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TRANSCRIPT OF DAY 7 – PUBLIC HEARING

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**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**

**THURSDAY, 13 JUNE 2024 AT 9.33 AM (AEST)**

**DAY 7**

**HEARING BLOCK 7**

**MS FIONA McLEOD AO SC, Counsel Assisting**  
**MR TONY McAVOY SC, Counsel Assisting**  
**MS SARALA FITZGERALD, Counsel Assisting**  
**MS HELEN TIPLADY, Counsel for the State of Victoria**  
**MR LACHLAN KNOWLES, Counsel for the State of Victoria**  
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**<THE HEARING COMMENCED AT 9.33 AM**

**CHAIR:** Good morning. Good morning and welcome to this hearing of the Yoorrook Justice Commission where we are continuing our inquiry into the ongoing Social Injustice of Victorian First Peoples, Hearing Block 7. Before we begin, I would ask Commissioner Hunter to give us the Welcome to Country.

**COMMISSIONER HUNTER:** Thank you, Chair. I would like to acknowledge that we are on the lands of the Wurundjeri and pay my respects to Elders, past, present and particularly this week our Elders, those that come before us, would also like to honour Aunty Fay who previously gave evidence before the Commission and today gets sent off to her dreaming on Yorta Yorta Country. So I would like to acknowledge the hurt and pain and community also. I would also like to acknowledge that today a new topic in health comes into it, in the form of family violence and acknowledge the high rates of Indigenous women that have died at the hands of family violence. And I do encourage people to reach out if they are struggling with today's evidence at all.

And I, in saying that, I also know that culture is our protective factor. So make sure that you reach out to those around you, considering that there is more than one lot of Sorry Business going on. And Bunjil will watch over us and keep us safe while we conduct Aboriginal business. So Wominjeka.

**CHAIR:** Thank you, Commissioner.

May we have appearances, please, Counsel?

**MS MCLEOD SC:** Thank you, Chair. I too acknowledge the traditional lands of the Wurundjeri, unceded lands and that we conduct our business today on those lands. I offer my respects to Elders past and present, including fabulous Aunty Fay Carter who I was very privileged to meet in this place and to hear her sharing.

I acknowledge the strength of those who have and are experiencing the devastating impact of violence in their families and communities. We are starting a topic this morning, where we will explore those issues and I recognise that they are deeply painful for individuals and communities. I acknowledge Elders and ancestors who fought for the resources and understanding to prevent and address and respond to family violence and who have sheltered victim survivors in their homes and in their hearts. If the Commission pleases.

**MS TIPLADY:** Good morning, Commissioners. My name's Helen Tiplady and I appear on behalf of the State of Victoria today. I will be joined later this morning by Lachlan Knowles and Ian Carter. On behalf of the State of Victoria I would like to thank Commissioner Hunter for her Welcome to Country this morning. I acknowledge the Traditional Owners of the lands on which these important hearings are taking place, the Wurundjeri people of the Kulin nation. I pay my respects to their Elders, past and present. I acknowledge, in particular,

the passing of the formidable Aunty Fay Carter. I pay my respects to all First Peoples here today and to all First Peoples watching these hearings online and I acknowledge that sovereignty has never been ceded. Thank you.

5 **CHAIR:** Thank you very much.

10 **MS MCLEOD SC:** Today, Commissioners, I appear with Ms Fitzgerald, and Mr McAvoy of Senior Counsel will appear through the day too to conduct our business. Our first panel this morning is witnesses from the Victorian Aboriginal Legal Service, VALS. We have Nerita Waight, the CEO, we have Juergen Kaehne, the principal managing lawyer, Aboriginal Families Law and Emily Yates, the managing lawyer.

15 So, welcome all. Could I invite you to introduce yourselves in - I understand, Ms Waight, you have an opening statement to read. I might just go along the line first and ask each of you to state your full name and to ask you to undertake to tell the truth today. So starting with you, Ms Waight. Would you say your full name please?

20 **MS NERITA WAIGHT:** Nerita Noeleen Waight.

**MS MCLEOD SC:** Do you undertake to give truthful evidence to the Commission today?

25 **MS NERITA WAIGHT:** I do.

**MS MCLEOD SC:** Ms Yates, would you state your full name, please?

30 **MS EMILY YATES:** Emily Jade Yates.

**MS MCLEOD SC:** And do you undertake to give truthful evidence to the Commission today?

35 **MS EMILY YATES:** Yes, I do.

**MS MCLEOD SC:** And, Mr Kaehne, would you state your full name, please?

**MR JUERGEN KAEHNE:** Juergen Kaehne.

40 **MS MCLEOD SC:** Kaehne. I'm sorry. And do you undertake to give truthful evidence to the Commission today?

Ms Waight, you would like to commence with an opening statement?

45 **MS NERITA WAIGHT:** Thank you. First off, I would just like to thank Commissioner Hunter for her welcome to Wurundjeri Country and I pay my respects to their Elders, past and present. I would also just like to again, join you

all in acknowledging the legacy and legend that was Aunty Fay Carter. Certainly, she made significant contributions to her community but also to her family, her children; Rodney and Wendy and, of course, her grandchildren, and those efforts I am confident will ensure another generation of strong cultural leadership.

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I'd also like to acknowledge that in coming here today, we do so not just as the Victorian Aboriginal Legal Service, but as an ACCO who has 50 years of experience delivering legal and community services for community, but also a person who has had ancestors who inform every step, every word and I'm sure that we can do them justice today.

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As stated, I am the CEO of the Victorian Aboriginal Legal Service and if that wasn't enough, I am also a member and co-convenor for Treaty, the First Peoples Assembly Victoria. I have been at VALS for almost a decade now. It feels much longer and I started out in the civil section before moving to the family law team. I also worked a policy and advocacy role before becoming CEO nearly five years ago now.

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I am joined by Emily who is a managing lawyer for our criminal practice, which has work in both summary indictable crime but also appeals. Juergen Kaehne who has our Aboriginal families practice which principally deals with child protection, family law and child intervention family orders.

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VALS recognises that family violence is a gender crisis, most frequently and severely suffered by our women. We recognise that family and domestic violence also takes a severe toll on trans and non-binary people, men and women in same sex relationships and in some cases, it is perpetrated by women against men.

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Aboriginal people of all genders are severely affected by family and sexual abuse, and by the civil and legal systems' response to it. In giving evidence today, we choose to use a language of "affected family member" and "person using violence", as a binary language like "victim" and "perpetrator" doesn't reflect the complexity that so often arises with family violence incidents and can lead to misidentification as we know well. We also want to honour and pay respect to all Aboriginal people who have experienced family violence, to those who have shared their stories and to the many who haven't felt safe enough to share those stories.

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We know that family violence is severely under reported, because of the failure of the criminal legal system to adequately support you and other people affected by family violence. You have been inappropriately questioned, ridiculed and denied justice and we see you.

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The Victorian Government has acknowledged that the State's dispossession, criminalisation and dehumanisation of First Peoples, the removal of our children and denial of law, lore and culture created conditions of intergenerational trauma and social economic inequality experienced today.

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- As this Commission has already heard, research has identified 400 massacres in Australia where more than 10,000 of our people were killed. The legal system didn't provide any measure of justice for us. It enabled these massacres by
- 5 denying our humanity and giving us no right to seek justice. There are people alive today who are alive when Australia was still massacring and enslaving Aboriginal people. This is living memory, not some distant past we can escape from.
- 10 There is pervasive silence to the history of sexual violence against Aboriginal women. Mass sexual abuse of Aboriginal women. Our lives were not valued. Rape and murder were very common on the frontier, the police were often very complicit in that. Many of our people were also killed by the brutal conditions of slavery in Australia. In parts of Australia, the colonialists enslaved and trafficked
- 15 our people. Across our Country, our people, including children and young people were forced into servitude and often not paid what was agreed to in the sham employment arrangements. The legal system enabled the British to enslave us and the police enforced that slavery.
- 20 Police were often directly involved in catching escapees from missions, they were directly involved in removing children from their families and enforcing our people to go to work in often very violent and sexually violent situations. The State was directly responsible for causing the Stolen Generations and the police enforced yet another violent policy on us. Since colonisation Aboriginal people
- 25 live within a structure of violence. Aboriginal women and children continue to experience a violent culture of misogyny that has existed since colonisation. The war continues. It just evolved.
- Aboriginal women are 45 times more likely to experience family violence than
- 30 non-Aboriginal women. Despite the Royal Commission into family violence held within the last 10 years, the numbers of Aboriginal women and children experiencing family violence including those who have been murdered continues to escalate. And yet, in Victoria Aboriginal women are the fastest growing prison demographic. A 2013 study of Victoria's female prisoners found 87 per cent were
- 35 victims of sexual, physical or emotional abuse with most having suffered abuse in multiple forms.
- Victoria has the highest rate of Aboriginal children in out-of-home care and IBAC found 41 per cent of complaint files audited contained indicators of bias on behalf
- 40 of investigators against Aboriginal and/or Torres Strait Islander people. The racialised nature of policing Aboriginal peoples and the intersection of negative racialised engendered causes a unique form of violence that Aboriginal women experience every day, where their status as a genuine victim is devalued.
- 45 As a result, they are often overpoliced as people who use violence, but they are under-policed as AFMs. Not only are Aboriginal women not believed and belittled, at no point in their life are Aboriginal women ever considered victims of

violence. This is in spite of clear histories of police call outs, irrefutable evidence of assault. And we, as Aboriginal women, are still victimised, still blamed, still criminalised.

5 Our children are growing up seeing that their mother's life is not valued. Not by  
community, not by the State. That their safety as a family is not important. We  
know that a majority of Aboriginal women are partnered with non-Aboriginal  
men. You can then extrapolate given the representation of Aboriginal women  
10 experiencing family violence that the people harming them are non-Indigenous  
men. This is, therefore, a continuation of colonial violence towards women while  
the science of eugenics may now be disputed. The underlying current remains that  
our lives do not matter and are not worthy of protection.

15 Government agencies like policy and legal systems weaponise the criminality of  
Aboriginal women as a way to deny them their victimhood. We see this in  
criminal, child protection and family law systems and the lack of cultural safety in  
those processes. When Aboriginal women seek to leave a relationship, they have  
many forms of violence to navigate, from the violence they experience through  
20 seeking help, the risks of having their child removed as a result. And we know  
that the role of child protection has been examined by the Commission and we  
thank you for that work.

25 But this is still something that goes on today. What does it say that violence in the  
home is a number one indicator of child removal? The legal system and  
government agency responses do not treat Aboriginal women as a victim in need  
of care or protection. If that was it, that would be one thing but, instead, they  
decide to frame Aboriginal women as per traitors complicit in the violence that  
they experience and punish them for it. Once again, the Aboriginal woman is the  
30 problem.

The damage and trauma that government agencies inflict on Aboriginal women is  
interconnected, compounding and in many ways has been described as worse than  
that of the family violence they experience. The interactions of all these different  
agencies have led to a situation in which Aboriginal women live in a culture of  
35 fear, because they know they can be subject to violence and they know that there  
is no redress, there is no safety while the people using violence live in a culture of  
impunity.

40 We see it not just in life, but also in death. Indigenous women are not deemed  
worthy enough for a proper investigation by police who should be interrogating  
what may have happened to them. This is despite Aboriginal women being 25  
times more likely to be killed or injured from family violence than non-Aboriginal  
women.

45 A Senate inquiry into missing and murdered Indigenous women is looking at this  
issue for this very reason, with VALS due to give evidence in those hearings next  
week. We call on the Commission to consider recommending that deaths relating

to family violence are independently investigated, much like CCYP investigate child deaths where they have been involved with child protection. We ask this Commission to recognise that government agencies, especially Victoria Police, have long failed our people and communities when it comes to family violence.

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The Victorian Aboriginal Legal Service was established in 1973 to provide culturally safe legal services to our communities, but to also fight the change within systems and institutions defined by criminalisation, violence and racism. Family violence and its impacts cut across every area of practice at VALS. Its repercussions extend to issues of child protection, frequently serving as a driving force behind the removal of our children from their families. Family violence also arises in civil law proceedings including cases involving tenancy disputes, debt issues, and also fines.

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15 Within criminal matters for children, young people and adults that we support through either our criminal legal practice or Balit Ngulu have experienced family violence in the home. Our lawyers frequently assist people who have been misidentified as the person in need who was provided - sorry, who has committed violence.

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In our Aboriginal Families Practice we provide legal assistance to respondents facing family violence intervention orders while also providing assistance to community members through our Orange Door pilot program. Our Aboriginal Families Practice additionally provides comprehensive legal services whether it be legal information, whether it just be a yarn, whether it be case worker assistance, across family law, child protection, and other family violence domains.

25

For family violence matters our commitment is exemplified through the Family Violence Early Resolution Service where our legal experts collaborate with the courts and law enforcement to negotiate pre-court outcomes. This service has proven instrumental in saving numerous clients' invaluable time, resources, and needless and unwarranted stress and trauma associated with protracted litigation battles. In 2015 the Royal Commission into family violence delivered its final report comprising 227 recommendations. In January 2023 the government declared it successfully implemented all 227 recommendations.

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That was a bit of a surprise to me, because we know that our women are experiencing family violence at astounding rates. We know that the system is unstructured. We know that they're not being delivered the safety they require.

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Criminal legal responses are also not an adequate response to eradicating family violence on their own. If decades of trying this space has taught us one thing, it should be that. What we need is a societal change to how we perceive and value the rights of women and children, and how they should be protected from harm.

45

We need to start looking at violent relationships the State has with Aboriginal people and be as committed to the safety of Aboriginal women when it comes to violence perpetrated by the State as well as intimate partners. How is community

to know that they shouldn't be committing violence against Aboriginal women when they see the State do it each and every day?

5 We know that a carceral and a police response to what is effectively a social  
 problem does not prevent, treat or solve the issue of family violence in our  
 communities. Given Aboriginal women are over-policed as perpetrators but  
 under-policed as victims, more police doesn't solve a thing. Incarcerating  
 somebody for a short period of time doesn't actually do anything, because we  
 10 know that people return to our communities sometimes more violent than what  
 they went in because of the violence of incarceration, the lack of appropriate  
 supports, the lack of healing. Harsher bail laws and more funding for prisons  
 doesn't solve anything.

15 The family violence system in Victoria operates primarily as a reactive emergency  
 measure, characterised by punitive measures towards people using violence at the  
 end of the line rather than a proactive, preventive approach. We need to be  
 focusing on the front-end and prioritise holistic services. Given what we know  
 about the extensive violence perpetrated by the State via its various agencies, the  
 question for us is how do we de-authorise the power that the State hold? How can  
 20 we dismantle the violent power that they continue to hold over our families, which  
 we witness in terms of incarceration in the deaths of our women in custody, the  
 deaths of our women who go missing and under-investigated and in the increasing  
 numbers of Aboriginal children in care in the protection system, which is proven  
 not to be very caring or protective of those children and instead setting them on  
 25 a path of failure.

We ask Yoorrook and the State to imagine what a non-violent and non-carceral  
 response to violence might like that. Take that moment. Read through it.  
 Non-carceral responses to family violence might sound kind of confronting  
 30 perhaps, perhaps even a little bit scary. But it's about moving substantial resources  
 and authority and power to Community-Controlled Aboriginal Organisations in  
 a systemic way. It's about giving our communities a chance.

35 The Yoorrook for Justice Report recommends that to address the Aboriginal  
 peoples, there must be a self-determining approach involving the transfer of  
 power, authority and resources to First Peoples by the Treaty process. You won't  
 find any argument from me in relation to that. We do think, though, that this  
 recommendation should be echoed in future reports of this Commission. We think  
 that transformative change is required across all systems, all institutions.  
 40 Transformative change is long overdue and must involve long-term sustainable  
 funding and resources being transferred to ACCOs to deliver family violence  
 supports that are therapeutic, cultural safe and trauma informed and also focused  
 on the early end.

45 Any meaningful reform is hampered by short-term funding across a spectrum of  
 services. Who hasn't heard about never ending pilots or six-month funding grants?  
 "Hey, maybe a year or two." Any plans to address family violence are progressed



by government and government agencies need to prioritise Aboriginal led response to community, from early intervention, prevention and specialist therapeutic family violence intervention, supports and case management.

5 Aboriginal peoples and communities have long had to find ways to respond to family violence in the absence of police who don't attend or don't care and government agencies who perpetrate more violence. There is a critical need for Aboriginal-lead preventive, early help and specialist family violence intervention supports that are trauma informed and therapeutic. This includes early access to  
10 legal supports as part of a holistic wraparound service system. While we recognise the significant investment following the Royal Commission into family violence, and the recent women's safety summit, what plagues these investments is short term funding or the critical and fundamental supports. You cannot address the scourge of family violence with punitive response. You need to invest in  
15 supports and services that address the underlying reasons for violence and attitude towards women.

This requires long-term, flexible funding allocated to ACCOs who can provide a specialist response. Thousands of ACCOs have been supporting Aboriginal  
20 women, children and families impacted by family violence for a long time. Whether it be our Baggarrook programs or our Healthy and Respectful Relationships program, we are consistently seeking funding rather than strengthening our practice. We are focused on trying to make Aboriginal modes of service delivery fit within the stringent eligibility criteria.  
25

We call on the Commission to consider how to strengthen and resource our response both at an immediate level and through the opportunity that presents through Treaty negotiations. Part of this includes holding the Victorian  
30 Government accountable for existing commitments on family violence, including priorities set out in the National Agreement on Closing the Gap, Dhelk Dja and the national plan to end violence against women and their children, and Victoria's 10-year plan for change while also integrating international rights provisions, like UNDRIP that protect women and children from harm.

35 But also part of this is recognising that bigger picture of structural barriers inhibiting progress around family violence, which needs to be addressed. And this includes systemic racism and ongoing discrimination, the cost of living crisis, the housing crisis and the lack of emergency accommodation for affected family members, the lack of culturally specific supports and a lack of resourcing for  
40 ACCOs to run early intervention of family violence specific programs. The Commission has already heard about failings in health, in housing and education, and other systems over the last few weeks.

45 The legal system is also failing Aboriginal women and children who are affected by family violence and we understand that there's a whole of system change that is needed to keep people accountable. That's why we are undertaking the development of a First Nations cultural capability framework in the legal

assistance sector, as well as developing Aboriginal cultural capability training for barristers to transform the way Aboriginal people are provided with representation and assistance, to ensure it is culturally safe, responsive, as culturally competent as possibly within a colonial western legal system.

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That's why we are also working in partnership with Djirra to reimagine what does an Aboriginal led family safety approach look like, what is the alternative to child protection and I'm happy that this project is well underway. We would, of course, like to be engaging more transformative policy approaches around family violence, but our FTE count is limited. We need people and resources to do the deep thinking on transformative approaches.

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Lastly, I want to speak directly to Aboriginal women who have been affected by family violence. We know that you have to be the heroes in your own lives far too often. When you reached out for help the system didn't protect you. It didn't protect your children. When you told the police of what happened to you or perhaps even showed them your injuries, you were belittled and not believed. You were turned away, told to go somewhere else.

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When you should have been offered sympathy and medical assistance, you were instead put in handcuffs. When you should have been protected, you were labelled the perpetrator and were criminalised and punished. When you should have access to safe housing and appropriate supports for you and your children, you were instead, languishing in a cold concrete cell.

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When you should have been able to keep caring for your children in a place of safety, all of you impacted by violence, your children taken from you. When you should have been offered culturally appropriate counselling and wellbeing services so that you had an opportunity to heal, you instead were forced to navigate a system after retraumatising system to try and get your children back. The system shouldn't be the one that seeks to harm you, but it should be one who acts as sword and shield. It should be one that embodies the spirit of the lady of justice.

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We also speak to women impacted by family violence who have not been able to share their stories, perhaps because it's too hard, perhaps because it takes a measure of faith you don't have in a system that has continually failed you. We know that you're out there. We know that you are having to do it tough. We know that you are having to save yourself, your children and your family every minute of every day. And we know that you do this in a way that honours the voices of your ancestors and culture, but just leaves you feeling as though the cycle will never end.

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We also acknowledge so many women impacted by family violence who are not able to tell their stories, because they are not here. The State took them from us, whether it's Heather Calgaret, Aunty Tanya Day or Veronica Nelson. We also want to acknowledge that it's hard and we want you to reach out. We also know

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that as an ACCO sector we haven't been able to deliver the self-determined solutions that we want to, that you need us to because the funding isn't there, because it's needed to build another prison. Hopefully this Commission, which has been such an instrument for change will make government question its choices and redirect its resources to where they need to be.

And lastly, I send a message to the Victorian Government and its agencies, don't come here and cry. Come here, tell your truth and then go away and work to change the systems, institutions that harm our communities and our women. Understand that if you do that you tell society that it is not okay to perpetrate violence against our women, because you will no longer do it. Take charge of changing systems so that government responses are protecting Aboriginal women and our children; that they recognise them as sacred and important, that you send a message to them that they matter, that they are safe. Thank you for your time.

**CHAIR:** Thank you very much.

**MS MCLEOD SC:** Thank you, Ms Waight, for those opening remarks. We might come back to some of the themes you've touched on there.

And I just, Chair, acknowledge that we are joined this morning, by the Honourable Jennifer Coate AO and Merrin Mason, the acting Chair and CEO of the Victorian Law Reform Commission have joined us this morning for this session.

**CHAIR:** Thank you.

Welcome. Welcome to the Commission.

**MS MCLEOD SC:** And I might take a moment now to invite Mr Kaehne and Ms Yates to introduce yourselves and the work you do at VALS.

**MS EMILY YATES:** My name is Emily Yates, I am a managing lawyer at the criminal practice at the Victorian Aboriginal Legal Service. As Nerita has touched on, we do a range of matters in the criminal practice that spans from indictable stream to summary, appeals, contested hearings, and all across the state we cover. That includes regional courts up to Mildura, Horsham, Ararat, everywhere you can think of we have set agreed VALS dates they are called that we will be appearing for duty if anyone needs us and also for our clients that are already scheduled to be there. So it's a very broad and diverse range of work that we cover across the state.

**MS MCLEOD SC:** Mr Kaehne?

**MR JUERGEN KAEHNE:** Thank you, good morning. My name's Juergen Kaehne. I am the principal managing lawyer of the family practice of VALS. This is my 18th year in the family jurisdiction. That really is a lifetime. Family law practice covers the entire state. We have a base in Preston and also satellite

offices in Warrnambool, Mildura, Bendigo and West Melbourne. When an Aboriginal person needs family law assistance we are there. Whether we have the resources or not, when that phone rings, we are there. So we cover the entire state. When I say we cover the entire state that is exactly what we do.

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**MS MCLEOD SC:** Thank you, Mr Kaehne. Are you happy for me to call you by your first names? We have adopted that practice with other panels. Thank you.

10 **MR JUERGEN KAEHNE:** Yes.15 **MS MCLEOD SC:** For the Commissioner's benefit the most recent submission relevant to this topic today from VALS is the submission on family violence dated March 2024. It's NUT.0001.0494.0003. I won't go to it right at the moment, but we may come to it as we go through.

20 Ms Waight, we might start with the topic that you touched on; that is the acquittal of the recommendations of the Family Violence Royal Commission. The Commissioners will be aware that the Royal Commission reported in 2016 and the government stated it accepted all 227 recommendations and committed to implementing those in full.

25 And to start with your opening statement about the unique risks and impact of family violence on Aboriginal women and children, and I should note, Commissioners, consistent with what Ms Waight said, while all experiences of family violence, abuse and harassment are unique, the evidence clearly shows most perpetrators of gender-based violence are men and most victims and survivors are women. So when I use the term "men" and "women" in this context, I'm talking about all violence, but just recognising the statistics in terms of the majority of impacts. And the language that we will adopt is your language of "users of violence" and also "affected family members" or "AFMs" as you abbreviated before.

35 **MS NERITA WAIGHT:** Thank you.

**MS MCLEOD SC:** So can you tell us something about, Ms Waight, and, others, if you wish to jump in, the unique risk faced by Aboriginal women and children to family violence?

40 **MS NERITA WAIGHT:** Look, we all – I mean you outlined the statistics, I did in my opening statement, and you hear it in government speak, you hear it in the media. But there's also that implicit assumption that those experiences of violence in one way or another attach to either the culture of our people, the behaviour of our communities, even in the most progressive formulation, the reverberating facts of colonialism always locate the harm and behaviour in us. We are always the  
45 problem. And the reasons for those narratives are racist.

The statistical story obviously tells us that Aboriginal women, as agentless, as victims yet we know when they present as victims, they are not treated that way. The political function which those statistical stories are used to further justify more control over the lives of Indigenous women in this country. We also know  
 5 that this isn't limited to regional Victoria. This exists in metropolitan Melbourne as well. Whether in you are in Reservoir or you are in Carlton, responses are failing for us.

We have also seen that whilst these recommendations are apparently acquittal,  
 10 there have been continuous budget cuts to the family violence sector. That means that there is less support for Aboriginal women and we also know that there is a lack of an ability to self-determine what those modes of service delivery should be and it means often they are forced to go into a mainstream response. That mainstream response, like I said earlier, doesn't see them as victim. It sees them  
 15 as the person who is committing violence or the person with which the problem lies. It doesn't provide them cultural healing. It doesn't provide holistic support.

We also know that if you are trying to escape a violent situation you need some place to go. Where do those places exist? That is what our women keep asking  
 20 for. Where are the refuges? Where is the stable housing to make sure that they can take their children to a safe space? Because when they can't, those children are removed. And that teaches the Aboriginal women that you shouldn't report family violence, because you risk losing your children to a system that will harm them. I know that is a very long and winding response and probably not at all  
 25 satisfactory, but it is their reality.

**MS MCLEOD SC:** There's a lot in that. So I'd like to draw some of these themes out. Can we just step back a moment? In 2015 the Family Violence Royal  
 30 Commission was commissioned and started its work in response to the death of Luke Batty. And we know that for decades prior to that time there was a similar problem in terms of family violence and the disproportionate impact on Aboriginal women and children. So is there anything you want to say about that time before the Royal Commission and the work that was done or the recognition by  
 35 governments that this was a serious issue to be tackled?

**MS NERITA WAIGHT:** It's a difficult question to answer in some ways because you certainly don't want to cause harm in other spaces, particularly with relationships with government because ACCOs are vulnerable in those spaces. But did family violence in - family violence and Aboriginal women matter before  
 40 2015 to the state of Victoria? I'm not clear it did. You don't see any evidence of that in terms of funding, in terms of supporting self-determined solutions. You don't see that in the rates of violence occurring to our women and going unreported. And then even since 2015 if you look at the narratives that followed, it wasn't about Aboriginal women. It wasn't about the specific needs that they had  
 45 as a community, what they needed to support them, what those unique responses looked like. It took a very mainstream lens and we've seen, you know, responses such as the Orange Door, et cetera.

But our women don't access those spaces because they're not meant for them. They are not designed for them. And I think you've seen the jurisdictions, whether it be interstate or national, also struggle with this problem around how do you  
5 tackle family violence in mainstream communities, in marginal communities and in First Nations communities. And they tend to take a broad brush rather than seeing that the appropriate response is to look at every community's individual way and seek to deliver responses that are self-determined, that will put them on a path to healing, and also change our culture.

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**MS MCLEOD SC:** Mr Kaehne, would you like to offer any?

**MR JUERGEN KAEHNE:** Yes. In the last two or three years statistically, family violence applications before the courts have multiplied five-fold. That's  
15 not because there's - probably not because there's more family violence. It's just there's more people making those applications and there are, as Nerita was saying, the problems being focused on, campaigns everywhere saying violence is not okay, here is what you can do, put your hand up. Leave. Get help. And that's all easy to say for someone with means and ability, and money to get the help to  
20 escape.

When there's no escape route, when you are tied to your partner because of financial means, or because that partner is controlling you or because you've got nowhere else to go or because are you worried about the State becoming involved,  
25 because you then leave and have no means and no home, that advertising campaign is not so great. And it fails Aboriginal women because they fall in that category, broadly, they don't have those means. They don't fall within the picture of what that advertising campaign targets at.

**MS MCLEOD SC:** So in the Royal Commission it found that programs existing  
30 back then in 2015-2016, were not able to do various things including reduce the frequency and impact of violence, prevent violence through early intervention, support victim survivors or perpetrators to account for their actions, and coordinate community and government services.

35

So is it the case that responding to the Family Violence Royal Commission and other issues of policing and community awareness, has actually created a predictable pressure on support systems and the criminal justice system?

**MR JUERGEN KAEHNE:** Well, I'll talk about the support systems. It is or  
40 should have been a predictable pressure. There are very few support services around for Aboriginal women. And just getting back to what Nerita was saying before, there are precious few support systems around to assist persons who use violence to modify that behaviour. There are a handful around the state and most  
45 of those have, are full or have waiting lists, and they are usually taken up by people who have been ordered by the court to attend them. There's very few

people that go there voluntarily. So the system at the beginning where we should be focusing, is throttled, it's full.

5 **MS MCLEOD SC:** Emily, would you like to comment on your experience with the pressures on the criminal justice system and those pressures on resources to support perpetrators or users?

10 **MS EMILY YATES:** I would say that there is - again as Juergen said, it should have been predictable. A lot of our clients that we have that are family violence related offences are normally breachings of intervention orders that we get. There is an influx of that and it can be from a text message to stalking. It's a very broad range that can be covered in a breaching of an intervention order. It can also encompass assaults as well.

15 But there's definitely been a rise in that anecdotally within our team and managing that and making sure that we have enough lawyers to staff the demands that are placed on our service, especially when we are covering an entire state. And as Nerita has touched on, different communities have different needs and different issues. And depending on where we are at the time, there's different areas of  
20 family violence that are more prominent than others.

So it's high demand for our lawyers as well to make sure that we are servicing everyone that needs us. But we're on the end of this scale. We are when it's already too late or things have happened that shouldn't have happened at that point  
25 and we intervened at that point. The prevention aspect of it is where it's lacking and that's when these clients come to us, where we are now needing to assist them with criminal matters, very far down the path that shouldn't have gone that far.

30 But there wasn't enough supports in place earlier on to stop the demand on the criminal justice system and that's the huge predicament we are in. The funding issue with not having adequate services especially culturally specific services even for VALS and our lawyers to adequately staff the demand we have, but also the funding issue with the clients that we have that desperately needed more support than what they got and have down a path in life that nobody wanted, including  
35 themselves as well.

40 **MS NERITA WAIGHT:** On the legal system and there's a perfect kind of example in, if you look at the Wyndham law courts. So that was designed and kind of progressed because you've seen community, both mainstream and Aboriginal, grow exponentially in the west due to availability of housing and just also pushing people out. And so they designed and are in the process of building the new Wyndham law courts. But it's also announced they won't run, it will sit as an empty building. So there will be no specialist lists for family violence, there will be no therapeutic courts in that building. There will be no court operation and  
45 that they're going to stay in their current building.

They also made it very clear that they also wouldn't be funded support services to be there. So that means that people who are attending court will not be able to have access to somebody to provide them with food or clothing, as most basic needs, but also connect them to housing or behavioural change programs.

5 Because services, if a court does open and run, will not be funded to be there. This is what we see, just really disjointed decision-making and resourcing. And it gets quite frustrating then when you see never-ending investment in police and prisons when you're trying to make sure that women have a safe space to be.

10 **COMMISSIONER NORTH:** Can I just pick up the point that you touched on about prevention? This is the subject matter of your Recommendation 6 and I should compliment you on the quality of the written submission you've put in. It's enormously helpful and clear.

