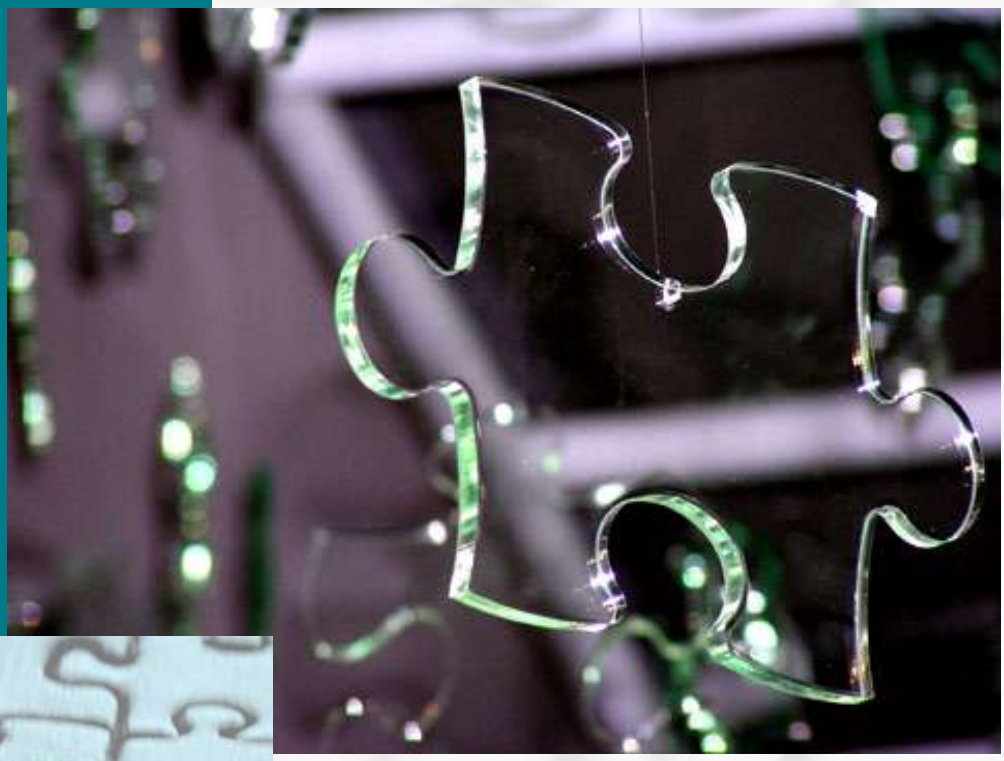
DATA TO INFORM ASSESSMENT OF LEGAL NEEDS IN NEW SOUTH WALES

Update on Vulnerable Community Groups

2023



LAW AND JUSTICE FOUNDATION OF NEW SOUTH WALES

The Law and Justice Foundation of New South Wales is an independent, not-for-profit organisation that seeks to advance the fairness and equity of the justice system, and to improve access to justice, especially for socially and economically disadvantaged people.

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The Foundation acknowledges the Australian Aboriginal and Torres Strait Islander peoples of this nation. We acknowledge the Traditional Custodians of the lands in which we conduct our business. We pay our respects to ancestors and Elders, past and present.

Data to inform assessment of legal needs in NSW

Update on vulnerable community groups – 2023

Delphine Bellerose, Catriona Mirrlees-Black, Michaela Mournehis and Dr Kerryn Butler

September 2023

The purpose of this report is to provide an overview of some information and data sources that are useful to consider in conducting a legal needs assessment in New South Wales.

In December 2021, upon request from the NSW Department of Communities and Justice, the Law and Justice Foundation of NSW ('the Foundation') compiled a report on various indicators of disadvantage that have been shown to be linked to increased vulnerability to experiencing legal problems.[1]

This paper presents an update of the initial 2021 report following the release of more recent data, and in particular, the ABS 2021 Census data. As such, it reiterates general points of contextual information and includes high level data reports that can be used as a guide and starting point before delving deeper into the legal needs of a specific geographic area, community group, legal problem type, or area of law. More detailed information and more granular data is available directly from listed sources, and additional data sources, surveys, research reports or ad-hoc studies may also be used to complement the information presented in this report.

While the aim of this update is to provide the most recent available data and, in some instances, include indications of trends in the last few years, readers should bear in mind that some of this data relates to, or was collected in, the unprecedented period of the COVID-19 pandemic, the full impact of which is yet to be understood. Numbers presented in this report may have been impacted to varying degrees by government restrictions, public health policies, and periods of lockdown, and therefore may not represent accurate long-term trends.

The outline of the report is as follows:

- General insights on the nature and extent of legal needs in New South Wales through a synopsis of key findings from legal needs research.
- Examples of valuable insights from frontline services, both from administrative data and collaborative planning processes.
- A regional breakdown of population data and indicators of potential need for legal assistance services.
- A focus on priority community groups more likely to experience legal problems and/or to require public legal assistance if they do, also with regional breakdowns.
- The use of other data sources to further inform legal needs assessments, using the example of criminal courts statistics.

[1] Bellerose, D, Butler, K, Mirrlees-Black, C & Mulherin, G 2021, An Assessment of Legal Needs in NSW, Law and Justice Foundation of NSW, Sydney.

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Nature and level of legal need in NSW

This introductory section summarises what we know from legal need research in Australia and NSW. Legal Needs surveys provide the most comprehensive picture of legal need in a community, although they do not usually count legal need experienced by people living in institutions (such as prisons and care homes), by children, or by organisations, and may have limited reach into small, remote communities. The most recently available comprehensive legal needs survey for NSW is the Foundation's LAW survey, and this section primarily draws on its key findings.[2]

While the findings of the LAW Survey are now somewhat dated, there is no evidence to suggest the overall picture of legal need in NSW provided by the survey findings is no longer relevant. However, since the LAW survey, the NSW population profile has changed, the gig economy has grown, and there have been some major technological advances. This new digital landscape has potentially resulted in new legal problems, such as those relating to phone and internet contracts, online services, scams, cyberbullying, access to credit and online gambling, and may have also impacted the ways people address their legal problems.

At the time of this report's release, the results of the Victoria Law Foundation's Public Understanding of Law Survey (PULS) have just recently been published, revealing a high prevalence of legal problems, a clustering effect of problems, and significant impact on people's lives.[3] Although the PULS surveys the Victorian community specifically, results and further analysis will likely provide valuable insights on the current legal needs of the wider community.

Prevalence of legal need in NSW

The LAW Survey revealed three key findings with regards to the experience of legal problems within the NSW community:

- Half of the NSW population experienced at least one legal problem in a 12-month period. These were substantial legal problems for more than one quarter of the population.[4]
- The experience of legal problems was not evenly distributed across the population, with 9% of the population experiencing 65% of the legal problems.
- Around 23% of the population experienced three or more legal problems in a year. Nearly one in five (18%) experienced one problem, and 9% experienced two problems in a year.

For people in NSW, the most common legal problems reported under the LAW Survey were consumer problems (21%), crime (14%), housing (13%), and government problems (11%).

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[2] Coumarelos, C, Macourt, D, People, J, McDonald, HM, Wei, Z, Iriana, R & Ramsey, S 2012, Legal Australia Wide Survey: legal need in New South Wales, Law and Justice Foundation of NSW, Sydney. As there has not been any recent legal needs survey conducted in NSW, this section provides the same information as was detailed in the Foundation's previous report, *An Assessment of Legal Need in NSW*, in December 2021.

[3] Balmer, N.J., Pleasence, P., McDonald, H.M. & Sandefur, R.L. 2023, The Public Understanding of Law Survey (PULS) Volume 1: Everyday Problems and Legal Need. Melbourne: Victoria Law Foundation.

[4] Substantial problems are those having a moderate or severe impact on daily life. Coumarelos et al 2012

Which groups are most vulnerable?

In showing that not everyone shares the same likelihood of experiencing legal problems, the LAW Survey identifies those in the community who are most vulnerable to legal problems. Although the extent of socio-demographic characteristics as predictors of particular problem types or behaviours in addressing these problems may shift slightly over time, it is unlikely that indicators of disadvantage would drastically change over the years, and the LAW Survey's insights still have merits in this regard.

People most vulnerable to experiencing legal problems in 2008 were:

- people experiencing family and domestic violence
- people with disability
- single parents
- unemployed people
- people living in disadvantaged housing.

Further, the LAW Survey found that the more indicators of disadvantage a person has, the greater likelihood they will experience multiple legal problems. Thus, people with no indicator of disadvantage experience an average of nearly two legal problems per year (and 0.4 substantial problems), but this number rises to nearly four problems for people with three indicators of disadvantage, and to more than 12 legal problems (3.0 substantial problems) for those with six or more indicators of disadvantage.

Financial disadvantage

Although financial disadvantage *alone* did not increase vulnerability to experiencing legal problems, those LAW Survey respondents whose main income was government payments had significantly higher likelihood of experiencing *substantial* legal problems compared to other respondents.

The types of legal problems experienced by respondents on government payments reflected their socioeconomic disadvantage. LAW Survey respondents on government payments had significantly increased likelihood of experiencing family, government, health and rights related legal problems. The high levels of government problems were largely due to problems related to receipt of government payments. The rights problems included problems related to discrimination and unfair treatment by police. In contrast, other respondents tended to experience legal problems that appeared to reflect higher rates of economic activity, economic independence and employment (for example consumer, employment, money or work-related injury problems).

There is an important overlap between financial disadvantage and other disadvantaged groups, and identified barriers to obtaining legal assistance may relate to other aspects of disadvantage. Nevertheless, cost is likely the most significant barrier to access to justice for people who are financially disadvantaged. People on the lowest incomes are significantly more likely than those on the highest incomes to take no action for a legal problem because they thought it would cost too much. Thus, the perceived cost of services from private lawyers, as well as lack of awareness of the eligibility criteria for public legal services, are important access to justice barriers to consider.[5]

[5] Coumarelos et al 2012 (LAW Survey NSW) and Coumarelos, C, McDonald, HM, Forell, S & Wei, Z, 2015, Collaborative planning resource – service planning, Law and Justice Foundation of NSW, Sydney.

Response to legal problems

People in NSW did not rush to the legal system: most people attempted to resolve their legal problems without lawyers, and without using the formal justice system. Overall, advice was sought for about 50% of legal problems, 30% of problems were handled without advice, and for just under 20% of problems, no action was taken. Advice was sought from a legal professional for 16% of all legal problems.

Moreover, legal problems measured in the LAW Survey were rarely resolved through court or tribunal proceedings (3.0%), or formal dispute resolution or complaint handling processes (3%).[6] However, when asked about actions taken in response to their most serious legal problems, respondents said that court or tribunal proceedings (as one of one or more strategies) had already taken place or were likely to occur for 10.4% of problems.[7]

In NSW, barriers to taking action in addressing a legal issue were more prevalent amongst males, people whose main language was not English, and people with low education levels. Stated barriers to seeking legal advice included issues related to stress (30%), cost (28%), or not knowing what to do (21%).

A holistic approach to meeting legal need

The LAW survey demonstrates the complexity of client needs, not only those that increase vulnerability to experiencing legal problems, but also those arising as a consequence of the problem. The most common adverse consequences resulting from the legal problems experienced by NSW residents were: income loss or financial strain (for 29% of respondents); stress-related illness (21%); physical ill-health (20%); or, relationship breakdown (10%). Family problems were found to have the highest average number of adverse consequences and a considerable impact on a wide range of circumstances. This also highlights that legal needs are often interconnected with non-legal needs. These findings suggest the value of legal assistance services working collaboratively with other human service providers.

[6] Coumarelos et al 2012. Table 7.3, LAW Survey NSW.

[7] Coumarelos et al 2012. A further 5.6% of respondents were unsure or refused to comment, so this percentage could be greater. Court or tribunal was less frequently a response to minor problems (4.6%) than substantial (16.7%). Source: Figure 5.1, LAW Survey NSW. N = 3860 problems.

Sector-informed legal need

Front-line services are uniquely positioned to gather information about legal need. However, not all legal need comes to their attention, and the information collected is generally reflective of what 'walks in the door'. Even when providers proactively outreach to clients who would not otherwise have contacted them, it is unrealistic for all legal need to be identified because not everyone who experiences a legal problem will want, seek, or meet qualifying criteria for legal assistance from a not-for-profit or public provider (such as financial eligibility, the types of legal problem for which assistance can be given, or conflict-check requirements). The legal need that is most visible to service providers is therefore more likely to be within their area of expertise and/or particular target group. For example, youth services, financial services and duty lawyers at the local criminal court would each have different perspectives and insights on legal need, and there is a risk that gaps in services render other aspects of legal need invisible.

Nevertheless, information on the who, what and where of service provision is highly relevant to service planning, as is local intelligence and local understanding of clients and their legal problems. This knowledge should not be overlooked when conducting an in-depth assessment of legal needs.

Generally, this information is captured and held locally by services, and may not be available in the public domain. But at a state level, information of this type may be sourced from (a) administrative data on the services delivered by legal assistance providers, and (b) the intelligence collated through strategic partnerships, such as the Cooperative Legal Service Delivery (CLSD) Program.

Learnings from service data

Data on clients and legal problems recorded by legal assistance services generally only count the services actually delivered.[8] As noted above, the large number of legal problems that don't reach a legal assistance service, or don't fall within eligibility criteria if they do, do not appear in service data. Service data, therefore, can be limited as a 'stand-alone' source of information to inform legal assistance service planning, as it does not give a reliable picture of the extent or nature of legal need across the state.

Service data can, however, be particularly valuable:

- at the very local level, where local changes in demand due to say, local economic, policing or natural disaster changes can be detected by services closely engaged with their local communities; and
- when soundly collected service data can be 'mapped' against appropriate and relevant legal needs data to identify potential gaps in services to meet community legal needs.

[8] Referrals to other providers may be counted as a service, although do not involve legal advice. Also, sometimes data is captured on clients turned away by individual providers due to resourcing limitations.

Insights from collaborative planning

Local services are best placed to identify emerging and localised issues quickly, and where adequate resources are available and can be flexibly deployed, these issues can be addressed early. The Cooperative Legal Service Delivery (CLSD) program is a partnership that comprises coalitions of legal and non-legal services that meet regularly to discuss and develop local initiatives, and coordinate their efforts to meet specific local needs in regional, rural and remote NSW. Without mechanisms like this, specific trends in legal needs may take months or years to be identified within the quantitative data. An example of this includes the quick identification of emerging needs in the unprecedented context of COVID-19, when providers were faced with more family and domestic violence matters, a rise in fine debt due to the issuing of public health infringement notices, and accessibility issues associated with the rescheduling of face-to-face NCAT hearings. Additionally, quantitative data cannot provide contextual information that is vital to tailor specific responses to these emerging legal needs.

Examples of the types of legal need that the sector-informed CLSD process have identified in regional, rural and remote NSW in the past 12 months include:

- Ongoing and increasing number of enquiries and requests for assistance for fine debt, further compounded by limited options for Work and Development Orders (WDO).
- Increase in the number of clients seeking advice and information about domestic and family violence, including a potentially disproportionate increase in Apprehended Domestic Violence Orders (ADVOs) against Aboriginal and Torres Strait Islander women.
- Ongoing demand for free assistance with wills and future planning documents.
- Significant concerns regarding disaster preparedness and recovery, and the secondary legal issues experienced by people impacted by natural disasters, including insurance disputes, temporary housing, access to grants, replacement of ID etc.
- Adverse consequences of inadequate identification, usually due to a lack or loss of birth certificates, for people experiencing financial and other forms of disadvantage. Impacts of inadequate identification reported include access to financial support (including disaster relief grants, education, housing, employment, and other essential government processes).
- Support for challenges related to housing and homelessness.

Examples of specific responses to emerging legal needs from CLSD regions include:

Increasing access to the work and development order scheme for people with high fine debt. A partnership project with the Legal Aid NSW WDO Service, CLSD Program and Advocacy Law Alliance provides people with fine debt the ability to use Advocacy Law Alliance as a third-party sponsor to register for a WDO. The project was completed in 2022 and the specialist sponsor service was able to connect people who would not otherwise have had access to the WDO scheme, to help reduce their fine debt.

Establishing local will and future planning document assistance. Local programs have been established to address unmet need by improving assistance, legal information, and legal advice for those who require assistance with wills and future planning documents, such as Enduring Powers of Attorney or Guardianship and Advance Health Directives. In one CLSD region, legal assistance services collaborated with a law firm to assist people with wills and other related documents.

Birth certificates and registration. A partnership between the CLSD Program and the NSW Registry of Births Deaths and Marriages has provided 700 fee-free birth certificates for people experiencing financial and other forms of disadvantage for the 2022/23 year. Demand for this service is expected to exceed the allocated provision.

Legal need by region

Regional breakdown within NSW

There exists a variety of ways to define areas and regions within NSW for different purposes. Certain geographies may be more or less relevant to individual stakeholders, and specific datasets may only be available for a particular regional breakdown.

Postcodes and/or suburbs are widely used by the general population, and are as such often collected in administrative data. Local Government Areas (LGAs) are commonly used to define service provider catchment areas. In some circumstances, custom groupings of smaller geographic areas provide a flexible approach to service provision and strategic planning. In 2019, the NSW Legal Assistance Forum Collaborative Service Planning (CSP) working group, in consultation with the sector, defined 20 CSP catchment areas. These 'CSP areas' are based on suburb boundaries, as per the 2016 ABS suburb structure. There are 17 regional and 3 Sydney metro CSP areas. CSP areas cover all of NSW.[9]

In addition, NSW has 12 Cooperative Legal Service Delivery (CLSD) partnership regions. CLSD regions are based on LGAs and have been established for many years. However, not all of NSW is covered by CLSD regions, and the CLSD program does not cover the Sydney metro area.

The ABS maintains the Australian Statistical Geography Standard (ASGS), a social geography that reflects the location of people and communities, and is used for the publication and analysis of official statistics and other data. The ASGS's main structure is a nested hierarchy of geographies that includes Statistical Areas ranging from level 1 (SA1) to level 4 (SA4). SA4s represent labour markets and the functional area of Australian capital cities. NSW comprises 28 SA4s, with more than half (15 SA4s) representing the Greater Capital City Statistical Area, also referred to as Greater Sydney, and the remaining 13 SA4s are larger areas across regional NSW.[10]

For the purposes of this report, SA4 was used as the default regional breakdown as it was important to use a geography without gaps or overlaps, that is updated, available for multiple data sources, and that lends itself to data visualisation for high level analysis at the state level. In addition, some data by LGA is also included for further insights and greater granularity. This bird's eye view approach has its limitations, and one should bear in mind that specific issues or trends relevant to particular groups may remain hidden amongst state or high-level regional analysis.

The Foundation can provide data support and insights for various geographies at the regional and local levels. Contact us for more details.

[9] There is only one instance of overlap between two CSP areas: the suburbs of *Megalong Valley* and *Blue Mountains National Park* span across both the Blue Mountains CSP area and the Campbelltown-Goulburn CSP area (noting that the Blue Mountains National Park suburb is a split suburb, and it may be that the northern section falls under the Blue Mountains CSP area and the southern section under the Campbelltown-Goulburn CSP area, rather than a complete overlap).

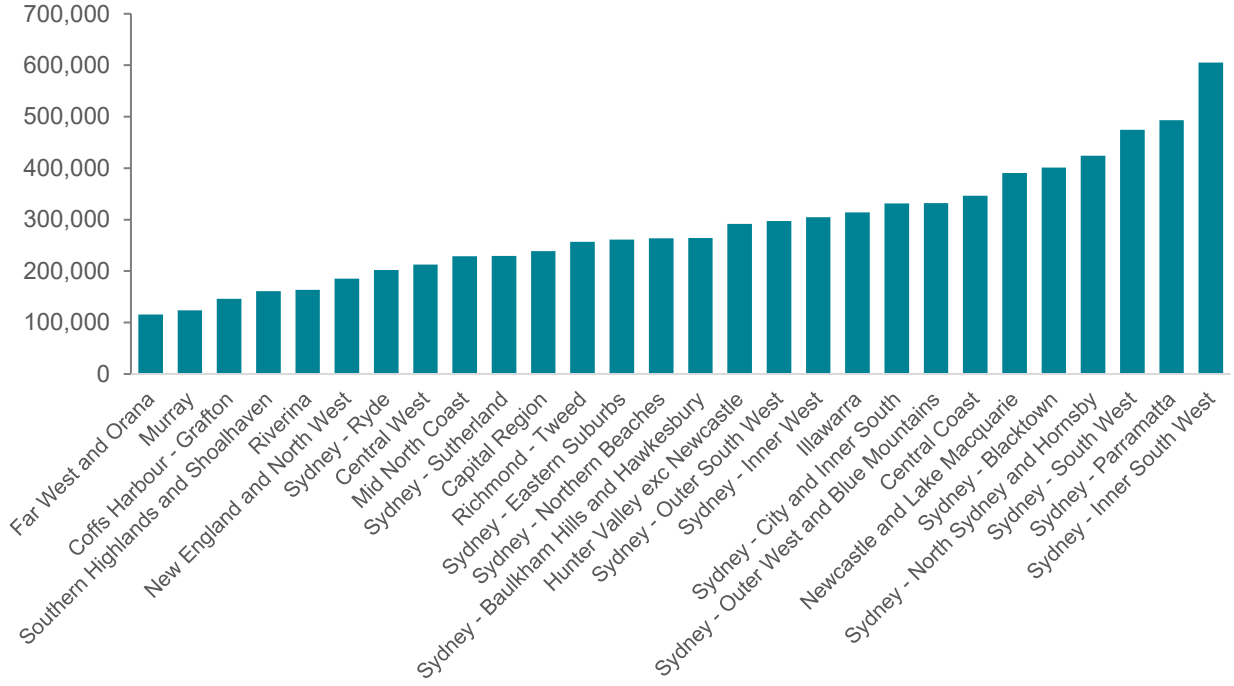
[10] See maps of NSW and Greater Sydney showing SA4 boundaries in Appendix.

