



TRANSCRIPT OF DAY 5 – PUBLIC HEARING

PROFESSOR ELEANOR A BOURKE AM, Chair
MS SUE-ANNE HUNTER, Commissioner
MR TRAVIS LOVETT, Commissioner
DISTINGUISHED PROFESSOR MAGGIE WALTER, Commissioner
THE HON ANTHONY NORTH KC, Commissioner

WEDNESDAY, 06 JUNE 2024 AT 10.06 AM (AEST)

DAY 5

HEARING BLOCK 7

MS FIONA McLEOD AO SC, Senior Counsel Assisting
MR TONY McAVOY SC, Senior Counsel Assisting
MR TIMOTHY GOODWIN, Junior Counsel Assisting
MS SARALA FITZGERALD, Junior Counsel Assisting
MS GORDON, WITH MS FREDERICO appeared for the State of Victoria

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<THE HEARING COMMENCED AT 10.06 AM

CHAIR: Good morning. Welcome to today's hearing of the Yoorrook Justice Commission. Today we continue our inquiry into ongoing historic and social
5 injustice of Victorian First Peoples. This is Hearing Block 7. But before we continue I'd like to invite Commissioner Hunter to give the welcome.

COMMISSIONER HUNTER: Thanks, Chair. I would like to acknowledge we
10 are on the lands of the Wurundjeri, of my ancestors. I acknowledge my Elders and my ancestors, past and present. Acknowledge all those ancestors that come before us and people that are still alive that fought for us to be able to have voice in this room today. May Bunjil watch over us as we conduct Aboriginal business. Wominjeka.

15 **CHAIR:** Thank you. Counsel, may we have appearances, please?

MR MCAVOY SC: May it please the Commission, Chair, my name is McAvoy. I appear as Co-Senior Counsel Assisting the Commission with Ms Fitzgerald of
20 counsel. I too acknowledge the Wurundjeri people and thank Commissioner Hunter for the welcome to this Country.

CHAIR: Thank you.

25 **MS GORDON:** My name is Gordon, and I appear with Ms Frederico on behalf of Ms Atta and Mr Fraser this morning. And in so I acknowledge the Traditional Owners of the lands on which we meet, the Wurundjeri People of the Kulin nation and pay my respects to their Elders, past and present, and pay my respects to all First Nations People here today. May it please the Commission.

30 **MR MCAVOY SC:** Chair, today we have representatives from the Department of Education and I call the Secretary from the Department of Education, Jenny Atta and the Deputy Secretary School Education Programs and Support, Stephen Fraser who is sitting in the witness area.

35 **CHAIR:** Welcome today to the hearing.

MS JENNY ATTA: Thank you, Chair.

40 **MR MCAVOY SC:** I will start first with you, Ms Atta. Firstly, could you tell the Commission your full name?

MS JENNY ATTA: Jennifer Therese Atta.

45 **MR MCAVOY SC:** And your role is?

MS JENNY ATTA: I'm the Secretary of the Department of Education.

MR MCAVOY SC: And in the evidence you will give to this Commission today do you undertake to tell the truth?

MS JENNY ATTA: I do.

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MR MCAVOY SC: Mr Fraser, could you tell the Commission your full name, please?

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MR STEPHEN FRASER: I'm Deputy Secretary School Education Programs and Support.

MR MCAVOY SC: The evidence you are about to give this Commission today, do you undertake to tell the truth? Thank you.

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Now, I understand, Ms Atta, that you have an opening statement that you would like to make.

MS JENNY ATTA: That's right, Mr McAvoy.

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MR MCAVOY SC: Would you please proceed with that now?

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MS JENNY ATTA: Thank you. And thank you, Commissioner Hunter, for that Welcome to Country. I acknowledge the Wurundjeri people of the Kulin nation as the Traditional Owners of the lands that we are on today and the lands that I live and work on. I pay my respects to Elders past and present and I acknowledge other Elders and First Peoples here today and viewing the broadcast of this hearing.

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I acknowledge the landmark work that you are leading through the Yoorrook Justice Commission and I thank the Commission for the opportunity to engage directly with that work and to appear before you today.

35

First Peoples were the first educators in this country and I recognise the importance and the value of the knowledge that they hold and share. I also want to acknowledge the Elders and First Nations people working in and with the education system across the State. I particularly acknowledge leaders of the Victorian Aboriginal Education Association Incorporated, VAEAI, the Department's principal partner in the development and implementation of the Marrung Education Plan as well as those who provide leadership and guidance to our school system through the consultation groups. And I thank the many passionate and committed staff working in schools and in the Education Department who every week and every day are working hard to bring to life the vision for change set out in Marrung.

45

I've held the role of Secretary of the Department of Education for the past five years. I've come to this role following a long career in the Victorian public service, I've worked as a public servant for more than three decades. I've held

roles in a number of portfolio areas spanning both social policy and budget and financial management responsibilities, principally in health and human services, in treasury and finance and now in education.

- 5 As Secretary, I have responsibility for the education portfolio inclusive of direct management and delivery of school education through the government school system. 1,566 schools with more than 650,000 enrolments and just over 17,500 First Peoples students representing 2.7 per cent of those enrolments. In addition, the Department has responsibility for early childhood education, which sits as part of the children's portfolio.
- 10

The Department has ultimate responsibility for the education of children in Victorian government schools and within this large system relies on a large network of regional directors, their staff and school principals who have local accountability. Since colonisation the education system has played a role in perpetuating the fallacy of terra nullius, reinforcing racist histories and stereotypes about Australia's First Peoples. Insidious concepts that have flow on effects that continue to infiltrate society and our systems today including our school system.

15

20 Shamefully, the operations of schools in the education system were interwoven with State efforts to forcibly remove First Peoples' children from their families and communities, including through industrial or reformatory schools and later through successful policing of truancy, where their accounts of school truancy being used to justify the removal of children. History has shown that the exclusion of First Peoples from education has taken a range of forms including a lack of access to a formal education available to other children and young people, a lack of access to resources and limited opportunities for involvement in education decision-making.

25

30 These historical records capture an all pervasive mindset of low expectations for First Peoples students. As late as 1959 a department report submitted to the Aborigines Welfare Board suggested that First Peoples students attending the Lake Tyers State School should not be encouraged to attend secondary school. And even almost half a century later it's noteworthy that only 175 First Peoples students completed school with a year 12 certificate.

35

The Department's present work to improve learning and wellbeing outcomes is based on the 10-year Aboriginal plan, education plan, Marrung, developed by the Department in partnership with VAEAI and it sets out a vision for a universal educational and training service system that is inclusive, responsive and respectful of First Peoples at every stage of their learning and development journey. At its centre Marrung includes a range of tangible actions under four core priority areas for our school system.

40

45 As well as actions at the school level, the plan brings a strong focus to key enablers for system change, recognising that improving the cultural inclusivity of our schools, better opportunities for community to participate in decision-making

that affects them and a stronger emphasis on more informed and capable leadership are key underpinnings of the change that is needed across a very big and widespread service system. The implementation and delivery of this work is reported to a central governance forum co-chaired by the Department and VAEAI.

5 It anchors all of the Department's efforts to deliver and improve outcomes for First Peoples children, young people and families.

10 It is important to note that there are many First Nations students who are doing well at school and there are notable areas in which outcomes for First Peoples children and students in aggregate have improved. In the early years leading into school, kindergarten participation for First Peoples children both for three and four-year-old children at kindergarten is now close to 100 per cent, up from 88 per cent since 2016.

15 We have seen improvement in literacy skills with increases in NAPLAN reading and writing mean scores for First Peoples students in every year level between 2014 and 2022. And the number of First Peoples students completing a VCE, vocational major or a VCAL or VET certificate have increased to 619 in 2023. And we are steadily increasing in line with the national target the proportion of

20 First Peoples aged 15 to 24 who are in employment, education and training.

25 That said, I am clear-eyed that this improvement, important though it is, has not been sufficient to close the gap, the attainment gap between First Peoples and non-First Peoples students. Too many First Peoples are not being supported to reach their full potential through the school system. Too often students and families are experiencing exclusion, discrimination and racism in our education settings. Too many students and families are losing confidence and trust in the school system and are disengaging from education with all of the implications that holds for future pathways, life choices and outcomes.

30 At its most extreme or concerning level we are seeing the number of school days missed increasing for First Peoples in the early years of secondary school. I acknowledge and I unreservedly apologise for the historical failings of the Victorian Government education system. I acknowledge and apologise that still

35 today we have not been more effective in eliminating racism in all its forms from our schools, ensuring that a culturally safe learning environment exists across all parts of our system, and ensuring that young people are supported to reach their full potential.

40 I take this opportunity to recommit the Department to learning from the findings and the recommendations that will emerge from these hearings, and to continue to work in partnership with First Peoples to strengthen self-determination in education, as this is the path that will lead to better outcomes.

45 We feel we have commenced this journey from over 3,000 people who have shared their stories and experiences through 180 campfire conversations hosted by Aboriginal community organisations in Victorian schools over the last two years

and those conversations have been captured in the just released report on strengthening Aboriginal self-determination in education with action backed by government's largest single investment in First Peoples education outcomes. While being fully cognisant of the scope, the scale, the extent of the challenges ahead I also want to affirm my hope and optimism.

Our schools and our school system are changing. We have a foundation to build on, but I know that we will not make the changes that are needed and we will certainly not make them quickly enough without genuinely embracing the principles of self-determination and ensuring that First Peoples can directly shape and influence the education system. We have much, much more to do. Thank you.

CHAIR: Thank you.

COMMISSIONER LOVETT: Thanks for that. A really important point given the Department of Education here today, particularly in the role of Secretary and hearing the apology but also the importance of education. And I always listen astutely to acknowledgements, particularly in response to one of our other Commissioners, Deputy Chair Sue-Anne Hunter, welcoming you to her Country. And both the legal team for the State and the Secretary are here, I didn't hear that sovereignty was never been ceded.

Now, some may think that that's a minor point. But it's an incredibly important point and we talk about self-determination and we come to the table to negotiate Treaty and share our truths as equal to the table. So I just want to take the opportunity to remind the State that it's not just words where you come and say, "Thank you for your welcome" or, "Thank you for your acknowledgement." But please, and this is for other people coming in the future, please think about what an acknowledgement is and what we are coming to do and what kind of business we are here to discuss.

Our people continually maintained that our sovereignty has never been ceded and the State sometimes acknowledges that through their acknowledgements back to us and other times not, but at the end of the day we come to the table as equals. We walk through doors, we bring our ancestors' strength, knowledge and wisdom and resistance to the table and it's a really important point that I'm making. Our sovereignty has never been ceded. Thank you.

MS JENNY ATTA: I apologise, Commissioner Lovett, and I do acknowledge that sovereignty has never been ceded.

MR MCAVOY SC: Thank you, Commissioner.

Ms Atta, I propose to ask some questions which I'll direct to you, but if it's more appropriate that Mr Fraser answer the questions, I will leave that to you to work out as between yourselves. Firstly, I propose to ask some questions about the

legislative framework within which the topics we are discussing today exist. The Victorian Department of Education has responsibility for all government schools. That's correct?

5 **MS JENNY ATTA:** That's correct.

MR MCAVOY SC: But your department does not have direct responsibility for the two other school sectors, independent school sector and the catholic sector, but does provide stewardship. Is that -

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MS JENNY ATTA: That's correct. We do support the Minister in broader policy setting for education that have application to other settings and with advice around the regulation of schools.

15 **MR MCAVOY SC:** We can understand that the Department also has responsibility for the broader regulatory and policy environment, even though it might not have line responsibility for all education delivery.

MS JENNY ATTA: That's correct.

20

MR MCAVOY SC: So the chief piece of regulatory legislation is the Education and Training Reform Act 2006?

MS JENNY ATTA: Correct.

25

MR MCAVOY SC: That legislation, I will try and just summarise some of the relevant provisions for you, provides for principals which underpin the delivery the education to children and young people in Victoria. It makes schooling compulsory. It provides for the establishment and operation of government schools, oversight of non-government schools, teacher registration and training, Victorian - and also the Victorian Curriculum and Assessment Authority. I don't say that's all of the things that the legislation does, but they are some of the aspects of that piece of legislation?

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35 **MS JENNY ATTA:** Yes, that's right.

MR MCAVOY SC: As regards the Education and Training Reform Act, there has been - I ask whether there has been a review of the provisions of that Act since the adoption by Victoria of the Self-Determination Policy in 2015?

40

MS JENNY ATTA: There has not been a wholesale review, to my understanding, but there have been various amendments to various elements of that.

45 **MR MCAVOY SC:** A review of the legislation discloses that it was reviewed in 2015, 2016, 2020, 2021 and 2022, with various amendments.

MS JENNY ATTA: Yes. Yes, that's correct.

MR MCAVOY SC: And those reforms are developed by your department and recommended by you or one of your deputies to the Minister?

5

MS JENNY ATTA: That's correct.

MR MCAVOY SC: To cabinet and then on to Parliament?

10 **MS JENNY ATTA:** That's right.

MR MCAVOY SC: Just so that we are clear, none of those amendments has sought to harmonise the Self-Determination Policy or the Marrung Aboriginal Education Plan with that piece of legislation?

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MS JENNY ATTA: No, that's correct. That's my understanding.

MR MCAVOY SC: So if we just turn to the underlying principles at section 1.2.1, if we can, operator, bring that up. Can you see that?

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MS JENNY ATTA: Yes.

MR MCAVOY SC: I will read the first part of it to you. It says that:

25 "Parliament has had regard to the following principles in enacting and amending this Act."

And if you can zoom in on part (a), please. Thank you. It says:

30 "All providers of education and training both government and non-government must ensure that their programs and teaching are delivered in a manner that supports and promotes the principles and practice of Australian democracy, including a commitment to (1) elected government, (2) the rule of law, (3) equal rights for all before the law, (4) freedom of religion, (5) freedom of speech and association, (6) the values of openness, and tolerance."

35

You can read that, that's what the legislation says?

40 **MS JENNY ATTA:** Yes.

MR MCAVOY SC: Those principles don't speak to inform First Peoples self-determination, do they?

45 **MS JENNY ATTA:** No, there's no explicit reference there.

MR MCAVOY SC: Do you say there's an implicit reference?

MS JENNY ATTA: No, I don't make that case. It talks to equal rights for all before the law, but it - no, I don't think you can read that there's a direct, implicit reference.

5

MR MCAVOY SC: I don't think that there is, with respect, Secretary. There is no principle requiring providers of education to ensure that their programs and teaching supports and promotes the understanding that the lands and waters of the First Peoples were taken unlawfully. None of those principles (crosstalk).

10

MS JENNY ATTA: No, that's correct, I agree.

MR MCAVOY SC: Or that their lands were taken without their consent and that compensation has not been paid, and those principles don't deal with that proposition, do they?

15

MS JENNY ATTA: They don't, that's correct.

MR MCAVOY SC: And if there was equality before – equal rights for all before the law compensation would have been paid. Do you accept that broad proposition? I understand it's a legal proposition but.

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MS JENNY ATTA: I accept that.

MR MCAVOY SC: And that First Peoples were subjected to acts of genocide. Those principles don't align with the notion that there were acts of genocide committed in order to dispossess First Peoples of their lands?

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MS JENNY ATTA: I agree.

30

MR MCAVOY SC: Nor that the First Peoples were subjected to cultural ethnocide and continued to complain about the failure to respect their cultural rights.

35

MS JENNY ATTA: Yes, I agree.

MR MCAVOY SC: There is no principle recognising that notwithstanding the existence of elected government that First Peoples have the right to self-determination?

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MS JENNY ATTA: No, there is not.

MR MCAVOY SC: Is there any work being done at present relating to the principles set out in this piece of legislation to harmonise it with the matters that arise – to understand the principles of self-determination?

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MS JENNY ATTA: No, there is not a specific piece of work within the Department.

MR MCAVOY SC: Is that something the Department could do?

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MS JENNY ATTA: The Department in its regular review of Act could do that, yes.

MR MCAVOY SC: Is it something that has come through in any of the reviews that the Department has undertaken over the last 10 years in relation to its own operations?

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MS JENNY ATTA: I'm not aware of any of those reviews pointing to that sort of change, that harmonisation with the legislation.

15

MR MCAVOY SC: Do you accept that harmonising this piece of legislation with the principles of self-determination is something that warrants action by your Department?

MS JENNY ATTA: Yes, I would agree that there's a very strong case to be made that there should be that kind of review.

20

MR MCAVOY SC: Is it possible for you to explain to the Commissioners how we get to a point this far down the track where this legislation still exists in that form and nothing has been done?

25

MS JENNY ATTA: I don't know that I can adequately explain that, other than to say that the focus of policy change and reform and service delivery reform has been very much focused at the policy and programmatic level, at the regulatory level, but not in that wholesale way at the - in terms of the legislation.

30

MR MCAVOY SC: But you accept that the legislative framework is important to everything that follows?

MS JENNY ATTA: Yes, I do.

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MR MCAVOY SC: So are the Commissioners to have confidence that the policies and programs that are delivered within this legislative framework will deliver on the things that it says it will deliver on, that you are saying it will deliver on?

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MS JENNY ATTA: I'm sorry, Mr McAvoy, that I'm saying the policies and programs will deliver on?

MR MCAVOY SC: Yes.

45

MS JENNY ATTA: I accept that it - I accept that you could have fuller confidence in that if the legislative framework went to that.

5 **MR MCAVOY SC:** Okay. If we can turn to section 1.2.1(b), please. I'll just read it for you it says, "All" - there are principles set out at section 1.2.1 of the legislation, and at (b) the principles:

10 "All Victorians irrespective of the education and training institution they attend where they live, or their social or economic status should have access to a high quality education that (1) realises their learning potential and maximises their education and training achievement; (2) promotes enthusiasm for lifelong learning; and (3) allows parents to take an active part in their child's education and training."

15 Do you say that that principle is being met with respect to subparagraph (i); that is, "All Victorians have access to high quality education that realises - that realises - their learning potential and maximises their education"?

20 **MS JENNY ATTA:** Mr McAvoy, that's, and I might with apologies just clarify the question. Were you asking me if that is being achieved?

MR MCAVOY SC: Yes.

25 **MS JENNY ATTA:** No. That's not being achieved across the board for all students in our school system.

MR MCAVOY SC: The data which you spoke to in your opening reflects that.

30 **MS JENNY ATTA:** That's correct.

MR MCAVOY SC: But the principle itself speaks to realisation of learning potential and so is it the case that the Department has, as one of its objectives to realise that learning, to assist students to realise that learning potential?

35 **MS JENNY ATTA:** Yes, it is an objective of ours.

MR MCAVOY SC: To maximise all students' education and training achievement regardless of their economic or social status?

40 **MS JENNY ATTA:** That's correct.

45 **MR MCAVOY SC:** And do you accept that on the data that you've referred to, which the Commissioners have, that the trajectory in many aspects of that - in respect of the data recording many aspects of First Peoples' participation in the education system, is one which does not disclose that that will be realised and that there is maximisation of education and training achievement?

MS JENNY ATTA: I'm sorry, Mr McAvoy, but the data demonstrates that we're not achieving that, yes.

5 **MR MCAVOY SC:** If we can just then - well, I'll just turn to subparagraph (ii) there for a second and just make the point that the system is intended to promote enthusiasm for lifelong learning.

MS JENNY ATTA: Correct.

10 **MR MCAVOY SC:** And in circumstances where school attendance rates are falling in First Peoples community, in years 9 and 10, I think you referred to in your opening.

15 **MS JENNY ATTA:** 7 to 9 in particular.

MR MCAVOY SC: Yes. That's inconsistent with a system that is achieving or promoting enthusiasm for lifelong learning for those students.

20 **MS JENNY ATTA:** Very much so.

COMMISSIONER WALTER: Can I also note that the statistics around students feeling connected to school, Aboriginal students has also been declining since 2019, which would seem to be directly linked to not feeling enthusiastic for lifelong learning.

25 **MS JENNY ATTA:** Yes, that data you refer to, that's correct, Commissioner, yes.

30 **MR MCAVOY SC:** So if we can just turn to section 2.1.1, please. This - 2.1.1 makes school tenancy compulsory for children between the age of 6 and 17. You are familiar with that legislative requirement?

MS JENNY ATTA: Yes.

35 **MR MCAVOY SC:** And then section 2.1.3, if we can just turn to that, please. The section that I'm taking you to provides for excuses for absence from school and I will read to you the excuses for absence from school. They include, "Illness, accident or unavoidable causes, requirement to comply with another law" but it's assumed that this doesn't include First Peoples' law. It's speaking to other western
40 law, isn't it?

MS JENNY ATTA: Yes, I'm sorry, Mr McAvoy (crosstalk) the whole question.

45 **MR MCAVOY SC:** So there's a requirement to comply with:

"An excuse for absence from school includes illness, accident and unavoidable cause, requirement to comply with another law, the child is

5 attending or observing a religious event or obligation as a result of a genuinely held belief of the child or the parent of the child. The child or the parent of the child has provided another excuse for the failure to the principal of the school and the principal of the school accepts the excuse as a reasonable excuse."

I don't expect you to be intimately familiar with those provisions, but they provide for what might be a reasonable excuse for absence from school?

10 **MS JENNY ATTA:** Yes, they do.

MR MCAVOY SC: And you're aware that First Peoples in Victoria have cultural and kinship obligations that will be necessary to do things other than attend school, such as attending cultural gatherings or attending funerals and on many occasions it will be necessary for the child's cultural wellbeing that they attend such events and miss school.

MS JENNY ATTA: Yes, I recognise that.

20 **MR MCAVOY SC:** I suggest to you that the way in which the legislation is currently framed that – do we have that up now, do we? Can you just zoom in, please? The way in which the legislation is currently framed, that those obligations, those cultural obligations of which I just spoke, they don't explicitly or implicitly fit within the reasonable – the excuses that are provided in the legislation?

MS JENNY ATTA: Yes, I agree. And I understand that we're talking about the legislation here. If it's helpful, we could talk to the policy that gives effect to that and the way that that does go further.

30 **MR MCAVOY SC:** The difficulty – you can come to the policy in a moment but the difficulty is that, of course, the legislation at section – I don't want to change the page – at section 2.1.2 – 21 creates an offence for not complying with the school attendance notice and section 2.1.22 creates an offence for giving false information. So if a parent has to say something that is perhaps false in order to fit within the existing requirements in the legislation, then they open themselves up to prosecution. Yes, I understand that. Do you accept that it's appropriate for First Peoples to expect that their cultural considerations are accommodated within the legislation?

40 **MS JENNY ATTA:** Yes, I think that would be a reasonable expectation.

MR MCAVOY SC: I just want to ask you some questions now on the Victorian Curriculum and Assessment Authority.

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COMMISSIONER WALTER: Can I just ask one question? Is there anything in the legislation that specifically refers to the rights of Aboriginal children or parents in the education system?

5 **MS JENNY ATTA:** Commissioner, I would have to double-check that. I'm not aware of a particular element.

COMMISSIONER WALTER: It would be appropriate that the legislation would contain a segment which talks about, given the long, long history of poor outcomes and continuing history of poor educational outcomes of Aboriginal children within the schooling system that there should be something in the legislation?

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MS JENNY ATTA: Yes, I accept that point. I don't know that, Stephen, whether you are aware of –

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MR STEPHEN FRASER: Before I say another word can I also add my Acknowledgement of Country. I do acknowledge that we are on unceded lands and I acknowledge the Wurundjeri Elders, those Elders who have passed, those Elders who so much of their knowledge, their experience, their wisdom through their ancestors to those Elders with us today, and who's knowledge we benefit from, and from all of our communities across Victoria where our schools are located. And I acknowledge those emerging leaders in our communities, those that we serve through our schools, to support them to develop that awareness, that wisdom, and that capacity to lead future generations.

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25

I also take this opportunity to echo the Secretary's comments and acknowledgements of the status of our system at the moment and where we can do better and the commitment to do much, much better. I'm not aware of any explicit reference to First Peoples' rights within the legislation. Those rights and the responsibilities that we have to give effect to - those rights - is enacted typically through regulations, and through policy allowed through the Act. So the curriculum would be one example.

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35 The registration standards for being a school in the state of Victoria and the child safe standards would be other examples where those rights are given life.

COMMISSIONER WALTER: Would you agree that legislation, having those rights in the legislation would actually more likely give them effect because we don't have a good history here.

40

MR STEPHEN FRASER: I agree with the Secretary. It's an opportunity that has not been taken but I think there's huge opportunity there to ensure that the overarching legislative architecture that we operate under does give voice to those rights.

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COMMISSIONER HUNTER: We heard yesterday that the Education Act of 1872 does not include any reference to Aboriginal children and we are currently looking at the Act of 2006, which again - and you have reviewed it, as you've said, several times and there's still no reference to Aboriginal children, and the original
5 policy of exclusion seems to continue.

MS JENNY ATTA: Yeah, I accept, Commissioner, that as we've been discussing, that still today the Act doesn't contain those direct references. And I acknowledge the history of exclusion and the current day experience that is still
10 reported to us, and so that does remain an issue for the education system.

COMMISSIONER LOVETT: Can I ask, Secretary, I assume you would be across this or the Deputy Secretary, when was the last time the Act was updated? So there's a Reform Act of 2006, how many times since 2006 has the Act been
15 updated?

MS JENNY ATTA: I don't have the specific number, Commissioner, but there would be amendments that would go through for different parts of that Act every year or two years.
20

COMMISSIONER LOVETT: So if I just go back, I think it was VAEAI who presented to us a couple of days ago and I think their first strategy was Yalca, that was 2001, yeah, 2001. And are you saying it gets updated every year but there's still no reference for inclusion and we have had Marrung since 2016 and we are
25 nearly at its life span and yet again, the policy is there but legislation's not there. And I know youse know this because you've talked about how long you have been a bureaucrat and a very long time, very experienced. How you effect change is through legislation. We all know that.

COMMISSIONER LOVETT: We have already heard that from community witnesses, but also from government in previous streams. It's only updated every year and there's still no reference, not even self-determination, just the word "Aboriginal". We know what policy feels like when Aboriginal Protection Board was put in place and all these other things that negatively impact our people, but when it comes to positively impacting our
30 people it's just not present, not forthcoming from the State. I don't know if there's any comments about that. It's heart breaking to hear.
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COMMISSIONER LOVETT: We update it every year but still no reference and the data's showing that we are declining, we're going backwards. And we hear "partnership", we hear
40 "strengthening self-determination". You can't strengthen self-determination. Self-determination is, you have self-determination or you don't. There's no - you can't get three of the principles out of the six principles of self-determination. It's either you have self-determination or you don't. I don't think we can strengthen self-determination.
45

MR MCAVOY SC: If I might continue on that point, Commissioner. Within the Department, it's a very large Department.

MS JENNY ATTA: That's right.

5 **MR MCAVOY SC:** In the scheme of things. Is there a legislative review division within the Department?

MS JENNY ATTA: There is a legal division that has that responsibility.

10 **MR MCAVOY SC:** And they - do they determine which carries of review come forward?

15 **MS JENNY ATTA:** They will provide advice. Other parts of the Department may raise issues for consideration, they do work with the statutory authorities that come under the umbrella of the legislation, discussions with ministers on key policy or other issues. So there's a range of ways that advice comes together around amendments to the legislation.

20 **MR MCAVOY SC:** But the point at which recommendations for amendment to the Act leave the Department is through you?

MS JENNY ATTA: That's correct.

25 **MR MCAVOY SC:** And it doesn't go any further without the - your Minister's approval, if it is this piece of legislation?

MS JENNY ATTA: That's correct. It would be advice through my office to the Minister.

30 **MR MCAVOY SC:** And just so that we're clear: It is your understanding that in your time, some five years as Deputy Secretary, there have not been any recommendations to you about inclusion of self-determination principles in the Education and Training Reform Act?

35 **MS JENNY ATTA:** No. I'm - no, I've not had a specific proposal about legislative change, and a lot of work at the policy and regulatory level. But no, there has not been a specific proposal about legislative change.

MR MCAVOY SC: Nor any ministerial request for that?

40 **MS JENNY ATTA:** Yes, not to my knowledge. I should say that the - I want to be clear that some of the regulatory change has gone to relevant matters. But in terms of the overarching legislation and the issues that you're raising, no specific proposal.

45 **COMMISSIONER LOVETT:** Can I just ask you to share any insights about how you feel about that on a personal level and also a professional level, secretary?

MS JENNY ATTA: Well, Commissioner, I recognise and accept that enduring reform and change is best supported through all of the levers that we have, all of the architecture, including legislation, policy, regulation. And I can only say that
5 there's been a very significant focus on looking at the policy reform, service delivery settings, regulatory change, and how we use that part of the architecture to support and drive the changes that we're looking for, that successive ministers have been looking for.

10 I do accept that all of that would be strengthened through looking at the legislation as well, in terms of that harmonisation, that explicit setting down in the law, harmonisation with other law, but the explicit setting down in law what's required of education and training provision. I do accept that. You know, there are very
15 many things that we are working through, but I accept the proposition that there's a strong case to be made that starting here or at least working in parallel with policy change and considering proposals around legislative change might have been a preferred approach.

COMMISSIONER WALTER: Would you accept that also that given that the
20 key indicators, things like year 12 retention rates and absences, are going backwards? That something desperate has to be done? That a same old, same old, just continuing to move policy levers is obviously not delivering for First Peoples, and it hasn't been delivering for a very, very, very long time. Yet there doesn't seem to be any urgency or any dramatic movement from just putting in yet another
25 strategy or framework.

MS JENNY ATTA: Commissioner, I completely accept the point around
urgency. You know, I'm strongly of the view that while we might be seeing some
30 incremental encouraging change, some incremental improvements, that we can't accelerate the change that we need just doing what we are.

COMMISSIONER WALTER: I would question whether we're seeing
improvements. The key indicators, like the year 12 retention rates are going
35 backwards. So things are not moving in a positive direction even a little bit.