15 I wondered if you could explain the vision you have of the preventive measures that you have in mind in at Recommendation 6, where you call for further funding. But, in particular, I'm really interested in this concept that we have heard a lot about of intersectionality which, as I understand it, means the intersection between the problem we are looking at and other matters. And in relation to prevention,  
20 I'm looking at what would be a preventive measure which could be implemented soon and would have a big impact.

The thing that occurs to me from what I've heard earlier, is housing and I just wondered if you could share your experiences of the extent to which the lack of  
25 being able to access public housing, I think there are about 5,000 places shortfall for Aboriginal people, to what extent the provision of proper housing to some of those 5,000 would have an impact on the area in which you work?

30 **MS NERITA WAIGHT:** Just in terms of Recommendation 6, when we talk about funding, proportional funding for ACCOs to deliver culturally safe, health determined, preventative help services immediately, what we are saying is that often enough what we are delivering are pilot programs or programs tailored to a certain, you know, regional or postcode. And that means that then we can't be in other communities that require us. Like, we'd be in Mildura or Shepparton, or  
35 Geelong or Colac, or even metropolitan Melbourne.

We are also saying very clearly that when - we shouldn't have to fit Aboriginal health and family safety responses into a mainstream eligibility criteria. That we should be able just to have our models, which have been proven to work time and  
40 time again funded to reach community. And that you also can't expect people to be delivering services from Preston to reach Mildura. That's why, for example, VALS moved to establishing regional place-based hubs to make sure we are always in community, easily accessible and this has resulted in us being able to do a lot of early legal help and thus prevent people entering the justice system.

45 When you talk about a client and intersection, when an Aboriginal woman experiencing family violence comes to us, sure, there will be that specific issue of



5 them being misidentified that has to be addressed through the criminal legal system, but then there will be issues of housing. "Well, my housing provider is about to evict me, because of the damage or rent owing on the home." So that now becomes an issue we need to address. There's also issues where the user of violence has utilised their identity and racked up debt and fines that needs to be addressed.

10 Invariably when an Aboriginal woman is misidentified or seeks help from the criminal legal system, child protection gets involved and then we also have a child protection matter that needs addressing. And often they've left their home and they're couch surfing, whether they're staying with a cousin or a friend, or in a short-term refuge and those situations are unacceptable to child protection. So instead, they remove the children and put them in never ending placements. This is where the housing element that you raised is incredibly critical.

15 If we had safe housing for women to go to, then that would add a protective factor according to child protection that would then guard against removal of the children. It would also provide an immediate measure of safety for that woman and her children, which should be paramount in any response. It would also mean that they have a place to which they can then look at engaging in services locally to make sure that they are well supported, that they can be supported to engage in community culture and kin.

25 When you have a roof over your head, you have a measure of safety and ability and agency. When you don't, you have nothing. And housing is also critical for Aboriginal women, for victims of family violence who were incarcerated. Recently there was a coronial inquest into the death of Heather Calgaret. We heard evidence that her parole application was being held back, but then ultimately she couldn't be released on parole because there was no housing for her to go to. And invariably she died in prison and one of her children will never know her at all, because she was a baby. She gave birth in prison and that child was removed immediately. And I wish that that denial of housing was a one-off story, but it is an everyday occurrence and we really can't build housing fast enough and quick enough for women who are in need of help right now.

35 **MR JUERGEN KAEHNE:** Can I just add to that? It's a compounding problem. So the mother loses her accommodation, children are taken away because she has got nowhere to stay. Then she goes to apply for new housing and she is told she can't get one because she has got no family, no children. So it's a circular problem and mum is stuck in the circle.

40 **COMMISSIONER HUNTER:** Can I just ask the Department of DFFH will say, "In the best interests of the child", right. Isn't it of the best interest of the child to be with a parent, in the family, and particularly for Aboriginal children? So what do they do about assisting in housing?

**MS EMILY YATES:** The short answer is they don't.

5 **MR JUERGEN KAEHNE:** They don't. The longer answer is they are supposed to provide supports to get parents back on track for that very reason, to reach that aim in the act of reunifying children and parents. But in practice, in practice what actually happens is they say, "You need to do this, this, this, this and this. Off you go." And there's no assistance for someone that's just had their life shattered to go out and try and get housing, try and secure all the things that the State wants them to do.

10 And I understand that protective factors need to be addressed. No one wants to see a child at risk. But risk is, you know, considerable risk is widely interpreted, rather than its proper interpretation of what I believe is the interpretation it was intended to have.

15 **COMMISSIONER HUNTER:** Can I ask another question? Nerita, you mentioned Orange Door.

**MS NERITA WAIGHT:** Yes.

20 **COMMISSIONER HUNTER:** It's been around five years now, it's been rolled out. What is - have your clients accessed it? Is it culturally safe to access it? Is it doing enough? Has it got enough funding put into it? You just mentioned it before, that was all.

25 **MS NERITA WAIGHT:** Yeah, no, I think the design and operation of the Orange Doors was a reason why there was a priority for - under the Dhelk Dja agreement to look at piloting for Aboriginal Orange Door models, but those Orange Door models obviously had to exist within the framework that is set by the mainstream. What we often try and do, and we talk about in our submission, but  
30 also Juergen can talk to it soon, is try and interact with the Orange Door so as to provide some measure of cultural safety for Aboriginal women who might have, you know, on the off chance decide to access it because they've got nothing else. Because you don't want any Aboriginal women feeling culturally isolated, basically is what those Orange Doors do.

35 **MR JUERGEN KAEHNE:** So we are actively in contact with Orange Door on an ongoing basis. The truth is we see very few women coming through there. One of the issues, I guess for us is that, and this relates to the broader picture of funding that Nerita was talking about before - these programs - I mean Orange  
40 Door has been stable for a short amount of time, but these programs, like the Early Resolution program for instance, I'll pick that out to pick on, that was funded as a pilot for six months. Then for another two months. Then for another three months. Then for - it is impossible for us to actually retain people to fill those positions, which is what we were meant to do to - I mean, tenure for those sort of  
45 lengths of time is impossible. So it is set for failure.

**COMMISSIONER WALTER:** The story we have heard repeatedly of this response to all these urgent and deep-seated problems is to set up a pilot which, of course, then you've got all of those issues. How many funded Aboriginal community-controlled refuges and family violence services are there, to your  
5 knowledge?

**MS NERITA WAIGHT:** Rumbalara have two. But I believe only one is operational, because the building is unsafe for the other one but I'm sure Rumbalara can qualify. I know Elizabeth Morgan House which is a longstanding  
10 ACCO organisation to support women fleeing violence have a refuge that operates as well. I know that thereby they are pursuing for years additional funding from the State to try and expand those refuge options, so that women can flee safely with their children into healthy housing. They're the only ones that I'm actually aware of that are operational.

**COMMISSIONER WALTER:** So despite the enormity of the issue and the longstanding nature of the issue, that's all that's there for women?  
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**MS NERITA WAIGHT:** Yeah, it's so – it's really hard when you attend every  
20 Aboriginal Justice Forum, community round table and in every community you hear calls for refuges to be established so that women have somewhere to flee. There's also the issue that refuges often have rules about children and ages of children that can be in those refuges, which then makes it hard for mum who effectively has to choose between children and safety.

**MS MCLEOD SC:** For example, an 18-year-old might not be able to stay with the family if they're in emergency accommodation.  
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**MS NERITA WAIGHT:** Correct, and anybody who has any humanity in them, let alone is a mother, understands that you will never, ever pick anything over  
30 your children and that is a situation that women find themselves in time and time again. And, I mean, just the stupidity of having a rule about a 10-year-old. My sons will be seven at the end of this year, and in three years, at 10, no way in hell is he responsible enough to be by himself. God help everyone if that was true and  
35 it's just beggars belief.

And just in terms of the question, Commissioner Hunter, that you talked, spoke to in terms of child protection, part of, I think, the lack of ability to action any assistance for housing is because they know that housing doesn't exist. They  
40 know that there is no ability to prioritise housing for women, because they would need more houses built. And also understanding that you need different housing models, you know. Mixtures of units and apartments and homes because surprise, surprise, every family comes - families come in different sizes and shapes and you need to accommodate that.

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**MS MCLEOD SC:** So do I take it from the exchange that we've just had that housing, suitable housing, is both a necessary preventive measure but also a critical response to family violence?

5 **MS NERITA WAIGHT:** Correct and alongside that housing also comes really addressing with utility providers their rules around excluding people from their services. We have a lot of Aboriginal women who have been in coercive and violent relationships and often those utility accounts are in their name and they rack up substantial bills and debt. And then because they go unpaid because they  
10 don't have the funds to do it, they then can't access those utilities.

So I think we also need to consider around brokerage funding. You know, you need to have - in order for child protection to be confident that your home is safe and appropriate for children, you need appropriate white goods and beds, and  
15 furniture.

**MS MCLEOD SC:** Can I invite your response to this? The focus is on removing women and their children to appropriate housing. Is any consideration given to flip the equation to remove the users of family violence so that women  
20 can stay in their home with all the economic impacts it has?

**MS NERITA WAIGHT:** Never. Because the system has this approach that the women and children should leave and then there should be never any further interaction with that user of violence. And that isn't reality, particularly where that  
25 user of violence is perhaps the father of their children. There will invariably be interaction one day. But there's also, for those men to access, to kind of exit the home, where are they going? There's no transitional housing support for them. There's no housing stock for them to access, and so invariably you will be looking at them either couch surfing or ending up on the street and invariably ending up  
30 incarcerated where they won't have access to appropriate programs to change their behaviour.

But often the issues that we have, when you talk about users of violence, when they come to us, many of them suffer, and I'm talking over 80 per cent, I think the  
35 latest dataset from our client was 86, 84 per cent of them have mental health issues. And then we are talking about disability, whether that be intellectual or some other form. Often enough, they have been removed by the State as children, and had a lot of transience and lack of help and, you know, very irregular education - sorry, education and then following into that employment. So all of  
40 those things need to be addressed and they don't get addressed in the prison system.

**COMMISSIONER HUNTER:** Can I add while we are talking about users of violence that VALS only deal with Aboriginal men, correct?  
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**MS NERITA WAIGHT:** No.

**COMMISSIONER HUNTER:** You deal with all?

5 **MS NERITA WRIGHT:** Correct. So in terms of our client cohort, across the service we're just shy of a fifty-fifty split between Aboriginal men utilising our service and Aboriginal women. In some, sections lack like, for example -

10 **COMMISSIONER HUNTER:** Including, I know you deal with the women but as in men, I'm just, it's probably a personal issue here that I'll bring up, and I don't know the statistic but they're not all Aboriginal men that are perpetrators.

**MS NERITA WRIGHT:** God, no.

**COMMISSIONER HUNTER:** Sorry, users of violence to Aboriginal women.

15 **MS NERITA WRIGHT:** No.

**COMMISSIONER HUNTER:** I want to be clear, but I don't want to demonise our men at the same point that it is not consistently -

20 **MS NERITA WRIGHT:** Like I said in my opening statement, statistical data is clear that if we are talking about users of violence against Aboriginal women, the majority is non-Aboriginal men.

25 **COMMISSIONER HUNTER:** Thank you.

**MS MCLEOD SC:** Can I just invite your reflection on this submission by VACCA about that and the stereotyping of users of family violence being Aboriginal men towards Aboriginal women just to see if you keep statistics, or just invite your anecdotal reflection. They say researchers found the vast majority of Aboriginal women in Victoria have non-Indigenous partners, so 85 per cent of  
30 Aboriginal women in Melbourne, 67.9 per cent in Shepparton and 82.4 per cent in Bendigo. They extrapolate that given the high prevalence of family violence experienced by Aboriginal women it's likely the person responsible is non-Indigenous. So that's the VACCA submission. And Djirra say, looking at  
35 their case studies and their case load, that is also the case; the preponderance of users of family violence are not Aboriginal men towards Aboriginal women. Is that consistent with what you are saying?

40 **MR JUERGEN KAEHNE:** That's correct. I don't have the exact numbers here for our practice, but that is correct.

**MS MCLEOD SC:** So can I invite your reflection upon that? Has there been a stereotype type response to the problem or prevalence of family violence that assumes it is Aboriginal men that are the perpetrators?  
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**MS NERITA WRIGHT:** It goes to the racism issue, is that we are identified as the problem. We are seen as the issue. It is in the Aboriginal community that

a culture of family violence exists rather than seeing as a society wide issue, without recognising that not only are Aboriginal women victims of violence from non-Aboriginal men, but from a white State. So for me it goes to racism, but Juergen and Emily can enlighten further.

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**MR JUERGEN KAEHNE:** Certainly it is a State-wide thing. It happens in the metro areas, but I will say that anecdotally in the regional areas it's not uncommon for us to hear the police say, "That's a violent household, it's an Aboriginal household, so it's a violent household" without any qualification. And we will touch on misidentification a bit later, I think, but that leads into that issue. So without any further inquiry, they will pick the user of violence out of that household just because it's an Aboriginal person living there.

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**MS MCLEOD SC:** Just because you've raised it now I might touch on it, that issue of misidentification. How does the fact that a user of family violence is not an Aboriginal person play out in terms of policing response, criminal justice response, and outcomes?

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**MR JUERGEN KAEHNE:** Emily can talk about the outcomes, because she gets the end of the hose.

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**MS MCLEOD SC:** Perhaps we could just explain first what this misidentification problem is.

**MR JUERGEN KAEHNE:** Misidentification is basically picking the wrong person and identifying them as the user of violence and this is a systemic problem. I know we toss systemic around as a fairly common word, but Victoria Police when they are called out to an incident use a code of practice. That code of practice is - invites a gender-based and stereotypical response. They use six points, I guess, that they look at when they're called out to identify what they call the predominant aggressor.

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One of those is how fearful the person is. Obviously that's an easily manipulated thing when the person is clever, articulate, usually white, calm, and the mother is not; she's hysterical, fearful, whatever. And it's inherently gender biased of course. Another thing they look at is the historical pattern of violence and as I said, in regional households, police will say that's a violent household. So they just pick someone. Another thing they look at the nature of injuries not once considering whether those injuries are defensive ones.

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So a man rings the police with a scratch on his face and says, "Look what she did." She's hysterical in the background there. So the police pick him as the person in need of protection and if there are children there, also the children and it destroys the family, because they make an application.

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**MS MCLEOD SC:** Just staying with that criteria there, the police are tending to look for the observable physical injuries and not necessarily emotional, coercive, mental, cultural, psychological?

5 **MR JUERGEN KAEHNE:** In my experience no. Police - and I fully appreciate police are overworked, only have to look at the cars parked in Bourke Street with writing all over them so see they've got a grievance, but police are dealing with family violence call outs as a roll your eyes matter. They come out, they want to get it done as quickly as possible. They look around. They pick the first set of  
10 criteria that fits within their code and they take that without any further inquiry.

The defensive wounds scenario is a real one, one that we see very often and it happens, and just a couple of other things they are looking at here, is the capacity of each person to inflict an injury. I mean that's pretty self-evident. One person is  
15 injured, the other is not. That becomes a yes/no type of thing. Then they look at other inquiries with other agencies. I mean, I have never seen in evidence where police on the spot have called other agencies to see what's going on in this household.

20 The sum of that is they look and go, "Who is the person in need of protection here?" Looking at all those things it's very easy to paint a picture and misidentify someone, because this set of criteria here leads someone down the path of an inherently gender biased and racist framework.

25 **COMMISSIONER WALTER:** Can I also ask too, and you may correct me but, my reading around users of family violence, many are quite adept at inflicting injuries where it doesn't show, like pulling hair.

30 **MR JUERGEN KAEHNE:** Yes.

**COMMISSIONER WALTER:** In the abdomen and other places. So the look for a visible injury on face or an arm would seem to be not - quite naive.

35 **MR JUERGEN KAEHNE:** Correct and very often it's the mother who is presenting as hysterical, because the father may well have called the police and/or many times before said, "When they come, they're going to say that I should take the children away." And so she is hysterical and she presents as hysterical. To look at him who is calm and quiet and, you know, a scratch on his face, they look at her who is hysterical and crying, and go, "Well, we are making this call based  
40 on this observation, based on our code of practice."

**MS NERITA WAIGHT:** They're also quite adept at using the State as a weapon against the Aboriginal woman.

45 **MR JUERGEN KAEHNE:** This is the embodiment of a systematic problem.

**MS MCLEOD SC:** Would you say there was racism at play in the assumptions about women being the perpetrators when men present this way?

5 **MR JUERGEN KAEHNE:** Yes. Yes, because the assumption is, from, and certainly this is right across the State - the assumption is that the male is the aggressor, in an Aboriginal household, the Aboriginal male is the aggressor, so when that can be manipulated to look different than it is.

10 **MS MCLEOD SC:** So you have police with a Code of Conduct and the skills they acquire through their experiences and in their academy training. How do we address this issue of police discretion and their awareness that they might be being played by the system here? How do we have the individual police who are making these decisions - it is a matter awareness and training or is it a matter of something else more fundamental is required?

15 **MR JUERGEN KAEHNE:** Well, it's certainly a matter of training and I note in the code of practice that it says that all police are to be trained in this. But again, I look at some recent previous statistics that show although training is mandatory very few police take it up. That's across all the States. Again, in a State where police are saying, "I've barely got time to do my job", it's very hard to imagine a scenario where police are voluntarily saying, "Yeah, I'll take extra time and do that training. "

20 **MS MCLEOD SC:** Do police record their decision-making using these criteria in any formal way?

25 **MR JUERGEN KAEHNE:** They will record their initial observations and parts of interviews in their application. But, again, the application evidence is, you know, it's a couple of paragraphs.

30 **MS MCLEOD SC:** And police observations and this misidentification problem can result in family violence notices? Yeah. So could you tell the Commissioners how those family violence notices are used? Or intervention orders, obviously.

35 **MR JUERGEN KAEHNE:** Yeah. Well, they're used then - well, in a misidentification matter let's play this out. The woman is then - has to appear in court, you know, in a legally hostile environment, in front of a judge who is going to hear 50 of these a day and wants to push them through. The State gets wind of it - women have the most to lose here, I mean.

40 **MS MCLEOD SC:** Meaning child protection?

45 **MR JUERGEN KAEHNE:** Yes. Women have the most to lose here, like, and they'll often put their hands up and say, "Okay. I'll just - I'll agree to it" because they historically will have had no joy in getting help from the State. So they're not going to get help this time so they just put their hand up and say, "I'll agree."



**MS MCLEOD SC:** Who of the State and Federal Government is responsible for funding the legal assistance that these people require?

**MS NERITA WAIGHT:** It's a shared.

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**MS MCLEOD SC:** Under the National Partnership Agreement.

**MS NERITA WAIGHT:** No, the National Legal Assistance Partnership Agreement is where the Commonwealth comes to the State and agrees kind of what areas they will fund. It doesn't currently require States to input funding into that agreement. States separately choose as to where they will fund legal services.

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**MS MCLEOD SC:** And family violence response falls to whom, whose responsibility is that?

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**MS NERITA WAIGHT:** So if you look at the landscape currently, the National Indigenous Australians Agency is responsible for funding family violence legal services. And then the NLAP provides funding for civil and family law services, for Legal Aid Commission, CLCs and Aboriginal Legal Services. The States then top that up where they believe it's principle, but as we have talked about there's never-ending pilots. For example, our successful pilot of regional justice hubs, which make sure that women have place-based access to family and criminal lawyers will cease as of 30 June next year.

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**MS MCLEOD SC:** I just wanted to come back to the funding, but just to check whether Commissioners had any question around the misidentification issue before I turn to funding.

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**COMMISSIONER WALTER:** Just one. I take your point and I know the statistics that the majority of Aboriginal women, our partner - have non-Indigenous partners, often. Is it also that women are not, Aboriginal women do not fit the sympathetic victim model?

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**MS NERITA WAIGHT:** Yes. And Amy McGuire has done quite a lot of work in this space that I would direct the Commission to look into. Also the key interim report from the National Inquiry to Missing and Murdered Aboriginal Women and Girls as well as LGBTQ+ people, which found that Indigenous women experience higher rates of violence as a direct result of a culture of (inaudible) created by police and State actions and part of that falls into the creation of the perfect victim, which Aboriginal communities will never meet.

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**COMMISSIONER WALTER:** Just by being Aboriginal you are already struck without.

**MS NERITA WAIGHT:** Correct. It goes to our earlier evidence that we are always considered to be the problem. And also if you look at the way the system has been created and continues to operate, it hasn't addressed its deeply racist roots

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yet, and so they come out to play each and every day. There's also the work of Professor Judy Atkinson in terms of her book Trauma Trails: Recreating Songlines, which I also direct you to take a look at. That really talks to that point as well.

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**MS EMILY YATES:** Just to touch on that as well, there's also a damaging effect to these women that often then enter the criminal justice system. So whilst family violence safety notice is a civil application, we, in the criminal team, in our practice have seen a huge influx of women that are needing our assistance after being accused of being the perpetrators, not perpetrators, sorry, the users of violence in their relationship. And, you know, then in preparing for today and speaking with the team to get a gauge on their experiences and stories, the amount of case studies and anecdotal evidence that they provided on a daily basis that they get for women that need our help, that have been charged with violent offending against the male in the relationship has grown a lot.

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One example which was, it stood out quite loudly was in one of the regional towns that we regularly visit and assist with. This woman was defending herself and her sister, and - against a male user of violence. This was the sister's partner or ex-partner at the time and was in fear of her life and her sister's life. They were both being attacked and beaten. She grabbed the nearest thing to her, which was a knife and stabbed him in the leg.

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It did leave quite serious injuries, but it was enough to remove themselves from the situation and flee to safety. As a result of that interaction, this woman was charged with the highest charge that you can get in the Magistrates Court, without it going to the County Court and resulted in months long criminal justice issues for her. And we fought quite hard to get these charges withdrawn on a self-defence basis, the prosecution took quite a bit of convincing. And in that process for fighting for these charges to be withdrawn she was also picked up and remanded on very low-level shop related thefts.

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And this was before the bail reforms came in which meant that police applied to remand her and this was unfortunately over the weekend, which meant that this woman because she was on bail for allegedly violent offending against the main user of violence, she was an unacceptable risk and was held in custody until she could be heard in court on Monday for her bail application, which ultimately was successful and she was bailed. But she spent the weekend in custody when she had three kids at home that she was the caretaker for, had never been in custody before and couldn't be heard. Because there was no court sitting.

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And ultimately, the charges were withdrawn because prosecution eventually came around and agreed that that was in self-defence. But that didn't get that time back that she spent in custody and away from her children who had to be in the care of somebody else for that weekend and it was an incredibly traumatic experience understandably for her. Ultimately, the shop thefts I believe went ahead, but it was a good behaviour bond for a couple of months with no conviction, because

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she had pretty much no prior history at all. This was not in her DNA, she was not a violent person and was accused of that probably, because she is an Aboriginal woman and wasn't believed in the first instance by police and also by prosecution.

5 That resulted in months of fighting to get this withdrawn, which our lawyer was successful in doing, but it took quite a fight. So that's just one example of very many cases that we've got where we are helping women who have so many issues that stem from being the affected family member in family violence. But it also bleeds into the criminal justice system and them needing to defend themselves in  
10 the criminal justice space. So I would say that's a huge increase at the moment.

**MS MCLEOD SC:** Can I ask you just briefly to go back to the question of funding? The Respect Victoria recent report mentions funding arrangements do not meet the level of need and ongoing longer-term funding is required. The  
15 report highlighted while 57 per cent of initiatives were seed or pilot funding and 23 per cent was expansion of existing or previous projects, 20 per cent extension of existing project. So no commitment to long-term ongoing funding, and also discusses the opportunity for prevention work by increasing the investment in the ACCO sector.

20 Now, you touch on this in your submission, page 13, talking about the flow-on renewal or cutting of critical ACCOs since the government's announcement of the full implementation ever recommendations from the Royal Commission and the need for investment in case management prevention, early intervention programs  
25 and Departmental staff. So can I invite you to offer your thoughts on the funding and how it should be - it's - obviously you are suggesting it should be long-term funding, and not programmatic or ad hoc, short-term cycles?

**MS NERITA WAIGHT:** They're looking at me desperately to answer this, because they're -  
30

**MR JUERGEN KAEHNE:** I'm happy to throw -

**MS NERITA WAIGHT:** In terms of the funding space, part of the problem, as  
35 I said in my earlier evidence is that we are having to fit into mainstream eligibility criteria that doesn't actually work for the self-determined models that community need to be delivered to stem and provide women a measure of safety. We also see through the National Assistance Partnership very discrete, what they call schedule funding and that schedule funding is often very weird, is the best way to describe  
40 it, because it doesn't make sense most of the time.

There will be a stream of funding for workplace sexual harassment, but that's got nothing - that's not helping Aboriginal women who are experiencing violence in  
45 the home and that's what we need resourcing to do. And we are told, "It's okay, no, just deliver that project and then we'll see what we can do in future" or we're given funding, you know, there's a schedule funding for vulnerable women. But then they have their own definition on what vulnerable women are, which doesn't

meet the Aboriginal community definition for what is vulnerability in our communities.

5 We also know that the funding doesn't, isn't calculated in a way that accounts for need and the complexity that presents itself for Aboriginal community, because the experience for Aboriginal women is very different and requires more intense and complex support, because they're having to enter a system that wasn't designed for them, that doesn't work for them. And so the legal support is much more intensive and it needs to be coupled also with community programmatic support and that's just impossible.

10 We also see that time and time again we're told we need to endlessly pilot responses, you know, first off it will be two years, then it will be another year, then it will be another six months or in case of Baggarrook it just rolls over every 15 12 months and I imagine the pilot might end. And we've seen this also in Djirra, which I'm sure they'll speak to when they give evidence that one of their programs has been piloted for over a decade at this stage and we are still crying out for that long-term investment.

20 We need to have flexibility, because the way that you will address family violence legal assistance response in Mildura will be very different to how you address it in metropolitan Melbourne, because there will be different partners that are available in terms of service streams. There will be different needs. We also know that the Aboriginal community because our Elders die early, our parents die early, that we 25 have a very young population that are under the age of 25. And so what they need in terms of that early prevention response is very different. But Juergen and Emily can expand if they wish.

**MR JUERGEN KAEHNE:** Yeah, I was only going to say that this sort of 30 uncertainty about funding it just breeds uncertainty. I mean, we - it's very difficult to know and identify that need and then try and plan for that need when we don't know what we've got to plan with. These funding, you know, pilots and ideas are great and we have lots of ideas, you know, ideas, short-term ideas to get money through in that. But they don't put people on the ground, which is what we need to 35 do is put people on the ground and we can't do that when we can say to people, "Well, you've got a job for six months." In the current climate, no one is going to come and work for six months. It's not -

**MS MCLEOD SC:** No doubt it has an impact on your retention and recruitment 40 of staff and the investment in workforce generally.

**MS NERITA WAIGHT:** Well, there's no - through the National Legal Assistance Partnership or through State funding, there is no ability to provide workforce supports, particularly when you look at the complexity and trauma our 45 clients suffer. That invariably has an effect on those staff who are working to support them. And you need the ability to make sure you have appropriate

supports for them, for staff, to deal with that trauma so they don't burn out and they don't leave the profession. This is something that is a regular occurrence.

5 **MS MCLEOD SC:** So it sort of begs the question, how can we be here? We had a landmark Family Violence Royal Commission. We had the acceptance of all recommendations of that Royal Commission. We had an implementation monitor reporting the equivalent of those recommendations. We now have a national plan to end violence against women and children with its framework announced and communicated recently, and we have a Family Violence Outcomes Framework.  
10 Do we have enough frameworks and strategies? Is it just down to dollars or there is something that each of you would say was critical to transforming this horrendous situation?

15 **MS NERITA WAIGHT:** For me, it - I mean, I think I've been clear that I would like to see the same recommendations around transformation and decision-making in criminal justice and child protection from this Commission into these areas of family violence, health and education. But I would also hope to see a narrative and some recommendations around increasing government accountability. All of those things that you mentioned don't have any accountability measures against  
20 them for government.

**MS MCLEOD SC:** Well, the implementation monitor, for example, is no longer reporting on the acquittal.

25 **MS NERITA WAIGHT:** No. It doesn't exist. And if you look at whether it's the violence against women and children, the 10-year plan for change or international rights, provisions that protect women and children from harm, there's no robust or transparent data. There's no monitoring mechanisms in place that actually ensure the effectiveness and progress of those initiatives. That's why as  
30 part of the Treaty process, we really do want to see that Aboriginal-led public accounts and estimates committee established, so that ministers and Victorian Government departments can't shirk their accountability any further.

35 **COMMISSIONER WALTER:** Now, you said the National Indigenous Australians Agency was major funding.

**MS NERITA WAIGHT:** I said they funded the Family Violence Prevention Legal Services.

40 **COMMISSIONER WALTER:** Do they have any accountability measures from the State on that funding?

45 **MS NERITA WAIGHT:** I am not funded under them through the Family Violence Prevention Legal Services, because I'm not one. So I'm unsure. That would probably most be a question for Djirra. If I can be trite, as they would suggest that government accountability doesn't start and end in Victoria. That the Federal Government also should be held accountable for their failings.

**COMMISSIONER WALTER:** That's where I was getting at with the NIAA. Yes.

5 **COMMISSIONER HUNTER:** Can I Just ask on - so the Family Violence Commission finished in 2015. Is that correct?

**MS MCLEOD:** 2016 reported.

10 **COMMISSIONER HUNTER:** So Recommendation 146 is:

"Prioritise adequate funding for Aboriginal and Community Controlled Organisations."

15 It says it's implemented. Would you agree that it's implemented?

**MS NERITA WAIGHT:** No, they must have implemented that in some other jurisdiction, definitely not here.

20 **MS MCLEOD SC:** So - sorry, Commissioner.

**COMMISSIONER LOVETT:** Can I ask around police accountability? We have heard a lot about the intersections our Mob have with police. Can you share any insights you have around what does further police accountability look like?  
25 We have made recommendations in the previous report around independent oversight. But thinking in this context around family violence and, you know, hearing the harrowing statistics, you know, on the system on our women, specifically in the context of Victoria Police. Any thoughts that you'd like to share with us on that thought?

30 **MS EMILY YATES:** Through a criminal justice lens in terms of mandatory body worn camera footage I would say it is a must, because it's often optional when they turn it on or it was not working. You have got members executing search warrants without body worn camera at the time. So that doesn't promote  
35 accountability, because it's done under disguise and a lot of the things on body worn camera footage are often blacked out or audio redacted and then you have to try and fight what that audio was and go through sometimes months long process to get that.

40 I know in our Recommendation 10 as well, that VALS has advocated for establishing an independent process for automatic reviews of family violence safety notices that are issued by police against Aboriginal women. And that's a mechanism to check whether this is actually accurate or whether it's another case of misidentification and racial profiling of an Aboriginal woman. I think that  
45 those are the two key things I would say from my perspective, but I'm sure Nerita and Juergen would have -

**MS NERITA WAIGHT:** No, I agree with what Emily has stated and that is why we have been such a loud and annoying voice for the State around the need to establish independent police oversight. What we must also recognise is that police are also humans and that they also may be in relationships with Aboriginal women, and that they may be the perpetrators of violence against Aboriginal women. And then where do you - where do they go for help? There is a lot of work and a lot of stories that have been told around how, if are you in a relationship with a police officer and they commit violence against you, there is no ability to seek redress or justice and that you, in fact, can find yourself the one who is criminalised, the one whose children and family supports are taken away.

