TRANSCRIPT OF DAY 11 – PUBLIC HEARING

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

FRIDAY, 21 JUNE 2024 AT 10.00 AM (AEST)

DAY 11

HEARING BLOCK 7

MS FIONA McLEOD AO SC, Counsel Assisting
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<THE HEARING COMMENCED AT 10.00 AM

CHAIR: Good morning. Good morning. Welcome to today's hearing of the Yoorrook Justice Commission. We continue our Inquiry into Historic and Ongoing Social Injustice for Victorian Peoples in this Hearing Block 7. Welcome. Before we proceed, I will ask Commissioner Hunter to do the Welcome to Country.

COMMISSIONER HUNTER: Thank you. I'd like to acknowledge that we are on the lands of the Wurundjeri people of the Kulin Nation, and acknowledge my ancestors past and present; all those that come before us to be able to give us voice here today. I also acknowledge that people may be feeling heavy after this week's evidence, and again point people to 13YARN, and connect to culture and do what's right for you to keep yourself strong and healthy. And so, Wominjeka, come with purpose, and welcome to my lands. Thank you.

CHAIR: Thank you, Commissioner Hunter. Counsel, may we have appearances?

MS MCLEOD: If the Commissioners please, I appear to assist you today. I thank Commissioner Hunter for her welcome. I acknowledge the unceded lands of the Wurundjeri people and thank you for your invitation for us to conduct our business on those lands today. I acknowledge all First Peoples of this State and offer my respects to Elders and ancestors.

CHAIR: Thank you.

MS EVANS: May it please the Commission, my name is Evans. I appear for the State of Victoria, with Ms Phoebe Knowles, for the Minister for Health, Minister for Health Infrastructure and Minister for Ambulance Services, the Honourable Mary-Anne Thomas today. Thank You, Commissioner Hunter, for your welcome. We acknowledge that today's hearing is held on the Lands of the Wurundjeri people of the Kulin Nation. We acknowledge them as the Traditional Owners of this land and that sovereignty has never been ceded. We pay respects to Wurundjeri Elders, past and present, and Aboriginal Elders of other communities, and other First Peoples who are here today and watching online. Thank You.

MS MCLEOD SC: Thank you, Commissioners. Our witness today is the Minister for Health, Health Infrastructure and Ambulance Services, Mary-Anne Thomas.

CHAIR: Welcome Minister.

THE HON MARY-ANNE THOMAS: Thank you (crosstalk).

MS MCLEOD SC: Welcome, Minister. Would you please state your full name?

THE HON MARY-ANNE THOMAS: Mary-Anne Thomas.

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

THE HON MARY-ANNE THOMAS: Yes, I do.

MS MCLEOD SC: Minister, you've prepared a witness statement dated 14 June 2024.

THE HON MARY-ANNE THOMAS: Yes, I have.

MS MCLEOD SC: Is that statement true and correct?

THE HON MARY-ANNE THOMAS: Yes, it is.

MS MCLEOD SC: If the Commissioners please, the reference is DOH.0011.0001.0001. I tender the statement at this time. There will be other documents to tender at the end of the day, Chair, but so this document can be uploaded to the website now, I tender that at this time. Just pardon me for a moment.

CHAIR: Thank you.

MS MCLEOD SC: Minister, I also refer to a document the Department of Health has prepared in response to a request for information issued by the Commission. You're familiar with those two documents: One prepared in December last year and one in March of this year?

THE HON MARY-ANNE THOMAS: Yes, I am.

MS MCLEOD SC: The December document, Commissioners, is DOH.0004.0002.0008, the March document is DOH.0006.0001.0006, and there are a number of annexures which have been previously tendered, Commissioners.

Minister, I understand you've prepared some opening remarks that you would like to make to the Commission.

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: Please proceed.

THE HON MARY-ANNE THOMAS: Thank you, Counsel. I would like to begin by acknowledging the Traditional Owners of the lands on which this historic meeting is taking place today, the Wurundjeri people of the Kulin Nation, and I pay my deep personal respects to their Elders past, present and emerging, and I extend that to all First Peoples who are here or watching online today.

I also acknowledge and pay my respects to the wisdom and leadership of Traditional Owners and First Peoples right across Victoria, including their ancestors and Elders. I acknowledge the path that First Peoples leaders and community have paved for future generations. I recognise their strength and resilience, and I thank Commissioner Hunter for her welcome to her Country this morning. I acknowledge that sovereignty was never ceded by First Peoples, and that the impact of dispossession and colonisation is still felt today, including in the health and wellbeing of First Peoples here in Victoria. I recognise that First Peoples' health and wellbeing extends beyond physical health. It encompasses the social, emotional, and cultural wellbeing of the whole community in which each individual is able to achieve their full potential thereby supporting the total wellbeing of the community. Delivering culturally safe health care and wellbeing services to First Peoples is fundamentally important. First Peoples have a right to self-determination in health care and wellbeing services. To me, self-determination means that First Peoples have autonomy, genuine decision-making power, and meaningful control. They are not merely engaged or consulted or advisers or co-designers. I understand that self-determination for First Peoples also means government ceding power and control.

The process of preparing to appear before the Yoorrook Justice Commission has been profound, highlighting for me the pervasive nature of racism experienced by First Peoples trying to access government services. This has been a humbling experience and has made me face into the privilege I have experienced of never having health services denied to me, of never having faced racism, and of never feeling culturally unsafe when seeking medical advice or treatment. I thank the Commissioners for the opportunity to appear here today to give evidence in this important truth-telling process. Thank you.

MS MCLEOD SC: Minister, there is a recent report to you, a couple of days ago, by Sissy Austin. Would you like to share with the Commissioners what Sissy told you and your response to that?

THE HON MARY-ANNE THOMAS: Yes, I would; and, firstly, I would like to assure the Commissioners that I sought the permission of Ms Austin to tell her story. Sissy is a young woman that's been known to me for some time, who contacted me a week or so ago seeking a meeting with me. I had that meeting with Sissy yesterday on Teams. And I was aware of the assault that Sissy - that Sissy had endured back in February of 2023. It is a - it was an event that attracted some media attention at the time. And Sissy, as I'm sure is known to Commissioners, is a strong advocate for herself, her family and her people.

But Sissy told me a story last night which was in relation to the treatment that she received at Ballarat Base Hospital that I wish to share with the Commission today. Sissy told me that following an assault in a forest outside of Ballarat, she was transported to hospital by an ambulance. She had been assaulted. She was

bleeding, and pictures of her from the time made it very clear that the extent of her harm was quite severe.

Sissy explained to me that in the Emergency Department she was in a cubicle; that she was very distressed. She was covered in blood. She had vomited and she was lying in her own vomit. She could overhear conversations in a cubicle next to her and she became quite distressed. She'd had a CT scan but she started calling out, "I don't wanna be here, I don't wanna be here, get me get me out of here." She was offered a piece of paper by a nurse and told that she could sign the piece of paper.

She signed that piece of paper and, without fully knowing what it meant, what Sissy had done is discharge herself from the hospital. She was still calling out, "Get me out of here. Get me out of here", and she was pointed to the exit. She did not want to leave through that exit because there were community members in the Emergency Department. So then she was pointed to another exit.

I know the data. I've seen the data as it relates to a discharge against medical advice. What this story tells us and shows us is the real human impact of that - what - of that data and what Sissy experienced was brutal and dehumanising. And it is completely unacceptable to me. It is the true story behind the data that tells us that First Peoples do not feel culturally safe in our health services. And with stories and experiences such as Sissy, is it any wonder?

COMMISSIONER LOVETT: You - a couple of things from me, Minister. Thanks for that. You made mention to media coverage, so I just want to go back a bit. Now, I talked about media coverage, particularly about our women yesterday, and not getting the right media coverage that they deserve around protecting their lives. But how it played out for Sissy, in my understanding, is that she put something on social media after it had happened and it took a week - it went viral on social media and then a week later, the media decided to put it on the news. A whole week later. So I just want to make that point which is absolutely disgusting in itself. Because if it had happened to a non-Aboriginal woman, that would have been on the front that night and you know how the media works just as well as all of us in here. So we need to be clear on that. You also made reference just then to a conversation but didn't elaborate and maybe there's an agreement with Sissy on what was discussed what she overheard, but you just said before about she had overheard a conversation in the next room but you didn't elaborate. Is there anything that you can share because, obviously this was one of the major contributing triggers to her. What was - was it racial? Don't have to go into the details but was it racial things that Sissy had overheard?

THE HON MARY-ANNE THOMAS: Commissioner Lovett, it was more that she felt that she was surrounded by voices and conversations at a time when she had experienced a head injury.

COMMISSIONER LOVETT: Yes.

THE HON MARY-ANNE THOMAS: So in further answer to your question, I did ask Sissy specifically if she felt that her Aboriginality was a factor and she told me that she had appeared - she's been to that hospital, it's her local hospital. She has been there before and she was wearing a T-shirt with an Aboriginal flag on it at the time.

COMMISSIONER LOVETT: And given the significant head injuries to Sissy, is it acceptable for patients with head injuries to sign discharge forms?

THE HON MARY-ANNE THOMAS: No, it is not.

COMMISSIONER LOVETT: It's not? Do you have anything to - anything to say about that, Minister?

THE HON MARY-ANNE THOMAS: Yes, I do. Look, I was deeply shocked by what Sissy told me yesterday. I raised it immediately with the Deputy Secretary Geissler and then again with the Secretary of my captain, Professor Euan Wallace. I know that contact was made immediately after with the CEO of the Ballarat Health Service. Commissioner Lovett, this happened yesterday afternoon, but I want to assure you that I would follow through on this incident as and what has happened to Sissy. But I might also elaborate and let you know that Sissy contacted me because she was concerned about the evidence that has come before Yoorrook from Djirra and others in relation to the prevalence of ABIs that are sustained by First Peoples women as a result of violence. And it was this what motivated Sissy to contact me. Her first question to me, which was we were talking through a social media app, was to query what, if any, protocols existed in our health services for the treatment of concussion.

I need to, I've had a preliminary conversation with the Secretary of my Department in relation to this. So I might point out, Commissioner Lovett, I see that there are two issues for me to follow up here. One is around protocols in relation to treatment for concussion, but I might also overlay that by understanding, which I do, that the concussion that is experienced by AFL footballers gets a lot more attention than the concussion that is being experienced by family victims, including First Peoples victims, of violence. So that is one issue.

But the second issue is the treatment, the personal treatment, of Ms Austin which is completely and utterly unacceptable.

COMMISSIONER LOVETT: And was there an Aboriginal liaison officer within the hospital, to be able to help with this situation that might have been appropriate for Sissy to be able to talk to, particularly around understanding the discharge process and what was happening?

THE HON MARY-ANNE THOMAS: Commissioner Lovett, this incident occurred late at night and, as a consequence, there was no Aboriginal liaison officer available. That brought home to me the concerns, of course, that trauma is often experienced in hours outside normal business hours, and that is something that I need to consider.

COMMISSIONER LOVETT: And it would be fair to say that we have known that for a very long time, Minister, that, you know, I mean, Aboriginal people are presenting to the hospitals 24/7 but yet our funded positions in hospital are pretty much 9 to 5. And, if we're lucky, Saturday or Sunday. So I think that is something that, obviously, you are committing to doing something further about.

THE HON MARY-ANNE THOMAS: Well, I acknowledge that that is a real concern, Commissioner.

COMMISSIONER LOVETT: I guess I'm asking, Minister, is there something you can follow up about it? It's one thing to acknowledge but then to put it into action, you know, we have - I didn't get confidence the other day when we had the Deputy Secretary talking about organisational performance when it comes to hospitals. So there's cultural safety and experiences of racism, and our people are continually reporting on that, and I feel that they are not weighted in the context of them receiving funding.

So I think, you know, in the context as well of us being able to get our human rights serviced, basic human rights, we are not asking for anything more here, but we are overrepresented and we need to have the resources to support our people who present themselves to hospitals.

COMMISSIONER HUNTER: Can I just add on that. Are there State-wide protocols or guidelines around the discharging of somebody with concussion or head injuries?

THE HON MARY-ANNE THOMAS: Commissioner Hunter, I don't have all of that information with me. I'm not - I don't believe that there are. But that does concern me. Obviously, there are a range of - there are a range of conditions or health concerns that would mean a person is not able to really make an informed decision.

COMMISSIONER HUNTER: I would agree and, on top of that, if there aren't any I would suggest looking into what that looks like, but particularly Aboriginal women.

THE HON MARY-ANNE THOMAS: Yes.

COMMISSIONER HUNTER: And what that means within that protocol, and if I am correct, I have - I do know some of Sissy's story, but she did attend the hospital again, but had to get the CEO of VAHS to ring before she got there, to

make sure it was safe enough. How sad is it, with particularly what's going on in Ballarat with the - you know, all the violence there that's happened to women, that she has to get somebody to ring before to make sure it's safe enough for an Aboriginal woman to attend who is very unwell. And on Commissioner Lovett's point, again, our women are silenced, if you heard yesterday's - they are silenced, they are not considered in these systems and we really need to look at, particularly, concussion and ABIs when it comes to our women.

THE HON MARY-ANNE THOMAS: Commissioner Hunter, the evidence before the Commission from Djirra was very powerful in this regard and I have had the opportunity to read that. I do, with my colleague, the Minister for the Prevention of Family Violence, who I know presented to you yesterday, want to follow up on this. And Commissioner Lovett, can I say to you that if care delivered in our hospitals is not culturally safe then it is not care.

COMMISSIONER LOVETT: And I think the data and statistics shows that, Minister. And I think this is what we are trying to grapple with around what is being done about it and, again, I come back to my point and I recognise you acknowledged it, but I'm looking for some clarity and some commitment here from you to follow up on doing some analysis or some costings around Aboriginal people and Aboriginal liaison officers being funded to be in hospitals on a more regular consistent basis. That's not a dig at them working really hard, but people present to hospitals 24/7. You can turn up and get a service for anything else. There's even interpreters and so forth for other cultures and stuff but our people are always at the bottom. And we've heard it loud - this is not anecdotal how we feel, this is our lived experience and we have data and evidence supplied by your Department. So, again, it's not a feel thing that just a couple of people said their story and it's a systematic issue. But data - your data says that it's a systematic issue, but we don't see the resources applied and put towards how we save our people's lives. We are at the bottom all the time.

