SENATE ESTIMATES COMMITTEE
NATIONAL NATIVE TITLE TRIBUNAL
QUESTIONS ON NOTICE

Senator Ludwig asked the following question at the hearing of 27 May 2002:

An explanation was given as to why costs have increased taking ILUAs from $7,000 to $25,000. Explain the methodology that is used with examples on what staffing outputs you addressed to which areas and whether it will have some predictive value or whether it is simply a historical method of allocating costs.

I am advised that the answer to the honourable Senator's question is as follows:

A costing model was first developed approximately 2½ years ago by the Tribunal using estimated activity levels and staff effort. Only a limited number of cases (15) were being processed when preparing the estimate of $7,866 per application in the 2001-2002 PBS. Most of these cases were relatively straightforward involving single proponents and limited scale. It was expected that costs would change as additional information from a greater number of actual cases became available. This has proven so, particularly in respect of the increasing complexity of matters dealt with since.

The figures reported in the 2000-2001 Annual Report were based on actual results for 42 ILUA applications being processed. This more representative figure was then used as the basis for the 2002-2003 PBS estimates.

SENATE ESTIMATES COMMITTEE
NATIONAL NATIVE TITLE TRIBUNAL
QUESTIONS ON NOTICE

Senator Ludwig asked the following question at the hearing of 27 May 2002:

Outline how many matters have been referred from the Federal Court to the Native Title Tribunal, broken down into States, including whether or not the State legislation currently in place has facilitated either an increase in the referral process or a decrease in the referral process.

I am advised that the answer to the honourable Senator's question is as follows:

Matters referred from the Federal Court to the Tribunal, for mediation, are applications for determination of native title (claimant, non claimant and compensation applications). Those mediations are therefore not in the future act area, which is the area most directly related to state government legislative activity.

As can be seen from the table below, there is variability from year to year, and across jurisdictions, with respect to the number of mediation referrals to the Tribunal from the Federal Court. The rate of referral, over time, is considered to be largely a function of processes and decisions within the Court itself (for example the scheduling of Directions Hearings), rather than being directly related to changes in State Governments, or changes in policy or legislation at state government level.

Matters referred from the Federal Court, by quarter:

	1998	1999				2000				2001				2002		
	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Total
ACT					1											1
NSW	1	1	1			3		11	2	8	2	15	1	6	1	52
NT					6			8	2	1			2	16	15	50
QLD	7	19	14	5	21	6	7	5	20	20	12	16	10	10	2	174
SA	1											8		1	1	11
VIC				1	2							2				5
WA		1	20	4	5	6	1	19	6	15	9	3	5	1	3	98
Total	9	21	35	10	35	15	8	43	30	44	23	44	18	34	22	391

SENATE ESTIMATES COMMITTEE
NATIONAL NATIVE TITLE TRIBUNAL
QUESTIONS ON NOTICE

Senator McKiernan asked the following question at the hearing of 27 May 2002:

Provide a percentile figure for the increase in activity and increase in costs impacted on the tribunal since the election of the new government in Western Australia last year.

I am advised that the answer to the honourable Senator's question is as follows:

The table below outlines the increases in costs for the Western Australian registry since the election of the new government in Western Australia in February 2001. The figures for the 1998/1999 and 1999/2000 financial years have been provided by way of comparison.

The Tribunal has directed resources to meet the increased activity and associated increase in cost in that State. This is primarily related to the increased role of the Tribunal in mediation associated with the agreement making area (claimant, non claimant and compensation applications).

The annual direct WA region expenditure in $m:

	1998-99	1999-00	2000-01	2001-02	2002-03
	2.859	2.659	3.077	3.228	3.500
% change on previous year		-7%	+16%	+5%	+8% (projected)

SENATE ESTIMATES COMMITTEE
NATIONAL NATIVE TITLE TRIBUNAL
QUESTIONS ON NOTICE

Senator McKiernan asked the following question at the hearing of 27 May 2002:

Provide the amounts spent on native title (or forward estimate) since 1996-97 and for each of the forward years to 2005-2006, including the 2001-2002 part year, for each of the following – NNTT (net appropriation plus revenue, summing to total appropriation), Attorney-General (non claimant applications) and representative bodies.

I am advised that the answer to the honourable Senator's question is as follows:

The amounts spent on native title by the Federal Court are detailed in the answer to Question on Notice 100. The figures for the native title financial assistance (non-claimants) scheme administered by the Attorney-General's Department and for native title representative bodies funded by ATSIC and the Torres Strait Regional Authority are detailed in the answer to Question on Notice 241(f).

The following amounts have been spent on or appropriated to the NNTT since 1993:

	Annual Reports	2002-2003 PBS		
	Actual expense	Appropriation	Revenue	Total
	$m	$m	$m	$m
1993-94	0.797			0.797
1994-95	5.681			5.681
1995-96	12.745			12.745
1996-97	16.774			16.774
1997-98	20.251			20.251
1998-99	23.965			23.965
1999-00	23.427			23.427
2000-01	25.239			25.239
2001-02		28.493	0.213	28.706
2002-03		33.484	0.213	33.697
2003-04		33.516	0.218	33.734
2004-05		32.386	0.218	32.604
2005-06		30.523	0.223	30.746
Total $m				288.366

SENATE ESTIMATES COMMITTEE
NATIONAL NATIVE TITLE TRIBUNAL
QUESTIONS ON NOTICE

Senator McKiernan asked the following question at the hearing of 27 May 2002:

Provide a map of Australia of what areas the 20 representative bodies cover.

I am advised that the answer to the honourable Senator's question is as follows:

The attached map depicts the 20 Representative Aboriginal/Torres Strait Islander Body Areas as at 6 June 2002.


Data Statement
Boundary data compiled by NNTT based on reference material sourced from ATSIC and spatial data sourced from Geoscience Australia, Department of Natural Resources & Mines, Qld and Sinclair Knight Merc Pty Ltd.
Disclaimer Statement
The Registrar, the National Native Title Tribunal and its staff and officers and the Commonwealth, accept no liability and or give no undertakings, guarantees or warranties concerning the accuracy, completeness or fitness for purpose of the map.
Torres Strait
Torres Strait Regional Authority
Ashmore and Cartier Islands Territory
Darwin
Northern Northern Territory
Northern Land Council
Cooktown
Cape York Land Council
Coral Sea Islands Territory
Kimberley
Kimberley Land Council Aboriginal Corporation
Queensland West
Cairns
North Queensland Land Council Aboriginal Corporation
Queensland North
Central Queensland Land Council Aboriginal Corporation
Carpentaria Land Council Aboriginal Corporation
Pilbara
Yamatji Barna Baba Maaja Aboriginal Corporation
Southern Northern Territory
Central Land Council
Queensland Central
Gutang Land Council Aboriginal Corporation
Geraldton
Yamatji Barna Baba Maaja Aboriginal Corporation
Central Desert
Ngaanyatjatta Council Aboriginal Corporation
Queensland South
Queensland South Representative Body Aboriginal Corporation
Brisbane
Greater South Australia
Aboriginal Legal Rights Movement Inc.
New South Wales
(no recognised body#)
NOTE # NSW Native Title Services funded under s203FE(1) of the NTA to perform functions for NSW and ACT
Perth
South West
South West Aboriginal Land and Sea Council Aboriginal Corporation
Goldfields
Goldfields Land Council Aboriginal Corporation
Sydney
Canberra
Adelaide
ACT & Jervis Bay
(no recognised body#)
Victoria
Melbourne
Mitrimbiak Nations Aboriginal Corporation
Hobart
Tasmania
(no recognised body)
REPRESENTATIVE ABORIGINAL/TORRES STRAIT ISLANDER BODY AREAS*
Status as at 6 June 2002
NOTE * Does not depict External Territories Invitation Area which includes Heard, McDonald, Cocos (Keeling), Christmas and Norfolk Islands together with the Australian Antarctic Territory (no recognised body)
NATIONAL NATIVE TITLE TRIBUNAL
Produced by Geospatial Analysis & Mapping, NNTT 6 June 2002.
P:/Geo_info/Baseinfo/National/Admin/NTRB/RATSIB areas_as at 6 June 2002_a4.wor

SENATE ESTIMATES COMMITTEE
NATIONAL NATIVE TITLE TRIBUNAL
QUESTIONS ON NOTICE

Senator McKiernan asked the following question at the hearing of 27 May 2002:

a) Has there been any work done on how much it costs in total to register an Indigenous Land Use Agreement (ILUA) with the NNTT - not just the NNTT cost but the total system cost - tribunal, court, rep body and non claimant money.
b) What are the equivalent costs for a possible High Court action.

I am advised that the answer to the honourable Senator's question is as follows:

The Tribunal is unaware of any work to identify the total system cost to register an ILUA. Further, the Tribunal is unable to provide a response in relation to the court, representative body and non-claimant money, as these are portfolio areas for which the NNTT does not have responsibility.

Total costs to the Tribunal of ILUA activity encompass two outputs as stated in the Portfolio Budget Statements 2001/2002. These outputs are:

1.1.3 – Registration: Indigenous Land Use Agreements; and
1.2.1 – Agreement making: Indigenous land use and access.