What I would also suggest is that we also need to be taking that more - rather than always just tinkering with broken systems, we need to do that work on imagining what does, and what should policing look like in this era. Not a police system or institution that is underscored by racism, but one that fits with the current values of the Victorian community, and that takes being brave and sort of entering that transformational space and I suggest that Treaty certainly is a vehicle to do that.

**COMMISSIONER LOVETT:** And are you a member of the Dhelk Dja Partnership Forum?

**MS NERITA WAIGHT:** Yes, we are.

**COMMISSIONER LOVETT:** And in your experience how much power and authority does that - you know, we are talking about accountability (inaudible) how much power and authority does that Forum really have?

**MS NERITA WAIGHT:** None.

**COMMISSIONER LOVETT:** And the report for family violence was handed over, I think it was 2016.

**MS NERITA WAIGHT:** Correct.

**COMMISSIONER LOVETT:** Is that right? And the self-determination reform framework and the Victorian Aboriginal Affairs Framework was around a similar time. And the community has been advocating for self-determination at the Dhelk Dja Partnership Forum and the other ones as well, but I'm asking about Dhelk Dja. Where do you or do you see any transfer of power, there might be some resources, but true power to the community in the context of family violence?

**MS NERITA WAIGHT:** I can't think of one instance. And you talked about that there may be transfer of resources, yes, there might be pockets of increased resourcing from the State, but that doesn't mean it's resourcing based on what Aboriginal community have asked for. It may be what fits within what the State wants to offer under their guise of their definition of self-determination, which is very different to ours. And I suggest that most likely should Dhelk Dja give

evidence to this Commission that they would highlight the same issues that the Aboriginal Justice Caucus did with their agreement with the State on justice.

5 **COMMISSIONER WALTER:** Can I just follow up with that? Given that that Forum has been around for a long time, what should be done? Should it be scrapped and something else started? Should it be - the rules changed? Because it seems to me it's almost a cover, "We've got a Forum so, therefore, look what we are doing" but nothing is actually changing. It really is a sort of a cover for a continuation of the status quo. That's just my impression.

10 **MS NERITA WAIGHT:** I mean, if we want to talk about these agreements, whether it be the Aboriginal Justice Agreement or Dhelk Dja being partnership approaches then we need to have genuine partnership. That means partners of equal footing. That means that Aboriginal community-controlled partners at that table have an ability to have power and resources and decision-making transferred to them. It means that you're not worried about what you might say or advocate for or push, because you've got a pilot that's coming up in terms of exploration of funding, because that's a constant concern.

20 Yeah, it's hard. I would suggest that although those agreements as you say are enduring and the problem still persists that the ACCO partners who sit at that table go there were a genuine commitment to represent communities' wishes for change and transformation and that we shouldn't throw the baby out with the bath water. Instead, we should be focussing on how do we evolve those types of arrangements to fit within our definition of self-determination and what that likes look.

25 **COMMISSIONER WALTER:** I also just want a final remark on the constant use in this Commission in talking about working with Aboriginal, they always say, "In genuine partnership" as if you have to add that word to mark it out from all the other partnerships, which weren't genuine. Yes. It's just a personal bugbear of mine and you just sort of think, "Well, can't we just have partnership?"

**MS NERITA WAIGHT:** We're on the same page there.

35 **COMMISSIONER LOVETT:** I want to come back to my comments a bit earlier about resources and by no means was I coming at a place that's - was supporting - it's just more so - sorry, that governments say that they give resources over. So I'm not saying they give full power and resources over, but - and we've got obviously access to the recommendations that youse have provided, but is there anything more broadly around systematic accountability that you do want to share with us, then it would be great to hear from you Mob as well. So broadening, I guess my original question from not only police accountability, but what does the system accountability look like? And I understand we can negotiate that through Treaty and stuff, but, you know, what sort of insights do you want to share and impart on us today?



**MS NERITA WAIGHT:** I mean some of them are in our previous submissions around how you increase government accountability across the board, in terms of our submissions on child protection and criminal justice. Those apply in these circumstances. I would say that for us, there really is that missing link for who is accountable for Royal Commissions, whether it be family violence or this one, in terms of its recommendations. And we certainly support the Aboriginal Justice Caucus' call to make sure that in the - whilst Treaty is being negotiated, we do establish an Aboriginal Justice Commissioner to make sure that inquiries don't sit on the shelves, that there is accountability for implementation of recommendations whether it be criminal justice or child protection or family violence, education or health.

These are areas where our communities can't wait. And certainly, we all know that there is significant research out there around how instituting, you know, degrees of independence and making sure that things are transparent play a part in creating a fair Victoria, which is what I would think we all want.

**COMMISSIONER LOVETT:** We are fortunate and blessed in this Commission to have four Aboriginal Commissioners out of the five. And reflecting on previous commissions we haven't had that and we actually haven't had the representation. Do you want to share any kind of views on how important it is in future Royal Commissions to have, you know, a stronger guidance of Aboriginal voice on commissions or inquiries?

**MS NERITA WAIGHT:** And I think it's even - certainly whether it be a Royal Commission or an inquiry, or even institutions like the Victorian Equal Opportunity Commission or the Commission for Children and Young People, making sure that there is, at the highest level that Aboriginal representation results in work that benefits our communities. We have seen this in the Commission for Children and Young People with the Deputy Commissioner role. Uncle Andrew Jackomos did a wealth of work around out-of-home care, then Justin Mohamed on Task Force 100, and Commissioner Singh in relation to children in the education space.

None of that work would have occurred if not for those Aboriginal Commissioners. But we don't see that in other institutions and we don't see that in Royal Commissions which is why, when you look at those recommendations, whether it be family violence, or the Mental Health Royal Commission, you see an absence of our people.

**COMMISSIONER HUNTER:** Ms McLeod mentioned the statistics before and, of course, I've got the national ones. 35 times more likely to be hospitalised due to violence than non-Indigenous women, six times more likely to die as a result of family violence. Is that a crisis for our people? Like if we would equate that to the general population, would you say that's not a crisis for Aboriginal women?

**MS NERITA WAIGHT:** Beyond it. If there is a word, and I'm no English major, but if there is a word "beyond crisis" that is where we are at. Maybe we are at a crisis 20 or 30 years ago. We are past that point. It is far more acute and it is never-ending.

5

**COMMISSIONER HUNTER:** When - and no one should die at the hands, and this isn't - but I see a national outcry when there's a, dare I say this, a white person, there's a national outcry, there's marches, there's - but when it's an Aboriginal woman, the silence is deafening.

10

**MS NERITA WAIGHT:** And that is because we are not the perfect victims and that is underscored by the racism that exists in this country and its institutions and particularly, its media. And I appreciate the sensitivity in which you approach that. I mean, I had two grandmothers, and both of them were victims of family violence, and one was black, one was white, and the systems failed both. I mean, if - it's tragic, but in the case of Aboriginal women there is an absence of anything. And we have to fight for the smallest of resources, the smallest of considerations and it means that every day that Aboriginal woman feels not only let down by the State but in some ways by us as a sector as well. And I can understand that and sympathise with it. And, yeah, it's hard. That's all I'll say.

15

20

**MS MCLEOD SC:** We might bring up on the screen the web page, the Family Violence Outcomes Framework and the vision to end family violence. There's four domains under that framework reflecting the long-term outcomes to be achieved. The outcomes, number one:

25

"Family violence and gender inequality are not tolerated."

That's under the heading, "Prevention." Number 2:

30

"Victim survivors, vulnerable children and families are safe and supported to recover and thrive."

Number 3:

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"Perpetrators are held accountable, connected and take responsibility for stopping their violence."

And number 4:

40

"Preventing and responding to family violence is systemic and enduring." And a similar approach in the national plan to prevention early intervention response recovery and healing. So can I invite you each to respond for the things that you need to see happen in the criminal, civil and family law systems and policing, if you wish for us to be able to deliver these outcomes under the framework?

45

**MR JUERGEN KAEHNE:** Okay, I'll go first. Well it's none from four on all of that. The gender inequality - we could put gender and race inequality there. The Code of Conduct that I touched on earlier, that just invites that sort of inequality and until we see better training and a change in the Code of Conduct and actual  
5 mandatory training that police actually have to take up and are actually accountable for, that's never going to be achieved. And as far as survivors being able to recover and thrive, again, this is a great - this is a great statement to make for people who have got means.

10 Until you provide means for victims to start a new life or to flee family violence safely, and in a way where they're - they don't have to come back because we do see this from our Aboriginal women that come out of prison, many of who are victims themselves, we work hard to make sure they have somewhere else to go. But there's many of them that don't have anywhere else to go and they go back to  
15 their violent household. And round and around it goes. So it's a bigger thing. We have touched on housing, we have touched on shelters, we have touched on all those sorts of things. And until those areas are addressed, we are never going to achieve safety for those people that are trying to get out of a violent relationship. Do you want to do the other two?

20 **MS EMILY YATES:** Sure. I mean, I was just going to say in terms of the perpetrator perspective in domain 3, with what we see on a daily basis - and I'm talking about the main user of violence in this situation, not misidentification - there is such a lack of early intervention. I know that we have said that a little bit  
25 here. But the clients that we have that are using violence in these relationships come with their own plethora of traumas and reasons behind why they're doing what they're doing. Because it might have been learnt behaviour, it might have been, as Nerita touched on, they were taken out of care and they were subject to many different forms of violence throughout their entire life and they know no  
30 better.

There's a lot of things going on with our clients that need addressing and need addressing early and one of the things that we struggle with is making sure that we have the right supports in place set up for the main users of violence, so that they  
35 don't continue doing what they're doing and so that Aboriginal women and children are safe. And what we are doing right now is not working. And again, throwing people into custody and saying, "That's your punishment", that isn't solving the problem. We have been doing that since the dawn of time and it's still happening and it's still continuing to escalate.

40 We are missing the crucial element of funding ACCOs to be able to support the main users of violence to, for instance, Dardi Munwurro, they run a fantastic program that I'm sure everyone knows about, but they are overrun. There's no way to get clients in there for months, sometimes six months. So as a lawyer  
45 representing someone who is trying to make their life and are making terrible decisions in relationships and hurting people, they also need help so that women and children are protected.

And that help is not readily available at the moment and it's really hard and challenging as a lawyer in that system that is broken and not working and it's not fixing anything and it's not protecting our women and children. And we need  
5 these sorts of supports in place so that we can set that up for our clients, so hopefully they never enter the system and never hurt anyone again. And trust me when I say most of our clients express those feelings and want to change, want to do better but it's so much unlearning and so much support needed to get there and we just don't have it. I think that's a huge issue.

10

**MS MCLEOD SC:** Emily, do you have any assessment or do you ask users of family violence, those that are consciously choosing violence, do you ask them why they're choosing to use violence?

15 **MS EMILY YATES:** Sometimes. Look, it depends on the circumstances. Obviously you have people that are a little bit more closed off to those sorts of conversations, but you get other people that are very vulnerable and open about it and understandably especially if we are talking about Aboriginal men they might struggle to open up about those sorts of traumas. And as a female may not feel  
20 comfortable if it's men's business. So it depends.

But I would say that for those that have opened up anecdotally it is a long life history of their own suffering and their own trauma and undealt needs from  
25 childhood often and reliance on substance abuse to cope with things that they haven't dealt with from earlier on in life. And, you know, some clients we get are only using violence when they are under the influence and they're a different person when they use substances. When they are sober their partner says they are a completely different person.

30 So the funding to get into rehabs is, you know, it's non-existent. The rehabs as most recent as this month were - the minimum we could get into was two months, minimum. And this is an urgent, as Nerita said, beyond crisis and we can't even get people the support they need to address those urgent needs right now. So  
35 I would say that in short to answer your question, the undealt trauma that they have in their own life leads into their relationships where they do things that they are not proud of and they know is abhorrent. And I've had many conversations with people that want to change that, but don't have the adequate supports that they need.

40 **MS MCLEOD SC:** And the prevention piece of that is obviously assisting people so they are not exposed to trauma.

**MS EMILY YATES:** Absolutely. That is again, even earlier on in the stage. By  
45 the time our clients come to us that's long past that point and that goes back to what Nerita said in terms of a societal shift. There needs to be a whole shift and restructure of the system.

**MS MCLEOD SC:** So the government recently announced saturation consultation program, I don't have the detail but in Ballarat, which was addressing issues as broad as gender equality conversations, sports field in community leadership positions across the community. I'm not sure if you are aware of the details that have been announced, but how important is that addressing of gender equality and the health issues, if I can bracket them together, to addressing this problem at the cause?

**MS NERITA WAIGHT:** I would say very important, especially for Aboriginal women. The disrespect that is ingrained in society is prolific. And we are having those conversations early on, and especially men having these conversations early on with other men, I think that only promotes ideally more positive respect for all women and especially Aboriginal women that suffer the most at the moment. So I'd say incredibly important.

**MS MCLEOD SC:** How successful are the programs? Assuming you can get a place, how successful are they in assisting people to transform their lives?

**MS EMILY YATES:** Anecdotally I would say very. I have had quite a few success stories, if you can call it that where we never have them as clients again. So if they don't come back to us, that's a good sign and we know that they're doing well. Housing is also a big thing. Once they've been able to be in - for instance, Dardi Munwurro, we had a client that was there. They were very transient before going to Dardi Munwurro, which meant they kept going back to their ex-partner, breaching intervention orders, going back to that house because there was no housing option and the cycle continued.

Whereas in Dardi Munwurro it was a reset and it was linking back in culture is such a protective factor in community. And being able to yarn with Elders was really powerful for them and then whilst there was able to set up the path they want to lead after leaving and get their ducks in a row, I guess you would say. And once they had that in place they were able to leave, go and have a new place to live and lead a different life and as I said, they never came back to us as a client. So I would say the success rate is pretty high and the protective factors of culture is, you know, unquestionable.

**MS MCLEOD SC:** Commissioners, you may have some further questions. I just note that the VALS representatives have a bit of a hard deadline coming up.

**COMMISSIONER HUNTER:** Can I just really quickly, I was just looking at the Dhelk Dja and it has got the Family Violence Reform Rolling Action Plan 2020-2023, I'm not sure if you are familiar with it. If I just look at Aboriginal-led prevention and frontline services, the last time that was updated was early 2022 and it doesn't go into 2023. Is that meeting the net - I just - we have got this stuff, right and our women are still dying. I don't understand. And it's crisis. It's not - this is nothing new and as you pointed out in your opening statement, it reflects back on colonisation and gendered violence against our women. I'm - my brain is

not computing. Like, it's just not working for me that we are sitting here probably having the same conversation that was had 10 years ago before the Royal Commission and you are all nodding. I don't think we've - but we know the answers.

5

**MS NERITA WAIGHT:** Correct. And this is why, you know, outside of this space we keep pushing the State around enacting true self-determination and doing that transfer of power and resource of the decision-making, because that is the only way you solve the problem. And looking at tackling violence against women not only through legal responses and often they will just revert to bail, because they are not imaginative. And they actually don't engage in the preventive areas where the resourcing is needed and we have talked about those; health, education, housing, but also supporting the wider culture change around how we consider Aboriginal women.

15

Until the state does that work, I feel that this will be a pervasive problem and the Aboriginal community also need the resources and space to be able to develop those transformative approaches. We talked earlier about the joint partnership with Djirra creating a safety response, we are doing that off our own backs. There is no resourcing to help which means we are overstretched and overburdened. We would love to be looking at alternative legal system approaches to family violence and working in with Aboriginal communities and ACCOs to do that, but there is no resource doing that work. They resource themselves to develop policy, but they never resource us to do and develop initiatives for us.

20

**COMMISSIONER HUNTER:** Thank you. Can I just commend you on your work in this space?

**MS NERITA WAIGHT:** Thank you. It means a lot from you.

25

**CHAIR:** I also want to add thanks to you, Nerita, and the panel, all of you, for the work you do and thank God for the Victorian Aboriginal Legal Service. That's all I can say.

35 But, Nerita, your work has really focused on this space and the thing that strikes me today is that underlying racism against our people, the difference between sometimes between the genders as well, and that's - it's very hard to keep hearing that and that there's no change because the racism - we know racism exists. We know that it permeates everything, but when you hear it in this space it's really  
40 horrific to think we can't get it out of the system. We just can't get it out of the system. It's there. For the people that think there's no racism in this country, I mean it's there. It's embedded and it's a space that's so apparent from the descriptions of some of the things you have talked about and the statistics you have given. So I thank you very much for doing the work you do and we'll  
45 certainly be looking to make strong recommendations from some of your work. So thank you.

Thank you, all.

**MS NERITA WAIGHT:** Thank you, Aunty Eleanor.

5 **MS MCLEOD SC:** Thank you, Commissioners.

And thank you, panel, for your time this morning. Thank you, each of you.

If the Commission pleases, we'll now take a 15-minute break.

10

**CHAIR:** 15 minutes. Quarter to 12?

**MS MCLEOD:** Yes, thank you.

15 **CHAIR:** We will now adjourn.

**<THE HEARING ADJOURNED AT 11.33 AM**

**<THE HEARING RESUMED AT 11.51 AM**

20

**CHAIR:** Shall we resume, counsel?

**MR MCAVOY SC:** Yes, thank you, Chair.

25 **CHAIR:** The session has recommenced.

**MR MCAVOY SC:** Thank you, Chair. My name is McAvoy, I appear as Co-Senior Counsel Assisting the Commission. On behalf of Counsel Assisting, I acknowledge that we are here on the lands of the Wurundjeri people and we  
30 acknowledge that sovereignty has never been ceded and always was and always will be Aboriginal people's land, this State. Chair, I understand that my learned from the State would also like to make an appearance.

**MR KNOWLES:** Commissioners, I appear today for the State of Victoria with  
35 Ms Tiplady who announced the appearance of myself and Mr Carter earlier with her, particularly in respect of the evidence to be given today by Brigid Monagle, Victorian Public Sector Commissioner and Tim Ada, Secretary, Department of Jobs, Skills, Industry and Regions.

40 On behalf of the State of Victoria, I would like to thank Commissioner Hunter for her Welcome to Country this morning. I acknowledge the Traditional Owners of the land on which these hearings are taking place, the Wurundjeri people of the Kulin nation, and pay my respects to their Elders, past and present. I acknowledge that sovereignty has never been ceded over this land, and I also pay my respects to  
45 other First Peoples here today and watching online.

**CHAIR:** Thank you. Thank you and welcome.

**MR MCAVOY SC:** Chair, the witness for this session is the Victorian Public Sector Commissioner, Brigid Monagle. She is in the witness stand and I call her to give evidence.

5

Commissioner, could you please tell the Commission your full name?

**COMMISSIONER BRIGID MONAGLE:** Brigid Helen Monagle.

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

**COMMISSIONER BRIGID MONAGLE:** The Victorian Public Sector Commissioner.

15 **MR MCAVOY SC:** Do you undertake to provide evidence to the Yoorrook Justice Commission in your evidence today?

**COMMISSIONER BRIGID MONAGLE:** I do.

20 **MR MCAVOY SC:** Thank you. Now, Ms - Commissioner, I understand that you have an opening statement that you would like to make to the Commission?

**COMMISSIONER BRIGID MONAGLE:** Indeed.

25 **MR MCAVOY SC:** Could you make that now please?

**COMMISSIONER BRIGID MONAGLE:** I would like to begin by acknowledging the Traditional Owners of the land we are meeting on today, the Wurundjeri people of the Kulin nation, I pay my respects to Elders past and present and I extend those respects to all First Peoples present or watching online today. I acknowledge that sovereignty has never been ceded and First Peoples spiritual and ancestral ties to this land are ongoing.

30

Thank you, Commissioners, for the opportunity to appear before you as part of this historic and truth-telling process. I am grateful to appear on behalf of the Public Sector Commission. As a steward of the Public Sector, I want every workplace to be a safe place for all First Peoples employees where they can thrive and be fulfilled. This is both important for the health, wellbeing and careers of First Peoples employees but also for making sure that the Public Sector is better at its job.

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The Victorian Public Sector Commission has been working to make change, but we know First Peoples employees still experience discrimination based on race, feel less safe to raise concerns and take on an often-invisible cultural load. None of this is, or has ever been, acceptable. I look forward to the Commission's findings and recommendations. I am deeply committed to working together for a better future for First Peoples in Victoria.

45



**MR MCAVOY SC:** Thank you, Commissioner. Now, you've provided a statement to the Commission.

5 **COMMISSIONER BRIGID MONAGLE:** I have.

**MR MCAVOY SC:** That's correct?

**COMMISSIONER BRIGID MONAGLE:** That's right, sorry.

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**MR MCAVOY SC:** That statement is true and correct to the best of your knowledge?

**COMMISSIONER BRIGID MONAGLE:** That's right.

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**MR MCAVOY SC:** That statement appears at tab 2 of your documents, Commissioner, it's some 24 pages plus annexures and it's dated 31 May 2024. And it's the case that the Victorian Public Sector Commission has provided a response to a request for information from the Commission?

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**COMMISSIONER BRIGID MONAGLE:** That's correct.

**MR MCAVOY SC:** And if we turn briefly to paragraph 7 of your statement, we can see some of your history in the Public Sector?

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**COMMISSIONER BRIGID MONAGLE:** That's correct, yes.

**MR MCAVOY SC:** So you've had over 20 years of experience, holding a range of senior public service roles. Importantly at paragraph 7(c) you identify that you were Executive Director Social Policy and Social Delivery Reform, Victorian Department of Premier and Cabinet and in that role you were responsible for what was called Aboriginal Affairs Policy and worked alongside the Executive Director for what was then Aboriginal Victoria from January 2017 to January - December 2019. Is that correct?

35

**COMMISSIONER BRIGID MONAGLE:** Correct.

**MR MCAVOY SC:** And who was the director at that point?

40 **COMMISSIONER BRIGID MONAGLE:** You mean the Executive Director, sorry?

**MR MCAVOY SC:** Executive Director, sorry.

45 **COMMISSIONER BRIGID MONAGLE:** There was two, there was Jason Mifsud and then Josh Smith.

**MR MCAVOY SC:** Thank you. So in the case of coming to give evidence today you're - it's not the case that you have no experience in Aboriginal affairs in this state, you've got a deep well of experience to draw on?

5 **COMMISSIONER BRIGID MONAGLE:** I'm not sure if I would say deep, but I would say solid.

**MR MCAVOY SC:** You also note that you have, in your statement that you worked in New Zealand while you were both a tertiary student and worked in the  
10 Public Sector in New Zealand?

**COMMISSIONER BRIGID MONAGLE:** That's correct.

**MR MCAVOY SC:** That was for a total of six years?  
15

**COMMISSIONER BRIGID MONAGLE:** That's right.

**MR MCAVOY SC:** Over two, three-year stints. Do I understand that?

20 **COMMISSIONER BRIGID MONAGLE:** Two - that's correct, yeah.

**MR MCAVOY SC:** And in your statement, you note that the experience that you had in New Zealand helped in your work in the Victorian Aboriginal Affairs and in relation to the Treaty work that was going on at that stage?  
25

**COMMISSIONER BRIGID MONAGLE:** That's correct, yes.

**MR MCAVOY SC:** Could you just explain to the Commissioners how it is that you found that your experience in New Zealand assisted in your role?  
30

**COMMISSIONER BRIGID MONAGLE:** Thank you, Mr McAvoy, happy to. Firstly, when I moved to New Zealand and worked in the public service there, I had obviously never worked in public service that was, had a working Treaty and a Treaty that had been in existence at that stage for over 150 years, while albeit  
35 contentious moments around the Treaty at some points. The difference in the public service there to my experience in Victoria was quite profound, both in terms of structures and processes, and resources in terms of Traditional Owner groups having being - having a lot of control over resources and a different range of services that they provide to their mihi or whānau in Māori terms.  
40

Also in terms of government, working under the models of the Treaty in terms of all Māori have been right to participate in all services as New Zealand citizens but also special services, what is classed as special services in being First Peoples or Māori. In terms of my day-to-day experience, the way that Māori culture and  
45 language is woven into the way that the public service and, indeed, the wider community operates in a more fundamental way. So it's the sort of nature of different Māori cultural practice is more woven into the public service there.

For instance when I started a job it's very common, well, happens all the time, you have a pōwhiri, which is a Māori welcome ceremony and it's a really beautiful ceremony about welcoming new people into the workplace, which is both  
 5 meaningful in terms of it being a Māori ceremony, but also it's a fantastic practice for any new person to come in and feel that sense of welcome and transition. And so I learnt a lot by seeing things done differently but as I said, also in terms of understanding how a public service can work within an environment of a Treaty.

10 **MR MCAVOY SC:** Just on that point, who conducted those ceremonies of welcome to the workplace?

**COMMISSIONER BRIGID MONAGLE:** It depends on who - it depended on different workplaces but when I think of one example, when I started at New  
 15 Zealand Treasury, normally you would have a senior Māori person who worked there, who would conduct it, and - but more often than not, it's senior people in the workplace who would conduct the ceremony.

**MR MCAVOY SC:** You started the answer by saying that there were differences you noticed in relation to the structures, could you just expand on that a little bit please?

**COMMISSIONER BRIGID MONAGLE:** In terms of the structure relationship with Māori. So it was very accepted, legally binding that different Māori groups  
 25 so, for instance, in the South Island it's largely, there's Ngāi Tahu, which is the Traditional Owner group for the south island. That any issues that relate to south island you would talk to Ngāi Tahu and that you were required to. So in terms of anything from land to fisheries, to water, to education and so that was - it was a very accepted way of working as an expectation that that happens.

30 **MR MCAVOY SC:** So are you saying that - I don't wish to put words in your mouth but in returning to work in Australia, that's not your observation as to the way it happens in this jurisdiction?

35 **COMMISSIONER BRIGID MONAGLE:** That's correct, it's not - yeah but changing, I would say. So when I first returned from New Zealand around 2004, very much not the case, noting I was more junior then and I might not have had visibility. When I returned from my second stint in New Zealand in 2013-14, it started to change.

40 **MR MCAVOY SC:** I'll just ask you a couple more questions and then return to the structural issues a little. Was the practice of speaking Māori language widespread within the Public Sector in New Zealand?

45 **COMMISSIONER BRIGID MONAGLE:** I wouldn't necessarily - I would say widespread but not deep, if that makes sense. So most people would say, "Kia ora" for, "Hello" or, "Morena" for, "Morning". And if you had a meeting with

Māori groups you would do a - everyone would do a mihimihi, which is sort of like doing an acknowledgement, but it's talking about who you are and where you've come from and - but in my time there language probably didn't go too much deeper than that amongst Pākehā community, which is the word for settlers, I guess, in New Zealand.

**MR MCAVOY SC:** So Pāhekā government employees were expected to be able to identify themselves and present themselves in Māori language?

**COMMISSIONER BRIGID MONAGLE:** That's right.

**MR MCAVOY SC:** And that was uniformly done?

**COMMISSIONER BRIGID MONAGLE:** My experience of it was, yeah.

**MR MCAVOY SC:** And did you learn to speak Māori language while you were there during the six years?

**COMMISSIONER BRIGID MONAGLE:** I did a course. I'm not very good at languages, Mr McAvoy. I did six months of a course and I can still speak some, absolutely.

**MR MCAVOY SC:** And do you speak any First Peoples languages from Victoria?

**COMMISSIONER BRIGID MONAGLE:** No.

**MR MCAVOY SC:** Have you done any courses here?

**COMMISSIONER BRIGID MONAGLE:** No.

**MR MCAVOY SC:** How important is the embedding of language in the Māori government systems? Can you make any observation in that respect?

**COMMISSIONER BRIGID MONAGLE:** I can only speak from my sense of that and I think it's really - it's quite important because language - so in my view, and if you are speaking language, then it's respectful but it is - also helps you really embed yourself in culture. So some of the language I learned, like one of the terms that is often used in New Zealand is mana, which is a sense you shouldn't insult someone's mana, which is their sense of itself, their sense of pride and if you insult someone's mana, you are opening yourself up for conflict.

So quite often in New Zealand when you are thinking about meeting with people, you think, "Well, I don't want to insult them, I don't want to embarrass them in front of their colleagues or their family and so if I have something that is tricky to raise I will raise it in a different way" and that all comes from "one word, one

concept" which I don't necessarily think we have by not using Aboriginal language as readily - it's like you don't have that key into certain elements of culture.

5 **MR MCAVOY SC:** Are there any reasons that come to mind as to why we couldn't have the adoption of First Peoples languages in Victoria as part of the day-to-day business of being in a Public Sector employee?

10 **COMMISSIONER BRIGID MONAGLE:** Firstly, I would say I think that would be amazing we could. I would understand, though, that you would need and want to do it in partnership with the Traditional Owners of the groups that you're living in. One of the benefits, I guess, in New Zealand is they've gone through a process to - this is as I understand it - arrive at one form of language across the whole country, when there's been multiple different languages. But - so  
15 you would absolutely need to speak and make sure that there is an appropriate and there's capacity of the right people to teach that language.

**MR MCAVOY SC:** This Commission has heard evidence from a senior Elder, Aunty Vicki Couzens about the need for inclusion of First Peoples languages in government and in other sectors of life for First Peoples. If there were  
20 a mechanism to do that which were led by the community, is that some discussion that you would be prepared to have as the Public Sector Commissioner?

**COMMISSIONER BRIGID MONAGLE:** I would love to have that discussion.

25 **MR MCAVOY SC:** Commissioners, I just propose to move on. Are there any questions that you have in relation to that area before I move on?

**COMMISSIONER HUNTER:** I will just add to that that government is very quick to pick up our language for a report or a room or a framework, but don't use  
30 it anywhere else. Would you -

**COMMISSIONER BRIGID MONAGLE:** Absolutely, I would agree with that.

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

**COMMISSIONER LOVETT:** (Inaudible).

**COMMISSIONER BRIGID MONAGLE:** When I was speaking (inaudible). I felt really nervous but centred, if that - it felt respectful for me to be able to do  
40 that. And when I was - before I started doing the language course, I felt very embarrassed because everyone around me had much more than me and I was also, you know - you reflect on your own lack of knowledge through that process too and it made me reflect on, sort of, my ignorance about where I had grown up in the same way. But I - I very much enjoyed being able to, even the very small bits  
45 of language that I was able to use, it felt very centring.

**COMMISSIONER LOVETT:** (Inaudible) a key part of everyday life and society, so not just in the workplace.

5 **COMMISSIONER BRIGID MONAGLE:** No - yep. And, I mean, I would like to preface I'm not an expert on New Zealand and - but yes, absolutely, you know, you go into the fish and chip job you use all the Māori words for fish and you, yeah, you say, "Kia ora" or, "Ka pai", or, you know, the word for meeting, "Hui". You don't have a meeting you have a hui. So you are just using it all the time and I've been back here for 10 years now and I know they've made a lot more progress  
10 in that as well.

**COMMISSIONER LOVETT:** It's a part of like identity, right, really important part of identity, apparent part of their identity as a nation themselves. You made reference to them being able to come together and agree on a language. And I  
15 think - I don't know much about that process but, I mean and not passing any judgment on it in any way, but I mean it's really important that those other kind of individual languages that those Mob do and have are still maintained and be able to thrive and I don't know if that model, given how big Australia is, will really work as well. But, yeah, I just think that we can't skip over how important  
20 language is to your identity and so forth as well. So -

**MR MCAVOY SC:** Thank you, Commissioner.

25 Commissioner Monagle, it wasn't as you've said, just in relation to language, but it was a depth of knowledge of the history New Zealand in Pākehā, Māori relations that was expected and a normal part of a public servant's knowledge base. Is it correct to say that?

30 **COMMISSIONER BRIGID MONAGLE:** In general, yes.