COMMISSIONER WALTER: Can I just add too, that with Aboriginal liaison officers in hospitals, we did have a closed hearing with Aboriginal liaison officers, and they reported that they are often experiencing racism at work. They're very often on their own, so they're very vulnerable. So the lone Aboriginal liaison officer in a hospital, at a very low level, to be able to protect patients or help patients such as Sissy Austin, they're not equipped to do that. I mean, they do their best. I know they do their best, but they are also working in an environment which makes them unsafe and they - yes, we heard some terrible stories about their - what they - the circumstances and the casual racism that they have directed both to themselves and that they hear about patients on a day-to-day basis. There needs to be big system changes.

THE HON MARY-ANNE THOMAS: Thank you for that comment, Commissioner Walter and I agree.

COMMISSIONER LOVETT: One other point. Just adding on to comments made but does Victoria have state-wide standards for discharging patients with concussion is another thing we would like for you to follow up with the Department and come back to us.

THE HON MARY-ANNE THOMAS: I can definitely do that for you, Commissioner Lovett. Can I say also, again, I accept everything that you've said about the availability - that both yourself and Commissioner Walter have said about the availability of Aboriginal health liaison officers, and the racism that they themselves are subject to. The work for me is to continue to put the onus on the hospital boards and CEOs to provide safe patient care to all of their patients. This includes, of course, First Peoples patients.

I think a piece of work that we can definitely do is an analysis - it's not hard to do an analysis of when peak periods are for presentations and we should, at least, be looking to make liaison officers available during those peak periods of presentation.

MS MCLEOD SC: Minister, if I may follow up a few of the threads there. We understand that Sissy presented and her medical notes record clear signs of head injury. She had reported loss of consciousness. She reported a physical assault, a violent and brutal assault that had left her with head injuries, headache, sensitivity to light and amnesia. I'm not asking for a medical response here but, clearly, being left on her own in an Emergency Department in a state of shock, and in her own blood and her own vomit would be very frightening and shocking for her to not have immediate medical attention. Would you agree with that?

THE HON MARY-ANNE THOMAS: Yes, I would.

MS MCLEOD SC: And if that was the motivator for her to seek discharge, what should have occurred so that she wasn't frightened enough to want to leave?

THE HON MARY-ANNE THOMAS: Thank you, Counsel. Can I - based on what Sissy has told me, I don't believe it is clear that she was herself seeking discharge. I think that in her frightened state, she wanted to get out. It's not that she was not saying that she did not want to receive health care. She wanted to be out of that environment.

MS MCLEOD SC: So at a base line, what care should be delivered to a person presenting with these symptoms and in this state of distress?

THE HON MARY-ANNE THOMAS: Again, I'm not being - I'm not a medical doctor nor a health professional, but empathy, compassion, and attention, an explanation of the care that would be delivered, being up-front if there was an expectation that she would need to wait in the cubicle that she was in, some commonsense and decency.

MS MCLEOD SC: If the answer - I don't know the answer but if the answer was that the emergency staff were overrun and overwhelmed that night, what's the answer to that?

THE HON MARY-ANNE THOMAS: Well - and I do want to acknowledge that our health care workers have been under unprecedented pressure because of the impacts of COVID in our health system and so on, and that Emergency Departments can and do get very, very busy. But, nonetheless, that is not an excuse to not treat people with decency and compassion.

MS MCLEOD SC: The next issue is around her discharge and Commissioner Lovett asked you about the discharge form, and I think you indicated that there appears to have been no Aboriginal liaison officer. Her report was she was discharged at around 1 am with no social supports at all on to the streets of Ballarat, effectively.

THE HON MARY-ANNE THOMAS: That's what Sissy told me.

MS MCLEOD SC: Is that an appropriate manner of discharge for a young woman who has been violently assaulted?

THE HON MARY-ANNE THOMAS: Absolutely not.

MS MCLEOD SC: What services should and could the hospital access to ensure she was picked up or had somebody to accompany her home.

THE HON MARY-ANNE THOMAS: Well, there are a range of services.

COMMISSIONER HUNTER: Sorry Minister, I'm confused. I know others may agree or disagree with me. I haven't been in hospital for something so serious, but when I have been discharged, I haven't been discharged alone ever. They've always made sure there's someone to - so how do you discharge a young Aboriginal woman with concussion at 1 am on to the street?

THE HON MARY-ANNE THOMAS: So, again, Commissioner Hunter, I think what this - what Sissy's experience highlights is the misuse of the - of patient self-discharge processes.

COMMISSIONER HUNTER: Just not good enough.

THE HON MARY-ANNE THOMAS: It is absolutely -

COMMISSIONER HUNTER: If that was my daughter - that could be any of our - but for a young Aboriginal woman who has been - she had already been attacked that day and at 1 am she is out on the street. I'm just shocked at the response.

THE HON MARY-ANNE THOMAS: Commissioner Hunter, I was devastated to hear this experience. It is - it is truly shocking.

MS MCLEOD SC: The next issue I wanted to ask you about - sorry, to go back to that discharge, you've said you've had a preliminary conversation around the discharge process generally, what will you do now in relation to those discharge protocols to find out what happened in her particular case but, also, to address the systemic issue, if there is one?

THE HON MARY-ANNE THOMAS: Thank you, Counsel. After a preliminary conversation with my Secretary of my Department, Professor Euan Wallace, I think it is important that we look at the use of these discharge forms, and the way they are being used by health services, potentially, to discharge themselves of any accountability or responsibility for the person that is in their care. And I can undertake to examine how they are being used, which hospitals still use them but, also, who they are most impacting. Well, again, my apologies I know who they are impacting. They are impacting First Peoples disproportionately.

MS MCLEOD SC: If Sissy had collapsed inside the hospital would that have been treated as a sentinel event?

THE HON MARY-ANNE THOMAS: A sentinel event, Counsel, is most serious of the adverse outcomes that can occur for a patient. So a sentinel event is when a patient either dies or is irreparably harmed by what has happened in the health service. Nonetheless, there are processes that hospitals should follow when a person needs their care.

MS MCLEOD SC: Yes, I'm asking about the accountability that - if there's any, for these sub-sentinel events. If she had collapsed in the hospital, the hospital would obviously have to deal with that. If she collapsed on the street, then nobody would know and the hospital would say, "Not our problem", effectively.

THE HON MARY-ANNE THOMAS: That's correct.

MS MCLEOD SC: How do we provide a measure of safety for patients at a sub-sentinel event?

THE HON MARY-ANNE THOMAS: Again, it goes, Counsel, to the work that needs to be done to understand how these forms enabling people to discharge themselves against medical advice without even knowing that is what they are doing, how they are being used in our health service system.

MS MCLEOD SC: My question is slightly different. It's segueing to an example of potential or alleged negligence here that could have a very potential serious impact on a patient. And how the system picks up those sorts of events if they're sub-sentinel, if I can use that language?

THE HON MARY-ANNE THOMAS: Counsel, the systems in place for those types of events are probably not as strong as they could be, because I can't explain to you what they are.

MS MCLEOD SC: You see, Sissy in a way is lucky enough to have a direct line to you, but there are thousands of First Nations People seeking health care in this State who don't have your number.

THE HON MARY-ANNE THOMAS: Counsel, I've been reflecting on this matter of how First Peoples raise concerns about their care in our health service system. And we have a process, the process is - goes something like this: That the first port of call is the hospital liaison team at that health service. So the complaints process can be - there is a complaints process at the individual health service. If a person is not satisfied with that, they always have the right to go to the Health Complaints Commissioner. People can complain to the Department, and they can complain to me. But I want to be very up-front in acknowledging the fact that I have never received a complaint from a person who identifies as First Peoples, that I see that as a recognition that that system does not work, and, indeed, an examination of complaints within the Department, I believe, demonstrated that only three complaints had ever been received from First Peoples.

COMMISSIONER LOVETT: Minister, can I jump in here. I'm going to talk about my brother and this is really hard for me and this is not to take away from Sissy's story, but Aunty Jill Gallagher, sit here, VACCHO CEO, provided evidence of three cases. I'm going to talk about one which is my brother. I won't mention the hospital. Everyone knows the hospital, it has been articulated on here. A similar situation where my brother experienced cultural safety and systematic racism from that hospital.

48 hours later, he died. You know and there was, you know, discharge involved in that. He shouldn't have been discharged, whether it be voluntary, whether it be forced. It shouldn't have happened. He's no longer with us. 42 years old. Now, Aunty Jill came and she said that she had written to the hospital seeking an explanation. She had written to authorities seeking an explanation. How many responses do you think that she received? How many? Have a guess.

THE HON MARY-ANNE THOMAS: None.

COMMISSIONER LOVETT: None. None. This is our people, this is our lives and, again, this is our lived experience. We can go on to thousands of other stories as Counsel has articulated, but it happens to our people time and time again, accountability. There's no accountability. There's no accountability when it comes to our people's lives. It doesn't get mentioned on the news. It's not in people's faces. Not that everything has to be mentioned on the news or in the media, but the reality is our people's lives just don't matter. You know, 42 years

old, no longer with us. You know, that's what I mean. Where is the accountability? But when our people muck up or get in trouble or don't even do anything, we are accountable. We get the so-called hamburger with the lot and I know you know what I mean by that. We get everything lumped on us. Everything.

It's just, you know, 42 years old. You know, Sissy, in her 20s. It happens to our people every single day and no accountability. No accountability on police when our people die in custody. There's inquests done and there's recommendations done and then governments sit on it and go we might implement some of those, but not. Do you have anything to say? Not just about my brother but just the system and accountability and what your expectation is? Because I don't know about the other Commissioners on here but I'm not getting a sense that - people coming before it, it's just - there's apology after apology but no accountability or outcomes.

THE HON MARY-ANNE THOMAS: Commissioner Lovett, can I start by extending my - well, let you know that I felt real sorrow for the story of your brother and I send my condolences to you. I've read the evidence, and I accept what you have - everything that you have said, including that lack of accountability. And I don't know how much you want me to go into it now but I can talk about the role of Safer Care Victoria. I can talk about coronial processes but -

MS MCLEOD SC: Is there a place for a proactive stance by the Health Services Commissioner and the Mental Health Services Commissioner here, because we have these complaints mechanisms but they don't seem to be serving First Peoples. They tend to be going to VAHS and the Aboriginal-controlled organisations to report their concerns. If they go to anyone.

At the extreme end, they stop seeking medical assistance.

THE HON MARY-ANNE THOMAS: Thank you, Counsel. Yes, I think there is - it is a real concern that we have complaints mechanisms that do not work for First Peoples. We can't effect change unless there is accountability back to the health service where harms have been caused.

MS MCLEOD SC: Recently, you introduced the Statement of Recognition into legislation which is intended, as I understand it, to guide the operation of health services, but is not to be used legislatively as an interpretation tool or to give rise to a right, any sort of right that might found a claim in torts, for example.

So you've got the Statement of Recognition and you have Safer Care, as you said, and the Commissioners' work. Does something more need to be done to build trust in the system where First Nations People feel that their concerns are being taken seriously and the things they say they need are picked up at a very high level?

THE HON MARY-ANNE THOMAS: Counsel, can I talk to you in a little bit more detail, then, about cultural safety?

MS MCLEOD SC: Yes, please.

THE HON MARY-ANNE THOMAS: So as I said earlier, unless care is - unless the care being delivered in our health services - in our hospitals is culturally safe then it is not safe care. That has become abundantly clear to me. And I - when I became the Health Minister back in 2022, and I met with Aunty Jill Gallagher, she talked to me about cultural safety at that time in our mainstream hospitals and how it was an absolute priority for VACCHO.

Cultural safety has not been taken seriously across our health service system. That is evidenced by the experience of First Peoples that are still occurring in our health service system. So there is absolutely a need for so much more to be done. And I've seen the evidence presented to the Commission in relation to the cultural safety training that has been delivered into our health services, and I think everyone agrees that it is of variable quality.

I'm also concerned that it is treated as a one-off. Like you do cultural safety training, tick. To me, cultural safety is an ongoing process that must be lived by health care workers in our hospitals every single day because we know that without access to culturally safe health care, we know the impacts that that has on First Peoples.

It is why - and based on the evidence that I have seen and read already presented to the Commission and, for me, the very profound impact of Professor Ray Lovett's evidence. I've had the opportunity to see Professor Lovett present some Aboriginal health and wellbeing forums on two occasions and to read his evidence here. So we, as a government and as a Department, will be mandating cultural safety training within our health services system.

We will continue to support VACCHO on the development of their accreditation standards system. So if I can explain that in a little bit more detail. One of the first things also that Aunty Jill said to me is "It's all well and good that our LGBTIQA+ community now have the rainbow tick and accreditation process, it means that members of that community can have confidence that they will be treated safely with care and dignity, we need the same sort of accreditation process for First Peoples.

And VACCHO is working on those standards, and they have been provided with funding to do that. That is incredibly important work. But the final point I wanted to make, Counsel, is that having, as I said, listened to Professor Lovett, it is very clear to me that we must face anti-racism in our health service system. It is of deep concern to me that one in five First Nations People say that they've experienced racism in our health service system.

And Commissioner Lovett, I noted - I've noted some of your comments in - during this process where, I think, you said to the Secretary "Just crack on with it". I think that we need to deliver a - or I've directed my Department to develop and implement an anti-racism strategy to be applied both in my Department but particularly in our hospitals.

COMMISSIONER WALTER: Can I just ask about the - it's very good that VACCHO are developing that accreditation but, of course, VACCHO can't enforce it.

THE HON MARY-ANNE THOMAS: No.

COMMISSIONER WALTER: That's the job of the Department and the job of the Minister. So how - I mean, we know that all health professionals have professional development obligations that they need to fulfil to maintain their registration. Is that an appropriate place where we should be putting these obligations, so that they don't become tick and flick? That they don't become how fast can I do this online component, perhaps I can have it going while I'm cooking dinner or overseeing the kids' homework or doing my pilates. That we actually have - that there are serious obligations for health professionals to be able to maintain their registration, to prove they are aware of the cultural safety needs that they need - obligations they have to keep First Nations People safe.

THE HON MARY-ANNE THOMAS: Commissioner Walter, I think there is real opportunity in what you've outlined. That would need to be done through the colleges who set the standards, but I know also that you have received evidence from the College of General Practitioners, and I would think that that would be a really great place to start. I'm very happy to - and would love to follow up with the president of the college here in Victoria, in relation to that matter.