Registration of ILUAs is a relatively mechanical process following the conclusion of an agreement making process. On that basis, it could reasonably be assumed that most of the costs of this function would fall to the Tribunal rather than the parties, other than, for example, where a party may incur costs associated with making an objection.

The NNTT maintains a summary of its costs to register an ILUA, as well as its costs for other ILUA related activity (agreement making).

The basis of the cost calculation for ILUA activity within the Tribunal is as set out in response to Question 1 above. That activity based costing does not however enable costs of particular activities to be attributed to particular matters.

In summary, the unit cost to the Tribunal of its ILUA activities could be represented as follows:

Output	2001/2002 Unit Cost (Annual Report)
1.1.3 Registration	$24,128
1.2.1 Agreement making	$101,336
Nominal unit cost to the Tribunal	$125,464

Solely in relation to the Tribunal, the following observations can be made:

- At times the full unit cost to the Tribunal of an ILUA may amount to little more than the 1.1.3 registration cost, specifically where the parties negotiate the ILUA without reference to the Tribunal (as there is no statutory requirement for them to do so).

- Where the Tribunal is involved in negotiating an ILUA, there are a number of overall cost permutations - the Tribunal's costs may be either high or low (depending upon such factors as the extent of Tribunal's involvement) and the costs borne by the parties could similarly be either high or low (depending upon such factors as scale and complexity).

Accordingly, the cost of ILUA activity can vary significantly matter to matter.

In relation to equivalent costs for a possible High Court action, the Tribunal has no information on this point and is unaware of any work having been undertaken elsewhere to identify these figures. However, if what is sought is an analysis of the costs of mediation contrasted with the costs of litigation, then the Tribunal is of the view that mediation is a more cost effective option.

This is argued in a recent unpublished paper delivered (to the Australian/Canadian Oceans Research Network Conference, 31 May to 2 June 2002) by member Geoff Clark, entitled "Reconciling Landscapes: the Mediation of Native Title in Australia: Towards a Structural Approach". Chapter 4 of that paper 'The major benefits of negotiating agreements', is set out following:

CHAPTER 4
THE MAJOR BENEFITS OF NEGOTIATING AGREEMENTS

Introduction

This chapter outlines some of the practical benefits to the parties of negotiating agreements in the native title context as distinct from litigating on the narrow issue of whether or not native title rights and interests exist.

It takes a "pragmatic" look at the benefits of agreement-making in contrast to litigation

1. Limiting costs

Court cases are an expensive process. A litigated outcome (as distinct from an agreement) is likely to be more expensive (in financial and personal terms) than a mediated outcome. A litigated outcome will also be narrower in the issues that are resolved and usually less satisfactory to one or more of the parties.

The four contested native title cases decided by the Federal Court in 1998 and 1999 illustrate the scale of the financial cost. The hearing of the *Miriuwung Gajerrong* case[1] ran for 83 days between 17 February 1997 and 23 October 1998 and the *Yorta Yorta* case[2] ran for 114 hearing days between 8 October 1996 and 4 November 1998.

Hearings in the *Croker Island* case[3] occurred on 23 days between 22 April 1997 and 23 April 1998.

The hearing of the *Hayes* case[4] took 35 days between 1 July 1997 and 9 February 1999.

Litigation can be very costly to the parties .In the *Miriuwung Gajerrong* hearing, in the first instance, the costs to the Western Australian government were approximately $8 million (approximately $3.4 million of the State's cost and $4.7 million of the applicants' costs as a result of a Costs Order).[5] The decision in that case is on appeal to the High Court.

The decisions in the first three cases were appealed and the appeals were heard by the full Federal Court in the second half of 1999. The appellate workload in native title matters is significant.

For example, in the *Miriuwung Gajerrong* appeal to the full Federal Court, there were 19 counsel, approximately 2000 pages of outlined submissions, 3 weeks of oral submissions and 350 title extinguishment issues.

The cost of all of this is not only in money terms and time terms. The personal and emotional toll on the parties, and the impact of such litigation on future relationships, should not be underestimated.

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[1] *Ward -v- Western Australia* (1998) 159 ALR 483.
[2] *The Members of the Yorta Yorta Aboriginal Community -v- Victoria*, unreported decision (1998) 1606 SCA, 18 December 1998.
[3] *Yarmirr -v Northern Territory* (1998) 82FCR 533.
[4] *Hayes -v- Northern Territory* [1999] 97 FCR 32
[5] See Australian Law Reform Commission Report No 89, *Managing Justice: A Review of the Federal Civil Justice System, 2000*, paragraph 7.43.

The High Court itself has recognized the desirability of mediated agreements. In a joint judgment in the *Waanyi* case[6] five Justices of the High Court stated:

> "It should be practicable to resolve and application for determination of native title by negotiation and agreement rather than by the judicial determination of complex issues .The Court and the likely parties to the litigation have saved a great deal in time and resources. Perhaps more importantly, if the persons interested in the determination of those issues negotiate and reach an agreement, they are enabled thereby to establish an amicable relationship between future neighboring occupiers."

2. Litigation does not resolve native title

For those who are inclined to pursue the litigation route, it is worth bearing in mind that Courts may determine that native title exists but that is about as far as they will go. It is still up to the parties to work out agreements on the practical details of how the native title rights and the other parties' rights will coexist on the ground, from day-to-day in the future.

If an application for determination of native title results in contested litigation and native title is found to exist, the Court will simply find that native title exists. The Court will then set out what the scope of the native title is. The Court will also say that the native title is subject to other interests.

The Court will not provide an answer to the question of how to manage the relationship between the two sets of rights – those of the native title holders and those of other interest holders. No Court will answer that question. This means that the question of the relationship between two sets of rights will, even after a fully contested Court case, still have to be addressed by the people on the ground.

To summarize, litigated outcomes are less likely to be comprehensive and flexible in content, with practical application for the parties affected. They are less likely, therefore, to provide a long-lasting and durable basis for the recognition, protection and exercise of the rights and responsibilities of all of the persons whose interests are involved.

It has been suggested[7] that a mediated outcome is the only way that the range of complex and interrelated issues facing a disparate set of parties can be addressed. Such issues might arise where two neighboring Aboriginal groups each assert overlapping native title rights in respect of an area which includes various privately owned pastoral properties, interlinking public stock routes and camping reserves, exploration and mining interests (or the application for the grant of such interests) and national parkland.

The resolution of those issues involves, not only the identification and recognition of a range of rights and interests (including native title), but also the establishment (or reconfiguration) and maintenance of relationships between people in the region.

Justice Olney in the *Yorta Yorta* case called into question:

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[6] *North Ganalanja Aboriginal Corporation -v- Queensland* (1996) 185 CLR 595 at 617 per Brennan C J, Dawson, Toohey, Gawdron and Gummow J J; see also *Fejo -v- Northern Territory* (1998) 156 ALR 721 at 742-745 per Kirby J.

[7] Neate G, *Meeting the Challenges of Native Title mediation*, Paper presented to the LEADR 2000, ADR International conference, Sydney, 29 July 2000

> "The suitability of the processes of adversarial litigation, for the purpose of determining matters relating to native title, especially where the issues are complex and resources expended prove to be unproductive."[8]

Similarly, in his reasons for judgment in the *Spinifex* matter, Chief Justice Black congratulated the parties for the application by agreement.

> "Discussions leading to consent determinations about existence and workings of native title will often involve very difficult questions for the parties to consider and yet agreement, if it can be reached, is highly desirable.
>
> "The courts have always encouraged parties to settle their claims amicably and have often congratulated them when they have done so.
>
> "I am following a long tradition of common law judges in congratulating the parties to this application; but I would add that it is equally desirable that there be agreed resolutions of applications for the determination of native title cases. These cases involve matters of great importance and great sensitivity to many people. If not resolved by agreement they can be very lengthy and very costly to all concerned. They can also cause distress. If an appropriate outcome can be arrived at by agreement, and it is an outcome that represents goodwill and understanding on all sides, that is something to be applauded."[9]

3. **Negotiated agreements provide flexibility**

Agreements provide the opportunity for everybody to have flexibility. If parties reach agreement about what will happen on any particular piece of land, that agreement can be made to effectively displace anything the *Native Title Act 1993* says about what happens on that land in the future.

This flexibility allows people on the ground to take control of the outcomes – to move away from the Courts, to move them away from lawyers, to move them away from politics, to decide amongst themselves the way that things should work, and, once they have decided, to ensure that nobody can come along and upset their decisions.

4. **Durable solutions (where everyone can benefit)**

A determination by the Federal Court provides no long-term solutions. Even after the Federal Court decision, negotiations and mediation may still be necessary. Where the Federal Court makes a determination that native title and other legal rights exist, the Court will not resolve the numerous practical consequences of that decision.

