

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

EXAMINATION OF ADDITIONAL ESTIMATES 2001 – 2002

**ADDITIONAL INFORMATION
VOLUME 4**

**IMMIGRATION AND MULTICULTURAL AND INDIGENOUS
AFFAIRS PORTFOLIO**

**Additional Information Relating to the
Examination of Expenditure 2001 – 2002**

May 2002

Attachments to Question Nos. 7 and 18 are not available electronically - please call the Secretariat on (02) 6277 3560 if you require copies.

Outcome 1, Output 3

**Topic: Commonwealth agencies that have major funding responsibilities on
Indigenous Affairs**

Written Question on Notice: No. 1

Senator Ludwig asked:

1. Which Commonwealth agencies that have major funding responsibilities on Indigenous Affairs does ATSIC have a Memorandum of Understanding with?
2. Of those which don't, can you outline the reasons for not establishing a Memorandum agreement?

Answer:

Question 1

- The Aboriginal and Torres Strait Islander Commission (ATSIC) has entered into Multilateral Housing Bilaterals in NSW, Qld, SA, WA and the NT with State Governments and the Commonwealth Department of Family and Community Services.

ATSIC has entered into MOU's with:

- The Office Aboriginal and Torres Strait Islander Health - June 2000 and June 2001. (Two agreements – June 2000 and June 2001).
- The Department of Defence and the Department of Health and Ageing for the delivery of the ATSIC Army Community Assistance Program.
- Australian Sports Commission (2000-2004) to manage the national element of Sporting Opportunities for Indigenous People.
- Attorney General's Department – Family Law and Legal Assistance Division.
- Centrelink
- Department of Employment and Workplace Relations
- Department of Education, Science and Training

Question 2

Four agencies have major funding responsibility for Indigenous affairs. M.O.U's are in place with the Department of Education, Science and Training, the Department of Employment and Workplace Relations, the Department of Health and the Ageing and bilateral agreements are in place with the Department of Family and Community Services.

Senate Legal and Constitutional Legislation Committee
Immigration and Multicultural and Indigenous Affairs Portfolio
ANSWERS TO QUESTIONS ON NOTICE
Additional Estimates Hearings 12 March 2002
Indigenous Affairs

SENQ 20020001

Outcome 1, Output 3

Topic: Memorandum of Understanding with Department of Health and Aged Care

Written Question on Notice: No. 2

Senator Ludwig asked:

1. Can you tell the Committee whether the Memorandum of Understanding with the Department of Health and Aged Care (DHAC) has been renewed?
2. If not, why not?

Answer:

1. No.
2. Negotiations are continuing at officer level to ensure renewal of the MOU as soon as possible.

Question: 3

Outcome Advancement of Indigenous Rights and Equity, Output 2

Topic: Capacity building in remote communities

Hansard Page: 380

Senator Ludwig asked:

In relation to output 4, which is economic development, the portfolio budget statement on page 48 states that ATSIC is receiving \$31.5 million over four years to provide capacity building in remote communities and FACS is receiving \$1.7 million. Of the funds expended in this first year what will that \$1 million be spent on?

Answer:

As of 31st March 2002 approximately \$800,000 of the \$1 million has been expended, this includes:

- **\$425,000** to establish the Policy and Program Reform Unit within ATSIC to develop the CPA concept and to assume responsibility for administering the implementation of the program;
- **\$105,000** to support consultations with specific communities, which have expressed an interest in participating in the initiative;
- **\$165,000** to promote Indigenous good governance concepts through a series of four regional workshops and a national conference hosted by Reconciliation Australia in Canberra on the 3-5th April 2002 on *Indigenous Governance Conference*; and
- **\$105,000** for research and other community initiatives.

It is anticipated that the balance of **\$200,000** will be for further negotiation with communities on the development of CPAs and the continued operation of the Policy and Program Reform Unit.

Senate Legal and Constitutional Legislation Committee
Immigration and Multicultural and Indigenous Affairs Portfolio
ANSWERS TO QUESTIONS ON NOTICE
Additional Estimates Hearing 12 March 2002
Indigenous Affairs

SENQ 20020004

Question: 4

Outcome 1, Output 4

Topic: Community Development Employment Project

Hansard Page 381

Senator Ludwig asked:

Can you advise how the Community Development Employment Project (CDEP) trials are progressing and in particular whether you had found a definition of a viable labour market?