Population data

General population

There is a great concentration of the NSW population in and around the capital city, with nearly two thirds of the population (64.9%) residing in one of the 15 SA4s in the Greater Sydney area.

Figure 1: General population by SA4



Source: ABS Census 2021

Population growth

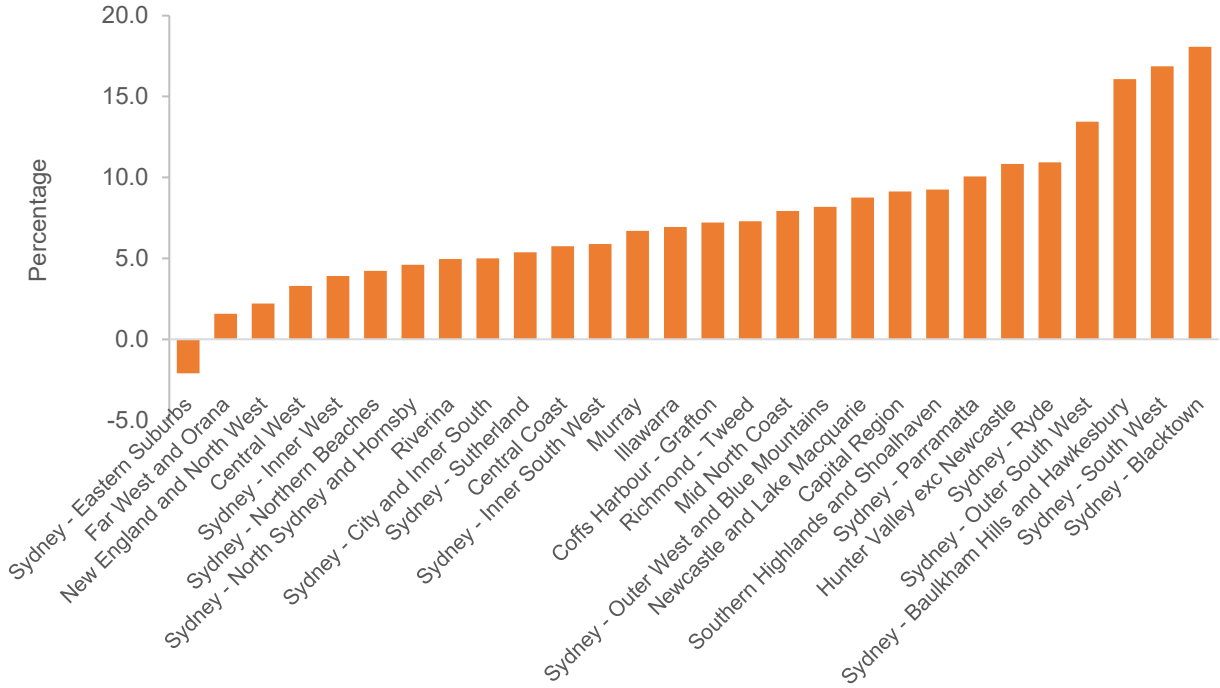
Census data shows a 7.9% increase in the NSW population between 2016 and 2021. This compares with an 8.6% population increase across Australia.

The estimated general population of NSW at December 2022 is 8,238,800. This is a 1.7% increase on the previous year, largely driven by overseas migration (arrivals exceeding departures). Natural increase (births exceeding deaths) contributed to population growth to a much smaller extent, and net interstate migration was negative (departures exceeded arrivals).[11] The estimated population growth during 2022 was slower in NSW than in most jurisdictions, with over 2% growth in WA, QLD and VIC and 1.8% in the ACT, but faster than in SA (1.6%) TAS and the NT (both below 1%).

With the exception of *Sydney-Eastern Suburbs,* which saw a 2.1% population decline, the general population increased across all other SA4s within NSW between the two censuses, albeit to varying degrees. Outer suburbs of the Greater Sydney area experienced sharp population growth, with an 18.1% increase in *Sydney-Blacktown*, 16.9% in *Sydney-South West*, and 16.1% in *Sydney-Baulkham Hills and Hawkesbury*. Population growth was lowest in *Far West and Orana* (1.6%), *New England and North West* (2.2%) and *Central West* (3.3%).

[11] Source ABS. National, state and territory population. Reference period December 2022. Released 15/06/2023.

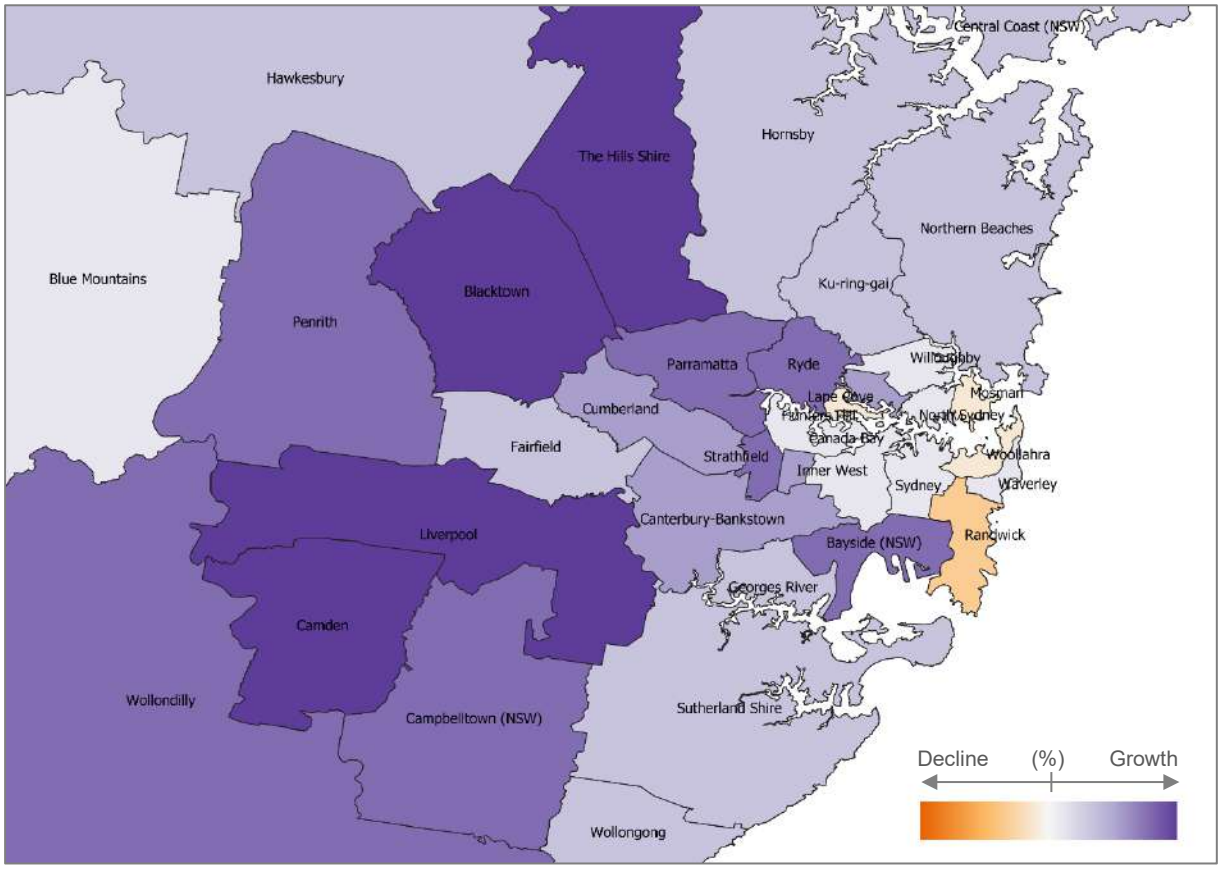
Figure 2: Population growth between the 2016 Census and 2021 Census, by SA4



Source: ABS Census 2016 and Census 2021

At a smaller level of geography, population growth by LGA shows greater granularity, with over a quarter of LGAs experiencing a decline in population, while others experienced a significant population increase. Figure 3 highlights the population shift towards the South Western and North Western edges of the Greater Sydney area.

Figure 3: Population growth in the Greater Sydney area between 2016 and 2021, by LGA



Source: ABS Census 2016 and Census 2021

Table 1 shows the LGAs that have experienced the greatest population growth between the 2016 Census and 2021 Census.

Table 1: LGAs with greatest population growth between the 2016 Census and 2021 Census

LGA	Percentage growth between 2016 and 2021 censuses (%)
Camden	52.6
The Hills Shire	22.0
Blacktown	17.7
Maitland	16.7
Cessnock	14.5
Byron	14.5
Liverpool	14.2
Parramatta	13.5
Strathfield	13.1
Queanbeyan-Palerang Regional	13.0

Source: ABS Census 2016 and Census 2021

Table 2 below identifies the LGAs that have experienced the greatest population decline between the 2016 Census and 2021 Census.

Table 2: LGAs that are estimated to have experienced the greatest population decline between the 2016 Census and 2021 Census

LGA	Percentage decline between 2016 and 2021 censuses (%)
Brewarrina	-17.6
Walgett	-14.1
Cobar	-12.7
Murrumbidgee	-12.6
Bourke	-11.1
Bogan	-8.3
Bland	-6.9
Warren	-6.6
Gwydir	-6.6
Central Darling	-5.8

Source: ABS Census 2016 and Census 2021

Potential demand for legal assistance services

In the context of limited resources, legal assistance services target individuals without the capability to manage their own problems, or who cannot get assistance from elsewhere. Identifying these potential clients draws on information about geographic area, level of financial disadvantage, and individual disadvantage and capability.

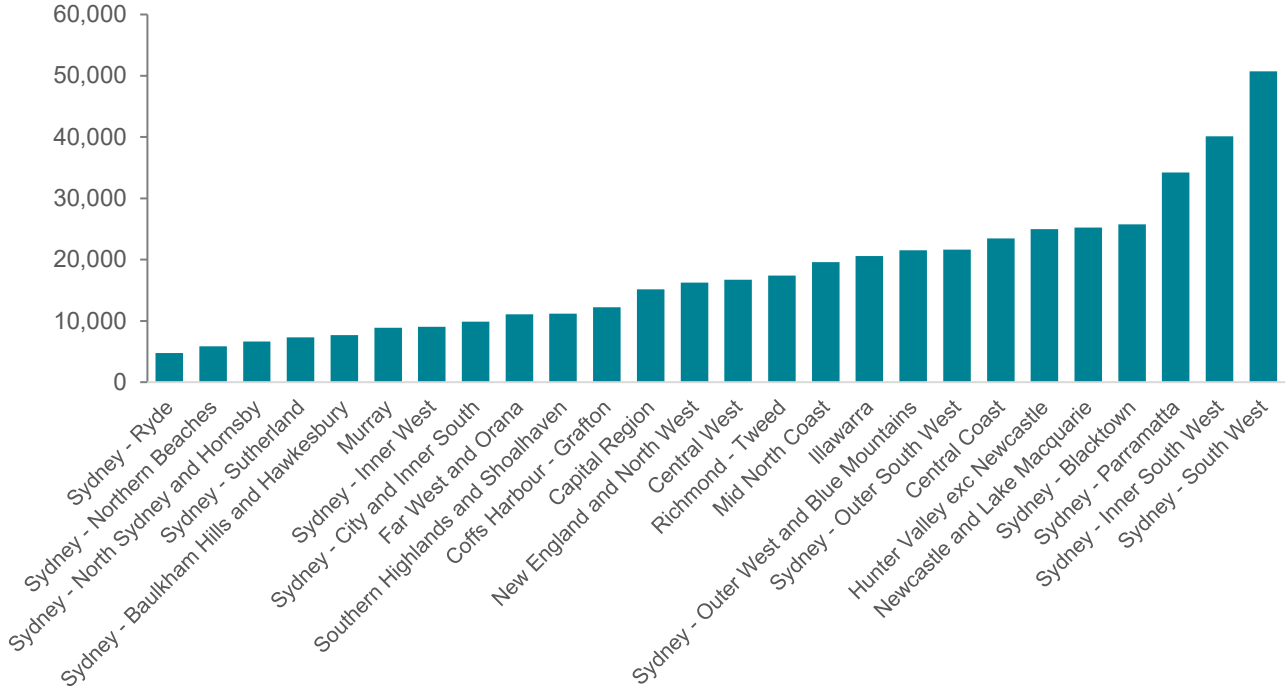
NLAS(Capability)

The Foundation's NLAS(Capability) indicator provides a proxy measure that identifies people most likely to require help from a public legal assistance provider if they experience a legal problem. It captures people aged 15 to 64, with very low personal income (under $33,800 per

annum), and who have a lower level of educational attainment.[12] The NLAS(Capability) indicator therefore provides a useful indication of the potential demand for legal assistance services across geographic areas.

Compared with general population counts considered earlier, NLAS indicators focus on people who are more disadvantaged. The NLAS(Capability) population count therefore only captures those within each SA4 who present a lower socio-economic profile. While the three SA4s with the highest population count in Sydney (*Inner South West*, *Parramatta, and South West*, see Figure 1) also show the highest NLAS(Capability) count (Figure 4), most of the remaining Sydney SA4s are concentrated towards the lower counts of NLAS(Capability). Areas surrounding Greater Sydney, such as *Newcastle and Lake Macquarie*, *Hunter Valley*, and *Central Coast*, present higher counts of NLAS(Capability).

Figure 4: Counts of NLAS(Capability) population by SA4



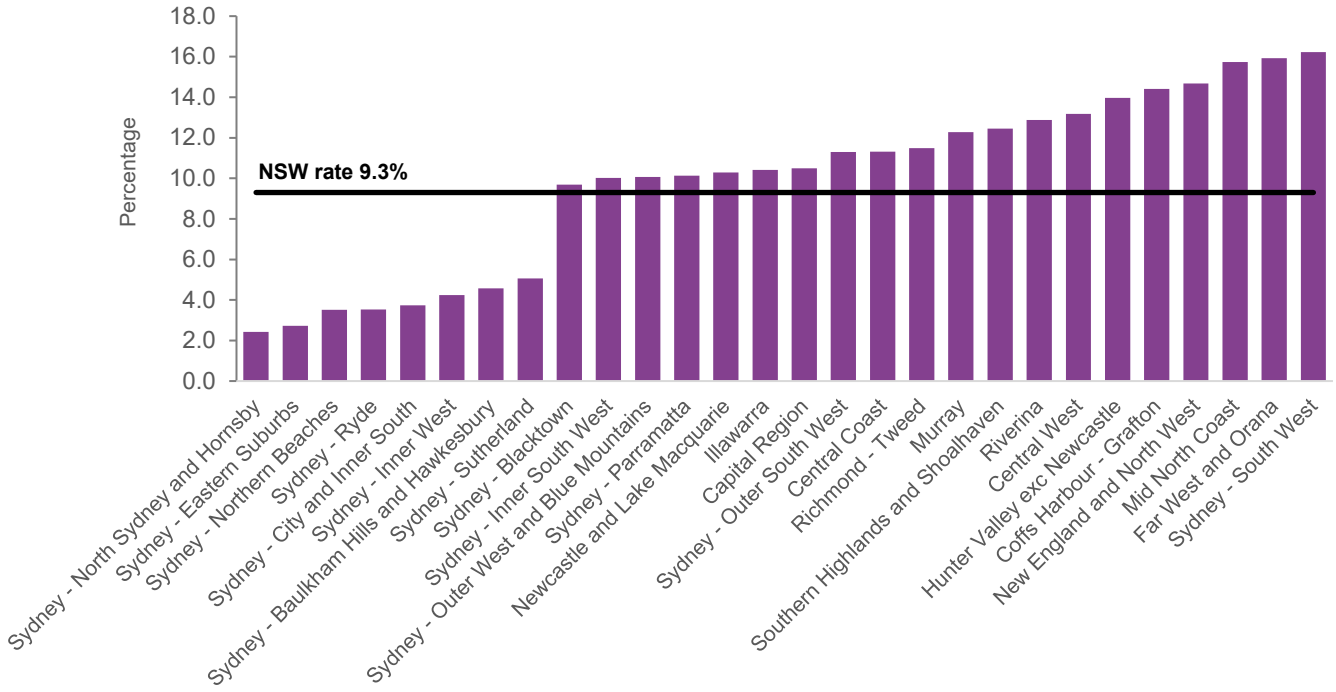
Based on ABS Census 2021

NLAS(Capability) population ***rates***, expressed as a percentage of the population aged 15 to 64 in each SA4, show that the more disadvantaged group (counted in NLAS) represents a greater proportion of the population in some SA4s than in others. Although, the *Sydney-South West* SA4 has both the highest NLAS(Capability) count and rate, other SA4s rank very differently by rate (Figure 5) compared to count (Figure 4). For example, *Sydney-Inner South West* shows a very high NLAS(Capability) population **count** (40,120) yet one of the lower **rates** at 10.0%, which reflects a very large but somewhat less disadvantaged general population compared with other SA4s. The *Far West and Orana* SA4, on the other hand, shows the exact reverse pattern, with a comparatively small NLAS(Capability) count but a high rate, reflecting a smaller yet generally more disadvantaged general population.

[12] Refer to detailed definition in Appendix. The computation of NLAS(Capability) also corrects for missing income data in the census.

The NLAS(Capability) population in NSW represents 9.3% of the general population aged 15 to 64. That percentage is the same for Australia overall.

Figure 5: Rates of NLAS(Capability) population by SA4



Based on ABS Census 2021

The proportion or rate of disadvantage in an area, available in resources such as the ABS SEIFA indexes or in NSW the NCOSS dashboard and mapping tool, has an impact on *how* services are best delivered and can inform the design of services.[13] Counts, on the other hand, provide the best evidence of the *volume* of the potential demand for services, and can uncover pockets of potential demand that might otherwise remain invisible. For this reason, NLAS counts are especially useful for resource allocation.

NLAS(Community)

NLAS(Community) is another indicator that has been designed to provide a count of people who are more likely to require, and be eligible for, legal assistance services such as information or legal advice to resolve their legal problem. NLAS(Community) captures a wider population than NLAS(Capability) as it includes older people, it also uses equivalised household income rather than personal income, and with a higher threshold at $52,000 per annum that aligns with median household income.[14] This higher income threshold identifies people who may be eligible for less intensive Legal Aid services, or services from other providers such as CLCs or the ALS.

Figure 6 below shows a count of NLAS(Community) population by SA4.

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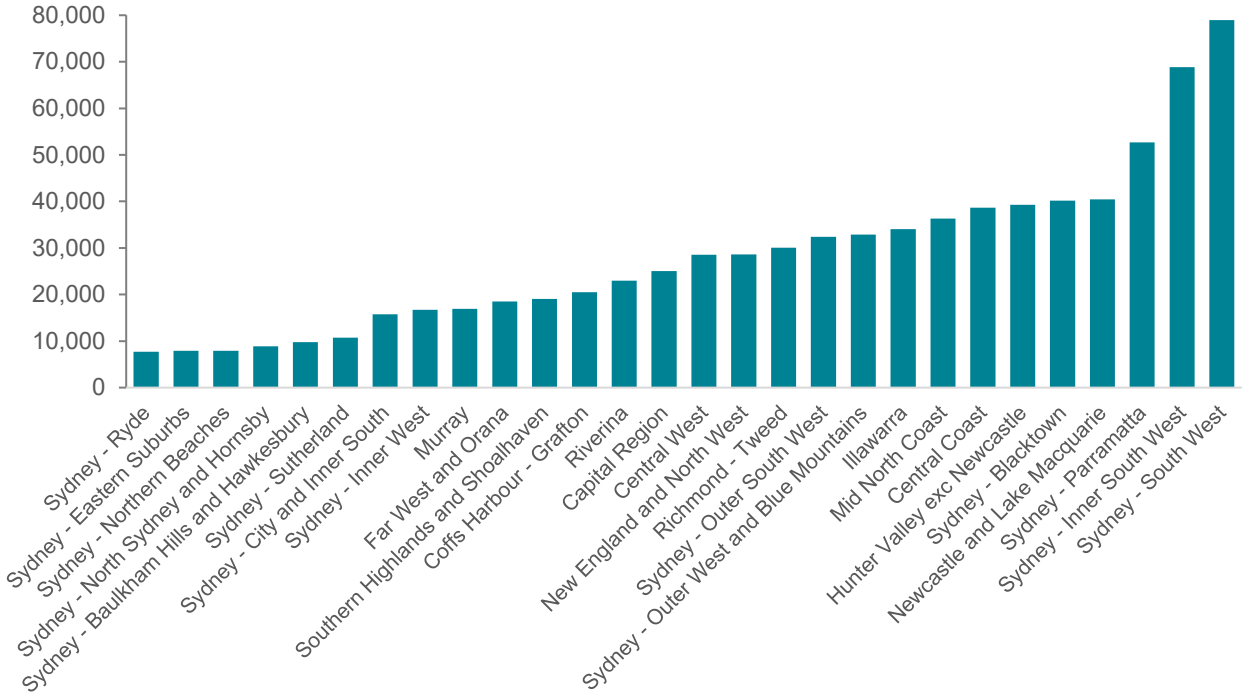
[13] See ABS, Socio-Economic Indexes for Areas (SEIFA), Australia, and also Vidyattama, Y., Brown, L., Tanton, R., and NSW Council of Social Service (NCOSS) 2023, Mapping Economic Disadvantage in New South Wales, 2021. NATSEM, Faculty of Business, Government and Law, University of Canberra. Report Commissioned by NCOSS.