At the conclusion of his lengthy judgment in the *Miriuwung Gajerrong* case, Justice Lee wrote:

> "How concurrent rights are to be exercised in a practical way in respect to the determination area must be resolved by negotiation between the parties concerned. It

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[8] *The Members of the Yorta Yorta Aboriginal Community -v- Victoria*, unreported decision (1998) 1606 SCA, 18 December 1998.

[9] *Anderson on behalf of the Spinifex People v Western Australia* [2000] FCA at paragraph 9.

may be desirable that the parties be assisted in that endeavor by mediation."[10]

It is also the case that the process of negotiating and discussing things between the parties will help them to better understand each other.

An agreement made on the ground has far greater prospects of enduring than does an agreement imposed by a third party. This is simply human nature. Where the parties have worked together to reach a conclusion, then they have effectively established a relationship. That relationship will enable them to deal with problems that arise out of the operation of their agreement in the future. Having worked together to create the agreement, they will know that there are good opportunities to work together to resolve problems that arise under their agreement.

During the course of the negotiation process the parties develop a joint sense of ownership, not only of the process, but of the outcome. At a later stage the parties are reluctant to admit that the outcome they have produced was flawed or wrong. Parties are reluctant to walk away from such an outcome. They are therefore willing to put extra effort and endeavor into arrangements that preserve the integrity of that outcome.

All of this provides for durable solutions through agreements. It also, of course, provides great flexibility in the way agreements will be interpreted and operated in the future.

5. **Certainty**

Courts do not provide certainty. Courts provide finality on a narrow issue. They do not provide certainty about future conduct between parties. Agreements provide certainty.

Different levels of certainty can attach to agreements. A registered ILUA[11] is certain as against the world, regardless of whether a person who is a member of the native title group or not was not involved in the negotiation.

Federal Court determinations, which embrace or include as part of the determination agreements between other parties and native title parties, also provide certainty.

It is not, however, necessary to have a registered ILUA or an agreement incorporated in a determination to have some certainty about the future. It is possible to have land use and access agreements under the *Native Title Act 1993* (s.44A).

It is also possible simply to have land use and access agreements between parties that do not have statutory status. These will provide certainty for so long as the parties are in a relationship with each other. The agreement will only last for the life of persons who entered into the agreement.

The other area where agreements can provide certainty, is that it is possible to have registered agreements prior to the determination of the nature and extent of the native title rights. In other words, it is possible, for example, for pastoralists and Aboriginal people to enter into an agreement today that will continue to operate in exactly the same terms after a determination of native title by the Federal Court. In other words, parties can reach an agreement about things now and resolve their matters. Whatever the outcome of the native title case, what they have agreed now will

[10] *Ward -v- Western Australia* (1998) 159 ALR 483 at 639.

[11] An acronym for Indigenous Land Use Agreement. This is an agreement between native title parties and other parties that generally relate to Future Acts in relation to land over which Native Title rights and interests are asserted or have been found to exist. (See Division 3 of Part 2 of the *Native Title Act 1993*). For further material on ILUAs see http//nntt.gov.au

continue between them and will not be affected by any decision of the Court. That is the highest level of certainty that one can have.

Difficulties in Negotiating Agreements

Negotiation is not an easy process .Negotiation can break down; personal animosity can develop; some parties might become uncomfortable with the process and withdraw; and other issues can arise which just appear at the time to be irreconcilable.

Experience, however, demonstrates that, with basic good will, fundamental good manners, and a genuine desire to try and work through a process, there are good prospects of reaching an agreement.

Patience and understanding are critical elements of any successful agreement process.

One of the best bits of advice that can be given to anyone starting to negotiate an agreement is not to emphasize what they want from the agreement but to try to understand what it is the other party wants. It is often the case that, when that understanding is reached, it is realized the ambitions of the other party can be met without in any way prejudicing the position of the first party.

The other thing about the agreement making process is that, unlike Courts, parties are not locked into it. Parties can exit the agreement process at any time.

SENATE ESTIMATES COMMITTEE
NATIONAL NATIVE TITLE TRIBUNAL
QUESTIONS ON NOTICE

Senator McKiernan asked the following question at the hearing of 27 May 2002:

If there has been no formal work done across the board, provide some examples of the costs of a particular case/negotiation.

I am advised that the answer to the honourable Senator's question is as follows:

The basis of output cost calculation within the Tribunal is set out in response to question 1. The Tribunal does not collect cost information at this level of activity by specific application.

As stated in the response to Q6, the Tribunal can cost the processing of an ILUA based on two outputs: 'Registration' and 'Agreement making'. Underpinning this is an identification of those activities undertaken by the NNTT in respect of each of these two outputs as follows:

1.1.3 Registration – Indigenous Land Use Agreements

Costs (both direct and overhead expenditure) associated with registration relate to activities such as:

- Case managers assessing a lodged ILUA for notification purposes
- Liaison involving case managers and the delegate
- Delegate decision making as to proceeding to notification
- Preparation of a Notice to meet the requirements of the Act
- Placement of the Notice and notification ($3,000 to $15,500 per matter)
- Dealing with objections should they arise
- Delegate decision making as to registration
- Registration and notification of the registration.

While each of the activities relating to registration has to be undertaken in order to achieve registration, the cost per activity is dependant upon the nature of the ILUA, the complexity of the agreement, the related issues of ILUA area, and consequential identification of mandatory parties.

1.2.1 – Agreement making: Indigenous land use and access

The second, more costly, aspect of the ILUA process relates to the agreement making activities (the up-front activities) which at their conclusion may give rise to registration of an ILUA.

In this context costs associated with agreement making relate to activities such as:

- Technical expertise provided by NNTT Geospatial services (mapping)
- Negotiation meetings between the parties – Tribunal Member
- Negotiation meetings with parties – Tribunal Member and/or case managers
- Meetings to discuss processes – Tribunal Members and/or case managers
- Travel and administrative costs incurred in arranging and attending meetings.

In short, the costs associated with the Tribunal being involved in negotiating an ILUA would ordinarily be high relative to the cost of the notification/registration activities as above. There can be great variability in the cost of the agreement making phase of an ILUA as their complexity and scale varies, as does the extent of the Tribunal's involvement.

SENATE ESTIMATES COMMITTEE
NATIONAL NATIVE TITLE TRIBUNAL
QUESTIONS ON NOTICE

Senator McKiernan asked the following question at the hearing of 27 May 2002:

If there is no typical agreement, please provide a comparison of an agreement or two that have been registered, versus a similar case that is wending its way through the courts.

I am advised that the answer to the honourable Senator's question is as follows:

The Tribunal is unable to provide a comparison as requested. The reason for this is that ILUA activity, with one exception, falls entirely within the Tribunal's jurisdiction. That is, applications for assistance to negotiate an ILUA (agreement making) and registration (ie the more mechanical process of notification) are made to the Tribunal. In these areas of activity there is no role for the Court to direct the Tribunal or otherwise involve itself.

The exception is the role of the Federal Court of Australia relating to the removal (in specific and limited circumstances) of an ILUA from the Register of Indigenous Land Use Agreements (which has not occurred to date).

However, if the question relates to the cost of mediation relative to the cost of litigation, the answer to question six above may be illustrative.

SENATE ESTIMATES COMMITTEE
NATIONAL NATIVE TITLE TRIBUNAL
QUESTIONS ON NOTICE

Senator McKiernan asked the following question at the hearing of 27 May 2002:

How much in each process is generally applied to lawyers' fees or disbursements?

I am advised that the answer to the honourable Senator's question is as follows:

The Tribunal has no information on this point and is unaware of any work having been undertaken elsewhere.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Has there ever been an occasion where a witness has refused to sign a witness statement?

I am advised that the answer to the honourable Senator's question is as follows:

The Royal Commission requires that all statements tendered by witnesses must be signed by the person concerned and that signature witnessed by a properly authorised person. Further, Practice Note No 2, issued by the Royal Commissioner on 19 December 2001, indicates that when called to give evidence, witnesses will be asked to adopt their statement and may expand on the statement as necessary. There have been instances where witnesses have declined to provide a signed witness statement.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Has there been an occasion in which a person has been adversely named in the commission and has not been provided with all documents both for and against them on that issue in which they have been adversely named?

I am advised that the answer to the honourable Senator's question is as follows:

There is no requirement to provide, in all instances, all documents for and against persons who will be the subject of adverse evidence in advance of the evidence being called. Counsel Assisting the Royal Commission into the Building and Construction Industry are required to follow the instructions set out in Practice Note No 1 of 10 December 2001 in relation to handling adverse evidence. Paragraph 5 of that Note indicates that:

'...a person who, to the prior knowledge of Counsel Assisting the Commission, will be the subject of adverse evidence given before a public hearing of the Commission will, if practicable, be notified of that fact before the hearing, with such particulars, if any, as are considered appropriate by Counsel Assisting the Commission, or will, if practicable be notified as soon as reasonably convenient thereafter and provided with a copy of the material portion of the transcript, or such particulars, if any, as are considered appropriate by Counsel Assisting the Commission and will be given an opportunity to contest that evidence, if the person so requests....' .

The direction in the Practice Note clearly recognises that there will be occasions when it is not practicable to notify persons who may be the subject of adverse evidence in advance of the hearing.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

As a follow up from Additional Estimates in February check files to see if the commission has any correspondence on those Multiplex files?

