

STATUTORY AND OTHER OFFICES REMUNERATION TRIBUNAL

Report and Determination for Mr Tim O'Connor in the role of the Executive Director, Criminal Investigations and Mr Jon Spark in the role of Executive Director, Financial Investigations, NSW Crime Commission pursuant to Section 24P of the *Statutory and Other Offices Remuneration Act 1975*.

PREMIER'S DIRECTION

1. On 7 November 2016 the Statutory and Other Offices Remuneration Tribunal (the Tribunal) received a direction from the Premier, the Hon Mike Baird MP, pursuant to section 24P of the *Statutory and Other Offices Remuneration Act 1975* (SOOR Act) to make a determination as to whether, and (if so) how, the determination of the range of remuneration packages of Band 2 Public Service Senior Executives should be altered in relation to Mr Tim O'Connor in the role of the Executive Director, Criminal Investigations (ED CI) and Mr Jon Spark in the role of Executive Director, Financial Investigations (ED FI), NSW Crime Commission (NSWCC).
2. Section 24P of the SOOR Act provides for the Premier to direct the Tribunal to make a special determination in the following terms:

24P Special determinations

If the Minister so directs, the Tribunal is required to make (not later than the day specified in the direction as the day on or before which the determination is to be made) a determination as to whether, and (if so) how, any determination already made should be altered in relation to remuneration packages as are referred to in the direction.

3. The ED CI and ED FI are Public Service Senior Executives (PSSE) Band 2 – Executive Director level roles. The determination already made in respect of PSSE Band 2 – Executive Director level is the Tribunal's 2016 annual determination which provides the following remuneration package range:

Band	Per annum range		
Band 2 – Executive Director level	\$255,051	To	\$320,900

4. This determination will alter the annual determination in respect of the remuneration range for Band 2 in relation to the remuneration packages for Mr O'Connor in the role of the ED CI and Mr Spark in the role of ED FI.

BACKGROUND

5. The NSWCC is established under the *Crime Commission Act 2012 (CC Act)* to investigate and disrupt organised crime and other serious criminal activity and to pursue confiscation of the proceeds of crime. The NSWCC is structured into a number of sections consisting of operational divisions, support teams and specialist units.

Executive Director, Criminal Investigations

6. The function of managing a team in conducting criminal investigations is assigned to the Criminal Investigations Division. The ED CI provides strategic leadership and operational direction to criminal investigations undertaken by the NSWCC into serious and organised crime. The role is responsible for managing the development, implementation and maintenance of investigative capability within the NSWCC, and negotiates all aspects of joint investigations with the NSWCC's partner agencies. The ED CI provides expert, authoritative advice and support to the Assistant Commissioner (Operations) and Management Committee, and champions a culture of continuous improvement and ethical, transparent decision-making.

Executive Director, Financial Investigations

7. The function of conducting financial investigations is assigned to the Financial Investigations Division (FID), almost exclusively in connection with the NSWCC's responsibilities and functions under the *Criminal Assets Recovery Act 1990 (CAR Act)*. The FID is responsible for tracing the proceeds of crime and identifying the assets held by, or on behalf of, those suspected of criminal misconduct and, in appropriate cases take proceedings against persons to recover the proceeds of crime.
8. The ED FI provides strategic leadership and operational direction to the functions of the FID. The role is responsible for managing the development, implementation and maintenance of financial investigative capability and is the NSWCC's

delegated negotiator of settlements with defendants in proceedings under the CAR Act. The ED FI provides expert, authoritative advice and support to the Commissioner and Management Committee, and champions a culture of continuous improvement and ethical, transparent decision-making.

Appointment of Mr O'Connor, ED CI and Mr Spark, ED FI

9. The Premier has advised that these are existing roles in the NSWCC and are currently undertaken by Mr O'Connor ED CI and Mr Spark ED FI. These officers were employed prior to the introduction of the *Government Sector Employment Act 2013* (GSE Act) and the introduction of the new executive employment arrangements. Both Mr O'Connor and Mr Spark currently receive a remuneration package that is above the maximum of the range of remuneration payable to Band 2 roles.
10. To ensure the services of these officers can be retained by the NSWCC the Premier has requested that the Tribunal make an above band determination to provide for remuneration higher than the maximum of Band 2 for both Mr O'Connor and Mr Spark. The request does not seek to increase the remuneration, instead it ensures Mr O'Connor and Mr Spark retain their existing remuneration package while undertaking the same roles.
11. Having regard to the particular circumstances of the case the Tribunal supports the Premier's request that the remuneration package for Mr O'Connor in the role of ED CI will be \$380,230 per annum and the remuneration package for Mr Spark in the role of ED FI will be \$352,384 per annum. The Tribunal's determination is consistent with advice contained in the Premier's direction and is appropriate given the responsibilities and scope of the roles. These determinations will alter the Tribunal's determination in respect of Band 2 remuneration levels.
12. The determination is made in accordance with section 24R(3)(a) of the SOOR Act which provides for the Tribunal to fix a remuneration package for a particular senior executive named in the determination. Consistent with the Premier's request, these determinations are personal to Mr O'Connor and Mr Spark and are not determinations that apply to those roles or to future appointments to those roles.

DETERMINATION

Pursuant to section 24P of the *Statutory and Other Offices Remuneration Act 1975* the Tribunal determines that the range of remuneration packages of Band 2 Public Service Senior Executives is altered to provide:

- Mr Tim O'Connor, Executive Director, Criminal Investigations, NSW Crime Commission with a remuneration package of \$380,230 per annum, with effect from the date of the determination.
- Mr Jon Spark, Executive Director, Financial Investigations, NSW Crime Commission with a remuneration package of \$352,384 per annum, with effect from the date of the determination.

Band	Per annum range			
Band 2 – Executive Director level	\$255,051	to	\$320,900	Mr Tim O'Connor, Executive Director, Criminal Investigations, NSW Crime Commission: \$380,230.
				Mr Jon Spark, Executive Director, Financial Investigations, NSW Crime Commission: \$352,384.

Statutory and Other Offices Remuneration Tribunal

Signed

Richard Grellman AM

9 November 2016