MS JENNY ATTA: Commissioner, there are very many different metrics to
measure. I think, for instance, I completely accept your overall point. I don't want
to dismiss the fact that we have seen improvements in reading and writing at
40 primary school, year-on-year. We are not meeting targets, I accept that. We are not doing enough to close that attainment gap.

COMMISSIONER WALTER: I guess that's my point, is to say that we know
that the school, year 12 retention rate has dropped from 63 per cent in 2017 to 56
45 per cent in 2023. So that's another generation, young First Peoples going through the schooling system in Victoria who are not getting to go on and do tertiary qualifications. So every year it's a whole demographic that will not achieve their potential. And that has ramifications for all of the Victorian population and

especially the First Peoples population. So little bits of up and downs on NAPLANs is not making any difference when kids are increasingly not even getting to year 12. We are not even talking ATAR here, we are talking even making it to year 12.

5

MS JENNY ATTA: And I accept, and I don't want to over-claim for year-on-year variations in data. We have some improvement trends to build on but there are some very important measures where we are not getting the improvement that we would want. And overwhelmingly, in terms of the goals and objectives that we have, then we are not - I don't disagree with that. We are not achieving what we're setting out to achieve, and even where we are getting change and there is some, it's not quick enough. So to go to your point about urgency, to go to your point that, you know, we can talk about the percentages and the data but real people, real children and young people for whom education is not delivering.

15

COMMISSIONER WALTER: Yes, I really want to challenge the idea that things are gradually getting better, because I dispute that. They're not. And measurements of change on different things are also not equal. So a little bit of gain in a grade 3 NAPLAN numeracy is not the equivalent of a reduction in achievement of grade 12 retention rates. They are vastly different measurement indicators. So I just want to dispute the idea that things are gradually getting better.

20

MS JENNY ATTA: Yes, and at that senior secondary level there are a range of different data points that it is important for us to look at. It is a really important outcome, and we are not achieving enough there, I agree.

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MR MCAVOY SC: Ms Atta, this Commission has heard evidence from numerous other departmental secretaries in your position where there has been a presentation of reports and plans and frameworks and strategies, and yet a failure to deliver in the way that Commissioner Walter is referring to. There have been discussions about bureaucratic inertia. There have been discussions about simple failure to deliver on outcomes. In that environment do you accept that having clear and firm legislative responsibilities is important to some attempt to make sure that things actually happen, rather than are simply reported upon?

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MS JENNY ATTA: Yes, I agree that the legislative architecture is central to the work, the focus, the strategic directions for the portfolio. So yes, I agree.

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MR MCAVOY SC: One view of it might be that there are biases against First Nations people that exist within the broader population and also within the government, and those biases come into play whenever there's any leeway or a discretion in officers as to how they do their work and how they deliver their services. And their results of that discretion and the bias that might be brought to bear can be seen in the failure to deliver to First Peoples in this state. Do you have any view about that observation?

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5 **MS JENNY ATTA:** I understand the observation. I feel as confident as I can be that the work that we are doing within the Department, the work in relation to Marrung and the support of First Peoples' education more broadly is a genuine commitment with multiple people working across the Department, senior and other levels and in our schools, where there is a genuine recognition of the failings and the need to do better, and the commitment to look for strategies, actions, change, levers for change that will give effect to improvement.

10 **MR MCAVOY SC:** I'll come back to that point a little bit later, I just want to take you now unless any of the Commissioners have another -

15 **COMMISSIONER WALTER:** I have one question on that. I did notice in the response from the Department talking about systemic problems and discrimination and racism and all those other things that your systems for managing complaints does not differentiate whether those complaints are made by First Peoples or not. So you have no real way of - I mean if people are prepared to complain in the first place, given the risks that that involves, you have no real way of knowing what the proportion and what is happening for First Peoples parents and children within the
20 schooling system.

MS JENNY ATTA: There are different channels for those complaints, Commissioner. It is true that we set up a dedicated hotline for racism complaints, and my understanding and the Deputy Secretary will correct me - but my
25 understanding is that doesn't collect that level of information about the complainant. We do, with complaints that are made - and the majority would initially come through to the local school level, so obviously we have that understanding at that point. A second-tier escalation of complaints to the regional directors and our regional officers who will engage with the school and the
30 complainants and have that understanding and complaints that come through to our central team. We have got, you know, limited data but we have got some data that tells us about numbers of complaints from First Peoples students, parents or families.

35 **COMMISSIONER WALTER:** And we have heard in the evidence coming from community witnesses and in submissions that complaints about racism from either other students or teachers are routinely dismissed and told, the complainant is told that it wasn't racism, that their complaint is defined out. So I don't know what the numbers of those are but it certainly was a very, very common part of the
40 submissions that have been made to this Commission on this topic.

MS JENNY ATTA: And we hear similar reports, Commissioner, and we've - we have taken some steps to improve the information available for us to understand that experience and the incidences across our school system. We have added
45 some specific questions to the Attitude to School Survey, where we can hear directly from students in our schools and additional questions for the first time in 2023.

We've made some adjustments to our incident reporting processes and requirements for schools to specifically have reports around observed racism and the incident reporting is not a complaint system, but it is a requirement for school
 5 leaders and staff to report relevant incidences of what they observe at the school level. And that feedback to us and we also hear it, it comes through quite prominently through the Campfire Conversations work. It does go to the - one of those changes that we're trying to take to scale and embed across our system around improving the cultural safety of the learning - teaching and learning
 10 environments, improving understanding of, and responses to complaints or allegations about racism.

It goes to the changes that we've made in the regulatory space around the Child Safe Standards and the Child Safe Standard number 1, which requires schools now
 15 to have and to demonstrate comprehensive policies not only about the identification of racism in relation to First Nations students, but to setting out how the school would appropriately respond to that. So we recognise the issue. There are a number of channels through which complaints, feedback reports are coming to us.

20 **COMMISSIONER WALTER:** I guess just in relation to Mr McAvoy putting up those foundational principles that perhaps freedom from discrimination and racism might be one of those that should be included?

25 **MS JENNY ATTA:** Yes, I accept that.

MR MCAVOY SC: Commissioners, I propose to ask a couple of questions about the Victorian Curriculum and Assessment Authority. I'm just wondering whether
 30 you might like to have a short break. We are due to sit until 12.10 or 12.15, after that a short five-minute break. I'm happy to go through if you like, but I am aware that there are some logistic issues with respect to sitting for two hours and some comfort issues.

COMMISSIONER NORTH: Mr McAvoy, just before we do that, I wonder if
 35 I could ask a question, which relates to some of the questions you have raised about the legislation.

Ms Atta, in view of the absence in the legislation of any express mention of
 40 Indigenous rights, Indigenous cultural requirements in the areas that you've been taken to, including school attendance, are you able today to commit here to advising your Minister that amendments would be appropriate in those areas?

MS JENNY ATTA: Commissioner, I could commit to the Department doing the
 45 work to bring forward and to bring that advice to me around what proposals might look like, and to engaging with ministers on that.

COMMISSIONER NORTH: So that you would instruct your Department to provide you with advice in respect of amending the Act to reflect more directly the situation of criticism that we have raised in relation to Indigenous students?

5 **MS JENNY ATTA:** Yes. I could commit to seeking some comprehensive advice from the Department around the current status of the legislation and what the opportunities might be to look at the sort of changes we've been talking about today.

10 **COMMISSIONER NORTH:** I suppose another way of expressing it would be advice in relation to making the legislation reflective of Marrung.

MS JENNY ATTA: Yes, I take that point and I take the point that has been made around harmonisation of the legislation with other existing relevant legislation,
15 and I think all of that could come together in a review.

COMMISSIONER NORTH: I think committing to seeking advice is one thing. I'm just wondering to what extent it comes with a sufficiently strong arm to promote the sort of legislative changes that seem to be necessary. In other words,
20 what I'm asking is about your personal commitment to having this piece of work done with a view to it actually being effective.

MS JENNY ATTA: I would certainly want to indicate my strong personal commitment to having such a piece of work done, and, of course, I would want to see that work, what it contains, what those recommendations are in order to talk
25 about what I could then take forward.

COMMISSIONER NORTH: On the face of it, there seem to be obvious gaps.

30 **MS JENNY ATTA:** There do, Commissioner and I don't disagree with that, and talking in the broad before we've got the specifics, yes, my - I think it would have been important to have such a piece of work done and my commitment would be what would be the best opportunities within that to take forward and promote.

35 **MR MCAVOY SC:** Would it assist if a commitment to that sort of reform came from the Minister?

COMMISSIONER NORTH: I'll ask that question, Mr McAvoy, don't worry.

40 **MS JENNY ATTA:** I think what I can say, Mr McAvoy, of course, it's my job, the Department's job to be responsive to requests or direction from the Minister and the government.

MR MCAVOY SC: Thank you. I think I cut across one of the Commissioners
45 and I apologise.

COMMISSIONER LOVETT: I want to go back to the point on any kind of legislative reform opportunities I think the Department is putting up to you in consideration to take to the Minister. It's not just about Marrung. Let's go back to the principle of what we are trying to achieve here, which is self-determination. I think if you start at the self-determination and work from there that is not to take away from the commitments in Marrung. But we are about to finish Marrung. Two years left or 18 months left of that document and that policy.

We actually are striving for self-determination, and I know when the mob negotiated the Marrung, whether it be VAEAI and the Department there's trade-offs in negotiations. So they wanted things that youse didn't want. Youse might have wanted things that they didn't want. So that's a really important point. But we start at self-determination, that's where the analysis and options need to be put to you from my perspective as a Victorian Traditional Owner.

MS JENNY ATTA: And, Commissioner, I would just say that I took the reference to Marrung to be one example, but I take the broader point that you're making.

COMMISSIONER WALTER: And just to reiterate, what we're seeing, the narrative of First Peoples school education in the state schooling system is one of continued failure and going backwards. That there is an urgency to do things differently and a continuation of - I'm hoping we will look at Marrung after the break, Mr McAvoy.

MR MCAVOY SC: Yes.

COMMISSIONER WALTER: And urgency to do things differently rather than continue to repeat the policies and strategies of the past mean that we do need to look at legislation.

MR MCAVOY SC: Chair, before we go to the break, I just might take the opportunity to ask some questions in relation to the Victorian Curriculum and Assessment Authority, which come from the legislation that we have just been discussing and then we can conclude that discussion regarding the legislation and move on to the policy.

CHAIR: Thank you.

MR MCAVOY SC: Ms Atta, the Victorian Curriculum and Assessment Authority is established under the Education and Training Reform Act 2006 and you are a member of the that authority, or director?

MS JENNY ATTA: Yes. Yes, I'm a member of - the Secretary has a position on the Board of the Authority, that's correct.

MR MCAVOY SC: And the Curriculum and Assessment Authority, its responsibilities including developing high-quality courses and curriculum, and assessment products and services?

5 **MS JENNY ATTA:** Yes, that's correct.

MR MCAVOY SC: And the - it also has the functions which include developing policies, criteria and standards for curriculum assessment and courses for school students?

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MS JENNY ATTA: Correct.

MR MCAVOY SC: And to give advice or to make recommendations to the Minister.

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MS JENNY ATTA: Yes.

MR MCAVOY SC: And it can commission or conduct research in relation to its functions?

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MS JENNY ATTA: Yes.

MR MCAVOY SC: You're aware, I mean it would be hard not to be aware that there was some great criticism about the levels of knowledge of Australians more broadly, the Australian community, following the unsuccessful referendum in 2023 in relation to First Peoples' history in this country.

25

MS JENNY ATTA: Yes, I am aware.

30 **MR MCAVOY SC:** Has the Curriculum and Assessment Authority considered the introduction of greater levels of First Peoples' cultural and historical education in the curriculum?

MS JENNY ATTA: Yes, it has, and it is currently doing some work to strengthen that further. If it assists, Mr Fraser is my delegate sitting on the Board, and might be able to assist with some of the detail on that.

35

MR MCAVOY SC: Mr Fraser?

40 **MR STEPHEN FRASER:** Yes. The current policy context within Australia is that the Australian curriculum has recently been redeveloped and we are at version 9 of the Australian curriculum, and Victoria as a state and territory that has committed to implement the Australian curriculum in a way that adopts it, but adapts it for the Victorian context, is currently in the process of reviewing that curriculum, particularly the Aboriginal histories and cultures cross-curriculum priority for version, what will be version 2 of the Victorian curriculum. So that

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work is underway and well progressed, and I believe Mark Rose spoke about that earlier this week, about his contribution to that work.

5 **MR MCAVOY SC:** And so is it the case then, that the curriculum in relation to First Peoples' culture and history is - there's some consideration as to enhance or provide greater depth in relation to that, the education of those matters?

10 **MR STEPHEN FRASER:** That's right. That's right. The Aboriginal histories and cultures cross-curriculum priority, as a cross-curriculum priority, it means that expectations about the teaching and learning of First Peoples' perspectives is embedded in each of the learning areas. So we have eight learning areas reflected in the curriculum. Each of those, whether it's history, geography, humanities, whether it's the arts, whether it's health and PE, there are opportunities to give effect and representation to First Peoples histories and culture in each of those learning areas. So that's the work that is being strengthened, being precise what
15 those reflections look like in each of those learning areas.

MR MCAVOY SC: We expect to receive some evidence this afternoon from a universities panel that their observation is that the students that they are receiving in undergraduate study have a very low level of knowledge about First Peoples' history and culture in this country. Do you have any comment to make in regards to that observation?
20

MR STEPHEN FRASER: I would hope we would always work in partnership with our university colleagues. They have a critical role to play in initial teacher education, and we do work in partnership through the Victorian Council of Deans of Education, to support the education of initial teachers. And then, of course, what is taught in the compulsory years of schooling and then on through the senior secondary years is an important reflection of that. I think it's fair to say one of the common sources of feedback that we have, and we heard it through the Campfire
25 Conversations, we hear it from our teachers is that despite the curriculum expectations being clear many of our teachers struggle with the delivery of that content. They don't feel confident. They are fearful and anxious about getting it wrong.
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35 So one thing we have learnt over recent years and particularly the years of Marrung where that is a specific priority action area within Marrung is that we need to support our teachers to deliver that curriculum in partnership with community and we have examples that I can speak to of where that work is being more successful. But in no way is it sufficient to achieve the quantum and the
40 scale where we would yet see those graduates coming into university courses and the kind of whole of population change to speak to required to achieve the level of knowledge and understanding that would lead to a different observation than what was made in Australian society around the time of the referendum.

45 **COMMISSIONER NORTH:** Mr Fraser, I'm looking at the summary of the curriculum, the eight areas that you were talking about. Is it necessary that

students will interact with at least one of those areas during their education, or is it possible to go through schooling without touching on any of the eight areas?

5 **MR STEPHEN FRASER:** Those eight areas are mandated throughout the curriculum, from foundation, prep, through to year 10.

COMMISSIONER NORTH: But students don't have to do all eight of them?

10 **MR STEPHEN FRASER:** Within the middle years of schooling and particularly around those from years 8, 9 and 10, that's where pathways become a much more important component ever education and students can often choose electives that will focus their education in particular domains.

15 **COMMISSIONER NORTH:** The critical subject here is history, isn't it? And so students may well, and in the description of the education about history, the subjects are quite focused. But not all students will do that history subject, will they? It's not a compulsory subject?

20 **MR STEPHEN FRASER:** The eight key learning areas, or the eight learning areas are compulsory across the curriculum. They take different forms, though, in different schools. And so the way the teaching and learning program in a school gives effect to that curriculum can look different from one school to another and obviously from one year level to another.

25 **COMMISSIONER NORTH:** But does that mean that every student in Victoria in years 7 to 10 will be instructed in the history, in Indigenous history, as set out in the curriculum?

30 **MR STEPHEN FRASER:** That is the expectation. However, as I said, one of the key pieces of feedback that we hear from teachers and from students is that there is huge variability in the way those curriculum expectations are taught and the way in which they are experienced in the classroom.

35 **COMMISSIONER WALTER:** So what are the quality mechanisms put in place to ensure the quality of the materials that students are getting and the consistency? So that we know that students in inner Melbourne and a student in Bendigo and a student elsewhere are getting the same quality and the depth of knowledge?

40 **MR STEPHEN FRASER:** So one of the registration standards and we talked about the regulatory aspects of the Education and Training Reform Act earlier, one of the education standards to be registered as a school in the state of Victoria is delivery of the curriculum and a documented scope and sequence of learning plan or learning program for the school across those eight learning areas. Now, those registration standards are checked when a school opens for the first time.
45 A school cannot attain registration without demonstration of that documented curriculum. And then for all schools, government schools are reviewed once

every four years and the curriculum aspect of those minimum standards is confirmed as part of that school review, at least once every -

5 **COMMISSIONER WALTER:** That's not quite making sense to me, because are you saying that a lot of teachers are not confident and we have heard this repeatedly and that there's variability, and yet schools are being signed off every four years. So what does it take to fail?

10 **MR STEPHEN FRASER:** Schools are being signed off on the documentation of their teaching and learning programs.

COMMISSIONER WALTER: But not delivery?

15 **MR STEPHEN FRASER:** Not delivery. Schools and teachers, classrooms are not inspected in the way that they might have been in the past.

COMMISSIONER WALTER: As long as somebody says, "Yes. We did it" that's good enough?

20 **MR STEPHEN FRASER:** An expert comes into the school, has a look at the documentation against the expected standard and what's in the Victorian curriculum and says, "Yes, I can see that you have a plan to deliver this content."

25 **COMMISSIONER LOVETT:** Who is the regulatory? It might sound like a silly question. I think I know the answer, but I want to ask it. Who is regulating who?

MR STEPHEN FRASER: The Victorian Qualification Registration Authority is the regulatory of Victorian schools.

30 **COMMISSIONER LOVETT:** What's the role of the Department in the regulation?

35 **MS JENNY ATTA:** The Department has a role as a review body through a memorandum of understanding with the VIQA, to undertake those regular cyclical reviews against the standards, with reporting up to the VIQA and the VIQA will determine individual reviews that it - as it sees fit it will undertake individual or deeper reviews of particular schools.

40 **COMMISSIONER LOVETT:** So who is the ultimate authority in education in the state of Victoria in the context of curriculum? Let's just go to curriculum. Who is the ultimate authority? The Minister?

45 **MS JENNY ATTA:** Well, the Victorian Curriculum and Assessment Authority is the statutory authority with that defined role, and authority. It reports through a board to the Minister in relation to the carrying out of its function and the regulator both certifies particular certificates that the VCAA is responsible for or

accredits particular certificates, and sets the regulatory standards that must be assessed including in relation to curriculum at the school level.

5 **COMMISSIONER LOVETT:** And how much Aboriginal representation is in that hierarchy?

MS JENNY ATTA: So there are - I'm not sure of the current board make-up, but certainly -

10 **COMMISSIONER LOVETT:** Doesn't have to be names but is there representation from our people, Aboriginal or Torres Strait Islander people in that architecture that have real authority to contribute, rather than just be invited in the room?

15 **MR STEPHEN FRASER:** I can speak from my participation as the Secretary's delegate to the Board. I think you mentioned the other day that Professor Mark Rose has sat on that board and chairs a First Peoples advisory group that contributed. And obviously VAEAI play a really critical role in working in
20 partnership both with the VCAA and the Department and Victorian teachers to formulate that curriculum and particularly the revisions to the curriculum that will come through in the next version. So I won't mention names, but parties from VAEAI who have played a critical role.

25 **COMMISSIONER LOVETT:** Both of youse have articulated many times today and I just want to understand. Can you just describe briefly what do youse mean by "partnership"?

30 **MS JENNY ATTA:** Well, "partnership", so if I think about our partnership with VAEAI, it's a collaborative and consultative partnership. There are elements at times within that partnership of co-designing particular strategies or monitoring functions. It's a partnership under Marrung for which we have established some formal governance arrangements. You know, it's very much the case that the formal decision-making and authority sits with the Department, with the statutory authorities such as the regulator and the VCAA. The establishment with VAEAI
35 of Marrung has deliberately attempted to introduce some shared monitoring, decision-making around priorities, co-design of initiatives to address particular challenges. But at its heart it's probably truest to say it's collaborative and consultative.

40 **COMMISSIONER WALTER:** I've got one final question on curriculum. You have said schools are monitored and assessed every four years. How many schools to your knowledge have actually failed in the last round, perhaps over the last four years?

45 **MR STEPHEN FRASER:** I would have to seek that - and I assume, Commissioner Walter, you are asking failed on the curriculum (crosstalk) rather than more broadly.

COMMISSIONER WALTER: No, not failure but yes on the curriculum (crosstalk).

5 **MR STEPHEN FRASER:** The thing I would take the opportunity to point out is that when we identify that a school does not have sufficient documentation or quality of documentation to meet that standard, we then initiate immediately a rectification program to work with the school.

10 **COMMISSIONER WALTER:** Can you get the numbers of schools where a rectification has been put in place?

MR STEPHEN FRASER: I can.

15 **COMMISSIONER HUNTER:** Can I ask the regulator and the VCAA, are they assessed for cultural competency if they are assessing schools or the curriculum, whatever?

20 **MS JENNY ATTA:** I'm not aware there's an assessment of the authorities for cultural competency, Commissioner.

COMMISSIONER HUNTER: Thank you.

25 **MR MCAVOY SC:** So in drawing to a close for the moment the discussion about the VCAA, this Commission is tasked with producing recommendations as to how the broader community may be educated about the history of this state and correcting the public record. And in terms of what recommendations this Commission might make, does it - in your view, would it need to make
30 recommendations for amendment of the legislation to provide for the adoption of its recommendations and findings about the history of this place? Or is it simply that it's a matter that can be picked up within the VCAA's existing operations and framework?

35 **MS JENNY ATTA:** Look, it would be my expectation that there may well be recommendations emerging from this Commission that go to these points and those changes could be made, they could be picked up through policy, they could be picked up through further review at the VCAA level. And equally, depending on the nature of the recommendation, it could go to the earlier points around
40 enduring change and the role of legislation.

45 So without seeing the specific proposals, it's difficult to be more specific. I will just make the point that I think it's relevant, Mr McAvoy, that the discussion around curriculum which I agree is a really important one, it's both about, and I think we have drawn this out a little, it's about the content of the curriculum but also the delivery of the curriculum, and the curriculum resources and the quality of the curriculum resources that are available for the school system more generally, and then at - for local schools in their local context, drawing on local history.

And this is what the - part of what the new investment that we've received through the state budget will go to, working with Traditional Owner groups, Aboriginal Community Controlled Organisations and others resourcing First Peoples to seek
5 how they might assist schools with the development of high quality, tailored resources. So I think it's both about what's in the curriculum and then the delivery.

MR MCAVOY SC: But do you accept that in an environment where, as this Commission has heard, there's slippage between policy and delivery, and you've
10 referred to it yourself, there's much to be said for enshrinement in legislation.

MS JENNY ATTA: Yes, I could see - I can see the case for considering that.

MR MCAVOY SC: If we might take a short break, five minutes,
15 Commissioners? If we return at 11.35, Chair, is that suitable?

CHAIR: Thank you. Resume then.

<THE HEARING ADJOURNED AT 11.31 AM
20

<THE HEARING RESUMED AT 11.40 AM

CHAIR: Counsel, ready to resume?

MR MCAVOY SC: Yes, thank you, Chair. Ms Atta, I now wanted to ask you
25 some questions about the policy framework within which Aboriginal education sits. As we know from the material you've provided and, indeed, your opening statement that the model Aboriginal Education Plan was adopted by the Department in 2016.

MS JENNY ATTA: That's correct.
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MR MCAVOY SC: A 10-year plan that was developed in partnership with the
35 Victorian Aboriginal Education Association Incorporated and other First Peoples community organisations in Victoria?

MS JENNY ATTA: Yes.

MR MCAVOY SC: Is it fair to say that the plan is a high-level document?
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MS JENNY ATTA: It's a high-level strategy document but with tangible, more granular actions identified.

MR MCAVOY SC: So it sets out - I suggest to you it sets out six objectives
45 aligned within outcomes expected against those objectives and actions to achieve those outcomes. I'm not sure whether we can, on the screen, have page 15 of the model plan. Showing on the screen is a plan overview of obligations and actions?

MS JENNY ATTA: Yes, that's right.

5 **MR MCAVOY SC:** The first column in an ochre colour I'll describe as "Strategic objectives" for want of a better term. But the column in green and then a lighter shade of green are respectively headed "Outcomes" and "Actions". Can you see that?

10 **MS JENNY ATTA:** No, but I do recognise that document, that's correct.

MR MCAVOY SC: So those objectives, outcomes and actions provide some direction for the Department of Education to carry out work to improve First Peoples' educational outcomes?

15 **MS JENNY ATTA:** Yes.

MR MCAVOY SC: I'd suggest that the outcomes and actions do not readily translate in any data recorded in the Victorian Government Aboriginal Affairs Report or the Closing the Gap data. Would you agree with that?

20 **MS JENNY ATTA:** Excuse me. There are - there is some limited data that, as I understand it and as I recollect, is recorded in the Victorian Aboriginal Affairs Framework. For instance, in relation to, I think it's action 3(a) we do report what data we have on First Peoples representation on school councils, for instance.

25 **MR MCAVOY SC:** But there's no, there's been no attempt to align these actions and outcomes with the data collected under the (indistinct)?

30 **MS JENNY ATTA:** So at the outset, Mr McAvoy, and my understanding wasn't directly involved at the time - excuse my voice - the measures and targets that were envisaged to be monitored for Marrung did include reference to a range of measures at the time that flowed through to the Aboriginal Affairs Framework. Over time those measures and targets have evolved. There are some datasets that have been discontinued or renamed, or are no longer available. There's been some
35 other measures that have been added in to the reporting to Marrung. So that has evolved. But there were certainly some consideration around the Aboriginal Affairs Framework measurement at the time, is my understanding and advice.

40 **COMMISSIONER WALTER:** Ms Atta, I went through this document, and I was just completely nonplussed to read these outcomes, because all of them are so vague and aspirational that there is no way to measure whether they've been achieved or not and I would suggest that that's not an outcome. That's an aspiration, and if you can't measure it, what is the point of having it there, because
45 you can't measure whether you've actually succeeded or not. So, for example, schools, the outcome is:

"Koori students engage fully throughout their schooling years and gain the knowledge and skills to excel at year 12 or its equivalent."

5 So maybe school retention rates for year 12 are measured there, but why wouldn't you have outcomes that actually are measurable and then have the data to actually see whether those outcomes are being achieved?

10 **MS JENNY ATTA:** And I agree that they are high-level, Commissioner, and that looking again at a refresher or future framework, you know, stronger, explicit outcomes that can be directly measurable would tell us more, would tell us more with confidence. I understand that - and perhaps you are right, the outcomes are in some cases too high-level or aspirational and then the intent was to look at the data that could go to outcomes, contributing to that. And there are a range of measures at the senior secondary level that would indicate improvement or achievements under that outcome. So that was the theory. I accept your point that it could be a more rigorous, granular -

20 **COMMISSIONER WALTER:** I would suggest not only could it be, it absolutely has to be if there's any way that such a plan is actually worthwhile. Because if you can't measure if something is successful or not, then its actual efficacy is brought into question. We do have targets and measures in Marrung. I don't know if it's possible to get up page 31 I think it is.

25 **MR MCAVOY SC:** 31, operator.

COMMISSIONER WALTER: Measures, it doesn't have page numbers on it.

30 **MS JENNY ATTA:** The page right at the back of the document, I think, Commissioner.

COMMISSIONER WALTER: Yes.

MR MCAVOY SC: Page 34, Commissioner.

35 **COMMISSIONER WALTER:** 34 it is, thank you. I again was nonplussed when I read these because, they say, like, "Over the next five years 25 per cent more year 5 students will reach the highest levels of achievement in reading and maths." Well, the baseline is not set, so 25 per cent from when? The highest levels is not set out. And a little bit further down, it just says, "More students will reach the highest levels of achievement in the arts." What is "more", is it one more, two more?

MS JENNY ATTA: Yes -

45 **COMMISSIONER WALTER:** It's not measurements which really go to the success of the strategy, are they?

MS JENNY ATTA: Those measures, in particular, Commissioner, and Mr Fraser might talk more to this, I agree as you read them it doesn't provide that detail. They were measures at the same time in 2016 that were being brought together for whole of school measurement and they do relate to - which I agree is not represented here, but there are specific targets to indicate achievement.

Do you want to add to that Stephen.

MR STEPHEN FRASER: Just to say briefly that there are some areas, actions and outcomes within Marrung which relate and translate directly, particularly to Closing the Gap targets. So if we look at the action on the previous slide, I think it was action 5 to increase participation particularly in early years in supported play groups and kindergartens, then obviously that translates directly to one of our Closing the Gap targets.

Previously supporting engagement and particularly parents as first educators of their children and ensuring children are developmentally on track, obviously that's picked up again in the Closing the Gap target and the measure from the Australian Early Development Census that is used to monitor Closing the Gap. And then, of course, I think it's action 8 around increasing First Nations students pathways into further education and training, that relates again, to the 18 to 24 year old or completion target in Closing the Gap.

But you are absolutely spot on. There is no mapping document that says how these actions and outcomes translate into those other areas and I think that would be - we have learnt a lot, as mentioned through Marrung.

COMMISSIONER WALTER: Yes, I just can't understand how this is the third strategy on - and yet it isn't, whether it succeeds or not is still not measurable.

COMMISSIONER LOVETT: Would it be fair to assume that former plans of executives are also linked to aspirations or are they linked to things that could be measured for delivery?

MS JENNY ATTA: The intent and the better practice is to have a way of assessing a goal or a task in a performance plan, Commissioner.

COMMISSIONER LOVETT: But, I mean a lot of this is aspirational. I guess the link I'm trying to draw is I'm sure that senior bureaucrats have accountability in their performance plans to deliver on the expectations and commitments of the government, which this is a government strategy, and there'd be clear deliverables that one needs to achieve in order to, I guess, adhere to their performance plan. But yet, we hear here that it's very aspirational. It's hard to reconcile I think, is what I'm trying to say.