Answer:

Although ATSIC has been involved in the trials, overall responsibility for funding, management and evaluation of the trials rests with the Department of Employment and Workplace Relations. The question should be referred to that Department.

Senate Legal and Constitutional Legislation Committee
Immigration and Multicultural and Indigenous Affairs Portfolio
ANSWERS TO QUESTIONS ON NOTICE
Additional Estimates Hearings 12 March 2002
Indigenous Affairs

SENQ 20020005

Question: 5

Outcome 1, Output 4

Topic: Community Development Employment Project

Hansard Page: 381

Senator Ludwig asked:

There is \$31 million allocated for the Community Development Employment Project (CDEP). Can you advise whether the money has been expended and, if so, how and where?

Answer:

The funding for Indigenous Employment Centres is administered by the Department of Employment and Workplace Relations. This question should be referred to that Department.

Question: 6

Output 5.5 Business as Separate Legal Entities

Topic: Review of the Aboriginal Councils and Association Act 1976

Hansard Page: 381

Senator Ludwig asked:

Can you provide the Committee with the terms of reference for the review of the *Aboriginal Councils and Associations Act 1976* and progress to date in terms of that?

1. Is there a committee established?
2. Are people employed doing work?

Answer:

Yes, the Terms of Reference for the review are attached (refer [Attachment A](#)).

The Review-Team (refer response to SENQ 20020008 for details) engaged to conduct the review has undertaken considerable research and provided the Steering Committee with two (2) very detailed reports documenting their research, and outlining the major issues for reform, suggested changes to the *Aboriginal Councils and Associations Act 1976* (the ACA Act) and examples of possible new structural models.

These reports take into account feedback received from a workshop conducted in Alice Springs in April 2001, and separate visits and consultations with a range of ACA Act corporations which took place following the workshop. The reports also outline other issues identified for research by the Review Team and the Steering Committee.

The review has now reached a point where the Steering Committee felt it was necessary to consult with stakeholders over a number of issues, which are central to the direction the final reform will take.

The Review team has developed a detailed Consultation Paper and a Summary Consultation Paper, to seek feedback from stakeholders. The Consultation Papers outline the key issues for reform, suggested changes to the ACA Act and examples of possible new structural models.

To fully appreciate the implications of the changes, and their impact on the reform process, the consultation papers are currently being circulated widely to enable all ATSIC Regional Councils and as many Indigenous organisations and peak bodies, other government agencies and interested parties to have input into the review process.

The consultation phase will run until the end of May 2002 following which the Review-Team will prepare a final report for consideration.

1. Is there a Committee established?

Yes, a steering Committee was established by the previous Acting Registrar, Colin Plowman to serve several functions. Firstly, it is a way to consult with key government stakeholders and to keep them informed about what is happening with the Review. Secondly, it is there to provide policy direction to the Review Team, and to provide oversight to the conduct of the review by the Review Team.

Membership of the Steering Committee comprises:

- The Acting Registrar of Aboriginal Corporations as Chair (first Colin Plowman and then Joe Mastrolembo)
- The ATSIC CEO (originally Mark Sullivan; Acting CEO Geoff Scott has now taken that place)
- Commissioner Patricia Thompson on behalf of the ATSIC Board
- ATSIC General Counsel, Robert Goodrick
- Peter Vaughan from the Office of Aboriginal and Torres Strait Islander Affairs
- Graeme Plath, the ACT Director of the Australian Securities and Investments Commission (ASIC)
- The Office of the Minister for Immigration and Multicultural and Indigenous Affairs has also been represented on the Steering Committee. Originally Shayar Roushan; Jeremy Chitty has now taken that place
- Karen Touchie, of the ATSIC Native Title and Lands Rights Centre (NTLRC) has also recently joined the Steering Committee. The NTLRC has been undertaking a specific review of the Prescribed Bodies Corporate under the *Native Title Act*. Many of the issues in that review are also relevant to the review of the Act.

