

# **Te Tauākī Koronga mō ngā Mahi kia Tutuki**

## **Statement of Performance Expectations**

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**1 July 2021 – 30 June 2022**



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Presented to the House of Representatives pursuant to  
section 149 of the Crown Entities Act 2004

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## Preamble

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This Statement of Performance Expectations by Te Aka Matua o te Ture | Law Commission accords with the requirements of sections 149C, 149E and 149G of the Crown Entities Act 2004.

It aligns with the Commission's 1 July 2020 – 30 June 2024 Statement of Intent and includes performance measures and annual forecast financial statements.

The Statement of Performance Expectations should be read in conjunction with the Statement of Intent.



**Amokura Kawharu**

Tumu Whakarae | President

Te Aka Matua o te Ture | Law Commission

Date: 29 June 2021



**Helen McQueen**

Tumu Whakarae Tuarua | Deputy President

Te Aka Matua o te Ture | Law Commission

Date: 29 June 2021

## Output and funding

Te Aka Matua o te Ture | Law Commission is an Independent Crown Entity operating under its own statute, the Law Commission Act 1985. It reports to the Minister Responsible for the Commission.

The Act's purpose is to "promote the systematic review, reform and development of the law of New Zealand" and the Commission has been established to fulfil this purpose. The Commission's one output is law reform advice and recommendations.

The Commission receives funding through an appropriation within Vote Justice. The appropriation is within the Non-Departmental Output Expenses: Services from the Law Commission. For the 2021-2022 year, the appropriation amount is \$3.993 million.

## Scope of appropriation – Total appropriation

Actual 2020-2021 \$000	Budget 2021-2022 \$000
4,293	3,993

To deliver the work programme for 2021-22 the Commission will spend more than the \$3.993 million provided.

## What is intended to be achieved with this appropriation?

The appropriation is spent to enable the Commission to undertake research, consultation and analysis in respect of law reform issues. The Commission then provides the Government and Parliament with independent advice and recommendations on those issues.

The Commission's mandate is captured in its vision for its future – Kia whanake ngā ture o Aotearoa New Zealand mā te arotake motuhake – Better law for Aotearoa New Zealand through independent review. The Commission intends to achieve the delivery of its law reform output in accordance with this vision. Good law benefits current and future generations and upholds the mana of all people of Aotearoa New Zealand.

Enduring revenue has been static for many years and will remain so in 2021-2022. In 2020-2021 the Commission received a 'one-off' additional appropriation of \$300,000. This money was to enable the Commission to deliver its strategic goals.

