

# I·C·A·C

INDEPENDENT COMMISSION  
AGAINST CORRUPTION

NEW SOUTH WALES

## annual report 2013–14



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ICAC

INDEPENDENT COMMISSION  
AGAINST CORRUPTION  
NEW SOUTH WALES

The Hon Don Harwin MLC  
President  
Legislative Council  
Parliament House  
Sydney NSW 2000

The Hon Shelley Hancock MLA  
Speaker  
Legislative Assembly  
Parliament House  
Sydney NSW 2000

Mr President  
Madam Speaker

I am pleased to furnish to you the Commission's annual report for the year ended 30 June 2014. The report has been prepared in accordance with the requirements of the *Independent Commission Against Corruption Act 1988* and the *Annual Reports (Departments) Act 1985*.

Pursuant to s 78(2) of the ICAC Act, I recommend that this report be made public immediately.

This recommendation allows either presiding officer of the Houses of Parliament to make the report public whether or not Parliament is in session.

Yours faithfully



The Hon Megan Latham  
Commissioner

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# Commissioner's foreword

I took up my appointment as Commissioner of the NSW Independent Commission Against Corruption in January this year, about half-way through the period covered by this annual report.

While I have been at the Commission for only six months of the reporting period, I believe it is clear that the organisation has continued to cement its place as a leading integrity body in Australia. Now in its 25th year of operations, the Commission and the role it fulfils in NSW have not diminished; in fact, today the Commission and its work are as relevant as ever, demonstrated in the pivotal role it plays in investigating and exposing corrupt conduct at all levels of the state's public sector.

The Commission's 2013–14 year will be remembered for many reasons, but one of the higher profile ones is the investigations undertaken into mining and the consequences for how mining is administered in the state. Beyond the findings and recommendations to seek advice from the Director of Public Prosecutions (DPP) in operations Jasper and Acacia, which were released in July and August respectively, the Commission made sweeping reform recommendations to tighten up the corruption risks in this field. It also recommended that a number of the coal exploration licences were so "tainted by corruption" that the government should consider enacting legislation to cancel them.

The Commission has held other major public inquiries in recent months. The most well-known of these are Operation Credo, concerning allegations of corrupt conduct involving public officials and persons with an interest in Australian Water Holdings Pty Ltd, and Operation Spicer, which concerns allegations that members of Parliament corruptly solicited, received and concealed payments from various sources in return for favouring the interests of those responsible for the payments.

These are two of the nine public inquiries held during 2013–14. As a result of those inquiries, the Commission made corrupt conduct findings against 41 people, furnished 12 investigation reports to Parliament and recommended that the advice of the DPP be sought with respect to the prosecution of 39 people for various criminal offences.

The Commission received and dealt with 3,386 matters, completed 49 preliminary investigations and 14 operations, and delivered 79 corruption prevention speaking engagements to more than 3,250 people.

We also released information publicly to make it clear that, despite some misconceptions in the media and the public arena generally, prosecution action has certainly resulted and continues to result from Commission investigations. Towards the end of the 2013–14 year, I stated that, at the time, there were 22 people before courts in NSW as a result of Commission referrals to the DPP. Further, in the previous 30 months, 35 people had pleaded guilty or been found guilty of charges arising from Commission investigations.

The Commission will move premises for the first time in many years in the coming months, which will mean another set of challenges that we are working hard to meet. The task of carrying out our core functions remains in the very safe hands of our highly dedicated executive and staff, who will continue our work over the next 12 months and beyond to investigate and expose corruption, educate the public sector and the community about managing risks, and improve practices in the public sector to help prevent misconduct.



The Hon Megan Latham  
Commissioner



# Chapter 1: Overview

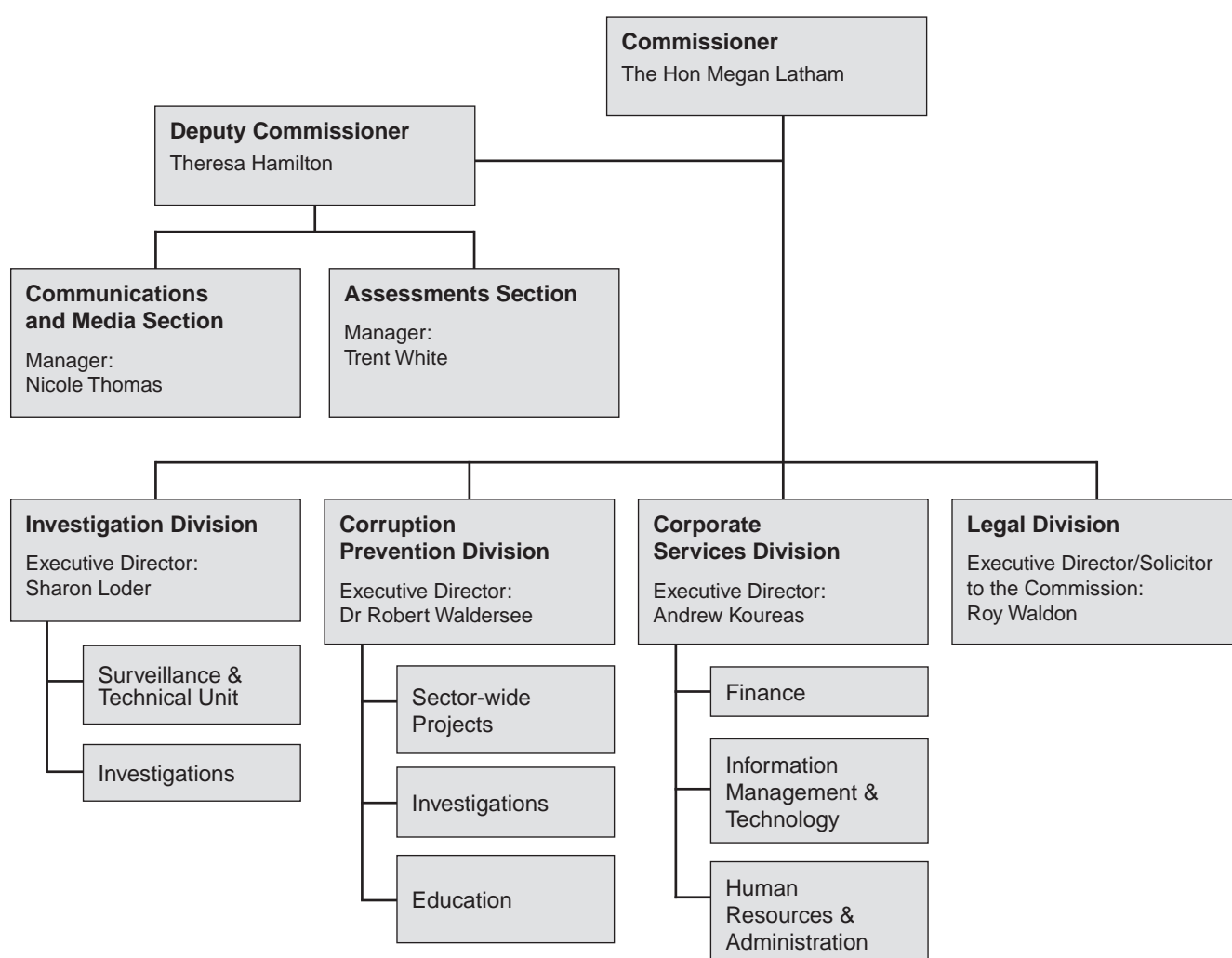
The NSW Independent Commission Against Corruption was established as an independent and accountable body by the *Independent Commission Against Corruption Act 1988* in response to community concern about the integrity of public administration in the state.

The principal objectives of the Commission are:

- investigating, exposing and preventing corruption
- educating public authorities, public officials and members of the public about corruption and its detrimental effects.

Our mission is to combat corruption and improve the integrity of the NSW public sector.

## Organisational chart



# 2013–14 at a glance



## Exposing corruption

The exposure and investigation of corrupt conduct in the NSW public sector has continued to be a major part of the Commission's work. In 2013–14, the Commission's Assessments Section received and managed close to 3,400 matters. It continued to reduce the time taken on average to deal with a matter, this year by 28%. The Investigation Division has continued to reduce the average time taken to complete preliminary investigations, and completed 71% of operations within 12 months, compared with 86% in 2012–13.

## Major achievements

- receiving 3,386 matters and taking on average 28 days to deal with a matter, which is a 28% improvement on the average 39 days it took to deal with the 2,930 received in 2012–13
- presenting a "straightforward" matter to the Assessment Panel within 13 days on average, compared with the target of 21 days
- commencing 43 new preliminary investigations and 10 new full investigations (operations)
- completing a total of 49 preliminary investigations and 14 operations
- conducting nine public inquiries over 84 days
- making corrupt conduct findings against 41 people, and recommending that the advice of the Director of Public Prosecutions (DPP) be sought with respect to the prosecution of 39 people for various offences, compared to 18 people referred to the DPP in 2012–13
- completing 96% of preliminary investigations within the target 120 days.



## Preventing corruption

The main focus of the Commission's Corruption Prevention Division is to educate public officials and the wider community about corruption, and how to report it. The division also works to raise awareness and minimise corrupt conduct through research and policy recommendations, training and advice.

In 2013–14, the division delivered 90 training sessions to over 1,760 participants and reported that 94% of corruption prevention recommendations in investigation reports were addressed as at 30 June 2014.

## Major achievements

- outlining a future framework for the management of the state's coal resources, which will provide greater certainty to both the coalmining industry and the community
- providing insights into the ways diverse organisations go about keeping control of IT contracting to minimise the risk for corruption
- delivering 79 speaking engagements to over 3,250 attendees, which is a 14% increase on the number delivered in 2012–13
- conducting the biennial Australian Public Sector Anti-Corruption Conference in collaboration with the Crime and Corruption Commission (formerly the Crime and Misconduct Commission) in Queensland and the Corruption and Crime Commission in Western Australia.





## Accountability

The main external oversight bodies of the Commission are the Parliamentary Committee on the ICAC and the Inspector of the ICAC. The Commission provides timely, accurate and relevant reporting to both the Committee and the Inspector of the ICAC. The Commission also reports publicly about its work, and strives to ensure that all of its business activities comply with regulatory and required standards.

### Major achievements

- completing and furnishing to Parliament 12 investigation reports, compared to six in 2012–13
- conducting nine public inquiries over 84 days, and 203 compulsory examinations over 97 days
- responding promptly and accurately to 30 questions on notice from the Parliamentary Committee on the ICAC
- cooperating fully with three inspections of records by the NSW Ombudsman.



## Our organisation

The Commission strives to be a lead agency in its governance and corporate infrastructure. In 2013–14, the Commission employed an average of 126.4 full-time equivalent staff across its six functional areas (see organisational chart on page 5).

### Major achievements

- recording 499 staff attendances at training sessions, equating to an average of four training sessions per staff member
- administering the Commission's office relocation, including the search for new premises, entering the lease for the new site, and appointing a contractor in June 2014 for works to commence
- awarding the tender to facilitate commencement of the ICT (information and communication technology) Infrastructure Upgrade Project
- continuing with ongoing enhancements to the MOCCA (Management of Cases, Complaints and Assessments) system and the iBase analytical databases, and upgrading the TRIM records management system to a newer version.

## What we do

The NSW Independent Commission Against Corruption (“the Commission”) investigates allegations of corrupt conduct in and affecting the NSW public sector, and drives programs and initiatives to minimise the occurrence of such conduct in the state. The Commission’s overarching aims are to protect the public interest, prevent breaches of public trust and guide the conduct of public officials.

The Commission receives and analyses complaints from members of the public and public officials, and reports made by the principal officers of public sector agencies and ministers of the Crown. It has extensive powers of investigation and may conduct hearings to obtain evidence of corruption.

The Commission works to minimise corruption by providing advice and guidance via information, resources, and training to public sector agencies to address existing or potential corruption problems. It assists organisations to identify and deal with significant corruption risks, conducts research to identify and help remedy specific areas of corruption risk, and also provides advice and guidance to the wider community about corruption and how to report it.

The Commission is a public authority but is independent of the government of the day. It is accountable to the people of NSW through the NSW Parliament.

The Commission’s *Strategic Plan 2013–2017* sets out four key result areas for 2013–14:

- exposing corruption
- preventing corruption
- accountability
- our organisation.

“A major function of the Commission is investigating and publicly exposing corrupt conduct.”

Each division and section develops and works to an individual annual business plan aligned with the Commission’s strategic plan. During the year, each division and section reported quarterly to the Executive Management Group against its operational business plan.

The following sections specify the Commission’s objectives for each result area. More detailed information and results for each key result area are provided in the chapters that follow.

## Exposing corruption

A major function of the Commission is investigating and publicly exposing corrupt conduct. The *Independent Commission Against Corruption Act 1988* (“the ICAC Act”) provides the Commission with broad jurisdiction to investigate any allegation or circumstance which, in its opinion, implies that corrupt conduct has occurred. The Commission can also investigate conduct likely to allow, encourage or cause corrupt conduct.

The objectives in the *Strategic Plan 2013–2017* for exposing corruption are to:

- detect and investigate corrupt conduct
- identify any methods of work, practices or procedures that allow, encourage or cause the occurrence of corrupt conduct
- ensure a best practice approach for all investigations
- enhance complaint-handling processes
- maintain strategic alliances to optimise investigative and preventative outcomes.

A detailed description of Commission activities and results relating to this key result area is outlined in Chapter 2 (Assessing matters) and Chapter 3 (Investigating corruption). Table 1 sets out the key quantitative results for workload, work activity and performance for this key result area in 2013–14.

**Table 1: Key quantitative results for corruption exposure activities**

Measure	Target*	2013–14	2012–13	2011–12
Matters received	n/a	3,386	2,930	2,978
Average time to deal with matters (days) in Assessments Section	68	28	39	44
Preliminary investigations commenced	n/a	43	71	73
Full investigations commenced	n/a	10	22	19
Percentage of full investigations completed within 12 months	>90%	71	86	90
Number of public inquiries	n/a	9	6	10
Number of public inquiry days	n/a	84	108	70
Number of compulsory examinations	n/a	203	257	135
Number of persons subject to corrupt conduct findings	n/a	41	56	14
Number of investigation reports to Parliament	n/a	12	6	6
Percentage of investigation reports completed within the ICAC's target**	80%	42	50	17
Number of persons prosecuted arising from investigations	n/a	11	19	16
Number of persons against whom disciplinary action commenced arising from investigations	n/a	3	4	2

\* For measures that reflect incoming work or activity beyond the control of the Commission, targets are not set and not applicable (n/a) appears in the column.

\*\* Since 2009–10, the target has been 60 days when the public inquiry ran for five days or less, and 90 days otherwise.

## Preventing corruption

The Commission fulfils its corruption prevention functions under the ICAC Act by providing advice, education and guidance to public sector agencies. It also does this by educating public officials and the wider community about corruption and how to report it.

The objectives in the *Strategic Plan 2013–2017* for preventing corruption are to:

- encourage government to address corruption risks of statewide significance and public concern

- ensure public authorities revise practices or procedures to reduce the risk of corrupt conduct occurring
- raise awareness in identified communities of inappropriate behaviour and encourage reporting of corrupt conduct.

A detailed description of Commission activities and results for this key result area is outlined in Chapter 4 (Preventing corruption). Table 2 sets out the key quantitative results for workload, work activity and performance for this key performance area in 2013–14.

**Table 2: Key quantitative results for corruption prevention activities**

Measure	Target	2013–14	2012–13	2011–12
Telephone/email enquiries for corruption prevention advice	n/a	94	97	133
Written requests for corruption prevention advice	n/a	8	9	20
Corruption prevention advice relating to complaints and reports of corrupt conduct	n/a	4	1	3
Rural and regional outreach visits	2	3	1	2
Training sessions delivered	40	90	107	116
Corruption prevention recommendations in investigation reports published during the period	n/a	38*	38	29
Percentage of corruption prevention recommendations in investigation reports addressed as at 30 June 2014	80%	94%	100%	98%
Percentage of public inquiries that resulted in the making of corruption prevention recommendations	90%	33%**	100%	67%
Number of prevention reports published	3	3	2	2
Number of advice tip sheets published	n/a	0	1	3

\* This includes the 26 recommendations made in the Commission's report *Reducing the opportunities and incentives for corruption in the state's management of coal resources*, which was a direct response to the findings made by the Commission for operations Jasper and Acacia.

\*\* See Chapter 4 for an explanation of why some public inquiries did not result in the making of corruption prevention recommendations.

## Accountability

The objectives in the *Strategic Plan 2013–2017* for accountability are to:

- provide timely, accurate and relevant reporting to the Inspector of the ICAC and the Parliamentary Committee on the ICAC
- ensure our work complies with all relevant laws and procedures
- report publicly about the work of the Commission.

A detailed description of Commission activities and results for this key result area is outlined in Chapter 5 (Compliance and accountability). Table 3 sets out the key quantitative results for accountability activities in 2013–14.

## Our organisation

The objectives in the *Strategic Plan 2013–2017* for our organisation are to:

- continue to develop as a learning organisation that embraces a culture of continuous improvement, excellence and sharing of knowledge
- provide a safe, equitable, productive and satisfying workplace
- be a lead agency in our governance and corporate infrastructure
- monitor our performance to ensure work quality and effective resource management.

A detailed description of Commission activities and results for this key result area is outlined in Chapter 6 (Our organisation).

**Table 3: Key quantitative results for accountability activities**

Measure	2013–14	2012–13	2011–12
Parliamentary Committee on the ICAC meetings	1	1	1
NSW Ombudsman inspections of telephone intercept, surveillance devices and controlled operation records	3	3	7
Number of reports provided to the Inspector of the ICAC	1	0	5
Number of audits conducted by the Inspector of the ICAC	0	3	2
Number of assumed identity audits	1	1	1

# Financial overview

## Statement of Comprehensive Income

The Commission ended the year with Net Result surplus of \$0.951 million, \$7.5 million lower than budget. After allowing for the effects of capital rollovers associated with the relocation and ICT Infrastructure Upgrade Project, the adjusted Net Result is a favourable \$0.39 million to budget. This variation is largely due to lower than budget, rent and fee-for-service expenses.

**Table 4: Operating Result 2013–14**

	\$'000
Expenses	25,880
Revenue	26,850
Loss on Disposal	(19)
Net Result	951

**Table 5: Financial Position 2013–14**

	\$'000
Assets	8,521
Liabilities	6,002
Net Assets	2,519

## Revenue

The main source of revenue is recurrent appropriations (\$21.15 million compared to \$20.62 million in 2012–13). A secondary source of revenue was grant income \$2.62 million, \$3.21 million in the previous year. Other revenue includes fees from the provision of shared services, interest from investments and acceptance by the Crown Entity of employee benefits and other liabilities.

## Expenses

Total expenses were \$25.880 million, an increase of \$1.030 million or 5%. Employee-related expenses were \$17.782 million (68.7%, compared to 65.8% the previous year) and other operating expenses were \$8.098 million (31.29%), being a decrease of \$0.398 million largely due to lower rent and fee for service expenses of \$0.320 million.

## Assets

Assets increased by \$3.973 million, due largely to the purchase of information technology equipment and the increase in cash deposits following the drawdown of capital funds to meet anticipated project payments.

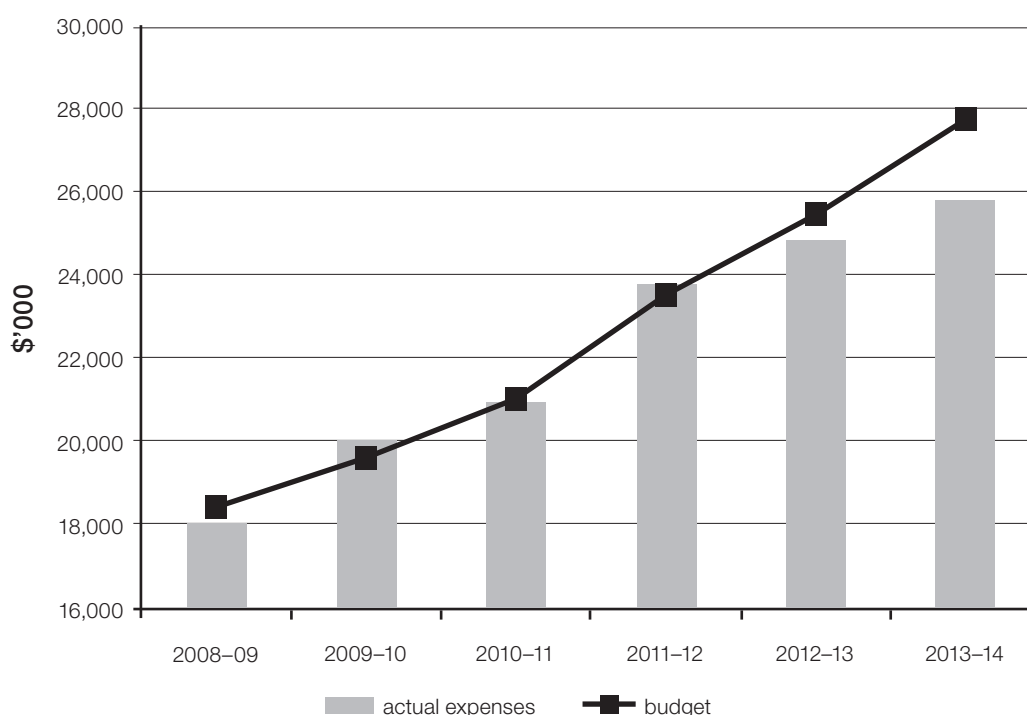
## Liabilities

Liabilities increased by \$3.022 million due largely to consolidated fund liability (\$2.262 million) resulting from un-acquitted capital project funds drawdowns and an increase in capital projects payables.

## Net Equity

Equity increased by \$0.951 million (61%), due mainly to increases in non-current assets (plant and equipment).

**Figure 1: Total expenditure budget and actuals (including grant)**







# Chapter 2: Assessing matters

## About the Assessments Section

The Assessments Section is the first point of contact for complaints and reports to the Commission. The section receives and registers all complaints, reports, general enquiries and feedback.

Assessments Section staff are also able to recommend that the Commission takes action on an “own initiative” basis, without the need for a complaint or report. These matters can be based on information from various sources, including information that is in the public domain or that emerges from a series of complaints or reports.

The section also manages and reviews matters that the Commission refers for investigation by public sector agencies under s 53 and s 54 of the ICAC Act.

All complaints and reports within the Commission’s jurisdiction are reported by the Assessments Section to the Assessment Panel, which is made up of the Commission’s senior executive. The panel’s role is to make decisions about how each matter should proceed. A matter is not reported to the Assessment Panel if it is assessed as only an enquiry or feedback, or if it is outside jurisdiction; for example, if it involves private entities or non-NSW public authorities. Such matters are managed within the section.

## Section’s performance in 2013–14

### A transition year

With regard to staff, 2013–14 was a transition year for the Assessments Section, with a new manager, Trent White, starting in October 2013 and the recruitment of several new non-ongoing staff to cover various extended leave and secondment arrangements taken by ongoing staff over the course of the year. Despite this, the section maintained its authorised strength of 13 full-time equivalent staff, inclusive of a support officer. The budget in 2013–14 was \$1.45 million.

The focus of staff development in the reporting period shifted towards equipping new staff with knowledge of the section’s processes as well as relevant legislation, such as the *Public Interest Disclosures Act 1994* (“the PID Act”). In this regard, external training was organised for new staff in handling unreasonable complainants and introductory training in corporate investigations in order to equip them with the skills necessary to review agency investigation reports. Experienced staff also acted as mentors to provide the necessary guidance.

In 2013–14, the Assessments Section received and managed a total of 3,386 matters. After several years in which the number of matters reported to the Commission has remained relatively static, this figure represents a 16% increase on the previous year. Despite this, in the reporting period, the average time taken to assess and close a matter was 28 days; a 28% improvement on the previous year’s average of 39 days.

### Achieving turnaround targets

The Assessments Section has targets for turnaround times at key stages during the complaint assessment process. Table 6 provides a number of these targets and achievements during the reporting period.

## Profile of matters received

In the reporting period, the majority of the 3,386 matters that were received and assessed by the Assessments Section came from two sources:

- members of the public making complaints under s 10 of the ICAC Act (s 10 complaints), representing 31% of all matters
- principal officers of NSW public sector agencies and ministers, who each have a duty to report suspected corrupt conduct under s 11 of the ICAC Act (s 11 reports), representing 20% of all matters.

**Table 6: Some internal targets and achievements of the Assessments Section in 2013–14**

Measure	Target	Achievement
Average days to present a “straightforward” matter to the Assessment Panel from date of receipt	21	13
Average days to present a “moderate–complex” matter to the Assessment Panel from date of receipt	42	35
Average days to re-report a matter to the Assessment Panel upon receipt of a s 54 report	28	29

**Table 7: Matters received by category in 2013–14, compared to the previous two years**

Category	2013–14		2012–13		2011–12	
Complaints from the public (s 10 complaints)	1,043	31%	916	31%	917	31%
Reports from public sector agencies (s 11 reports)	674	20%	756	26%	812	27%
Enquiry	449	13%	385	13%	405	14%
Outside jurisdiction	410	12%	287	10%	299	10%
Information	362	11%	224	8%	217	7%
Public interest disclosure	295	9%	260	9%	269	9%
Feedback	118	3%	71	2%	32	1%
Dissemination	25	1%	26	1%	20	1%
Own initiative	6	<1%	5	<1%	5	<1%
Intelligence report	3	<1%	0	0	1	<1%
Referrals from Parliament	1	<1%	0	0	1	<1%
<b>Total</b>	<b>3,386</b>		<b>2,930</b>		<b>2,978</b>	



## Case study: Selection without merit?

A former employee of a Sydney metropolitan council reported to the Commission several examples where people – who the complainant believed had minimal work experience but who were close to management – had been recruited into permanent positions at the expense of more qualified applicants.

Although the complainant could not specify exactly which part or parts of the recruitment process had been corruptly manipulated, the Commission felt that further enquiries with council were justified, as the complainant recalled conversations with the subjects of the allegations that suggested merit may not have been the primary motivation for the appointments.

In response to enquiries, the council provided the Commission with extensive information about its recruitment process for the positions that were the subject of the allegations. The council indicated that, while there were minor procedural deviations from its recruitment, selection and appointment procedure in relation to one of the positions, these discrepancies were not of a magnitude that would indicate the recruitment process was invalid or failed to meet requirements for merit selection.

The Commission was satisfied with the council's explanation and no further action was taken.

In 2013–14, the Commission received 1,043 s 10 complaints; a 14% increase on the number received in 2012–13.

The Commission also received 674 s 11 reports, compared with 756 received in the previous year. This represents a decrease of 11%, following a reduction of 7% over the 2011–12 and 2012–13 reporting periods. It is not clear whether this reduction represents a genuine downward trend in corruption reports or if it is attributable to fluctuations in reporting.

In 2013–14, public sector employees lodging complaints under the PID Act comprised 9% (295) of matters received. This represents a modest increase on the previous reporting period.

When compared with 2012–13, the largest increases in the types of matters received in 2013–14 occurred in material classified as “feedback” (118 in total), representing a 66% increase, and material classified as “information” (362 in total), representing a 62% increase. Most of this was received from members of the public. These significant increases are attributed to the high-profile public inquiries conducted by the Commission.

The Commission strives to be accessible to those who submit complaints and reports. We provide a number of methods for members of the public and public sector employees to contact the Commission, including in writing, by telephone or email, in person or online via a complaints form on the Commission's website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au). Principal officers of public authorities generally submit s 11 reports in writing. If there is some urgency attached to the matter, a principal officer can report a s 11 matter by telephone.

In 2013–14, the methods used most frequently by complainants to contact the Commission were telephone (30%), email (23%) and letter (22%), as shown in the table below.

**Table 8: Methods of initial contact for all matters received in 2013–14**

Method	Number of matters received	% of matters received
Telephone	1,005	30%
Email	781	23%
Letter	736	22%
ICAC website	536	16%
Schedule	278	8%
Visit	37	1%
Other	13	<1%

## Anonymous complaints

The Commission accepts anonymous complaints. It appreciates that, in some instances, people are fearful of reprisal action and prefer to remain anonymous. Where people contacting the Commission by telephone wish to remain anonymous, the Assessments Section provides advice about the various protections afforded under the ICAC Act and/or the PID Act.

In 2013–14, 21% of complaints from members of the public (222 matters) were made anonymously. This represents a 15% increase in volume on the previous period, although the overall proportion remained the same. Of the matters classified as public interest disclosures (PIDs), 38% were made anonymously (113 matters); a 55% increase in volume compared to 2012–13.

There are several challenges in receiving and assessing anonymous complaints. For instance, the Assessments Section is unable to clarify the particulars of the information and notify the complainant of the outcome. Where a matter has been classified as a PID, there is the added risk that any enquiries or action taken by the Commission may inadvertently reveal the identity of the person who made the PID. To mitigate such risks, where a PID is made anonymously, any action such as the making of assessment enquiries or conducting a preliminary investigation will occur only with the approval of the Deputy Commissioner. In deciding whether to take a particular course of action, the Commission weighs the risks of exposing the discloser's identity against the public interest in having the allegations further explored.

## Complaints from the public

Under s 10 of the ICAC Act, any person may make a complaint to the Commission about a matter that concerns or may concern corrupt conduct as defined in the ICAC Act. Complaints made by public sector employees and individual contractors to public authorities that do not meet the criteria set out in the PID Act, and thus cannot be classified as PIDs, are also classified as s 10 complaints.