**MR MCAVOY SC:** And there's also a much - well, a reasonably - a reasonable understanding of Māori culture and people understand and can use terms such as whenua and hui and hapū, and understand the differences between them?

35 **COMMISSIONER BRIGID MONAGLE:** I think - I couldn't speak for outside of Wellington or the public service, but I think in the public service that would be fair.

40 **MR MCAVOY SC:** And you accept that as a statement of general application, that in Victoria that level of knowledge even is not present in the Public Sector?

**COMMISSIONER BRIGID MONAGLE:** Yes, I would accept that.

45 **MR MCAVOY SC:** And do you think that as Public Sector Commissioner it is a level of knowledge that is necessary or appropriate, particularly given that this is a state that is undertaking a self-determination framework and about to enter Treaty negotiations with the First Peoples Assembly?

**COMMISSIONER BRIGID MONAGLE:** I very much think that we need to have a stronger understanding of First Peoples culture and history.

5 **MR MCAVOY SC:** And that falls within your bailiwick?

**COMMISSIONER BRIGID MONAGLE:** In some ways it absolutely does and in other ways it falls within the bailiwick of the public sector.

10 **MR MCAVOY SC:** I'll come to that in a bit. You also note from your own experience of education in this country that your knowledge of First Peoples' histories in this State and the country has been less than you would have liked?

**COMMISSIONER BRIGID MONAGLE:** Absolutely.

15

**MR MCAVOY SC:** Can I put it that way?

**COMMISSIONER BRIGID MONAGLE:** Yeah.

20 **MR MCAVOY SC:** And, of course, that's an issue for all Victorians in terms of the curriculum as it presently stands and as it has previously stood in terms of what is taught in schools and at universities?

25 **COMMISSIONER BRIGID MONAGLE:** Definitely in what previously happened. I couldn't speak to what's in the curriculum at the moment beyond my own child's experience.

30 **MR MCAVOY SC:** And so there will be - the consequence of that is that there are generations of Australians, Victorians in this case, who have a real - what might be called a deficient knowledge - in respect of the relationship of First Peoples with their Countries and their territories and their cultures and their relationships with the government. Would you agree with that?

35 **COMMISSIONER BRIGID MONAGLE:** That would be my assessment, yeah.

35

**MR MCAVOY SC:** And so the case would be, if you were to engage in an educational process with the Public Sector, you would be seeking to lift the Public Sector up above that which exists within the surrounding community and give them access to that greater degree of information?

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**COMMISSIONER BRIGID MONAGLE:** That's correct.

45 **MR MCAVOY SC:** And I think your earlier answer was that you accepted that greater level of knowledge is appropriate, given the policy directions of the State in terms of self-determination and development of treaties?

**COMMISSIONER BRIGID MONAGLE:** That's correct.

**MR MCAVOY SC:** Now, are there any signs that you can point the Commissioners to today, to say that we are, in fact, moving in that direction? Because the context in which your evidence is being given today is one where the  
 5 Commissioners have heard time and time again about a failure of cultural safety and a failure of knowledge of First Peoples and First Peoples' way of life. Is there anything you can say about, to give them some comfort or idea that we are moving in the right direction?

10 **COMMISSIONER BRIGID MONAGLE:** The way I would answer that, Counsel, and Commissioners, is that there has been a lot of effort in the last 10 years in particular, in my experience in the Public Sector to improve cultural awareness, cultural competency, cultural safety and overall increase the numbers of First Peoples in the Public Sector, particularly at management and executive  
 15 levels. Some of it has - there's indications that it's been - it's had an impact and - but there's a lot that would show that those indications aren't there.

Further, some of the - we have gaps in terms of impact. So we have - I could tell you, and I think it's in my statement as well, is the VPSC has a guide on it's called  
 20 a Aboriginal and Torres Strait Islander Cultural Safety Toolkit. We know it was in the last financial year, it was downloaded 10,000 times, but I don't have evidence to show that that has been used or implemented. I do have evidence based on - we have a survey called The People Matter Survey which is done annually, and that shows some improvement in terms of Aboriginal people's  
 25 experience in the Public Sector and in a range of fields.

However, the results are still unacceptably lower than non-First Peoples' outcomes. So we are seeing - sorry, I know that I'm going on to the experience of First Peoples rather than going to the cultural competency, but I think it's a range  
 30 of evidence that - that would show that we're making some improvement, but there's still a lot more that needs to be done.

**COMMISSIONER WALTER:** Excuse me, I hear that and I've read quickly through your statement, but you've had the one strategy, the Barring Djinang, that  
 35 went from 2017 and -

**COMMISSIONER BRIGID MONAGLE:** '22.

40 **COMMISSIONER WALTER:** And that the ambition of raising the proportion of First Peoples to two per cent, to move off one per cent over the four years.

**COMMISSIONER BRIGID MONAGLE:** It's now got to 1.2 per cent.

45 **COMMISSIONER WALTER:** This year, but it went back again. It's been up and down. You've now instituted the second one. What's different in the new one, that's going to get some outcomes that the first one didn't?



**COMMISSIONER BRIGID MONAGLE:** In two ways, Commissioner. There's two key differences. One is we are going to focus much more on working to - with graduates or people in the VET TAFE system to try and increase numbers of applicants for jobs.

5

**COMMISSIONER WALTER:** How are you doing that?

**COMMISSIONER BRIGID MONAGLE:** So we have a person who - employed in the VPSC whose role is to go around different institutions and work with community, to hear from and encourage people to apply. We're also conscious that one of the things we heard through our evaluation that we got, that was done by PwC Indigenous Consulting was that some of the jobs that are advertised don't necessarily - they're advertised at the whole of the Public Sector, and not necessarily targeted at particular jobs in particular workforces.

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So being better in terms of our communication and advertisements around those jobs. So that's one part. And it's a - the bigger and more important part is efforts to make the Public Sector a more culturally safe space for First Peoples to work in. So that word is able to spread that there will be a better environment for First Peoples when they work in the Public Sector.

20

**COMMISSIONER WALTER:** Again, how is that happening?

**COMMISSIONER BRIGID MONAGLE:** How is that happening? Yeah. So it's a range of different initiatives. I think one of the approaches we take is it's not just someone should do a cultural safety course or a cultural awareness course and that has been done, because we have had that and we're not necessarily seeing the traction. So it needs to be first and foremost about improving the numbers of First Peoples, leaders and executives in the Public Sector. It needs to be about making sure all our leaders feel culturally safe and culturally competent, so they are able to work with staff and make sure it's a safe - and make sure it's a safe possible - sorry, as safe place as possible for all First Peoples.

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Individual agencies do a raft of different work to improve safety but in the Public Sector, for me, it's about one of the key things that we do is monitoring compliance. And so it's about working with different agencies to understand what they're doing, looking at data across the system and then providing that data back to them, so that it's really clear about what has been achieved or what hasn't and quite often that can be quite uncomfortable.

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**COMMISSIONER WALTER:** But the data as you've seen, most of it's - we didn't get a lot of data, because it's not collected. So data around designated positions, data around promotion rates, data around retention rates, none of it is available. So how is this going to be - these ambitions which are aspirations, how is it going to be monitored? And who is that going to take responsibility if it's not fulfilled?

45

**COMMISSIONER BRIGID MONAGLE:** So the first thing I would say on that, those data points, that's a problem that exists for the whole Public Sector. We don't have data that's comparable on anyone in the public service around separation rates, promotion rates. So because of a few different reasons if you -  
5 would you like me to go into the reasons.

**COMMISSIONER WALTER:** No, I don't, I'm just aghast that it doesn't exist.

**COMMISSIONER BRIGID MONAGLE:** Yes.  
10

**COMMISSIONER WALTER:** It should be easy enough.

Sorry, Commissioner Lovett.

**COMMISSIONER LOVETT:** Can you share what the VPSC is doing now around internally? Can you just give us the composition of Aboriginal leadership and where our positions are in - our people's position are in your organisation?  
15

**COMMISSIONER BRIGID MONAGLE:** Yeah.  
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**COMMISSIONER LOVETT:** And what levels?

**COMMISSIONER BRIGID MONAGLE:** We have two Aboriginal staff; one VPSC 6 and one VPSC 5.  
25

**COMMISSIONER LOVETT:** So - and are they ongoing roles or are they contract roles?

**COMMISSIONER BRIGID MONAGLE:** I understand them to be ongoing, I might have to check that.  
30

**COMMISSIONER LOVETT:** And if you, as the VPSC are promoting leadership as one of the kind of key pillars, do you think it would be appropriate that the VPSC should have executive, or an executive that reports directly to you as the Commissioner?  
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**COMMISSIONER BRIGID MONAGLE:** Yeah.

**COMMISSIONER LOVETT:** Do you have an expectation of that or other departments invest anything leadership then I think that, that's the question to you. You know, I think that VPSC should be investing in their own organisation.  
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**COMMISSIONER BRIGID MONAGLE:** I agree, Commissioner Lovett. We had a - we did have one Aboriginal director up until, I think, December last year and we - I absolutely agree I would, I think it would be beneficial both to the Commission and to the broader sector, that one of our executives or more, absolutely, at least one would be First Nations.  
45

**COMMISSIONER LOVETT:** And just to unpack that a bit more, how long was the contract of the executive, not the name of the person or the contract that was invested in from the VPSC?

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**COMMISSIONER BRIGID MONAGLE:** I'm not aware, I'm happy to find that out. That person got another job.

**COMMISSIONER LOVETT:** Yeah, I guess what I'm getting at here is that you have personally a long-term contract yourself.

10

**COMMISSIONER BRIGID MONAGLE:** Yes.

**COMMISSIONER LOVETT:** As an executive, as all executives do. Just using you as an example because you are the Commissioner, but you also have deputy Commissioners or people that report to you with long-term contracts.

15

**COMMISSIONER BRIGID MONAGLE:** That's right, yes.

**COMMISSIONER LOVETT:** So I guess - and you would be aware of their tenure or their contracts, how long they are.

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**COMMISSIONER BRIGID MONAGLE:** Yeah.

**COMMISSIONER LOVETT:** When it comes to investing in Aboriginal leadership, we see that there's a bit of a void in our people getting long-term contracts. So, I mean, there will be more to say about this across the VPS, but I think if you are monitoring and evaluating what other departments are doing, I think there's a leadership opportunity to also invest in yourselves. Because I do kind of - I reflect on, if you are reviewing cultural competency across the VPS, how are you doing that and where is your executive advice coming from as well, yeah? It's a really important point. How do you do that?

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**MR MCAVOY SC:** Commissioner Lovett, I might just ask a question going to your point.

35

Commissioner, there is a Public Sector Advisory Board?

**COMMISSIONER BRIGID MONAGLE:** There is an advisory board for the Victorian Public Sector Commission. Is that what are you referring to?

40

**MR MCAVOY SC:** Yes.

**COMMISSIONER BRIGID MONAGLE:** Under your legislation, yes, that's correct.

45

**MR MCAVOY SC:** How many members does that board have?

**COMMISSIONER BRIGID MONAGLE:** There are four members.

**MR MCAVOY SC:** Are any of those First Peoples?

5

**COMMISSIONER BRIGID MONAGLE:** No.

**MR MCAVOY SC:** Does that board have a role in advising the Public Sector Commissioner in relation to the work that it undertakes?

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**COMMISSIONER BRIGID MONAGLE:** It does, yes.

**MR MCAVOY SC:** And in regards to the strategies that the Commission adopts? Do you think the Board would benefit from having First Peoples representation on it?

15

**COMMISSIONER BRIGID MONAGLE:** I do.

**MR MCAVOY SC:** Do you know when there are - whether there are any restrictions on adding further people on that board?

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**COMMISSIONER BRIGID MONAGLE:** I'm not aware of that, I'm happy to take that on notice.

**CHAIR:** Could I ask a question, please?

25

I want to know whether you are aware of any employment schemes in other State governments happening currently for Aboriginal or Torres Strait Islander people?

**COMMISSIONER BRIGID MONAGLE:** There are some, Commissioner. I don't have the detail, but I'm happy to provide you with information. In terms of targets, like, we have in terms of the two per cent, I know that Queensland has a target which is four per cent, which is less than their population of First Peoples. And the Australian Public Sector Commission has a growth target of five per cent.

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**CHAIR:** For me, it's very hard to see you growing Aboriginal people into positions at a leadership level if you haven't got an entry point at all for people to progress through the system and that has been done before in the Commonwealth. But I'm not sure what has happened since COVID. Everything is kind of broken, really.

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**COMMISSIONER LOVETT:** I mean, the reason why – sorry, you go on.

**MR MCAVOY SC:** I'm happy for you to continue with the question, Commissioner Lovett. I was going to go on a different path.

45

**COMMISSIONER LOVETT:** I just wanted to come back to the cultural competency, Commissioner, because we hear that our – no, no, no, we don't just hear. We have lived experience as our people, Aboriginal people, we are overrepresented in the criminal justice system, the child protection system, family violence system and a lot of the system, the issues are but not only they are deep in colonial roots, but it's the competence of the people who are working in organisations that are assessing our people or having the wrong views of our people and our lived experience and the barriers that we continually faced. And this is why we come back to competence, cultural competence, cultural awareness, cultural safety and so forth because, you know, a lot of bureaucrats are implementing the system and we end up overrepresented in every single one.

But when it comes to funding equity, we are nowhere to be seen. You know, we have Royal Commission after Royal Commission or inquiries and yet we are not being able to, we are not invested in and, you know, how do our people get ahead? So I think that's why we keep coming back to training and competency and all that kind of stuff, because it's really important that we actually get this right, so our people aren't overrepresented. And because I mean thinking about a future of thriving it makes it really hard, because it's just – it's so hard to see, you know. I welcome your response to that, if you have any.

**COMMISSIONER BRIGID MONAGLE:** I can only agree with you, Commissioner Lovett. I absolutely agree that cultural competency and awareness is vital for creating a workplace that is culturally safe for Aboriginal staff. But also, for interacting with people who use the service system or making judgments about people who, or recommendations about people who use the service system and understanding cultural difference is essential for that.

I would say - there's a range of different practices across the sector by different agencies. Some of it - and from my viewing and watching, it is increasing in number in terms of people participating in those range of courses, or doing practice on a day-to-day basis, but I would absolutely agree there's a lot more that needs to be done.

**COMMISSIONER LOVETT:** What does system accountability look like, Commissioner? So if we think about - and I asked the question of the Minister for police around accountability of our people dying in custody and there hasn't been, have police ever been reviewed or any accountability on the HR process internally? Zero. So how do we ensure - how does the government ensure and how is the government ensuring that our people have somewhere to go when they are reporting cultural safety?

I mean, we had Elijah come to us from the community, sitting with the other commissioners from the Children's Commission and saying that we are having to report racist behaviours to people who are exercising racial views against us. So how does the community and current staff but also future staff have confidence that there is an accountability so when things are reported there is an outcome?

**COMMISSIONER BRIGID MONAGLE:** In terms of accountability, at the high level the - and at the leadership level the secretaries, just talking about the Victorian Public Service here, the secretaries are employed by the Department of Premier and Cabinet, the Secretary of Department of Premier and Cabinet or technically they are employed by the Premier. And so the Secretary of the Department of Premier and Cabinet has the relationship with those secretaries and does the performance plans and has those discussions with them. And then within each agency, the accountability is meant to flow down in that sort of linear structure, so similar, so a secretary is responsible for the deputy secretary. So that's - they're the arrangements in terms of performance management.

There are also other ways of being held accountable. So one of the things that we do in the VPSC is collect with - we have done research, it's a document we have called Acknowledging the Lived Experience of Aboriginal Employees and we did that for the first time last year. That brought together a different range of data to report back and I guess show the sector and its public, and show the secretaries this is the experience of First Peoples in the public sector. So that sort of transparency, the shining the light, is one of the key elements where the VPSC plays a role in that. But the actual accountability in terms of the delivering the agency runs through the Secretary of the Department of Premier and Cabinet.

**COMMISSIONER LOVETT:** Have you provided any recommendations to the Secretary of DPC on what needs to be expanded in the context to accountability, because many Aboriginal staff participate in The People Matter Survey and for many years, you know, the lived experiences of Aboriginal people working in the Public Service would probably not feel safe in reporting because they don't - this will be backed up by data.

**COMMISSIONER BRIGID MONAGLE:** Absolutely.

**COMMISSIONER LOVETT:** That they don't have confidence in the system it's actually going to turn into an outcome for them.

**COMMISSIONER BRIGID MONAGLE:** Yeah, absolutely.

**COMMISSIONER LOVETT:** So any recommendations from you to the Secretary of DPC?

**COMMISSIONER BRIGID MONAGLE:** Not on accountability per se, Commissioner Lovett but we have made recommendations, indeed a commitment through the phase 2 of Barring Djinang to work with the Deputy Secretary for First Peoples State Relations in the DPC, about designing a program of regular, whether it's training or support or programs, for both self-determination, education, knowledge, comfort and also around Treaty preparedness as well.

So - and then we do have also in addition to that a range of recommendations in a range of different documents we have around what could be done to improve, but not in - I haven't done that in the way you're asking, Commissioner.

5 **COMMISSIONER HUNTER:** Sorry, just a really quick question. Just off the back of Commissioner Walter's question about the report. You said that one of the things you were going to do was look at TAFE and VET. That for me is a low bar. Why don't we also look at the universities?

10 **COMMISSIONER BRIGID MONAGLE:** Sorry, Commissioner. We do have a program for universities. We have a pathway, a specific pathway for graduates through our graduate program and we will continue that and we want to grow that as well. But one of the things that we did in phase 1 of Barring Djinang which wasn't that successful was a pilot around people in the VET and TAFE system and  
15 we want to do that again. And try and grow the pool of people who want to come into the Public Sector.

**COMMISSIONER HUNTER:** Thanks for clarification.

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

Commissioner Monagle, the question was put to you about the changes that are being undertaken, the actions being done and you responded in terms of there's a significant amount of effort. And the experience of the Commission, this  
25 Commission, is that there appears to be a lot of reporting and a lot of effort, but with very limited results or very limited completion. And so one could be forgiven for thinking that what is going on is that there is a lot of superficial noise and gesturing, but there hasn't been any success in making the deep cultural change that is necessary if this state and the Public Sector that services this state is  
30 going to actually be able to reshape its relationship with First Peoples. Do you have any comment to make in relation to that? Is there - where is the substance of what's happening? And where is the strategic plan for the delivery of that substance?

35 **COMMISSIONER BRIGID MONAGLE:** If I was to talk about, in particular, about Barring Djinang, phase 1 and our new phase as well, the - I think it's fair to say that the initiatives that were committed to in that have been carried out and implemented. But we haven't necessarily seen the success that we wanted to in terms of reaching the two per cent target. We have seen success in terms of  
40 numbers at management and executive level. So I think you would have seen in the statement during the time of phase 1 - in the past two years, the number of executives has gone up by 150 per cent, granted off a low number to begin with. So -

45 **COMMISSIONER LOVETT:** Qualifier.

**COMMISSIONER BRIGID MONAGLE:** Yes, qualifier. So - and then gone through the process of done - doing the evaluation and then working with our Barring Djinang advisory group and also our community of practice to recommit and update for the next four years and with that the Victorian Secretary's Board,  
 5 which is all the secretaries and Commissioner of police and ourselves have committed to a range of actions and funding to carry that out over the next four years.

10 Having said all that, though, I absolutely understand the frustration and the perspectives of Commissioners and yourself around the raft of documents and strategies that - where things haven't been implemented or we haven't seen the sort of aimed-for objectives.

**MR MCAVOY SC:** You've drawn the Commission's attention to the evaluation  
 15 process and creating some transparency and shining a light on those lived experiences, but I suggest to you that experience tells us that that's not going to shift. That's not going to shift people's attitudes and the way in which they deal, or understand First Peoples in this country, in this state and that there's something much more substantial that needs to be done.

20 And in your role you must have a deep understanding of cultural change in large organisations and what's needed to effect that. And there's no issue in terms of delivering on the Barring Djinang strategy, but what is the overall plan for actually making this cultural shift that to date has not happened?

25 **COMMISSIONER BRIGID MONAGLE:** For me, culture in an organisation all comes from leadership and I think evidence would say that as well. And so the - it's - the more that leaders live and breathe change, that's where the cultural change will come. And then that will - there's - from what I've seen in the public  
 30 service the leadership - there's a genuine commitment to the change and then working in different ways to improve.

**COMMISSIONER WALTER:** Can you just explain the difference between  
 35 "commitment" and "genuine commitment"?

**COMMISSIONER BRIGID MONAGLE:** Sorry, no, I was just enhancing, it's a commitment.

40 **MR MCAVOY SC:** So that leadership Forum that you are speaking of is the Victorian Secretaries Board?

**COMMISSIONER BRIGID MONAGLE:** That's right.

45 **MR MCAVOY SC:** And that Secretaries Board, are you a member of that?

**COMMISSIONER BRIGID MONAGLE:** I am.



**MR MCAVOY SC:** And it comprises the secretaries of each of the departments?

**COMMISSIONER BRIGID MONAGLE:** It does.

5 **MR MCAVOY SC:** And deputy secretaries?

**COMMISSIONER BRIGID MONAGLE:** No, just the secretaries.

10 **MR MCAVOY SC:** And so in terms of the commitment of those individuals, is there any measurement that you can point to, to give this Commission some comfort that the Victorian Secretaries Board is as committed as you might think it to be?

15 **COMMISSIONER BRIGID MONAGLE:** Not in quantitative terms. In discussions I've had with them and their commitment to Barring Djinang phase 2 was resounding in that it's the right thing to do.

20 **COMMISSIONER HUNTER:** Can I ask on that board how many Aboriginal secretaries there are, that sit? None? So there's no - there seems to be a commitment to leadership and you've got this leadership group with no Aboriginal people on it.

25 **COMMISSIONER LOVETT:** Thinking about your point a little bit earlier about recruiting a future workforce, and executive roles, in your experience do you have - is there, when the public service are recruiting executive roles is there any expectation that there's a minimum competence that each person applying for the job needs to demonstrate around how they know and understand Victorian Aboriginal people and culture?

30 **COMMISSIONER BRIGID MONAGLE:** I'm aware of there's an accreditation at the moment. It would be for certain roles, I would expect but not for - I wouldn't - I would - I'm not aware of anything consistently applied.

35 **COMMISSIONER LOVETT:** We have been doing a lot of analysis on this and I'm not going out on a limb here, I'm confident it's not represented, which is why I asked the question. Do you think though that that would add value in having a minimum requirement or criteria when recruiting to all executive roles, whether they have intersection with Aboriginal communities or responsibility of managing Aboriginal staff, that should just be embedded in not only the position description  
40 but through the interview process to demonstrate competency in engaging and delivering for First Peoples in Victoria?

**COMMISSIONER BRIGID MONAGLE:** I do agree, yeah.

45 **MR MCAVOY SC:** I'm just going to go on to another topic. I just ask whether the Commissioners would like a five-minute break or whether the witness would like a five-minute break.

**COMMISSIONER WALTER:** I just have a final small thing. I'm feeling quite perturbed, because I feel like there's a generic commitment to change, but no substance below it. And unguided, unwatched good intentions have not done First Peoples any good for a very, very, very, long time and I'm just not feeling any reassurance that change is actually coming, besides people being genuinely committed.

**COMMISSIONER NORTH:** Can I just add, because I have the same unease and I think it's captured by your answer when you said, "What is critical is leadership." But leadership is a word, and what does it mean on the ground? I mean, I think I'm right in saying that at the moment without dissecting the categories, but of a workforce of 365,000 in the VPS, there are 705 Indigenous employees. Is that right?

**COMMISSIONER BRIGID MONAGLE:** Sorry - yes and no. The 700 is for the Victorian Public Service, which is around 67,000.

**COMMISSIONER NORTH:** All right. Well, that will do.

**COMMISSIONER BRIGID MONAGLE:** Yeah, so that's (crosstalk).

**COMMISSIONER NORTH:** What is leadership? How does it look? I mean, it's not the Secretaries sitting around, saying, "We all genuinely want or just want, even, these outcomes." I mean, your job is, if you like, analysing how change in the public service can happen and this has been the ongoing frustration in our hearings that we hear of very genuine commitments, but no outcomes of significance. And, I mean, you're the person who, by saying, "Leadership is what is needed", can maybe tell us what does leadership look like? Is it more paper, more guidelines, more frameworks or is it something that you can see and hear and touch and measure?

**COMMISSIONER BRIGID MONAGLE:** The latter. Well, I think it can manifest in a range of different ways in terms of leadership. So it could be as simple as ensuring that in an organisation and - that acknowledgements are done regularly, which seems quite basic, I know. It could be - but then it's down through to also understanding, having performance plans, expectations, making sure those systems and processes are correct and working well; making sure that you've got processes, safe processes if - to respond to issues of racism, bullying, sexual harassment. So there's sort of a range of both the positive and then the more process-driven as well that needs to happen at any organisation.

**COMMISSIONER WALTER:** That's the theory, but we're not hearing the action.

45

**COMMISSIONER NORTH:** Are they happening? I think that's the shopping list. Are they in place? And if so why do we only have 700 out of 60,000 employees?

5 **COMMISSIONER BRIGID MONAGLE:** So in terms of are they happening, those range of things I think there is evidence to show that they are happening in - not in a sort of consistent or a coordinated way across the Public Sector. I think that there are pockets of strong practice and there would be pockets of not good practice, absolutely and our evidence shows that. So - and then we - and I would  
10 refer in terms of the documentation and the data would show that there are - we are - there are positive signs in terms of some of the data that we collect at the VPSC through the People Matters Survey in terms of less rates of bullying, less rates of harassment, less rates of racism.

15 However, the gaps between First Peoples and non-First Peoples is still too large. We are not seeing a more accelerated improvement for First Peoples. So there is a range of stuff, absolutely happening, but it's not as strong or consistent as it needs to be.

20 **COMMISSIONER WALTER:** Isn't that your job?

**COMMISSIONER BRIGID MONAGLE:** In some way it's, and in other ways it's not. So in terms - would you be happy for me to go into -

25 **COMMISSIONER WALTER:** I don't want to hear more theory. I'm really - as a Commissioner it is your job to make sure that this is happening across the Victorian Public Service and I would want to hear what the actions are that you will do that will actually make sure that those things happen and not in a hit-and-miss way, but in a consistent way that will guarantee to deliver  
30 outcomes.

**COMMISSIONER BRIGID MONAGLE:** So I don't have the power of direction. So the power - I have the power - my powers are largely around influence and advocacy. So the power of direction over employers in the Public  
35 Sector sit outside my Act. So my role is largely around influence, monitoring and reporting.

**MR MCAVOY SC:** If I might just jump in there, Commissioner.

40 It's correct, though, Commissioner Monagle, that under section 39 of the Public Administration Act you have the power to conduct research and disseminate best practice guidelines.

**COMMISSIONER BRIGID MONAGLE:** Yeah.  
45

**MR MCAVOY SC:** Have you conducted research into the cultural shift that is necessary to achieve actual greater respect for First Peoples with respect to safety of First Peoples?

5 **COMMISSIONER BRIGID MONAGLE:** No, I haven't.

**MR MCAVOY SC:** Is that something you could do?

**COMMISSIONER BRIGID MONAGLE:** Yes.

10

**MR MCAVOY SC:** Is there any reason why you haven't done it to date?

15

**COMMISSIONER BRIGID MONAGLE:** While we are working on Barring Djinang phase 2, just getting that complete, that was completed in recent months and then we will start to work on that, particularly with First Peoples State Relations in the Department of Premier and Cabinet.

20

**MR MCAVOY SC:** Under the same section you have the power to conduct inquiries as directed by the premier?

**COMMISSIONER BRIGID MONAGLE:** As directed by the Premier.

25

**MR MCAVOY SC:** If this Commission were to make a recommendation that the Premier direct you to conduct an inquiry as to why the Public Sector is failing to reach its objectives in terms of respect for First Peoples and its Public Sector employment targets you could undertake such an inquiry?

**COMMISSIONER BRIGID MONAGLE:** If the Premier directed me to.

30

**MR MCAVOY SC:** But you can't do it of your own volition?

**COMMISSIONER BRIGID MONAGLE:** I can't.

35

**MR MCAVOY SC:** And when conducting that inquiry, the Public Administration Act provides you with powers of - some coercive powers in terms of production of documents and request to attend and give evidence?

**COMMISSIONER BRIGID MONAGLE:** That's correct.

40

**MR MCAVOY SC:** Similar to this Commission?

**COMMISSIONER BRIGID MONAGLE:** I'll take your word for it.

45

**MR MCAVOY SC:** I withdraw that question. You don't need to answer that. And in addition, the functions of the Commission set out at section 40 of the Public Administration Act allow you to issue and apply codes of conduct and standards?

**COMMISSIONER BRIGID MONAGLE:** That's correct.

**MR MCAVOY SC:** What happens if the codes of conduct aren't observed?

5

**COMMISSIONER BRIGID MONAGLE:** So I don't have any powers in relation to that, but individual employers can act on someone's employment if a person is found to not comply with the Code of Conduct.

10 **MR MCAVOY SC:** What happens if the employer doesn't adequately respond to breaches of the Code of Conduct? Who are they accountable to? Who is the Secretary of a given Department responsible to if they fail to uphold the Code of Conduct?

15 **COMMISSIONER BRIGID MONAGLE:** My understanding is that would be the Secretary of Premier and Cabinet.

**MR MCAVOY SC:** And a further role under the functions set out at section 40 is to monitor and report to the Public Sector body heads on compliance with Public Sector values and Public Sector employment principles and standards. So is that through the Victorian Secretaries Board?

20

**COMMISSIONER BRIGID MONAGLE:** It can be, but we also publish data on our website that just goes straight up.

25

**MR MCAVOY SC:** But those are two tools at your disposal?

**COMMISSIONER BRIGID MONAGLE:** That's right.

30 **MR MCAVOY SC:** And you have, in fact, issued statements of values, codes of conduct and standards?

**COMMISSIONER BRIGID MONAGLE:** Yes, we have the code of conduct for Public Sector employers and employment standards.

35

**MR MCAVOY SC:** When was the Code of Conduct last issued?

**COMMISSIONER BRIGID MONAGLE:** I understand 2016.

40 **MR MCAVOY SC:** 2016. So you haven't revised that Code of Conduct during your term as Public Sector Commissioner. Are there any plans to revise that Code of Conduct?

**COMMISSIONER BRIGID MONAGLE:** Something absolutely we - I don't have any specific plans at the moment but am open to it.

45

**MR MCAVOY SC:** You are familiar with the Code of Conduct though and you understand that the Code of Conduct is really an expansion on the values recited in the values statement for Public Sector employees?

5 **COMMISSIONER BRIGID MONAGLE:** Under the Public Administration Act, yes.

**MR MCAVOY SC:** It's the case that there's no singular item or collectively the items of the code of conduct read together to the effect that the position and roles and rights of First Peoples in Victoria needs to be respected and upheld by Public Sector employees, is there?

10

**COMMISSIONER BRIGID MONAGLE:** That's not in the Public Administration Act and it's not specifically one of the values.

15

**MR MCAVOY SC:** Was it a surprise to you in coming to the position that it wasn't one of the values?

**COMMISSIONER BRIGID MONAGLE:** No, it wasn't a surprise to me.

20

**MR MCAVOY SC:** Do you have any view as to whether it should be?

**COMMISSIONER BRIGID MONAGLE:** I think absolutely. Something around the value of being able to have the cultural awareness safety competency that's required to work with Traditional Owners and First Peoples of Victoria would be valuable.

