 1 July 2018.

a) Classification and measurement of financial instruments

On 1 July 2018 (the date of initial application of AASB 9), the CSO's management has assessed which business models apply to the financial assets held by the CSO and has classified its financial instruments into the appropriate AASB 9 categories.

Under AASB 9, subsequent measurement of debt financial assets is based on assessing the contractual cash flow characteristics of the debt instrument and the CSO's business model for managing the instrument.

The assessment of the CSO's business model was made as of the date of initial application, 1 July 2018. The assessment of whether contractual cash flows on debt instruments are solely comprised of principle and interest was made based on the facts and circumstances as at the initial recognition of the assets.

The classification and measurement requirements of AASB 9 did not have a significant impact to the CSO. The CSO continued measuring at fair value, all financial assets previously held at fair value under AASB 139.

The following are the changes in the classification of the CSO's financial assets:

- Trade receivables and other financial assets (i.e. works in progress) classified as 'Loans and receivables' under AASB 139 as at 30 June 2018 are held to collect contractual cash flows representing solely payments of principal and interest. At 1 July 2018, these are classified and measured as debt instruments at amortised cost.
- The CSO has not designated any financial liabilities at fair value through profit or loss. There are no changes in the classification and measurement for the CSO's financial liabilities.

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2019

In summary, upon the adoption of AASB 9, the CSO had the following required or elected reclassifications as at 1 July 2018:

	Measurement category		Carrying amount		
	AASB 139	AASB 9	Original \$'000	New \$'000	Difference \$'000
Receivables	L&R	Amortised cost	10,255	10,255	-
Other financial assets	L&R	Amortised cost	9,493	9,493	-

b) Impairment

The adoption of AASB 9 has changed the CSO's accounting for impairment losses for financial assets by replacing AASB 139's incurred loss approach with a forward-looking expected credit loss (ECL) approach. AASB 9 requires the CSO to recognise an allowance for ECLs for all debt instruments not held at fair value through profit or loss. There is no material impact to the CSO on adopting the new impairment model.

(ii) Issued but not yet effective

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

The following new Australian Accounting Standards have not been applied and are not yet effective, as per NSW Treasury Circular TC 19-04:

AASB 15, AASB 2014-5, AASB 2015-8 and 2016-3 regarding *Revenue from Contracts with Customers* (Not-for-Profits only).

AASB 16 *Leases*

– applicable to CSO's office building lease (refer Note 18).

AASB 1058 *Income of Not-for-Profit Entities*.

AASB 2016-8 *Amendments to Australian Accounting Standards*
– *Australian Implementation Guidance for Not-for-Profit Entities*.

AASB 2017-1 *Amendments to Australian Accounting Standards*
– *Transfer of Investment Property, Annual Improvements 2014-2016 Cycle and Other Amendments*.

AASB 2018-1 *Amendments to Australian Accounting Standards*
– *Annual Improvements 2015-2017 Cycle*

AASB 2018-3 *Amendments to Australian Accounting Standards*
– *Reduced Disclosure Requirements*

AASB 2018-5 *Amendments to Australian Accounting Standards*
– *Deferral of AASB 1059*

AASB 2018-7 *Amendments to Australian Accounting Standards*
– *Definition of Material*

AASB 2018-8 *Amendments to Australian Accounting Standards*
– *Right-of-Use Assets of Not-for-Profit Entities*

Assessment of the impact on adoption of AASB 16 Leases

AASB 16 *Leases* (AASB 16) is effective from reporting periods commencing on or after 1 January 2019.

For lessees, AASB 16 will result in most leases being recognised on the statement of financial position, as the distinction between operating and finance leases is largely removed. Under the new standard, an asset (the right to use the leased item) and a financial liability to pay rentals are recognised at the commencement of the lease. The only exceptions are short-term and low-value leases. AASB 16 will therefore increase assets and liabilities reported on the statement of financial position. It will also increase depreciation and interest expenses and reduce operating lease rental expenses on the statement of comprehensive income. Expenses recognised in the earlier years of the lease term will be higher as the interest charges will be calculated on a larger lease liability balance.

The accounting for lessors under AASB 16 will not significantly change.

CSO will adopt AASB 16 on 1 July 2019 through application of the partial retrospective approach, where only the current year is adjusted. Comparative information will not be restated. CSO will also adopt the practical expedient whereby the fair value of the right-of-use asset will be the same as the lease liability at 1 July 2019.

Based on the impact assessment CSO has undertaken on currently available information, CSO estimates additional lease liabilities of \$40.1 million and right-of-use assets of \$40.1 million will be recognised as at 1 July 2019 for leases in which the CSO is a lessee. Most operating lease expenses will be replaced by depreciation of the right of use asset and interest on the lease liability. The impact on the statement of comprehensive income is expected to be an increase in expenses \$945k for the year ended 30 June 2020.

Assessment of the impact on adoption of AASB 15 Revenue from Contracts with Customers (not-for-profits only) and AASB 1058 Income of Not-for-Profit Entities

AASB 15 *Revenue from Contracts with Customers* (AASB 15) is effective for reporting periods commencing on or after 1 January 2019. AASB 15 establishes a five-step model to account for revenue arising from contracts with customers. Revenue is recognised when control of goods or services is transferred to the customer at amounts that reflect the consideration to which the CSO expects to be entitled in exchange for transferring the goods or services to the customer. Revenue is currently recognised based on when risks and rewards are transferred.

