

A Practical Guide to Sentences in the NSW Local Court

Podcast materials

Robyn Fraser
Solicitor in Charge, Legal Aid NSW

Anna Pankhurst
Senior Solicitor, Legal Aid NSW

November 2020

Contents

1. Podcast PowerPoint Slides	3
2. Facts, Record and SAR for Example Client.....	11
3. Instructions To Plead Guilty Template.....	40
4. Obtaining Instructions on Sentence Template/Checklist.....	41
5. Preparing Sentence Submissions Template.....	43
6. Sentencing Options Table.....	44
7. Traffic Matters Cheat Sheet	46
8. Sentencing Options And Equivalent's Cheat Sheet.....	58

1. Podcast PowerPoint Slides



Sentencing in the Local Court

Materials to accompany the podcast

Lawyer Education Series
Legal Aid NSW

Part 1 Preparing for the plea

Your client's instructions – what you need to cover

- Signed and dated instructions to plead, that include:
 - The offences they're pleading guilty to
 - The maximum penalties for the offences
 - That they've read and understood the Police Facts on which they'll be sentenced, and they agree their Criminal History is accurate
 - They understand the evidence that proves the offences

Part 1

Preparing for the plea

Your client's instructions – what you need to cover

- They understand their right to defend the charges
- They understand the early PG discount regime
- They understand they may receive a full-time gaol sentence and are aware of any consequential orders (such as CPR, AVO, Disqualification)
- They understand their appeal rights

Attach a copy of the Police Facts, and have your client sign these as well. You can add the statement: "I accept that these are the facts on which I'll be sentenced".

Part 1

Preparing for the plea

Your client's instructions – what you need to cover

- The three things that the Court wants to know:
 - What happened (*the objective circumstances of the offending; the context to the offences*)
 - Why it happened (*context; subjective circumstances*)
 - Why it won't happen again (*subjective factors; prospects of rehabilitation*)
- You need to take detailed instructions that address all three.
 - Use a template that follows the structure/order of your submissions

Part 1

Preparing for the plea

Subjective materials – what to tender and why

- Is the material relevant to a submission you will be making?
 - Moral culpability – evidence of mental illness or cognitive deficit; evidence that may explain (*but not excuse*) the offending conduct (e.g. reason for driving)
 - Prospects of rehabilitation – evidence of rehab attendance or completion of courses/counselling
- Letter from your client – it must be sincere, honest, and in their own words.
- The golden rules of character references - explain these to your client and their referees:
 - The reference *must* refer to the offence (better still, the referee should confirm that they have read the sentencing facts)
 - The referee cannot be a family member
 - The reference should be reasonable, realistic and verifiable

Part 1

Preparing for the plea

Do you have all the relevant materials?

- Conviction report (or redacted bail report) that is up-to-date
- Sentencing Assessment Report
- Any breach reports?
- Custodial history (C,S & A Report) if relevant

Part 2

The Plea

Your sentence submissions should have a structure and be internally consistent and cohesive.

Written vs. Oral?

The beginning

- Is there something to 'hang your hat on'? A theme?
- What will be your 'ultimate submission'?

Part 2

The Plea

The middle

- Objective circumstances and the objective criminality –
 - Aggravating and mitigating factors
 - Where does this offending sit in the range?
- Context to the offending – the surrounding circumstances
- The timing of the plea of guilty
- Criminal history – what does it say about the prospects of rehabilitation and the appropriate penalty?
- Subjective background information:
 - Bugmy submission – see the Bar Book
 - Prospects of rehabilitation

Part 2

The Plea

The end – “landing the plane on the tarmac”

- What is the appropriate disposition and why
 - This is the logical conclusion to everything you’ve just said
 - It is consistent with the relevant Guideline Judgement
 - It addresses Section 3A – purposes of sentencing
 - The sentence you propose strikes the right balance between denouncement, retribution and rehabilitation.

Part 3

After the sentencing

If your client gets slotted

- Speak to them to explain their sentence and advise them of their appeal rights, time limits and *prospects of success*
 - If instructed to, file an appeal
 - Obtain instructions to apply for bail, if relevant.
 - The appeal must be filed before a bail application can be made

If your client gets to go home with a community-based order

- Explain their obligations and any consequential orders (e.g. disqualification; interlock orders)
- Advise them of any appeal rights and prospects (and the limited availability of legal aid)

Custodial sentences

Some things to be aware of

- Section 58 Crimes (Sentencing Procedure) Act 1999 - Limitation on consecutive sentences imposed by Local Court
 - Existing sentence includes parole period
- Start date of sentence when pre-sentence custody includes balance of parole: *Callaghan v R* (2006) 160 A Crim R 145
- Rehab as quasi-custody – usually 50%
- Revocation of parole and the 12 month rule – all is not lost

Advocacy tips for Local Court sentencing

- Be concise and don't repeat yourself
- Know your bench
- Develop a theme if you can: something to hang your hat onto
 - Similar to a 'case theory'
- Maintain your credibility by conceding what you need to, and making sensible submissions
- Steal your opponent's thunder (usually with appropriate concessions)

Advocacy tips for Local Court sentencing

- Be realistic about the likely sentence and advise your client accordingly
 - It should be no surprise to your client if they get slotted from the floor – you will have already told them to prepare for it
- Watch others for what they do well and what they don't
- Seek feedback from colleagues on your performance
- You are not a magician!
- Last but not least: NEVER, EVER START YOUR PLEA WITH THE WORDS: "my client is a xx year old male...." this is both lazy and lame.

Resources

- [Local Court Bench Book and Sentencing Bench Book](#)
- [NSW Criminal Practice and Procedure: LexisNexis subscription required](#)
- [Judge Yehia's 'Sentencing Checklist'](#)
- [Mark Dennis Excellent Website: Criminal CPD](#)
- [NSW Public Defenders Sentencing Resources](#)

Some important legislation

- Crimes (Sentencing Procedure) Act 1999
- Crimes Act 1900
- Drug Misuse and Trafficking Act 1985
- Road Transport Act 2013
- Crimes (Appeal and Review) Act 2001

Templates, checklists and cheat sheets

- Written instructions to plea guilty
- Sentencing instructions checklist
- Sentencing submissions checklist
- PD's table of community based orders
- RTA offences cheat sheet

2. Facts, Record and SAR for the example client, John Smith

COURT ATTENDANCE NOTICE (DEFENDANT COPY)

██████████
H██████████

Bail :

You are required to attend the NEWCASTLE LOCAL Court on ██████████

DEFENDANT DETAILS

██████████ ██████████ ██████████ ██████████ NEWCASTLE, NSW, 2300	CNI Number : ██████████ Licence details : ██████████ NSW Sex : Male ATSI Status : Neither
--	--

PROSECUTOR (NSW POLICE) DETAILS

OIC (Prosecutor) : ██████████ Newcastle City Hwp	
Created by : ██████████	
Accepted by : ██████████	
Apprehended : ██████████	Charging station : Newcastle City Hwp
Apprehended by : ██████████ Newcastle City Hwp	

DETAILS OF OFFENCE/S

1	Road Transport Act 2013, Section 110(5)(a) Drive with high range PCA - first offence at ██████████ did drive a motor vehicle, to wit, registration ██████████ on a road, to wit, ██████████ whilst there was present in his breath the high range prescribed concentration of alcohol. READING 0.187, LICENCE NUMBER ██████████ CERTIFICATE NUMBER ██████████	Law Part Code 79166
2	Road Transport Act 2013, Section 54(1)(a) Drive motor vehicle on road during disqualification period - first offence at ██████████ did drive a motor vehicle on a road during a period of disqualification, the said ██████████ being a person who was disqualified from obtaining a driver licence.	Law Part Code 79009

INFORMATION FOR DEFENDANT

1. You should obtain legal advice immediately about your rights regarding this Court Attendance Notice. You may wish to contact a legal practitioner, LawAccess (1300 888 529) or the Legal Aid Commission if you require assistance. On your first date of appearance at Court, you should be in a position to advise the court, if required, whether you wish to plead guilty or not guilty to the alleged offence/s.
2. If you have a physical impairment, or require an interpreter to assist you at Court, please advise the Local Court at which you are to appear as soon as possible.
3. If you have been charged by the Police, then the Police Officer responsible for investigating the alleged offence/s will, on request, make arrangement for a language interpreter to assist you at Court.
4. Failure to appear may result in your arrest or in the matter being dealt with in your absence.

Printed at 6:54 pm on 11/02/2020

New South Wales Police
FACTS SHEET

H [REDACTED]
FIELD CAN

Offender : [REDACTED]

Address : [REDACTED]
: [REDACTED]
: [REDACTED]

Nationality : Unknown

D.O.B : [REDACTED]

Occupation :

CNI No. : [REDACTED]

Seq. No. Offences

1. Drive with high range Pca 1st off
Act Road Transport Act 2013
Section 110(5)(A)

Law Part : 79166

2. Drive motor vehicle during disqualification period 1st off
Act Road Transport Act 2013
Section 54(1)(A)

Law Part : 79009

ARRESTING OFFICER

Name : [REDACTED]
Station : NEWCASTLE CITY HWP

INFORMANT

Name : [REDACTED]
Station : NEWCASTLE CITY HWP

ACCEPTING OFFICER

Name : [REDACTED]
Station : Newcastle City Hwp
Date : [REDACTED]

COURT

Court Name : Newcastle Local Court
Court Date : [REDACTED]

WITNESSES

Police Witnesses : 1
Civilian Witnesses : 0

BAIL

Bail Type : No Bail Conditions

FACTS SHEET Cont'd

Defendant : [REDACTED]

ANTECEDENTS

Unemployed male living in a defacto relationship, has a self admitted alcohol problem.

FULL FACTS

At 1.10pm on [REDACTED] Police have observed the accused [REDACTED] driving a white commodore sedan, registration number [REDACTED] in a southerly direction, on Darby St, Cooks Hill.

Police have stopped the accused as the rear number plate was faded and difficult to read.

When stopped the Accused got out of the vehicle and said, "You've got me." He was unable to produce a driver's licence and told police he was disqualified.

While talking with him police noticed that his eyes were glassy and blood shot, his breath smelt of intoxicating liquor and he was unsteady on his feet. Police formed the opinion he was moderately effected by alcohol.

He was given a breath test which revealed a positive reading. The accused was consequently placed under arrest. He then produced photo identification in his name.

He was taken to Newcastle Police Station. At the Station he admitted to consuming, 3 schooners of tooheys new and 5 to 6 glasses of scotch between 7.30am and 1pm. With his last drink at home.

The accused has undergone a breath analysis which has revealed a reading of 0.187 grams of alcohol per 210 litres of breath. Certificate number [REDACTED]

The accused was not issued a suspension notice as he did not hold a current drivers licence.

The accused has stated the reason he drove when he knew he had been drinking was, that he didn't want his defacto who had also been drinking and held a current licence to drive.

RMS checks on the Accused's licence found that his NSW licence No. [REDACTED] was currently

FACTS SHEET Cont'd

Defendant : [REDACTED]

FULL FACTS Cont'd.

disqualified until 3/6/2027.

The accused was consequently issued a field Court attendance notice for drive with the high range PCA and drive whilst disqualified.

At the time of the offence it was daylight, fine and dry roadway. Traffic was light. There was one other intoxicated persons in the vehicle.

At all times the Accused was compliant and polite towards police.

The Accused's fingerprints were taken at the Police Station.

NEW SOUTH WALES POLICE FORCE
 CRIMINAL HISTORY - BAIL REPORT

THE PARTICULARS CONTAINED IN THIS PRINTOUT ARE THE RESULT OF A NAME CHECK, AND NOT VERIFIED BY FINGERPRINTS. THEREFORE THERE IS NO GUARANTEE THAT THE RECORD REFERS TO THE PERSON OF INTEREST.