I am advised that the answer to the honourable Senator's question is as follows:

A search of the records of correspondence received by the Royal Commission into the Building and Construction Industry indicates that the letter, referred to in Estimates hearings, regarding Multiplex Constructions Pty Ltd has not been received by the Commission.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Has commissioner Cole's residence in Melbourne got 3 bedrooms?

I am advised that the answer to the honourable Senator's question is as follows:

See Question on Notice 17.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Payne asked the following question at the hearing of 27 May 2002:

Provide an update of the sitting details of the commission.

I am advised that the answer to the honourable Senator's question is as follows:

The Royal Commission into the Building and Construction Industry sits from 9.30am to 1pm and 2pm until the matters allocated for that day are heard. The concluding time varies between 4pm and 6pm. The Commission sits Monday to Friday.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

a) Provide a figure for commissioner Cole's total TA claims.

b) Provide the total for the TA claims of all royal commission staff, broken down by category.

I am advised that the answer to the honourable Senator's question is as follows:

Royal Commission records indicate that the amount of travelling allowance paid to various categories of Royal Commission staff to end May 2002 is as set out below:

a) Commissioner Cole - $16,958
b) Other categories
    1) Commissioner's Associates/Assistants - $25,616
    2) Counsel Assisting – See Question on Notice 18
    3) Secretary - $4,941
    4) Director, Media - $4,336
    5) Director, Liaison - $2,402
    6) Director, Legal Services - $6,856
    7) Solicitors - $158,122
    8) Paralegals - $29,105
    9) Administrative Assistants - $70,104
    10) Director, Investigations - $7,181
    11) Investigators/Analysts - $250,993
    12) Director, Research - $40
    13) Registry - $32,962
    14) Corporate Services - $8,298

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Provide the amount of Commissioner Cole's Comcar bill for the last year.

I am advised that the answer to the honourable Senator's question is as follows:

At 30 April 2002 $17,624 had been paid to Comcar in the financial year 2001/2002.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Provide a full list of the associated entitlements, including an indication of the facilities, incidentals and support provided to the commissioner attached to his residence in Melbourne, and the other aspects of his role as he carries them out, broken down to also include phone and security installations.

I am advised that the answer to the honourable Senator's question is as follows:

Commissioner Cole receives the following assistance with his residence in Melbourne:

a) Accommodation in a 2 storey townhouse, comprising 3 bedrooms, 2 bathrooms, living and dining rooms, a kitchen and a garage;
b) Rental of premises at $3250 per month;
c) Rental of furniture at $1479 per month;
d) Cost of electricity supply - $832 to 31 May 2002;
e) Security mobile telephone at $10 per month plus calls;
f) Cleaning/gardening – nil.

Appropriate security fittings have been installed and monitoring maintained for the residence at a cost of $25,168 to end May 2002.

QoN 18

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Provide details of the fees paid to individual counsel, plus the living expenses being paid to them, plus their travelling expenses.

I am advised that the answer to the honourable Senator's question is as follows:

On 30 May 2002 the Committee was provided with details of the aggregate fees paid to each of the Counsel Assisting the Royal Commission into the Building and Construction Industry. The amounts paid to end May 2002 for living expenses and travelling allowance are set out below.

Counsel Assisting	Accommodation and Meals (i)	Accommodation (ii)	Living away from home (ii)	Travelling Allowance
	$	$	$	$
John Agius SC	-	28,828	5,148	21,054
Lionel Robberds QC	15,958	-	-	7,007
Nicholas Green QC	-	-	-	23,271
Richard Tracey QC	-	-	-	-
Andrew O'Sullivan	-	26,456	6,028	18,749
Antoni Lucev	7,433	-	-	500
Dr James Renwick	7,734	18,420	7,936	-
Dr John Bishop	37,619	-	-	1007
Dr Matthew Collins	-	-	-	9,581
Ian Neil	8,831	7,471	704	9,132
Dr Stephen Donaghue	-	-	-	9,453
Timothy Ginnane	-	-	-	6,375
Ronald Gipp	-	-	-	22,815

Counsel may be paid living expenses in either of two ways

(i) Reimbursement of meal and accommodation costs to a daily maximum of $250 on presentation of receipts.

(ii) Weekly accommodation up to $850 per week paid directly by the Royal Commission to the provider plus $308 per week living away from home allowance for meals and incidentals.

Travel Allowance is paid at SES rates when travelling on Commission business.

In two instances, Counsel have changed from a daily rate of reimbursement to weekly accommodation rates.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

If four senior counsel are at a minimum of $2,400, can you advise how many are on $3,800?

I am advised that the answer to the honourable Senator's question is as follows:

As advised to the Legal and Constitutional Legislation Committee on 28 May 2002 by Mr Cornall, the Government's policy is to not publicly disclose information on the daily or hourly rates at which the Commonwealth engages legal counsel. This approach is taken to protect the Commonwealth's financial position in negotiating the best possible rate with counsel.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Provide a list of all the contractors that have been paid this figure of $3,800 and the amounts of money paid to each contractor?

I am advised that the answer to the honourable Senator's question is as follows:

See QoN 19. On 30 May 2002 the Committee was provided with details of aggregate fees paid to each of the Counsel Assisting the Royal Commission into the Building and Construction Industry.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

a) Provide a list of all contractors or consultants engaged by the department or the royal commission in relation to the work of the royal commission

b) Provide the amount of the contract or tender

c) Who approved the contract or tender, was it at departmental level or ministerial level

d) Was it approved at the royal commission level

e) Whether or not the contract was let on an open or selected tender basis

f) Whether or not the contract was let outside the normal guidelines, i.e. by a closed tender process of any description

g) On what grounds the contract was let, i.e. were there extenuating circumstances

h) Who the decision maker was in relation to the letting of the contract or tender

I am advised that the answer to the honourable Senator's question is as follows:

The following contracts have been let by or on behalf of the Royal Commission into the Building and Construction Industry.

Contract (a)	**Value of Contract (b) $**	**Approval Level (c) & (d)**	**Tender Method (e), (f) & (g)**	**Decision Maker (h)**
AMP Henderson Global Investors (35 Collins St)	7,755,290	Department Secretary, DoFA	Extensive direct search for suitable office premises	Secretary RCBCI
KFPW (Facilities Managers)	75,130	Department, DoFA	KFPW provide property management services to DoFA	N/A
John Hindmarsh(ACT)P/L (Construction Project Management & Superintendency - coordination of suppliers and contractors for establishment of RCBCI offices)	337,162	Department General Manager, Corporate DoFA	Select Tender (4 companies). Timeframe necessitated a curtailed process.	Director, Corporate Services, RCBCI (on recommendation from KFPW)
Gray Puksand - Architects	102,056	Commission Director, Corporate Services	Select Tender (3 companies)	Director, Corporate Services RCBCI (on recommendation from KFPW)
Schiavello (Partitions/painting)	608,584	Commission Director, Corporate Services	Select Tender (4 companies) – conducted by KFPW on behalf of RCBCI	Director, Corporate Services RCBCI (on recommendation from KFPW)

Connell Mott Macdonald (Engineering Services)	30,738	Commission Director, Corporate Services	Select Tender (3 companies) – conducted by KFPW on behalf of RCBCI	Director, Corporate Services RCBCI (on recommendation from KFPW)
Haworth (Office fittings)	301,242	Commission Director, Corporate Services	Select Tender (3 companies) – conducted by KFPW on behalf of RCBCI	Director, Corporate Services RCBCI (on recommendation from KFPW)
Camatic Seating (Office seating)	135,874	Commission Director, Corporate Services	Select Tender (3 companies) – conducted by KFPW on behalf of RCBCI	Director, Corporate Services RCBCI (on recommendation from KFPW)
Harris Office Environments (Demolition)	40,661	Commission Director, Corporate Services	Select Tender – conducted on behalf of RCBCI by KFPW and Hindmarsh	Director, Corporate Services RCBCI (on recommendation from KFPW/Hindmarsh)
TYCO International (Multi services/construction)	921,834	Department General Manager, Corporate DoFA	Single Select Tender – on advice that only TYCO could provide full services required	Director, Corporate Services RCBCI (on recommendation from Hindmarsh)
e.law Australia P/L (IT/communications /document management)	13,942,000	Department Secretary, DoFA	Select Tender – (8 companies invited to submit tender). Timeframe/specialised services prohibited either a general call for EOI or a public tender.	General Manager, Corporate, DoFA
Network Four (Media services)	760,668	Department Secretary DoFA	Restricted request for proposal	Secretary RCBCI
Blake Dawson Waldron (Administrative/probity advice)	81,810	Department, DoFA	DoFA legal panel	Director, Corporate Services RCBCI
Phillips Fox (Administrative/probity advice)	43,750	Department, DoFA	DoFA legal panel	Director, Corporate Services RCBCI
Minter Ellison Lawyers (Administrative/probity advice)	27,569	Department, DoFA	DoFA legal panel	Director, Corporate Services RCBCI
Synercon Management Consulting (Document Management)	117,875 (30/4/02)	Department Branch Manager, DoFA	Single Select Tender – established DoFA provider	Strategic Partnerships Branch, DoFA
Pirac Economics (Research)	171,600	Department General Manager, Corporate AGD	Single Select Tender (others approached declined to tender)	Secretary RCBCI
Grosvenor Management Consulting	149,770	Department, DoFA	Standing consultancy agreement with DoFA	Director, Corporate Services RCBCI
RESEARCH PANEL				
accirt (Uni of Sydney)	11,700	Commission Secretary	Public Tender	Director Research RCBCI

AGSEI Ltd	16,500	Commission Secretary	Public Tender	Director Research RCBCI
CSIRO Building Construction & Engineering	165,000	Commission Secretary	Public Tender	Director Research RCBCI
Shoreday P/L	5,520	Commission Secretary	Public Tender	Director Research RCBCI
Tasman Economics	160,000	Commission Secretary	Public Tender	Director Research RCBCI
peopleD P/L	54,000	Commission Secretary	Single Select Tender	Secretary RCBCI

The Attorney-General's Department has not engaged any contractors or consultants in relation to the work of the Royal Commission.

