

C. CONTINGENT ASSETS AND LIABILITIES

To support its underlying practice of strong financial management, the NSW Government monitors and reports on its contingent assets and liabilities. Unlike assets and liabilities that are recognised on the general government balance sheet, contingent assets and liabilities are uncertain and depend on a particular event occurring before being realised (see Box C.1 for technical definitions of contingent assets and liabilities). For a number of the general government's contingent liabilities, an equal but offsetting contingent asset may also exist.

If a contingent asset or liability becomes likely to materialise, then the asset or liability will be recognised on the balance sheet and cease to be considered contingent. The recognition of a contingent asset or liability on the State's balance sheet could have a significant impact on the State's finances. By identifying and, where possible, quantifying these contingent assets and liabilities, the Government can better manage its risks and opportunities.

Box C.1: Accounting definition of contingent assets and liabilities

Accounting standard AASB 137 *Provisions, Contingent Liabilities and Contingent Assets* defines:

A contingent asset as:

- a possible asset that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity. A contingent asset is only disclosed if an inflow of economic benefits is probable.

A contingent liability as:

- a possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or
- a present obligation that arises from past events but is not recognised because:
 - it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation; or
 - the amount of the obligation cannot be measured with sufficient reliability.

Contingent assets and liabilities are classified as either:

- quantifiable, where their financial value is known or can be reliably estimated, or
- non-quantifiable, where their financial value cannot be reliably determined.

This Appendix provides analysis on both categories.

C.1 Contingent assets

Table C.1 lists the general government sector's quantifiable contingent assets as at 30 April 2022.

Table C.1: General government quantifiable contingent assets

	General Government Sector	
	2021-22 ^(c)	2022-23 ^(d)
	\$m	\$m
Aboriginal Housing Office ^(a)	3	2
Industry, Skills and Regional Development	0	231
Other Agencies	16	0
	19^(b)	232

(a) As part of the Housing Aboriginal Communities Program, there are properties that the Aboriginal Housing Office does not have definitive control over. As a result, they will not be recognised until such time as full control is established. This was also the case in the 2021-22 Budget; however, this was not disclosed.

(b) The 2021-22 Budget included \$5,063 million of the general government sector's performance bonds and other instruments of assurance. This has been removed in the table above for the 2021-22 Budget and the total restated. Unless an inflow of benefits is probable, the Government will no longer disclose them as contingent assets.

(c) As at reporting date of 30 April 2021.

(d) As at reporting date of 30 April 2022.

Table C.2 lists the general government sector's non-quantifiable contingent assets.

Table C.2: General government non-quantifiable contingent assets

Contingent Asset	Nature of the contingent asset
Eastern Creek Alternative Waste Treatment Plant	The Crown in right of the State of New South Wales holds a guarantee (a contingent asset), which fully offsets the corresponding contingent liability. The contingent asset will be recognised if the guarantee has been executed.
HIH Insurance	Potential proceeds relating to the liquidation of HIH Insurance.
Land Acquisition Reimbursements	The State will seek reimbursement of its acquisition costs through the SIC levy and development contributions. The funds will take several years to raise.
Insurance claims	The State has submitted various insurance claims. This includes claims related to COVID-19 pandemic, and damages to physical assets caused by bushfires and floods. The State is entitled to claims to undertake these works.
Litigation claims	The State is undertaking various legal actions. The type and amount of compensation will be dependent on the outcome of the legal processes.
Transaction related to Vales Point Power Station	Where land is returned to the State by the exercise of an option under the hand-back deed by the counterparty.
Unspent Grant Monies	The State may be entitled to receive refunds of unspent grant monies from grantees. These refunds may occur in circumstances such as withdrawals from grant programs by grantees or where grantees are unable to achieve milestones within acceptable timeframes.

C.2 Contingent liabilities

Table C.3 lists the general government's quantifiable contingent liabilities as at 30 April 2022.

Table C.3: General government quantifiable contingent liabilities

	General Government Sector	
	2021-22 ^(f)	2022-23 ^(g)
	\$m	\$m
Department of Communities and Justice ^(a) (Claims in respect of compensation and others)	933	1,177
Department of Customer Service ^(b)	13	9
Department of Planning and Environment ^(c)	100	100
Planning Ministerial Corporation ^(d) (Land acquisitions)	120	177
Transport for NSW ^(e) (Land acquisitions, contractual disputes)	828	1,582
Other Agencies	25	0
	2,019	3,045

(a) The Victims' Support Scheme (VSS) was created on 3 June 2013 through legislation known as the *Victims' Rights and Support Act 2013*.

(b) The Torrens Assurance Fund is a statutory compensation scheme designed to compensate people who, through no fault of their own, suffer loss or damage as a result of the operation of the *Real Property Act 1900 (RPA)* operated by the Department of Customer Service.

(c) The Department of Planning and Environment has provided support for the obligations of a third party where it may be called upon to settle a debt obligation in the future. This may occur if the borrower is not able to service its debt.

(d) These land acquisition offers are dependent on the actions of the landowners to either accept or reject the Corporation's offer. Offers to purchase made by the Corporation lapse if the landowner does not accept the offer.