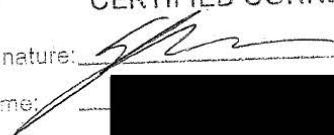
 STATUS LEGEND *
 RV - REMAND VERIFIED C - CRS UPDATED ELECTRONIC OUTCOME *
 CU - CRS UPDATED V - CRS VERIFIED ELECTRONIC OUTCOME *
 EU - ELECTRONICALLY UPDATED CV - CRS CREATED AND VERIFIED *
 EV - ELECTRONICALLY VERIFIED *


CNI NUMBER :
 NAME : DOB :
 ALIAS NAMES : DOB :

1
 1
 1
 1
 1
 1
 15/06/1970

CHARGE DATE STATUS	COURT NAME CHARGE STATION OFFENCE	COURT DATE SENTENCE	CHARGE NO
17/10/1987	WORIMI CHILDRENS COURT WARATAH	17/11/1987 H ** FINGERPRINTED **	
CV 001	1. ENTER ENCLOSED LANDS	1. ADMONISHED AND DISCHARGED.	
26/07/1989	NEWCASTLE LOCAL COURT NEWCASTLE CITY	16/10/1989 H ** FINGERPRINTED **	
CV 001	1. LARCENY AS A SERVANT (4 COUNTS)	1. ON EACH COUNT \$500 (M/F 170447)	

CERTIFIED CORRECT

Signature: 

Name: 

Rank: _____

Location: Newcastle

11/2/20

NEW SOUTH WALES POLICE FORCE

CRIMINAL HISTORY - BAIL REPORT CONT'D

CNI NUMBER	NAME	DOB
	:	:
CHARGE DATE STATUS	COURT NAME CHARGE STATION OFFENCE	COURT DATE CHARGE NO SENTENCE

30/03/1990	WALLSEND LOCAL COURT WARATAH	15/05/1990 H ** FINGERPRINTED **
CV 001	1. STEALING S.117	1. FD \$300 (M/F 246413)
06/12/1990	WALLSEND LOCAL COURT WARATAH	11/12/1990 H ** FINGERPRINTED **
CV 001	1. BREAK ENTER WITH INTENT	1. NBC WARRANT TO ISSUE (CR 325736)
31/01/1991	WALLSEND LOCAL COURT WARATAH	02/05/1991 H ** FINGERPRINTED **
CV 001	1. ENTER ENCLOSED LAND	1. DISM
15/02/1991	WALLSEND LOCAL COURT WARATAH	19/03/1991 H ** FINGERPRINTED **
CV 001	BE&S	NOT BEFORE COURT : (SDC 24840)
25/04/1991	WALLSEND LOCAL COURT WARATAH	18/07/1991 H ** FINGERPRINTED **
CV 001	1. OBTAIN BENEFIT BY DECEPTION	1. 50 HRS CSO.
25/04/1991	WALLSEND LOCAL COURT WARATAH	18/07/1991 H ** FINGERPRINTED **
CV 002	1. STEAL	1. 50 HRS CSO.

NEW SOUTH WALES POLICE FORCE

CRIMINAL HISTORY - BAIL REPORT CONT'D

CNI NUMBER	:		DOB :	
NAME	:	F		
CHARGE	COURT NAME		COURT DATE	
DATE	CHARGE STATION			CHARGE NO
STATUS	OFFENCE		SENTENCE	

13/06/1991	WALLSEND LOCAL COURT WARATAH		24/10/1991	
			H	
			** FINGERPRINTED **	
CV	002 B&E WITH INTENT		PERIODIC DETENTION : 9 MONTHS COMMENCING 01/09/1991 COSTS - COURT : \$45 WITNESS EXPENSES : \$27 (SDC 24840)	
CV	001 BE&S		PERIODIC DETENTION : 9 MONTHS COMMENCING 01/09/1991 (SDC 24840)	
19/06/1991	WALLSEND LOCAL COURT WARATAH		18/07/1991	
			H	
			** FINGERPRINTED **	
CV	001 1. STEALING S117/496 (MIRROR & STEREO SYSTEM)		1. 50 HOURS COMMUNITY SERVICE ORDER. (SUPERVISING COURT WALLSEND).	
24/05/1993	WALLSEND LOCAL COURT NEWCASTLE CITY		09/08/1993	
			H	
			** FINGERPRINTED **	
CV	001 1. STEALING		1. 6 MTHS PERIODIC DETENTION FROM 200893	

NEW SOUTH WALES POLICE FORCE

CRIMINAL HISTORY - BAIL REPORT CONT'D

CNI NUMBER :		DOB :
NAME :		
CHARGE	COURT NAME	COURT DATE
DATE	CHARGE STATION	CHARGE NO
STATUS	OFFENCE	SENTENCE

29/03/1994	BELMONT LOCAL COURT CHARLESTOWN	16/06/1994 H ** FINGERPRINTED **
CV	001 1. STEALING	1. RECOG S558 SELF \$1000 GB 12 MTHS ACCEPT SUPV NS W PROBATION SERVICE ALSO FD \$100 CC \$46 RECOG ENTE RED MORAHAN LCM
28/08/1997	NEWCASTLE LOCAL COURT WARATAH	28/10/1997 H ** FINGERPRINTED **
CV	COMMON ASSAULT-T2 (2 COUNTS)	COMMITTED FOR TRIAL : (SDC 24840)
CV	005 COMMIT ACT OF INDECENCY WITH VICTIM UNDER 10 YEARS-T1	COMMITTED FOR TRIAL : (SDC 24840)
CV	003 INCITE VICTIM UNDER 10 YEARS TO COMMIT INDECENT ACT-T1	COMMITTED FOR TRIAL : (SDC 24840)
CV	004 SEXUAL INTERCOURSE WITH PERSON UNDER THE AGE OF 10 YEARS-SI	COMMITTED FOR TRIAL : (SDC 24840)
28/08/1997	NEWCASTLE DISTRICT COURT WARATAH	17/09/1998 H ** FINGERPRINTED **
CV	005 COMMIT ACT OF INDECENCY WITH VICTIM UNDER 10 YEARS-T1	INDICTED FOR: NOT GUILTY BY VERDICT : (DC 319548) COURT CASE REFERENCE NUMBER 97/31/0491

NEW SOUTH WALES POLICE FORCE
 CRIMINAL HISTORY - BAIL REPORT CONT'D

CNI NUMBER	:		DOB :
NAME	:		
CHARGE	COURT NAME		COURT DATE
DATE	CHARGE STATION		CHARGE NO
STATUS	OFFENCE		SENTENCE

CHARGE CONT'D			
28/08/1997	NEWCASTLE DISTRICT COURT WARATAH		17/09/1998 H ** FINGERPRINTED **
CV	004 SEXUAL INTERCOURSE WITH PERSON UNDER THE AGE OF 10 YEARS-SI		INDICTED FOR: NOT GUILTY BY VERDICT : (DC 319548) COURT CASE REFERENCE NUMBER 97/31/0491
CV	006 AOABH		INDICTED FOR: NOT GUILTY BY VERDICT : (DC 319548) COURT CASE REFERENCE NUMBER 97/31/0491
CV	007 INCITE TO COMMIT ACT OF INDECENCY CHILD UNDER 16 YRS		INDICTED FOR: NOT GUILTY BY VERDICT : (DC 319548) COURT CASE REFERENCE NUMBER 97/31/0491
06/01/2002	TORONTO LOCAL COURT NEWCASTLE CITY		05/02/2002 H ** FINGERPRINTED **
EV	001 BREAK AND ENTER BUILDING (STEAL) VALUE <= \$15000-T1		BOND S9 : 2 YEARS SUPV NSW PROB SERVICE AND COMPLETE ANY DRUG AND ALCOHOL OR OTHER PROGRAMME AS DIRECTED
EV	002 MAKE/FURNISH A STATEMENT WHICH IS FALSE/MISLEADING		FINE : \$100 COSTS - COURT : \$58 COMPENSATION : \$300

NEW SOUTH WALES POLICE FORCE

CRIMINAL HISTORY - BAIL REPORT CONT'D

CNI NUMBER NAME	:	---	DOB :
CHARGE DATE STATUS	COURT NAME CHARGE STATION OFFENCE		COURT DATE CHARGE NO SENTENCE
25/10/2002	NEWCASTLE LOCAL COURT WARATAH		30/10/2002 H ** FINGERPRINTED **
EV	001 WARRANT, FAILURE TO APPEAR FOR BREACH OF GOOD BEHAVIOUR BOND (FIRST INSTANCE WARRANT - 35138421)		CONVICTED S25(2) WARRANT TO ISSUE :
22/11/2002	NEWCASTLE LOCAL COURT NEWCASTLE CITY		19/12/2002 H ** FINGERPRINTED **
EV	001 WARRANT, FAILURE TO APPEAR FOR BREACH OF GOOD BEHAVIOUR BOND (FIRST INSTANCE WARRANT - [REDACTED])		WARRANT MAY ISSUE :
22/11/2002	TORONTO LOCAL COURT NEWCASTLE CITY		04/03/2003 H ** FINGERPRINTED **
EV	001 WARRANT, FAILURE TO APPEAR FOR BREACH OF GOOD BEHAVIOUR BOND (FIRST INSTANCE WARRANT - [REDACTED])		CONVICTED S25(2) WARRANT TO ISSUE :
22/11/2002	TORONTO LOCAL COURT NEWCASTLE CITY		08/10/2003 H ** FINGERPRINTED **
EV	001 WARRANT, FAILURE TO APPEAR FOR BREACH OF GOOD BEHAVIOUR BOND (FIRST INSTANCE WARRANT - [REDACTED])		CONVICTED S25(2) WARRANT TO ISSUE :

NEW SOUTH WALES POLICE FORCE

CRIMINAL HISTORY - BAIL REPORT CONT'D

CNI NUMBER :		DOB :	
NAME :			
CHARGE	COURT NAME	COURT DATE	
DATE	CHARGE STATION		CHARGE NO
STATUS	OFFENCE	SENTENCE	

22/11/2002	NEWCASTLE LOCAL COURT NEWCASTLE CITY	16/03/2004 H ** FINGERPRINTED **	
CV	001 WARRANT, FAILURE TO APPEAR FOR BREACH OF GOOD BEHAVIOUR BOND (FIRST INSTANCE WARRANT - [REDACTED])	IMPRISONMENT : 2 MONTHS COMMENCING 15/03/2004 (LCRT 530)	
22/12/2002	TORONTO LOCAL COURT WARATAH	04/03/2003 H ** FINGERPRINTED **	
EV	CONTRAVENE APPREHENDED DOMESTIC VIOLENCE ORDER (3 COUNTS)	CONVICTED S25(2) WARRANT TO ISSUE :	
22/12/2002	TORONTO LOCAL COURT WARATAH	08/10/2003 H ** FINGERPRINTED **	
EV	CONTRAVENE APPREHENDED DOMESTIC VIOLENCE ORDER (3 COUNTS)	FINE : \$500 COSTS - COURT : \$61	
20/09/2003	MAITLAND LOCAL COURT RAYMOND TERRACE PS	20/09/2003 H ** FINGERPRINTED **	
CV	001 WARRANT W [REDACTED] EXECUTED (BREACH OF AVO - 35344364)	WARRANT EXECUTED : (EEO 1202)	
CV	002 WARRANT W [REDACTED] EXECUTED (BREACH OF AVO - [REDACTED])	WARRANT EXECUTED : (EEO 1202)	
CV	004 WARRANT W [REDACTED] EXECUTED FOR CHARGE H [REDACTED] (BREACH OF ORDER - [REDACTED])	WARRANT EXECUTED : (EEO 1202)	

NEW SOUTH WALES POLICE FORCE

CRIMINAL HISTORY - BAIL REPORT CONT'D

CNI NUMBER	:				
NAME	:			DOB :	
CHARGE		COURT NAME		COURT DATE	
DATE		CHARGE STATION			CHARGE NO
STATUS		OFFENCE		SENTENCE	

CHARGE CONT'D					
20/09/2003		MAITLAND LOCAL COURT		20/09/2003	
		RAYMOND TERRACE PS			H
					** FINGERPRINTED **
CV	003	WARRANT W [REDACTED] EXECUTED		WARRANT EXECUTED :	(EECO 1203)
		(BREACH OF AVO - [REDACTED])			
23/09/2003		TORONTO LOCAL COURT		08/10/2003	
		WARATAH			H
					** NON-FINGERPRINTED **
EV	001	DESTROY OR DAMAGE PROPERTY		CONVICTED S25(2) WARRANT	TO ISSUE :
EV	002	CONTRAVENE APPREHENDED DOMESTIC		CONVICTED S25(2) WARRANT	TO ISSUE :
		VIOLENCE ORDER			
23/09/2003		NEWCASTLE LOCAL COURT		16/03/2004	
		WARATAH			H
					** NON-FINGERPRINTED **
EV	001	DESTROY OR DAMAGE PROPERTY		IMPRISONMENT : 2 MONTHS	COMMENCING 15/03/2004
EV	002	CONTRAVENE APPREHENDED DOMESTIC		IMPRISONMENT : 2 MONTHS	COMMENCING 15/03/2004
		VIOLENCE ORDER			
14/03/2004		NEWCASTLE LOCAL COURT		16/03/2004	
		WARATAH			H
					** FINGERPRINTED **
CV	001	WARRANT W [REDACTED] EXECUTED FOR		WARRANT EXECUTED :	(LCRT 430)
		CHARGE H : [REDACTED] (CONVICTION - [REDACTED])			