AASB 1058 *Income of Not-for-Profit Entities* is effective for reporting periods commencing on or after 1 January 2019 and will replace most of the existing requirements in AASB 1004 *Contributions* (AASB 1004). The scope of AASB 1004 is now limited mainly to parliamentary appropriations, administrative arrangements and contributions by owners. Under AASB 1058, CSO will need to determine whether a transaction is consideration received below fair value principally to enable CSO to further its objectives (accounted for under AASB 1058) or a revenue contract with a customer (accounted for under AASB 15).

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2019

The standards will result in the identification of separate performance obligations that will not change the timing of recognition for some revenues, including revenues relating to specific purpose grants.

CSO will adopt AASB 15 and AASB 1058 on 1 July 2019 through application of the full retrospective transition approach. Recognition and measurement principles of the new standards will be applied for the current year and comparative year as though AASB 15 and AASB 1058 had always applied.

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2019

2. EXPENSES EXCLUDING LOSSES

(a) Employee related expenses

	2019	2018
	\$'000	\$'000
Salaries and wages (including annual leave)*	38,445	34,086
Superannuation - defined benefit plans	365	357
Superannuation - defined contribution plans	3,022	2,586
Long service leave	856	1,270
Workers' compensation insurance	138	110
Payroll tax and fringe benefit tax	2,373	2,079
Redundancy payments	288	200
	45,487	40,688

* \$167k of employee related costs (2018: \$65k) have been capitalised to fixed asset accounts, and therefore excluded from the above.

(b) Operating expenses

	2019	2018
	\$'000	\$'000
Auditor's remuneration		
- audit of the financial statements	71	63
- audit of the Trust Account	8	10
Operating Lease Rental Expense – minimum lease payments	6,094	4,949
Consultants	63	93
Contractors	3,444	3,437
Efficiency Dividend	333	-
Electricity	97	136
Fees for services rendered	1,493	1,007
Fees – other	1,112	851
Insurance	73	72
Printing	264	264
Publications and Subscriptions	366	447
Repairs and routine maintenance*	1,513	1,041
Stores & Stationery	344	158
Telephone and data	163	152
Other operating expenses	740	806
	16,178	13,486

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

	1,513	1,041
Total maintenance expenses included in Note 2(a) and Note 2(b)	1,513	1,041

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2019

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.

Operating leases

An operating lease is a lease other than a finance lease. Operating lease payments are recognised as an operating expense in the Statement of Comprehensive Income on a straight line basis over the lease term.

There are no finance lease arrangements.

(c) Depreciation and amortisation

	2019	2018
	\$'000	\$'000
Depreciation:		
Plant and equipment	312	261
Leasehold Improvements	1,671	354
Total depreciation	1,983	615
Amortisation:		
Intangible assets	206	123
Total amortisation	206	123
Total depreciation and amortisation	2,189	738

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

(d) Finance costs

	2019	2018
	\$'000	\$'000
Unwinding of discount rate on make good provisions	-	36
	-	36

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2019

3. REVENUE

Recognition and Measurement

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

(a) Sale of goods and services

	2019	2018
	\$'000	\$'000
Rendering of services – legal fees	70,409	62,530
	70,409	62,530

Recognition and Measurement

Rendering of services

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

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

(b) Investment revenue

	2019	2018
	\$'000	\$'000
Interest revenue	364	523
	364	523

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

	2019	2018
	\$'000	\$'000
Make good provision reversal	-	983
TMF Hindsight Adjustment - Workers' Compensation	33	-
Other services provided	201	113
	234	1,096

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2019

Recognition and Measurement

Make good provision reversal

Provisions are reviewed at the end of each reporting period and adjusted to reflect the current best estimate. If it is no longer probable that an outflow of resources embodying economic benefits will be required to settle the obligation, the provision is reversed.

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 fee in respect of the services provided is received or receivable and when the amount of revenue for the services performed can be reliably measured and it is probable that the economic benefits will flow to the CSO.

(d) Acceptance by the Crown Entity of employee benefits

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

	2019	2018
	\$'000	\$'000
Superannuation – defined benefit	385	375
	385	375

Refer to Note 16 for recognition and measurement policies on employee benefits.

4. GAINS/(LOSSES) ON DISPOSAL

	2019	2018
	\$'000	\$'000
Plant and Equipment	-	(48)
Intangible Assets	-	(6)
	-	(54)

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:

Receivables – Note 9
Other Financial Assets – Note 10
Plant and equipment – Note 11
Intangible Assets – Note 12

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2019

6. FINANCIAL DISTRIBUTION TO THE CROWN ENTITY

As a government business operating under the Commercial Policy Framework, the CSO is required to make a financial distribution to owners. 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 \$4.553m (2018: \$5.826m) has been recognised this year in accordance with the Treasurer's approval.

7. STATE OUTCOME OF THE ENTITY

The CSO operates under the single State Outcome of Effective and Efficient Resolution of Legal Disputes. 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 program group are presented in these financial statements.