2. Are people employed doing work?

Yes. Details of the Review-Team are profiled in the response to SENQ 20020008 (Hansard Page: 381) and the work undertaken to date is outlined above.

**TERMS OF REFERENCE FOR AN INTERNAL REVIEW OF THE
ABORIGINAL COUNCILS AND ASSOCIATIONS ACT 1976 AND THE
REGULATIONS**

The Aboriginal Councils and Associations Act 1976 ('the Act') was enacted to provide Aboriginal and Torres Strait Islander groups and communities with a simple and inexpensive means of incorporation with the flexibility to take account of Aboriginal customs, needs and social organisation.

The Act provides for two forms of corporate entity:

- Aboriginal associations – 2700 Aboriginal associations are currently incorporated under the Act;
- Aboriginal councils – No Aboriginal councils have been constituted under the Act to date.

Aboriginal Associations are established to undertake a range of functions including the delivery of services to their members and Indigenous people more generally. Groups choose to incorporate under the Act from a range of other incorporation regimes including State/Territory schemes. In some cases such as Native Title Representative Bodies there is a requirement to incorporate under the Act.

The Registrar of Aboriginal Corporations wants to conduct an internal review of the Act (and the regulations) to:

- determine its capacity to meet the contemporary corporate governance needs of Aboriginal and Torres Strait Islander people; and
- identify areas for possible legislative reform and possible changes to the regulations to more adequately meet these corporate governance needs.

The reviewer will be expected to report on, inter alia, immediate changes required to the regulations to adequately administer the current provisions of the Act and short to long term changes to the Act to meet the purpose and contemporary use of the Act.

The report should set out its findings and recommendations for reform, suggested areas for possible change, including recommended legislative amendments.

Discussions with the reviewer will be held prior to formalising contractual arrangements to determine the timeframes for reporting although the consultancy will be expected to be reported on within 4 months of contract signing.

In particular, the review will:

1. Taking into account the original purpose of the Act as a simplified regime of incorporation and corporate governance for indigenous bodies, and how that purpose has been implemented over time, consider whether the Act remains an appropriate mechanism for this purpose. In particular, consider whether:
 - i. the provisions of the Act (and the regulations) should be brought more into line with the Corporations Law, and if so how; and
 - ii. it might be better for some categories of intending corporations to incorporate under the Corporations Law or State/Territory Associations Acts or similar.
2. compare the Act and the regulations with comparable State and Territory Associations and similar Acts and the Corporations Law and recommend how they might be amended to reflect good practice in these regimes;
3. assess the requirements under the Native Title Act for the incorporation of Native Title Representative Bodies and Prescribed Bodies Corporate under the Act and how changes to the Act and the regulations might ensure improvements and consistency;
4. assess the relevance and appropriateness of changes to the Act proposed in the:
 - Aboriginal Councils and Associations Legislative Amendment Bill 1994
 - Prime Minister and Cabinet (Miscellaneous Provisions) Bill 1995
5. examine the Act and the regulations and similar legislation and consider whether the Act should be amended to:
 - include education and training as a statutory function of the Registrar;
 - include mediation (as well as arbitration);
 - Allow for companies and corporations to be members of Aboriginal corporations/umbrella organisations being established under the Act;
 - continue the need in the Act for categories of corporations (eg associations formed wholly for business purposes, associations formed principally for the purpose of owning land or holding a leasehold interest, etc);
 - allow the Registrar to alter unworkable rules or to exempt corporations from the operation of unworkable rules on application;
 - include changes to make the current examination powers of the Act more effective;
 - allow the Registrar to remedy inadvertent errors in official documents issued by the Registrar – for example: typographical errors in the official name of a corporation;
 - allow for more flexible annual financial reporting arrangements by corporations;
 - provide for the electronic lodgement of documents, and the conduct of business under the Act in electronic form and compliance with the Electronic Transactions Act (1999);