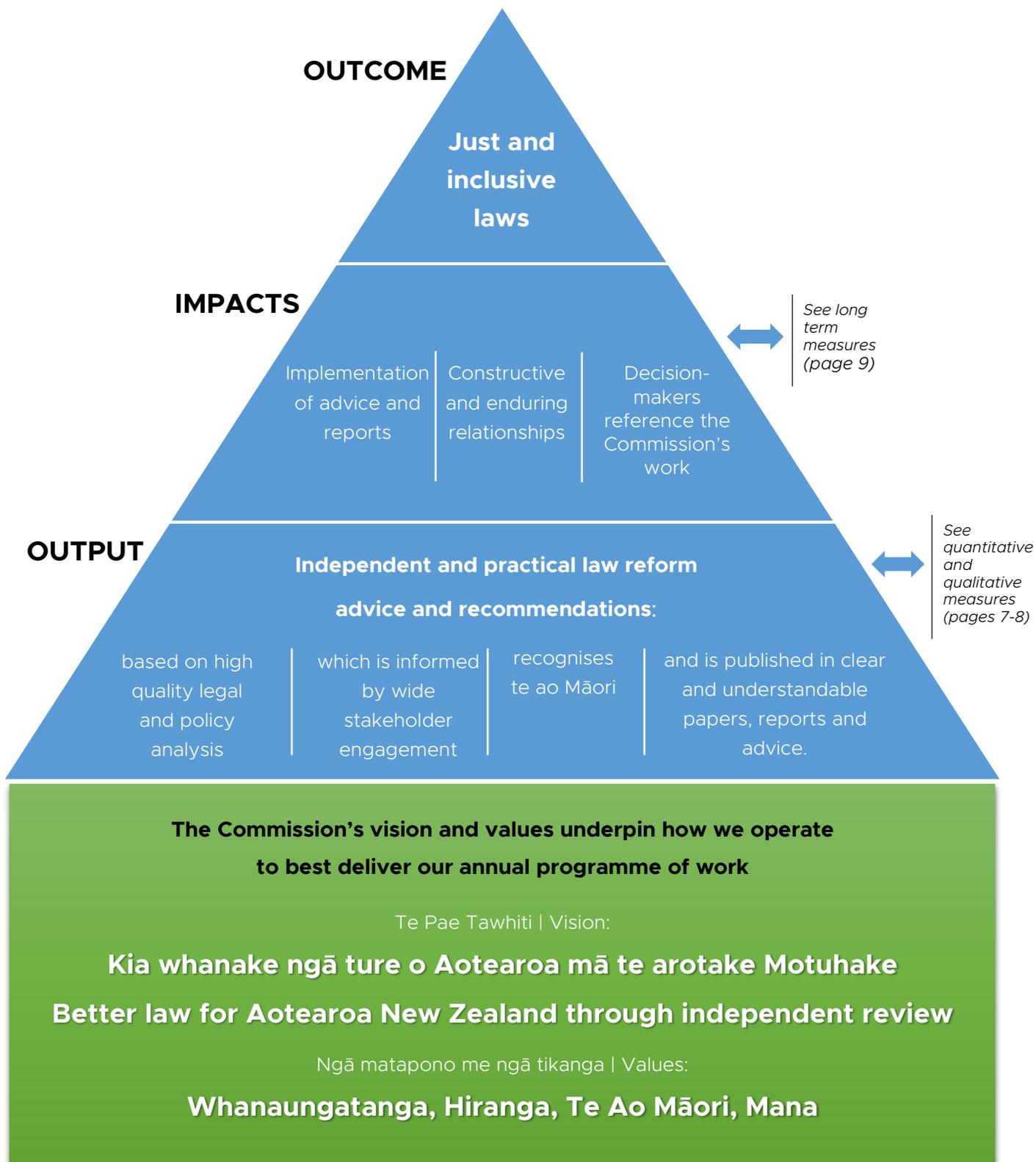
While the expected actual surplus in 2020-2021 will be higher than budgeted (largely due to this additional revenue and to lower project costs than budgeted), the ongoing situation is not sustainable for the delivery of the Commission's vision.

The current financial model relies on having only three Commissioners, the minimum allowed under the Law Commission Act 1985. By reducing costs, this minimum operating model has temporarily helped the Commission's financial position but does not provide a sustainable solution. In 2021-2022, the Commission will have three projects completing, two projects continuing and one or possibly two new projects starting.

Project costs for the year are budgeted at a realistic level and in line with the targeted deliverables for the year. Personnel costs and project related expenses will be a significant proportion of all expenditure (83%) for 2021-2022. Expenditure required to progress the work programme will be at a more normalised level of \$4.410 million. This expenditure exceeds the appropriation the Commission will receive for 2021-2022. The Commission will use its reserves to meet this shortfall.

If the Commission's appropriation remains at the current level in future years, the Commission anticipates that it will exhaust its remaining available reserves by 2025.

# Performance framework



At 28 June 2021 the work programme for 2021-22 is as follows.