MS JENNY ATTA: Yeah, if I could make the point, Commissioners, that the - and this particular group of measures that we have on the screen were the

whole-of-school targets set out as part of the then education state targets. My advice is that they were included here with the intention of being able to analyse the data and look at the outcomes for First Peoples students under those aspirational statements.

5

They do, and other measures that we have relate to the, what were then called the "Budget Paper Number 3" measures. Now, performance statement measures of the Department that are - where targets are set and we can measure, monitor and measure progress against targets, they're some of the targets that I mentioned earlier that we are falling short of. So I just don't want to leave the impression that there is - there isn't rigour to being able to monitor and measure progress against certain relevant datasets. The Department does have that capacity.

10

We do report at a national and a state level in different ways. The targets and measures set out here in the original Marrung strategy have evolved and changed over time, some of them the datasets are no longer available to us, but some of those core measures that go to achievement and attainment and attendance, and more recently student satisfaction type measures and others that we have added in are taken seriously, monitored and reported on and discussed with, at the (crosstalk).

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COMMISSIONER WALTER: What happens in 2026 on current trends with year 10 retention rates going backwards, with attendance rates going backwards, absences, with expulsions and suspensions, First Nations being vastly overrepresented in those, what happens at the end of 2026 at the end of Marrung? What repercussions are there for the Department for Marrung not achieving its stated goals?

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MS JENNY ATTA: Well, we are about to engage with VAEAI on how we take forward an evaluation.

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COMMISSIONER WALTER: Can you just get another plan?

MS JENNY ATTA: Well, I would hope - I do hope, and it would be our intent that we would need another plan. It has been important to have a 10-year strategy. I take the points about the need for more rigorous measurement, and to be able to be more granular in what we're setting out to achieve so that we can be transparent about the success or otherwise of different elements of the plan.

35

But we will undertake that evaluation, and I think, Commissioner, I would need to - the Executive Board of the Department would need to reflect on what that means and what that means in terms of any changes we need, policy, program, delivery level, school level. There are multiple across, you know, a bigger complex system, there are multiple elements to consider here.

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COMMISSIONER WALTER: I guess my concern is that failure of Marrung just falls in line with all the previous failures of policy and everybody just shrugs

and sort of says, "Well, we better get a better plan." Can I briefly talk about this document?

5 **MR MCAVOY SC:** Is this the strengthening Aboriginal Self-Determination in Education?

COMMISSIONER WALTER: Yes.

10 **MR MCAVOY SC:** Commissioner, I just ask that you hold on for a moment?

COMMISSIONER WALTER: I can do that.

15 **MR MCAVOY SC:** There's a couple of questions that I wish to ask about Marrung before we move on.

Are there any other questions from Commissioners at this point? No.

20 In terms of the overall responsibility for the Marrung Aboriginal Education Plan, that's your responsibility as departmental Secretary?

MS JENNY ATTA: As the Secretary I'm ultimately responsible for all strategy frameworks policy.

25 **MR MCAVOY SC:** And the day-to-day oversight of delivery on that falls to Mr Fraser?

MS JENNY ATTA: Mr Fraser is the relevant Deputy Secretary.

30 **MR MCAVOY SC:** And Mr Fraser has within his ambit a division known as the Koori Projects and Programs?

MS JENNY ATTA: Koori Outcomes Division.

35 **MR MCAVOY SC:** Koori Outcomes Division. Sorry for getting the label wrong. Is that the division - the division, which has responsibility for delivery of the Marrung Aboriginal Education Plan?

40 **MS JENNY ATTA:** So the responsibility is spread across different groups and parts of the Department. The outcomes division has a primary responsibility in coordinating the work that contributes to that, to the liaison with VAEAI, to the work with our evaluation area around monitoring, et cetera. But, you know, there are very many different contributions across the breadth of the Department that are reflected in the strategy. So the Koori Outcomes Division isn't directly responsible for each of those.

45 **MR MCAVOY SC:** Mr Fraser, if I might ask you, do you, in dealing with other divisions within the Department, have – can you observe as to whether there's

variations in understanding and performance of the Marrung educational plan by other divisions within the Department?

MR STEPHEN FRASER: I would reflect that there is clear incident
 5 understanding across the Department about our performance against Marrung and one of the reasons I'm confident in saying that is that all of our deputy secretaries across the Department who sit on that executive board are members of the Marrung Central Governance Committee where the data on our performance against Marrung is taken and shared, alongside VAEAI and alongside other
 10 Aboriginal Community Controlled Organisations and our LAECG chairs who also attend those central governance committees. So there is absolutely transparency across the Department about our performance.

MR MCAVOY SC: So, is there a view that is generally expressed within those
 15 meetings as to the difficulties with implementation?

MR STEPHEN FRASER: My reflection would be that the challenges of deep and effective implementation that leads not just to a legacy of activity but a legacy of impact, is fairly shared across those groups, those executive teams, and it is
 20 a constant source of effort. Our regional directors are part of that Marrung Central Governance Committee. They attend as co-chairs with the LAECG chairs of the regional partnership forums, and they bring a reflection of not only the successes that they are seeing in their schools in their areas, but also the challenges of implementation.

MR MCAVOY SC: One of the pieces of evidence that this Commission has heard is critical of Marrung in that it, in the sense that it only approaches
 25 education from the narrow perspective of education provided by the State or - do you accept that - do you appreciate that that criticism has been made? Have you heard it before?
 30

MR STEPHEN FRASER: I heard that criticism from co-chair of the First Peoples Assembly, one of the co-chairs obviously, last week, I believe it was. And I appreciate that Marrung is clearly a, as it says, an Aboriginal Education
 35 Plan. It is targeted towards those areas from birth through to adult learning, that directly affect what falls within the education portfolio. I think the comment that I would make is that we acknowledge and there's no getting around this, the fact that those LAECG chairs and the LAECGs more broadly represent community voice means that it is impossible not to bring all of those areas that affect First
 40 Peoples' lives and particularly First Peoples' children's lives from outside the education portfolio, and that is reflected through the feedback that we hear from those regional groups. But it's also reinforced by inviting the co-chairs of the other caucus groups into the Marrung Governance Forum. So we do have
 45 Aboriginal Justice Forum, Dhelk Dja and other forums represented around that Marrung central governance table.

MR MCAVOY SC: Just for the transcript LAECG means?

MR STEPHEN FRASER: Local Aboriginal Educational Consultative Group.

MR MCAVOY SC: Thank you. But the question raised then as the very
5 fundamental premise of whether educating, having compulsory education for
children through state-provided education is appropriate for First Peoples on their
own Countries and is there a role for greater support of independent schools, First
Peoples independent schools in the state?

10 **MS JENNY ATTA:** Mr McAvoy, I'm just reflecting how best to answer that. I
think that, and recognise that we have dispersed and diverse Aboriginal
communities across the state, and that one of the big dilemmas with a big,
mainstream school system is the work to try and have it responsive to all needs,
different contexts, et cetera. Victoria has a significant non-government sector,
15 independent sector, that provides a whole range of schooling opportunities.
There's only and I think I'm right in saying this, only one independent First
Peoples school, dedicated First Peoples school, governed by First Peoples and I
think it's principally a boarding school.

20 So my view would be that there's a really interesting and important question
around diversity of provision, about the importance of - the critical importance of
the government school system doing better. But I think it's an interesting and
important conversation with community around, you know, are there other
provision models that should be considered in the broader parameters of an
25 education system.

MR MCAVOY SC: To your knowledge has the Department had those
conversations?

30 **MS JENNY ATTA:** All of the conversations I've had through Marrung and with
our First Peoples workforce, with leaders at VAEAI, with Elders from the
LAECGs, et cetera, has been focused on improving the mainstream system. And,
you know, I can't recall particular conversations about looking at different models
of provision in the time that I've been there. I've certainly read about some of the
35 thinking about that, and I do understand that there are different views on that.

MR MCAVOY SC: Are you aware that the - that there are many reports that the
most culturally safe locations for Aboriginal people to work and employment
environments, are in Aboriginal organisations?
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MS JENNY ATTA: Yes, I am broadly aware of that.

MR MCAVOY SC: And it follows that it's likely that having an independent
First Peoples school might be the most culturally safe place for First Peoples
45 children?

MS JENNY ATTA: Yes, I understand. I accept that that is likely to be the case.

MR MCAVOY SC: I just wonder, Mr Fraser, whether you've got any observation that might assist us. You've had some work internationally. You've worked in London, I think, with a philanthropic organisation working in various parts of the world. Do you have any observations about the provision of locally run and independent schooling delivered by the cultural - the cultural group who, to whom the child belongs?

MR STEPHEN FRASER: There are many examples and some of those were referenced in yesterday's evidence of First Peoples led self-determined forms of education. And limited evidence of the long-term impact of those models and huge variation, I think, enormous opportunity for research into the impact of those models. We also, of course, have some history here in Victoria of different models of delivering First Peoples education in more culturally inclusive ways.

I think I would point out that the - and again returning to the theme of the Education and Training Reform Act, the Act requires us to make a form of education that adheres to those principles and hopefully others, available and make access available to all children, families in the state. And not only does the Act require us to do that, but the regulations in terms of the Child Safe Standards, and all our other - our employment obligations require us to continually work towards ensuring that all of our schools are culturally safe and inclusive, and safe places for First Nations children to live and learn, and grow.

MR MCAVOY SC: Thank you. I won't pursue that further, but is it - can the Commissioners take it that the Department is not adverse to discussions about independent First Peoples schools, but hasn't undertaken those discussions yet itself?

MS JENNY ATTA: Yes, that's correct, and considerations around provisioning within the government system as well.

MR MCAVOY SC: Just to be clear, the discussion about the provision of, or facilitation of independent schools is not as an alternative to the government doing what it's committed and required to do?

MS JENNY ATTA: Yes, I understand.

MR MCAVOY SC: In the time remaining, I would like to have some discussion with you about the latest report from the Department, 'Strengthening Aboriginal Self-Determination in Education'. That report was released last week, together with a media release about - titled 'Boosting Aboriginal Self-Determination in Education' and an announcement of some \$51 million investment in ensuring Aboriginal self-determination shapes Victoria's education system. So obviously you know about the release?

MS JENNY ATTA: I do.

MR MCAVOY SC: And you know about the report?

MS JENNY ATTA: I do.

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MR MCAVOY SC: Now, just to set the scene a little further: How was this report to be viewed? It's not intended to be a replacement for the Marrung Education Plan, is it?

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MS JENNY ATTA: No. No, it's not intended to be a replacement. The work was developed closely with VAEAI or under the Marrung umbrella, if you like. It's definitely not intended to be a replacement. It is intended to really have a deeper opportunity to listen to and have a dialogue with Aboriginal communities around not only their experience of the education system, but what else and what differently is needed. And so we see it as a very important piece to come in as we move to start to evaluate Marrung and think about next steps.

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MR MCAVOY SC: Is it supplementary or an enhancement upon Marrung, or how should the Commissioners understand it?

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MS JENNY ATTA: I think it's an initiative designed and progressed in line with the Marrung strategy. So it's not a replacement. I don't know that I'd call it supplementary too, but it's an initiative that sits under the broader strategy.

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MR MCAVOY SC: I've got some difficulty, because the report identifies six areas for action, and I'll just read them out:

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"Reciprocal partnership, truth-telling in Victorian curriculum, Aboriginal voice in decision making, ongoing capacities to support school and community engagement, meaningful accountability measures and creating a culturally safe and responsive school system."

But those six don't entirely match with the six actions in the Marrung. But there's only a partial overlap and there doesn't appear in the document to be any explanation of how that then works. Do the -

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MS JENNY ATTA: Yes, but - Mr Fraser may wish to say more, but I would just add that this was really about hearing those voices and the feedback, not trying to align with the existing strategy or to create the next strategy, although we'd see it as a very important piece of work to inform future thinking.

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MR STEPHEN FRASER: And I think very much responsive to some of the comments that have been made by Commissioners to date in this hearing. What we are doing through Marrung, the aspirations of Marrung are noble, they are right in that they were determined in partnership with VAEAI. But we're not getting the progress that we clearly set out to achieve and so we need to work in different ways. And so the self-determination reform program, the Campfire Conversations

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that were conducted across the state, were really about how do we need to work differently. And government, the Department, not assuming that we knew the answers to those questions, that we really needed to listen and then to enact what we had heard.

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And I think the investment that has been announced is the first part of that working differently and you can see there, one of those strong themes that came through was about partnership. And coming back to the theme of curriculum, we know that we can't expect our teachers to work in isolation to deliver culturally appropriate First Nations knowledge and understanding. And so we have had a really strong history in Victoria of Elders, community organisations, Traditional Owner groups working with schools but often that has been unsupported, unresourced. It's been reliant on Elders' generosity of their knowledge, their time, volunteering that. So a big part of this reform is acknowledging that and I'll say appropriately, but resourcing it to a level that hopefully responds to what we heard through those Campfire Conversations.

MR MCAVOY SC: Mr Fraser, your Koori Outcomes Division had carriage of this. Can I ask you not in a pejorative sense, but was the release of this report rushed to get it out before coming here to give evidence before Yoorrook?

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MR STEPHEN FRASER: No.

MR MCAVOY SC: Because the failure of alignment between the document, the preceding document and this document seems to be something that might have happened as a result of trying to meet some time pressures or some other difficulty in ensuring that the document is as complete as it possibly can be.

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MS JENNY ATTA: Mr McAvoy, if I could, I would just say it was genuinely never intended to seek to have a document that completely aligned with the Marrung strategy or formed the next strategy. It was genuinely a document that was always about that listening exercise and being able to bring together the themes and the messages coming through that listening. And we'd certainly see it as a - and had always hoped it would be a really important piece to inform the forward-thinking. But that alignment that you're talking about, it was - that was genuinely not a consideration.

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MR MCAVOY SC: Well, you may or may not be aware, Ms Atta, but repeatedly over the life of this Commission, witnesses from the government have attended and press releases and announcements and reviews have been released in the days prior to the government witnesses giving evidence. And the release of this report cannot - might be seen in light of what has gone before by the Commissioners, I would suggest to you.

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MS JENNY ATTA: I hear what you're saying, Mr McAvoy.

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MR MCAVOY SC: I understand Commissioner Walter has some questions.

COMMISSIONER WALTER: Thank you. The six areas that you talk about in here were in the Yalca 2001 government strategy, they were in the Wannik Strategy 2008, they were critiqued in the Auditor-General's report in 2011 and they're certainly in Marrung. So given that all of these things that you've identified in this document have been 25 years now, a quarter of a century have been identified as key issues in bringing Aboriginal children's education to actually outcomes that we want, 25 years we've known this. So a cynic might say - and I note at the end that it's possible actions are listed. There's no actual actions going to come out of this. It's just possible actions that are going to be listed.

So, on the basis of 25 years at least, history of knowledge why go out and find exactly the same thing that we've known all along? Why isn't there actual change to actually bring these things to fruition and actually address them? So -

MS JENNY ATTA: Commissioner, we didn't seek to go out and do a piece of work that - we weren't necessarily assuming that those same themes would be replicated. So genuinely, we wanted to do this piece of work to engage deeply, have those opportunities to listen. We're trying to reflect genuinely what was said, and I take - you know, and particularly as we come toward the end of the Marrung strategy and think about what we will clearly need to do differently, I take your point that there are common themes that have been put to us for a number of years now, and it perhaps reinforces the point that - about the urgency for real change.

But within the detail of the report, I think it is helpful for our school system, for instance, to be hearing that feedback directly in people's words, community words, to be hearing about those experiences and for us, you know, an important additional piece for us to inform that forward thinking.

COMMISSIONER HUNTER: But we keep - sorry, Commissioner but we keep saying this, and as Commissioner Walter just pointed out, it's 25 years of saying the same thing and every year that goes by we fail another Aboriginal child. We are failing children in this state and they're not getting an education. They are all falling through the cracks. Commissioner Walter has pointed out again and again the failure to change the system. It's a system that's 150 years old, that has excluded our children. How is it, as a peoples are we supposed to get anywhere if we can't actually change the system? They're the same reports and there is no action and everybody is saying the same thing. How are you not listening?

MS JENNY ATTA: Commissioner, I hear that feedback. I perhaps will only reiterate it's not intended to be a strategy document. I hear the frustration that's coming through about seeing -

COMMISSIONER HUNTER: It's not, it's just every system was set up to fail our children. The schooling system excludes our children consistently. You've got cultural safety as a first Child Safe Principle. I bet if you asked every child how safe they feel in a public school, the answer would be, "Not". And so we've

got these principles, we have got all these, yet we're failing. We're failing our children, our First Peoples children, our future. And yet really frustrated, because Maggie can tell you the stats and how many reports there have been.

5 But I sit here and I think about every child we fail in the system, every single child and we're point what zero eight per cent of the state's population. It's not good enough, it's not good enough to come before a Commission and say, "Yes, we have done this." Where are the actions to make sure that all our first - this is our future. This is all we've got. And this is why most First Peoples work at getting better outcomes for kids. Schooling and education is so important in them
10 succeeding. This campfire document says what everybody has said before and that's no disrespect to First Peoples that have added, but we keep asking the same questions and getting the same answers with a system that doesn't change. Why?

15 **MS JENNY ATTA:** Well, I accept the point that the system has not changed anywhere near enough. I accept the point that we are not achieving what we're setting out to achieve. And the - you know, we are at a - you know, the urgency, the criticality of the next steps and the need to do something different. I completely accept that we can't just keep doing all of the same things. And there
20 is a clear need for us to - for there to be greater import into decision-making and shaping about what will work with First Peoples in a way that, in a fuller expression, obviously, of self-determination would mean the transfer of relevant decision-making, relevant resources. Those are the sorts of matters that I know under government's policy around Treaty that we may be able to move towards.

25 It is very clear that the same approaches and well-intentioned approaches are, you know, incremental changes. I do believe there are things changing across our school system, that we have examples of strong practice. But the urgency, as you say, around the impact for every child and young person walking through the
30 school gate is a critical thing for us to have front of mind. So I don't have - I don't have the clear answer for you here today, Commissioner. I know this next stage is absolutely critical in terms of next steps and a different future.

35 **COMMISSIONER WALTER:** Look, I was really despondent when I read this report. It strikes me as gormless, and it just made me question: is the Department capable of actually delivering the change that is needed? My heart sank and I thought this is what's produced in 2024. Is the Department any capability to actually deliver the change or do First Peoples need to look elsewhere for the educational changes that we need, because there's nothing there that makes you
40 think we're on the right track.

45 **MR STEPHEN FRASER:** Commissioners, if I could add something to this conversation and in saying this I don't for a second want to gloss over or ignore the injustices that have been done and are being done to children that are being failed in our system. As the Secretary said in her opening remarks, we are clear-eyed about those challenges and the impact of those effects.

Commissioner Walter, your comments that we have been saying these things for 25 years, I suspect we have been saying them longer and particularly the community have been saying them to us much, much longer than that and that we'll have similar conversations into the future not because we haven't achieved impact, but because it's important to engage new generations in that work. And I think from my point of view and I'm very conscious of looking after the team that led this work, and clearly I'm biased in that, but the platform that has been built through these Campfire Conversations to give voice to First Nations students in our system is showing impact.

Now, I can talk to the KELIS program, that's Koori Emerging Leaders in Schools. That came from the Campfire Conversations where students, Koori students at Elizabeth Murdoch college down Bayside Peninsula used that Campfire Conversations process to identify that they weren't having sufficient input into decisions about their schooling that affected them. So the KELIS program was born out of that Campfire Conversations process. It was born in that school. It's now spread to eight schools, there are plans to 12 schools and then take it to all schools in the area in the coming years. That's in partnership with VAEAI it's engaging community organisations to empower those students in their education.

So I just point to it as an example where we need to hold up those exemplar of what different looks like to then grow that practice across the State. That conversation will support that progress.

COMMISSIONER LOVETT: 20 years ago I worked at VAEAI, you probably wouldn't know that and I was fortunate enough, early 2000s to lead a project called 'Our Youth, Our Way', you may not be familiar with that. But all the things that you've just described have come up in those consultations that we went right across the State, talking to young people, engaged in education around barriers and opportunities for the future. So that was early 2000. We are now in 2024. So over 20 years ago.

Coming back to the point as well, the voices of our people have been saying the same thing for over 20 years and we're still not seeing the change we need. I want to ask the question of the Secretary. You have been the Secretary for five years?

MS JENNY ATTA: That's correct.

COMMISSIONER LOVETT: Yes. Now, what leadership are you going to show in order to drive the change that ultimately accountability for delivery of Marrung and whatever successive policies, what leadership with you going to continue to show and drive to see change for our people?

MS JENNY ATTA: Commissioner, I can only say that it's hard for me to think of a more important priority for the Department. There's probably a Department with very significant and broad responsibilities, but it is hard to think of another area that you'd feel as exercised about in terms of not shifting the dial in the way

that we want to. So I can only commit to the fact that it's an absolutely key priority for me.

5 Thinking already ahead around everything from the next stage; the evaluation of Marrung, arrangements within the Department, the work at the school level, and what we will need to do to give effect not only to change but to urgent change. And obviously as part of that, we will also look to the findings and recommendations that come out of this Commission.

10 **COMMISSIONER LOVETT:** You are committed to doing that?

MS JENNY ATTA: I'm committed to doing that.

15 **COMMISSIONER LOVETT:** We have got the Koori Outcomes Division that was mentioned before, and again, we have heard it from a lot of particularly senior bureaucrats around, "A lot of the accountability sits with the Koori Outcomes Unit, for instance, in the Department." How much authority and power and influence do they really have? Noting that you've referred earlier to them playing a coordination role, but how much real influence do they have, given the outcomes
20 that we're still striving to achieve?

MS JENNY ATTA: Well, they're a very important division within the Department and a very important source of advice, not only coordination on these matters. But the point I made earlier about the importance of this being everyone's
25 business across the Department and that those groups have responsibility for school programs, regional delivery, school workforce policy and strategic policy, et cetera, all parts of the Department have a role to play here, and must - you know, we - Marrung has been, and I hear all of the criticism, but Marrung has been a strategy where there are responsibilities that fall to all parts of the
30 Department.

COMMISSIONER LOVETT: But I guess I'm trying to reconcile with your opening remarks to the remarks just there, Secretary, where the Koori Outcomes Division plays a coordination role and a monitoring role. But yet we know we are
35 not going to ultimately deliver, or the Department is not going to deliver on its objectives in Marrung. So I would be confident that I - maybe I'm over assuming that advice would be coming through the Department around where we need to step up and do more, or you need to step up and do more. I'm trying to understand how much real influence they have when they are actually coming forward and
40 saying, "Hey, these targets are off track, this is what we need to do about it." I don't feel that there's any authority there.

MS JENNY ATTA: I don't want to suggest that the Koori Outcomes Division don't have a role and a very important and central role in providing advice on all
45 of those matters. I'm trying to convey it can't just be one division's responsibility. Clearly they are central to this, but we have very many leaders and areas of responsibility across the Department, all of which have responsibility here.

COMMISSIONER LOVETT: Yes, I guess I'm trying to understand where the responsibility sits. By no means am I saying that the Koori Outcomes Branch should be accountable. I'm trying to understand who is ultimately accountable to delivering on Marrung, so when - at the end of it when it's reviewed and we say, "We did well in this, but what are we also thinking about the people that we've let down in the system, the targets that we haven't been able to achieve." Who's ultimately responsible?

10 **MS JENNY ATTA:** Well, ultimately myself as Secretary and the Executive Board will have the task of looking at that advice, looking at that evaluation and considering exactly those points.

15 **COMMISSIONER LOVETT:** And what is happening across the Department to ensure that our Aboriginal workforce, there's meaningful professional development for them, but also they are able to operate in a culturally safe environment?

20 **MS JENNY ATTA:** We have an Aboriginal inclusion plan, Dhelk Wukang, which contains a range of actions that we are taking to try and increase and improve cultural safety within our Department, but also with regard to schools and as part of that an Aboriginal employment plan that goes directly to actions around professional development, progression, recruitment and attraction, cultural safety.

25 So we have, you know, taken a very deliberate step around that inclusion plan, and that is something that is - the governance around progress under that plan is chaired by a subcommittee of the Executive Board with reports to the Executive Board. So it is an issue that we are taking seriously.

30 **COMMISSIONER WALTER:** And yet the numbers of Aboriginal education workers within the system has declined in the last couple of years and the numbers of councils with Aboriginal board members has also declined over the last few of years.

35 **MS JENNY ATTA:** Certainly within our school based staff, I think it's 0.18 per cent. It's very low. Our employees that are self-reporting that data is through our payroll system. I agree, Commissioner. The school council representation is, indeed, lower than we would like. I have to say that we have - our data is pretty limited on that in terms of looking at a pretty small sample. But, again, it has been a focus through action 3(a) of Marrung as one of the areas of focus to increase First Peoples voice and participation in a range of ways.

45 **MR STEPHEN FRASER:** If I can add just briefly to the question of support and particularly cultural support for our First Peoples workforce, I would take the opportunity firstly to acknowledge the work of the Aboriginal workforce, our engagement support officers, our Koori engagement coordinators, or KECs and

KENs, and also those First Peoples cultural advisors within the lookout team. That Koori education workforce is so essential to all of our work, but the burden to support outcomes and deliver them does not sit on them. They are an absolutely essential part of our workforce and many of them of course Elders and all of them community members. But the professional support that we, as a Department, provide to them is essential. And as the Secretary said, Dhelk Wukang is part of that, but also actions coming out of the review of the Koori education workforce a few years ago, so the numbers -

10 **COMMISSIONER LOVETT:** Can I ask, beyond, this is the Secretary, beyond receiving briefings in the Koori - and I'm not mentioning names, the Koori Outcomes Division, I know who is in there, but Koori Outcomes Division around governance, around Marrung, so you get your briefing going into it as a co-chair of that Forum. How much intersection are you having directly as the Secretary
15 with the Koori Outcomes Division Executive?

MS JENNY ATTA: I'll be briefed directly by them going into those governance forums.

20 **COMMISSIONER LOVETT:** Outside of that is my question, Secretary?

MS JENNY ATTA: At different times through the year I'll be interacting directly with that executive team and the broader division on a range of matters. At other times Stephen as Deputy Secretary will be taking me through issues, but there's
25 many times throughout the year that I'd be interacting directly with the Koori Outcomes Division.

COMMISSIONER LOVETT: One more. What is your Department doing to be Treaty ready? So we have heard from the Premier about some departments will be ready around getting Treaty ready and other departments won't be. My question
30 is, Secretary, what are you doing as a Department, some tangible examples around what you are doing to get Treaty ready?

MS JENNY ATTA: Yeah, I think it's an important question and we are just in
35 the process of bringing on two additional positions that will be central to supporting me and the broader Executive Board in our readiness. We're thinking through the - some structural and organisational matters. It's the question of Deputy Secretary level leadership on First Peoples matters and Treaty is being one that I've been actively planning for, for some time.

40
And as part of - in the coming months, looking at a piece of work with our Executive Board and looking at how we might best have that facilitated to ensure at that leadership level that everyone is fully cognisant and understanding of the policy objectives, the opportunity and the important role that all senior public
45 servants across the Victorian Government need to play and, indeed, have a solemn duty, I would say, Commissioner, that we must play in relation to that.

MR MCAVOY SC: Ms Atta, there are a range of additional detailed questions that we haven't gotten to today, but I ask whether if we were to put those questions to you in writing, you would be willing to respond in writing to the Commission?

5 **MS JENNY ATTA:** Yes, absolutely.

MR MCAVOY SC: And in the event that the Commission holds some accountability hearings later in the year to see how departments are travelling in their commitments, would you be willing to return and give evidence again?

10

MS JENNY ATTA: I'm very happy to assist the Commission in any way, yes.

COMMISSIONER NORTH: Mr McAvoy, can I just ask a couple of questions before we wind up?

15

Ms Atta, you've heard and, no doubt know, the extreme level - and it is an extreme level - of frustration amongst the Indigenous community and elsewhere with the state of education disadvantage of Indigenous students in particular areas. You've committed today tangibly to me and thereby to the Commission, to review the statutory framework to see whether there are opportunities within it to emphasise directions for Indigenous students' education experience to be improved.

20

And you've traversed a lot of areas of high policy and high organisational issues which no doubt as Secretary is your daily bread and butter. But I'm interested to hear what you say against that background of extreme, not only frustration but the effect on the daily lives of Aboriginal people, the students, their families, of what it means to be disadvantaged in a system. That's an everyday experience of life, as we've heard. It affects people, their mums and dads, the students. It affects them in a way that is tangible.

25

30

I wondered if you could just tell the Commission what - given that you've said that these issues are of high priority to you in your role as Secretary, can you give me, say, three or four examples of tangible outcomes that you, as Secretary, would aim to achieve, say, in 12 months' time so that when you look back in 12 months, would be able to say, "Well, I set for myself"? That these would be improvements which are significant, not these airy-fairy waffly, you know non-concrete sort of outcomes that Commissioner Walter has pointed you to, but actually tangible life-changing that you would like to see say within a 12-month period?

40

MS JENNY ATTA: It's clearly a very important question, Commissioner, and one that within a 12-month period, I probably would want to give some more thought to. Life-changing - changes within a 12-month -

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COMMISSIONER NORTH: Well, take two years. The point I'm getting at is that there are people looking here, looking at the live stream, talking in community and they want to know what changes are really likely to happen. You know. Is

school attendance going to be improved? I mean, there must be a few things that leap into your mind to say: I want to achieve these. I'm not saying that they will be achieved but this is what I aim to do in my vision of Indigenous education.