[14] The threshold used for NLAS(Capability) is personal income under $33,800 per annum. Equivalised household income increased from $45,600 in 2016 to $55,600 in 2021, with $52,000 being the closest income bracket available in census data. These figures are based on census data and compiled by .id (informed decisions), available from Demographic resources, Community Profile Australia. Median income figures are estimates only, refer to ABS and .id explanatory notes for more detail.

Figure 6: Counts of NLAS(Community) population by SA4



Based on ABS Census 2021

Priority groups

As mentioned earlier, the types of legal problems people face, or the types of action they might take in response to these problems, may have changed over the last fifteen years. Nevertheless, the fact that people in the community who face disadvantage are more vulnerable to experiencing legal problems is very likely to remain true. In that regard, the focus on community groups identified in legal needs research as being more likely to face such problems, and also more likely to require some form of support in addressing these legal problems, remains a relevant lens for an assessment of legal needs in the community.

In addition to the focus of legal assistance services being delivered to people experiencing financial disadvantage, the 2020-25 National Legal Assistance Partnership (NLAP) defines 11 priority client groups:

- Aboriginal and Torres Strait Islander people
- Children and young people (up to 24 years)
- Older people
- People experiencing or at risk of family violence
- People experiencing or at risk of homelessness
- People in custody and/or prisoners
- People residing in rural or remote areas
- People who are culturally and linguistically diverse
- People with a disability or mental illness
- People with low education levels
- Single parents

Further, the NSW Legal Assistance Strategy and Action Plan outlines a particular focus on the following priority groups:

- Aboriginal and Torres Strait Islander people
- People experiencing or at risk of family violence

This section provides high level information and data sources to consider for each of these groups, while recognising that available data may be scarce or more outdated for some groups. And of course, there are other groups who face disadvantage, such as the LGBTIQ+ community or refugees – amongst others – that need be considered, even if little data and evidence is currently available.

Aboriginal and Torres Strait Islander people

The LAW Survey found that although the chance of experiencing at least one legal problem were similar, Aboriginal and Torres Strait Islander people were more likely to experience multiple legal problems and had lower levels of finalisations compared to non-Indigenous people.[15]

Aboriginal and Torres Strait Islander respondents who lived in rural and remote areas were significantly less likely to take action to solve their problem and, if they did, they were also less likely to seek professional legal advice.

In Australia, compared to non-Indigenous people, Aboriginal and Torres Strait Islander people were more likely to experience problems in relation to crime (both as victims and offenders), government (including those in relation to fines and benefit payments), health, and rights. Further analysis also found that Aboriginal and Torres Strait Islander people were more likely to have unresolved crime problems, and especially so if they experienced multiple disadvantage.[16]

In NSW, Aboriginal and Torres Strait Islander people had a higher prevalence of health related legal problems but similar prevalence of other types of legal problems compared to non-Indigenous people.[17]

Many Aboriginal and Torres Strait Islander people face particular systemic, social, cultural and geographic disadvantages that form interlocking access to justice barriers.[18] Services for Aboriginal and Torres Strait Islander people should be delivered in a culturally appropriate manner and designed in partnership with the relevant communities.

Census population count

In Australia overall, the Aboriginal and Torres Strait Islander population was 812,730 according to the 2021 Census, with over a third (278,040 or 34.2%) residing in NSW – the largest numerical increase and third largest proportional increase behind the ACT and Victoria.

Aboriginal and Torres Strait Islander people represent 3.4% of the NSW population and 3.2% of the general population in Australia.

Nearly a third (32.7%) of Aboriginal and Torres Strait Islander people in NSW live in Greater Sydney. The Aboriginal and Torres Strait Islander population was greatest in the SA4s of *Hunter Valley*, *New England and North West*, *Newcastle*, and *Far West and Orana*. It was smallest in *Ryde*, *North Sydney and Hornsby*, *Northern Beaches*, and *Sydney Inner West*.

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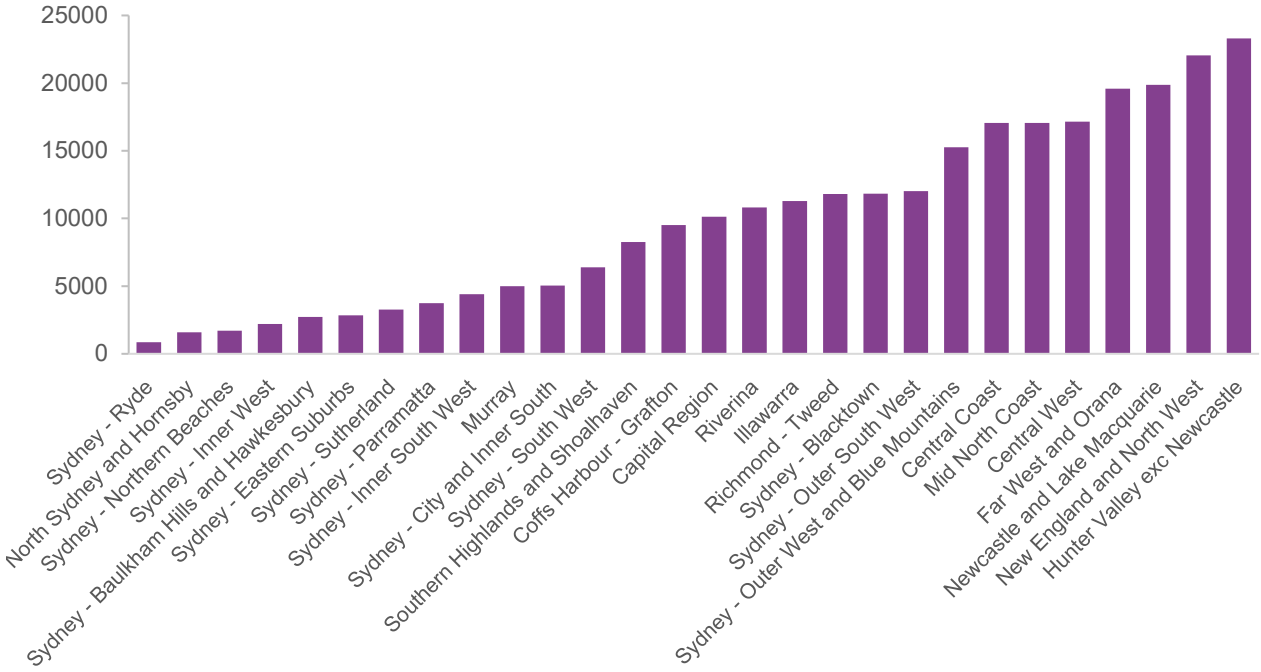
[15] Coumarelos et al 2012 (LAW Survey Australia)

[16] Wei, Z and McDonald, HM 2018, Indigenous people and legal problem resolution, Updating Justice 55, Law and Justice Foundation of NSW, Sydney.

[17] Coumarelos et al 2012 (LAW Survey NSW)

[18] Coumarelos et al 2015 (CPR – service planning)

Figure 7: Aboriginal and Torres Strait Islander population count by SA4



Source: ABS Census 2021

Population growth

The Aboriginal and Torres Strait Islander population identified in the 2021 Census represents a 25.2% increase from the previous Census in 2016. In NSW, the increase was even greater at 28.6%.

In NSW, over a third (35.5%) of the Aboriginal and Torres Strait Islander population increase was a result of demographic factors, that is, the number of births exceeded the number of deaths over the five-year period.[19] However, most of the increase (the remaining 64.5%) was due to non-demographic factors such as changes in identification as Aboriginal and/or Torres Strait Islander, greater participation overall in the 2021 Census, and a higher response rate to the Indigenous status question.[20]

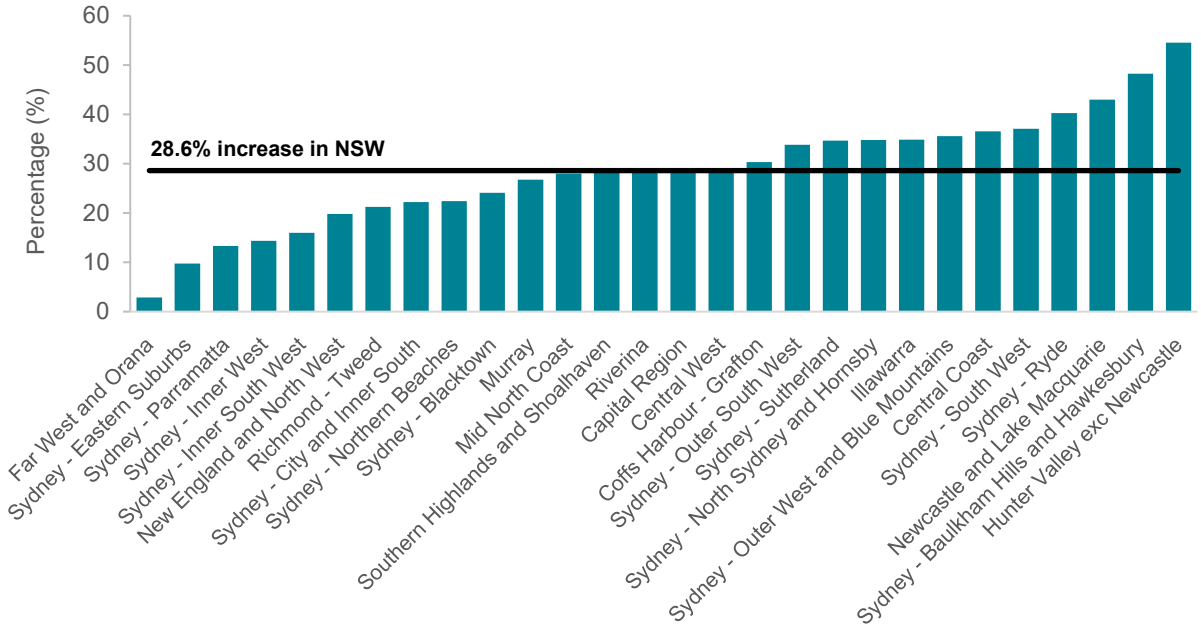
Although more people identified as Aboriginal and/or Torres Strait Islander in every age cohort under 65, a sizeable portion of the intercensal increase was concentrated in the younger cohorts of children aged 5 to 19, which suggests that some of the non-demographic population increase was a result of children being missed in previous censuses.

Aboriginal and Torres Strait Islander population growth was greatest in the areas of the *Hunter Valley*, *Baulkham Hills and Hawkesbury*, *Newcastle* and *Ryde*.

[19] Demographic factors also include migration (including interstate and overseas departures and returns). However, Aboriginal and Torres Strait Islander migration counts were negative for NSW over the period 2016-2021, and therefore did not contribute to the population increase.

[20] ABS, Understanding change in counts of Aboriginal and Torres Strait Islander Australians: Census, Reference period 2021, released 04/04/2023.

Figure 8: Aboriginal and Torres Strait Islander population growth by SA4



Source: ABS Census 2016 and Census 2021

The Aboriginal and Torres Strait Islander population increased in most LGAs between the two censuses (118 out of 129 LGAs). The few LGAs where it decreased were generally in regional areas of Northern and Western NSW (noting the exception of Hunters Hill), and in LGAs that experienced a general population decline. LGAs with the highest growth in Aboriginal and Torres Strait Islander population numbers were mostly along the Central Coast, in the Hunter region, and Sydney West, noting a particularly large increase in the Camden LGA in Sydney South West.

Table 3: LGAs experiencing the greatest shifts in Aboriginal and Torres Strait Islander population count between the 2016 Census and the 2021 Census

LGAs with greatest population decline	Population decrease count (percentage)	LGAs with greatest population growth	Population increase count (percentage)
Walgett	-686 (-38.1%)	Central Coast (NSW)	4,562 (36.5%)
Moree Plains	-311 (-10.9%)	Lake Macquarie	3,728 (46.4%)
Brewarrina	-311 (-30.9%)	Penrith	3,185 (41.1%)
Bourke	-123 (-14.8%)	Maitland	2,648 (64.7%)
Central Darling	-95 (-13.1%)	Cessnock	2,468 (61.5%)
Balranald	-63 (-30.9%)	Blacktown	2,285 (24.0%)
Cobar	-58 (-9.1%)	Tamworth Regional	1,994 (33.0%)
Wentworth	-28 (-4.3%)	Camden	1,941 (100.7%)
Hunters Hill	-11 (-13.4%)	Newcastle	1,936 (35.4%)
Warren	-8 (-2.0%)	Wollongong	1,599 (29.9%)

Source: ABS Census 2016 and Census 2021

Population estimates

After each census, the ABS releases Aboriginal and Torres Strait Islander population estimates at 30 June of the census year, that adjust for census undercount using the Post Enumeration Survey. Aboriginal and Torres Strait Islander people are more likely to not be counted in the census than the general population, therefore population estimates that

correct for census undercount are especially relevant for that group.[21] The Aboriginal and Torres Strait Islander population residing in NSW at 30 June 2021 was estimated at 339,550 people, or 4.2% of the NSW general population.

Table 4: Estimated Aboriginal and Torres Strait Islander population at 30 June 2021 by state/territory

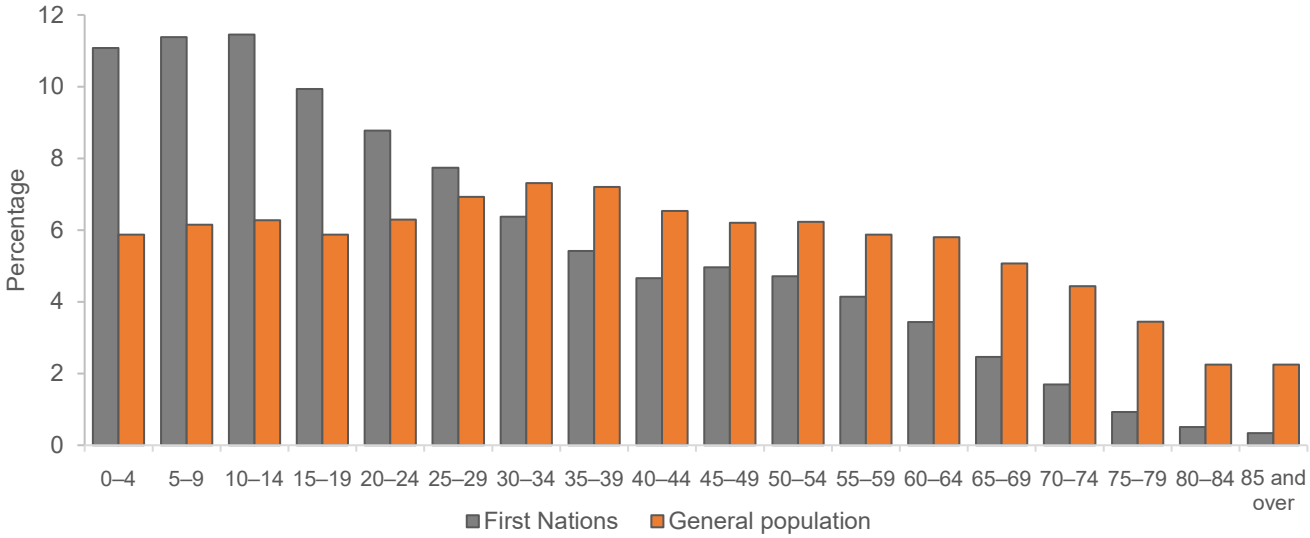
State/territory	Aboriginal and Torres Strait Islander population	Percentage of the state population	Distribution of Aboriginal and Torres Strait Islander population across states/territories
	N	%	%
New South Wales	339,550	4.2	34.5
Victoria	78,700	1.2	8.0
Queensland	273,220	5.2	27.8
South Australia	52,080	2.9	5.3
Western Australia	120,040	4.4	12.2
Tasmania	33,890	6.0	3.4
Northern Territory	76,740	30.8	7.8
Australian Capital Territory	9,540	2.1	1.0
Australia *	**984,000**	**3.8**	**100**

Note: *Figures for Australia include Australian Other Territories.
Source: ABS, *National, state and territory population, Dec 2022* and *Estimates of Aboriginal and Torres Strait Islander Australians*, reference period June 2021, released 21/09/2022

Age profile

The Aboriginal and Torres Strait Islander population shows a much younger age profile than the general population. In NSW, over a third (33.9%) of the estimated Aboriginal and Torres Strait Islander population was under the age of 15, compared with 18.3% of the general population, and more than half (52.6%) was under the age of 25, compared with 30.5% of the general population.

Figure 9: Percentage of estimated Aboriginal and Torres Strait Islander and general population by age group



Source: ABS, *National, state and territory population, Dec 2022* and *Estimates of Aboriginal and Torres Strait Islander Australians*

[21] The overall net undercount for the 2021 Census was 0.7%, and it was 17.4% for the Aboriginal and Torres Strait Islander population. ABS, *2021 Census overcount and undercount, Statistics about Census coverage from the Census Post Enumeration Survey*, reference period 2021, released on 28/06/2022

People experiencing or at risk of family violence

Due to the underreporting of family violence, it may be difficult to understand and accurately describe the extent and nature of legal needs for this priority group. Analysis of the LAW Survey, however, found that respondents who had experienced domestic and family violence were 10 times more likely than others to also experience other legal problems. These legal problems were also more likely to be more severe and with greater adverse impacts on people's life circumstances.[22]

Experience of violence

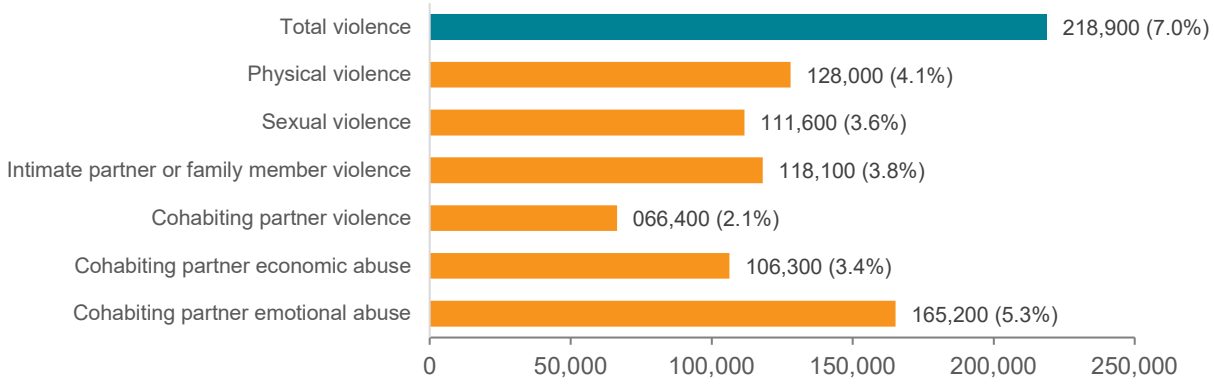
The ABS Personal Safety Survey (PSS) collects information on adults' experiences of violence, including: physical and sexual violence, emotional or economic abuse, stalking and sexual harassment. The survey asks about experiences of violence since the age of 15, as well as experiences of childhood abuse and witnessing parental violence before the age of 15.

In its most recent iteration in 2021-22, the PSS found that an estimated 8 million Australians (41%) have experienced violence since the age of 15, with 22% of women and 6.1% of men having experienced sexual violence.[23]

At state/territory level, data is currently available in relation to women's experiences only.[24] In NSW, an estimated 1.1 million women have experienced violence since the age of 15, and 218,900 experienced violence in the last two years (7.0% of women aged 18 and over).[25]

Figure 10 below presents estimates of the number of women (and percentage of the women population aged 18 or over) residing in NSW who experienced a form of violence in the two years leading to the 2021-22 PSS survey.[26]

Figure 10: Estimate number and percentage of women who experienced violence in the two years prior to survey



Source: ABS, Personal Safety Survey 2021-22, State and territory prevalence and time series data cube, released 15/03/2023

[22] Coumarelos, C, 2019. Quantifying the legal and broader life impacts of domestic and family violence, Justice Issues 32, Law and Justice Foundation of NSW, Sydney.

[23] ABS, Personal Safety, Australia, Reference period 2021-22 financial year, released 15/03/2023. In the PSS, violence is defined as any incident involving the occurrence, attempt or threat of either sexual or physical assault. Violence is broken down into two main categories: sexual violence and physical violence.

[24] The ABS' first release of PSS 2021-22 data focuses on high-level violence prevalence rates at the national level for men and women, and at the jurisdictional level for women only. Subsequent publications and articles containing more detailed and topic-focused data will be released throughout 2023. ABS, Personal Safety, Australia methodology, released 15/03/2023.

[25] That is the two-year period preceding the survey. Data collection for the 2021-22 PSS ran between March 2021 and May 2022.

[26] Those women were residing in NSW at the time of the survey, which may not necessarily be where the violence occurred.

Domestic violence related criminal incidents

Data released by the NSW Bureau of Crime Statistics and Research shows an upward trend in recent years in domestic violence related criminal incidents recorded by NSW Police.