25

**MR MCAVOY SC:** And there's no restrictions on your ability to amend the codes of conduct, are there?

30

**COMMISSIONER BRIGID MONAGLE:** Not that I'm aware of, no.

**MR MCAVOY SC:** No.

35 I'm happy to proceed through to 1.30, Commissioners, and I know that we are under some time constraints. But I just make the offer if you want to have a break, then we can do it for five minutes. But I'm equally happy to go through as long as the witness is.

40 **CHAIR:** We need five minutes, thanks.

**MR MCAVOY SC:** Thank you, Chair, if we might return at 1 pm with a view to sitting through to 1.30. Thank you very much, Chair.

45 **<THE HEARING ADJOURNED AT 12.55 PM**

**<THE HEARING RESUMED AT 1.02 PM**

**CHAIR:** Are we ready to resume?

**MR MCAVOY SC:** Yes, thank you, Chair.

5

Now, following on from our discussion before the short break, Commissioner Monagle, the VPSC has produced under the Barring Djinang project a document called the Aboriginal and Torres Strait Islander Cultural Capability Toolkit. Is that correct?

10

**COMMISSIONER BRIGID MONAGLE:** That's correct.

**MR MCAVOY SC:** That's a VPSC document?

15

**COMMISSIONER BRIGID MONAGLE:** That's correct.

**MR MCAVOY SC:** That toolkit is available online and who was that toolkit produced with or by?

20

**COMMISSIONER BRIGID MONAGLE:** We were supported in producing that by the Victorian Aboriginal Child Care Association.

**MR MCAVOY SC:** How long has that been available on your website?

25

**COMMISSIONER BRIGID MONAGLE:** Since, I think it's June 2019, but since 2019.

**MR MCAVOY SC:** Has there been any updates to it?

30

**COMMISSIONER BRIGID MONAGLE:** There hasn't.

**MR MCAVOY SC:** Is it due for update?

35

**COMMISSIONER BRIGID MONAGLE:** It is, yes.

**MR MCAVOY SC:** And is that scheduled to happen any time soon?

**COMMISSIONER BRIGID MONAGLE:** Yes, in the next 12 months.

40

**MR MCAVOY SC:** Is there a process of accreditation for people who have completed the toolkit?

**COMMISSIONER BRIGID MONAGLE:** Not as such, no.

45

**MR MCAVOY SC:** Is the process of accrediting public servants in terms of their competency something that you have considered?

**COMMISSIONER BRIGID MONAGLE:** No.

**MR MCAVOY SC:** Are you aware of other sectors in which cultural competency is accredited?

5

**COMMISSIONER BRIGID MONAGLE:** Not that I'm aware of.

**MR MCAVOY SC:** If I suggest to you that it's something that might be used as a tool for ensuring the appropriate cultural skills in the medical profession when dealing with First Peoples communities, are you aware of that?

10

**COMMISSIONER BRIGID MONAGLE:** No, I'm not.

**MR MCAVOY SC:** It's a discussion - I can tell you it's a discussion that happens from time to time in the legal sector as well. A system which provided for recognition of people's acquisition of knowledge and skills in relation to dealing with First Peoples perhaps in a graded way and with a form of registration, is that something that you are opposed to?

15

**COMMISSIONER BRIGID MONAGLE:** I would be open to considering that and working with employers, Public Sector employers, but more importantly with First Peoples and the First Peoples groups to understand how that would work, absolutely.

20

**MR MCAVOY SC:** You haven't heard of the process out of Queensland called the Black Card?

25

**COMMISSIONER BRIGID MONAGLE:** No, I haven't.

**MR MCAVOY SC:** Do you accept that encouraging people to obtain such skills in a way that is recorded might provide some greater protection for First Peoples in terms of cultural safety in knowing who they're working with?

30

**COMMISSIONER BRIGID MONAGLE:** If that's what First Peoples said, absolutely, I'd accept that.

35

**MR MCAVOY SC:** Is there a mechanism by which First Peoples, perhaps a Traditional Owner group in Victoria could say to you that, "We only want government officers to come and work with us who have acquired a certain skill level" could be accommodated?

40

**COMMISSIONER BRIGID MONAGLE:** That - that would be a matter more so for other employers or other leaders in the Public Sector rather than me, in terms of - I mean, I would be open to having those discussions, but given other employer - the secretaries or deputy secretaries run those programs, then they - and have the employment powers under the Act, then they would be the ones that would need to have those discussions.

45



**MR MCAVOY SC:** I have responsibility for Public Sector standards though?

5 **COMMISSIONER BRIGID MONAGLE:** I have responsibility for providing the employment standards, which are derived from the employment principles under the Public Administration Act and the Code of Conduct which are derived from the values in the Public Administration Act, not in relation to employment and what's required for employment, sorry.

10 **MR MCAVOY SC:** Are you saying that in order for that type of system to be embedded in the values, Code of Conduct, standards or procedures for the Victorian Public Sector, it would require legislative amendment?

15 **COMMISSIONER BRIGID MONAGLE:** I would have to - we'd have to work through the finer details, but based on what I'm hearing I would expect that something like that would require legislative change, potentially.

20 **MR MCAVOY SC:** Now, in your statement, you say that you are supported by a Deputy Commissioner, an executive team of seven and you've said that earlier in your evidence, none of whom are Aboriginal people, but then there's approximately 90 full-time equivalent staff.

**COMMISSIONER BRIGID MONAGLE:** That's right.

25 **MR MCAVOY SC:** Of which there is one grade 5 or 6, did you say?

**COMMISSIONER BRIGID MONAGLE:** One VPS6 and one VPS5.

30 **MR MCAVOY SC:** You've given some evidence earlier today about the Barring Djinang First Peoples Workforce Development Framework 2024-2028. Is that the document that's going to set the actions for the Public Sector in respect of First Peoples employees for the next four years?

35 **COMMISSIONER BRIGID MONAGLE:** It would be one group of programs that would contribute. There was - there were - there is and there will be a range of different strategies in different entities within the Public Sector.

40 **MR MCAVOY SC:** Just going back to the Cultural Capability Toolkit are you aware of how much take-up that toolkit has had?

45 **COMMISSIONER BRIGID MONAGLE:** The best data we have is that in the last financial year it was downloaded 10,000 times and also the evaluation done by the PricewaterhouseCoopers Indigenous consulting in its focus groups found that employers and First Peoples participants found it to be a valuable and useful document and that they did use it. But beyond the downloads we don't know the extent of impact.

**MR MCAVOY SC:** Is that something that could be done in terms of monitoring the use of it?

5 **COMMISSIONER BRIGID MONAGLE:** Absolutely. It's a real gap, not across, in terms of the VPSC work is that we do - we have a range of different guidance and we know when it's downloaded. But we don't necessarily know how it's used or what impact it has. So that's a priority for me as a Commissioner for - across everything we do is to better understand its impact.

10 **COMMISSIONER HUNTER:** Are we able to get a copy of that or can we download it?

**COMMISSIONER BRIGID MONAGLE:** Sorry. The?

15 **MR MCAVOY SC:** The toolkit.

**COMMISSIONER BRIGID MONAGLE:** Yeah, absolutely it's online, yeah.

20 **COMMISSIONER HUNTER:** Who was that created with?

**COMMISSIONER BRIGID MONAGLE:** VACA.

25 **COMMISSIONER HUNTER:** Okay. So that's the Victorian Aboriginal Childcare Agency?

**COMMISSIONER BRIGID MONAGLE:** Yes.

30 **COMMISSIONER HUNTER:** Can I ask why you would be doing it with a childcare agency?

**COMMISSIONER BRIGID MONAGLE:** I wasn't around at that time. I don't know, but I can try and find out for you, Commissioner.

35 **COMMISSIONER HUNTER:** Yeah. No. Look, they're an Aboriginal organisation and I know the work they do but I'm just wondering why you would choose that, go down that line.

**COMMISSIONER BRIGID MONAGLE:** I couldn't tell you, sorry but -

40 **MR MCAVOY SC:** In any review of that document, I'd suggest to you that given the environment that the state is currently in, where it's about to enter Treaty negotiations, that input from the First Peoples Assembly of Victoria would likely be very helpful. Would you agree with that?

45 **COMMISSIONER BRIGID MONAGLE:** Absolutely.

**MR MCAVOY SC:** Commissioner Hunter, I think that the cultural capability toolkit is, it's in the material.

**COMMISSIONER HUNTER:** Okay.

5

**MR MCAVOY SC:** I just can't point it to you.

**COMMISSIONER HUNTER:** No. That's all right.

10 **MR MCAVOY SC:** Going back to the Barring Djinang First Peoples Workforce Development Framework 2024-2028, the strategy is said to include a focus on improving the collection and use of workforce data about First Peoples employees in the Victorian Public Service HR systems to help monitor employment related outcomes. I mean, that's going to the very issue that many of the Commissioners  
15 have asked about, about lack of data. But you have no ability to direct agencies to do that?

**COMMISSIONER BRIGID MONAGLE:** No.

20 **MR MCAVOY SC:** Does anybody have the capacity to direct agencies to adopt that - those data mechanisms?

**COMMISSIONER BRIGID MONAGLE:** I would exact that ministers and also the Secretary of the Department of Premier and Cabinet would have the ability.

25

**MR MCAVOY SC:** And as far as you know, there have been no directions of that type to date?

**COMMISSIONER BRIGID MONAGLE:** Not that I'm aware of, but there has  
30 been a range of different initiatives to improve generally workforce data across the Public Service.

**MR MCAVOY SC:** Just in terms of the timing of the 2024 framework, was it developed in response to the request for information from this Commission or was  
35 it developed independently?

**COMMISSIONER BRIGID MONAGLE:** No, it was developed over the past  
40 year and a half. So after we got through COVID and were - we had a director working on it all through 2023.

**MR MCAVOY SC:** So this Commission has also heard issues in relation to the data gaps as between the Victorian Aboriginal Affairs Framework and the Victorian Government Aboriginal Affairs Report and the Close the Gap data. Is the lack of alignment of data a real issue in terms of being able to monitor and  
45 measure performance?

**COMMISSIONER BRIGID MONAGLE:** Yes, I'd say so, yeah.

**MR MCAVOY SC:** And so is it something that would warrant priority response from government?

5 **COMMISSIONER BRIGID MONAGLE:** I think - yes. I think we, as a public service, our data can be quite fragmented around our own employees. It's based on pretty much every department - no, actually that's changed. There's about three or four, maybe five different pay roll systems across the big departments, across the 10 departments plus police, and by having a range of different payroll systems and then there's different systems out there in the sector as well. It makes it difficult to align data and to compare and also track change.

15 **MR MCAVOY SC:** Yes. So in the material that has been provided in response to the request for information, there is some data regarding retention rates at paragraph 78, page 33 of the request for information.

If we could bring that up please, operators. It's paragraph 78, page 33.

20 That data appears to show that non-Indigenous people in the Victorian Public Sector have longer retention rates in employment in the Public Sector at the moment of a factor of two years longer. So five years for First Peoples and two years longer for non-First Peoples.

25 **COMMISSIONER BRIGID MONAGLE:** Sorry, I can't quite read that. I think - are you referring - that's the Public Sector for the Department of Families Fairness and Housing?

**MR MCAVOY SC:** Yes.

30 **COMMISSIONER BRIGID MONAGLE:** Yes, that's my reading of that as well.

35 **MR MCAVOY SC:** Have you had the opportunity to consider why that might be so?

**COMMISSIONER BRIGID MONAGLE:** I have personally considered that, yes.

40 **MR MCAVOY SC:** And what has your consideration led you to any conclusions or observations?

45 **COMMISSIONER BRIGID MONAGLE:** My observations would be that First Peoples carry either a very visible or invisible cultural load in departments. My observation would also be that especially in DFFH where First Peoples have very hard jobs, challenging jobs quite often in the front line. I would also reflect that there is quite a significant competition as such, for First Peoples in the Public Sector job market, and the ACCO job market.

And also what I would say in terms of retention rates is again, another challenge in our data, is when we talk about someone leaving we don't - we are unable to track them, where they go. So they could actually be going to another job in the Public Service or potentially through machinery changes as well, which is when they are changes in departments. Our ability to track people where they go isn't strong. So it could be that, yes, while one person is leaving DFFH, they might have gone to the Department of Health.

10 **COMMISSIONER WALTER:** Do you have any information on the proportion of people who are performance managed out, whether Aboriginal staff are overrepresented in those numbers?

15 **COMMISSIONER BRIGID MONAGLE:** No, I don't have that data.

**MR MCAVOY SC:** Thank you, Commissioner. So you've referred -

20 **COMMISSIONER BRIGID MONAGLE:** Sorry. I just had one more reason, in terms of my observations as well, is that where you've got short-term funding or a contract ends too, if First Peoples work in programs that don't have ongoing funding and that ends then they will be counted as separation as they leave as well.

25 **MR MCAVOY SC:** And are you aware that it's quite often the case that First Peoples are employed in projects that have limited life spans?

**COMMISSIONER BRIGID MONAGLE:** I wouldn't be able to say for sure. It is my observation that there - to go to earlier points there are a range of pilots that sometimes don't go on, yeah.

30 **MR MCAVOY SC:** You have referred to the cultural load that people are carrying. Do you distinguish that from conditions of cultural safety or do you -

**COMMISSIONER BRIGID MONAGLE:** I do.

35 **MR MCAVOY SC:** Yes, so the lack of - the lower retention rates would also be consistent with potentially a lack of cultural safety?

40 **COMMISSIONER BRIGID MONAGLE:** Yes, absolutely (crosstalk) apologies, I should have absolutely referenced that.

**MR MCAVOY SC:** And in referring to the machinery of government changes that might impact on retention rates, those machinery of government changes ought to affect the whole of the Sector and be reflected in the non-Indigenous rate as well (crosstalk).

45 **COMMISSIONER BRIGID MONAGLE:** That's correct, yeah.

**MR MCAVOY SC:** Is there the potential that retention rates are lower because of lack of promotion or career development opportunities that arise as a result of biases, conscious or unconscious?

5 **COMMISSIONER BRIGID MONAGLE:** There is potential for that.

**MR MCAVOY SC:** And so you talk about people being a degree of competition and people moving between, perhaps moving between agencies and one of the reasons that - you would accept that one of the reasons people might move  
10 between agencies is because they can't make any advancement in the Department that they're working in?

**COMMISSIONER BRIGID MONAGLE:** There is potential for that.

15 **MR MCAVOY SC:** And the fact that there is a longer retention rate for non-Indigenous people might also be consistent with the fact that those opportunities are perhaps more prevalent for non-Indigenous people?

**COMMISSIONER BRIGID MONAGLE:** (Inaudible) that.

20 **MR MCAVOY SC:** But the present data doesn't tell us any of that.

**COMMISSIONER BRIGID MONAGLE:** And I would say too you would see it in the executive numbers that have gone up I think from five off the top of my  
25 head to 32 over the past five years. When you only have five executives, First Peoples staff might not see a longer-term future for themselves in terms of promotion through the service as well and so that's one of the reasons why it's, one of the many reasons why it's so important to have First Peoples executives and leadership.

30 **MR MCAVOY SC:** Now, if we can just turn to paragraph 102 of the statement, please, operators.

35 That's on page 18 of your statement, Commissioner Monagle. There is a table which reflects, I think, some of the material that has been provided in response to the request for information, or indication of the topics for discussion before the Commission. Can you see the table at paragraph 102?

**COMMISSIONER BRIGID MONAGLE:** I can now, yeah.

40 **MR MCAVOY SC:** And so just so that it's clear, this is data for First Peoples in the Victorian Public Sector at both - captured in both 2018 and then in 2023. Yes?

**COMMISSIONER BRIGID MONAGLE:** Yes.

45 **MR MCAVOY SC:** And so the FTE is full-time equivalent. That's correct?

**COMMISSIONER BRIGID MONAGLE:** That's correct.

**MR MCAVOY SC:** And is that 528.3 full-time equivalent jobs?

5 **COMMISSIONER BRIGID MONAGLE:** In 2018, yes.

**MR MCAVOY SC:** And that was 1.2 per cent?

**COMMISSIONER BRIGID MONAGLE:** That's right.

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**MR MCAVOY SC:** And we are now in 2023 and it's 676.4.

**COMMISSIONER BRIGID MONAGLE:** Yeah.

15 **MR MCAVOY SC:** Which again is 1.2 per cent, which is the figure that Commissioner Walter pointed to earlier. So there hasn't been any effective increase?

**COMMISSIONER BRIGID MONAGLE:** No.

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**MR MCAVOY SC:** And then in terms of executive FTE there's been an increase from 13 to 32.9, which is a 1.3 to 1.7 effective increase?

**COMMISSIONER BRIGID MONAGLE:** Correct, yeah.

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**MR MCAVOY SC:** And then in terms of the engagement index score, can you just explain what that means?

**COMMISSIONER BRIGID MONAGLE:** That's a combination of a - I'm not quite sure of the exact number, but it's a combination of different answers to questions in the People Matters Survey that relates to someone's sense of connection to their workplace and commitment to their work.

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**MR MCAVOY SC:** And so what do the figures indicate then?

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**COMMISSIONER BRIGID MONAGLE:** It stayed the same for First Peoples.

**MR MCAVOY SC:** Then the next category is senior leadership and it has a figure of 61.1 per cent for 2018 and 70.7 per cent for 2023. So just please explain what those figures show.

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**COMMISSIONER BRIGID MONAGLE:** So that shows that First Peoples in the Public Sector have greater confidence, I would say, in their senior leadership, between that time. But what it also shows is there has been a general increase in the wider VPS population as well.

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**MR MCAVOY SC:** And finally, the experience of negative behaviours in the workplace. The figure cited at 2018 was a figure of 30.4 per cent of people experienced at least one or more negative behaviours of bullying, discrimination or sexual harassment in 2018 as compared with 25.2 in 2023. There's a limit to how much reliance you can put upon those figures. You would agree?

**COMMISSIONER BRIGID MONAGLE:** These are based on a voluntary survey of all the Public Sector staff with the exclusion of government schoolteachers, and so on the basis that it's voluntary, and then also you have participants in the survey have to select whether they identify as Aboriginal or Torres Strait Islanders or prefer not to say or not. So they're sort of two points of - first you have to do the survey and second then you've got to tick the box. So having said that, though, it is a large population size, it's over 100,000 people participate in the survey and in a time series it shows change over time.

**MR MCAVOY SC:** Yes. Finally, I want to take you to what is question 102 in the - paragraph 126 is where your answer starts on page 22. Question 102:

"What actions are being taken to increase First Peoples and Traditional Owner representation on Public Sector boards?"

I - the Commissioners have the answers that you provided at paragraph 126 and 127, but can you just speak to that for a moment as to what is actually being done to increase representation on Public Sector boards?

**COMMISSIONER BRIGID MONAGLE:** I can speak to what we're doing in the VPSC. There are, as I understand it, a range of different actions within portfolios about improving and increasing the number of First Peoples on boards. Boards are generally appointed by ministers on the recommendations of departments. So as part of the '23-'24 budget there was half a million over two years, which was provided to the VPSC to roll out to improve recruitment of first - of people from diverse backgrounds which includes First Peoples although that sits uncomfortably with me about the language used in that budget. But - so and we are coordinating the implementation of that program.

**MR MCAVOY SC:** But your own board doesn't have any First Peoples representatives on it?

**COMMISSIONER BRIGID MONAGLE:** That's correct.

**MR MCAVOY SC:** And so how much confidence should this Commission have that the program is actually going to work when the body charged with rolling this program of greater board representation out, doesn't even have any representation itself?

**COMMISSIONER BRIGID MONAGLE:** Sorry, what was the question?



**MR MCAVOY SC:** How much confidence should this Commission have that you will be able to achieve the greater representation on Public Sector boards when your organisation being the one that has this - is tasked with bringing that about doesn't have First Peoples representatives on the board yourself?

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**COMMISSIONER BRIGID MONAGLE:** That's a good question and I think there would be a valid sense of queries about capacity and capability to implement that. All I can say is that we will do it to the best of our ability.

**MR MCAVOY SC:** You've highlighted the need for strong leadership in terms of - in the delivery of cultural change. Having First Peoples participating on the boards that oversee some of the government sectors is - it would be critical to ensuring that the leadership has appropriate cultural input and oversight, would it not?

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**COMMISSIONER BRIGID MONAGLE:** Yes.

**MR MCAVOY SC:** And so, I mean, how does this Commission then understand the roll out of this notion of greater representation on boards to be given effect?

**MR MCAVOY SC:** I mean, what's going to happen? How is it going to happen? There's 1.5 of a million over two years to support the recruitment of people from diverse backgrounds, but I mean I don't wish to be frivolous about this but how is it going to happen? It's not going to magically occur. How, in your mind, does the Public Sector - do the Public Sector boards achieve a greater representation of First Peoples?

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**COMMISSIONER BRIGID MONAGLE:** Well, in terms of Public Sector boards the first way in terms of increasing the representation is around when departments and - under their portfolio responsibilities advertise for roles on boards that they make sure that they are appropriately working with First Peoples to encourage them to apply. So improving the applicants numbers and making sure that people feel safe on those boards, and then this training is to support board culture. So we are looking at opportunities for training for boards to help them understand what improving its culture in terms of First Peoples would do. In terms of raw numbers, that would be the responsibility of departments and ministers when they're appointing boards.

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**COMMISSIONER HUNTER:** Sorry, that money is to go towards boards to train them to be culturally appropriate?

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**COMMISSIONER BRIGID MONAGLE:** Sorry and also for, to access training opportunities to feel confident for people, for First Peoples to feel confident in applying for boards as well.

**COMMISSIONER HUNTER:** So most of the - sorry. I'm really frustrated because I'm sitting here thinking that most of the Public Service were overrepresented in all of this. We have got people employed within there that

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aren't culturally - that don't make it culturally safe. So at one end we have got people making policy or delivering services to First Peoples that may or may not be culturally safe because we don't really know. And yet you want to employ people in there and it's a system that works against us. I'm just, there's nothing really gelling here for me.

**COMMISSIONER WALTER:** And to add to that it seems like again we are on the theory but what instructions have been given to departments to actually ensure that when they are advertising for board positions that they ensure that First Peoples are encouraged to apply, or even set quotas to say you must have a First-Person representative on your board?

**COMMISSIONER BRIGID MONAGLE:** That would be a matter for government, so in terms of setting those expectations and the target. Without wanting to say that I - absolutely I'm committed with this but board appointments are the purview of government and portfolios.

**COMMISSIONER LOVETT:** There's been considerable change happen through expectations obviously set by ministers who are making these appointments and the Premier around gender equity.

**COMMISSIONER BRIGID MONAGLE:** Yes.

**COMMISSIONER LOVETT:** And that's driven, right, and they've achieved that because there's expectations set, just building on what's - but there's no expectations around, for even Aboriginal women.

**COMMISSIONER BRIGID MONAGLE:** No, there's not.

**MR MCAVOY SC:** And so, for instance, your Commission could undertake research as to whether perhaps identified positions on those boards are necessary for the transition to a more culturally adept government?

**COMMISSIONER BRIGID MONAGLE:** I would have to take advice on my powers in relation to government boards. I am not confident sitting here right now that I would have the ability to do that under the Act.

**MR MCAVOY SC:** With respect to the agencies though and the secretaries, you could make those recommendations about their particular agencies?

**COMMISSIONER BRIGID MONAGLE:** In terms - sorry, do you mind rephrasing that?

**MR MCAVOY SC:** That for those agencies in developing their respective boards that they would take - require that there be identified positions?

**COMMISSIONER BRIGID MONAGLE:** Again, I would have to take that on consideration.

5 **COMMISSIONER LOVETT:** How often does the Secretaries Board meet?

**COMMISSIONER BRIGID MONAGLE:** Monthly.

**COMMISSIONER LOVETT:** And you have a position on that?

10 **COMMISSIONER BRIGID MONAGLE:** Yes.

**COMMISSIONER LOVETT:** And do you feel an equal at the table?

15 **COMMISSIONER BRIGID MONAGLE:** I do.

**COMMISSIONER LOVETT:** Yep. So there's been a lot of questions asked today about, I think you mentioned a little bit earlier around you have influence but can't keep them accountable, but influence around that.

20 **COMMISSIONER BRIGID MONAGLE:** Yeah.

**COMMISSIONER LOVETT:** Now, I think - the reason why I'm asking you these questions is you have the ability to influence these people and drive the change alongside, them, setting the expectations, coming to your point around leadership.

25 **COMMISSIONER BRIGID MONAGLE:** Yeah. Yeah.

**COMMISSIONER LOVETT:** And do you feel that there's more you can do at that Forum to drive change?

30 **COMMISSIONER BRIGID MONAGLE:** Oh - yeah, absolutely.

**COMMISSIONER LOVETT:** On matters, we have covered upon everything today?

35 **COMMISSIONER BRIGID MONAGLE:** Yes, absolutely, Commissioner, absolutely. The only question in relation to boards is that unlike the Public Service and sector and employees within that which my boundaries are quite clear, government appointed boards are a little bit different and so my powers might not necessarily apply in the same way. But having said that, I absolutely accept I could be a stronger influence on these.

40 **COMMISSIONER NORTH:** I'm just curious with the whole discussion and all the grand codes and plans that have been spoken about, this is in the context of 700 people in a workforce of 60,000. Now, is it seriously suggested that that number is going to catch the attention of an august body like the Secretary?

I mean the picture that is presented is that there's been a real lack of attention to this particular area and I just wonder why we wouldn't expect that wouldn't continue given the numbers and the prioritising of numbers of that size in a much larger group, which gets me to the fundamental question about, is - whether the  
 5 problem is the failing - the failure to attract more Indigenous people into this coveted area of employment.

**COMMISSIONER BRIGID MONAGLE:** Sorry, do you mind rephrasing -

10 **COMMISSIONER NORTH:** Well, the first question really is all of the discussion has related to, at the moment, a workforce of 700 out of 60,000 and we're talking about cultural change to make their workplace experience better. And what I'm questioning is whether the lack of present impetus in that area comes from the fact of the very low numbers, the 700 out of 60,000. Can you  
 15 really expect that the Secretaries Board or whomever is responsible be it you or them or both, will give attention whilst the numbers are still so small? It seems to me to be, you know, a highly theoretical framing that we're wandering through at the moment. Unless the numbers are increased there's really - what's the  
 20 imperative on government, you, or on the Secretaries Board, to make cultural change for 700 people?

**COMMISSIONER BRIGID MONAGLE:** I think that there is - the size - I almost say the reverse, that the smaller the number, the more impetus there should be because the - it's so important for the Public Sector to have good, strong  
 25 First Peoples workforce for the work it does. So the number - while the number is relatively small in a large population, I'm not aware of - I'm not aware of another strategy - sorry, a group of actions or commitments or funding around a group within the Public Sector and so I feel like there is absolutely a commitment and - from secretaries around that group. I'm not sure - I don't entirely think that the  
 30 seven - whether it's small or not is part of that discussion. Have I answered your questions?

**COMMISSIONER NORTH:** Well, the other aspect that I wanted to ask you about is that I - what caught my attention earlier is when you said about workplace  
 35 participation by Indigenous people, that it was something like patchy, that wasn't the word you used, but you said that it was inconsistent, I think was the word, over the Public Service. When we were talking about leadership and what was necessary to encourage greater participation.

40 And you defined "leadership" and said that it was inconsistent over the Public Service. Now, what stands out where there's been greater success as against those areas, the inconsistent areas where there hasn't been, what is the leadership quality that you've seen that distinguishes the one from the other outcome?

45 **COMMISSIONER BRIGID MONAGLE:** Do you mean when I talk about workforce participation, numbers of people employed or in terms of being a stronger more culturally safe place?

**COMMISSIONER NORTH:** Numbers.

5 **COMMISSIONER BRIGID MONAGLE:** Numbers. I think if you look at the  
numbers of where First Nations People are employed, it's largely in relation to the  
departments where there's frontline service delivery and there's, I would say,  
greater connection to First Peoples in a face-to-face environment. Where it's more  
removed, so, for instance, say The Department of Treasury and Finance where  
10 there's lower numbers or parts of Department of Premier and Cabinet that's not the  
First Peoples State relation, there's not that frontline connection to people. That's  
where - that's my observation about the numbers.

**COMMISSIONER HUNTER:** It's pretty - it's not really progressive for our  
15 people. We would like them - they don't just need to be frontline -

**COMMISSIONER BRIGID MONAGLE:** Yes, I agree.

**COMMISSIONER HUNTER:** - workers. Like we need to create the path  
20 where people are in those other areas, because it's really low expectations for our  
people.

**COMMISSIONER BRIGID MONAGLE:** I agree, absolutely.

**COMMISSIONER LOVETT:** How many Aboriginal or Torres Strait Islander  
25 people are in mainstream executive positions? I think it was 38 on there, it might  
have been 36.

**COMMISSIONER BRIGID MONAGLE:** 36.

30 **COMMISSIONER LOVETT:** So how many are in mainstream positions?  
Because building on the low expectations, that we just tunnelled into Aboriginal  
affairs. How many people do want to go and work with our people but also it's  
kind of very limited.

35 **COMMISSIONER BRIGID MONAGLE:** Yeah.

**COMMISSIONER LOVETT:** There is a lot of glass ceilings. So, yeah, the  
question is how many are in mainstream executive positions?

40 **COMMISSIONER BRIGID MONAGLE:** I couldn't answer that, my  
observation is not many.

**COMMISSIONER LOVETT:** Yeah. And do you see that as an issue?

45 **COMMISSIONER BRIGID MONAGLE:** I do, absolutely.

**COMMISSIONER LOVETT:** Yeah. Because I mean, you know, we wouldn't always exact people from multicultural just to work in the multicultural side of the business. Just like we wouldn't expect women to work on women's-related issues. Would that be fair to say?

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**COMMISSIONER BRIGID MONAGLE:** That is absolutely right.

**COMMISSIONER LOVETT:** Our people are tunnelled into certain opportunities and this goes to broader economic prosperity and wealth and all the other areas of societal opportunities, you know. The boards are incredibly important and we know through lived experience, but also as a former bureaucrat myself, I know that many of the boards aren't represented by our people. It's really hard to get through that exhaustive process around, you know, interviews, and you know, going through and continually proving yourself and justifying why you should be appointed over another person.

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You know, it's - it doesn't work for our people. It's not that we have the skills - don't have the skills or ability to be able to do that. And then when we finally do crack big on these types of boards then we're subject to "We only talk to you about Aboriginal related stuff" rather than, "I'm just here contributing to organisational success" rather than, "Oh well, we will just get the Aboriginal person to speak up during NAIDOC."

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There's a lot of barriers and it's - I'm concerned about the pathway to, you know, we have heard many people sitting in your seat but also ministers come and talk about Treaty, talk about, you know, Treaty readiness and if we can't get, you know, opportunities but also our people working in cultural safe environment in government how do we expect the departments to be Treaty ready and be able to ultimately transfer power and resources if we can't just be able to turn up to a workplace and be valued for what we bring our culture, our identity and be able to just thrive in that environment? How does community have confidence that, whether it's VPSC, whether it's justice, education and really be Treaty ready, but ultimately transfer power and resources?

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**COMMISSIONER WALTER:** Just building on Commissioner Lovett's point, in the current framework, is there an action to build the numbers of First Nations People in mainstream executive positions?

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**COMMISSIONER BRIGID MONAGLE:** Not specifically, no, just general.

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**COMMISSIONER WALTER:** Is there any reason why not?

**COMMISSIONER BRIGID MONAGLE:** No. No, there's not.

**MR MCAVOY SC:** Thank you, Commissioner Walter.

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I have one final set of questions for you, Commissioner Monagle. You are just over one year into your term. The term is a five-year term?