- provide for teleconferencing (in relation to committee and general meetings);
 - formally regulate the use of proxies at general meetings;
 - align the penalty provisions with the Corporations Law;
 - provide for video conferencing (in relation to committee and general meetings);
and
 - provide for term appointments for the office of Registrar
6. assess the relevance and appropriateness of recommendations for changes to the Act and the regulations from previous reviews and studies and operations of the Office of the Registrar;
 7. identify financial and administrative arrangements and resources, best use of resources and practices and other measures that would be necessary to support:
 - the current requirements of the Act and the regulations
 - the legislative and administrative framework recommended by this review;
 8. consider the effectiveness of Part III of the Act and existing State/Territory legislation in meeting Aboriginal and Torres Strait Islander forms of local or regional governance;
 9. consider any other relevant matters on the advice of the steering committee.

The reviewer will be expected, at a minimum, to consult with the Registrar of Aboriginal Corporations, his staff, some Aboriginal corporations incorporated under the Act and peak Indigenous bodies, the Minister for Aboriginal and Torres Strait Islander Affairs and his Office, the ATSIC elected arm and Chief Executive Officer and the Registrar's current legal service providers, and other consultants that have assisted with the administration of the Act.

To facilitate consultations the Registrar's Office will organise a workshop of relevant stakeholders early in the Review at which it is hoped most of the above will be represented. The tender should advise of others with whom the tenderer wants to consult.

October 2000

SENQ 20020007

Question: 7

Output 5.5 Business as Separate Legal Entities

Topic: The review of the Aboriginal Councils and Associations Act 1976

Hansard Page: 381

Senator Ludwig asked:

I understand you had a group of consultants who conducted a certain degree of research and put together a consultation paper, can you provide the Committee with a copy of the consultation paper?

Answer:

Yes. A copy of both the "*Consultation Paper*" and a summarised version titled "*Summary Consultation Paper*" are attached (please refer to Attachments A and B respectively).

SENQ 20020008

Question: 8

Output 5.5 Business as Separate Legal Entities

Topic: Review of the Councils and Associations Act 1976

Hansard Page: 318

Senator Ludwig asked:

Can you advise the number and range of consultants that you have employed to develop the process, the expenditure on the consultants and who has been consulted?

Answer:

Yes. The information you request is outlined below.

Consultants

Following the conduct of a selective tender process, Corrs Chambers Westgarth, Solicitors of Sydney, were selected to conduct the review.

To perform the review, Corrs Chambers Westgarth assembled a multi-disciplinary team consisting of:

Corrs Chambers Westgarth

Mr James Whittaker, Partner and Review Team Leader

Christos Mantziaris – Special Counsel

Mr Tig Pocock, Senior Solicitor

Belinda Tate – Senior Associate

Tom Brennan – Partner (Public Law and Government)

Others – junior legal and administrative staff as required from time to time.

Anthropos Consulting

Dr David Martin – Director and lead participant from Anthropos

Dr Julie Finlayson – Director

Dr Patrick Sullivan – Consultant to Anthropos

Senatore Brennan Rashid

Mr Eddie Senatore, Chartered Accountant

Mr Mamun Rashid, Chartered Accountant

Bowman Dodson and Associates

Mr Mick Dodson

While all Review Team members listed above have participated in and provided input to the review, they are not all involved at all times. Instead, the particular expertise brought by the different Team members has been drawn upon as and when required.

Expenditure

Expenditure on the review team to date has been \$371,220 (excl GST).

Consultation

Participation of stakeholders in the decision-making process is a fundamental aspect of the review. A detailed and extensive consultative process therefore forms an integral part of the review. Details of this consultative process is outlined below.

- Steering Committee

The Steering Committee itself, which includes key Government stakeholders forms one component of the consultation.

- Workshops

The Review-Team conducted a workshop in May 2001 for the purpose of obtaining feedback on issues requiring consideration during the review. The attendees at this workshop were drawn from a relatively representative cross-section of stakeholders from different States and regions; from urban, rural and remote communities; with a range of different primary purposes; and of a variety of sizes.

The workshop was designed to get some understanding about current problems with the *Aboriginal Councils and Associations Act* (the ACA Act), and to sound-out some of the Review-Team's initial views about possible directions for reform.

