



Final Report of the Royal Commission into the Building and Construction Industry

Administration

Volume Twenty Two

Royal Commissioner, The Honourable Terence Rhoderic Hudson Cole RFD QC

February 2003

Final Report of the Royal Commission into the Building and Construction Industry – Volume Titles

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Abbreviations

| | |
|--|-----------------------|
| <e.law> Australia Pty Ltd | <e.law> |
| Attorney-General's Department | AGD |
| Australian Federal Police | AFP |
| Australian Government Solicitor | AGS |
| Australian Public Service | APS |
| Australian Taxation Office | ATO |
| Commonwealth | C'wth |
| Compact disk | CD |
| Counsel to assist the Commission | Counsel Assisting |
| Department of Finance and Administration | DOFA |
| Document Printing Australia Pty Ltd | DPA |
| Hummingbird Australia Pty Ltd | Hummingbird |
| Information technology | IT |
| Local Area Network | LAN |
| National Administrative Practice | NAP |
| National Archives of Australia | NAA |
| Non-publication directions pursuant to s6D of the <i>Royal Commissions Act 1902 (C'wth)</i> | non-publication order |
| Occupational health and safety | OH&S |
| Optical character recognition | OCR |
| Record of interview | ROI |
| Records and Document Management System | RDMS |
| Ringtail Asia Pacific Pty Ltd | Ringtail |

| | |
|--|------------|
| Star-Track Security Express | Star-Track |
| Synercon Management Consulting Pty Ltd | Synercon |
| Virtual Private Network | VPN |
| Wide Area Network | WAN |

1 Establishment

Initial steps

- 1 I was originally appointed as a Royal Commission by Letters Patent signed by the Governor-General on 8 August 2001. Those Letters Patent did not, however, deem the Commission to be a '*relevant Commission*' under ss4-5 of the *Royal Commissions Act 1902 (C'wth)*, nor did they deem the Commission to be a Commission to which paragraph 16(4)(k) of the *Income Tax Assessment Act 1936 (C'wth)* applied. The Letters Patent were reissued on 29 August 2001 in order to give the Commission access to the additional powers or sources of information contemplated by those sections. Copies of the Letters Patent are in Volume 2 of this Final Report.
- 2 From an administrative perspective, the Commission has had contact with the following agencies:
 - Department of Prime Minister and Cabinet on matters relating to the Letters Patent, co-ordination of receipt of my Reports and planning for the transfer to that department of the control and custody of Commission operational records at the conclusion of the Commission;
 - Attorney-General's Department (AGD) on matters relating to the appointment of Counsel to assist the Commission (Counsel Assisting) and making information on AGD Guidelines for Financial Assistance for Legal Costs available to persons who incurred legal and other eligible costs in relation to the Commission; and
 - Department of Finance and Administration (DOFA) on matters relating to the administrative support to the Commission, including financial and personnel matters. Following a change in the Administrative Arrangements Orders in November 2001 this responsibility was transferred to AGD.

I had personal involvement relating to the appointment of Counsel Assisting, the remaining matters being the responsibility of the Secretary.
- 3 At the date of my appointment the Commission had no premises, no counsel or solicitors, no staff (apart from the Secretary who commenced around the same time) and no budget. A temporary office was obtained by DOFA in Sydney which was occupied by the Secretary and by me, and at which meetings could be held to plan the establishment of the Commission.

- 4 Much administrative activity occurred in the period up to the commencement of public hearings on 10 October 2001, during which I convened a series of planning meetings with senior staff (as they were appointed). Matters addressed included the legal structure that should be created to assist me to complete the inquiry within the time allowed, the administrative structure, acquisition of office accommodation and facilities for hearings, creation of a registry, information technology (IT), media and research staff, security, investigation staff, budget, legislative changes, protocols, travel and other administrative and support arrangements.
- 5 On 22 August 2001 the Commission's legal advisors met with officers of the Department of Prime Minister and Cabinet (and legal advisors to the Royal Commissioner to inquire into the failure of the HIH Insurance Group of companies) to discuss legislative changes to the *Royal Commissions Act 1902 (C'wth)* that were considered necessary.
- 6 Between 17 and 19 September 2001 I convened meetings of Counsel Assisting and the solicitors who had at that time been appointed in which the strategy to address the Terms of Reference was discussed, the legal teams were created, and areas of responsibility were assigned to each team.
- 7 During the course of its inquiries the Royal Commission was organised into a number of teams each led by (and named after) a Queens Counsel or Senior Counsel. Each team comprised Counsel Assisting, solicitors, investigators and analysts, paralegals and clerical assistants. Each team operated to some extent like a legal practice with Senior Counsel assisted by Junior Counsel and a group of solicitors. Each team had a number of investigators and analysts who performed the day-to-day function of identifying and interviewing potential witnesses. Each team was supported by paralegals and team assistants who provided general assistance and clerical support.
- 8 Initially teams focussed on the terms of paragraph (a) of the Terms of Reference according to the following distribution:
 - Team Robberds Queensland and South Australia.
 - Team Tracey Victoria and Northern Territory.
 - Team Agius Western Australia.
 - Team Green New South Wales, Tasmania and Australian Capital Territory.
- 9 Following my statement of 6 May 2002 on the future conduct of the Royal Commission there was some adjustment to the teams with many staff assigned additional responsibilities. A group led by Lionel Robberds QC focused upon paragraph (b) of the Terms of Reference, which related to industry funds. Another led by John Agius SC and Tim Ginnane focussed on certain matters that became known as National Issues, namely security of payments for subcontractors; the structure of working arrangements – subcontracting of labour and labour hire firms; avoidance of tax and the use of phoenix companies; avoidance of payment of workers' compensation premiums; non-payment of employee entitlements including superannuation, long service leave and redundancy payments and the use of illegal immigrant labour in the industry. Another group lead by John Agius SC and Ian Neil concentrated on Occupational Health and Safety (OH&S), including the organisation of the OH&S conference to

see if industry agreement could be reached on steps which are either necessary or desirable to improve safety in the industry.

- 10 On 26 September 2001 the Commission advertised nationally that preliminary hearings would commence in Melbourne on 10 October 2001. The six weeks that elapsed between the issue of the amended Letters Patent on 29 August 2001 and the commencement of the preliminary hearings were attributable to the essential start-up functions of obtaining appropriate premises, the selection of counsel and solicitors to assist me, the engagement of support staff and establishing an adequate operating infrastructure that included significant IT and document management arrangements.

Accommodation

Melbourne premises

- 11 An initial and immediate priority was to locate suitable office accommodation and a hearing room. In considering various options emphasis was placed on their capacity to provide appropriate security because the Letters Patent included a requirement to investigate unlawful conduct. Another criterion (a lesson learned from viewing the hearing room of the Victorian Metropolitan Ambulance Service Royal Commission) was the capacity of the chosen premises to contain a large hearing room with the necessary line of sight for those participating. At the time premises were selected the number of persons to be engaged in the hearings could only be estimated.
- 12 With the assistance of corporate property consultants United KFPW (under contract to DOFA) suitable premises were found at levels 30 and 31 of 35 Collins Street (Collins Place) Melbourne. Given the limited alternatives available, there was no option but to accept the owner's requirement of a five year lease even though this period exceeded the Commission's requirements. However, the lease, which commenced on 1 September 2001, allows the Commonwealth to sublet the premises.
- 13 A project manager, John Hindmarsh Pty Ltd, was appointed to organise and supervise the fit-out work which involved numerous subcontractors. To assist with internal security the layout provided for the teams of legal and investigative staff to be located on Level 30 and research, registry, media, IT and corporate services staff to be on Level 31. The hearing room was located on Level 31, with adjacent conference rooms available for parties authorised to appear. A lift not accessible to the public and sealed corridors that enabled confidential witnesses and myself to access the hearing room in private were made available. Details of the floor plans and a plan of the hearing room are included in Appendix 1.
- 14 Although the Commission commenced occupying the premises from mid-September 2001, the fit-out of the premises continued throughout November and included delays as a consequence of industrial action on the part of unions. Some residual fit-out work extended into early 2002. This timetable caused considerable inconvenience for Commission personnel and it is a testament to their commitment that the Commission functioned as well as it did in the early stages.

Interstate Offices

- 15 To facilitate the conduct of hearings in all States temporary offices were established for the team undertaking inquiries outside Victoria. In some cases this involved short term accommodation periods of up to several weeks before and during the hearings. This was the situation in Queensland, where the Commission occupied space on a cost recovery basis in the Australian Federal Police (AFP) offices in Brisbane on three separate occasions. In Tasmania the Commission used temporary accommodation in the Commonwealth Law Courts building in Hobart and met all costs. In South Australia, a short term commercial arrangement was entered into for unoccupied space in Commonwealth premises in the central business district of Adelaide. During the short hearings session in the Northern Territory, the Commission worked from hotel accommodation in Darwin.
- 16 Having regard to the extent of the Commission's inquiries in Sydney and Perth, fully-equipped offices were established locally for the respective teams, with secure ISDN/Fibre Ethernet on-line access to the Commission's central records and data management systems. In Sydney this office was located within AFP premises from April to September 2002. In Perth the office operated from March to October 2002. The Perth office was initially established in unused space in premises occupied by the Anti-Corruption Commission, but an increased demand for resources necessitated the Commission entering into short term commercial arrangements for expanded premises in the BankWest building.
- 17 While establishing offices interstate was crucial to the effective operation of the Commission, it had cost implications. All offices had to be fitted out to some extent, office equipment installed and connections made to the Commission's IT and communications network. Although some personnel could be recruited locally, most officials were not and this required them to be away from their homes and families.

Personnel

- 18 During the term of the Commission many persons were engaged to assist. Numbers fluctuated according to changing levels of demand in various locations and with the different phases of the Commission. Also, as might be expected with a time-limited organisation turnover among the support staff was a factor as persons obtained longer term positions elsewhere. The maximum number of persons engaged at any one time was 145, which occurred in July 2002 at the peak of the hearings program. A list of the Commission's personnel is attached in Appendix 2.
- 19 I wish to record formally my gratitude to the individuals who contributed to the work of the Royal Commission. They came from a multitude of backgrounds and were employed in various roles from Counsel Assisting and solicitors to investigators and analysts to corporate, legal and clerical support. When offered employment at the Commission they knew their appointments and jobs would be temporary. Some stayed for the entire period, others for as little as a few weeks. All were asked to work extremely hard and for long hours. For a significant number working for the Commission meant leaving home and family to work interstate for several months. This involved considerable personal sacrifice for all concerned which I acknowledge with regret. I am aware all gave unstintingly of their skills, energy and enthusiasm to get the job done. I admire their dedication and offer my thanks for their unfailing support.

Secretary

20 The Secretary to the Commission, Mr Colin Thatcher, was engaged by DOFA from 25 July 2001. He was responsible for providing administrative and organisational leadership in relation to, and assuming responsibility for, the overall efficient administration of the Commission. He exercised financial and personnel powers that were delegated by the Secretary, AGD. Details of Mr Thatcher's conditions were provided to the Senate Legal and Constitutional Legislation Committee in budget estimates hearings.

Counsel Assisting

21 After the Royal Commission was announced, the initial tasks included inviting expressions of interest from persons interested in becoming Counsel Assisting the Commission and publishing selection guidelines. This function was performed by the AGD on behalf of the Secretary. Expressions of interest were to be lodged with the Secretary of the Commission by 6 August 2001, although several received after that date were accepted.

22 The Attorney-General, acting under s6FA of the *Royal Commissions Act 1902 (C'wth)* and on my recommendation, appointed the following persons as Counsel Assisting. The appointments included three Queens Counsel and one Senior Counsel. Counsel Assisting came from the New South Wales, Victoria and Western Australian bars and included persons who have a wide range of expertise, including criminal law, workplace relations, administrative and procedural law, and government and regulatory law.

Commencing Date

- Lionel Robberds QC 13 August 2001
- Richard Tracey QC 10 September 2001
- John Agius SC 16 August 2001
- Nicholas Green QC 4 September 2001
- Dr John Bishop 16 September 2001
- Timothy Ginnane 19 November 2001
- Ian Neil 18 September 2001
- Dr James Renwick 13 September 2001
- Andrew O'Sullivan 16 September 2001
- Ronald Gipp 10 October 2001
- Antoni Lucev 16 September 2001
- Dr Matthew Collins 17 September 2001
- Dr Stephen Donaghue 4 September 2001

23 Daily rates for Counsel Assisting were negotiated with Counsel by the AGD in accordance with the policy on counsel fees approved by the Attorney-General for the engagement of counsel by the Commonwealth. Government policy is not to disclose information on the daily or hourly

rates at which the Commonwealth engages legal counsel. The Commission was advised that this approach is taken to protect the Commonwealth's financial position in negotiating the best possible rates with counsel.

- 24 Other conditions of engagement, including travelling arrangements and reunion travel for persons required to operate away from their homes, were approved by the DOFA. Details of the gross remuneration and certain entitlements to each Counsel Assisting were made public during hearings by the Senate Legal and Constitutional Legislation Committee into budget estimates.
- 25 The role of Counsel Assisting is distinct from that of my role as Commissioner. This separation of roles was outlined by Sir Charles Lowe who conducted the Royal Commission into Communism in 1949.¹
- 26 As Commissioner I had nothing to do with the discovery of evidence, with the assembly of it, or with the presenting of it. These are matters which were committed to Counsel Assisting.
- 27 The role of both senior and junior Counsel Assisting was to direct the specific investigations of the Commission. They selected the matters that were presented in the hearing room, called evidence relevant to the inquiry and tested material where that was appropriate. They also made submissions to me concerning the findings that they considered were established by the material before me. Counsel Assisting supervised and directed the work of the solicitors, investigators, analysts and other members of the legal teams. They also advised me in relation to the many issues of law and practice that have arisen throughout the inquiry. It follows that much of the work performed by Counsel Assisting took place outside the hearing room.

Solicitors

- 28 The invitation for expressions of interest for Counsel Assisting also sought expressions from persons or firms interested in providing legal support to the Commission. The request was distributed widely on 31 July 2001, including to all State and Territory law societies and to an extensive list of firms of solicitors.
- 29 Responses were evaluated against the criteria outlined in the Legal Team Selection Guidelines issued as part of the process. These criteria were that the legal team must:
 - be able to commence work with the Commission in the immediate future;
 - be able to operate effectively and efficiently over the whole period of the Commission's inquiry;
 - be able to be based in Melbourne, but have the capacity to support hearings in all capital cities; and
 - be able to demonstrate that it has no current or potential conflicts of interest, actual or perceived.
- 30 The Legal Team Selection Guidelines also noted that a capacity to draw on existing support structures, and additional legal and other resources as necessary, may be an advantage.

- 31 Only the Australian Government Solicitor (AGS) was able to meet the fourth criterion above fully by satisfying the selection panel that it had no current or potential conflicts of interest, whether actual or perceived, given that the very broad scope of the Commission's inquiry gave rise to the possibility of unforeseen conflicts. The AGS was able to demonstrate that it had the capacity to draw on existing support structures, and additional legal and other resources. AGS had recently demonstrated its ability to provide legal and technical support to an inquiry similar in scale to a Royal Commission.
- 32 A memorandum of terms negotiated with AGS, which was not disclosed publicly for commercial-in-confidence reasons, included three components. The first provided for the provision of dedicated legal staff. Numbers engaged by the Commission fluctuated to some extent according to the program of sittings, with maximum numbers involving a Director of Legal Services, five Senior Solicitors, fourteen Solicitors, two Associates and a Legal Secretary. The number of AGS personnel tapered off when the Commission's sittings concluded and the nature of the work changed to the provision of information to assist me to prepare my report.
- 33 The remuneration payable to these staff was negotiated by the Secretary after consultation with the AGD, having regard to the skills and experience of the solicitors in question and the amounts payable to Counsel Assisting. Hourly rates of payment were determined for each category, with daily fee caps for each. For staff required to operate temporarily interstate, the Commission met the costs of reunion travel (at economy class after every two weeks at the temporary location) provided that:
- the employee was expected to be working at his or her interstate location for at least four continuous weeks;
 - travel was completed over a weekend and substantially outside paid working hours, subject to flight availability; and
 - work schedules were not unduly disrupted.
- 34 The legal work focussed on work within the teams into the investigation of specific events, incidents and allegations under scrutiny by the Commission and included attending to legal issues relating to summonses and directions to produce documents, interviewing potential witnesses and assisting with the preparation of witness statements. As instructing solicitors the role included assistance in obtaining, analysing and preparing material to be presented by Counsel Assisting. One function of the Director of Legal Services was to monitor and certify claims for fees by Counsel Assisting. At the conclusion of sittings, solicitors assisted Counsel Assisting to finalise submissions arising from hearings.
- 35 The second component of the Memorandum of Terms with AGS provided for Collateral Legal Services, which generally related to the provision of specialist legal advice.
- 36 The third component provided for Related Legal Services and generally involved the receipt of Commission property in those States and Territories where the Commission did not have an office. The remuneration paid for these services was based on hourly rates. Disbursements for carrying out such services were charged at cost and there was no charge for access to the AGS library.

- 37 When appointed, AGS indicated that the software *Ringtail™ CaseBook* was an integral part of the delivery of its legal support. AGS assisted with the development of an information capture system under which documents received from third parties were assessed and, where appropriate, imaged, electronically stored and coded according to objective descriptors. Plans for imaged documents to be coded according to subjective topics were not proceeded with because of delays in the implementation of the supporting IT system and the costs as opposed to benefits involved in the context of a tight budget. AGS worked closely with the IT service provider, <e.law> Australia Pty Ltd (<e.law>) to ensure a seamless integration of *Ringtail™ CaseBook* with the Commission's records and document management system (RDMS), Courtbook and other aspects of IT support.
- 38 Under the Memorandum of Terms the Commission met every three months with AGS representatives to discuss performance issues and a report by AGS on matters such as security or quality assurance issues, performance standards and material issues. AGS services were of a high standard. These staff came to the Commission with expertise in a wide range of litigation and legal advisory functions including employment and finance related matters, construction industry and industrial and workplace relations, trade practices and competition law, OH&S laws, law enforcement, property law, administrative law and the conduct of government inquiries. In hindsight, the Commission could have benefited if it had been in a better position to induct legal staff into the subject matter within the Commission's terms of reference. A small number of staff had some difficulty in avoiding excessive hours and weekend attendance.
- 39 Because Royal Commissions are established infrequently there was no ready access to guidance in the form of past procedures. The Commission would have benefited if it had access to some form of procedure manual that contained various forms and procedures, and these had to be developed in-house. Volume 2, *Conduct of the Commission – Principles and Procedures*, and this volume may go some way to offering guidance on such matters for future Royal Commissions.