COMMISSIONER WALTER: Thank you. So your Department and you would take the lead on that?

THE HON MARY-ANNE THOMAS: Well, the colleges would have to - the colleges set the standards.

COMMISSIONER WALTER: Yes, I know but you would need to approach them? So you would take the lead on approaching them?

THE HON MARY-ANNE THOMAS: I'm happy to approach them. Absolutely.

COMMISSIONER WALTER: And the expectation that they take this seriously.

COMMISSIONER HUNTER: Can I just ask, Safer Care Victoria, you've mentioned them a few times, what is their role?

THE HON MARY-ANNE THOMAS: So Safer Care Victoria was established in 2017 and Professor Euan Wallace, who you met the other day, was the founding CEO. It was established following a number - a cluster of unexplained baby deaths at Baccus Marsh Hospital, and the role of Safer Care Victoria has been to work with hospitals, when something goes wrong, to understand what went wrong through a root cause analysis, and to implement change to ensure that, to the best of everyone's ability, it doesn't happen again.

So Safer Care Victoria - when a sentinel event is notified, Safer Care Victoria will work with the health service involved to ensure that they have a - that they do an analysis and understand exactly what has gone wrong and - but Safer Care Victoria also looks to identify themes across the health care system and, at recent times, one of those themes has been children deteriorating in Emergency Departments. So they have presented some thematic report which then led to a, sort of, State-wide implementation of new standards.

But, Commissioner Hunter, if I can take you back, again, to Safer Care Victoria, it continues to - its practice continues to evolve, including by the participation at all times of patients themselves and their families, and also now clinicians are subject to a statutory duty of candour that came into effect in November 2022, which means that clinicians are required to disclose when harm has occurred or a mistake has been made to the patient and their family.

COMMISSIONER HUNTER: I understand, you know, that - but for First Peoples, do you think racism in our hospital systems is at crisis point for our people not attending which, again, and you've heard - and so I just had a look at their strategic plan. Just so you know, they mention the word Aboriginal five times. Three times are just in the acknowledgement. The other one is to consult some Aboriginal person and the other one I don't think is about wellbeing.

And so I believe, myself, that we are at a crisis point of racism within our hospitals. Then we have got safer Victoria who - we're not even mentioned in the strategic plan. So I'm just - if we have got Safer Care Victoria, it's not being safe for absolutely everybody. I get the extent of, you know, of people dying and those sentinel and all that, but there's a crisis happening because our people aren't accessing the services that they require to keep themselves healthy or to not die. Is that not crisis enough to look into cultural safety racism bias, all of that, within the hospital system?

THE HON MARY-ANNE THOMAS: I accept that it is at crisis, Commissioner Hunter, and I accept that there are opportunities for Safer Care Victoria to examine the fact that safe care for First Peoples is not available in our first - in our public hospitals. It's why I have committed to - directed my Department to develop an anti-racism strategy. But I would also like to be able to provide further advice to the Commission on what we can do, VACCHO, working with Safer

Care Victoria together because it should be informed by Aboriginal voices to look at this theme of the lack of culturally safe care.

COMMISSIONER HUNTER: It's nothing new, I don't think it's anything new. And just, I think I'll say it on behalf of Commissioner Walter and Commissioner North that there has to be evaluation set up for this new strategy, what it looks like, is it working, how is it working; all of that. Am I correct?

COMMISSIONER WALTER: That's right. What does success look like, what measures and indicators, what data are collected that actually verifies that it is actually being efficient and it's actually delivering. Because as you've heard through all of these Commissions, and I do note that you acknowledge that the last health strategy of the Victorian Government did - held no accountability for that strategy. So it's - like, it's so dispiriting to have these strategies with Aboriginal names given to them and Aboriginal artwork on the front, and then it just reinforces that Aboriginal lives don't matter, because when a strategy develops, Departments pat themselves on the back that they have done this wonderful strategy and then it's never delivered as if it doesn't matter. That what's important is to look like you're doing something, rather than doing something.

It might be the right time, I think, to ask about the new strategy, the Victorian Aboriginal Health and Wellbeing Partnership Agreement.

MS MCLEOD SC: We might bring that up, Commissioner Walter, it's the Victorian Aboriginal Health and Wellbeing Partnership Agreement Action Plan 2023 to 2025. I hope the operators have that. We just handed that to them this morning. That's the one. Commissioner you are interested in page 8 perhaps?

COMMISSIONER WALTER: Yes, I am. So it says here that you will have the priorities determined. There's a little run sheet - we need the - perhaps the action - I was looking at page 8 on the agreement itself. I will describe it anyway, but it just talks about that the priorities will be determined through the Aboriginal Health and Partnership Forum. Step one. Priorities are grouped under the five domains to guide progress.

An action plan, which is the one we were going to look at, has developed key actions to deliver on priorities. But then at the bottom it says there's a partnership dashboard to oversee monitoring and evaluation mechanisms with key outcomes, indicators and measures. Can I ask you the status of the dashboard?

THE HON MARY-ANNE THOMAS: Yes. Those indicators have not yet been developed.

COMMISSIONER WALTER: How can you have a plan with actions and outcomes in them, when you have not developed the measures and the indicators of success? Now, I've been a teaching academic for 25 years in social research methods. If somebody - one of my students put this up to me on an assignment,

I would fail them. So I just can't understand how we're still here, on this one, which has been built on the acknowledged failure of the last one and yet here we are one year in, and the measures and indicators of success have not yet been developed. It doesn't bespoke seriousness of actually achieving what the plan sets out to achieve.

THE HON MARY-ANNE THOMAS: Can I talk to you a little bit, Commissioner Walter, about what happens right now while that work progresses in terms of accountability back to community?

COMMISSIONER WALTER: Yes, please.

THE HON MARY-ANNE THOMAS: Okay. So, as you know, the Victorian Aboriginal Health and Wellbeing Partnership Agreement is in place and we have an action plan for 2023 to '25. I do want to acknowledge the incredible work of Nicole McCartney, the Chief Aboriginal Health and Well-being Officer in my Department, for the work that she has done to support the development of the agreement and, as you know, it is overseen by a Forum and the Forum is co-chaired by myself and by CEO of VAHS, Michael Graham, who I know is known to all of you.

As progress is being made on many of the actions and it is - progress is reported back at the quarterly Forums, the decision to defer the work on the indicators has been made by the Partnership, but I acknowledge that it is a decision made as a consequence of lack of resources to do the work at this time.

MS MCLEOD SC: If we look at the domain that's up on the screen, domain culturally safe health care, which is found in the action plan document. You will see, for example, the first heading is self-determined priorities, strengthen cultural safety in the mainstream health service system, action mandate cultural safety training that addresses racism, stigma and discrimination in all public and community health service settings and for this training to be delivered by a relevant Aboriginal organisation.

So what's the goal in terms of the timeline of that delivery and how will it be measured?

THE HON MARY-ANNE THOMAS: Well, that will be given effect from 1 July of this year.

MS MCLEOD SC: And where do we see that timeline stated?

THE HON MARY-ANNE THOMAS: Well, that will be reported back to the Forum, the next Forum once that is done, but I take the point that Commissioner Walter has made, that the dashboard itself is not yet developed.

COMMISSIONER NORTH: Minister, can I - in relation to cultural safety, can I just take you to paragraph 88 of your statement?

THE HON MARY-ANNE THOMAS: Yes.

COMMISSIONER NORTH: This is talking about, I'll just give you a moment to read that.

THE HON MARY-ANNE THOMAS: Thank you, Commissioner.

MS MCLEOD SC: We might bring that up, Commissioner North, so that those following can follow along. Paragraph 88 of your statement, Minister.

COMMISSIONER NORTH: This is talking, Minister, about the Cultural Safety Framework which was devised, I think, in 2019. So that one can assume from that, that this issue was alive and known back five years ago. And I raise this because you're talking about, in effect, the son of, or daughter of, this Framework. What you say there is about - is a frank admission that the outcomes of that framework were not measured adequately.

Then you go on to say:

> "The monitoring activities undertaken indicate a lack of sufficient implementation. The project has not progressed due to resource limitations within the Department."

Now that is really exactly what you've just said again, and, you know, there is a hollowness about the explanation of why these frameworks are not being implemented and not being critiqued as they go along, when five years after - at least five years after, cultural awareness may well have been known well before that, but you can see, of course, the anger and lack of confidence in governmental systems where we have that story five years ago being repeated right now on the witness stand.

And I just wonder if you're able to tell those listening and reading how is it that we can have confidence in government processes where we have instances like this on a critical issue, cultural safety in the health system, where on a known area of health system requirements, it fell in a hole on that framework and you're saying well there's another framework, the problem is it's not being progressed for the same reason.

I mean, you can understand why people tear their hair out and feel really disenfranchised from the system.

THE HON MARY-ANNE THOMAS: Yes, I do understand that.

MS MCLEOD SC: Just to clarify, this framework was a system-wide framework for government funded health care organisations, not to take away from your question at all, Commissioner North, but that that is not the daughter or son of the current AHW partnership agreement, it's a separate funding framework. Nevertheless, Commissioner North's question around awareness and knowledge of the criticality of cultural safety seems to have still not been grasped. Is that fair?

THE HON MARY-ANNE THOMAS: Yes, I accept that, Counsel. I - as Minister for Health, I take the responsibilities that I have to deliver or to oversee a system that is required to deliver safe care to First Peoples very seriously, and I have learnt a lot in my time as Minister for Health. I've been able to have awareness and understanding of what happens in our health systems that's not been known by ordinary people and it is unacceptable to me.

We need to face anti-racism in our health system. Commissioner North, if I may, the current agreement has been developed in genuine partnership. There is a Forum that I attend. It is an opportunity for community to directly speak to me about what is and isn't working. But I acknowledge - I acknowledge that there's been insufficient funding to deliver everything.

COMMISSIONER HUNTER: Just a question on that. So resource limitations is funding. So do you think your current funding commitments reflects your stated commitment to address your failings of the health system for First Peoples of Victoria?

THE HON MARY-ANNE THOMAS: We could always do better with more funding, Commissioner Hunter.

COMMISSIONER HUNTER: But you have got something that Commissioner North brought up from 2021, you have got resource limitations, which I'm going to assume it's funding. Would that be correct to assume?

THE HON MARY-ANNE THOMAS: Yes, a good assumption.

COMMISSIONER HUNTER: So we have got all these frameworks and, you know, we have got really good commitment and we have got genuine partnerships and, in your statement on page 20, our current system and funding agreements do not sufficiently recognise the important connection to culture, yet that connection to culture is our protective factor is in all the frameworks and you've got all this good commitment, but your commitment - the funding needs to match your commitment, otherwise, we are not going to get any commitment to Safer Care for Victorian First Peoples. Would that be correct?

THE HON MARY-ANNE THOMAS: I accept that Commissioner Hunter, yes.

COMMISSIONER HUNTER: So the funding isn't sufficient for your commitment.

COMMISSIONER WALTER: And it seems that the funding seems to always fall down when it's about monitoring, whether commitments are actually being fulfilled. Now, that seems to be a bit self-serving in how funding is allocated. So we get lots of funding without flash documents. Can we go back to the document that was up before.

MS MCLEOD SC: Yes.

COMMISSIONER WALTER: Of culturally safe health care.

MS MCLEOD SC: The agreement action plan.

COMMISSIONER WALTER: Yes. Because if you look at the - this is why I'm so concerned about the lack of measures, the lack of indicators, the lack of articulation of what success would look like, and the fact that it hasn't been developed because of lack of resources. We've got these things, these things like improve identification of Aboriginal people in the mainstream health care settings and embed discharge plans. That's a very vague, very high-level sort of aspirational statement.

You can't really measure that. What does "improve" mean? There's no base line. That's 1.0.1 measurement and evaluation. There's no base line and "create culturally safe service standards". Again, it's very vague, high-level aspirations and if there is no money to actually measure and indicate what indicators of success would look like, which again is 1.0.1 of measurement and evaluation. Then it really doesn't go beyond vague aspirational commitments and those things look good on paper, but they don't save lives.

COMMISSIONER HUNTER: And that's the point, the lives we are talking about are the lives of First Peoples in this State and we disproportionately - you would know the stats probably better than I would, around every domain within health care. So if we have got these aspirational, as Commissioner Walter pointed out, domains but we can't measure them, then how do we know we are successful?

COMMISSIONER WALTER: And we've got 10 years.

COMMISSIONER HUNTER: All we are doing is counting the deaths, at this point in time, I feel like. We are counting the deaths of our people rather than saying what counts as success, and if we knew what the success looked like and measured it, we could do much better.

THE HON MARY-ANNE THOMAS: I totally accept what you've said, Commissioners.

COMMISSIONER NORTH: Can I just ask this: I mean, what is being put to you is the deficiency in the way the Framework is formulated, because it doesn't

really give a base line from which to measure and a statistical way of measuring the success. So that, for instance, improves identification of Aboriginal people in mainstream health. Well, that would be a success if one person was identified in a 10-year period.

So there's that point about the inadequacy of the guideline - of the Framework, but then when you get on to the explanation you've given for why it's not gone further, this lack of resourcing, I'm assuming that resourcing and accountability process is not a huge expenditure. On that assumption, what arises is this real suspicion that any excuse, you know, apology, excuse, promises for commitment to the future and taking things very seriously, it just looks unconvincing.

And can you give us something that can convince us that this is not the same as 2019 all over again, because, you know, we keep hearing very serious commitments, but the history is commitments are not taken seriously. And this one, as I say, on the assumption that the funding is not enormous, it's not, you know, hundreds of millions of dollars, why should we accept this serious commitment, is the question.

THE HON MARY-ANNE THOMAS: Well, it's an excellent question, and I'm not sure that I can give you an answer that will satisfy you, Commissioner North, because I do accept what you are saying. I can only tell you, though, that my experience of the Partnership Agreement and the Forums is one of where there is a good degree of positivity, but that's not for me to say. I know you heard from Michael Graham and Michael has expressed his frustration and he's my Co-Chair for this Partnership Forum. He expressed his frustration. I can't begin to imagine the burden or the disappointment with being promised, as you say, through many beautiful documents, that change will happen and then to live through that change not happening.

COMMISSIONER NORTH: But you've got the lever, for instance, to pursue this funding.

THE HON MARY-ANNE THOMAS: I do.