**COMMISSIONER BRIGID MONAGLE:** Yes, that's right.

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**MR MCAVOY SC:** So there's just shy of five years to go?

**COMMISSIONER BRIGID MONAGLE:** Four years.

10 **MR MCAVOY SC:** Sorry, four years to go. Where would you expect the Victorian Public Sector to be by the time you finish your term in terms of its relations with First Peoples and - First Peoples participation in the Public Sector?

15 **COMMISSIONER LOVETT:** Just before you answer that can I just take you back to when you spoke so passionately about working in New Zealand about Māori culture, tradition, language and stuff before you answer that, because I think it's, you know, what do you -

20 **COMMISSIONER BRIGID MONAGLE:** Rather than expect, what I would hope for, if I can answer it that way. I would hope that our number of First Peoples in the Public Sector and in leadership roles and to go to the Commissioner's point about mainstream as well that there is a growing and more even spread of First Peoples in the sector. And I would very much like to see much greater cultural capability awareness and competency in the Public Sector and much greater as the - and much greater sort of, I guess, self-determination in the Public Sector as well. And so that we're there to support Public Sector staff, to implement those government policies and work with Traditional Owner groups or Treaty partners, but also to working confidently and in line with self-determination principles with Aboriginal service delivery agencies as well.

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30 **MR MCAVOY SC:** I suggest to you that you referred - in your answer you've said it should be much better. But what we're talking about here, if we're going to achieve any sort of equity it's exponentially better, isn't it, not just much better?

35 **COMMISSIONER BRIGID MONAGLE:** Exponentially, potentially. But also knowing - having - I should have said I want to have the data to know how to measure that in a meaningful way, not a sort of input or a download data. I want to have the information to better understand how we're tracking and so that if things aren't tracking as we would - we project that we're able to intervene.

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**MR MCAVOY SC:** In order to achieve that in the remaining four years, you would want that data by the end of this year, would you not?

**COMMISSIONER BRIGID MONAGLE:** I'd like it tomorrow.

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**MR MCAVOY SC:** What steps are being taken to get that data now? How - are you going to have that data at the end of your second year in the office?

**COMMISSIONER BRIGID MONAGLE:** No, I doubt that.

5 **MR MCAVOY SC:** How long is it going to take to get that data in a satisfactory way in order for the First Peoples of Victoria to participate fully in the Public Sector?

10 **COMMISSIONER BRIGID MONAGLE:** I'm hesitant to put a timeframe on it. Some of the data requires - would - to get the data would require significant change to how Departments run their payroll systems and run their workforce data systems. They - and the change required would be - would be - what's the right word? It would be significant or intense change that's required and it would be - some of the change required would require consultation with unions and a range of different entities to get there. So I'm hesitant to put a timeline on it not to sort of  
15 duck from what you're asking me, but more in that the efforts are complicated and the change - to get the change that we want to see.

20 **MR MCAVOY SC:** Is it simply a resources issue, Commissioner? If you had the resources could those agencies make the adjustments with - in a suitable time?

**COMMISSIONER BRIGID MONAGLE:** It's not just resources, although that's part of it. But as you would expect, these data systems are highly complicated, in complicated workforces, and any change made to them needs to be done in a very - in a very deliberate and planned way. So managing payroll systems is - it's - you don't want to mess, you don't want to not pay people. So you've got to make sure that you are progressing it very much, deliberate and planned and so part of it is around the organisation and the planning to get there. Part of it also too is we don't know how many First Peoples don't identify either through the workforce data or through the People Matters data for - as First Peoples. There has been  
25 a fear - I understand that there's a fear in the past in identifying potentially for discrimination and so part of the story too is what we have spoken about is making Public Sector work forces more culturally safe, so people feel more safe to identify.

35 **MR MCAVOY SC:** I can tell you that we've also had evidence here about overidentification being a more prevalent experience, particularly in (crosstalk) other sectors. So the numbers might, in fact, be inflated. Now, I'll just make this observation that if the achievement of your aspiration for the end of your term is dependent upon data then you might not get there. Do you have a plan B?  
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**COMMISSIONER BRIGID MONAGLE:** That is one of my aspirations for the term. So in terms of - sorry, do you mind repeating the question?

45 **MR MCAVOY SC:** Well, you've said that your aspirations for the - for your term were to - for much greater participation in the workforce and much greater participation in leadership roles and much greater cultural safety in the Public Sector, and you said that, but critical to achieving that is having access to the data.



And then I asked you whether you could get the data in 12 months and you said "No, I don't think so." So I'm standing here hearing your responses saying it doesn't appear to me that you can achieve the outcomes that you have identified if the data is critical to those outcomes and you're not going to get the data. Is there  
5 some other plan that you've got in mind besides that one relying upon the data?

**COMMISSIONER BRIGID MONAGLE:** Yes. So one of the things we are doing over the next 12 months is I guess for want of a better word is work around the terms of the data and actually work with the key agencies, so the key  
10 departments about more manual collection of data rather than relying on their payroll systems. So working with them to go through payroll systems and utilise a range of what we - what are referred to as ANZSCO codes. I'm not sure if you are aware of those but codes around different industries and manually applying those so they can check data instead of relying on the systems which would make  
15 that more straightforward. So the manual is not ideal and it would be a lot of individuals processing but it would help us towards the data collection as well. So - but also working with HR leads in agencies to understand what is possible in the near term.

**MR MCAVOY SC:** But would you have any resistance to coming back before this Commission at a later stage to report upon what you've been able to achieve in terms of delivering on your aspirations?

**COMMISSIONER BRIGID MONAGLE:** No, I'd be happy to.  
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**MR MCAVOY SC:** Commissioners, I don't have any further questions at this stage and I note that we have run over time and you have, you are taking another witness at 2.30. If there are no other questions.

**COMMISSIONER LOVETT:** I've just one, a quick one. I hope it's quick. Do you have any source beyond First Peoples State Relations - so the question is really around independent advice. Where is - is there any independent advice coming to you as the Commissioner for the VPSC from First Peoples?  
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**COMMISSIONER BRIGID MONAGLE:** As a group, so as part of our research we did on acknowledging (inaudible) we did focus groups, but not as individuals, no. I mean, individuals are always welcome to approach me. They haven't during my term.  
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**COMMISSIONER LOVETT:** Because we are grappling with providing systematic recommendations for change and one of the things is on our mind is accountability, system accountability and I think that trying to understand where and how independence can play a pivotal role in how future directions are shaped.  
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**COMMISSIONER BRIGID MONAGLE:** We do - sorry, Commissioner, I spoke over you - as part - we do have our advisory group, which is made up of largely senior Aboriginal employees and also, I guess you would call them people  
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in cultural leads for Aboriginal staff and they provide advice to us as well. It is within the boundaries of their employment so - but they - they provide advice to us.

5 **COMMISSIONER LOVETT:** And what is something that you're proud of that you've seen change in the context to your leadership around First Peoples? It doesn't just have to be in this role, but what's something that you want to share with us about what you've been able to drive as in change for our people to progress, whether it be big, small?

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**COMMISSIONER BRIGID MONAGLE:** In terms - sorry, in terms of this role or in general?

**COMMISSIONER LOVETT:** Up to you.

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**COMMISSIONER BRIGID MONAGLE:** I guess the most proud moment of my career was working on the first Treaty legislation and that was my career highlight.

20 **MR MCAVOY SC:** Chair, that concludes the evidence of this witness. Might the Commissioner Monagle be excused?

**CHAIR:** Yes.

25 **MR MCAVOY SC:** And we are due back at 2.30 at which time Ms McLeod SC will be taking the next witness who is Tim Ada, the Secretary of the Department of Jobs, Skills, Industry and Regions.

**CHAIR:** Thank you.

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Thank you, counsel. Thank you very much for today.

**COMMISSIONER BRIGID MONAGLE:** Thank you.

35 **CHAIR:** And we will adjourn until 2.30, we are saying.

**MR MCAVOY SC:** 2.30 may it please the Commission.

**CHAIR:** Adjourned.

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**<THE HEARING ADJOURNED AT 1.56 PM**

**<THE HEARING RESUMED AT 2.37 PM**

45 **MS MCLEOD SC:** Thank you, Chair.

**CHAIR:** This session of the Yoorrook Justice Commission has recommenced.

**MS MCLEOD SC:** Thank you, Chair. The witness for this afternoon is Mr Tim Ada.

5 Welcome. Would you please state your full name for the Commission?

**MR TIM ADA:** My name is Timothy James Ada.

10 **MS MCLEOD SC:** Mr Ada, you are the Secretary for the Department of - full name - Jobs, Skills, Industry and Regions?

**MR TIM ADA:** Yes, I am.

15 **MS MCLEOD SC:** Do you undertake to give truthful evidence to this Commission today?

**MR TIM ADA:** I do.

20 **MS MCLEOD SC:** The Commissioners may have a earlier version of Mr Ada's statement. There is a version that is dated today's date, 13 June. I don't know which version you have.

**COMMISSIONER NORTH:** Mine is 7 June.

25 **MS MCLEOD SC:** I will just point out the slight change. There's a change to paragraph 135.

The reference there to, "Eight per cent", Mr Ada, you wish to amend that percentage?

30

**MR TIM ADA:** I do. Point 135 should reflect that around a third of Public Sector bodies attached to the Department have First Peoples representation on them. So it was a transcription error in the statement.

35 **MS MCLEOD SC:** So paragraph 135, Commissioners, across the Departments' portfolios, the statement should read:

"Around one third of Public Sector boards have a First Peoples representative."

40

**COMMISSIONER LOVETT:** It would be good to understand that in more tangible terms, anyway we can unpack that during the session.

**MS MCLEOD SC:** In terms of how many people that is?

45

**COMMISSIONER LOVETT:** Yes, correct.

**CHAIR:** Okay.

**MS MCLEOD SC:** And for the transcript the statement is DJSI.0006.0001.0019, although I will just check if there's a revised number for that. Yes, we will fix that  
5 up with the tendering.

So, Mr Ada, you wish to make an opening statement?

**MR TIM ADA:** I do, just a brief one if that's okay. Thank you, thank you, Chair.  
10 Thank you and good afternoon. I begin by acknowledging the Traditional Owners on the land which we are meeting today, the Wurundjeri of the Kulin nation and pay my respects to their Elders, past and present. I also acknowledge all First Peoples here today and joining online. I also acknowledge that sovereignty has never been ceded.

15 Thank you, Commissioner Hunter, for the warm Welcome to Country that I watched online.

I acknowledge the Commissioners and your leadership in this historical  
20 truth-telling process. I also recognise the ongoing leadership of First People communities and Traditional Owners across Victoria as well as their businesses and entrepreneurship in paving the way towards greater economic parity. For Millenia, First People in what we now call Victoria had thriving economies based on connections to land, water and resources. The ongoing and wide-ranging  
25 impacts of colonisation resulted in First Peoples exclusion in economic participation including education attainment, employment and wealth creation.

The Yuma Yirramboi Strategy has the aim of achieving economic equity for First Peoples in Victoria within a generation. The true value of economic prosperity for  
30 First Peoples in Victoria will not only be realised in improved economic indicators, but in wider societal factors. I acknowledge the leadership of the Koori Caucus, which led the development of the Yuma Yirramboi Strategy and their and other First Peoples partnership bodies, which work closely with the Department.

35 I thank the Koori Caucus for their advice in identifying where the Department needs to do better. In giving evidence today I'm committed to meaningfully assisting the Commission.

40 I thank the Commission to be able to make these brief opening remarks and to be able to answer your questions. Thank you.

**MS MCLEOD SC:** Thank you, Mr Ada. Can I invite you to turn to paragraphs 11 and 12 of your statement? You've made reference to the colonial history of the State and its impacts. Could I invite you to read paragraph 11 and 12 of your  
45 statement?

**MR TIM ADA:**

5 "The enduring impact of this history and its systems continues to inflict harm on First Peoples today. Genuine self-determined economic development is crucial to repairing the State's relationship with First Peoples in Victoria. This means wealth creation that is owned and controlled by First Peoples and Traditional Owners that is sustainable and enduring and not subjected to dictation by the State.

10 As the Secretary of DJSIR, I acknowledge the opportunity and responsibility of DJSIR to support First Peoples in Victoria to access the skills and jobs they want and need to fulfil their career aspirations; to support more First Peoples businesses to start, grow and thrive and to support First Peoples to have the same opportunities as all Australians to build wealth and prosperity."

15

**MS MCLEOD SC:** And you acknowledge in paragraph 13:

20 "There's much more that I and the Department need to do to support First Peoples economic development and prosperity."

20

**MR TIM ADA:** I do.

**MS MCLEOD SC:** Not just because of our historical colonial legacy but because of the need of these people's?

25

**MR TIM ADA:** That's right.

**MS MCLEOD SC:** You play a key role as Secretary of the Department in delivering on government policies and programs aimed at elevating the economic status of First Peoples in Victoria. Correct?

30

**MR TIM ADA:** That's right.

**MS MCLEOD SC:** And you've reflected in your statement on that colonial history, and the early history of this state with a recognition that the economy of Victoria thrived because of the land resources and associated uses that were taken from First Peoples. Correct?

35

**MR TIM ADA:** That's right.

40

**MS MCLEOD SC:** That deprivation of the land and its natural resources has created drivers of intergenerational poverty and disadvantage. Do you agree with that?

45 **MR TIM ADA:** I do.

**MS MCLEOD SC:** In your statement, you address the steps that the government has taken, including through the work of the Department under your leadership, to improve First Peoples economic development. Your statement addresses action taken internally and actions taken via, what I might call external programs or grants to other bodies.

**MR TIM ADA:** That's right.

**MS MCLEOD SC:** Can I ask you, in a general sense, your view in light of your opening statement and the paragraphs that we have just read in your statement, how well the Department is tracking against this objective of economic empowerment?

**MR TIM ADA:** I would answer that by saying that we have made some positive steps in recent years, including a more active relationship with Victoria's First Peoples through a number of partnership bodies with which we work closely; by improving the way in which we allocate grant moneys, for example, to Aboriginal businesses and Traditional Owner corporations to give them more flexibility with regards to how they pursue their economic goals. But we are a long way short of true self-determination in terms of how we function as an organisation.

**MS MCLEOD SC:** In terms of that gap or shortfall for self-determination where are the areas of need?

**MR TIM ADA:** I think I feel confident we are on the right path as an organisation in much, having a much better understanding of the needs and wants of Aboriginal Victorians in terms of their economic aspirations, their education aspirations. But for a number of reasons we haven't been able to make the progress that we could have or should have with regards to transferring the control and resources to Aboriginal people to make those decisions for themselves.

**MS MCLEOD SC:** Okay. So can you explain in a broad sense what those failings look like at more granular level?

**MR TIM ADA:** Our system of government largely sees the Victorian bureaucracy and my Department is an example of working to provide advice in pursuit of the delivery of commitments and policies made by the State. And as I've just mentioned, I think we've got better as an organisation being able to represent advice often now, which is co-designed with Aboriginal Victorians. But our system of government sees the elected representatives in ministers in most instances making the final decision with regards to the allocation of resources.

And even though we have been able to make steps towards providing support to First Peoples organisations and Traditional Owners organisation in a much more flexible ways that honours their right to make decisions about pursuing businesses opportunities and economic opportunities, the principal resources allocation decisions are still made by the State. Now, that's - I'm not being disparaging when

I say that. I'm just answering your question about the way in which ultimate decisions are largely made.

5 But the organisation, as I've said, I think has taken some considerable steps to much better understanding and representing in the advice to ministers how programs should be delivered and how grants are ultimately structured in a way that delivers more self-determination for Victorian businesses and Traditional Owner corporations, recognising there's still a long way to go.

10 **MS MCLEOD SC:** You are saying you are doing the best with the funding you are given and/or are you saying you could do better with the funding you are given?

15 **MR TIM ADA:** We could do better with the funding that we have already got and, of course, we could do more with more resources if it were allocated. Our organisation has taken some positive steps including under the leadership of my predecessor which I've sought to build on, in making the organisation a more culturally competent organisation, that we're not yet an organisation, I would describe as culturally competent, but we are more competent than we were.

20 One of the things that I've been speaking to the organisation about over the course of the last years is the pursuit of the Yuma Yirramboi goal of achieving economic parity for First Peoples in Victoria within a generation is everyone's business in the Department. And that culture change inside an organisation takes time. So to answer your question we could do better with the resources that we've currently got to allocate as an organisation, we could certainly do more if more were allocated.

30 **MS MCLEOD SC:** Can I ask you to reflect on this broad question and we might come back to it? You've had something like 25 years in the Public Service and around a year in this current role.

**MR TIM ADA:** Just over a year, that's right.

35 **MS MCLEOD SC:** Are the systems and structures of the Public Service fit for purpose in order to deliver on the goal of economic empowerment of First Nations People?

40 **MR TIM ADA:** I think what I would say in respect to that question is that the systems within - the institutional systems within the Victorian Public Service are not robust enough to make the progress that we want to see. They are better than they've been, but there is a degree of autonomy that is left to leaders such as myself in pursuit of the progress that we need to make. That's a responsibility I'm prepared to carry. But to answer your question I think there is room for stronger  
45 institutional arrangements within the Victorian Public Service and sector, and opportunities for more coordination across departments.

**MS MCLEOD SC:** Sorry, I understood the first part of your answer just before, was that you do effectively, these are my words, the best you can with the budget you're given and there are things you can do internally as well. So that brings me back to my question . Is the Public Service actually capable ever delivering these reforms or are we dependent on political decisions made, government being set by policies?

**MR TIM ADA:** I'd like to think that the Victorian Public Sector can be capable of delivering the reforms. It may well not be in its current form and that reflects the fact that we haven't yet made the steps that we need to and some of those steps require institutional change, some cases governance change and investment ultimately. I'd like to think the Public Service in Victoria and the Public Sector in Victoria is capable of delivering the reforms required but it's not yet, in my -

**COMMISSIONER WALTER:** Can I ask a more basic question? I know we are mostly looking at census data, but in the last 20 years, 2001 to 2021 - has the economic position of First Peoples in Victoria improved?

**MR TIM ADA:** One way to look at that question is to look at the Close the Gap targets and we just haven't seen the progress no, Commissioner. There are other reference points including the number of Aboriginal businesses, which has grown actually quite significantly over that period but on fundamental measures of employment and income -

**COMMISSIONER WALTER:** Household ownership.

**MR TIM ADA:** Yeah. And household ownership they haven't moved substantially. There are some measures where they have.

**COMMISSIONER WALTER:** In 20 years.

**MR TIM ADA:** I acknowledge that.

**COMMISSIONER NORTH:** The references you made to, in effect, restructuring the Public Service to meet the reform aims, can you describe what you have in mind there?

**MR TIM ADA:** In part I'd answer the question.

**COMMISSIONER NORTH:** Coordination I think was one of the things that you mentioned.

**MR TIM ADA:** So while there is, and I think you had the Victorian Public Sector Commissioner just earlier and she spoke about the role that the Commission has in terms of providing policies and I think the Commission does a very good job. I think there is an opportunity for more shared principles and coordination across the Victorian Public Sector in pursuit of the goals around, for



example, economic equity for First Peoples. I think I mentioned before that the competence of my organisation while not incompetent is not - doesn't have the level of cultural competency that we'd like it to have, and we're making progress but we've got a lot more to do.

5

And then I think I mentioned that there are some - there's the opportunity which is ultimately a matter for the government, about institutional governance changes that might move closer to self-determination around the transfer of power and control. So I think there's things within organisations, including mine around competency. I think there's opportunities around coordination and I think there's opportunities for - which is a matter for the government and I'm conscious that the Treaty negotiations are just around the corner - around what some of those broader changes might be that go the way government works with Aboriginal people.

15 **COMMISSIONER NORTH:** I'm still a little unclear about the coordination -

**MS MCLEOD SC:** Commissioner North, can I ask you to turn your microphone on?

20 **COMMISSIONER NORTH:** It's on.

**MS MCLEOD SC:** Okay, thanks.

25 **MR TIM ADA:** On coordination? So one of the coordination mechanisms we have and I think it is a good one is the Closing the Gap Forum, which a number of senior First Peoples in Victoria participate in and, indeed, chair. And as a Secretary I'm a member of that Closing the Gap Forum. I think there's an opportunity for that Forum and for the secretaries to play a stronger role, including myself. I think there's an opportunity for the Victorian Secretaries Board of which  
30 I'm a member to play a stronger role and to provide for more accountability with regards to the progress, including against Closing the Gap measures and other things.

35 And I'm not being critical of what currently exists, but I think those are the sorts of tangible things that we need to drive the cultural change inside organisations and for the Victorian Public Sector as a whole and service as a whole to be delivering around self-determination.

40 **COMMISSIONER LOVETT:** Can I hop in here? You mentioned leadership a bit earlier. How many executives are in your executive team across the Department?

45 **MR TIM ADA:** We have an executive board and there is not a member of an Aboriginal Victorian who is a member of the executive board. We have an Aboriginal man who is associate Deputy Secretary in the organisation who leads our Aboriginal economic development branch. We are currently recruiting for two executive positions, one in greater Victoria and one in the Aboriginal

economic development branch, which I would expect and hope are filled with Aboriginal Victorians. That gives you a sense, Commissioner.

5 **COMMISSIONER LOVETT:** Yeah, I guess my question, Secretary, is though, how many? As I understand you've got an executive board but how many executive directors, how many directors across the organisation does it have? Do you have 50 in your executive leadership team and I'm talking about SES1, 2 you are SES3?

10 **MR TIM ADA:** That's right so we have the order of 130 executive across all executive classes in the organisation. We, I think, had two First Peoples on the executive. We have currently got one and we are recruiting for two executive roles at the moment.

15 **COMMISSIONER LOVETT:** And how many of those Aboriginal or Torres Strait Islander people in those executive positions are in mainstream?

20 **MR TIM ADA:** One of the roles that we are advertising for at the moment is a senior technical specialist in our Creative Victoria team, which, and the other role we are advertising for is in our Aboriginal Economic Development branch.

25 **COMMISSIONER LOVETT:** So that's at the moment zero, though. Like, the question is how many Aboriginal people in mainstream executive roles right now, Secretary?

**MR TIM ADA:** None.

30 **COMMISSIONER LOVETT:** None. Zero. And how many direct reports do you have?

**MR TIM ADA:** About seven.

**COMMISSIONER LOVETT:** Seven deputy secretaries report direct to you?

35 **MR TIM ADA:** Six deputy secretaries and the CEO, yeah.

40 **COMMISSIONER LOVETT:** And what plans or thoughts do you have around elevating, to a Deputy Secretary role? You know, I mean not to take away and I'm not talking about individuals purposefully, but you have associate Deputy Secretary, how many associate deputy secretaries do you have across the organisation?

**MR TIM ADA:** We only have one associate Deputy Secretary role.

45 **COMMISSIONER LOVETT:** Who is Aboriginal?

**MR TIM ADA:** That's right, yes.

**COMMISSIONER LOVETT:** How does that sit with you? It doesn't seem right.

5 **MR TIM ADA:** We did have three and we have now got one. That's right.

**COMMISSIONER LOVETT:** It doesn't sit right though. You are the leader of the organisation and other secretaries have been promoted to the Deputy Secretary level and we are in 2024 and you've got, you know, big plans, big aspirations by  
10 the sounds of it so far. And looking at career pathways with the Department of Jobs here and Regions, and you know it's hard to grapple with not having any Aboriginal people in my mainstream executive roles which we heard earlier from Public Sector Commissioner very little and also one that is isolated to be Associate Deputy Secretary. I think visually people in the organisation would be sort of,  
15 I guess, reflecting going how important is it? If we have one associate dep sec who is Aboriginal and the rest of them not? I think visually you can understand what I'm trying to.

**MR TIM ADA:** I understand, Commissioner, and we don't have the Aboriginal  
20 representation at senior levels in the organisation currently, and I'd like that to be different. I accept that.

**MS MCLEOD SC:** In terms of talent identification and recruitment to executive  
25 roles, what steps have you taken to nurture - to look for that talent and nurture it?

**MR TIM ADA:** We have a number of staff in the organisation that have been supported to build their leadership capacities. A couple of First Nations staff in the organisation are currently involved in significant external leadership  
30 development training at the moment. In the next financial year, we have allocated a small amount of money to support learning and development specifically for First Peoples employees in the organisation and I acknowledge it is a small amount of money. But we have put that aside as a priority to support the learning and development and professional development priorities of our First Nations People in the Department.

35 **COMMISSIONER WALTER:** Can I ask you how much it is?

**MR TIM ADA:** It's \$100,000 we have put aside for next year.

40 **COMMISSIONER LOVETT:** Is that an internal reprioritisation that you've done through that or was that a budget bid process? How did you identify the 100K?

45 **MR TIM ADA:** Can I take that question on notice, Commissioner? Sorry, I just don't have that with me, yeah.

**MS MCLEOD SC:** As well as the executive level isn't and deputy secretaries, your Department works closely with trade commissioners, Victorian trade commissioners and people with economic expertise. Correct?

5 **MR TIM ADA:** That's right.

**MS MCLEOD SC:** So how many trade Commissioners are there representing Victoria today.

10 **MR TIM ADA:** We have seven commissioners, based off-shore.

**MS MCLEOD SC:** How many of those are First Nations People?

15 **MR TIM ADA:** None are.

**MS MCLEOD SC:** How many assistant trade commissioners are there where First Peoples.

20 **MR TIM ADA:** I'm not aware that we have any First Peoples working in our overseas network of which is about 100 staff.

25 **MS MCLEOD SC:** And when you send people on trade delegations with other countries, at what level and in what capacity are First Nations People participating in those trade exchanges?

30 **MR TIM ADA:** Over the course of the last 18 months or so, supported by Yuma Yirramboi, the Department has supported a number of First Peoples trade missions to a number of countries. 30 or more Victorian Aboriginal businesses have participated in those trade missions. Those trade missions have been specifically about providing opportunities to better understand export market opportunities, meet potential customers and understand the culture of those markets.

35 Separate to that, we have a broader trade missions program, inbound and outbound trade missions. We have conducted about 30 of those over the course of the last 12 months. It's a longstanding program and in the next financial year we have plans for about 20 inbound and outbound missions. There has been some Aboriginal participation in those inbound and outbound trade missions, not enough and it's a priority for us to engage and encourage more Victorian Aboriginal businesses to participate in that missions program over the course of  
40 the next 12 months.

45 **MS MCLEOD SC:** And for those - I use the term mainstream as opposed to the First Nations exchanges - for those mainstream trade exchanges, in what capacity are First Nations People participating?

**MR TIM ADA:** Our intention would be that they participate like any other business with a view to identifying their opportunities for their own business and

ideally securing them. The success of those trade missions are measured by the new custom contacts and the export business that are concluded by the participant businesses.

5 **MS MCLEOD SC:** So when you said it's the intention, is it happening now, or is that -

10 **MR TIM ADA:** That's happening now, it's just that we don't have enough Aboriginal businesses to use your term in the mainstream trade missions program and that's something we want to change. We have had members of the Aboriginal economic development branch travel on a number of the missions I've mentioned over the last 12 months, which has been important and more than half of our international network has participated in cultural awareness and safety training over recent months with a view to increasing their competency. But I accept that  
15 we don't have any First Peoples members of staff as part of that overseas network.

**COMMISSIONER HUNTER:** Can I just ask how - do you reach out to businesses or do they need to find you? I'm wondering where you get the Aboriginal business from. If you've got no one internally it's probably not the  
20 safest space, but it's probably a really good opportunity our First Peoples business. Right? So how have those people gone about navigating that?

**MR TIM ADA:** So the missions, the trade missions, the inbound and out bound missions are promoted through various channels including the Global Victoria website. One of the keys I think to success is our Aboriginal economic  
25 development team working closely with colleagues across the organisation to identify businesses who might be ready. It's not for every business, because you had to have a certain readiness in terms of your ability to conduct business overseas. And then partnerships with organisations like Kinaway and others are  
30 really important in identifying businesses that might be ready to participate in one of those missions.

Commissioner, we are not as mature in this area as we would like to be, and we need to continue to improve in terms of how we work internally with partner  
35 organisations like Kinaway and others to better reach Aboriginal businesses who might be willing to participate.

**COMMISSIONER HUNTER:** And just curious, what sort of areas have the businesses that have gone over, what areas have they been in, so what's their  
40 business?

**MR TIM ADA:** Aboriginal businesses just in the last 18 months? (Crosstalk) I think there's been businesses a number of in the food production, fashion, beverage production. I think there's been some professional services companies.  
45 That gives you a sense, Commissioner, of the sort of companies.

**COMMISSIONER HUNTER:** Yeah, that's good. Thank you.

**COMMISSIONER LOVETT:** Can you just articulate to us what the role of these commissioners are? I think there's seven if I remember correctly. What do they do?

5

**MR TIM ADA:** Commissioner, they're appointed under an Act that sees them being the, in effect not a diplomat but a trade and investment representative for the state of Victoria, in terms of supporting Victorian businesses to pursue export opportunities and also to identify and attract businesses abroad that might be, have an interest in investing in Victoria for the purpose of, sort of economic growth for the state. That's their primary purpose.

10

**COMMISSIONER LOVETT:** And I mean I'm just coming back to counsel's point here where - do you see the benefit in having representation from Aboriginal people on - in that role?

15

**MR TIM ADA:** Yes, absolutely and I'd like to see more members of staff who are First Peoples.

20

**COMMISSIONER LOVETT:** Who appoints those commissioners?

**MR TIM ADA:** They're appointed through governing council process, Commissioner, under an Act recommended by the relevant minister and then appointed through a governor in council process.

25

**COMMISSIONER LOVETT:** Does your Department put up any proposals having an eighth Commissioner who is Aboriginal?

30

**MS NERITA WAIGHT:** We haven't put that formally in advice to the government, Commissioner, no.

**MS MCLEOD SC:** The businesses who do accompany trade missions, you've mentioned those who might be export ready, or looking for those sort of opportunities, so they're poised. What sort of criteria does the Department use to assess the standing of those businesses?

35

**MR TIM ADA:** The principal selection criteria, most of those missions have a sectoral focus or a market focus so they are demonstrating fit from a market perspective, obviously their export readiness and their ability to conduct business. And then often there are co-contribution requirements from the participating business, not significant but some co-investment by way of, you know, incurring some travel costs, and those things.

40

**MS MCLEOD SC:** And then the other thing you mentioned was cultural change. Are those people selected because of their expertise in cultural training, knowledge exchange?

45

**MR TIM ADA:** The First Nations businesses that have participated in the First Nations trade missions again, have been largely identified for their interest in that market and their interest in doing business in that market. We have been careful not to ask them to play the role of a sort of a cultural ambassador, if you will,  
 5 trying to answer your question. We are conscious of the cultural load that Aboriginal businesses carry, and we wouldn't wish to infer any additional responsibility on an Aboriginal business that we wouldn't on any other business that participates in that mission.

10 Reflecting, of course, that one of the objectives of those First Peoples trade missions has been there has been a cultural exchange element of those missions and that has been described with the participants and in some cases organisations like Kinaway that we've partnered with.

15 **MS MCLEOD SC:** So the organisations like Kinaway are making recommendations to you about who performs those cultural exchange elements or who are businesses who are ready, export ready?

**MR TIM ADA:** So, for example, we recently partnered and supported a mission  
 20 that was designed and led by Kinaway. It was to North America. There was a significant number of Victorian First Nations businesses that participated and Kinaway in that instance was responsible for designing the program and we supported that here in Victoria and a member of our team based in North America supported the mission on the ground from a logistics perspective.