5 **MS JENNY ATTA:** Yes, there are very many things that I want to achieve, (crosstalk) but I'm referring to - I was conscious of your original reference to a fairly short timeframe. Then I would absolutely want to see that - a change that demonstrated that we have schools across our system that First Peoples students and families want to engage in, trust, have trust and confidence in and one
10 measure of that is that they want to be there, and are supported to be there. And that's important for learning attainment and social support and all sorts of other reasons. So if we - we have made some progress at the primary school level and those lower years of secondary school, it's - you, know, it's genuinely in that space that keeps me awake at night.

15

COMMISSIONER NORTH: How do you do it?

MS JENNY ATTA: Well, I think we need to - all of the discussions I've had, all of the advice I've had is that there's not one thing that will do it. But it is critical
20 that we have teaching and learning environments that are experienced as being culturally safe and where people feel encouraged and where they want to attend. It's critical that the curriculum is taught in such a way that we have much higher quality teaching of Aboriginal perspectives and history; that our students, particularly those students in those early years of - well, perhaps not particularly,
25 but also those students in those earlier years of secondary school feel that respect for their communities, their history. They see it reflected in the curriculum, they have that, feel that greater connection.

COMMISSIONER NORTH: I'll stop you there, I think you've dealt with two
30 already. But let's look at the practical ways you achieve that. Take the second one, the upskilling of knowledge about Aboriginal history. I mean what are the tangible steps you are talking about taking?

MS JENNY ATTA: So one is about quality tailored curriculum resources that
35 are more readily available to teachers in our schools and -

COMMISSIONER NORTH: Is that publications and -

MS JENNY ATTA: Lesson plans and resources that they can use in the teaching
40 of history, for example.

COMMISSIONER NORTH: Are they being developed now?

MS JENNY ATTA: There are some developed and we have had a pilot program,
45 a Koori clusters curriculum program doing some of that work and with community. The additional investment just announced it's very much focused a large piece of that, on this work. But we would also want to progress work with

initial teacher education providers, and there's work happening nationally at this level, coming out of the teacher education expert panel, to increase the quality -

COMMISSIONER NORTH: Teaching teachers to teach Indigenous history?

5

MS JENNY ATTA: Indeed, teachers emerging from their training, feeling more confident, well resourced, understanding about how to teach that content of the curriculum and, indeed, how to work with students in a culturally inclusive and sensitive way. So, you know, teachers, it goes without saying have an absolutely central role to play in all of this.

10

But the point, you know, that point around attendance is a really critical one for us, both in terms of the conversation with community to understand what absence does and doesn't mean, what - to make sure that we're looking at the barriers to attending, changing that. And, you know, we see changes at individual school levels but all of this is about taking that change to (inaudible) and in an enduring way across our system.

15

COMMISSIONER NORTH: What are you doing about that on the ground, tangible? You know, we want to be able to say to people listening to this, "These are the actual steps." I think you've taken us somewhere on the discussion just now, but in relation to attendance and perhaps more widely your first point about making people - making Indigenous people feel comfortable going to school. And I think, again, is it engaging the ACCOs to assist in a particular way, or what is it on the ground that -

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MS JENNY ATTA: And on the ground, Commissioner, and the Deputy Secretary referenced this before, we have a lot of very strong place-based work where our regional Koori education workforce, our school principals in particular areas are working with Traditional Owners, with community, with ACCOs, with other organisations. Some work in the Wimmera south-west that I would point to are very dedicated, focused on improving both attendance at school and outcomes, and identifying the foundation - foundational or enabling elements of that, the things that have to change not at one school, but across that area. The sharing of practice, the - examples such as engagement of First Peoples family liaison officers in some schools.

30

35

COMMISSIONER NORTH: They do.

MS JENNY ATTA: Available to and perhaps thinking particularly of the example of the Gowrie Street Primary School in Shepparton. 36 per cent of the students there are First Peoples students. It's a school that's teaching the Yorta Yorta language. It puts a very high premium on engaging with community and students around what cultural safety looks like. In that school, it's employed a First Peoples community family liaison officer to engage directly with families about their experience of the school, about any of the particular issues coming up for their children.

40

45

And it's a school that is driving better outcomes and their advice to me is that the feedback they get from the secondary level is that those children are generally making a very strong transition. They feel strong in their culture, they are engaged, have been engaged right through primary school and starting off well in secondary school. So it is one of the things that is reported through to Marrung. It's qualitative data, but there is a range of very strong area-based practice that many of our school leaders, our regional staff with community are leading at the local level.

10

I've got 1,566 schools and at times it does feel like a daunting challenge about really embedding change in such a big, diverse service system. But it's those examples, when I visit those schools, when I go and talk to those groups working together at an area level, that does give me a sense of hope and optimism. And it is a significant challenge to, as I said - how do we take that to scale and embed that across our government school system?

15

MR MCAVOY SC: Commissioner North, just on this point, we have a submission from one group to the effect that at the primary school level there is a per student allocation of funding for First Nations students, but that doesn't exist at a secondary level. And the suggestion is that the outcomes at a secondary level would greatly increase if there were a per student allocation to students or to secondary schools for First Nations students. Is that a matter that you've considered and is something that may play a role in your thinking about how you would increase school attendance?

20

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MS JENNY ATTA: Yes, and I think the submission would be referring to the Koori Literacy and Numeracy Program, where there is targeted student level funding for greater support at the primary school level. And, yes, in the broad, of course, funding and resourcing, and the way that it's targeted is the other lever that's very important in this space.

30

COMMISSIONER LOVETT: I've got one question. I had more but I think in the interests of time. Language. All students Aboriginal and non-Aboriginal students can go to a school, primary, secondary and learn any other language. Spanish, Greek, Italian, French, German. I can keep going on and that's like, embedded across schools and I guess across the curriculum and you have to achieve, as you are attending these classes to be able to pass the classes.

35

But our language is very - there's not across the system. Certain schools you mentioned a little bit earlier in the previous response about Yorta Yorta language being taught at that particular school. We are hearing some really great things out Thornbury Primary about some of the amazing work that they are doing there. And other people and other cultures get to teach their language which is an important part of identity. They are all paid roles. But what's the commitment from yourself and the Department around embedding languages, our languages, in schools throughout the state of Victoria?

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MS JENNY ATTA: Commissioner, we have made some progress there, and I accept that it is still fledgeling and there has been some investment to support it. I think we have moved now to 37 schools that are teaching an Aboriginal
5 language. It is consistently part of feedback from community going to the importance of that. So it absolutely needs to be on the table as one of the issues for us to consider how can we take that further.

In terms of current effort, Stephen, is there anything that -
10

COMMISSIONER LOVETT: How many schools are there, 37 and how many schools are there?

MS JENNY ATTA: 1,566. Yes, as I said, Commissioner, I recognise that this is
15 fledgeling.

MR STEPHEN FRASER: There is work underway and part of that investment in Registered Aboriginal Parties, Traditional Owner groups and Community
20 Controlled Organisations is about where community make that choice that language is the way that they wish to partner with their local schools in delivering the curriculum, that that is supported. And as the cultural custodians of those languages it's absolutely right that that is where the decision is indicated but that it's supported appropriately. We acknowledge the work of VACL and Aunty
25 Vikki in this work in enabling that in partnership with Traditional Owners.

37 is a small part of the system. We have funding available to support certificate III and IV courses in teaching an Aboriginal language. That is delivered through the Department, and that is supported through our registration authority, our
30 regulatory body for the teaching profession with granting of permission to teach, those Elders and community members who are able to partner with schools to deliver those languages. So there are - there's a range of activity underway, but the challenge is to grow and support that, and nurture it.

COMMISSIONER LOVETT: And I think you will find that there's a lot of
35 non-Aboriginal people who are teaching language, so they might have gone through the certificate, but the point is that our people should be teaching our languages. And just another point, I do want to draw your attention to Aunty Vicki Couzens evidence, please watch it if you haven't already. One particular point she made was there's no Victorian Government investment in VACL. So do
40 you make a commitment here today to meet with VACL to talk through aspirations and expectations from VACL?

MR STEPHEN FRASER: Very happy to. I sit alongside Aunty Vicki on the
45 Policy Partnership Group for Closing the Gap target 16.

COMMISSIONER LOVETT: Yeah, we could see some tangible change there as well. Zero investment, and I understand you're not ministers who make

decisions at cabinet about investment and where the budget goes. But zero investment from the Victorian State Government in Aboriginal languages and I think Marrung is a language word, right? Yeah? I can carry on and name a number of others but just I think the point is made. Thank you.

5

MR MCAVOY SC: Thank you, Chair. I think that concludes the oral examination of these witnesses, noting their undertaking to provide further answers in writing and perhaps come back if recalled. Commissioners, the next witness is Ms Alinta Williams from the Australian Education Union. Ms McLeod SC will be taking that witness. We were scheduled to begin with that witness at 10 pm. Perhaps we could start, resume at 1.30 pm and take 30 minutes for the lunch break? If that's suitable?

15

CHAIR: If that works with Alinta as well. That's the other thing.

MR MCAVOY SC: Well, in terms of time, this afternoon and the other panel which is scheduled to start at 2.30, arrangements can be sorted out between Ms McLeod and myself.

20

CHAIR: We will say half an hour then, shall we, 1.30, yes.

MR MCAVOY SC: Thank you, Chair.

25

CHAIR: We have got the last and biggest group last. We have the biggest group last.

MR MCAVOY SC: Yes. Commissioner - Chair, I think the witnesses can now be excused.

30

CHAIR: Thank you. Thank you very much.

COMMISSIONER NORTH: Thanks very much.

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CHAIR: Adjourn to 1.30, thank you.

<THE WITNESSES WERE EXCUSED

<THE HEARING ADJOURNED AT 1.01 PM

40

<THE HEARING RESUMED AT 1.33 PM

MS MCLEOD SC: Thank you, Chair. Chair, and Commissioners, I appear to lead the evidence from Ms Williams who is our next witness. I would like to offer my respects to Country and acknowledgement of Elders past and present, and invite Ms Frederico for the State to announce her appearance as well.

45

MS FREDERICO: Good morning, Chair, and Commissioners. My name is Ms Frederico and I appear for the State of Victoria. I acknowledge the Traditional Owners and custodians of the land on which these important hearings are taking place and I pay my respects to the Elders past and present, and extend that respect to all First Peoples here today and watching online. On behalf of the State I acknowledge that sovereignty has never been ceded over these lands. Thank you.

CHAIR: Thank you.

MS MCLEOD SC: Thank you, Chair. We have this afternoon Alinta Williams who is a First Nations organiser for the Australian Education Union Victorian branch.

Welcome, Ms Williams. Just for Commissioners' reference, the AEU have prepared a submission to the Commission. The reference is NUT.0001.0500.0007. Ms Williams, welcome. Would you state your full name please for the Commission?

MS ALINTA WILLIAMS: Sure, it's Alinta Marjorie Iddles Williams.

MS MCLEOD SC: Do you undertake to give truthful evidence to the Commission this afternoon?

MS ALINTA WILLIAMS: Yes.

MS MCLEOD SC: Would you like to make an opening statement and introduce yourself?

MS ALINTA WILLIAMS: Yes, please. Thank you. Thank you, everybody for having me today. I also acknowledge we are on unceded land and pay my respects and to all Aboriginal people in the room. Sovereignty was never ceded. Always was, always will be Aboriginal land. I also want to acknowledge First Peoples as the first educators on these lands and pay my respects to that continuing education that is happening today.

I am a Ngunnawal, Ngambri woman from ACT and New South Wales. I am the youngest of eight children. I have two young children myself. I grew up with a strong connection to my identity, to my family and Country, living with my Anglo-celtic mother who is also a high school teacher and Aboriginal father and many siblings, cousins, aunties, uncles and extended family members. The intersection of my blackness have defined. I have been a primary school teacher for over 15 years in several schools and states. I hold a deep sense of pride in my Aboriginal identity and acknowledge all of my Aboriginal Elders and leaders in education and the practitioners who endure with strength in the face of the colonial project.

I have seen firsthand the inequality of opportunity for mob, the injustices my father and the community has faced, and this has compelled me to seek social justice through pursuing First Nations justice for students and teachers, and it drives me to make the change. I currently work as one of the First Nations
 5 organisers at the Australian Education Union Victoria branch and have been there two years on this very day, so this is a great way to celebrate that. As a unionist I am here as part of a collective of people who want to see transformative change in the system for themselves for the students and for their own children.

10 I want to acknowledge their experiences and thank the First Nations members for their trust and their solidarity. In my opinion, which is based on many experiences and interactions, First Nations People intrinsically value education even though colonial education experiences have been harmful and continue to be unjust. I see
 15 this process of truth-telling as an opportunity to explicitly name the institutionalised injustices and to call the Aboriginal and Torres Strait Islander educational sovereignty as the foundation for all future work. Thanks.

MS MCLEOD SC: Thank you, Ms Williams. So could you start perhaps by describing the work of the AEU, First Nations Forum and the work that has been
 20 conducted since 2021?

MS ALINTA WILLIAMS: Yes. So the AEU First Nations Forum was a group of Aboriginal and Torres Strait Islander members who came together to talk about their experiences in education, to think about change that was needed, and it was
 25 supported by the AEU. That was a process that happened with members coming forward and saying, "This is what we need, we want to see representation for mob in union." So we came together as a group and from that work, had recommendations that we took to the executive in the AEU, to explicitly state the change that we wanted to see in union, in broader public education and societal
 30 change as well.

So, yeah, from that work, actually that's how the position of First Nations
 35 Organiser came about and part of that was that members felt that there had to be two people in the position. So that we weren't put in a place where there was one Aboriginal person doing that work, because as I will talk about further into this hearing, that's often where teachers and educators find themselves in the very isolated position of working to make change for mob, and it's really, really difficult to do that when it's just the one of you.

40 **MS MCLEOD SC:** And so it's -1.6 is the full-time equivalent between the two of you.

MS ALINTA WILLIAMS: That's right, yeah.

45 **MS MCLEOD SC:** I should ask you to indicate, you are here supported by other officials of the AEU?

MS ALINTA WILLIAMS: Yes.

MS MCLEOD SC: Do you want to identify those people in the room?

5 **COMMISSIONER WALTER:** There's - Deputy President Justin Mullaly is here. My recruitment training campaigns lead, Kate Wiggins. The Early Childhood Organiser, Shannon Burke and the other First Nations Organiser, Frank Gaffer.

10 **MS MCLEOD SC:** Thank you. Could I ask you to turn to your submission? The reference is NUT.0500.0007. If we turn to the second page of that submission you have an introduction. Could I invite you to indicate on behalf of the AEU it's reflection on solidarity with First Nations members of the union?

15 **MS ALINTA WILLIAMS:** Would you like me to read that?

MS MCLEOD SC: Yes, please.

20 **MS ALINTA WILLIAMS:** "The AEU would like to acknowledge" from that point?

MS MCLEOD SC: Yes, "In presenting this submission".

25 **MS ALINTA WILLIAMS:** Thank you:

"In presenting this submission the AEU would like to acknowledge that it has not done enough to be a culturally safe organisation nor to stand in active solidarity with First Nations members in eliminating racism and oppression within the public education system and more broadly. Too many years of inadequate action by non-Aboriginal members of the union including senior leadership meant that the union was not culturally safe, inclusive and a place where Aboriginal and Torres Strait Islander members could collectively organise and exercise their power apart from and as part of the union's 45,000 strong membership."

35 **MS MCLEOD SC:** So the 45,000 strong members, is that the national union or that the Victorian branch?

40 **MS ALINTA WILLIAMS:** Yes.

MS MCLEOD SC: Victorian branch. You indicate the AEU represents 251 members who identify as First Peoples in addition to 59 student members in kindergartens, schools, TAFEs, adult migration - migrant English services and disability services.

45 **MS ALINTA WILLIAMS:** Yes, and actually today as it stands there are 279 First Nations members.

MS MCLEOD SC: Okay. And how many members of the Forum are there, the First Nations Forum?

5 **MS ALINTA WILLIAMS:** The First Nations Forum was an event but there's a First Nations Member Committee of nine people so that is, yes, separate to the Forum.

MS MCLEOD SC: What is the name of that committee?

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MS ALINTA WILLIAMS: At the moment it's a First Nations Member Committee, yes.

MS MCLEOD SC: Who carries the workload, if you like, for that committee?

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MS ALINTA WILLIAMS: So that workload is carried by the First Nations organisers, but it's very much driven by the members in terms of what they want to bring to that conversation. Because whilst I am a primary school teacher I have now been out of that profession for a few years. So it's most important that we are hearing from people who are still working on the ground and have those daily experiences that they can share. Very much it's about that collective energy, solidarity and working together to make that positive change.

20

MS MCLEOD SC: Through the work of the committee and the initial Forum, do you hear reports directly from your members of their experiences in the workplace and also the reports about the experiences of First Nations students in the schools, school system?

25

MS ALINTA WILLIAMS: Yes, very much from the work of the Forum, very much from the work of committee and very much in my daily work about members being in touch about their experiences and obviously then how it pertains to the students that they work with. And very often for mob there's the cultural responsibility and obligation that you have working in a school, particularly if there are mob kids there, that is, yeah, very much communicated to me in my role as well.

35

MS MCLEOD SC: Would you tell the Commissioners about the federal office's work, Yalukit Yulendj, the committee and the work that they've undertaken?

40 **MS ALINTA WILLIAMS:** Sure. So Yalukit Yulendj is a federal education committee, so that sits under the federal AEU. So that's apart from the Victorian branch, although of course we sit under it as well. And Yalukit Yulendj has representatives from all states and territories in lot of different sectors and they work collaborative on anything that pertains to Aboriginal and Torres Strait Islander policies, programs.

45

And the specific work that we are now currently using at the Vic branch is the Jumbunna Report, which is titled 'Making Our Words and Actions Meet: The Experience of Aboriginal and Torres Strait Islander Educators'. And that is sort of guiding the work that we are doing at Victoria branch to ensure that there are more culturally competent organisations that we work in and that more broadly, we are seeing that change in public education for people that are working in schools and other workplaces.

MS MCLEOD SC: In the report, you mention - you make note of the AEU branch executive response to the First Nations Forum recommendations and at the top of page 2, note:

"The response sets out a truth and the beginning of a process, which acknowledges the union is part of the coloniser structures and commits the union to listen carefully and conscientiously to First Nations members."

Would you like to read the statement that you set out in the paragraph at the top of page 2, commencing with the words, "Through the statement"?

MS ALINTA WILLIAMS: Yes. I've got page 3 on mine.

MS MCLEOD SC: I'm sorry page 3.

MS ALINTA WILLIAMS: Okay. Thank you. So from, "Commits the union"?

MS MCLEOD SC: "Through the statement."

MS ALINTA WILLIAMS: Thank you:

"Through the statement we acknowledge that the union has not done enough to be a confidentially safe organisation and to stand in active solidarity with First Nations members to raise our voices together to address the dispossession and alienation experienced by Aboriginal and Torres Strait Islander peoples. This includes the racism, prejudice and other oppressions faced by First Nations educators in the union within public education and in society more broadly. We acknowledge that the absence of action reveals an absence of respect for First Nations members and contributes in its own way to entrenching the effects of colonisation. We take responsibility for our inaction and we are sorry."

MS MCLEOD SC: Would you like to expand on that statement at all to explain the ways in a broad sense that the union has not - acknowledges it has not been a culturally safe organisation?

MS ALINTA WILLIAMS: I suppose just to say that I've been a member of the Victorian branch for coming on, I guess, eight years before I started my work there, and so a lot of this work, while we are involved as First Nations members in

taking the recommendations to executive and leadership, the work, I suppose, that has happened since I've been there, I can speak to. But the absence and the lack of, as it states, the inaction, all I can say is that as a member it was something that we noticed and we wanted to see change. But I can't, I suppose, comment on why they had not engaged previously except to say, you know, there's something that we call in education "the great Australian silence" and perhaps it had something to do with that.

MS MCLEOD SC: Is the union consulted in the development of government policies and plans?

MS ALINTA WILLIAMS: I believe so. You mean Department of Education?

MS MCLEOD: Yes.

MS ALINTA WILLIAMS: I might have to take that on notice. I think yes, but I'm unsure.

MS MCLEOD SC: On page 3, you talk about the AEU development of a process for cultural safety and anti-racism guided by the recommendations outlined in the Jumbunna Institute report, 'Making Our Words and Action Meet: Understanding The Experiences of Indigenous Educators in the Workforce'. And I just want to turn to that report for a moment.

This report, Commissioners, appears at - I don't have an ID for that, but I'll find one.

COMMISSIONER NORTH: Tab 23.

MS MCLEOD SC: Thank you.

So could you tell the Commissioners what this research was undertaken by the Jumbunna Institute and the national survey, Gari Yala that is described in that report of the Jumbunna Institute.

MS ALINTA WILLIAMS: Yes, I can speak to the ways in which we have interacted with it since. I was not involved in the early days of the report and the report writing. But I can speak to the Gari Yala report as being the first comprehensive report capturing the experiences of Aboriginal and Torres Strait Islander people in the workforce and -

MS MCLEOD SC: Perhaps if I invite Commissioners to turn to the second page headed, "Executive Summary". We'll just describe what the report is. So:

"The Jumbunna Institute in partnership with the Diversity Council of Australia conducted a national survey of over 1,000 Aboriginal and Torres Strait Islander people and their experiences of work. That report was entitled

Gari Yala meaning, "Speak the truth" in Wurundjeri. The report detailed racism within the workplace, cultural load and identity strain faced by Aboriginal and Torres Strait Islander staff and the impacts of this for Aboriginal and Torres Strait Islanders, employees and employers."

5

And if I could highlight the findings under the paragraph:

"What we found was consistent."

10 Do you happen to have that report handy? If you don't I'll bring it up on the screen.

MS ALINTA WILLIAMS: Thank you. Yes.

15 **MS MCLEOD SC:** There we go:

20 "So consistent across the survey and the AEU survey is how culturally unsafe workplaces, 28 per cent of Gari Yala respondents noting this, 25 per cent of AEU respondents. 44 per cent of AEU respondents felt they were responsible for Aboriginal and Torres Strait Islander issues in the workplace, higher than the Gari Yala cohort of 39 per cent feeling a high cultural load."

The next paragraph:

25 "Perhaps the most concerning trend from the AEU results is an inherent finding that other educators provide the most racist burden to the Aboriginal and Torres Strait Islander colleagues, more than students, parents and the community."

30 So is that consistent with the reports you're hearing from members and anecdotal evidence you are aware of subsequently?

35 **MS ALINTA WILLIAMS:** It is. It is consistent with the anecdotal evidence and, yeah, conversations that I'm having with mob educators in schools and other workplaces. I think it's important to sort of have some context around this, which is that historically - we have heard this throughout the week - you know, we have been excluded from educational opportunities and marginalised by institutional racism. So we continue to be impacted by that in our capacity as teachers and education support staff, and in other school based roles such as the Koori
40 Education Support Officers or KESOs.

I think what is very alarming in this is that while the Aboriginal and Torres Strait Islander student population grows, First Nations People are drastically underrepresented in the education workforce, and that this disparity is by design.
45 It's rooted in the colonial foundations of so-called Australia. So all of these things that now mob contend with in their everyday work, is - yes, comes from that, I guess, historical context of being marginalised in the system and also comes

from assumptions, bias and other sort of racist institutional structures that happen within learning systems. So, yeah, there are plenty of examples from members as to how that plays out in their everyday.

- 5 As a teacher myself, it used to be just the, because I was the Aboriginal teacher you organise a NAIDOC events, you are organising the Reconciliation Week events. You are organising any community events, facilitating students in whatever special programs might be happening and this is all on top of your role as a classroom teacher or as an education support staff member. So you're going above and beyond and there is little to no value seen in that .

MS MCLEOD SC: Could we perhaps bring up image 7, which is on page 12 of the document?

- 15 This image sets out, in an illustration, the 10 truths there described in this report for organisations to improve workplace inclusion, based in evidence, designed for workplaces that are ready to listen to staff and willing to act on what's told. So the 10 truths that are set out there, "Recommendations for action" and one of them, just picking on what you have just said, is the need to focus on workplace readiness or safety rather than worker readiness. So focusing on the systemic or the workplace issues rather than the individual worker.

- MS ALINTA WILLIAMS:** That's right and we see that when we're asking, are these organisations, whatever they may be, but in this context. Schools, are they culturally competent for mob to be working in? And we ask the same questions for the students and the families, and communities that are going to these schools. It's not about us being school ready or work ready. It's how are these schools and the functions within these schools and the frameworks ready for us.

- 30 **MS MCLEOD SC:** If we turn back a page to image 5, there's a heading, "The state of workplace racism" and if we can zoom in on that image, please.

- 59 per cent of respondents reporting a type of appearance racism and an example given, "I've had fairer skin so it's assumed I'm not truly an Aboriginal person." 56 per cent, assumptions and stereotypes, the example given, "It was my manager in my most recent job that said, 'You people don't work, do you?'" 44 per cent described as racist slurs and jokes. Some work situations there had been blatant racism, being called a mongrel breed, "You don't get anything for free", "How did you get the job?" Offensive comments of that nature.

- 40 **MS ALINTA WILLIAMS:** Yes, and you can imagine it was compounded even further by the referendum and all of the discourse around that last year, and people walking into staff rooms where there were, you know - I won't name the paper itself but, you know, certain media that would have been very uncomfortable for them to see other staff members reading. The lack of support to - for all community members in - throughout that time, just compounded all of this.

MS MCLEOD SC: And as we've noted, mostly this is colleague to colleague.

MS ALINTA WILLIAMS: And yes, that's right. That's what the survey has said, yeah. It's mostly colleague to colleague. And there's a huge responsibility
5 there and like I said, it comes from these colonial structures that exist. People's bias and assumptions become very clear when you start - when they start facing things that they are uncomfortable with or have no knowledge of. And that's where people say things that they often are not understanding why it could be hurtful to their colleague, but they should understand and there's no excuse for it.

10 **MS MCLEOD SC:** Just to drill into this type of racism a little, we turn to image 12 on page 19. There's a bar graph there identifying the types of racism that are experienced by workers. And the top two I'm interested in, "I've been called names, insulted or verbally abused in my workplace, because of my Aboriginal and Torres Strait Islander heritage." I assume that is - the total number there is, in
15 effect one in four First Nations staff report being called names, insulted and abused. Correct?

20 **MS ALINTA WILLIAMS:** Yes.

MS MCLEOD SC: Is that consistent with the reports you're hearing directly as well?

25 **MS ALINTA WILLIAMS:** Yes. Although I will say that often it's sort of under the guise of - it - perhaps it's not always that explicit in being verbally abused or overt. It's often again, that sort of, the assumptions and bias of people that plays out in these workplaces, and that sort of - which is what happens with students as well, the racism of low expectations. And when you see an Aboriginal person perhaps stepping out of what you imagine they should be enacting or doing or
30 playing to, which is an inherent bias, people, yeah, they'll say things. And, unfortunately, that adds to that burden of being an Aboriginal person in these spaces and it's often why a lot of Aboriginal and Torres Strait Islander educators don't last in the profession.

35 **MS MCLEOD SC:** The second line there is:

"I've been put down intellectually in my workplace because of my Aboriginal and/or Torres Strait Islander identity."

40 And that amounts, in the left-hand columns to about a third of all workers, First Nations workers put down intellectually because of their identity.

MS ALINTA WILLIAMS: Yes. Again, the same - the same kind of
45 experiences are coming from other people's lack of education, other people's lack of knowledge, other people's racism, you know, that they hold within themselves and unfortunately it is colleagues. And where is the acknowledgement of black excellence? Where is the acknowledgement of black knowing, of Indigenous

knowledges, of ways and being, and knowing, as being important and of being vital to the learning systems in which we work in? We're not seeing the high expectations for mob. We're seeing some mob in leadership positions, but often it becomes untenable. You're often doing it solo and you're sitting with a group of people that do not have the same understandings as you.

MS MCLEOD SC: How does that - how did that impact on you when you experienced that sort of treatment? And how does it impact on your members?

MS ALINTA WILLIAMS: Personally, I found it really difficult to be the only Aboriginal person in the room full of leadership, because there were things that I would want to prioritise or embed in learning, that were obviously not a priority for some people in that room, not all. And I see it with members, in the same way as that we've got very, very, very high knowledge of how we need to work with our students, particularly Aboriginal and Torres Strait Islander students. And so we are just asking people to listen to us, to ask us, "What do you think?"

And often you're not asked or you're not - your input is not valued. And that's what I hear from members, is that either they're not asked or whether they give input, it's not listened to, or it's seemingly listened to, a nod of the head "Yes, I will take that action, I will look into that" and then nothing happens. And the same outcome again and again, yeah, same outcome of low expectations driving these interactions.

MS MCLEOD SC: And we're talking about perhaps multiple events over a period of time. Does that have the effect of 1,000 cuts that -

MS ALINTA WILLIAMS: Exactly. So, again, that's - when I was talking about Aboriginal and Torres Strait Islander educators not staying in the workforce, it eventually - if that is happening every day, sometimes we call it micro aggressions. They build up and they build up, and it means that you are questioning yourself, your self-worth, your own knowledge, you know, who you are at a person. And why would you want to stay in that situation? Why would you want to put yourself through that again and again?

MS MCLEOD: There's also the burden of extra responsibility you have mentioned. If we could turn to image 14, two pages over. The first line is around 56 per cent of respondents agreeing with the expectation they speak on behalf of all Aboriginal and Torres Strait Islanders, and 44 per cent being asked to be responsible for everything to do with those issues.

MS ALINTA WILLIAMS: Yes, and I think I spoke to that before in terms of my experiences of having to lead the way. And it feels like if I don't do this, then no one's going to do it, so I have to do it for - it's my cultural obligation and my cultural responsibility to ensure that students are seeing themselves reflected in their schools and have a sense of identity and belonging. So you feel driven to do this.