NEW SOUTH WALES POLICE FORCE

CRIMINAL HISTORY - BAIL REPORT CONT'D

CNI NUMBER	:		DOB :	
NAME	:			
CHARGE	COURT NAME		COURT DATE	
DATE	CHARGE STATION		CHARGE NO	
STATUS	OFFENCE		SENTENCE	

CHARGE CONT'D				
14/03/2004	NEWCASTLE LOCAL COURT WARATAH		16/03/2004	H : ** FINGERPRINTED **
CV	002 WARRANT W 35542272 EXECUTED FOR CHARGE H (CONVICTION - [REDACTED])		WARRANT EXECUTED : (LCRT 430)	
01/08/2006	NEWCASTLE LOCAL COURT WARATAH		29/08/2006	H : ** FINGERPRINTED **
EV	001 CONTRAVENE APPREHENDED DOMESTIC VIOLENCE ORDER		FINE : \$300 COSTS - COURT : \$67	
09/12/2006	BELMONT LOCAL COURT LAKE MACQUARIE HWP		01/02/2007	H ** NON-FINGERPRINTED **
EV	001 DRIVE WITH LOW RANGE PCA	(i)	CONVICTED S25(2) WARRANT TO ISSUE :	
EV	002 USE UNREGISTERED REGISTRABLE CLASS A MOTOR VEHICLE		FINE : \$400 COSTS - COURT : \$67	
EV	003 NEVER LICENSED PERSON DRIVE VEHICLE ON ROAD-1ST OFFENCE		FINE : \$500 COSTS - COURT : \$67	
09/12/2006	NEWCASTLE LOCAL COURT LAKE MACQUARIE HWP		05/06/2007	H ** NON-FINGERPRINTED **
CV	001 DRIVE WITH LOW RANGE PCA		FINE : \$400 COSTS - COURT : \$67 DISQUALIFICATION : 6 MONTHS COMMENCING 05/06/2007 (EECO 3871)	

NEW SOUTH WALES POLICE FORCE

CRIMINAL HISTORY - BAIL REPORT CONT'D

CNI NUMBER	:			
NAME	:		DOB :	
CHARGE	COURT NAME		COURT DATE	
DATE	CHARGE STATION			CHARGE NO
STATUS	OFFENCE		SENTENCE	

01/06/2007	NEWCASTLE LOCAL COURT WARATAH		04/06/2007 H ** FINGERPRINTED **	
CV	001 WARRANT W [REDACTED] CHARGE H [REDACTED]	EXECUTED FOR CONVICTION -	WARRANT EXECUTED : (EECO 3871)	
01/06/2007	NEWCASTLE LOCAL COURT WARATAH		05/06/2007 H ** FINGERPRINTED **	
EV	FURNISH FALSE INFORMATION/STATEMENT TO LICENSEE (2 COUNTS)		FINE : \$200 COSTS - COURT : \$67	
EV	002 STEAL PROPERTY IN DWELLING-HOUSE <=\$2000-T2		BOND S9 : 18 MONTHS SUPV NSW PROB SERVICE OBEY ALL REASONABLE DIRECTIONS FOR COUNSELLING, EDUCATIONAL DEVELOPMENT OR DRUG AND ALCOHOL INCLUDE RESIDENTIAL REHABILITATION AND REPORT TO NEWCASTLE PROBATION OFFICE WITHIN 24 HOURS.	
01/06/2007	NEWCASTLE LOCAL COURT WARATAH		07/03/2014 H ** FINGERPRINTED **	
EV	002 STEAL PROPERTY IN DWELLING-HOUSE <=\$2000-T2		(CALL UP) ARREST WARRANT TO ISSUE : (LCRT 6855)	

NEW SOUTH WALES POLICE FORCE

CRIMINAL HISTORY - BAIL REPORT CONT'D

CNI NUMBER	:	---	DOB :	
NAME	:			
CHARGE	COURT NAME		COURT DATE	
DATE	CHARGE STATION			CHARGE NO
STATUS	OFFENCE		SENTENCE	

01/06/2007	TORONTO LOCAL COURT WARATAH		16/05/2014 H	** FINGERPRINTED **
EV	002 STEAL PROPERTY IN DWELLING-HOUSE <=\$2000-T2		(CALL UP) NO ACTION ON BREACH :	
18/04/2008	NEWCASTLE LOCAL COURT WARATAH		03/06/2008 H	** NON-FINGERPRINTED **
EV	001 NEVER LICENSED PERSON DRIVE VEHICLE ON ROAD-2ND+ OFFENCE		FINE : \$500 COSTS - COURT : \$70 DISQUALIFICATION : 3 YEARS COMMENCING 03/06/2008 DISQUALIFICATION (HABITUAL OFFENDER) : QUASHED BOND S9 : 2 YEARS NOT TO DRIVE WHILE DISQUALIFIED.	
03/07/2008	NEWCASTLE LOCAL COURT WARATAH		04/08/2008 H	** NON-FINGERPRINTED **
EV	001 DRIVE WHILE DISQUALIFIED FROM HOLDING A LICENCE		ARREST WARRANT TO ISSUE :	
03/07/2008	NEWCASTLE LOCAL COURT WARATAH		24/02/2009 H	** NON-FINGERPRINTED **
EV	001 DRIVE WHILE DISQUALIFIED FROM HOLDING A LICENCE		FINE : \$800 COSTS - COURT : \$73 DISQUALIFICATION : 2 YEARS COMMENCING 03/06/2011	

NEW SOUTH WALES POLICE FORCE

CRIMINAL HISTORY - BAIL REPORT CONT'D

CNI NUMBER	:		DOB :
NAME	:		
CHARGE	COURT NAME		COURT DATE
DATE	CHARGE STATION		CHARGE NO
STATUS	OFFENCE		SENTENCE

12/12/2008	NEWCASTLE LOCAL COURT WARATAH		12/12/2008 H ** FINGERPRINTED **
CV	001 WARRANT W [REDACTED] EXECUTED FOR CHARGE H [REDACTED] (BENCH - NON CONVICTION - [REDACTED])		WARRANT EXECUTED :
12/12/2008	NEWCASTLE LOCAL COURT WARATAH		24/02/2009 H ** FINGERPRINTED **
EV	002 DRIVE WITH MIDDLE RANGE PCA		FINE : \$800 DISQUALIFICATION : 2 YEARS COMMENCING 03/06/2013
EV	003 DRIVE WHILE DISQUALIFIED FROM HOLDING A LICENCE		COMMUNITY SERVICE ORDER : 100 HOURS DISQUALIFICATION : 2 YEARS COMMENCING 03/06/2013
12/12/2008	NEWCASTLE LOCAL COURT WARATAH		25/09/2009 H ** FINGERPRINTED **
CV	003 DRIVE WHILE DISQUALIFIED FROM HOLDING A LICENCE		(CALL UP) FINE : \$2,000 (EEO 5544)

NEW SOUTH WALES POLICE FORCE

CRIMINAL HISTORY - BAIL REPORT CONT'D

CNI NUMBER	:		DOB :
NAME	:		
CHARGE	COURT NAME	COURT DATE	
DATE	CHARGE STATION		CHARGE NO
STATUS	OFFENCE	SENTENCE	

07/12/2010	BELMONT LOCAL COURT LAKE MACQUARIE HWP	03/03/2011 H ** NON-FINGERPRINTED **
EV	001 DRIVE WITH MIDDLE RANGE PCA	BOND S9 : 12 MONTHS SUPV NSW PROB SERVICE COSTS - COURT : \$79 DISQUALIFICATION : 2 YEARS COMMENCING 04/06/2025 DISQUALIFICATION (HABITUAL OFFENDER) : QUASHED
EV	002 DRIVE WHILE DISQUALIFIED FROM HOLDING A LICENCE	BOND S9 : 12 MONTHS SUPV NSW PROB SERVICE COSTS - COURT : \$79 AUTOMATIC/STATUTORY PERIOD : COMMENCING 04/06/2023 DISQUALIFICATION (HABITUAL OFFENDER) : QUASHED
07/12/2010	BELMONT LOCAL COURT LAKE MACQUARIE HWP	27/10/2011 H ** NON-FINGERPRINTED **
EV	001 DRIVE WITH MIDDLE RANGE PCA	(CALL UP) NO ACTION ON BREACH :
EV	002 DRIVE WHILE DISQUALIFIED FROM HOLDING A LICENCE	(CALL UP) NO ACTION ON BREACH :

NEW SOUTH WALES POLICE FORCE

CRIMINAL HISTORY - BAIL REPORT CONT'D

CNI NUMBER NAME	:	:	DOB :
CHARGE DATE STATUS	COURT NAME CHARGE STATION OFFENCE	COURT DATE SENTENCE	CHARGE NO
13/12/2012	TORONTO LOCAL COURT BELMONT	19/04/2013 H ** NON-FINGERPRINTED **	
EV 001	DRIVE WHILE DISQUALIFIED FROM HOLDING A LICENCE	CONVICTED S25(2) WARRANT TO ISSUE :	
13/12/2012	TORONTO LOCAL COURT BELMONT	16/10/2013 H ** NON-FINGERPRINTED **	
EV 001	DRIVE WHILE DISQUALIFIED FROM HOLDING A LICENCE	CONVICTED S25(2) WARRANT TO ISSUE :	
13/12/2012	TORONTO LOCAL COURT BELMONT	15/11/2013 H ** NON-FINGERPRINTED **	
EV 001	DRIVE WHILE DISQUALIFIED FROM HOLDING A LICENCE	CONVICTED S25(2) WARRANT TO ISSUE :	
13/12/2012	NEWCASTLE LOCAL COURT BELMONT	07/03/2014 H ** NON-FINGERPRINTED **	
EV 003	FAIL TO APPEAR IN ACCORDANCE WITH BAIL UNDERTAKING (CONVICTION - [REDACTED])	OFFENCE PROVED S25 (2) WARRANT TO ISSUE :	
EV 001	DRIVE WHILE DISQUALIFIED FROM HOLDING A LICENCE	OFFENCE PROVED S25 (2) WARRANT TO ISSUE :	
EV 002	FAIL TO APPEAR IN ACCORDANCE WITH BAIL UNDERTAKING (CONVICTION - [REDACTED])	OFFENCE NOT PROCEEDED WITH (LCRT 6855)	

NEW SOUTH WALES POLICE FORCE

CRIMINAL HISTORY - BAIL REPORT CONT'D

CNI NUMBER NAME	:	----	DOB :
CHARGE DATE STATUS	COURT NAME CHARGE STATION OFFENCE		COURT DATE CHARGE NO SENTENCE
13/12/2012	TORONTO LOCAL COURT BELMONT		16/05/2014 H ** NON-FINGERPRINTED **
EV	001 DRIVE WHILE DISQUALIFIED FROM HOLDING A LICENCE		IMPRISONMENT : 4 MONTHS SUSPENDED ON ENTER BOND S12 : 4 MONTHS DISQUALIFICATION : 2 YEARS FROM THE END OF THE CURRENT PERIOD OF DISQUALIFICATION.
EV	004 FAIL TO APPEAR IN ACCORDANCE WITH BAIL UNDERTAKING (BENCH - NON CONVICTION - ██████████)		OFFENCE NOT PROCEEDED WITH (EEO 8866)
EV	003 FAIL TO APPEAR IN ACCORDANCE WITH BAIL UNDERTAKING (CONVICTION - ██████████)		S10A CONVICTION WITH NO OTHER PENALTY :
07/02/2013	TORONTO LOCAL COURT WARATAH		22/03/2013 H ** FINGERPRINTED **
EV	001 WARRANT W ██████████ EXECUTED (FRESH MATTERS - NON CONVICTION - ██████████)		WARRANT EXECUTED : (LCRT 5172)
12/08/2013	NEWCASTLE LOCAL COURT BELMONT		12/08/2013 H ** FINGERPRINTED **
CV	001 WARRANT W ██████████ EXECUTED FOR CHARGE H ██████████ (CONVICTION - 62603712)		WARRANT EXECUTED : (LCRT 5863)

NEW SOUTH WALES POLICE FORCE

CRIMINAL HISTORY - BAIL REPORT CONT'D

CNI NUMBER	:		DOB :	
NAME	:			
CHARGE	COURT NAME		COURT DATE	
DATE	CHARGE STATION		CHARGE NO	
STATUS	OFFENCE		SENTENCE	

CHARGE CONT'D				
12/08/2013	NEWCASTLE LOCAL COURT BELMONT		12/08/2013 H	** FINGERPRINTED **
CV	002 WARRANT W [REDACTED] EXECUTED (FRESH MATTERS - NON CONVICTION - [REDACTED])		WARRANT EXECUTED :	(LCRT 5863)
30/10/2013	TORONTO LOCAL COURT BELMONT		30/10/2013 H	** FINGERPRINTED **
EV	001 WARRANT W [REDACTED] EXECUTED FOR CHARGE H (CONVICTION - 62698838)		WARRANT EXECUTED :	
EV	002 WARRANT W [REDACTED] EXECUTED (FRESH MATTERS - NON CONVICTION - [REDACTED])		WARRANT EXECUTED :	(LCRT 6212)
27/11/2013	NEWCASTLE LOCAL COURT NEWCASTLE		21/02/2014 H	** FINGERPRINTED **
EV	001 WARRANT W [REDACTED] EXECUTED (FRESH MATTERS - NON CONVICTION - [REDACTED])		WARRANT EXECUTED :	(LCRT 6367) (LCRT 6809)
EV	002 WARRANT W [REDACTED] EXECUTED FOR CHARGE H (CONVICTION - [REDACTED])		WARRANT EXECUTED :	(LCRT 6367) (LCRT 6809)

NEW SOUTH WALES POLICE FORCE

CRIMINAL HISTORY - BAIL REPORT CONT'D

CNI NUMBER :
NAME : DOB :