8. CURRENT ASSETS - CASH AND CASH EQUIVALENTS

	2019	2018
	\$'000	\$'000
Cash at bank and on hand	15,770	33,801
	<u>15,770</u>	<u>33,801</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 23 for details regarding credit risk and market risk arising from financial instruments.

9. CURRENT ASSETS - RECEIVABLES

	2019 \$'000	2018 \$'000
Current receivables		
Sale of goods and services	11,187	10,221
Less: Allowance for expected credit losses	-	-
Less: Allowance for impairment	-	-
	11,187	10,221
Prepayments	437	324
Interest receivable	2	3
GST recoverable from the Australian Taxation Office	247	158
Long Service Leave recoverable	-	31
	11,873	10,737

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

Recognition and Measurement

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 under AASB 9 (from 1 July 2018)

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.

Subsequent measurement under AASB 139 (for comparative period ended 30 June 2018)

Subsequent measurement is at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

Impairment

Impairment under AASB 9 (from 1 July 2018)

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.

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.

Impairment under AASB 139 (for comparative period ended 30 June 2018)

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

The CSO first assesses whether impairment exists individually for receivables that are individually significant, or collectively for those that are not individually significant. Further,

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2019

receivables are assessed for impairment on a collective basis if they were assessed not to be impaired individually. The assessment is based on CSO's historical credit loss experience for trade receivables, adjusted for forward looking factors specific to the receivable.

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

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

10. CURRENT - OTHER FINANCIAL ASSETS

	2019	2018
	\$'000	\$'000
Work in Progress	10,005	8,516
Recoverable Disbursements	1,977	977
	11,982	9,493

Refer to Note 23 for further information regarding fair value measurement, credit risk and market risk arising from financial instruments.

Recognition and Measurement

Work in Progress (WIP) represents staff time measured at the rate directly chargeable to the client and which remains unbilled as at balance date. WIP is assessed annually and not carried at an amount that exceeds its net recoverable amount.

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

Subsequent measurement under AASB 9 (from 1 July 2018)

Financial assets at amortised cost

Other financial assets are classified and subsequently measured at amortised cost as they are held for collection of contractual cash flows solely representing payments of principal and interest. Impairment losses are presented as separate line item in the statement of comprehensive income. Any gain or loss arising on derecognition is recognised directly in net results and presented in other gains/ (losses).

Classification and measurement under AASB 139 (for comparative period ended 30 June 2018)

Loans and receivables

Loans and receivables are measured 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.

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11. PLANT AND EQUIPMENT

	Plant and equipment \$'000	Leasehold Improvements \$'000	Total \$'000
At 1 July 2018 - fair value			
Gross carrying amount	1,712	4,412	6,124
Accumulated depreciation and impairment	(637)	(108)	(745)
Net carrying amount	1,075	4,304	5,379
At 30 June 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

Reconciliation

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

	Plant and equipment \$'000	Leasehold Improvements \$'000	Total \$'000
Year ended 30 June 2019			
Net carrying amount at start of year	1,075	4,304	5,379
Additions*	141	13,637	13,778
Depreciation expense	(312)	(1,671)	(1,983)
Net carrying amount at end of year	904	16,270	17,174

*Additions of \$13.8m include \$0.7m held in Work in Progress for the office accommodation fit-out.

	Plant and equipment \$'000	Leasehold Improvements \$'000	Total \$'000
At 1 July 2017- fair value			
Gross carrying amount	1,508	1,276	2,784
Accumulated depreciation and impairment	(668)	(1,030)	(1,698)
Net carrying amount	840	246	1,086
At 30 June 2018- fair value			
Gross carrying amount	1,712	4,412	6,124
Accumulated depreciation and impairment	(637)	(108)	(745)
Net carrying amount	1,075	4,304	5,379

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Reconciliation

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

	Plant and equipment \$'000	Leasehold Improvements \$'000	Total \$'000
Year ended 30 June 2018			
Net carrying amount at start of year	840	246	1,086
Additions*	544	2,557	3,101
Disposals	(48)	-	(48)
Depreciation expense	(261)	(354)	(615)
Make good asset additions	-	1,855	1,855
Net carrying amount at end of year	1,075	4,304	5,379

*Additions of \$3.1m include \$2.6m held in Work in Progress for the 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.

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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:

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

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.

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.

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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.

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12. INTANGIBLE ASSETS

	Software \$'000	Total \$'000
At 1 July 2018		
Cost (gross carrying amount)	3,035	3,035
Accumulated amortisation and impairment	(803)	(803)
Net carrying amount	<u>2,232</u>	<u>2,232</u>
At 30 June 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>

Reconciliation

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

	Software \$'000	Total \$'000
Year ended 30 June 2019		
Net carrying amount at start of year	2,232	2,232
Additions*	3,009	3,009
Amortisation (recognised in "depreciation and amortisation")	(206)	(206)
Net carrying amount at end of year	<u>5,035</u>	<u>5,035</u>

*Additions of \$2.2m include \$2.1m for a new Practice Management System held in Work in Progress.