Associates

- 40 The core roles of the associates were to assist me generally and to facilitate my communication with the teams. An associate commenced with the Commission in September 2001. Due to the significant workload associated with the demanding program of hearings, I appointed a second associate who commenced in February 2002. This enabled the associates to rotate between hearings in the various States.
- 41 Before and during the hearings, the role included:
- assisting in developing and implementing procedures for hearings;
 - liaison with teams regarding the order of proceedings;
 - preparing and maintaining exhibits;
 - attendance at hearings; and
 - assisting the Commissioner in the analysis of the submissions of Counsel Assisting.
- 42 During the report drafting phase, the role included:

- preparing a summary of recommendations made by various parties;
- assisting in planning the structure of the report;
- managing a process to ensure references and endnotes were accurate;
- assisting in co-ordinating the drafting program involving Counsel Assisting and legal staff;
- managing the process for finalising the volumes concerning hearings and State and Territory overviews; and
- checking to ensure that final drafts incorporated my directions.

Investigators and analysts

- 43 Given that my Terms of Reference required an investigation of, among other things, the nature and extent of unlawful practice or conduct, an early decision was made to employ staff who would conduct its investigations, rather than seek to undertake this function through another agency or organisation with specialist forensic investigatory personnel.
- 44 By arrangement with the AFP, the Commission appointed a seconded AFP Commander as its Director of Investigations, who provided high level advice to the teams on investigative matters and guidance to the investigators on technical investigative issues and processes. The Director of Investigations played a pivotal role in the recruitment of investigators and analysts and acted as the point of liaison between the Commission and law enforcement agencies under the various Memoranda of Understanding.
- 45 Some investigators were seconded from the AFP and continued to be covered by the AFP Certified Agreement or, in the case of the Director of Investigations, a Senior Executive Service package. AFP Federal Agents received a composite allowance (generally a salary loading of 33 per cent) in place of all other salary related allowances, penalty payments and overtime. They continued to be paid by the AFP, which claimed reimbursement from the Commission.
- 46 Following public advertisement, the Commission appointed as other investigators and analysts persons with experience in law enforcement or investigation agencies such as the Australian Taxation Office (ATO), National Crime Authority, Federal Department of Employment and Workplace Relations and State Police Services or with experience in the financial and legal sectors. Those investigators and analysts were either paid salary in the range of Australian Public Service (APS) Executive Level 1 or 2 range without overtime, or salary in the APS 4 to 6 range plus a composite allowance of 33 per cent of base salary in place of all other salary related allowances, penalty payments and overtime.
- 47 These staff were attached to each of the teams and their activities directed by Counsel Assisting and solicitors.
- 48 The role of investigators was to apply contemporary investigation techniques within the prevailing regulatory environment to matters being investigated. More particularly they:
- managed and actively participated on investigations undertaken by the teams;
 - conducted interviews of witnesses and others and gathered relevant material;

- undertook a range of tasks such as the collection, preparation and presentation of material; and
 - prepared briefings to team leaders and other members.
- 49 All investigators were members of the AFP either because they were current serving members of the AFP or because they were sworn in as special members under s30E of the *Australian Federal Police Act 1979 (C'wth)*. This enabled them to witness affidavits and statutory declarations. It also empowered them to undertake investigations into activities which might constitute federal offences should the need arise.
- 50 For reasons relating to the personal safety of the personnel involved and in order not to prejudice the conduct of its inquiries, while it was operating the Commission adopted a policy of not publishing the names of its investigators. The names of those persons conducting investigations on behalf of the Commission were not included in answers to questions of the Senate Legal and Constitutional Legislation Committee to protect their security and the security of individuals and organisations consulted in the course of their inquiries.
- 51 The Commission also gave consideration to whether arrangements needed to be made to ensure the personal safety of persons summonsed to appear and give evidence to the Commission. The Commission made arrangements to gain access to the AFP Witness Protection Program, but it was not ultimately necessary for any Commission witnesses to enter that program.
- 52 In my First Report I expressed concern that:
- many persons gave evidence to the Commission, both publicly and privately , in circumstances where they feared retribution at the conclusion of the Royal Commission. It is important that there be a continuing body during the winding down and after the termination of the Royal Commission, and prior to any legislative establishment of a new national agency, which can monitor the building and construction industry and act swiftly to deter and, if possible, ensure such retribution does not take place, or if it does, to penalise any such conduct.²*
- 53 Therefore it is my expectation that in the immediate future the Interim Building Taskforce will be the contact point for persons who gave evidence to the Royal Commission into the Building and Construction Industry and who fear retribution as a consequence thereof. If necessary, this will require the Taskforce to make arrangements (including financial arrangements) with the Australian Federal Police for the purpose of enabling protection and assistance to be provided to those witnesses.
- 54 All investigators carried identification indicating they were attached to the Commission and exercised their discretion according to circumstances as to when to identify themselves as working for the Commission. In addition, as investigators were either members or special members of the AFP, they were required to comply with the identification requirements of that Act.
- 55 The Royal Commission did not pay informants, other than for legitimate claims made for expenses incurred in the course of assisting the Commission in its inquiries. Legitimate

expenses that were refunded were determined on a case by case basis and included travel costs.

- 56 The role of analysts was to support the operations of teams through the provision of tactical and operational analysis in relation to particular incident inquiries being undertaken by the team. Depending on their skills and experience, analysts concentrated on financial, industrial relations, or intelligence research and analysis. More particularly, their principal duties were to:
- collect and synthesise large amounts of information collected from a wide variety of sources;
 - carry out complex financial, industrial relations, or intelligence research and analysis of the building and construction industry;
 - provide targeted and operational support for major and complex projects and investigations;
 - produce high quality assessments and reports; and
 - present intelligence briefings to Counsel Assisting to assist with the development of targeted strategies and operational decision making.
- 57 While the initial intention was to engage investigators and analysts in discrete roles, in practice the Commission found it more efficient and effective to appoint investigators who also had the capability to perform as analysts. The maximum numbers engaged at any time were 32 investigators and 14 analysts, with most staff ceasing work with the Commission over the September – October 2002 period.
- 58 Seven of the analysts were financial analysts, four of whom were Commonwealth employees transferred temporarily from the ATO to assist with the analysis of financial statements relevant to paragraph (b) of the Letters Patent. The Commission engaged Spencers Corporate Pty Ltd to provide advice on methodologies for inquiring into that term of reference. Subsequently, the Commission engaged Edwards Marshall to provide Counsel Assisting with expert advice in the areas of forensic auditing and financial investigation.

Paralegals

- 59 In December 2001 it was decided that the work of the teams could be assisted by the addition of paralegals to undertake research and analysis tasks and provide general support for the teams. Advertisements were placed by selected employment agencies for the recruitment of law graduates or students for a two-month placement with the Royal Commission.
- 60 The paralegal staff quickly integrated into the teams and provided valuable and time-saving assistance to Counsel Assisting and solicitors. At the end of the initial period of appointment a decision was made to retain those paralegal staff who were not committed to return to university and to source additional paralegal staff to match workload demands. Additional paralegal staff were recruited locally in both Perth and Sydney.
- 61 The maximum number of paralegals engaged either on a full or part-time basis at any time was 22 persons. They fulfilled a key specialist support role and proved to be a significant asset for the Commission during the hearing phase and while drafting was being undertaken for the final

report. This employment gave the paralegal staff, who were, in the main, new to the legal profession, broad experience in legal practice and an opportunity to gain insight and understanding of the conduct of a Royal Commission.

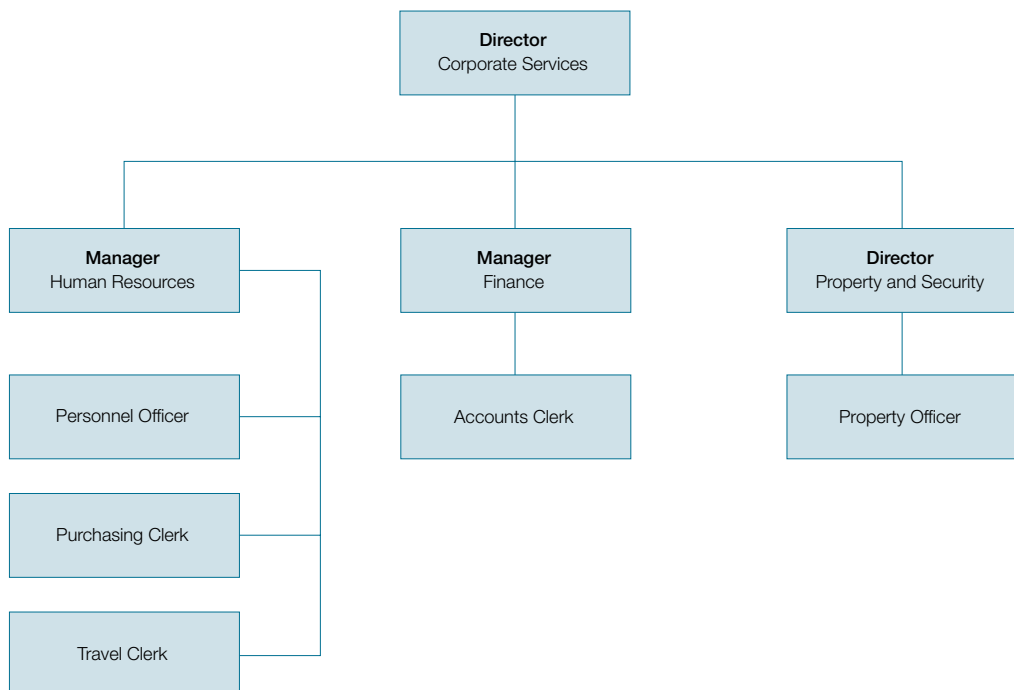
Research unit

- 62 A small research unit was established within the Commission, primarily to produce discussion papers that were published to stimulate community input to the Commission's Terms of Reference and to provide a focus for written submissions. Also the unit was to analyse relevant public reports and reviews, material tendered in hearings and submissions received either generally or in response to the discussion papers.
- 63 A Director of Research was appointed on 5 December 2001. Shortly thereafter research officer positions were advertised in the national press and the *Commonwealth Gazette*. Following a selection process, by March 2002 three other research staff were appointed.
- 64 The research unit operated as a discrete team within the Commission and did not have access to information from the Commission's investigations other than what was available through the public hearings. The unit relied solely on publicly available information to undertake its research.
- 65 To enable the Commission to benefit from a mix of in-house and external research, a small panel of consultants were appointed following a publicly advertised tender and selection processes, each with a deed of standing offer. The panel comprised academics, research organisations and consultants who had an array of expertise in the building and construction industry, benchmarking, enterprise bargaining, OH&S, industrial relations and economic modelling. The panel enabled the Commission to appoint without delay consultants to undertake specific research according to their expertise. In two instances a referee was appointed to review a research paper. Counsel Assisting also contributed to the research function.
- 66 The areas in need of research grew during the course of the Commission's inquiries. Although priorities were regularly reviewed during the term of the Commission, the amount of research work undertaken significantly exceeded what was originally planned. A total of 18 discussion papers were ultimately produced.³ The enormous output achieved within expenditure of \$1.17m as at 31 January 2003 and within tight timeframes is a credit to all involved.

Corporate services

- 67 A small in-house unit provided a range of corporate support services to the Commission, namely human resource management, financial management, accounts and entitlements processing, contract management, property, assets and security management, travel and general purchasing of equipment, stores and stationery and corporate and parliamentary reporting. Salary and accounts payments were initially processed by DOFA. This responsibility was transferred to the AGD in November 2001.
- 68 At the time when the Commission was established, an administrative task force which had been working within DOFA on the establishment of the proposed HIH Royal Commission was assigned to assist also with the establishment phase of this Commission.

- 69 After the Commission obtained premises in Melbourne, a small group of DOFA officers were assigned to provide it with corporate support services. In the absence of procedures suitable for a Royal Commission, the DOFA group relied substantially on existing DOFA policy and procedures. During this period the Commission was operating without a set budget and DOFA maintained tight control over decision making on financial, human resource and other administrative matters that were not delegated to the Secretary and imposed processes which were not recognised by the legal and other personnel within the Commission as contributing to its effectiveness. This created tension within the organisation which continued until the transfer of responsibility for supporting the Commission to the AGD on 26 November 2001, following which the Secretary was issued with delegations and greater autonomy, corporate support staff were selected by the Commission and administrative processes more suitable for a Royal Commission were established.
- 70 During the period to November 2001 much of the corporate infrastructure was put in place. This included securing office premises, letting contracts for fitting-out the accommodation and appointing suppliers for IT and communications services and records management. Arrangements were made for Counsel Assisting from interstate to be relocated in Melbourne. Recruitment exercises were undertaken for investigators and analysts and arrangements were made to obtain administrative support staff through an employment agency. Significant work was undertaken on providing government with budget estimates. It was a period of intense activity, however the months that elapsed were of some concern given the limited time in which the Commission had to finalise its inquiries.
- 71 At the peak of the Commission's activities, the corporate support team had nine staff structured as shown below.



Media services

- 72 From the outset it was obvious there would be considerable public and media interest in the proceedings of the Commission. In view of the controversy surrounding its establishment, the Commission needed to ensure that media representatives had access to information that would enable them to report accurately on the Commission's activities in a timely manner. It was hoped that public coverage of the Commission's inquiries in the media would increase awareness of the issues under inquiry by persons with an interest in the building and construction industry which, in turn, would result in persons with relevant information making their experiences known to Commission investigators.
- 73 The appointment of a media adviser was an early priority, with a restricted request for proposals being issued in August 2001. The request specified the Commission's requirements for the services of a senior media professional who was experienced in dealing with federal and state matters and was familiar with the operations of a Royal Commission. Following a selection process, Network 4 Pty Ltd was engaged to provide media services and Mr Rick Willis, a principal of the company, commenced as the Commission's media adviser with an assistant in September 2001.
- 74 The media adviser was not party to investigations being conducted by the Commission. He advised media representatives of the presence of such things as daily witness lists and witness statements and responded to their queries on where to source information such as transcript and exhibits. He was responsible for ensuring that media representatives were aware of Commission procedures and orders, including non-publication directions pursuant to s6D of the *Royal Commissions Act 1902 (C'wth)* (non-publication direction) which might affect their reporting. Also the media advisor ensured that media representatives were briefed on the protocols of the venues in which the Commission was holding its hearings. The media advisor attended all sittings, a practice that proved necessary given the need to respond expeditiously to queries and that media representation varied considerably according to the State or Territory involved.
- 75 It was Commission policy that only the media advisor spoke to the media, and no other staff of the Commission, including Counsel Assisting, gave information to media representatives.
- 76 The media unit handled public communications activities, including requests for information on the Commission from students and others. It monitored press and other reports of matters relevant to the Terms of Reference and kept the Commission informed of matters of public concern.
- 77 Two media releases were issued by the Commission. The first was to publicise the commencement of the Commission's public hearings. The second was to publicise the conclusion of the Commission's public hearings. Numerous media alerts were issued to inform media representatives of the dates of forthcoming hearings. The media unit was responsible for placing advertisements in the press in respect of sittings of the Commission and requests for information.
- 78 Facilities were provided for the media at all Commission hearings. Subsequent to the preliminary hearings, a media room was established adjacent to the hearing room in Melbourne and equipped with a data projector to display any documents and a 68 cm ceiling mounted

television which displayed the proceedings, with a sound and video feed set to video-follow-audio. Three computers enabled viewing of real-time transcript and browsing of witness statements and other exhibits. So far as was practicable these facilities were replicated for hearings in the other capital cities. Access to media rooms was generally restricted to accredited representatives of the print and telecommunications media, as well as representatives of employer organisations, unions and industry journals who were reporting on Commission proceedings. There were occasions when the unavailability of the public gallery resulted in representatives of unions and employers being seated temporarily in media rooms.

Registry

- 79 A registry was established in early October 2001, after a delay in the selection and appointment of a registry manager with appropriate experience. Initially the structure consisted of a manager and two registration clerks. This progressively increased to a total of eight staff in mid-2002, including one in Perth and another in Sydney. Previously, the Commission had engaged the AGS to assist with its document receipt and processing arrangements.
- 80 A function of the registry was to ensure that all material received by, or despatched by, the Commission was subjected to appropriate receipt and custodial requirements. In the course of its inquiries the Commission obtained access to information not generally accessible to government agencies. Information obtained remained confidential within the Commission unless it was tendered as a public exhibit or, where appropriate it was communicated to eligible agencies under s6P of the *Royal Commissions Act 1902 (C'wth)*.
- 81 The registry received, registered, receipted and processed all material (commonly referred to as 'property') from external sources and recorded the movement of this property throughout the organisation during the course of the Commission's inquiry. It was imperative that the integrity of the Commission's documents and exhibits were maintained at all times. All documents, exhibits and other material were securely stored within the Commission's 'Property Room' or at a Commonwealth-approved offsite secure commercial storage facility.
- 82 A number of registers were maintained by the registry to facilitate the Commission's record keeping requirements, including a correspondence register, a register of submissions received and registers of notices to produce documents and summonses to give evidence and produce material. An "exhibit" register was used to record the receipt of all property obtained from external parties. This property was organised in a systematic way to support the Commission's operations and to maintain a record for archival purposes.
- 83 The registry arranged for Star-Track Security Express (Star-Track), which is cleared to handle documents with a security classification, to transport classified and sensitive documents across the country. In capital cities where the Commission did not have an office, material produced under notices or summonses was accepted by the local AGS office (for a fee) and transported by Star-Track back to the registry in Melbourne for processing.
- 84 One of the most significant challenges of the Commission was the management of all of the information it acquired. The registry was responsible for ensuring that all staff of the Commission clearly understood the protocols for the processing of documents and other information which are outlined in Appendix 3. The training of personnel was therefore an

ongoing function. These procedures were instrumental in the Commission achieving its document management and record keeping goals.