Many matters reported to the Commission by members of the general public are not made the subject of a formal Commission investigation, either because the matters raised are speculative or because the Commission takes the view that there is no real likelihood that corrupt conduct has occurred. Further, the Commission is required under

its legislation to focus its attention on serious or systemic corrupt conduct.

The Commission may refer allegations to a NSW public sector agency that is the subject of a complaint for its information, often to address a perception on the part of the complainant of unfairness or wrongdoing. It is the Commission's experience that perceptions of wrongdoing are often borne of poor communication or consultation, or a lack of consistency or transparency on the part of agencies.

In some matters, the Assessments Section will undertake enquiries to obtain more information and to examine the circumstances surrounding a complaint. The case study on page 16 is an example of a matter where a member of the public, who was formerly a public official, reported allegations of favouritism and unethical recruitment practices within a council, resulting in the Commission making further enquiries.

Table 9 shows the different government sectors about which allegations of corrupt conduct were made under s 10 in 2013–14.

**Table 9: Complaints from the public in 2013–14, showing allegations in the top five government sectors**

Sector	Section 10 complaints	% s 10 complaints
Local government	427	41%
Law and justice	72	7%
Government and financial services	71	7%
Community and human services	57	5%
Health	51	5%

The sector most frequently complained about in 2013–14 was local government, with s 10 complaints relating to this sector accounting for 41% of the total volume received. The Commission notes, however, that there are over 150 local councils in NSW, and that over-representation of local government in the complaints statistics is due to the high level of people's interaction with local government and the personal interest many take in the decisions of their local council.

The five most frequent workplace functions about which the Commission received complaints from the public, as well as the five most frequent types of corrupt conduct alleged, are shown in tables 10 and 11 respectively.

**Table 10: Complaints from the public in 2013–14, showing the five most frequent types of workplace functions mentioned**

Workplace function	Section 10 complaints	% of s 10 complaints
Development applications and land rezoning	262	25%
Reporting, investigation, sentencing and enforcement	220	21%
Human resources and staff administration	131	13%
Procurement, disposal and partnerships	118	11%
Allocation of funds, materials and services	106	10%

Note: These figures have remained relatively static and are comparable with those reported in 2012–13.

**Table 11: Complaints from the public in 2013–14, showing the five most frequent types of corrupt conduct alleged**

Types of corrupt conduct	Section 10 complaints	% of s 10 complaints
Partiality	356	34%
Personal interests	201	19%
Failure to perform required actions	181	17%
Improper use of records or information	161	15%
Bribery, secret commissions and gifts	107	10%

Note: These figures have remained relatively static and are comparable with those reported in 2012–13.

Appendix 1 provides a full breakdown of the workplace functions and types of conduct about which the Commission received s 10 complaints.

## Public interest disclosures

NSW public sector employees who report allegations of corrupt conduct about a NSW public sector agency or official may, provided they meet certain criteria, be entitled to protection under the PID Act. Under the PID Act, it is an offence to take reprisal action against someone because that person has made a PID.

In 2013–14, the Commission classified 295 matters as PIDs, received from a total of 185 public officials. Table 12 shows the circumstances under which these persons made their PIDs.

**Table 12: Number of public officials who made a PID in 2013–14**

Type of PID	Number of public officials
PIDs made by public officials in performing their day-to-day functions as public officials	0
PIDs made under a statutory or other legal obligation (other than those made by public officials performing their day-to-day functions)	17
All other PIDs	168
<b>Total</b>	<b>185</b>

Note: In a reporting period, a PID may be made anonymously or made by multiple individuals, and one individual may make multiple PIDs.

During the reporting period, there were 288 PIDs finalised, marginally down on 2012–13. The majority of PIDs received related to corrupt conduct; however, there were a number of PIDs relating to maladministration and serious and substantial waste of public money, as shown in Table 13. Where appropriate, these misdirected PIDs were referred to the relevant investigating agency under s 25 of the PID Act.



**Table 13: Types of allegations made in PIDs**

Type of PID	Type of allegation					
	Corrupt conduct	Maladministration	Serious and substantial waste of public money	Government information contraventions	Local government pecuniary interest contraventions	Total
PIDs made by public officials in performing their day-to-day functions as public officials	0	0	0	0	0	0
PIDs made under a statutory or other legal obligation (other than those made by public officials performing their day-to-day functions)*	27	0	0	0	0	27
All other PIDs	287	7	1	0	0	295
<b>Total</b>	<b>314</b>	<b>7</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>322</b>

\* The Commission receives these as s 11 matters.

Table 14 shows the number of allegations in the top five categories by government sector for PIDs received during the year. As with s 10 complaints, the largest number of allegations in this category concerned local government (31% in 2013–14; down slightly from 33% in 2012–13).

**Table 14: PID allegations by government sector in 2013–14**

Sector	PIDs	% of PIDs
Local government	90	31%
Transport, ports and waterways	40	14%
Emergency services	31	11%
Health	31	11%
Education (except universities)	21	7%

**Table 15: Types of conduct reported as PIDs in 2013–14**

Types of conduct reported as PIDs	Number reported	% reported
Partiality	116	39%
Personal interests	73	25%
Failure to perform required actions	64	22%
Improper use of records or information	55	19%
Improper use of acquisitions of funds or resources	38	13%

Note: These figures have remained relatively static and are comparable with those reported in 2012–13.

## Case study: Setting a bad example

The Commission received a PID from an employee of a public agency involved in the transport sector. The employee alleged that a manager had directed staff and contractors to divert goods procured for use by the agency to the manager's property. It was also alleged that the manager had directed another employee to undertake work at the manager's property, involving drawing architectural plans, during normal working hours.

The allegations were referred to the public agency concerned under s 53 and s 54 of the ICAC Act. The agency subsequently engaged an external provider of audit services to complete the investigation. The investigation included site visits, reviews of relevant policies and procedures, and interviews with a number of employees and contractors.

The manager concerned informed the investigator that he had borrowed two particular items to conduct experiments to improve his working knowledge and that they had been returned to the agency's depot. This was verified. He also admitted that he had obtained redundant timber from the agency, and that it had been delivered by agency staff. When those staff members were interviewed, they explained that they believed the conduct was appropriate as the cost of delivering the items to the manager's property was considerably less than the transport and rubbish disposal fees they otherwise would have paid. However, the manager did not obtain appropriate approval to receive the timber. In relation to the allegation about the architectural plans, the manager admitted this had occurred and that he had not obtained approval for this either.

The agency accepted the investigation's recommendation that the manager's conduct demonstrated a lack of judgment and that disciplinary action be taken against him. This involved the manager making restitution to the agency for the cost of diverting a staff member to work on his architectural plans.

While the investigation did not uncover any system weaknesses at the agency, the report expressed concern that employees were not reporting incidents where policies may have been breached. Consequently, it was recommended that the agency conduct formal training in relation to its code of conduct, fraud and corruption prevention, and public interest disclosures policies.

The Commission has a policy on its intranet site relating to PIDs by its staff, and has a number of links on its website relating to such disclosures and the protections afforded to public officials under the PID Act. This information is provided to new Commission personnel during their induction phase, and the Deputy Commissioner conducts training with new staff about the requirements of the PID Act.

Prior to making any enquiries about PID allegations, the Assessments Section seeks written authority from the complainant for his or her identity to be disclosed during any such enquiries. When consent is not given, the Commission may, under s 22 of the PID Act, disclose confidential information if it is considered necessary to investigate a matter effectively or if it is in the public interest to do so. This will occur only with the approval of the Deputy Commissioner.

PIDs are received by the Commission from all levels of the NSW public sector. According to the provisions of the PID Act, both the agency and the officer making the complaint are responsible for ensuring that confidentiality is maintained.

Even if the allegations made are not substantiated, they may highlight system or process deficiencies, which the agency concerned can address. Where this occurs, it can minimise corruption risks and eliminate perceptions of corruption.

The case study at left is an example of a matter where a PID made to the Commission highlighted instances of employees not reporting incidents where policies may have been breached, creating an environment where misconduct by a manager was setting a poor example for others to follow.

In 2013–14, the most frequent workplace function reported by way of PIDs was "human resources and staff administration", comprising 46% of allegations (down from 50% in the previous year), followed by "procurement, disposal and partnerships" with 15% and "reporting, investigation, sentencing and enforcement" also with 15%.

Appendix 1 provides a full list of the workplace functions and types of conduct about which the Commission received PIDs.

## Reports from public sector agencies and ministers

Section 11 of the ICAC Act requires principal officers of NSW public sector agencies to report matters to the Commission where they hold a reasonable suspicion that corrupt conduct has occurred or may occur. Principal officers include secretaries and chief executives of state government agencies, and general managers of local councils. NSW ministers have a duty to report suspected corrupt conduct either to the Commission or to the head of an agency responsible to the minister.

Principal officers and ministers are encouraged to report suspicions of corrupt conduct promptly, as delays can impair the Commission's ability to detect and expose corrupt activity. A prompt report means that witnesses' recollections are fresh and there is less likelihood of evidence being compromised or lost.

When assessing a s 11 report, it assists the Commission for the head of an agency to advise on a proposed course of action, in the event that the Commission determines not to take action itself. In many instances, even if the matter is not sufficiently serious for the Commission to conduct an investigation, the Commission will ask the agency to advise it of any disciplinary or remedial outcomes. Such information can inform trend analysis and the Commission's corruption prevention work, generally, as well as enable the Commission to track disciplinary outcomes in relation to individual public sector employees.

It is helpful for the Commission to be advised whether an agency is treating the matter as a PID. If the matter is a PID and the Commission does take action, responsibilities under the PID Act, such as confidentiality and keeping the discloser notified, are passed on to the Commission.

The case study on page 22 is an example of a matter where the head of an agency reported under s 11 a matter involving allegations of possible incentives offered to public officials in exchange for information technology (IT) work.

Table 16 shows the most frequently reported government sectors. The "transport, ports and waterways" sector ranked the highest, representing 22% (148 matters). Compared to the previous year, there was reduced reporting from most government sectors with the exception of "education (excluding universities)", which increased by 72%.

**Table 16: Section 11 reports received in 2013–14, showing the five most frequently reported government sectors**

Sector	Section 11 reports	% of s 11 reports
Transport, ports and waterways	148	22%
Local government	136	20%
Education (except universities)	103	15%
Health	57	8%
Community and human services	43	6%

In relation to the workplace functions involved in the allegations reported, most s 11 reports concerned "human resources and staff administration", comprising 42% (285 matters) of s 11 reports received. This was followed by "allocation of funds, materials and services", which accounted for 13% (86 matters).

With regard to conduct types, "improper use of records or information" was the most frequently reported, with 33% (224 matters) of reports, followed by "improper use or acquisition of funds or resources" at 25% (167 matters).

Appendix 1 provides a full list of the workplace functions and types of conduct about which the Commission received s 11 reports.

## The assessment process

The Assessments Section is responsible for conducting the initial assessment of a complaint or information to determine what action, if any, the Commission will take. Many complainants who report matters to the Commission have expectations that their concerns will be investigated by the Commission, and managing those expectations

"Principal officers and ministers are encouraged to report suspicions of corrupt conduct promptly..."



### Case study: An inappropriate reward?

The Commission received a report under s 11 from a public agency that the son of two employees involved in IT procurement and supplier relationships had been employed by an IT supplier to work as a field technician at the same public agency. This raised suspicions that the son's employment was an incentive to award the tender, worth several million dollars per annum, to this particular supplier.

The allegations were serious and the public authority informed the Commission that it would investigate the matter, should the Commission decide not to investigate itself. The Commission decided that the matter could be investigated by the agency and requested it notify the Commission of the outcome and provide it with a copy of its final investigation report.

The investigation found a pattern of behaviour by the IT supplier whereby gifts or benefits were offered to the agency's IT staff who occupied positions that could influence the course of the supplier's relationship with the agency. The investigation could not determine that the son's employment had arisen from corrupt conduct occurring during the tender process. However, the timing and nature of events, and the failure to declare any conflicts of interest by his parents, resulted in a finding that the staff concerned may have breached the agency's conflict of interest policy by allowing a situation to arise whereby a reasonable person would perceive that the son had been employed because of the parents' position as staff of the agency.

The investigation recommended consideration be given to disciplinary action as well as notifying the IT supplier of the agency's requirements regarding business ethics, gift and benefit acceptance, and conflicts of interest. The staff concerned resigned before any further action could be taken.

is a key part of the Assessments Section's role. When the Commission decides not to investigate a matter, Assessments Section staff explain to the complainant the reason or reasons for this decision.

Staff of the Assessments Section analyse all matters received, taking into account:

- whether or not corrupt conduct is involved
- whether the matter is serious and/or systemic, including factors such as the seniority of public officials involved, the nature of the impugned conduct, whether it is isolated or widespread, and the potential monetary value
- whether there is a viable line of enquiry to pursue
- what information has been provided or could be obtained
- whether existing information supports the allegations
- any risks to persons or public money in the Commission acting or not acting
- any prior or current related matters.

Staff also consider whether there are trends across a particular sector or within a particular agency. Regard is also given to whether there are appropriate systems in place for the agency involved to minimise opportunities for corruption. Complaints and reports that highlight corruption risk areas and trends are drawn to the attention of the Corruption Prevention Division to enable the Commission to target its work in this area (see Chapter 4).

Some of the allegations that the Commission receives may not be suitable for investigation by the Commission, even if true, because they are relatively minor. Under s 12A of the ICAC Act, the Commission is required to focus its attention and resources on serious and systemic corrupt conduct, as far as practicable. In addition, a large number of complaints the Commission receives are speculative in nature and lacking specific information tending to disclose a likelihood that corrupt conduct has occurred. These matters are usually closed.

When the allegations relate to minor misconduct, they may be referred to another agency; usually the agency that is the subject of the allegations. In 2013–14, 183 matters were referred on this basis, down from 232 in the previous year.

All matters, except those that are merely enquiries, feedback or involve conduct that is outside the Commission's jurisdiction, are reported to the Assessment Panel. The Assessment Panel comprises the manager of the Assessments Section (who acts as the panel convenor), the Commissioner, Deputy Commissioner, and the executive directors of the Commission's Investigation Division, Legal Division and Corruption Prevention Division. The panel is governed by a charter, which provides that it meets electronically twice a week, and is responsible for determining what action, if any, should be taken on every matter received. If a matter is complex or needs further enquiries before an appropriate course of action can be determined, it may be reported to the Assessment Panel on several occasions.

Reports submitted to the Assessment Panel include the allegations, supporting information, the outcome of any enquiries, an initial assessment of the matter, and recommendations for further action.

For each matter, the Assessment Panel considers whether it presents opportunities for identifying serious or systemic corruption, whether it is being (or could be) adequately handled by another agency and, even if corrupt conduct is not apparent, whether an agency's systems and controls put the organisation at risk of corruption. After considering a matter, the Assessment Panel makes one of five decisions, as follows.

## 1. Refer to another agency or take no action

A number of the matters the Commission receives can be appropriately referred to other oversight bodies, such as the Office of the NSW Ombudsman or the NSW Division of Local Government. Some disciplinary or administrative matters can be appropriately referred to the agency concerned, while others may have already been adequately dealt with by the reporting agency.

Many matters do not meet the definition of corrupt conduct in the ICAC Act, and therefore do not warrant further action by the Commission.

In 2013–14, there were 2,340 decisions made by the Assessment Panel to either close a matter or refer it elsewhere after closure, compared to 2,265 last year.

## 2. Request an investigation be conducted by another agency and the outcome reported back in writing to the Commission

Under s 53 and s 54 of the ICAC Act, the Commission has the power to require that an agency or an appropriate oversight body conduct an investigation and report its findings to the Commission. This power is usually reserved for relatively serious matters and allows the Commission to oversee the investigation, including reviewing the investigation plan and progress reports. The Commission can determine the scope of the investigation and, in consultation with the agency, will agree upon a timeframe for its completion.

The Commission refers matters under s 53 and s 54 only if it considers that the agency will be able to investigate the matter, following consultation with the agency. The Commission will not make a referral if it considers the agency might be compromised or lacks the capacity to conduct the investigation and adequately report on it. Under the ICAC Act, the Commission has powers to deal with investigations or reports by agencies that it considers unsatisfactory.

In 2013–14, 27 matters were the subject of referrals under s 53 and s 54 of the ICAC Act. This figure is relatively static and comparable with the 25 referrals made in the previous year. In the reporting period, the Commission made 44 requests for investigation reports from agencies. This occurs when the agency has reported a matter under s 11 and has either already commenced an investigation or is preparing to embark on one. This

“...the Commission has the power to require that an agency ... conduct an investigation and report its findings.”





### Case study: Equipment for hire

The Commission was contacted by a number of contractors who had been selected via a tender process to hire out plant and equipment, as required, to a council. The contractors were concerned that, of all the firms chosen during the tender process, one particular contractor was receiving nearly all the work from the council and that the selective contracting may be indicative of corruption.

The Commission exercised its powers under s 53 and s 54 of the ICAC Act, requiring the council to investigate. While the investigation did not uncover evidence of corrupt conduct, it did find that the relevant policies and procedures were not being adhered to, and not properly understood, by council staff. Specifically, there were no clear guidelines on which contractor was to be given first right of refusal and whether council staff should ensure that all approved contractors were given the opportunity to provide a service to council.

The investigation found that the predominant use of one contractor had arisen because council staff had confidence in its ability to deliver and were uncertain about the reliability of the others. Information collected during the course of the investigation ultimately formed the basis of procedural changes within the council, which were designed to make its processes for awarding work to approved contractors fairer and more resistant to corruption.

number is substantially down from the 78 requests made in 2012–13, but this may be attributed to the increased number of NSW public sector agencies indicating at the time of making their respective s 11 reports that they intend to investigate the allegation/s and, upon completion, provide the Commission with a copy of the investigation report.

The Assessment Panel reviews the results of matters referred to agencies under s 53 and s 54 of the ICAC Act.

The case study at left is an example of a referral under s 53 and s 54 to a local council to conduct an investigation into allegations of corrupt conduct and the impetus this gave to improving processes and systems.

### 3. Conduct assessment enquiries

If the Assessment Panel decides there is insufficient information to determine an appropriate course of action, assessment enquiries – usually with the agency that is the subject of the allegations – will be conducted by the Assessments Section and the matter re-reported to the panel. Assessment enquiries may involve contacting parties for more information, carrying out research, property or business searches, and obtaining and considering relevant policy and/or procedural documents to determine whether there are procedural deficiencies. In 2013–14, there were 120 matters in which assessment enquiries were undertaken, which is down from 202 in 2012–13.

Depending on the outcome of these assessment enquiries, the Commission may decide not to pursue the matter further or to refer it to another agency. In some cases, assessment enquiries may lead to an investigation.

Where enquiries have been conducted and the Commission determines not to pursue the matter further, the material obtained by the Assessments Section can enable staff to provide more detailed reasons to complainants as to why a matter is not being pursued.

### 4. Provide corruption prevention analysis and/or advice

If a matter appears to involve mainly systemic issues rather than specific instances of corrupt conduct or the corrupt conduct has been dealt with but wider problems appear to exist, corruption prevention officers may evaluate the situation and give advice to the agency concerned. This may involve advice on enhancing an agency's capacity to minimise



the risk of corruption, and on how to prevent the problem from happening again. In 2013–14, there was one matter referred by the Assessment Panel to corruption prevention officers for analysis and/or advice.

## 5. Undertake an investigation

If a matter is serious and likely to need the Commission's special powers to investigate, such as requiring the production of documents or information, executing a search warrant or conducting covert operations, the Commission will usually investigate the matter itself (see Chapter 3). These matters are referred to the Investigation Division for preliminary investigation.

Only a small number of matters with the potential to expose significant or systemic corrupt conduct will meet the criteria for a full investigation. Once a decision to investigate has been made, the matter is overseen by the Strategic Investigation Group, which also gives direction on each investigation.

In 2013–14, 43 matters were retained by the Commission for preliminary investigation compared to 71 in 2012–13.

Decisions made by the Assessment Panel in 2013–14 are shown in the table below.

**Table 17: Decisions made by the Assessment Panel in 2013–14**

	Number of decisions	% of decisions
Closed without referral	2,157	84%
Referred internally but not investigated	192	7%
Closed but referred externally	183	7%
Investigated	43	2%

# Chapter 3: Investigating corruption

## About the Investigation Division

One of the primary functions of the Commission is to investigate and publicly expose serious and systemic corruption with a view to educating public authorities, officials and the public and to reducing corruption in the NSW public sector. The Investigation Division deploys overt and covert investigation techniques to detect corruption, and uses coercive powers available to the Commission under the ICAC Act and other Acts.

Sharon Loder is the Executive Director of the Investigation Division. In the reporting period, the division had an average of 51.8 full-time equivalent employees and a total budget, including operating expenses, of \$7.78 million.

The Commission has a multidisciplinary approach to its investigation function. The division is made up of two areas: the investigation section and the surveillance and technical unit.

The investigation section comprises a preliminary investigation team and three operational investigation teams. Personnel within this section include investigators, forensic accountants, intelligence analysts and support staff. The division's surveillance and technical unit supports the Commission's investigations with surveillance, forensic and technical personnel. Investigative teams include lawyers and corruption prevention officers from other divisions.

## Division's challenges in 2013–14

In the reporting period, the division investigated a number of large and complex matters, some of which resulted in public inquiries and others that are still in progress. Aspects of some investigations required the Commission to draw upon specific expertise and resources from other state agencies.

The Commission has continued to adapt to meet the emergent challenges in delivering its investigation outcomes. One of those challenges involves repositioning its resources and adjusting processes to deal with a larger number of multifaceted and protracted investigations and fewer straightforward matters. The exponential growth in the use of digital records, communications and technology has raised difficulties as well as presented opportunities for the Commission. While this development has resulted in improvements to the quality and capture of evidence, it has simultaneously created issues for the effective management and analysis of an increasing volume of information. For these reasons, the Commission continues to improve its forensic and technical capacity to identify, capture and interpret evidence, maintain the skills and knowledge of its staff, and continuously improve investigation management, systems and processes.

In 2013–14, the Investigation Division undertook the following systems and process improvements:

- upgraded the Commission's integrated telecommunications interception system to keep pace with carrier technology and improved our technology and user instructions to collect and analyse telecommunications data
- introduced new technology to improve the capture of video and audio evidence during investigation and surveillance activity
- continued the review of the Operations Manual (which has been extended to 30 June 2015) to ensure it is consistent, comprehensive and supports the maintenance and application of the Commission's general investigation standards and procedures. As a result of the review, the Commission substantially revised and implemented:
  - new evidence management procedures, which included enhancements to the evidence management functionality of the Commission's case management system
  - a new policy and procedure for the management of covert human sources.

## How we investigate

Generally, Commission investigations are undertaken by the Commission's Investigation Division but, in special circumstances, may be undertaken by another division of the Commission.

All investigations commence as preliminary investigations. A preliminary investigation may, for example, be conducted for the purpose of assisting the Commission to discover or identify conduct that might be made the subject of a more complete investigation or deciding whether to make particular conduct the subject of a more complete investigation. If appropriate, a matter may then be escalated to a full investigation (known as an "operation"). If it is in the public interest to do so, the Commission may also decide to hold a public inquiry into a matter it is investigating.

Investigations may focus on both historic and current activities, and investigation methods used may vary depending on the nature of the allegations. Detailed investigation plans are prepared and maintained for all matters and each investigation is regularly assessed to determine the most appropriate investigation strategy.

The conclusion of an investigation may result in no further action or a number of different actions. These actions may include the referral to a public authority of information that is relevant to the exercise of its functions (such as information for disciplinary action), the dissemination of intelligence and information, a brief of evidence for referral to the Director of Public Prosecutions (DPP) and the publication of an investigation report.

## Our investigations

In 2013–14, a total of 16 preliminary investigations and 14 operations were carried over from 2012–13. The Commission commenced 43 new preliminary investigations and 10 new operations. A total of

49 preliminary investigations and 14 operations were completed by the Commission during the reporting period.

The Commission has key performance targets for the timeliness of its investigations. The Commission aims to complete 80% of its preliminary investigations within 120 days. The timeframe for this performance measure commences from the date a decision to conduct a preliminary investigation is made by the Assessment Panel to the date the preliminary investigation is either discontinued or escalated to a full investigation. The Commission aims to complete 90% of the non-public phase of its operations within 12 months. The timeframe for this performance measure commences from the date a matter is escalated to an operation to the first day of the public inquiry or the date that the matter is otherwise discontinued.

The percentage of preliminary investigations completed by the Commission within 120 days has increased from 92% in 2012–13 to 96% in 2013–14. The average time taken to complete preliminary investigations has decreased from 91 days in 2012–13 to 82 days in 2013–14. The percentage of operations completed within 12 months decreased from 86% to 71% over the same period and this is reflective of the Commission's trend towards undertaking more complex and protracted investigations.

**Table 18: Preliminary investigation statistics for 2013–14**

Number current as at 1 July 2013	16
Number referred for preliminary investigation	43
Number discontinued	49
Number current as at 30 June 2014	9
Days on average taken to complete	82
Number completed within 120 days	47
% completed within 120 days	96%

**Table 19: Source of preliminary investigations completed by the Investigation Division by sector in 2013–14\***

Sector	Number of preliminary investigations	% of preliminary investigations
Local government	14	33%
Law and justice	4	10%
Government and financial services	4	10%
Natural resources and environment	3	7%
Emergency services	3	7%
Universities	3	7%
Arts and heritage	3	7%
Land, property and planning	3	7%
Energy	2	5%
Transport, ports and waterways	2	5%
Parliament	2	5%
Consumer and trade	2	5%
Aboriginal affairs and services	2	5%
Health	1	2%
Other – unspecified	1	2%

\* Some preliminary investigations examined allegations concerning more than one sector.

**Table 20: Full investigation (operation) statistics for the Investigation Division in 2013–14**

<b>Number current as at 1 July 2013</b>	<b>14</b>
Number escalated from preliminary investigation	10
Number discontinued/concluded	14
Number current as at 30 June 2014	10
Days on average taken to complete	308
Number completed within 12 months	10
% completed within 12 months	71%

## Use of statutory powers

Investigations may include the use of statutory powers, such as search warrants, surveillance devices, controlled operations and the interception of telecommunications. All applications for the use of statutory powers are reviewed by the

investigation team lawyer before final approval is given by the Executive Director, Legal, to apply for use of the power. This process is designed to ensure that all applications comply with regulatory and evidentiary requirements before being submitted to the appropriate authorities.

**Table 21: Statutory powers used by the Commission in 2013–14, compared to the two previous years**

Power	2013–14	2012–13	2011–12
Notice to produce a statement (s 21)	18	16	30
Notice to produce a document or thing (s 22)	609	644	646
Notice authorising entry to public premises (s 23)	0	0	0
Summons (s 35)	448	512	430
Arrest warrant (s 36)	0	0	2
Order for prisoner (s 39)	0	6	9
Search warrant (s 40)	33*	13	20
Assumed identities	3	2	3
Controlled operations	0	0	1
Surveillance device warrants	4	2	9
Telephone interception warrants	21	5	21
Stored communications warrants	3	0	0
Telecommunications data authorities issued	963	607	594

\* In 2013–14, all warrants were issued by an external authority; none was issued by the Commissioner.

## Public inquiries and compulsory examinations

If the Commission determines it is in the public interest to do so, it may take evidence from witnesses in compulsory examinations. These examinations are held in private. When inquiries are held in public, the evidence is generally heard before (and made available to) the public, subject to the discretion of the presiding Commissioner to suppress or restrict publication of evidence, if he or she believes it is in the public interest to do so.

The Commission can compel witnesses to answer questions and produce documents or other things when they are summoned to a compulsory examination or a public inquiry. The witness must comply with this direction regardless of whether the answers or production of the documents or other things may incriminate them. A witness, however, may object to answering the question or to producing the item. If an objection is made, the witness must still comply with the direction but neither the answer nor the item produced is admissible as evidence against the witness in any subsequent criminal or civil proceedings, other than for an offence under the ICAC Act. Also, disciplinary proceedings may be taken against a public official on the basis of a finding of corrupt conduct made by

the Commission in a report under s 74 of the ICAC Act and evidence supporting that finding, including evidence of the public official that was given under objection.

In 2013–14, the Commission conducted 203 compulsory examinations over 97 days, and nine public inquiries over 84 days.

The time interval between the completion of each public inquiry conducted during the year and the furnishing of the relevant report is shown on pages 49–50.

## Investigation outcomes

The Commission is an investigative body that can make findings of corrupt conduct against public officials or other persons who engage in corrupt conduct that involves or affects the NSW public sector.

The Commission is not a court or disciplinary tribunal and does not conduct prosecutions or disciplinary proceedings as a consequence of any of its investigations. Outcomes that may result from a Commission investigation include:

- findings of corrupt conduct
- corruption prevention recommendations and advice

## Case study: Vindication for a whistleblower

Tara McCarthy, a former deputy commissioner of the NSW State Emergency Services (SES), made allegations to the Commission that she had been dismissed by Murray Kear, SES commissioner, following reports she had made to him that a colleague may have engaged in corrupt conduct. The subsequent investigation conducted by the Commission examined whether Mr Kear:

- took detrimental action against Ms McCarthy as a reprisal for her making allegations against Steven Pearce, another SES deputy commissioner
- improperly showed favour to Mr Pearce by failing to appropriately investigate the allegations made by Ms McCarthy against him
- failed to recognise, disclose and manage a conflict of interest arising out of his friendship with Mr Pearce in connection with the hiring, managing and investigation of Mr Pearce, and in connection with the dismissal of Ms McCarthy.

The Commission's formal powers were used to execute search warrants and to issue and serve notices in order to obtain records from various sources, including the SES. Evidence was taken from a number of witnesses at compulsory examinations.