Law reform references	2021 - 22 <sup>1</sup>	2022 - 23	2023 - 24
<b>Review of succession law</b>	Report to be completed November 2021		
<b>Review of class actions and litigation funding</b>	Consultation Paper published and consultation undertaken  Report to be completed May 2022		
<b>Review of surrogacy law</b>	Consultation Paper to be published and consultation undertaken  Report to be completed first half of 2022		
<b>Review of the law relating to adult decision-making capacity</b>	Final terms of reference to be published  Research and early engagement underway	Consultation Paper published	Report likely completed 2023
<b>Emergency Powers for Pandemics and Other Threats</b>	Research and engagement underway	Final Study Paper to be completed August 2022	
<i><b>New reference 1, to be finalised</b></i>	<i>Reference commenced early 2022</i>	<i>Terms of reference to be published</i>	<i>Consultation Paper to be published</i>
<i><b>New reference 2, to be finalised</b></i>	<i>Reference commenced mid-2022</i>	<i>Terms of reference to be published</i>	<i>Consultation Paper to be published</i>

The Commission has signalled its capacity for up to two new references (depending on size) to commence in 2021-22. The subject of each of those references is yet to be finalised and outputs and timeframes are thus indicative only.

<sup>1</sup> As at 1 May 2021, s 202 of the Evidence Act is still in force. Unless repealed, it will require a third review of the Act to be triggered by 28 February 2022. The second review recommended the repeal of s 202, but this recommendation is yet to be implemented.

## How will performance be measured?

The Commission seeks to measure its performance through a series of key performance indicators. Those indicators are concerned with the quantity and quality of the Commission’s law reform work and related processes and the long-term influence of its work. The Commission evaluates the quality of its performance by surveying members of its expert advisory groups (EAGs) and seeking written feedback from its Māori Liaison Committee.

An EAG is established for each project. Members of an EAG are chosen for their independence and expertise and are appointed on a voluntary basis. In some cases, EAG members are nominated by Te Hunga Rōia Māori o Aotearoa, the New Zealand Law Society, or other professional body. Eminent academics and practitioners serve on EAGs and are named and acknowledged in our published work. The Māori Liaison Committee is chaired by the Hon Justice Joe Williams KNZM. Its members are drawn from the judiciary, academia, te ao Māori and the legal profession, and comprise experts in te ture Pākehā and tikanga Māori. The Committee provides independent feedback on all Commission projects as they progress and more generally on the Commission’s undertaking to recognise te ao Māori across its law reform work. The current members are named on our website.

Measure	How	Actual <sup>2</sup> 2019-2020	Expected 2020- 2021	Planned 2021-2022
<b>Timely production of Terms of Reference, consultation papers, reports and written advice</b>				
<b>The number of Terms of Reference, consultation or other papers, reports or written advice</b>	The number of published Terms of Reference, consultation or other papers, reports and advice	0	3	6
<b>Reports or advice produced in the original timeframe advised to the Responsible Minister<sup>3</sup></b>	The date the report or advice is sent to the Responsible Minister	0%	100%	100%

<sup>2</sup> If a measure was new for 2020-2021, the space for indicating performance in 2019-2020 will be left blank.

<sup>3</sup> Subject to any request by the Minister for the Commission to give other work priority, as provided by s 7(3) Law Commission Act 1985.

Measure	How	Actual <sup>2</sup> 2019-2020	Expected 2020- 2021	Planned 2021-2022
<b>Stakeholder engagement</b>				
The number of consultation meetings held	The percentage of target number of consultation meetings per project		100%	100%
The number of submissions received	The percentage of target number of submissions per project		100%	100%
<b>Consideration of substantive legal and policy issues</b>				
High quality evidence-based legal and policy analysis <sup>4</sup>	Survey of independent experts	Agree	Agree	Agree (average of 2 on 1-5 sliding scale) <sup>5</sup>
Recognition of te ao Māori <sup>6</sup>	Survey of (a) Māori Liaison Committee and (b) independent experts		Agree	(a) Agree (b) Agree (average of 2 on 1-5 sliding scale)
Clear and understandable papers, reports or written advice <sup>7</sup>	Survey of independent experts	Agree	Agree	Agree (average of 2 on 1-5 sliding scale)

<sup>4</sup> The quality of the Commission's legal and policy analysis is measured through EAG survey questions that address whether the Commission's analysis is based on accurately and thoroughly explained legal research, the identification and analysis of relevant issues, and the identification and assessment of evidence-based options for reform.

<sup>5</sup> EAG surveys include a sliding scale rating system, where 1 indicates strong agreement and 5 indicates strong disagreement with a survey question.