SENATE ESTIMATES COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT
OUTPUT 1.2 AND 1.8
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Is there a Mr Amendola who has done any work for the commission? Has he provided any legal services to the Commonwealth beyond the commission?

I am advised that the answer to the honourable Senator's question is as follows:

The Royal Commission into the Building and Construction Industry has not engaged Mr Amendola to do any work on its behalf.

The Commonwealth, acting through the Department of Employment and Workplace Relations, has retained Blake Dawson Waldron, solicitors, to represent it before the Commission. Mr Amendola leads the Blake Dawson Waldron team. The Attorney-General's Department is aware that Mr Amendola has previously provided legal services to the Commonwealth and Commonwealth Ministers in other areas.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Provide the weekly rent for Mr Thatcher's accommodation, meals and travel expenses paid by the Commonwealth.

I am advised that the answer to the honourable Senator's question is as follows:

The Secretary to the Royal Commission into the Building and Construction Industry receives the following allowances:

Rental of a residence in Melbourne - $585 per week
Meals and Incidentals - $300 per week
Electricity/Gas/Phone Rental – Paid periodically
Home/Family Travel – Weekly entitlement, often not utilised:
(Sydney/Business; Brisbane/Economy)
Travel Expenses – SES rates for travel on Commission business

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Provide a copy of Mt Thatcher's curriculum vitae.

I am advised that the answer to the honourable Senator's question is as follows:

Relevant details of Mr Thatcher's recent work history were provided to the Committee in the course of the Budget Estimates hearings and are included in the transcript.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

a) At what point was the CFMEU advised that Mr Gary Carter was likely to give adverse evidence against the CFMEU

b) If the CFMEU was not provided with that information, how could that happen

I am advised that the answer to the honourable Senator's question is as follows:

a) The CFMEU was not advised prior to Mr Gary Carter appearing as a witness before the Royal Commission into the Building and Construction Industry that he was likely to give adverse evidence against the CFMEU.

b) Practice Note No 1 issued on 10 December 2001 sets out the requirements on Counsel Assisting in respect of the presentation of adverse evidence. See response to Question on Notice 11.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Is it the case that Commissioner Cole has indicated that he does not wish to deal with occupational health and safety issues in open proceedings but wants to do it in closed session?

I am advised that the answer to the honourable Senator's question is as follows:

No. In his Statement released on 6 May 2002 the Royal Commissioner indicated in respect of occupational health and safety matters:

"…Whilst this issue has been touched upon in hearings around Australia, workplace health and safety is far too important an issue for it to be minimalized by examination of isolated or specific instances of departure from proper standards or injuries in consequence. It is universally accepted by Governments, by employers and by unions that workplace health and safety is an issue of fundamental importance to the industry. It is at the very heart of successful workplace relations.

…The Commission proposes to address this critical issue otherwise than through the public hearing process. In July, an Issues Paper will be released by the Commission raising matters for comment by the participants in the industry and by those who have the present obligation to address matters concerning safety. Submissions will be called for from industry participants, and members of the public. The responses received will be considered and consolidated and the Commission will invite interested parties, and in particular the employers and unions, to a conference to see if industry agreement can be reached on steps which are either necessary or desirable to improve safety in the industry. The outcomes of that conference will be considered in my final report and will be made available to both the Federal and State Governments with the hope that some uniformity of safety regimes in the building and construction industry can be achieved to make the workplace less dangerous.

I regard workplace safety in this dangerous industry as central to the work of this Commission. Methods of improving safety need to be agreed or determined. Methods of enforcing workplace safety which are effective and non-confrontational must be evolved. Much valuable work in this area has been done by unions, by employer associations, and particularly by State Governments, but the focus of this Commission will be to try and draw together industry specific proposals for reform."

Since issuing that Statement the Commissioner has strongly reiterated in hearings the importance he places on occupational health and safety issues and his intention to deal with this aspect of the building and construction industry.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

What was the tendering process for the issuing of the peopleD Pty Ltd tender of $54,000?

I am advised that the answer to the honourable Senator's question is as follows:

In line with Commonwealth guidelines on procurement it was determined that a restricted selection process represented best value for money for the purchase of these consultancy services for the Royal Commission. Mr Barry Durham, through his firm peopleD Pty Ltd, was invited to submit a bid for the consultancy. Mr Durham was known to be a recognised and pre-eminent expert in occupational health and safety and was available to produce the required issues paper within the Royal Commission's timeframe and was engaged on that basis.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Indicate the name of each paper and the cost of each paper and the contractor and the method of selection for each contractor.

I am advised that the answer to the honourable Senator's question is as follows:

The Royal Commission into the Building and Construction Industry released five discussion papers listed below on 14 May 2002.

Paper One: Overview of the Nature and Operation of the Building and Construction Industry

Paper Two: Statistical Compendium for the Building and Construction Industry

Paper Three: Productivity and Performance in the Building and Construction Industry

Paper Four: Enterprise Bargaining Issues Facing the Building and Construction Industry

Paper Five: Key Features and Trends in Building and Construction Industry Enterprise Agreements.

The Royal Commission conducted a publicly advertised competitive tender to establish a consultancy panel for the provision of research services. External assistance to the Commission for the preparation of certain of the above papers was provided, as detailed below, by contractors who have a standing offer to provide research consultancy services as a result of the tender process.

Paper Five was prepared by acirrt (the Australian Centre for Industrial Relations Research and Training). acirrt is a self funding commercial research organisation. It is a recognised unit of the University of Sydney within the School of Business, Faculty of Economics and Business. Paper Five was the only paper wholly prepared through a consultancy and cost $10,600.

Mr Gerard de Valence, through his company Shoreday Proprietary Limited, drafted a small section of Paper Three. Shoreday Pty Ltd was paid $5 750 for its work.

The remainder of the papers were prepared by the Research Unit within the Royal Commission.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

a) Are the powers of a police officer different from the powers of a royal commission investigator

b) Has there been any discussion of that within the commission

I am advised that the answer to the honourable Senator's question is as follows:

a) Investigators working for the Royal Commission into the Building and Construction Industry undertake the work of the Commission and may exercise powers under the *Royal Commissions Act 1902*. All Royal Commission investigators are members of the Australian Federal Police (AFP) either because they are current serving members of the AFP or because they are sworn in as special members under section 40E of the *Australian Federal Police Act 1979*. In addition, as investigators are either members or special members of the AFP, they are required, if exercising powers under the *Crimes Act 1914*, to comply with the identification requirements of that Act.

b) Yes. Whether or not police officers attached to the Royal Commission retain their powers under other legislation is dependent on the legislation that governs the officer concerned.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Has Ms Lisa Brittain been acting in the investigation as a police officer or an investigator for the commission? What are the differences in the powers of both offices and what obligations do your investigators have to identify themselves in terms of the role they are performing at the time of the investigation?

I am advised that the answer to the honourable Senator's question is as follows:

The officer named is a serving officer of the Western Australia Police Service currently seconded to the Royal Commission into the Building and Construction Industry. Investigators working for the Royal Commission into the Building and Construction Industry undertake the work of the Commission and may exercise powers under the *Royal Commissions Act 1902*. All Royal Commission investigators are members of the Australian Federal Police (AFP) either because they are current serving members of the AFP or because they are sworn in as special members under section 40E of the *Australian Federal Police Act 1979*. As a matter of practice, all investigators carry identification indicating they are attached to the Royal Commission and exercise their discretion according to circumstances as to when to identify their agency. In addition, as investigators are either members or special members of the AFP, they are required, if exercising powers under the *Crimes Act 1914*, to comply with the identification requirements of that Act.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Has the commission received information from other agencies as a result of warrants issued under the *Telecommunications (Interception) Act 1979*?