In the 12 months to March 2023, a total of 93,670 criminal incidents in NSW were recorded by the Police to be domestic violence (DV) related.

Table 5: Domestic violence related criminal incidents by selected offence type, April 2022 to March 2023

Offence type	DV related incidents Apr 2022-Mar 2023	Percentage change from previous year (2021-22)	Percentage change since 2018-19
Domestic violence related assault	34,020	Up 5.2%	Up 12.5%
Sexual assault	3,640	Stable	*
Sexual touching, sexual act and other sexual offences	2,120	Down 10.7%	*
Abduction and kidnapping	70	Stable	Stable
Intimidation, stalking and harassment	21,250	Up 7.2%	Up 43.9%
Malicious damage to property	10,780	Stable	Up 5.6%
Breach Apprehended Violence Order	21,780	Up 5.9%	Up 39.7%

* In December 2020 the NSW Police Force made it mandatory to record Person of Interest/victim relationship in sexual offences. This has caused a break in the DV series for sexual offences as more sexual offences are being classified as domestic-violence related, hence percentages can be misleading and are not reported here.
Note: DV-related homicide incidents are not listed in this table: numbers are very small, trends cannot be reliably ascertained, and figures include a mix of incident counts and victim counts.

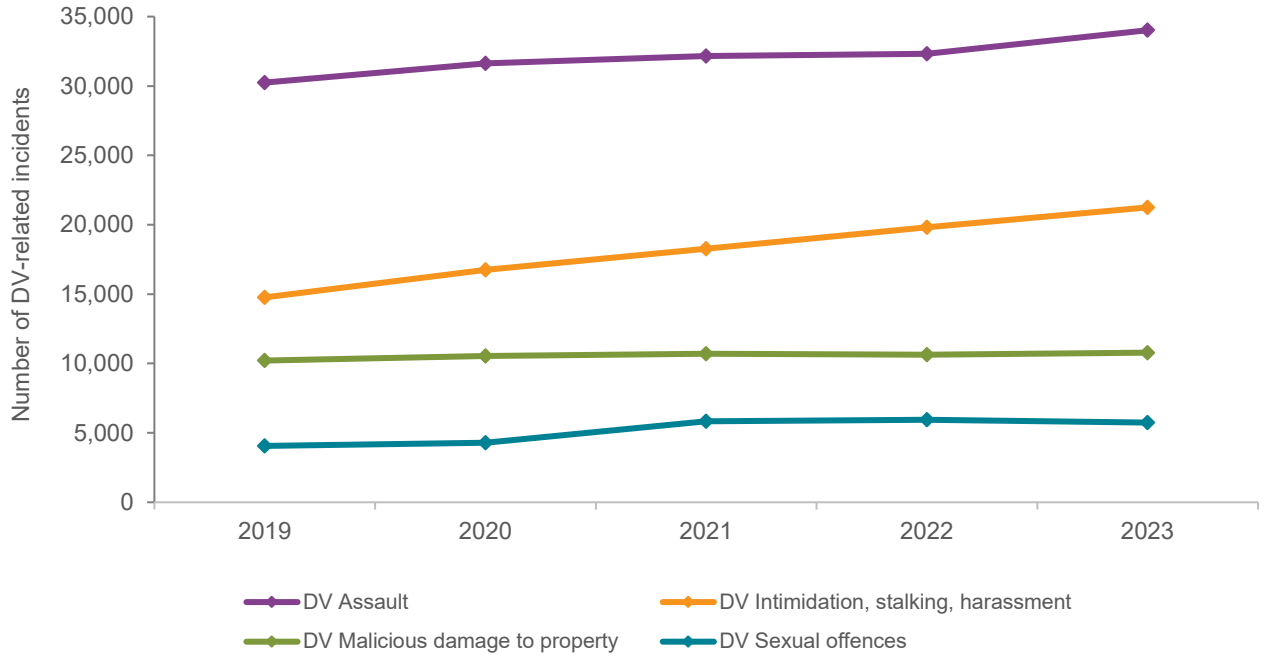
Source: NSW Bureau of Crime Statistics and Research, NSW Domestic Violence Quarterly Report (23Q1)

Figure 11 below shows the number of domestic violence related incidents for selected offence types between 2019 and 2023, as recorded at March of each year.

Domestic assault is by far the most common type of DV-related incidents, and while numbers remained somewhat stable between 2020 and 2022, there was a sharper increase in the following 12 months to March 2023. The number of DV-related property damage incidents has shown a relatively slow increase over the last five years. To some extent, the same can be said of DV-related sexual offence incidents.[27] In contrast, over the same period, there has been a fast and steady increase in the numbers of DV incidents in relation to intimidation/stalking/harassment.

[27] The increase in 2021 is partially attributable to a change of recording policy within the NSW Police Force: as it became mandatory to record Person of Interest/victim relationship in sexual offences from December 2020, more sexual offences are being classified as domestic-violence related than was previously the case. The higher percentage increases noted in Table 5 also reflect the split between sexual assaults and other sexual offences, and the lower counts overall for these offence types.

Figure 11: Number of domestic violence related incidents in NSW by selected offence type, 2019 to 2023



Source: NSW Bureau of Crime Statistics and Research, data extracted from the online NSW Crime Mapping tool

The LGAs where the highest number of DV-related criminal incidents occurred were Blacktown and Central Coast, with more than 5,000 incidents in the 12 months to March 2023 in each LGA, followed by Canterbury-Bankstown and Penrith (over 3,000 incidents).

Table 6: LGAs with highest counts of domestic violence related incidents, April 2022 to March 2023

LGA	Number of DV related criminal incidents Apr 22-Mar 23 (all offence types combined)
Blacktown	5,720
Central Coast	5,250
Canterbury-Bankstown	3,340
Penrith	3,120
Liverpool	2,880
Campbelltown	2,690
Sydney	2,680
Lake Macquarie	2,600
Fairfield	2,270
Newcastle	2,260

Source: NSW Bureau of Crime Statistics and Research, data extracted from the online NSW Crime Mapping tool

Table 7 presents a count of victims of domestic violence related incidents by offence type. There were 36,670 victims of domestic assault in the 12 months to March 2023, and 6,060 victims of sexual offences.

Table 7: Victims of domestic violence related incidents by offence type, April 2022 to March 2023

Offence type	Children (<18)	Women*	Men*
Domestic violence related assault	4,710	21,930	9,990
Sexual assault	2,240	1,410	100
Sexual touching, sexual act and other sexual offences	1,700	530	80
Intimidation, stalking and harassment	2,100	16,120	5,390
Malicious damage to property	310	7,640	3,0010
Breach Apprehended Violence Order	1,920	16,300	3,780

Notes: * Counts include women and men whose age was unknown.
These figures are not counts of unique individuals (a person may be counted multiple times if they are a victim of several incidents during the 12-month period).
Adult victims of a further 321 incidents (all offence types combined) whose gender was not recorded are not shown in this table. Victims of homicide and abduction/kidnapping incidents are not presented in this table due to small numbers.

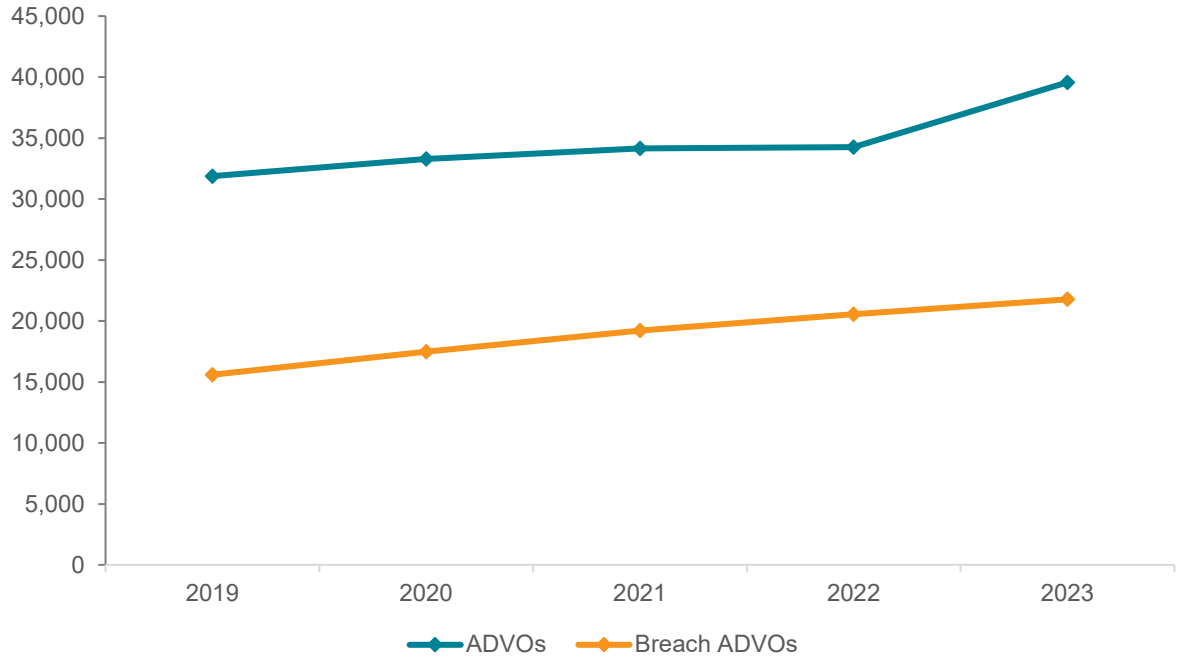
Source: NSW Bureau of Crime Statistics and Research, NSW Domestic Violence Quarterly Report (23Q1)

Apprehended Domestic Violence Orders

Apprehended Violence Orders (AVOs) are legal orders which aim to protect individuals from violence, threats and harassment. There are two types of AVOs: domestic and personal AVOs (ADVOs and APVOs respectively). ADVOs are made by the court to protect individuals from violence, threats and harassment from a spouse, de facto partner, ex partner, family member, carer or person living in the same household. APVOs are orders made by the court to protect individuals from violence, threats and harassment from anyone who they are not in a domestic or family relationship with.

Figure 12 presents the number of ADVOs issued and the number of ADVOs breach incidents in the 12 months to March each year for the last five years. Data points to a sharp increase in the number of ADVOs issued between April 2022 and March 2023, from 34,260 to 39,570, or a 15.5% increase.

Figure 12: Number of ADVOs issued and breach of ADVOs incidents, 2019 to 2023



Source: NSW Bureau of Crime Statistics and Research, AVO Statistics (23Q1)

Location data shows that the highest counts of ADVOs were issued against offenders residing in the Blacktown, Central Coast, Canterbury-Bankstown, and Penrith LGAs.

The NSW Domestic Violence Electronic Monitoring (DVEM) program was introduced in 2016. Offenders on the program wear a GPS-enabled monitoring device and have their location tracked at all times against exclusion zones drawn from their ADVO. Offenders are contacted if they enter an exclusion zone and asked to leave, and Police are contacted if they do not comply. A recent evaluation of the DVEM program concluded that DVEM participation was associated with significant reductions in the probability that an offender reoffends. The reduced probability of reoffending was greater for DV-related offences and for ADVO breaches.[28]

Table 8 presents counts of persons protected by an AVO. In this table, the counting unit is the number of orders made rather than the number of victims. This is because legislative changes coming into force in 2008 made it mandatory for children having a domestic relationship with an adult protected by an AVO to also be named as a protected person on the order. The number of persons protected by an AVO therefore includes children who may not have been victims or threatened themselves but are listed on orders relating to their parent.

Table 8: Number of persons protected by an Apprehended Violence Order, April 2022 to March 2023

Persons protected by an issued AVO	Domestic AVO	Personal AVO	All AVOs
Children (<18)	13,920	1,000	14,920
Women *	28,290	2,950	31,240
Men *	11,450	2,810	14,250

Source: NSW Bureau of Crime Statistics and Research, AVO Statistics (23Q1)
* Counts include women and men whose age was unknown.

[28] Boiteux, S., & Teperski, A. (2023). An evaluation of the NSW Domestic Violence Electronic Monitoring program (Crime and Justice Bulletin No. 255). Sydney: NSW Bureau of Crime Statistics and Research.

Children and young people

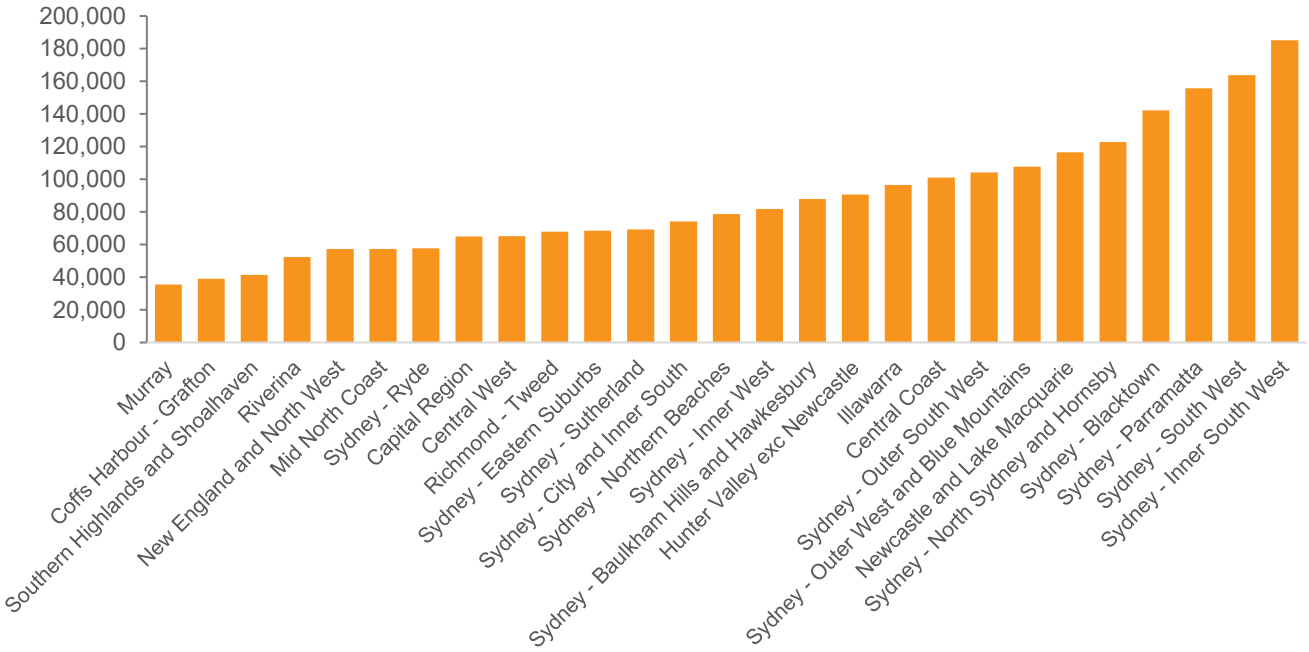
Many young people lack the knowledge, independence, experience and skills to successfully resolve legal problems themselves. They may have poor knowledge of available avenues and assistance services, as well as reduced self-efficacy and diminished legal capability. For example, young people were found to have little knowledge about basic legal rights and entitlements and the civil justice system.[29]

The LAW Survey found that young people aged 18 to 24 are more likely to experience legal problems than older people aged 65 and over and, if they do take action to resolve them, they are more likely to handle their problems without seeking professional advice.

Young people also reported more problems in relation to crime (both as victims and offenders), rights and personal injury than their older counterparts.[30]

Areas on the outskirts of Greater Sydney typically show higher counts of children and young people.

Figure 13: Counts of people under 25 years of age by SA4



Source: ABS Census 2021

Young people are not a homogenous group and, depending on the level and types of disadvantage they may face, they are likely to experience a combination of access to justice barriers and age-related barriers.[31]

Disengaged youth can provide a more refined measure of potential legal need for young people as they are more likely to face multiple disadvantages and have increased vulnerability to legal problems compared to other young people.

Figure 14 shows a count of disengaged young people, defined as people aged 15 to 24 who are not at school (or any educational institution) and who are unemployed – depicted with the

[29] Coumarelos et al 2015 (CPR– service planning)

[30] Coumarelos et al 2012 (LAW Survey NSW) and Coumarelos et al 2015 (CPR – service planning)

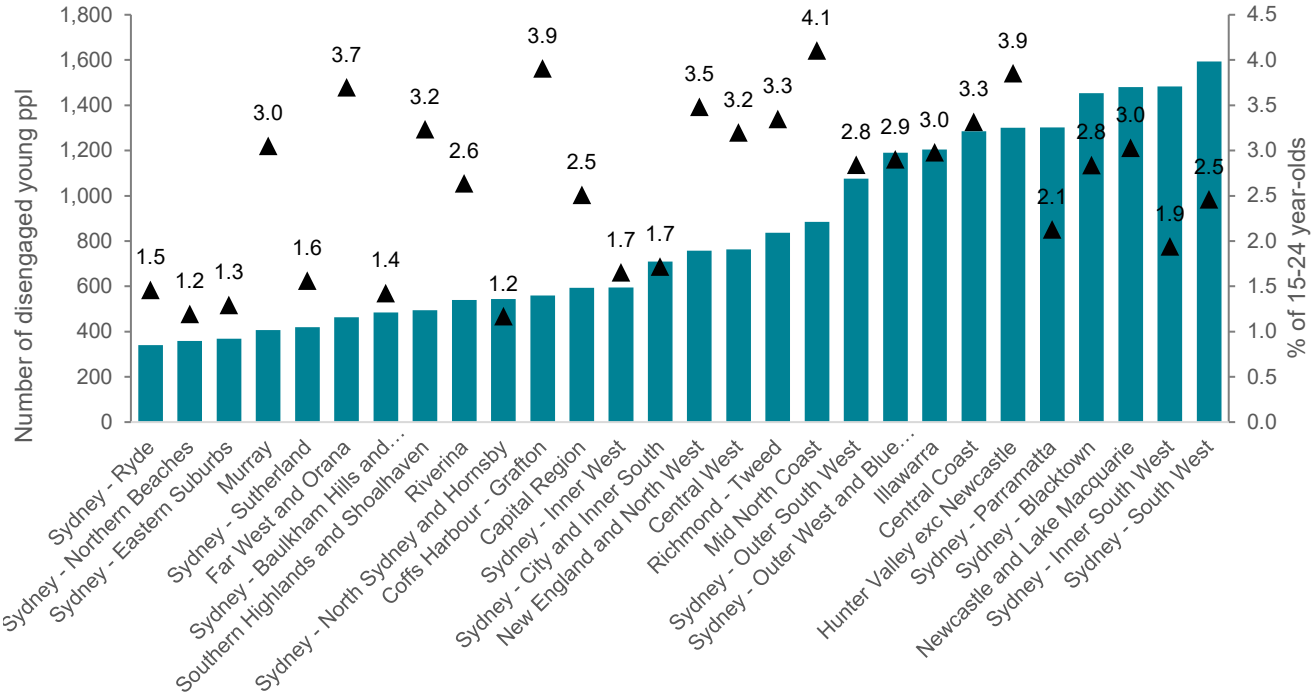
[31] Coumarelos et al 2015 (CPR – service planning)

teal columns – as well as the percentage of the 15-24 population they represent – depicted with the black triangles. A triangle sitting high above the bar shows a relatively high proportion of young people disengaged from education and employment in an area that has relatively lower counts of young people. A triangle below the top of the column describes an area with higher counts but lower proportion of disengaged youth, meaning that the higher counts are somewhat driven by the area being more populous.

The SA4s with the highest counts of disengaged youth were Sydney South West, Sydney Inner South West, Newcastle and Lake Macquarie, and Blacktown.

In nine SA4s the percentage of young people aged 15 to 24 who were neither in education nor employment was above 3% of the 15-24 population. SA4s with the highest proportion of disengaged youth were the *Mid North Coast* (4.1%), *Coffs harbour-Grafton* (3.9%), *Hunter Valley* (3.9%) and *Far West-Orana* (3.7%). The lowest proportion was 1.2% in *North Sydney-Hornsby*.

Figure 14: Counts and percentages of disengaged young people aged 15 to 24 by SA4



Source: ABS Census 2021

Older people

This priority group includes Aboriginal and Torres Strait Islander people aged 50 and over, as well as non-Indigenous people (and people whose Indigenous status is not known) aged 65 and over. This is to reflect the fact that the Aboriginal and Torres Strait Islander population has a younger age structure with a lower life expectancy, and thus issues relevant to 'older people' or those aged over 65 in the general population may apply to Aboriginal and Torres Strait Islander people when they reach a younger age.