	Software \$'000	Total \$'000
At 1 July 2017		
Cost (gross carrying amount)	1,455	1,455
Accumulated amortisation and impairment	(756)	(756)
Net carrying amount	<u>699</u>	<u>699</u>
At 30 June 2018		
Cost (gross carrying amount)	3,035	3,035
Accumulated amortisation and impairment	(803)	(803)
Net carrying amount	<u>2,232</u>	<u>2,232</u>

Reconciliation

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

	Software \$'000	Total \$'000
Year ended 30 June 2018		
Net carrying amount at start of year	699	699
Additions*	1,662	1,662
Disposals	(6)	(6)
Amortisation (recognised in "depreciation and amortisation")	(123)	(123)
Net carrying amount at end of year	<u>2,232</u>	<u>2,232</u>

*Additions of \$1.7m include \$1.6m for a new Practice Management System held in Work in Progress.

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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.

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.

13. CURRENT/NON-CURRENT ASSETS – OTHER

	2019	2018
	\$'000	\$'000
Crown Acceptance of long service leave liability - current	8,010	7,231
Crown Acceptance of long service leave liability – non-current	696	629
	8,706	7,860

14. CURRENT LIABILITIES - PAYABLES

	2019	2018
	\$'000	\$'000
Accrued salaries, wages and on-costs	188	711
Creditors	4,926	3,113
Accrued expenses	442	3,292
	5,556	7,116

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

Recognition and Measurement

Payables represent liabilities for goods and services provided to the 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.

15. CURRENT LIABILITIES – FINANCING ACTIVITIES

Changes in liabilities arising from financing activities:

	1 July 2018	Cash Flows	Provn for Distrib'n 30 June 2019	30 June 2019
	\$'000	\$'000	\$'000	\$'000
Financial Distribution payable	5,826	(5,826)	4,553	4,553
Total liabilities arising from financing activities	5,826	(5,826)	4,553	4,553

	1 July 2017	Cash Flows	Provn for Distrib'n 30 June 2018	30 June 2018
	\$'000	\$'000	\$'000	\$'000
Financial Distribution payable	5,200	(5,200)	5,826	5,826
Total liabilities arising from financing activities	5,200	(5,200)	5,826	5,826

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16. CURRENT/NON-CURRENT LIABILITIES - PROVISIONS

	2019	2018
	\$'000	\$'000
Current		
Employee benefits and related on-costs		
Annual leave	3,315	3,146
Long service leave	8,010	7,231
Related Oncost	1,661	1,496
	12,986	11,873
Other provisions		
Make good	-	276
Distribution to the Crown Entity	4,553	5,826
	4,553	6,102
Total current provisions	17,539	17,975
Non-Current		
Employee benefits and related on-costs		
Long service leave	696	629
Long service leave - related oncost	105	94
	801	723
Other provisions		
Make good	1,569	1,598
	1,569	1,598
Total non-current provisions	2,370	2,321
Aggregate employee benefits and related on-costs		
Provisions – current	12,986	11,873
Provisions - non-current	801	723
Accrued salaries, wages and on-costs (Note 14)	188	711
	13,975	13,307

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

	Distribution Payments	Make good (current)	Make good (non-current)
	\$'000	\$'000	\$'000
2019			
Carrying amount at the beginning of financial year	5,826	276	1,598
Additional provisions recognised	4,553	-	-
Amounts used	(5,826)	-	-
Amounts paid out	-	(276)	-
Unwinding/change in the discount rate	-	-	(29)
Carrying amount at end of the year	4,553	-	1,569

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(a) Annual Leave

The liability at 30 June 2019 was \$3.781m (2018: \$3.146m). This is based on leave entitlements at 30 June using remuneration rates to be payable post 30 June.

Of this liability, the value expected to be taken within 12 months is \$2.983m (2018: \$2.593m) and \$0.332m (2018: \$0.553m) after 12 months. This calculation is based on the current levels of annual leave taken by staff and the minimum required to be taken to achieve the target of 30 days by June 2020.

(b) Long Service Leave

The total liability at 30 June 2019 was \$8.706m (2018: \$7.860m) which is shown as current \$8.010m (2018: \$7.231m) and non-current \$0.696m (2018: \$0.629m). This liability comprises:

	2019	2018
	\$'000	\$'000
Short term – expected to be settled within 12 months	950	956
Long term – not expected to be settled within 12 months	7,756	6,904
	8,706	7,860

The CSO contributed \$0.994m (2018: \$0.736m) to the Crown Finance Entity pool account during this financial year including leave entitlement transfers received from other agencies. Reimbursements from the Crown Finance Entity because of payments to staff or transfers of entitlement to other agencies were \$1.187m (2018: \$0.624m).

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

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the employees is recognised as LSL liabilities and the amounts expected to be reimbursed by the Crown Finance entity as assets.

Long service leave is measured at 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 Entity 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.

(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. In prior years CSO occupied levels 2 and 4-9 of 60-70 Elizabeth Street Sydney. Levels 4-9 have been refurbished (new leases) and CSO relinquished level 2 upon expiry of that lease on 13 February 2019, at which time the make good cost was paid out.

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 1.75% 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.

(d) Distribution Payable to the Crown Entity

A provision for financial distribution to the Crown Entity of \$4.553m (2018: \$5.826m) is made based on the Treasurer's approval dated 3 July 2019 of the Crown Solicitor's recommendation for the 2018-2019 financial year (refer Note 6).