The Commission found that Mr Kear engaged in corrupt conduct by dismissing Ms McCarthy from her position with the SES substantially in reprisal for her making allegations concerning the conduct of Mr Pearce, and that Mr Kear engaged in corrupt conduct by deliberately failing to properly investigate serious allegations relating to the conduct of his friend.

The Commission also found that Mr Kear failed to properly manage his conflict of interest and that other key SES staff members failed to appreciate or adhere to the requirements of the *Public Interest Disclosures Act 1994*.

The Commission recommended that the advice of the DPP be sought with respect to the prosecution of Mr Kear for an offence under s 20 of the *Public Interest Disclosures Act 1994* of taking detrimental action against a person who has made a public interest disclosure. The Commission also recommended that the minister for police and emergency services give consideration to taking disciplinary action against Mr Kear for misconduct with a view to his dismissal.

- referral of evidence to the DPP or another appropriate agency to consider action such as:
  - prosecution action
  - disciplinary action
  - proceeds of crime action
  - further investigation.

It is important to acknowledge that not every investigation will produce findings of corrupt conduct. An investigation is designed to determine the truth or otherwise of the allegations raised. As such, an investigation may find that there was no corrupt conduct.

## Findings of corrupt conduct and recommendations for prosecution/disciplinary action

In 2013–14, the Commission made findings of corrupt conduct against 41 persons.

The Commission does not have a direct role in prosecutions. It does, however, refer briefs of evidence to the DPP for consideration of prosecution action. The DPP then advises the Commission whether prosecution proceedings are warranted.

In 2013–14, the Commission recommended the advice of the DPP be obtained in relation to the prosecution of 39 people for various criminal offences. A recommendation was also made to relevant public sector agencies that disciplinary action be taken against three people.

Appendix 4 provides further details on the progress of prosecutions resulting from Commission investigations.

## Proceeds of crime referrals and other disseminations

In 2013–14, the Commission continued to refer information and evidence to the NSW Crime Commission in respect of Operation Jasper and Operation Acacia. Investigation reports on these investigations were furnished to the NSW Parliament in 2013–14.

During the reporting period, the Commission disseminated intelligence gathered during the course of its investigations to the NSW Crime Commission, the Australian Taxation Office, the NSW Police Force, the Australian Commission for Law Enforcement Integrity, the Corruption and Crime Commission (Western Australia) and the Australian Competition and Consumer Commission.



**Table 22: Public inquiries conducted in 2013–14**

Operation name	Summary
Cavill	Investigation into the conduct of certain City of Ryde councillors and others
Nickel	Investigation into false certifications of heavy vehicle competency-based assessments by a Roads and Maritime Services–accredited assessor
Cyrus	Investigation into the conduct of the Hon Edward Obeid MLC and others concerning Circular Quay retail lease policy
Cabot and Meeka	Investigation into the conduct of the Hon Edward Obeid MLC and others in relation to influencing the granting of water licences and the engagement of Direct Health Solutions Pty Ltd
Dewar	Investigation into the conduct of the commissioner of the NSW State Emergency Service
Spector	Investigation into the conduct of a Railcorp general manager and a Department of Families and Community Services employee
Credo	Investigation into the conduct of the Hon Edward Obeid MLC, the Hon Joseph Tripodi MP, Anthony Kelly MLC and other persons concerning Australia Water Holdings
Spicer	Investigation into the conduct of certain members of the NSW Parliament and others concerning (a) the solicitation, receipt and concealment of payments from various sources in return for certain members of Parliament agreeing to favour the interests of those responsible for the payments, and (b) the failure to disclose political donations from companies, including prohibited donors.

## Corruption prevention issues arising from investigations

The Commission recognises the high value of lessons learnt in the course of an investigation into corrupt practices. The investigations provide insight into how or why the corrupt practices occurred. In turn, this insight provides the groundwork for improving systems, policies and procedures within the NSW public sector.

Corruption prevention officers are attached to all investigation teams where corruption prevention issues have been identified. In the course of an investigation, they conduct a comprehensive review of the systems, policies, procedures and work practices relevant to the matter under investigation. The review identifies weaknesses and gaps in order to reduce future opportunities for corrupt conduct. Even when an investigation does not progress to a public inquiry, the Commission may still provide corruption prevention advice to the agency concerned.

The Commission may make corruption prevention recommendations in its public investigation reports to deal with the gaps and deficiencies in agencies'

processes, and to help prevent the recurrence of corrupt conduct. An implementation plan for the recommendations is requested by the Commission from the agency and the recommendations are then monitored to ensure that they are either implemented or given appropriate consideration by the agency under investigation.

Further information on corruption prevention work linked to investigations, including the monitoring of the implementation of recommendations arising from investigations, is outlined in Chapter 4.

“The Commission recognises the high value of lessons learnt in the course of an investigation into corrupt practices.”

## Case study: The mayor, the council and corruption

The Commission conducted an investigation into allegations that Ivan Petch, councillor and mayor of the City of Ryde, was involved in an approach to John Neish, then general manager of the City of Ryde Council.

Mr Neish was approached by a local real estate agent, Tony Abboud. Mr Abboud had told Mr Neish that he (Mr Abboud) had been approached by a local developer, who had asked Mr Abboud to convey a demand to Mr Neish. The demand was that, if Mr Neish supported a certain course of action in relation to a proposed redevelopment of the Ryde Civic Centre, Mr Neish's position as general manager would be secure after the local government elections in September 2012.

The Commission investigated additional allegations that arose in relation to the activities of Mr Petch, including:

- his handling of the discovery of adult material on an official laptop computer used by Mr Neish and attempts by Mr Petch to leak this information to the media and others
- his actions in repeatedly disclosing confidential information that he had received in the course of his official duties as a councillor
- telling the acting general manager that, if she expected to receive the support of councillors in any application to become council's general manager, she should recommend council pay the legal costs of a number of councillors, including himself, who were involved in an ongoing court matter
- accepting, together with a number of other councillors, indirect campaign contributions in the form of electoral advertising published in *The Weekly Times* newspaper.

The Commission also investigated an alleged corrupt offer of a benefit to another councillor of the City of Ryde by someone who was performing contract work at *The Weekly Times*.

The Commission's formal powers were used to issue and serve notices to obtain records from various sources, including the council. Evidence was taken from a number of witnesses at compulsory examinations. A warrant was also obtained under the *Telecommunications (Interception and Access) Act 1979*, which allowed for the lawful interception of communications on the mobile telecommunication service used by Mr Petch.

A public inquiry was held in relation to these matters in July and September 2013. The Commission made findings of corrupt conduct against Mr Petch and a number of other persons and made recommendations that the advice of the DPP be sought with respect to the prosecution of Mr Petch and others.

The Commission also recommended that the Office of Local Government consider suspending Mr Petch from civic office with a view to his dismissal. Mr Petch was suspended from civic office on 30 June 2014, and disciplinary proceedings are expected to commence.

## Strategic alliances to optimise investigative outcomes

There is a constant need to monitor and keep up with the everchanging investigation environment. For this reason, it is important to maintain ongoing liaison with other law enforcement agencies, and to participate in various forums and interagency committees to enhance the currency of the Commission's investigation techniques and processes. The Commission is a member of the following committees and forums.

### Australian Surveillance Group

This group provides a forum for integrity agencies, law enforcement agencies and intelligence agencies to discuss their respective agency's surveillance capabilities, emerging technology and methodologies. No meetings were attended by Commission officers during the reporting period.

### Electronic Evidence Practitioner Partnership

This partnership is dedicated to the sharing of knowledge and ideas about the practice of digital forensics. It brings together government agency practitioners to discuss shared challenges and help drive the direction of operational research and development. A Commission officer attended a meeting of this group on 11 April 2014.

### Interagency Technical Committee and Special Networks Committee

The Interagency Technical Committee provides an opportunity for intercepting agencies to seek common ground in delivery standards and monitoring telecommunications interception. The Special Networks Committee is a forum for intercepting agencies to discuss the capability of telecommunications interception and any related contractual issues. Commission officers attended meetings of both committees on 29 and 30 July 2013. In the latter half of 2013, these committees merged.

### Interception Consultative Committee

This committee is a source of advice to agencies concerning telecommunications interception. It monitors emerging technologies that impact on lawful interception within Australia. It also interacts with telecommunications providers to ensure that they supply the interception capability required by agencies. Commission officers attended meetings of this committee on 30 and 31 October 2013 and 19 March 2014.

**Joint User Group**

This group provides a forum for investigation agencies utilising the same brand as the Commission's telecommunications interception system. Commission officers attended meetings of this group on 29 and 30 July 2013.

**National Oversight Covert Group**

This group is concerned with the sharing of knowledge between the smaller oversight and anti-corruption agencies that have a covert physical and technical capability to improve relevant skills and techniques. Commission officers attended a meeting of this group on 31 July 2013.

**SEDNode User Forum**

SEDNode is a secure information system used by law enforcement and anti-corruption agencies to receive telecommunications data from providers. The Commission subscribes to the SEDNode system. The SEDNode User Forum has been established to keep members updated with system enhancements, functionality and new members. No meetings were attended by Commission officers during the reporting period.

**Other alliances**

To further strengthen its strategic alliances with various agencies, the Commission may enter into a memorandum of understanding (MOU) with another agency to facilitate the sharing of information and resources. The Commission currently has MOUs with the Australian Transaction Reports and Analysis Centre, the DPP, the Australian Taxation Office, the Police Integrity Commission, CrimTrac and the NSW Police Force.

# Chapter 4: Preventing corruption

## About the Corruption Prevention Division

The Commission's corruption prevention functions under the ICAC Act are carried out by providing advice, education and guidance to public sector agencies, and by educating public officials and the wider community about corruption and how to report it. This work is undertaken by the Corruption Prevention Division.

Dr Robert Waldersee is the Executive Director of the Corruption Prevention Division. In the reporting period, the division had an average of 20.1 full-time equivalent staff and a total budget of \$2.99 million.

The division is made up of three project clusters: sector-wide projects, investigations and education. In the latter half of the reporting period, a minor restructure was undertaken of the division. The main feature of this restructure was the transfer of work from what was known as the agency development project cluster to other project clusters.

The main reason for this change was the long-term decline in advice numbers. For over a decade – up to and including 2009–10 – the division had received over 200 phone or email advice requests annually. By contrast, in three of the four most recent reporting periods, fewer than 100 such requests were received.

The Commission cannot be certain about the reason for this reduction, although it is recognised that there has been a growth in the number of individuals or groups providing advice services in the private sector and that government agencies increasingly have their own internal expertise. The Commission also provides advice via means other than direct phone or email contact; for example, at training workshops, speaking engagements and through general corruption prevention advice material on the Commission's website. While the provision of phone and email advice will always be an important function of the Commission, this reduction in demand allows the management of such advice to be transferred to the education project cluster.

What market or in-house corruption prevention experts do not provide is the type of sector-wide advice that the Commission has increasingly been providing in recent years. For example, in 2012–13, the Commission prepared a report on the corruption risks associated with government funding of non-government organisations (NGOs) to deliver human services and, in 2013–14, a report was released on managing contractors in the area of information technology (IT). These types of reports offer advice of relevance to an entire sector and provide insights into ways that successful organisations go about keeping control of areas of recognised corruption risk. Rather than providing formal recommendations, these reports present advice about a range of approaches to corruption control that managers can use to meet the unique challenges of their operating environments.

## Sector-wide projects

The division identifies and analyses corruption risks of sector-wide significance with a view to making corruption prevention recommendations to government. Projects undertaken in this cluster are selected on the basis of the degree of public concern and the extent of the corruption risks.

In 2013–14, the division undertook five major projects examining corruption risks of sector-wide significance.

## IT contractors

In August 2013, the Commission released *Managing IT contractors, improving IT outcomes*. The publication is a response to the complex IT labour market and the heavy reliance by government agencies on contract IT specialists to design and implement highly innovative IT projects. In such an environment, traditional methods of project control are rendered less effective and the opportunities for corruption increase.

As part of its research, the Commission spoke with chief executive officers, operations managers, IT managers, project managers and auditors from public and private sector organisations. The publication presents insights into the ways these diverse organisations go about keeping control of IT contracting, including dealing with the difficulties thrown up by information asymmetry between themselves and the contractor, the fragmented but highly networked IT services and recruitment sectors, and the complex and technical nature of the work being undertaken.

The organisations implement a broad range of approaches that impact on the functioning of their IT processes, policies and structures. All of the approaches are aimed at handling five key levers effectively, which are outlined in the publication, as follows:

1. use a thorough business case to develop controls around deliverables, price and scope creep
2. put considerable effort into ensuring consultants who are hired for the design phase are separated from the build phase
3. design a gateway into the organisation specifically for contractors
4. closely manage the project management function
5. prepare an exit strategy from the beginning.

Commission officers delivered nine presentations about the report in 2013–14. The presentations were conducted throughout NSW and included sessions at local councils, government agencies, a university, a professional development seminar and a conference targeting NSW government officials.

## Coal allocation and approval system

From late 2012 until mid-2013, the Commission conducted a public inquiry as part of two protracted and complex investigations concerning the issuing of coalmining exploration licences. In 2013–14, the Commission released its reports on operations Jasper and Acacia, both of which investigated the

circumstances surrounding decisions made in 2008 and 2009 by Ian Macdonald, then minister for primary industries and minister for mineral resources, in the granting of coalmining exploration licences.

The corrupt behaviour exposed in these operations did not occur as the result of a small loophole that was cleverly exploited. Rather, there were perverse incentives and opportunities for corruption embedded in the existing coal allocation system.

The Commission's October 2013 report, *Reducing the opportunities and incentives for corruption in the state's management of coal resources*, examines the government's policy and regulatory environment in NSW from the time of Australia's mining boom period in roughly 2004–05 to today, with a view to providing the government with recommendations for reform. The report is a direct response to the findings made by the Commission in operations Jasper and Acacia.

In preparing the report, the question facing the Commission was not simply how the state's policy and regulatory framework could allow coal exploration licences of great value to be corruptly provided to favoured recipients, but how it could have been so easy to do so.

The policy and regulatory environment in NSW at the time of the boom was far from ideal. It was characterised by uncertainty and inconsistencies in government decision-making along with regulatory overlap. The processes within government were complicated and the rationale for certain decisions made by Mr Macdonald was unclear. Many in the coalmining industry in NSW responded to these complex processes by either engaging lobbyists to try to navigate the process for them or directly lobbying departments or ministers. In order to establish a mine in NSW, the government had, effectively, created a system that provided for no other way to do business.

The report presents the Commission's 26 recommendations for reform and outlines the characteristics of a preferred future framework for the management of the state's coal resources, which will provide greater certainty to both the coalmining





## Case study: Procurement from a position of weakness

In September 2013, the Commission released its findings of an investigation into allegations of corrupt conduct in the provision of security products and services by suppliers, installers and consultants. Numerous government agencies were involved in the investigation, including a university, a local council, a state-owned corporation and an area health service.

The design and implementation of high-end security systems is a complex and specialised area requiring the integration of different subsystems. Most of the agencies involved in the investigation had limited internal capabilities in this area, and a security consultant was able to exploit this situation to his own advantage.

A key lesson was that a government agency cannot transfer its responsibility for the integrity of government procurement and project delivery to an external source. Vested interests and collusion are common in the security industry. If an agency cannot ensure integrity through internal expertise, then management needs to find other ways to ensure integrity; this can include improving process design, external audit of the process and involvement of line staff.

The Commission's corruption prevention recommendations focused on maintaining in-house some capabilities associated with the selection of security installers. The Commission also recommended various ways of diluting the influence of sole security consultants, such as the sharing of knowledge among government agencies that have undertaken similar security projects. It also recommended that agencies adopt extensive due diligence enquiries as part of their security procurement processes.

Another problem uncovered was that some of the security installation contracts were managed by public officials with little or no qualifications or experience in this area. Weak project management processes also prevailed, such as poor inventory management and loose controls around the verification of contract variations. The Commission made various recommendations aimed at improving project management systems.

industry and the community. The preferred framework seeks to remove the incentives and opportunities for corruption without adding regulatory burden to industry, while also improving government decision-making, industry certainty and transparency in the process.

These recommendations are based on best practice identified in other jurisdictions, along with extensive consultation. The Commission recommends, for example, that a government decision to release an exploration licence be informed by broader government expertise that takes into account social, economic and environmental factors, and that the transparency of recommendations and the decisions of elected officials be open to public scrutiny.

The report also makes recommendations for reform of the accountability framework governing the conduct of members of the NSW Parliament, including the *Code of Conduct for Members* and the current pecuniary interest disclosure system.

## Community attitudes

For the Commission to be an effective body, public officials and private citizens both need to have an understanding of what corruption is and they must be willing to report their suspicions to the Commission. Periodically since 1993, the Commission has conducted surveys to monitor changes and trends in community awareness of corruption, and perceptions and attitudes to the Commission. In 2012, the Commission conducted a community attitude survey (CAS) focusing on four key areas:

- perceptions of the severity of corruption in NSW
- public awareness of the Commission
- evaluation of the Commission
- attitudes to reporting corruption.

The CAS analysis was completed during 2012–13 and a report outlining the results was released in July 2013. The CAS showed that the proportion of individuals who see corruption as a major problem has fallen over the past 20 years and particularly from the period soon after the Commission was established. Awareness of the Commission has remained high and the Commission was seen as a good thing for the people of NSW by virtually all respondents. Nearly 90% of respondents were willing to provide information to the Commission.



Without public awareness of the problem of corruption, confidence in the anti-corruption mechanisms of the state, and knowledge of where to report and willingness to report corruption, the operations of the Commission would be severely constrained.

## Invoice payment

The accounts payable unit within a public sector agency is the last check before taxpayer monies are transferred to private hands. An effective accounts payable operation can thwart corrupt and fraudulent behaviour, while a loose operation can allow corrupt individuals to improperly transfer monies out of government and into their possession.

The Commission has a long history of exposing corruption associated with the payment of invoices and its past investigations have highlighted a variety of vulnerabilities in this area, including:

- accounts payable staff being pressured to pay invoices quickly
- accounts payable staff lacking sufficient skills or knowledge to respond to non-compliant or missing documentation
- failure to segregate duties at key control points in the accounts payable process
- new vendors being entered into the accounts payable system by a single individual with minimal oversight and extensive control over other areas of the finance system
- patterns of improper payments not being detected.

The Commission approached a broad range of public and private organisations and NGOs to further its knowledge of best practice management of the invoice payment function. Interviews were held with representatives from various industries, including local government, automotive, insurance, human services, audit, accounting and health care to obtain insights into the vulnerabilities within the accounts payable function and the approaches taken by these organisations to address these vulnerabilities. The Commission also conducted a survey across the public sector to better understand current NSW government practices.

As a result of this research, a report will be published in early 2014–15 identifying key strategies that can be used to manage the invoice payment function in a manner that reduces its vulnerability to corruption.

The paper will also present data obtained from the survey that NSW public authorities can use to benchmark their agency's performance.

## Facilities maintenance

In 2013–14, the Commission undertook a major project examining the vulnerability of facilities maintenance to corruption. Facilities maintenance represents a significant cost to the NSW government, yet it is often approached in a fragmented and reactive way. It also represents a particular challenge for agencies, as it involves service delivery. Assessing the delivery of services often involves subjective judgments that can make an agency vulnerable to under-delivery and collusion. Difficulties around verifying the performance of maintenance involving hidden or remote assets is another challenge in this area.

The interviews and literature review undertaken to date have highlighted a number of key issues. These include the importance of understanding the true costs involved in maintaining facilities. Related to this issue is the development of systems to capture accurate cost data and information pertaining to the location and condition of assets. Another key issue is appreciating the effect incentives have on service delivery and the complex interplay between factors such as a contractor's risks, costs, rewards and penalties.

The Commission intends to release a report of its findings in the next reporting period. The publication will include an analysis of the design of markets, such as ensuring contestability among suppliers.

“...a report will be published in early 2014–15 identifying key strategies that can be used to manage the invoice payment function in a manner that reduces its vulnerability to corruption.”

Competency assessment session record

Session 1

Date: 04-12-12

Time: 10:05

Location: SMITHFIELD, YENMORA, LIVERPOOL

Assessor's name: C. BIRNBAUM

Competency ranges: 322154

Session 2

Date: 04-12-12

Time: 15:35

Location: SMITHFIELD, YENMORA, LIVERPOOL

Assessor's name: C. BIRNBAUM

Competency ranges: 322221

## Case study: Risks in incentive structures

The effect of incentives created by outsourcing and contracting arrangements was a key feature of an investigation into false certifications made by a corrupt heavy vehicle competency-based assessor. The assessor, who had Roads and Maritime Services (RMS) accreditation, solicited and received money from applicants for heavy vehicle driver licences in return for falsely certifying that they had successfully completed their assessments.

Over two decades, the RMS had progressively outsourced its heavy vehicle competency-based assessment scheme, resulting in many privately-operated registered training organisations undertaking both training and assessment of applicants for heavy vehicle driver licences for a profit.

As in any business model, profit can be maximised by decreasing costs and increasing price and volume. The assessor found that he could reduce cost by decreasing the amount of training provided – effectively reducing it to zero – while maintaining a higher price by guaranteeing students pass the road test in exchange for a bribe. This created the value proposition of a compellingly-priced pass for students, and ensured a steady volume of customers for the assessor. Ultimately, over 90 applicants received licences for which they were not qualified.

In an ideal world, a contract would be designed to align a contractor's motivations with the goals of a government agency. In this case, the assessor was able to maximise profit through minimal assessment rigour. The incentives created by the outsourcing arrangement did not align the registered training organisation's behaviour with the RMS' primary goals of quality training and rigorous assessment. The incentive structure effectively encouraged corrupt behaviour.

## Employment screening

In addition to the major projects above, the division continued its work in the area of employment screening. This type of screening is a key recruitment control to detect corrupt conduct, such as resume fraud. Particular roles, such as those involving regulation and procurement, expose individuals to incentives and opportunities that create an inherent risk for corruption. However, evidence from employment screening experts indicates that employment screening does not appear to be widely used by the NSW public sector, despite the availability of a specific Australian standard and other guidance documents.

In 2010, the Commission published a tip sheet titled *Recruitment: The background check risk*, which encouraged employment screening. In June 2014, a survey was distributed to NSW state and local government organisations to understand the public sector's (1) practices regarding assessing the risk inherent in different employment roles, (2) use of employment screening checks, and (3) perceptions of obstacles to using employment screening checks.

The Commission will use these survey results to assess the uptake of employment screening in the public sector and to identify any barriers to the use of employment screening checks.

## Investigations

Corruption prevention officers are assigned to the majority of Commission investigations, and seek to identify processes, structures, human factors, external influences and, in some cases, legislative issues that may allow, or be conducive to, the occurrence of the corrupt conduct that is exposed.

During the course of an investigation, corruption prevention officers conduct interviews and obtain statements from witnesses to understand the systemic weaknesses within the organisation. This diagnostic work is carried out with a view to developing recommendations for change that are compatible with the operations of the agency involved in the investigation.

Identifying controls related to agency operations requires understanding of the context in which the organisation functions. Developing such knowledge involves consultation with managers and staff in the workplace and identifying best practice from other organisations that perform similar functions.

Of the 12 investigation reports furnished to the NSW Parliament in 2013–14, corruption prevention recommendations were made in relation to four public inquiries – operations Jasper, Acacia, Tilga and Nickel. As discussed, *Reducing the opportunities and incentives for corruption in the state's management of coal resources* contained 26 recommendations to address the conduct exposed in operations Jasper and Acacia. The recommendations arising from operations Tilga and Nickel are detailed in the case studies in this chapter.

Corruption prevention recommendations were not made in relation to the remaining eight investigation reports for a number of reasons. In some cases, the agencies involved in the investigations undertook reforms to address the Commission's concerns prior to the conclusion of the investigations. For example, a retail strategy is being developed to deal with the instability and confusion arising out of the leasing arrangements at Circular Quay and, as such, the Commission did not consider it necessary to make any corruption prevention recommendations with regard to Operation Cyrus (*Investigation into the conduct of the Hon Edward Obeid MLC and others concerning Circular Quay retail lease policy*).

In some instances, the substance of systemic and operational weaknesses had already been addressed by an agency as a result of an earlier Commission report. This was the case with regard to Operation Torino (*Investigation into possession and supply of steroids and other matters involving a Corrective Services NSW corrections officer*).

Sometimes no systemic weaknesses within an agency were found and, as a result, no corruption prevention recommendations were necessary, as was the case in Operation Indus (*Investigation into the conduct of Moses Obeid, Eric Roozendaal and others*).

It should also be noted that *Reducing the opportunities and incentives for corruption in the state's management of coal resources* dealt with issues such as improper influence by members of Parliament, which were exposed across a number of these investigations apart from operations Jasper and Acacia.

Section 111E(2) of the ICAC Act requires any agency to which recommendations are made to inform the Commission in writing within three months (or such longer period as the Commission may agree to in writing) if it proposes to implement any plan of action in response to the recommendations and, if so, of the plan of action.

If a plan of action is prepared, the agency must provide a written report to the Commission of its progress in implementing the plan 12 months after informing the Commission of the plan. If the plan has not been fully implemented by then, a further written report must be provided 12 months after the progress report.

The Commission publishes agency plans of action, progress reports and final reports on its website so that members of the public and other interested parties can verify the progress an agency has made in implementing changes recommended by the Commission.

Final reports received by the Commission in 2013–14 indicated that 72% of corruption prevention recommendations made to agencies were fully implemented, either as indicated by the Commission or in an alternative way.

Appendix 5 contains details of all progress and final reports received in 2013–14.

## Education

The education project cluster assists NSW public sector agencies to identify and manage corruption risks by providing talks, training and advice. The Commission works with relevant networks, professions and industries to disseminate information about corruption prevention and lessons learnt from investigations. Projects are also undertaken by the cluster aimed at raising community awareness of unacceptable behaviour and increasing reports of corruption.

## Training

The division develops corruption prevention workshops and delivers them to NSW public sector managers and public sector staff who have procurement responsibilities. Since 2010–11, the Commission has offered workshops free-of-charge to public sector agencies to ensure that agencies with smaller budgets or located in remote locations have the same development opportunities as those in metropolitan areas.

During the reporting period, the Commission delivered 90 workshops to over 1,760 people. Consistent with the 2012–13 outcome, 38% of these workshops were delivered in rural and regional areas in the state.

Of the 90 workshops delivered, 58 were evaluated to assess quality. A total of 91% of participants rated these workshops as “useful” or “very useful”, and 94% of participants “agreed” or “strongly agreed” that these workshops met their training needs. These evaluation results are consistent with those reported in previous reporting periods and are indicative of very high participant satisfaction.

Despite this, demand for workshops decreased over the financial year. Compared with the previous reporting period, 16% fewer workshops were delivered with a proportional decrease in both corruption prevention for managers and corruption prevention in procurement workshops. There are two possible causes for this decrease: demand for training has been met in the past two years, and/or agencies are waiting for the finalisation of changes to the state’s procurement framework before providing procurement training to staff.

Some workshop enquiries also resulted in Commission officers undertaking speaking engagements at those agencies rather than the delivery of training workshops (there has been an increase in the number of speaking engagements delivered this year, as outlined below).

The number of workshops customised for particular agencies has increased from two in 2012–13 to 16 in 2013–14.

## ANU executive program

In 2013–14, the Commission partnered with the Australian National University’s (ANU) Research School of Social Sciences to deliver a four-day executive short course titled *Corruption prevention*:

*Beyond risk management – leveraging operational effectiveness.* The course was offered in Sydney on 28 and 29 October, and 14 and 15 November 2013.

As in previous years, 10 scholarship placements were provided in exchange for the provision of the Commission’s teaching services. The scholarships were competitively awarded to NSW public sector executives in a position to influence reform and who could immediately apply the knowledge that they had obtained from the course.

The course structure is built on the management principle that controls available in processes, structures, accountabilities and so on, can be integrated with existing risk management to produce tight operations that are efficient and resistant to corruption. While the concept itself is relatively simple, its implementation requires considerable understanding of process design and analysis, best practice, and what drives people to act corruptly.

This level of understanding allows the incentives within a system – in particular, perverse incentives that influence a person to act out of self-interest rather than in the best interests of the organisation – to be ascertained and corrected. These concepts are now being incorporated into the Commission’s standard workshop material and revised workshops will be introduced in 2014–15.

The previous arrangements with the ANU’s Crawford School of Economics and Governance concluded with the completion of the 2012 course. Changes to federal directions no longer permitted the corruption and anti-corruption course to be conducted as a combined masters in public policy as well as an executive short course.

**Table 23: Number of workshops and training sessions delivered from 2011–12 to 2013–14**

Workshop/session	2013–14	2012–13	2011–12
Corruption prevention for managers (full-day or half-day workshop)	33	44	45
Corruption prevention in procurement*	36	57	66
Fact finder (full-day workshop)	5	4	3
Custom workshops (corruption risks in regulatory roles, senior executive workshops, preventing corruption by using operational controls)	16	2	2
<b>Total</b>	<b>90</b>	<b>107</b>	<b>116</b>

\* Includes “Corruption prevention in procurement for managers” (full-day or half-day workshop), “Corruption prevention for procurement officers” (full-day or half-day workshop) and “Probity in procurement” (from 1.5 to 2 hours).



## Speaking engagements

In 2013–14, Commission officers delivered 79 speaking engagements to over 3,250 attendees. This represents a 14% increase from the number delivered in the previous year. Some 33 of these speaking engagements were delivered in regional centres throughout NSW, with an additional four delivered to interstate audiences.