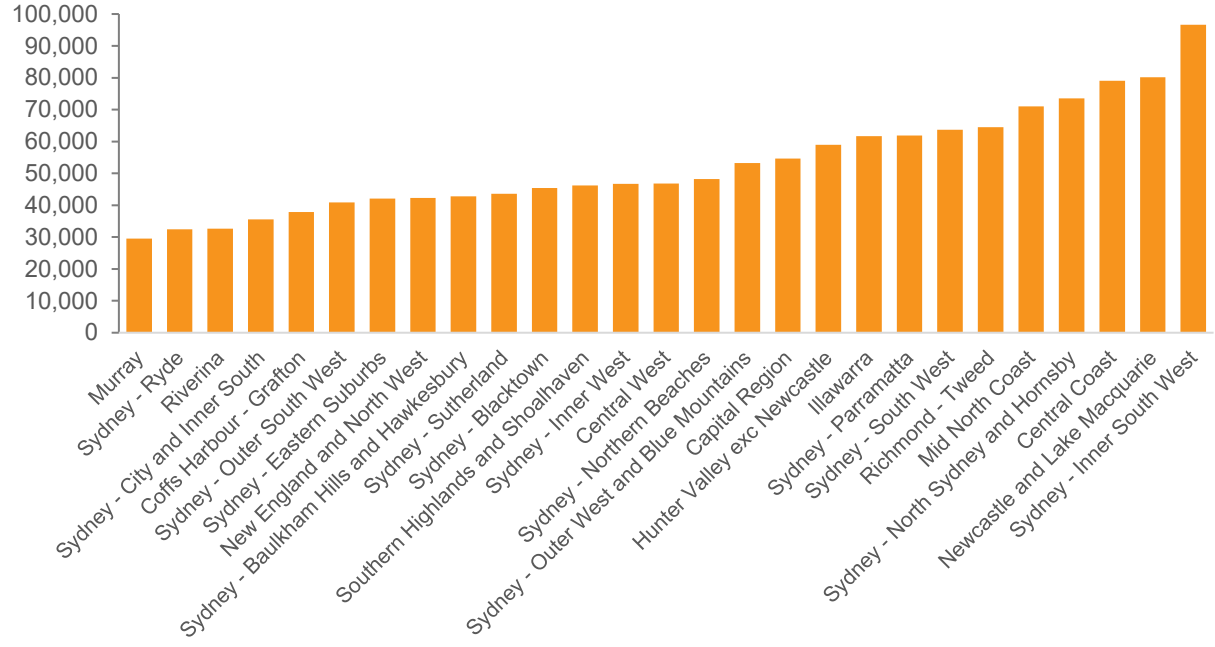
The LAW Survey found that those older people who participated in the survey generally report experiencing fewer legal problems than their younger counterparts. This may partly reflect changes in life circumstances in the older age group, such as retirement, fewer home mortgages and other loans, and grown children having left home that provide fewer opportunities to experience certain types of legal problems, such as employment problems, certain debt problems, and family problems.

Older people living in institutional settings were not covered by the LAW survey, and those living in a home setting may have been unwilling to reveal issues with their carers, for example. We know from other sources that older people can experience serious legal issues and some of these issues are clearly linked to their stage of life, such as elder abuse, issues with residential care, and being guarantors for loans. Older people were also more likely to not take any action to resolve their legal problem, which may indicate lower levels of legal capability in some cases.[32]

In NSW, nearly one and a half million individuals fall in the 'older people' category as defined above (1,459,440), representing 18.1% of the general population.

The areas with the highest counts of older people are *Sydney South West*, *Newcastle and Lake Macquarie*, *Central Coast* and *North Sydney and Hornsby*. Counts were lowest in the *Murray*, *Ryde* and *Riverina* SA4s.

Figure 15: Counts of older people (Aboriginal and Torres Strait Islander people aged 50 and over and non-Indigenous people aged 65 and over) by SA4



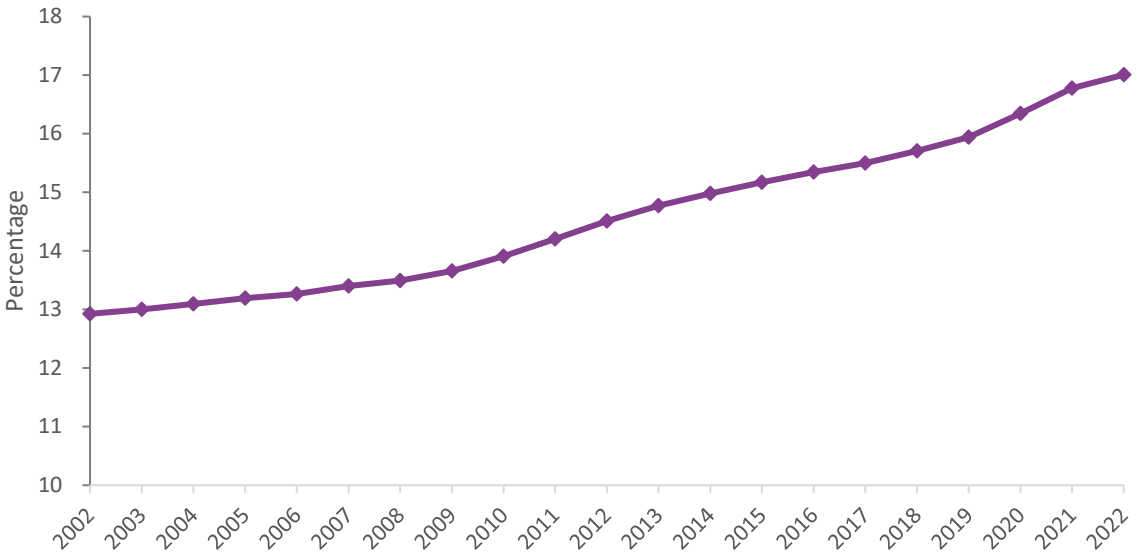
[32] Coumarelos et al 2012 (LAW Survey NSW) and Coumarelos et al 2015 (CPR – service planning)

Source: ABS Census 2021

Ageing population

For many decades now, Australia's demographic structure has been showing a slow and steady ageing of its population. In NSW, over the last 20 years, the proportion of people aged 65 and over has increased from 12.9% in 2002 to 17% in 2022[33], a trend that is set to continue over the coming years.

Figure 16: Percentage of people aged 65 and over, 2002 to 2022

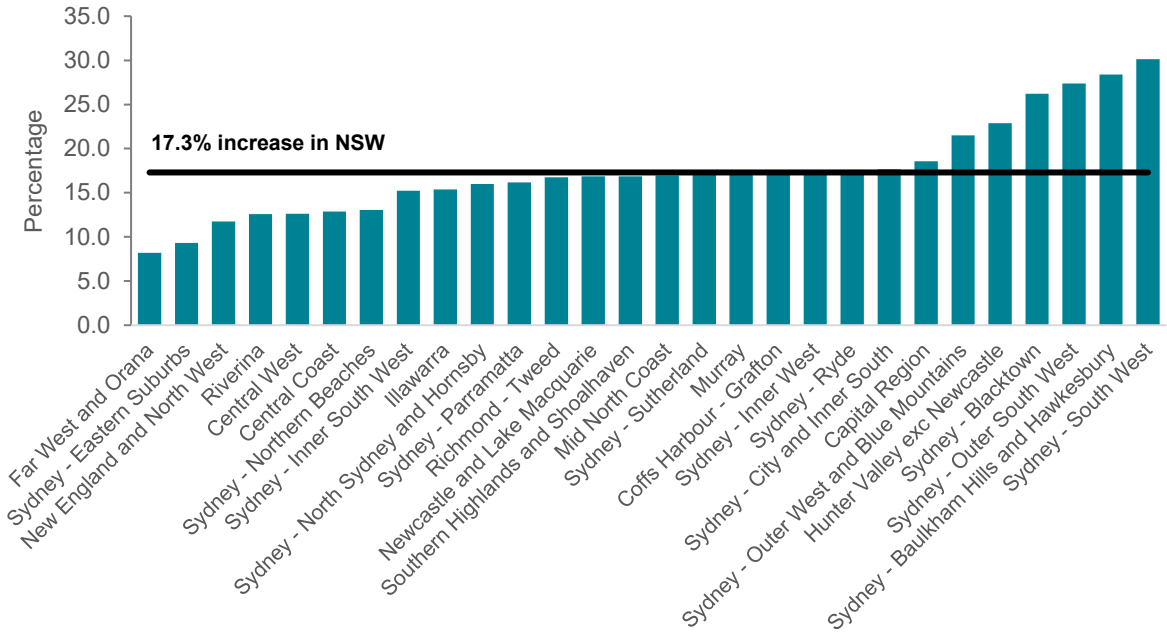


Source: ABS, National, state and territory population, Estimated Resident Population By Single Year Of Age, NSW, from 1971 onwards data cube, released 15/06/2023.

The number of people counted in the older people priority group (including Aboriginal and Torres Strait Islander people aged 50 and over and non-Indigenous aged 65 and over) has increased by 17.3% between 2016 and 2021 in NSW, compared with a 19.4% increase across Australia. As shown in Figure 17 below, SA4s at the fringe of the Greater Sydney area (North West, West and South West) saw a particularly sizeable increase in their respective older population (up to 30.1% in *Sydney South West*) between the last two censuses.

[33] This percentage is slightly lower than the percentage stated earlier (18.1%, calculated from 2021 Census data) as it is based on estimated resident population at 30 June of each year, and it doesn't include Aboriginal and Torres Strait Islander people aged 50 to 65.

Figure 17: Older people population growth (Aboriginal and Torres Strait Islander people aged 50 and over and non-Indigenous people aged 65 and over) by SA4



People experiencing or at risk of homelessness

LAW Survey respondents in disadvantaged housing circumstances, including those who were homeless, in basic or impoverished housing, or in public housing, were significantly more likely than others to experience legal problems of any type (overall), substantial legal problems, and multiple legal problems.

Respondents in disadvantaged housing had elevated experience of credit/debt, health, housing, employment and rights related legal problems, being around twice as likely to experience these problems compared to others.[34]

The ABS has developed estimates of homelessness based on a range of living arrangements reported in Census data. People considered likely to have experienced ***homelessness*** include:

- Persons living in improvised dwellings, tents or sleeping out
- Persons in supported accommodation for the homeless
- Persons staying temporarily with other households
- Persons living in boarding houses
- Persons in other temporary lodgings
- Persons living in 'severely' crowded dwellings[35]

In addition to the above groups, the ABS compiles data for people who may be marginally housed, and as such can be considered ***at risk*** of homelessness. Those groups are:

- Persons living in other crowded dwellings
- Persons in other improvised dwellings
- Persons who are marginally housed in caravan parks

While these provide insights to counts of people who are marginally housed, they do not capture other people who may be at risk of homelessness due to other factors such as violence.

Homelessness

In Australia, the number of people experiencing homelessness in 2021 is estimated at 122,500, which is a 5.2% increase from the 2016 estimates. [36] Children under the age of 18 accounted for half (50.0%) of that increase, and women aged 35-45 were the gender/age group category with the highest percentage increase (19.8%).

In NSW, there were an estimated 34,980 people experiencing homelessness in 2021. The rate of estimated homeless persons in NSW was 43 homeless persons per 10,000 persons, a decrease compared to 50 homeless persons per 10,000 persons in 2016.

Although the estimated number of people experiencing homelessness in NSW has decreased between 2016 and 2021, the decrease was much smaller for women (-2.5%) than for men (-10.3%), which means that the proportion of women within the homeless population has increased from 39.8% in 2016 (and 60.2% men) to 41.8% (58.2% men).

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[34] Coumarelos et al 2012 (LAW Survey NSW) and Coumarelos et al 2015 (CPR – service planning)

[35] Severe crowding conditions are operationalised in the Census as living in a dwelling which requires 4 or more extra bedrooms to accommodate the people who usually live there, as defined by the Canadian National Occupancy Standard (CNOS). ABS, Information Paper - A Statistical Definition of Homelessness, 2012.

[36] ABS, Estimating Homelessness: Census 2021, released 22/03/2023

Moreover, further analysis by gender and age group shows that women aged 35 to 45 and children under the age of 18 are the only two groups that saw an increase in the experience of homelessness in NSW over the five-year period. The largest decrease was for young people aged 18 to 24, for both genders. This suggests a shift in the makeup of the homeless population with growing numbers of mothers and their children facing the challenges associated with not having a stable home.

At risk of homelessness

Between 2016 and 2021, there was a 3.9% decrease overall in Australia in the number of people considered to be at risk of homelessness. This trend, however, was not apparent across all age groups: while there was a sizeable decrease in the number of young adults aged 18 to 34 at risk of homelessness (-13.3%), the number of elderly women aged 65 and over at risk *increased* by 12.3% and the number of children under 18 also increased by 7.4%. This highlights the particular vulnerability of specific subgroups within the community.

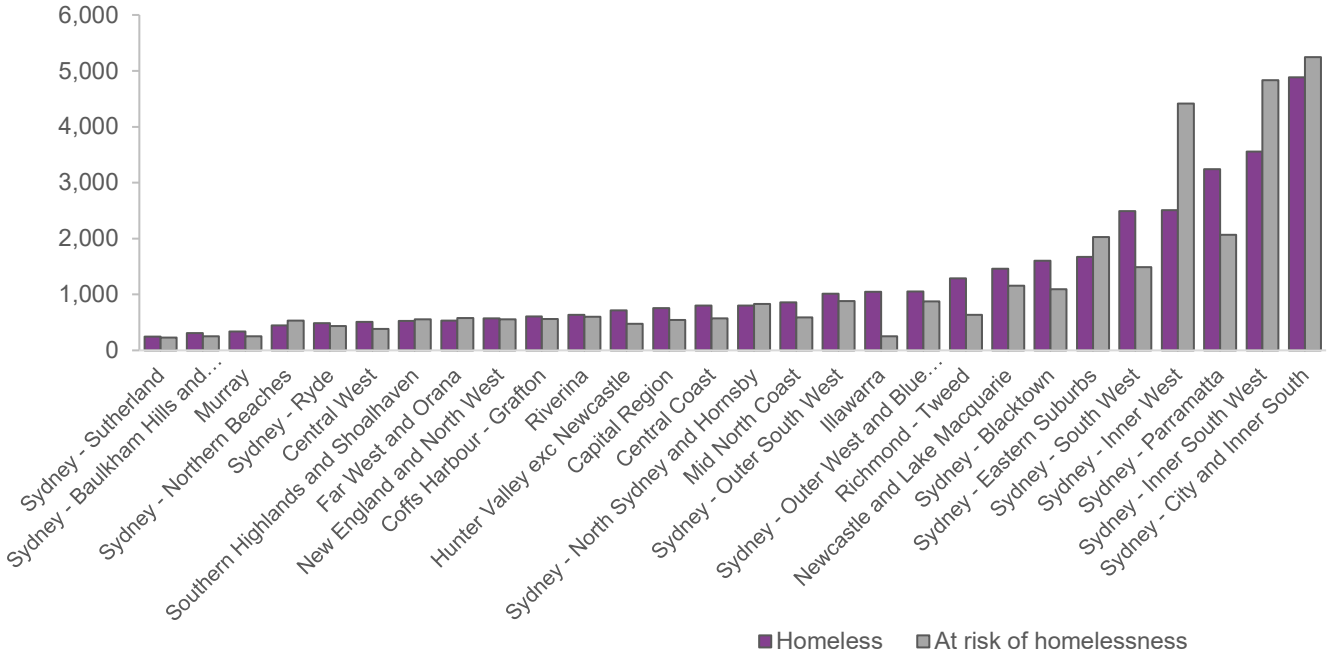
In NSW, there were an estimated 32,930 people deemed at risk of homelessness in 2021. This represents a decrease (-11.7%) from the 2016 estimate but, as for Australia, this overall trend masks varying degrees of vulnerability between age groups and genders, with larger decreases (or stable estimates) amongst males and young adults and smaller ones amongst children, female adults and the elderly.

Geographic spread

Areas with the highest estimates of ***homeless*** persons in NSW were typically in the larger centres close to CBD areas such as *Sydney City and Inner South*, *Sydney Inner South West*, *Parramatta* and *Sydney Inner West*.

The same areas showed high estimates of people ***at risk*** of experiencing homelessness, though estimates were comparatively much higher in *Sydney Inner West* and lower in *Parramatta*.

Figure 18: Estimates of number of people experiencing homelessness and people at risk of homelessness by SA4



Source: ABS Census 2021, *Estimating homelessness*, released 22/03/2023

Table 9 shows the LGAs with an estimate of people experiencing homeless above 500.

Table 9: LGAs with the highest counts of people experiencing homelessness

LGA	People experiencing homelessness
Sydney	3,590
Canterbury-Bankstown	2,710
Inner West	2,550
Cumberland	2,220
Blacktown	1,600
Fairfield	1,570
Newcastle	1,070
Liverpool	1,030
Randwick	870
Bayside	860
Wollongong	830
Parramatta	810
Campbelltown	810
Central Coast	800
Penrith	790
Burwood	650
Tweed	530
Georges River	510

Source: ABS Census 2021, *Estimating homelessness*, released 22/03/2023
Note: Other LGAs in NSW had an estimate of <500.

People in custody and/or prisoners

Nature of legal need of prisoners

While all prisoners experience criminal law issues, they may also arrive in prison with unresolved family and civil law issues such as debts, unpaid fines and housing issues. Incarceration itself may lead to issues relating to housing, financial arrangements, employment, child custody and other family law issues, and the operation of any business. Issues specific to being a prisoner/offender include bail, prison disciplinary action, classification and segregation issues, victims' compensation restitution and the risk of deportation for non-citizens. Many prisoners will have complex needs and low personal and financial capability. The custodial environment itself will restrict access to services. Specialist prisoner focused services may be best placed to meet this need.

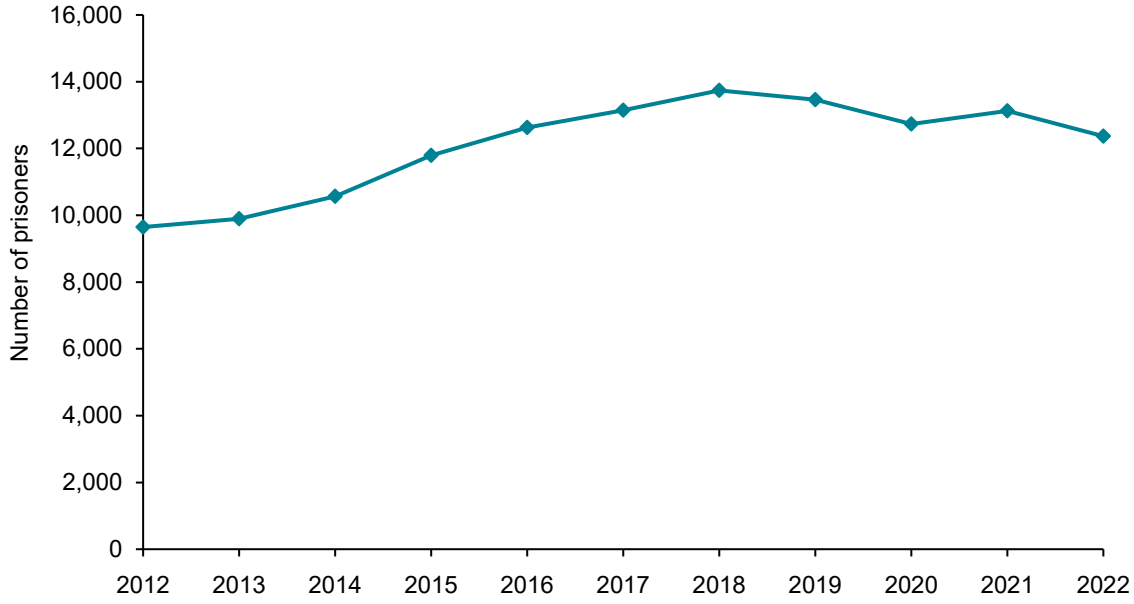
As inmates leave prison, they are vulnerable to issues relating to their parole, establishing identity to reconnect with services, and discrimination in seeking housing and employment. Released prisoners may also be vulnerable to the impact of legal issues that remain unresolved from their time in or prior to custody. For this group, post-release support and referral may be provided by parole, general and post-release welfare and support services.[37]

Level of legal need of prisoners

The National Prisoner Census provides a count of persons remanded or sentenced to adult custodial corrective services agencies. The latest data shows that the number of prisoners in NSW increased steadily between 2012 and 2018, followed by a slight decline over the following four years.

The recent trend has been impacted by the various government restrictions implemented across Australia and NSW due to COVID-19 in the years 2020-2021.These restrictions impacted both on criminal activity and the justice system, during but also in the months following lockdown periods.

Figure 19: Number of prisoners in NSW, 2012 to 2022



Source: ABS Prisoners in Australia, 2022

[37] Coumarelos et al 2012 (LAW Survey NSW) and Coumarelos et al 2015 (CPR – service planning)

Geography of need: custodial centres

There were a total of 12,370 people in full time custody in June 2022 in NSW, including people in transitional centres or in Court/Police cell complexes.[38] Table 10 below shows the number of prisoners across 36 correctional centres in NSW. The largest correctional centres with over a thousand inmates are Parklea (near Blacktown), Clarence (near Grafton) and the Metropolitan Remand and Reception Centre (MRRC, within the Silverwater Complex near Parramatta). Combining the numbers of prisoners in their respective Centres, both the Cessnock Complex (in the Hunter) and the Francis Greenway Complex (near Windsor) also house over a thousand inmates each.

The provision of legal assistance services to this population is complicated by factors such as the movement of prisoners between correctional facilities, the impact of movement on maintaining continuity of criminal legal advisor, and the availability of legal assistance services proximal to correctional facilities for broader legal assistance (e.g., civil and family law).

[38] ABS, Prisoners in Australia, Reference period 2022, released on 24/02/2023.