17. EQUITY

Recognition and Measurement

Accumulated Funds

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

Equity transfers – Recognition and Measurement

The transfer of net assets between entities as a result of an administrative restructure, transfers of programs / functions and parts thereof between NSW public sector entities and 'equity appropriations' are designated or required by Australian Accounting Standards to be treated as contributions by owners and recognised as an adjustment to 'Accumulated Funds'. This treatment is consistent with AASB 1004 *Contributions* and Australian Interpretation 1038 *Contributions by Owners Made to Wholly-Owned Public Sector Entities*.

Transfers arising from an administrative restructure involving not-for-profit and for-profit government entities are recognised at the amount at which the assets and liabilities were recognised by the transferor immediately prior to the restructure. Subject to below, in most instances this will approximate fair value.

All other equity transfers are recognised at fair value, except for intangibles. Where an intangible has been recognised at (amortised) cost by the transferor because there is no active market, the CSO recognises the asset at the transferor's carrying amount. Where the transferor is prohibited from recognising internally generated intangibles, the CSO does not recognise that asset.

18. COMMITMENTS FOR EXPENDITURE

(a) Capital Commitments

	2019 \$'000	2018 \$'000
Aggregate capital expenditure for the acquisition of a new Practice Management System and the fit out of leased premises contracted for at balance date and not yet provided for:		
Within one year	2,402	12,888
Later than one year and not later than five years	-	305
Later than five years	-	-
Total (including GST)	2,402	13,193

(b) Operating Lease Commitments

	2019 \$'000	2018 \$'000
CSO as lessee		
Future minimum rentals payable under non-cancellable operating lease as at 30 June are:		
Within one year	5,469	6,478
Later than one year and not later than five years	24,375	23,448
Later than five years	27,632	33,742
Total (including GST)	57,476	63,668

These operating lease commitments relate to leases currently held in relation to the occupancy of office premises. The leases commenced 15 April 2018.

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Total Commitments for capital expenditure and operating lease include input tax credits of \$5.443m (2018: \$6.970m) that are expected to be recoverable from the Australian Taxation Office.

19. CONTINGENT LIABILITIES AND CONTINGENT ASSETS

The CSO has no contingent liabilities or contingent assets at 30 June 2019. There were no contingent liabilities or contingent assets at 30 June 2018.

20. BUDGET REVIEW

The budgeted amounts are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period. Subsequent amendments to the original budget (e.g. adjustment for transfer of functions between entities as a result of Administrative Arrangements Orders; 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 below.

Net result

The net surplus for the year of \$7.5m is \$6.1m greater than budget of \$1.4m.

Revenue of \$71.4m is \$12m favourable to the budget of \$59.35m, and \$6.9m higher than 2017-18. The variance is attributable to increased work volumes particularly in the areas of Inquiries (\$1.4m), Child Protection (\$1.1m), Criminal Law (\$1.6m), Torts Justice (\$1.4m) and Special Inquiries (\$5.5m).

CSO headcount has been increased during the year to support the increased workload and is reflected in the Employee Related Expenses variance to budget of \$2.9m. This was supplemented by the use of Agency staff (part of Other Operating Expenses) which was \$1.9m above budget for the year. CSO continues to recruit appropriately qualified staff and contractors to ensure that sufficient resources are available to meet client demand.

Other Operating Expenses (excluding Agency Staff costs) were \$1.1m above budget which is consistent with supporting the increased activity reflected in the higher than budgeted revenues.

Service Partnership Agreement costs (support services including payroll and technology provided by the Department of Justice) increased \$486k due to supporting the increased headcount and provision of technology services. Stores were \$139k above budget primarily related to the expensing of low value technology assets and software application licences.

Favourable budget variances were achieved with lower than anticipated use of Consultants (\$227k), and significant savings in the CSO's telephony program costs (\$232k). Staff Training costs were well down on budget (\$348k), which is reflective of servicing the increased workload. CSO is reviewing its training program with a view to implementing a focussed Agency-wide training program to ensure CSO remains at the forefront in the provision of high quality professional legal services to our clients.

Depreciation & Amortisation was \$86k above budget, related to a revised leasehold improvements schedule resultant from timing differences in the completion of the accommodation project capital works.

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Finance costs of \$0k (2018: \$36k) represent the unwinding of the discount rate on the make good provision in respect of leased premises. This is \$49k below budget as a result of changes in underlying assumptions following completion of the Office Accommodation project which resulted in the recognition of \$29k of Other Revenue.

Assets and liabilities

Total assets of \$70.5m are \$3.1m greater than budget. The increased workload and increased surplus generated has contributed to Work in Progress & Receivables (\$2.5m) being higher than budgeted. Leasehold Improvements (\$2.6m) and Intangibles (\$1.06m) are both greater than budget impacting on Cash and Cash Equivalents which was lower than budget (\$5.2m); the latter in particular due to the timing of the completion of the Office Accommodation project. Total Liabilities are essentially in line with budget expectations.

Cash flows

Cash and Cash Equivalents decreased by \$18m compared to a budgeted reduction of \$10.4m. The variance of \$7.6m is essentially due to timing differences in CSO's two major capital programs - the Accommodation Project and Practice Management System.