CHARGE DATE STATUS	COURT NAME CHARGE STATION OFFENCE	COURT DATE SENTENCE	CHARGE NO
08/05/2014	BELMONT LOCAL COURT BELMONT	09/05/2014 H	
		** FINGERPRINTED **	
EV 001	WARRANT W [REDACTED] EXECUTED FOR CHARGE H [REDACTED] (BREACH OF ORDER - [REDACTED])	WARRANT EXECUTED : (LCRT 7120)	
EV 002	WARRANT W [REDACTED] EXECUTED (FRESH MATTERS - NON CONVICTION - [REDACTED])	WARRANT EXECUTED : (LCRT 7120)	
EV 003	WARRANT W [REDACTED] EXECUTED FOR CHARGE H [REDACTED] (BENCH - NON CONVICTION - [REDACTED])	WARRANT EXECUTED : (LCRT 7120)	
04/02/2020	NEWCASTLE LOCAL COURT NEWCASTLE CITY HWP	27/02/2020 H	
		** NON-FINGERPRINTED **	
002	DRIVE MOTOR VEHICLE DURING DISQUALIFICATION PERIOD - 1ST OFF		
001	DRIVE WITH HIGH RANGE PCA - 1ST OFF		

*** END OF REPORT ***

TRAFFIC RECORD REPORT (Drivers Lic. No. [REDACTED])

Name:

:

Date of Birth:

Drivers Licence No & State: NSW DRIVES Customer Id:

Licence No.: State: NSW Date of Birth:
 Customer No.:
 Customer Name:
 Address: [REDACTED]

Class	Type	Expiry Date
C	Learner	12-10-1990
Disqualified		from 03-06-2008 to 03-06-2027

- 16-05-2014 TORONTO Court
 12-12-2012 DRIVE WHILST DISQUALIFIED
 DISQ 2 Years (Court Order) From 03-06-2025
 4 Months Suspended Sentence
 GLCSB230514/642/1

- 08-06-2011 STATE DEBT RECOVERY OFFICE
 04-12-2010 EXCEED SPEED LIMIT BY MORE THAN 30 KM/H BUT NOT MORE THAN 45 KM/H WHILST DRIVING A MOTOR VEHICLE (CAMERA DETECTED)
 EO \$692 5 6051086590159/1

- 02-05-2011 STATE DEBT RECOVERY OFFICE
 14-11-2010 EXCEED SPEED LIMIT BY NOT MORE THAN 10 KM/H WHILST DRIVING A MOTOR VEHICLE (CAMERA DETECTED)
 EO \$90 4 6050797262122/1

- 03-03-2011 BELMONT Court
 03-03-2011 HABITUAL OFFENDER DECLARED
 for the offences of 07-12-2010, 11-12-2008, 03-07-2008
 Declaration QUASHED on 28-03-2011
 CCSS280311/HOQ/1

- 03-03-2011 BELMONT Court
 07-12-2010 DRIVE WITH MIDDLE RANGE CONCENTRATION OF ALCOHOL
 DISQ 2 Years (Court Order) From 03-03-2011
 Good Behaviour Bond 1 Year
 HABITUAL TRAFFIC OFFENDER DECLARATION QUASHED
 GLCSS280311/467/1

TRAFFIC RECORD REPORT (Drivers Lic. No.)

03-03-2011 BELMONT Court
 07-12-2010 DRIVE WHILST GLCSS280311/467/2
 DISQUALIFIED
 DISQ 2 Years (Court Order) From 03-06-2023
 Good Behaviour Bond 1 Year
 HABITUAL TRAFFIC OFFENDER DECLARATION QUASHED

24-02-2009 NEWCASTLE Court
 24-02-2009 HABITUAL OFFENDER CCVN230309/HO2/1
 DECLARED
 DISQ 5 Years (Auto) From 03-06-2018
 for the offences of 11-12-2008, 03-07-2008, 18-04-2008

24-02-2009 NEWCASTLE Court
 24-02-2009 HABITUAL OFFENDER CCCVN230309/HO1/1
 DECLARED
 DISQ 5 Years (Auto) From 03-06-2013
 for the offences of 03-07-2008, 18-04-2008, 09-12-2006

24-02-2009 NEWCASTLE Court
 03-07-2008 DRIVE WHILST \$800 GLCSB210309/357/1
 DISQUALIFIED
 DISQ 2 Years (Court Order) From 03-06-2011

24-02-2009 NEWCASTLE Court
 11-12-2008 DRIVE WITH MIDDLE \$800 GLCSB210309/357/2
 RANGE CONCENTRATION
 OF ALCOHOL
 DISQ 2 Years (Court Order) From 03-06-2013

24-02-2009 NEWCASTLE Court
 11-12-2008 DRIVE WHILST GLCSB210309/357/3
 DISQUALIFIED
 DISQ 2 Years (Court Order) From 03-06-2013
 100 Hours Community Service

26-09-2008 STATE DEBT RECOVERY OFFICE
 30-04-2008 EXCEED SPEED LIMIT BY EO \$238 6022068324270/1
 MORE THAN 15 KM/H BUT
 NOT MORE THAN 30 KM/H
 WHILST DRIVING A
 MOTOR VEHICLE (CAMERA
 DETECTED)

16-06-2008 Habitual Offence Warning letter sent for the offences of
 09-12-2006 and 18-04-2008.

03-06-2008 NEWCASTLE Court
 18-04-2008 UNLIC. DRIVER/RIDER - \$500 GLCAF140608/319/1

TRAFFIC RECORD REPORT (Drivers Lic. No.
)

NEVER HELD A LIC. -
SUBSEQUENT OFFENCE
WITHIN LAST 5 YRS
(COURT CONVICTION)
DISQ 3 Years (Court Order) From 03-06-2008
Good Behaviour Bond 2 Years
HABITUAL OFFENDER DECLARATION QUASHED

05-06-2007 NEWCASTLE Court
09-12-2006 DRIVE WITH LOW RANGE \$400 GLCSM140607/267/1
CONCENTRATION OF
ALCOHOL
DISQ 6 Months (Court Order) From 05-06-2007

01-02-2007 BELMONT Court
09-12-2006 UNLICENSED \$500 L GLCMS210207/249/1
DRIVER/RIDER - NEVER
HELD A LICENCE - 1ST.
OFFENCE IN 5 YRS
(COURT CONVICTION)

01-02-2007 BELMONT Court
09-12-2006 USE UNREGISTERED MOTOR \$400 00037401/06/31/1
VEHICLE

16-12-2004 STATE DEBT RECOVERY OFFICE
01-07-2004 EXCEED SPEED LIMIT BY EO \$130 6003606438352/1
NOT MORE THAN 15 KM/H
WHILST DRIVING A MOTOR
VEHICLE (CAMERA
DETECTED)

29-11-2001 STATE DEBT RECOVERY OFFICE
01-08-2001 DISOBEY TRAFFIC EO \$211 8744048334/1
LIGHTS-CAMERA
DETECTED

01-08-1996 CASTLEREAGH STREET Court
08-04-1996 EXCEED SPEED LIMIT BY EO \$165 4851904215/1
MORE THAN 15 KM/H BUT
NOT MORE THAN 30 KM/H
WHILST DRIVING A
MOTOR VEHICLE

17-10-1989 Learner Licence Issued (Class 1A)

12-08-1988 Learner Licence Issued (Class 1A)

*** End of List ***

RTA140P PRD

New South Wales Police Service
RTA Enquiry via COPS

Date: 04/02/2020


Time: 13:23:46

Page: 4

TRAFFIC RECORD REPORT (Drivers Lic. No.

CERTIFIED CORRECT

Signature :  _____

Name :  _____

Rank : _____

Location : Newcastle _____

Date : 4/2/20 _____

Sentencing assessment report

Name [REDACTED]
Date of birth [REDACTED]
MIN [REDACTED]
Court NEWCASTLE LOCAL COURT
Court date [REDACTED] 2020
Offences Drive with high range PCA - 1st off
Drive motor vehicle during disqualification period - 1st off

Sources of information

- Interviews with [REDACTED]
- Contact with Mr [REDACTED] partner
- Contact with Mr [REDACTED] mother
- Contact with [REDACTED] Dental and Medical Centre
- Contact with Mr [REDACTED] Disability Employment Agency
- Contact with Calvary Mater Hospital - Mental Health and Substance Use Service (MHSUS).
- Police facts and criminal history
- Corrective Services NSW records

Current circumstances

Family and social circumstances

- Mr [REDACTED] resides with his long term partner in the Swansea area in a local motel. He indicated that prior to securing this accommodation he and his partner had experienced homelessness where they were residing in their car.
- Mr [REDACTED] indicated that he will be relocating to Newcastle East within the coming weeks.

Education and employment

- Mr [REDACTED] is currently unemployed and in receipt of Newstart allowance.
- Enquires indicate that he has an impending assessment with a Disability Employment Agency to determine ongoing employment related support.

Factors related to offending

History of anti-social behaviour

- Mr [REDACTED] has attributed his previous offences to his illegal driving choices and domestic violence related behaviours.

Attitudes

- Mr [REDACTED] made a full admission he had driven the vehicle despite consuming several alcoholic drinks throughout the course of the day.
- He claimed that he had driven the vehicle in attempt to remove himself from a high risk situation with a family member.
- He acknowledged that he had driven the vehicle with knowledge that he did not hold a valid drivers licence at the time of his actions.

Substance use

Mr [REDACTED] made a full admission he had driven the vehicle despite consuming several alcoholic drinks.

Responsivity

Insight into impact of offending

- Mr [REDACTED] stated that he “accepts full responsibility” and “willing to accept the consequences as the result of his negative behaviour”.

Willingness and ability to undertake intervention

- Throughout the adjournment period Mr [REDACTED] has engaged with Calvary Mater Hospital’s MHSUS and has an upcoming appointment scheduled for the 20 August 2020.

Willingness and ability to undertake community service work

- Mr [REDACTED] had expressed a willingness to undertake community service work should a condition be imposed.

Response to supervision

- Mr [REDACTED] last period of supervision in 2011 was considered unsatisfactory where breach action commenced due to his non-compliance to engage in outlined case management strategies.
- It is noted that throughout the adjournment period Mr [REDACTED] has complied

with all directions provided to him and maintained regular telephone contact with Community Corrections.

Assessment and recommendations

Risk assessment

Mr [REDACTED] has been assessed at a **Medium/High** risk of reoffending according to the Level of Service Inventory – Revised (LSI-R).

Supervision plan

If the court makes a supervised order, Community Corrections will supervise Mr [REDACTED] at the **T1 Medium/High** supervision level of the Service Delivery Standards. This means that he will be required to report to a Community Corrections Officer every 2 weeks.

During the COVID-19 pandemic, the level of service delivery may be reduced or altered, for example, Mr [REDACTED] may report to the Community Corrections Officer by telephone.

At this time, Community Corrections will implement the following supervision plan:

- Cognitive behaviour interventions to targeting Managing Cravings, High Risk Environments and Impulsivity deficits.
- Referral to EQUIPS Foundations Programs; both online and face to face post COVID-19 restrictions.
- Mr [REDACTED] to engage with Mental Health and Substance Use Service (MHSUS) for dual diagnosis related intervention.

Recommended order conditions

If the court makes a supervised order, Community Corrections considers that the following conditions would assist to manage the identified risk factors:

- To complete EQUIPS Foundations Program via LIVIT online program, or face to face EQUIPS Program when they resume.
- To engage with the Mental Health and Substance Use Service (MHSUS).

Community service assessment

Community Corrections has assessed Mr [REDACTED] as **suitable** to undertake community service work. As all community service work is currently suspended due to the COVID-19 pandemic, Mr [REDACTED] will be credited with 7 hours per week until work resumes.

If a community service work condition is made, Mr [REDACTED] should telephone the [REDACTED] Community Corrections Office within 7 days.

[REDACTED]
[REDACTED]
Community Corrections Officer
[REDACTED] Community Corrections Office
[REDACTED] 020
[REDACTED]

The information in this report is provided under s12A of the *Crimes (Sentencing Procedure) Regulation 2017* to assist the court in deciding the appropriate community based sentence and conditions for the offender. It may be used to make a conditional release order, a community correction order, or an intensive correction order.

This report does not:

- Give guidance on the appropriate severity of a sentence under s3A of the *Crimes (Sentencing Procedure) Act 1999*
- Answer legal questions such as whether the offender is eligible for an intensive correction order under s67 of the *Crimes (Sentencing Procedure) Act 1999*
- Address matters which are the responsibility of the offender's legal representative or the prosecutor, such as mitigating or aggravating circumstances.

Section 7 of the *Crimes (Sentencing Procedures) Act 1999* allows a court that has sentenced an offender to a period of imprisonment to direct that the offender serves the sentence by way of intensive correction in the community.

Before including a home detention condition on an intensive correction order, the court must request a home detention assessment report from Community Corrections under s17D(2) of the *Crimes (Sentencing Procedures) Act 1999*.

3. Instructions to Plead Guilty Template

I,.....instruct my solicitor

I am charged with the following offence(s):

-
-

I understand that the maximum penalty for the offence(s) is/are:

-
-

I have read/been read the Police Facts Sheet – which are attached to these instructions – and I accept that these are the facts on which the Court will sentence me.