COMMISSIONER NORTH: And, I mean, can you give us some guidance about the steps you might take, for instance, to do that in relation to the very thing we're looking at, at the moment. You know, cultural safety and implementing at least - at least implementing a system of measurement of how the framework is working. Like, it's really a long way away from the case studies we've heard. This is talking about systemic change for a fairly small amount of money against a background of broken promises of the past.

THE HON MARY-ANNE THOMAS: Well, as I'm sure the Commission has previously heard, I have to work through the systems of government to seek funding through a budget process to deliver on the commitments that have been

made, including through the action plan and, indeed, to deliver the data dashboard. I also accept that it would be a small cost.

I'm willing to go - well, I will go and look at exactly how much it will cost and what, if any, actions I can take to address this deficit in terms of delivery against the action plan because I accept that without an understanding of where we want to go, where we want to be, we will not know if we're getting there.

COMMISSIONER WALTER: Can I remind you, Minister, that it is actually, it is in the agreement.

THE HON MARY-ANNE THOMAS: Yes, I -

COMMISSIONER WALTER: And yet it has failed to be delivered already. So it doesn't - it doesn't give us confidence.

MS MCLEOD SC: Minister, just to clarify: The Aboriginal Heath and Wellbeing Partnership Agreement, as you say in paragraph 21 of your statement, is a 10-year agreement between the ACCO sector and the Victorian Government. Is this what we're looking at, or what we were looking at a moment ago in the action plan, the first two-year action plan under that 10-year agreement?

THE HON MARY-ANNE THOMAS: No, I don't believe it is so.

MS MCLEOD SC: But that agreement is 2023 to 2033.

THE HON MARY-ANNE THOMAS: Yes. Sorry, it is. Yes, it is.

MS MCLEOD SC: Okay. So we're halfway through - if it's 2023, the first action plan, we're halfway through the first cycle, two-year cycle.

THE HON MARY-ANNE THOMAS: Yes, we are.

MS MCLEOD SC: For the action plan.

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: And actions like "improve identification of Aboriginal people", "create culturally safe service standards", if they don't have any timeline for delivery of those things, would we expect that they would simply be rolled into the next action plan and the next action plan and the next action plan?

THE HON MARY-ANNE THOMAS: That is correct.

MS MCLEOD SC: So an important accountability measure, you would agree, is to have a "by when" for these things? And to have a breakdown of what these

mean, at a more granular level, to be able to set delivery standards for the Department and the health services that will be impacted by these actions; agree?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: So is there a piece of work that has been undertaken to set those specific granular goals under these actions?

THE HON MARY-ANNE THOMAS: Counsel, I think it's important that I point out that this is a - as far as is possible, this has been developed through a commitment to self-determination.

MS MCLEOD SC: Yes.

THE HON MARY-ANNE THOMAS: So it is work that has been agreed between our ACCOs, government and our mainstream health services. The priority for the delivery of the different actions is set by the partnership and the voice is given to ACCOs. That's The Voice that is - but the - and it goes to something I know that Commissioner Lovett wants to talk to, which is self-determination. I totally accept that the critical lever in self-determination is funding. So the actions are determined. The priority for the delivery of actions is determined.

MS MCLEOD SC: So I understand and recognise - sorry, you were going to finish.

THE HON MARY-ANNE THOMAS: But by First Peoples, but the key lever for the delivery of those actions remains funding.

MS MCLEOD SC: And you can't set the ACCOs up for failure, can you, by putting these actions that you expect them to deliver in partnership with government, not funding them, not setting agreed timelines or targets, at the very least, for delivery of these things. If the target is do this within 10 years, the action plan becomes somewhat meaningless, doesn't it. Or are you looking for progressive steps along the way?

THE HON MARY-ANNE THOMAS: So I should be clear that there is an action tracker.

MS MCLEOD SC: Yes.

THE HON MARY-ANNE THOMAS: So tracking of actions is there. But I absolutely accept that -

MS MCLEOD SC: Is that action tracker on the dashboard or where do we find that?

THE HON MARY-ANNE THOMAS: I'm not sure where it is publicly available, but it is held by VACCHO.

COMMISSIONER WALTER: Can I also point to paragraph 30 of your statement, where you very clearly articulate or you acknowledge that there continues to be a power imbalance between the Forum members and the government, and because the government continues to be the primary source of funding and the final decision-maker. So while I am in full admiration of all the First Peoples including Mike Graham and others who are working so hard in this area, it's all stacked against them. And yet you get the feeling that they're going to be the fall guys, and you know, I go back to your previous thing.

We are constantly told it's only a term used in Aboriginal things but they say genuine partnership. What's the different between partnership and a genuine partnership? It isn't a partnership yet because there still is a power imbalance. The power is with yourself and the Department, and it is the Department and your own responsibility, you can't push that back on to the Forum members. They don't have the power and they certainly don't have the resources.

THE HON MARY-ANNE THOMAS: I accept that, Commissioner Walter.

MS MCLEOD SC: Would you be prepared to provide the Commission with the action tracker documents?

THE HON MARY-ANNE THOMAS: Yes, I'm happy to provide what we have.

COMMISSIONER HUNTER: What's the outcome when you have no funding to do this? We have got these plans - you've stated that we don't have the funding. So I'm unsure how we are going to get all this done?

THE HON MARY-ANNE THOMAS: Commissioner Hunter, there is funding available for the delivery of some actions.

COMMISSIONER HUNTER: Some actions?

THE HON MARY-ANNE THOMAS: Yes. As yet, there is no funding to develop the evaluation component of the plan.

MS MCLEOD SC: So you're in a bidding war with other government priorities for funding for the health budget; correct?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: The government has to decide their spending priorities in accordance with their stated policy objectives and their vision for the State.

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: Health is the biggest, if not one of the biggest, spends for the State, I assume?

THE HON MARY-ANNE THOMAS: It is the biggest.

MS MCLEOD SC: And spending within that budget - so they don't just give you a bucket of money and say here's $3 billion, you actually have to make a bid for the programs you would like to see supported?

THE HON MARY-ANNE THOMAS: Yes, I do.

MS MCLEOD SC: And you consult with Aboriginal-controlled organisations and membership bodies to formulate those budget bids to ensure the best success in your budget bid process, nevertheless, that is part of the ordinary processes of setting the budget of the State.

THE HON MARY-ANNE THOMAS: That's correct.

MS MCLEOD SC: So how do you emphasise to those making ultimate decisions about budget spending, the criticality of health to the social and economic empowerment of First Nations People in this State? It underpins everything, doesn't it?

THE HON MARY-ANNE THOMAS: Yes, it does.

MS MCLEOD SC: And Professor Wallace said there's no wealth without health.

THE HON MARY-ANNE THOMAS: That's true.

COMMISSIONER HUNTER: It's like our lives don't matter, because the - most of the solutions are health for our people. Like I said, I don't need to re-read stats because we all know them. They're individual people and it just feels like they don't matter because we're not investing in these strategies. You're asking our people for their view and we know we have the right, we can do it right for our people. So you're asking for their view. You're asking them to input into these and great artwork but you're in the funding them. So the outcomes aren't happening. And the health indicators aren't moving for our people.

I don't know about your community, but our community every second week is having funeral after funeral after funeral, and the stress that puts on people's bodies and the stress we do - fighting for funds for safe health care. Isn't it a human right to have access to health?

THE HON MARY-ANNE THOMAS: Absolutely it is. And I acknowledge that - the stress and the impacts of racism actually have an impact on health.

COMMISSIONER HUNTER: And Commissioner Lovett pointed out the PTSD, the outcomes of PTSD. If we fund the early end and we get it right, doesn't it save on the health system, actually it saves on every system.

THE HON MARY-ANNE THOMAS: Yes, it does.

COMMISSIONER HUNTER: But we are just not investing in our people, which makes me believe that we don't matter.

THE HON MARY-ANNE THOMAS: Well, First Peoples' lives do matter very much and (indistinct) but I accept everything that you've said, Commissioner Hunter.

MS MCLEOD SC: Minister, you're a senior member of government, and you have the ability to communicate how urgent the case is for proper funding of these initiatives, don't you?

THE HON MARY-ANNE THOMAS: Yes, I do.

MS MCLEOD SC: And you can understand that when First Peoples see investment in major sporting events like the Grand Prix for example - just to pick an example that many Victorians might have an interest in. But you can see when they compare the spending that goes on those special events compared with their lives, and things that can fundamentally change their lives, that they feel a lack of trust and a further dispossession.

THE HON MARY-ANNE THOMAS: Yes, I accept that.

MS MCLEOD SC: Will you undertake to take that with great passion to your colleagues in arguing for the proper funding of these health initiatives?

THE HON MARY-ANNE THOMAS: Yes, I do.

COMMISSIONER LOVETT: Your colleagues and senior bureaucrats come here (audio distortion) Minister, we have had several of your colleagues and senior bureaucrats coming here and apologising for cultural safety and racism, we have frameworks. I want to give a few points. Go to the court system, we experience racism, cultural safety. We go to the police, or the police target us, we experience racism.

Child protection, our people experience racism. Education, Deputy Premier come talking about the systemic racism, all these systems are racist towards our people. Housing, and I can keep going on in government, but then when we go on in society, there's even more racism exacerbated with evidence from - further to the failed Voice, racism going to the point about our people's lives and they matter. Racism everywhere.

Like, can I just ask you to kind of - hearing that and hearing the evidence here today, like, how does that make you feel?

THE HON MARY-ANNE THOMAS: I wanted very deliberately in my opening statement to acknowledge that, as a middle-class white woman descendant of colonial settlers, I've never experienced racism. I have also acknowledged in my witness statement that one of the great privileges of being a Member of Parliament is the opportunity to meet, work and form friendships with First Peoples, which is something very few - or very few Victorians really have that opportunity.

So I can't put myself - you know, I can't truly understand your experience, but I have listened and read and earnestly engaged to understand, and what I see as the Minister for Health and what I do understand is that this is really at the pointy end. People die because of racism in our health services. We can do better. We must do better. And there are actions that I'm undertaking to implement to seek to make that change. But I also - and I reflected on what Professor Lovett said in relation to - and I know that Professor Wallace talked about this as well - our health system work - is a system within our broader society.

And Professor Lovett pointed to the fact that even the very many good people who would say that they are not racist - and I put myself in that number - have grown up in a society where I've benefitted from systemic racism. And I understand that I - that there is racism that I did not see until some of the evidence before the Commission opened my eyes to that systemic racism.

And I've been reflecting on what data tells us about that and the fact that our datasets are based - the base line is for a - basically, for a white man and then everyone else flows from that. So I've been reflecting on all of that. My eyes have been opened. And, with that opening, I take very seriously the role and responsibility that I have.

I do work, as you noted, Counsel, in a government system, and I have to bid, like all my other Ministers around me for funding through the budget process. The last Aboriginal Health and Wellbeing Forum was attended by bureaucrats from the Department of Treasury and Finance. This is an important step forward because they had to stand up and explain the process and I know I was sitting with Aunty Jill, she found it fascinating and instructive, because very few people know that, actually, our process to develop next year's budget starts in only a few months. You would know, Commissioner Lovett, from your experiences in the public sector. But I do undertake to champion the need for real change because of the impact that it has on people's health, which is fundamental, foundational to being able to live a good, happy, productive life.

COMMISSIONER LOVETT: And we ask you to champion that, Minister, not just in the cabinet room but in society as well, and with your expectations on your portfolio but also in society. Because there is a lot of things going on in the world right now and I have noticed that the media ask a lot of questions of youse about

other things going on in the world, but when it comes to our people's lives here in Australia, and in particular Victoria, which this Commission is presiding through, our people aren't being referenced in conversations about - we are not talking about the racism - systematic racism that our people experience on a day-to-day basis.

THE HON MARY-ANNE THOMAS: That's very true.

COMMISSIONER LOVETT: That's not to take away what's going on in the world, but I'm bringing it back to our people's lives mattering here too.

MS MCLEOD SC: Chair, is that an appropriate time for a morning break?

CHAIR: I think so, yes. I think so.

MS MCLEOD SC: Is 15 minutes -

CHAIR: 15 minutes. Say quarter to - 11.45.

MS MCLEOD SC: Yes. Thank you.

CHAIR: Yes, we'll adjourn for 15 minutes.

<THE HEARING ADJOURNED AT 11.27 AM

<THE HEARING RESUMED AT 11.46 AM

CHAIR: This sitting of the Yoorrook Justice Commission has now resumed. Thank you, counsel.

MS MCLEOD SC: Thank you, Chair. Minister, I want to ask you about, before we leave, the issue of measuring racism, I want to bring up the Victorian Aboriginal Affairs Framework Data Dashboard and there's a graph that I might ask to be brought up at 13.1.1. If we could just zoom in on 13.1.1, please. Thank you. So -

THE HON MARY-ANNE THOMAS: Thanks, Counsel.

MS MCLEOD SC: So the most current data - sorry. Just to set the scene. The dashboard reports on various State measures including the proportion of Aboriginal Victorians that reported experiencing racism in health settings within the previous 12 months. And the most current data states that in 2020, which is the latest reported year on the dashboard, 16.5 per cent of Aboriginal Victorians reported experiencing racism in health settings within the previous 12 months, compared to 5.3 per cent of non-Aboriginals. This is something you touch on in your statement and you mention the number of one out of five or close to one out of five.

So I take it from your evidence this morning, you accept that Victoria's health services are not culturally safe places for First Peoples in this State.

THE HON MARY-ANNE THOMAS: Yes, I do.

MS MCLEOD SC: And, in fact, you acknowledge in your witness statement, at paragraph 66, that systemic racism exists within Victorian health care services and that is, I take it, despite the efforts of the Department and the Victorian Government, health services are still not culturally safe for First Peoples?

THE HON MARY-ANNE THOMAS: Right.

MS MCLEOD SC: In terms of how cultural safety is measured, in addition to these measurements, there are other proxy measures that the framework uses to try and measure how culturally safe Victoria's health services are. So hospitalisations where patients left against medical advice, and we have been talking about an example of that this morning.

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: Or were discharged at their own risk. So there's one measure around leaving against advice or discharging at own risk; correct?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: In 2021 to 2022, again, the last year reported on the data dashboard, Aboriginal Victorians left against medical advice or were discharged at their own risk at a rate of almost five times that of non-Aboriginal people. So this is a rate of 11.9 out of a thousand compared to 2.5 out of a thousand.