A second workshop has been scheduled in Alice Springs on 9-10 April 2002 to allow the Review Team to update participants on progress of the review, and to discuss and obtain feedback on the policy and structural reform issues outlined in the consultation paper.

- Discussions with Corporations

Following on from the first workshop, and relatively early in the review process, the Review Team met with a number of Indigenous associations incorporated under the ACA Act, canvassing their views on the ACA Act, and identifying issues for research.

- Circulation of Consultation Papers

The consultation papers, questionnaires and invitations to provide submissions have been circulated to stakeholders as follows:

- All ACA Act corporations (approximately 2700) – these corporations were provided with a copy of the summary consultation paper, and a questionnaire to complete;

- Approximately 350 Indigenous organisations incorporated under the Corporations Act and State and Territory Associations Incorporations Acts - these corporations were provided with a copy of the summary consultation paper, and a questionnaire to complete;
- The Aboriginal and Torres Strait Islander Commission (ATSIC) – separate correspondences were sent to the Acting ATSIC CEO, the ATSIC Chairperson*, and ATSIC Regional Councils**;
- The Torres Strait Regional Authority (TSRA);
- peak Indigenous bodies including all Native Title Representative Bodies;
- various Commonwealth and State government departments and agencies which provide funding to, or work closely with, Indigenous corporations (including Indigenous Business Australia, the Indigenous Land Corporation, Aboriginal Hostels Limited, NSW Aboriginal Housing, Office of Aboriginal and Torres Strait Islanders Health, Institute of Aboriginal and Torres Strait Islander Studies, and a range of State departments and agencies);
- The Australian Securities and Investments Commission (ASIC) and the various regulators of the State and Territory association incorporation acts;
- The Human Rights and Equal Opportunity Commission (HREOC);
- The National Native Title Tribunal (NNTT);
- Reconciliation Australia;

- The Australian Labor Party and the Australian Democrats ***; and
- Numerous consultants and legal providers of the Office of the Registrar of Aboriginal Corporations.

*The ATSIC Board was presented with an Information Paper on the review at its board meeting in February 2002.

** To ensure that ATSIC's regional representatives are able to advise and assist Corporations with their submissions, the Review-Team and the Office of the Registrar of Aboriginal Corporations have offered to provide briefings to ATSIC Regional Councils and ATSIC Regional Offices.

*** Both parties have been offered personal briefings on the review.

- *Other Activities*

Consultation activities include advertisements in Indigenous publications, radio advertisements run on the National Indigenous Radio Service, and placing the consultation papers on the ORAC web-site (www.orac.gov.au).

Briefings will be provided to a number of ATSIC Regional Councils and other interested parties as requested to do so. Staff of the Office of the Registrar are also explaining the review, seeking feedback, and encouraging written submissions when meeting with ACA corporations and other stakeholders.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 12 March 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(9) Output: Internal Product

Senator Ludwig (L&C 368) asked for information on the Department's Indigenous employment policy.

Answer:

The Department's Workplace Diversity program contains strategies directed at Indigenous employment. The relevant strategies are:

- Ensure that DIMIA EEO targets, promotion and retention rates are maintained and that the career progression of EEO groups is monitored;
- Provide support to the ATSI network in the Department;
- Ensure that Indigenous applicants are considered in all base grade, cadet and graduate employment;
- Advertise vacancies that may be of interest to ATSI staff, particularly cadet and graduate recruitment in national and Aboriginal press;
- Increase the exposure of Indigenous staff from public and private sector agencies to DIMIA.

The Department participates annually in the National Indigenous Cadetship Project which is funded by the Department of Employment and Workplace Relations and provides financial support for Aboriginal and Torres Strait Islander people who are undergoing tertiary study and employment during and at the end of the course of study.

The Department has a devolved people management structure with Divisions and regional offices having the flexibility within our human resource policy framework to tailor their employment policies to suit local conditions. In this environment, the Office of Aboriginal and Torres Strait Islander Affairs (OATSIA) has the flexibility to continue targeted recruitment of Indigenous staff.