Table 10: Number of prisoners in NSW correctional centres in 2022

Correctional Centre	SA4	Inmates
Cooma	Capital Region	130
Goulburn	Capital Region	380
High Risk Management Centre	Capital Region	80
Kariong (Gosford)	Central Coast	20
Bathurst	Central West	690
Kirkconnell	Central West	180
Lithgow	Central West	270
Oberon	Central West	90
Clarence	Coffs Harbour – Grafton	1,110
Broken Hill	Far West & Orana	30
Macquarie (Wellington)	Far West & Orana	220
Wellington	Far West & Orana	320
St Heliers (Muswellbrook)	Hunter Valley exc Newcastle	170
Cessnock (Cessnock Complex)	Hunter Valley exc. Newcastle	550
Hunter (Cessnock Complex)	Hunter Valley exc. Newcastle	130
Shortland (Cessnock Complex)	Hunter Valley exc. Newcastle	520
Mid North Coast (Kempsey)	Mid North Coast	780
Mannus (Tumbarumba)	Murray	90
Glen Innes	New England & North West	90
Tamworth	New England & North West	50
Junee	Riverina	940
South Coast (Nowra)	Southern Highlands & Shoalhaven	800
Compulsory Drug Treatment	Sydney – Blacktown	20
Parklea	Sydney – Blacktown	1,240
Long Bay (Long Bay Complex)	Sydney – Eastern Suburbs	200
Metropolitan Special Programs Centre (Long Bay Complex)	Sydney – Eastern Suburbs	730
Special Purpose Centre (Long Bay Complex)	Sydney – Eastern Suburbs	30
Amber Laurel	Sydney – Outer West & Blue Mountains	30
Dillwynia (Francis Greenway Complex)	Sydney – Outer West & Blue Mountains	370
Emu Plains	Sydney – Outer West & Blue Mountains	10
Geoffrey Pearce (Francis Greenway Complex)	Sydney – Outer West & Blue Mountains	280
John Morony (Francis Greenway Complex)	Sydney – Outer West & Blue Mountains	390
Dawn de Loas (Silverwater Complex)	Sydney – Parramatta	120
Mary Wade	Sydney – Parramatta	50
Metropolitan Remand & Reception Centre (Silverwater Complex)	Sydney – Parramatta	1,010
Silverwater Women's (Silverwater Complex)	Sydney – Parramatta	190

Source: ABS, Prisoners in Australia, 2022.
Counts are rounded to the nearest 10. Numbers of prisoners in this table add up to a total of 12,350, or slightly less than the total number quoted in the text above. The difference is due to small numbers of people held in Court or Police cells, usually for short periods of time, that are not included in this table.

People residing in rural or remote areas

Although the total number of potential clients residing in rural and remote areas of the state is relatively small, the barriers to seeking assistance are high. In addition to geographic distance and isolation and lack of local services, remote areas tend to have greater levels of financial disadvantage, lower educational attainment, and higher Aboriginal and Torres Strait Islander populations. Access to local legal service provision may also be limited by decreased availability of lawyers and increased chance of conflicts of interest.[39]

As defined in the national legal assistance Data Standard Manual (DSM), this priority group includes people residing in *outer regional*, *remote* and *very remote* areas, as per the ABS Remoteness Structure.[40] Overall in NSW, 5.1% of the general population reside in these combined three levels of remoteness in 2021. This percentage is a decrease from 6.3% in 2016, both as a result of population shifts towards larger towns and cities but also due to the revised ABS remoteness structure that saw a number of outer regional areas being re-categorised as inner regional, especially along the Mid North Coast region. Note that there are small localities classified as inner regional within outer regional areas, as is the case for the towns of Glen Innes, Guyra, Dorrigo, Werris Creek, Mudgee, Kandos, Canowindra, Finley, and Berridale (see map on Figure 20).

Given the range and diversity of issues, meeting the legal needs of communities residing in these parts of the state may best be addressed region by region. Of the 28 SA4s in NSW, 17 are fully contained within Major Cities areas and/or Inner Regional areas and therefore none of their population fall into the rural and remote priority client group. The SA4s with the highest counts of residents in rural or remote areas are *New England and North West*, *Far West and Orana*, and *Riverina*.

Table 11: Number and percentage of people residing in rural or remote areas by SA4

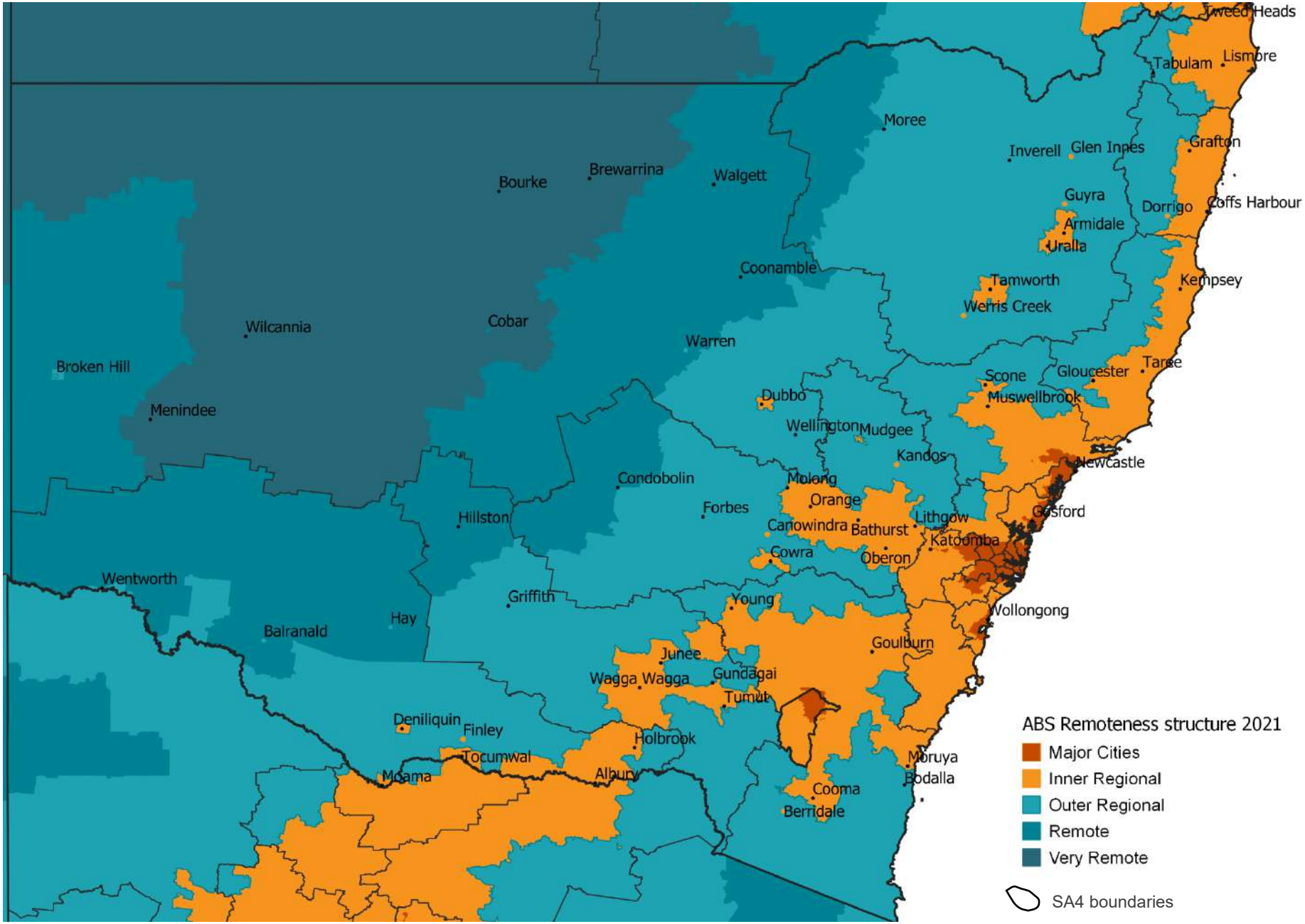
SA4	Number of people residing in rural/remote areas	Percentage of the SA4 general population
New England and North West	94,720	51.0
Far West and Orana	74,520	64.5
Riverina	68,230	41.7
Capital Region	64,800	27.1
Central West	62,620	29.4
Murray	25,100	20.3
Hunter Valley exc Newcastle	7,720	2.6
Mid North Coast	6,020	2.6
Coffs Harbour - Grafton	3,850	2.6
Richmond - Tweed	2,710	1.1
Sydney - Baulkham Hills and Hawkesbury	340	0.1
All other SA4s	*0*	*0.0*
Total NSW	**410,620**	**5.1**

Source: ABS Census 2021, ABS Remoteness structure 2021

[39] Law & Justice Foundation of NSW: Legal Australia Wide Survey NSW (2012). See also Law & Justice Foundation: Lawyer availability and population change in regional, rural and remote areas of New South Wales (2014).

[40] National Legal Assistance Data Standards Manual, version 3, July 2021. The ABS remoteness structure is based on ARIA+, and an integral part of the ABS Australian Statistical Geography Standard (Edition 3, 2021).

Figure 20: Levels of remoteness in NSW



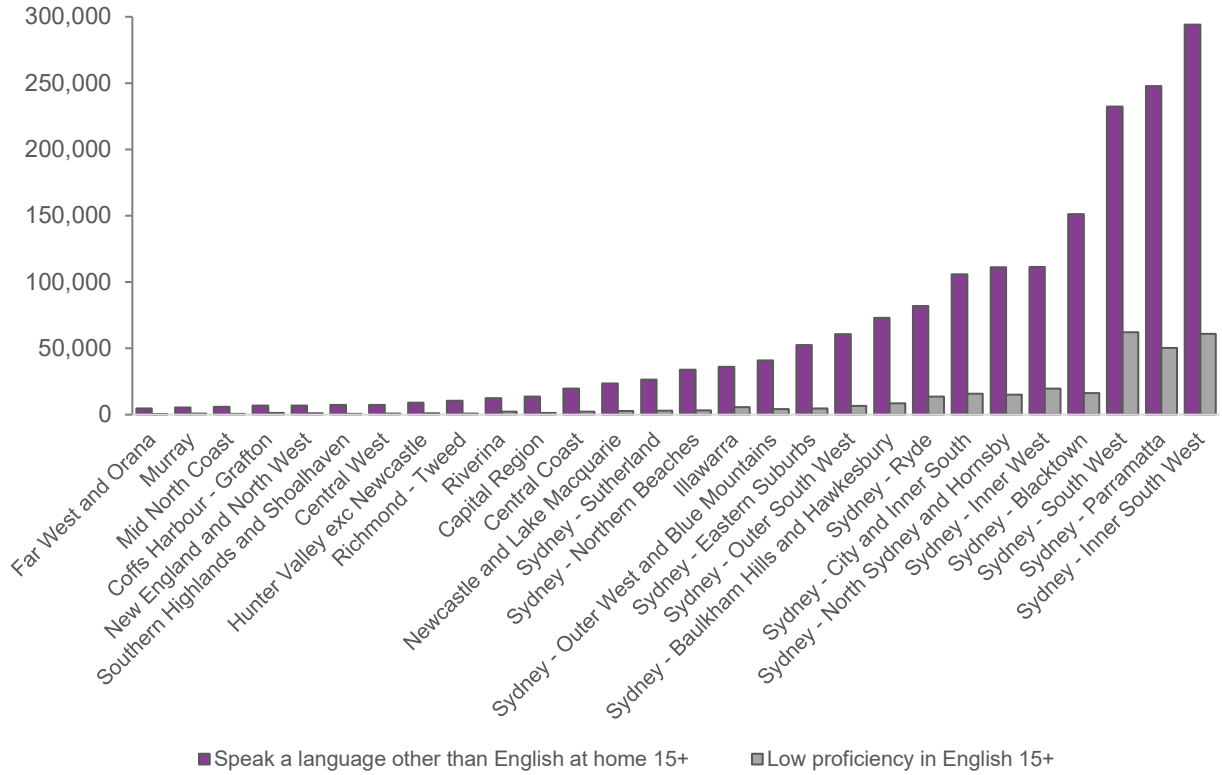
People who are culturally and linguistically diverse

People who do not speak English as their main language are significantly more likely to ignore their legal problems, and when they do take action are less likely to seek advice from a professional.[41] Reasons for this, in addition to the language barrier, are thought to include cultural and religious barriers, limited personal resources and capability, impact of experiences of legal systems in previous countries, and lack of awareness of Australian law and legal rights. For this group, partnering with community groups in the provision of legal services and developing cultural competence within legal assistance services is critical.

Over a quarter (26.3%) of the NSW population speak a language other than English at home, with 4.5% with low proficiency in English, that includes not speaking English at all, or not speaking it well.[42] Understanding the language capabilities and preferences of clients and prospective clients can assist legal assistance services design appropriate documentation, allocate bilingual staff and interpreters, and identify where partnering with community groups and organisations may facilitate access to at-risk communities.

Of the 1,793,550 people aged 15 and over in NSW who speak a language other than English at home, more than half (51.6%) are concentrated in the SA4s of *Sydney Inner South West*, *Parramatta*, *Sydney South West* and *Blacktown*. In *Sydney Inner South West*, *Parramatta*, and *Sydney South West*, people with low proficiency in English represent more than 10% of the general population.

Figure 21: Counts of people aged 15 and over who speak a language other than English at home, and those with low English proficiency, by SA4



Source: ABS Census 2021

[41] Coumarelos et al 2012 (LAW Survey NSW). People (2013).

[42] ABS 2021 Census. Proficiency in English is self-described using one of four options: very well, well, not well, not at all. This does not include people who speak an Aboriginal or Torres Strait Islander language.

According to the 2021 Census, the most common languages spoken by NSW residents who do not speak English well were Mandarin, Cantonese, Vietnamese, Arabic, and Korean.

However, language diversity is not homogenous throughout the state, and detailed language profiles should be considered at a more local level to assist in service delivery, and to support central coordination of aspects such as Community Legal Education and interpreter lists. Table 12 shows the LGAs with the highest counts of residents who do not speak English at all, or do not speak it well, and the most common languages these residents speak at home.

Table 12: Non-English speakers and most common languages

LGA	People with low English proficiency[1]	Percentage of resident population	Most common language[2]	Second most common	Third most common	Fourth most common	Fifth most common
Canterbury-Bankstown	47,830	12.9	Vietnamese	Arabic	Mandarin	Cantonese	Greek
Fairfield	47,800	22.9	Vietnamese	Arabic	Assyrian Neo-Aramaic	Cantonese	Chaldean Neo-Aramaic
Cumberland	33,380	14.2	Mandarin	Arabic	Cantonese	Korean	Turkish
Parramatta	24,210	9.4	Mandarin	Korean	Cantonese	Arabic	Persian (excl Dari)
Liverpool	22,940	9.8	Arabic	Vietnamese	Serbian	Mandarin	Cantonese
Blacktown	20,900	5.3	Mandarin	Arabic	Punjabi	Cantonese	Korean
Georges River	15,750	10.3	Mandarin	Cantonese	Greek	Arabic	Macedonian

Notes:
1. This includes people who speak English 'not well' or 'not at all' as reported in the census.
2. These are the most common languages spoken *at home* and only for residents with low English proficiency.
Source: ABS TableBuilder 2021 Census.

People with a disability or mental illness

People with a disability or mental illness have high vulnerability to a broad range of legal problems, with the link strengthening as the severity of the disability increases.[43] The elevated experience of legal problems is particularly strong for mental impairment. The LAW survey identified that this group were more likely to seek assistance for their legal problems. This may reflect a greater need for help, access to a broad range of human services, and/or the availability of legal assistance services with a particular interest in helping those with a disability or that specialise in areas of law that specifically concern people with a disability. In addition to responding to the specific legal needs of this group, effective service provision must address accessibility barriers and appropriate staff training to respond appropriately to the diverse needs of this group.

There are various sources of information, and datasets, in relation to people with disability and their potential legal needs, with many using different definitions of disability depending on their methods and purposes.[44]

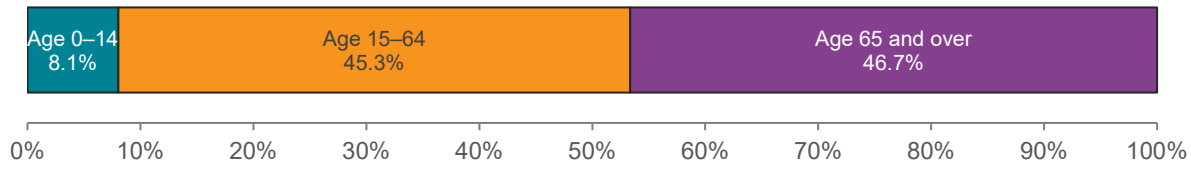
Survey of Disability, Ageing and Carers

The ABS Survey of Disability, Ageing and Carers (SDAC) has been recognised as a robust and comprehensive measure of disability. It first identifies whether a person has a disability and then the severity of that disability, and uses the following broader definition: *any limitation, restriction or impairment which restricts everyday activities and has lasted, or is likely to last, for at least six months*.

In its most recent iteration in 2018, SDAC found that there were 1,346,200 people with a disability in NSW, or 16.9% of the population. This is slightly lower than across Australia (17.7%).

Of those with a disability, nearly half (46.7%) were aged 65 and over.

Figure 22: Percentage of people with a disability in NSW by broad age group, 2018



Source: ABS, SDAC 2018, NSW data cube

Severity is measured in terms of limitations: a person has a limitation if they have difficulty, need assistance from another person, or use an aid or other equipment to perform one or more core activities of communication, mobility and self-care.

- Profound limitation - greatest need for help, that is, always needs help with at least one core activity.
- Severe limitation - needs help sometimes or has difficulty with a core activity.
- Moderate limitation - no need for help but has difficulty.

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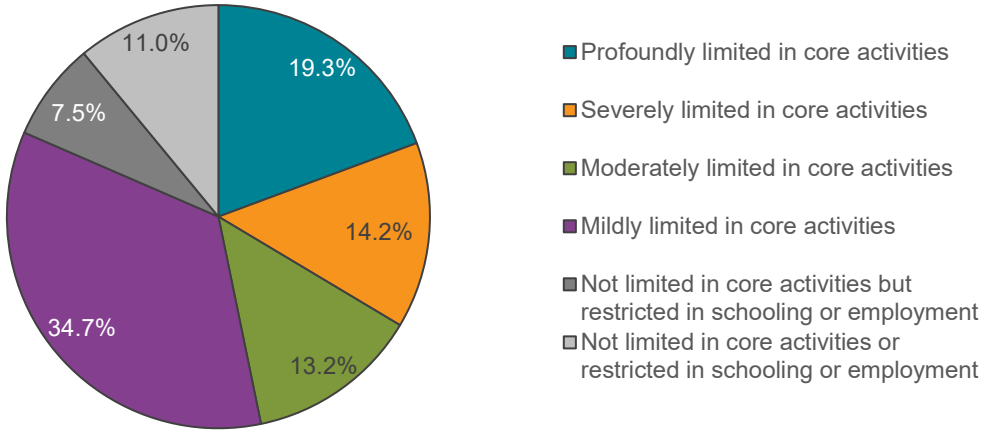
[43] Coumarelos et al 2012 (LAW Survey NSW). The LAW Survey defined disability as experiencing in the previous 12 months any long-term illness or disability that had lasted, or was expected to last, at least six months. A further question was used to determine the restriction on daily activities. In the NSW sample, 20.2% of respondents reported having a disability, a slightly higher proportion compared to findings from the ABS in 2009 (18.8%).

[44] Australian Institute of Health and Welfare, 2022, People with disability in Australia 2022, catalogue number DIS 72, AIHW, Australian Government

- Mild limitation - no need for help and no difficulty, but uses aids or has limitations.

Of all people with a reported disability, a third (33.6%, or 5.7% of the general population) had a severe or profound limitation with at least one core activity, and nearly half (47.9%, or 8.1% of the general population) had a moderate or mild limitation.

Figure 23: Severity of limitations experienced by people with a disability in NSW, 2018



Source: ABS, SDAC 2018, NSW data cube

SDAC also found that 44.8% of people with disability (7.6% of the general population) experienced a schooling or employment restriction. Further, SDAC revealed that 21.3% of the NSW population reported a long-term health condition without reporting any disability.[45]

Although SDAC provides a comprehensive measure of disability, the survey methodology does not allow for reporting and analysis at the regional or local level.

Census - People who need assistance with core activities

The Census also collects data on the need for assistance with core activities. This variable has been developed to measure the number of people "*needing someone's help or assistance in one or more of the three core activity areas of self-care, mobility and communication, because of a long-term health condition (lasting six months or more), a disability (lasting six months or more), or old age*". It is therefore a narrower definition than in SDAC as it doesn't include people who do not require assistance from another person in these three core activity areas, whether they are able to manage limitations without anyone's help, only experience limitations in other areas, or do not experience specific limitations or restrictions as a result of their disability. In that sense, the census variable is similar to the SDAC combined categories of profound or severe limitation.

In the 2021 Census, a total of 464,710 people reported needing assistance with core activities in NSW, or 5.8% of the population (a similar proportion to that in Australia overall).[46]

[45] ABS, Disability, Ageing and Carers, Australia: New South Wales, 2018, data cube released on 05/02/2020. For further details on SDAC methodology, definitions and findings, see also ABS online publication Disability, Ageing and Carers, Australia: Summary of Findings, reference period 2018, released 24/10/2019.