- 85 As at 31 January 2003 the registry had received and processed 6429 property consignments totalling approximately 7.2 million pages of documents, which included material obtained in response to 1692 notices to produce.

Contracts for services

- 86 As the Commission would operate for a limited period and had a pressing need to become operational within a short timeframe, it found that purchasing support on a fee for service basis to be an efficient and cost effective approach. This means also assisted the Commission to increase, reduce or terminate support expeditiously in response to changing operational demands.
- 87 Goods and services were purchased in accordance with Commonwealth procurement guidelines. In most instances this meant competitive processes linked to rigorous tender evaluation against value for money principles.
- 88 Contract management procedures were implemented within the Commission for those providers whose services were used over an extended period.
- 89 Services purchased under contractual arrangements included legal services through the AGS, the media function, IT and communication services, administrative support services and assistance with establishing suitable accommodation. Details of the contracts let by the Commission that had a value in excess of \$100 000 were published on the website of the AGD in accordance with a Senate Order of 20 June 2001 (known as the *Murray Motion*).
- 90 A list of contracts entered into by the Commission was provided to the Senate Legal and Constitutional Committee, in response to a Question on Notice. Details of expenditure on contracts to 31 January 2003 are set out in Appendix 4.

2 Information technology and communications

The information technology contract

- 91 From the outset it was clear the Commission required an information and communications IT platform that would provide an integrated, flexible and robust operating system. The Commission made an early decision to use electronic facilities to manage the large quantity of documents that would be produced to the Commission.
- 92 In addition to a standard desktop and office communications network, the Commission required a technology based system that could manage high volumes of documents and support hearings in capital cities. The platform needed to be established quickly, however a 'catch 22' situation existed because the specific features of the required system could not be fully described until Counsel Assisting and AGS legal staff commenced their duties and the approach to be adopted for the Commission's inquiries had been developed.
- 93 During the initial period AGS provided assistance to DOFA in identifying the services and facilities that its staff would require in providing legal services to the Commission. As a consequence AGS was excluded from subsequently bidding to provide IT services on grounds of probity given their influence on, and the commercial knowledge gained of, the tender specifications.
- 94 DOFA managed the selection of the contractor to provide IT services and the negotiation of the contract. It decided to address the needs of both the HIH Royal Commission and this Commission in one exercise and as a result the tender specifications were somewhat more generic than they would have been if the process had been conducted separately for each Commission. Certain compromises were made by the Commission during the contract negotiations for the same reason.
- 95 Because of timing considerations, no detailed scoping was undertaken of the particular and differing requirements of the individual Commissions in relation to system functionality, volume of transactions or the conduct of interstate hearings. No opportunity was provided for the Commission to gain input from potential providers as to what suitable services or products might be available. There was no opportunity to canvass the most flexible contractual arrangements to fit the time and budgetary constraints facing the Commissions. Therefore valuable time was lost after the contractor was selected in defining the services that would be

provided to meet the precise needs of this Commission with the preferred provider before the contract could be settled and goods and services could be delivered.

- 96 Under a competitive selection process, DOFA invited tenders for the lead contractor from a limited number of suppliers known to have specialist expertise in the field and who had expressed interest in supporting the Royal Commissions (although no formal Expression of Interest process was undertaken). This selection stage of the process was completed effectively within a short timeframe. The Request for Proposal was released on 3 September 2001 with a closing date of 10 September 2001. Grosvenor Management Consulting was engaged to assist with the tender process and subsequent contract negotiations. Five compliant tenders were evaluated against a plan approved by DOFA's probity auditor, which entailed a comparative assessment of bids against selection criteria and referee checks. <e.law> was selected as the preferred tenderer based on achieving the highest value-for-money score. Concentrated negotiations with <e.law> commenced on 19 September 2001.
- 97 These negotiations included reductions in prices and the refinement of the specifications which were unfolding as the Commission gained operational experience. Apart from the component that primarily related to the Records and Document Management System RDMS, negotiations which satisfied the Commission's needs were completed by 7 October 2001. Regrettably, the contract was not signed until 2 November 2001.
- 98 There were several issues that contributed to that month's delay. One factor was that DOFA would not process the contract until all components were finalised. As a consequence of the problems with the RDMS component, the Commission was not able to sign-off on that component until 18 October 2001. Much of the delay in the Commission's operations caused by IT blockages would have been avoided if the hardware could have been ordered immediately after 7 October 2001 under the relevant section of the contract which did not subsequently alter. For example, this would have enabled the construction and fit-out of the Commission's hearing room to be finalised a month earlier than occurred. As it was, the Commission commenced preliminary hearings in an unfinished, barely functioning and under-equipped hearing room.
- 99 Another factor was that the finalisation of the contract coincided with the Commission receiving advice that its total budget would be \$60 million, less than previously sought or anticipated. Consequently DOFA would not sign-off on the IT contract until the Commission reviewed its proposed expenditure and the Secretary provided it with guarantees that the Commission could accommodate the costs of the IT contract within the allocation, something which proved difficult given the uncertainties involved, including Commission estimates of how many investigations would be undertaken, how many hearing days would be necessary, how many documents would be received and how many staff would be needed. At the time it was signed, the value of the contract was estimated to be \$13.26 million.
- 100 A less relevant factor was that a federal election was called and caretaker conventions applied from 8 October 2001. Under these conditions it was necessary to consult the Shadow Minister before entering into a contract with <e.law>. The Shadow Minister raised no objection.
- 101 Thus the contract negotiation process had taken over six weeks. While this may be reasonable in normal operational circumstances it was too long for a Royal Commission with a very limited

life, where every day taken in setting-up meant one day less for its investigations. Delays in the establishment phase had a lasting effect on the Commission's operations and, ultimately, its ability to report on time.

- 102 Following the signing of the contract a lead time elapsed before the essential IT equipment could be delivered, and there were subsequent 'delays' required for necessary software to be installed and for staff to be trained in their application. The Commission did not have the benefit of a fully installed and efficient IT and communications network until February 2002, with the RDMS problems continuing thereafter.
- 103 During the interim period the DOFA internal network was used for general Commission business. The AGS assisted the Commission with its document management and some other IT requirements. After the IT contract was signed the Commission relied on <e.law> to use document storage and processing facilities on its own premises until the Commission's hardware became available.
- 104 While the need for open and equitable purchasing practice and the principles of value for money are accepted, in the Commission's experience the strict adherence to established tender procedures took little account of the time constraints under which a Royal Commission must operate.
- 105 In hindsight, the process of developing generic tender specifications in response to likely IT needs at a time when there were no experienced Commission staff to define precise needs was fundamentally flawed.
- 106 Rather, the implementation of the necessary IT systems would have been expedited if an alternative process could have been adopted whereby the Commission was appraised by any firm wishing to compete for the IT contract of the type of IT and communications support it could provide for the Commission, with the advantages and disadvantages of the various options and the prices thereof. This would have informed the Commission of available choices and enabled it to tailor the specification it needed better, before selecting a successful tenderer based on factors of price and quality.
- 107 The contract entered into with <e.law> was an open book contract, with payments to the contractor based on a detailed pricing schedule containing every likely item or requirement. This arrangement provided some protection to the contractor against loss and allowed greater transparency to the Commission on the value it was receiving for the money expended. As the prime contractor, <e.law> was responsible for management of the project and for the engagement and payment of sub-contractors.
- 108 The specific services contracted from <e.law> were:
 - *Document imaging and coding.* This involved barcoding and electronically scanning pages received from various sources, objectively coding documents and uploading these to Casebook and Courtbook. Appropriate resources were required to cope with varying volumes of documents.
 - *Information and communication technology support.* IT infrastructure services were provided to the office facilities and hearing rooms. This involved acquiring and maintaining hardware (desktop computers, laptops, printers, servers and other

specialised equipment) and relevant software. The maintenance of a help desk facility and the Commission's website was also involved.

- *Multimedia facilities.* Audio visual services to record and broadcast hearings were required in Commission premises and other courtroom facilities, including a videoconferencing capability.
- *Transcription Services.* Real-time transcription services were required at all Commission hearings and tapes or video recordings of interviews were required.
- *Voice and data facilities.* This involved the provision, management and maintenance of communications technology including PABX, voicemail, data, mobile phone and facsimile communications, in Melbourne and interstate.
- *Records and document management.* The provision and maintenance of an electronic document, records, and workflow management system that would link with Casebook and Courtbook.

109 <e.law> installed and supported the IT infrastructure. An overview of the Commission's IT network is outlined in Appendix 5.

110 Equipment was leased by the Royal Commission from <e.law> and ownership passed to the Commission at the conclusion of the IT contract allowing the Commonwealth to realise its value.

111 Quality assurance measures were incorporated in the contract for each of the specified services. The contract included the option that any price therein could be benchmarked on one occasion during the contract term. Benchmarking enabled the Commission to compare prices with market prices of other providers and, if uncompetitive pricing was not caused by the unique requirements for the Commission, <e.law> had an obligation to lower its prices to match the current market prices. A contract manual was developed by Grosvenor Management Consulting to assist the Commission manage the quality of services delivered and the costs charged to the Commission. Measures to ensure on-going high performance included detailed monthly reports, review meetings and payment of performance loadings based on client satisfaction.

112 Over the life of the Commission the <e.law> contract was varied several times to incorporate:

- price reductions after a benchmarking exercise conducted on the document imaging and coding service;
- the Commission decision not to proceed with plans for imaged documents to be coded according to subjective topics; and
- increases in <e.law> staffing levels to support the interstate offices and changes to the processes for Casebook and Courtbook.

113 Because of the circumstances surrounding the RDMS (refer below), Synercon Management Consulting Pty Ltd (Synercon) was retained to assist the Commission manage the RDMS project for which Solution 6 was sub-contracted to <e.law>. Synercon trained all Commission personnel in the RDMS, which was the Hummingbird Australia Pty Ltd (Hummingbird) product

PowerDOCS. Problems with implementation of the RDMS led to Synercon's involvement continuing until late June 2002. Therefore <e.law> did not play the full lead-contractor role in this area until the later stages of the Commission.

- 114 The Commission was very satisfied with the performance of <e.law> which successfully responded to numerous and unanticipated demands by Commission staff within tight timeframes. During the course of the Commission, apart from the ongoing problems with the RDMS, the IT and communications systems met the Commission's needs, within a changing and often unpredictable environment.
- 115 At 31 January 2003 \$13.62m had been spent on the <e.law> contract and it is estimated that as at 24 February 2003 total expenditure will be \$13.80m.

Courtbook

- 116 The Commission's electronic Courtbook system was a browser-based facility to support the hearing process that used *Ringtail™CourtBook* software. In addition to being accessed within the offices of the Commission and the hearing room, the system was accessible externally through a website to enable authorised persons access to the material remotely. Access was made available to persons, bodies or organisations when authorised to appear in proceedings, the Commonwealth Government and each State and Territory Government, various unions, media representatives and others who were affected by the proceedings and authorised to have access.
- 117 Courtbook contained documents intended to become exhibits, witness statements, the order of witnesses, transcript of proceedings, the Practice Notes, a list of the persons authorised to appear, relevant legislation, and my Directions and Decisions. Hard copies of proposed exhibits were usually not provided to the parties.
- 118 During hearings, when Counsel Assisting wished to present material, including documents to be tendered, they would call on the court operator to display the electronic image of the documents (previously loaded into Courtbook and subject to a non-disclosure direction) onto the computer screens available in the hearing room and in the media room through a video distribution system. Where the prior imaging and loading onto Courtbook of a document was not appropriate, documents were displayed through a document camera, and they were then imaged and uploaded to Courtbook at the conclusion of the day's proceedings. Once documents were accepted as an exhibit they were flagged in Courtbook as such and marked with their exhibit number.
- 119 When I made rulings on admissibility, witness statements and exhibits were edited on Courtbook to reflect those rulings. Where possible, documents referred to in witness statements and documents referred to in transcript were hyperlinked.
- 120 For security reasons a replica copy of the Courtbook database was maintained separately by <e.law>.
- 121 Authorised parties were given two user names and passwords to allow them to access Courtbook remotely. The first username and password was to gain access through the first layer of security and the second username and password was to gain access to the actual

system. This meant that parties could log on from anywhere in the world, as long as they had an internet connection.

122 The main features of Courtbook were:

- 'Public View' – a court operator could bring up the relevant document and publish it instantly to all computers in the court room which had been switched to 'public view'.
- Real-Time Transcript – users could view a read-only version of the real time transcript.
- Exhibits – exhibits and proposed exhibits, including witness statements, could be browsed.
- Documents – documents relevant to the proceedings that may or may not have been tendered could be viewed. Each document could be loaded one page at a time (single page TIFF) with the last page of the document being a multi-page PDF.
- Transcript – historical transcript could be viewed and searched, as could 'today's pages' of the real-time transcript.
- Folders – this area allowed users to more easily retrieve documents relevant to a particular issue or stage of the proceedings.

123 The Folders section identified various stages of the hearings and listed tender bundles and witness lists within these stages. This enabled authorised parties to navigate to the relevant tender bundle, which brought up an index with a hyperlink to each document in that bundle. Similarly, within any identified stage of hearings, a viewer could click on a witness name and that would link to an index containing the relevant witness statement, including all of the annexures to that statement.

Casebook

124 Given the AGS advice that *Ringtail™CaseBook* was an integral part of the delivery of its legal support, the Commission adopted this as its in-house preparation case management tool for electronically imaged documents relating to its various investigations. The Commission's Casebook system was a browser-based specialised legal analysis tool that allowed teams to collaboratively and subjectively manage large volumes of documents relating to their investigations. One of the main benefits of using Casebook was that it used a simple web browser interface and therefore no additional hardware or software was required. The system was made available remotely so that legal staff could work from home, if required, and access the central database and images without losing any of the system's functionality, while maintaining full security wherever the users were located.

125 As well as providing a search capacity on the metadata and any optical character recognition (OCR) material contained within Casebook, the system allowed members of teams to make subjective comments on each document, such as the identification of issues, the creation of chronologies and the making of threaded notes. The teams could also use the stored list function to compile their tender bundles allowing members of the team to view those documents relating to a witness or issue at the touch of a button. The system was able to produce user defined reports and also offered built-in bulletin boards and threaded discussion

features to track the latest case developments. Hypertext cross-referencing of documents was available.

- 126 Some of these functions, such as the creation of electronic tender bundles, were used very regularly. Others were used less regularly as a result of practical problems, such as the fact that documents had to be objectively coded before they could be placed on the system, which meant that any delay in coding made it necessary for the teams to work with paper copies of the relevant documents. Notwithstanding this IT capability, some Counsel Assisting and solicitors appeared to prefer to work with hard copies of documents. For these reasons a significant number of documents were photocopied as 'working copies' for the teams as well as being imaged and loaded onto Casebook.
- 127 Casebook came complete with powerful import and export features for bi-directional data integration, so once documents on Casebook were selected for presentation as exhibits, they would be readily exported out of Casebook and imported into the electronic Courtbook facility.
- 128 Originally it was proposed that in addition to being objectively coded documents imaged on Casebook would be subjectively coded according to key subject areas that related to the Letters Patent. This was to help avoid duplication among teams which were operating independently and assist in obtaining a national overview of patterns and trends from within a vast amount of information covering wide-ranging issues.
- 129 While the subjective codes were developed by legal staff of the Commission, implementation did not proceed, primarily because of the significant delay in implementing the Commission's RDMS. By the time problems with the RDMS were substantially rectified, teams had demonstrated they could manage their investigations without this capacity. The decision not to subjectively code material was also partly budget driven, given the limitations of the Commission's budget. This decision did not appear to significantly impede the Commission's operations.

Transcript

Real-time transcription management

- 130 Arrangements for the transcribing of hearings of the Commission allowed me, Counsel Assisting, representatives of parties authorised to appear before the Commission and witnesses to view transcript almost instantaneously.
- 131 Two court reporters were contracted and worked in half-day shifts throughout the hearings transcribing what was said. In practical terms one was located in the hearing room during the morning session from the commencement of proceedings until the luncheon adjournment, and the other would take over duties in the hearing room after lunch and continue until the conclusion of sittings that day.
- 132 The transcribing court reporter operated a shorthand machine which was connected to a computer system running the software programme *Case Catalyst*, which translated the electronic shorthand symbols generated by the shorthand machine into English. This unedited transcript was then displayed on monitors within the hearing room as real-time transcript, with a delay of only a few seconds from when the words were spoken.

- 133 Shortly after its production by the transcribing reporter, the real-time transcript was edited by the other reporter in order to correct any misspellings or mistranslations. An audio tape recording of what was said during hearings was used in this editing process to ensure the accuracy of the edited transcript produced. The audio tapes were then reused. The edited transcript was, before the end of each day, then converted into Word, ASCII and PDF formats.
- 134 Subject to the Director, Legal Services certifying that the publication of transcript would not breach a non-publication direction, the edited transcript was emailed twice-daily to the parties' authorised representatives and the media, and at the end of each day placed on the Commission website and in the Courtbook archive.

Forms of transcript

- 135 The Commission produced three types of transcript:
- Normal Transcript: This was printed on white paper and published on the website and Courtbook. It contained transcript of proceedings that was not subject to a non-publication direction. Page numbers were sequential, and each day followed on from the last page of the previous day's transcript.
 - Confidential transcript: This was printed on yellow paper and contained transcript of sittings that took place in private. This was not emailed nor placed on the Commission website, Courtbook or the internal RDMS. Page numbering recommenced for each hearing that was subject to a non-publication direction. No material or transcription work was saved on the hard drive of any computer. Access was only allowed thereto with the approval of Senior Counsel Assisting.
 - Excised transcript: This was printed on green paper and contained transcript of public hearings where parts of the transcript contained names or other identifying information covered by non-publication orders. The page numbers were sequential and each day followed on from the last page of the previous day's transcript. Before placing the transcript on the website or emailing the transcript to the parties, the sections to be excised were replaced by crosses.
- 136 Before the preliminary hearings began the Commission decided that a charge of \$100 per day would be made for the provision of transcript. As from 25 February 2002 the transcript of public hearings was published on the Commission's website and fees that had been charged for earlier transcript were either refunded or waived.