(e) Transport for NSW has several contractual disputes with an estimated contingent liability of \$1,418 million and an estimated \$162 million contingent liabilities due to a number of compulsory property acquisition matters currently under litigation where claims differ from the Valuer General's determined amount.

(f) As at reporting date of 30 April 2021.

(g) As at reporting date of 30 April 2022.

The State faces a range of potential obligations that are non-quantifiable, which have been broadly grouped into the following categories:

- commercial transactions
- other contingent liabilities.

As set out in Table C.4, the general government sector has non-quantifiable contingent liabilities relating to commercial transactions. As an example, under several energy transactions, the Government provided limited general warranties to purchasers and lessees. The Government has also provided indemnities for the costs associated with remediating pre-existing contamination at several power station sites where required by an Environmental Authority. The annual *Report on State Finances* contains other non-quantifiable contingent liabilities that may not be disclosed in the Budget.

Table C.4: Commercial transaction-related non-quantifiable contingent liabilities

Transactions	Nature of the contingent liabilities
Transactions related to Delta Electricity's Western Assets, Eraring Energy, Vales Point Power Station, Colongra Power Station and Macquarie Generation	<p>Various contingent liabilities, including:</p> <ul style="list-style-type: none"> • pre-completion contamination and land remediation liability • general warranties • coal haul road liability • ash dam liability • where the land is returned to the State by the exercise of an option under the hand-back deed, remediation of Vales Point and Site Land • Barnard River Scheme native title indemnity • Deed of Indemnity for directors and senior management.
Transactions related to facilities at Port Kembla, Port Botany, Enfield and the Port of Newcastle	The State has indemnified the lessees in respect of pre-existing environmental contamination.
Sale of Pacific Power International	The State must compensate the trustee of the Energy Industry Superannuation Scheme funds for a shortfall of assets in the reserves of the fund related to the transfer of defined benefit scheme membership to Aurecon.
Transactions related to Sydney Ferries, Eraring and Delta West Power Stations	The State bears the risk of the employer's superannuation guarantee contributions being insufficient to fund the defined employee benefits for certain ex-public sector employees. Indemnities have also been provided to the private sector employer in respect of certain losses suffered.
Transactions related to the lease of TransGrid, Ausgrid and Endeavour Energy	General warranties and Deed of Indemnity.
Sale of WestConnex	The State has potential liabilities under warranties and indemnities provided to the purchasers in relation to the performance of certain obligations.

The general government sector also has non-quantifiable contingent liabilities relating to various matters, as set out below in Table C.5.

Table C.5: Other non-quantifiable contingent liabilities

Contingent liabilities	Nature of the contingent liabilities
Native Title	Contingent liabilities in respect to Native Title, under both the <i>Native Title Act 1993 (Cth)</i> and the <i>Native Title (New South Wales) Act 1994</i> .
Aboriginal Land claims	Assets in the form of reserved Crown land may be reduced in value from applications made under the <i>Aboriginal Land Rights Act 1983 (NSW)</i> .
Stolen Generations Reparations Scheme	The Stolen Generations Reparations Scheme provides ex-gratia payments to living Stolen Generations survivors who were removed by, committed to, or otherwise came into the care of the New South Wales Aborigines Protection or Welfare Boards (under the <i>Aborigines Protection Act 1909 (NSW)</i> , up until the Act was repealed on 2 June 1969).
Contaminated land	A number of Crown land sites in the State have been assessed as being potentially contaminated and needing remediation. Most are subject to preliminary site investigations or clean up works which might not incur a financial liability.
Other contaminated land	The State has been made aware that soil and water sample tests have potentially elevated readings of perfluorooctane sulfonate (PFOS) and perfluorooctanoic acid (PFOA) at a number of State-owned land sites. The State is insured for any remediation work that may be required. The final remediation costs of the impacted properties remain uncertain.
Claims and Litigation	State agencies and corporations are subject to various claims and litigation in the normal course of operations. The quantum of these claims cannot accurately be determined.
Natural Disasters	The State is assessing damages to physical assets caused by bushfires and floods. The full extent of this cannot be estimated at this point of time.
Unclaimed money – Consolidated Fund	The State treats the receipt of unclaimed money to the Consolidated Fund as income. However, claims can be legally lodged to recoup owed moneys for several years after the money is paid into the Fund.
Allianz Stadium disclosures	Allianz Stadium is being redeveloped by the State. As such, events that were held at Allianz have been relocated to other venues in NSW. The State entered into contractual commitments for costs related to the redevelopment. The financial impacts related to this cannot be estimated at this point of time.
Land Acquisition	Claims have been made against the State for compensation for land acquired under the <i>Land Acquisition (Just Terms Compensation) Act 1991(NSW)</i> .
Underpayments related to Pre-Injury Average Weekly Earnings (PIAWE) for injured workers covered under the Treasury Managed Fund	A targeted review designed to identify and remediate, if necessary, instances of under payment of weekly compensation benefits to government workers as a result of issues with the calculation of PIAWE benefits is underway, with some recipients already having their payments made. It is currently not possible to put an estimate on the remaining claims.
Contracts with private sector parties	The State has guaranteed the obligations and performance of various statutory authorities with private sector contracts.
Guarantee on local government loans	The State provides TCorp with an indemnity for its loans to local governments.
Other government guarantees	The State has provided government guarantees to give financial support and facilitate certain services.