5 But what happens is you become - I think I've heard Dr Melitta Hogarth speak to it of being the all-knowing Aboriginal person even though, as we all know we are not a homogenous group of people. You are asked again and again for, "What do you think about this as an Aboriginal person?" And it becomes really tiresome and really frustrating. It's not overtly racist, I guess in being verbally abusive, but it is that again, other people's assumptions and bias which are driving this.

10 You know, these conversations where you're asked continuously for your opinion on an Aboriginal Torres Strait Islander thing, whatever that might be. That might be curriculum, it might be an event. Someone might randomly come and tell you they saw an Aboriginal person on TV last night and you kind of can, you know, be unsure as to how to respond to that because, "I'm really happy for you, but I didn't need to necessarily know that."

15 **MS MCLEOD SC:** (Indistinct).

20 **COMMISSIONER HUNTER:** Can I just double-check that these, call them acts of violence against First Peoples teachers perpetrated by non-Aboriginal teachers -

MS ALINTA WILLIAMS: Yes.

COMMISSIONER HUNTER: - that teach our children in schools?

25 **MS ALINTA WILLIAMS:** Yes.

MS MCLEOD SC: Are some of these exchanges occurring in front of students?

30 **MS ALINTA WILLIAMS:** Yes.

MS MCLEOD SC: And are some of these type of exchanges occurring with First Nations students?

35 **MS ALINTA WILLIAMS:** Yes.

MS MCLEOD SC: In this report just before I leave it, appendix 2 is headed Enterprise Bargaining Clauses, is this work the union has done to draft model enterprise bargaining clauses to ensure First Nations Peoples' safety?

40 **MS ALINTA WILLIAMS:** That's right and again that came from members and working with members. That came from union asking members and involving members in the conversation. And whilst it's not perfect, it's been - and it has only been in place the last couple of years, so it still feels like that testing period where we are seeing how people use it and engage with it.

45 It's something that didn't exist before around cultural responsibility, cultural leave, leave for NAIDOC week, kinship care, things that pertain to us as mob. And I

think we have the opportunity now that we've seen sort of how it's played out and to work with members further, to make it even stronger. Because what can tend to happen with something like this is that members are still having to advocate for themselves to use such entitlements, because there's that lack much broader
 5 education around why it's important to value Aboriginal and Torres Strait Islander educators and people within the learning systems.

So that - there's sort of the education phase that needs to happen, you know, through the Department of Education and through principals and leadership in
 10 schools and workplaces so that they have an understanding of what this means and why it's important when a member comes to you and says "I am using cultural leave" for them to understand what that means and its importance, and not question it.

15 **MS MCLEOD SC:** So just to understand, these provisions have been implemented in teachers' enterprise bargaining agreements -

MS ALINTA WILLIAMS: Yes.

20 **MS MCLEOD SC:** - for approximately two years across Victorian public schools?

MS ALINTA WILLIAMS: Yes, the 2022 VGSA, yes.

25 **MS MCLEOD SC:** Do they apply to other institutions at which your members work as well that we mentioned at the beginning?

MS ALINTA WILLIAMS: No, but there is a lot of work happening in the early
 30 childhood space to ensure that it can apply and in other spaces like in TAFE and disability, where we also represent members.

MS MCLEOD SC: So these are your entitlements and yet do I take it from what you're saying is that when members seek to take those entitlements for cultural
 35 responsibilities or health and wellbeing, or whatever other requirements they may have, there's sort of a negotiation going on within the school as whether or not they should have that?

MS ALINTA WILLIAMS: Yes. Yes, that's still what I'm hearing from
 40 members and what I talk to members about and why it's so important that our roles exist at AEU branch, because people are then able to talk to us about what it means for them when they are having to negotiate it, and we can sort of guide and help members through that, to make sure that they can sit within their power, within the system. But I would say that I hope to see the next iteration of it being
 45 even stronger in its wording, and I think that's what will hopefully come from members as well in terms of how - how they're using it. And again, because it is new, we are still very much sort of in the testing phase of it in that in terms of people seeking to use it and us hearing about how they're using the entitlements.

MS MCLEOD SC: And is the union being involved in negotiations directly with schools that appear to be ignoring these mandatory provisions in the workplace agreements?

5

MS ALINTA WILLIAMS: Yes, in a sense, in that - well, we work directly with the members obviously and sometimes those members are, of course, principals and leadership. So there are conversations that, yeah, that happen. Yes. We work directly with schools. There's lots of different ways in which that's enacted but I guess the short answer is, yes. Yep.

10

MS MCLEOD SC: And do you have any input from government to re-state the seriousness of these provisions and the fact that their schools, public schools, should be implementing them in full? Are they helpful?

15

MS ALINTA WILLIAMS: The Department of Education, do we have feedback from them?

MS MCLEOD SC: Are they helping with the schools?

20

MS ALINTA WILLIAMS: I would say that I haven't seen an active communication around these entitlements in - yeah, for the educator workforce, coming from them.

25

MS MCLEOD SC: Just to go back a step. These enterprise bargaining agreements are negotiated between the union and the government, correct. And then it's up to you and the union to make sure those obligations are upheld in the workplace. You are not currently receiving any assistance from the Victorian Government, Department of Education, to ensure that their principals and leaders of schools are properly implementing these agreements and the requirements?

30

MS ALINTA WILLIAMS: Currently, no. Although one example of how we would be hoping to work with the Department is when the Yoorrook submission was opened for education, we negotiated with them around Aboriginal and Torres Strait Islander members having some leave to complete submissions. So I would say it's probably more reactive at this point, rather than proactive.

35

COMMISSIONER WALTER: Have you had any experiences of people wanting to take advantage of those provisions and being denied or having to have big arguments -

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MS ALINTA WILLIAMS: Yes.

COMMISSIONER WALTER: So if somebody - and it's a big risk to take because if you are a junior person in a school to -

45

MS ALINTA WILLIAMS: Yes, that's right. So it can be that the impetus is on you to approach leadership and the principal. And they may not have the understanding of why the entitlements are in place, or why it's important. Then, yes, it can be really tricky to navigate for members. But I would say that as union
5 we are very, very supportive of members and work with members at all different levels to ensure we get to a point where they're able to access it. But, yeah, sometimes it's not as easy as we would hope.

COMMISSIONER HUNTER: We are in 2024 and you've got no adverse action
10 against an Aboriginal and Torres Strait Islander employee, because - and cultural safety. Like, why we are having to write in 2024 that these have to be adhered to in an environment that is a teaching environment to our children to safeguard the Aboriginal and Torres Strait Islander adults who safeguard our kids really in a way, in a job which is not theirs. I find it absurd.

MS ALINTA WILLIAMS: Yes, it is extremely frustrating and again, I think it
15 goes back to the historical context of not being within these systems as educators, you know, until very recently and so that continuous marginalisation is seen throughout policy documents, throughout, you know, agreements. I mean, the fact
20 is these agreements and commitments entitlements were not in previous agreements. So it's all - it shouldn't be that way, but, yes.

MS MCLEOD SC: And the burden lies with the individual seeking to take that
25 leave, let's say, for cultural responsibility and the pushback they're getting is that it's inconvenient or something more?

MS ALINTA WILLIAMS: I mean, I must state very clearly that, you know,
30 there's a teacher shortage at the moment, and so that, of course, complicates things. Perhaps if we fully funded public education we may see something to, you know, have more of an effect there.

MS MCLEOD SC: I guess my question is around the burden lies on the individual -

MS ALINTA WILLIAMS: Yes.
35

MS MCLEOD SC: - to make their case as to why they should have this leave even though it's guaranteed under the enterprise bargaining agreement.

MS ALINTA WILLIAMS: Yes, supported by us. But also, you have to be a
40 member, so if you are not a member you don't have to access that.

MS MCLEOD SC: You're on your own.

COMMISSIONER HUNTER: It's 2024, right. And I'd be sending my daughter
45 to a school that had more Aboriginal educators, so that I knew she was safe and this should just be a given for this -

MS ALINTA WILLIAMS: I will say there, Commissioner, that if you are lucky enough to be not the only Aboriginal or Torres Strait Islander teacher or education support staff member in your school then there is sort of a natural collective that
5 forms around this and it is a safer experience in lots of different ways and if you've got a leadership that sees you and values you then it's not always the way, but, yes, often it is, yeah.

MS MCLEOD SC: No doubt you would be giving a plug to the First Nations
10 teachers and other workers out there to join the union and have your support.

MS ALINTA WILLIAMS: Yes. Yes.

MS MCLEOD SC: In your submission, the AEU submission, you set out in
15 some considerable detail the legacy issues of our colonial past, the history of - a brief history of education policy, mission schools and racist policies of control and assimilation. The Commission heard evidence from the Assembly Co-Chair Ngarra Murray that her grandmother wanted to stay at school but had to leave in
20 grade 3, because her skin was too black to go to the local primary school. Could I just invite you to offer your reflections on the legacy of this history of racism in our schools?

MS ALINTA WILLIAMS: Yes. It's deep. It has huge impact and I think we've
25 talked on that impact for educators. We've certainly heard this week about the impact of that on students through the other education hearings that have taken place. The systemic injustice, you know, also resulted in attempted erasure of Indigenous ways of knowing and being. And as colonial spaces, schools have been explicit in that erasure, so that something that I think learning systems have to contend with, which is again, why I see truth-telling as a way forward there,
30 I would say that, unfortunately, that story is very common.

I know with my own father's experience of being in a classroom as a black kid and being a bright black kid, but being overlooked again and again, of not being
35 allowed to catch the bus with the white kids, that has affected not just him and his education, but consequently other family members and their engagement with school. And so, unfortunately it's - there's commonalities and parallels across, you know, all states and territories with what this racist systems and structures have meant for mob.

40 And I think, you know, we sort of talk about the notions of decolonising schools or we hear the Department talking about self-determination and I would really like to see those kind of words used less as a buzz word or being transactional and not used lightly in policies or in speeches, but actually interrogate what that looks like
45 for First Nations people to have self-determination in learning systems or a decolonised learning system.

MS MCLEOD SC: Just going back to your submission, the AEU submission, which was the first document we had up, you mention on page 8 of the document the example of Northcote [sic] College.

5 **MS ALINTA WILLIAMS:** Northland?

MS MCLEOD SC: Sorry, Northland College, yes, and the success of that program and then the closure of the program. Could you tell us briefly about that and the outcome of the closure?

10

MS ALINTA WILLIAMS: Sure, and as I said, I'm not from Victoria. I have been here for the last nine years, but what I've heard about the Northland Secondary College is basically about the strength and resistance of mob. And what we saw there was, you know, a closure of a school that was direct
15 discrimination against Aboriginal and Torres Strait Islander people, because that is where mob felt safe to learn and to be. And ultimately, you know, they fought back and had the rebel schools and had the school open again.

I think we can learn a lot from that strength and that resistance in the work that
20 we're doing into the future and I know that there are students that, you know, are now in lots of, currently working in lots of different organisations here who had that direct experience of strength and resistance and have benefitted from being told, "Actually, you are worthy, we are not going to let this happen." And that value that was placed in the school and what it provided for community and the
25 work that was done, yeah, I think we can learn a lot from that.

MS MCLEOD SC: Commissioners, I want to turn to the Marrung report and the precursors to that report. Do the Commissioners have any questions in relation to the matters raised so far?

30

So, Ms Williams, could we just turn, now, to a consideration of the current 10-year Education Plan, Marrung, released in 2016. The precursors to that report are first of all the Yalca Partnership in 2021, the first partnership agreement committed to improving education outcomes for Aboriginal students. So the first
35 partnership that committed to that strategy was 20 something years ago, in this state. And the next program was Wannik, Learning Together, a strategy in 2008 with various commitments that were, we have heard this morning, critiqued in a damning way by the Auditor-General's report in 2011.

40 So the Auditor-General's report found that of that program, Wannik, the implementation by both the Education Department and its partners was deeply flawed, and none of the areas to be examined were able to be accessed because the Department had not developed systems, measures or baseline data to monitor progress or even kept track of where the spending allocated to that strategy went.
45 So are you familiar with that Wannik report?

MS ALINTA WILLIAMS: Yes, I am. I'm familiar with the Yalca, but most with Marrung.

MS MCLEOD SC: Okay. So let's come to Marrung then. That is the Education Plan for 2016 to 2026, a 10-year plan and we are currently in year 8 of that plan. And as Commissioner Walter asked the Department officials this morning, it was acknowledged that the goals and aspirations were very woolly, which is my word. For example, 25 per cent more students reached the highest levels of educational attainment. So from what base line? What does "highest level" mean? You have prepared your own critique of Marrung, haven't you?

MS ALINTA WILLIAMS: I did. Yes.

MS MCLEOD SC: Are you happy to speak to that critique?

MS ALINTA WILLIAMS: I'm happy to speak to it. I did it as part of my Masters of Education research a couple of years ago, so it's probably been a little while since I engaged with that. But I suppose I would be asking the same questions as the Commissioners did today which is why, if we have had these things in place for so long, have we not seen transformative change in this space? And when they talk about system-wide change, what do they mean? And who is that coming from? And where is that?

What is the consultation process to come to those words and the language that they're using in these policies? Because I think as was discussed earlier, we are seeing the same thing done again and again. And we know that if we do the same thing again and again and it makes no difference, then we are not going to see any change. So whilst I respect the work that has been put in to Marrung by the Aboriginal and Torres Strait Islander people who were involved, of course, I see it as unfortunately on the ground, not prioritised or not embedded across the board.

I know there are Marrung leads in some schools and some regions, who try and push that work. They're often non-Indigenous people who have taken on this role as an extra responsibility in their school. So I know that some people are trying to push that work forward on the ground. But I also would question where the policies sit in school workforce planning, in their daily curriculum reflections on how they are, you know, how they talk about Aboriginal and Torres Strait Islander people and learning systems that are important to us. But I would really - my question would be what does that look like on the ground and I'm often hearing from people and from members that they're not, that schools are not engaging with these policies.

MS MCLEOD SC: Can I just summarise some of the criticisms you make and ask you to reflect on those? First of all, your comment is around the intention to engage with system-wide issues, and you ask the question, "What are they?" They are not identified.

MS ALINTA WILLIAMS: Yes, and I imagine - and again, I'm making assumptions about it, because they're not explicit. But my reflection would be, are the system-wide issues that are talked about necessarily the same issues that may be mob and community, and people who are living this every day would have?

5 I wonder that, because I truly don't know. And I see it sitting in a deficit model in that it's always about blackfellas catching up to white fellas.

10 It's the same thing with Closing the Gap. We see we have got these measurements like NAPLAN or these other standardised tests that aren't telling us anything about the students in our classroom. It's not telling us that - I had a student in prep who, yeah, maybe he didn't want to sit down get ready for NAPLAN, but he could go out on Country and he could tell you about the plants, he could tell you about the animals, he could speak in language. Where's the value of that in these policies for Aboriginal people? That's missing.

15

COMMISSIONER HUNTER: Sorry, can I just ask, in those NAPLAN and all the assessments and your experience as a teacher, are they culturally appropriate? And do they take into account culture?

20 **MS ALINTA WILLIAMS:** No. No.

COMMISSIONER WALTER: I might also add too I think those measurements are actually measurements of the system, but the system interprets them as measurements of the child.

25

MS ALINTA WILLIAMS: I would agree with that.

30 **MS MCLEOD SC:** So part of your focus of your critique is to ask the question, "What if the policy or the framework was not how to address the child's learning deficits" - to use that language - "but how do we remove barriers to a child fulfilling their potential?" So all children fulfilling their potential. So the focus being on systemic barriers rather than deficits of the child.

35 **MS ALINTA WILLIAMS:** That's right. So that would be things like standardised testing. It would be things like when you finish your early childhood education you then come into a classroom and you must sit at desks and a teacher must be at the front and this is how it works, because you have moved into the second stage of education and you can't explore outside anymore or you can't have a sense of belonging or place. You must adhere to this curriculum. What ways
40 can we learn, I think from the early childhood system about the whole child and knowing the child? And that's going to benefit everyone, not just mob kids, but it's going to benefit all students within the learning systems.

45 **MS MCLEOD SC:** Would you take into account how you assess a child's development?

MS ALINTA WILLIAMS: That's right, yes. So why are the measures - yeah, sort of, you know, why are there standardised measures that do not show a child's strength in other learning areas? And I appreciate you've got to assess in some way and there's parent expectation involved in that, and, yeah. I mean, this is also
5 to say, you know, there's this myth around mob parents not caring for their child's education. You know, we very, very much do.

But, yeah, if I'm going to go to a local community event and my child is going to learn from being there, then I'd much rather the teacher be celebrating,
10 acknowledging that and not questioning it. So, yeah, just different ways of thinking. Why are we so committed to not questioning systems or, you know, following status quo without being critical of that? I would really ask all educators what is so important to them about these assessments and what do they actually need to know about their student, and what will it mean to build that
15 relationship with your student.

And I can tell you from the experience of having students that have come from having an Aboriginal teacher in kinder, coming to me then in prep and having the Aboriginal teacher in grade 1, those kids and their strength in identity and sense of
20 self - I mean they were fully engaged in their learning, in call capacities, but it came from having someone who listened to them.

MS MCLEOD SC: And you're emphasising there the importance of protective factors like culture -
25

MS ALINTA WILLIAMS: Yes.

MS MCLEOD SC: - in the learning -

30 **MS ALINTA WILLIAMS:** That's right.

MS MCLEOD SC: - pathway.

35 **MS ALINTA WILLIAMS:** Yes.

MS MCLEOD SC: I want to ask you about - is there anything you want to say about Marrung and how the Department is tracking against that generally.

40 **MS ALINTA WILLIAMS:** No, I think today earlier has captured most of it.

MS MCLEOD SC: I want to ask you about curriculum now and the content of learning. Commissioner Lovett asked you before about language. I have here a book called "Landmarks", a book by Blackmore, Elliot and Cotter, "A History of Australian to the Present Day". Now, apparently this was the standard history text
45 for year 9 students from - 1969 is the first publication, reprinted seven times, last reprinted 1988. So for a generation of students this is the historical text that they are being offered in school. And to read you this page, we could bring it up on the

screen, please, Landmarks book. There's a section on - I want to go to page 80 on the screen. There's a section on - under Victoria and the settlement of Victoria by the illegal occupiers, the Hentys. We turn to Page 80 on the left-hand column and just read this to you and invite your reflection:

5

"Moreover, a large proportion of the early colonists were Scots who had been used to owning land in their native country and were determined to have land once more. Their task was made easy, because the land was readily occupied. Often no clearing was needed and droughts were not a problem. The Aborigines proved to be no problem either for they were simply killed off or died as they came into contact with the white man's diseases."

10

MS ALINTA WILLIAMS: It's not surprising to me that that is included in a textbook. It's also a really clear indicator as to why many people, not just educators, but particularly educators, do not have an understanding, even a superficial one of the colonial project. Because if you are reading that you're going to become desensitised to what it truly means or what it truly reflects, which is settler colonial violence, which has continued and continues today here and in other places.

20

So I would say if that was your experience as an educator of these being your textbooks, then you have a responsibility to use that to acknowledge it, and to understand your privilege to stand in solidarity with First Nations educators and First Nations students and communities. And you have to make a commitment to changing that, and to ensure that this is not perpetuated, whatever that might look like in your classroom or in your school space, or in your workplace. White settler teachers happen to be the majority, and they really need to take on this challenge of shifting racist narratives by facing this kind of thing.

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30 So, you know, I think it's really hard because we do get stuck in sort of deficit and disadvantage. But I want to be clear that there are a lot of people that are trying to make change and they're not all Aboriginal people. There are people who work in schools that are wanting to - that are committing themselves to seeing this shift in the narrative. And this is happening at one high school where they completely did a whole process of decolonising the library.

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So they would have looked at texts like this, acknowledged that there wasn't a place for texts like this any more in the library. They didn't throw them away, because it's also something we need to have and reflect on and understand. But they're providing these sorts of things as a learning opportunity now and now, their school library is more reflective of black excellence and celebrating black knowledge.

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COMMISSIONER WALTER: But is it any wonder that many teachers, current teachers do not feel able to teach Aboriginal history if this casual callousness and cruelty, and a complete indifference to First Peoples' lives - well, less than - it's not even indifference it's, "Well, they were no problem because we just killed

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them or they died from our diseases", it's just a fact of nature. They struggle and they might not remember being taught this, but it's in there and the fact that it was a text for 20 years and nobody said, "This is horrific. This is genocidal."

5 **MS ALINTA WILLIAMS:** Yes, that's right.

COMMISSIONER WALTER: It's celebrating genocide.

10 **MS ALINTA WILLIAMS:** Yes, I agree. And it's no wonder that people find it hard now, to be proactive in their solidarity. But I would also say that there are a number of excellent and fantastic resources available. One of them that's based here is 'Aboriginal Change Makers' and it's about the strength and resilience of mob historically and I think I've seen teachers engaging with that in really, really productive ways. So I understand that there is that lack of education, but I think
15 now - if you are teaching now, you have to have this as a priority. You have to prioritise this, because we can't keep perpetuating this callousness.

MS MCLEOD SC: What's needed in terms of the retention and recruitment of the First Nations workforce to teaching?
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MS ALINTA WILLIAMS: It's a good question, because it's a big question. In that, of course, there's not one answer. I think we need to see significant change in learning systems so that they better reflect Aboriginal and Torres Strait Islander people's cultures, histories, perspectives. There needs to be - at every school or
25 workplace, you need to be able to feel as an Aboriginal person that you belong there, that you are welcome there, that there's a certain level of cultural competency that a school would have.

30 So I think there's sort of - there's lots of different elements, I guess. There's sort of individual elements. What does an individual need to want to be a teacher in this space? Knowing that that, it's a prevailing attitude of many colleagues. What do schools need to do? What does the Department need to do? I think there's lots, lots of different elements and layers that need to come together to ensure that you are staying as an Aboriginal educator in the system.

35 And one of them that, you know, really does help is if you have a strong leadership at your school that is prioritising and embedding all of that, that's needed. So it's not perpetuating that silence, but is bringing it to the forefront and saying, "This is where we live. We live on unceded Aboriginal land that's the
40 foundation that we work from." And I think if you're an Aboriginal and a teacher in a school and you see that, you're going to want to stay, you are going to want - you've got to see that you are valued.

45 Then, of course, as we saw with the survey and experiences of people you are also going to want to ensure that you are part of some type of collective or some type of network so that you're not alone, because that isolation is what drives people to leave and seek out something else. So, yeah, whether that very much could be

a union space. It could be other networks, but ensure to make sure you're not alone in doing that work and who's with you. And part of that is the work of colleagues stepping up and being active and as allies or accomplices to make safe space for mob.

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MS MCLEOD SC: We might take that down now - thank you - from the screen. I want to come to the role of the KESOs, the Koori Education Support Officers and what's working well and what's not. So could you explain to the Commissioners what the role of the KESOs is, and in your experience how they're doing? How important that work is?

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MS ALINTA WILLIAMS: I might actually, if you don't mind just, sort of read from the submission. I think it outlines it quite well.

15 **MS MCLEOD SC:** What page are you on?

MS ALINTA WILLIAMS: I'm going to be on page 10 of the AEU submission.

MS MCLEOD SC: Page 10.

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MS ALINTA WILLIAMS: Yes. So KESOs have quite a significant role and we heard how significant in the previous hearing, the Koori education workforce is to progressing and furthering the work for mob in schools and beyond. But the reflections from KESO members have communicated a lack of cultural safety. They often have a - are responsible for a lot of schools and a lot of students and that responsibility is often a huge, huge workload that is very, very complex. You are often working at the intersections of students also in out of home care and what that brings. So, yes I'll just read from the submission.

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30 **MS MCLEOD SC:** Zoom in on the last two paragraphs of the page.

MS ALINTA WILLIAMS:

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"KESOs' workload is untenable. They often have a large number of schools and/or students to cover and are also expected to deliver cultural understanding and safety training to school employees who are almost exclusively non-Aboriginal. They often work with students and families who require a lot of support to engage in schooling or with transitions. Often the students are in out of home care, and have experiences of trauma.

40

They work across all sectors and are expected to have an understanding of early years, primary and secondary, and further education with minimal training. KESOs have described how culturally unsafe it is to present and facilitate CUST, as the content involved is often very close to home. For example, a KESO might be talking about the Stolen Generations and either themselves or a close family member is a member of the Stolen Generations."

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So whilst members say to us, "Look, we don't mind doing cultural safety training in schools" there was a lack of consultation about it communicated by some members about actually having to facilitate it. But what they especially did not want to do and they were very explicit about it was deliver CUST to their colleagues, which some of them were asked to do. Colleagues who are again, not culturally competent in their work. So, yeah, they're in a hard place.

MS MCLEOD SC: Just reflecting on that load and the reference to out of home care, yesterday the Commission heard evidence that 2,863 Aboriginal children accessed specialist homelessness services, at the end of the period of service 934 Aboriginal children remained homeless at the end of their support period. Obviously that impacts on their education?

MS ALINTA WILLIAMS: That's right.

MS MCLEOD SC: And the workload of those Koori Support Officers?

MS ALINTA WILLIAMS: That's right.

MS MCLEOD SC: What does self-determination look like to you and what would you say to your members about participating in the work of the union and its committees?

MS ALINTA WILLIAMS: So I suppose, when I'm thinking about self-determination I'm thinking about educational sovereignty, so spaces in which we are sovereign to and teaching children as the custodians of that land. So how do we want them to be? How do we want students to be looking after land, looking after each other, looking after community? And I see that as a system constructed on Indigenous knowledge systems that prioritises standing on the strength of being Aboriginal and celebrates identity and culture.

I think, you know, just ask your families at schools, ask your Aboriginal families, "What do you want? What do you want to see?" And go from that community perspective. I see it as, you know, I have that experience of going in as an Aboriginal parent and saying, "Look, I'm really willing to come and share some knowledge", whether that be around an event or – and them saying, "It's not really part of the curriculum." So self-determination has to be that, that is - that we are not seeing that kind of devaluing of Indigenous knowledges and understandings.

And that we can - you know we have that right to maintain identity and exercise choice. And it's about being asked. It's about belonging. It's about other, wherever the power sits, those people ceding that power so that we can stand, not with a seat at the table, but be driving whatever that work is.

MS MCLEOD SC: Do the Commissioners have questions of Ms Williams?

COMMISSIONER LOVETT: Just one. We have talked a lot about issues today and also you have given us some solutions. But just what motivates you and inspires you?

5 **MS ALINTA WILLIAMS:** I think I talked at the beginning in that it's my life experience, I guess, of seeing what educational change can do, of seeing someone believing in you can do. I think of wanting to see all of the things that we've talked about enacted and being committed to that. I want to see that through. Like, I really want to see an understanding of that cultural and colonial load in -
10 within frameworks.

I really want to see everyone understanding that education is - it's not a privilege. It's a human right. And we need to ensure that every student is going to school without being discriminated against. That every person who is in the workforce is
15 not being affected by any discriminatory practices. And I just want to see in my lifetime a consistent approach to self-determined principles. So disrupting these dominant power structures and everyone needs to that. It can't just be on mob to do that work. That needs to come from everyone, but from listening to us first.

20 **COMMISSIONER LOVETT:** Thank you.

MS MCLEOD SC: Thank you, Commissioners.

Thank you, Ms Williams, for your time this afternoon.
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MS ALINTA WILLIAMS: Thank you. Thank you for having me.

COMMISSIONER NORTH: Yes, thank you.

30 **MS MCLEOD SC:** Commissioners, I'm going to suggest a short break while we get ready for the next panel. During the break we would like to show a short video prepared by Yoorrook, which showcases the work of Reservoir Primary School. It's about six minutes and hopefully by the end of it the next panel will have convened.

35 **CHAIR:** Thank you, counsel.

MS MCLEOD SC: Thank you, Chair.

40 **CHAIR:** We will take that break now.

<VIDEO PLAYED.

<THE HEARING ADJOURNED AT 2.56 PM
45

<THE HEARING RESUMED AT 3.03 PM

CHAIR: Counsel are we ready to resume? Yes. The session of Yoorrook is back.

5 **MR MCAVOY SC:** Thank you, Chair. For the record my name is McAvoy. I'm appearing as Co-Senior Counsel Assisting, supported by Mr Goodwin of Junior Counsel. And we acknowledge that we are here on the lands of the Wurundjeri people and we acknowledge the First Peoples of this land, of this state who have been dispossessed without compensation, without their consent.

10 **MS FREDERICO:** Ms Frederico. I continue to appear on behalf of the State this afternoon. Again, I would like to acknowledge the Traditional Owners of the lands on which these hearings are taking place and extend that respect to the First Peoples here today and online. And on behalf of the State I acknowledge that sovereignty has never been ceded over these lands. Thank you.

15

CHAIR: Thank you.

20 **MR MCAVOY SC:** Chair, this afternoon's panel is a panel of representatives from three universities, from Monash University, the University of Melbourne and from Deakin University. In person, we have Professor Barry Judd from the University of Melbourne. Professor Iain Martin who is the Vice-Chancellor of Deakin University, Professor Liz Johnson from the Deakin University, Jamil Tye, Executive Director External Community Engagement and Impact from the Monash University, and Professor Tristan Kennedy, Pro Vice-Chancellor
25 Indigenous from Monash University.

30 On the screen, we have Professor Sharon Pickering who is a Vice-Chancellor of Monash University; Professor Duncan Maskell, Vice-Chancellor of the University of Melbourne; and Professor Mark Rose, Pro Vice-Chancellor Indigenous Strategy and Innovation, Deakin University who was with us on another panel earlier in the week.

CHAIR: Welcome. Welcome all. Welcome.

35 **MR MCAVOY SC:** Thank you. I'll just go through each of the witnesses and swear them in, if that's convenient, Chair. Starting, I think from right to left.

Professor Judd, could you just tell the Commission your full name and position?

40 **PROFESSOR BARRY JUDD:** Barry Alan Judd, Deputy Vice-Chancellor (Indigenous) at the University of Melbourne.