Website

- 137 As part of its public information strategy, from late September 2001 onwards the Commission maintained a website at www.royalcombcici.gov.au. One aim was to be transparent about the Commission's proceedings. Another objective was to encourage affected parties to assist the Commission in its inquiries by giving ready access to details of the Commission's proceedings.
- 138 The information posted on the website has included, at various times:
- The Terms of Reference;

- information about the Commissioner and Senior Counsel Assisting;
- forthcoming hearing dates and a chronology of the dates of previous hearings;
- opening statements of the Commissioner and Senior Counsel Assisting;
- the transcript of proceedings during public hearings;
- exhibits tendered as public exhibits;
- Practice Notes;
- Orders of the Commissioner;
- Directions of the Commissioner, including certain directions not to publish proceedings, documents or identifying information;
- Decisions of the Commissioner;
- Discussion Papers released by the Commission for comment;
- Submissions received by the Commissioner, either in response to discussion papers or generally;
- a summary of the Commissioner's initial consultations with various interested parties;
- details of governments, organisations and persons authorised to appear in proceedings. This included for each party, the date of authorisation and whether it was a general authorisation or limited to specific circumstances, the name(s) of the representative(s) and, where applicable, the firm of solicitors;
- media alerts of forthcoming sittings of the Commission and media releases;
- a 'contact us' page, which included information about postal address and telephone and facsimile numbers;
- a 'What's New' page with information about recent and forthcoming developments; and
- my First Report, subsequent to the Government tabling the report in the Parliament.

139 A link was included to the AGD guidelines for financial assistance towards the legal and related costs of persons who had been served with notices to produce documents or summonsed to attend hearings of Royal Commissions.

140 The AGD has advised that it will maintain the website after the Commission ceases to exist.

141 An analysis was undertaken of the use of the Commission's website during the month of October 2002. This revealed the following usage:

Hits

Total Hits 448,383 - The number of times the pages of the web site had been visited.

Average Hits per Day 14,946 - The number of pages visited per day. Average for month.

Average Hits per Visitor 68.72 - The average number of pages visited per user.

Page Views

Total Page Views 43,662 - The number of different documents viewed.

Average Page Views per Day 1,455 - The number of different documents viewed per day.

Average Page Views per Visitor 6.69 - The number of different documents viewed per visitor.

Visitors

Total Visitors 6,525 - The number of visitors to the site.

Average Visitors per Day 217 - The number of visitors to the site per day.

Total Unique IPs 2,101 - The number of unique computer addresses that requested visits per month.

Permanent electronic courtroom

- 142 The technology for the permanent hearing room in Melbourne required the laying of a false floor to house approximately 40 kilometres of cables. Custom-built furniture was required to house the computers and electrical points. Each work station (or desk) within the hearing room received electrical wiring, modems to allow parties to dial back to their office and a serial feed to their private laptops that enabled representatives to make notes against the transcript.
- 143 Each station received a 19 inch LCD flat-screen monitor to allow for maximum desktop space and to enable counsel and solicitors to easily view documents, including exhibits and transcript. A computer was housed underneath the desk in a closed compartment of each work station to allow users to log-on to Courtbook. I and my associate and counsel and solicitors assisting the Commission were each provided with a computer and monitor, with a further 22 sets being available for representatives of those authorised to appear. Each user had access to a 'V-Net button' that allowed them to switch between the 'public' viewing channel and the computer itself.
- 144 The hearing room was fitted out with a complete video distribution system. This allowed the court operator to 'take over' the screen of some or all users in the courtroom to publish a video, a hard copy document on the document camera or the in-court video camera view. This also rendered the hearing room ready for videoconferencing, thereby providing the cost-effective option of examining witnesses from remote or regional locations without requiring their attendance in person. The witness was provided with an LCD monitor with video distribution of the documents being displayed.
- 145 A total of 31 microphones were installed, along with 11 speakers. Facilities for the media to gain an audio feed of the proceedings were catered for both in the hearing room and in the media room.
- 146 Five fixed video cameras were installed to ensure that all areas of the hearing room were captured. These could be set to video-follow-audio or to a quad view of all cameras. Three video recorders were installed, two for recording and one for playing video footage. A document camera allowed 'hard copy' documents to be displayed through the video distribution system on all screens instantly, obviating the need for additional copies.

- 147 There were three ceiling mounted data projectors installed in the hearing room to allow for a 'public view' of what was being displayed. When no documents were being displayed, this was switched to the room cameras, assisting those in the public viewing area to see who was speaking.
- 148 Adjacent to the permanent hearing room was an overflow room for members of the public when the public gallery in the courtroom was full, or in case the gallery became disruptive to proceedings. This was equipped with a data projector to display any documents and a 68 cm ceiling mounted television which displayed the hearing room, set to video-follow-audio.
- 149 An adjacent media room was equipped with a data projector to display any documents and a 68 cm ceiling mounted television which displayed the hearing room, set to video-follow-audio. Three computers enabled the viewing of real-time transcript and the browsing of exhibits.

'Roving' Electronic Courtroom

- 150 The demands of the Commission's hearing program required an electronic hearing room capability that could quickly be relocated across Australia. A 'roving hearing room' was acquired which consisted of :
- 24 laptop computers (two of which acted as servers);
 - 4 cameras on tripods;
 - 3 speakers;
 - 8 microphones;
 - 1 document camera;
 - 1 data projector and screen;
 - 2 video recorders;
 - 1 wireless touch screen controller;
 - 2 LCD screens (for the Commissioner and the witness).
- 151 The roving computer network was configured to use the wireless Local Area Network (LAN) capabilities of the computers, allowing for a faster set-up. Two of the laptops contained replica versions of Courtbook, enabling a stand-alone courtroom network and to allow for redundancy.
- 152 Real-time transcription was provided across the wireless LAN. For hearings in Perth and Sydney, ISDN lines were installed in the hearing room and attached to a computer with a video card. This allowed real-time audio and video of the proceedings to be broadcast across the Commission's secure Wide Area Network (WAN). In this way, solicitors and Counsel Assisting in Melbourne or any interstate office connected to the Commission's secure WAN could observe the proceedings in real-time.
- 153 During hearings in Brisbane, Darwin and Perth the Commission's roving electronic infrastructure was configured to integrate with videoconferencing units at regional and interstate locations, enabling the examination of witnesses who did not attend in person.



Melbourne Hearing Room at 35 Collins Street.



Sydney Hearing Room in Family Court Building.

COURTESY DAILY TELEGRAPH.



Brisbane Hearing Room in Administrative Appeals Tribunal Hearing Room.

COURTESY THE COURIER MAIL.



Darwin Hearing Room in Commonwealth Law Courts.



West Australian Hearing Room in the Family Court Building.

COURTESY THE WEST AUSTRALIAN.



Adelaide Hearing in Supreme Court Building.

PHOTO BY DARREN SEILER, COURTESY ADELAIDE ADVERTISER.



Protest outside Adelaide Hearing.

PHOTO BY DARREN SEILER, COURTESY ADELAIDE ADVERTISER.

3 Records and document management system

The selection of the system

154 From the outset it was clear that the volume of documents likely to be received would require an electronic RDMS. AGS, the provider of legal services, required the electronic Casebook system as an investigative tool. The Commission therefore sought an RDMS that was compatible with that system, although none appeared readily available. The RDMS provider within the consortium of the successful IT tenderer was not accepted as it was considered the proposal would not adequately handle the volume and complexity required. DOFA engaged Synercon to identify a suitable RDMS product and it recommended that the *PowerDOCS* RDMS supplied by Hummingbird through Solution 6 (Alpha West) be obtained.

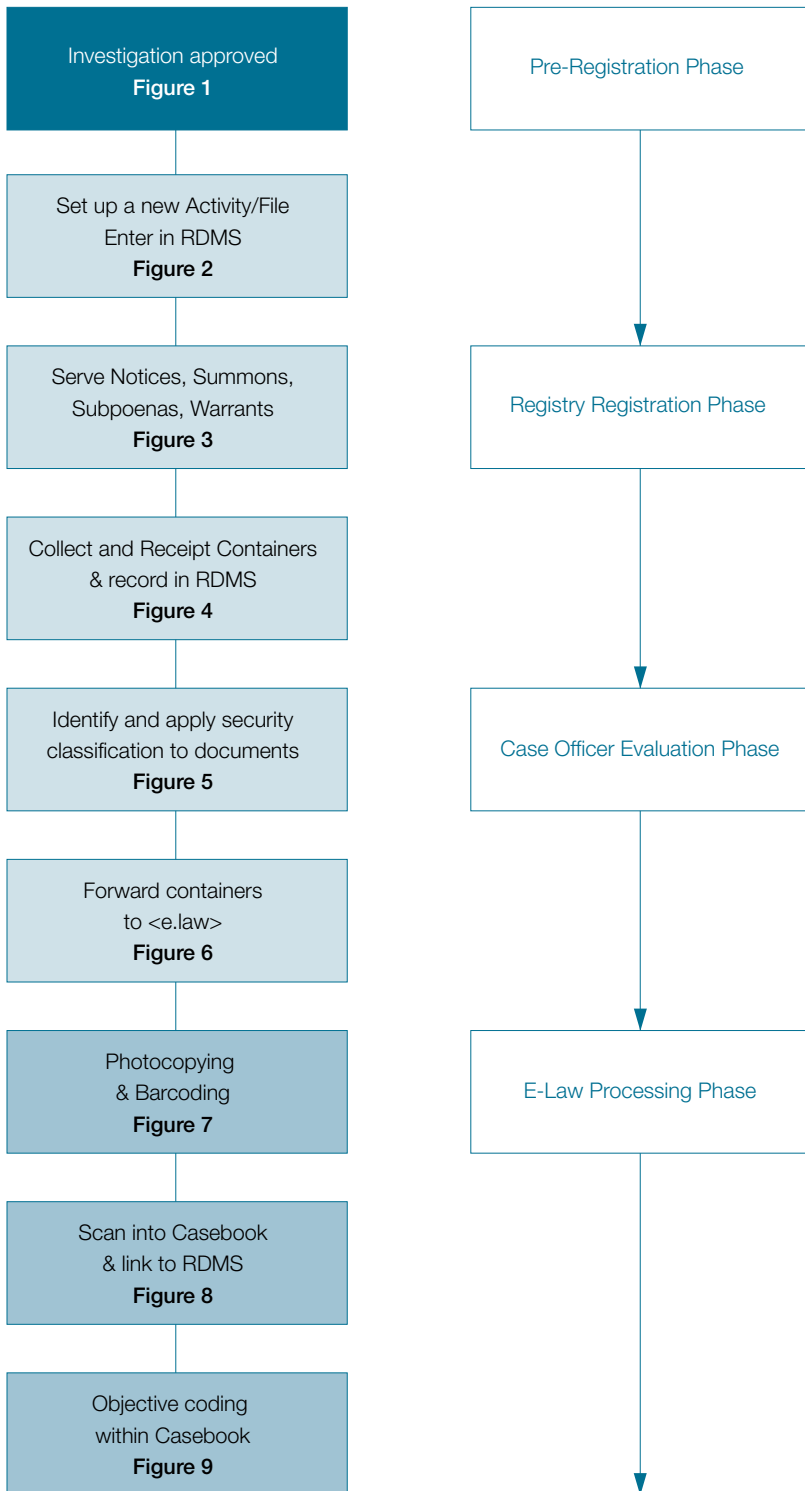
155 It is regrettable that it was not until after the appointment of the registry manager and the RDMS provider contract had been let that an analysis and design of the Commission's requirements could be undertaken. Those requirements identified the need for an electronic RDMS that would:

- be of considerable size as it was estimated that the Commission would receive up to 20 million pages of documents;
- enable documents to be electronically scanned into the system;
- interface with the Casebook and Courtbook electronic systems to minimize duplication of data entry;
- provide system controls for the management and receipt of documents obtained under notices to produce and summonses;
- allow for the systematic filing of records;
- provide adequate security by limiting access to documents of a sensitive nature to various categories of Commission personnel;
- track the movement of correspondence and other documents within the Commission (routing);
- provide version control for the development of documents and a history of who had access to documents;
- create and maintain various registers.

- 156 In November 2001 Solution 6 advised the Commission that a PowerDOCS RDMS system could be modified to meet the Commission's requirements. As the modifications were expected to take approximately two months an interim PowerDOCS system was supplied and implemented. The interim system only provided for the receipting of documents from external sources. Therefore the Commission had little alternative but to continue to utilise the DOFA IT systems, with the expectation that all records created therein would subsequently be migrated into the final PowerDOCS system. This duality of systems was a source of frustration amongst Commission officials.
- 157 In January 2002 the developed PowerDOCS system was installed by Solution 6, however it was evident from the outset that the system was unable to provide all the functionality requirements identified during the analysis and design phase. In particular the RDMS provided lacked the capacity to provide, in accordance with the Commission's specifications, routing, auto-numbering of notices, summonses and warrants, the creation and maintenance of various registers, a comprehensive search capability of all documents within the system and the development of file labels. Problems existed with the saving and retrieving of e-mails, the recording of file movements and the disappearance of folders within the file plan. This required Commission officials to develop numerous manual work-arounds to compensate for this lack of RDMS functionality.
- 158 Over the next nine months Solution 6 and the Canadian-based manufacturer of PowerDOCS installed seven patches in an attempt to resolve the problems. Unfortunately, the patches failed to rectify most of the problems in a timely manner. Several of the critical specifications were not proceeded with because they were considered too costly for the benefits they might bring and because of the approaching cessation of the Commission. This had an adverse effect on the efficiency of the Commission.

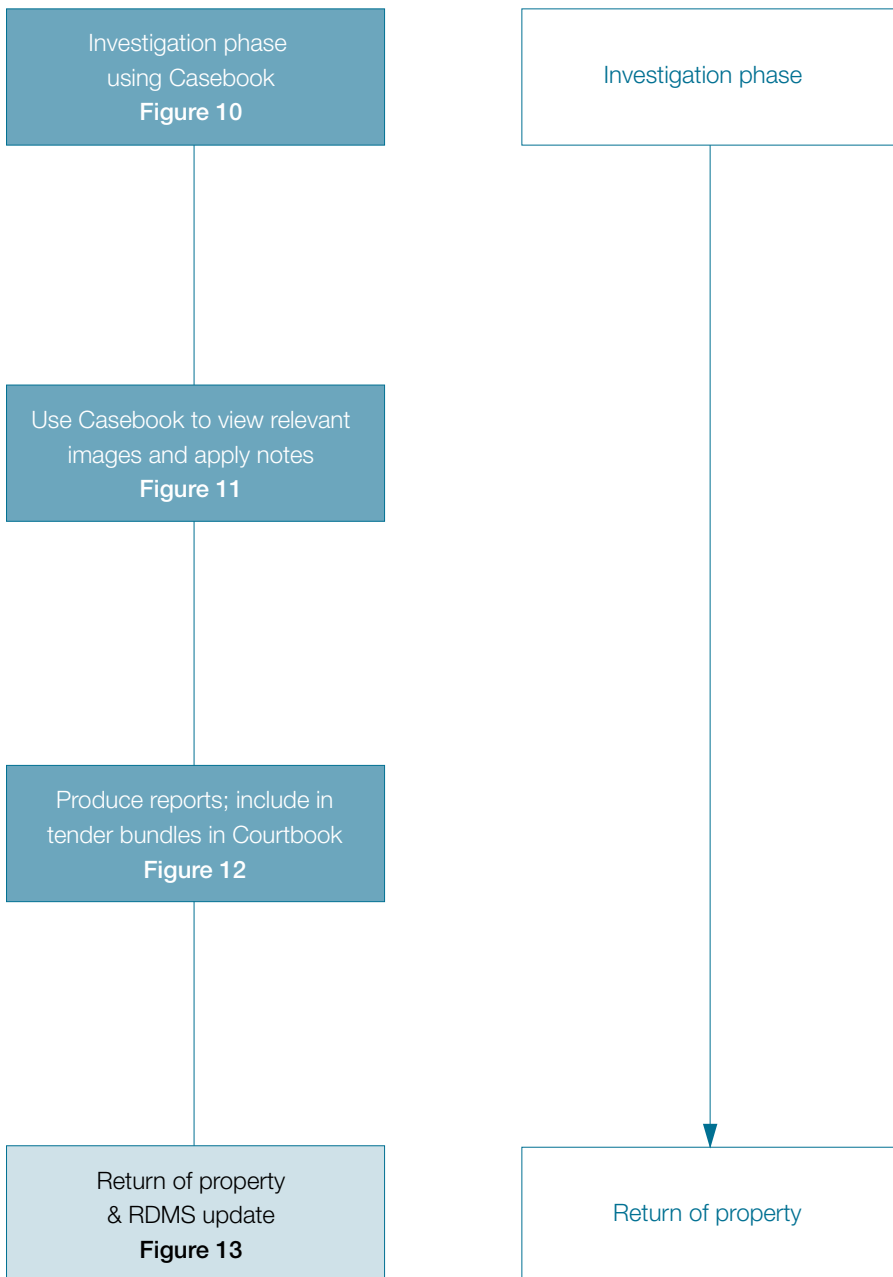
The document control process

- 159 Significant importance was placed on ensuring that documents in the Commission's custody that were received from external sources, including proposed exhibits and those provided under the Commission's coercive powers, were processed according to the Commission's document handling procedures. These arrangements, which were prescribed in internal protocols, ensured the integrity of the 'continuity of custody' of all documents from their initial receipt, during their various movements within the Commission and, where applicable, to their return to the person or organisation which provided the documentation.
- 160 Internally generated documents, which included e-mails, downloads from the internet, letters, memoranda and the recording of interviews were included on the RDMS and, as appropriate, on Casebook, with appropriate indexing to assist with the search capability. Hard copies of outgoing correspondence which was generally signed by Senior Counsel Assisting was maintained in operational files within the team and transferred to the registry at the conclusion of the Commission.
- 161 The following flowchart summarises the process for managing documents relating to the investigations of the Commission. Once an investigation was commenced, it was assigned an investigation number that was recorded in the electronic RDMS (Figures 1 and 2 below). All notices, summonses and search warrants issued were cross-referenced to that record in the RDMS and entered into Commission registers, together with the particulars of service details. (Figure 3).