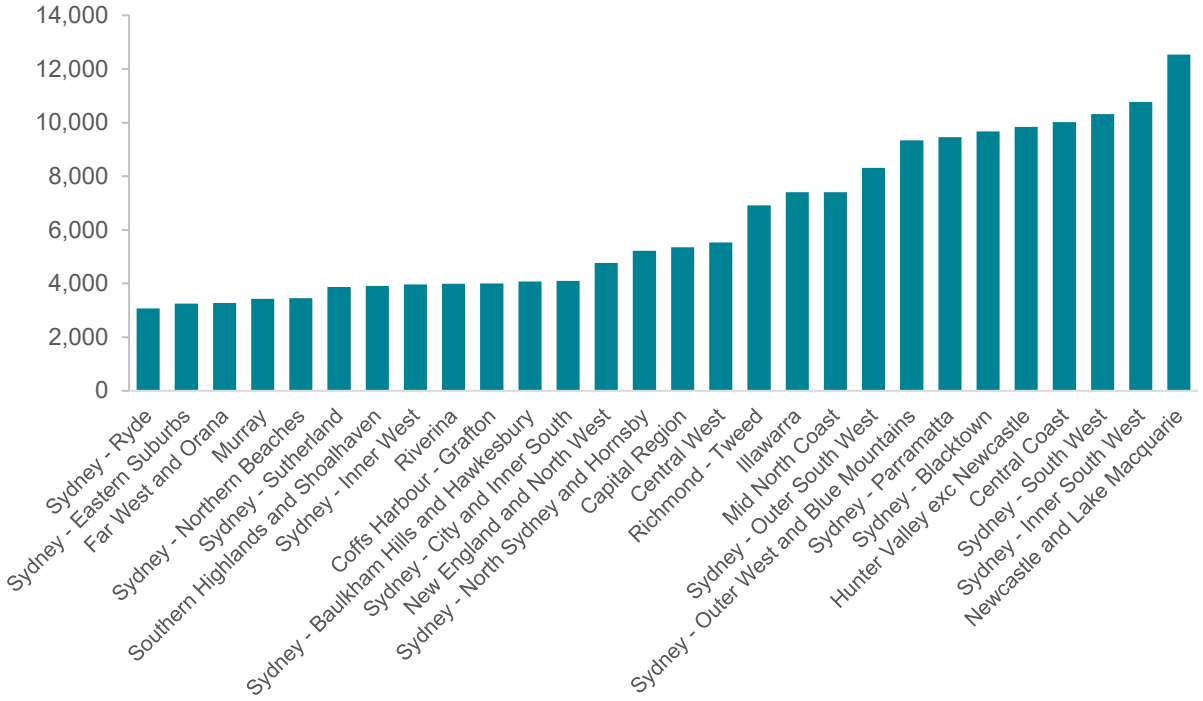
[46] This number and percentage are largely skewed towards older people as they are more likely to report needing assistance with core activities, 203,300 people or 3.1% of the NSW population aged under 65 reported needing assistance with core activities.

NDIS participants data

People aged 7 to 64 with a permanent and significant disability can apply for support under the National Disability Insurance Scheme (NDIS).[47] There were 177,280 active NDIS participants in NSW in March 2023. Active participants are those who have been determined eligible and have an approved plan. They also include participants whose plan has expired and a new plan has not formally commenced, but they have not exited the Scheme.

Both the census question with regards to needing assistance with core activities and the NDIS eligibility criteria use a very narrow definition of disability. Although they have some similarities, they remain two distinct measures and it cannot be assumed that these two measures should overlap. People may describe themselves as needing assistance with core activities in the census without being eligible or applying for the NDIS, and vice versa. Also, as mentioned above, a large number of people needing assistance with core activities are older people aged 65 and over, and therefore not eligible for the NDIS.

Figure 24: Number of NDIS participants by SA4



Source: NDIS participants data download, March 2023

Census - People with a mental health condition

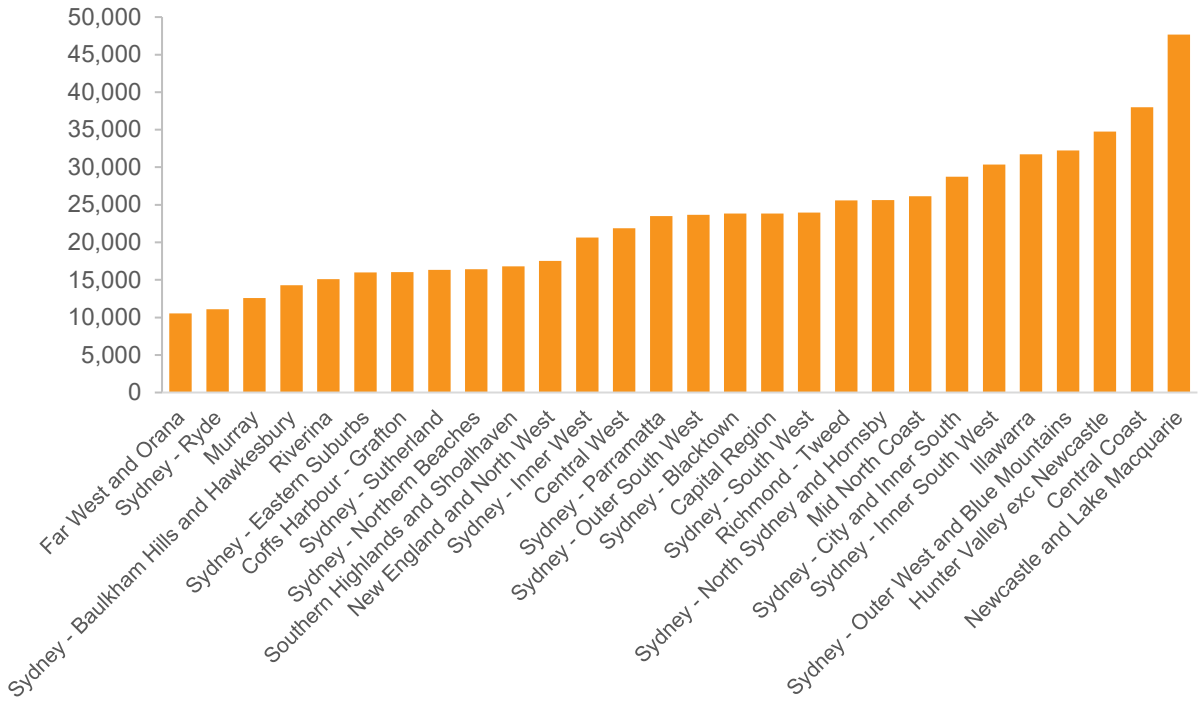
A new health question was included for the first time in the 2021 iteration of the Census. The question asks whether respondents have been told by a doctor or nurse that they have a long-term health condition and, if yes, to select from a list of conditions, including '*mental health condition (including depression or anxiety)*'.

A total of 2,231,540 Australians (8.8% of the population) reported having a mental health condition in the census. In NSW, there were 646,410 people with a mental health condition in

[47] Permanent and significant disability: A permanent disability means the disability is likely to be lifelong. A significant disability has a substantial impact on one's ability to complete everyday activities.

2021 (8.0% of the population), with highest numbers residing in the *Newcastle and Lake Macquarie*, *Central Coast* and *Hunter Valley* SA4s.

Figure 25: Number of people with a mental health condition (including depression and anxiety) by SA4



Source: ABS Census 2021

People with low education levels

LAW Survey respondents with low education levels reported lower prevalence of legal problems. Compared to LAW Survey respondents with post-school qualifications, those who had not finished school and those who had finished only Year 12 had significantly lower likelihood of reporting almost all of the legal problem categories examined, including legal problems overall and substantial legal problems, and this remained the case when other differences between these groups such as age cohort were controlled for.[48] This may reflect reduced vulnerability to legal problems due to their economic and other life circumstances providing less opportunity to experience certain problems, but could also reflect less recognition of problems, particularly in the context of more pressing needs.

LAW Survey respondents with low education levels were significantly more likely to ignore their legal problems, and when they took some type of action, they were significantly less likely to seek advice from a legal or non-legal professional. Reasons for this include not knowing what to do, complexity of the legal system, being unaware of the availability of legal aid, inability to recognise a problem as a legal problem, and being unaware of sources of legal information.[49] These client groups benefit from targeted, timely and joined-up services, which are appropriate to their needs and capabilities.[50] Provision of self-help resources and low-intensity legal assistance services are therefore likely to be insufficient.

Count of low educational attainment

In the absence of an agreed definition, the Foundation's definition of low educational attainment comprises people with a defined highest year of schooling depending on their age cohort[51] who are not currently in education and do not have any post-school qualification (such as a trade certificate or an academic qualification later in life) higher than a Certificate level 2. People aged 65 years are not included as leaving school early was previously far more common, and their inclusion can skew the count to older people.

Metro areas to the West and South West of Greater Sydney had the highest number of residents who achieved a lower level of educational attainment.

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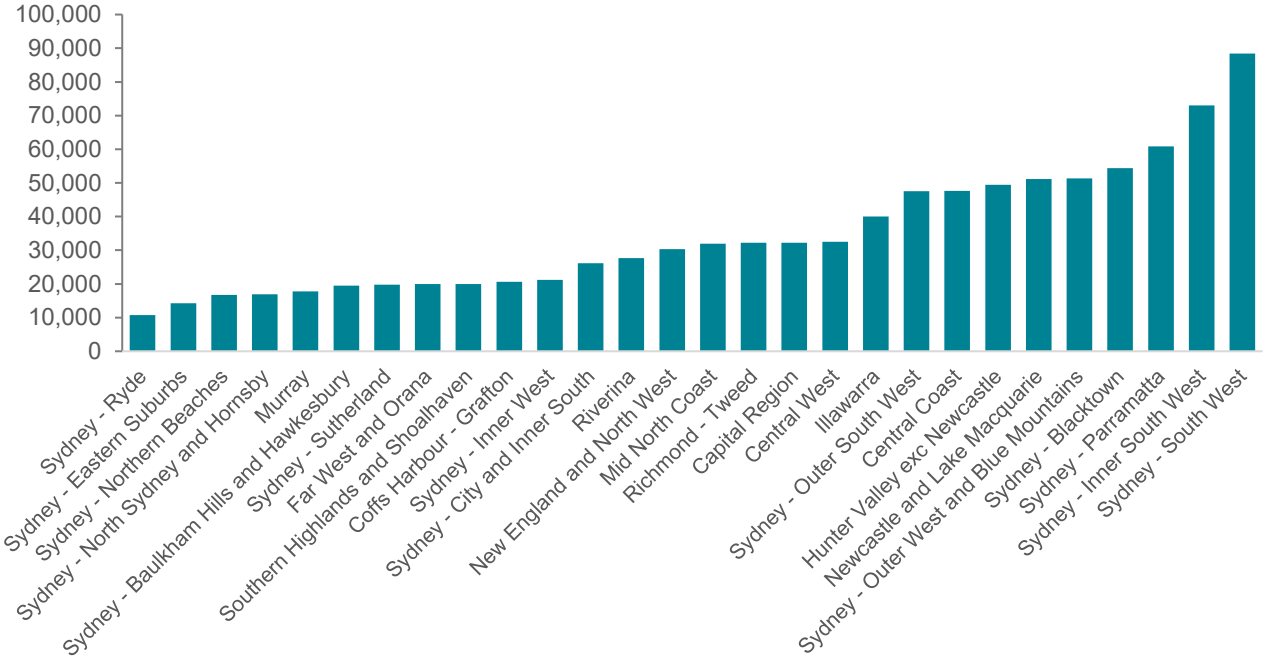
[48] Coumarelos et al 2015 (CPR – service planning)

[49] Schetzer, L. & Henderson, J 2003, Public consultations: a project to identify legal needs, pathways and barriers for disadvantaged people in NSW, Access to justice and legal needs vol. 1, Law and Justice Foundation of NSW, Sydney.

[50] Pleasence, P, Coumarelos, C, Forell, S & McDonald, HM 2014, Reshaping legal assistance services: building on the evidence base: a discussion paper, Law and Justice Foundation of NSW, Sydney.

[51] Highest year of school: Year 12 or below for persons aged 15 to 44; Year 11 or below for persons aged 45 to 54; Year 10 or below for persons aged 55 to 64.

Figure 26: Counts of people aged 15-64 with a lower educational attainment by SA4



Source: ABS Census 2021

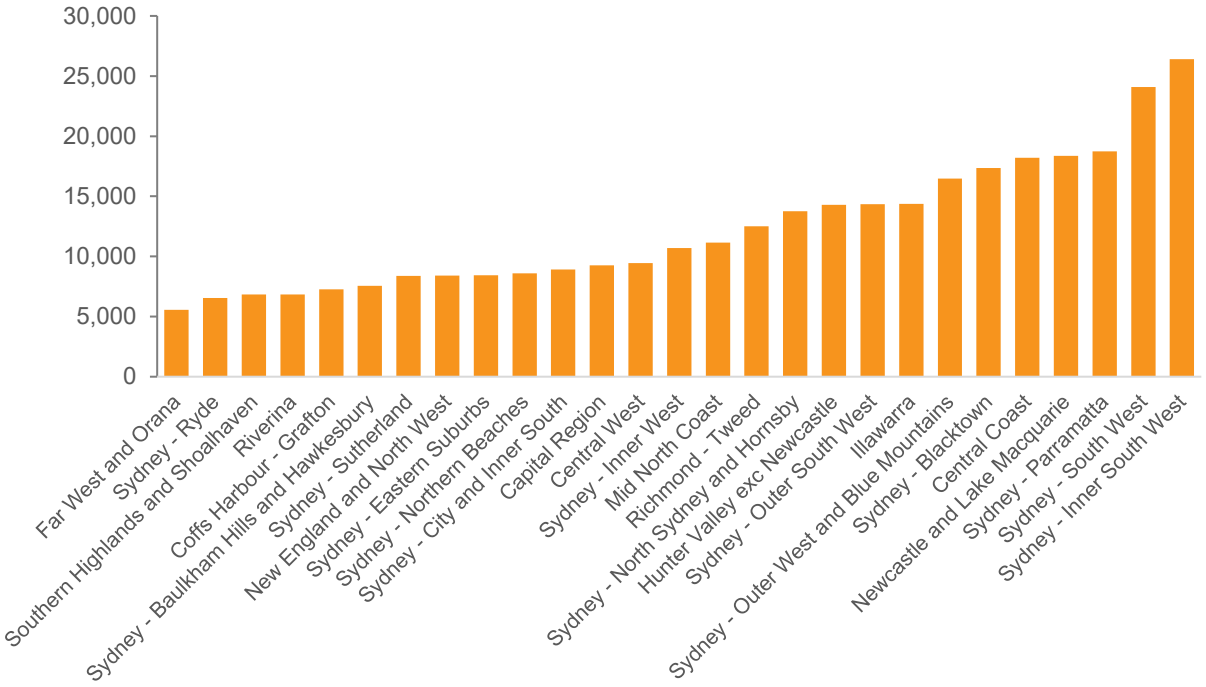
Single parents

The LAW survey found that single parents had high prevalence of legal problems overall and substantial legal problems in all jurisdictions. In NSW, single parents had high prevalence of legal problems overall, substantial legal problems, multiple legal problems and problems from six problem groups: credit/debt, crime, employment, family, government and rights.

Single parents are a diverse group and are likely to vary in legal capability and the access to justice barriers they experience. While it may not be surprising that single parents tend to experience more family problems, relationship breakdowns can give rise not only to a range of further legal problems (such as housing, credit and debt), but can dramatically change personal circumstances, such as financial resources, and psychological preparedness to take action, and ability to effectively manage legal disputes. This is further exacerbated when relationship breakdown involves being at risk of domestic violence.[52]

Figure 27 presents counts of people aged 15 years and over and classified as lone parent in the Census, by SA4 area. This is households with one male or female parent and at least one dependent child. All children under 15 are classified as dependent. Children aged 15 to 24 are dependent when they are in education.

Figure 27: Counts of single parents by SA4



Source: ABS Census 2021

[52] Coumarelos et al 2012 (LAW Survey NSW) and Coumarelos et al 2015 (CPR – service planning)

Other vulnerable community groups

LGBTIQ+ community

The LGBTIQ+ community can face particular challenges and barriers to access to justice with regards to legal problems related to gender identity and/or sexual orientation. People identifying as gay, lesbian or bisexual are more likely to report experiencing discrimination.[53] They report lower levels of trust in the health care system, the police and justice systems. They are also recognised as facing specific human rights challenges, including discrimination in the workplace, harassment, and obtaining official documents that record the gender in which they live.[54,55]

There is a scarcity of evidence on the experiences of the LGBTIQ+ community generally, with most available studies focusing on health and wellbeing.[56] The "Writing Themselves In 4", a national online survey of over 6,400 young people aged 14 to 21 who identified as LGBTIQA+ in 2019, found that three quarters (75.2%) of trans and gender diverse participants reported having wanted to affirm their gender identity legally but less than a quarter of them had done so, and only 16.4% felt that they had been supported with their legal gender affirmation process, with many reporting that this process had been delayed, denied, or controlled.[57]

How LGBTIQ+ people identify themselves is influenced by many factors, including their age, ethnicity, socioeconomic position and their lived experiences and relationships with others.[58] In the 2020 General Social Survey, 4% of Australians described themselves as being gay, lesbian or bisexual.[59]

There is no reliable source of data on the number of people identifying as LGBTIQ+ in NSW. In the 2021 Census, the ABS introduced a 'non-binary sex' option in response to the sex characteristics question. However, the purpose of the non-binary sex option was to allow respondents to participate in the census when the male or female sex categories did not accurately describe their sex. It was not, therefore, intended or designed to collect data on gender. Analysis of text responses provided by people who selected this option in the census confirmed that the question was not consistently understood and was perceived to mean a range of different concepts such as sex, gender, variations of sex characteristics or sexual orientation. For this reason, census data cannot be used to estimate the prevalence of any specific group in the community.[60]

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[53] ABS, General Social Survey: Summary Results, Australia, reference period 2020, released 29/06/21. 30% of people who described themselves as gay, lesbian or bisexual reported experiencing discrimination compared to 13% of people who described themselves as heterosexual.

[54] Australian Human Rights Commission, Human rights and Gay, lesbian, bisexual, transgender and intersex people. https://humanrights.gov.au/sites/default/files/content/letstalkaboutrights/downloads/HRA_GLBTI.pdf

[55] Source: LGBTI Legal Service Inc (2013) Accessing LGBTIQ Justice: identifying the legal needs of the lesbian, gay, bisexual, transgender, intersex, and queer communities in Queensland. 2013.

[56] For example: Australian Institute of Health and Welfare 2018. Australia's health 2018. Canberra: AIHW (Chapter 5.5), or Victorian Agency for Health Information 2020, The health and wellbeing of the lesbian, gay, bisexual, transgender, intersex and queer population in Victoria: Findings from the Victorian Population Health Survey 2017, State of Victoria, Melbourne.

[57] Hill AO, Lyons A, Jones J, McGowan I, Carman M, Parsons M, Power J, Bourne A, 2021, Writing Themselves In 4: The health and wellbeing of LGBTQA+ young people in Australia, National report. Melbourne: Australian Research Centre in Sex, Health and Society, La Trobe University.

[58] Australian Institute of Health and Welfare 2018, Australia's Health 2018, Chapter 5.5 Lesbian, gay, transgender and intersex people.

[59] ABS, General Social Survey: Summary Results, Australia, reference period 2020, released 29/06/21.

[60] ABS, Analysis of non-binary sex responses in the 2021 Census, released 27/09/2022

Although same-sex couples only represent a fraction of the LGBTIQ+ community, we do know from census data that NSW is the jurisdiction with the highest number of same-sex couples living together, with over 26,850 couples or 34.2% of Australian same-sex couples.[61] Same-sex couples were more likely to live in capital cities compared to the rest of each state. People in same-sex couples living together reported a much higher rate of having a mental health condition (16%) than the rate reported for all people living together in a couple relationship (8.2%).

Asylum seekers and refugees

People seeking asylum and refugees are among the most vulnerable within Australia's legal system. The potential legal problems faced by asylum seekers and refugees are substantial and can have moderate to severe impact on everyday life.

Asylum seekers and refugees experience multiple social and economic disadvantage including low education, not speaking English as a main language, disadvantaged housing, unemployment, and disability. Furthermore, acquiring access to justice is further complicated by barriers[62] such as:

- difficulty understanding and navigating Australia's complex legal system, including the understanding of court rules, ability to cover legal costs, poor legal literacy, lack of interpreters, and limited legal representation in tribunals.
- cultural differences such as customs that determine how men, women and children are treated, laws that govern personal rights in property and family law issues, family structures and dynamics.
- past trauma impacting mental health, family breakdown, trust of authorities.
- Prejudice, racism and discrimination.

Additional barriers may be experienced depending on the mode of arrival and eligibility for certain classes of visa. For instance, some visas do not include an automatic right to work, access to Medicare, Centrelink payments or other support payments.

Quantifying the potential number of people seeking asylum or refuge can be complicated in Australia due to varied visa pathways and the ways this population is described within population data.[63] Relevant descriptions include humanitarian and refugee visa holders (permanent protection visas), temporary protection visa holders, and bridging visa holders.

According to the 2021 Australian Migrants and Census Integrated Dataset (ACMID), there were 95,800 permanent migrants residing in NSW who had been granted a humanitarian visa.[64] However, this figure does not account for other visa holders who are seeking asylum or applying for refugee status on-shore.

[61] That includes couples living together only, not all people in a same-sex relationship. ABS 2021 Census.