These speaking engagements were attended by both members of the broader community and public sector staff. A range of topics was presented to the latter, including highlighting ways to minimise corruption in IT contracts, gifts, benefits and conflicts of interest, corrupt conduct and how to prevent it, and preventing corruption in public sector contracting and procurement.

As part of its long-term engagement with Local Aboriginal Land Councils (LALCs), the Commission delivered speaking engagements to LALCs in the Grafton and Griffith areas.

## Advice

The division provides advice on ways in which corrupt conduct can be prevented, detected or reduced in its frequency and effects. The advice service is free, and available to all officers of the NSW public sector and members of the public. Advice is sought by telephone, email and letter.

On occasion, agencies, including the Audit Office of NSW and the NSW Division of Local Government, seek advice related to audits and reviews that they intend conducting. Agencies outside NSW also occasionally seek advice and information about the Commission's role and its approach to corruption prevention.

Responses to advice requests by phone, email or letter are often provided immediately or by means of return letters or an agency visit. In 2013–14, a total of 94 phone and email advice requests were received by the division, compared with 97 in 2012–13. The most common areas on which the division provided advice in the reporting period were general information about the Commission, procurement and disposal, and conflicts of interest.

## Rural and regional communities

Every year since 2001, the Commission has visited a number of rural and regional centres – generally, two communities annually – with the aim of providing corruption prevention information and advice to the

wider NSW community. This initiative is known as the Rural and Regional Outreach Program.

During the reporting period, the Commission hosted three visits (the second outreach visit in the previous reporting period was postponed until 2013–14). The visits were to the Riverina region (based in Griffith) in July 2013, the mid-North Coast region (based in Taree) in March 2014 and the Central West region (based in Dubbo) in June 2014.

Each event includes training sessions for public sector staff and a community leaders' breakfast. Commission staff also visit a number of public sector agencies within each region and speak to senior managers about their role in reporting corruption to the Commission. More than 345 people participated in the programmed events. The visits were generally well received, with 94% of attendees at the community leaders' breakfasts indicating that the event had increased or greatly increased their understanding of the Commission. Comments indicate that the communities are appreciative that the Commission's most senior officials take the time to visit rural and regional locations.

## APSACC

In November 2013, the Commission hosted the biennial Australian Public Sector Anti-Corruption Conference (APSACC) in Sydney. APSACC is organised jointly with the Crime and Corruption Commission (formerly the Crime and Misconduct Commission) in Queensland and the Corruption and Crime Commission in Western Australia. It aims to assist the public sector to control corruption by heightening the knowledge and skill levels of public sector leaders and managers.

The theme of the 2013 conference was "Vision. Action. Vigilance", which reflects the knowledge, skills and attributes needed to effectively identify and respond to corruption. The program of speakers comprised executives and practitioners from governments and non-public sectors across Australia, New Zealand, Southeast Asia, Germany and the United States. The conference was attended by 609 people. Evaluations by attendees were very positive, with 92% indicating that the conference content was applicable to their workplace.

The Commission is currently working with its planning partners for delivery of the 5th APSACC in Brisbane in 2015.

# Chapter 5: Compliance and accountability

## About our compliance framework

The Commission has a compliance framework to ensure that it complies with relevant legislative requirements and does not abuse its powers.

In addition to the powers set out in the ICAC Act, Commission officers can:

- apply for telecommunications interception warrants under the *Telecommunications (Interception and Access) Act 1979*
- obtain approval under the *Law Enforcement (Controlled Operations) Act 1997* for the conduct of operations that would otherwise be unlawful
- obtain authorisation to use false identities under the *Law Enforcement and National Security (Assumed Identities) Act 2010*
- apply for warrants to use listening devices, tracking devices, optical surveillance devices and/or data surveillance devices under the *Surveillance Devices Act 2007*.

The Commission's compliance framework includes both internal and external accountability systems. Internal accountability mechanisms include:

- strict procedural requirements for the exercise of all statutory powers
- the Strategic Investigations Group (SIG), to oversee investigations
- the Prevention Management Group (PMG), to oversee Commission corruption prevention activities
- the Executive Management Group (EMG), to oversee corporate governance and budgeting, and provide overall strategic direction
- the Audit and Risk Committee, to provide independent assistance to the Commission by overseeing and monitoring the Commission's governance and risk and control frameworks

- the Health and Safety Committee, to consult on health, safety and risk management within the workplace
- the Access and Equity Committee, to oversee equal employment opportunity issues, plans, policies and procedures.

The two main external accountability bodies for the Commission are the Parliamentary Committee on the ICAC and the Inspector of the ICAC. The Commission is also externally accountable for its work through:

- accounting to the NSW Treasury and the Auditor General for the proper expenditure of funds
- inspection by the NSW Ombudsman of records of telecommunications interceptions, controlled operations and the use of surveillance devices
- reporting to the NSW Attorney General and the judge who issued the warrant for each surveillance device warrant
- compliance with access to information and privacy laws, with exemption for certain operational matters
- requirements for annual reporting, including those in the ICAC Act.

In some cases, the Commission's actions are reviewable by the NSW Supreme Court to ensure proper exercise of its functions and powers.

Section 20(5) of the ICAC Act requires the Commission to provide reasons to complainants and those who report possible corrupt conduct under s 11 of the ICAC Act of its decision to discontinue or not commence an investigation and to inform each such person of the reasons for its decisions.

Other ways in which the Commission demonstrates accountability to the community include conducting public inquiries, posting public inquiry transcripts and relevant exhibits on the Commission's website, and publishing investigation reports and other material prepared by the Commission.



## Internal governance

### The Legal Division

Roy Waldon is the Executive Director of the Legal Division and Solicitor to the Commission. In 2013–14, the division had an average of 13.8 full-time equivalent staff, and a budget of \$4.3 million.

The lawyers of the Commission's Legal Division play a key day-to-day role in ensuring the Commission's statutory powers are exercised in accordance with relevant legal requirements and relevant Commission policies and procedures.

The Legal Division assists the Commission to perform its principal functions and to exercise its statutory powers in a lawful, effective, ethical and accountable manner by providing high quality, accurate and timely legal services.

To achieve this, a lawyer is assigned to the preliminary investigation team and each investigation. All applications for the exercise of statutory powers, whether under the ICAC Act or other legislation, are reviewed by the responsible lawyer to ensure they meet relevant regulatory and Commission requirements. Applications are then reviewed by the Executive Director, Legal.

If approved by the Executive Director, Legal, applications for the exercise of powers under the ICAC Act and some other statutes are submitted to the Commissioner or Assistant Commissioner for final approval. Applications for surveillance device warrants are considered by judges of the NSW Supreme Court. Applications for telecommunications interception warrants are usually made to members of the Administrative Appeals Tribunal (Commonwealth).

Lawyers assist in the planning and conduct of all investigations and provide advice, as required, to other sections of the Commission. They may act as counsel in compulsory examinations. The Commission's lawyers prepare briefs for and instruct

counsel at public inquiries. Commission lawyers also assist with the preparation of investigation reports, oversee the preparation of briefs of evidence for submission to the Director of Public Prosecutions (DPP) and liaise with DPP lawyers in relation to answering requisitions for further evidence and the conduct of any prosecutions.

The Executive Director, Legal audits the Commission's assumed identity records as required under the *Law Enforcement and National Security (Assumed Identities) Act 1998* and the *Law Enforcement and National Security (Assumed Identities) Act 2010*. In 2013–14, the Commission authorised three new assumed identities and revoked two assumed identity authorities. Five assumed identity authorities were varied. Assumed identities were granted and used by Commission officers in surveillance operations on people of interest in Commission investigations and to maintain covert arrangements.

The audit was conducted in November 2013. Records of all audited files complied with the relevant legislative requirements.

As in previous years, the main challenge faced by the Legal Division in 2013–14 was to maintain high standards of legislative and procedural compliance and meet accountability requirements in the face of a substantial workload, including the conduct of lengthy and complex public inquiries.

The Legal Division met this challenge by identifying matters requiring priority and maintaining flexibility in the assignment and reallocation of lawyers to matters.

### Executive Management Group

The EMG comprises the Commissioner, Deputy Commissioner and all executive directors. It usually meets fortnightly and is responsible for:

- advancing the Commission's corporate and strategic directions

- reviewing, developing and endorsing Commission policies and procedures
- overseeing corporate planning and budgeting
- supporting the Commission's commitment to business improvement initiatives and key result areas
- providing strategic oversight and promoting organisation-wide ownership of corporate projects
- ensuring the efficient deployment of Commission resources.

## Strategic Investigation Group

The SIG comprises the Commissioner, Deputy Commissioner and all executive directors, except the Executive Director, Corporate Services. It oversees Commission investigations, preparation of investigation reports, preparation of briefs of evidence for submission to the DPP, and the progress of criminal prosecutions arising from Commission investigations. The SIG usually meets monthly.

## Prevention Management Group

Members of the PMG are the same as for the EMG. It oversees the Commission's corruption prevention activities, and usually meets monthly.

## Operations Manual and General Investigation Standards and Procedure

The Operations Manual sets out procedures for the exercise of relevant statutory powers. The procedures must be followed by Commission officers both in applying to exercise a particular power and in exercising that power. The procedures ensure that all relevant legislative requirements are identified and addressed.

The Operations Manual is updated to reflect changes to legislation and is, in any event, reviewed every two years. Any changes to the Operations Manual must be approved by the EMG.

The Commission has also developed a General Investigation Standards and Procedure document, which sets out the minimum standards for the conduct of Commission investigations.

# External governance

## Parliamentary Committee on the ICAC

The Parliamentary Committee on the ICAC is the means by which the Commission is accountable to the NSW Parliament. It was established by resolution on 6 April 1989 and was reappointed on 22 June 2011.

The functions of the committee are set out in s 64 of the ICAC Act. They are:

- to monitor and review the exercise by the Commission and the Inspector of the ICAC of the Commission's and Inspector's functions
- to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Commission or the Inspector of the ICAC or connected with the exercise of its functions to which, in the opinion of the committee, the attention of Parliament should be directed
- to examine each annual and other report of the Commission and of the Inspector of the ICAC and report to both Houses of Parliament on any matter appearing in, or arising out of, any such report
- to examine trends and changes in corrupt conduct, and practices and methods relating to corrupt conduct, and report to both Houses of Parliament any change that the committee thinks desirable to the functions, structures and procedures of the Commission and the Inspector of the ICAC
- to enquire into any question in connection with its functions referred to it by both Houses of Parliament, and report to both Houses of Parliament on that question.

The committee cannot investigate a matter relating to particular conduct, reconsider a decision by the Commission to investigate, not investigate or discontinue an investigation, or reconsider any findings, recommendations, determinations or other decisions of the Commission in relation to a particular investigation or complaint.

The Parliamentary Committee on the ICAC consists of members of Parliament, selected from both the Legislative Assembly and Legislative Council.

As of 30 June 2014, the members of the Parliamentary Committee on the ICAC were:

- Greg Smith SC MLA (chair)
- Andrew Gee MLA (deputy chair)
- the Hon Richard Amery MLA
- the Hon Niall Blair MLC
- Mark Coure MLA
- the Hon Thomas George MLA
- Tania Mihailuk MLA
- Reverend the Hon Fred Nile MLC
- Tim Owen MLA
- the Hon Nathan Rees MLA
- the Hon Lynda Voltz MLC.

The Commission provided a written response to 30 questions on notice from the Parliamentary Committee for the purpose of its review of the Commission's 2012–13 annual report. In March 2014, seven Commission officers appeared at a public hearing held by the Parliamentary Committee as part of its review.

## Inspector of the ICAC

The Honourable David Levine AO RFD QC is the current Inspector of the ICAC.

The Inspector of the ICAC:

- audits the operations of the Commission for the purpose of monitoring compliance with the law of NSW
- deals with (by reports and recommendations) complaints of abuse of power, impropriety and other forms of misconduct on the part of the Commission or officers of the Commission
- deals with (by reports and recommendations) conduct amounting to maladministration (including delay in the conduct of investigations and unreasonable invasions of privacy) by the Commission or officers of the Commission
- assesses the effectiveness and appropriateness of the procedures of the Commission relating to the legality or propriety of its activities.

The Inspector of the ICAC has extensive powers. These include the power to:

- investigate any aspect of the Commission's operations or any conduct of officers of the Commission
- require Commission officers to supply information or produce documents or other things relating to the Commission's operations or conduct of Commission officers

- require Commission officers to attend before the Inspector of the ICAC to answer questions or produce documents or other things relating to the Commission's operations or the conduct of Commission officers
- investigate and assess complaints about the Commission or Commission officers
- recommend disciplinary action or criminal prosecution against Commission officers.

In 2013–14, the Inspector did not conduct any audits on the Commission's exercise of statutory powers.

## The Auditor General

The *Public Finance and Audit Act 1983* requires the Commission to keep books and records in relation to the Commission's operations and to prepare a financial report for each financial year. This Act requires the Commission to submit the financial report to the Auditor General and the NSW Premier, as the minister responsible for the Commission. The financial report must:

- be prepared in accordance with Australian Accounting Standards
- comply with any written directions of the Treasurer as to form and content
- exhibit a true and fair view of the Commission's financial position and performance.

The Auditor General is required to audit the Commission's financial report. Details of the Commission's financial report and the Auditor General's audit are contained in this annual report.

## The NSW Ombudsman

The NSW Ombudsman inspects the Commission's records of telecommunications interceptions, surveillance device warrants, and controlled operations to measure compliance with statutory obligations.

The Ombudsman inspected the Commission's telecommunications interception records in November 2013 and June 2014. It was found that all records were kept in accordance with the relevant legislative requirements.

The Ombudsman inspected the Commission's surveillance device records in February 2014. It was found that all records were kept in accordance with the *Surveillance Devices Act 2007*.

As the Commission did not authorise or undertake any controlled operations in 2013–14, it was not necessary for the Ombudsman to inspect the Commission's controlled operations records.

## Legal changes

A number of legislative changes affecting the Commission came into force in the reporting period.

The *Police Integrity Commission and Independent Commission Against Corruption Amendment (Inspectors) Act 2013* came into force in September 2013. It amended the ICAC Act to create the office of Assistant Inspector of the ICAC. The Assistant Inspector may, to the extent to which he or she is directed by the Inspector of the ICAC to do so, exercise any function of the Inspector.

The *Members of Parliament Staff Act 2013* came into force in February 2014. It amended the ICAC Act by expanding the definition of "public official" in s 3 of the ICAC Act to include a person employed under the *Members of Parliament Staff Act 2013*.

Section 76(2)(c) of the ICAC Act requires the Commission to report any recommendations for changes in the laws of the state, or for administrative action, that the Commission considers should be made as a result of the exercise of its functions.

In November 2013, the Commission recommended to the then premier, the Honourable Barry O'Farrell MP, that the *Crimes Act 1900* be amended to make provision for a new offence to specifically deal with public officials who have a personal interest in a contract with the public authority by which they are employed. The Commission noted that a number of recent investigations concerned the conduct of public officials who set up or obtained an interest in a company or business and then exercised their public official functions to award contracts to that company or business. No criminal offence in NSW exists to specifically cover this type of conduct. The Commission noted that it was likely that future investigations would be concerned with similar conduct and that it would be appropriate to have an offence to deal with such conduct.

"...the ICAC Act requires the Commission to report any recommendations for changes in the laws of the state..."

## Litigation

The Commission was involved in six litigation matters in the reporting period.

The first matter arose from the findings of corrupt conduct made against Angela D'Amore MP in the Commission's December 2010 report on its investigation into the submission of false claims for sitting day relief entitlement by Ms D'Amore and members of her staff.

Ms D'Amore sought a declaration from the Supreme Court that the Commission had exceeded its powers under the ICAC Act in making corrupt conduct findings against her. She claimed that the Commission had exceeded its statutory powers because the findings of corrupt conduct were made without any evidence or any rationally probative evidence that Ms D'Amore knew the conditions of the sitting day relief entitlement had not been met.

On 14 May 2012, the Supreme Court delivered judgment dismissing Ms D'Amore's summons and ordering her to pay the Commission's costs.

Ms D'Amore appealed this decision to the NSW Court of Appeal.

On 21 June 2013, the Court of Appeal delivered judgment dismissing the appeal and ordering Ms D'Amore to pay the Commission's costs.

On 18 July 2013, Ms D'Amore applied for special leave to appeal to the High Court of Australia. On 13 December 2013, the High Court refused Ms D'Amore's special leave application and ordered her to pay the Commission's costs.

In the second matter, the plaintiff, Martin Waterhouse, is seeking orders from the Supreme Court compelling the Commission to investigate allegations previously made to the Commission. The Commission is seeking to have the proceedings dismissed. On 24 February 2014, Mr Waterhouse sought orders from the Supreme Court with respect to the disqualification of the trial judge allocated to hear the case and any permanent full-time member of the Supreme Court. On 2 April 2014, Garling J dismissed the application and reserved judgment in the proceedings.

In the third matter, NuCoal Resources Ltd, the former holder of coal Exploration Licence 7270, commenced proceedings in the Supreme Court in April 2014, seeking to quash the Commission's



report dated December 2013, titled, *Operations Jasper and Acacia – addressing outstanding questions*, in which the Commission recommended that Exploration Licence 7270 be expunged or cancelled. The Commission opposes the orders sought by NuCoal Resources Ltd and a hearing date is yet to be fixed.

In the fourth matter, Cascade Coal Pty Ltd, Mt Penny Coal Pty Ltd and Glendon Brook Coal Pty Ltd commenced proceedings in the NSW Supreme Court in January 2014, seeking a declaration that the recommendation made in *Operations Jasper and Acacia – addressing outstanding questions* – that the Mount Penny and Glendon Brook coal exploration licences be expunged or cancelled – is a nullity. The matter was heard before McDougall J between 23 June and 25 June 2014, and judgment was reserved.

In the fifth matter, Travers Duncan, John Kinghorn, John McGuigan, John Atkinson and Richard Poole commenced proceedings in the Supreme Court in October 2013, seeking a declaration that corrupt conduct findings made against them by the Commission and set out in the July 2013 report, titled *Investigation into the conduct of Ian Macdonald, Edward Obeid Senior, Moses Obeid and others*, were wrong in law and a nullity. The matter was also heard before McDougall J between 23 June and 25 June 2014, and judgment was reserved.

In the final matter, Mr Duncan, one of the witnesses called to give evidence in the Commission's Operation Jasper public inquiry, commenced proceedings in the Supreme Court in March 2013, seeking an order restraining the Commissioner from further presiding over the Operation Jasper public inquiry and orders restraining the Commissioner and the Commission from preparing the report on the investigation.

On 10 April 2013, the Supreme Court delivered judgment dismissing Mr Duncan's summons and ordering him to pay costs.

Mr Duncan appealed this decision to the NSW Court of Appeal. On 25 June 2013, the Court of Appeal delivered judgment dismissing the appeal and ordering Mr Duncan to pay costs.

On 4 July 2013, Mr Duncan applied for special leave to appeal to the High Court of Australia. On 25 July 2013, the High Court refused Mr Duncan's special leave application and ordered him to pay the Commission's costs.

## Complaints against Commission officers

Complaints concerning the misconduct of Commission officers may be made directly to the Inspector of the ICAC or to the Commission. The Commission's memorandum of understanding with the Inspector of the ICAC provides that the Commission will notify the Inspector of complaints against Commission officers that come within the Inspector's functions. The Inspector may decide to investigate complaints directly or ask the Commission to undertake an investigation and report its findings to him.

The Executive Director, Legal is responsible for advising the Commissioner with respect to complaints of misconduct dealt with by the Commission.

In 2013–14, the Commission received one complaint about a Commission officer. It concerned an allegation that a Commission officer had threatened physical harm to another staff member. The Commission officer was suspended, pending finalisation of an investigation. The Commission officer was found to have engaged in misconduct, formally reprimanded, directed to apologise to the other staff member and directed to undertake counselling.

The Inspector of the ICAC was kept informed about this matter and the conclusion reached by the Commission.

## Privacy and personal information

The *Privacy and Personal Information Protection Act 1998* ("the PPIP Act") provides for the protection of "personal information" and for the protection of the privacy of individuals generally.

The PPIP Act sets out a number of information protection principles. They apply to the Commission only in connection with the exercise by the Commission of its administrative and educative functions.

As required by the PPIP Act, the Commission has a privacy management plan. The plan sets out how the Commission complies with the principles and requirements of the PPIP Act and, in so far as the Commission holds any health information, the *Health Records and Information Privacy Act 2002*.

The plan can be accessed from the Commission's website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au) or by contacting the Commission directly.

The Commission operated in accordance with its privacy management plan in the reporting period.

No reviews were required or conducted under Part 5 of the PPIP Act during the reporting period.

## Access to information

The *Government Information (Public Access) Act 2009* ("the GIPA Act") facilitates public access to information held by government agencies, including the Commission.

The GIPA Act requires agencies to make "open access information" publicly available on an agency's website. The Commission's open access information is available from its website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).

The GIPA Act provides for the making of access applications for information held by an agency. The GIPA Act provides, however, that an access application cannot be made for access to information held by the Commission relating to its corruption prevention, complaint-handling, investigative or report writing functions. It also provides that it is to be conclusively presumed that there is an overriding public interest against disclosure of other information the disclosure of which is prohibited by the ICAC Act.

Section 125 of the GIPA Act requires agencies to report on the agency's obligations under the GIPA Act. The Commission's report is set out in Appendix 6.

## Report publicly about the work of the Commission

Section 76 of the ICAC Act requires the Commission to report on its operations for each year ending on 30 June and to furnish that report to the Presiding Officer of each House of Parliament.

The section provides that the report shall include the following:

- a description of the matters that were referred to the Commission
- a description of the matters investigated by the Commission
- the time interval between the lodging of each complaint and the Commission deciding to investigate the complaint

- the number of complaints commenced to be investigated but not finally dealt with during the year
- the average time taken to deal with complaints and the actual time taken to investigate any matter in respect of which a report is made
- the total number of compulsory examinations and public inquiries conducted during the year
- the number of days spent during the year in conducting public inquiries
- the time interval between the completion of each public inquiry conducted during the year and the furnishing of a report on the matter
- any recommendations for changes in the laws of the state, or for administrative action, that the Commission considers should be made as a result of the exercise of its functions
- the general nature and extent of any information furnished under the ICAC Act by the Commission during the year to a law enforcement agency
- the extent to which its investigations have resulted in prosecutions or disciplinary action in that year
- the number of search warrants issued by authorised officers and the ICAC Commissioner respectively
- a description of its activities during that year in relation to its educating and advising functions.

This information is included in this publication.

In addition to its annual report, the Commission also publishes its investigation reports and a number of corruption prevention and research publications. These are all available from the Commission's website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).

## Investigation reports

The Commission is required under the ICAC Act to prepare reports on matters referred by both Houses of the NSW Parliament and on matters involving public inquiries. The Commission can also produce public reports without conducting a public inquiry. These reports are furnished to the Presiding Officer of each House who arrange for the reports to be tabled in Parliament. Each Presiding Officer has the discretion to make Commission reports public immediately on presentation.

In 2013–14, the Commission furnished 12 investigation reports to the Presiding Officers. All were immediately made public. The reports, and the time interval between the completion of the relevant public inquiry and the furnishing of the report, are set out in the table opposite.



**Table 24: Time interval between completion of each public inquiry and furnishing of the report – s 76(2)(ba)(vi) of the ICAC Act**

Public inquiry	Date public inquiry complete*	Date investigation report furnished to presiding officers	Days from end of public inquiry to furnishing of report**
Investigation into allegations of corrupt conduct in the provision of security products and services by suppliers, installers and consultants (Operation Tilga) (26-day public inquiry)	21/12/12	26/9/13	279
Investigation into the conduct of Moses Obeid, Eric Roozendaal and others (Operation Indus) (4-day public inquiry)	18/2/13	31/7/13	164 <sup>1</sup>
Investigation into the conduct of Ian Macdonald, Edward Obeid Senior, Moses Obeid and others (Operation Jasper) (45-day public inquiry)	19/4/13	31/7/13	116
Investigation into conduct of Ian Macdonald, Ronald Medich and others (Operation Jarilo) (7-day public inquiry)	20/5/13	31/7/13	72 <sup>2</sup>
Investigation into the conduct of Ian Macdonald, John Maitland and others (Operation Acacia) (37-day public inquiry)	24/6/13	30/8/13	67
Operations Jasper and Acacia – addressing outstanding questions (Operation Jasper and Operation Acacia)	24/6/13	18/12/13	177 <sup>3</sup>
Investigation into the possession and supply of steroids and other matters involving a Corrective Services NSW corrections officer (Operation Torino) (no public inquiry)	1/9/13	26/9/13	26
Investigation into false certifications of heavy vehicle competency-based assessments by a Roads and Maritime Services-accredited assessor (Operation Nickel) (2-day public inquiry)	1/11/13	24/1/14	84 <sup>4</sup>
Investigation into the conduct of the Hon Edward Obeid MLC and others in relation to influencing the granting of water licences and the engagement of Direct Health Solutions Pty Ltd (Operation Cabot and Operation Meeka) (16-day public inquiry)	10/12/13	5/6/14	177 <sup>4</sup>
Investigation into the conduct of the commissioner of the NSW State Emergency Service (Operation Dewar) (4-day public inquiry)	7/2/14	28/5/14	110

Public inquiry	Date public inquiry complete*	Date investigation report furnished to presiding officers	Days from end of public inquiry to furnishing of report**
Investigation into the conduct of the Hon Edward Obeid MLC and others concerning Circular Quay retail lease policy (Operation Cyrus) (16-day public inquiry)	2/4/14	5/6/14	64 <sup>5</sup>
Investigation into the conduct of certain City of Ryde councillors and others (Operation Cavill) (11-day public inquiry)	11/4/14	30/6/14	80 <sup>6</sup>

\* The Commission considers a public inquiry to be complete as at the date of receipt of final submissions from parties who are granted leave to appear at the public inquiry.

\*\* Corporate goal is two months (60 days) where duration of public inquiry was five or less days and three months (90 days) otherwise.

1. Completion and furnishing of this report was postponed to coincide with completion and furnishing of the Operation Jasper report.
2. The final submissions for Operation Jarilo were received on 23/4/12. However, it was decided that the writing of the report would be put on hold as the Commission had decided to conduct operations Jasper and Acacia and, given the similarity in the alleged conduct of Mr Macdonald, the Commission decided it was in the public interest to delay determining the issues raised in Operation Jarilo until the evidence had been led in operations Jasper and Acacia. The last day of evidence in the operations Jasper/Acacia public inquiry was 20/5/13, and this date has therefore been selected as the date from which to properly calculate the time taken to complete the Operation Jarilo report.
3. Completion of this report was dependent on receiving counsels' advice. Although senior counsel was briefed in September 2013, final advice was not received until 4/12/2013.
4. Delay in completing this report due to Christmas/New Year break.
5. Submissions in response to those of Counsel Assisting were received by 29/1/14. During the drafting of the report, a matter was identified that required further submissions being sought. These submissions were received on 2/4/14.
6. The original date for receipt of final submissions was 5/11/13. During the drafting of the report, additional matters were identified that required further submissions being sought. These submissions were received on 11/4/14.

## Other publications

The following publications were also produced or revised during the reporting period:

- *Community attitudes to corruption and to the ICAC* (July 2013)
- *Information for witnesses* (August 2013)
- *Managing IT contractors, improving IT outcomes* (20 August 2013)
- *Annual Report 2012–2013* (30 October 2013)
- *Reducing the opportunities and incentives for corruption in the state's management of coal resources* (30 October 2013)

The Commission also met its target of producing two editions of the *Corruption Matters* newsletter. This publication raises awareness in the public sector and the wider community about corruption-related matters and the Commission's activities.

*Corruption Matters* entered a new era in June 2014, with the launch of the first edition of the newsletter in electronic format. The *Corruption Matters* e-newsletter was launched to 541 subscribers on its first day and is now presented in a quick, easy-to-read format that enables readers to quickly access the stories in which they are most interested.

During the reporting period, the number of external visitor sessions on the Commission's website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au) was 761,027. This is more than the figure of 583,563 recorded in 2012–13, with user hits concentrated on the website's "current investigations" pages.



# Chapter 6: Our organisation

## About the Corporate Services Division

The Corporate Services Division is a business partner with the operational divisions of the Commission, and is responsible for providing support services to enable the Commission to undertake its statutory functions. It provides administrative, security, financial, and information management and technology services.

The division also manages other functions, including recruitment, payroll, risk management and procurement, and provides significant corporate support services to the Health Care Complaints Commission (HCCC) through a shared services agreement.

Andrew Koureas is the Executive Director of the Corporate Services Division. In 2013–14, the division had an average of 19.3 full-time equivalent (FTE) staff, and an expenses budget of \$2.9 million. The division comprises the Human Resources (HR) and Administration, the Information Management and Technology (IM&T), and the Finance units.

## About the Commission's staffing profile

The Commission's organisational structure comprises the Executive Unit, Investigation Division, Corruption Prevention Division, Legal Division, Corporate Services Division and Assessments Section (see the organisational chart on page 5).

In 2013–14, the Commission employed an average of 126.4 FTE staff across its six functional areas. At the end of the reporting period, of the 151 staff working at the Commission (head count figure), 117 were employed on a permanent basis, 26 on a temporary basis, one was a casual employee, and seven (including the Commissioner) were employed in the equivalent of Senior Executive Service (SES) contract positions (see Appendix 7 for further information).