My solicitor has explained to me that the evidence against me is:

-
-
-

My solicitor has advised me that I can be found guilty of the above offence(s) on this evidence.

I understand that:

I have a right to plead not guilty. If I plead not guilty, I will have a defended hearing and my solicitor will represent me in that hearing. If I am found guilty at the hearing I will then be convicted and sentenced.

However, if I plead guilty early, and without the need for a defended hearing, I will get a discount (a smaller sentence) for my 'early plea of guilty'.

I instruct my solicitor that I want to plead guilty to:

-
-

I understand that I am admitting guilt in relation to each and every element of the offence(s), namely:

- 1.
- 2.
- 3.

My solicitor has told me that I may be sentenced to a term of imprisonment.

I have seen my criminal record, and I agree it is accurate. I understand that my criminal record and the Police Facts Sheet will be tendered to the Court for my sentence hearing.

My solicitor has advised me of my appeal rights to the District Court if I think my sentence is too harsh.

I wish to plead guilty of my own choice and free will.

Signed:

Date:

4. Obtaining Instructions on Sentence Template/Checklist

Objective Factors

- Reason(s) and motivation for committing the offence
- The level of planning or impulsiveness involved in the offence.
- Other matters affecting the objective seriousness of the offence (e.g. state of mind at time of offence, role, length of time over which it occurred).

Subjective background

- **Age**
- **Current living arrangements**
 - Family relationships
 - Partner
 - Kids
 - Supportive? Pro-social?
- **Background and upbringing**
 - Education level achieved
 - Work history & qualifications
- **Physical health**
 - Current conditions &/or medications
 - Significant hospitalisations, etc
- **Mental health or Cognitive impairment**
 - When first diagnosed?
 - Family history?
 - Current medications and treatment
 - History of treatment: school assistance; hospitalisations
- **Drug & alcohol use**
 - Related to the offending?
 - Current (pre-custody) usage
 - History of use – age of starting
 - Reasons for starting
 - Rehab attempts
- **Criminal history**
 - Why did client start to offend?
 - Explain patterns of escalation, de-escalation
 - Explain any gaps in record
- **Time in custody**
 - Courses completed
 - Work/employment
 - Hardship experienced in prison (e.g. protection; assaults; limited access to family due to Covid, etc)
 - Continued illicit drug use?
 - Disciplinary issues
- **Post-release plans**
 - Family support
 - Work prospects
 - Housing

- Treatment
- **Attitude to the offending &/or the victims**
- **Attitude and commitment to rehabilitation**

5. Preparing Sentence Submissions Template

1. Objective Factors – what happened

- Circumstances/context of the offending affecting the seriousness of the offences
- Aggravating & mitigating factors
- Objective criminality – where the offences fall on the range of seriousness

2. Subjective Factors – why it happened

- Timing of the plea & evidence of remorse
- Expressions of remorse/attitude to the offences
- Criminal history
 - Any positive achievements while in custody: courses, work, reduction in disciplinary action, etc.
- Background and relevant attributes of the offender: (for e.g.)
 - D & A
 - Mental health
 - Severe disadvantage (Bugmy)
- Prospects of rehabilitation & future/post-release plans (**why it won't happen again**)
 - Why things will be different this time – what will change
 - What has client done well in the past that demonstrates capacity/willingness to rehabilitate

3. Relevant Sentencing Principles

- Sections 3A & 5 C(SP)A
- Guideline judgement
- Principles specific to these offences or this offender's circumstances
 - (e.g. s 58 C(SP)A; rehab counting as quasi-custody; De La Rosa mental health considerations)

4. Specific Issues relating to Imprisonment

- Pre-sentence custody
- Rehab time as quasi-custody
- Start date of sentence
- Section 58 C(SP)A
- Accumulation or concurrency
- Special circumstances

5. The penalty

- The maximum penalty on indictment and the jurisdictional maximum penalty
- The specific penalty sought
- Consequential/ancillary orders

6. Sentencing Options Table

The new sentencing legislation: Intensive Correction Orders (ICO), Community Correction Orders (CCO); Conditional Release Orders (CRO)

<u>Overview</u>	ICO	CCO	CRO
General			
Is it a sentence of imprisonment?	Yes	No	No
Is a conviction recorded?	Yes	Yes	Discretion
Is a future start date possible?	Yes ¹	No	No
Is a fine in addition possible?	Yes	Yes	No
Breaches & condition variations dealt with by:	SPA ²	Court	Court
Maximum length			
Single offence	2 y	3 y	2 y
Aggregate or accumulated total	3 y	n/a	n/a
Preconditions / Exclusions / Requirements			
Prerequisite: sentenced to imprisonment	Yes	No	No
At least one additional condition required	Yes ³	No	No
Offenders under 18 y.o. excluded	Yes ⁴	No	No
Particular offences excluded	Yes	No	No
Must live in NSW or approved jurisdiction	Yes	Depends ⁵	Depends ⁵
Restrictions for domestic violence offences	Yes	No ⁶	No ⁶
Report required:			
for making a general order	Usually ⁷	No	No
for Home Detention	Yes ⁸	n/a	n/a
for Community Service Work	Yes	Yes	n/a
Additional conditions available			
Supervision	(Standard)	Yes ⁵	Yes ⁵
Home Detention (only if suitable)	Yes	No	No
Electronic Monitoring	Yes	No	No
Curfew	Yes	Yes (12/24hr)	No
Community Service Work (only if suitable)	Yes ⁹ (750hrs)	Yes ⁹ (500hrs)	No
Alcohol/Drug Abstinence	Yes	Yes	Yes
Non-association	Yes	Yes	Yes
Place restriction	Yes	Yes	Yes
Program/treatment	Yes	Yes	Yes

¹ But only if accumulated upon another sentence being served by ICO (s71) – and subject to the overall length limit of 3 years.

² The State Parole Authority

³ At least one additional condition must be imposed, unless there is a finding of exceptional circumstances (s73A(1) and (1A)).

⁴ s7(3): "an offender who is under the age of 18 years". This probably means age at time of sentence not offence but it is not clear.

⁵ Supervision is subject to the offender living in NSW or an approved jurisdiction. For Community Service Work on a CCO see note 9.

⁶ While there are no restrictions as such, the court must generally impose supervision (s4A) and must consider the safety of the victim before making an order (s4B(3)).

⁷ General rule (s17D(1)): a court must not make an ICO without an assessment report. Exception (s17D(1A)): if satisfied that it has sufficient information to justify making an ICO without a report.

⁸ The Home Detention assessment must be ordered after the term of the sentence of imprisonment has been set.

⁹ Community Service Work is subject to the offender living in NSW or an approved jurisdiction or satisfying the court that they are willing and able to travel to NSW to undertake the work. Offenders who were under 18 at the time of the offence and under 21 at the time of sentence cannot get CSW on a CCO (s8(2)). However, it seems there is no such restriction on CSW on an ICO for such an offender.

Prepared by Richard Wilson, Deputy Senior Public Defender, Public Defenders Chambers, Version 3.0, 27.8.2018

Navigating the legislation			
	ICO	CCO	CRO
Crimes (Sentencing Procedure) Act 1999			
Power to impose	7; 66	8	9
Maximum term	68	85	95
Procedures and restrictions generally	64-73B	84-91	94-100
Restrictions for particular offences	67	-	-
Standard Conditions (mandatory)	73	88	98
Additional Conditions (optional statutory)	73A	89	99
Further Conditions (optional tailored to offender)	73B	90	99A
Court varying conditions after sentence	-	89-91	99-100
Discretion not to proceed to conviction	-	-	9(2); 10(1)(b)
Reports and when they are required	17B-17D		
What happens with multiple orders	17E-17H		
Domestic Violence Offenders	4A, 4B		
Conversion of existing sentences	Schedule 2, Part 29, Clauses 71-78		
Crimes (Administration of Sentences) Act 1999			
SPA varying conditions after sentence	81	-	-
Breach proceedings	162-164A	107C-D	108C-D

What happens to existing sentences from commencement (24 September 2018)	
Existing Sentence	Converts to
ICO	→ new ICO
HDO	→ ICO with Home Detention condition
CSO	→ CCO with Community Service Work condition
s9 bond	→ CCO
s10(1)(b) bond	→ CRO
s12 bond (suspended sentence)	# Stands, but if revoked → new ICO or gaol

Act and Regulations

Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017 - <https://www.legislation.nsw.gov.au/#/view/act/2017/53>

Crimes (Sentencing Procedure) Regulation 2017

Crimes (Sentencing Procedure) Amendment (Community-based Orders and Other Matters) Regulation 2018

Crimes (Administration of Sentences) Regulation 2014

Crimes (Administration of Sentences) Amendment (Community-based Orders and Other Matters) Regulation 2018

Helpful cases and references

R v Pogson (2012) 82 NSWLR 60

Boulton v The Queen; Clements v The Queen; Fitzgerald v The Queen (2014) 46 VR 308

DPP (NSW) v Jones [2017] NSWCCA 164

New South Wales Law Reform Commission, *Sentencing*, Report 139 (2013).

Clare Ringland and Don Weatherburn, 'The impact of intensive correction orders on re-offending' (2013) 176 *Crime and Justice Bulletin* 1.

Joanna JJ Wang and Suzanne Poynton, 'Intensive correction orders versus short prison sentence: A comparison of re-offending' (2017) 207 *Crime and Justice Bulletin* 1.

Further information:

Legal Aid NSW training days: <https://learning.legalaid.nsw.gov.au/> (register to get access)

Public Defenders: <http://www.publicdefenders.nsw.gov.au/>

Legal Aid NSW: <https://www.legalaid.nsw.gov.au/for-lawyers/>

Department of Justice: <https://www.justice.nsw.gov.au/Pages/Reforms/Sentencing.aspx>

Chapter 5 of *Sentence* (4th Edition) by Odgers SC

Prepared by Richard Wilson, Deputy Senior Public Defender, Public Defenders Chambers, Version 3.0, 27.8.2018

7. Traffic Matters Cheat Sheet

Road Trip 3.0
 An abbreviated guide to Road Transport Legislation in New South Wales
 Author: Imogen Hogan – Lawyer, ALS NSW/ACT
 Adapted and updated from the original 'Road Trip' by Darren Robinson and the amended 'Road Trip 2.0' by Nicholas Leach
 Version 1.0 [March 2020]

Index

2-6	Road Transport Act 2013 [extracts]
7	Road Rules 2014 [extracts]
7	Road Transport (Driver Licensing) Regulation 2017 [extracts]
7	Motor Accidents Compensation Act 1999 [extracts]
8-9	Crimes Act 1900 [extracts]
9	Law Enforcement (Powers and Responsibilities) Act 2002 [extracts]
10	Disqualification: commencement dates
11	Miscellaneous
12	Interlock Orders & Interlock Exemption Orders

Abbreviations/meanings

M	Offence is a major offence for the purposes of the Road Transport Act 2013. A major offence is defined in s 4 of the Road Transport Act 2013.
IS	Offence is caught by s 224 of the Road Transport Act 2013 and as such a police officer may issue an immediate licence suspension notice.
RTA	Road Transport Act 2013
RT(DL)R	Road Transport (Driver Licensing) Regulation 2017
MACA	Motor Accidents Compensation Act 1999
LEPRA	Law Enforcement (Powers and Responsibilities) Act 2002

Version history

Version	Release Date	Comments
1.0	March 2020	Road Trip 3.0 released

Road Transport Act 2013									
Offence and section		First offence				Second or subsequent offence ¹²³⁴			
		Maximum penalty		Disqualification		Maximum penalty		Disqualification	
		Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.
53(1)(a)	Drive without being licensed	Nil	\$2,200	Nil	Nil	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
	s53(1) RTA			No auto or min period – such period as the court specifies - s204(1) RTA					
53(3)	Drive without being licensed – never been licensed ⁵	Nil	\$2,200	Nil	Nil	6 M	\$3,300	12 M	3 M
	s53(3) RTA			No auto or min period – such period as the court specifies - s204(1) RTA		s53(3) RTA		s205A RTA	
54(1)(a)	Drive whilst disqualified	6 M	\$3,300	6 M	3 M	12 M	\$5,500	12 M	6 M
	s54(1) RTA			s205A RTA		s54(1) RTA		s205A RTA	
54(1)(b)	Make application for driver licence during disqualification and omit to mention disqualification etc	6 M	\$3,300	Nil ⁶	Nil	12 M	\$5,500	Nil ⁶	Nil
	s54(1) RTA			No auto or min period – such period as the court specifies - s204(1) RTA		s54(1) RTA		No auto or min period – such period as the court specifies - s204(1) RTA	
54(3)(a)	Drive on road whilst suspended (other than for non-payment of fine)	6 M	\$3,300	6 M	3 M	12 M	\$5,500	12 M	6 M
	s54(3) RTA			s205A RTA		s54(3) RTA		s205A RTA	
54(3)(b)	Make application for driver licence during period of suspension and omit to mention suspension etc	6 M	\$3,300	Nil ⁶	Nil	12 M	\$5,500	Nil ⁶	Nil
	s54(3) RTA			No auto or min period – such period as the court specifies - s204(1) RTA		s54(3) RTA		No auto or min period – such period as the court specifies - s204(1) RTA	

¹ For the purposes of determining whether a major offence is a second or subsequent offence: an offence will be regarded as a second or subsequent offence if, at the time of the conviction or during the period of 5 years before the conviction, the offender is or has been convicted of one or more other major offences (whether of the same or a different kind): ss 9(5)(d) & 205(3) *Road Transport Act 2013*

² For the purposes of determining whether an offence contrary to s53(3) Drive without being licensed – never licensed is a second or subsequent offence: an offence will be regarded as a second or subsequent offence if during the period of 5 years before the conviction the offender has been convicted of an offence against the same provision: s 9(2) *Road Transport Act 2013*.