- 162 A receipt was issued for all batches (referred to as consignments) of property, including documents or things such as videos and discs, received. The receipt contained a record of the provider and source details, namely notice, summons or voluntary handover and the relevant containers that were received. This information was recorded in the RDMS against the particular investigation activity number. (Figure 4)
- 163 Initially, all consignments were either returned by those producing the documents to the Commission's main registry in Melbourne or, in the case of notices to produce or summonses served outside Victoria, to the local office of the AGS which forwarded the material to the Melbourne registry. Subsequent to the Commission establishing offices in Perth and Sydney (which included branches of the registry), notices to produce and summonses served in Western Australia and New South Wales were made returnable to those offices. This expedited the process and eliminated certain transportation costs.
- 164 Once the registration process was completed, the case officers within the teams evaluated the evidentiary value of the material held within the containers and identified the folios that required entry into the RDMS. Those folios were classified at a security level in accordance with the Commission's document classification policy. The containers were then returned in their original condition to the registry. (Figure 5)
- 165 The subsequent processing involved forwarding the containers to <e.law> (Figure 6) which, in accordance with guidelines issued by the Commission:
- photocopied those folios specified by the teams and bar-coded each page with a unique identifier (reference number) (Figure 7);
 - scanned the bar-coded copies electronically and imported them into Casebook and linked these electronically via the RDMS to the corresponding hardcopies by reference to the appropriate consignment and container. (Figure 8); and
 - objectively coded the scanned images within Casebook according to fields of data which enabled them to be found by searching electronically. (Figure 9) During the peak period of investigations <e.law> engaged a maximum of 80 coders who worked shifts which spanned 16 hours per day, seven days a week.
- 166 The objective fields were revised during the term of the Commission, particularly when the Commission commenced receiving large volumes of financial information relating to paragraph (b) of the Letters Patent.
- 167 The revised objective fields were: Document identification, that is barcodes of pages; Document type (for example letters, facsimiles, reports); Document date; Title of document; Document source; Container number; Notice or Summons number (where applicable); Security classification; Status (for example original, copy, annotated copy).
- 168 In the first instance, financial documents such as audit papers, financial statements and internal accounts were evaluated and objectively coded at a folder level, rather than at document level. This process involved:
- photocopying each document;
 - allocating a barcode to each page;

- imaging the pages into Casebook, with links to the RDMS;
 - placing documents into a folder; and
 - applying fields outlined above for non-financial documents to the folder.
- 169 If financial documents were required for hearing purposes (on Courtbook) at a later stage, codes were applied at the document level.
- 170 The registry manager was responsible for ensuring the efficiency and effectiveness of the work of <e-law> in respect of the photocopying, imaging and coding of documents according to quality assurance arrangements required by the Commission. The registry manager liaised with Counsel Assisting to manage the document processing arrangements within the Commission's budgetary and logistical limitations. After experience showed that only around five per cent of documents imaged within Casebook were subsequently placed onto Courtbook for hearing purposes, in order to avoid the costs of surplus processing, action was taken to apply the evaluation process in a more rigorous manner.
- 171 Upon their return to the registry the originals of documents that were processed were stored in the secure property room or in the off-site storage facility. Registry notified the teams that the processed material was available for analyses. Upon request, additional working copies of selected documents were provided to the teams.
- 172 The team's investigation phase involved an examination of the processed documents. In the main, investigative and legal staff completed this function examining the documents using Casebook. This system allowed multiple users from various locations to examine, apply notes to and sort the electronic images to further their investigations simultaneously. (Figures 10 & 11)
- 173 Once documents held in Casebook were identified by teams as appropriate for exhibits in future hearing, the documents were transferred by <e.law> into Courtbook to form a tender bundle. (Figure 12)
- 174 Original documents no longer required by the Commission were progressively returned by the registry to persons who provided the material, with this action being recorded in the RDMS. (Figure 13)



4 Security

- 175 The very nature of the Royal Commission necessitated a high priority being given to security measures and the application of high standards of security permeated through all of the Commission's operations and arrangements. An internal security manual was developed that provided a comprehensive guide to legislative requirements and good practices for the maintenance of high security. It detailed specific policies for the operations of the Commission and the roles and responsibilities of staff. A security manager was appointed within the Commission.
- 176 The need to ensure the safety of Commission staff and others providing assistance to the Commission was a paramount consideration. Security measures adopted were designed to prevent persons who communicated with the Commission being compromised. To assist in ensuring its independence and integrity, the Commission secured its documents and information, intellectual property and facilities. Various security strategies adopted are outlined below.

Information and records

- 177 All documents (paper and electronic), audio tapes and video cassettes were assigned a security classification which indicated the level of protection needed. These were:
- In Confidence: This was the minimum standard within the Commission and was applied in circumstances where compromise of the information could cause limited damage to the Commonwealth, the Government, commercial entities or members of the public. Unless otherwise marked all documents within the Commission were treated as In-Confidence material.
 - Protected: This standard was used when compromise of the information could cause damage to the Commonwealth, the Government, commercial entities or members of the public.
 - Highly Protected: This standard indicated that the information required a substantial degree of protection because compromise of the information could cause serious damage to the Commonwealth, the Government, commercial entities or members of the public.
- 178 Highly protected material was not stored on the RDMS, but on a designated stand-alone computer with limited access by Commission staff. Protocols were established within the

Commission's RDMS to ensure that sensitive documents were given the correct security classification and that access was limited on a need-to-know basis.

179 In addition to having a security classification, certain information obtained by the Commission bore a security caveat. The caveat was a warning that the information had special requirements in addition to those indicated by the protected marking. Staff who needed to know were cleared and briefed about the significance of that type of information. Other staff did not have access to this information.

180 All material was maintained in accordance with the Commonwealth standards specified in the *Commonwealth Protective Security Manual 2000*. Secure document storage rooms were constructed in Commission premises and commercially obtained secure storage was utilised off-site. Secure waste disposal arrangements, including shredders and secure waste bins, were serviced regularly. A clean desk policy was adopted and Class B safes were used where necessary.

181 The Commission's IT and communications network contained numerous arrangements to ensure security, including:

- access to the electronic mail, RDMS, Casebook and Courtbook was subject to strictly applied password policies;
- two external firewalls were installed to prevent any vulnerability in one platform compromising the Commission's site. These were proactively managed 24 hours a day, seven days a week;
- an internal firewall protected the in-house network from the network on which Courtbook operated for parties to hearings;
- all internet traffic was directed through the external firewalls and then through a proxy server. Any malicious content was intercepted and blocked;
- attachments to emails were filtered and viruses were intercepted with no penetration to the Commission's network;
- for remote access by authorised staff located outside the Commission's offices, a VPN solution was implemented. This allowed secure access to the Commission's network and used 168 bit encryption;
- anti-virus software was installed on all workstations and servers which were configured to automatically update their virus definitions as soon as updates became available; and
- all electronic information sent between interstate offices of the Commission's WAN was encrypted to 168 bit IPSec 3Des;

182 The processing of incoming correspondence was tightly managed. Once the Commission was fully operational, incoming mail was processed through the registry before being forwarded electronically (via email) to the Secretary who would ensure it was distributed appropriately within the Commission. All originals were maintained in the registry. The Commission had one incoming facsimile number, with all incoming faxes similarly processed by the registry. The Commission had several facsimile machines for outgoing facsimiles, including machines located in the Perth and Sydney offices.

- 183 An internal protocol applied to the processing of audio tapes used for the recording of interviews. New tapes were used for each interview and, on completion of an interview security tabs were broken to ensure a cassette could not accidentally be recorded over. For each cassette a summary sheet which accurately identified the contents, including the security level of the information, was entered onto the RDMS. A copy of the master recording was arranged through the registry as soon as possible, with the master being retained in the registry and the copies being forwarded to contractors for transcription. After typed transcripts (usually on hard copy plus a floppy disc) were returned to the registry, the editing thereof was the responsibility of the interviewing officer, with any changes being recorded on the RDMS. At the completion of this process copies of tapes and floppy discs were returned to the registry for storage.
- 184 Subsequent to the production of transcripts of hearings, cassettes containing the video and audio recording, floppy discs containing an electronic copy of transcripts and hard copies thereof were lodged as soon as possible with the registry for record keeping purposes.

Property and assets

- 185 The Commission received advice from the government security intelligence organisation on the security aspects of its accommodation arrangements. Coded entry cards issued only to authorised staff controlled access to all Commission premises and certain offices and other areas therein. A security guard was on duty in the Melbourne office throughout the Commission's investigation phase. For interstate offices suitable arrangements were made with local security personnel. Documents and packages delivered to the Commission were scanned before opening.
- 186 Security was a priority for hearing room facilities. Surveillance cameras were installed in the areas surrounding the hearing room in Melbourne. During interstate hearings the security systems in the various court rooms were applied. Security firms were engaged to provide a presence during all hearings. A condition for entering hearing rooms was that persons pass through personal scanning equipment and not enter with any inappropriate property in their possession. To the Commission's knowledge no member of the public or representative of an affected organisation or the media was denied access to public hearings. There were occasions when a crowded hearing room meant that entry was delayed for some individuals.
- 187 On four occasions I directed that a person leave the hearing room as a result of disruptive behaviour (Perth – two; Melbourne – one; Sydney – one). A regular feature of public hearings was demonstrations organised by unions. On such occasions State police were usually in attendance outside the building in which the Commission was holding its hearing. No demonstration affected the conduct of the Commission's business. No security difficulties arose in respect of confidential hearings.

People

- 188 All staff, including contractors and their employees and temporaries, were required to consent to the Commission initiating personal information checks through the AFP. In some cases formal Commonwealth security clearances to Protected or Highly Protected levels were obtained. All staff were required to sign a confidentiality undertaking to protect all official

information that came to their knowledge in the course of working with the Commission. Cleaning staff were required to consent to the personal information check and their access to secured offices occurred under supervision.

- 189 The security manager was responsible for monitoring the strict implementation of the Commission's security policy and procedures, as prescribed in the security manual, and regularly reinforced these with staff. All casuals engaged on document copying and imaging were briefed on security requirements. To demonstrate authorised access to Commission premises all staff were issued with photographic identification cards. Security at the Commissioner's residences was upgraded to an appropriate standard.
- 190 During its formative period when security measures were being established and implemented, there were incidents involving the inappropriate handling of confidential documents. During the first week of November 2001 the Commission received anonymously in the mail a folder and certain documents which appeared to have been removed from Commission premises at a time which coincided with a move between levels 31 and 30 of 35 Collins Street and the refurbishment of the premises. Shortly thereafter the Commission was informed of rumours that a Commission document was being circulated by a CFMEU State official and that document was subsequently also posted to the Commission. A separate incident on 13 January 2002 resulted in the Victorian Secretary of the Construction and General Division of the CFMEU, Mr Martin Kingham, making public claims that a Commission document left anonymously at his home was 'leaked' from the Commission.⁴ The Commission arranged for the AFP to investigate these matters. During the course of its examination the AFP furnished the Commission with various recommendations to enhance its security measures and these were implemented. The AFP investigation concluded that it was possible that *'the document was stolen/unlawfully removed'* but that despite extensive inquiries the person responsible had not been identified. There were no further incidents.

5 Budget

A comparison

- 191 This Commission is the second Royal Commission involving an inquiry into matters in every State and Territory within Australia. The first such Commission was the Royal Commission into the Aboriginal Deaths in Custody. That Commission operated between 16 October 1987 and 26 April 1991. At most times there were five Royal Commissioners. The cost of that Commission was approximately \$30 million (1991 dollars).
- 192 A Royal Commission into Productivity in the Building Industry in New South Wales was conducted by RV Gyles, QC between 18 July 1990 and 8 May 1992. It was restricted to the building industry in New South Wales and was interpreted by the Commissioner to exclude the construction industry. The Gyles Report addressed an industry having an annual production value of approximately \$4 billion in New South Wales. Commissioner Gyles had two Assistant Commissioners for most of the period. The cost of the Royal Commission was \$21.4 million (1992 dollars).
- 193 The Royal Commission into the Building and Construction Industry addressed a national industry whose annual production value was approximately \$41 billion in 2001-02 and growing in the long term trend. No Assistant Commissioners were appointed, which meant that all of the evidence had to be led before me personally. Parallel sittings were not possible. Instead, I travelled to, and took evidence in, each State and the Northern Territory. The Letters Patent (as amended) allowed approximately eighteen months in which to complete the inquiry and to prepare my report. Therefore less time was permitted to examine the building and construction industry throughout the whole of Australia than Commissioner Gyles spent examining the building industry in New South Wales alone.

The Commission's budget

- 194 At the time I was appointed, it was my understanding that the Commission would be provided with administrative and financial personnel who would be responsible for the preparation of an appropriate budget once the manner in which the performance of the tasks of the Commission within the time constraints imposed was determined. That is what occurred and the general strategy that I adopted was reflected in the number of Counsel Assisting who were appointed by the Attorney-General. With the assistance of DOFA officials a budget totalling \$86 million was prepared by 30 August 2001 in time for it to be referred by the Minister for Finance and Administration to Government for consideration in the Additional Estimates process. Although I

took no part in the preparation of that budget, the figure seemed not unreasonable having regard to the volume of work contained in the terms of reference and the limited time in which to perform it. That was particularly so when compared with the NSW Royal Commission undertaken by Commissioner Gyles.

- 195 Having regard to the restriction on time and the significant costs involved, in its planning and processes the Commission recognised that the most time and cost efficient methods of undertaking its inquiries and obtaining the necessary information had to be used. By the end of September 2001 it was estimated that the budget required would be \$78 million. It was not until 9 October 2001 when the Commission's planning was well advanced that I received correspondence from a DOFA official that the approved budget was a total of \$60 million, of which \$35 million was for the 2001-02 financial year and \$25 million was for the 2002-03 financial year. Given the strategy that was being implemented, I sought reconsideration of the amount for 2001-02 in the light of the estimated establishment costs provided to me. I sought also that the 2002-03 budget be reviewed in April 2002 when there would be greater certainty about how the Commission's enquiries were unfolding and patterns of expenditure. The Commission also reviewed its approach to some aspects of the conduct of its inquiries. That assisted in containing costs. The Secretary prepared a business plan of future activities and implemented a financial management strategy.
- 196 In the event, no additional funds were forthcoming to the Commission, although in April 2002 the Attorney-General agreed that funds could be brought forward to that financial year from the 2002-03 budget should this prove necessary. The Attorney-General indicated that there would be no overall increase in the appropriation of \$60 million. In response I gave the Attorney an undertaking that the Commission would not exceed its overall allocation and gave further instructions to the Secretary of the Commission to ensure this would be the case. The Secretary has ensured that the Commission has operated under stringent budgetary control and as a result of the various measures that were implemented the Commission has been able to meet its remit without exceeding its initial total appropriation of \$60 million, including allowing for the extension of the term of my Commission.
- 197 It is worth noting that upon completion of the Commission, capital assets acquired by it using the Commission's budget are treated as the assets of the Commonwealth, not of the Commission, for budgetary purposes. Moneys realised on sale of those Commission assets are returned to Consolidated Revenue, rather than being credited to the Commission's budget. This flows from Commonwealth accounting standards. In comparison any loss incurred on the disposal of assets was a charge to the Commission's budget. This seems particularly onerous for a body like a Royal Commission which is operating within a short timeframe and has to incur high costs to acquire necessary assets, including IT equipment, but is unable to have their use over the full period of their useful life. Therefore the Commission had to bear the full cost of depreciation, which was a significant, additional impost on its budget. I have raised this anomalous situation with the Attorney-General.
- 198 The distribution of the Commission's expenses across its major operating costs as at 31 January 2003 (the last available figures) is contained in Table 1 below. The highest proportion of expenditure was the remuneration and other costs associated with adequately staffing the Commission and providing essential support services through contractual and

consultancy arrangements. While costs were incurred in establishing temporary offices in Perth and Sydney and in conducting hearings in all States and the Northern Territory, there would have been corresponding travel and other costs for Commission staff and witnesses had the Commission only operated from offices and conducted hearings in Melbourne. There was no expenditure on overseas travel by officials of the Commission.

Table 1: Distribution of Royal Commission Expenses as at 31 January 2003

| Expense Category | 2001/2002 \$m | 2002/2003 (to 31/1/03) \$m | Proportion of Total Expenditure to Date % |
|---------------------------|--------------------------|---|--|
| Employee Expenses | 3.09 | 2.07 | 9.04 % |
| Contractors | 2.36 | 1.24 | 6.30 % |
| Consultants | 0.68 | 0.87 | 2.70 % |
| Legal & Audit | 12.14 | 8.87 | 36.78 % |
| Document Management | 2.35 | 1.51 | 6.76 % |
| Information Technology | 5.58 | 2.33 | 13.85 % |
| Travel | 2.44 | 0.56 | 5.25 % |
| Taxi/Motor Vehicles | 0.34 | 0.23 | 1.01 % |
| Security | 0.26 | 0.12 | 0.67 % |
| Communications | 0.91 | 0.35 | 2.22 % |
| Stationery & Consumables | 0.34 | 0.14 | 0.85 % |
| Other Suppliers | 0.73 | 0.65 | 2.42 % |
| Business Accommodation | 2.99 | 1.04 | 7.07 % |
| Residential Accommodation | 0.31 | 0.15 | 0.81 % |
| Depreciation | 1.13 | 1.30 | 4.27 % |
| Total | 35.65 | 21.43 | 100.00 % |

199 It is estimated that total expenditure as at 24 February 2003 will total \$58 610 000.

6 Publication of the final report

- 200 The publication of this Final Report has been managed within the Commission using project management techniques. Security of documents was of the highest priority during this process, with additional secure electronic document management and access procedures in place.
- 201 Commission staff provided editorial and administrative services. Document Printing Australia Pty Ltd (DPA) was appointed, following a public tender process, to desktop and print the report. DPA is an Australian owned company operating out of purpose-built facilities in Port Melbourne. The company has demonstrated experience in printing confidential documents for both the public and private sectors.
- 202 <e.law> was contracted to prepare electronic versions of the report. A compact disc (CD) is being produced that will contain all volumes (excluding the Confidential Volume) and an index with hyperlinks that will enable the user to readily access relevant volumes and sections. In addition, <e.law> is producing a DVD that contains all volumes of the report (excluding the Confidential Volume) and other information that formed part of the Commission's website, including public transcript and exhibits. These documents are frequently referred to in endnotes within the report. As well as hyperlinking between various categories of material there will also be a document search capacity.
- 203 This Commission, of course, ceases to exist when I deliver this Final Report to the Governor-General. Therefore the number of copies of the report that were printed by the Commission for the Government was based on advice received by the Secretary from the Department of Prime Minister and Cabinet and the AGD.