**Table 25: Average full-time equivalent (FTE) staff numbers by division/section**

Division/ section	2013–14	2012–13	2011–12	2010–11
Executive	8.5	8.2	8.5	8.1
Corporate Services	19.3	19.9	21.7	20.6
Corruption Prevention	20.1	19.5	20.5	20.8
Legal	13.8	12.4	10.4	10.2
Investigation	51.8	52.2	50.7	44.4
Assessments	12.9	11.6	13	13
<b>Total</b>	<b>126.4</b>	<b>123.8</b>	<b>124.8</b>	<b>117.1</b>

Note: The average FTE excludes contractors. Further, these figures are based on Establishment Report figures (internal). There is a variation between these figures and those of the Workforce Profile report, which is a result of differences in counting criteria.

## HR and administration

### Office relocation

The Commission's lease expires in October 2014; as such, in 2013–14, the organisation needed to consider its options in terms of accommodation. The options of taking out a new lease in its existing premises and moving to an alternative site were both considered. Following financial evaluations for both options and an extensive property search through Government Property NSW, a new office space was located across level 7 and part of level 6 of a 15-storey building at 255 Elizabeth Street in Sydney's central business district.

In the reporting period, the Commission entered into a lease agreement for the new offices and, in June 2014, a contractor was appointed and commenced work. An internal Relocation Committee was established to drive the physical move, and consider issues such as archiving existing material,

the complex job of packing sensitive and confidential material for transportation to the new office and managing the actual physical relocation (the latter of which is scheduled to commence on 19 September 2014).

## Policies and procedures

The Commission has an established Compliance Monitoring Register, which identifies the target date for the systematic review and update of Commission-wide policies to ensure continued compliance with legislative requirements and alignment with the conditions of employment contained in the ICAC Award. The Audit and Risk Committee (ARC) periodically monitors this register.

Prior to approval by the Commissioner, all policies are reviewed by the Commission's Executive Management Group (EMG) and endorsed by the Commission Consultative Group (CCG). The CCG consists of senior management, staff, Public Service Association (PSA) delegates and industrial officers.

There are several Commission-wide policies in place. The following policies were reviewed and updated during the reporting period:

- Extended Leave Policy
- Family and Community Service Leave and Carer's Leave Policy
- Special Leave Policy
- Annual Leave and Leave Loading Policy
- Flexible Work Hours Policy
- Flexible Work Arrangements Policy
- Permanent Employment Policy
- Unsatisfactory Performance, Misconduct and Serious Offences Policy
- Guidelines for Undertaking a Probationary Review Policy
- Breastfeeding Policy

- Bullying and Harassment Prevention Policy
- Equal Employment Opportunity (EEO) and Discrimination Prevention Policy
- Work-Related Grievance Handling Policy
- Risk Management Policy Framework and Toolkit Policy
- Manual Handling Policy
- Observance of Essential Religious Duties and Cultural Obligations Policy.

## Learning and development

The Commission is committed to the ongoing development of staff to increase or maintain their skills, knowledge and experience.

The Commission focuses on six core streams for staff learning and development activities. These are (1) information technology, (2) risk management, (3) project management, (4) organisational development, (5) leadership/management, and (6) technical skills.

During the reporting period, the Commission engaged an information and communications technology (ICT) trainer to design and deliver in-house training programs to staff in the areas of Microsoft Office suite applications, the Management of Cases, Complaints and Assessments (MOCCA) and TRIM.

There were 499 staff attendances at training sessions, which equated to an average of four training sessions for each staff member. Due to operational reasons, this was a slight decrease on the previous year, with the average number of training sessions per staff member in 2012–13 being 4.9 (a total of 611 staff attendances).

In 2014–15, training will be provided to identified staff in the areas of merit selection, cultural awareness, EEO, harassment and bullying prevention, work health and safety, and grievance resolution.

In the reporting period, opportunities arose for staff to undertake higher duties and temporary appointments both within divisions and across divisions. The Commission also supported the secondments or the extension of secondments for four members of staff to work at the Office of the Director of Public Prosecutions, Transport NSW and the Royal Commission into Institutional Responses to Child Sexual Abuse. The Commission also offered secondments to two members of staff from Legal Aid NSW.

The Commission continues to encourage staff to undertake further study to enhance their skills and provides assistance in the form of study-time leave and examination leave. A staff member was also granted 12-months leave without pay to study overseas for a masters in applied ethics.

## **Conditions of employment and movement in salaries and allowances**

The ICAC Award sets out the conditions of employment for Commission staff. In line with award conditions, a 2.27% increase became effective at the beginning of the first full pay period from 1 July 2013. The increase also applied to some of the award's allowances, such as the Associate Allowance, the Community Language Allowance and the First Aid Officer's Allowance. In the past, ICAC Award increases have followed the Crown Employees (Conditions of Service) Award.

## **Industrial relations**

The Commission, its officers and the PSA have maintained a strong commitment to joint consultation. The CCG ensures that workplace issues, policies and procedures, and organisational changes, are discussed and resolved quickly and effectively. There were no industrial disputes involving the Commission or its Commissioner during the reporting period.

## **Staff performance management**

The individual performance agreements of Commission employees are clearly aligned with corporate objectives and key result areas (as reflected in the Commission's strategic and business plans), and are linked to individual position accountabilities.

In order to achieve the desired performance targets and organisational goals, each employee's learning and development plan identifies the corporate, positional and individual learning and development activities that are required during the period to ensure competence and maximise skill levels.

The Commission is committed to ensuring that each employee has in place a performance agreement within six weeks of commencing employment with the Commission. This first agreement is then used as the basis for any probationary review. An annual performance agreement is then developed at the beginning of each financial year with an annual review undertaken in July. To ensure that there are no barriers to optimal performance, however, the Commission is committed to providing informal feedback to staff and to addressing any issues on a continual basis. It is also committed to providing staff with the necessary development and training opportunities to achieve corporate and operational goals.

The Commission has an electronic performance management system that allows staff to complete their performance agreement and review online in Employee Self-Service.

## **Risk management**

The Commission has in place a current and appropriate risk management process and associated procedures for effective identification and management of its financial and business risks.

The Risk Management Policy Framework and Toolkit provides the parameters for the Commission's risk management process. The Strategic Risk Management Plan and Corporate Risk Register identify risks from a strategic and operational perspective and describe the potential impact on the Commission's business. The Corporate Risk Register also details agreed risk treatment strategies to reduce risk ratings.

The Risk Management Policy, Strategic Risk Management Plan and the Corporate Risk Register are continually updated in line with the Commission's Compliance Monitoring Register. Effective oversight is maintained through the EMG and the ARC.

The Commission gives high priority to its personnel security program through a variety of security-based programs. The Commission has a security alarm system that is integrated with electronic access control and electronic surveillance. The security system is periodically tested, monitored and rigorously maintained to ensure optimum efficiency. The system is



continuously checked for potential issues. As with any security system, the maintenance and upkeep of the system is ongoing.

In line with the Commission's continued commitment to risk management, the Commission's emergency wardens have been provided with ongoing training.

In addition to standard mitigation procedures, following a risk assessment, provision was made for additional security oversight for public inquiries during the reporting period.

One hazard was lodged during the reporting period and it was mitigated. The hazard was associated with the need for the repositioning of a power board.

**Table 26: Hazards reported and risks controlled**

Reporting period	Number of hazards reported	Risks controlled to an acceptable level
2009–10	3	Yes
2010–11	3	Yes
2011–12	5	Yes
2012–13	3	Yes
2013–14	1	Yes

## Work health and safety

The Health and Safety Committee meets quarterly. The committee reviews safety policies and practices, conducts regular workplace inspections and facilitates the resolution of safety issues. Two workplace inspections were conducted during the reporting period. No major issues were identified during the inspections. More information on health and safety and the activities of the committee is provided in Appendix 9.

## Personnel security

The Commission has a rigorous screening process in place for all personnel who work on its premises in order to ensure that persons employed pose a minimal and acceptable level of risk. This process applies to prospective staff, contractors and consultants. Accordingly, all contractors associated with the Commission's current relocation and those engaged in current project work have been thoroughly screened, and will continue to be screened.

During the reporting period, 58 personnel were security vetted. In the reporting period, the Commission processed 22 requests for background vetting information from external law enforcement agencies.

As part of the induction process, new staff are briefed on security and risk management issues on the commencement of their employment. The Commission's intranet hosts relevant information on security and risk management to promote security awareness among its employees.

## Other internal committees

The Commission continues to support operational and corporate committees to ensure that it maintains and improves its internal governance infrastructure. The role of the three principal internal governance committees – the Strategic Investigation Group, the Executive Management Group, and the Prevention Management Group – is to assist the Commission to meet its compliance and accountability obligations, as outlined in Chapter 5.

The Commission has in place a range of internal management and staff committees to facilitate good governance. These committees meet on a regular basis, in line with each committee's terms of reference.

## Commission Consultative Group

The CCG was established to provide a formal mechanism for consultation and communication between staff and management on matters of policy and procedure before final endorsement of these policies and procedures is provided by the Commissioner. The group also considers issues referred by staff and management that relate to employee policies or procedures with Commission-wide significance.

The Executive Director, Corporate Services, provides the CCG with an overview of the outcomes of the quarterly meetings held by the Commission's other consultative committees, namely the Access and Equity Committee, and the Health and Safety Committee.

In accordance with the CCG charter, meetings are held on a monthly basis, and the minutes are posted on the intranet for staff. Staff are encouraged to contribute to the CCG through a staff representative, and to raise any issues relating to the ICAC Award, policies and procedures.

## Access and Equity Committee

The primary role of the Commission's Access and Equity Committee is to act as the Commission's oversight body for activities related to EEO. The committee is also a driving force in monitoring the Commission's EEO Management Plan, Disability Action Plan, Multicultural Policies and Services Program and related EEO policies. The committee reports to the Commissioner through the CCG and meets on a quarterly basis. More detailed information on the activities of the committee is outlined in Appendix 8.

## Audit and Risk Committee

The objective of the ARC is to provide independent assistance to the Commission by overseeing and monitoring the Commission's governance, risk and control frameworks, and its external accountability requirements. A key role of the committee is to monitor progress on agreed management action arising out of recommendations made by the Commission's independent internal auditors.

During the reporting period, a follow-up audit of financial close and financial management was undertaken to evaluate the internal controls associated with financial close and with the financial management process. A minor finding was made to ensure user access to SUN was periodically reviewed by management. An audit of the procurement processes associated with the ICT Infrastructure Upgrade Project was also completed during the year. The objective of this audit was to test compliance and alignment with key aspects of NSW government procurement policies and procedures. The audit did not identify any key findings.

Five meetings were held during the year and attended by the independent chair and member. Paul Apps was re-appointed as independent member for a final, four-year term until June 2018.

"The objective of the ARC is to provide independent assistance to the Commission by overseeing and monitoring the Commission's governance, risk and control frameworks..."

### Internal Audit and Risk Management Statement for the 2013–2014 Financial Year for the Independent Commission Against Corruption

I, Megan Latham, Commissioner of the Independent Commission Against Corruption (ICAC), am of the opinion that the ICAC has internal audit and risk management processes in place that are, in all material respects, compliant with the core requirements set out in Treasury Circular NSW TC 09/08 *Internal Audit and Risk Management Policy*.

I, Megan Latham, am of the opinion that the Audit and Risk Committee for the ICAC is constituted and operates in accordance with the independence and governance requirements of Treasury Circular NSW TC 09-08.

The Chair and Members of the Audit and Risk Committee are:

- Independent Chair – David Roden (appointed from 1 September 2012 to 31 August 2015)
- Independent Member – Paul Apps (re-appointed from 21 June 2014 to 20 June 2018)
- Non-Independent Member – Roy Waldon, Executive Director, Legal and Solicitor to the Commission.

These processes provide a level of assurance that enables the senior management of the ICAC to understand, manage and satisfactorily control risk exposures.



The Hon Megan Latham  
Commissioner  
Independent Commission Against Corruption  
28/07/2014

## Insurance activities

The NSW Treasury Managed Fund provides insurance cover for all of the Commission's activities. These include workers compensation, motor vehicle, public liability, property and miscellaneous claims. During the reporting period, the workers compensation deposit premium decreased by \$13,297, while the remaining deposit premiums increased by \$6,530.

## Information management and technology

### ICT Infrastructure Upgrade Project

Following funding approval by the NSW Treasury, a tender was issued to supply and commission ICT infrastructure, as per the detailed ICT infrastructure architecture design. Following a competitive tendering process, Datacom Australia Pty Ltd was selected to undertake this project. The project commenced in early April 2014 and is expected to be completed by the end of December 2014.

The scope of works includes the commissioning of new network, servers and data storage infrastructure, a new phone system with call recording facility, desktops, printers, scanners, and copier and network management tools. To take full advantage of emerging technologies, the servers have been virtualised, creating a private cloud. The scope also includes the establishment of a warm disaster recovery site with near real-time data replication.

During the reporting period, ongoing enhancements to the MOCCA system and iBase analytical databases were also carried out. TRIM was also upgraded to a newer version.

An improved mobile device management system was also commissioned during the financial year.

### Information security

The Commission shows a strong commitment to information security, as it has continuously and successfully maintained and complied with its annual external audit accreditation to the Australian Standard AS/NZS ISO 27001:2005, which is an internationally recognised standard for information and asset security management.

### IM&T Steering Committee

The IM&T Steering Committee was established to provide a coordinated, whole-of-organisation approach to developing and managing information and IT-related technologies. The committee's membership includes the executive directors of all divisions and other staff. The manager of the IM&T unit within the Corporate Services Division is responsible for providing secretariat support. The committee provided significant input into the development of tender guidelines and procedures relating to the ICT Infrastructure Upgrade Project.

## Shared corporate services

In 2004–05, the Commission entered into a shared corporate services arrangement with the HCCC. The Commission oversees the management of the HCCC's corporate services unit on a fee-for-service basis and provides:

- corporate planning and risk management
- financial planning and financial management
- HR management and advice
- information management, planning on policy development, and technology planning and advice
- payroll administration
- financial accounting, reporting and payments.

The shared services agreement was renewed for 2014–15, incorporating changes to the delivery of agreed HR services and provides for a modest increase in the service delivery fee.

# Financials



INDEPENDENT COMMISSION  
AGAINST CORRUPTION  
NEW SOUTH WALES

## Statement by Commissioner

In accordance with s 45F of the *Public Finance and Audit Act 1983* ("the Act"), I state that:

- (a) the accompanying financial statements in respect of the year ended 30 June 2014 have been prepared in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), the requirements of the Act, and Regulation 2010, and the Financial Reporting Directions published in the Financial Reporting Code for NSW General Government Sector Entities or issued by the Treasurer under s 9(2) of the Act
- (b) the financial statements exhibit a true and fair view of the financial position and financial performance of the NSW Independent Commission Against Corruption
- (c) there are no circumstances that would render any particulars included in the financial statements to be misleading or inaccurate.

A handwritten signature in black ink, appearing to read 'M Latham'.

The Hon Megan Latham  
Commissioner

22/09/2014



## INDEPENDENT AUDITOR'S REPORT

### Independent Commission Against Corruption

To Members of the New South Wales Parliament

I have audited the accompanying financial statements of the Independent Commission Against Corruption (the Commission), which comprise the statement of financial position as at 30 June 2014, the statement of comprehensive income, statement of changes in equity, statement of cash flows and summary of compliance with financial directives for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information.

### Opinion

In my opinion the financial statements:

- give a true and fair view of the financial position of the Commission as at 30 June 2014, 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* (the PF&A Act) and the Public Finance and Audit Regulation 2010.

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

### Commissioner's Responsibility for the Financial Statements

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

### Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on my audit. I conducted my audit in accordance with Australian Auditing Standards. Those standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Commission's preparation of the financial statements that give a true and fair view in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Commissioner, as well as evaluating the overall presentation of the financial statements.

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

My opinion does *not* provide assurance:

- about the future viability of the Commission
- that it has carried out its activities effectively, efficiently and economically
- about the effectiveness of its internal control
- 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 other information that may have been hyperlinked to/from the financial statements.

### **Independence**

In conducting my audit, I have complied with the independence requirements of the Australian Auditing Standards and relevant ethical pronouncements. The PF&A Act further promotes independence by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies, but precluding the provision of non-audit services, thus ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by the possibility of losing clients or income.



Steven Martin  
Assistant Auditor-General

22 September 2014  
SYDNEY



## Statement of comprehensive income for the year ended 30 June 2014

	Notes	Actual 2014 \$'000	Budget 2014 \$'000	Actual 2013 \$'000
Expenses excluding losses				
Operating expenses				
Employee related	2(a)	17,782	16,500	16,354
Other operating expenses	2(b)	7,047	5,712	7,371
Depreciation and amortisation	2(c)	1,051	2,079	1,125
<b>Total expenses excluding losses</b>		<b>25,880</b>	<b>24,291</b>	<b>24,850</b>
Revenue				
Recurrent appropriation	3(a)	21,150	21,150	20,621
Capital appropriation	3(a)	1,502	9,614	652
Sale of goods and services	3(b)	350	358	342
Interest revenue	3(c)	46	54	39
Grants and contributions	3(d)	2,625	1,030	3,210
Acceptance by the Crown Entity of employee benefits and other liabilities	3(e)	1,122	533	149
Other revenue	3(f)	55	23	94
<b>Total revenue</b>		<b>26,850</b>	<b>32,762</b>	<b>25,107</b>
<b>Gain/(loss) on disposal</b>	4	<b>(19)</b>	<b>–</b>	<b>(13)</b>
<b>Net result</b>	16	<b>951</b>	<b>8,471</b>	<b>244</b>
<b>Other comprehensive income</b>		<b>–</b>	<b>–</b>	<b>–</b>
<b>Total other comprehensive income</b>		<b>–</b>	<b>–</b>	<b>–</b>
<b>Total comprehensive income</b>		<b>951</b>	<b>8,471</b>	<b>244</b>

The accompanying notes form part of these financial statements.

## Statement of financial position as at 30 June 2014

	Notes	Actual 2014 \$'000	Budget 2014 \$'000	Actual 2013 \$'000
<b>Assets</b>				
Current Assets				
Cash and cash equivalents	6	4,299	1,038	1,614
Receivables	7	1,179	818	578
<b>Total Current Assets</b>		<b>5,478</b>	<b>1,856</b>	<b>2,192</b>
Non-Current Assets				
Property, plant and equipment	8			
– Leasehold improvements		106	1,878	508
– Plant and equipment		2,630	8,329	1,647
Total property, plant and equipment		2,736	10,207	2,155
Intangible assets	9	307	554	201
<b>Total Non-Current Assets</b>		<b>3,043</b>	<b>10,761</b>	<b>2,356</b>
<b>Total Assets</b>		<b>8,521</b>	<b>12,617</b>	<b>4,548</b>
<b>Liabilities</b>				
Current Liabilities				
Payables	10	1,236	775	783
Provisions	11	2,478	1,602	1,770
Other	12	2,262	–	–
<b>Total Current Liabilities</b>		<b>5,976</b>	<b>2,377</b>	<b>2,553</b>
Non-Current Liabilities				
Provisions	11	26	407	427
<b>Total Non-Current Liabilities</b>		<b>26</b>	<b>407</b>	<b>427</b>
<b>Total Liabilities</b>		<b>6,002</b>	<b>2,784</b>	<b>2,980</b>
<b>Net Assets</b>		<b>2,519</b>	<b>9,833</b>	<b>1,568</b>
<b>Equity</b>				
Reserves		409	409	409
Accumulated funds		2,110	9,424	1,159
<b>Total Equity</b>		<b>2,519</b>	<b>9,833</b>	<b>1,568</b>

The accompanying notes form part of these financial statements.

## Statement of changes in equity for the year ended 30 June 2014

	Accumulated Funds \$'000	Asset Revaluation Surplus \$'000	Total \$'000
<b>Balance at 1 July 2013</b>	<b>1,159</b>	<b>409</b>	<b>1,568</b>
Net result for the year	951	–	951
<b>Other comprehensive income</b>	–	–	–
Total other comprehensive income	–	–	–
<b>Total comprehensive income for the year</b>	<b>951</b>	<b>–</b>	<b>951</b>
<b>Balance at 30 June 2014</b>	<b>2,110</b>	<b>409</b>	<b>2,519</b>
<b>Balance at 1 July 2012</b>	<b>915</b>	<b>409</b>	<b>1,324</b>
Net result for the year	244	–	244
<b>Other comprehensive income</b>	–	–	–
<b>Total other comprehensive income</b>	–	–	–
Total comprehensive income for the year	244	–	244
<b>Balance at 30 June 2013</b>	<b>1,159</b>	<b>409</b>	<b>1,568</b>

## Statement of cash flows for the year ended 30 June 2014

	Notes	Actual 2014 \$'000	Budget 2014 \$'000	Actual 2013 \$'000
<b>Cash flows from operating activities</b>				
<b>Payments</b>				
Employee related		(16,334)	(16,049)	(16,021)
Other		(7,895)	(6,205)	(8,237)
<b>Total Payments</b>		<b>(24,229)</b>	<b>(22,254)</b>	<b>(24,258)</b>
<b>Receipts</b>				
Recurrent appropriation	3(a)	21,150	21,150	20,621
Capital appropriation	3(a)	3,764	9,614	652
Sale of goods and services		350	358	342
Interest received		35	54	64
GST		-	516	961
Grants and contributions		2,625	1,030	3,210
Other		747	-	98
<b>Total Receipts</b>		<b>28,671</b>	<b>32,722</b>	<b>25,948</b>
<b>Net cash flows from operating activities</b>	16	<b>4,442</b>	<b>10,468</b>	<b>1,690</b>
<b>Cash flows from investing activities</b>				
Purchases of property, plant and equipment		(1,502)	(10,095)	(1,352)
Other		(255)	(549)	-
<b>Net cash flows from investing activities</b>		<b>(1,757)</b>	<b>(10,644)</b>	<b>(1,352)</b>
<b>Net increase/(decrease) in cash and cash equivalents</b>		2,685	(176)	338
Opening cash and cash equivalents		1,614	1,214	1,276
<b>Closing cash and cash equivalents</b>	6	<b>4,299</b>	<b>1,038</b>	<b>1,614</b>

The accompanying notes form part of these financial statements.

## Summary of compliance with financial directives

2014					2013			
	Recurrent Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000	Capital Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000	Recurrent Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000	Capital Appropriation \$'000	Expenditure/ Net claim on Consolidated Fund \$'000
<b>Original Budget Appropriation/ Expenditure</b>								
– Appropriation Act	21,150	21,150	9,614	1,502	20,721	20,621	2,402	652
<b>Total Appropriations/ Expenditure/ Net Claim on Consolidated Fund (includes transfer payments)</b>	21,150	21,150	9,614	1,502	20,721	20,621	2,402	652
<b>Amount drawn down against Appropriation</b>		<b>21,150</b>		<b>3,764</b>		<b>20,621</b>		<b>652</b>
<b>Liability to Consolidated Fund*</b>		–		2,262		–		–

The Summary of Compliance is based on the assumption that Consolidated Fund monies are spent first (except where otherwise identified or prescribed).

\* The "Liability to Consolidated Fund" represents the difference between the "Amount drawn down against Appropriation" and the "Expenditure/Net Claim on Consolidated Fund".



# Notes to and forming part of the financial statements for the year ended 30 June 2014

## 1. Summary of Significant Accounting Policies

### a. Reporting entity

The Independent Commission Against Corruption ("the Commission") is constituted by the *Independent Commission Against Corruption Act 1988*. The main objective of the Commission is to minimise corrupt activities and enhance the integrity of NSW public sector administration.

The Commission is a NSW government entity. The Commission is a not-for-profit entity (as profit is not its principal objective) and it has no cash generating units. The reporting entity is consolidated as part of the NSW Total State Sector Accounts.

These financial statements report on all the operating activities under the control of the Commission.

These financial statements for the year ended 30 June 2014 have been authorised for issue by the Commissioner on 22 September 2014.

### b. Basis of preparation

The Commission's financial statements are general purpose financial statements that have been prepared on an accruals basis in accordance with:

- applicable Australian Accounting Standards (that include Australian Accounting Interpretations)
- the requirements of the *Public Finance and Audit Act 1983* and Audit Regulation 2010
- the Financial Reporting Directions published in the Financial Reporting Code for NSW General Government Sector Entities or issued by the Treasurer.

Property, plant and equipment are measured at fair value. Other financial statement items are prepared in accordance with the historical cost convention.

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.

### c. Statement of compliance

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

### d. Insurance

The Commission's insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self-insurance for government agencies. The expense (premium) is determined by fund managers based on past claim experience.

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

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

- the amount of GST incurred by the Commission as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of the cost of acquisition of an asset 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 financial activities, which are recoverable from, or payable to, the Australian Taxation Office, are classified as operating cash flows.

### f. Income recognition

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

#### i. Parliamentary appropriations and contributions

Except as specified below, parliamentary appropriations and contributions from other bodies (including grants and donations) are recognised as income when the Commission obtains control over the assets comprising the appropriations/contributions.

Control over appropriations and contributions is normally obtained upon the receipt of cash.

Unspent appropriations are recognised as liabilities rather than income, as the authority to spend the money lapses and the unspent amount must be repaid to the Consolidated Fund. The liability is disclosed in Note 12 as part of "Current liabilities – other". The amount will be repaid and the liability will be extinguished next financial year.

## Notes to and forming part of the financial statements for the year ended 30 June 2014

### ii. Sale of goods

Revenue from the sale of goods is recognised as revenue when the Commission transfers the significant risks and rewards of ownership of the assets.

### iii. Rendering of services

Revenue is recognised when the service is provided or by reference to the stage of completion (based on labour hours incurred to date).

### iv. Interest revenue

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

## g. Assets

### i. Acquisitions of assets

Assets acquired are initially recognised at cost. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition. Fair value is the price that would be received to sell an asset in an orderly transaction between market participants at measurement date.

Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent, that is deferred payment amount is effectively discounted at an asset-specific rate.

### ii. Capitalisation thresholds

The capitalisation threshold for property, plant and equipment and intangible assets is \$10,000. This means that all property, plant and equipment and intangible assets costing \$10,000 and above individually (or forming part of a network costing more than \$10,000) are capitalised.

### iii. Revaluation of property, plant and equipment

Physical non-current assets are valued in accordance with the "Valuation of Physical Non-Current Assets at Fair Value" Policy and

Guidelines Paper (TPP 14-1). This policy adopts fair value in accordance with AASB 13 *Fair Value Measurement*, AASB 116 *Property, Plant and Equipment* and AASB 140 *Investment Property*.

Property, plant and equipment is measured at the highest and best use by market participants that is physically possible, legally permissible and financially feasible. The highest and best use must be available at a period that is not remote and takes into account the characteristics of the asset being measured, including any socio-political restrictions imposed by government. In most cases, after taking into account these considerations, the highest and best use is the existing use. In limited circumstances, the highest and best use may be a feasible alternative use, where there are no restrictions on use or where there is a feasible higher restricted alternative use.

Fair value of property, plant and equipment is based on a market participant's perspective, using valuation techniques (market approach, cost approach and income approach) that maximise relevant observable inputs and minimise unobservable inputs.

As the Commission does not own land, building or infrastructure assets, management does not believe that the revaluation of physical non-current assets every five years is warranted, unless it becomes aware of any material difference in the carrying amount of any class of assets. The last revaluation of leasehold improvement assets was completed on 30 June 2004 and was based on an independent assessment.

Non-specialised assets with short useful lives are measured at depreciated historical cost, as a surrogate for fair value.

Where an asset that has previously been revalued is disposed of, any balance remaining in the asset revaluation reserve in respect of that asset is transferred to accumulated funds.

### iv. Impairment of property, plant and equipment

As a not-for-profit entity with no cash-generating units, impairment under AASB 136 *Impairment of Assets* is unlikely to arise. As property, plant and equipment is carried at fair value, impairment can only arise in the rare circumstances where the costs of disposal are material. Specifically, impairment is unlikely for not-for-profit entities

## Notes to and forming part of the financial statements for the year ended 30 June 2014

given that AASB 136 modifies the recoverable amount test for non-cash generating assets of not-for-profit entities to the higher of fair value less costs of disposal and depreciated replacement cost is also fair value.

### v. Depreciation of property, plant and equipment

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

All material separately identifiable components of assets are depreciated over their shorter useful lives. The useful life of the various categories of non-current assets is as follows:

	Gross value measurement bases	Depreciation method	Depreciation life in years	Depreciation life in years
Asset category			2013–14	2012–13
Computer hardware	Purchase price	straight-line	4	4
Plant and equipment	Purchase price	straight-line	5	5
Leasehold improvements	Purchase price	straight-line	8	8

Leasehold improvement assets are amortised at the lesser of eight years or the lease term.

### vi. Restoration costs

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

### vii. Maintenance

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

### viii. Leased assets

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

The Commission has no finance lease arrangements.

Operating lease payments are charged to the statement of comprehensive income in the periods in which they are incurred.

### ix. Intangible assets

The Commission recognises intangible assets only if it is probable that future economic benefits will flow to the Commission and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition.

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

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

The Commission's intangible assets, that is, computer software, are amortised using the straight-line method over four years.

## Notes to and forming part of the financial statements for the year ended 30 June 2014

	Amortisation life in years	Amortisation life in years
Asset category	2013–14	2012–13
Intangibles – computer software	4	4

### x. Receivables

Receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. These financial assets are recognised initially at fair value, usually based on the transaction cost, or face value.

Subsequent measurement is at amortised cost using the effective interest method, less an allowance for any impairment of receivables. Any changes are recognised in the net result for the year when impaired, de-recognised or through the amortisation process.

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

### xi. Impairment of financial assets

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

The amount of the impairment loss is recognised in the net result for the year.

Any reversals of impairment losses are reversed through the net result for the year, where there is objective evidence.

However, reversals of impairment losses on an investment in an equity instrument classified as “available for sale” must be made through the reserve. Reversals of impairment losses of financial assets carried at amortised cost cannot result in a carrying amount that exceeds what the carrying amount would have been had there not been an impairment loss.