³ For the purposes of determining whether an offence contrary to ss 54(1) Drive on road whilst disqualified etc, 54(3) Drive on road whilst suspended (other than for non-payment of fine) etc and 54(4) Drive on road whilst cancelled (other than for non-payment of fine) etc: an offence will be regarded as a second or subsequent offence if during the period of 5 years before the conviction the offender has been convicted of an offence against either ss 54(1), (3) or (4); an offence against s.53(3) Drive without being licensed – never licensed; or a major offence: ss 9(2) & 9(5)(a)-(c) *Road Transport Act 2013*.

⁴ For the purposes of determining whether an offence contrary to s54(5) Drive on road whilst suspended or cancelled for non-payment of fine is a second or subsequent offence: an offence will be regarded as a second or subsequent offence if during the period of 5 years before the conviction the offender has been convicted of an offence against the same provision: s9(2) *Road Transport Act 2013*

⁵ A person has never been licensed in connection with an offence if the person has not held a driver licence (or equivalent) of any kind in Australia for the period of at least 5 years immediately before the commission of the offence: s53(5) *Road Transport Act 2013*.

⁶ Section 205A Table items 2 and 4 specify 'Section 54(1), (3) or (4) – first offence (Driving while disqualified, suspended or after licence refusal or cancellation)' and 'Section 54(5) – first offence (Driving after licence suspended or cancelled for non-payment of fine)' respectively and so arguably do not apply to offences under ss 54(1)(b), 54(3)(b), 54(4)(b), 54(5)(a)(ii) and 54(5)(b)(ii) that do not involve driving.

Road Transport Act 2013 (cont.)										
Offence and section		First offence				Second or subsequent offence				
		Maximum penalty		Disqualification		Maximum penalty		Disqualification		
		Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.	
54(4)(a)	Drive on road whilst cancelled (other than for non-payment of fine) or after licence refused	6 M	\$3,300	6 M	3 M	12 M	\$5,500	12 M	6 M	
		s54(4) RTA		s205A RTA		s54(4) RTA		s205A RTA		
54(4)(b)	Make application for driver licence to which the cancelled licence or the refused application related and omit to mention cancellation etc	6 M	\$3,300	Nil ⁷	Nil	12 M	\$5,500	Nil ⁷	Nil	
		s54(4) RTA		No auto or min period – such period as the court specifies - s204(1) RTA		s54(4) RTA		No auto or min period – such period as the court specifies - s204(1) RTA		
54(5)(a)(i) ⁸	Drive on road whilst suspended for non-payment of fine	Nil	\$3,300	3 M	1 M	6 M	\$5,500	12 M	3 M	
		s54(5) RTA		s205A RTA		s54(5) RTA		s205A RTA		
54(5)(a)(ii) ⁸	Make application for driver licence during period of suspension and omit to mention suspension etc	Nil	\$3,300	Nil ⁷	Nil	6 M	\$5,500	Nil ⁷	Nil	
		s54(5) RTA		No auto or min period – such period as the court specifies - s204(1) RTA		s54(5) RTA		No auto or min period – such period as the court specifies - s204(1) RTA		
54(5)(b)(i) ⁸	Drive on road whilst cancelled for non-payment of fine	Nil	\$3,300	3 M	1 M	6 M	\$5,500	12 M	3 M	
		s54(5) RTA		s205A RTA		s54(5) RTA		s205A RTA		
54(5)(b)(ii) ⁸	Make application for driver licence to which the cancelled licence related and omit to mention cancellation etc	Nil	\$3,300	Nil ⁷	Nil	6 M	\$5,500	Nil ⁷	Nil	
		s54(5) RTA		No auto or min period – such period as the court specifies - s204(1) RTA		s54(5) RTA		No auto or min period – such period as the court specifies - s204(1) RTA		
68(1)	Use unregistered vehicle on road	Nil	\$2,200	Nil	Nil	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply				
		s68(1) RTA		No auto or min period – such period as the court specifies - s204(1) RTA						
110(1)(a)	Novice driver drive with novice range prescribed concentration of alcohol [0.001-0.019]	M	Nil	\$2,200	6 M	3 M	Nil	\$3,300	12 M	6 M
		IS	s110(1) RTA COURT ELECTION		s205(2)(a) RTA		s110(1) RTA		IF INTERLOCK FOR 12 M: Max 3 M Min 1 M	
									s205(3)(a) RTA	
110(2)(a)	Special category driver drive with special range prescribed concentration of alcohol [0.02-0.049]	M	Nil	\$2,200	6 M	3 M	Nil	\$3,300	12 M	6 M
		IS	s110(2) RTA COURT ELECTION		s205(2)(a) RTA		s110(2) RTA		IF INTERLOCK FOR 12 M: Max 3 M Min 1 M	
									s205(3)(a) RTA	

⁷ Section 205A Table items 2 and 4 specify 'Section 54(1), (3) or (4) – first offence (Driving while disqualified, suspended or after licence refusal or cancellation)' and 'Section 54(5) – first offence (Driving after licence suspended or cancelled for non-payment of fine)' respectively and so arguably do not apply to offences under ss 54(1)(b), 54(3)(b), 54(4)(b), 54(5)(a)(ii) and 54(5)(b)(ii) that do not involve driving.

⁸ Note: In determining any penalty or period of disqualification to be imposed on a person for an offence against subsection (5), a court must take into account the of disqualification will have on the person's employment and the person's ability to pay the outstanding fine that caused the person's driver licence to be suspended effect the penalty or period or cancelled: s 54(6) Road Transport Act 2013.

Road Transport Act 2013 (cont.)										
Offence and section		First offence				Second or subsequent offence				
		Maximum penalty		Disqualification		Maximum penalty		Disqualification		
		Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.	
110(3)(a)	Drive with low range prescribed concentration of alcohol [0.05-0.079]	M	Nil	\$2,200	6 M	3 M	Nil	\$3,300	12 M	6 M
		IS	s110(3) RTA COURT ELECTION		s205(2)(a) RTA		s110(3) RTA		IF INTERLOCK FOR 12 M: Max 3 M Min 1 M s205(3)(a) RTA	
110(4)(a)	Drive with middle range prescribed concentration of alcohol [0.08-0.149]	M	9 M	\$2,200	12 M	6 M	12 M	\$3,300	3 Y	12 M
		IS	s110(4) RTA		IF INTERLOCK FOR 12 M: Max 6 M Min 3 M s205(2)(b) RTA		s110(4) RTA		IF INTERLOCK FOR 24 M: Max 9 M Min 6 M s205(3)(b) RTA	
110(5)(a)	Drive with high range prescribed concentration of alcohol [0.15 +]	M	18 M	\$3,300	3 Y	12 M	2 Y	\$5,500	5 Y	2 Y
		IS	s110(5) RTA		IF INTERLOCK FOR 24 M: Max 9 M Min 6 M s205(2)(d) RTA		s110(5) RTA		IF INTERLOCK FOR 48 M: Max 12 M Min 9 M s205(3)(d) RTA	
111(1)(a)	Drive with prescribed illicit drug ⁹ in oral fluid, blood or urine	M	Nil	\$2,200	6 M	3 M	Nil	\$3,300	12 M	6 M
			s111(1) RTA COURT ELECTION		s205(2)(a) RTA		s111(1) RTA		s205(3)(a) RTA	
111(3)(a)	Drive with morphine in blood or urine	M	Nil	\$2,200	6 M	3 M	Nil	\$3,300	12 M	6 M
			s111(3) RTA		s205(2)(a) RTA		s111(3) RTA		s205(3)(a) RTA	
112(1)	Drive while under influence of alcohol or other drug	M	18 M	\$3,300	3 Y	12 M	2 Y	\$5,500	5 Y	2 Y
		IS	s112(1) RTA		s205(2)(d) RTA		s112(1) RTA		IF INTERLOCK FOR 24 M: Max 9 M Min 6 M s205(3)(d) RTA	
115(1)	Organise, promote or take part in race, attempt on speed record etc	IS	Nil	\$3,300	12 M	Nil	9 M	\$3,300	12 M	Nil
			s115(1) RTA		s115(4) RTA		s115(1) RTA		s115(4) RTA	
116(1)	Conduct associated with road and drag racing and other activities		Nil	\$1,100	Nil	Nil	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s116(1) RTA		No auto or min period – such period as the court specifies - s204(1) RTA					
116(2)	Conduct associated with road and drag racing and other activities in circumstances of aggravation	IS	Nil	\$3,300	12 M ¹⁰	Nil	9 M	\$3,300	12 M ¹⁰	Nil
			s116(2) RTA		s116(7) RTA		s116(2) RTA		s116(7) RTA	

⁹ "Prescribed illicit drug" is defined in s4 as meaning any of the following: (a) delta-9-tetrahydrocannabinol (also known as THC), (b) methylamphetamine (also known as speed), (c) 3,4-methylenedioxymethylamphetamine (also known as ecstasy), (d) cocaine.

¹⁰ Only applies to subsections (a), (b), (c) and (d). Subsections (e), (f) and (g) do not attract an automatic or minimum disqualification period [s204(1) applies i.e. such period as the court specifies].

Road Transport Act 2013 (cont.)										
Offence and section		First offence				Second or subsequent offence				
		Maximum penalty		Disqualification		Maximum penalty		Disqualification		
		Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.	
117(1)(a)	Drive negligently occasioning death	M	18 M	\$3,300	3 Y	12 M	2 Y	\$5,500	5 Y	2 Y
			s117(1)(a) RTA		s205(2)(d) RTA		s117(1)(a) RTA		s205(3)(d) RTA	
117(1)(b)	Drive negligently occasioning grievous bodily harm	M	9 M	\$2,200	3 Y	12 M	12 M	\$3,300	5 Y	2 Y
			s117(1)(b) RTA		s205(2)(d) RTA		s117(1)(b) RTA		s205(3)(d) RTA	
117(1)(c)	Drive negligently <u>not</u> occasioning death or grievous bodily harm		Nil	\$1,100	Nil	Nil	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s117(1)(c) RTA		No auto or min period – such period as the court specifies - s204(1) RTA					
117(2)	Drive furiously, recklessly or at a speed or in a manner dangerous to the public	M	9 M	\$2,200	3 Y	12 M	12 M	\$3,300	5 Y	2 Y
			s117(2) RTA		s205(2)(d) RTA		s117(2) RTA		s205(3)(d) RTA	
118(1)	Drive in a manner that menaces with intent to menace	M	18 M	\$3,300	3 Y	12 M	2 Y	\$5,500	5 Y	2 Y
			s118(1) RTA		s205(2)(d) RTA		s118(1) RTA		s205(3)(d) RTA	
118(2)	Drive in a manner that menaces with possibility of menace	M	12 M	\$2,200	3 Y	12 M	18 M	\$3,300	5 Y	2 Y
			s118(2) RTA		s205(2)(d) RTA		s118(2) RTA		s205(3)(d) RTA	
146(1)	Fail to stop and give assistance after impact occasioning death or injury	M	18 M	\$3,300	3 Y	12 M	2 Y	\$5,500	5 Y	2 Y
			s146(1) RTA		s205(2)(d) RTA		s146(1) RTA		s205(3)(d) RTA	
Sch 3 16(1)(a)	Refuse or fail to submit to breath test		Nil	\$1,100	Nil	Nil	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			cl 16(1) RTA		No auto or min period – such period as the court specifies - s204(1) RTA					
Sch 3 16(1)(b)	Refuse or fail to submit to breath analysis	M	18 M	\$3,300	3 Y	12 M	2 Y	\$5,500	5 Y	2 Y
		IS	cl 16(1) RTA		IF INTERLOCK FOR 24 M: Max 9 M Min 6 M		cl 16(1) RTA		IF INTERLOCK FOR 48 M: Max 12 M Min 9 M	
					s205(2)(d) RTA				s205(3)(d) RTA	
Sch 3 16(1)(c)	Refuse or fail to submit to oral fluid test		Nil	\$1,100	Nil	Nil	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			cl 16(1) RTA		No auto or min period – such period as the court specifies - s204(1) RTA					
Sch 3 16(1)(d)	Refuse or fail to submit to sobriety assessment		Nil	\$1,100	Nil	Nil	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			cl 16(1) RTA		No auto or min period – such period as the court specifies - s204(1) RTA					