The Workplace Diversity Program is under review with a view to producing a new Workplace Diversity plan during 2002. The new plan will continue to identify initiatives relevant to Indigenous employment, with OATSIA playing a key role in identifying these.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 12 March 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(10) Output: Internal Product

Senator Ludwig (L&C 368) asked, "Do you hold information which is not culturally sensitive about the level at which Aboriginal people are employed within the office (OATSIA) and the number currently?"

Answer:

There are currently three staff in the Office of Aboriginal and Torres Strait Islander Affairs who identify as Aboriginal and Torres Strait Islanders out of a total of 31 staff. One of these is an Indigenous Cadet whose tertiary study is funded by the Commonwealth.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 12 March 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(11) Output: Internal Product

Senator Ludwig (L&C 372) asked whether the staffing situation and functions of staff in the Office of Aboriginal and Torres Strait Islander Affairs would remain the same with the incorporation of the Office within the Department of Immigration and Multicultural and Indigenous Affairs.

Answer:

The Office will remain a discrete organisational unit within the Department retaining its policy and coordination functions. Over time there may be some rationalisation of corporate support functions to gain efficiencies now that the Office is part of a larger organisation.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 12 March 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(12) Output 3.1: Indigenous policy

Senator Ludwig asked:

The Commonwealth Grants Commission report on Indigenous funding as reported in the Annual Report of the Aboriginal & Torres Strait Islander Commission states that "As preconditions for achieving advances the Commonwealth Grants Commission considers that Indigenous people and organisations must ..." (see p. 16):

- (a) What is the government's response to this report?
- (b) What is the government's response to the A* report (page 16)?
- (c) Did the first review as identified in the Annual Report at page 16 by COAG take place?
- (d) If not, why not?
- (e) If so, what were the findings or recommendations?
- (f) What work has been undertaken on developing action plans performance reporting strategies and benchmarks as outlined in the Annual Report of ATSIC at page 16?
- (g) If none, why not?
- (h) If so, can you provide a progress report?
- (i) Has the government formally responded to HORSCATSIA? If not, why not?
- (j) Does the Government intend to implement the principles of mutual obligation benefit for the recipients?
- (k) If so, how and when?
- (l) What work is being undertaken to develop Indigenous-specific legislation or policies in Australia which is designed to protect Indigenous cultural and intellectual property rights?
- (m) If none, why not?
- (n) If so, can you provide an outline of the work done to date?
- (o) Has the 13th Australian periodic report due on 30 October 2000 in CERD been prepared and forwarded?
- (p) If not, why not?

Answer:

- (a) The Government is currently finalising its response to the report.
- (b) The Government is not in the practice of responding to the Chief Executive

Officer's report which appears in the ATSIC Annual Report. However, the Government position on the Commonwealth Grants Commission's (CGC) findings will be set out in the Government response to the CGC's report on Indigenous funding.

- (c) The review was considered by the Council of Australian Governments (COAG) at its meeting of 5 April 2002.
- (d) Not applicable.
- (e) The review recommendations will be available in the "*COAG Reconciliation Framework: Report on Progress in 2001*" document at www.dpmmc.gov.au/docs/comm_state_index.cfm.
- (f) This information is included in the review that was presented to COAG (due to be placed on the website referred to above).
- (g) Not applicable.
- (h) The *COAG Reconciliation Framework: Report on Progress in 2001* document will be available at www.dpmmc.gov.au/docs/comm_state_index.cfm.
- (i) The Government response to the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs inquiry into the needs of urban dwelling Aboriginal and Torres Strait Islander peoples is currently being finalised. Delays in the consideration of the response were experienced during the election period.
- (j) The principle of mutual obligation is a key underpinning of the Government's approach to social policy. Accordingly, the Government is instituting a new participation framework, underpinned by a substantial investment in extra service provision, aimed at improving the job prospects of Australians of workforce age who are reliant on income support.
- (k) New participation requirements will be phased in gradually and sensitively for individuals, and provide for exemptions where appropriate. The centrepiece of the 2001-2002 Budget, the Australians Working Together (AWT) Package, brought together a number of initiatives aimed at ensuring that the welfare system for people of working age provides as much encouragement as possible for people to get a job, to gain new skills, and to be involved in their communities. As Indigenous Australians are far more dependent on welfare than any other group in Australian society, the package paid particular attention to the needs of Indigenous people by providing \$82.7 million over four years for measures specifically targeted at them.