25 **MS MCLEOD SC:** Sorry to take you off track here, but I'm just staying with this line of questioning and bringing in example closer to home. Say there's a free trade agreement that's negotiated between governments. Let's take the UK agreement, which includes reference to provision of legal services and there's an  
 30 opportunity for lawyers to take a trade delegation if they happen to be looking at your website and work out there's that opportunity. How do First Nations lawyers get themselves in front of the Department and say, "Pick us as a group, we want to go and do an exchange to explore opportunities for our legal services overseas"?

35 **MR TIM ADA:** So that opportunity exists to a degree now, but we have not been proactive enough as an organisation to go to the Commissioner's earlier question about being proactive to draw the opportunity to the attention of Aboriginal  
 40 businesses in Victoria. We've not been as proactive as we should have been and that's a priority for us moving forward, to make sure that Aboriginal businesses, be they legal services companies or otherwise, at least have an awareness of the opportunity and an opportunity to talk to the Department about what opportunities might exist.

45 **COMMISSIONER HUNTER:** (Inaudible) so you haven't been proactive, but you've got a strategy. Lots of (inaudible) and on the strategy, because counsel may go there a bit further, but Koori Caucus is not involved. They've been disbanded.

**MR TIM ADA:** Commissioner, if I can just before I come to that, I was referring to our mainstream - if you will use that term that has been used today - trade missions program. We have not been proactive enough as a Department in  
 5 engaging with Aboriginal businesses and peak bodies. That's what I was referring to earlier.

If I can come to your question now about the Koori Caucus, the Koori Caucus yes, does exist. We have nine members of the Koori Caucus. The Koori Caucus in an  
 10 earlier incarnation was responsible for developing Yuma Yirramboi as a strategy and the Caucus is a partnership body that we work with closely in terms of the implementation of Yuma Yirramboi and increasingly talking to the Caucus about opportunities to cross the Department to do things differently in pursuit of the  
 15 overarching goal that the strategy has around economic equity within a generation.

**COMMISSIONER HUNTER:** (Inaudible) First Peoples within.

**MR TIM ADA:** Exactly yes.

**COMMISSIONER HUNTER:** Is that others (inaudible) just a thought.

**MR TIM ADA:** Commissioner, the strategy that we have been pursuing and talking with the Caucus about is how do we best deliver programs and strategies like Yuma Yirramboi, but embed the principles of self-determination and the  
 25 aspiration for greater Aboriginal economic development in everything the Department does. That's very much the work that we're doing inside the organisation. That's nascent in some parts of the organisation, it's more mature in others.

**MR TIM ADA:** The programmatic funding we get for the implementation of Yuma Yirramboi is fairly modest in the scheme of things and there's a bigger opportunity to better  
 30 target and leverage the Department's base funding across the 11 portfolios that we support in pursuit of the broader objective of Yuma Yirramboi, which is around growing economic equity in Victoria. So that's very much something that we are  
 35 focused on as an organisation and it's nascent in some respects.

**COMMISSIONER WALTER:** Right. So when can First Peoples expect to see that? That strategy, is actually going to go right across the Department rather than  
 40 being in a niche back water.

**MR TIM ADA:** I'd like to think this is something we have been talking to the Caucus about and other partnership bodies like the First Peoples Direction Circle for creative - our creative portfolio and the Koori skills working group for  
 45 education and training. I would like, Commissioner, to see some practical improvements, if you can call it that, from the coming financial year and I'd like to think that that can grow over time.



**COMMISSIONER WALTER:** And who is responsible, who's ultimately responsible, whose head is on the chopping block that that actually happens?

5 **MR TIM ADA:** In some respects mine as the leader of the organisation. I've sought to embed over the last 12 months, explicit goals in all of the executive performance plans in the organisation that Commissioner Lovett me about how many, there's about 130 executives. And in the coming financial year, I would like to make the goals for all of our executives more explicit, related to tangible steps that we're taking inside the Department and that would extend to Aboriginal employment and procurement.

**COMMISSIONER WALTER:** I just want to reiterate the first point that we have seen no progress in 20 years.

15 **MR TIM ADA:** Understand, Commissioner.

**MS MCLEOD SC:** Sorry, Commissioner.

20 **COMMISSIONER LOVETT:** What are you doing to strengthen the capacity for non-Aboriginal businesses around exportability? What are you doing in that regard?

**MR TIM ADA:** In terms of supporting the cultural competency?

25 **COMMISSIONER LOVETT:** No, not about cultural at all. Just like for businesses to get them ready to strengthen their ability to export their products?

**MR TIM ADA:** Okay.

30 **COMMISSIONER LOVETT:** Not Aboriginal at all, just mainstream, to use that word again. What do youse do as a Department to lift them up and make sure that they're - to generate the wealth from our lands?

35 **MR TIM ADA:** Some cases there are budget initiatives from time to time that go to specific endeavours, be it digital games or food historically, or fashion. There have been programs in the past which are specifically about building the export readiness of businesses. Moreover, businesses that participate in inbound and outbound trade missions have the opportunity to participate in a number of workshops and if you can call it information sessions about making sure that they are as ready as possible to seize the opportunities.

**COMMISSIONER LOVETT:** And how many years has that kind of been a practice?

45 **MR TIM ADA:** Been a long time, Commissioner.

**COMMISSIONER LOVETT:** And then I then bring us to First Nations businesses, that same opportunity is not there, like we can't even articulate to say it's in its infancy we have been left behind being able to export our food, it could be culture, it could be anything, it could be any business that our people want to set up.

**MR TIM ADA:** I recognise that and the only thing I would add is that under Yuma Yirramboi in last 18 months there have been some steps to have a more explicit focus on supporting the export readiness and the ability to capture export opportunities by First Nations businesses, but it's in its infancy, Commissioner.

**COMMISSIONER LOVETT:** You may need to take this one on notice, I've read through and I don't get a sense that we understand the true investment that's gone into non-Aboriginal businesses to get them export ready compared to our people's businesses to get them export ready. We are hearing that you've got to have - to be able to export internationally you have got to have a minimum of a million-dollar turnover in your business to be able to do that. So if we are not able to build that wealth and have the capital, which is what we will come to a bit later, opportunities to raise capital, that's - we will never be able to break the threshold.

**MR TIM ADA:** I agree, Commissioner.

**MS MCLEOD SC:** Mr Ada, it's your responsibility to deliver on the government's policy of growing prosperity through jobs and skills. Correct?

**MR TIM ADA:** Correct.

**MS MCLEOD SC:** And you mentioned in your opening remarks that there is some autonomy for leaders with those sort of responsibilities to pursue the way they pursue government objectives. Given the evidence that you've just given in relation to not being sufficiently proactive or proactive enough, what recommendation should this Commission find to assist you in bringing yourselves up to scratch? What would help you to say, "Yes, I have to do this"?

**MR TIM ADA:** I think it would be helpful just to offer one suggestion in response to your answer for more, and people in my role shouldn't need this but it goes to the point of consistency and building the capability of the Public Service. But it would, I think, be helpful to have explicit expectations, if you will, maybe embedded in legislation that put a positive onus on people like me in my role to pursue the very things we have been talking about.

For example, I had the opportunity to go to New Zealand last year and I saw the steps that have been taken in New Zealand around embedding expectations of public servants, particularly senior public servants in legislation, for example. Now, I'm not necessarily suggesting that is the best thing to do or the only thing to do, but it's an example I can offer in answer to your question.

**MS MCLEOD SC:** Can I ask you would that assist you as a Secretary in delivering on economic prosperity for First Nations people within your area of responsibility to have those KPIs?

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**MR TIM ADA:** I mean, I - again, I - someone in my role shouldn't need to be told what's important. I'm not suggesting that - I think it would be helpful though to have very clear expectations I think, there's less room for error if expectations are codified and made very clear. That's what I'd say.

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**MS MCLEOD SC:** Do those sorts of commitments and delivery of government objectives depend on your tenure in the role? Is there a slippage that occurs when secretaries change hats or leave the public service?

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**MR TIM ADA:** There is a risk, Ms McLeod, of that happening. I mentioned before I was fortunate that my predecessor in the role had made some important reforms and built some momentum in the organisation. I've sought to build on that. But you're right. There is the risk of things falling through the gap or that momentum not being maintained if there are changes at senior leadership without the other scaffolding that we have just talked about.

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**MS MCLEOD SC:** And what is needed to have enduring economic reform?

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**MR TIM ADA:** I think having an organisation - a cultural expectation in the organisation that this is something that we do. This is what we do when we come to work, it's not something that we do over there. That's success. And while we are not there as an organisation, I think we have made some steps towards that. But it takes commitment and consistency and discipline.

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**MS MCLEOD SC:** I take it you would accept that to grow the economic prosperity of the state through jobs and skills, there needs to be a significant investment in those without jobs and skills.

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**MR TIM ADA:** That's right.

**MS MCLEOD SC:** And what is the broad guiding principle that you have taken to heart or put into practice in the Department in relation to investing in those without those jobs and skills?

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**MR TIM ADA:** A couple of examples I would use is our Jobs Victoria Employment Services, the state government has invested a significant amount of money and resources over the course of the last eight years or so in supporting disadvantaged job seekers, including a good number of First Peoples to be supported back into employment, sustainable employment. Sustainable employment in the context of Jobs Victoria we refer to 26 weeks in employment. It's one thing to have someone placed in a role, it's another thing for that employment to be sustainable. So Jobs Victoria has been an important policy

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intervention and in actual a good number of Aboriginal-controlled organisations have been contracted to deliver those services, very successfully I have to say in many instances.

5 For example, the Rumbalara Football and Netball Club in Shepparton is currently contracted to deliver services for that region. I think the work that we do as an organisation to support the stewardship of the vocational and training system and the operation's network of TAFEs, being public providers that the TAFEs in  
10 obviously First Peoples fall into that category. It's been pleasing to see an increase in the number of First Peoples commencing in vocational education and training in the first quarter of training this year.

15 In some respects, some policy reforms and decisions taken by the government in the last 12 months around eligibility, but also introducing a First Peoples fee waiver for vocational education and training from January this year is examples of where impediments are being removed to include and support greater participation. So they're two examples.

20 **MS MCLEOD SC:** I think you say in paragraph 25 that you report to, if my maths is right, nine ministers.

**MR TIM ADA:** I do.

25 **MS MCLEOD SC:** Lucky you. So is there, in your department or in any department that you are aware of, any work underway to anticipate macro-economic reform ahead of the Treaty negotiations?

30 **MR TIM ADA:** We have been doing some work around providing advice to our ministers about the sorts of challenges that are currently being experienced in Victoria, but also some of the opportunities. I think the government at the time of the budget referred to the development of an economic statement and that's something that we're providing some advice to our ministers around what their contribution to that might be. Obviously that's a matter for the government. But  
35 that's an example of some work I aspire for our organisation to, what we are a line organisation to have enough policy left to be able to contribute and provide the advice to our ministers to be able to participate in the cabinet process.

40 **MS MCLEOD SC:** And is that with a view to entering into and negotiating Treaty?

**MR TIM ADA:** To go to Treaty obviously there's a process that's well underway and codified in various different acts and organisations that have been established. We've certainly had a number of conversations with the Koori Caucus over the last  
45 six months about, in addition to the implementation of Yuma Yirramboi and in addition to some of the opportunities I spoke to before about embedding this broader aspiration across the Department, what are some bigger reform

opportunities that might exist. That conversation was only held relatively recently with the Caucus, but it was a really interesting conversation and some of those ideas I'd like to think could be considered in the context of Treaty.

5 There's also some other things that came up as a result of that conversation that in the ordinary conduct of our business as a Department that we would be seeking to brief ministers on.

10 **MS MCLEOD SC:** So as I understand it, the Caucus members are individually appointed on their own nomination or nomination by somebody else.

**MR TIM ADA:** That's right.

15 **MS MCLEOD SC:** They are not representative of peoples.

**MR TIM ADA:** No.

20 **MS MCLEOD SC:** Have you had conversations with the Assembly or any other Treaty body about the role of your Department in the sort of economic reforms we're talking about?

25 **MR TIM ADA:** We, to my knowledge haven't met with the Assembly on this specific topic. As mentioned, we have spoken to the Caucus and we regularly engage as an organisation with Traditional Owner corporations. Some of the bigger opportunities that the Caucus and Traditional Owner corporations have spoken to our Department about are the opportunities that will deliver controlled sustainable revenue for Aboriginal businesses and Traditional Owner corporations.

30 Indeed, some of the work that we have started with those organisations already goes to that. There is some support that has been provided through Yuma Yirramboi to Traditional Owner corporations to start feasibility studies, business cases for some of those bigger opportunities on Country. That may and again, it's perhaps not my role and I don't wish to be sort of get ahead of the Treaty process that might find themselves in the Treaty process around things that the State and  
35 the Assembly might talk about.

**COMMISSIONER LOVETT:** How many Traditional Owners are you working with?

40 **MR TIM ADA:** As in the Traditional Owner corporations?

**COMMISSIONER LOVETT:** Mm.

45 **MR TIM ADA:** We have grant agreements with I think 10 of the 11 under the Yuma Yirramboi, Commissioner, and they currently go to the provision of support for them to engage economic coordinators. And in a number of other cases we've provided additional support for the establishment of economic hubs in a number of

those Traditional Owner corporations which they've developed and they run. Outside of that, we engage regularly with Traditional Owner corporations. Our regional directors, for example, work regularly with Traditional Owner corporation CEOs and we as a Department are responsible for delivering a number of big capital projects in regional Victoria and are attempting to work with Traditional Owners in a far more strategic way.

**COMMISSIONER LOVETT:** And how many have you met with personally yourself? You've been in the job over 12 months, how many have you met with?

**MR TIM ADA:** Three or four, I'd say, Commissioner.

**COMMISSIONER LOVETT:** Out of 11? 12 months. Does that, how does that sit with you?

**MR TIM ADA:** That's not good enough.

**MS MCLEOD SC:** So the Yuma Yirramboi strategy was launched in 2022.

**MR TIM ADA:** That's right.

**MS MCLEOD SC:** A current document, DJSI.0001.0001.0001 says both under the heading of Introduction and under the heading of the Current Economic Situation for First Peoples in Victoria:

"Economic development is an essential component of the Treaty process."

But do I take it from what you have just said that apart from the economic statement and input into the broad Victorian economic statement that's under development, you have not specifically engaged in discussing economic development and your areas of responsibility, jobs and skills with Traditional Owners elected representatives or others?

**MR TIM ADA:** We have discussed with the Caucus and Traditional Owners around opportunities. We have not met, to my knowledge with the Assembly. We participate in a Senior Governance Forum around Treaty and opportunities and we're active participants in that. That is a Forum convened by the Department of Premier and Cabinet, but we have not met with the Assembly in recent time on this topic.

**MS MCLEOD SC:** How are those coming to the Treaty table know what's available, what's on the table?

**MR TIM ADA:** I'd like to think that some of the opportunities that are being pursued by Traditional Owner corporations around some of the bigger economic opportunities on Country will be very visible during the Treaty negotiations. A number of those have been supported by funding by the Department. I think it's

a question of when we meet with the Assembly, not if we do, and out of respect to the process, I'd be looking to the Department of Premier and Cabinet for some guidance about when and how that is best done. It's not a lack of willingness, it's about sort of being respectful in that opportunity but -

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**MS MCLEOD SC:** With respect, I don't think you've answered my question. How do First Peoples understand the opportunities available to them? You've just mentioned large businesses. Are they the tide that raises all boats or is there information to be disseminated some other way?

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**MR TIM ADA:** More generally, I think there's more we need to do to, if I can understand your question, is about what can this Department do. There's more we can do as an organisation to raise awareness about the opportunity, the economic opportunity that is presented by Treaty, and we need to take further action on that. We have a date sought to talk with the Caucus and Traditional Owner corporations around identifying and supporting the early investigation of those opportunities, and we need to be more active engaging with the Assembly and other bodies.

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**COMMISSIONER LOVETT:** Can you just elaborate on the "we", because you are using the word "we"? And I get why you are doing it but I'm trying to understand where your involvement is. So as the leader of the organisation, again visually, everyone's watching you, you know that. Can you just sort of say articulate to me what is "we"? Who is "we", sorry? Are you a chair or a co-chair of the governance over the top of the strategy, yourself?

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**MR TIM ADA:** I'm the co-chair of the Yuma Yirramboi council and I've prioritised participating in all Caucus meetings over recent months and that's a role I take very seriously and have prioritised.

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**COMMISSIONER LOVETT:** Thank you. The reason I'm asking you this question is you said before you have met with three and I understand you've got nine ministers and in order for us to have confidence that you are able to genuinely articulate to ministers what the systematic barriers are to Traditional Owners, I get businesses and are you doing that through the - but Traditional Owners, all 11 are not on the governance Forum and you met with three in the 12 months. So how are you elevating matters of strategic importance to Traditional Owners to the nine ministers?

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**MR TIM ADA:** The deputy secretaries in the organisation and the senior executive teams, Travis - sorry, Commissioner - I, I'm not able to perform this role without providing a high level of delegation and trust in the deputy secretaries. Supporting nine ministers is a stretch and I, every day, have to rely on information that is conveyed to me and in many cases the engagements with a whole raft of stakeholders including Traditional Owners that that advice is provided in many instances by those deputy secretaries and senior executives that are having the engagement to those ministers. I'm obviously responsible as Secretary for the

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advice that is provided as the head of the Department, and I know I need to do more to engage with First Peoples stakeholders.

5 **COMMISSIONER LOVETT:** I mean they're not stakeholders, they're cultural rights holders. I just want to be clear that. Our people are not stakeholders.

**MR TIM ADA:** Sorry.

10 **COMMISSIONER LOVETT:** We're not stakeholders. You come to the table and you said we are - you recognise our sovereignty, we come together as equals. We are not stakeholders, this is the challenge we are grappling with here, there's a lack of understanding across the Victorian Public Sector about the cultural rights that our people have as First Peoples to these lands and these waters. It's access to land, to water, to sky, to language, to lore, to customs and traditions.

15 So we come to the table, to these conversations as equals and I think it's important that our CEOs turn up to these governance Forums, they volunteer their time a lot of the time and, you know, they want to meet with people like yourself. You know, you are meeting with industry leaders all the time in your role, right. Take away Aboriginal. Are you meeting with senior leaders every day of your life whether they be ministers, whether they be big businesses and all that kind of stuff. What our people are asking for is the same level of respect. You know, we should be prioritised over those people.

20 We understand that they generate a lot of wealth and so forth, but what's not factored in is how much wealth the state generates off the Aboriginal economy, you know. There was a Treaty concept in Shepparton, sold the whole of Shepparton out for the weekend. You couldn't get accommodation. Do you think any Aboriginal people own businesses in Shepparton or any accommodation facilities? No, none. We didn't see that. Yet that was so much profit that was generated to that reasonable town on a Treaty concept. It's really important stuff, but we are continually contributing to the economy but continually shut out of the economy.

25 **MS MCLEOD SC:** Can I just circle back, Mr Ada, to a question I asked earlier about economic reform? Do I take it that apart from the economic statement that you alluded to, there is currently no transformational, work, formulation, consideration for the sort of macro reform that might flow from Treaty negotiations?

30 **MR TIM ADA:** We have discussed some of those bigger reform opportunities, some of them are very significant and many of them would require decisions of government as part of the Treaty process.

35 **MS MCLEOD SC:** But no thinking about what the principles might be.

**MR TIM ADA:** We have started that work.



**MS MCLEOD SC:** Okay and any thinking about how to design a framework of exploration for those issues, anything?

5 **MR TIM ADA:** We have started that work and it's, we need to accelerate that work over the coming months. We have started to identify the principles, the priorities, the types of interventions, those that could be done without legislative change, for example, and those that would. How various funding models could be applied. That work's not yet complete.

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**MS MCLEOD SC:** So just having a broad high level economic conversation here, Treaty potentially represents a disruptor, for good, for the good of the whole State, just as investments in renewables might be seen as a transition to a new economy and opportunities there. Is there - and tell me if I'm straying into things that you can't talk about - but is there a recognition that this conversation needs to happen at that level?

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**MR TIM ADA:** I hope so. I think that there's a genuine commitment in the discussions that I have with my ministers, for example, about ambition, a recognition that for too long the state has imposed injustices on First Peoples and Treaty presents an opportunity to find different ways and to enact self-determination in a far more significant way that has been achieved. I think there's absolutely intent. There's good ideas and we need to do more work as an organisation to be able to share those ideas and create opportunities for First Peoples to understand what some of those ideas might be in more fulsome terms. I say that with all due respect, that's not me or my department suggesting these are the ideas that need to be pursued but having an authentic and we have started that as I said with the Caucus and Traditional Owners.

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30 **MS MCLEOD SC:** So you agree that for that to be successful, First Nations people's need to be involved in those conversations?

**MR TIM ADA:** Yes.

35 **MS MCLEOD SC:** Actively involved and not just consulted, tick a box. And you would agree that they need to be jobs and skill ready to take up the opportunities presented by those transformational economies?

**MR TIM ADA:** Yes, I do.

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**MS MCLEOD SC:** And that falls squarely within your responsibility?

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**MR TIM ADA:** There is a jobs and skills and if I can call it a human capital question that if there were to be some significant changes, opportunities, new initiatives, more funding, to answer your question, it is my department's role to play a, play a part in making sure that the human capital and jobs and skills are available for First Peoples to capture those opportunities. I say that with all due

respect but, yes, to answer your question, that is within the remit of my department to provide employment opportunities and to, as stewards of the vocational and training system to make sure we are doing all we can to ready First Peoples for the opportunities that might be presented through Treaty. And I say that in need doing  
5 that, with absolute respect to those priorities being determined by First Peoples.

**COMMISSIONER WALTER:** Can I just ask how are you going to get First Peoples in Victoria skills-ready to take up these opportunities? Because we know First Peoples' educational achievements are well below, and again, have not  
10 improved for 20 years. We have also done a little bit of internal work here where we had a look at census data over the last three census by First Nations country and the further you get away from Melbourne, some areas up along the Murray, the level of educational attainment up there means that there are people there, the population there are just not equipped to be able to take up - the schooling system  
15 has let them down, they will not be able to take up the opportunities that are available. So what is happening to make sure that when these opportunities come, First Peoples don't miss out yet again?

**MR TIM ADA:** Commissioner, to answer your question a couple of ways. One  
20 of the things that we have been doing, I mentioned earlier is removing impediments from First Peoples participation in the vocational education and training system. So a significant increase in enrolments in the first quarter of this training year. Just by way of example.

I think and I say this with the greatest respect and we have discussed this at  
25 Caucus that above and beyond the vocational education and training what are some opportunities that might present around leadership, development, governance, training and development. And the conversation without going into the minutia of the conversation I think there was a recognition that those sorts of  
30 interventions are probably going to be impactful. Recognising, of course, there's already some terrific initiatives underway including by a number of Aboriginal-controlled organisations. But they're the sorts of things in addition to the current administration of the vocational education and training system that I think we need to be thinking about.

**COMMISSIONER WALTER:** I think we need to be more than thinking about  
35 it. It is urgent and I would leave you with one thought that's come from our earlier hearings. One in 10 Aboriginal children in Victoria has been in touch with the - in contact with the child welfare system. So that's 10 per cent of the emerging  
40 youthful demographic. How does the population get to take advantage of these opportunities that are coming up when 10 per cent of the youth have had these difficulties in their lives?

**MR TIM ADA:** Incredibly challenging, Commissioner. One of the things that  
45 working with vast majority VAEAI in the Marrung Strategy and the Wurreker plan is the brokers that VAEAI engages to work as a conduit between Aboriginal community and the TAFEs that I mentioned before and then within the TAFEs,

the Koori support officers. One of the things that we have seen, Commissioner, is the commencements by First Peoples haven't been as high as they could have been in recent years but the completion hasn't been as high as we would like them to be and are below the population average.

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And so the work of the Koori liaison officers and Koori student support officers are critical in making sure that when a First Peoples student starts a training course that they have been given every equitable chance to complete that training.

10 **COMMISSIONER WALTER:** I guess my point is Wurreker and those other ones that are coming out of Marrung, TAFE are more of the same.

**MR TIM ADA:** I agree.

15 **COMMISSIONER WALTER:** It's very clear we need to do something dramatically different and dramatically soon to stop this opportunity missing by and First Peoples in Victoria being left behind in wealth generation.

20 **MR TIM ADA:** So this notion about a human capital leadership academy, sorry, it's a local term, is something that came out of the conversation we had with the Koori Caucus, just one example, and I intend to take some advice to my ministers soon about the form that could take and that would obviously be a decision for the government in terms of resource allocation. But they're the sorts of things, Commissioner, that I agree with you are required to deliver the step change that  
25 we need. I couldn't agree with you more.

**COMMISSIONER LOVETT:** Have you done an analysis? You are experienced you've 25 years, I think it was.

30 **MR TIM ADA:** Almost, yes.

**COMMISSIONER LOVETT:** How many in executive roles? A long time.

35 **MR TIM ADA:** (Crosstalk). Yes.

**COMMISSIONER LOVETT:** And you understand how that changes in policy legislation. You talked about legislative opportunity that you identified through your trip to Aotearoa or New Zealand as some people may know it. What analysis have you done across the system that you oversee now particularly from  
40 a legislative barriers point of view to see our people be able to thrive? Have you done any analysis?

45 **MR TIM ADA:** We have to the extent that I don't think the greatest impediments Commissioner relate to legislative impediments. I think there are opportunities that could be enabled along the lines I mentioned earlier that could provide a greater head of power or sense of expectation, potentially, than the way resources flow. In the work of this department, unlike a lot of others, the

legislative impediments necessarily aren't there. There are policy choices and impediments. I use the fee waiver as an example of a policy intervention, but we don't - I think, Commissioner, we have looked at this, there's not great legislative impediments, but there are certainly opportunities that could be enabled.

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**COMMISSIONER LOVETT:** Have you discussed - to go to counsel's earlier point around opportunity, have you discussed those opportunities with Traditional Owners, for instance?

10 **MR TIM ADA:** Not in detail, no.

**COMMISSIONER LOVETT:** Do you think that that would be a good thing to do, particularly in the context of them being able to understand where the opportunities are for them to go into Treaty negotiations on an equal playing field?

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**MR TIM ADA:** I think it would be a very good thing to do. Particularly those things that might require legislative change, I've got to be careful, Commissioner, not to get too far ahead of the government but in terms of authentic conversation with people, including Traditional Owner corporations around opportunities, I think it's a sensible thing to do.

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**COMMISSIONER LOVETT:** You are only aware of what you know and if you have been continually shut out or not being spoken to about where the opportunities, to highlight your earlier opening remarks, to remind people, we are rounded up on to - I keep hearing this word, true trade missions, that word is not a good word for our people, evidenced by all the people that have come before this Commission, not a good word.

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**MS MCLEOD SC:** Mr Ada, the opportunities that appear from the questions you have just been asked by Commissioners at the point of exiting child protection systems, out-of-home care, school leaving, if you knew, as we do, that there are large numbers of First Nations children leaving the system or exiting the system at those points, would that not be good points to target training and skills?

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**MR TIM ADA:** Yes, to answer your question. I - it would depend on the age of the individual, but there are opportunities around stronger pathways between the secondary schooling system and the vocational and education training system. You will forgive me, I'm not at liberty to talk about primary and secondary school system in any detail, but the notion of targeting engagement with people that may have experienced out-of-home care or the justice system, certainly there's been positive attempts made in the past to engage with people, adults. And I think for younger people who - there are stronger opportunities to find pathways into vocational education and training if, indeed, that's what that student would like to do and, indeed, into university.

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**MS MCLEOD SC:** I understand the concerns around privacy, the State is meant to provide to individuals in readiness of exiting State care an individual plan that

contemplates residence, education, employment, social supports. Does your Department have any input into jobs and skills opportunities that can be offered to those children as they exit with their individualised plans?

5 **MR TIM ADA:** We have some role to play. I'm just not prepared enough to talk, I'm sorry, counsel, in the detail.

**MS MCLEOD SC:** Springing that one on you.

10 **MR TIM ADA:** Sorry, I'm very happy to take that question on notice and report back to the Commission. I - we play some role, as to exactly what role I need to confirm that.

15 **MS MCLEOD SC:** Okay. I just want to come back to the broad overarching strategies that the state has created to grow prosperity through jobs and skills. The foundational document is the Aboriginal Affairs Framework, correct, which sets out various objectives.

20 **MR TIM ADA:** It does.

**MS MCLEOD SC:** And the delivery of those objectives is primarily through the Victorian Aboriginal employment and economic strategy, Yuma Yirramboi. And we have in the folder, I might ask for it to be brought up on the screen DJSL.0001.0001.0001 just to check that you've got that strategy in front of you, or that you can see it on the screen when we bring it up. So we will zoom in so you don't have to read ant writing, but could we turn to table 1 on page 2? Just before we get there, sorry about that, page 1, this plan is described as a phased approach to address First Peoples in Victoria economic disparity in a generation. So that's the bold ambition. And the words, "Invest in Tomorrow" capture the strategies long-term vision coordinated and sustained approach to increasing the wealth and prosperity of First Peoples in Victoria. That's the bold ambition.

35 If we turn to the second page under table 1 there is a list of key funding streams to Aboriginal Economic Development Branch since 2019. So is this the primary document that captures those funding streams to deliver those bold ambitions?

40 **MR TIM ADA:** These are the primary funding streams associated with the delivery of Yuma Yirramboi. I did mention earlier, counsel, obviously there's some work underway in the Department to look at opportunities to leverage our base recurrent funding, but as it stands this is a good articulation.

45 **MS MCLEOD SC:** Okay. So if we start with the table up on the screen there. The largest item in this list, table 1, is the Yuma Yirramboi commitment of 25 million over two years, which is lapsing this year.

**MR TIM ADA:** That's right.

**MS MCLEOD SC:** And as you say in your statement, ongoing funding of that program is around \$8 million over three years. Correct?

**MR TIM ADA:** 8.6 million over the next three years, that's right.

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**MS MCLEOD SC:** Okay. So two and a bit million dollars on average for each year of the next three years is committed to delivering this bold ambitious program?

**MR TIM ADA:** In terms of dedicated programmatic funding yes, that's right, counsel, and - which means we have to work harder to identify the opportunities in our recurrent work in pursuit of that goal. But you're right in saying that is the programmatic funding that is tied to this strategy.

**MS MCLEOD SC:** I take it you would accept there is no way on earth that \$3 million, let's say, can deliver the long-term vision for coordinated sustained approach to increasing the wealth and prosperity of First Peoples in this state?

**MR TIM ADA:** I accept that.

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**MS MCLEOD SC:** And \$3 million a year is what is now on the table for you and your Department to deliver this, through that strategy.

**MR TIM ADA:** Through that dedicated funding stream for this strategy, that was the money that was allocated in '24-'25 budget over the next three years.

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**MS MCLEOD SC:** Okay. If we go to the next page, the next two largest items of spending are at the top of the page, creating jobs and supporting economic recovery of Aboriginal Victorians, 18.5 million over two years or nine and a bit million per year. That lapsed in 2022. So was that overtaken by this Yuma Yirramboi program?

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**MR TIM ADA:** Yes, in broad terms.

**MS MCLEOD SC:** Then we have Working For Victoria, 14 million over two years, also lapsed in 2022, again, overtaken by this broader strategy?

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**MR TIM ADA:** Yes, the only thing I would offer is some of those funding sources were part of the state's support related to the COVID-19 pandemic. But, yes, they are precursor programs for Yuma Yirramboi.