I am advised that the answer to the honourable Senator's question is as follows:

Yes.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

a) Has the commission subpoenaed Mr Ian Williamson to appear or is he seeking to appear voluntarily

b) Is this the same Mr Williamson as prosecuted by the Office of the Employment Advocate in V82/99 in the Federal Court of Australia

c) Were those proceedings dismissed with costs awarded against the applicant

d) Was it also the case that in that case the Office of the Employment Advocate relied on secret tape recordings and the reason the court dismissed the case was that the parties for whom the Office of the Employment Advocate were acting were entrapping Mr Williamson by telling him a number of lies on the tape and that the same parties have given unsatisfactory evidence to the Federal Court

e) Is it the case that Mr Williamson's solicitors have already been told that Mr Williamson will be examined in relation to secret tape recordings already referred to

I am advised that the answer to the honourable Senator's question is as follows:

a) Mr Ian Williamson was summonsed to appear before the Royal Commission into the Building and Construction Industry on 27 May 2002.
b) The Royal Commission is aware that Mr Williamson was a respondent in the case cited.
c) The proceedings in that case were dismissed and costs awarded against two witnesses, not against the applicant.
d) The reasons for dismissal of the case are set out in the judgement on the matter:
HAMBERGER (EMPLOYMENT ADVOCATE) v WILLIAMSON and Another
[2000] FCA 1644 Marshall J 23 November 2000
e) Mr Williamson's solicitors were advised that the tape recordings and transcript in question might be presented in evidence. In the event the Royal Commissioner ruled that he would not receive any material regarding matters presented on that tape. Mr Williamson was therefore not examined in relation to these matters.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Was it the case that Mr Rawson the solicitor and Mr Green QC also acted for the Employment Advocate in the matters referred to involving Mr Williamson and previously dismissed by the Federal Court?

I am advised that the answer to the honourable Senator's question is as follows:

Mr Nicholas Green QC and Mr Craig Rawson acted for the Employment Advocate in the matter in question before the Federal Court of Australia in which Mr Ian Williamson was a respondent.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Has any officer or employee of the royal commission had discussions with the Employment Advocate regarding these proceedings before the Federal Court and now subsequently before the royal commission?

I am advised that the answer to the honourable Senator's question is as follows:

In order not to prejudice the conduct of proceedings before the Royal Commission, a policy of neither confirming nor denying the detail of Commission inquiries has been adopted.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

On what basis has the royal commission reopened these issues involving Mr Williamson and the CFMEU?

I am advised that the answer to the honourable Senator's question is as follows:

Arguments regarding consideration of these matters before the Royal Commission into the Building and Construction Industry are set out in the transcript of proceedings for 27 and 28 May 2002. The transcript records that Counsel Assisting the Royal Commission, Richard Tracey QC, indicated that in raising the evidence there was no intention of relitigating the matters previously before the Federal Court.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Cooney asked the following question at the hearing of 27 May 2002:

Would the royal commission be willing to waive any privilege it has in its relationships with the Australian Government Solicitor insofar as legal advice goes.

I am advised that the answer to the honourable Senator's question is as follows:

No. The Royal Commission into the Building and Construction Industry considers that this would not be appropriate.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

a) How many union officials are currently under surveillance as a result of the work of the royal commission?

b) What is the form of the surveillance?

c) How many employers or officials of employer organisation are under surveillance, and what is the form of surveillance?

I am advised that the answer to the honourable Senator's question is as follows:

In order not to prejudice the conduct of its inquiries, the Royal Commission into the Building and Construction Industry has adopted a policy of neither confirming nor denying whether particular categories of persons are under investigation and the nature of any such investigation.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Provide a breakdown in grades of the 135 employees at the commission at the moment.

I am advised that the answer to the honourable Senator's question is as follows:

As at 27 May 2002 the profile of staff at the Royal Commission into the Building and Construction Industry was -

Commissioner	1
Personal Assistant	1 (APS 6)
Associates	2 (AGS)
Admin Assistant	1 (Temp Agency)
Secretary	1
Senior Counsel	4
Counsel Assisting	9
Paralegals/Admin Assistants	30 (Temp Agency - includes 4 part-time)
Director, Legal Services	1 (AGS)
Personal Assistant	1 (AGS)
Solicitors	19 (AGS)
Director, Investigations	1 (SES Band 2)
Investigators / Analysts	38 (see QoN 52)
Media Consultant	2 (Contractor)
Director, Liaison	1 (SES Band 1)
Director, Research	1 (Contractor)
Researchers	3 (3 x Executive Level 2)
Research Assistant	1 (part-time)
Library	1 (Temp Agency)
Director, Corporate Services	1 (Executive Level 2)
Corporate Services	8 (1 x EL1, 2 x APS6, 1 x APS5, 2 x APS3, and 2 Temp Agency)
Registry Manager	1 (Executive Level 2)
Registry	7 (1 x APS4, 2 x APS3, 3 x APS2, 1 part time Temp Agency)
TOTAL	135

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator McKiernan asked the following question at the hearing of 27 May 2002:

Advise the committee in which states the practice of recording telephone conversations by using a dictaphone is legal and which states it is not legal.

I am advised that the answer to the honourable Senator's question is as follows:

This question raises an issue of law. It is not within the functions of the Royal Commission into the Building and Construction Industry, nor is it appropriate for the Royal Commission, to give the Committee advice on questions of law.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Is the use of recording devices for telephone conversations legal in any state in Australia?

I am advised that the answer to the honourable Senator's question is as follows:

See response to Question on Notice 39.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Cooney asked the following question at the hearing of 27 May 2002:

Is the use of film for surveillance legal in any state in Australia?

I am advised that the answer to the honourable Senator's question is as follows:

This question raises an issue of law. It is not appropriate for the Royal Commission into the Building and Construction Industry, nor is it appropriate for the Royal Commission, to give the Committee advice on matters of law.

SENATE ESTIMATES COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT
OUTPUT 1.8
QUESTIONS ON NOTICE

Senator Cooney asked the following question at the hearing of 27 May 2002:

Why was the construction of single dwelling houses not included in [the building and construction industry] inquiry?

I am advised that the answer to the honourable Senator's question is as follows:

The construction of single dwelling houses is within the terms of reference of the Royal Commission into the Building and Construction Industry if that construction is part of a multi-dwelling development. The terms of reference are a matter for the Government. The effect of otherwise including the construction of single dwelling houses would have been to significantly expand the scope of the inquiry.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator McKiernan asked the following question at the hearing of 27 May 2002:

Was the AGS involved in the drafting of the discussion papers recently released by Commissioner Cole? Was the Department of Employment and Workplace Relations consulted on the content of those papers before they were made public? Was that Department provided with copies of the papers (or drafts) before they were made public?

I am advised that the answer to the honourable Senator's question is as follows:

The Director, Legal Services, who is engaged under the Royal Commission's service arrangements with the Australian Government Solicitor (AGS) prepared the *Overview of Private Meetings Held Between the Honourable TRH Cole RFD QC and Participants in the Building and Construction Industry*, which was released on 6 May 2002. AGS was not involved in drafting the discussion papers recently issued by the Royal Commission into the Building and Construction Industry. The Department of Employment and Workplace Relations was neither consulted on the content of the papers nor provided with copies or drafts before they were made public.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

When did Mr Thatcher leave the Business Council of Australia prior to taking up his appointment as secretary to the Royal Commission?

I am advised that the answer to the honourable Senator's question is as follows:

Mr Thatcher resigned from the Business Council of Australia on 26 February 2001 with effect from 1 June 2001. He was offered and accepted employment with the Royal Commission on 25 July 2001.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

What positions, either formal, elected or honorary, does Mr Thatcher retain with the BCA or any other employer organisation?

I am advised that the answer to the honourable Senator's question is as follows:

Mr Thatcher holds no position with the Business Council of Australia or any other employer organisation.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

a) What was the purpose of Mr Colin Thatcher's participation in Ministerial Bureau consultations with BIAC and TUAC in Geneva, Switzerland on Wednesday 15 May 2002

b) In what capacity did he attend

c) What was the length of his absence from Australia

d) Was he on duty during this trip

e) Was Mr Thatcher's trip to Europe in May 2002 financed in full or in part by the Commonwealth

f) Did Mr Thatcher participate in this conference as part of a business organisation delegation and as a former assistant director of the BCA

g) How is his representation of business lobby groups consistent with the impartiality required of him in his position as secretary to the Royal Commission into the Building Industry

h) What was the cost of this trip

i) Was Mr Thatcher accompanied by any other Commission staff, Commonwealth personnel or staff of any Federal Minister

j) If so, who were they

k) What costs did they incur. What was the purpose of their trip

I am advised that the answer to the honourable Senator's question is as follows:

The trip in question was a private one. Mr Thatcher has, however, provided the following information.

a) On 15 May 2002 in Paris, France, Mr Thatcher attended an OECD Ministerial Bureau Consultation with certain advisory committees, namely the Business and Industry Advisory Committee (BIAC) and the Trade Union Advisory Committee (TUAC). Mr Thatcher maintains a personal interest in the OECD agenda in these areas.

b) Mr Thatcher attended in an observer capacity.

c) Mr Thatcher was travelling overseas between 3 – 22 May 2002.

d) No

e) No

f) Mr Thatcher attended in a personal capacity. The Ministerial Bureau Consultation coincided with his attendance at the OECD Forum 2002 'Taking Care of the Fundamentals: Security, Education and Growth'. This forum was attended by persons from a variety of backgrounds from various countries.

g) Mr Thatcher was not acting as a representative of any business group.

h) This information is not available as Mr Thatcher personally met the costs of his trip.

i) No

j) See point i) above

k) See point i) above

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

a) How much has the Royal Commission into the Building Industry spent on overseas travel?
b) Provide details of each trip, including the personnel involved, the cost incurred, the duration and the purpose of each trip.