Funding of \$31.6 million will also be available to Centrelink for better assessment of certain groups, including Indigenous people. The Better Assessment measure is an individualised, early intervention targeted at customers who have been identified as being at high risk of being breached. The aim of the measure is to identify barriers to participation, develop a participation plan with the customer to overcome barriers and increase economic and social participation, and ensure customers are better informed about their obligations and available supports. Some customers, who, at new claim, would previously have been granted exemption from the activity test, for example those in rural or remote locations, may now have to meet participation requirements where possible. Essentially, it is anticipated that the measure will lead to greater take up of programs of assistance for Indigenous customers.

- (l) The existing legal framework already provides significant protection for Indigenous artistic and cultural expression, both through the common law and statute. However, work is being done to further protect Indigenous cultural and intellectual property rights legislatively through the extension of moral rights to Indigenous communities and via policy through the protection of cultural ecological knowledge.

Moral Rights

The Government recognises that Indigenous communities are currently unable to assert moral rights over their cultural images, themes and stories used by creators. Hence, the Government committed, in the election context, to amend the moral rights regime in the *Copyright Act 1968* to give Indigenous communities a means to prevent unauthorised and derogatory treatment of works that embody community images or knowledge. The Department of Communications, Information Technology and the Arts is currently developing a proposal in consultation with the Attorney-General's Department.

This follows the commencement on 21 December 2000 of the *Copyright Amendment (Moral Rights) Act 2000* which gives authors greater control over the use of their works and consequently assists Indigenous artists in protecting the cultural integrity of their work.

Ecological Cultural Knowledge

Communities will be able to protect their cultural knowledge pertaining to genetic resources through benefit sharing agreements as part of the management of genetic resources in Commonwealth areas through amendments to the Environment Protection and Biodiversity Conservation Regulations. This is likely to be completed in 2002.

The National Strategy for the Conservation of Australia's Biological Diversity, the Commonwealth's National Biotechnology Strategy, the National Objectives and Targets for Biodiversity Conservation 2001 – 2005 and the Environment Australia Reconciliation Action Plan also involve strategies to protect Indigenous cultural ecological knowledge.

Australia participates actively in the World Intellectual Property Organisation's Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. Australia supports the work of this body in its exploration of ways to protect and conserve cultural knowledge. These issues are also under discussion in the World Trade Organisation's Council on Trade-Related Aspects of Intellectual Property Rights.

- (m) Refer to (l).
- (n) Refer to (l)
- (o) In March 2001, the Committee for the Elimination of Racial Discrimination (CERD) made a procedural decision providing Australia with flexibility on the timing of its next periodic report. The CERD's decision gives countries the option to postpone submitting their next periodic report until the subsequent reporting period if it falls within two years of their last appearance before the

Committee. As the CERD's examination of Australia's last periodic report was in March 2000, this decision is applicable to Australia's reporting obligation. Accordingly, Australia's next periodic report is not due until the end of 2002.

(p) Refer to (o).

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 12 March 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(13) Output 3.1: Indigenous Policy

Senator Ludwig asked:

“Has the Commonwealth tabled the Commonwealth Grants Commission final report into Indigenous funding?”

- If not, why not? “

Answer:

The report was tabled in Parliament on 25 September 2001.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 12 March 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(14) Output 3.1: Indigenous Policy

Senator Ludwig asked:

The interim report of the Commonwealth Grants Commission (October 2000) found that there is a lack of transparency in the current system and severe limitations on the Commonwealth's power to direct the states. Is this correct?

- If yes, can you outline the issues?
- If no, what is the intention of the Department?
- What work is being undertaken to assist on correcting this?