### xii. De-recognition of financial assets and financial liabilities

A financial asset is de-recognised when the contractual rights to the cash flows from the

financial assets expire or if the Commission transfers the financial asset:

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

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

A financial liability is de-recognised when the obligation specified in the contract is discharged or cancelled or expires.

### xiii. Trust funds

The Commission received monies in a trustee capacity for the Australian Public Sector Anti-Corruption Conference 2013, as set out in Note 18. As the Commission performs only a custodial role in respect of these monies, and because the monies cannot be used for the achievement of the Commission's own objectives, these funds are not recognised in the financial statements.

## h. Liabilities

### i. Payables

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

### ii. Employee benefits and other provisions

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

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

## Notes to and forming part of the financial statements for the year ended 30 June 2014

Annual leave is not expected to be settled wholly before 12 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 the use of a nominal approach plus the annual leave on annual leave liability (using 1+7.9% of the nominal value of annual leave) can be used to approximate the present value of the annual leave liability.

The Commission has assessed the actuarial advice based on the entity's circumstances and has determined that the effect of discounting is immaterial to annual leave.

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

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

### (b) Long service leave and superannuation

The Commission's liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. The Commission accounts for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue items described as "Acceptance by the Crown Entity of employee benefits and other liabilities".

Long service leave is measured at present value in accordance with AASB 119 *Employee Benefits*. This is based on the application of certain factors (specified in NSW TC 14/04) to employees with five or more years of service, using current rates of pay. These factors were determined based on an actuarial review to approximate present value.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain

superannuation schemes (that is, Basic Benefit and First State Super) is calculated as a percentage of the employees' salary. For other superannuation schemes (that is, State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employees' superannuation contributions.

### (c) Consequential on-costs

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

### iii. Other provisions

The Commission has a present legal obligation to make good its current accommodation premises at Piccadilly Centre when the current lease agreement terminates on 15 October 2014. This obligation was recognised for the first time in the 2011–12 financial year as the Piccadilly Centre lease – make good provision (Note 11). This is because 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.

As the effect of the time value of money is material, provisions are discounted at 5.5%, (2013: 5.5%) which is a pre-tax rate that reflects the current market assessments of the time value of money and the risks specific to the liability.

### i. Fair value hierarchy

A number of the Commission's accounting policies and disclosures require the measurement of fair values, for both financial and non-financial assets and liabilities. When measuring fair value, the valuation technique used maximises the use of relevant observable inputs and minimises the use of unobservable inputs. Under AASB 13, the entity categorises, for disclosure purposes, the valuation techniques based on the inputs used in the valuation techniques as follows:

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



# Notes to and forming part of the financial statements for the year ended 30 June 2014

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

As disclosed in Note 1(g), the Commission holds non-specialised assets with short useful lives and these are measured at depreciated historical cost as a surrogate for fair value. Consequently, there are no further disclosures made in relation to the AASB 13 fair value hierarchy.

## j. Equity and reserves

### (a) Revaluation surplus

The revaluation surplus is used to record increments and decrements on the revaluation of non-current assets.

This accords with the Commission's policy on the revaluation of property, plant and equipment, as discussed in Note 1(g)(iii).

### (b) Accumulated funds

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

### (c) Separate reserve accounts are recognised in the financial statements only if such accounts are required by specific legislation or Australian Accounting Standards (for example, asset revaluation surplus).

## k. Budgeted amounts

The budgeted amounts are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period, as adjusted for s 24 of the *Public Finance and Audit Act 1983* where there has been a transfer of functions between departments. Other amendments made to the budget are not reflected in the budgeted amounts.

## l. Comparative information

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

## m. Changes in accounting policy, including new or revised Australian Accounting Standards

### i. Effective for the first time in 2013–14

The accounting policies applied in 2013–14 are consistent with those of the previous financial year except as a result

of the following new or revised Australian Accounting Standards that have been applied for the first time in 2013–14. The impact of these standards in the period of initial application is immaterial.

AASB 13 and NSW TPG 14-1 regarding fair value measurement

AASB 119 regarding employee entitlements

AASB 1053 regarding the reduced disclosure regime.

### 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. The possible impact of these Standards in the period of initial application includes:

AASB 9 and AASB 2010-7, Financial Instruments have mandatory application from 1 July 2015 and comprise changes to improve and simplify the approach for classification and measurement of financial assets.

AASB 2012-6 is an update of AASB 9 for amendments to other accounting standards. The change is not expected to materially impact the financial statements.

AASB 10, 11, 12, 127 and 128 apply to not-for-profit entities and addresses joint arrangements, investment in joint ventures and separate financial statements and consolidated financial statements.

AASB 1031 and 1055 addresses materiality and budgetary reporting.

AASB 2012-3 is in relation to the offsetting of financial assets and liabilities.

AASB 2013-3 amends AASB 136 with regards to the recoverable amount disclosures for non-financial assets.

AASB 2013-8 provides Australian Implementation Guidance for Not-for-Profit entities – Control and Structured Entities.

AASB 2013-9 provides the Conceptual Framework, Materiality and Financial Instruments (Parts B and C).

# Notes to and forming part of the financial statements for the year ended 30 June 2014

## 2. Expenses excluding losses

	2014 \$'000	2013 \$'000
<b>(a) Employee related expenses</b>		
Salaries and wages (including annual leave)*	14,447	14,150
Superannuation – defined benefit plans	286	270
Superannuation – defined contribution plans	1,073	935
Long service leave	832	(155)
Workers compensation insurance	133	146
Payroll tax and fringe benefits tax	1,002	883
Temporary assistance	9	125
	<b>17,782</b>	<b>16,354</b>
* Employee related expenses capitalised in Note 8 – Property, plant and equipment and Note 9 – Intangible assets, and therefore excluded from the above		
Salaries and wages (including annual leave)	–	–
<b>(b) Other operating expenses include the following:</b>		
Advertising and publicity	1	25
Auditor's remuneration		
– audit of the financial statements	36	35
Books and subscriptions	147	153
Cleaning	35	30
Consultancy fees	9	–
Contract security services	294	278
Contractor fees	25	374
Courier and freight	3	2
Electricity	121	127
External legal fees	1,773	2,128
Fees for services	403	216
Insurance	12	29
Maintenance*	338	365
Minor computer equipment/licences	100	81
Operating lease rental expense		
– minimum lease payments	2,456	2,346
Postal and telephone	143	119
Printing	79	62
Stores and specialised supplies	66	91
Training	120	90
Transcript fees	167	223
Travelling, air fares, subsistence, taxi and vehicle rental	94	96
Other	625	501
	<b>7,047</b>	<b>7,371</b>

## Notes to and forming part of the financial statements for the year ended 30 June 2014

	2014 \$'000	2013 \$'000
Reconciliation – Total maintenance Maintenance expense – contracted labour and other (non-employee related), as above		
	338	365
Employee related maintenance expense included in Note 2(a)	–	–
Total maintenance expenses included in Note 2(a) + 2(b)	<b>338</b>	<b>365</b>
<b>(c) Depreciation and amortisation expense</b>		
Depreciation		
Leasehold improvements	402	347
Computer equipment	266	272
Plant and equipment	233	210
	<b>901</b>	<b>829</b>
Amortisation		
Intangibles – computer software	150	296
Total depreciation and amortisation	<b>1,051</b>	<b>1,125</b>

### 3. Revenue

	2014 \$'000	2013 \$'000
<b>(a) Appropriations</b>		
<b>Recurrent appropriations</b>		
Total recurrent draw-downs from NSW Treasury (per Summary of compliance)	21,150	20,621
Less: Liability to Consolidated Fund* (per Summary of compliance)	–	–
	<b>21,150</b>	<b>20,621</b>
Comprising:		
Recurrent appropriations (per Statement of comprehensive income)	21,150	20,621
<b>Capital appropriations</b>		
Total capital draw-downs from NSW Treasury (per Summary of compliance)	3,764	652
Less: Liability to Consolidated Fund* (per Summary of compliance)	(2,262)	–
	<b>1,502</b>	<b>652</b>
Comprising:		
Capital appropriations (per Statement of comprehensive income)	1,502	652
* The Liability to Consolidated Fund is recognised in the Statement of financial position as a Current liability – other		
<b>(b) Sale of goods and services</b>		
Corporate Services Support – Health Care Complaints Commission	350	342
<b>(c) Interest revenue</b>	<b>46</b>	<b>39</b>

## Notes to and forming part of the financial statements for the year ended 30 June 2014

	2014 \$'000	2013 \$'000
<b>(d) Grants and contributions</b>		
Recurrent (Department of Premier and Cabinet)	2,625	2,510
Capital (Department of Premier and Cabinet)	–	700
	<b>2,625</b>	<b>3,210</b>
<b>(e) Acceptance by the Crown Entity of employee benefits and other liabilities</b>		
The following liabilities and/or expenses have been assumed by the Crown Entity:		
Superannuation – defined benefit	286	270
Long service leave	821	(136)
Payroll tax (on employer superannuation contributions)	16	15
	<b>1,123</b>	<b>149</b>
<b>(f) Other revenue</b>		
Workers Compensation hindsight adjustment – Years 2005/07 to 2008/09	–	35
Paid parental leave receipts	34	27
Other	21	32
	<b>55</b>	<b>94</b>

### 4. Gain/(loss) on disposal

Plant and computer equipment	19	13
Leasehold improvements	–	–
Intangible assets	–	–
<b>Written-down value of assets disposed</b>	<b>19</b>	<b>13</b>
Less: Proceeds on Disposal	–	–
<b>Gain/(loss) on disposal of Plant, Property and Equipment</b>	<b>(19)</b>	<b>(13)</b>

### 5. Service Group of the Commission

#### Corruption Investigation, Prevention, Research and Education

The Commission has one service group.

The Commission contributes to an improved culture of honesty, integrity and ethical behaviour within the NSW public sector by working towards the following results:

- potential offenders are deterred from committing corrupt conduct through the exposure of corruption activities and corruption risks
- the community and public sector employees have confidence that corruption matters reported are being properly investigated
- the community and public sector employees have an increased awareness and understanding of corrupt conduct and corruption risks across the public sector
- a comprehensive range of corruption prevention strategies operates across the public sector.

The Commission contributes to the achievement of the above results by the provision of processing, assessment and investigation of corruption complaints and corruption prevention training programs, and education material to promote corruption awareness across public sector agencies.

## Notes to and forming part of the financial statements for the year ended 30 June 2014

### 6. Current assets – cash and cash equivalents

	2014 \$'000	2013 \$'000
Cash at bank and on hand	4,299	1,614

For the purposes of the Statement of cash flows, cash and cash equivalents include cash on hand, cash at bank and short-term deposits.

Cash and cash equivalent assets recognised in the Statement of financial position are reconciled at the end of the financial year to the Statement of cash flows as follows:

	2014 \$'000	2013 \$'000
Cash and cash equivalents (per Statement of financial position)	4,299	1,614
<b>Closing cash and cash equivalents (per Statement of cash flows)</b>	<b>4,299</b>	<b>1,614</b>

### 7. Current/Non-current assets – receivables

	2014 \$'000	2013 \$'000
GST	433	223
Prepayments	616	293
Other receivables		
Debtors	88	30
Interest income	29	18
Other	13	13
	<b>1,179</b>	<b>578</b>

The Commission expects to receive all amounts due, therefore, no allowance for impairment of receivables has been raised.

Details regarding credit risk, liquidity risk and market risk, including financial assets that are either past due or impaired, are disclosed in Note 17.



# Notes to and forming part of the financial statements for the year ended 30 June 2014

## 8. Non-current assets – property, plant and equipment

	Leasehold improvements \$'000	Plant and equipment \$'000	Computer equipment \$'000	Work in progress \$'000	Total \$'000
<b>At 1 July 2013 – fair value</b>					
Gross carrying amount	1,897	1,787	2,042	101	5,827
Accumulated depreciation and impairment	(1,389)	(936)	(1,347)	–	(3,672)
<b>Net carrying amount</b>	<b>508</b>	<b>851</b>	<b>695</b>	<b>101</b>	<b>2,155</b>
<b>At 30 June 2014 – fair value</b>					
Gross carrying amount	1,853	1,729	1,802	1,423	6,807
Accumulated depreciation and impairment	(1,747)	(1,110)	(1,214)	–	(4,071)
<b>Net carrying amount</b>	<b>106</b>	<b>619</b>	<b>588</b>	<b>1,423</b>	<b>2,736</b>

### Reconciliation

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

	Leasehold improvements \$'000	Plant and equipment \$'000	Computer equipment \$'000	Work in progress \$'000	Total \$'000
<b>Year ended 30 June 2014</b>					
Net carrying amount at start of year	508	851	695	101	2,155
Additions	–	19	159	1,322	1,500
Disposals	–	(18)	(21)	–	(39)
Transfer to/(from) other asset classes	–	–	–	–	–
Depreciation expense	(402)	(233)	(245)	–	(880)
<b>Net carrying amount at end of year</b>	<b>106</b>	<b>619</b>	<b>588</b>	<b>1,423</b>	<b>2,736</b>
<b>At 1 July 2012 – fair value</b>					
Gross carrying amount	1,390	1,365	1,823	755	5,333
Accumulated depreciation and impairment	(1,062)	(1,129)	(1,568)	–	(3,759)
<b>Net carrying amount</b>	<b>328</b>	<b>236</b>	<b>255</b>	<b>755</b>	<b>1,574</b>
<b>At 30 June 2013 – fair value</b>					
Gross carrying amount	1,897	1,787	2,042	101	5,827
Accumulated depreciation and impairment	(1,389)	(936)	(1,347)	–	(3,672)
<b>Net carrying amount</b>	<b>508</b>	<b>851</b>	<b>695</b>	<b>101</b>	<b>2,155</b>

# Notes to and forming part of the financial statements for the year ended 30 June 2014

## Reconciliation

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

	Leasehold improvements \$'000	Plant and equipment \$'000	Computer equipment \$'000	Work in progress \$'000	Total \$'000
<b>Year ended 30 June 2013</b>					
Net carrying amount at start of year	328	236	255	755	1,574
Additions	497	183	570	173	1,423
Disposals	–	(13)	–	–	(13)
Transfer to/(from) other asset classes	30	655	142	(827)	–
Depreciation expense	(347)	(210)	(272)	–	(829)
<b>Net carrying amount at end of year</b>	<b>508</b>	<b>851</b>	<b>695</b>	<b>101</b>	<b>2,155</b>

## 9. Intangible assets

	Software \$'000	Work in progress \$'000	Total \$'000
<b>At 1 July 2013</b>			
Cost (gross carrying amount)	1,886	–	1,886
Accumulated amortisation and impairment	(1,685)	–	(1,685)
<b>Net carrying amount</b>	<b>201</b>	<b>–</b>	<b>201</b>
<b>At 30 June 2014</b>			
Cost (gross carrying amount)	1,875	243	2,118
Accumulated amortisation and impairment	(1,811)	–	(1,811)
<b>Net carrying amount</b>	<b>64</b>	<b>243</b>	<b>307</b>
<b>Year ended 30 June 2014</b>			
Net carrying amount at start of year	201	–	201
Additions	14	243	257
Disposals	(1)	–	(1)
Transfer to/(from) other asset classes	–	–	–
Amortisation expense	(150)	–	(150)
<b>Net carrying amount at end of year</b>	<b>64</b>	<b>243</b>	<b>307</b>
<b>At 1 July 2012</b>			
Cost (gross carrying amount)	2,035	80	2,115
Accumulated amortisation and impairment	(1,546)	–	(1,546)
<b>Net carrying amount</b>	<b>489</b>	<b>80</b>	<b>569</b>
<b>At 30 June 2013</b>			
Cost (gross carrying amount)	1,886	–	1,886
Accumulated amortisation and impairment	(1,685)	–	(1,685)
<b>Net carrying amount</b>	<b>201</b>	<b>–</b>	<b>201</b>

## Notes to and forming part of the financial statements for the year ended 30 June 2014

	Software \$'000	Work in progress \$'000	Total \$'000
<b>Year ended 30 June 2013</b>			
Net carrying amount at start of year	489	80	569
Additions	8	–	8
Disposals	–	–	–
Transfer to/(from) other asset classes	–	(80)	(80)
Amortisation expense	(296)	–	(296)
<b>Net carrying amount at end of year</b>	<b>201</b>	<b>–</b>	<b>201</b>

### 10. Current liabilities – payables

	2014 \$'000	2013 \$'000
Accrued salaries, wages and on-costs	416	323
Accrued expenses	820	460
	<b>1,236</b>	<b>783</b>

Details regarding credit risk, liquidity risk and market risk, including a maturity analysis of the above payables, are disclosed in Note 17.

### 11. Current/non-current liabilities – provisions

	2014 \$'000	2013 \$'000
<b>Current</b>		
Employee benefits and related on-costs		
Annual leave expected to be settled in the next 12 months is \$1,232,000		
Annual leave (includes annual leave loading)	1,333	1,228
Annual leave on-costs	98	143
Payroll tax on long service leave (and fringe benefits tax payable)	271	163
Long service leave on-costs	304	236
Piccadilly Centre lease – make good provision	472	–
	<b>2,478</b>	<b>1,770</b>
<b>Non-current</b>		
Employee benefits and related on-costs		
Long service leave on-costs	16	12
Provision for payroll tax on long service leave	10	9
Piccadilly Centre lease – make good provision	–	406
	<b>26</b>	<b>427</b>
<b>Aggregate employee benefits and related on-costs</b>		
Provision – current	2,006	1,770
Provision – non-current	26	21
Accrued salaries, wages and on-costs	416	323
	<b>2,448</b>	<b>2,114</b>

# Notes to and forming part of the financial statements for the year ended 30 June 2014

## Movements in provisions (other than employee benefits)

Movements in each class of provision during the financial year, other than employee benefits, are set out below:

2014	'Make good' provision \$'000
Carrying amount at the beginning of financial year	406
Additional provisions recognised	66
Amounts used	–
<b>Carrying amount at 30 June 2014</b>	<b>472</b>

## 12. Current liabilities – other

	2014 \$'000	2013 \$'000
Liability to Consolidated Fund	2,262	–

## 13. Commitments for expenditure

	2014 \$'000	2013 \$'000
<b>(a) Capital commitments</b>		
Aggregate other expenditure for the acquisition of ICT Infrastructure Upgrade Project professional services contracted for at balance date and not provided for:		
Not later than one year	1,814	240
Later than one year and not later than five years	–	–
Later than five years	–	–
<b>Total (including GST)</b>	<b>1,814</b>	<b>240</b>

The total "Capital commitments" above includes potential input tax credits of \$164,909 (2013: \$21,800.00)

<b>(b) Operating lease commitments</b>		
Future non-cancellable operating lease rentals not provided for and payable:		
Not later than one year	2,526	2,493
Later than one year and not later than five years	10,747	752
Later than five years	2,937	–
<b>Total (including GST)</b>	<b>16,210</b>	<b>3,245</b>

The total "Operating lease commitments" above includes potential input tax credits of \$1,473,604 (2013: \$294,987) that are expected to be recoverable from the ATO. The operating lease commitments represent the balance of the five-year lease option for the current accommodation at Piccadilly Centre, the six-year lease for new accommodation at the building at 255 Elizabeth Street, and motor vehicle leases.

## 14. Contingent liabilities and contingent assets

The Commission has contingent liabilities estimated at \$805,520 representing potential legal expenses for which the Crown Solicitor is acting on behalf of the Commission as at 30 June 2014 (30 June 2013: \$245,000).

The Commission will seek reimbursement of the \$682,520 from the Treasury Managed Fund (\$123,000 is Commission funded) if the liabilities are realised.

# Notes to and forming part of the financial statements for the year ended 30 June 2014

## 15. Budget review

### Net result

The actual net result of \$951,000 surplus was lower than budget by \$7,520,000. Taking into account the deferral of the ICT Infrastructure Upgrade Project with a rollover of \$3,200,000 and the relocation project rollover of \$2,620,000 to the 2014–15 financial year, the variance to adjusted budget is \$1,700,000. Consequently, the impact on depreciation expense reduction flowing from the capital rollover is \$1,028,000, the non-realisation of the lease incentive of \$1,030,000 and the liability to Consolidated Fund of \$2,262,000 resulting in an adjusted favourable budget variation of \$390,000. The latter is attributable to under-expenditure in rent of \$160,000 and fee for services of \$165,000 and other minor expense variations.

The Department of Premier and Cabinet provided a grant of \$2,650,000 to fund special investigations, which commenced in 2012–13, and related matters arising. The bulk of this grant was spent on external legal counsel fees.

### Assets and liabilities

Cash and cash equivalents were higher than budget by \$3,600,000 primarily due to delays in the ICT Infrastructure Upgrade Project and relocation project and the funding appropriated will be expended in the first three months of the 2014–15 financial year. Plant and equipment assets were lower than budget due to the deferral of the ICT Infrastructure Upgrade Project as aforementioned.

Current and non-current liabilities were higher than budget due to unspent capital appropriation and relocation expenditure accruals. Increased provisions for employee benefit, relocation “make good” expenditure and capital appropriations to be returned due to under-expenditure in 2013–14 have also contributed to the overall variance.

### Cash flows

Cash flows from operating activities were substantially lower than budget due to the aforementioned ICT Infrastructure Upgrade Project delays.

## 16. Reconciliation of cash flows from operating activities to net result

	2014 \$'000	2013 \$'000
Net cash used on operating activities	4,442	1,690
Depreciation and amortisation	(1,051)	(1,125)
Decrease/(increase) in provisions	(307)	(106)
Increase/(decrease) in prepayments and other assets	601	(241)
Decrease/(increase) in payables	(2,715)	39
Net (loss) on sale of plant and equipment	(19)	(13)
<b>Net result</b>	<b>951</b>	<b>244</b>

## 17. Financial instruments

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

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

The Commissioner has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the Commission, to set risk limits and controls, and to monitor risks. From time to time, compliance with policies is reviewed by the Audit and Risk Committee/internal audit.

# Notes to and forming part of the financial statements for the year ended 30 June 2014

## (a) Financial instrument categories

Financial Assets	Note	Category	Carrying Amount	Carrying Amount
			2014 \$'000	2013 \$'000
<b>Class:</b>				
Cash and cash equivalents	6	N/A	4,299	1,614
Receivables <sup>1</sup>	7	Loans and receivables (at amortised cost)	130	61
Financial Liabilities	Note	Category	Carrying Amount	Carrying Amount
			2014 \$'000	2013 \$'000
<b>Class:</b>				
Payables <sup>2</sup>	10	Financial liabilities measured at amortised cost	820	460

### Notes

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

## (b) Credit risk

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

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

### Cash

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (Tcorp) 11 am unofficial cash rate, adjusted for a management fee to NSW Treasury. Interest earned during 2013–14 was based on an average interest rate of 2.44% (2013: 3.27%).

### Receivables – trade debtors

All trade debtors are recognised as amounts receivable at balance date. 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. Debts that are known to be uncollectable are written off. An allowance for impairment is raised when there is objective evidence that the entity 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. Sales are made on 30-day terms.

The Commission is not materially exposed to concentrations of credit risk to a single trade debtor or group of debtors.

Based on past experience, debtors that are not past due (2014: \$nil; 2013: \$nil) and less than 12 months past due (2014: \$nil; 2013: \$nil) are not considered impaired. Together these represent 100% of the total trade debtors. All of the Commission's debtors are other government departments or government authorities. There are no debtors that are currently not past due or impaired whose terms have been renegotiated.



# Notes to and forming part of the financial statements for the year ended 30 June 2014

## (c) Liquidity risk

Liquidity risk is the risk that the Commission will be unable to meet its payment obligations when they fall due. The Commission continuously manages risk through monitoring future cash flows to ensure adequate holding of liquid assets.

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

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSWTC 11/12. For small business suppliers, where terms are not specified, payment is made no 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 head of an authority (or a person appointed by the head of an authority) may automatically pay the supplier simple interest. No interest was applied during the year.

## (d) Market risk

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

## (e) Fair value compared to carrying amount

Financial instruments are generally recognised at cost. The amortised cost of financial instruments recognised in the statement of financial position approximates the fair value, because of the short-term nature of many of the financial instruments.

## 18. Trust funds

### Australian Public Sector Anti-Corruption Conference (APSACC) 2013

	2014 \$'000	2013 \$'000
Opening balance as at 1 July 2013	125	–
Add: Registrations~	1,023	319
Less: Expenditures*	(712)	(194)
Net surplus	<b>436</b>	<b>125</b>
Cash transfer to Crime and Corruption Commission (Qld) 30 June 2014	436	125
<b>Trust Funds – APSACC 2014</b>	<b>–</b>	<b>125</b>

~ "early bird" registration fees, sponsorships and bank interest received.

\* advertising, event management fees and venue hire progress payments incurred.

In 2006, the Commission entered into a joint venture (non-profit) agreement with the Crime and Misconduct Commission (now the Crime and Corruption Commission) (Queensland) and the Corruption and Crime Commission (Western Australia) to organise and conduct a biennial conference on public sector corruption.

Each party to the agreement contributed an initial payment of \$50,000 towards the cost of delivery of the project in 2006.

The resultant surplus/(loss) realised at the end of each conference is transferred to the next joint venture partner as "seed funding" for the next conference. The ICAC held the inaugural conference in 2007.

As at 30 June 2014, the Commission has finalised all outstanding expenditure and commitments in relation to APSACC 2013.

An amount of \$435,764 representing the surplus was transferred to the Crime and Corruption Commission (Queensland) on 30 June 2014.

# Notes to and forming part of the financial statements for the year ended 30 June 2014

## 19. Events after the reporting period

The Commission has commenced construction work on the office accommodation fit out project.

The Commission anticipates starting operations at its new location at 255 Elizabeth Street, Sydney, on 22 September 2014.


(END OF AUDITED FINANCIAL STATEMENTS)

# Appendices

## Appendix 1 – Complaints profile

**Table 27: Government sectors that were subject to matters received in 2013–14**

Government sector	Section 10 complaints (s 10s)		Public interest disclosures (PIDs)		Section 11 reports (s 11s)		Other types of matters (OMs)		Total for all matters	
	Number of s 10s	% of s 10s	Number of PIDs	% of PIDs	Number of s 11s	% of s 11s	Number of OMs	% of OMs	Number of matters	% of all matters
Local government	427	41%	90	31%	136	20%	260	19%	913	27%
Transport, ports and waterways	50	5%	40	14%	148	22%	46	3%	284	8%
Health	51	5%	31	11%	57	8%	36	3%	175	5%
Education (except universities)	26	2%	21	7%	103	15%	14	1%	164	5%
Policing	43	4%	3	1%	6	1%	111	8%	163	5%
Government and financial services	71	7%	12	4%	29	4%	47	3%	159	5%
Community and human services	57	5%	12	4%	43	6%	29	2%	141	4%
Law and justice	72	7%	5	2%	8	1%	40	3%	125	4%
Natural resources and environment	43	4%	9	3%	29	4%	44	3%	125	4%
Custodial services	36	3%	15	5%	22	3%	40	3%	113	3%
Emergency services	17	2%	31	11%	22	3%	23	2%	93	3%



Universities	19	2%	7	2%	26	4%	15	1%	67	2%
Land, property and planning	36	3%	3	1%	3	0%	19	1%	61	2%
Aboriginal affairs and services	19	2%	4	1%	10	1%	8	1%	41	1%
Energy	9	1%	3	1%	26	4%	3	0%	41	1%
Consumer and trade	16	2%	3	1%	4	1%	11	1%	34	1%
Arts and heritage	7	1%	2	1%	5	1%	4	0%	18	1%
Tourism, sport, recreation and gaming	5	0%	0	0%	1	0%	8	1%	14	0%
Employment and industrial relations	5	0%	0	0%	0	0%	2	0%	7	0%
Parliament	3	0%	0	0%	1	0%	1	0%	5	0%
Other – unspecified	9	1%	6	2%	3	0%	29	2%	47	1%

Note: percentages may not add to 100% because a matter may relate to more or less than one sector.

**Table 28: Workplace functions applicable to matters received in 2013–14**

Workplace function	Section 10 complaints (s 10s)		Public interest disclosures (PIDs)		Section 11 reports (s 11s)		Other types of matters (OMs)		Total for all matters	
	Number of s 10s	% of s 10 s	Number of PIDs	% of PIDs	Number of s 11s	% of s 11s	Number of OMs	% of OMs	Number of matters	% of all matters
Human resources and staff administration	131	13%	136	46%	285	42%	45	3%	597	18%
Development applications and land rezoning	262	25%	38	13%	38	6%	82	6%	420	12%
Reporting, investigation, sentencing and enforcement	220	21%	44	15%	56	8%	73	5%	393	12%
Procurement, disposal and partnerships	118	11%	44	15%	79	12%	36	3%	277	8%
Allocation of funds, materials and services	106	10%	29	10%	86	13%	26	2%	247	7%
Policy development and information processing	91	9%	6	2%	9	1%	17	1%	123	4%
Electoral and political activities	71	7%	5	2%	4	1%	24	2%	104	3%
Processing of electronic and cash payments	18	2%	5	2%	48	7%	8	1%	79	2%
Issue of licences or qualifications	27	3%	2	1%	27	4%	17	1%	73	2%
Miscellaneous functions	84	8%	17	6%	64	9%	76	6%	241	7%

Note: percentages may not add to 100% because a matter may relate to more or less than one workplace function.