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: Now, Professor Wallace gave evidence that this was a difficult statistic - I'm paraphrasing him, of course - difficult statistic to come to terms with when his assumptions and his experience of the health care workforce were that they were dedicated health professionals and - these are my words - for whom racism would be an abhorrent concept to think they were importing those concepts into their practice. You're familiar with his evidence about that. So I asked him when does this racism appear. Is it modelled by senior practitioners who signal to junior health care practitioners this is an acceptable way to be. Is it a broader community issue. What's going on here? And we had a discussion around racism and calling out racism being a very difficult conversation in our community. You would be familiar with that evidence?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: I want to understand how we have reached this point and how we reach meaningful change, and you've said you are committed to implementing Aboriginal anti-racism strategies across the health care services; right?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: So I just want to look at the regulatory framework and the levers that might be available for you in Victoria's health system. The Health Services Act divides Victorian health care - sorry, health service providers into various categories, and sets out regulatory and governance requirements for each. We have been talking, particularly, about public hospitals, but they are independent statutory corporations; correct?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: There are denominational hospitals who also deliver health care services. There are metropolitan hospitals. There are private hospitals and day care procedure centres or residential care services, registered community health services - this is a list, I'm not testing your knowledge here. Public health services, health service establishments and multi-purpose services, all set out in the schedules to the Health Services Act.

Coming back to your ability to effect change, which is the purpose of these questions. Is it correct to say that the State has some degree of control over the governance of public hospitals and public health services, that other forms of health services are largely operating as private businesses, in which the State takes a function of registration or a regulatory function rather than a governance function.

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: And given that you're not an employer or operator in the health sector, does that make it challenging for you to effect meaningful change in the way those health services are delivered?

THE HON MARY-ANNE THOMAS: Yes, it does, Counsel.

MS MCLEOD SC: Could you just explain to the Commissioners what the limitations are upon your ability to set the tone and to actually direct consequences for inappropriate conduct by health service providers?

THE HON MARY-ANNE THOMAS: Yes, thank you. So, in Victoria, we have 76 separate health services. They each have a Board and a Board chair, obviously, and I appoint those board members, but I do that on recommendation of a committee that does the evaluation and so on against a skills matrix.

Now, the powers that I have in the Health Services Act are quite limited in terms of how I can effect change in the day-to-day running of those hospitals, because the Board and the CEOs and senior leaders are responsible for setting culture in our hospitals.

I can certainly make clear my expectations and, indeed, at a recent Board chairs' meeting off the back of my preparation for my appearance here today, I spoke directly to racism and its impacts in our health services to the Board chairs.

COMMISSIONER HUNTER: Can I just ask in that board chairs' meeting, is there any First Peoples?

THE HON MARY-ANNE THOMAS: No. And so I have capacity to issue directions. However, I cannot make a direction regarding the health care or services for a particular person or prescribe the employment or engagement of a particular person or require the supply of goods or services to a public hospital by a particular organisation. If I want to give a direction, I need to give a copy seven days beforehand to the Board, who may comment on it before the intended issue date. I have to take those comments into account to determine whether to issue the direction, and so on.

The real powers that I have are in relation to the Board. So I appoint the Boards. I can dismiss the Boards.

MS MCLEOD SC: And in terms of the enforcement of the expectations that you've described, you really have very limited powers under the current legislation; correct? I think the Department officials told us the powers had been exercised twice, current powers, in relation to remediation that might have been, or it might have been directions to boards, Ministerial directions. Does that pre-date your time?

THE HON MARY-ANNE THOMAS: Yeah, not by me, Counsel.

MS MCLEOD SC: And you've been in the role, I think since June 2022.

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: You've not had any occasion upon which you thought the need to exercise those powers?

THE HON MARY-ANNE THOMAS: No. I have, and I don't have the exact information with me, Counsel, but I have appointed or overseen the appointment of delegates to a hospital, a Ministerial delegate to a Board where I've been - had some concerns.

CHAIR: Minister, I just want to clarify the terminology because we're using health services and boards.

THE HON MARY-ANNE THOMAS: Yes.

CHAIR: You've just said hospital board. I just wanted clarity that when you say the overall is that hospital boards.

THE HON MARY-ANNE THOMAS: Yes, hospital boards. Health - when I say health services in this context, I'm talking about - yeah, I should say hospital boards, you are right to pull me up on that, Chair.

CHAIR: Yes.

THE HON MARY-ANNE THOMAS: Yeah.

MS MCLEOD SC: So to be clear, there are health services that manage hospitals and other health services in the community; correct?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: So can you tell us, just go as far as you can in terms of the disclosure. Can you tell us what the nature of the issue was that had you consider using your powers?

THE HON MARY-ANNE THOMAS: They were financial.

MS MCLEOD SC: And you have the power to direct remediation, as I understand it?

THE HON MARY-ANNE THOMAS: The performance management framework which Deputy Secretary Geissler has talked about does work on a - the focus is on improving the health service. The health service has to continue. We must keep the hospital going. So we've got to work to improve it as we go. And they are - that's how our performance management framework works.

MS MCLEOD SC: And in an extreme case you could appoint a delegate to operate that health service? Overriding the powers of the Board?

THE HON MARY-ANNE THOMAS: Yes. I don't know that that's ever been done, counsel.

MS MCLEOD SC: And in an extreme case you could censure the Board?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: The remediation work is obviously to keep the service being provided but to assist the Board in their governance task, to bring that service up to scratch?

THE HON MARY-ANNE THOMAS: That's correct.

MS MCLEOD SC: Have you ever considered using those powers - I know it's only a short time, but have you ever considered using those powers in response to persistent complaints of racism in the delivery of services?

THE HON MARY-ANNE THOMAS: No, I have not.

MS MCLEOD SC: What power do you think would assist you in driving cultural change on boards, that you currently don't have?

THE HON MARY-ANNE THOMAS: Counsel, I do think that a lot of what we've seen and we've heard about is driven by ignorance. I can accept that Commissioners may want to challenge me on that and I would take their advice. But I feel - I don't feel confident that the boards running our hospitals have sufficient understanding of the impacts, the lack of cultural safety is having in the hospitals that they are in charge of.

COMMISSIONER LOVETT: (Indistinct) I will challenge. The data says.

COMMISSIONER HUNTER: Microphone.

COMMISSIONER LOVETT: I just had to say, Minister, I have to challenge you. You asked us if we had contrary views to that. Well, I do. And I think we do and your data does. The data says it. Again, I have to come back and say this as Aboriginal people all the time. It's not our feeling, it's the experience. It's how we feel but it's the experience that we have backed up by data. Now, it says it there. There's a prime example there around cultural safety. You heard of other experiences before the Commission. You know, you mentioned earlier that government is reflective of society, right. You know, you are elected by society and you reflect society. There's no wonder why racism is continually experienced when all the government agencies are condoning it through their systems and their structures.

We had Professor Euan Wallace come and say, you know, he used to teach future doctors to be doctors and that he didn't really experience or get a sense from people that they were racist. You know, the goodwill and good intent but then they come and work in the system and then the data says that they implement systematic racism. The systems are designed to exclude our people. So I don't - I don't - you know, I don't understand. It's 2024 and we're still experiencing racism when we turn up to these services.

And I pointed earlier just, before we went to the break, on how many other systems, every system we turn to, we experience racism. You have the ability, Minister, through your powers, statement of expectations or you set your expectations of these boards and, every year, you are getting access to the data and

you will be able to - you will be able to break down, per hospital, because it's 2024 we have the ability to be able to create this data and generate it, that where our people are experiencing more racism than not, and you could even break it down to, you know, regional areas.

Our people already know, we're already talking about our people's experience in regional areas but the data says it. So you have expectations and you have authority, you have power. You have authority. And when we talk about self-determination that's what we don't have. We don't have power, we don't have authority, Minister, we don't have the resources, we have to come to government and ask for them. Picking up on your earlier point. All this stuff, all these impacts that are still happening today from colonisation until today. It hasn't stopped for our people. It hasn't stopped. So it's continually experienced.

The system just got better at being able to refine it, in my view. So coming back to counsel's questions around the statement of expectations, you have the ability and the power to be able to set expectations of these boards to be able to do that. You were asked the question by Commissioner Hunter earlier about how many, what representation our people have on the selection process for those board members and you said none. So how do we influence and how do we make sure that meaningful recommendations are put to you around peoples' skills, expertise and their knowledge of, potentially, racism when they're appointed to these board positions and you're signing off on them. Because you have ultimate authority to sign off to say that person can go on, or no that person's not going to go on.

You're looking at a composition, Minister, and this is what we are talking about. We are not talking about individual cases, we are talking about systematic issues. This is a systematic issue where we're not even a part of it. How many Aboriginal people are on the boards themselves of the hospitals?

THE HON MARY-ANNE THOMAS: My understanding is that, at the moment, there are six.

COMMISSIONER LOVETT: Six out of how many?

THE HON MARY-ANNE THOMAS: Well -

COMMISSIONER LOVETT: 50, 100, 200.

THE HON MARY-ANNE THOMAS: There are 76 boards -

COMMISSIONER LOVETT: 76.

THE HON MARY-ANNE THOMAS: - of up to nine members.

COMMISSIONER LOVETT: Exactly. So we're significantly underrepresented there.

THE HON MARY-ANNE THOMAS: Yes.

COMMISSIONER LOVETT: Significantly. Have you made positive attempts and progress on gender equity on these boards?

THE HON MARY-ANNE THOMAS: Yes, we have.

COMMISSIONER LOVETT: Great. And that's absolutely fantastic and rightfully so. When are the steps going to happen so our people are represented as well?

THE HON MARY-ANNE THOMAS: Commissioner Lovett, I have made steps through the Board selection process to prioritise the appointment of First Peoples to the boards, because I accept everything that you have said, and so - and I have said to the group that recommends appointments to me that I want them to actively promote First Peoples to our boards, because I agree with you that the representation is very, very poor.

COMMISSIONER LOVETT: Yeah, I understand that. And when - and on the selection panel of those people, whether they're Aboriginal or not, is there any questions that say what's your knowledge and understanding of the systematic racism that Aboriginal people and Torres Strait Islander people are subject to. Is that a question that you ask every person applying to be on a board?

THE HON MARY-ANNE THOMAS: I'm not aware of those questions, but I think that's a very good one.

COMMISSIONER LOVETT: But the higher chance is that question is not being asked, right?

THE HON MARY-ANNE THOMAS: Yeah, I would (indistinct).

COMMISSIONER LOVETT: Thank you.

MS MCLEOD SC: So we have been discussing before the break, a suite of policies, programs and plans to address issues in the health system. I wanted to focus particularly on legislative tools and regulation for a moment. And you would agree that health equity, concepts of health equity, are fundamentally important to all citizens of this State?

THE HON MARY-ANNE THOMAS: Yes, they are.

MS MCLEOD SC: You would agree that positive health outcomes should be the aspiration of all work by government?

THE HON MARY-ANNE THOMAS: Yes, I do.

MS MCLEOD SC: In delivering health services. You would agree that health - the highest attainable level of care should underpin all conduct by all health services in this State?

THE HON MARY-ANNE THOMAS: Yes, I do.

MS MCLEOD SC: And you've recognised, in your evidence this morning, the damage that is done to the delivery of those objectives through racism and lack of cultural safety but also the protective measurements, the protective measure, of embedding cultural safety in health services; correct?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: So given your commitment to setting and reaching measurable standards to deliver on these objectives, are there regulatory powers or are there legislative powers that you need to do that job properly?

THE HON MARY-ANNE THOMAS: I would need to consider that further, Counsel. We have been very focused, of course, on the Health Services Act. The Health and Wellbeing Act speaks more directly to the State's aspirations for health for Victorian people.

MS MCLEOD SC: Yes. And is there anything in that Health and Wellbeing Act that currently empowers you to be the leader of the change we need to see in the health system? You don't have to answer that if you can't - if you can't on the spot.

THE HON MARY-ANNE THOMAS: Yeah, I would need to consider that.

MS MCLEOD SC: Would you ask those assisting you to provide us with a short submission around possible legislative and regulatory reform of the current legislative framework, all of those Acts. I know you've just introduced the Statement of Recognition, but are there some concrete powers that you need to do this job? Because I have heard your willingness to tackle this, but my impression, and correct me if I am wrong, is that your toolbox is fairly limited?

THE HON MARY-ANNE THOMAS: That's correct.

MS MCLEOD SC: And given that it's unacceptable that we allow racism and the lack of cultural safety to persist in the health system, I'm interested to know what you think you need to arm yourself with to deal with that?

THE HON MARY-ANNE THOMAS: I will give that some consideration, Counsel. I have already talked to - again, some of the actions that I will take in relation to the statement of priorities, the statement of expectations which go to mandatory cultural safety training. But I've also acknowledged that I think that - I

think what our health services think I've done the cultural safety training, that's enough. And they're not facing into the ongoing impact of everyday racism and systemic racism.

So I do need to elevate that understanding with our board chairs. And I had - I think that there is work that we can do to bring our health leaders together with First Nations leaders to actually hear directly. I take your point, Commissioner Lovett, excuse me, Counsel, but I've been reflecting on what I said earlier about ignorance. Ignorance is no excuse, I need to be clear about that. I just don't think it's front of mind. And so - but I need to make it front of mind and I need to do something quite drastic to do that.

I think the sharing of Sissy's story this morning is one way that we can make it front of mind, because we need to recognise that behind all of this data are real people.

COMMISSIONER HUNTER: Can I - you talk - we have been sitting here talking about the racism, the biases, everything that's wrong but it's not really measured of how many incidents there are, because the system is where you complain and as Commissioner Lovett pointed out, all these systems, we don't have independent - where we can actually put these complaints up and have them heard and feel safe enough. I don't want to complain to somewhere where I have got to go again. Right. So if I had to attend hospital regularly, if it was the only one available, either - I probably wouldn't attend but I probably wouldn't make a complaint if it was where I had to go. So that complaint system is really important, so we understand exactly where and how this is happening, and then I think then we can tackle it. But until we know - I would say it was underreported.

So we have even asked the police - a complaints system that is not run by an independent oversight complaints system and I would say I would ask probably for similar with the health system, because it's just as crucial in the health system, if not more, for attendance. So I guess unless we understand the data and what we're dealing with, and target certain areas, because it may be that certain hospitals have certain areas that are completely different in how they target it, but you can also find where there's good practice and what does that look like and what does that mean.