21. 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:

	2019	2018
	\$'000	\$'000
Net cash flows from operating activities	5,819	10,156
Depreciation and amortisation expense	(2,189)	(738)
Decrease/(increase) in provisions	3,668	(3,044)
Increase/(decrease) in prepayments and other assets	4,506	4,304
Decrease/(increase) in payables	(4,267)	(1,102)
Net gain/(loss) on disposal of assets	-	(54)
Net result	7,537	9,522

22. 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.

	2019	2018
	\$'000	\$'000
Cash balance at the beginning of the financial year	1,666	7,470
Add: Receipts	49,061	12,593
Less: Expenditure	(38,568)	(18,397)
Cash balance at the end of the financial year	12,159	1,666

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23. 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

i. As at 30 June 2019 under AASB 9

Class	Note	Category	2019 Carrying Amount \$'000
Financial Assets			
Cash and cash equivalents	8	N/A	15,770
Receivables ¹	9	Amortised cost	11,189
Other financial assets	10	Amortised cost	11,982
			38,941
Financial Liabilities			
Payables ²	14	Financial liabilities measured at amortised cost	5,525
			5,525

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

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

ii. As at 30 June 2018 under AASB 9 (comparative period)

Class	Note	Category	2018 Carrying Amount \$'000
Financial Assets			
Cash and cash equivalents	8	N/A	33,801
Receivables ¹	9	Loans and receivables (at amortised cost)	10,255
Other financial assets	10	Loans and receivables (at amortised cost)	9,493
			53,549
Financial Liabilities			
Payables ²	14	Financial liabilities measured at amortised cost	7,109
			7,109

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

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

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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.

(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.

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2019

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.

Accounting policy for impairment of trade debtors and other financial assets under AASB 9

Receivables – trade debtors

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

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

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

The expected loss rates are based on historical observed loss rates. The historical loss rates are adjusted to reflect current and forward-looking information on macroeconomic factors affecting the ability of the customers to settle the receivables. The 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 debtors 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 2019. The CSO's debtors are primarily other NSW government entities and credit risk is assessed as very low.

The loss allowance for trade debtors as at 30 June 2019 and 1 July 2018 (on adoption of AASB 9) was determined to be \$nil.

Accounting policy for impairment of trade debtors and other financial assets under AASB 139 (comparative period only).

Collectability of trade debtors is reviewed on an ongoing basis. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. Debtors which are known to be uncollectible are written off. An allowance for impairment is raised when there is objective evidence CSO will not be able to collect all amounts due. This evidence includes past experience, and current and expected changes in economic conditions and debtor credit ratings. No interest is earned on trade debtors. Payment terms are between 14 and 30 days.

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2019

For the comparative period 30 June 2018, the ageing analysis of trade debtors is as follows:

	2018
	\$'000
Neither past due nor impaired	4,663
Past due but not impaired	
< 3 months overdue	667
3 months – 6 months overdue	25
> 6 months overdue	-
	<u>5,355</u>
Impaired	
< 3 months overdue	-
3 months – 6 months overdue	-
> 6 months overdue	-
Total receivables – gross of allowance for impairment	<u>5,355</u>

Notes: The ageing analysis excludes statutory receivables and prepayments, as these are not within the scope of AASB 7. Therefore the 'total' will not reconcile to the receivables total in Note 9.

(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 \$543 (2018: \$2,431) and the rate of interest applied during the year was an average of 9.96% (2018: 9.73%).

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

**Crown Solicitor's Office
Notes to the Financial Statements**

For the year ended 30 June 2019

Maturity analysis and interest rate exposure of financial liabilities

	\$'000							
	Weighted average effective interest rate	Interest Rate Exposure				Maturity Dates		
		Nominal Amount	Fixed Interest Rate	Variable Interest Rate	Non- interest bearing	< 1 year	1 -5 years	> 5 years
2019								
Payables	-	5,525	-	-	5,525	5,525	-	-
		5,525	-	-	5,525	5,525	-	-
2018								
Payables	-	7,109	-	-	7,109	7,109	-	-
		7,109	-	-	7,109	7,109	-	-

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.

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 +/- 0.20 per cent (2018: +/- 0.25%), 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:

	2019 \$'000		2018 \$'000	
	+0.20%	-0.20%	+0.25%	-0.25%
Net Result	32	(32)	85	(85)
Equity	32	(32)	85	(85)

(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 and non-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.

24. RELATED PARTY DISCLOSURES

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

Short term employee benefits:

	2019	2018
	\$'000	\$'000
Salaries	354	405
Other monetary allowances	37	20
Other long-term employee benefits	129	20
Total remuneration	<u>520</u>	<u>445</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. \$49.385m (2018: \$42.069m) 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 Justice (DoJ). 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 DoJ in the areas of payroll, information and technology systems support and library services. The CSO incurred \$1.493m (2018: \$1.007m) in fees to DoJ 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 \$6.056m (2018: \$4.949m).

Crown Solicitor's Office
Notes to the Financial Statements

For the year ended 30 June 2019

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.

25. EVENTS AFTER THE REPORTING PERIOD

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

End of audited financial statements.

Appendix 2

PAYMENT OF ACCOUNTS

Note: The 30 Days to Pay policy ended on 30 November 2018, and the CSO's reporting obligations ceased after the final return covering the October-November 2018 period. The Faster Payment Terms policy replaced the 30 Days to Pay policy, starting on 1 December 2018. The reporting obligations for this policy sit with the Office of the NSW Small Business commissioner.