<sup>6</sup> The Commission is required by s 5(2)(a) of the Law Commission Act 1985 to take te ao Māori into account and this is an area of strategic focus. The Commission's success is measured through an EAG survey question that asks whether te ao Māori is appropriately recognised and discussed. The Chair of the Māori Liaison Committee is asked to respond on behalf of the Committee to the same question but is not asked to respond through a sliding scale.

<sup>7</sup> The clarity of the Commission's reports and advice is measured through an EAG survey question that asks whether the report or advice is presented in as clear, understandable and constructive manner as the technical nature of the subject matter allows.

Measure	How	Actual <sup>2</sup> 2019-2020	Expected 2020- 2021	Planned 2021-2022
Independent and practical recommendations <sup>8</sup>	Survey of independent experts	Agree	Agree	Agree (average of 2 on 1-5 sliding scale)
<p>In meeting the expected productivity and quality standards, the Commission will sustain its long-term influence across the legal system and in the law reform community, including through implementation of its recommendations, maintenance of constructive and enduring relationships and citations to its work. For example, those mentioned below, among others, will continue to reference the Commission's work in their decision-making.</p>				
Long term influence (Impact measures)				
Implementation of reports or other advice	The percentage implementation of reports and advice delivered over the previous 10-year period		60%	60%
The number of community engagements	The number of community engagements (such as presentations, interviews and published articles)		5	10
The number of references to the Commission's reports or advice	In court decisions		60 (judicial)	60 (judicial)
	In Parliamentary debates and committee reports, academic publications and other media		500 (other)	300 (other)

<sup>8</sup> The quality of the Commission's recommendations is measured through an EAG survey question that asks whether the recommendations are supported by evidence-based analysis, take into account the relevant context and recognise practical issues of implementation, cost, technical feasibility and timing.

## Prospective financial information

Under the Crown Entities Act 2004, the Commission must include prospective financial statements in its Statement of Performance Expectations.

These financial statements indicate the likely financial impact of implementing the Law Commission’s strategic direction. The information is indicative and may not be appropriate for any other purpose. These financial statements are not audited.

### STATEMENT OF FORECAST COMPREHENSIVE INCOME (GST EXCLUSIVE)

Income	2019-2020 Actual \$	2020-2021 Forecast \$	2021-2022 Planned \$
Revenue from Crown	3,993,000	4,293,000	3,993,000
Other Income	87,655	3,229	4,000
<b>Total revenue</b>	<b>4,080,655</b>	<b>4,296,229</b>	<b>3,997,000</b>
<b>Expenditure</b>			
Personnel costs	2,585,056	2,835,067	3,378,190
Occupancy costs	218,064	235,379	247,690
Direct project costs	23,341	154,078	260,145
Library	89,359	105,298	110,000
Audit Fees	31,837	33,000	33,000
Other operating costs	461,606	275,237	299,008
Depreciation	80,628	82,851	82,500
<b>Total expenditure</b>	<b>3,489,891</b>	<b>3,720,910</b>	<b>4,410,533</b>
<b>Operating surplus/(deficit)</b>	<b>590,764</b>	<b>575,319</b>	<b>(413,533)</b>
<b>Cumulative surplus/(deficit)</b>	<b>590,764</b>	<b>575,319</b>	<b>(413,533)</b>

**STATEMENT OF FORECAST CASH FLOW (GST INCLUSIVE)**

INCOME	2019-2020 Actual \$	2020-2021 Forecast \$	2021-2022 Planned \$
<i>Cash flows from operating activities</i>			
<b>Receipts</b>			
Other Revenue	107,899	3,309	4,137
Revenue from Crown	3,993,000	4,293,000	3,993,000
	<u>4,100,899</u>	<u>4,296,309</u>	<u>3,997,137</u>
<b>Payments</b>			
Payments to Employees	2,573,377	2,899,288	3,274,967
Payments to Suppliers	840,986	720,791	1,040,306
Goods and services tax (net)	(5,306)	(10,343)	(48,171)
	<u>3,409,057</u>	<u>3,609,736</u>	<u>4,267,102</u>
<i>Net cash flow from operating activities</i>	691,842	686,573	(269,964)
<i>Cash flows from investing activities</i>			
Purchase of property, plant and equipment	(14,267)	(25,159)	(30,000)
<i>Net cash flow from investing activities</i>	(14,267)	(25,159)	(30,000)
<i>Net (decrease)/increase in cash and cash equivalents</i>	677,575	661,414	(299,964)
Opening bank	1,888,757	2,566,332	3,227,746
Closing bank	<u>2,566,332</u>	<u>3,227,746</u>	<u>2,927,781</u>