So how do we collect this data while also making it culturally safe at the same time?

THE HON MARY-ANNE THOMAS: Commissioner Hunter, two things I would say in response to that. One is that I need my Department to do some work with VACCHO on understanding about the Health Complaints Commissioner and whether that is perceived as a culturally safe service or not and, also, what the awareness of that service is. But the second thing that Professor Wallace and I have been talking about is how can we put - how can we put easily

accessible tools in the hands of patients to be able to report in real time about their experience of health care.

And, as you know, Professor Wallace himself was a clinician and leader in a health service and is aware of systems in place that do enable that real time kind of patient reporting. I can undertake to examine, or seek advice, on a system that we could implement prioritising First Peoples that would enable a culturally safe complaints process.

COMMISSIONER HUNTER: Yeah, that'd be great, and the funding to go with it.

THE HON MARY-ANNE THOMAS: Thank you.

CHAIR: Can I make another comment? You have mentioned that you believe there are six or seven members of boards around the State. I think.

MS MCLEOD SC: Up to nine, I think.

CHAIR: Up to nine, was it?

THE HON MARY-ANNE THOMAS: I've got information in front of me that does tell me that from 1 July of this year, our health services board representation will increase to 1.9 per cent.

CHAIR: Right.

THE HON MARY-ANNE THOMAS: So - but - and there is - and I might say there's a doubling because there's been a concerted effort to prioritise those appointments.

CHAIR: I just wonder if it's not, if you are travelling around, not worth meeting some of these people. I happen to know one person who was on the Echuca Hospital board for 10 years and is now an honorary member. She is retired but it would be good if we have got people that are on to hear their experiences in what is happening. Now, the town of Echuca is a tourist town. It's actually not a town you go to and you see the Aboriginal flag flying, it's not like Shepparton or, you know, these - some of the other river towns. So it's an interesting experience, but she had 10 years before she retired and it's not long since she retired.

THE HON MARY-ANNE THOMAS: Chair, I think that's a really valuable suggestion and I'm reflecting while you speak and, indeed, it's been suggested to me by Dr Janine Mohamed, who is now a Board members at the Royal Women's Hospital, that I need to ensure that our board members know who each other are too, in order to be able to share their own experiences in this environment. So thank you. I think that that is something I will take up.

MS MCLEOD SC: Just coming back to measures of equity or health outcomes. We have the Close the Gap targets and there are four principal measures relating to equity of health outcomes at a national and State level. So life expectancy for males and females, proportion of babies with healthy birth weight, and the number of people taking their own life included in those, and various supporting measures linked to those. Then we have measures of equity for health outcomes at the State level and the framework document sets out a number of health measures within the children, family and home domain and the health and wellbeing domain; correct?

THE HON MARY-ANNE THOMAS: Correct.

MS MCLEOD SC: Now, this is not a memory test but there's several goals set out under the data dashboard reported on, and that's goal 11, health and longevity with various measures beneath that. Goal 12, Aboriginal Victorian access the service they need. Goal 13 health and community services are culturally safe and responsive. And goal 14, Aboriginal Victorians enjoy social and emotional wellbeing.

So there is a level of measurement and reporting against those health equity measures; correct?

THE HON MARY-ANNE THOMAS: Correct.

MS MCLEOD SC: And does the Department track the delivery of these programs that address health equity by reference to these measures or in any other way?

THE HON MARY-ANNE THOMAS: Counsel, could I ask you - sorry, again, to identify where those measures are from?

MS MCLEOD: Yes, sure. Those are the Victorian Aboriginal Framework, the VAF. Perhaps we can bring the dashboard up on the screen. We have that. That is goal 11. We might not have it.

THE HON MARY-ANNE THOMAS: I know the -

MS MCLEOD SC: Those goals.

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: For example, underneath goal 11, health and longevity, life expectancy at birth, proportion reporting excellent or good - very good health status, by sex, rates of smoking by sex, rates of hospitalisation for potentially preventive causes, incidence of cancers and so on. So there's a number of measures there and, under goal 13 - and we have been talking a lot about this, health and community services are culturally safe and responsive. Measure

13.1.1, proportion reporting experiences of racism in the health system. That's where we get the 16.5 per cent number from. Sorry, it's not up on the screen there, versus 5.3 per cent we have been talking about.

So there are a number of measures there, but this portal is not publicly available. So that's - my first point is that this is all very useful information for establishing the outcomes that you've committed to, health equity, but the majority of these measures typically reported on an annual basis or tracked in digital reports but not publicly available. So my first question is, would you support making that Portal available at least to VACCHO and the ACCOs?

THE HON MARY-ANNE THOMAS: Counsel, I'm not entirely sure, but I think that the Victorian Aboriginal Affairs Framework data report is held by the Department of Premier and Cabinet, and that my Department provides data to that. But I'm happy to find out for you. So I don't know that I have authority to respond to that.

But in terms of making more data available to VACCHO, it is one of our commitments under the action plan. My reflection on data is that there's a lot of it collected. The degree to which it's informing the decisions that government makes is something that is open to debate, and the degree to which it reflects the priorities of First Peoples is certainly open to debate.

But, again, I'm happy to try and provide some advice to the Commission in relation to making that data available to VACCHO.

MS MCLEOD SC: So just ahead of Commissioner Lovett's obvious question, collecting and sharing data is obviously important for transparency and the ability of the member organisations to deliver services themselves to the community; correct?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: So what's happening, if you're correct, is that data is being collected about people and then not shared with them, so that they can make use of it.

COMMISSIONER WALTER: Can I just point to priority reform 4 of Closing the Gap which says the State has signed up to, since 2020, it says it will share data. So this is, obviously, in direct breach of that commitment that the State has made.

MS MCLEOD SC: So is it a privacy thing or is it just we know best thing or how do we explain this?

THE HON MARY-ANNE THOMAS: Counsel, I can't really answer that question for you because I really don't know. Again, I just reiterate that there is an

agreement to work to share more data with VACCHO, but I'm mindful also of concerns, I believe, expressed by the Commission in relation to what data is - data being held by government being linked. But -

COMMISSIONER WALTER: That's a different matter.

THE HON MARY-ANNE THOMAS: Okay.

COMMISSIONER WALTER: With respect, Minister. So this is about sharing the data that are collected and making sure that aren't being collected but need to be collected are collected.

THE HON MARY-ANNE THOMAS: Yes.

COMMISSIONER WALTER: Priority reform 4 of the Closing the Gap specifically says that governments, State governments, local governments, Federal Governments will share with First Peoples the data they need for their own - and it's up to the First Peoples, but with support from data, it shouldn't be left out in the cold to somehow come up with this by themselves, to actually work out what data that they need. That it can't be this one way vacuum of data going up the pipeline. And I would have thought given we are in 2024 and the State has to report every year against Closing the Gap targets, that there would have been some systems or changes in place to make sure that groups like VACCHO and other groups, other ACCOs, were getting the data that they need for themselves.

THE HON MARY-ANNE THOMAS: Yeah, Commissioner Walter, if I may. So - sorry, I just had to check my notes on this. The Department has developed First Peoples specific health data dashboards to share disaggregated data with the ACCO sector. That was done to help with the COVID-19 response. And the Department is continuing to work with ACCOs and VACCHO to develop accessible data dashboards that are relevant and meaningful to First Peoples communities in Victoria.

COMMISSIONER WALTER: It sounds a bit like it's a-coming but maybe it's not being done yet.

MS MCLEOD SC: So the drive to share that information with the member organisations, as you mentioned, was - came from the pandemic, and the critical role that those services, community services, ACCOs provided to their communities in rolling out vaccinations; correct?

THE HON MARY-ANNE THOMAS: Correct.

MS MCLEOD SC: Very successfully, as we've heard.

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: So I take it you would trust those ACCOs in the delivery of services, generally, to their communities?

THE HON MARY-ANNE THOMAS: Yes, I do.

MS MCLEOD SC: And that we should be trusting them with information that enables them to deliver health services appropriately?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: Target those services to work out what is required, areas of need, specific areas of health that need to be addressed within their communities; correct?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: So will you look at the mechanism to share that data which is currently held, I think you said by the Department of Premier, may be held on the Victorian Agency for Health Information Portal, to look at what those community organisations need by way of data to assist them and to work out how to do that?

THE HON MARY-ANNE THOMAS: Yes. I do recognise the importance of Indigenous data sovereignty to First Peoples, and the necessity of ensuring that data is shared with the - with First Peoples in order to inform decision-making by First Peoples, or their community.

COMMISSIONER LOVETT: We reflect very deeply on our roles and one thing that hasn't sat well with me that just reminded me today, and we had a senior bureaucrat come here, Minister, in the child protection and criminal justice hearings and say that it wasn't his Department or the Department's role particularly, around Aboriginal children's overrepresentation in out-of-home care, in the child protection system, and it was remiss of me not to pull that person up at that point in time because there was an inference that DPC has a role.

Now, it's also been articulated here that DPC has a role in the data of health; but having been working in government for a very long time and I've worked in the Department of Premier and Cabinet, and Department of Premier and Cabinet play a coordination role, they don't house the data, they don't collect the data but they coordinate on behalf of government to report, you know, to the Victorian Aboriginal Affairs Framework or the VAAGA. So I just - I think that - just need to be clear on whose role it is. It's your Department's role to capture the data and building on the questions here.

So, yeah, DPC play a coordination role and I think it's important that our community listening in and also people understand that. So I think that's probably just the point I wanted to make there as well, that, yeah, it's your Department's area of expertise and authority to oversee that data and deliver on the

commitments that have been made, whether it is VAF, Closing the Gap or through the self-determination reform framework or through the commitments you have made through the partnership agreement and wellbeing action plan.

MS MCLEOD SC: Thank you Commissioner. Minister, I would like to come back to your statement and discussion about priorities.

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: So if we could turn to your statement, starting at paragraph 62. As we have explored, health services operate independently of the Department. However, as part of the designing, funding and regulating the health system, each service is required to agree to a statement of priorities; correct?

THE HON MARY-ANNE THOMAS: Correct.

MS MCLEOD SC: And they report to the Department on those key performance expectations, targets and funding for the year, including any Victorian Government service priorities that have been set.

THE HON MARY-ANNE THOMAS: Correct.

MS MCLEOD SC: Since 2021 - this is now your statement at paragraph 75:

> "The statement of priorities with health services have specifically included cultural safety as a priority."

You note there.

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: However, in your witness statement you note:

> "There has been a lack of consistency and challenges with enforcement of the SOPs."

You have expanded on the SOPs, did not wait and leave against medical advice indicators - which as you know, are proxies for racism.

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: And outcomes in more detail in your witness statement.

So what is the current SOP in relation to cultural safety for 2023-24 that each health service has agreed to? You might want to turn to paragraph 104.

THE HON MARY-ANNE THOMAS: Each health service has agreed to improve equitable access to health care and wellbeing, ensure that Aboriginal people have access to a health, wellbeing and care system that is holistic, culturally safe, accessible and empowering.

MS MCLEOD SC: So do you accept that there's a lack of consistency in terms of compliance with this priority?

THE HON MARY-ANNE THOMAS: Yes, I do.

MS MCLEOD SC: And is that because it's expressed in somewhat subjective or flexible terms and there's no specific mandatory action or standards connected with this priority?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: So in paragraph 106, you make that - you note that, that subjective, flexible and doesn't contain specific mandatory actions. So how should this statement of principles be amended to make it easier for the Department to evaluate the quality or complete enters of implementation and the health service to know what it is they are meant to be delivering on?

THE HON MARY-ANNE THOMAS: Counsel, that is something I'm working on right now as we finalise the statement of priorities for the upcoming financial year. As I've indicated already, I will be mandating the delivery of cultural safety, so we need to think about the way in which that is expressed so that it is very clear that it must be done, and that it must be of a high quality. Secondly, in my own intro to each of the statement of priorities, I have requested that a statement about my commitment to anti-racism be included as a ministerial priority for the upcoming financial year.

MS MCLEOD SC: You also note, in paragraph 107, the accountability mechanisms for SOPs are not strong for qualitative priorities like cultural safety and performances monitored by self-reporting to the Department on their plans, actions and progress. So a health service could say, yes, we ensure that Aboriginal people have access to health, wellbeing and a care system that's holistic, culturally safe, accessible and empowering because one person said so, for example.

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: That's plainly inadequate to the task, isn't it?

THE HON MARY-ANNE THOMAS: Yes, it is.

MS MCLEOD SC: The Department convenes quarterly performance meetings with the health services, during which time those performance issues are routinely addressed, and ahead of those meetings, health services have to report to the

Department on their - how they're meeting the priorities set out in the statement of priorities; correct?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: What happens if the Department considers that a health service is not adequately achieving progress on this priority?

THE HON MARY-ANNE THOMAS: Well, I think as Deputy Secretary Geissler sought to explain, that remediation processes are put in place in order to bring the health service up to the standard that is expected.

MS MCLEOD SC: And as you say in paragraph 108, you're not aware that this has ever occurred with respect to cultural safety?

THE HON MARY-ANNE THOMAS: That's correct.

MS MCLEOD SC: So what's the missing piece here, is that there's no accountability for - that the measure itself is not concrete enough and there's no real accountability around that priority, would that be fair?

THE HON MARY-ANNE THOMAS: Yes. Yes. I agree with that.

MS MCLEOD SC: So what could be done to enforce or stress the seriousness of this priority?

THE HON MARY-ANNE THOMAS: So it goes to my earlier point that I have asked Ms Geissler to consider how we can word this in the upcoming statement of priorities to make it very clear that the expectation - well, it's more than an expectation - that cultural safety is mandated, and that we will need - it will be a part of the quarterly performance conversations.

The other point with the new framework that's being implemented and - be clear what health services seek through the framework is autonomy. As you progress, as you get better, you get more autonomy, but in order to achieve that highest rate of autonomy, you will not achieve it if you do not meet the cultural safety measure. In fact, you will not be able to progress through the framework unless you have achieved.

MS MCLEOD SC: So in paragraph 110, you talk about the two - I use shorthand here, racism proxy measures.

COMMISSIONER HUNTER: Sorry, Ms McLeod, can I go back to 108. You've got:

> "However, I am not aware that this has ever occurred with respect to cultural safety."

But you have the power to do it, the remediation, sorry, the remediation plan.

THE HON MARY-ANNE THOMAS: Correct.