7 Wind-down phase

204 The Commission has been working towards winding-down its infrastructure as quickly as possible after the Final Report is presented.

Accommodation and assets

205 UNITED KFPW has been engaged to search for a suitable tenant to take over the lease at the only remaining premises at 35 Collins Street. Every effort is being made to secure tenants through advertising and canvassing for interest through the city real estate markets. There is provision in the Commission's budget for any rent that will be payable during the current financial year.

206 Before the premises can be vacated some standard requirements to 'make good' the tenancy must be completed, for example, the dismantling of the hearing room and the removal of offices and meeting rooms.

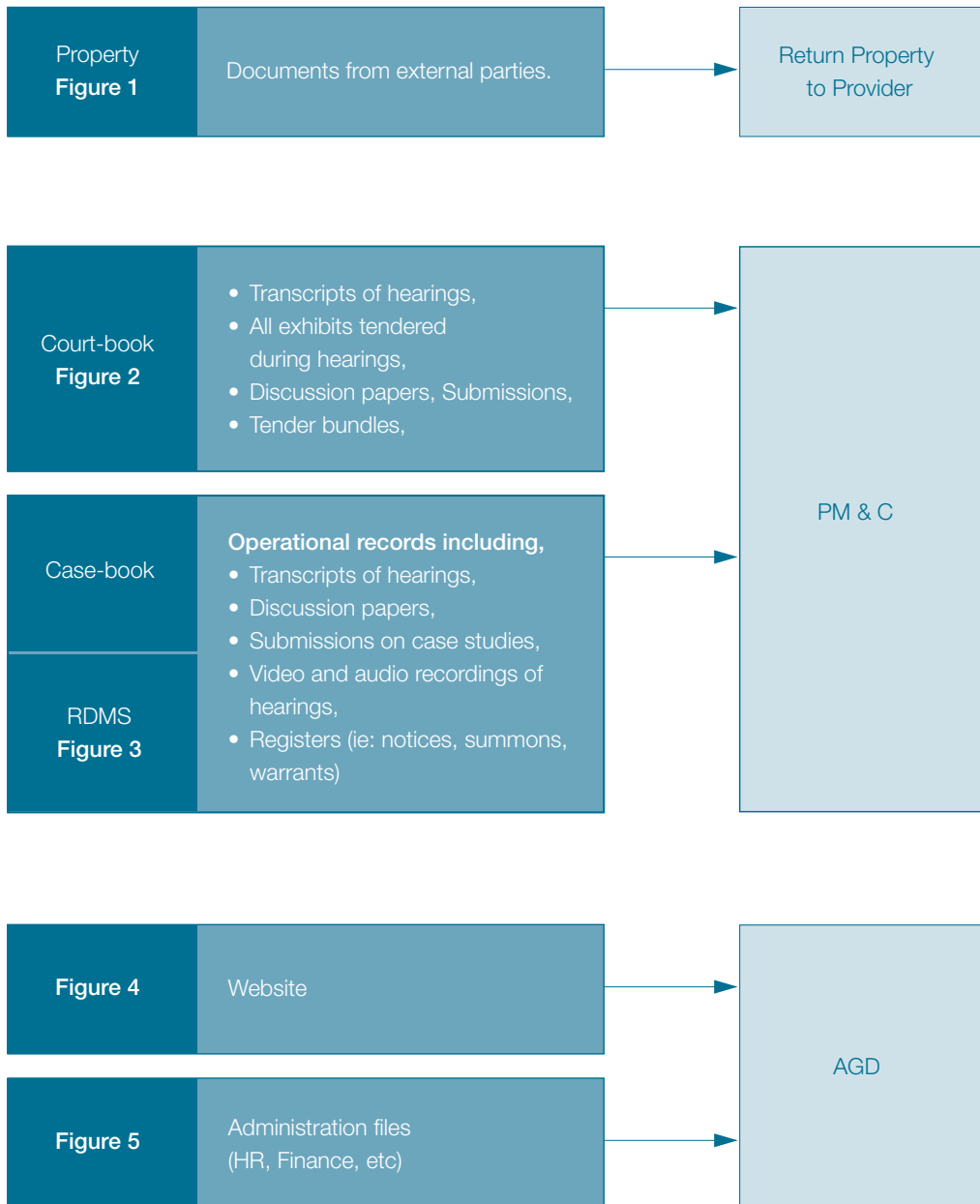
207 The Commission was generally fitted-out with standard office furniture, some of which was purchased second hand. Some furniture was purpose-built for the hearing room. Furniture which cannot be utilised by AGD or other government agencies (with the transfer of items at book value) will go to auction.

208 Similarly the Commission's other assets in the form of office equipment, IT hardware, photocopiers, television sets, refrigerators, whiteboards, office and legal trolleys that are not transferred to AGD or other agencies at book value will be sold on the open market by auction. Some residual library, stores and stationery items will go to auction or be handed over to AGD.

209 No items of furniture or equipment have been offered to Commission staff to purchase. Revenue from the sale of the furniture and equipment will be returned to the Commonwealth.

210 Arrangements are in hand for the hard drives of all computers to be cleaned and re-imaged in preparation for sale. The processes have been tested by the AFP.

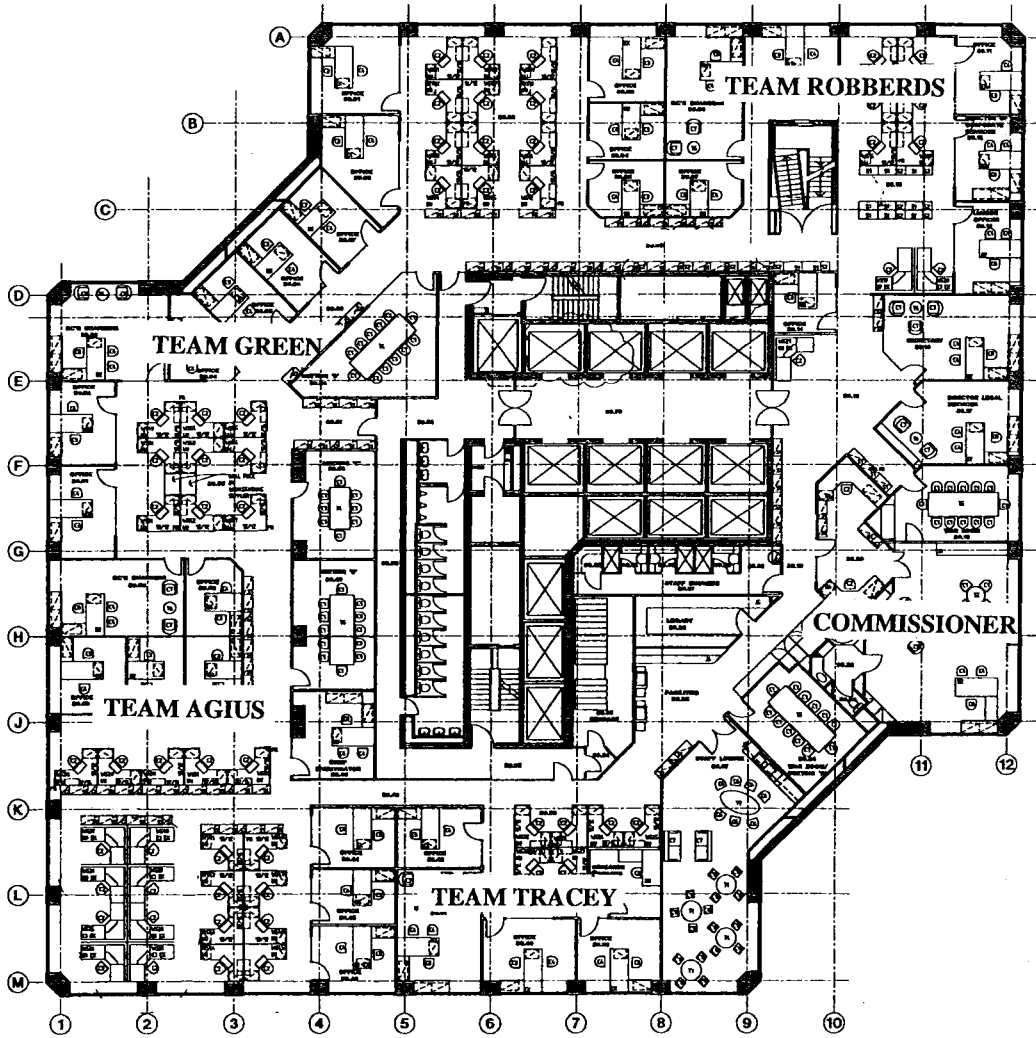
Archive of records



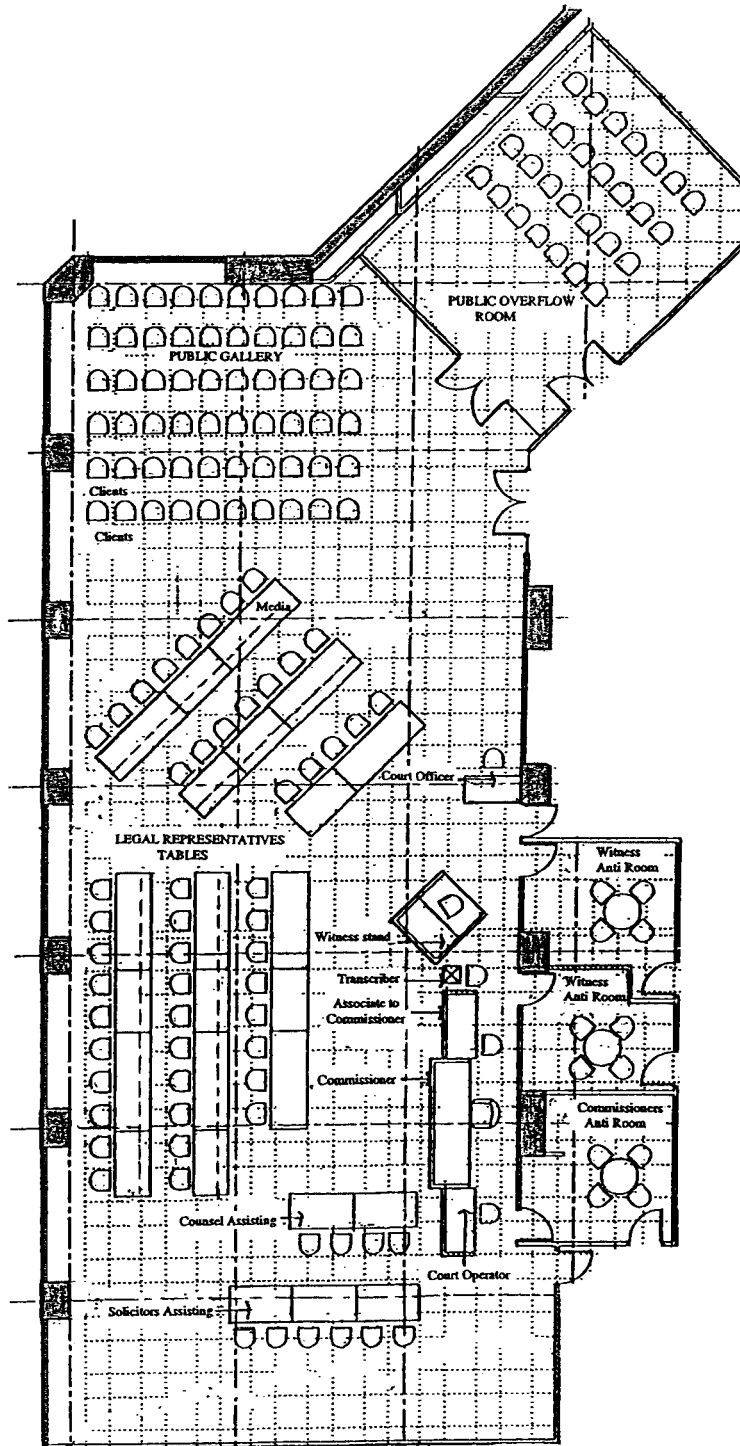
- 211 As the Commission's term came to a close the registry returned all remaining property and documents obtained from external parties to its providers. Any property that could not be returned, because the provider could not be located, is being archived in accordance with the policies of National Archives of Australia (NAA). (Figure 1)
- 212 The Commission received advice from the NAA that the electronic version of records contained on Casebook, Courtbook and the RDMS will be considered as the official records of the Commission and be retained permanently. Unannotated duplicate photocopies of such material were not considered official records and could be disposed of by the Commission. Hard copies of photocopies with significant annotations must be retained. Records of inward and outward correspondence must be retained in both electronic and paper formats.
- 213 Under s22 of the *Archives Act 1983 (C'wth)* the records of a Royal Commission that are no longer required for the purposes of the Commission are deemed to be Commonwealth records and shall be kept in such custody as the responsible Minister (Prime Minister) directs. The Commission has made arrangements to sentence these records and at the conclusion of its term transfer them to the custody of the Department of Prime Minister and Cabinet. (Figures 2 & 3)
- 214 The AGD has advised the Commission that it will maintain the information on the Commission's website. (Figure 4) Arrangements have been made with the Department of Prime Minister and Cabinet and AGD to transfer all Commission records relating to the administrative support to the Commission, including finance and human resource matters, under the Administrative Arrangements Orders will be transferred to AGD. (Figure 5.)

Appendix 1:

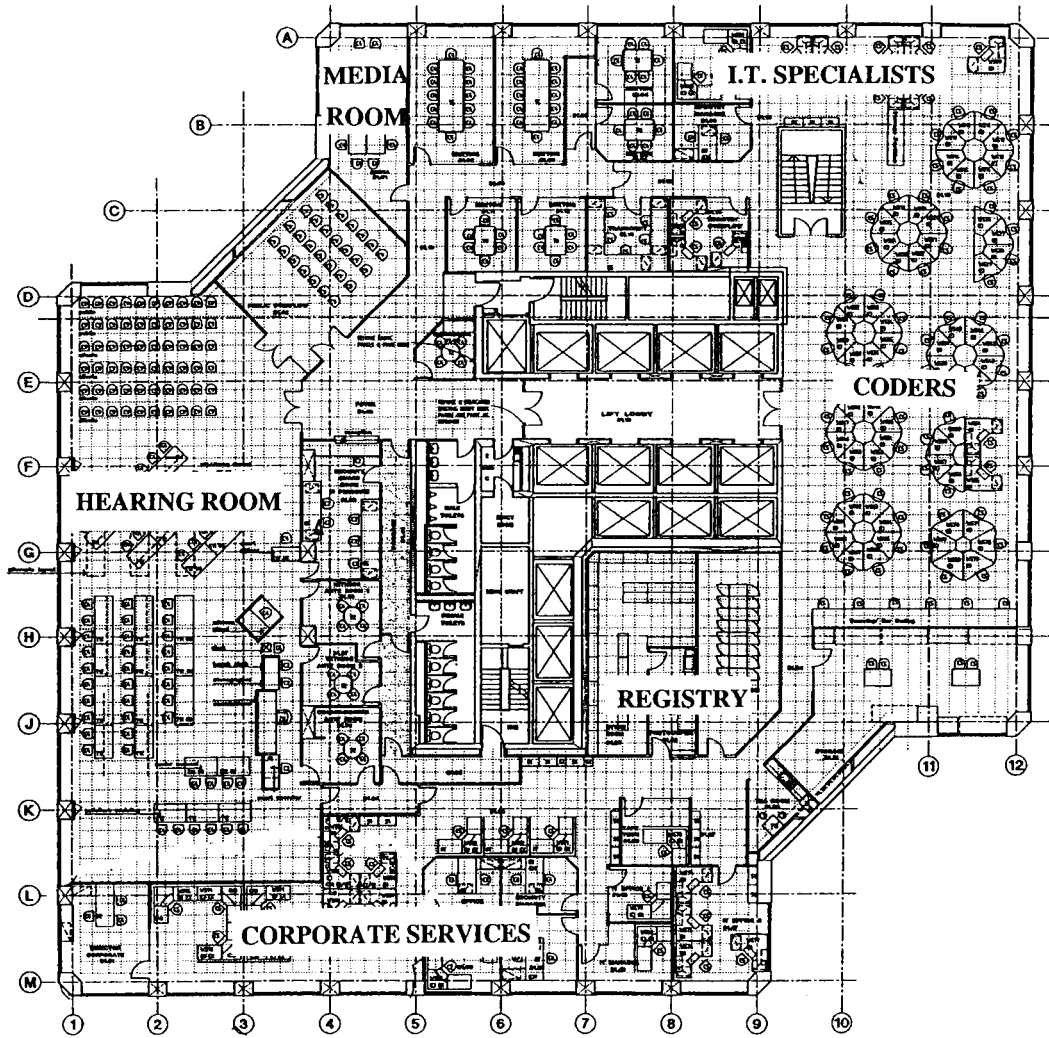
Floor plan of levels 30 and 31
(including the hearing room),
35 Collins Street, Melbourne



LEVEL 30 - 35 COLLINS ST. MELBOURNE.



HEARING ROOM - LEVEL 31



LEVEL 31 - 35 COLLINS ST. MELBOURNE.