Road Transport Act 2013 (cont.)										
Offence and section		First offence				Second or subsequent offence				
		Maximum penalty		Disqualification		Maximum penalty		Disqualification		
		Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.	
Sch 3 17(1)(a)	Refuse or fail to submit to taking of blood sample	M	Nil	\$3,300	3 Y	6 M	18 M	\$5,500	5 Y	12 M
		IS	cl 17(1) RTA		s205(2)(c) RTA		cl 17(1) RTA		s205(3)(c) RTA	
Sch 3 17(1)(a1)	Refuse or fail to submit to taking of blood sample following arrest	M	18 M	\$3,300	3 Y	12 M	2 Y	\$5,500	5 Y	2 Y
		IS	cl 17(1) RTA		IF INTERLOCK FOR 24 M: Max 9 M Min 6 M		cl 17(1) RTA		IF INTERLOCK FOR 48 M: Max 12 M Min 9 M	
					s205(2)(d) RTA				s205(3)(d) RTA	
Sch 3 17(1)(b)	Refuse or fail to provide oral fluid sample	M	Nil	\$3,300	3 Y	6 M	18 M	\$5,500	5 Y	12 M
		IS	cl 17(1) RTA		s205(2)(c) RTA		cl 17(1) RTA		s205(3)(c) RTA	
Sch 3 17(1)(c)	Refuse or fail to provide urine sample	M	18 M	\$3,300	3 Y	6 M	2 Y	\$5,500	5 Y	12 M
		IS	cl 17(1) RTA		s205(2)(c) RTA		cl 17(1) RTA		s205(3)(c) RTA	
Sch 3 17(2)	Person other than secondary participant in an accident ¹¹ prevent sample taker from taking blood sample	M	18 M	\$3,300	3 Y	12 M	2 Y	\$5,500	5 Y	2 Y
		IS	cl 17(2) RTA		s205(2)(d) RTA		cl 17(2) RTA		s205(3)(d) RTA	
Sch 3 17(3)	Secondary participant in an accident prevent sample taker from taking blood sample	M	Nil	\$3,300	3 Y	12 M	Nil	\$3,300	5 Y	2 Y
			cl 17(3) RTA		s205(2)(d) RTA		cl 17(3) RTA		s205(3)(d) RTA	
Sch 3 18(1)	Person other than secondary participant in an accident wilfully introduce or alter concentration or amount of alcohol or other drugs	M	18 M ¹²	\$3,300	3 Y	6 M	2 Y	\$5,500	5 Y	12 M
		IS ¹³	cl 18(1) RTA		s205(2)(c) RTA		cl 17(2) RTA		s205(3)(c) RTA	
Sch 3 18(2)	Secondary participant in an accident alter concentration of alcohol	M	Nil	\$3,300	3 Y	6 M	Nil	\$3,300	5 Y	12 M
			cl 18(2) RTA		s205(2)(c) RTA		cl 18(2) RTA		s205(3)(c) RTA	

¹¹ Secondary participant in an accident means a person involved in the accident who was: (a) a pedestrian, or (b) driving or riding a vehicle (other than a motor vehicle or a horse): cl17(5)

¹² Only applies to subclauses (a), (b), (e), (f) and (g). The maximum penalty for subclauses (c) and (d) is a fine of \$3,300 (in the case of a first offence) or a fine of \$5,500 (in the case of a second or subsequent offence).

¹³ Only applies to subclauses (a), (b) and (e): s224(1)(b) Road Transport Act 2013.

Road Rules 2014										
Offence and section			First offence				Second or subsequent offence			
			Maximum penalty		Disqualification		Maximum penalty		Disqualification	
			Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.
10-2(3)	Exceed speed limit by more than 45 km per hour	IS	Nil	\$3,300 ¹⁴	6 M	6 M	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			rule 10-2(3)(a) Road Rules 2014		rule 10-2(3)(b) Road Rules 2014					
10-2(5)	Exceed speed limit by more than 30 km per hour	IS ¹⁵	Nil	\$2,200	3 M	3 M	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			rule 10-2(5)(a) Road Rules 2014		rule 10-2(5)(b) Road Rules 2014					
10-2(6)	Exceed speed limit by 30 km per hour or less		Nil	\$2,200	Nil	Nil	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			rule 10-2(6)(a) Road Rules 2014		No auto or min period – such period as the court specifies - s204(1) RTA					

Road Transport (Driver Licensing) Regulation 2017										
Offence and section			First offence				Second or subsequent offence			
			Maximum penalty		Disqualification		Maximum penalty		Disqualification	
			Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.
15(1)(a)	Learner licence holder drive unaccompanied by supervised driver	IS	Nil	\$2,200	3 M ¹⁶	3 M	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s15(1) RT(DL)R		15(3) & (4) RT(DL)R					
15(1)(b)	Learner licence holder drive whilst failing to display 'L' plates		Nil	\$2,200	Nil	Nil	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s15(1) RT(DL)R		No auto or min period – such period as the court specifies - s204(1) RTA					

Motor Accidents Compensation Act										
Offence and section			First offence				Second or subsequent offence			
			Maximum penalty		Disqualification		Maximum penalty		Disqualification	
			Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.
8(1)(a)	Use uninsured motor vehicle		Nil	\$5,500	No power to disqualify		No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s8(1) MACA							
8(1)(b)	Permit another to use uninsured motor vehicle		Nil	\$5,500	No power to disqualify		No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s8(1) MACA							

¹⁴ \$5,500 in the case of a "heavy motor vehicle" or "coach": rule 10-2(3)(a) – see rule 10-2(1) for definition of "heavy motor vehicle".

¹⁵ Applies only where driver is the holder of an applicable learner or provisional licence for the class of vehicle being driven: s224(1)(c)(2) Road Transport Act 2013.

¹⁶ Note: The maximum period of disqualification that can be imposed for this offence is 12 months: cl15(4)(a) Road Transport (Driver Licensing) Regulation 2017

Crimes Act 1900 ¹⁷										
Offence and section		First offence				Second or subsequent offence				
		Maximum penalty		Disqualification		Maximum penalty		Disqualification		
		Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.	
18(1)(a) / 19A	Murder	M	Life	\$110K	3 Y	12 M	Life	\$110K	5 Y	2 Y
		IS	s19A(1) Crimes Act		s205(2)(d) RTA		s19A(1) Crimes Act		s205(3)(d) RTA	
24	Manslaughter	M	25 Y	\$110K	3 Y	12 M	25 Y	\$110K	5 Y	2 Y
		IS	s24 Crimes Act		s205(2)(d) RTA		s24 Crimes Act		s205(3)(d) RTA	
33(1)	Wound or cause GBH with intent to cause GBH	M	25 Y	\$110K	3 Y	12 M	25 Y	\$110K	5 Y	2 Y
		IS	s33(1) Crimes Act		s205(2)(d) RTA		s33(1) Crimes Act		s205(3)(d) RTA	
33(2)	Wound or cause GBH with intent to resist or prevent lawful arrest or detention	M	25 Y	\$110K	3 Y	12 M	25 Y	\$110K	5 Y	2 Y
		IS	s33(2) Crimes Act		s205(2)(d) RTA		s33(2) Crimes Act		s205(3)(d) RTA	
35(1)	Recklessly cause GBH in company	M	14 Y / 2 Y	\$11K	3 Y	12 M	14 Y / 2 Y	\$11K	5 Y	2 Y
			s35(1) Crimes Act		s205(2)(d) RTA		s35(1) Crimes Act		s205(3)(d) RTA	
35(2)	Recklessly cause GBH	M	10 Y / 2 Y	\$11K	3 Y	12 M	10 Y / 2 Y	\$11K	5 Y	2 Y
		IS	s35(2) Crimes Act		s205(2)(d) RTA		s35(2) Crimes Act		s205(3)(d) RTA	
35(3)	Reckless wounding in company	M	10 Y / 2 Y	\$11K	3 Y	12 M	10 Y / 2 Y	\$11K	5 Y	2 Y
			s35(3) Crimes Act		s205(2)(d) RTA		s35(3) Crimes Act		s205(3)(d) RTA	
35(4)	Reckless wounding	M	7 Y / 2 Y	\$11K	3 Y	12 M	7 Y / 2 Y	\$11K	5 Y	2 Y
			s35(4) Crimes Act		s205(2)(d) RTA		s35(4) Crimes Act		s205(3)(d) RTA	
51A(1)	Predatory driving	M	5 Y / 2 Y	\$11K	3 Y	12 M	5 Y / 2 Y	\$11K	5 Y	2 Y
			s51A(1) Crimes Act		s205(2)(d) RTA		s51A(1) Crimes Act		s205(3)(d) RTA	
51B(1)	Police pursuits	M	3 Y / 2 Y	\$11K	3 Y	12 M	5 Y / 2 Y	\$11K	5 Y	2 Y
			s51B(1) Crimes Act		s205(2)(d) RTA		s51B(1) Crimes Act		s205(3)(d) RTA	
52A(1)	Dangerous driving occasioning death	M	10 Y	\$110K	3 Y	12 M	10 Y	\$110K	5 Y	2 Y
		IS	s52A(1) Crimes Act		s205(2)(d) RTA		s52A(1) Crimes Act		s205(3)(d) RTA	
52A(2)	Aggravated dangerous driving occasioning death	M	14 Y	\$110K	3 Y	12 M	14 Y	\$110K	5 Y	2 Y
		IS	s52A(2) Crimes Act		s205(2)(d) RTA		s52A(2) Crimes Act		s205(3)(d) RTA	
52A(3)	Dangerous driving occasioning GBH	M	7 Y / 2 Y	\$11K	3 Y	12 M	7 Y / 2 Y	\$11K	5 Y	2 Y
		IS	s52A(3) Crimes Act		s205(2)(d) RTA		s52A(3) Crimes Act		s205(3)(d) RTA	
52A(4)	Aggravated dangerous driving occasioning GBH	M	11 Y / 2 Y	\$11K	3 Y	12 M	11 Y / 2 Y	\$11K	5 Y	2 Y
		IS	s52A(4) Crimes Act		s205(2)(d) RTA		s52A(4) Crimes Act		s205(3)(d) RTA	
52AB(1)	Fail to stop and assist after vehicle impact causing death	M	10 Y / 2 Y	\$11K	3 Y	12 M	10 Y / 2 Y	\$11K	5 Y	2 Y
			s52AB(1) Crimes Act		s205(2)(d) RTA		s52AB(1) Crimes Act		s205(3)(d) RTA	

¹⁷ An offence under the *Crimes Act 1900* will constitute a major offence only where another person caused by or arising out of the use of a motor vehicle driven by the person at the time of the occurrence out of which the (i) the crime of murder or manslaughter or (ii) an offence against section 33, 35, 53 or 54 or any other provision of the *Crimes Act 1900*, and to persons convicted of an offence against section 51A, 51B or 52AB of the *Crimes Act 1900*: s4 *Road Transport Act 2013*.

Crimes Act 1900 (cont.) ¹⁸										
Offence and section			First offence				Second or subsequent offence			
			Maximum penalty		Disqualification		Maximum penalty		Disqualification	
			Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.
52AB(2)	Fail to stop and assist after vehicle impact causing GBH	M	7 Y / 2 Y	\$11K	3 Y	12 M	7 Y / 2 Y	\$11K	5 Y	2 Y
			s52AB(2) Crimes Act		s205(2)(d) RTA		s52AB(2) Crimes Act		s205(3)(d) RTA	
53	Cause bodily harm by furious driving	M	2 Y / 2 Y	\$11K	3 Y	12 M	2 Y / 2 Y	\$11K	5 Y	2 Y
			s53 Crimes Act		s205(2)(d) RTA		s53 Crimes Act		s205(3)(d) RTA	
54	Cause grievous bodily harm by unlawful or negligent act	M	2 Y / 2 Y	\$11K	3 Y	12 M	2 Y / 2 Y	\$11K	5 Y	2 Y
		IS	s54 Crimes Act		s205(2)(d) RTA		s54 Crimes Act		s205(3)(d) RTA	

Law Enforcement (Powers and Responsibilities) Act 2002 ¹⁹										
Offence and section			First offence				Second or subsequent offence			
			Maximum penalty		Disqualification		Maximum penalty		Disqualification	
			Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.
15(1)	Driver fail/refuse to comply with request to disclose own identity to police		12 M	\$5,500	No power to disqualify		No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s15(1) LEPRA							
15(2)	Driver fail/refuse to comply with request to disclose identity of other driver or passenger to police		12 M	\$5,500	No power to disqualify		No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s15(2) LEPRA							
16(1)	Passenger fail/refuse to comply with request to disclose own identity to police		12 M	\$5,500	No power to disqualify		No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s16(1) LEPRA							
16(2)	Passenger fail/refuse to comply with request to disclose identity of driver or other passenger to police		12 M	\$5,500	No power to disqualify		No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s16(2) LEPRA							
17(1)	Owner fail/refuse to comply with request to disclose identity of driver or passenger to police		12 M	\$5,500	No power to disqualify		No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s17(1) LEPRA							
18	Give false name or address in response to request by police (in accordance with s14)		12 M	\$5,500	No power to disqualify		No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s18 LEPRA							

¹⁸ An offence under the *Crimes Act* 1900 will constitute a major offence only where another person caused by or arising out of the use of a motor vehicle driven by the person at the time of the occurrence out of which the (i) the crime of murder or manslaughter or (ii) an offence against section 33, 35, 53 or 54 or any other provision of the *Crimes Act* 1900, and to persons convicted of an offence against section 51A, 51B or 52AB of the *Crimes Act* 1900: s4 *Road Transport Act* 2013.