I am advised that the answer to the honourable Senator's question is as follows:

a) There has been no expenditure on overseas travel by the Royal Commission into the Building and Construction Industry.
b) See a) above

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Provide details of all official or continuing positions and functions that Mr Thatcher has retained on behalf of any business or business organisation during his tenure as secretary to the Royal Commission into the Building Industry.

I am advised that the answer to the honourable Senator's question is as follows:

During his tenure as Secretary to the Royal Commission into the Building and Construction Industry Mr Thatcher has held no positions or functions on behalf of any business or business organisation. He is engaged as the course coordinator for the subject of Managing Risk in the Public Sector of the Master of Business Technology of the University of New South Wales. He is also the sole director of his own company Retreat Services Pty Ltd.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Provide for each meeting between BCI Royal Commission staff and Department of Employment and Workplace Relations staff since Additional Estimates hearings in February 2002 :

a) the date of the meeting;

b) the location of the meeting;

c) the positions of the persons in attendance.

I am advised that the answer to the honourable Senator's question is as follows:

Royal Commission records indicate that the following meetings have taken place between staff of the Commission and employees of the Department of Employment and Workplace Relations:

i) February 2002; DEWR offices – Canberra; Ms L Riggs, Group Manager, Workplace Relations Implementation Group and Mr D Gillespie, Director, Liaison.

ii) 16 April 2002; DEWR offices - Canberra; Dr P Boxall, Secretary, DEWR and Mr D Gillespie, Director, Liaison, RCBCI.

In regard to any meetings that may have occurred in relation to operational matters, the Commission has adopted the policy of neither confirming nor denying the detail of its investigations to avoid prejudicing the conduct of its inquiries.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Provide for each meeting between BCI Royal Commission staff and Office of Employment Advocate staff since Additional Estimates hearings in February 2002:

a) the date of the meeting;

b) the location of the meeting;

c) the positions of the persons in attendance.

I am advised that the answer to the honourable Senator's question is as follows:

There are no Royal Commission records of meetings on administrative matters with the Office of the Employment Advocate. In regard to any meetings that may have occurred in relation to operational matters, the Commission has adopted the policy of neither confirming nor denying the detail of its investigations to avoid prejudicing the conduct of its inquiries.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Detail any changes to the list of Commonwealth officers seconded to the BCI Royal Commission since the answer to QoN 24 from Additional Estimates was provided on 28 February 2002.

I am advised that the answer to the honourable Senator's question is as follows:

One Federal Agent Grade 12 and one Federal Agent Grade 10 returned to the AFP in April and March respectively.

Two Federal Agents Grade 12 and one Federal Agent Grade 10 joined the Commission in April.

Peter Rex joined the Commission from AQIS on 18/3/02 in the position of Personnel Officer APS5. Secondment is expected to continue until December 2002.

Vereka Jury joined the Commission from Customs on 22/4/02 in the position of Registry /Property officer APS 3 in Western Australia. Secondment ceased at the end June 2002.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Provide a list of all State and Territory Government officers (including State police officers) seconded to the BCI Royal Commission, given their level of seniority and their home department or home agency, the date of secondment and the period of secondment and position at the Royal Commission.

I am advised that the answer to the honourable Senator's question is as follows:

Five State Government officers have been seconded to the Royal Commission into the Building and Construction Industry as at 27 May 2002. All have been seconded to Investigator positions at the Royal Commission.

Their details are:

Detective Senior Constable with Victoria Police seconded from 29/10/01. The secondment is expected to run until November 2002.

Detective Senior Constable with WA Police seconded from 1/02/02. The secondment is expected to run until mid October 2002.

Detective Sergeant with WA Police seconded from 13/5/02. The secondment is expected to run until mid October 2002.

Internal Auditor/Investigator with the Department of Human Services in Victoria seconded from 4/3/02. The secondment is expected to run until November 2002.

Compliance Officer with the Building Commission, Victoria was released to take up non-ongoing employment with the Attorney-General's Department from 4/3/02. The officer will return to the Building Commission by December 2002.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

In reference to the BCI Royal Commission's media unit :

a) How much is budgeted for this unit?

b) How many persons are employed in this unit?

c) What are their positions and classifications?

I am advised that the answer to the honourable Senator's question is as follows:

In reference to the Media Unit of the Royal Commission into the Building and Construction Industry:

a) It is estimated that media costs will total $683,000 over the life of the Commission;

b) The Media Unit comprises 2 persons;

c) They hold the positions of Director, Media and Media Assistant. Their services are provided under a fee for service contract: there are no specific classifications attaching to these positions.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

In reference to the media and Commission hearings:

a) What facilities are made available for the media at Commission hearings, i.e. is there a dedicated media room?

b) If there is a media room, who has access?

c) Who does not have access to the media room?

d) Have any personnel of the Commission provided briefings to the media of the evidence likely to be aired in Commission hearings?

e) Have any personnel of the Commission made an offer to witnesses - in the case of NSW, the officials of the CFMEU - of a trade off giving access to the media room at the Sydney hearings in return for production of documents?

I am advised that the answer to the honourable Senator's question is as follows:

In reference to assistance provided to the media by the Royal Commission into the Building and Construction Industry:

a) Subsequent to preliminary hearings, a media room has been provided at each of the public hearings of the Royal Commission. A sound and video feed of Commission proceedings, access to real time transcript, witness statements and exhibits are made available in these rooms.

b) Access to these rooms is available to all accredited representatives of the print and telecommunications media, as well as representatives of employer and employee organisations and industry journals who are reporting on Commission proceedings.

c) Access is generally restricted to the above media and other representatives. There have been occasions when the unavailability of the public gallery has resulted in legal representatives and representatives of unions and employers being seated temporarily in the media rooms.

d) No. The Media Director is not party to investigations being conducted by counsel assisting the Royal Commission. The Media Director may provide advice to media representatives on such things as daily witness lists, tendered witness statements, the Commission's media protocol and, when relevant, non-publication orders which affect their reporting. Also, the Media Director briefs media representatives on the protocol of the venue in which the Commission is sitting that affect them.

e) No.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

a) Have any statements of evidence been drafted for witnesses by personnel of the Commission?
b) If so, which witnesses' statements were drafted by personnel of the Commission?

I am advised that the answer to the honourable Senator's question is as follows:

a) In the course of gathering evidence personnel of the Royal Commission may assist witnesses in the preparation of a statement. In many instances this would be through the preparation of a record of the information provided during an interview or interviews with Commission staff. The final form of a statement is agreed by the witness, which may involve the assistance of independent legal advice.

b) A record of which of statements may have been prepared with some assistance from Royal Commission personnel has not been maintained.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

a) Are investigators of the Commission required to identify themselves as investigators of the Commission when contacting persons in the course of their investigations?

b) Has the Commission received any complaints about the conduct of investigators in this regard, and if so, provide details?

I am advised that the answer to the honourable Senator's question is as follows:

a) There is no provision in the *Royal Commission Act 1902* that requires an investigator of the Royal Commission into the Building and Construction Industry and who is exercising powers under that Act to identify him or her self. However, as a matter of practice, all carry identification indicating they are attached to the Royal Commission and exercise their discretion according to circumstances as to when to identify their agency. In addition, as investigators are either members or special members of the Australian Federal Police, they are required, if exercising powers under the *Crimes Act 1914*, to comply with the identification requirements of that Act.

b) No complaints have been received by the Royal Commission in relation to the conduct of its investigators in this regard. Evidence was called in the most recent hearings of the Commission in Perth in relation to a particular incident concerning an investigator. It is expected that this will be addressed in the Commissioner's final report.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

a) Have any applications been made by the Commission, or in connection with the Commission, for warrants under the *Telecommunications (Interception) Act 1979*?

b) If so, were those applications successful?

I am advised that the answer to the honourable Senator's question is as follows:

a) The Royal Commission into the Building and Construction Industry is not an agency that can seek the issue of a warrant under the *Telecommunications (Interception) Act 1979*, but it may have access to relevant information obtained through telecommunications interceptions by other agencies.

b) In order not to prejudice the conduct of its inquiries the Royal Commission has adopted the policy of neither confirming nor denying the detail of its investigations.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

In relation to the Discussion Papers released by the Commissioner in early May:

a) Who prepared the Discussions Papers?

b) Was a draft of any of the papers provided to the Department of Employment and Workplace Relations?

c) Did the Commission receive any communication from the Department of Employment and Workplace Relations about the content of those papers prior to their release?