MR MCAVOY SC: And do you undertake to tell the truth in the evidence you are about to give to the Commission?

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PROFESSOR BARRY JUDD: Yes, I do.

MR MCAVOY SC: Next, Professor Tristan Kennedy?

PROFESSOR TRISTAN KENNEDY: Tristan James Kennedy, Pro Vice-Chancellor (Indigenous) at Monash university.

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MR MCAVOY SC: Do you undertake to tell the truth in the evidence you are about to give the Commission?

PROFESSOR TRISTAN KENNEDY: Yes, I do.

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MR MCAVOY SC: Mr Jamil Tye?

MR JAMIL TYE: Yes. Mr Jamil Tye, proud Yorta Yorta man. I'm the Executive Director of External Community Engagement and Impact.

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MR MCAVOY SC: And do you undertake to tell the truth to the Commission you are about to give today?

MR JAMIL TYE: I do.

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MR MCAVOY SC: Liz Johnson?

PROFESSOR LIZ JOHNSON: Elizabeth Di Johnson. I'm Senior Deputy Vice-Chancellor at Deakin University.

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MR MCAVOY SC: Do you undertake to tell the truth in the evidence you are about to give the Commission today?

PROFESSOR LIZ JOHNSON: Yes, I do.

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MR MCAVOY SC: And, Professor Iain Martin?

PROFESSOR IAIN MARTIN: Iain Gregory Martin, Deakin University Vice-Chancellor.

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MR MCAVOY SC: Do you undertake to tell the truth in respect of the evidence you are about to give today?

Okay. On the video screen, Professor Sharon Pickering?

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PROFESSOR SHARON PICKERING: Sharon Joy Pickering, Vice-Chancellor and President of Monash University.

MR MCAVOY SC: Do you undertake to tell the truth in the evidence you will give to the Commission today?

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PROFESSOR SHARON PICKERING: Yes, I do.

MR MCAVOY SC: Professor Duncan Maskell?

5 **PROFESSOR DUNCAN MASKELL:** Duncan John Maskell, University of Melbourne Vice-Chancellor and President.

MR MCAVOY SC: Do you undertake to tell the truth in the evidence you are about to give to this Commission today?

10 **PROFESSOR DUNCAN MASKELL:** Yes, I do.

MR MCAVOY SC: And Professor Mark Rose?

15 **PROFESSOR MARK ROSE:** Mark John Rose, Pro-Vice-Chancellor at Deakin University and yes, I do.

MR MCAVOY SC: We will take that as an extension of your former oath, Professor Rose.

20 **PROFESSOR MARK ROSE:** Thanks, Tony.

MR MCAVOY SC: Now, you've each been - in preparation for today's evidence you've each been asked whether you might like to make some introductory comments. On behalf of Monash University, is there are there any introductory
25 comments or opening remarks that would like to be delivered?

PROFESSOR SHARON PICKERING: Thanks very much, counsel. I would like to take this opportunity if I may and I am aware we shared a written copy of these remarks with you ahead of today's session. I'd really like to thank the
30 Commissioners and indeed the welcome here. I also would like to acknowledge the Wurundjeri and the Traditional Owners on whose unceded lands the Yoorrook Commission hearing is take is place today and I pay my respects to Aboriginal and Torres Strait Islander present.

35 I would also like to acknowledge the First Peoples Assembly of Victoria, instrumental in the establishment of this truth-telling commission. The land on which Monash University stands is and always has been the Country of the Eastern Kulin people and the clans of the Boonwurrung people and their neighbours, the Woiwurrung. Monash recognises that there is significant work to
40 done to understand our past and to realise Indigenous self-determination.

We continue to pay attention to our history, listening and learning deeply, redressing wrongs where practical and always engaging open heartedly in truth-telling. We are committed to realising the possibilities that meaningful
45 Indigenous self-determination will bring. And we are especially dedicated to working with and for Indigenous young people and the futures they will create to education and research.

I would also like to acknowledge Commissioner Eleanor Bourke as the first Chair of Australian Indigenous Studies at Monash University. It might not be known to everyone in the room that in 1964 Monash established a centre for research into
 5 Aboriginal affairs just three years after the university admitted its first students. Now known as the Monash Indigenous Studies Centre it is celebrating its 60th anniversary this week at the AIATSIS conference. The centre was designed to lead a greater knowledge of Australian Aborigines and the relations that exist or should exist between them and the rest of Australia.

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In 1977 Professor Colin Bourke became its first time Aboriginal director and Commissioner Bourke held the dual roles of Chair and Director of Aboriginal Programs. The 1990s review that both Professors Bourke undertook was instrumental to Monash's approach to working with Indigenous students,
 15 academics and professional staff. It is the touchstone that we still use today. Today the centre leads critical work on promoting Indigenous studies as core to the undergraduate curriculum. It's enjoyed outstanding leadership for many years for Sir John Monash, distinguished professor and Australian Research Council laureate, Professor Lynette Russell AM. The current director of the centre is
 20 Professor Kylie Cripps, an expert in violence against Indigenous woman and a proud Monash alum.

Monash University is committed to fostering a society that recognises, respects and includes Indigenous people's cultures and knowledge. The university supports
 25 Treaty discussions in the state of Victoria, the Uluru Statement from the Heart and the work of the Commission. These commitments are foundational. Indeed, they are the opening page to the university's strategic plan, Impact 2030. They reflect the university's understanding and acceptance of the principle of self-determination for First Nations people. Monash's Pro-Vice Chancellor
 30 (Indigenous) Professor Kennedy who is with you in the room is leading a specific and critical piece of work on governance and Indigenous self-determination at Monash, with direct support from myself and the university council.

This work is committed to realising meaningful Indigenous self-determination and
 35 is being built through careful examination and evaluation of best practice from around the world. The outcomes of this important work will be brought to Monash University council later this year, which I expect will result in consequential change. Before I make some brief comments about Monash University's relationship to Indigenous people, I'd just like to explain quickly
 40 how the university is structured, because it may well be relevant to a number of your questions.

Monash was established by Victorian statute in 1958 and the Monash University Act of 2009 sets out the objects, powers and functions of the university. The
 45 governing body is the Monash University Council. The Council comprises different categories of members and appoints a Vice-Chancellor who is also the chief executive and chief academic officer of the university. You have met with

one of our councillors yesterday, Ms Jenny Samms who served on council from 2002 to 2006 and again, has been a council member since 2020.

5 Monash has pursued a whole of institution as well as specific initiatives to support
Indigenous participation and attainment in education, and in our society more
generally. These are all Indigenous led. First and foremost, the William Cooper
Institute is an Indigenous led whole of university institute and until recently
Mr Jamil Tye with you in the room was its director. The institute supports all
10 Indigenous students at Monash, leads education policy and practice and provides
a physical space for Indigenous students. It has been the vehicle by which we
have sought to implement the Monash Aboriginal and Torres Strait Islander
Framework and to which has been instrumental to the increase in Indigenous
students not just enrolling, but also completing their studies at Monash. Through
15 it we seek to provide a culturally meaningful and supportive environment for all
First Nations people at Monash.

At the same time, we have worked to ensure that all of Monash's general student
services are available for Indigenous students providing complementarity in
service provision. Monash also recognises the need to support engagement and
20 culturally appropriate dissemination and production of knowledge across the
institution. This occurs through a constellation of Indigenous led programs
pursuing specific aims including the Gukwonderuk Indigenous Health Unit, which
seeks health equity and has resulted in higher rates of First Nations enrolment in
nursing and medicine, led by the brilliant Professor Karen Adams.

25 Wominjeka Djeembana, which focuses on creative practice and cultural
knowledge exchange for all First Nations People globally, led by Professor Brian
Martin. Murrup Bung-allambee, the Indigenous psychological group, which leads
wellbeing and psychology work among Indigenous people, led by Dr Cammi
30 Murrup-Stewart. The Master of Indigenous Business Leadership, a graduate
leadership program run jointly by the William Cooper Institute and the Monash
Business School to ensure the incorporation of First Nations practices and
perspectives in the development of public, private and community sector leaders.
And as I mentioned earlier, the ongoing work of the Monash Indigenous Centre,
35 led by Professor Kylie Cripps.

Building on the work, Monash University appointed its first PVC (Indigenous) in
2018, with Professor Kennedy the second person to hold this role since December
2022. His office began work early last year with associate deans Indigenous and
40 Indigenous education champions, and cascading out through leadership across the
university to identify communities of practice. These communities focus on
innovative activities to contribute to embedding Indigenous perspectives across
curriculum. Cultural competence across the Monash community. The recognition
of cultural load on Indigenous colleagues, as well as the development of
45 responsible research frameworks. This work is always ongoing.

N'arwee't Professor, Carolyn Briggs reminded me last year that authority and respect is both inherited and earned. As Vice-Chancellor I am personally committed to ensuring in relation to our past and to our future we work tirelessly, we have earned authority and deep humility in realising our responsibility and in achieving tangible, life changing benefits for our Indigenous students, for our colleagues and, indeed, for our communities. I'm so sorry I am not there in person today. I've got COVID and you wouldn't want to sit next to my barking cough, but that you so much for your time.

10 **MR MCAVOY SC:** Thank you, Vice-Chancellor.

I will next turn to the University of Melbourne and ask whether there's any introductory remarks from that university?

15 **PROFESSOR DUNCAN MASKELL:** Yes, counsel. I would like to make some remarks. Thank you very much for the opportunity to participate in this very important, crucial truth-telling process. I also apologise for not being there in person, but I have also come down with in unpleasant respiratory virus. I don't know whether it's COVID or not, because I haven't tested, but whatever it is I wouldn't want to bring it there. So apologies. I will begin by acknowledging the Traditional Owners of the unceded land, the Wurundjeri Woi Wurrung.

I also wish to acknowledge the Wurrunderji, Woi Wurrung people, the Boonwurrung people, the Yorta Yorta Nation and the Dja Dja Wurrung people as the Traditional Owners of the unceded lands upon which our university campuses are located. I also acknowledge and thank the Traditional Owners, Elders and knowledge holders of all Indigenous nations and clans who have been instrumental in the University of Melbourne's reconciliation journey. The university recognises the unique place held by Aboriginal and Torres Strait Islander people's as the original owners and custodians of the lands and waterways across the Australian continent with histories of continuous connection dating back more than 60 million years.

We also acknowledge their enduring cultural practices of caring for Country. I pay my respects to Elders past present and future and I acknowledge the importance of Indigenous knowledge in our academy. As a member of the university's community of researchers, teachers, professional staff and students I am privileged to work with and learn from Indigenous colleagues and partners every day. Last week, the university published and launched, "Dhoombak Goobgoowana: A History of Indigenous Australia and the University of Melbourne", volume 1, titled, "Truth." The university was founded in 1853, so there's a very great deal of history and a very great deal of truth to be told.

"Dhoombak Goobgoowana" means truth-telling in the Woi Wurrung language of the Wurundjeri Woi Wurrung people and we are grateful to the Elders for gifting us that phrase, that word to describe the book and title the book. It's a scholarly work commissioned by the university, but with no influence whatsoever over the

content of the book coming from the university. And it attempts to document the long, complex and very troubled relationship between Indigenous peoples and the university. It details some of the worst failures of the university's leaders, such as the promotion of eugenics and racism and the enrichment of the university through benefactions of stolen land, stolen wealth and labour.

The book recognises the strength and resilience of Indigenous people, the importance to the university of Indigenous knowledge and the influence of those who shared their expertise without acknowledgement. The university today acknowledges the place of Indigenous knowledge and the academy and is making serious attempts to incorporate Indigenous perspectives into all aspects of the institution. However, there is a very great deal more to be done and much of this vital work lies ahead of us. The publication of the book is a landmark moment for the University of Melbourne. I think it's an opportunity for the institution to begin a process of reckoning, true reckoning with the truth of its past.

In February 2008 the then vice-chancellor, Glyn Davis, recorded the university's "Deep regrets for the injustices suffered by the Indigenous people of Australia as a result of the European settlement" and he committed to using the University of Melbourne's wealth of expertise and resources to make a sustained contribution to lifting the health, education and living standards of Aboriginal and Torres Strait Islander Australians. In 2021, the university formally apologised for the historic and current injustices that have been and are to the detriment of the health and wellbeing, and education and living standards of the Aboriginal and Torres Strait Islander peoples of this country.

Before this Commission, I acknowledge the injustices perpetrated upon the Aboriginal and Torres Strait Islander peoples of this continent by the university since its foundation in 1853. I acknowledge the actions of the university in supporting injustices called progress, half-truths presented as facts and prejudices pretending at objectivity. These actions contributed significantly to the intellectual and moral justification of settler colonial society.

It is a severe indictment of the university that this history has for too long gone unacknowledged and with much humility I acknowledge the University of Melbourne's longstanding failure to engage with the truth of our shared past with Aboriginal and Torres Strait Islander people. The publication of Dhoombak Goobgoowana is an attempt at a proper accounting for this history. It is also an important first step in the university's broader commitment to an ongoing process of truth-telling, justice and transformation. A process, which seeks to reframe our institutional relationship with Indigenous peoples in ways that are grounded in genuine partnership and collaboration.

(Indistinct) will be essential as the university now turns to face the challenge of how to reckon with this history. This truth-telling process is an opportunity for the university to listen hard to Aboriginal and Torres Strait Islander people's and especially, of course, our Indigenous staff, students and partners so that the way

forward can be chartered together. Through the priorities articulated in our Indigenous strategy, Murmuk Djerring, 2023 to 2027 the university commits to establishing a truth-telling and dialogue centre. This centre will be one important mechanism through which the university can partner with Indigenous peoples to come to a shared understanding of what redress and repair will look like. Thank you.

MR MCAVOY SC: Thank you.
Now, turning to Deakin University, do you have an opening statement which you would like to provide to the Commission?

PROFESSOR IAIN MARTIN: We do.

MR MCAVOY SC: Who will deliver that?

PROFESSOR IAIN MARTIN: I will.

MR MCAVOY SC: Thank you, Professor Martin.

PROFESSOR IAIN MARTIN: Thank you very much for asking us to be part of this historic Commission. In opening, I acknowledge that we are meeting on Wurundjeri Country and in doing so pay respect to the relationship with the land, air and water that has been so vital to the Traditional Owners for a thousand generations or more. I pay my respects to all First Nations People in the room and joining online, especially their leaders of the past, those leading today and those future leaders whose roles will, in part be shaped by the outcomes of this Commission.

Further, Deakin University acknowledges the traditional custodians of all the unceded lands, skies and waterways on which Deakin students, staff and communities come together. As we learn and teach through virtually and physically constructed places across time, we pay our deep respect to the ancestors and Elders of Woi Wurrung Country, Eastern Maar Country and Wurundjeri Country where our physical campuses are located. We also acknowledge the many First Nations from where students join us online and make vital contributions on our learning communities.

Deakin was founded in 1974 and as stated in the preamble to our Act, Deakin University aims to be a catalyst for the positive changes of individual communities it serves. It aspires to be recognised as Australia's most progressive university. In part making this commitment real, we state in our 2020-2030 strategic plan that Indigenous knowledges and ideas inform our future. Deakin is committed to reconciliation and Treaty, advancing the educational aspirations of Aboriginal and Torres Strait Islander peoples, and moving Indigenous knowledges into the mainstream of Australian life.

All our endeavours will reflect on Australia's full history and seek to build an inclusive future. However, in making this statement, we must accept, in telling and reflecting on that full history that education and the many benefits that flow from it has been far from equally available to First Nations peoples and that consequently the system has systematically disadvantaged many, for many years. We must also accept that the knowledge base held within First Nations communities has not held the place it should in defining curriculum and the understanding of our country.

From soon after our establishment, Deakin University began to consider how it could best help address these deficits. The desire to foster Indigenous participation in higher education led to the establishment of groundbreaking programs through the Koori Teacher Education Program, its the successor, the Institute of Koorie Education and its latest incarnation, The National Indigenous Knowledges, Education, Research and Innovation Institute, which are still treasured.

Across the university there is a genuine sense of passion and enthusiasm for this vital task. The way in which we go about it continues to develop and evolve, driven by both our own understanding and partnerships, but also wider societal change, for instance, the far greater availability of digital delivery of educational programs. As a university we have not always got it right. Mistakes have been made and approaches tried that have not worked. We acknowledge this and we will continue to listen, understand and adapt what we are doing to do better to meet these important strategic aspirations.

Deakin University is a geographically complex university. We work across interconnected, but distinct traditional lands. We seek to ensure that we are acknowledging and respecting differences whilst at the same time ensuring we have a strong and solid base. Over the past few years, a number of key initiatives have enhanced our work and whilst this is far more than one person, I do have to acknowledge Professor Mark Rose, whose own career is a microcosm of what can be achieved.

A Deakin graduate and, indeed, our first Indigenous graduate who has become an outstanding leader and a shaper of our collective futures, a pathway we need to create not once or twice, but many hundreds of times. The first initiative is our Vice-Chancellor's Indigenous Advisory Committee, a group in which so many ways is our own Indigenous voice. As critical friends of Deakin, the First Nations leaders around the table both challenge and encourage us to make the changes required internally and exert influence externally to ensure we do deliver to those aspirations.

The second is our Deakin Indigenous Strategy, 2023 to 2028. The spirit of the strategy is expressed in the following words. In 1986 at Waurin Ponds, a spark was ignited that became a lighthouse for the nation and a new chapter in Indigenous education commenced. The new Deakin Indigenous Strategy builds

on that rich heritage, making action for Indigenous education a shared responsibility for the whole Deakin community. The strategy sets out principles for sustained and responsive action with key goals across five core domains. It establishes faculty compacts that recognise context and celebrate success.

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Our strategy invites Deakin staff, students, partners and communities to walk together with First Nations people with bold ideas that enrich us all. The five quarter mains are as follows and we will hold ourselves to account for their delivery. Students: Deakin University will grow access, participation and success in higher education for Aboriginal and Torres Strait Islander peoples.

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Knowledge: Deakin University will support the advancement of Aboriginal and Torres Strait Islander knowledges and respectfully embed them in all courses.

Employment: Deakin University will grow Aboriginal and Torres Strait Islander representation among our staff and will be an employer of choice for First Nations

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people. Whole of university: Deakin University will embed commitment to and celebration of First Nations peoples and communities across all its activities. And finally, Community: Deakin University will grow and advance respectful partnerships with Aboriginal and Torres Strait Islander communities.

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In saying this, we cannot ignore the fact that Deakin University was named in recognition of Alfred Deakin, Australia's second Prime Minister and one of the key architects of federation. Alfred Deakin was a complex individual who brings with him an equally complex legacy. This legacy has resulted in questions for us as a university, including from Alfred Deakin's own family members. The legacy of Alfred Deakin, the man, will always be viewed generationally through different lenses this has been the focus of a series of Alfred Deakin legacy conversations, led by senior Indigenous leaders and including members of the Alfred Deakin family.

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30

These conversations did not shy away from the divisive nature of some of Alfred Deakin's work and the longitudinal impacts of this on an inclusive and mature nation. The considered outcomes of these conversations was that we needed to ensure that through a tanderrum, a Kulin nation term meaning "safe passage", we define a path for Deakin University. We must ensure our way is clear of impediments and encumbrances as we continue to deliver life changing education for First Nations students across our wider contributions to our communities. In concluding this opening statement, I leave you with the final paragraph of the tanderrum:

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"We do, however, reject wholeheartedly being captured by or colluding with the darkness of history. We should all be drawn towards the light of the future. Through this tanderrum both parties agree to reject the proposition to change the name of the university and jointly commit to truth-telling and elevating the understanding and acknowledgement of the full history of our

45

country."

Thank you.

MR MCAVOY SC: Thank you.

5 Before I continue, Commissioners, are there any issues that arise from the opening statements that you wish to turn to before we move on?

COMMISSIONER WALTER: Probably just on the Alfred Deakin thing. So I know you noted it was divisive, but we didn't actually talk about what Deakin did. I think it would be good to acknowledge that rather than say he was
10 a divisive figure.

PROFESSOR IAIN MARTIN: So Deakin, as one of the founding fathers of federation and the leaders politically at that time was one of the key architects of the White Australia Policy. He was involved in drafting a number of other pieces
15 of legislation that have had long-term and lasting impacts such as the Half-Caste Act and a number of other areas. All of these are absolutely acknowledged and have been discussed openly and frankly as part of those conversations.

MR MCAVOY SC: I think this is one of the largest panels we have had.
20 I propose to direct questions to the Vice-Chancellors and leave it to you to direct traffic from there. There are a few things that I might say in advance of the questions. Firstly, in responding to the questions you can accept that the Commissioners are acutely aware of the importance of tertiary education and the overall empowerment of First Peoples in the exercise of self-determination. And
25 that the slow increase in First Peoples in tertiary education as students and staff is a welcome development.

The - you can also accept that efforts that the universities are undertaking to increase enrolments and staff numbers is welcome, but I think it's fair to say that
30 with those increased numbers there is - there comes increased responsibility. You can also accept that of the major universities that operate in Victoria, the selection of your universities to give evidence is not intended to be seen as being critical of your particular institution. Largely, the questions will go to systemic issues, but there will some that will be directed to particular institutions and may be more
35 relevant to some than others.

So I might, having said that, start with the Vice-Chancellor of Melbourne university. Last week you released the publication, Dhoombak Goobgoowaba: A
40 History of Indigenous Australia and the University of Melbourne. I don't think you addressed this in your opening statement, but how is it that that publication came into being? What was the impetus for it?

PROFESSOR DUNCAN MASKELL: Thank you. So I arrived in Australia to be Vice-Chancellor at the end of 2018 and in 2019 we had, I think it was a whole
45 day symposium concerning these kinds of matters of truth-telling, et cetera. And towards the end of that day, Uncle Jim Berg gave a quite fantastic and moving speech at the end of the session, in which he challenged the university to tell the

truth. And on the way out from that session I talked to then Provost Chancellor (Indigenous) Shaun Ewen and also Professor Richard James who was the DVC (Academic), and said to them that we better get on with this.

5 They went away and thought about it and thought that a scholarly book commissioned by the university, but with complete free rein editorially and in terms of content would be a good way going about this at least as a starting point. This project started, authors were contacted, potential authors were contacted. The editors were appointed. And it got quite some momentum up. COVID came
10 along. It continued through that, but obviously in a slightly attenuated way as with everything and it's only just now we have completed the book and had it published.

The guidance of that book through into this point is by the editors including
15 Associate Provost Distinguished Professor Marcia Langton and we've moved from a Provost Chancellor to a Deputy Vice-Chancellor role now for our Indigenous leadership and that's Professor Barry Judd who is there in the room with you. And Barry, as well has been very instrumental getting the book through to this point where it was actually properly published last week. And I'm pleased that we could
20 give the Commissioners a copy of the book, pre-publication so you will have had a chance to look at it and read it.

MR MCAVOY SC: Thank you. Now, in your opening statement, you referred to some of the more - the uglier and more heinous parts of the Melbourne
25 University's history. Some of that perhaps is a product of the university's age, having been around for a lot longer than the other universities represented here today. But the conduct that is identified and perhaps apologised for in that report was conduct that perhaps was seen to be appropriate at the time. Do you accept that?

30 **PROFESSOR DUNCAN MASKELL:** Yes, I think I do accept that. I think universities are creatures of their time. It's an interesting relationship that universities have with their societies, they are creatures of their time. They embed themselves in the society of the times and the views of the society at the times.
35 But that can't help us to shy away from the fact that universities also lead in many of those areas too for society. And, you know, it was very prevalent as far as I can see during the late 19th and early 20th century, many of the more egregiously bad things that are described in the book, for example, that these views were very
40 prevalent.

And we saw the consequences of some of those views in different settings around the world, spectacularly badly in Europe, of course, with the World War II with the eugenics side of things. But that again, does not excuse the university in its history for having had some of the leading proponents of eugenics in Australia, be
45 it professors and senior people in the university, and they are named in the book.

MR MCAVOY SC: So the question that arises from that discussion is how do you satisfy yourself that some of the discussions and positions that are being put today are appropriate to be put in public?

5 **PROFESSOR DUNCAN MASKELL:** Yeah, I mean that's a constant concern about all different areas of study in the university. We are constantly challenged by trying to make sure that we allow free speech and free debate and free inquiry across a very wide range of subject areas, whilst also being concerned about the safety of our people and the offence, I guess, that some of these views might cause
10 outside the university, you know, with contemporary issues. In particular, of course, we are again very aware of, and alert to the possibility that some areas of discussion might well be unsafe, troubling, and unacceptable to our Indigenous people in the university.

15 This is something that we just have to keep a very clear eye open for, try to take action when things happen in those terms. It is a tension in all universities between the free academic inquiry and free speech, versus making sure that we discharge our responsibilities and duties under various other legal and moral frameworks.

20 **MR MCAVOY SC:** But do you accept that the university has a role as a public institution to act in its own interests and as distinct from the role that any of its staff or professional staff might take?

25 **PROFESSOR DUNCAN MASKELL:** Yes. It's interesting that the university is defined by an act of the Victorian Parliament, and the definition of that university is by calling out different categories of people within the university. So in some sense and in some sense legally the university is its people. So again, that does generate an interesting tension within the system.

30 **MR MCAVOY SC:** We saw in Australia last year many tertiary institutions declining to take a position on The Voice to Parliament, for instance, and clearly there's an argument that says as public institutions they should be engaged in informing the public and communicating a position. What do you say to that
35 proposition?

PROFESSOR DUNCAN MASKELL: Well, I think it's - I would say that the university as an entity - it's very difficult for the university to speak up about anything, given the diversity of views that is represented within the university and
40 given that the university is defined as its people. What we did in the University of Melbourne, was, well, I asked counsel whether they would make a statement of their view. I asked the university executive if they would discuss and make a statement about their view and I asked our academic board the same question.

45 And so all three of those bodies within the university expressed the view and the view they expressed was for a 'Yes' vote in the referendum. That might be regarded as slightly arcane or Machiavellian, but I think it's a way of getting the

views of many of the important people in the university out there without daring to speak for everybody in the university by having a university position on things.

MR MCAVOY SC: I just might turn to Monash University now.

5 Vice-Chancellor, this historical project that the University of Melbourne has undertaken, has Monash University undertaken a similar process or has it commenced its own examination of a truth-telling process for its history?

10 **PROFESSOR SHARON PICKERING:** Monash University hasn't engaged in the same process of the sort that Duncan just described, but what it has done is it has committed as part, indeed, of a recent commitment in relation to responsible research, to look back at the history of research and the conduct of that research through the university and that work will be led by our Provost Chancellor Tristan Kennedy. As was noted the university was in a different time and different
15 arrangements to what you have just heard from the University of Melbourne. It's not that we do not expect to find things that we do need to certainly address, but we do expect it could look different from the perspective of a university that was founded in the late 1950s. But that is work that we've committed to undertake.

20 **MR MCAVOY SC:** Thank you.

And Professor Martin?

25 **PROFESSOR IAIN MARTIN:** So for Deakin, a little bit like Monash University, we haven't undertaken a specific project in that way, but we have an absolute commitment to assess, debate, consider items of concern as they arise and I think the Alfred Deakin legacy conversations are an example of our approach. We will not shy away from the difficult conversations. Again, we were founded in 1947 in quite different circumstances, so the range of questions are different.
30 But our commitment is there not to shy away from the difficult just because it is difficult and, indeed, it makes it more important. So I think our approach will continue to be along those lines. I don't know whether Mark who is nodding there in the background has got anything to add at that point on that.

35 **PROFESSOR MARK ROSE:** No, just in accord with what you said Iain, I agree.

40 **MR MCAVOY SC:** Do you accept though, both, Professor Pickering, and, Professor Martin, that there is value in recording the history of interaction with First Peoples so that it's recorded for all time and in a way that's accessible so that people don't forget?

45 **PROFESSOR IAIN MARTIN:** We absolutely would agree to that and that's part of our commitment to make sure we play our part in telling the full history of the nation.

PROFESSOR SHARON PICKERING: Absolutely.

MR MCAVOY SC: Thank you.

5 I might come back to the University of Melbourne. There is a complaint in relation to tertiary institutions, that they foster systems of hierarchical academic elitism. Is that a criticism that could be fairly made of the University of Melbourne?

10 **PROFESSOR DUNCAN MASKELL:** I don't know the - whether there's a correct answer to that question. I think the fact that people can make those claims with evidence suggests that that's probably true in certain institutions. I think there almost certainly will be people in the University of Melbourne, we are a very large institution we have got 80 thousand people, not quite as big as Monash, pretty big. It's the same size as the population of Bendigo, for example.

15 So there will be people in the university who will adhere to a hierarchical viewpoint and there will be people in the university who feel the hierarchy in those terms. Personally, I'm not a hierarchical person in the slightest. I think universities are much better when they are flat structured where people are
20 respected for their knowledge and their work and no matter where they come from. And, you know, where academic rigour and freedom of expression around the academic rigour are the things that are valued.

I know, though that I have a particular lived experience as a 63-year-old white
25 man from Britain, and I can understand very much that other people in the university will have very different lived experiences. And I know for sure that our Indigenous people do have different lived experiences in some of these areas. I don't know whether Barry would like to add anything to that?

30 **PROFESSOR BARRY JUDD:** I think that's one public perception of the University of Melbourne. My own experience has not been of that. As the Vice-Chancellor says, there are many people at the University of Melbourne who work and operate according to a fairly flat structure where we don't worry about whether people are members of academic staff or professional staff. But we're
35 there to focus on activities and projects. And I think my experience of Melbourne actually probably suggests that Group of Eight universities, that is research intensive universities, the Australian universities that are ranked high globally are often less elitist than many tier 2 or even tier 3 universities.

40 So I've moved around the sector, a number of institutions across Victoria and one in the Northern Territory. And I have to say my experiences as an Indigenous person have been a bit tougher in some of the regional institutions rather than the Melbournes and the Monashes.

45 **COMMISSIONER WALTER:** Sorry. Can you give us an example of tough experience in an institution?