[62] Settlement Council of Australia, SCoA Policy Focus, Access to Justice for People from Refugee and Migrant Backgrounds in Australia, March 2019

[63] Official government refugee numbers do not include temporary protection visa applicants/holders

[64] ABS, Permanent migrants in Australia 2021 Datacube, 2021

Legal need in criminal jurisdiction

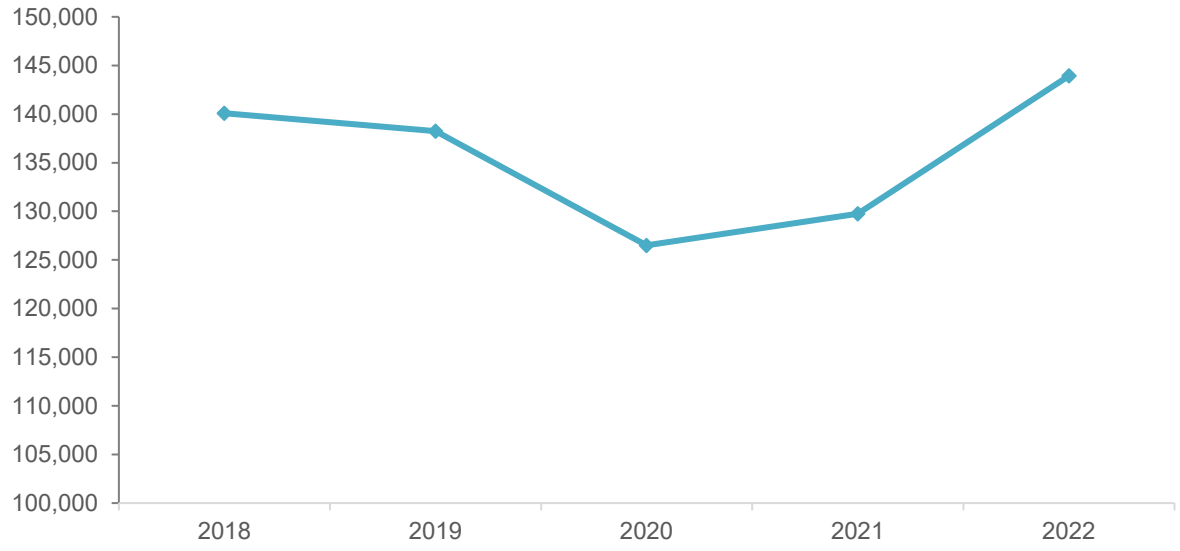
Criminal court statistics, such as counts of finalisations, can be used as a proxy estimate of legal need in court settings.

In response to the global COVID-19 pandemic, substantial changes were made to court operations to protect the safety of court users and limit the number of people required to attend court, which led to a general decline in the number of finalisations across all courts, both in 2020 and 2021. The outbreak of the Omicron variant at the end of 2021 led to further court interruptions in early 2022, however the overall impact of this outbreak was largely limited to contested matters - defended hearings in Children's and Local Courts, and trials in the District Court.

This should be considered when interpreting data for the last 36 months as this period may not represent the long term trends of the NSW Criminal Courts.

There were a total of 143,920 finalisations at the NSW Criminal Court in 2022, most of which (93.5%) were at the Local Court, 4.0% at the Children's Court and 2.5% in the Higher Courts.

Figure 28: Number of criminal court finalisations, 2018–2022



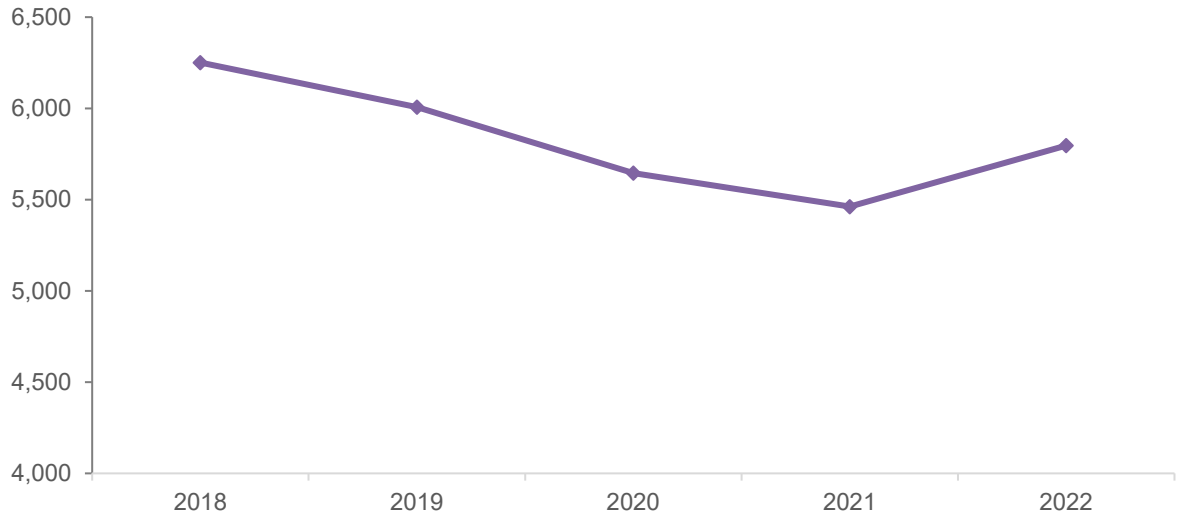
Source: NSW Bureau of Crime Statistics and Research, NSW Criminal Courts Statistics January 2018-December 2022

Of course, not all defendants facing criminal charges will require, or be eligible for, public legal assistance. Legal need research identifies **young people** and **Aboriginal and Torres Strait Islander people** among some of the more vulnerable groups who are more likely to need legal assistance (i.e., duty or representation services) when facing a legal issue, and this is perhaps especially likely when facing criminal charges in court proceedings.

Criminal finalisations at the Children's Court

Despite an increase in finalisations at the Children's Court in 2022, likely as a result of Covid-related disruptions in the previous two years, the overall trend over the last four years shows a decrease in finalisations with young defendants under the age of 18.

Figure 29: Criminal finalisations at the NSW Children's Court, 2018–2022

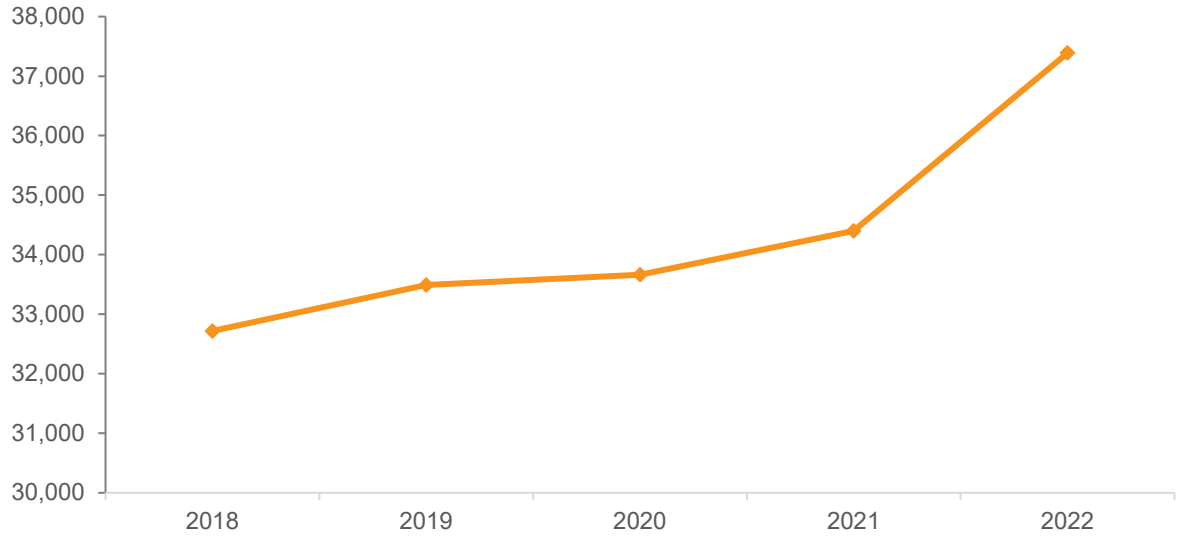


Source: NSW Bureau of Crime Statistics and Research, NSW Criminal Courts Statistics January 2018-December 2022

Criminal finalisations with Aboriginal and Torres Strait Islander defendants

The number of finalisations with Aboriginal and Torres Strait Islander defendants did not decrease in the two years most affected by the pandemic but simply increased at a much slower rate, and was followed by a sharp increase in 2022. Over the four-year period, there was a 14.3% increase in the number of finalisations with Aboriginal and Torres Strait Islander defendants. Notwithstanding the fact that these figures may not represent accurate long-term trends due to the unprecedented circumstances caused by COVID-19, this nevertheless suggests a potential sizeable increase in the need for culturally appropriate legal assistance services in court settings that likely translated into added pressure on services.

Figure 30: Criminal finalisations with Aboriginal and Torres Strait Islander defendants, 2018–2022



Source: NSW Bureau of Crime Statistics and Research, NSW Criminal Courts Statistics January 2018-December 2022

Offence types

Criminal Court statistics from 2022 show that traffic and vehicle regulatory offences account for the largest number of finalisations, followed by Acts intended to cause injury, and offences against justice procedures.[65]

The number of finalisations for the following offence types were still much lower in 2022 than they were pre-pandemic: *Robbery/extortion*, *Homicide*, *Fraud/deception* and *Illicit drugs* offences. In contrast, there was in increase in the number of finalisations for the following offence types over the last three years: *Acts intended to cause injury*, *Abduction/harassment and other offences against the person*, and *Sexual assault* offences. The sharp increase in finalisations for Miscellaneous offences was driven by public health and safety offences, as finalisations jumped from 590 in 2020 to 4,170 in 2021 (most of these likely in relation to COVID-19 restrictions).

Table 13: Defendants with finalised charges by offence type, number and percentage in 2022 and percentage change over 1 year and over 3 years

Offence type	Defendants with finalised charges	Percentage (%)	12-month percentage change 2021-22	3-year percentage change 2019-22 *
Traffic and vehicle regulatory offences	49,010	34.1	17.6	5.0
Acts intended to cause injury	39,240	27.3	16.5	18.2
Offences against justice procedures, government security and government operations	33,190	23.1	5.4	-0.1
Illicit drug offences	19,520	13.6	-3.4	-11.4
Theft and related offences	16,210	11.3	7.6	-5.6
Property damage and environmental pollution	13,010	9.0	6.6	4.9
Public order offences	12,160	8.4	10.4	-1.8
Prohibited and regulated weapons and explosives offences	6,900	4.8	0.4	3.2
Miscellaneous offences	6,670	4.6	-4.8	105.9
Dangerous or negligent acts endangering persons	5,130	3.6	0.6	0.0
Fraud, deception and related offences	4,550	3.2	0.2	-16.4
Abduction, harassment and other offences against the person	2,920	2.0	8.1	11.1
Sexual assault and related offences	2,540	1.8	12.7	8.9
Robbery, extortion and related offences	1,040	0.7	-3.9	-23.4
Homicide and related offences	190	0.1	3.8	-18.7
Total	143,930	100.0	10.9	4.1

Source: NSW Bureau of Crime Statistics and Research, NSW Criminal Courts Statistics January 2018-December 2022
* percentage change between 2019 and 2022 provides an indication of pre- and post-pandemic levels (knowing that COVID-19 restrictions continued to impact the Court system in 2022).

[65] NSW Bureau of Crime Statistics and Research, NSW Criminal Courts Statistics January 2018-December 2022

Appendices

NLAS indicators definitions

Definition of NLAS(Capability)	
The NLAS(Capability) indicator provides a proxy measure of legal capability by identifying people aged 15 to 64, with low personal income, and who have a lower level of educational attainment. The NLAS(Capability) population count is obtained by multiplying the rate of people aged 15-64 with low personal income and low educational attainment by the 15-64 resident population count.	
The rate of people aged 15-64 with low personal income and low educational attainment is calculated by dividing the count in the left column below by the count in the right column below.	
Persons aged 15 to 44 and highest year of school completed (HSCP) = Year 12 or below; Aged 45 to 54 and Year 11 or below; Aged 55 to 64 and Year 10 or below; AND Non-school qualifications (QALLP) are not applicable or Certificate 1 and 2 AND Not a full-time or part-time student (STUP = not attending) AND Personal income (INCP) is between Nil and $649 per week.	Persons aged 15 to 64 Highest year of school completed (HSCP) excluding 'not stated' Non-school qualifications (QALLP) level of education 'not stated' or 'inadequately described' Student status (STUP) excluding 'both institution and full-time/part-time not stated' and 'overseas visitor' Personal income (INCP) excluding 'not stated'
Source: 2021 ABS Census TableBuilder Pro, Counting Persons, **Place of Usual Residence**	

Definition of NLAS(Community)	
The NLAS(Community) population count is obtained by multiplying the rate of people aged 15 and over with medium household equivalised income and low educational attainment by the 15+ **resident** population count.	
The rate of people aged 15 and over with medium household equivalised income and low educational attainment is calculated by dividing the count in the left column below by the count in the right column below.	
Persons aged 15 to 44 and highest year of school completed (HSCP) = Year 12 or below; Aged 45 to 54 and Year 11 or below; Aged 55 to 69 and Year 10 or below; Aged 70-79 and Year 9 or below; Aged 80 or over and Year 8 or below; AND Non-school qualifications (QALLP) are not applicable or Certificate 1 and 2 AND Not a full-time or part-time student (STUP = not attending) AND Equivalised household income (HIED) is between Nil and $999 per week.	Persons aged 15 and over Highest year of school completed (HSCP) excluding: 'not stated' and 'overseas visitor' Non-school qualifications (QALLP) level of education excluding: 'not stated' and 'inadequately described' and 'overseas visitor' Student status (STUP) excluding 'both institution and full-time/part-time not stated' and 'overseas visitor' Equivalised household income (HIED) excluding: 'all incomes not stated' and 'partial income stated'
Source: 2021 ABS Census TableBuilder Pro, Counting Persons, **Place of Enumeration**	

Figure 31: Map of NSW, SA4 boundaries

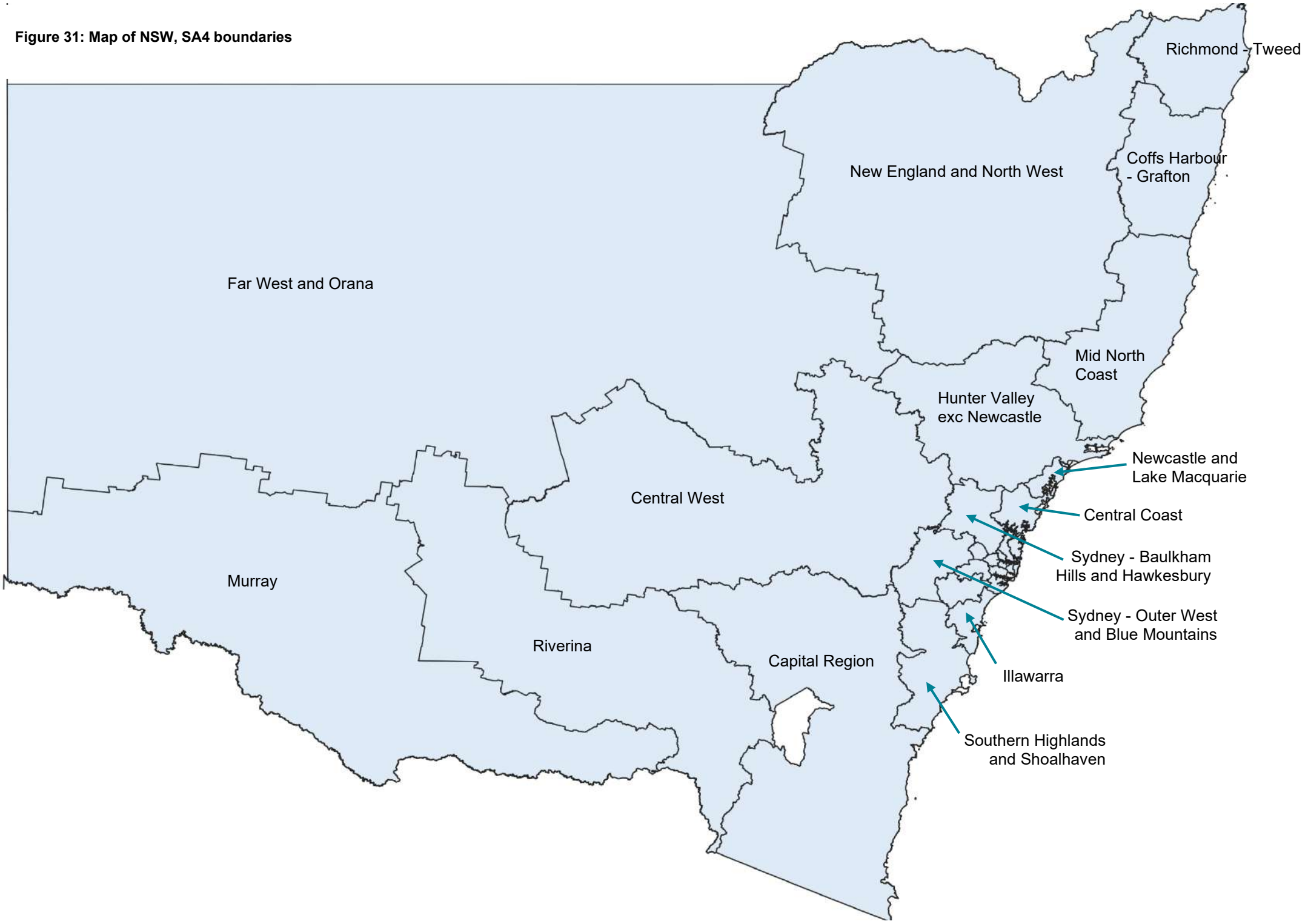
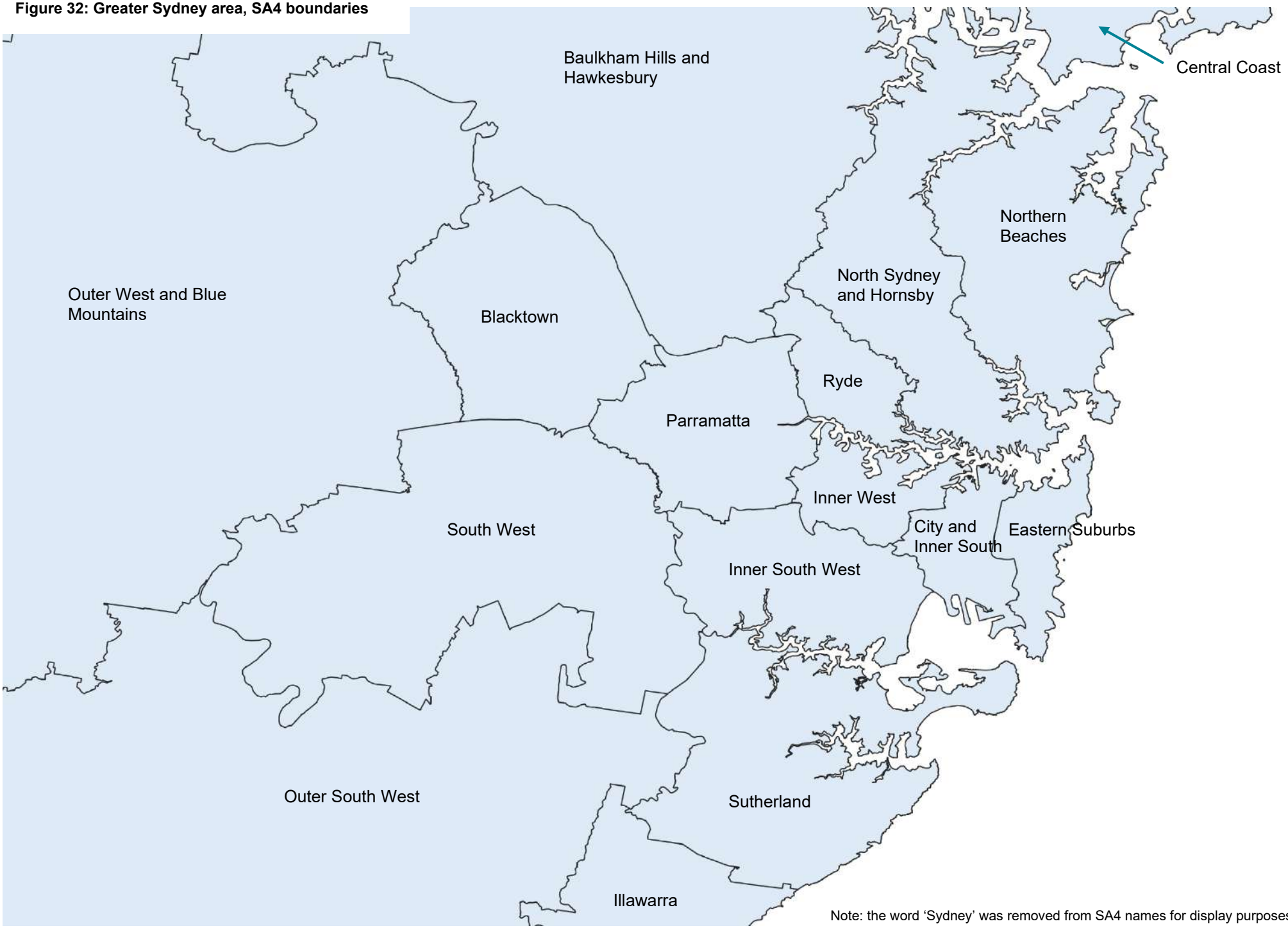


Figure 32: Greater Sydney area, SA4 boundaries



Note: the word 'Sydney' was removed from SA4 names for display purposes