Appendix 2:

List of personnel

List of Personnel

| Surname | First name | Position |
|----------------|-------------------|------------------------------|
| ADLER | Caroline | Paralegal |
| AGIUS SC | John | Senior Counsel |
| AINGER | Gordon | Paralegal |
| ALFRED | Greg | Paralegal |
| ALLEN | David | Investigator/Analyst |
| ARIMATEA | Licia | Administrative Support |
| ASHTON | Wesley | Solicitor |
| BASHAM | Brian | Investigator/Analyst |
| BASSETT | Andy | Investigator/Analyst |
| BEESELEY | Anna | Solicitor |
| BELL | Peter | Investigator/Analyst |
| BEVERIDGE | Jillian | Assistant to Dir. Of Invest. |
| BICCHIERI | Nancy | Solicitor |
| BISHOP | John | Counsel Assisting |
| BIVIANO | Marisa | Analyst |
| BLACK | Colette | Media Assistant |
| BLACK | Allen | Investigator/Analyst |
| BOLAND | Jessica | Paralegal |
| BOON LOU | Siew | Solicitor |
| BRACCIALE | Wendy | Paralegal |
| BRANDI | Antoinette | Research Officer |
| BRAUKAMPER | Renata | Paralegal |
| BRAUN | Diane | Administrative Support |
| BRITTAIN | Lesa | Investigator/Analyst |
| BRODIAN | Anita | Registry Officer |
| BROWN | Anita | Paralegal |
| BURROWS | John | Investigator/Analyst |
| BURROWS | Craig | Paralegal |

| | | |
|--------------|-----------|---------------------------------|
| BUTLER | Sheila | Director Corporate |
| BYRNE | Margaret | Solicitor |
| CAMPBELL | Geoff | Analyst/Research Officer |
| CAMPBELL | Sam | Paralegal |
| CARROLL | Gavin | Solicitor |
| CASEY | Lorraine | Investigator/Analyst |
| CAVALLIN | Loris | Manager Human Resources |
| CHAMBERS | Cara | Administrative Support |
| CHENG | Carolyn | Paralegal |
| CHISHOLM | Neil | Assistant/Robberds |
| CHOO | Howard | Paralegal |
| CLUNIES-ROSS | Alex | Paralegal |
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Appendix 3:

Protocol for the processing of documents and other information

1 Records and Document Management Procedures

Introduction

Foreword and authority

Records must be created and kept about all aspects of the Commission's operations, including administration, financial management, investigations and the handling of property. These records must be organised in a systematic way to support the workings of the Commission during its term as well as providing a record for archival purposes.

At the conclusion of the Commission, the records of the Commission will be transferred to the custody of a Commonwealth agency, as directed by the Prime Minister, and be retained as part of the nation's archives.

Scope

This manual covers:

- Responsibilities and accountabilities
- Document access and security
- File and folder management
- Electronic document management
- Email management
- Property management
- Retention and disposal procedures

Links to other procedures

This protocol is complementary to the Commission's Security Manual.

It should be read subject to other information management procedures issues from time to time.

Monitoring and compliance

To ensure that standards of best practice are maintained, quality control audits of the Commission's records system will be arranged by the Director on a regular basis.

General glossary of terms

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| Capture | The process of incorporating a record within an organisational recordkeeping system. Related term – <i>Registration</i> . |
| Classification | The grouping together of records of an organisation into categories to facilitate retrieval and disposal. |
| Consignment | All material received pursuant to a particular summons, notice to produce, search warrant or voluntary handover. |
| Disposal authority | An authority issued by the National Archives to authorise the disposal of Commonwealth records. It specifies the record classification and the minimum time each record should be kept. |
| Document | An individual item of information collected in written form or created or stored as an electronic image. |
| Electronic Data | Information that can be used on an electronic device. It may have originated from hard copy and been converted to an electronic format so that it is more convenient to move, process and store. |
| Electronic Records | Records communicated and maintained by means of an electronic device. |
| Exhibit | Means anything of evidentiary value and includes property, documents, records of interviews (ROI) tapes and other items held by the Commission. |
| Image | A visual, electronic representation of a document that has been created or copied and stored in electronic form; it is like an electronic photocopy. |
| Metadata | Data about records and documents that must be captured along with the record to support its management and use. Information to facilitate the management and meaning of records through time by identifying, authenticating and contextualising records and the people and processes that create them. |
| Normal Administrative Practice (NAP) | Rules permitting the disposal of non-essential information without reference to a disposal authority. |

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| Object (Object type) | A document, video or audio recording, photograph or any other piece of information that needs to be managed. |
| Property | See exhibit. |
| Record | A record is created and kept as evidence of agency or individual functions, activities and transactions. To be considered as evidence, a record must be part of a record-keeping system. |
| Record-keeping | Making and maintaining complete, accurate and reliable evidence of business transactions. |
| Records Management | The discipline and organisational function of managing records to meet operational business needs, accountability requirements and community expectations. |
| Registration | The assignment of a unique identifier to a record in a record-keeping system. |
| Rendition | A different expression (format) of the same document. For example, a document can have renditions in paper, MS Word and PDF formats. |
| Repository | Physical or electronic (virtual) area for the storage of information objects. |
| Courtbook | A tool for managing evidence and transcripts. Courtbook enables evidence to be marked up electronically. |
| Source document | A record that generates a document in response to notices, summonses and warrants. |
| Virtual Private Network (VPN) | A private data network that makes use of the public telecommunications infrastructure and maintains privacy through the use of various security procedures. |
| Workflow | The co-ordination and structure of tasks, data, and people to make a business process more efficient, effective, and adaptable to change. |
| Working Papers | Papers, background notes and reference materials that are used in the preparation and completion of other documents. |

General protocols

RDMS

The Records and Document Management System (RDMS) is the designated system for the management all Commission records and documents including:

- Internally created electronic documents from MS Word, MS Excel, MS Project, MS PowerPoint, etc;
- Email records generated internally or received from external sources;
- Records of consignments of documents received;
- Physical files for administration;
- Physical documents, including correspondence; and
- Workflow associated with records and documents.

The RDMS provides a controlled environment that meets the Commission's security requirements and the record keeping requirements of the Commonwealth.

The DOCS Fusion software from Hummingbird has been selected to provide the technology infrastructure for the RDMS. The *DOCS Fusion* software is integrated with the Casebook and Courtbook software. This integration enables documents created within the RDMS to be exported so they can form part of Casebook and Courtbook.

The registry is responsible for creating physical files and file parts. [Refer below to: *Creating and registering folders and files.*]

Responsibilities and accountabilities

All Commission staff must use the RDMS system.

All Commission staff have a responsibility to create records that document the business of the Commission including:

- written and verbal communications including telephone discussions;
- written and verbal decisions and commitments;
- meetings; and
- other events.

All Commission staff are responsible for capturing all Commission records into the RDMS system, excepting records that can be disposed of under normal administrative practice. [Refer below to: *Retention and disposing requirements.*]

Role of registry manager

The registry manager is responsible for registering, storing, maintaining and tracking all physical correspondence and property submitted to the Commission. Correspondence and property will be registered into the RDMS. [Refer below to: *Property management and document handling procedures.*]

Document access and security

The RDMS will operate in an environment where it is required to manage Non-National Information that is classified in accordance with the Commission's Protective Security Policies and Procedures

The Commission IT Security Manager is responsible for administering document access and security within the RDMS. Commission staff must complete an Access Request Form for authorisation prior to obtaining access to the RDMS.

Each group, position, person and object type (for example, consignments, folders, files) has been assigned access and security rights appropriate to their role. Documents have been arranged into a hierarchical folder/file structure within the RDMS. Users will only be able to access documents within folders/files to which they have been granted access rights.

All documents and objects must be marked with a security classification which indicates the level of protection the information needs:

- **In Confidence:** This is the minimum standard within the Commission and is applied in circumstances where compromise of the information could cause limited damage to the Commonwealth, the Government, commercial entities or members of the public. Unless otherwise marked all documents within the Commission are to be treated as In-Confidence material.
- **Protected:** This standard is used when compromise of the information could cause damage to the Commonwealth, the Government, commercial entities or members of the public.
- **Highly Protected:** This standard indicates that the information requires a substantial degree of protection because compromise of the information could cause serious damage to the Commonwealth, the Government, commercial entities or members of the public. Material is stored on a stand-alone computer with limited secure access by Commission staff.

Caveat protected information

Certain security classified information bears a security caveat in addition to a security classification. The caveat is a warning that the information has special requirements in addition to those indicated by the protected marking. The people who need to know will be cleared and briefed about the significance of this type of information.

All objects lodged with the registry and held within the Commission without a security classification printed on them are treated as In Confidence material.

Electronic documents are created from official Commission templates where a security classification is embedded in the header or footer of the document.

Files and documents are not be transferred, moved or issued to any person who does not have the appropriate security clearance.

Every event in which a caveat protected record is printed or copied must be recorded. The registry manager will maintain a log within the RDMS recording all events relating to caveat protected records including printing, copying and movements.

Commission staff must notify the registry manager of all events relating to caveat protected records.

Clean desk policy

The Commission maintains a clean desk policy in accordance with the Commission's *Protective Security Policies and Procedures*. Desks and other surfaces should remain clean and clear of files

and paper documents when not in use. Commission staff should minimise the number of files they keep at their desks and the length of time they keep them. Files are to be returned to the registry and other secure storage areas after use.

Commission staff must employ password protected screen savers.

Auditing

The RDMS has comprehensive audit functions for logging all electronic events that take place within the system, including the searching, opening and printing of documents. These events are logged for every user and every information object.

Managing a mixed paper and electronic record-keeping environment

The Commission's information management system is a mixed environment of both paper and electronic documents.

Commission staff must manage electronic records with the same care as paper records. All digital data created or received in the conduct of Commission business become Commonwealth records under the *Archives Act 1983 (C'wth)* and must be managed accordingly.

Procedures are followed to manage paper and electronic information to reduce excessive copying, duplication and to minimise work associated with the wind-down phase of the Commission.

Where both paper and electronic renditions of a record exist, the final electronic version of the document is designated as the official Commission record within the RDMS, except where:

- The document requires a signature to become a record of the Commission (that is, warrants, summons, notices);
- The printed copy or photocopy of the document is annotated with written comments that alter its status to a record of the Commission.

The above documents must then be registered into the system as paper documents. [Refer below to: *Correspondence management*.]

Folder/File management

Information within the RDMS is grouped within a hierarchy known as the file plan. The last level of that plan is called the file and is named according to the Commission's classification structure.

Files within the RDMS are virtual files, in that they manage both physical and electronic documents within the same RDMS container. The file number for the virtual file corresponds to the physical file. This means that all documents, regardless of form, are managed (secured, sorted, searched and disposed of) as a group, rather than separately.

Creating and registering folder and files

All official Commission files must be registered within the RDMS. For each investigation an official file must be registered.

Only authorised Commission staff may create electronic folders within the RDMS. To request the creation of a new electronic folder complete the new folder request form indicating the folder name required and email the request to the RDMS system administrator.

Registry staff are responsible for creating all files and file parts on the system and making up file covers. To request the creation of a new file complete the new file request form, indicating the file type required, selecting the most appropriate security classification and free text terms for the title and send it to the registry. Folder and file creation should be completed within 2-4 hours of your request, or sooner if required.

File titling

The file title is derived from a combination of the hierarchical folder structure and free text. The following guidelines should be observed when titling files:

- use only proper English words and do not use abbreviations;
- when titling with organisation names, title using the full registered name of the organisation (accompanied by the approved acronym in brackets); and
- when titling with individual names, title using the persons full name (accompanied by any diminutives in brackets).

[Refer below to: *Document titling*]

File labels

All files must be clearly identified and labelled from the time of creation. The file label will identify the:

- File number and part number;
- Barcode number;
- Full file name; and
- Normal or home location where the file is stored when not in use.

File labels are produced by the RDMS when the file is registered.

File parts

New parts to a file are created when either the physical or electronic file has grown too large for effective management. As files within the RDMS are virtual files (a combination of both physical and electronic documents), commission staff will need to exercise their judgement in assessing the need to new file parts. In general new file parts should be created when a physical lateral file reaches 2.5 centimetres in depth, and an electronic file contains over one page view of electronic documents.

To request the creation of a new file part staff should complete the new file request form within the RDMS templates, indicating the file name and number and send it to the registry for processing. New folder and file parts should be completed within 2-4 hours of the request, or sooner if required.

Tracking physical file movements

It is essential that the location of physical files and documents be known at all times. The location of every file should be recorded accurately in the RDMS and kept up to date at all times.

The movement of files and property must be recorded whenever files and property:

- are moved in or out of registry;
- are transferred between teams;
- are transferred to off-site locations or storage.

This can be done by recording it in the RDMS or by notifying the records officer.

All file movements involving highly protected and caveat protected information are recorded by registry staff. [Refer above to: *Document access and security*].

Personal reference file systems

It is understood that some Commission staff may need to retain personal reference files for their convenience.

Original document and records (including original signed copies) must be registered into official Commission files by the registry manager.

Personal reference files should not be registered within the RDMS, but should be identified with a 'Reference File' label that includes the name of the file owner.

Correspondence management

The registry manager is responsible for the daily processing of all incoming physical correspondence to the Commission.

Incoming mail correspondence and facsimiles will be copied, scanned and registered into the RDMS and routed electronically to the team leaders for action. The originating document correspondence will be placed in the registry.

All Commission staff are responsible for the capture of email correspondence to and from external parties into the RDMS. [Refer below to: *Email management*].

Electronic document management

Document titling

Documents must be appropriately titled to facilitate classification and subsequent retrieval. It takes less than 30 seconds to name a document. The time spent in accurately naming documents will be compensated many times over by the savings in time taken to retrieve documents. Good document naming means that documents can be easily found when searches are undertaken with known criteria. Also the contents of documents can be ascertained from the name without the need to open the document.

Drafting documents and version control

New drafts are created whenever there is significant editing of a draft when it is revised as a result of it being submitted for approval, circulated for comment or considered by a workshop. The revised draft is created as a separate item capable of being managed independently of the original item.

Drafts are finalised as versions when they are transacted, namely tabled in a meeting or sent to an external party. At this point they become records of the Commission.

Capturing electronic documents as records

When a document is transacted, namely tabled in a meeting or sent to an external party, it is flagged as a record on the RDMS. This ensures that the record can not be altered. Any changes made to the record will be recorded as a new version of the document.

Migrating electronic documents into Casebook

Many documents created within the RDMS are exported to Casebook and be objectively coded and linked to other material.

Electronic documents with a highly protected or caveat protected classification must not be migrated into Casebook, unless authorisation has been granted and the document reclassified to in confidence. [Refer above to: *Document access and security*]

Email management

The RDMS captures electronic messages (email) and links them to the appropriate file. The RDMS is also integrated with the Commission email system to facilitate electronic notification of work and for routing of electronic documents between teams and commission staff.

Email messages sent or received in the course of Commission business are Commonwealth records and must be retained for as long as they are needed for Government and community requirements.

Email messages, like all other business documents, have differing values. The value of an email message is determined by whether it relates to Commission business or is an information message or is purely private, for example:

- A business transaction might be a directive or an approval for a particular course of action or an interchange of messages about a case or policy issue.
- An information message will have a business context but not be part of a business transaction, for example a notification of a meeting, or a message used as a carrier for an attached document, or a general notice to all commission staff.
- A private message will refer to non-business matters.

If the electronic message is determined to be a business transaction then it must be captured into a record-keeping system. Retention is governed by general or agency specific records disposal authorities issued by the National Archives.

Document management and document handling

Procedures for managing Commission documents, including evidential documents and exhibits are outlined below.

Running sheets

Annotations written on paper documents

As normal practice, annotations should not be made on paper documents but entered directly into Casebook as subjective coding linked to the relevant evidential documents.

In the event that significant annotations have been made on a physical document which must be retained as a Commission record, the annotated document must be scanned and registered as a new document in the RDMS.

For annotations of an ephemeral nature, refer below to: *Normal administrative practice*.

Records of telephone conversations

Records, in the form of file notes, must be made of significant telephone conversations and registered into the RDMS.

A template for recording file notes is available within the RDMS to facilitate the recording of telephone conversations.

File notes should also be made of any substantial verbal matter or observations (including discussions and field notes) to provide a complete record of Commission business.

Instructions

Significant instructions documenting Commission business must be captured and registered into the RDMS.

As normal practice, significant instructions should be conveyed using internal email messages to facilitate the capture of the records into the RDMS. [Refer above to: *Email Management*]

Internal memoranda

Internal memoranda documenting Commission business must be registered into the RDMS as records of the Commission.

Retention and disposing requirements

Records of the Commission, including electronic records, must not be disposed of except under an appropriate disposal authority issued by the National Archives or under the procedures outlined below for normal administrative practice.

Records of the Commission will be classified into folders and files within the RDMS so that they can be retained or disposed of in accordance with the Commission's retention and disposal schedule at the end of the term of the Commission.

Normal administrative practice

Normal administrative practice (NAP) defines types of records that agencies may routinely destroy in the normal course of business.

NAP usually applies to information that is duplicated, unimportant or only of short-term facilitative value. All of the following may be destroyed as a normal administrative practice:

- advertising materials - brochures, fliers, catalogues, pricelists and trade journals;
- letters of appreciation or sympathy;
- non-acceptance of invitations;
- out-of-date distribution lists;
- telephone message slips [Refer below to: *File Notes*];
- trivial electronic mail messages or notes that are not related to agency business; and
- 'With compliments' slips.

Duplicated and superseded materials include:

- address lists and change of address information;
- drafts (see below);
- forms (except master copy);
- manuals (except master copy);
- reference or information copies ;
- routine statistical and progress reports compiled and duplicated in other reports;
- thermal paper facsimiles after making and filing a photocopy; and
- unused stationery.

Drafts created during the generation of a final document that is to be transacted or published may be destroyed except where there is an identified record keeping requirement to retain them.

Working papers are rough notes, calculations, diagrams, dictated recordings, etc, that have been used in the preparation of other documents such as correspondence, minutes and transcripts. They may be destroyed where they do not contain information of an evidential nature that does not appear in the final document.

Copies of records, such as the annual reports and duplicates of externally created documents and publications such as price lists, trade journals, may be destroyed.

Routine instructions directing officers of the Commission to carry out certain tasks, for example file creation and correcting typing errors are of short-term value and may be destroyed.

Property management and document handling

Registry

The primary function of the registry is to receive, register, receipt, process all property received from external sources and record the movement of any external property to show 'continuity of custody'.

It is imperative that the integrity of exhibits is maintained at all times during the Commission's inquiry.

The RDMS will retain a complete and accurate record of all property received, and be used to record any subsequent movement of property, enabling the Commission to meet its record keeping requirements and to ensure that continuity of property is maintained at all times.

Source documents

All investigations commenced by the Commission must be allocated an investigation number from the registry manager at the commencement of an investigation. The investigation number must then be referenced on every source document issued (notices, summonses and warrants).

All source documents issued by Commission staff to any external persons or organisations must be registered and lodged with the registry prior to their issue or service.

The registry will then arrange for the printed and signed source document to be copied and linked to the original electronic document in the RDMS.