COMMISSIONER HUNTER: And it's never happened, so far, but you have the power to do that?

THE HON MARY-ANNE THOMAS: Well, my Department would do that, Commissioner Hunter, but yes, they do.

COMMISSIONER HUNTER: And it's never been done so far?

THE HON MARY-ANNE THOMAS: Correct.

COMMISSIONER HUNTER: Would you say, right now, that there is even one hospital that it's the cultural safety standard?

THE HON MARY-ANNE THOMAS: I can't answer that question, because I don't know the answer.

COMMISSIONER HUNTER: You've got to reach the cultural safety standard, but I just feel like it's just an add-on, as cultural safety always is, and unless we do something drastic about it, it's not going to happen and our people just won't access health services. And when they do, it's too late because they're dying.

THE HON MARY-ANNE THOMAS: And I think part of that, Commissioner Hunter, is reframing the way I talk to health services about it, to make it clear that you - the only way that safe care can be delivered to First Peoples is if it is culturally safe. So it's not an add-on. It's not a nice to have. It's absolutely central to the obligation that health services have to deliver the care that First Peoples need and deserve.

COMMISSIONER HUNTER: We are talking about ramping this up and making it mandatory, then there could be a remediation plan in the near future?

THE HON MARY-ANNE THOMAS: Correct.

COMMISSIONER HUNTER: And the Department would be prepared to do that?

THE HON MARY-ANNE THOMAS: Absolutely.

MS MCLEOD SC: In terms of how these priorities can be escalated, if you like, to performance responses, in paragraph 118, you indicate:

"As with the did not wait indicator, the Department uses the performance monitoring or PMF framework to understand local success factors and seek remedial action where needed."

And then from 121 onwards, you talk about the new performance management approach. So I'm interested to understand the escalation options and, you might refer to 125, the placing of health services on different tiers, just to explain those formal accountability escalations and what is intended under this new management approach?

THE HON MARY-ANNE THOMAS: Yes, and I might preface my answer by saying that I'm yet to sign off - I've got the brief and I'm yet to sign off on it because we're still working on the wording as it relates to cultural safety to make sure it achieves some of the objectives that we've talked about today. And, as I've explained earlier, we are working to this - that the highest level that you can achieve is enhanced autonomy, and - but in order to do that, health services need to be able to demonstrate progress on what I accept are only proxy measures for cultural safety.

MS MCLEOD SC: And the escalation options you have available to you where there are significant concerns about cultural safety and a failure on the health services part to design and implement an effective plan to address such failures, include - this is 125 - measures such as independent reviews and audits, mandated improvement plans and the appointment of a ministerial delegate to the Board of the health service.

THE HON MARY-ANNE THOMAS: That's correct.

MS MCLEOD SC: And have you signalled to health services that you intend to take these measures very seriously if they fail to reach cultural safety standards?

THE HON MARY-ANNE THOMAS: I've not yet had an opportunity, either face-to-face or in writing, to indicate the seriousness with which I take these but that will happen in the letter that I send with the statement of priorities.

MS MCLEOD SC: And is the mandatory training that you are planning to introduce around cultural safety, something that you think will contribute to that signalling of seriousness on your part?

THE HON MARY-ANNE THOMAS: Yes, I think it will.

MS MCLEOD SC: Do you have a sense yet what that cultural safety training will involve?

THE HON MARY-ANNE THOMAS: There's a lot of cultural safety training that has occurred in our health system but, as I indicated earlier, the advice that I received is of variable quality. I would take my lead from our Chief Aboriginal

Health Advisor in VACCHO and, indeed, the work of the Lowitja Institute and others on what constitutes the best training, because that's the training that should be delivered.

COMMISSIONER HUNTER: On that training, do the Boards get that training?

THE HON MARY-ANNE THOMAS: Yes.

COMMISSIONER HUNTER: They do.

MS MCLEOD SC: And is that delivered via an e-learning model?

THE HON MARY-ANNE THOMAS: It will vary, Counsel. I would say, though, that my - understanding my limited knowledge that it doesn't strike me as the type of training that lends itself to e-learning.

COMMISSIONER WALTER: Can I also bring something that really struck me when I was reading through your statement, is paragraph 127, where you make the very good claim that you will not - you will make clear to hospitals that they don't expect their Aboriginal health liaison workers to deliver that training. And I really wanted to reinforce that because it is such a culturally unsafe thing that those people to have to deliver to their colleagues who they have often experienced casual or less than casual racism from, it puts them in an extremely traumatic position. So I would hope that you would make it really, really clear that training has to be delivered by external qualified, independent First Nations-led trainers and that hospital shouldn't just take the easy option and say we have got an ALO, they can do it. Because you're actually risking real harm to those people, post-traumatic stress disorder harm.

THE HON MARY-ANNE THOMAS: Yes, thank you, Commissioner.

MS MCLEOD SC: At the moment, the only - at the moment, the public service Commissioner conducts an annual people matter survey across the public service to gather information, including about discrimination in the workforce; correct?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: And cultural safety compliance training, such as there is, is delivered via an e-learning model for Department staff; is that correct?

THE HON MARY-ANNE THOMAS: I'm not sure, Counsel.

MS MCLEOD SC: Okay. Does the delivery of this to be mandated cultural safety program need to roll out to private health services as well as public?

THE HON MARY-ANNE THOMAS: The need would be there, Counsel.

MS MCLEOD SC: Yes. And do you have the powers and mechanisms to ensure that that happens?

THE HON MARY-ANNE THOMAS: No, I don't.

MS MCLEOD SC: What do you need to ensure that the private sector, whether it's denominational or privately owned non-denominational, adopt cultural safety priorities?

THE HON MARY-ANNE THOMAS: I'm not quite sure. I may need - that may be a power that rests with the Commonwealth, but I'm not sure, Counsel.

MS MCLEOD SC: If it's for the Commonwealth, obviously, that's a matter for them, but you have a Forum at which the health ministers meet, and you would see the benefit of this being a uniform principle across the country, I take it?

THE HON MARY-ANNE THOMAS: Yes, I would.

MS MCLEOD SC: If that is a matter for the Commonwealth, and/or national governments, will you raise that at that level?

THE HON MARY-ANNE THOMAS: Yes, I will.

COMMISSIONER LOVETT: From a Victorian point of view, surely, we would have mechanisms around regulatory expectations on private hospitals? I understand that some of it does go into the Commonwealth or maybe most of it, but surely in Victoria we'd have some kind of minimum standards, I'm not an expert in this space, though.

THE HON MARY-ANNE THOMAS: The advice I have is that I cannot provide directions to private hospitals.

MS MCLEOD SC: There's a big gap there.

COMMISSIONER LOVETT: Yes.

MS MCLEOD SC: Correct, Minister. Sorry, we are to-ing and fro-ing. Do you accept there's a big gap in your ability to regulate the delivery of health services in the State?

THE HON MARY-ANNE THOMAS: I do, though, I note from the advice that I have, is that the Secretary of my Department is responsible for registering private hospitals. The Secretary also has powers to monitor and enforce compliance with regulatory obligations, and that private hospitals must comply with requirements of the health services - Health Service Establishments Regulations of 2013 which are designed to support safety and quality of services and allow regulatory oversight.

MS MCLEOD SC: Do you have an ability to place conditions on registration?

THE HON MARY-ANNE THOMAS: Counsel, I can advise that I do have power to prepare guidelines to be made by Governor-in-Council that the Secretary must consider when determining whether to register a private hospital. I do have a power to revoke a private hospital's registration in certain circumstances, including where there is a serious risk to patient health or safety, and there's a little bit more information there. But you will note - sorry, Counsel, I did say I don't have powers, they've not to my knowledge ever been, you know that one power is not to my power ever been exercised by the Minister for Health.

MS MCLEOD SC: I'm not asking you a legal question here, but it may have a legal ramification. If racism and lack of cultural safety was considered to represent the sort of risk that warrants conditions on registration, then you would have the power to act; correct?

THE HON MARY-ANNE THOMAS: I may have.

MS MCLEOD SC: And if you don't, from a legal perspective, that would be a useful power to have, would that be fair?

THE HON MARY-ANNE THOMAS: I would need to consider how, and take advice on how, various acts interact and what powers they may or may not give me.

MS MCLEOD SC: We've heard examples - sorry, not that the Commission has heard, but I'm aware of examples where teaching hospitals delivering health services in New South Wales, have had accreditation for training withdrawn as a consequence of, in that case, persistent bullying and sexual harassment. Are you aware of those mechanisms available to you or others that could be brought to bear in the case of persistent racism?

THE HON MARY-ANNE THOMAS: No, I am not.

MS MCLEOD SC: The training of staff is obviously fundamental to the ability of hospitals to operate effectively.

THE HON MARY-ANNE THOMAS: Correct.

MS MCLEOD SC: Particularly big training hospitals. And that is obviously a lever that would be very useful in addressing anti-racism strategies; do you agree?

THE HON MARY-ANNE THOMAS: Yes, it would be.

MS MCLEOD SC: Yep. So it depends on who can exercise that lever; correct?

THE HON MARY-ANNE THOMAS: Correct.

MS MCLEOD SC: And that might come back to colleges, it might come back to those who actually accredit those hospitals?

THE HON MARY-ANNE THOMAS: Correct.

MS MCLEOD SC: Okay. Commissioners, I was going to move on from the issue of powers and cultural safety in health services, unless the Commissioners have any further questions around that?

I want to just come back to the question of prevention and early intervention. Professor Wallace identified, in his evidence, the importance - one of the four things that he wanted to focus on in terms of improving health outcomes, was prevention and intervention. Do you have any view on what preventive health care and early intervention should look like for First Peoples, particularly the evidence that the Commission has heard around the significant benefits of wraparound services, reducing the need to access health services generally?

THE HON MARY-ANNE THOMAS: Yes. Our ACCOs have a history in this State that is 50 years - more than 50 years strong. They are trusted and respected, safe providers of the social and emotional wellbeing health supports that First Peoples need. I have had now the opportunity to visit many ACCOs and see for myself the way in which care is delivered and the way in which programs and services are designed around the particular needs of community.

We need to continue to invest in and support ACCOs. ACCOs are the one place where First Peoples know that they can access culturally safe care, and then that, in turn, is seen by how successful our ACCOs have been and continue to be.

I had an opportunity to read Professor Wallace's evidence and, indeed, to reiterate a commitment that we have to increasing prevention and early intervention by doing two things - or three things, really. The first is the funding that has already been made available to VACCHO, $35 million to enable access to urgent care. The Commission may be aware of our government's establishment of priority primary care centres. This is another avenue to seek care for urgent but not life-threatening emergencies which means you don't need to go to an Emergency Department.

We wanted to provide that same - well, and VACCO asked for, that same service to be able to be delivered to First Peoples. So that work is happening. The second thing that Professor Wallace has indicated to me that we can look to do is to ensure that funding that is received for Aboriginal health is in Aboriginal hands. And we can do that by auditing the funding that currently sits within the Department, and moving as much of it as we can to our ACCOs.

The third thing that we can do is to prevent - is to report data on preventable hospital admissions to the Forum, because I think that if we can avoid understanding all of the challenges that we have with our health service system and the - you know, the stress and trauma associated with any presentation to an Emergency Department, if we can provide better care in an alternative setting run by a community controlled - any Community-Controlled Organisation, then that's a better outcome.

MS MCLEOD SC: In paragraph 132, you note that only point 2 per cent of the Department spend on health and wellbeing services is invested in ACCOs in 2023 to 2024, targeted to prevention and early intervention. So given what you've just said, is that percentage share insufficient?

THE HON MARY-ANNE THOMAS: May I explain, Counsel, the percentages.

MS MCLEOD SC: Yes, please.

THE HON MARY-ANNE THOMAS: In a little bit more detail, if I can. The information that is provided in my statement gives you a percentage of the overall spend. It's probably, and I acknowledge, that the comparison as it is there, looks extremely stark. It includes ACCOs, it includes community health providers, and it includes mainstream hospital funding. But if we look at the type of care that our ACCOs provide, then it is best compared with other services that provide primary care. So which are our community health services.

And when you make that comparison between ACCOs and the community health service funding, the percentage changes to somewhere between 4 and 7 per cent. But, Counsel, I accept Professor Lovett's evidence that we can't talk about - when it comes to First Peoples' health, it is inadequate to talk about equality. We need to talk about equity. So we need to consider the equitable distribution of funding.

COMMISSIONER HUNTER: Can I just pick up on that funding there where you have spoke about:

> "This is despite the importance of ACCOs' wholistic model of care which prioritises culture."

THE HON MARY-ANNE THOMAS: Yes.

COMMISSIONER HUNTER: Then if you go back to your statement in paragraph 20:

> "Our current system and funding agreements do not recognise the importance of connecting to culture, the social and emotional wellbeing of First Peoples. This includes supervision of space and time for Community to meet, talk in culturally safe spaces that only..."

So you're not funding - it's just contradictory to - is culture not - I think you've seen Professor Ray Lovett's evidence.

THE HON MARY-ANNE THOMAS: Yes.

COMMISSIONER HUNTER: Culture is a protective factor.

THE HON MARY-ANNE THOMAS: Yes.

COMMISSIONER HUNTER: Yet we're not funding it.

THE HON MARY-ANNE THOMAS: It is being - there is some.

COMMISSIONER HUNTER: Not enough.

THE HON MARY-ANNE THOMAS: But there's not enough funding.

COMMISSIONER HUNTER: When I talk about early intervention and prevention, we know that cultural connection is - and just out of the coroner's office, a young girl who wanted to be connected to culture, that's - that was her protective factor and in the coroner's findings, it talks about keeping people connected to culture and community, that safety aspect. And we are not funding it enough, obviously, because, well, I don't think people want to fund it because they haven't done enough studies and research to make sure that they've got the numbers. That's the way I see it. It's a cultural activity.

THE HON MARY-ANNE THOMAS: Commissioner Hunter, I also acknowledge in my statement that the work of ACCOs has not always been well understood or respected by others in the health service system. And it's my job to champion the work of ACCOs, because I see for myself, as you have said, the protective nature of connection to culture.

COMMISSIONER HUNTER: It's in every wellbeing strategy action plan, the cultural and health outcomes, I can - we go through every single strategy and framework that says connection to culture, we need to be connected to community - all of that, but there's no - it's not seen as important enough to fund to make sure it happens.

THE HON MARY-ANNE THOMAS: I acknowledge that.