¹⁹ Note: Sections 15-18 are predicated on a request being made by a police officer who suspects on reasonable grounds that a vehicle is being, or was, or may have been used in or in connection with an indictable offence: s14 *Law Enforcement (Powers and Responsibilities) Act* 2002.

Commencement dates for disqualification periods
Major offences under the Road Transport Act 2013
<p>A period of disqualification imposed by or under s205 of the <i>Road Transport Act 2013</i> <u>must</u> commence on the date of conviction: s205 <i>Road Transport Act 2013</i>; <i>Roads and Traffic Authority of New South Wales v Tamara O'Sullivan and others</i> [2011] NSWSC 1258.</p> <p>Where a driver has had their licence suspended pursuant to s224 of the <i>Road Transport Act 2013</i>, the court <u>must</u> take into account the period of suspension when deciding whether to make an order under s205 <i>Road Transport Act 2013</i>, or whether to make an order for a related offence (one that relates to the same act or omission which gave rise to the major offence). To the extent (if any) that the court so orders, such a suspension may be regarded as satisfying all or part of any mandatory minimum period of disqualification required by that section: s206B <i>Road Transport Act 2013</i>.</p> <p>Where a driver is disqualified as a result of being convicted for a major offence <u>and</u> sentenced to full-time imprisonment <u>as a result of that conviction</u>, the disqualification period is extended by any period of imprisonment that is served after the commencement of the disqualification: s206A <i>Road Transport Act 2013</i>. Where a major disqualification offence is one of a number of offences dealt with by the imposition of an aggregate sentence, the sentence for the purpose of determining the period by which the disqualification is extended is the aggregate sentence: <i>Gray v R</i> [2018] NSWCCA 39 at [43].</p>
Other offences under the Road Transport Act 2013
<p>A period of disqualification begins on the date of conviction, unless the court orders the disqualification to begin on a later day: s207A <i>Road Transport Act 2013</i>.</p> <p>Where a driver has had their licence suspended pursuant to s224 of the <i>Road Transport Act 2013</i>, the court <u>must</u> take into account the period of suspension when deciding whether to make an order under s207A <i>Road Transport Act 2013</i>, or whether to make an order for a related offence (one that relates to the same act or omission which gave rise to the principal offence). To the extent (if any) that the court so orders, such a suspension may be regarded as satisfying all or part of any mandatory minimum period of disqualification required by that section: s206B <i>Road Transport Act 2013</i>.</p> <p>Where a driver is disqualified as a result of being convicted <u>for an offence under ss 115 or 116(2) Road Transport Act 2013</u> <u>and</u> sentenced to full-time imprisonment <u>as a result of that conviction</u>, the disqualification period is extended by any period of imprisonment that is served after the commencement of the disqualification: s206A <i>Road Transport Act 2013</i>. Where the offence under ss 115 or 116(2) <i>Road Transport Act 2013</i> is one of a number of offences dealt with by the imposition of an aggregate sentence, the sentence for the purpose of determining the period by which the disqualification is extended is the aggregate sentence: <i>Gray v R</i> [2018] NSWCCA 39 at [43].</p>
Offence of exceeding the speed limit contrary to rule 10-2 of the Road Rules 2014
<p>A period of disqualification imposed by or under this rule <u>must</u> commence on the date of conviction: rule 10-2(9) <i>Road Rules 2014</i>.</p>

Miscellaneous									
Calculation of disqualification periods in cases of multiple major offences arising out of the one incident	Where a person is convicted of two or more major offences arising out of a single incident, the maximum period of automatic disqualification of all of those offences is 3 years with a minimum period of disqualification of 12 months if s205(2) of the <i>Road Transport Act</i> applies (i.e. the person has no previous major offence) and a maximum period of automatic disqualification of 5 years with a minimum period of disqualification of 2 years if s205(3) of the <i>Road Transport Act</i> applies (i.e. the person has a previous major offence): s205(4) <i>Road Transport Act</i> 2013.								
Section 10 Crimes (Sentencing Procedure) Act 1999 not available in certain circumstances	Section 10 of the <i>Crimes (Sentencing Procedure) Act</i> 1999 does not apply where a person is charged with an 'applicable offence' mentioned in s203(2) of the <i>Road Transport Act</i> 2013 (includes most major offences) and at the time of or during the period of 5 years immediately before the court's determination in respect of the charge, that section is or has been applied to or in respect of the person in respect of a charge for another applicable offence (whether of the same or a different kind): s203 <i>Road Transport Act</i> 2013.								
Alternative verdicts in prosecutions for speeding by more than 30 km per hour and 45 km per hour	See rule 10-2(7) & (8) of the <i>Road Rules</i> 2014.								
Habitual traffic offenders – generally	The Habitual Offenders scheme (previously contained in Division 3 of Part 7.4 of the <i>Road Transport Act</i> 2013) has been abolished. Savings, transitional and other provisions relating to the scheme are contained in Schedule 4. Dixon v Attorney General of NSW [2018] NSWSC 1618 1.The Local Court continues to hold a power to quash HTODs under s220 RTA (as repealed)(pursuant to Cl65(2) Schedule 4 RTA (savings and transitional provisions): [20]-[21]. 2.There is no temporal limitation to the exercise of the power – it is not limited to applications brought before the repeal of the substantive division on 28 October 2017: [21]-[25] 3.The lack of discrete application provision did not deny an applicant access to the power: see s44 LCA [26]-[30]								
Removal of licence disqualifications	An eligible person subject to a licence disqualification may apply to the Local Court to have their disqualification removed, provided they have been offence free for the specified period under s221A <i>Road Transport Act</i> 2013. The Local Court must take into account a number of factors: s 221B(2) An application for the removal of licence disqualifications cannot be made within 12 months after the Local Court has rejected an earlier application for the removal of any of those licence disqualifications: s 221C(4) The relevant offence free period commences on the date of offence not the date of conviction: s 221A(4)								
	<table border="1"> <thead> <tr> <th>Convicted of</th> <th>Relevant offence-free period</th> </tr> </thead> <tbody> <tr> <td>Major offence Exceed speed > 30km/h Road racing ss 115(1) or 116(2) Negligent, furious or reckless driving s117(2), or Any other offence prescribed by the statutory rules</td> <td>4 years</td> </tr> <tr> <td>All other cases (unless never eligible offences)</td> <td>2 years</td> </tr> <tr> <td>Never eligible offences</td> <td>See s 221A</td> </tr> </tbody> </table>	Convicted of	Relevant offence-free period	Major offence Exceed speed > 30km/h Road racing ss 115(1) or 116(2) Negligent, furious or reckless driving s117(2), or Any other offence prescribed by the statutory rules	4 years	All other cases (unless never eligible offences)	2 years	Never eligible offences	See s 221A
Convicted of	Relevant offence-free period								
Major offence Exceed speed > 30km/h Road racing ss 115(1) or 116(2) Negligent, furious or reckless driving s117(2), or Any other offence prescribed by the statutory rules	4 years								
All other cases (unless never eligible offences)	2 years								
Never eligible offences	See s 221A								

Interlock Orders & Interlock Exemption Orders – Crystal Triggs & Tia Caldwell (ALS NSW/ACT)

Interlock Orders

Interlocks are electronic breath testing devices linked to the ignition system of cars, motorcycles and heavy vehicles. Interlock offences are summarised in the table above p.2-9. Road users will need to hold an interlock licence or they will be disqualified for 5 years (other than a learner or interlock licence). Sections 210 and 211 of the RTA states that a court who convicts a person of mandatory interlock offence must make orders of either:

- 1) Mandatory Interlock order (licence disqualification, interlock period)
- 2) Interlock Exemption order

Section 211 states that people who receive mandatory interlock orders and do not enter or complete interlock period will remain disqualified for 5 years from date of conviction. If the offenders sanction exceeds a disqualification of 5 years, they cannot enter the NSW licensing system unless they have completed the interlock program or period equal to the sanction has past.

Conviction of Offence of Mandatory Interlock Order

Mandatory Interlock Order	Interlock Exemption Order
<ol style="list-style-type: none"> 1. Sentenced to interlock order 2. Licence disqualification 3. Apply for licence 4. Complete interlock period 5. Return to unrestricted licence <p>After order is given RMS cannot exempt from the order. It is the offender's obligation to prove grounds for the exemption through the court.</p>	<p>Must prove that they have no access to a vehicle that can install device or have medical condition that they cannot use device. Offenders who are exempt can choose to enter interlock order if they experience a change of circumstance through calling the RMS (not court).</p> <ol style="list-style-type: none"> 1. Period of disqualification 2. Drink driving program before applying for licence <ul style="list-style-type: none"> • Receive interlock exemption • Licence disqualification • Complete sober/drink driving course • Finish disqualification period • Apply for unrestricted licence • Return to unrestricted licence

8. Sentencing Options and Equivalents Cheat Sheet

NSW Crimes (Sentencing Procedure) Amendments 2018	NSW Crimes (Sentencing Procedure) Act 1999	COMMONWEALTH Crimes Act 1914	CHILDREN Children (Criminal Proceedings) act 1987
Dismissal of Charge without conviction: s10 (1) (a)	Dismissal of Charge without conviction: s10 (1) (a)	Section 19B(1)(c)	Section 33 (1)(a)
Conditional Release Order (CRO): s10 (1) (b) – s9 <i>can be with or w/o conviction can be up to 2 years can be for fine only offence</i>	Conditional Discharge without conviction: s10 (1) (b) / (c)	Section 19B (1)(d) <ul style="list-style-type: none"> Can include reparation, but not payment of fine Recognizance order must not exceed 3 yrs 	Section 33 (1)(a)(ii) <ul style="list-style-type: none"> Can be up to 2 years
Fine <ul style="list-style-type: none"> Current penalty unit is \$110 	Fine <ul style="list-style-type: none"> Current penalty unit is \$110 	Section 4B <ul style="list-style-type: none"> Penalty unit is \$180 	Section 33 (1)(c) <ul style="list-style-type: none"> Maximum \$1,100
Community Corrections Order (CCO) s 8 Term of bond must not exceed 3 years Can not be for fine only offence With conviction Max CSO of 500 hours	Good behaviour bond: s9 Term of bond must not exceed 5 years	Section 20 (1)(a) <ul style="list-style-type: none"> Referred to as 'conditional release after conviction' Can include reparation or payment of fine Must not exceed 5 years 	Section 33 (1)(b) or Section 33 (1)(e) <ul style="list-style-type: none"> Must not exceed 2 years Cannot include condition requiring payment of fine S33 (1)(e) probation bonds are considered more serious form of children's court bond
Deferral of Sentence: s 11 Maximum period of adjournment is 12 months	Deferral of Sentence: s 11 Maximum period of adjournment is 12 months	No Cth equivalent	Section 33 (1)(c)(2)
Community service is now part of CCO & ICO (cl 14 regs) Number of hours must not exceed 750 (s17G) 6 mths duration = 100 hours 12 month duration - 100-300 hours 18 month duration – 300-500 hours (CCO max) 2 year max = 500-750 hours (ICO only)	Community Service Order : s 8 Number of hours must not exceed 500 < 6 mths max = 100 hours > 6 mths but < 1 year max = 200 hours > 1 year max = 500 hours	Section 20AB(1) <ul style="list-style-type: none"> Picks up state provisions Court can make orders for fines under s20AB(4) Breach dealt with under s 20AC 	Section 33 (1)(f) <ul style="list-style-type: none"> Maximum number of hours is 100 if <16yrs Maximum number of hours is 250 if >16yrs
Abolished	Suspended Sentences: s 12 Applies to sentences of imprisonment of not more than 2 years	Section 20(1)(b) <ul style="list-style-type: none"> Aka 'Recognizance Release Order' Suspension of sentence may be immediate (ie forthwith) or partial (after serving a specified period of time in custody) 	Section 33 (1B)
ICO (Intensive Corrections Order) s7 <i>- ICO limited to 2 years per offence, but can be up to 3 years as an aggregate(s68)</i> <i>-Supervision mandatory(s73)</i>	Intensive Corrections Order: s7	Section 20AB <ul style="list-style-type: none"> Can receive ICO for Cth offence 	
Home Detention is now part of ICO's – s73A(2)(a)	Home Detention: s 6	Section 20AB <ul style="list-style-type: none"> Can receive home detention for Cth offence 	
Imprisonment s5 threshold must be crossed – no other alternative	Imprisonment s5 threshold must be crossed – no other alternative	Imprisonment s17A: all alternatives have been considered, and no other sentence is available	Section 33 (1) (g) <ul style="list-style-type: none"> Maximum of 2 years Applies where wholly inappropriate to deal with person under subsection (1)(a)-(f): s33(2)

New Sentencing Hierarchy



Unknown author