Accounts due or paid within each quarter (excl. Department of Justice)

MEASURE (2018-19)	JUL-SEP	OCT-NOV
All suppliers		
No of accounts due for payment	3,123	2,075
No of accounts paid on time	2,945	1,945
Actual % of accounts paid on time (based on no of accounts)	94.3%	93.7%
Dollar amount of accounts due for payment (\$'000)	\$19,579	\$16,791
Dollar amount of accounts paid on time (\$'000)	\$18,972	\$16,407
Actual % of accounts paid on time (based on \$)	96.9%	97.7%
No of payments for interest on overdue accounts	6	1
Interest paid on overdue accounts	\$486.23	\$56.73
Small business suppliers		
No of accounts due for payment	421	268
No of accounts paid on time	396	255
Actual % of accounts paid on time (based on no of accounts)	94%	95.5%
Dollar amount of accounts due for payment (\$'000)	\$2,201	\$1,472
Dollar amount of accounts paid on time (\$'000)	\$2,094	\$1,427
Actual % of accounts paid on time (based on \$)	95%	97%
No of payments for interest on overdue accounts	6	1
Interest paid on overdue accounts	\$486.23	\$56.73

Aged analysis at the end of each quarter

QUARTER (2018-19)	WITHIN DUE DATE \$'000	< 30 DAYS OVERDUE \$'000	30-60 DAYS OVERDUE \$'000	60-90 DAYS OVERDUE \$'000	>90 DAYS OVERDUE \$'000
All suppliers					
September	\$18,972	\$369			\$18,972
October-November	\$16,407	\$235	\$87	\$48	\$14
Small business suppliers					
September	\$2,094	\$87	\$18	\$0	\$1
October-November	\$1,427	\$38	\$4	\$1	\$0

All creditor accounts payable balances are paid prior to EOM.

Payment of mandatory interest to small business suppliers

The CSO paid interest to declared small business suppliers as advised above for the required compliance period between July and November 2018.

Payment delays were due primarily to overlooked invoices, or invoices missing the required engagement number (the reference number to be provided by counsel on invoices).

Initiatives to improve payment performance

The CSO continues to support 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, other than by Purchasing Card; payment of major suppliers by way of consolidated invoicing; and ensuring that CSO employees are aware of and abide by the payment performance requirements, including advising all new employees as part of their induction.

The CSO's new practice management system, Thomson Reuters Elite, is expected to be in place from December 2019. This will support centralised receipt of supplier invoices and use of electronic workflow for approval, and is expected to deliver significant improvement to our payment performance.

Appendix 3

CONSULTANT EXPENDITURE

Total consultant expenditure in 2018-19 was \$62,831.25. There were no engagements costing \$50,000 or more.

Consultant expenditure under \$50,000

NO. OF ENGAGEMENTS	CONSULTANCY CATEGORY	ACTUAL COSTS (INCL. GST)
1	Organisational Review	\$26,931.25
1	Crown Solicitor Recruitment Consultancy	\$29,000.00
1	Accrual Management Services	\$6,900.00
	Total expenditure	\$62,831.25

Appendix 4

PROMOTION

In the 2018-19 financial year, there were no overseas visits by CSO officers or employees.

RISK MANAGEMENT & INSURANCE

The CSO has full workers' compensation, property, liability and miscellaneous insurance cover provided by the Treasury Managed Fund (TMF), covering the office's major insurance risks: security of the CSO's employees, property and other assets, and the risk of work-related injuries that may result in workers' compensation insurance claims.

The TMF is a government-wide self-insurance scheme that provides a systematic and coordinated approach to the practice of risk management. Under this scheme, benchmarking was introduced to gauge risk management performance with insurance premiums determined by a combination of benchmarks and the CSO's claims experience.

A comprehensive insurance program covers workers' compensation, public liability, motor vehicle, property and miscellaneous liability.

QBE Insurance managed the CSO's workers' compensation insurance and Gallagher Bassett managed the CSO's other insurances during the 2018-19 financial year.

The CSO monitors its claims experience 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 also continually being reviewed to enhance the CSO's risk management profile, thereby reducing future premiums.

INTERNAL AUDIT & RISK MANAGEMENT ATTESTATION STATEMENT

Internal Audit and Risk Management Attestation Statement for the 2018-2019 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 exceptions or transitional arrangements described below, compliant with the eight (8) core requirements set out in the *Internal Audit and Risk Management Policy for the NSW Public Sector*, specifically:

Core Requirements	For each requirement, please specify whether compliant, non-compliant, or in transition
Risk Management Framework	
1.1 The agency head is ultimately responsible and accountable for risk management in the agency	Compliant
1.2 A risk management framework that is appropriate to the agency has been established and maintained and the framework is consistent with AS/NZS ISO 31000:2009	Compliant
Internal Audit Function	
2.1 An internal audit function has been established and maintained	Compliant
2.2 The operation of the internal audit function is consistent with the International Standards for the Professional Practice of Internal Auditing	Compliant
2.3 The agency has an Internal Audit Charter that is consistent with the content of the 'model charter'	Compliant
Audit and Risk Committee	
3.1 An independent and Audit and Risk Committee with appropriate expertise has been established	Compliant
3.2 The Audit and Risk Committee is an advisory committee providing assistance to the agency head on the agency's governance processes, risk management and control frameworks, and its external accountability obligations	Compliant
3.3 The Audit and Risk Committee has a Charter that is consistent with the content of the 'model charter'	Compliant

Exceptions or Transitional Arrangements

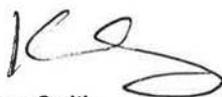
Nil.