PROFESSOR BARRY JUDD: I think what the Vice-Chancellor has just referenced. We respect the knowledge of our colleagues. That has not always been my experience in regional universities where there is a degree, I think, of distrust of Indigenous staff members. It's very often obvious and we are stopped
5 from doing our jobs to some extent because of that. That's not been my experience in top tier universities.

MR MCAVOY SC: But you don't say that that hierarchical elitist approach doesn't exist at the University of Melbourne, it's just you don't experience it?
10

PROFESSOR BARRY JUDD: I don't experience it or rather a better way of putting it is it has not stopped my own career progression and advancement. And universities are imagined, I think, to be single entity big ships, but it's more appropriate, I think, to think of universities as flotillas of various sized vessels.
15 And it's the job of the executive and the council to try and get those yachts all going in the same direction. They don't always do that. So there are large sections of a university that are very welcoming and workable, I think, for Indigenous people in the present time. There are sections of institutions where that is not the case still. But it is a difficult job for university executives to get everybody
20 singing from the same song book.

MR MCAVOY SC: I think, Professor Judd, you can take it as read that the Commissioners understand that universities are a very competitive space and have different - people have different experiences in different parts of those institutions.
25

I might ask the same question of Professor Pickering in relation to Monash University. The original question to Professor Maskell was in relation to whether there's any fair accusation that might be made of your institution as to the existence of hierarchical academic elitism.
30

PROFESSOR SHARON PICKERING: I think I'd probably just start by reflecting on the nature of the organisation. Monash University as Duncan mentioned, is some 86,000 students, about 20,000 staff across 10 faculties, four Victorian campuses, six international campuses. That means we have to be
35 a managed organisation. Invariably that does involve hierarchies in order simply for the place to be able to operate.

But I think the point that I would want to make to this Commission in terms of the matters that are relevant to you is that it's incumbent upon all of us to animate
40 a managed institution in a way that is deeply inclusive of our people, be it staff or students, or the members of community that come on to our campuses every day. I think it's incumbent upon us to make sure those environments relative to your previous questions are environments where people are able to challenge and be challenged in deeply respectful ways, ways that allow us to understand one
45 another across deeply held differences including differences of lived experience.

Well managed organisations don't have to be elitist, certainly Monash does not come from a background of being an elitist institution. It doesn't mean we don't want to be a really excellent institution, but I think really the question is how every day our people, our leaders, all across the organisation, go about animating the organisation, and I think we would find plenty of opportunities to improve on that. But I actually think we'd find many more that we can be very proud of.

MR MCAVOY SC: But do you accept as a broad proposition that for First Peoples in this state, the existence of elitist hierarchical structures tends to exclude their participation?

PROFESSOR SHARON PICKERING: I think any kind of organisation that can have any sense of elitism can do just that. But I think your question is a really good one, because it prompts me to make comment that I think is really important in terms of what you are saying. I think too often people come into universities or go past universities, as you say, in relation to First Nations people, and it is difficult to comprehend them or to know them. And I think really often for too many communities they feel as if they don't have the code book for how universities operate and I think part of that is the point you are making, is a perception of elitism.

And I think that sits behind a lot of the work that we have attempted to do at Monash to make people feel as if the universities in general - and hopefully especially Monash University - is understandable as a place of great benefit for them personally, for their families and for their communities. And so I think the heart of your question is actually the heart of a lot of work that we've endeavoured to undertake to try and redress those broader perceptions. I'm really happy if either Tristan or Jamil wanted to add to that.

MR MCAVOY SC: Just before we go to them, I should just say the question doesn't come from some uninformed view about what universities are like from somebody walking past on the street. It comes from the various submissions that this Commission has received from people who work in the field and are themselves academics, First Nations People who have had these experiences.

PROFESSOR SHARON PICKERING: Yeah. Look -

MR MCAVOY SC: I'm not saying with respect to Monash University, but I suggest to you that being dismissive of those complaints is not an appropriate way to address this question. It's a serious question.

PROFESSOR SHARON PICKERING: I am terribly sorry. I didn't mean to dismiss it in any way, shape or form and I don't mean to in any way not agree with the premise of the question in relation to academics or professional staff that may, indeed, have experienced universities in that way.

MR MCAVOY SC: I might turn to Professor Martin with the same question.

PROFESSOR IAIN MARTIN: Like the other two universities, we are a large and complex organisation, we have 70,000 staff and students. I would be the first to acknowledge that if you are unfamiliar with universities and you look at us
 5 from the outside, it is difficult, complex. We use language that wouldn't be used in everyday conversation. We use titles that came from medieval monasteries. There are many, many aspects of the way we have put ourselves together that are unfamiliar, and unfamiliarity can breed a sense of "I don't belong" and unfamiliarity can breed a sense of "I am scared of that" and we have to be very
 10 conscious of that.

And for our students many of our efforts are on how do we break that down. How do we get the university community to open a virtual barriers around the university? They're virtual, because we don't have any fences. But how do we get
 15 that to be broken down because we absolutely recognise that is the reality and there is a lot of work in there. For staff again, I would challenge not the premise of the question, but the use of the term "elite".

Elite can be used in a way of promoting excellence and being outstanding and it
 20 can be pejorative in the terms of, "I'm not in the club." And I think at times all universities, and I've worked in five, tend to have a little bit of "I'm not in the club" around this. But I would always defend the idea of excellence, whether that is excellence in understanding issues related to theoretical physics are excellence in ideas related to First Nations history, First Nations knowledges. And I think we
 25 have to make sure that we separate out those two.

MR MCAVOY SC: You can accept that it's in the pejorative sense?

PROFESSOR IAIN MARTIN: Yes. I absolutely understand that. We
 30 acknowledge it. As a university, I think we really do try and make sure that the pejorative sense of that is minimised. We try and make ourselves as open and friendly as we can. A number of our leadership team, me included, we run on first names. We don't use title, we almost never use title, we try and break those barriers down wherever we can. Do we always get it right? No. Do we make
 35 mistakes? Yes. Are we conscious of it? Yes.

COMMISSIONER HUNTER: Can I just add something? When we talk about being nice and breaking down barriers, we need to remember these are white structures that were never made for our people. They excluded our people from
 40 the word go so just trying to be inclusive and trying to be friendly isn't enough. For our people to succeed we need the universities. We need them. We have been told time and time again they are unsafe spaces. How do we advance as a people when from kindergarten right through to the universities they are unsafe for our
 45 people?

Now, we have heard in testimonies and submissions, complaints about universities not being culturally safe or not being a place of learning for our people, because

they're too scared to go or this Sorry Business and it's not understood, or they're struggling because they're away from their family. We know there's lots of barriers, but just saying we are open to this, there's got to be ways, tangible ways that people stay in universities. Let's be real, they're structures that were never
 5 made for our people. They're systems that excluded our people for more time than we can think about.

So I mean, we have got to get real and down to the crux of it here, that our people need these educations and we know we need these educations more than anybody.
 10 Because as an Aboriginal woman if I don't have an education and a piece of paper I know I will not succeed. So we look at most of the people that come through and they're the first in their family. We don't want firsts any more. We want all of our First Peoples going through.

15 We want all of our kids growing up to attain university. So we can sit here and fluff around and say this is great and all of that sort of stuff but the practical outcomes and let's be real, there's been lots of complaints, we need to fix things and for us on the outside it does look elitist. It's something we don't dream of attaining growing up, because it's not tangible and we can't see it and it feels
 20 elitist. So I just wanted to add.

COMMISSIONER WALTER: I don't think there would be a single First Nations person who has gone through a university that would not be able to say there were many uncomfortable experiences while they were intending that
 25 university. That applies to myself. I have been two universities and worked in one. Being a First Nations person in a university can be a very scary place and it can be quite a dangerous place. And whilst universities, on some levels make a lot - have done a lot of accommodation and there are some very good programs they are still not safe spaces for First Peoples.

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COMMISSIONER LOVETT: Can I also say we are a truth-telling commission and we asked youse if you could come and share the truth, you know, come here in good faith as our people have come through the doors. Many of our people have shared truths. So I want to make that statement and reaffirm that this is
 35 a truth-telling royal commission and with powers. And, please, we don't need longwinded answers that don't really give us clarity. A lot of bureaucrats come in and do that. You really, you know, please look within when you are answering the questions, be forthcoming with the truth. We are trying to make and understand systemic injustices here so we can make recommendations for change.
 40 Thank you.

MR MCAVOY SC: Thank you, Commissioners.

45 Each of the universities that responded to the request for information, including universities that are not represented here today, disclosed that they had received numerous racial discrimination complaints in the last five years.

Now, I might start with Deakin. Do you accept that this is consistent with express concerns about an absence of cultural safety in tertiary institutions generally?

PROFESSOR BARRY JUDD: I think that the fact that those complaints are
 5 there mean that there is a problem. You cannot interpret it in any other way that if
 we were working in the way that we should ideally aspire to do, those complaints
 shouldn't exist. We should be providing that environment that provides that safe,
 inclusive space for everybody. In saying that, we work really hard but we
 recognise that we are absolutely imperfect at this, and I think it does acknowledge
 10 that there is a problem and I couldn't sit here and say anything else other than there
 is a problem. We will continue to challenge ourselves on it, do, better, but is there
 a problem? Yes.

MR MCAVOY SC: And the fact that it appears to be a sector wide problem,
 15 what does that say to you?

PROFESSOR BARRY JUDD: I think, and I'm going to say this and I want the
 Commissioners to know that this isn't ducking the answer, unfortunately, I think
 what it says is this goes way beyond the bounds of the walls of the university.
 20 This becomes a whole of society problem and to some extent we are reflecting
 what comes into the university and views that other peoples have held, but that's
 not a defence. We should be and we have to be better than that. But I think it is
 unfortunately a manifestation of challenges across many, many aspects of society
 and community. I'm not saying that as a defence, but it comes in. Have we
 25 worked hard enough? No. Are we putting more effort in now? Yes. Is it
 enough? Clearly it's not.

COMMISSIONER NORTH: Professor, can I ask what you are doing, I would
 like this addendum to every other person, what is it you are doing to counter
 30 racism in the operation of the university?

PROFESSOR IAIN MARTIN: So there are a variety of approaches and I'm
 going to start with what is a very high level one for our students, which is what we
 call Global Learning Outcome 8, which is very much a sense of embedding the
 35 importance of awareness of difference of cultural understanding, of awareness of
 Australia's history, of awareness of why we are where we are as a nation, into
 every taught program across the university. It is GLO8. Mark has led much of the
 work around that and we actually think that's a really important underpinning
 fundamental principle that if you come out from an education at Deakin, that
 40 should be part of your understanding of where we go.

There is a great deal of work around ensuring that we both build a respectful
 community, but we give people the confidence to call it out in a way that is safe
 for them to call it out. That is through various programs of going to Mark's team
 45 if you have a concern so that the complaint can be managed, the concern can be
 managed in the way that you feel protected and in a culturally appropriate way,

through to the more formal confidential whistleblower hot lines and other areas that are going on.

But that's amongst - Liz, have you got any additional -

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PROFESSOR LIZ JOHNSON: Thank you, Commissioner. So there is a range of programs underway. The embedding through the curriculum, we chose because it will reach all students, but there is also cultural training as required for staff. We have just adopted the AIATSIS programs. We have had some in place for

10 some time, but we have now adopted the online module because we do have a lot of students and staff that study and work with us online. In addition to all of that we also have taught curriculum in Indigenous knowledges.

If I may, Commissioner, I'd also like to say that this reaches back into our

15 interactions back with schools and communities, because we need to work with the broader community as well to make sure that as we are trying to embed these knowledges, we are also doing that with the guidance of community and helping our schools partners as well.

20 **MR MCAVOY SC:** I might now turn to the University of Melbourne.

PROFESSOR DUNCAN MASKELL: Thank you. We have -

MR MCAVOY SC: Sorry, Professor Maskell, there's a question from

25 Commissioner Walter.

COMMISSIONER WALTER: The problem that - Aboriginal academics have is when they receive negative feedback from teaching Aboriginal studies to non-Indigenous students. So I want to know what do you do to protect your

30 Aboriginal academics from facing these sorts of situations? Because I know every Aboriginal academic has faced it, and many Aboriginal academics tell me they do not feel supported by their universities.

PROFESSOR LIZ JOHNSON: Commissioner, I'll make some comments on

35 behalf of colleagues in the NIKERI Institute who lead our work on Indigenous minors and majors. Of course, I acknowledge that you are absolutely right. They do get those commentaries back. If that happens, we would pursue that as a breach of student misconduct as we would for any other form of racism or cultural unsafety. However, more importantly support for the staff themselves, I

40 think is also critically important and this comes from giving our Indigenous staff a cohort, a community of Indigenous staff with whom they can interact. I know Professor Rose often will help out in these situations and work with and support staff who feel threatened.

45 **MR MCAVOY SC:** Professor Rose, did you want to add anything?

PROFESSOR MARK ROSE: Yes, thanks Tony. I also want to add that I have seen occasions when issues have arisen that both Iain and Liz have personally intervened and given support to the relevant person. I also want to mention too without going into details where a student felt that their IP had been taken from an
5 Aboriginal student. That was raised through the university mechanisms and the university afforded that student to receive advice from Terri Janke. We went to the top Indigenous IP source across the land and that was against the advice of the university legal system, to the point where it could have been a conflict of interest, but we will do whatever it takes to support our people.

10

MR MCAVOY SC: Thank you, Professor Rose.

Are there any other questions?

15 So turning to Professor Maskell in relation to the University of Melbourne on this question of whether the existence of complaints within the last five years about racial discrimination is consistent with an absence of cultural safety in your institution.

20 **PROFESSOR DUNCAN MASKELL:** Thank you, counsel. Well, as I was saying we do have a problem with racism in the university. I would argue that that is partially due to the fact as I said at the start today, of the fact that universities are creatures of their society and I think we have a problem with racism in society. I'll be as blunt as that. I think our job is to try to make sure that we rise above that
25 as far as we can and try and do things, very important things about the racism that we have.

We know we have a racist problem, because of the 150 different nations represented in our student body we do get complaints about all forms of racism
30 and most recently, of course, the Palestine, pro-Palestine, the Islamophobia, the anti-Semitism issues have been very prominent. But there is always an underlying issue with racism in terms of our Indigenous students and staff, and our student union, recently did a survey in 2023, which pointed out this fact quite clearly.

35 So the reasonable question of course is what are we doing about it? We are trying to do a lot about it. We have just finished a consultation period about a commitment that we have made in our university strategy at the highest level to try to make the university safe for all different groups of people. That consultation is going to lead into the development of our racism action plan, which is - the
40 work on that is well advanced actually and we are hoping to be able to launch that quite soon. And Barry Judd who's there with you in the room has been heavily involved in that work and I am sure he would want to say something when I finished.

45 We also have an Indigenous cultural education program for all staff. It is a university wide program that staff are asked to take part in. We have just started working with Yorta Yorta nation through the Munarra Centre for Regional

5 Excellence, which is a project that we're working with Uncle Paul Briggs and the Munarra team up there to deliver. And we're trying to develop there a micro - and anti-racism micro-set, for example, which will be delivered by the Yorta Yorta people and, in fact, could be a commercial outcome for them as well in those terms.

10 So this is a flavour of a few of the things we're doing. We have other things on the go. We have Murrup Narak in the university, which is our place run by Indigenous people. Inala Cooper is a director of that where Indigenous students have a safe place to go and that's- we are increasing our support for that and, in fact, moving it into another part of the university in a brand-new building in the new student precincts area, so right in the heart of the students areas of the university. We have also started up our Indigenous Knowledge Institute, which is a place where we can gather in a lot of Indigenous knowledges and make a - give it real presence.

20 That has been - that's enabled us also to start giving senior Indigenous people Professorships and PhDs based on Indigenous knowledge rather than on just, sort of, what you might call western knowledge. I think that's an interesting move to try to elevate the idea that Indigenous knowledge is as good as or better than other knowledge systems in a university.

25 We are also repurposing the ex-Vice-Chancellor's residence as a place. We are going to be building a place to keep some of the Indigenous collections that we look after for the owners in different parts of the country. And next to that is the old Vice-Chancellor's residence, which we are going to repurpose as a place where the Indigenous people from those areas can come and stay and feel safe, and also to fence off part of a garden there as a ceremonial place where they can do ceremony and feel safe again and comfortable in that.

30 So they are the kinds of things we're doing. There's quite a lot of work going on. I hope beyond hope that we are successful in reducing the racism dramatically. Whether we will ever get rid of it or not, I can't be terribly optimistic about that, because I think there will always be bad people with those kinds of attitudes. But I wonder if Barry would like to add something about some of the work we're doing.

40 **PROFESSOR BARRY JUDD:** Yes, thank you Vice-Chancellor. I would just also say that Australia is not a safe place for Indigenous people. Racism is everywhere, including through our higher education sector. It's true that the University of Melbourne has dealt with a number of cases involving Indigenous people over the last several years. We're responding in the ways that the Vice-Chancellor has just outlined, but we're also responding by improving our capability within human resources to deal with such cases. And from this year we stood up an office of Indigenous employment and development staffed by quite senior Indigenous HR specialists to help the organisation and our staff members and students potentially deal with issues of racism as they emerge.

We are also working on, I think Duncan mentioned the anti-racism framework, which I'm helpfully involved with. That covers racism for all members of our community including Indigenous people and that is a very important, because I think we're signalling to our community and the world that racism is unacceptable. So we're making that commitment. We are also standing up an Indigenous education framework which will, across the university, provide specific training modules to our staff members, but also importantly provide a peer support network for our Indigenous staff members to come together on an annual basis and talk through the issues that are impacting them in the workplace, and collectively support each other through difficult issues.

COMMISSIONER HUNTER: Because you've got the microphone, Barry, if I could just ask you, do you survey staff and students about the forms or that type of racism? Has that been done, to understand? I mean, Professor Maskell has actually noted that there is racism and we know that comes in many shapes and forms, and I'm just wondering if you have done the - to start off with, what does that look like for people?

PROFESSOR BARRY JUDD: We have recently done some survey work in shaping up our anti-racism framework. That included Indigenous staff and students who were surveyed. The experience that came out of those results were not great. Part of the feedback was that Indigenous staff and students were feeling very flat and unloved as a result of last year's referendum result. There was a high level of disengagement from the survey, because people have had enough. Again, this is perhaps a reflection of our organisation, but society more broadly. As the Vice-Chancellor said, our student union surveyed students about racism and created a fairly comprehensive report about that, which the university is taking note of.

And as part of my work, we have committed to an annual Indigenous student barometer and are considering at the moment doing the same thing for Indigenous staff. One of the difficulties, I think, or the gaps in our understanding is that we have not collected data on racism, systematically. It's been done here and there. It's been done by student groups and associations, but it needs to be done systematically by the university and it needs to be done over time so we can build a really detailed picture of what it looks like and, therefore, how to deal with it.

COMMISSIONER HUNTER: I think that's a really good practical thing that all the universities could do.

COMMISSIONER WALTER: And if you haven't collected the data, it's a bit brave to say that you're addressing racism within the university.

MR MCAVOY SC: Thank you, Commissioners.

Professor Pickering, I might turn to you now with the question in relation to the existence or - sorry, the absence of cultural safety for First Nations students and staff in your institution, and whether you accept that there is an issue, and what steps your institution is taking to address that issue.

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PROFESSOR SHARON PICKERING: I certainly do accept that. One of the observations I would make is that we have had relatively low numbers of formal complaints. That does not mean that there is not a problem, and that has really underscored the way I think we have attempted to go about building cultural safety across a whole range of areas.

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I'll note a couple and then I'd actually really like to give my colleagues an opportunity to speak to it as well. It's really important to have the levels of expertise and safe spaces within both student misconduct but also staff HR departments to be able to ensure that we are appropriately supporting and creating these spaces in which when concerns are raised, they are actually dealt with really effectively and in a timely manner. And I think they've been two areas that we have worked particularly hard on.

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But in terms of actually proactively building cultural safety there's a few things that I would initially highlight. The first is that across the whole suite of things that we've done it's been really important that they have been led by the William Cooper Institute and, indeed, by the Provost Chancellor (Indigenous). At Monash when a student there's three compulsory things they have to attend to, which we think are reflective of the values of the institution. One is understanding Indigenous voice and understanding the lands on which our students are learning.

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The other is around respectful relationships with one another and the other is around academic integrity. So it is the three of those that form what we require all students to engage with. The William Cooper Institute leads a whole range of pieces, particularly in relation to students and student safety. And through the PPCI office, there's a whole range of initiatives that have occurred in partnership with HR, but also in relation to staff safety.

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It also goes beyond, the bureaucrat. It's actually about the environment in which we are attempting to create. A culture of cultural safety, of an institution that celebrates and recognises Indigenous colleagues, where they are deeply respected and engaged with, listened to and are able to lead work across the institution. But I might just pause there, because I do want to give my colleagues an opportunity about the work that they have led precisely in this space.

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PROFESSOR TRISTAN KENNEDY: Thank you. Thank you, Vice-Chancellor. I would essentially just add to what Professor Pickering has outlined there. The modules which are compulsory modules particularly around Indigenous voice, I did both the staff and student one when I commenced as provost Vice-Chancellor in 2022 and was honestly rather impressed from an

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Indigenous studies and as an Indigenous scholar perspective in the content that was provided there.

5 I acknowledge 100 per cent that that you can't just stop at a compulsory module for (inaudible) impact on cultural safety in a large institution and, indeed, Monash hasn't stopped at just those compulsory modules. We have got strategic initiative funding, which has been invested in tailored and bespoke initiatives to address or to increase cultural safety at Monash University. For instance, I will point to some training that was provided for supervisors of HDR, Indigenous HDR students. So
10 non-Indigenous supervisors of Indigenous HDR students were provided with an opportunity to avail themselves of cultural awareness training specific to that relationship.

15 That initiative was also offered to supervisors of Indigenous staff, so that we can build the capacity of those non-Indigenous people at Monash University. We are currently working with Boonwurrung Traditional Owners to discuss how we extend the cultural awareness training not only to a more general kind of cultural awareness, what was once called cultural safety training, but actually to provide really meaningful awareness amongst our staff and students of the relationship that
20 Monash University at all four of our campuses has with the Traditional Owners and the lands on which we are actually operating and living and learning and making relationships.

25 That's a work in progress, but I'm excited with the progress that's being made on that front. Could I just add and this is again, in addition to Professor Pickering's point about the general sort of culture. It's my personal view that all of these initiatives, as good as they may be and as successful as they may be, particularly in the short-term, I don't think we are going to solve some of the underlying factors that we've acknowledged throughout this hearing already today in our
30 society and in our institutions, not just Monash, not just in higher education, unless we change the culture within these institutions. And so I'm incredibly committed and well supported by the university to increase say, our Indigenous staff numbers in both professional academic roles.

35 I believe honestly that when we increase the number of Indigenous academics who are operating within our faculties, we start to normalise our presences in these higher education institutions. Our knowledges, our perspectives, our lived experience gets built into the decision-making and the very fabric of what's being taught at institutions and the way that we are operating professionally and as
40 a public institution.

45 So we've got a number of initiatives that are aimed at building our capacity, to building our staff numbers. I'm very excited to say we actually surpassed our aspirational target for Indigenous performance in March 2024. We are making a lot of progress on that front, but obviously there's still a lot to do. And, look, a number of these initiatives that I mentioned have been included in the

submission and I'm happy to speak to them if requested by any of the Commissioners or yourself.

5 **COMMISSIONER WALTER:** But under ISSP guidelines, institutions are supposed to reach three per cent Indigenous staffing. Now, I don't think, the three institutions here reaching three per cent?

10 **PROFESSOR TRISTAN KENNEDY:** We have not reached three per cent at this stage. We have set out stepped targets in order to reach three per cent - sorry in order to reach national population parity by 2030. The target that we met in March 2024 was one of those targets that was stepping us toward 3.5 per cent by 2030. So we're - it looks positive on that front, noting we can't just rest on our laurels now.

15 **COMMISSIONER WALTER:** But you haven't met the ISSP target for -

PROFESSOR TRISTAN KENNEDY: We haven't met the three per cent yet. No.

20 **MR JAMIL TYE:** Probably a couple of things I may add. The first one Tristan has covered off on the tangible we have done in the cultural safety space. But I guess for the two years before Sharon became Vice-Chancellor I reported into her, so I was fortunate enough to have a really close working relationship with her. And at the end of 2021 when you took over as DVCE, you said, "We are going to
25 reshape orientation week". So with that she said, "What would you like to see?" I said, "How good would it be to see First Nations People celebrated and profiled as part of our orientation activities." And so we went about getting some really big names in and we got Uncle Stan Grant. We got Cathy Freeman, we got, Adam Goodes, Eddie Betts.

30 And what really came our organically, I guess, some of the questions from the students and also what they wanted to speak about was their experiences of racism. I think that had a really big impact on the broader student body as well. The Indigenous heroes up there talking about the impact of racism on them
35 throughout their careers and in their professional life was really, really powerful. So I think that was a thing we have done, which was amazing. But we also had the opportunity to take Sharon up to - so I'm Yorta Yorta. I'm a James, so my great, great grandfather is Thomas Shadrach and Ada Cooper, and then I've got links to the Briggs line as well, Boonwurrung and, yeah (indistinct) way.

40 So we wanted to take Sharon up to Rumbalara actually just to give her a bit of grounding on some of the barriers and some of the really practical things that we are facing as a peoples. You know, health service delivery, lack of training. It goes to your point, Commissioner, around, you know, whilst we'd love to get that
45 three per cent staff number, we are also really mindful that we don't want to cannibalise the professional Indigenous employment market as well, because we know that, you know, ACCOs are right at the face of service delivery.

So that's one thing that we wanted to build into our Indigenous employment policy and procedure. So we have got the ability for our professional Indigenous staff to take secondments or go and work at an ACCO, so we can provide some, I guess, you know, skills where required. I guess that's us trying to think outside the box around of the other measures that we can put in place there to address racism, but also support community in that sense.

COMMISSIONER HUNTER: Can I just ask, how do you all address racism if you haven't done the survey and you don't know what types of racism there is? Like, how can you address it if you don't ask the question of the forms of racism that are in the universities? Just a question.

MR MCAVOY SC: I hesitate to put you on the spot, Tristan, but you are nodding and my job is to put you on the spot. You are nodding to Commissioner Hunter's question. What is the answer? How do you know if you haven't asked?

PROFESSOR TRISTAN KENNEDY: Look, I agree it's a very, very good question and we had surveyed our Indigenous staff prior to my arrival at Monash University. I was told that that was somewhat under subscribed, the survey. So obviously we need to reevaluate the implementation of those sorts of surveys. I'm not going to try and dodge the fact that, no, we haven't got that data.

What I can say is that the work that I'm doing and the work that my team is doing and again, supported by the institution is based on an understanding of the experiences that we have learned through the connections that the William Cooper Institute has with the Indigenous population at Monash University. We hear stories, we learn about experiences of our students and our community are facing and we respond to them.

From my perspective, I encourage my office and my team to work on these sorts of initiatives that are aimed at increasing cultural awareness. And cultural safety and eliminating racism on the basis that we have an understanding about the racism that exists through the scholarship and the tomes of scholarship that exist around the experience of racism of Indigenous people in this country and colonised countries around the world.

PROFESSOR BARRY JUDD: Can I add to that, Duncan mentioned before that, you know, we're a reflection of what happens in society and there's not an Aboriginal person in this person in this room that hasn't experienced racism and don't know - doesn't know what form it comes in. I mean, lots of different forms and so I guess you apply a little bit of that lived experience as well to the work.

COMMISSIONER HUNTER: This is not having a go but, as universities, you do research all the time and you survey people to find out the issue and so you can't address it unless you know what the root cause is in the university. Granted I give lived experience but it shouldn't be on the First Peoples staff to have to use

lived experience in those - you know, I get that you are able to, that the role you play and the role we all play as First Peoples in whatever role we are in about bridging those gaps and making - sort of trying to meet middle ground but unless we know the root cause of what's happening. And it is, I mean it's fair to say, I'm
5 a Wurundjeri woman here in Melbourne and brought up probably different to you. So your form of what you see is completely different to mine as even female and male. So unless we know what we are dealing with and consistently surveying by telling people why we are doing this to address the problem, I can't see people not being involved because I think that would be a really good - I don't know, it seems
10 pretty simple to me.

MR MCAVOY SC: Further to Commissioner Hunter's observations, it is a fair summary of the evidence that's come before this Commission to say that the forms of racism are becoming more nuanced and the application of decisions based upon
15 race seem to be done in a way that are better hidden, and so they're very circumstance-dependent, which would go - would you agree with that observation that racism is becoming more nuanced?

PROFESSOR TRISTAN KENNEDY: I would agree with that, yeah.
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MR MCAVOY SC: And, therefore, the notion of having appropriate surveys to identify the mechanisms seems to be an appropriate step. Would you agree with that?

PROFESSOR TRISTAN KENNEDY: I would agree, yeah.
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MR MCAVOY SC: I'm just going to ask, I've been advised that Professor Rose has his hand up but I've got a follow-up question with Professor Kennedy in relation to the compulsory modules that you undertook at Monash and your
30 surprise as to how good they were. I think I may be putting words in your mouth, but you have been at other universities?

PROFESSOR TRISTAN KENNEDY: Yes, I have, yeah.

MR MCAVOY SC: And you hadn't been through the same sort of compulsory induction work that you had - or courses that you had at Monash?
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PROFESSOR TRISTAN KENNEDY: No, I had been through those courses at other institutions. The two institutions that I worked at previously both had those
40 modules. My point there was simply that I was impressed with the comprehensive nature of the those modules given the timeframe allowed to engage with them and complete them.