**STATEMENT OF FORECAST FINANCIAL POSITION**

	2019-2020 Actual \$	2020-2021 Forecast \$	2021-2022 Planned \$
<b>Non-current assets</b>	465,198	407,505	355,005
<b>Current assets</b>			
Bank	2,566,332	3,227,746	2,927,781
Receivables	42,634	33,256	22,065
<b>Total Assets</b>	<u>3,074,164</u>	<u>3,668,507</u>	<u>3,304,851</u>
<b>Creditors due within one year</b>			
Accounts payable and accruals	133,917	154,567	224,842
Employee entitlements	208,381	227,153	227,153
	<u>342,298</u>	<u>381,720</u>	<u>451,995</u>
<b>Non-current liabilities</b>	<u>118,988</u>	<u>98,590</u>	<u>78,192</u>
<b>Total net assets</b>	<u>2,612,878</u>	<u>3,188,197</u>	<u>2,774,664</u>
<b>Equity</b>			
Retained Earnings	<u>2,612,878</u>	<u>3,188,197</u>	<u>2,774,664</u>

**STATEMENT OF FORECAST CHANGES IN EQUITY**

	2019-2020 Actual \$	2020-2021 Forecast \$	2021-2022 Planned \$
Net surplus/(deficit) for period	<u>590,764</u>	<u>575,319</u>	<u>(413,533)</u>
Total comprehensive revenue and expenses for the year	590,764	575,319	(413,533)
Equity at Beginning of Period	<u>2,022,114</u>	<u>2,612,878</u>	<u>3,188,197</u>
<b>Equity at End of Period</b>	<u>2,612,878</u>	<u>3,188,197</u>	<u>2,774,664</u>

## Statement of Underlying Assumptions

Under the Crown Entities Act 2004, Te Aka Matua o te Ture | Law Commission must include prospective financial statements in its Statement of Intent as part of promoting public accountability.

The purpose for which these financial statements have been prepared is to indicate the likely financial impact of the implementation of the Commission's longer-term strategic direction. The information disclosed is indicative only and may not be appropriate for any other purpose. These financial statements are not audited.

The statements have been prepared on the assumption that current Government policies and appropriations and Government funding and financial reserves will be adequate to cover operating costs and capital purchases for the short-medium term. The statements contain the best estimates and assumptions as to future events that are expected to occur. As the statements are prospective, actual results are likely to vary from the information presented. All material variations will be disclosed in the subsequent annual report.

The Commission has a financial strategy in place to ensure a level of reserves sufficient to cover 12 weeks (\$900,000 in 2021) of normal operating costs. The Commission considers this prudent and it would provide time for an orderly exit of contractual obligations, should appropriation funding cease.

The 2021-2022 estimated actual position is based on the Commission's judgements, estimates and assumptions.

Occupancy and administration costs are based on historical experience and the current lease agreement. All known or reasonably estimated increases or decreases in any expense category have been included.

The Commission has a lease with Robert Jones Holdings Limited for the current office space. This contract extends for the nine years from 24 April 2018 to 23 April 2027 with a right of renewal for a following six years.

No allowance for revaluation of fixed assets has been made in these statements. Depreciation and amortisation costs are based on the assumption that the Commission will replace assets, including software, as required.

It is assumed that the Commission will continue with three full time equivalent Commissioners for the foreseeable future. To maintain the statutory minimum, the Commissioners must be replaced, or their terms extended, before the relevant expiry date.