**Table 29: Types of corrupt conduct alleged in matters received in 2013–14**

Corrupt conduct alleged	Section 10 complaints (s 10s)		Public interest disclosures (PIDs)		Section 11 reports (s 11s)		Other types of matters (OMs)		Total for all matters	
	Number of s 10s	% of s 10s	Number of PIDs	% of PIDs	Number of s 11s	% of s 11s	Number of OMs	% of OMs	Number of matters	% of all matters
Partiality	356	34%	116	39%	90	13%	71	5%	633	19%
Improper use of records or information	161	15%	55	19%	224	33%	50	4%	490	14%
Personal interests	201	19%	73	25%	130	19%	37	3%	441	13%
Failure to perform required actions	181	17%	64	22%	96	14%	46	3%	387	11%
Improper use or acquisition of funds or resources	97	9%	38	13%	167	25%	28	2%	330	10%
Bribery, secret commissions and gifts	107	10%	24	8%	66	10%	15	1%	212	6%
Corrupt conduct related to investigations or proceedings	104	10%	32	11%	14	2%	32	2%	182	5%
Intimidating or violent conduct	64	6%	34	12%	20	3%	22	2%	140	4%
Other corrupt conduct	110	11%	17	6%	49	7%	49	4%	225	7%
No corrupt conduct alleged in matter	62	6%	26	9%	8	1%	129	9%	225	7%

Note: percentages may not add to 100% because allegations may involve more than one type of corrupt conduct or allegations of corrupt conduct may not be made.



## Appendix 2 – Statutory reporting

**Table 30: Reports under s 76(2) of the ICAC Act**

Section	Reporting requirement	Results
76(2)(ba)(i)	The time interval between the lodging of each complaint and the Commission deciding to investigate the complaint	See Table 31 for details
76(2)(ba)(ii)	Number of complaints where investigations were commenced but were not finalised in 2013–14	10
76(2)(ba)(iii)	Average time taken to deal with complaints	35 days
76(2)(ba)(iii)	Actual time taken to investigate any matter in which a report is made	See Table 32 for details
76(2)(ba)(iv)	Total number of compulsory examinations during 2013–14	203
76(2)(ba)(iv)	Total number of public inquiries conducted during 2013–14	9
76(2)(ba)(v)	Number of days spent during 2013–14 in conducting public inquiries	84
76(2)(ba)(vi)	Time interval between the completion of each public inquiry conducted during 2013–14 and the furnishing of a report on the matter	See Table 24 (Chapter 5) for details

### Report under s 76(2)(d) of the ICAC Act

In 2013–14, the Commission furnished information to the following law enforcement agencies:

- Australian Taxation Office
- NSW Crime Commission
- NSW Police Force
- Corruption and Crime Commission (Western Australia)
- Australian Commission for Law Enforcement Integrity
- Australian Competition and Consumer Commission.

The general nature and extent of information furnished was as follows:

- hearing transcript, criminal briefs of evidence and various intelligence disseminations.

**Table 31: Time interval between the lodging of each complaint and the Commission deciding to investigate the complaint – s 76(2)(ba)(i) of the ICAC Act**

Date matter received	Date decided to investigate	Time interval (days)
1/08/2013	27/08/2013	26
8/08/2013	13/09/2013	36
11/07/2013	19/09/2013	70
23/09/2013	26/09/2013	3
12/04/2013	15/10/2013	186
15/10/2013	29/10/2013	14
6/09/2013	5/11/2013	60
18/11/2013	21/11/2013	3
13/09/2013	20/12/2013	98
21/10/2013	20/12/2013	60
11/11/2013	20/12/2013	39
1/08/2013	20/12/2013	141
7/08/2013	20/12/2013	135
12/08/2013	20/12/2013	130
18/06/2013	14/01/2014	210
26/02/2014	4/03/2014	6
11/03/2014	13/03/2014	2
25/02/2014	25/03/2014	28
3/03/2014	8/04/2014	36
12/03/2014	29/04/2014	48
26/03/2014	5/05/2014	40
9/12/2013	3/06/2014	176
15/04/2014	3/06/2014	49

Note: the Commission may seek further information or conduct preliminary enquiries before deciding to commence an investigation.

**Table 32: Actual time to investigate any matter in respect of which a report is made – s 76(2)(ba)(iii) of the ICAC Act**

Date referred for investigation	Date investigation completed	Time taken to investigate (days)
14/03/2013	12/07/2013	120
28/03/2013	12/07/2013	106
19/07/2012	15/07/2013	361
23/04/2013	14/08/2013	113
18/06/2013	14/08/2013	57
31/01/2013	10/10/2013	252
27/08/2013	10/10/2013	44
10/09/2013	10/10/2013	30
7/06/2012	28/10/2013	508
7/08/2012	14/11/2013	464
11/07/2013	14/11/2013	126
25/07/2013	14/11/2013	112
21/08/2013	11/12/2013	112
26/09/2013	11/12/2013	76
12/11/2013	13/02/2014	93
21/01/2014	13/02/2014	23
21/02/2013	17/02/2014	361
7/02/2014	13/03/2014	34
14/01/2014	20/05/2014	126
5/05/2014	12/06/2014	38

Note: these figures relate only to matters reported under s 11 of the ICAC Act.

## Appendix 3 – Outcomes of matters

**Table 33: Key outcomes recorded in 2013–14**

Key outcomes	Section 10 matters	Public interest disclosures	Section 11 matters	Other types of matters	Total
Number of persons subject to recommendations that advice of Director of Public Prosecutions be sought for prosecution	12	1	20	6	39
ICAC compulsory examinations	49	9	28	117	203
ICAC public inquiry	1	1	4	3	9
ICAC investigation	10	13	14	6	43
Corruption prevention recommendations made	24*	0	1	13*	38

\* The 26 recommendations made in *Reducing the opportunities and incentives for corruption in the state's management of coal resources* have been divided equally among operations Jasper and Acacia.

**Table 34: Other outcomes for matters closed during 2013–14**

	Section 10 matters	Public interest disclosures	Section 11 matters	Other types of matters	Total
<b>ICAC outcomes</b>					
Intelligence or technical product passed to another agency	0	0	0	2	2
Matter referred to another law enforcement agency	1	0	6	1	8
Referral to another agency for information	36	20	11	4	71
Referral to the subject agency for information	70	45	7	5	127
Systemic issue identified by the Commission	1	2	3	0	6
No further action identified by the Commission	892	166	561	1,155	2,774
<b>Agency outcomes</b>					
Systemic issues identified by the agency	6	5	15	2	28
Systemic issues addressed by the agency	6	4	20	2	32
Disciplinary action taken by the agency – Counselling	3	3	10	1	17
Disciplinary action taken by the agency – Dismissal	0	0	17	0	17
Disciplinary action taken by the agency – Resignation	2	0	11	0	13
Disciplinary action taken by the agency – Other	0	2	10	0	12
Disciplinary action proposed by the agency	1	7	72	2	82
No action warranted by the agency	108	34	68	37	247

## Appendix 4 – Prosecution and disciplinary action in 2013–14 arising from ICAC investigations

**Table 35: Progress of prosecution matters in 2013–14**

The date the investigation report was published is in brackets.

“Crimes Act” refers to the *Crimes Act 1900* (NSW), while the “ICAC Act” refers to the *Independent Commission Against Corruption Act 1988* (NSW).

### **Investigation into schemes to fraudulently obtain building licences (Operation Ambrosia) (December 2005)**

Name	Louis Allem
Offences recommended for Director of Public Prosecutions (DPP) consideration	Section 300(1) Crimes Act (making false instrument), s 178BA Crimes Act (obtain valuable thing by deception), s 307A Crimes Act (false or misleading applications) and s 87 ICAC Act (false evidence).
DPP advice	On 13 April 2012, DPP advised sufficient evidence to proceed with two s 178BA offences, one s 178BB offence and one s 87 offence.
Status	Mr Allem pleaded guilty to two counts of attempting to obtain a valuable thing by deception under s 178BA/344 Crimes Act. On 17 December 2013, he was sentenced before the Downing Centre Local Court to 50 hours of community service for each count.

Name	Joseph Constantin
Offences recommended for DPP consideration	Section 87 ICAC Act (false evidence).
DPP advice	On 13 April 2012, DPP advised sufficient evidence to proceed with one s 87 offence.
Status	Mr Constantin was found guilty of two counts of giving false evidence to the Commission contrary to s 87 ICAC Act. On 28 November 2013, he was sentenced before the Downing Centre Local Court, on both counts, to a s 9 bond to be of good behaviour for a period of 12 months. Mr Constantin has appealed his conviction. His appeal is listed before the District Court on 24 July 2014.

Name	Ian More
Offences recommended for DPP consideration	Conspiracy to defraud, s 300(1) Crimes Act (making false instrument), s 307A Crimes Act (false or misleading applications) and s 87 ICAC Act (false evidence).
DPP advice	On 17 September 2012, DPP advised sufficient evidence to proceed with five s 178BA Crimes Act offences (obtain valuable thing by deception) and six s 87 offences.
Status	<p>Mr More was sentenced before the Local Court on 31 March 2014:</p> <ul style="list-style-type: none"> <li>• three counts of aid and abet obtain valuable thing by deception under s 178BA Crimes Act for which he received a bond under s 9 <i>Crimes (Sentencing Procedure) Act 1999</i> to be of good behaviour for three years</li> <li>• one count of aid and abet obtain valuable thing by deception under s 178BA Crimes Act for which he received a fixed term of imprisonment for nine months</li> <li>• one count of attempt to obtain valuable thing by deception under s 178BA Crimes Act for which he received a fixed term of imprisonment for nine months</li> <li>• one count of giving false evidence under s 87 ICAC Act for which he received a term of imprisonment of two years with a non-parole period of one year.</li> </ul> <p>The sentences of imprisonment were structured to give effect to a total sentence of 2.5 years with a non-parole period of 18 months.</p>

Name	Faouzi Aboulhosn
Offences recommended for DPP consideration	Conspiracy to defraud, s 300(1) Crimes Act (making false instrument), s 307A Crimes Act (false or misleading applications) and s 87 ICAC Act (false evidence).
DPP advice	On 18 December 2012, DPP advised sufficient evidence to proceed with 10 s 178BA Crimes Act offences (obtain valuable thing by deception) and one s 87 offence.
Status	<p>Mr Aboulhosn was sentenced before the District Court on 31 March 2014:</p> <ul style="list-style-type: none"> <li>• five counts of attempting to obtain a valuable thing by deception under s 178BA/344A Crimes Act, for which he received a bond under s 9 <i>Crimes (Sentencing Procedure) Act 1999</i> to be of good behaviour for three years</li> <li>• three counts of obtaining a valuable thing by deception under s 178BA Crimes Act for which he received a bond under s 9 <i>Crimes (Sentencing Procedure) Act 1999</i> to be of good behaviour for three years</li> <li>• one count of giving false evidence under s 87 ICAC Act for which he received two years' imprisonment with execution of the sentence suspended under s 12 <i>Crimes (Sentencing Procedure) Act 1999</i> on entering a s 12 bond for two years.</li> </ul>

**Investigation into bribery and fraud at RailCorp (Operation Monto) (August, September and November 2008)**

Name	Michael Blackstock
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward), s 249C Crimes Act (provide misleading document), s 178BB Crimes Act (obtain benefit by deception), the common law offence of misconduct in public office and s 87 ICAC Act (give false evidence).
DPP advice	On 12 January 2011, DPP advised sufficient evidence to proceed with six s 178BB offences, three s 87 offences and the common law offence of misconduct in public office.
Status	Mr Blackstock pleaded guilty to misconduct in public office, one s 87 offence and three s 178BB offences. On 24 February 2012, he was sentenced overall to 4.5 years' full-time custody with a non-parole period of 3.5 years. Mr Blackstock appealed against the severity of his sentence. On 23 July 2013, the Court of Criminal Appeal dismissed Mr Blackstock's appeal against sentence.

**Investigation into tendering and payments in relation to NSW Fire Brigades capital works projects (Operation Mirna) (December 2008)**

Name	Christian Sanhueza
Offences recommended for DPP consideration	Section 300(1) and s 300(2) Crimes Act (make and use false instruments), s 178BA Crimes Act (obtain valuable thing by deception), s 249B Crimes Act (corrupt reward), s 249C Crimes Act (misleading statement with intent to defraud) and s 87 ICAC Act (give false evidence).
DPP advice	On 10 July 2012, DPP advised sufficient admissible evidence to prosecute for 130 s 249C offences, two s 300(1) offences, one s 249B offence and two s 87 offences.
Status	<p>Mr Sanhueza pleaded guilty to:</p> <ul style="list-style-type: none"> <li>• 18 offences of an agent making a false statement with intent to defraud the principal contrary to s 249C Crimes Act</li> <li>• one offence of obtain benefit by publishing a false statement contrary to s 178BB Crimes Act</li> <li>• one offence of an agent soliciting a bribe contrary to s 249B Crimes Act</li> <li>• two offences of using a carriage service to menace contrary to s 474.17 Criminal Code 1995 (Cth)</li> <li>• two offences of give false evidence before the Commission contrary to s 87 ICAC Act</li> <li>• 17 offences involving an agent making a false statement with intent to defraud the principal were dealt with by placing them on Form 1 to be taken into account by the court when dealing with the offender for the principal offences.</li> </ul> <p>On 14 October 2013, Mr Sanhueza was sentenced in the District Court. He received three years' imprisonment with a non-parole period of two years. For the commonwealth offences, he received a fixed term of imprisonment of six months.</p>



**Investigation into the misuse of Sydney Ferries corporate credit cards (Operation Argyle)  
(November 2009)**

Name	Geoffrey Smith
Offences recommended for DPP consideration	Common law offence of misconduct in public office.
DPP advice	On 5 October 2011, DPP advised sufficient evidence to proceed with a s 176A Crimes Act offence (director defrauding a body corporate), one offence of misconduct in public office and one offence under Clause 11(2)(a) of Schedule 10, Part 1 <i>State Owned Corporations Act 1989</i> (knowingly making a false statement to a voting shareholder contrary).
Status	On 12 May 2014, Mr Smith pleaded guilty to one offence contrary to s 176A Crimes Act. The offence under the <i>State Owned Corporations Act 1989</i> will be taken into account on sentence. Mr Smith will be sentenced on 4 August 2014.

**Investigation into corrupt conduct affecting the administration of justice in the Wagga Wagga and other local court areas (Operation Segomo) (March 2010)**

Note: briefs of evidence in this matter were provided to the DPP in September 2010. The DPP forwarded the briefs to the Crown Solicitor's office for consideration.

Name	John Hart
Offences recommended for DPP consideration	Section 179 Crimes Act (false pretences) and s 319 Crimes Act (pervert the course of justice).
DPP advice	On 14 September 2012, Crown Solicitor recommended Mr Hart be prosecuted for one s 179 offence and 10 s 319 offences.
Status	On 18 November 2013, Mr Hart pleaded guilty to five s 319 offences. The other five s 319 offences were placed on a Form 1 to be taken into account on sentence. On 29 November 2013, Mr Hart was acquitted of the s 179 offence. Mr Hart is due to be sentenced on the s 319 offences on 22 August 2014 at the Sydney District Court.

Name	Anthony Paul
Offences recommended for DPP consideration	Section 319 Crimes Act (pervert the course of justice).
DPP advice	On 14 September 2012, Crown Solicitor recommended Mr Paul be prosecuted for a s 319 offence.
Status	On 10 May 2013, Mr Paul pleaded guilty to the offence of acting with intent to pervert the course of justice under s 319 Crimes Act. On 2 August 2013, Mr Paul was sentenced in the NSW District Court to 16 months' imprisonment, which was suspended upon his entering a good behaviour bond for the period.

**Investigation into the misuse of resources by a NSW Maritime legal services officer (Operation Vargas) (September 2010)**

Name	Tonette Kelly
Offences recommended for DPP consideration	Common law offence of misconduct in public office, s 300 Crimes Act (make or use false instrument) and s 93 ICAC Act (injury to person assisting the Commission).
DPP advice	On 12 June 2012, DPP advised sufficient evidence to proceed with two offences under s 87 ICAC Act (false evidence).
Status	On 1 May 2013, Ms Kelly found guilty of both offences. Sentenced to 12 months' imprisonment to be served by home detention. An appeal against the convictions and sentence was lodged in the District Court. The appeal against the convictions was dismissed on 9 December 2013. On 24 February 2014, Ms Kelly withdrew her appeal against the severity of her sentence.

**Investigation into alleged corrupt conduct involving Burwood Council's general manager and others (Operation Magnus) (April 2011)**

Name	Pasquale (Pat) Romano
Offences recommended for DPP consideration	Section 249C Crimes Act (provide false document), s 178BB Crimes Act (obtain valuable thing by false or misleading statement), common law offence of misconduct in public office, s 20 <i>Protected Disclosures Act 1994</i> (taking detrimental action), s 93 ICAC Act (causing disadvantage to persons assisting the Commission) and s 87 ICAC Act (false evidence).
DPP advice	In April 2011, DPP advised insufficient evidence to prosecute Mr Romano for any offence under s 20 <i>Protected Disclosures Act 1994</i> .
	On 15 August 2012, DPP advised sufficient evidence to prosecute Mr Romano on four misconduct in public office offences, six s 178BA offences, one s 249C offence and 23 s 87 offences.
Status	On 16 May 2014, Mr Romano pleaded guilty to three counts of misconduct in public office, three counts of give false or misleading evidence pursuant to s 87(1) ICAC Act and one count of fraudulent appropriation pursuant to s 124 Crimes Act. The court has been asked to take into account matters contained on a Form 1. This contains six counts of obtain financial advantage by deception pursuant to s 187BA Crimes Act and three counts of give false or misleading evidence pursuant to s 87(1) ICAC Act. The matter was set down for sentence in the Sydney District Court on 11 July 2014.

**Investigation into corrupt conduct involving alleged fraud on two Sydney hospitals  
(Operation Charity) (August 2011)**

Name	Sandra Lazarus
Offences recommended for DPP consideration	Section 300(1) Crimes Act (make and use false instrument) and s 178BB Crimes Act (obtain valuable thing by false or misleading statement).
DPP advice	On 22 February 2013, DPP advised sufficient evidence to prosecute Ms Lazarus on 42 s 300(1) offences and 16 s 178BB offences.
Status	Ms Lazarus is being prosecuted for 42 offences of making or using false instruments contrary to s 300(1) Crimes Act and 16 offences of obtaining money by false or misleading statements contrary to s 178BB Crimes Act. The hearing of this matter was to commence on 28 July 2014 but will now commence on 25 August 2014.

Name	Michelle Lazarus
Offences recommended for DPP consideration	Section 87 ICAC Act (false evidence).
DPP advice	On 22 February 2013, DPP advised sufficient evidence to prosecute Ms Lazarus on seven s 87 offences.
Status	Ms Lazarus is being prosecuted for seven offences of giving false or misleading evidence contrary to s 87(1) ICAC Act. On 23 May 2014, all offences were found to have been proven.

**Investigation into the unauthorised purchase of property at Currawong by the Chief Executive of the Land and Property Management Authority (Operation Napier) (December 2011)**

Name	Warwick Watkins
Offences recommended for DPP consideration	Section 254 Crimes Act (use false document), s 80(c) ICAC Act (mislead the Commission) and s 112 ICAC Act (breach non-publication order).
DPP advice	On 29 April 2013, DPP advised sufficient evidence to proceed with two s 254 Crimes Act offences and two s 80(c) ICAC Act offences.
Status	Mr Watkins was prosecuted for two counts of using a false document pursuant to s 254 Crimes Act and two counts of attempting to mislead the Commission, contrary to s 80 ICAC Act. The charges were heard at the Downing Centre Local Court between 2 and 5 December 2013. At the commencement of the hearing, Mr Watkins pleaded guilty to the two charges of attempting to mislead the Commission. Mr Watkins was acquitted of the remaining charges of using a false document. On 19 December 2013, Mr Watkins was sentenced in relation to the two charges of attempting to mislead the Commission. He was placed on concurrent good behaviour bonds for 12 months pursuant to s 9 <i>Crimes (Sentencing Procedure) Act 1999</i> .

**Investigation into alleged fraud on the former NSW Department of Education and Training (Operation Barcoo) (January 2012)**

Name	David Johnson
Offences recommended for DPP consideration	Section 178BB Crimes Act (obtain money by false statement).
DPP advice	On 24 October 2012, DPP advised sufficient admissible evidence to prosecute Mr Johnson for 10 s 178BA offences and four s 178BB offences.
Status	<p>Mr Johnson pleaded guilty and was convicted of two counts of obtaining money by deception under s 178BA Crimes Act and two counts of making a false statement to obtain money under s 178BB Crimes Act.</p> <p>Two further counts under s 178BB Crimes Act were taken into account on sentence. On 20 January 2014, Mr Johnson was sentenced to 18 months' imprisonment with a non-parole period of 11 months. His sentence is to be served as home detention. On 26 June 2014, DPP's appeal against sentence on the grounds of inadequacy was allowed by the Sydney District Court and the sentence of home detention set aside. Mr Johnson was sentenced to full-time imprisonment for three years and three months with a non-parole period of one year and 11 months. The sentence dates from the commencement of the previous home detention sentence.</p>

**Investigation into the payment of \$4,500 to a councillor of Auburn City Council (Operation Barrow) (June 2012)**

Name	Jack Au
Offences recommended for DPP consideration	Section 249B Crimes Act (corrupt reward).
DPP advice	On 13 May 2013, DPP advised sufficient admissible evidence to prosecute for one s 249B offence.
Status	<p>On 13 May 2013, Mr Au was charged with one count of corruptly receiving a benefit contrary to s 249B(1)(b) Crimes Act.</p> <p>On 20 December 2013, Mr Au was convicted of this offence and sentenced to 200 hours' community service. Mr Au appealed against his conviction.</p>

**Investigation into the conduct of a University of New England (UNE) procurement officer and UNE contractors (Operation Crusader) (August 2012)**

Name	Colin McCallum
Offences recommend for DPP consideration	Section 178BB(1) and s 192E(1) Crimes Act.
DPP advice	On 27 August 2013, DPP advised sufficient admissible evidence to prosecute for one s 249B offence, one offence of embezzling contrary to s 157 Crimes Act and one offence contrary to s 192E(1).
Status	Mr McCallum entered pleas of not guilty and a hearing date has been set for 4 August 2014 at the Downing Centre Local Court.

Name	Martin McLean
Offences recommended for DPP consideration	Section 178BB(1) Crimes Act.
DPP advice	On 27 August 2013, DPP advised sufficient admissible evidence to prosecute for 10 s 178BB offences.
Status	Mr McLean pleaded guilty to three counts of concurring in publishing a fake statement with intent to obtain financial advantage under s 178BB Crimes Act. Seven counts of the same charge were placed on a Form 1 schedule and taken into account on sentencing. He was sentenced on 1 April 2014. On two of the counts, he was dealt with under s 10A <i>Crimes (Sentencing Procedure Act) 1999</i> , whereby a conviction is recorded but no penalty applies. On the remaining count, with the matters on the Form 1 taken into account, he was fined \$1,000.

**Investigation into the recruitment of contractors and other staff by a University of Sydney IT manager (Operation Citrus) (October 2012)**

Name	Atila Demiralay
Offences recommended for DPP consideration	Section 87 ICAC Act (false evidence).
DPP advice	On 29 November 2013, DPP advised sufficient admissible evidence to prosecute for three s 87 offences.
Status	Mr Demiralay entered pleas of not guilty and a hearing date has been set for 27 October 2014 at the Downing Centre Local Court.

Name	Virginia Kantarzis
Offences recommended for DPP consideration	Section 87 ICAC Act (false evidence).
DPP advice	On 29 November 2013, DPP advised sufficient admissible evidence to prosecute for three s 87 offences.
Status	Ms Kantarzis entered pleas of not guilty and a hearing date has been set for 27 October 2014 at the Downing Centre Local Court.

**Investigation into allegations that staff from a number of local councils and other public authorities accepted secret benefits from suppliers and that staff from two local councils facilitated payment of false invoices from suppliers (Operation Jarek) (October 2012)**

Name	Phillip Burnie
Offences recommended for DPP consideration	Section 87 ICAC Act (false evidence).
DPP advice	On 5 September 2013, DPP advised sufficient admissible evidence to prosecute for three s 87 offences.
Status	On 27 November 2013, Mr Burnie was convicted of one count of knowingly give false or misleading evidence contrary to s 87(1) ICAC Act. He was sentenced to nine months' imprisonment suspended pursuant to his entering into a good behaviour bond.

Name	Mathew Kelly
Offences recommended for DPP consideration	Section 87 ICAC Act (false evidence) and s 80(c) ICAC Act offence (giving false statement to a Commission officer).
DPP advice	On 3 February 2014, DPP advised the Commission not to proceed against Mr Kelly. The Commission accepted that advice.

Name	Glen Lapham
Offences recommended for DPP consideration	Section 87 ICAC Act (false evidence), s 80(c) ICAC Act offence (giving false statement to a Commission officer) and s 80(a) ICAC Act (obstructing a Commission officer).
DPP advice	On 9 January 2014, DPP advised sufficient admissible evidence to prosecute for two s 87 offences and a s 80(c) offence.
Status	On 19 June 2014, Mr Lapham was convicted and sentenced to a s 9 good behaviour bond of two years for an offence of make false statement to a Commission officer under s 80(c) ICAC Act. He was also convicted and sentenced to six months' imprisonment and nine months' imprisonment with a three-month non-parole period for two counts of give false evidence to the Commission under s 87 ICAC Act. All sentences are to be served consecutively.

Name	John Morgan
Offences recommended for DPP consideration	Section 249B(2) Crimes Act (corruptly offering a benefit) and s 87 ICAC Act (false evidence).
DPP advice	On 9 January 2014, DPP advised sufficient admissible evidence to prosecute for two s 87 offences.
Status	On 6 May 2014, Mr Morgan pleaded guilty to two counts of knowingly give false evidence pursuant to s 87(1) ICAC Act. He will be sentenced on 19 August 2014.

Name	Richard Pearce
Offences recommended for DPP consideration	Section 249B(2) Crimes Act (corruptly offering a benefit).
DPP advice	On 3 February 2014, DPP advised the Commission not to proceed against Mr Pearce. The Commission accepted that advice.



Name	Kerry Smith
Offences recommended for DPP consideration	Section 249B(1) Crimes Act (corruptly receiving a benefit), s 178BA Crimes Act (obtaining a financial advantage by deception) and s 178BB Crimes Act (obtaining financial advantage by false or misleading statement).
DPP advice	On 19 February 2014, DPP advised sufficient admissible evidence to prosecute for seven s 249B(1) offences.
Status	On 13 May 2014, Mr Smith pleaded guilty to seven counts of agent corruptly receive benefit pursuant to s 249B(1) Crimes Act (five counts of agent corruptly receive benefit less than \$2,000 and two counts of agent corruptly receive benefit greater than \$2,000 but less than \$5,000).

Name	Michael Stokes
Offences recommended for DPP consideration	Section 249B(2) Crimes Act (corruptly offering a benefit), s 178BA Crimes Act (obtaining a financial advantage by deception) and s 178BB Crimes Act (obtaining financial advantage by false or misleading statement).
DPP advice	On 3 February 2014, DPP advised the Commission not to proceed against Mr Stokes. The Commission accepted that advice.

Name	Jacqueline Verdeyan
Offences recommended for DPP consideration	Section 87(1) ICAC Act (false evidence).
DPP advice	On 9 January 2014, DPP advised sufficient admissible evidence to prosecute for two s 87 offences.
Status	On 19 June 2014, Ms Verdeyan was convicted and sentenced to six months' imprisonment and a further nine months' imprisonment with a non-parole period of three months for offences of give false evidence to the Commission contrary to s 87 ICAC Act. The sentences are to be served consecutively. Ms Verdeyan was granted bail pending home detention assessment.

Name	Paul Wright
Offences recommended for DPP consideration	Section 249B(2) Crimes Act (corruptly offering a benefit), s 178BA Crimes Act (obtaining a financial advantage by deception), s 178BB Crimes Act (obtaining financial advantage by false or misleading statement), s 87(1) ICAC Act (false evidence) and s 80(c) ICAC Act (make false statement to Commission officer).
DPP advice	On 9 January 2014, DPP advised sufficient admissible evidence to prosecute for five s 87 offences, a s 80(c) offence and 19 s 193B(3) Crimes Act offences (recklessly deal with the proceeds of crime).
Status	On 5 June 2014, Mr Wright pleaded guilty to 19 charges of obtaining money by deception contrary to s 178BA Crimes Act, four charges of make false statement to a Commission officer contrary to s 80(c) ICAC Act, and five charges of knowingly give false or misleading evidence contrary to s 87(1) ICAC Act. The matters were committed for sentence to the Sydney District Court. Sentence will be imposed on 21 August 2014.

**Investigation into the smuggling of contraband into the Metropolitan Special Programs Centre at the Long Bay Correctional Complex (Operation Drake) (January 2013)**

Name	Karaha Pene Te-Hira
Offences recommended for DPP consideration	Section 249B(2) Crimes Act (corruptly receiving a benefit).
DPP advice	On 18 November 2013, DPP advised the Commission not to proceed against Mr Te-Hira. The Commission accepted that advice.

**Investigation into allegations that a manager at the University of Technology, Sydney (UTS) solicited and accepted money, gifts and other benefits from UTS contractors (Operation Stark) (March 2013)**

Name	Nabil Faysal
Offences recommended for DPP consideration	Section 249B(1) Crimes Act (corruptly receiving a benefit).
DPP advice	On 16 June 2014, DPP advised sufficient admissible evidence to prosecute for 19 s 249B(1) offences and 15 offences under s 178BB (obtain money by false or misleading statement).
Status	The Commission has accepted that advice. Mr Faysal is currently overseas and the charges will be laid upon his return to Australia.