MR MCAVOY SC: And so was it your experience then that those, the timeframe given for those modules was greater than what you had previously experienced?
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PROFESSOR TRISTAN KENNEDY: I couldn't be sure if it was greater than what I'd - it had been a long time, I couldn't be sure about the time. I think the time was adequate for the message that was getting across. I think my interest or what piqued my interest in the module is that I saw the content in those modules aligning much more than in previous experiences with Indigenous study scholarship around presences in higher education. I thought they were impressive modules.

MR MCAVOY SC: Thank you. Professor Rose, you wanted to -

PROFESSOR MARK ROSE: Yeah, thanks Tony. I just want to talk about the racism thing; that although there may not be formal surveys, I certainly do rotational town halls throughout the university and regularly sort of - if issues arise we handle that. I remember making a call to Iain in India in - last November and it's handled that way. But I'd also like, with your indulgence is to go back to Maggie's question about the ISSP at 3 per cent. One of the nuances about Victoria - and I call it the Victorian paradox - is that we are the second smallest Aboriginal population in the Commonwealth, yet we house 25 per cent of the nation's universities. And for us to meet targets in employment and in students means that the competition often works against us. That's why we invented Toorong Marnong as a program where we collaborate with all the universities across - and the VCs fund the program. It's curbed cannibalisation and it's curbed attrition of our students coming in and out. So we service our students in a better way through collaboration rather than competition. And that 3 per cent Maggie, you would know - you know, we know UTAS though only has one university. We have nine and a very similar population. So that is the paradox we have to deal with.

And because of that paradox there's a couple of issues I'd like to make later on about strategically how we can overcome that paradox, but I will lower my hand give someone else a go.

MR MCAVOY SC: Thank you, Professor Rose. I understand Professor Pickering, you had your hand up earlier, is that the case?

PROFESSOR SHARON PICKERING: No, it was just a minor point just to make the comment that under the university's Accord Report there's been a commitment for a racism survey to go out across all Australian universities, and I thought it might be important for the Commission just to be aware of that. And my understanding is that universities have very much welcomed that because it will enable them to collect data on their own institutions but also look across institutions as well.

MR MCAVOY SC: Thank you, Professor Pickering. And I assume, just as the Commissioners are all aware, that the witnesses are all aware that the Australian Human Rights Commission Racial Discrimination Commissioner has announced an inquiry into racial discrimination in the universities.

Now, we are talking about it perhaps, discrimination, in an abstract sense, but of course it has a very, very real consequence for First Peoples. The most recent statistic, I understand, shows that the nine year completion rate for Indigenous students is 47 per cent; whereas the non-Indigenous community, nine year completion rate is 74 per cent. You are all aware – familiar with those figures? So the nine year completion rate is the completion of study within a nine year period. You would agree that such a disparity speaks volumes about – in terms of differential outcomes for First Peoples?

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Now, given that that's the case and you're all, each institution is working hard, it appears, the question that must be asked and I imagine the Commissioners are wanting to ask, is what else needs to be done? If we are at this point where we have got a nine year completion rate that is 25 per cent lower than the non-Indigenous rate, almost 25 per cent, what else needs to be done in order to ensure that First Peoples get access to the keys to their own empowerment? Perhaps I might start with Professor Martin.

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PROFESSOR IAIN MARTIN: I'll turn to Liz for the details. This is one of the areas of most acute focus for us. It's – recruiting students into university is one thing. Ensuring they pass through safely and successfully is probably even more important, and the figures we acknowledge. There are a whole variety of factors that are playing out into thousands of individual stories of First Nations students who come into university with different histories, different backgrounds. We need to make sure that we are not looking at one, two or three solutions, that we are looking at multiple solutions to address each of those challenges. And I think, Liz, probably you can talk to the active work that is going in that space.

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PROFESSOR LIZ JOHNSON: thank you counsel. As Professor Martin says this is not a one-size-fits-all answer, and the headline is that we need to personalise the response to the student to make sure the student is getting support which suits them in coming from their circumstance. Commissioners may be well aware of the community-based delivery model pioneered by the Institute for Koori Education and the goal of that program was to empower students from - to study from community, so that they could maintain their links in community and their responsibilities in community while still studying. That kind of approach, that kind of flexible approach where we tailor the program to the student is, I think, particularly important.

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Interestingly post the pandemic we have seen a very marked increase in the number of students who declare themselves as Indigenous and who choose online study. Our work around online approaches to study is - generally supports the idea that students choose it because it gives them additional flexibility because they have other commitments whether it's community, caring, cultural, work, all sorts of commitments, that opportunity to have a flexible approach to study is really important.

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That also extends to study support and assessment, and we need to take a personalised approach to that. I am encouraged but not sanguine about the work from the University Accord which calls for needs-based funding which recognises the additional resource and the additional input that's required for people who
 5 otherwise might feel that university study is not for them. So I am heartened by that. I'm not relying on that. I think we need to do the work ourselves.

COMMISSIONER WALTER: One of the things that came out and individualised - and there's lots of stories - but we have got a very consistent
 10 pattern. So it's not just a matter of individual explanations. They're structural and they're systemic, you don't get patterns like that without a structural systemic cause. So I guess are things getting better and also - I've lost my train of thought, I'm sorry, but it does worry me - no, this is what came out and we did talk to a lot of people who worked in the universities, we had closed sessions and the big thing
 15 that came from all of them was the precariousness of the university programs to support First Peoples in universities. So even programs like Student Support Centres who after 50 years are still precarious, dependent on goodwill of mostly non-Indigenous people further up the line; that everything is precarious, you can get knocked down in a minute and frequently have done at universities, including
 20 some of these universities, and then people have had to rebuild it again.

So I'm concerned when I hear about all these little programs - and we've seen it from bureaucrats and things from other departments - that there is a whole lot of
 25 little programs, little pilots, little tests but the underlying systemic issues are not being addressed and not being identified. So I guess my question is: how do you make sure that this is actually leading to systemic change rather than just being yet another series of pilot projects?

PROFESSOR LIZ JOHNSON: Thank you for the question, Commissioner. It's
 30 critically important here to monitor the data. We have a particular focus on Indigenous student success and retention. I would say the retention data is lagging, as it always is, so it's difficult to draw judgments from that. The success starter is improving. I would like to see it improve more before I made that claim more broadly. At the moment - now, I will use different data here because it's the
 35 kind of data that we monitor - the average time to completion for our Indigenous students is improving. So, for example, for our post-graduate students, Indigenous students studying in post-graduate coursework programs, it's quite close to the non-Indigenous students. For our undergraduate students it's lagging by about 30
 40 per cent, not acceptable by any means but points - sorry, so I'll give you the numbers.

So the undergraduate completion time for non-Indigenous students is 3 .6 years. For our Indigenous students it's 4.5 years. So that's about a third extra. For our
 45 post-graduate students it's 2 years for non-Indigenous; it's 2.2 years for Indigenous students. For our higher degree students it's 5.3 years for non-Indigenous students and 6.2 for Indigenous.

So those we are monitoring, which is the first step of the point about data made before, and we are actively seeking ways of doing this and personalised but also at scale. I absolutely agree with you that boutique programs will not solve the problem.

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MR MCAVOY SC: Thank you. Professor Maskell?

PROFESSOR DUNCAN MASKELL: Yes. Thank you. I will ask Barry to give some detail. To the best of my knowledge our completion rates are up around 84 per cent in University of Melbourne. We have a range of programs to support our Indigenous students and I would like to think that they are not just here today, gone tomorrow attempts at programs. We have our annual planning day yesterday for the university's big planning process, and over the last few years we have managed to make sure, especially with the elevation of the - of Barry into Deputy Vice-Chancellor (Indigenous) so, therefore, has a portfolio of his own within our senior management structure.

But that has been put into our main planning process, so all of these things are properly supported with budget that's coming out of our main planning and budgeting process. We have access scholarships, we have just launched our Narrm Scholarship Program, and Narrm scholarships are not just for Indigenous students, but they are heavily for Indigenous students. And they come not just with scholarship money, money transport money as well to get here but also an enrichment program.

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And I think that the - I was first in the family to go to university. Very different circumstances in England, but the whole business of getting somebody in and then letting them sink or swim is absolutely not what we are about. That's the worst possible way to do this, which is why I think that governments are interested in enrolment figures. We shouldn't be looking at enrolment figures we should be looking at completion figures and that goes to the university looking at after its students once they come through the front door, and I think that's never more important than with our Indigenous students, especially if they are coming from outside the state, coming off Country and needing that kind of deep cultural support in different ways.

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We have extended bachelor degree programs, professional certificate in Indigenous research, graduate certificate in Indigenous research and leadership. We have the MURRA Indigenous Business Leadership Program, Diploma in General Studies. Various different aspects of those are specifically designed to help Indigenous students come into the university. Also pre-degree courses to help the transition into the university. We have, as I said before, the Murrup Barak support program. We also have the Wilin Centre down at the fine arts and music faculty and that has been run by Tiriki Onus for quite some time now. It's wonderful. I went to the lighting of the Wilin flame a couple of weeks ago, which is a great - it was a great annual ceremony down at the faculty there.

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We have got other things, for example, as I said, the PhD course in Indigenous Knowledge that we launched. The Atlantic Fellows for Social Equity is an interesting program as well, which is not so much for undergraduate students, but more for people from various, you know - different jobs and whatever coming in and getting some education time, looking at social equity supported by the Atlantic philanthropists. We have the Poche Program, which is an Indigenous PhD familiarisation program. Various things going on in different faculties, which are too numerous to mention, but specific programs to try to ensure the cultural safety and the nurturing of our Indigenous students through the programs that they do.

A lot of that is in close collaboration - excuse me - with our Indigenous partners outside the university. The - recently we have now, on campus, some space for Wurundjeri Woi Wurrung led and driven teaching experience. The program that we run with Yorta Yorta in Shep with Uncle Paul and the people at Kaiela Institute, which is turning into the Munarra Centre for Regional Excellence is another I think, very important thing. And our relationship up with north-east Arnhem Land people is extensive. People think it's just with the Yothu Yindi Foundation, it's not. It's much more extensive than that, working across a lot of the country up there in north-east Arnhem Land. So I would like, Barry, if you have got time, counsel, if Barry has time to put some more flesh on those bones.

MR MCAVOY SC: Yes. I'm happy to hear from Professor Judd. Although, the question isn't so much asking what you are doing, but what more needs to be done in order to ensure that we can see some change in these quite stark figures about completion rates.

So Professor Judd, I'm happy for you to add to Professor Maskell.

PROFESSOR BARRY JUDD: Thank you, counsel. If I could provide a little bit more context by the numbers. The number of Indigenous students has increased by over 200 per cent since 2011, from 174 to 535, of those 67 are graduate research candidates, likely the highest in Australia. And over half of our Indigenous students today are enrolled in graduate courses. And we have graduated, I'm pleased to report not enough but 14 -1,400 Indigenous students since 1980.

In terms of students' success rates, higher degree coursework sits at 87.1 per cent. Other post-graduate at 84.32 per cent, and undergraduate students at 84.22 per cent. Our problem at the University of Melbourne is not so much students succeeding once they gain entry, it's actually getting them through the door. And the Narm Scholarship Program that the Vice-Chancellor referenced when he spoke is one of our current attempts to extend the welcome to Indigenous students and other students from disadvantaged backgrounds.

And a lot of that relates back to earlier questions about community perceptions of universities being elitist. We will turn up at places like Shepparton in the

Goulburn Valley, set up a stall and no one will come to it because they see University of Melbourne banners and think, "Well, that's not for me. I can't go there." It's not true but that is the perception and that's what we've battling.

5 **MR MCAVOY SC:** Thank you.

Commissioners, I note the time. And I know that Professor Pickering and Monash University haven't had a chance to answer this question, but much of their answer will be in their material that they provided. There are a couple of questions that I'd
10 like to ask briefly of each of the institutions.

Firstly, it's been suggested to the Commission by some that Indigenous staff ought to be paid a cultural loading for the additional work that they have to do in supporting Indigenous students and other staff, indeed, in training. Is there a view
15 that your universities have in relation to that notion of having a cultural loading fee added to a salary package?

I might start with University of Melbourne, Professor Maskell?

20 **PROFESSOR DUNCAN MASKELL:** I think these matters are complex, in a sense that we have that issue, which is a very important one, which I acknowledge. We also have other members of staff who support other communities actually in different ways as well. I think also there is the issue of how we would go about doing that. The enterprise bargaining process in this
25 country is complex and we would have to get a variation to that in terms of being able to achieve that, I think. But I'm speaking outside my comfort zone here. I'm not an expert in those HR matters, so I'm hoping that I am telling you the truth in those terms, because as I say, I'm worried that I don't really understand.

30 **MR MCAVOY SC:** Thank you, Professor Maskell. Professor Pickering?

PROFESSOR SHARON PICKERING: This is a question which we have charged members of the Provost Chancellor (Indigenous) office to examine and to come back to the university with recommendations. I think that I anticipate those
35 recommendations will include a range of considerations for the university to look at and to take advice on ranging from the ways in which cultural loading is sufficiently or, indeed, insufficiently accounted for within the workloads of academic and professional staff. And, indeed, if they are not sufficiently accounted for what would the options be for the university to consider
40 appropriately accounting for them.

MR MCAVOY SC: Professor Martin?

45 **PROFESSOR IAIN MARTIN:** We don't have a financial loading built into our employment model. We have a specific leave arrangement built in to recognise some of the very specific leave requirements that might come as a result of community responsibility or other aspects within there. We recognise this through

workload allocation. But I am going to say that we also acknowledge that we have not got this right and it's a conversation we have regularly with Mark and the First Nations leaders in the university around how do we ensure that that cultural load does not damage the academic career or the professional career of our staff,
5 because they are being asked to do too much to support other cultural activities in the university.

Part of our Indigenous employment strategy is, and I say this with a degree of caution and care, how do we make sure that those activities that can be shared by
10 non-First Nations staff are shared so that we are lessening the burden on our staff. We have work to do on our strategy around this, but we absolutely acknowledge the very real pressures and challenges that this causes our organisation and our staff more importantly.

15 **MR MCAVOY SC:** Thank you.

I might now turn to the Indigenous witnesses and ask their view.

Professor Rose what's your view as to whether there should be cultural loadings?
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PROFESSOR MARK ROSE: As Iain answered, I understand the notion of cultural load or what people like to refer to now as colonial load but just, I would see that as a technical response rather than an adaptive response and we are looking at other ways to reduce cultural load or colonial load. One of them is that
25 we argue that there is a perito in every Aboriginal function in the university that 60 per cent of Aboriginal or work can be done by non-Indigenous people who are equipped to handle it, leaving blackfellas to do the probative stuff.

So that is that. The leave arrangements are in place and, look, sitting here I - and with Eleanor as Chair I wonder if they've gone the Black Academy 1.0 where Colin, Eleanor, Bob, Errol, Eve and Isaac, Kay, Pete and Paul and (indistinct) kind of broke through the ceiling. So Black Academy 1.1, which is Barry and Tristan, and Maggie and myself are the beneficiaries of that. It is a fight, but we are there to liberate our people through education. And you heard today about the
30 collective response there. So I want to be very positive about that.
35

Cultural, colonial load is an issue, but it's why we come to the business, because of the mob behind us. And we learnt those lessons from Coolangatta. We learnt those lessons from the Black Academy 1.0. I wouldn't want to answer without
40 recognising that, particularly with Eleanor chairing this meeting.

MR MCAVOY SC: Thank you, Professor Rose.

Professor Judd?
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PROFESSOR BARRY JUDD: Our strategy, Murmuk Djerring means "working together." So we recognise that everyone in the university needs to come to terms

with the fact they live on Aboriginal land and Aboriginal people are not going away, and they need to be part of progressing the wellbeing and participation of our peoples. That's kind of our approach to cultural load.

5 We also, I guess, as an Indigenous staff cohort, in an incredibly lucky position at the moment with 99 Indigenous academics across various faculties and chancellery. And that enables some of the issues around colonial load to be dealt with, as we share responsibilities. So in many institutions you do have situations where there's one or two 'A-list stars' amongst the staff who are high profiled
10 Aboriginal academics and they get everything.

That's not the case at the University of Melbourne and we're very fortunate. That includes in chancellery where I work very closely with Marcia Langton who is Associate Provost and now, Provost Chancellor (Indigenous) Tiriki Onus. So
15 there's three of us at the top to share the load. It helps. We - if I can just go back to Duncan's answer, it's a question that I've taken to HR to consider and we're talking it through. I'm not sure that more money is the answer for everyone. I tend to think it may be a partial solution and another solution that we might think of is further extending cultural leave.

20 **MR MCAVOY SC:** Thank you.

COMMISSIONER LOVETT: Are youse all running profitable institutions? Just a yes or a no answer from - just so it's on the record please.

25 **PROFESSOR IAIN MARTIN:** Not at the moment.

COMMISSIONER LOVETT: But most of the time, are you?

30 **PROFESSOR IAIN MARTIN:** Over the last 40 years, yes. Over the last three years no.

COMMISSIONER LOVETT: Okay. Thank you.

35 Melbourne?

PROFESSOR DUNCAN MASKELL: Over the last three years, no, quite big losses.

40 **PROFESSOR SHARON PICKERING:** And likewise.

COMMISSIONER LOVETT: Yes. And we talked about aspirations around truth-telling. We've heard Melbourne University have started their truth-telling and released their first book. For me, a lot of not only - but a lot of the wealth
45 generated from Melbourne came from my ancestral lands, Gunditjmara Country back in the day. And I'm asking the question here today about what is happening in the context of universities around redress for our people.

5 It's one thing to be able to talk about the truth. We have heard a lot about being very conservative around community thoughts, around how we deliver university services. But what's happening in the context of redress for our people? I'd like a response from each university, please. Start with Melbourne.

PROFESSOR DUNCAN MASKELL: What kind of redress in particular are you talking about, monetary redress?

10 **COMMISSIONER LOVETT:** Well, there could be that, but other things around what is the university doing. But money could be one thing. It could be land. Melbourne's very, very, very wealthy university and you've talked about the number of sites that you're located across the state, as other universities have. But our people are still fighting for resources and trying to work with government to
15 enable self-determination. And there's a lot of wealthy institutions, many of them sitting here and there's others outside of this room as well. But, yeah, what does redress look like, building on the conversation we just had around staffing opportunities as well?

20 **COMMISSIONER WALTER:** Can I just make - when we had discussions one of the big things that came up was Land Use Agreements. So what land use - the idea was have a land use agreement with the Traditional Owners of the Country on which your university sites are there. What responsibilities and obligations do you have to the Traditional Owners on which your universities are sited? And
25 especially for the University of Melbourne, from the lands from which a lot of your wealth was drawn?

PROFESSOR DUNCAN MASKELL: So absolutely. A lot of the original
30 wealth of the university was derived from wealthy benefactors who made their money from livestock on land which was stolen from the Aboriginal people, there's no question about that. It's in the book. I think it's a really good question. I don't have an answer straight away. I think we need to go and think about that very hard. The redress - I suppose you could call it redress that is going on at the moment is more to do with how we work in partnership with our community. I'll
35 go back again to the Yorta Yorta people.

We work very closely with that mob on putting money into programs and projects, helping to teach the students up in Shep. The Munarra Centre, for example, which is about to be opened. We have put, I don't know the precise number, but quite
40 a lot of millions of dollars into that to help to build it in partnership with the State Government. I know that we have a range of other programs involving putting money into community. Up in north-east Arnhem Land we are putting quite a lot of resources into some of the programs we run or are partnered with people up there. I feel reluctant to go on about all of those things, because it's nothing like
45 enough redress for 170 years of things we have been talking about here.

COMMISSIONER LOVETT: But do you make a commitment to further actioning and doing some investigation? I mean we are building on the - you said that - one of my Elders Uncle Jim Berg referred, you a moving speech these are your words.

5

PROFESSOR DUNCAN MASKELL: Yeah.

COMMISSIONER LOVETT: How do we translate our people coming and giving their heart, their soul, their aspiration but also setting the tone around challenging institutions? This is a key part of the future of our people and no disrespect to Aboriginal people across other Countries, but when we are talking about redress and we are talking about the wealth that's generated, that's generated on the back of Victorian Traditional Owners or Aboriginal people here.

PROFESSOR DUNCAN MASKELL: Well, I think honestly Commissioner, that is a very important and profound challenge that we need to think harder about. I can't really say more than that. We've been doing work with the Wurundjeri Corporation. We have been doing work with Boonwurrung. We have been doing work with various other peoples that our campuses sit on. That work is the start of something, I think.

I've been here only six years. There's 173 years or 171 years of history here that we need to address. I think that I will take this away, talk with Barry, talk with my council, indeed, about whether we are doing enough in this area. I think that's a perfectly good challenge. I don't know if you want to hear from Barry about this as well but -

MR MCAVOY SC: Given the time, Commissioner Lovett, is it appropriate that the other Vice-Chancellors answer your question as to redress?

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Professor Pickering, do you recall Commissioner Lovett's question about what are each of your universities doing in terms of redress? And the question from, I think, Commissioner Walter as to the availability or use of Land Use Agreements with the Traditional Owners as one mechanism for redress?

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PROFESSOR SHARON PICKERING: Yeah, broadly I do recall the question and I appreciate the question. And I think, similar to Duncan, I think it's an excellent question and an excellent challenge. The context in which Monash came to work on the lands is, as we talked about earlier, slightly different to that to the University of Melbourne. But that doesn't mean that it does not warrant us to take a very close look at this and to take our very best advice across our community in relation to that, and in relation to how the broader state actually considers that in terms of the ways they established universities such as Monash at the time in which they did.

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In terms of Land Use Agreements with Traditional Owners, I actually think that's - that is a really important opportunity for universities to take up. We do work

across a whole range of levels in terms of working with local communities. We don't have a Land Use Agreement at the moment, but we are doing quite specific work around parts of our campuses that are being led out of the PVC Indigenous and William Cooper Institute and we could look to extend on those further.

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MR MCAVOY SC: Thank you. Professor Martin.

PROFESSOR IAIN MARTIN: We carry this responsibility two-fold. Firstly, we are all creatures of Victorian state legislation and, therefore, there is a state responsibility and we are now autonomous institutions in our own right and we have that responsibility as well.

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We have thought deeply about what that means for our institution. A little bit like Monash, some of the relationships are not as clear as they would be for a longer established university but the idea of thinking how Traditional Owners' groups can use space, land on our campuses in a way that furthers their aspiration is a live conversation for us at the moment. We have an agreement with one around one of our smaller campuses, and Mark is in the early stages of conversation with another around one of one of - in fact, our largest campus around actually what that might mean. Does that go far enough? Does this need a lot of further conversation around what this means longer term? Absolutely. But I think one of the parts of redress is how do we make sure that we invest enough to support the educational aspirations of First Nations people because ultimately that is going to be one of the most powerful forms of redress that we can have if we believe in what we do. So the question is entirely pertinent, entirely relevant. We are only beginning to dip into that journey.

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COMMISSIONER LOVETT: I just want to make the point, though, that the ability to generate the profits that youse are able to generate the profit, but when you do make a profit, understand the last three years and maybe COVID has had a significant impact in that but that is a significant part of redress. And I understand the proposal you are talking about around using existing infrastructure for events and gatherings or learning. But, I mean, we can't shy away from access to our people being able to self-determine through a potential profit, then our people can, you know, maybe send our people to the university to be able to study again. This is about Victorian Traditional Owners. This is a different – this is not everyone coming here and giving an opportunity to learn. We're talking, you know, in the realms of Native Title and things like that. It's a very complex issue. And we Victorian Traditional Owners take that very serious. And we are looking to make sure that our people in Victoria, our people can ultimately prosper in their lives, but we also don't want to be taking away from the broader aspirations around Aboriginal people and Torres Strait Islander people across Australia. But we have got a different priority lens for us people here on our Countries, as they would on their countries in another state.

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MR MCAVOY SC: Thank you, Commissioner. I have one more question that I will ask this afternoon. I might start with Professor Martin. When will we see a First Nations Vice-Chancellor in this country - or in Victoria?

5 **PROFESSOR IAIN MARTIN:** That is a very difficult question to answer. We have the beginnings of a great cohort of mid and senior career Indigenous academics, First Nations academics, in the country and in Victoria. I think it is not beyond the bounds of possibility, but I cannot answer that question as to when. I just – I think we are putting in place – and when I opened I said our goal has to be to recreate Mark’s career pathway not once or twice but a hundred-fold, so that we make it an inevitability – and I’m not trying to be trite in that answer – is what we have to do. But to give you an answer to that in when, I just couldn’t.

15 **MR MCAVOY SC:** Professor Pickering, would be you prepared to have a shot?

PROFESSOR SHARON PICKERING: We are aware the University of Melbourne’s Vice-Chancellor’s position is becoming available shortly. I’d like to believe that we’re within 10 to 15 years. I’d like to believe that we’re getting closer all the time. I’d like to believe all of the efforts – and I take on board all of the criticisms of the Commission today, but I also hope you felt all of the commitment that universities have and the redoubling of the efforts over and over again; and I hope that those efforts will result in a first Indigenous Vice-Chancellor before very long.

25 **MR MCAVOY SC:** Professor Maskell, you’ve just had the Grim Reaper come knocking at your door.

PROFESSOR DUNCAN MASKELL: Yeah, Sharon stole my thunder I’m afraid. But, sadly the appointment of the next Vice-Chancellor is not in my gift, otherwise it might happen a bit sooner than you think. I think that we have now – I’ve met so many really talented smart senior leaders in universities in Australia now who are Indigenous. I do think it’s only a matter of time so I think it will happen. I do think the problem of the 10-year frame is there, but there’s a five-year plus - five-year cycle amongst Vice-Chancellor sort of positions. I’m going a bit early because I don’t believe in that, I believe in a six to 7-year cycle frankly, which is why I’m going now. So I reckon one or maybe two five-year cycles from here with the current incumbents - well, I think we will see it - I think we will see an Australian Indigenous Vice-Chancellor. Whether that’s in Victoria or not I don’t know, but I would very much hope it would be.

40 **COMMISSIONER LOVETT:** I ask that you leave detailed handover notes particularly around the commitments that you’ve made here today.

45 **MR MCAVOY SC:** Commissioners, are there any other questions of these witnesses?

COMMISSIONER LOVETT: My mic wasn't on, I'll just reiterate that. Please leave detailed handover notes in your transition to particularly around the commitments that you have made here today. Asking if you could do that, please.

5 **PROFESSOR DUNCAN MASKELL:** I'm absolutely clear about that. Trying to promote the issues that we have been talking about today has been a very major part of my life as Vice-Chancellor here, and I would be very disappointed if the work that we have been doing was to lose momentum.

10 **COMMISSIONER WALTER:** My only thing was we didn't have time to address universities' responsibility in training front-line workers. We know for First Peoples in Victoria most of the places they experience discrimination and further disadvantages in working with teachers, hospitals, health. But we do have some information from your RFIs, so we will be looking very closely at those
15 because we have heard repeatedly, even today, that teachers do not feel that coming out, and social workers either, coming out of universities are equipped to work well with First Peoples.

MR MCAVOY SC: Before closing, Chair, I might confirm with the witnesses
20 that in the event that there are some further questions that really are not quite answered in the RFIs and that need some further elucidation, that they would be happy to receive further questions, targeted questions, and be able to respond in writing.

25 **PROFESSOR DUNCAN MASKELL:** Yes.

PROFESSOR TRISTAN KENNEDY: Yes.

MR MCAVOY SC: Thank you. Chair, I thank the Commission for sitting so
30 late this afternoon. It's a big panel and there are a number of - were a number of issues to cover and there still remains more that we can't get to this afternoon but that concludes the evidence for today.

CHAIR: Thank you. I just want to say a couple of things before I close, adjourn
35 the Commission today. And I want to thank particularly Mark for mentioning the names he mentioned before of people that have paved the way in universities, some of whom, whose names you may not know. I think I was disappointed that I didn't hear today anything about the Monash Orientation Scheme for Aborigines or Isaac Brown's name who was a Darwin man who set up something like IKE
40 before IKE became what it is, or names of people who were trailblazers in a way that the programs that some of you have inherited are there because of them.

I didn't hear anything about Auntie Diane Singh who was an Elder in residence at
45 Monash who was involved in creating and promoting the Elders' luncheon during NAIDOC which became a really important social event for other Elders as well as academics, and a meeting place for people once a year knowing that that event was coming on. Now, COVID upset a lot of things. It broke the system. Also,

you know, the shared lecture series that operated between University of Melbourne and Monash University that had eminent people of their time and speaking - and I'm talking about people from Aurukun when the Aurukun dispute happened.

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I'm talking about the late Kevin Gilbert. I'm talking about Michael Mansell. I'm talking about people who were key in both black and white politics. They're gone from the memory. They're gone from the memory, and I think we are in a worse space now since COVID because there's definitely a gap. And nobody sort of - you've all alluded to the financial situation that COVID has caused, and so the continuity is broken. So, Mark, I want to thank you for referencing those people, both still here, because history is important and you all know that. I know that, you know that, because you made different kinds of references in the recent past. But I'm in a particular frame of mind at the moment.

15

We have too much Sorry Business and I just feel I have to say that as an Elder myself that memory is important. Memory is important. The University of Adelaide they had a European Professor who used to teach that as a subject as part of a masters program and I just want to say that. So that we're creating here things that I hope will be in the memory of all of those of us who are here now, all our ancestors. And that's a very important human thing because we're very fleetingly on this earth. So just sorry about going to that extent but we have too much Sorry Business, and our people are precious, and we do need to acknowledge what they have done before. So I just want to say that.

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MR MCAVOY SC: Thank you very much, Chair.

CHAIR: And adjourn the Commission's hearing today until tomorrow.

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MR MCAVOY SC: May it please the Commission.

CHAIR: Thank you all very much. Thank you all for watching.

PROFESSOR MARK ROSE: Good night, everyone.

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CHAIR: Thanks Mark, again.

PROFESSOR MARK ROSE: A pleasure.

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<THE HEARING ADJOURNED AT 5.28 PM