It is assumed the work programme will be confirmed by early 2021-22. Existing work will be completed as planned with one or two new projects commencing in 2021-22. At the time of writing the topics of the new projects were subject to Ministerial approval. The financial plan assumes the projects will incur a historic level of project costs.

## Statement of Accounting Policies

### *Reporting Entity*

The Commission is a Crown Entity under the Crown Entities Act 2004. The Commission was established by the Law Commission Act 1985 and is domiciled in New Zealand. As such, the Commission's ultimate parent is the New Zealand Crown.

The Commission's functions and responsibilities are set out in the Law Commission Act 1985. The Commission's statutory purpose is to undertake the systematic review, reform and development of the law of New Zealand. The Commission undertakes to provide high-quality advice to the Government and Parliament and does not have a specific objective of making a financial return to the Crown. Accordingly, the Commission has designated itself as a public benefit entity for the purposes of New Zealand Generally Accepted Accounting Practice (NZ GAAP).

### *Basis of Preparation*

The forecast financial statements have been adapted to comply with NZ GAAP. The preparation of forecast financial statements in conformity with NZ IFRS requires judgements, estimates and assumptions that affect the application of policies and reported amounts of assets and liabilities, income and expenditure.

The prospective financial statements have been prepared on the historical cost basis, modified by the revaluation of library collections, furniture and fittings, and office equipment. The Commission has complied with FRS42 in the preparation of these prospective financial statements.

### *Accounting Policies*

The following accounting policies, which materially affect the measurement of financial performance and financial position, have been applied. These accounting policies have been applied consistently to all periods presented in these prospective financial statements.

#### *Revenue*

The Commission derives revenue from the provision of outputs to the Crown, the sale of its publications to third parties, provision of specialist services, and income from investments. Government funding is recognised as revenue in the year for which it is appropriated and is recognised on a straight-line basis. Other revenue is recognised in the period in which it is earned.

#### *Goods and Services Tax (GST)*

All items in the financial statements are exclusive of GST, with the exception of receivables and payables, which are stated with GST included.

#### *Taxation*

The Commission is a public authority in terms of the Income Tax Act 2004 and consequently is exempt from income tax.

#### *Fixed Assets*

All fixed assets are initially recorded at cost. Library collections, furniture and fittings, and office equipment are stated at fair value. Fair value is determined using market-based evidence. Additions between revaluations are recorded at cost.

Changes in revaluation are charged to the asset revaluation account. When such charges result in a debit balance in the revaluation reserve account, the balance is expensed to the prospective statement of comprehensive income.

#### *Depreciation*

Depreciation is provided on a straight-line basis on all fixed assets at a rate that will write off the cost (or valuation) of the assets over their useful lives. The useful lives and associated depreciation

rates of major classes have been estimated as follows:

<b>Asset Class</b>	<b>Estimated Useful Life (Years)</b>	<b>Rate of Depreciation (%)</b>
Computer Equipment	3	33.3
Furniture and Fittings	10	10
Office Equipment	5	20
Library Collections	5	20

#### *Operating Leases*

Leases where the lessor effectively retains substantially all the risks and benefits of ownership of the leased items are classified as operating leases. Operating lease expenses are recognised on a systematic basis over the period of the lease.

#### *Financial Instruments*

The Commission is a party to financial instruments as part of its normal operations. These financial instruments include bank accounts, short-term deposits, debtors and creditors. All financial instruments are recognised in the prospective statement of financial position and all revenue and expenses in relation to financial instruments are recognised in the prospective statement of comprehensive income. All financial instruments are shown at their estimated fair value.

#### *Employee Entitlements*

Provision is made in respect of employee's annual leave. The provision is calculated on current rates of pay and expected to be settled within 12 months of reporting date (or approval gained to carry forward leave) and is measured at nominal values on an actual entitlement basis at current rate of pay. These amounts are included within accounts payable.

Provision is made for sick leave entitlement in accordance with New Zealand Equivalent to International Accounting Standard 19.11-14. The Commission does not provide long service leave or retirement leave.