Membership

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

- Chair, Carolyn Burlew, October 2015 – September 2019*
- Independent Member 1, David Antaw, November 2015 – November 2018 – September 2019*
- Independent Member 2, Leah Fricke, November 2015 – November 2018 – September 2019*
- Independent Member 3, Ralph Kelly, November 2015 – November 2018 – September 2019*
- Independent Member 4, John Pearson, March 2016 – February 2019

* As a result of machinery of government changes, the Department of Justice was abolished from 1 July 2019. The Audit and Risk Committee will remain valid and operate through to endorsement of the 30 June 2019 Financial Statements until 1 October 2019.



Karen Smith
Crown Solicitor

CYBER SECURITY POLICY ATTESTATION



Crown
Solicitor's
Office

3 October 2019

Cyber Security Annual Attestation Statement for the 2018-2019 Financial Year for the Crown Solicitor's Office

I, Karen Smith, am of the opinion that the Department of Communities and Justice (formerly Department of Justice), Information Technology Services, our shared service provider, has to the best of its ability identified its cyber security risks in a manner consistent with the Mandatory Requirements set out in the NSW Cyber Security Policy.

The Crown Solicitor's Office relies on the attestation by the Department of Communities and Justice and the independent audit of their department's ISMS against the ISO270001 standard performed in July 2019 by SAI Global.

Risks to the information and systems of the Crown Solicitor's Office have been assessed and controls are in place to mitigate identified risks. A tested Business Continuity Plan is in the process of completion and will shortly achieve full compliance.

The Crown Solicitor's Office will continue to work with Department of Communities and Justice to enhance governance to appropriately manage its cyber-security maturity and initiatives.


Karen Smith
Crown Solicitor

Appendix 8
SUSTAINABILITY

The CSO remained committed to developing and maintaining sustainable practices in its workplace in 2018-19.

Records management strategies focussed on the reduction of paper records and reference materials held on site over the past year. The office successfully reduced its physical file holdings by 54%, transferring files to off-site storage and/or to the NSW State Archives.

The CSO’s physical library collection was reviewed to remove materials now available digitally. This resulted in a 78% reduction of our required shelf space. Library staff continued to deliver legal research training to ensure staff can expediently access digital resources. The office maintains its focus on minimising the creation and use of hardcopy reference material in favour of digital.

The CSO office accommodation refit complies with the State Government’s resource efficiency policy in relation to sustainability and energy conservation. The CSO also invested in technology upgrades that helped support our efforts to go “paper-less”, such as switching from fax machines to efaxing.

Since 2011, the CSO has been a part of the Sustainability Advantage program, managed by the NSW Environment & Heritage. Since 2014, the CSO has been a recognised Bronze Partner in the program. Over 530 organisations participate in the program across NSW, and more than 30% of members are recognised as Bronze, Silver or Gold Partners for achieving positive environmental outcomes.

Appendix 9
CONSUMER RESPONSE

The CSO’s procedure for handling complaints is publically available on the CSO website, which outlines who feedback and complaints should be made to, 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.

See <http://www.cso.nsw.gov.au/Pages/feedback-and-complaints.aspx>.

FEEDBACK RECEIVED FROM MEMBERS OF THE PUBLIC

Number of complaints received	3
Number of complaints resolved/finalised	2
Number of complaints pending resolution	1

FEEDBACK RECEIVED VIA MINISTERIAL SUPPORT

Number of complaints received	4
Number of complaints resolved/finalised	4
Number of complaints pending resolution	0

Appendix 10

GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009

The CSO is declared not to be a separate agency, but is taken to be part of, and included in, the Department of 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 Justice.

Total no. of access applications received during the year	Not applicable
Total no. of access applications refused, wholly or in part, because of conclusive presumption against disclosure	Not applicable
Statistical information	Not applicable
Subsidiary agencies	The CSO has no subsidiary agencies

Appendix 11

PRIVACY AND PERSONAL INFORMATION PROTECTION ACT 1998

The CSO received no requests for privacy internal reviews under the *Privacy and Personal Information Protection Act 1998* during the 2018-19 financial year.

The CSO is a separate agency for the purposes of the Act. No agencies have been prescribed by regulation for the purposes of s. 4B(1)(a) of the Act.

Appendix 12

PUBLIC INTEREST DISCLOSURES

There were no public interest disclosures (PID) to the CSO in the 2018-19 reporting period.

The CSO has a PID policy in place. The policy, and an internal disclosures form, is made available to all staff via the intranet.

Appendix 13

LEGAL CHANGE

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

Appendix 14

REPORT PRODUCTION COSTS & ACCESS

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 or upon request to csomarketing@cso.nsw.gov.au.



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