**Investigation into the possession and supply of steroids and other matters involving a Corrective Services NSW corrections officer (Operation Torino) (September 2013)**

Name	Robert Di-Bona
Offences recommended for DPP consideration	Section 87 ICAC Act (false evidence).
DPP advice	On 4 June 2014, DPP advised the Commission that there is sufficient evidence to charge Mr Di-Bona with five counts of giving false or misleading evidence at a compulsory examination, contrary to s 87(1) ICAC Act.
Status	Charges are being laid.

**Investigation into the conduct of officers of the Wagonga Local Aboriginal Land Council and others (Operation Petrie) (September 2012)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of four named individuals, including Ronald Medich. Briefs of evidence were sent to the DPP on 16 January 2013. The DPP is awaiting the outcome of other criminal proceedings involving Mr Medich before finalising its advice in relation to this matter.

**Investigation into the conduct of Ian Macdonald, Ronald Medich and others (Operation Jarilo) (July 2013)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of Mr Macdonald and Mr Medich for offences of corruptly receiving and soliciting a benefit contrary to s 249B of the Crimes Act. Briefs of evidence were sent to the DPP on 6 August 2013. The DPP is awaiting the outcome of other criminal proceedings involving Mr Medich before finalising its advice in relation to this matter.

**Investigation into the conduct of Moses Obeid, Eric Roozendaal and others (Operation Indus) (July 2013)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of Moses Obeid, Rocco Triulcio, Rosario Triulcio and Paul Obeid for offences of providing false or misleading evidence contrary to s 87 of the ICAC Act. Briefs of evidence were sent to the DPP on 30 September 2013. The Commission is awaiting the DPP's decision on whether proceedings will be taken.

**Investigation into the conduct of Ian Macdonald, Edward Obeid Senior, Moses Obeid and others (Operation Jasper) (July 2013)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of Mr Macdonald, Edward Obeid Sr, Moses Obeid, Travers Duncan, John McGuigan, John Atkinson and Richard Poole for various offences. Partial briefs of evidence were sent to the DPP in March 2014. Further statements are being obtained.

**Investigation into the conduct of Ian Macdonald, John Maitland and others (Operation Acacia) (August 2013)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of Mr Macdonald, John Maitland, Craig Ransley and Andrew Poole for various offences. With respect to John Maitland, a brief of evidence has been provided to the DPP in relation to the offences under s 112(2) and s 87(1)(a) of the ICAC Act and the Commission is awaiting the DPP's decision on whether proceedings will be taken. Otherwise, partial briefs of evidence were sent to the DPP in March 2014. Further statements are being obtained.

**Investigation into allegations of corrupt conduct in the provision of security products and services by suppliers, installers and consultants (Operation Tilga) (September 2013)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of Daniel Paul, Peter (Charles) Diekman and Robert Huskic for various criminal offences. Briefs of evidence were sent to the DPP on 4 February 2014. The Commission is awaiting the DPP's decision on whether proceedings will be taken.

**Investigation into false certifications of heavy vehicle competency-based assessments by a Roads and Maritime Services–accredited assessor (Operation Nickel) (January 2014)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of Christopher Binos, Alexander Daubney, Mark McDonagh, Shane Florio, Peter Friend-Ngui and Jacqueline Riley for various criminal offences. Briefs of evidence were sent to the DPP on 6 May 2014. The Commission is awaiting the DPP's decision on whether proceedings will be taken.

**Investigation into the conduct of certain City of Ryde councillors and others (Operation Cavill) (June 2014)**

Recommendations were made in this report that consideration be given to obtaining the advice of the DPP with respect to the prosecution of Ivan Petch, Justin Li, Jeffrey Salvestro-Martin, Terry Perram and Victor Tagg for various criminal offences.

**Table 36: Progress of disciplinary matters in 2013–14**

**Investigation into the possession and supply of steroids and other matters involving a Corrective Services NSW corrections officer (Operation Torino) (September 2013)**

Name	Robert Di-Bona
ICAC recommendation	Consideration be given by Corrective Services NSW to the taking of disciplinary action with a view to dismissal.
Status	A disciplinary investigation was commenced by Corrective Services NSW but Mr Di-Bona resigned on 4 October 2013 before the proceedings were completed.

Name	Christopher Warren
ICAC recommendation	Consideration be given by Corrective Services NSW to the taking of disciplinary action.
Status	A disciplinary investigation was commenced by Corrective Services NSW but Mr Warren resigned on 29 September 2013 before the proceedings were completed.

**Investigation into the conduct of the commissioner of the NSW State Emergency Service (Operation Dewar) (May 2014)**

Name	Murray Kear
ICAC recommendation	Consideration be given by the minister for police and emergency services to the taking of disciplinary action with a view to dismissal.
Status	On 12 June 2014, Mr Kear resigned from his position as commissioner of the NSW State Emergency Service before consideration was given to taking disciplinary action against Mr Kear.

**Investigation into the conduct of certain City of Ryde councillors and others (Operation Cavill) (June 2014)**

Name	Ivan Petch
ICAC recommendation	Consideration be given by the Office of Local Government to the immediate suspension of Mr Petch from civic office with a view to his dismissal pursuant to s 440B <i>Local Government Act 1993</i> . Alternatively, consideration should be given to the commencement of disciplinary action against Mr Petch for misconduct.
Status	Mr Petch was suspended from civic office on 30 June 2014.

## Appendix 5 – Implementation of corruption prevention recommendations

After an investigation report is made public, the Corruption Prevention Division monitors the implementation of corruption prevention recommendations in accordance with s 111E(2) of the ICAC Act.

As a matter of practice, the division also liaises with agencies during the implementation period, as appropriate. Alternative but equally effective ways of implementing corruption prevention recommendations may be developed.

Tables 37 and 38 present the progress made by agencies during the 2013–14 reporting period in implementing corruption prevention recommendations made by the Commission.

**Table 37: Progress reports received in 2013–14**

Public inquiry	Agency	Number of recommendations	Date progress report received	Implemented as described in report	Implemented in an alternative way	Partially implemented	Not implemented	% fully implemented	% partially implemented
Citrus	University of Sydney	7	Jan 2014	3	0	3	1	43%	43%
Jarek	Waverley Council	15	Feb 2014	12	3	0	0	100%	0%
	Burwood Council	15	Feb 2014	7	8	0	0	100%	0%
	Botany Bay Council	15	Feb 2014	13	0	1	1	87%	7%
	Ballina Shire Council	15	Feb 2014	14	1	0	0	100%	0%
	Yass Valley Council	15	Mar 2014	12	1	2	0	87%	13%
	Lithgow City Council	15	Mar 2014	9	0	6	0	60%	40%
	Byron Shire Council	15	Mar 2014	0	10	2	3	67%	13%
	Bathurst Regional Council	15	Mar 2014	12	0	3	0	80%	20%
	Orange City Council	15	Mar 2014	15	0	0	0	100%	0%
	City of Sydney Council	15	Mar 2014	9	4	1	1	87%	7%
	Liverpool City Council	15	May 2014	11	0	4	0	73%	27%
<b>Total</b>		<b>172</b>		<b>117</b>	<b>27</b>	<b>22</b>	<b>6</b>	<b>84%</b>	<b>13%</b>

**Table 38: Final reports received in 2013–14**

Public inquiry	Agency	Number of recommendations	Date progress report received	Implemented as described in report	Implemented in an alternative way	Partially implemented	Not implemented	% fully implemented	% partially implemented
Cicero	Department of Corrective Services	14	Sep 2013	6	5	3	0	79%	21%
Charity	NSW Department of Health	7	Oct 2013	7	0	0	0	100%	0%
Columba	NSW Police	10	Oct 2013	3	0	4	3	30%	40%
Crusader	University of New England	5	Dec 2013	5	0	0	0	100%	0%
Carina	Land and Property Information	11	Dec 2013	6	2	3	0	73%	27%
<b>Total</b>		<b>47</b>		<b>27</b>	<b>7</b>	<b>10</b>	<b>3</b>	<b>72%</b>	<b>21%</b>



## Appendix 6 – Report on the ICAC’s obligations under the *Government Information (Public Access) Act 2009*

Section 125 of the *Government Information (Public Access) Act 2009* (“the GIPA Act”) requires an agency to prepare an annual report on the agency’s obligations under the GIPA Act. The *Government Information (Public Access) Regulation 2009* sets out what must be included in the report. This appendix contains the information required to be reported by the ICAC.

Section 7(3) of the GIPA Act provides that an agency must, at intervals of not more than 12 months, review its program for the release of government information to identify the kinds of government information held by the agency that should in the public interest be made publicly available and that can be made publicly available without imposing unreasonable additional costs on the agency. During the reporting period, the Commission conducted one such review. The Commission also reviewed and updated its information guide.

The Commission received one valid access application during the reporting period.

Tables 39–46 provide statistical information about access applications – clause 7(d) and Schedule 2.

**Table 39: Number of applications by type of applicant and outcome\***

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/ deny whether information is held	Application withdrawn
Media	0	0	1	0	0	0	0	0
Members of Parliament	0	0	0	0	0	0	0	0
Private sector business	0	0	0	0	0	0	0	0
Not-for-profit organisations or community groups	0	0	0	0	0	0	0	0
Members of the public (application by legal representative)	0	0	0	0	0	0	0	0
Members of the public (other)	0	0	0	0	0	0	0	0

\* More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision. This also applies to Table 40.

**Table 40: Number of applications by type of application and outcome**

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

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

**Table 41: Invalid applications**

Reason for invalidity	Number of applications
Application does not comply with formal requirements (s 41 of the GIPA Act)	0
Application is for excluded information of the agency (s 43 of the GIPA Act)	7
Application contravenes restraint order (s 110 of the GIPA Act)	0
Total number of invalid applications received	7
Invalid applications that subsequently became valid applications	0

**Table 42: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 of the GIPA Act**

	Number of times consideration used*
Overriding secrecy laws	1
Cabinet information	0
Executive Council information	0
Contempt	0
Legal professional privilege	0
Excluded information	0
Documents affecting law enforcement and public safety	0
Transport safety	0
Adoption	0
Care and protection of children	0
Ministerial code of conduct	0
Aboriginal and environmental heritage	0

\* More than one public interest consideration may apply in relation to a particular access application and, if so, each such consideration is to be recorded (but only once per application). This also applies in relation to Table 43.

**Table 43: Other public interest considerations against disclosure: matters listed in table to s 14 of the GIPA Act**

	Number of occasions when application not successful
Responsible and effective government	0
Law enforcement and security	0
Individual rights, judicial processes and natural justice	0
Business interests of agencies and other persons	0
Environment, culture, economy and general matters	0
Secrecy provisions	0
Exempt documents under interstate freedom of information legislation	0

**Table 44: Timeliness**

	Number of applications
Decided within the statutory timeframe (20 days plus any extensions)	1
Decided after 35 days (by agreement with applicant)	0
Not decided within time (deemed refusal)	0
<b>Total</b>	<b>1</b>

**Table 45: Number of applications reviewed under Part 5 of the GIPA Act (by type of review and outcome)**

	Decision varied	Decision upheld	Total
Internal review	0	1	1
Review by Information Commissioner*	0	0	0
Internal review following recommendation under s 93 of the GIPA Act	0	0	0
Review by ADT/NCAT	0	0	0
<b>Total</b>	<b>0</b>	<b>1</b>	<b>0</b>

\* The Information Commissioner does not have the authority to vary decisions, but can make recommendations to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made.

**Table 46: Applications for review under Part 5 of the GIPA Act (by type of applicant)**

	Number of applications for review
Applications by access applicants	1
Applications by persons to whom information the subject of access application relates (see s 54 of the GIPA Act)	0

## Appendix 7 – Chief executive officer and executive officers

On 28 January 2014, the Governor of NSW appointed the Hon Megan Latham ICAC Commissioner for a five-year term.

Ms Latham's conditions of employment are outlined in her instrument of appointment, and her salary is paid in line with the determination provided by the Statutory and Other Officers Remuneration Tribunal (SOORT) for puisne judges.

The Commissioner's salary is calculated at 160% of the remuneration of a NSW Supreme Court puisne judge. The total annual remuneration package for Ms Latham is currently \$644,496. In its annual determination, SOORT awarded a 2.5% increase, effective from 1 October 2013.

Theresa Hamilton is the Deputy Commissioner of the ICAC and her term of appointment will expire in January 2016. The remuneration package of the Deputy Commissioner's position is equivalent to a Level 5 Senior Executive Service (SES) officer. Ms Hamilton's current total remuneration package is \$299,750.

## Performance of Deputy Commissioner

Under annual reporting legislation, the Commission is required to report on the performance of any SES officers at Level 5 or above. In 2013–14, Ms Hamilton, Deputy Commissioner, was the only ICAC senior officer in this category. Ms Hamilton commenced her appointment as Deputy Commissioner in January 2007.

In 2013–14, the then Commissioner, the Hon David Ipp AO QC, assessed Ms Hamilton's overall performance as outstanding. She has successfully met the criteria contained in her performance agreement, including the provision of high quality and timely operational and strategic advice.

Ms Hamilton acts as the Commission's main point of liaison with its external oversight bodies, namely the Inspector of the ICAC's office and the Parliamentary Committee on the ICAC. She also liaises at a senior level with the Office of the DPP about the progress of prosecutions arising from Commission investigations, and with CEOs and other SES officers in various government departments and agencies.

As the Commissioner's delegate, she approves the use of the Commission's compulsory powers, and presides at the Commission's compulsory examinations and public inquiries, as required by the Commissioner.

Ms Hamilton directly supervises the manager, assessments and the manager, communications and media. Ms Hamilton also supports the Commissioner by undertaking a direct supervisory role in respect of the Commission's executive directors responsible for investigations, corruption prevention, legal services and corporate services.

## Executive management

In 2013–14, the Commission's Executive Management Team consisted of:

- the Hon David Ipp AO QC, Commissioner, BCom LLB (Stellenbosch University), until 27 January 2014
- the Hon Megan Latham, Commissioner, BA/LLB (University of NSW), from 28 January 2014
- Theresa Hamilton, Deputy Commissioner, LLB (University of Queensland)
- Andrew Koureas, Executive Director, Corporate Services, BCom, MCom (University of NSW), LLB (University of Technology, Sydney), FCPA
- Sharon Loder, Executive Director, Investigations, LLB (Queensland University of Technology), BBus (HRM) (Queensland University of Technology), LLM (University of Queensland)
- Dr Robert Waldersee, Executive Director, Corruption Prevention, BA (University of Sydney), MA (University of Sydney), MA (University of Nebraska), PhD Management (University of Nebraska)
- Roy Waldon, Executive Director, Legal and Solicitor to the Commission, LLB Hons (University of Tasmania).

**Table 47: Total number of executive staff in 2013–14 compared to previous years**

Level	2013–14	2012–13	2011–12	2010–11
Commissioner	1	1	1	1
Level 5*	1	1	1	1
Level 3*	1	1	1	1
Level 2*	3	3	3	2
Level 1*	–	–	–	1
<b>Total</b>	<b>6</b>	<b>6</b>	<b>6</b>	<b>6</b>

\* Commission executive staff employed at the equivalent of this SES level.

**Table 48: Number of female executive staff at 30 June 2014 compared to previous years**

Year	Number
2013–14	3
2012–13	2
2011–12	2
2010–11	1

## Appendix 8 – Access and equity

The Commission is strongly committed to the implementation of its equity and diversity strategies to promote a workforce free of discrimination and with improved employment access and participation by disadvantaged groups. The Commission's Equal Employment Opportunity (EEO) Management Plan was prepared, as required at the time, in accordance with Part 9A of the *Anti-Discrimination Act 1977* under s 122J.

The primary role of the Commission's Access and Equity Committee is to act as the Commission's oversight body for activities related to EEO and for monitoring the Commission's related plans and policies. Minutes from committee meetings are accessible to all staff via the intranet.

In 2013–14, an expression of interest was issued to all staff seeking nominations to fill vacancies on the committee to ensure cross-divisional participation and representation by staff from culturally diverse backgrounds.

The members of the Access and Equity Committee in 2013–14 were:

- Chris Bentley, Investigation Division
- Heidrun Blackwood, Assessments Section
- Stephanie Coorey, Assessments Section
- Kathleen Crilly, Legal Division
- Cindy Fong, Corporate Services Division
- John Hoitink, Investigation Division
- Andrew Koureas, Corporate Services Division
- Jay Lawrence, Legal Division
- Angelica McCall, Executive Unit
- Catherine O'Brien, Corporate Services Division
- Michele Smith, Executive Unit
- Sandra Walker, Corruption Prevention Division
- Cathy Walsh, Corporate Services Division.

In 2013–14, the following outcomes were achieved in accordance with the Commission's EEO Management Plan:

- development of new five-year plans for the EEO Management Plan, the Disability Action Plan and the Multicultural Policies and Services Plan (MPSP)

- review of the Commission's policies with regard to EEO and discrimination prevention, work-related grievance handling and bullying and harassment
- conducted a new survey of the Commission's EEO and Workforce Profile Data Collection form to address possible work-related adjustments required by staff
- renewal of the Employee Assistance Program (EAP) contract
- review and update of the Commission's bilingual skills directory
- provision of EEO, harassment and bullying prevention training to staff by the Anti-Discrimination Board
- advertising of all external job vacancies on the Indigenous Jobs Australia website to attract applicants of Aboriginal and Torres Strait Islander backgrounds
- continuation of the Community Language Allowance Scheme (CLAS) payment to staff with community language skills
- support for requests from staff to engage in flexible work arrangements in order to balance family and work responsibilities
- availability of Family and Community Service Leave and Carer's Leave for staff to address family responsibilities
- sponsorship of several female employees to attend activities for International Women's Day 2014.

The following strategies have been identified for 2014–15:

- provision of refresher merit selection training to identified staff
- provision of EEO, harassment and bullying prevention training by the Anti-Discrimination Board to identified staff
- conduct a new survey of the Commission's EEO and Workforce Profile Data Collection form to address possible work-related adjustments required by staff
- promotion of CLAS
- advertising external job vacancies on the Indigenous Jobs Australia website
- identification of disability networks to assist in promoting external job vacancies
- review and update the dedicated EEO site on the intranet

- review and update of the Commission's Applicant Information Package to address equity and disability issues
- provision of identified training to staff, including cultural awareness and disability awareness
- appointment of additional trained grievance support (contact) officers
- refresher training for appointed grievance support (contact) officers.

## Disability Action Plan

The Commission has a strong commitment, and corporate social responsibility, to equity and diversity in both the workplace and in dealings with clients. As such, the Commission is committed to the inclusion of people with disabilities in all aspects of its operations and service delivery.

During 2013–14, a new five-year Disability Action Plan was developed in accordance with the NSW Department of Family and Community Services' *Guidelines for disability action planning by NSW Government agencies*. The Commission's Access and Equity Committee was a key stakeholder in the development of the Disability Action Plan.

The Disability Action Plan demonstrates the Commission's commitment to preventing discriminatory practices, and increasing access to services and to the Commission premises for people with disabilities.

The following key initiatives, as identified in the plan, will be addressed in 2014–15:

- review of the Corporate Induction Program to include disability awareness issues
- provision of training to identified staff in relation to disability awareness and merit selection
- inclusion of greater disability awareness issues on the intranet
- availability of more material in a range of formats to assist people with a disability to access the Commission's information and services
- promotion of existing teletypewriter (TTY) facilities through various avenues
- ensuring the Commission's website and intranet comply with NSW Government Website Style Directive to address access capability
- greater accessibility by complainants to the Commission's complaint-handling system
- ensuring that all facilities managed or leased by the Commission comply with the Building Code of

Australia and Australian Standards for access and mobility, including adequate signage

- ensuring that the needs of people with a disability are addressed in the delivery of education and training services.

## Multicultural Policies and Services Program

The Commission values the cultural, linguistic and religious diversity of its staff and recognises the contribution that results from multiculturalism.

In 2013–14, the Commission developed a new five-year plan for the MPSP that was developed using the Community Relations Commission's Multicultural Planning Framework as a guide. The MPSP is a corporate plan and identifies strategic priorities, assigns responsibilities and outlines timeframes for implementation. The Commission's Access and Equity Committee was a key stakeholder in the development of the MPSP.

In 2013–14, the following activities were undertaken:

- review and update of the Observance of Essential Religious Duties and Cultural Obligations Policy
- engagement of accredited interpreters and translators to assist clients from non-English speaking backgrounds, when needed (during the reporting period, there were seven occasions in which the Commission utilised external services for the languages of Mandarin, Thai, Vietnamese and Cantonese)
- continuation of the CLAS to approved staff
- update of the Commission's bilingual skills directory to include staff skilled in the languages of Bengali, Cantonese, Greek, Hindi, Kannada and Punjabi
- promotion of multilingual resources through the Commission's website, presentations, public displays and information brochures
- promotion to staff via the intranet of the 2014 days of religious significance for NSW
- presentations to nine Australian Migrant English Program groups
- ongoing invitations to speak to community groups and also at outreach visits.

The Commission has identified the following activities for 2014–15:

- review and update the bilingual skills directory
- promote the CLAS to staff



- inform relevant communities about the Commission (outreach visits and Australian Migrant English Program sessions)
- promote the 2015 days of religious significance for NSW to staff
- promote multilingual resources through the Commission's website, presentations, public displays and information brochures
- monitor Commission investigations involving identified communities to provide information and advice to assist them
- engage interpreter services/translators to assist clients of non-English speaking backgrounds
- provide cultural awareness training to staff
- disseminate Commission media releases and other information to culturally and linguistically diverse media, where appropriate
- promote NSW Multicultural March 2015.

**Table 49: Staff numbers by employment basis in 2013–14**

	Total staff	Respondents	Men	Women	Aboriginal & Torres Strait Islanders	People from racial, ethnic, ethno-religious minority groups	People whose language first spoken as a child was not English	People with a disability	People with a disability requiring work-related adjustment
Permanent full-time	106	104	56	50	2	30	24	7	1
Permanent part-time	11	11	1	10	0	5	3	3	0
Temporary full-time	25	25	6	19	0	6	4	1	0
Temporary part-time	1	1	0	1	0	1	0	0	0
Contract – SES equivalent	7	6	4	3	0	1	1	0	0
Contract – non-SES equivalent	0	0	0	0	0	1	0	0	0
Training positions	0	0	0	0	0	0	0	0	0
Retained staff	0	0	0	0	0	0	0	0	0
Casual	1	1	0	1	0	0	0	0	0
<b>Total</b>	<b>151</b>	<b>148</b>	<b>67</b>	<b>84</b>	<b>2</b>	<b>44</b>	<b>32</b>	<b>11</b>	<b>1</b>

**Table 50: Employment basis for 2013–14, compared to previous years**

Employment basis		2013–14	2012–13	2011–12	2010–11	2009–10
Permanent	Full-time	106	107	107	110	101
	Part-time	11	12	12	12	11
Temporary	Full-time	25	15	15	15	11
	Part-time	1	0	0	4	4
Contract	SES equivalent	7	6	6	6	6
	Non-SES equivalent	0	0	0	0	0
	Trainee	0	0	0	0	0
<b>Total</b>		<b>150</b>	<b>140</b>	<b>140</b>	<b>147</b>	<b>133</b>

Note: One casual staff position is not included in this table for 2013–14.

## Appendix 9 – Work health and safety

The Commission is strongly committed to providing a safe work environment for its staff and those people on its premises by taking a systematic approach to safety and risk management. Work health and safety (WHS) principles continue to be incorporated into all facets of business planning and operational activities.

The following WHS initiatives were implemented by the Commission in 2013–14:

- development of a new five-year WHS plan
- engagement of health professionals to administer a flu vaccine program to interested staff
- engagement of an accredited occupational therapist to undertake ergonomic workplace assessments
- provision of special equipment to assist staff, as recommended by an occupational therapist
- renewal of the EAP contract
- electrical testing and tagging of relevant equipment
- microwave radiation testing and checking of fire safety equipment
- appointment of two new Commission first aid officers
- review and update of the Risk Management Policy Framework and Toolkit Policy
- review and update of the Manual Handling Policy
- provision of training to identified staff in relation to the WHS portal, managing unreasonable complainant conduct, and operational safety and defensive tactics.

**Table 51: WHS incidents, injuries and claims in 2013–14**

Body stress	2
Journey to/from work	1
Fall, trip, slip	3
Other non-specified	1
<b>Total</b>	<b>7</b>
Number of workers compensation claims (provisional liability)	4*

\* There has been an increase in the number of workers compensation claims from nil in 2012–13 to four in 2013–14.

In 2013–14, the Commission's Health and Safety Committee comprised:

- Andrew Koureas,  
Corporate Services Division
- Mary Murabito,  
Corruption Prevention Division
- Catherine O'Brien,  
Corporate Services Division
- Georgina Ross,  
Legal Division
- Margaret Sutherland,  
Corruption Prevention Division
- Cathy Walsh,  
Corporate Services Division
- Trent White,  
Assessments Section
- Chris Wightman,  
Investigation Division
- Aruni Wijetunga,  
Corporate Services Division.

## Appendix 10 – Engagement and use of consultants

**Table 52: Engagement and use of consultants**

Consultancies equal to or more than \$50,000	
Nil	
Consultancies less than \$50,000	
Management services	
Total number of engagements	2
Total cost	\$9,318
Information Technology	
Total number of engagements	1
Total cost	\$44,000

## Appendix 11 – Payment performance indicators

**Table 53: Aged analysis at end of each quarter 2013–14**

Quarter	Current (i.e.) within due date (\$)	Less than 30 days overdue (\$)	Between 30 and 60 days overdue (\$)	Between 60 and 90 days overdue (\$)	More than 90 days overdue (\$)
All suppliers					
September	2,797,708.79	160,909.79	6,490.00	–	844.80
December	2,927,513.55	13,838.97	209.00	–	–
March	2,348,457.12	372.90	–	–	–
June	4,905,554.61	31,239.88	4,335.87	–	16,500.01
Small business suppliers					
September	46,451.88	–	–	–	–
December	53,357.26	–	–	–	–
March	29,165.58	–	–	–	–
June	73,970.90	–	–	–	–

**Table 54: Accounts due or paid within each quarter**

Measure	September 2013	December 2013	March 2014	June 2014
<b>All suppliers</b>				
Number of accounts due for payment	937	933	981	1,103
Number of accounts paid on time	930	922	980	1,092
Actual percentage of accounts due for payment	99.25%	98.82%	99.90%	99.00%
Dollar amount of accounts due for payment	2,965,953	2,941,562	2,348,830	4,957,630
Dollar amount of accounts paid on time	2,797,709	2,927,514	2,348,457	4,905,555
Actual percentage of accounts paid on time (based on \$)	94.33%	99.52%	99.98%	98.95%
Number of payments for interest on overdue accounts	–	–	–	–
Interest paid on overdue accounts	–	–	–	–
<b>Small business suppliers</b>				
Number of accounts due for payment	47	60	30	46
Number of accounts paid on time	47	60	30	46
Actual percentage of accounts due for payment	100%	100%	100%	100%
Dollar amount of accounts due for payment	46,452	53,357	29,166	73,971
Dollar amount of accounts paid on time	46,452	53,357	29,166	73,971
Actual percentage of accounts paid on time (based on \$)	100%	100%	100%	100%
Number of payments for interest on overdue accounts	–	–	–	–
Interest paid on overdue accounts	–	–	–	–

The Commission did not make any interest payments for late payment of accounts. Where there were delays in the payment of accounts, the reasons can be attributed to inaccuracies/incompleteness of the original invoices and/or minor disputes requiring the adjustment of invoice details prior to eventual payment.

All small business number of accounts were paid on time during the current reporting period.

## Appendix 12 – Credit card certification

The Commissioner certifies that credit card usage in the Commission has met best practice guidelines in accordance with Premier's Memoranda and Treasury Directions.

## Appendix 13 – Major works in progress

The Commission awarded its tender for implementation of its ICT Infrastructure Upgrade Project to Datacom Australia Pty Ltd in March 2014. A total of \$725,000 was expended during the year on the project (budget of \$5.1 million), with significant equipment purchases being made in June 2014 for delivery in July and August 2014. It is anticipated the project will be completed by the end of December 2014.

The fit-out (office relocation) contract was awarded to Schiavello (Vic) Pty Ltd. Construction work commenced on 16 June 2014 with anticipated completion in mid-September 2014. Office relocation is scheduled to start on 19 September 2014 and be completed by 22 September 2014. Total expenditure at 30 June 2014 was \$854,000 (budget of \$5.1 million).

## Appendix 14 – Overseas travel

**Table 55: Overseas travel in 2013–14**

Name of officer	Date of travel	Destination	Purpose	Amount incurred by the ICAC	Amount incurred by other sources
Theresa Hamilton	1–5 September 2013	Republic of Korea	Deliver keynote address at the 7th Anti-Corruption Agency Forum	\$465	\$6,352 (Host: Anti-Corruption & Civil Rights Commission, Republic of Korea)

## Appendix 15 – Waste Reduction and Purchasing Policy

Over the last three reporting periods, the Commission has continued to increase the amount of waste material it recycles in line with government requirements. Actual data on the total quantity of recycled waste material is not available, as recycling is managed by Trust Company Ltd, the building lessor, which does not retain data on this service.

The Commission's major recyclable purchases include office paper and computing equipment consumables, such as monitors, toner cartridges and miscellaneous computer components. All our computing consumables are recycled at end-of-life. Office paper and paper products have 50% recyclable content and are recycled daily by the lessor.

The Commission's paper usage fluctuates in accordance with the workload of the Commission and is not an indicator of the success of its waste reduction policy and practices.

The Commission endeavours to purchase the highest energy-saver electrical products for its own usage and the average star rating of these items is 3.5.

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