Answer:

The responsibility for delivering most of the services examined by the Commonwealth Grants Commission (CGC) rests with States, Territories and local governing bodies. This point is well recognised in the CGC's final report. The Commonwealth will not be able to unilaterally make changes in response to the CGC inquiry into Indigenous funding. The Commonwealth is working with States and Territories to make improvements to services for Indigenous Australians through initiatives such as the Council of Australian Government's framework to advance reconciliation. The Government response to the CGC report is expected to also address the issue of improving services to Indigenous Australians through cooperative intergovernmental measures.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 12 March 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(15) Output 3.1: Indigenous Policy

Senator Ludwig (L&C 369) asked, 'Provide a breakdown and categorisation of expenditure on litigation to date this year.'

Answer:

Total amounts paid by this Department and the former DORATSIA (including solicitors' fees, barristers' fees and other disbursements) as of 28/2/2002 exclusive of GST are as follows:

Hindmarsh Island Bridge	
\$258379.16	
Foundation for Aboriginal and Islander Research Action (FAIRA)	
\$ 58229.48	
Cubillo and Gunner (Separated Children)	\$
77483.55	
Other separated children matters	\$
542.85	
Costs recovery matters(5)	\$
5911.94	

Total Expenditure to 28 February for this financial year
\$400546.98

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 12 March 2002

IMMIGRATION AND MULTICULTURAL AFFAIRS PORTFOLIO

(16) Output 3.1: Indigenous Policy

Senator Ludwig (L&C 372) asked, 'Provide a breakdown of the barrister's fees or counsel's fees.'

Answer:

The following barristers' fees (exclusive of GST) have been paid by this Department (and the former DORATSIA) as of 31 March in this financial year for the following matters:

Hindmarsh	\$106498.51
Cubillo and Gunner	\$ 21000.00
FAIRA	\$ 14516.70

Total Barristers' Fees \$142015.21

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 12 March 2002

IMMIGRATION AND MULTICULTURAL AFFAIRS PORTFOLIO

(17) Output 3.1: Indigenous Policy

Senator Ludwig (L&C 375) asked for costs that the Secretariat to the Reconciliation Place Steering Committee was reimbursed for.

Answer.

The Secretariat was reimbursed for the following amount for members of the Steering Committee's travel and accommodation to attend meetings.

Air Travel *	\$10,674.60
Accommodation #	\$ 1,364.75
Travel Allowance	\$ 290.00
Grand Total ^	\$12,329.35

* Includes invoice awaiting payment total \$3,244.16

Includes invoice awaiting payment total \$195.50

^ Includes invoice awaiting payment grand total of \$3,439.66

These figures do not include sitting fees, which were paid directly to members by the National Capital Authority.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 12 March 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(18) Output 3.1: Indigenous Policy

Senator Ludwig (L&C 376) asked for a copy of the reply to the Shadow Minister for Aboriginal and Torres Strait Islander Affairs.

Answer:

A copy of the reply is attached.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 12 March 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(19) Output 3.1: Indigenous Policy

Senator Ludwig (L&C 376) asked, "Can you find out where that (response to the Reeves and HORSCATSIA reports) is up to and whether or not there is an intention to have an answer to that report?"

Answer:

The Government is giving further consideration to the views of stakeholders and intends to finalise reform of the *Aboriginal Land Rights (Northern Territory) Act 1976* during this term of government.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 12 March 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(20) Output 3.1: Indigenous Affairs

Senator Ludwig (L&C 378) asked, 'In relation to the proposed amendments to the ALRA, when did the Minister give an undertaking to the land councils that he would give them a document which would canvass some issues and options.'

Answer:

The Minister for Immigration and Multicultural and Indigenous Affairs met representatives of the Northern Land Council in Darwin on 1 February 2002 at which a paper that outlined the views of interested parties on reform of the *Aboriginal Land Rights (Northern Territory) Act 1976* was discussed. In order for such a paper to be up to date, the Minister wrote to interested parties on 8 February 2002 seeking final views on reform of the Act and asking for any further views to be submitted by 15 March 2002. The Minister met with representatives of the Northern and Central Land Councils in Canberra on 12 February 2002 and a paper that canvassed options was referred to again in discussion.

Senate Legal and Constitutional Legislation Committee

Immigration and Multicultural and Indigenous Affairs Portfolio

Questions on notice from Additional Estimates Hearing 12 March 2002 – Indigenous Affairs

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