A copy of the signed source document will be placed on the notice, summons and warrant registers held in the registry.

Once a source document has been served, the case officer will be required to complete and lodge a *record of service* with the registry. The notice, summons and warrant registers will then be updated accordingly.

Receipt of property

In normal circumstances all property will be delivered to the registry. The registry is responsible for the issue of a property receipt and recording of the property lodgement in the exhibit register.

In the instance where property is received directly by the case officer, the case officer must complete a property receipt and lodge it with registry, together with the property received, as soon as practical after receipt.

Following receipt of the property, the registry will notify the relevant case officer that the property has been received.

Once the registration process has been completed, the case officer will be asked to:

- evaluate the evidentiary value of and classify the security of the property in accordance with the Commission's policy;
- complete a summary sheet from RDMS describing and listing the items within a container that are to be registered within the RDMS or Casebook.
- return the container to the registry for processing.

Upon return of the container, the registry will organise for the identified items to be forwarded to <e.law> to be copied, barcoded, registered, imaged and loaded into Casebook in accordance with the Commission's *Document Control Processing Guidelines*.

<e.law> will organise for all items registered within Casebook will be imported into the RDMS and linked to the consignment/containers.

Property storage

All original property and exhibits collected during the course of the Commission's term will be registered within the RDMS and retained in the Commission's designated repository until either a Counsel Assisting or a solicitor determines that the property is no longer required and may be returned by the registry.

Internally generated property

Internal property is 'all documentation that is generated from within the Commission' that is processed through the registry. This includes documents downloaded from the internet, witness statements, electronic mail, interview transcriptions, audio and video tapes pertaining to interviews and all other documentation that does not pertain to a notice or voluntary handover.

At times there may be an operational requirement for the Commission to use internally generated documents as exhibits for its hearing purposes. To overcome the fact that these types of documents do not have an original specific 'source document' (that is, property receipt record) in the RDMS, one will need to be created.

In the event that a decision is made to use internally generated documents as exhibits, a reference will need to be created within the RDMS to provide details of the document source.

Recording process

Each team has been assigned two specific barcodes for all internal property to be registered.

To facilitate this processing, an internal property receipt number and container number for each of the teams will be issued when they choose to have internally generated documents loaded into Casebook.

The process of registering the documents is the same as all normal property received under notices, summonses and warrants or by voluntary handover.

Location of original property and working documents

Registry will assign a specific location within the RDMS for:

- internal property created by the teams;
- original property processed by the registry;
- working photocopies.

Searches

Staff can complete a search of any internal property or original property records held in the RDMS by placing the receipt or container number of a specific consignment in the appropriate field in the RDMS search form. This search will return all individual records processed against a container.

Audio recordings, tape lodgment & transcription

The recording process:

- All recordings should be made from a recording device that uses a normal standard C90 cassette. (Micro-cassette recorders should only be used in exceptional circumstances).
- Use a new set of batteries for each interview.
- Always use a new tape.
- Only use one side of the tape.
- Always commence recording on the tape equipment at least 10-15 seconds prior to the commencement of the talking.
- At the completion of the interview, remove the cassette tape from the machine and break out the security tabs so that the cassette cannot be accidentally recorded over again. Always perform this in the presence of the interviewee.
- Insert details on the cassette label that identify the recording (date, time, name of interviewer and name of interviewee) and indicate the security classification level of the tape.
- To eliminate damage, all audio tapes should be submitted in their cassette covers.
- The interviewing officer should then cause a copy of the master recording to be made as soon as practical after the recording. The media unit is able to provide a copying service for standard audio cassettes.

Submitting audio tapes to the registry

- The interviewing officer should complete a property receipt and tape transcription request and lodge the master tape and any copies made to the registry manager for registration and transcription.
- The registry will register the property (tapes) received and retain the master tapes which it will archive.
- The copies will be forwarded to <e.law> for the purposes of transcription.
- The interviewing officer must complete all relevant fields on the tape transcription request receipt form.
- <e.law> shall not accept master copies of audio recordings. Only copies and working copies will be accepted.
- Case officers shall check the clarity of their audio recordings prior to submitting them to the registry for transcription.
- Transcripts should be requested in either hard or disk copy and must be registered within the RDMS.
- The registry will return the copy tape and the disk containing the transcript to the requesting case officer.

- Case officers will then check the accuracy of the transcript against the audio tape recording (copy) to correct any indistinct fields within the transcript (that is, details of any errors, unusual names or addresses mentioned within the audio recording).
- Case officers return the copy tapes and the transcript disc to the registry for storage after the transcript editing phase.

Correspondence processing

Correspondence includes all material received via post or facsimile. The types of correspondence received can be categorised into four groups:

- Addressed correspondence - Correspondence which is addressed to a specific individual.
- Team correspondence - Correspondence which is not addressed to a specific individual, however the registry can determine the team it relates to after examining the contents of the correspondence.
- Unknown correspondence - Correspondence which is not addressed to a specific individual and the intended recipient or the team it relates to can not be determined by the registry.
- Private and confidential correspondence - Correspondence addressed to a specific individual marked Private and Confidential - usually of a personal nature and does not relate to Commission business.

The registry will arrange for the creation of electronic images of all correspondence received and enter these in the RDMS. An electronic copy will be immediately circulated to their intended recipients.

RDMS - Document deletion and folder creation

The RDMS is the designated system containing the approved Commission file plan for the management of all Commission records and documents, both paper and electronic.

The RDMS provides a controlled environment that meets the Commission's security requirements and the records keeping requirements of the National Archives.

The RDMS is used to manage all Commission records and documents including:

- Internally created electronic documents from MS Word, MS Excel, MS Project, MS PowerPoint.
- Email records, including attachments, generated internally or received from external sources.
- Records of consignments of property received by the Commission.
- Administration files of the Commission.
- Physical documents, including correspondence.

System modification

The Commission will only create new folders where these are consistent with the file plan and will allow the Commission to meet the record keeping requirements of National Archives.

The Commission is required to maintain a complete record of all documents created and deleted within the RDMS. This provides the Commission with a concise record and ensures the integrity of the RDMS is not compromised.

New folders.

In the event that staff require the creation of a new folder (for example, at the commencement of a new investigation) or as part of normal operational requirements, a email request detailing the folder title, purpose, and desired location within the RDMS must be forwarded to the registry.

Deletion of documents.

At times there will be a genuine reason for documents created within the RDMS to be deleted (for example, duplicate records, incorrect versions of documents). The deletion of such records will ensure the Commission maintains an accurate record keeping system.

Capture - matters for investigation (CSS)

The Commission is required to review all matters forwarded to it and issues raised during its inquiry to ascertain if they require investigation or communication. The tool used to facilitate this review process is the Commission's complaint summary sheet (CSS) which will be created following the receipt of new complaints and leads.

Teams will complete CSS forms where investigations have been completed or where no further investigation is required.

Where matters with existing CSS forms require further investigative action or communication of material to another agency, a new CSS form is created.

Teams are responsible for ensuring that all hard copy and electronic documents associated with particular matters or investigations are contained within their correct RDMS folders.

Notes – Legislation affecting record keeping

Archives Act 1983 (C'wth)

The *Archives Act 1983 (C'wth)* established the Australian Archives. The Act empowers National Archives to preserve the archival resources of the Commonwealth. The Act establishes that the public generally has a right of access to Commonwealth records that are more than 30 years old. It makes it illegal to destroy Commonwealth records without the permission of National Archives, unless another law states that a particular group of records must be destroyed.

Freedom of Information (FOI) Act 1982 (C'wth)

The *Freedom of Information Act 1982 (C'wth)* provides for public access to documents kept by Commonwealth Government departments. Departments must state the types of information they keep in their annual reports. When a member of the public requests access to information, the department must identify and preserve all relevant sources, including records, until a final decision on the request is made. The Act sets out how the department may correct, annotate or update records if a member of the public shows that information is false.

Privacy Act 1988 (C'wth)

The *Privacy Act 1988 (C'wth)* aims to prevent Commonwealth agencies from misusing information about members of the public. It states that agencies can only use information about individuals for lawful purposes and these purposes must relate directly to the functions or role of the agency. The information that agencies keep must be secure, accurate, relevant, complete, and not misleading. The Act also enables people to see records about themselves.

Evidence Act 1995 (C'wth)

All agencies need to take account of evidence legislation. A court may need to examine records as evidence of an organisation's decisions and actions. General advice on the impact of the *Evidence Act 1995 (C'wth)* is given in *Records in Evidence: The Impact of the Evidence Act on Commonwealth Record-keeping*.

Other legislation affecting record-keeping

Occupational health and safety legislation, for example, requires an organisation to keep certain types of records for certain periods of time. Requirements that apply to all agencies are included in the National Archives' *Administrative Functions Disposal Authority*.

Appendix 4:

Payments for contracts to 31 January 2003

Contract**Amount spent to
31 January 2003 \$**

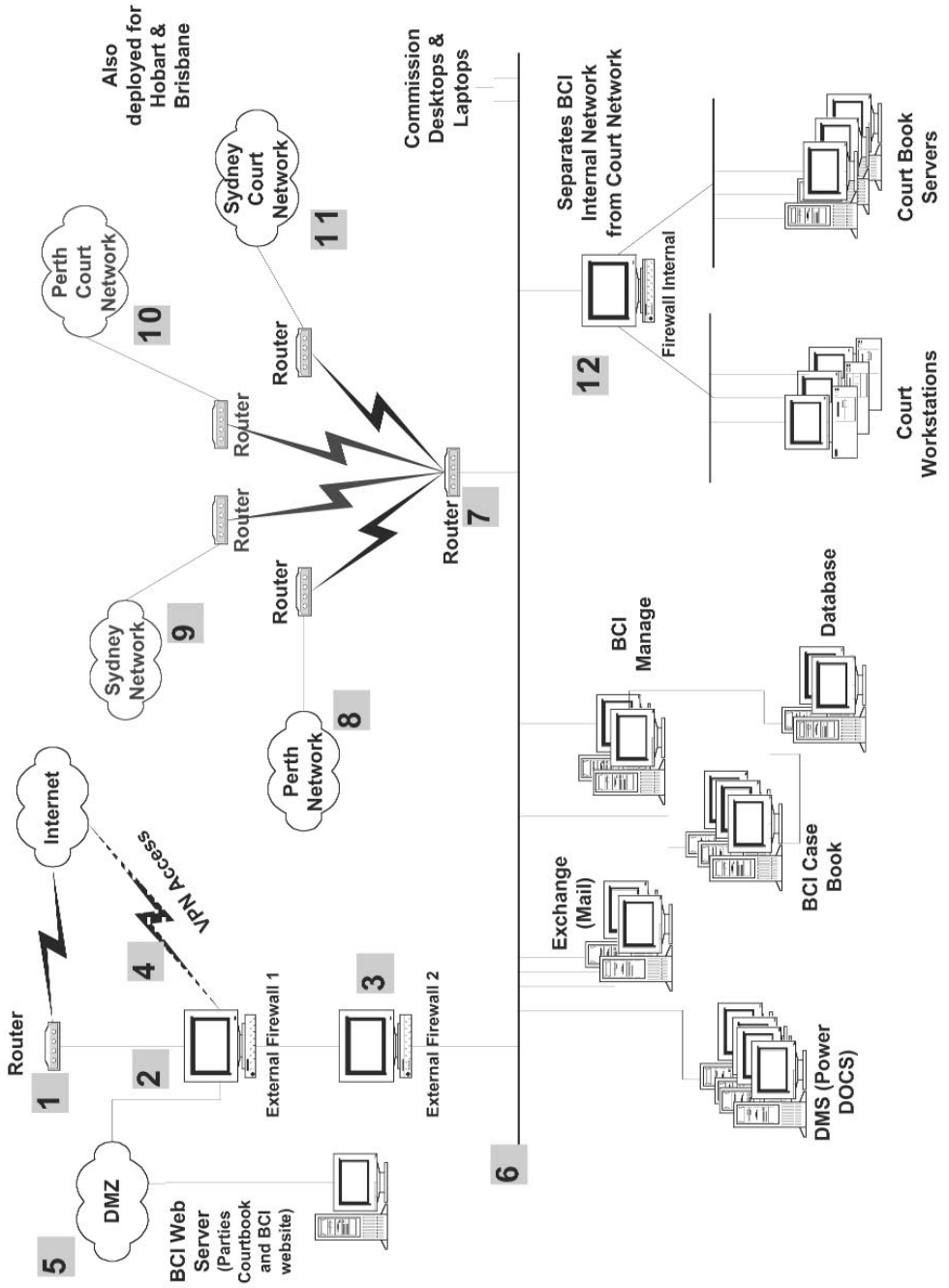
| | |
|--|------------|
| AMP Henderson Global Investors (Lease of Collins St Offices) | 2,197,332 |
| Kay & Burton Real Estate (Residential accommodation to 31/1) | 15,468 |
| LJ Hooker Cheltenham (Residential accommodation) | 40,443 |
| Living Edge (Furniture) | 23,371 |
| Cayzer Real Estate (Commissioner - accommodation) | 52,000 |
| Biggin & Scott (Residential accommodation) | 36,655 |
| Bennison Mackinnon & Assoc (Residential accommodation) | 44,208 |
| Campbell Moore Real Estate (Residential accommodation) | 35,827 |
| Gray Pucksand (Architect) | 102,056 |
| John Hindmarsh Ltd (Construction Project Management and Superintendency) | 337,162 |
| Schiavello (Partitions, Painting) | 608,584 |
| Connell Mott MacDonald (Engineering Services) | 30,738 |
| Kilpatrick (Building Repairs) | 2,830 |
| Haworth (Office Fittings) | 301,242 |
| Camatic Seating (Seating) | 135,874 |
| Harris Office Environments (Demolition) | 40,661 |
| TYCO International (Multi Services- construction) | 921,834 |
| Dynamo (Building Repairs) | 2,595 |
| Philip Chun (Building Permit) | 1,930 |
| KFPW (Facilities Managers) | 82,024 |
| e-Law (IT, Communications, DMS) | 13,618,728 |
| Network Four (Media Advisor) | 581,818 |
| Media Monitors | 26,022 |
| AGS (Legal Services) | 10,284,884 |
| Lend Lease (Vehicle Leasing) | 18,304 |
| Synercon Management Consulting (RDMS Customer Representative) | 172,342 |
| Pirac Economics (Research Director) | 205,145 |
| Grosvenor Management Consulting (<e.law> contract negotiations) | 148,774 |
| CB Richard Ellis (Perth Offices) | 171,000 |

| | |
|--|------------|
| ACCIRT- University of Sydney (Research) | 9,636 |
| AGSEI Limited (Research) | 15,000 |
| CSIRO Building Construction and Engineering (Research) | 147,029 |
| Shoreday Proprietary Limited (Research) | 5,227 |
| Tasman Economics (Research) | 154,371 |
| Unisearch Limited (UNSW) (Research) | 84,474 |
| peopleD Pty Ltd (Research) | 61,081 |
| Polsearch Pty Ltd (Research) | 2,500 |
| ACIL Consulting Pty Ltd (Research) | 4,370 |
| Cut and Polish (Editors) | 1,575 |
| Spencers Corporate (Accountants) | 20,000 |
| Edwards Marshall (Accountants) | 33,834 |
| John Culvenor (Research) | 7,434 |
| Crosstech Pty Ltd (Research) | 3,000 |
| Total | 30,789,382 |

Appendix 5:

Overview of the Commission's IT network

Royal Commission into the Building and Construction Industry Network Overview



Network Diagram – Royal Commission into the Building and Construction Industry

1 Cisco Router

This device was used as the Internet router allowing Internet connectivity to the BCI network. This router connected directly to the 1st external firewall and also directed all Internet traffic through the proxy server that provided content filtering and malicious code protection.

2 1st External Firewall

This was the BCI Primary Firewall and was configured to accept VPN traffic (which it encrypts and decrypts over IPSec using 168-bit 3Des). The firewall protected the internal BCI network from unauthorised access and attacks. It also protected the web server from attacks.

3 2nd External Firewall

This was the BCI Backup Firewall. The filtering rule set was identical to the Primary Firewall but the firewall itself was a different brand allowing for greater redundancy.

4 VPN Access

Authorised Commission users were granted access to the BCI internal network via a VPN (Virtual Private Network). Users required VPN software to be loaded onto their laptop and were issued with a separate username and password. This allowed access to email, CourtBook, CaseBook and the file server. Remote access to the document management system was blocked to maintain its integrity.

5 DMZ

A publicly accessible website was set-up and maintained for relevant material pertaining to the BCI Commission. The address of this site is www.royalcombci.gov.au. The web server was located in the DMZ (demilitarised zone) for security purposes. This area was isolated from the main internal network. This stopped people who accessed the website gaining entry to the BCI network.

6 Melbourne Network

The primary internal network for the Commission was the bci.gov domain. To gain access to services on this domain, the computer being used must have been given access to the domain, and a username and password needed to be entered. All servers were based in Melbourne, including Database servers, File servers, CourtBook, CaseBook, Mail Servers, DMS and internal Web servers.

7 Core Router

The core router was a Cisco 2600. This device terminated all connections for the interstate offices. All traffic was encrypted over IPSec using 168-bit 3Des.

8 – 11 Interstate Networks

The Interstate networks were connected via ISDN, DSL or Ethernet depending on the duration the connection was needed, the number of staff at the location and a cost benefit analysis. All Interstate offices connected back to the Core router in Melbourne, providing full network access to Commission staff located Interstate.

12 Melbourne Court Network

The Melbourne Court Network ran as a child domain (court.bci.gov) and was separated from the bci.gov domain via an internal firewall. As this was a public facing network, no access to the bci.gov domain could be gained from the court.bci.gov domain. They act as two independent networks.

Notes to Administration

- ¹ See 24 Australian Law Journal 386,387 quoted in Hallett, 1982, *Royal Commissions and Boards of Inquiry* , Melbourne, p 216.
- ² See *First Report of the Royal Commission into the Building and Construction Industry*, 20 August 2002, paragraph 9.
- ³ See *Royal Commission into the Building and Construction Industry, 2003*, Volume 2, *Conduct of the Commission – Principles and Procedures*, Appendix 4.
- ⁴ *The Age*, 7 February 2002, p 3.