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**MS MCLEOD SC:** How much of this funding which is - I haven't added up those numbers, I think it is around 53 million or maybe it's more, but how much of that money was pulled into COVID response?

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**MR TIM ADA:** Provided by COVID response?

**MS MCLEOD:** Yes.

**MR TIM ADA:** So -

5 **MS MCLEOD SC:** Sorry, I misunderstood you. These funds were re-allocated to COVID response, were they?

10 **MR TIM ADA:** Were allocated by the government in - with the objective of supporting the community and the economy from the effects of the pandemic and the restrictions that were applied. The Working for Victoria initiative is an example of an initiative that was funded by the government in response to the pandemic and the hardships faced by businesses and the community. That's just an example of a program that was supported.

15 **MS MCLEOD SC:** So the government was facing an emergency and it made a decision to support businesses throughout the pandemic?

**MR TIM ADA:** Yes.

20 **MS MCLEOD SC:** Do you know how much money was pulled from Aboriginal programs to support that state-wide emergency response?

25 **MR TIM ADA:** I don't believe any, but I can confirm that on notice, counsel. I don't believe any. I think there was a net additional funds provided by the government's COVID response in pursuit of Aboriginal economic development.

30 **MS MCLEOD SC:** I see. The 8 million that you mentioned in your statement, 8.6 million over the next three years, has that funding been allocated to specific policies or programs?

35 **MR TIM ADA:** Yes, in a sense that it - the responsible minister bid for funding through the budget process elements were supported and so in broad terms and we have started a conversation with the Caucus around refining how those initiatives might be delivered.

**MS MCLEOD SC:** When we come to the bottom of that table, you see the last line is Total Ongoing Funding and then there's a footnote or a mid note to:

40 "Ongoing funding supports for the Department's Aboriginal Economic Development Branch VPS staffing and the Department's self-determined Aboriginal partnership entity."

That ongoing funding is spent internally in the Department, is it?

45 **MR TIM ADA:** That's right, counsel.

**MS MCLEOD SC:** So what money is there - we'll come back to the Yuma Yirramboi funding. What money is there available in your department to pursue the goals of economic prosperity through jobs and skills for First Nations peoples?

5 **MR TIM ADA:** In terms of ongoing funding?

**MS MCLEOD SC:** Yes.

10 **MR TIM ADA:** In terms of ongoing funding allocated to the Aboriginal Economic Development Branch for - in pursuit of the Yuma Yirramboi objectives, there is no recurrent funding allocated for that purpose. There is recurrent funding in the organisation in pursuit of training and skills system, industry development, trade development, which is why, counsel, we're doing the work we are about how do you leverage that recurrent funding in other parts of the organisation in pursuit  
15 of the Yuma Yirramboi goal.

**MS MCLEOD SC:** I'm sorry to try and cut through the way you described that. You said there's no recurrent funding for this -

20 **MR TIM ADA:** Programs.

**MS MCLEOD SC:** Programs.

25 **MR TIM ADA:** For programs that are delivered through the Aboriginal Economic Development Branch.

**COMMISSIONER HUNTER:** That doesn't make sense. If you've got a strategy there and then you've got - like, so what are you doing for First Peoples, is the question (inaudible).  
30

**MR TIM ADA:** So, Commissioner, the lion's share of the funding that's provided to the Department of Jobs is provided through fixed term funding. The main exemption in the organisation is the training and skills system that we are responsible for administering, which has a significant recurrent funding base.  
35 Most of the other programmatic funding is provided through State budget processes for a fixed period of time.

The implication of that is that ministers rebid for programs that are lapsing or, indeed, new initiatives that they wish to pursue, which is has happened with Yuma  
40 Yirramboi funding that was initially allocated for the first two years of the strategy, lapsing in '23-'24. The responsible Minister has bid for funding to continue that implementation and received 8.6 in the '24-'25 budget. It's not unique to this work in the Department, it's a feature of the way the Department is funded.  
45

**COMMISSIONER LOVETT:** How much investment has the Department put into Aboriginal affairs that is being from savings from other parts of the



Department not delivering on their financial year? At the end of the financial year there's sometimes savings in the departments. How much of that savings has been redirected that's now showing up on here? And what sort of sticks out for me is the 5 million for Traditional Owner Aboriginal economic development for one  
5 year. I mean, it may not be that but just -

**MR TIM ADA:** In terms of being reallocated from (crosstalk).

**COMMISSIONER LOVETT:** Yeah. From mainstream. From other parts of  
10 the Department where you haven't delivered during that financial year and then put in as a last minute, "Here you go Traditional Owners or Aboriginal businesses. Here is some additional funding to do whatever."

**MR TIM ADA:** I'm not saying that hasn't happened. I'm not saying that hasn't  
15 happened, Commissioner, it hasn't been a feature in my time as Secretary of the Department. Yeah.

**MS MCLEOD SC:** If we could just go back to the page before, I think the zero  
20 dollars was the shocking -

**COMMISSIONER HUNTER:** Sorry, I was having a conversation with  
Commissioner Walter about - and maybe there's something that I'm not getting  
and I just feel like it sends everybody to a VET course or a TAFE and there you  
go (crosstalk).

**MS MCLEOD SC:** So we can come to the specific funding initiatives that you  
25 set out in your statement, but just staying with this, there are two sources of specific funding streams, the Victorian Aboriginal Economic Strategy and the Yuma Yirramboi that are both - sorry, I've messed it. The Yuma Yirramboi and  
30 the Aboriginal Economic Development Building Opportunity and Economic Prosperity both lapsing this year, correct?

**MR TIM ADA:** Yes.

**MS MCLEOD SC:** The second of those is internal within the Department. Is  
35 that correct?

**MR TIM ADA:** The majority of that.

**MS MCLEOD SC:** And then the funding to lapse next year is the Pathway to  
40 Aboriginal Prosperity, which lapses next year and it's some portion which may have already been allocated of the 1.75 million, and the ongoing recurrent funding of DJSIR. Correct? Which gets us to about - after the 2025 funding lapse gets us  
to about 2.68 million. Correct?

**MR TIM ADA:** It is the recurrent allocation for the branch.  
45

**MS MCLEOD SC:** Okay. And then I want to come to the specific programs you mention in your witness statement but if we can just stay with the Victorian Government funding of the Yuma Yirramboi Strategy. In 2022 that was funded with a promise of 25 million to support the strategy implementation over two  
5 years. Correct?

**MR TIM ADA:** Right.

**MS MCLEOD SC:** And I don't know if you have in front of you - I just want to  
10 be able to do this so we don't reveal sensitive information, but can we go through the various allocations under that strategy? The first is Aboriginal Business Capital Investment Program, 750,000. That has been allocated -

**MR TIM ADA:** That's right.

15

**MS MCLEOD SC:** - by way of grants.

**MR TIM ADA:** That's right.

**MS MCLEOD SC:** So that's done. The DJPR Preparing For Treaty Series,  
20 360,000, that has been reallocated?

**MR TIM ADA:** It's proposed to be reallocated. I can talk more about that if  
25 that's helpful.

25

**MS MCLEOD SC:** Just pause there, I just want to keep the numbers - get the numbers down. The Aboriginal Tertiary Scholarship Extension, 280,000, again that has been reallocated, yes?

**MR TIM ADA:** Yes, it has.

30

**MS MCLEOD SC:** Trade Routes Program Extension, one million. That's to be reallocated?

**MR TIM ADA:** Yes.

35

**COMMISSIONER NORTH:** We don't know what are you talking about.

**MS MCLEOD SC:** Do Commissioners have DDF.0007.0001.0015 in your  
40 folders?

40

**COMMISSIONER LOVETT:** I don't have that, but I'm following where you are going.

**COMMISSIONER WALTER:** I'm following where you are going too.

45

**MS MCLEOD SC:** I'll make sure Commissioner North can follow. (Crosstalk). The document that hopefully you have just been given at page 15. I'm not sure, Commissioner, if you have a redacted version or a non-redacted version. There is sensitivity, if I can just alert it around the descriptions of grant recipients. I'm  
5 avoiding that column.

So on page 15 I'm down to the last entry, Traditional Owner economic development coordinators, the allocation is 6.2 million, 3.4 million has been expended by way of grants. Correct?  
10

**MR TIM ADA:** Yes.

**MS MCLEOD SC:** There's some Aboriginal business innovation excellence awards, 400,000, that has been delivered?  
15

**MR TIM ADA:** Yes.

**MS MCLEOD SC:** The Yuma Yirramboi Economic Development Innovation Program, 3.3 million, 2.28 million of that has been allocated by way of grants?  
20

**MR TIM ADA:** It's been paid to date, that's right.

**MS MCLEOD SC:** The Dardi Pathways to Employment, point 4, 400,000, of that 380 has been delivered?  
25

**MR TIM ADA:** Yes.

**MS MCLEOD SC:** Social enterprise, 300,000, of that 250 has been delivered?  
30

**MR TIM ADA:** Yes.

**MS MCLEOD SC:** And we go on down the page and in most cases there are sums of money that are less than a million or around a million dollars, the exception being Aboriginal economic hubs that you mentioned before, \$2.3 million allocated and around 1.14 expended.  
35

**MR TIM ADA:** Paid to date, that's right.

**MS MCLEOD SC:** So of the total of allocated funding of 25 million, 23 million roughly, 23.3, has been allocated in various places, but only 13.26 expended?  
40

**MR TIM ADA:** Yes, counsel. If I can, the reconciliation I have is of the 25 that was allocated for the first two years of the strategy's implementation, 21.35 million has been allocated. Almost 15 million has been paid, and of the remaining commitments they will be paid over the course of the next 12 months when milestones fall due. And 3.65 of the 25 remains to be allocated and we have some advice before the relevant minister as we speak about how that money is allocated  
45

in pursuit of the Yuma Yirramboi Strategy goals, and we have developed that advice with the Caucus and taken input from Traditional Owner corporations and other partners.

5 **MS MCLEOD SC:** In terms of - I should ask, is that funding secure? Does it roll back into consolidated revenue if you don't spend it at the end of this year?

10 **MR TIM ADA:** My intention and understanding is that we will have the opportunity to allocate it in pursuit of the Yuma Yirramboi Strategy goals as I've just said.

**MS MCLEOD SC:** And then beyond this year it's the two or so million per year, total of 8.6 million over three years.

15 **MR TIM ADA:** The 2.2 provided through the '24-'25 budget over three years. The only other thing that's worth mentioning if I can, counsel, is 20 million was allocated as part of the \$2 billion regional package that the government announced in July last year, and that was allocated by the government in two tranches. 10 for  
20 Aboriginal business development and employment, and 10 for First Peoples tourism initiatives.

**MS MCLEOD SC:** Do they go to single recipients?

25 **MR TIM ADA:** I expect the government to have more to say soon about how that money will be allocated. I expect the lion's share to be available to Aboriginal businesses, to build their capacity and build their business. Regarding the 10 million for tourism, I think the intention is for that largely to be allocated in line with the First Peoples tourism plan which is currently being developed and will be  
30 finalised later this year. And that's a piece of work that we've been working closely with Traditional Owner corps, other Aboriginal organisations and, indeed, we have had an Aboriginal business leading that consultation.

35 **MS MCLEOD SC:** Okay. So we have got the \$20 million which is part of the 20 - \$2 billion regional package.

**MR TIM ADA:** \$2 billion regional package. That's right.

40 **MS MCLEOD SC:** So 2 billion there. We've got the Yuma Yirramboi left over money that you're hoping that you can reutilise.

**MR TIM ADA:** Yes.

**MS MCLEOD SC:** You've got the \$8.6 million over three years.

45 **MR TIM ADA:** Yes.

**MS MCLEOD SC:** I want to confirm if these are additional sums, if you turn to paragraph 41 of your statement. That 4.47 million on employment programs, is that an additional sum or is that included in those sums?

5 **MR TIM ADA:** That's additional.

**MS MCLEOD SC:** Okay. Then we have I think - the next is 45, six million towards nine projects.

10 **MR TIM ADA:** Additional.

**MS MCLEOD SC:** That's additional. So that's specifically for vocational education and training?

15 **MR TIM ADA:** That's right.

**MS MCLEOD SC:** And is that again, different to the 180 million mentioned in 46, paragraph 46?

20 **MR TIM ADA:** Yes, the figure mentioned at paragraph 46 in my statement refers to the Skills First subsidies provided to support First Peoples learners in the educational education training over the last six years.

**MS MCLEOD SC:** That is expired. That was the last seven years.

25

**MR TIM ADA:** It is, however, that is one part of the Department that is recurrently funded and together with initiative funding, and the Skills First contracts we'd expect to be continued, which is the current policy of the government. And that is demand driven to the extent that First Peoples and other learners participating in the educational and education training system, but that's a historical reference over the last eight years.

30

**MS MCLEOD SC:** That's not current funding?

35 **MR TIM ADA:** No.

**MS MCLEOD SC:** I want to briefly touch on the current strategies. Commissioner Walter mentioned the Wurreker strategy, you have also mentioned social procurement and the like. Just starting with the Wurreker strategy, which commenced at page 68 of your statement, can you give the Commissioners an update about the status of that strategy and whether any assessment has been made of the efficacy of that program?

40

**MR TIM ADA:** The Wurreker strategy is a plan that talks to the vocational education and strategy components of the Marrung Strategy. We have a Koori skills working group that we meet with regularly with VAEAI who is the principal owner and champion for Aboriginal education in Victoria. The relationship we

45

have with VAEAI is a good one. Conversations have commenced about how could we do this even better than we currently do, to answer your question. Whether that takes the form of a formal evaluation or whether that's a series of conversations with VAEAI and other partners around making changes to how we go about brokers and the Koori support officers, Koori liaison officers in TAFE but those conversations have commenced.

**COMMISSIONER WALTER:** The Wurreker strategy hasn't really delivered results, has it? When we talk about (crosstalk) First Peoples who are coming out of TAFE with level 3s and 4s and trade, there hasn't been a big increase.

**MR TIM ADA:** My understanding is, Commissioner, there's been a gradual increase in First Peoples participation in the vocational education and training system. We've seen an increase (indistinct) of this training year, as I've I mentioned. I think Wurreker has played an important role in supporting TAFEs, the operations of TAFEs being delivered in a way that reflects the priorities of Aboriginal communities, and that there has been a not insignificant increase in the employment outcomes of First Peoples leaving the vocational education and training system. I think that's in part due to Wurreker. As I said, the conversations are underway with VAEAI about what are the opportunities for improvement.

**COMMISSIONER WALTER:** Has Wurreker been independently assessed for efficacy and value?

**MR TIM ADA:** Not to my understanding.

**COMMISSIONER WALTER:** Could it be before it's redone?

**MR TIM ADA:** I'm of the view, yes. To your point, Commissioner, that we want to understand what's worked in tangible terms and how could things be done even better and more efficiently and more effectively, with the guiding principle being what is best for the First Peoples learners and their educational and education training both in the skills attainment and the employment outcomes. I agree with you.

**COMMISSIONER WALTER:** I think it needs to be independently assessed.

**MS MCLEOD:** The next was the social procurement strategy and this concerns the purchase of services, goods and services by government including your department, obviously. So I want to ask you about the industry sectors that the Department is investing in through social procurement.

**MR TIM ADA:** So in the current financial year, we have procured goods and services from almost 30 Aboriginal businesses and vendors. The spend, the procurement spend on Aboriginal businesses is higher this year than it was last year. It's about - it's less than 1 per cent of the Department's total procurement

spend, but it has grown not insignificantly in the last 12 months. And the number of procurements of Aboriginal businesses as a proportion of the number of total procurements, I hope to achieve our target of two per cent in '23-'24 and again, that's grown from the year before.

5

We have some targets in the organisation that go to both the value of procurement and the volume of procurement, and over the next two years I'd like the organisation to pursue a target of one per cent by value and three per cent by way of volume in the organisation. I think all departments have an opportunity to leverage their procurement spend in pursuit of these sorts of goals and I think our department needs to be a role model to the extent that we can be, as the Department of Jobs, Skills, Industry and Regions. And so they're the strategies that we will be pursuing and we co-define that in business plans and business plans accordingly.

10

15

**COMMISSIONER LOVETT:** Can you share why you decided to go down the three per cent volume compared to the one per cent dollars spent?

20

**MR TIM ADA:** I'm suggesting, Commissioner, both of them are targets for us over the next two years, recognising both value of spend and the number of procurements are both important. That represents a stretch goal for our organisation, Commissioner, but one that, you know, I'm committed to achieving. Beyond that, is there more we can do?

25

**COMMISSIONER LOVETT:** Because I can see the value in the, I would say dollar spent, but what word did you use?

**MR TIM ADA:** Value.

30

**COMMISSIONER LOVETT:** (Crosstalk) you know, there's, that's how you are going to effect change through dollars spent, you know. We are seen and we have got evidence here around how many catering contracts that our people get and it's great, I'm not taking away from Aboriginal businesses providing catering services to governments and all that kind of stuff. But, you know, we look at the amount of different businesses and opportunities and so forth that our people have been able to create, and where you effect meaningful change is the amount of dollars spent and in a big, big mega billion department that your department is, probably one of the more wealthiest departments outline of them, that is where the opportunities are.

35

40

45

**MR TIM ADA:** I agree wholeheartedly, Commissioner, that there is a number of businesses. As the biggest customer in the marketplace, government has a really big role to play. As I've said, I want our department to play a really big role, because at the end of the day it's a really tangible way of particularly new businesses securing the first few contracts that are going to help them original path to prosperity and I couldn't agree more with you. We do have a declining, it's a very tight fiscal environment, Commissioner, we have a declining spend so what

we are attempting to do is increase our spend in a overall declining budget scenario. So it's a - I recognise that we, in other circumstances could be more ambitious but it is a stretched target for us, but I'm committed to achieving it.

5 **COMMISSIONER LOVETT:** I mean Aboriginal people have been experiencing fiscal decline since the impact of colonisation. We get it. We live in it, you know, and it's important that our people have those opportunities as well. And we have also heard, about, you know, systemic barriers around our people not having, not capability but capacity to be able to bid for meaningful bids of  
10 multimillion dollar contracts, because we don't have thousands of staff being able to write and get through those processes as well. Is the Department doing anything to work with First Peoples businesses to be able to cut through that barrier? But also what is happening to remove the barriers for First Nations businesses as well?

15 **MR TIM ADA:** As just a couple of examples, some of the initiatives that we have supported under Yuma Yirramboi go to building the financial literacy, for example, and governance. There's a particular initiative that has had, I think, more than 100 participants from Aboriginal businesses and potential entrepreneurs  
20 around building their capacity, as you say, Commissioner, to then participate and win government contracts.

And I'm eager at looking at how we can remove those impediments, we have got obligations on us in terms of processes that we need to run to secure value for all  
25 Victorians. But there are things we need to do differently to remove impediments so there is an equal playing field. I accept that.

**COMMISSIONER LOVETT:** Can you give us some tangibles around what you are doing? It's great that 100 you just mentioned, 100 Aboriginal businesses have  
30 gone through the literacy, which - I hate that word as well, but particularly in the context of our people's, given the old systematic education barriers that our people faced or the lack of, but, yeah, like what's happening around removing the barriers? And we understand you have got requirements you have to meet but what's happening around removing them or helping our people work through  
35 them, given we are coming from a different place?

**MR TIM ADA:** I think there's an opportunity to work with businesses and vendors in a different way, Commissioner, to your point. I think if we are to  
40 aspire to and meet the targets I've just talked about we are going to have to be more proactive. There's been initiatives historically, which have gone to how do you use government procurement as a - one of the - and I think I mentioned it before, one of the early first contracts for a business to build their footing and their stability and to employ the next tranche of people. I'm attracted to understanding what more we could be doing in that space.

45 With regards to the procurement that we've actually undertaken in the Department, and I mentioned about 25 or 30 vendors, we have seen a real spread of types of



businesses that we've procured from. The lion's share have been professional services firms. There has been some research procured, some photography procured, there's been some training procured. We have procured some services from Traditional Owner corporations. There has been some catering, but the lion's share has been professional services.

**COMMISSIONER LOVETT:** Thanks for sharing that. I think if you are going to hit your targets, you have to remove the barriers.

10 **MR TIM ADA:** I understand that.

**COMMISSIONER LOVETT:** The advocacy and the ask and the knocking on the door from our people has been there, but it's always the barriers around capacity and we have got 200 years of catching up to do. And it's only been in the last 20 years that we have been able to cut through and break through into these forms of economic prosperity and it's not that long, 20 years. Again, 200 years head start on us.

20 **MS MCLEOD SC:** Is one of the barriers to achieving your stretch goal in terms of the value of the contracts the lack of businesses available that provide those - supply those goods and services?

**MR TIM ADA:** In some sectors I think that's true, counsel.

25 **MS MCLEOD SC:** So is there an opportunity to invest in businesses to enable them to take up those contracts?

**MR TIM ADA:** I think your question, and the Commissioner's questions are good questions that we need to do some more reflection on as an organisation about what things we could do differently to make Aboriginal businesses aware of our interest in procuring goods and services and then for maybe thin markets, for example, as an example how do we actually build the capability of the vendor community. And I think the Commissioner's points around us needing to work harder as an organisation to remove impediments are good ones.

35 **MS MCLEOD SC:** So you would have an unique view of where the thin markets are, niche opportunities for businesses to up-sale or expand their operations to new areas. Would you agree that that's an area that could bear a considerable fruit?

40 **MR TIM ADA:** Yes. Yes, it is.

**MS MCLEOD SC:** In terms of when you talk about professional services, your vocational and education training is mostly TAFE level or is it university placements as well?

45 **MR TIM ADA:** The State Minister For Skills and TAFE has some role with regard to university governance, but the universities are largely exclusively funded

by the Commonwealth and other revenue and the Commonwealth retains the relevant legislation. We obviously have a more direct relationship with the four dual sector universities in Victoria that provide both variable education and training and higher education. In the context of the university accord, the  
 5 Commonwealth Government has sponsored just in the last 12 months we are deeply interested in integration opportunities between vocational education training and higher education. Our principal levers, if you can call it that, counsel, do though relate to the vocational education and training system.

10 **COMMISSIONER WALTER:** Wouldn't you want to be having a relationship with universities about supporting First Peoples through business and other degrees? Do you do any of that at the moment?

15 **MR TIM ADA:** Some, but not enough, Commissioner. I mentioned the opportunity around when you asked me a question around other opportunities and we talked about human capital, and capacity development. I think that presented as a really good example.

20 **COMMISSIONER WALTER:** Yes. Because if you could fund a full cohort, 50, 60, 70 First Nations People through business and economic degrees, marketing degrees -

**MR TIM ADA:** Yes.

25 **COMMISSIONER WALTER:** - what a difference that would make.

**MR TIM ADA:** Couldn't agree more, Commissioner.

30 **MS MCLEOD SC:** The last thing I wanted to touch on, just looking at the time, there's plenty of detail in your statement but I did want to touch on the Closing the Gap targets and you start the discussion around these at paragraph 83. And if I could just invite you to turn to page, the page commencing - the flow on of paragraph 84. Four targets, targets 6, 7, 8 and 16. You say in your statement, this is paragraph 84 on the second page. You say in your statement:

35 "Target 6 that increasing the proportion of Aboriginal and Torres Strait Islander people who completed a tertiary qualification, that target is not on track."

40 **MR TIM ADA:** That's correct.

**MS MCLEOD SC:** Target 7:

45 "Increase the proportion of Aboriginal and Torres Strait Islander youth in employment, education or training to 67 per cent."

You're close to that with 65.5 per cent. Target 8:

"Increase the proportion of Aboriginal and Torres Strait Islander people  
whore employed to 62 per cent."

5 You are on track to reach that target. And target 16, concerning languages, you  
note there's a sustained increase in the number of and strength of Aboriginal and  
Torres Strait Islander languages being spoken. So I wasn't to ask you about that.  
But in 2016 four languages were being spoken. While there has been no new data  
10 since the base line year, the 2023 Victorian Government Aboriginal Affairs Report  
due to be released by the end of June will include reporting on the number of  
schools teaching a First Peoples language in Victoria. So is it fair to say that  
target 6 and 16 are probably not on track at this time?

15 **MR TIM ADA:** I think that's a reasonable conclusion.

**MS MCLEOD SC:** And what steps is the Department taking to meet those  
targets?

20 **MR TIM ADA:** I can start with Target 16 recognising, of course, there's - the  
Department of Education has a really significant role to play with regards to the  
language in schools. We have worked with a number of training providers and  
Traditional Owners to develop a number of new accredited courses related to First  
Peoples' languages and we expect -

25 **MS MCLEOD SC:** Are they the ones described in paragraph 87?

30 **MR TIM ADA:** They are. We expect those subject to Traditional Owner  
permission, we would expect those to start delivery from January '25 and that's  
directly relevant to Target 16. With regard to Target 6, the principal goal for us as  
an organisation is to increase - to remove the impediments, to continue to remove  
the impediments and increase the enrolments by First Peoples in vocational  
education and training courses that they wish to pursue and to support an increase  
in the completions. Because I mentioned before the completions by First Peoples  
in the educational education training system is not as high as it is for the general  
35 population.

40 That is the principal strategy under the Marrung plan for us to continue to work or  
making progress related to Target 6 but I would engine that there are opportunities  
for reform and funding to accelerate progress related to Target 6, because the  
progress we've made in recent years has not been good.

**MS MCLEOD SC:** Largely the progress that has been made is attributed to the  
waiver in tuition fees?

45 **MR TIM ADA:** Particularly I think the growth that we have seen in First  
Peoples' enrolments in Victoria's vocational education and training, particularly in  
TAFE is very encouraging and suggest the fee waiver together with some of the

eligibility changes the government made last year is having a positive impact. And we need to continue that growth in enrolments and then support First Peoples learners to ensure they are having a quality experience, completing their training and finding the jobs that they want.

5

**MS MCLEOD SC:** Assuming that fee waiver is continued and that's seen as a successful driver of enrolments, what do you project will be the result for this target next year, say?

10 **MR TIM ADA:** We haven't concluded our modelling. We are eager to see the second quarter and particularly the first quarter of the second semester of this training year as to see whether we are going to see that sustained enrolment growth. If we see that sustained enrolment growth we will make faster progress than we have.

15

**MS MCLEOD SC:** Does anything else need to happen beyond the fee waiver to help you reach that 70 per cent target?

20 **MR TIM ADA:** I think there's a question around - the Commissioner asked the question about how effective other Wurreker strategy has been and whether it's adequately resourced. I think that's a good question. There's both an efficacy and efficiency, and a scale question there. Are eight brokers and 50 Koori liaison officers and support, student support officers are enough? There's a question if we continue to see enrolments by First Peoples in TAFE and non-TAFE RTOs in  
25 Victoria is there more resources to support a quality experience, the conclusion of the studies and then the attainment of a job that they want at the end of that? There is a resourcing question.

30 **MS MCLEOD SC:** I wanted to invite you to offer any reflections you might have on the broad goals of economic equity and economic empowerment of First Nations peoples, and what you are prepared to commit to on behalf of the Department in terms of delivery of those goals, within the framework of government policy.

35 **MR TIM ADA:** So we've talked a little bit about procurement and the role that - and the targets we want to commit to as an organisation. I think there is an opportunity to evaluate and find continuous improvement with regards to the delivery of our vocational and education training system or indeed some of our other mainstream programs, to use that term again. We need to work harder as an  
40 organisation embedding the principles of self-determination in our organisation, some of which will require decisions of government, as I mentioned earlier.

45 The final thing I'd say is I've talked about my aspiration for the Department to be a culturally competent one. The organisation is chock full of wonderful people but we need to provide more opportunity for them and all of us at all levels, to build our awareness and cultural competence as an organisation, so those working at the organisation at all levels have the ability to - to contribute to the Yuma

Yirramboi overarching goal of economic equity within a generation for Victorian's First Peoples in a more significant way than we are currently are.

**MS MCLEOD SC:** Do the Commissioners have further questions?

5

**COMMISSIONER LOVETT:** Just in relation to languages, we have had Aunty Vicki Couzens come before the Commission. If you haven't seen her evidence, I'd like you to make a commitment to go and watch that. She continually made strong comments around, you know linguicide and the lack of teaching of our languages in schools. And we had the Secretary, one of your peers who sits on the, you know, the Secretary leadership group.

10

**MR TIM ADA:** Yes.

**COMMISSIONER LOVETT:** You hear him say 15 - out of the public schools teaching First Nations language 1,529 out of 1,566. So we've got about 30 schools teaching language throughout the state. Aunty Vicki comes here and says - who is leading one of our peak organisations for language, peak training call for languages - no government - no Victorian Government investment into the Victorian Aboriginal call for languages. So how are you going to be able to achieve target 16 in having more languages taught in schools if we are not investing in the peak organisation, which is VACL, for languages.

20

**MR TIM ADA:** I will watch that, Commissioner.

25

**CHAIR:** Just to add to that it's another space that traditionally the Commonwealth has avoided funding in Victoria, the language space. All the funding has been up north. And small projects have been done in the schools, individual projects with local communities, maybe a KESO or somebody, small apps with language words from maybe half a dozen, eight different groups, if they were lucky enough. But I notice since COVID nearly all of the apps are no longer up to date, and it's only a couple that we can use properly now. So it's not - well, never been well supported in this State.

30

**COMMISSIONER LOVETT:** I just want to make that comment again just to be clear because I don't think I expressed it really clear enough. But 1,529 out of 1,566 schools do not teach language. So what I'm asking here, Secretary, is you have power and resources, you know how much power and resources your position holds and how much influence your position holds across many sectors and forums, and I'm not only asking you to watch the evidence but I'm asking you to act and do something about it because it's really important.

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40

When you went to New Zealand how much Māori language did you hear, and not just in the meetings you had but walking around the streets? It's in your face, in a good way.

45

**MR TIM ADA:** In a good way.

**COMMISSIONER LOVETT:** It's their identity. It's a national identity that they walk around. And I'm not saying it's perfect for Māori people living in Aotearoa, but it's in your face. You walk out of the airport, boom. You know, even  
5 depending on what plane you jump on, which carrier, you know, already speaking in languages they're flying into it. There's an expectation, you fly into Melbourne, what did you see?

**MR TIM ADA:** A very stark difference.  
10

**COMMISSIONER LOVETT:** You would have got all the way to your place and you would have had no interactions with our culture. No visual representation beyond flying the flags, which is important, but there's more to it than just flying flags. It's about change, visual. We want to be seen. We want to be heard. We  
15 want to be respected. And we want people to be accountable for their commitments. It's hard to do that when there's no investment in language, you know what hope do our people have? We heard stark evidence this morning about family violence, you know, on our women and how they're treated. It's not good enough this day and age.  
20

**CHAIR:** Counsel -

**MS MCLEOD SC:** Yes, thank you Chair. That's the evidence of Mr Ada.

**CHAIR:** Thank you.  
25

Thank you very much for that fulsome advice and a lot of things to think about, though, lots and lots of things to think about, and we are behind the eight-ball.

**MS MCLEOD SC:** I do intend to tender the Secretary's statement and the document that we went to in a version of that.  
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**CHAIR:** Thank you, counsel.

**MR TIM ADA:** Thank you, Chair.  
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Thanks, Commissioners.

**MS MCLEOD SC:** Tomorrow morning, I think - I'll just do a quick check  
40 tomorrow morning we are resuming at 10 o'clock, if the Commission pleases.

**CHAIR:** The Commission will adjourn until 10 o'clock in the morning. Thank you. Thank you, everybody.

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**<THE HEARING ADJOURNED AT 4.41 PM**