I am advised that the answer to the honourable Senator's question is as follows:

See responses to Questions on Notice 28 and 43.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

In relation to the BCI royal commission

a) Provide the number of public sitting days each legal counsel has appeared and the number of days outside of those public sitting days
b) Between the period 16 August and 8 May, confirm that the royal commissioner in Perth has sat for 17 days, in Brisbane 24 days, in Melbourne 37 days, in Adelaide 1 day, in Sydney 1 day, in Canberra 1 day, and in Hobart 8 days

I am advised that the answer to the honourable Senator's question is as follows:

Legal counsel have been engaged to assist the Commission to conduct its inquiry. Much of this assistance is provided outside hearing times and business hours.
Public hearings have been held in Melbourne, Brisbane, Hobart and Perth. Different teams of counsel were established to assist in the conduct of the hearings in each city. Not all members of the relevant team are necessarily present for all of the hearings in each city. The number of days of public hearings in each city in the period 10 December 2001 – 27 May 2002, together with the names of counsel in each team, are set out below.

Location	**Days**	**Counsel in Attendance**
Melbourne	28	Richard Tracey QC, Dr John Bishop, Dr James Renwick
Brisbane	23	Lionel Robberds QC, Timothy Ginnane, Ian Neil, Dr Stephen Donahue
Hobart	7	Nicholas Green QC, Ronald Gipp, Dr Matthew Collins
Perth	16	John Agius QC, Andrew O'Sullivan, Antoni Lucev
Sydney	N/A	(No public hearings had been conducted in Sydney to 27 May 2002)
Total	74	

Preliminary hearings were also conducted from 10-24 October 2001 to canvass a range of matters prior to taking evidence. The number of days of preliminary hearings in each city, together with the names of counsel in attendance, are set out below.

Location	**Days**	**Counsel in Attendance**
Melbourne	4	Robberds QC with Tracey QC, Agius SC, Green QC, Ginnane, Neil, Donahue, Bishop, Renwick, O'Sullivan, Lucev, Collins, Gipp
Adelaide	1	Antoni Lucev
Perth	1	Antoni Lucev
Darwin	1	Antoni Lucev
Brisbane	1	Antoni Lucev
Sydney	1	Dr John Bishop
Canberra	1	Dr John Bishop
Hobart	1	No Counsel in attendance: Ross McClure, Director, Legal Services attended in lieu
Total	11	

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

In relation to the BCI royal commission :

a) Provide breakdown of the membership of each of the four teams that are headed up by Mr Agius, Mr Robberds, Mr Green and Mr Tracey

b) Confirm that Mr Agius appears mainly in Perth, Mr Robberds in Brisbane, Mr Green in Hobart and Mr Tracey in Melbourne

I am advised that the answer to the honourable Senator's question is as follows:

a) At 27 May 2002 the breakdown of membership of each team was:

	Team Agius	Team Robberds	Team Green	Team Tracey
Senior Counsel	1	1	1	1
Junior Assisting	2	3	2	2
Solicitors	6	4	4	5
Investigators/analysts	10	9	10	9
Support (paralegals & team assistants)	9	7	7	7
TOTAL	28	24	24	24

b) Senior Counsel have and will mainly appear at hearings of the Royal Commission as follows:

Mr John Agius SC – Perth
Mr Lionel Robberds QC – Brisbane
Mr Nicholas Green QC – Hobart, Sydney
Mr Richard Tracey QC – Melbourne

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

In relation to the BCI royal commission:
In evidence given by Mr Thatcher it stated that the commission has now spent $19 million on legal fees. You have advised that $4.2 million was paid to the list of solicitors and QCs and senior counsel in the document headed 'Fees for legal counsel'. You then advised that the AGS has paid to legal firms a total $4.9 million. That is $8.9 million for the two. Advise where the other over $10 million has been expended.

I am advised that the answer to the honourable Senator's question is as follows:

In evidence before the Committee on 27 May 2002 Mr Thatcher provided information that indicated the Royal Commission into the Building and Construction Industry has estimated that expenditure on legal and audit expenses would total $19.17 million of the Commission's total budget of $60 million. Actual expenditure to end May 2002 was $10.7 million. There has been no variation to the estimate of total expenditure of $19.17 million on legal and audit expenses over the life of the Commission.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

In relation to the BCI royal commission :
Confirm whether there is another $10 million in legal fees to be spent between now and December.

I am advised that the answer to the honourable Senator's question is as follows:

See Question on Notice 61.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

In relation to the BCI royal commission:

a) Provide a breakdown of the travel budget – how it has been allocated.

b) How much has gone to particular legal counsel, including transport, accommodation, etc.

I am advised that the answer to the honourable Senator's question is as follows:

a) The Royal Commission into the Building and Construction Industry has estimated that over life of the Commission, expenditure on travel related expenses will total $5.78 million. This amount will cover airfares, travelling allowance, motor vehicle hire and associated costs and taxi fares related to Commission business. The travel budget is managed across the whole Commission: specific allocations have not been made to functional units.

b) Question on Notice 18 provides details of the travelling allowances paid to Counsel Assisting. Costs incurred for airfares or other transport related expenditure are not paid to individuals but are paid directly by the Royal Commission to the service provider.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

In relation to the BCI royal commission :
Confirm that all the work done by Blake Dawson Waldron, Minter Ellison and Philips Fox related to administrative, procedural and set-up work, and nothing to do with witnesses.

I am advised that the answer to the honourable Senator's question is as follows:

The firms Blake Dawson Waldron, Phillips Fox and Minter Ellison Lawyers carried out work which was related to administrative and procedural arrangements for the establishment of the Royal Commission. None of the law firms has been involved in matters to do with witnesses on behalf of the Commission.

SENATE ESTIMATES COMMITTEE
ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Provide breakdown of $8.1 million allocated for Information Technology. Provide an indication of how much each of the flat screen computers cost and whether any assessment was made as to a cheaper form of provision of computers.

I am advised that the answer to the honourable Senator's question is as follows:

The estimated expenditure on Information Technology over the life of the Royal Commission into the Building and Construction Industry is currently $8.1 million. This allocation covers the costs of project management by the contractors, e.law Australia Pty Ltd, purchase of hardware and software, lease of equipment, system maintenance and multi media facilities in the Commission's hearing rooms and IT support in its offices in Melbourne and temporary premises in Sydney and Perth. The cost of transcription of Commission proceedings is also met from this allocation.

Flat screen equipment is leased by the Royal Commission from the IT contractor at a unit cost of $633 per month for a maximum of 12 months payment. The price of the equipment was a factor considered as part of the initial tender assessment for IT and communications support services for both Royal Commissions. Costs were finalised during contract negotiations. Ownership of the equipment will pass to the Commission at the conclusion of the contract, allowing the Commonwealth to realise its value.

SENATE ESTIMATES COMMITTEE
THE HIH ROYAL COMMISSION
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Provide the total value of the annual reimbursement by the Commonwealth to the state of Western Australia for salary and other entitlements for Justice Owen.

I am advised that the answer to the honourable Senator's question is as follows:

The current annual rate at which the Commonwealth is reimbursing the state of Western Australia for Justice Owen's salary and other entitlements is $256,012. This covers the cost of his salary, a long service leave loading, motor vehicle, telephone and security. The Commonwealth is also reimbursing Western Australia for its additional costs in releasing Justice Owen for the Royal Commission. This includes a one off payment of $25,186 for the cost of office accommodation for Justice Owen's return visits to Perth and for additional costs to the state in each case that it arranges a replacement judge (mainly accommodation, travel and motor vehicle costs).

SENATE ESTIMATES COMMITTEE
THE HIH ROYAL COMMISSION
QUESTIONS ON NOTICE

Senator Carr asked the following question at the hearing of 27 May 2002:

Indicate the cost of accommodation in Sydney for the royal commissioner.

I am advised that the answer to the honourable Senator's question is as follows:

The Commonwealth is leasing a furnished house for the Commissioner in a near city suburb of Sydney at a weekly cost of $2,000, plus approximately $110 per week to cover the costs of utilities and home security.

SENATE ESTIMATES COMMITTEE
COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
QUESTIONS ON NOTICE

Senator McKiernan asked the following question at the hearing of 27 May 2002:

How many charges, other than Ms Larkins, have been laid or are pending regarding disturbances within detention centres in Australia, for disorderly conduct?

I am advised that the answer to the honourable Senator's question is as follows:

In the period 1 July 2000 – 27 May 2002, 61 detainees have been charged with Commonwealth offences in relation to disturbances within the Woomera, Port Hedland and Curtin Immigration Reception and Processing Centres. Of these matters, 48 have been completed (ie. either dismissed, discontinued or resulting in convictions) and 13 matters are still before the courts.

SENATE ESTIMATES COMMITTEE
COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
QUESTIONS ON NOTICE

Senator Crane asked the following question at the hearing of 27 May 2002:

When did the DPP become aware formally that allegations had been made against me?

I am advised that the answer to the honourable Senator's question is as follows:

December 1998.