COMMISSIONER HUNTER: And do you understand that that adds to the high suicide rates of our people?

THE HON MARY-ANNE THOMAS: Yes, I do.

COMMISSIONER HUNTER: So that is really important that that's funded and funded correctly for our Mob?

THE HON MARY-ANNE THOMAS: Yes, it is.

MS MCLEOD SC: I was going to ask the Minister some questions around funding of ACCOs but there's a lot of funding information in the Minister's statement, including from around 247 onwards. If the Commissioners have any issues with that that they want to raise, otherwise I'll turn to the key challenges for ACCOs and ACCHOs in delivering health services, and the RFI response of the Department around funding, which you may, I hope, have handy there.

THE HON MARY-ANNE THOMAS: Yes, I do.

MS MCLEOD SC: So, Minister, you agree that the ACCO and ACCHOs play a pivotal role in providing health services to First Peoples?

THE HON MARY-ANNE THOMAS: Yes, I do.

MS MCLEOD SC: Just pardon me for a moment. We might have a change of chairs.

CHAIR: I don't want to drop my book, excuse me. Thank you, Minister. Thank you very much.

THE HON MARY-ANNE THOMAS: Thank you, Chair.

MS MCLEOD SC: The Department's list of funding for individual ACCOs range - this is annexure A Commissioners, from approximately 600,000 to 1.4 million in 2023 to 2024. Do you have annexure A there?

THE HON MARY-ANNE THOMAS: I'm afraid I only have annexure B.

MS MCLEOD SC: Okay. We won't bring this up on the screen, just so the operators know. So there's some sensitivity around this document, but if you would have a look at page 2 to 3 of the document, can you confirm that the ACCOs funding range from around 600,000 to 1.4 million in the 2023 to '24 year?

THE HON MARY-ANNE THOMAS: Counsel, which paragraph?

MS MCLEOD: If you look at page 2 to 3 -

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: - of the document.

THE HON MARY-ANNE THOMAS: Yes. Yes. Oh yes, thank you. I see. Yes. Yeah, I have that now.

MS MCLEOD SC: Now, we are being sensitive not to identify individual ACCOs or ACCHOs here, but you acknowledge in your statement, at paragraph 258, that ACCOs - I'll find the paragraph - this is 258(c) of your statement.

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: You recognise that ACCOs do not receive equitable funding considering the range of services they provide to First Peoples community who experience significantly poorer health and wellbeing outcomes compared to non-First Peoples Victorians. Which is why the action plan includes a specific action to establish a policy that all funding for prevention and early intervention programs related to First Peoples' health and wellbeing in Victoria is first offered to ACCOs.

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: And when will we see that policy take effect?

THE HON MARY-ANNE THOMAS: So I referenced that earlier, Counsel, as an action to arise from the work here at Yoorrook, that we take this back and get on with it. I've just spoken to the Board and identification of funding that sits with us at the moment, and I would expect my Department to undertake work to ensure that we can transfer as much, or offer, firstly - well, transfer and offer money to ACCOs.

COMMISSIONER WALTER: But Minister, it is already in the agreement; is that right? That action?

THE HON MARY-ANNE THOMAS: Yes, it is.

MS MCLEOD SC: You also note, in paragraph 260, that there will be a reduction in funding from the Department to ACCOs in 23-24 compared to 22-23. Partly, you note, this is because during 22-23 a final payment from the Aboriginal health workforce fund was made to the ACCOs. So that might be a partial explanation for the funding. Is there another explanation for why funding is being reduced given the pivotal role that ACCOs play in First Peoples' health outcomes in Victoria?

THE HON MARY-ANNE THOMAS: Funding for ACCOs comes from both the Health Department but a range of other government departments and the Commonwealth. There are various funding streams for which ACCOs would apply for funding. My understanding is that any reduction in funding to ACCOs is as a consequence of the reduction in funding being delivered more broadly as we move out of the emergency response phase to COVID and into treating COVID as EAU in the system.

MS MCLEOD SC: I'm just really interested in paragraph 260, the reference to the reduction being, in part, because of that final payment and the response to COVID. So what's the other part? What's the other part of the justification for the reduction in funding?

THE HON MARY-ANNE THOMAS: I don't know the answer to that question, Counsel.

MS MCLEOD SC: Well, given the critical role that ACCOs and ACCHOs play in delivering First Peoples' health outcomes, would you undertake to look at that for us and tell us why it is. Is it a policy decision to pull back that funding or is it simply this was a surge fund for COVID that's now being re-allocated elsewhere in the health care system?

THE HON MARY-ANNE THOMAS: I'll undertake to find that out and provide that information to the Commission.

MS MCLEOD SC: Thank you. In terms of the sustainability of ACCOs funding, you are aware that ACCOs typically rely on a combination of fee for service revenue through Medicare and State funding; correct?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: So how does the Department work out the allocation to a particular ACCO? Through their service agreements?

THE HON MARY-ANNE THOMAS: Yes, I expect so but I don't know that granular detail.

COMMISSIONER HUNTER: Can I just ask, with - and you may not know this, but we've heard evidence that with the Medicare system, it doesn't work for First Peoples because our consults are longer. So we're having less - so it's not topping up, which they have to take funding from other places to pay doctors and nurses and whoever they need in there because their consults are longer.

THE HON MARY-ANNE THOMAS: I have heard that, Commissioner Hunter. Medicare, of course, is a Commonwealth Government responsibility.

COMMISSIONER HUNTER: Do you have a responsibility to make sure these Orgs run within Victoria? There's something there, is there even thought about topping that up for First Peoples, because that's where they feel culturally safe. That's where they're going to go.

THE HON MARY-ANNE THOMAS: Yes.

COMMISSIONER HUNTER: And they're taking longer to make sure that the First Peoples that attend are attending and obviously there's wait lists because it's

culturally safe, but there's this gap compared to your 15 minute - I don't even know how long it is to be honest with you and I'm not 100 per cent how it works but I have heard this evidence that it's not working for - so does the State have a responsibility at all to top up somewhere along the line this shortage, because they're not churning through patients, so to speak?

THE HON MARY-ANNE THOMAS: Commissioner Hunter, I understand what you are saying. As a State Government Minister, I don't want to let the Commonwealth Government off the hook for things that they are responsible for. Again, this is a topic that would well lend itself to being raised at the health ministers' meeting when states and territories ministers meet with the Federal Minister.

COMMISSIONER HUNTER: Would you take that there?

THE HON MARY-ANNE THOMAS: Yes.

COMMISSIONER HUNTER: And could you provide feedback to the Commission?

THE HON MARY-ANNE THOMAS: Yes, I can.

COMMISSIONER HUNTER: Thank you.

THE HON MARY-ANNE THOMAS: I will undertake to write to Minister Butler.

COMMISSIONER HUNTER: Thank you.

MS MCLEOD SC: Minister. I wanted to ask you some questions raised by a VACCHO submission, this is NUT.0001.0445.0003. The number of issues that they raised to invite your response. Are you familiar with their submission? Have you had an opportunity to review that submission?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: The first issue concerns co-design and their submission states that the fundamental challenge is the State do not see ACCOs as an equal part of the health and wellbeing system as it does public health agencies. This is page 52 of their submission, and by way of example, they point to the public intoxication reforms and submit that the State often expects them to deliver services that ACCOs have no involvement in designing.

So can I invite your response to that submission?

THE HON MARY-ANNE THOMAS: Yes. I accept that. I do need to point out that I'm not - I'm not the Minister responsible for.

MS MCLEOD SC: Intoxication reform, so that's justice?

THE HON MARY-ANNE THOMAS: Well it's actually Minister Stitt, alcohol and drug policy sits with Minister Stitt, but I accept what you've said.

MS MCLEOD SC: In terms of sustainable funding, the submission is made that ACCOs typically rely on that combination of fee for service and State funding, requiring them to apply for funding for each activity they carry out, numerous applications, detailing the amount requested, how funds will be used, the outcome measures and so on. Which they've described as short-term, piecemeal funding. And the Productivity Commission has recommended a transition to seven-year funding agreements. You are aware of that recommendation?

THE HON MARY-ANNE THOMAS: Yes, I am.

MS MCLEOD SC: The information provided by the Department shows the prevalence of fixed term one-year contracts in terms of funding of ACCOs. Are you familiar with those numbers? This is set out -

THE HON MARY-ANNE THOMAS: Yes, I am.

MS MCLEOD SC: So do you agree that short-term contracts and funding for those contracts actually inhibit the delivery of services by ACCOs?

THE HON MARY-ANNE THOMAS: Yes, I do.

MS MCLEOD SC: And, obviously, they're not ideal, they need security both in terms of retention of their workforce, and in order to plan for the long-term?

THE HON MARY-ANNE THOMAS: Correct.

MS MCLEOD SC: So would you accept that the model should be moving to multiyear funding and ongoing secured funding for ACCOs?

THE HON MARY-ANNE THOMAS: Yes. Yes, I do.

MS MCLEOD SC: Will that feed into your approach to the budget bid for funding over the forward estimates and ongoing or longer-term funding?

THE HON MARY-ANNE THOMAS: Yes. Thank you, Counsel, it will. We have already commenced moving to an outcomes-based funding approach, and the Department has already sought to identify funding that has been provided recurrently to provide that to ACCOs over four years. So that work is underway. And it goes to some of the issues that Commissioner Walter raised earlier, this idea of moving from grants and from outputs to outcomes. So working on an outcomes-based framework, outcomes to be determined by ACCOs themselves,

and for government to provide the money in order for ACCOs to determine how and where to spend the money.

So we are on that journey but I recognise that not enough money is yet provided in that way.

COMMISSIONER LOVETT: Just in the thread of the budget bids, are VACCHO or any of the organisations you are funding involved in the budget bid process?

THE HON MARY-ANNE THOMAS: So for this year's budget, yes, VACCHO were involved in determining the priorities to take to budget process. And even further than that, VACCHO identified the priorities.

MS MCLEOD SC: One of the next issues they've raised is the reporting burden placed on ACCOs. And the reporting requirements for the activities and programs they carry out where there's a funding agreement in place for the State. To give you an example, they analysed a sample of their members and found that ACCOs were required to provide a formal report for every $25,000 of funding received, approximately equating to one report every 2.7 business days. So that, clearly, is an untenable administrative burden on a service that should be focused on delivering the actual health services; correct?

THE HON MARY-ANNE THOMAS: This has been a frustration for me, Counsel, for a long time. The reporting burden that has been put on all community organisations, but on our ACCOs in particular.

MS MCLEOD SC: Does it signal a mistrust?

THE HON MARY-ANNE THOMAS: I understand why it would be interpreted in that way.

MS MCLEOD SC: And what is the Department doing to address that issue?

THE HON MARY-ANNE THOMAS: Well, again, I think the outcome-based funding is - we are looking to have a framework in place that moves to provide more power and control to ACCOs about reporting back on outcomes and understanding in health, particularly when we're talking about prevention, that you will not have data to report in six months or 12 months' time. I'm sure Commissioner Walter would agree.

Outcomes happen over the longer term, and we need to invest in outcomes and put our trust, as First Peoples have, in ACCOs to deliver the preventive health care that First Peoples need.

COMMISSIONER WALTER: Can I also suggest that this constant reporting is just a continuation of the ongoing surveillance of colonisation, where First Peoples are constantly surveyed as a way of keeping First Peoples controlled.

THE HON MARY-ANNE THOMAS: I accept that, Commissioner Walter.

COMMISSIONER WALTER: Yes.

MS MCLEOD SC: And the last thing I wanted to touch on from the VACCHO submission was infrastructure. They note that in an assessment of 50 buildings used by 32 ACCOs, 17 were found not to be suitable for current functions; 21 fell short of current standards; two had poor or unsuitable structure; and six had poor accessibility. So leaving accessibility requirements out of the equation, although that's clearly a critical issue for health services, 80 per cent on my numbers fell short of adequate standards. So are you aware of those sort of numbers?

THE HON MARY-ANNE THOMAS: Yes, I am.

COMMISSIONER HUNTER: Is that okay?

THE HON MARY-ANNE THOMAS: No.

COMMISSIONER HUNTER: Then what are we going to do about it? We are trying to deliver health care to the most vulnerable and we can't even get a building that is up to standard.

THE HON MARY-ANNE THOMAS: Commissioner, the Victorian Health Building Authority, which reports to me as Minister for Health Infrastructure, is now working with VACCHO on a pipeline of work in order to provide that necessary investment into our ACCOs. But I don't want to pretend that that is enough.

COMMISSIONER HUNTER: People are going to a service, and the standards are set for a reason; correct?

THE HON MARY-ANNE THOMAS: Correct.

COMMISSIONER HUNTER: And so how do we meet these standards when we're not getting - we are getting, let's put it like really crap accommodation or buildings to service our people and not enough funding to service our people, but it's just, we get these bread crumbs, just these bread crumbs from the table which is just not good enough. And we - I just can't.

MS MCLEOD SC: The failure of inadequate infrastructure for delivery of health services compromises both the standard of health care provided; would you agree?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: And the ability to retain a health workforce; do you agree?

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: So while the State is making laudable and significant investment in major public hospitals around the State -

THE HON MARY-ANNE THOMAS: Yes.

MS MCLEOD SC: - would you agree that it also must invest in these community level health services?

THE HON MARY-ANNE THOMAS: Yes.

COMMISSIONER HUNTER: Again, it's just telling our people we don't matter. Like, we're just going - you are second-last citizens you are just going to get whatever we have got left over and we are looking at our health which is the most crucial thing. How do we practise culture. How do we ensure our next generation is going to come along healthy and - I just don't understand how we can be given - it's just second class citizens again, and we're just got to take the bread crumbs that are offered to us, otherwise we don't get anything. It just makes us feel like we don't matter. At all.

THE HON MARY-ANNE THOMAS: I hear you, Commissioner Hunter.

MS MCLEOD SC: Minister, I want to come to the opportunity that there is for holistic First Peoples-centred health services, not just for the delivery of health services to First Peoples, but for the learnings that are available to the community at large. We've talked about the protective nature of holistic health services; about safety, cultural safety and safety generally; and the ability of safe services to actually improve health outcomes. So in that context, can I invite you to make any closing remarks you would like to make around not just prevention and intervention, but the need for the investment in these protective health services and the potential to reduce our health spend overall?

THE HON MARY-ANNE THOMAS: Yes. Thank you very much, Counsel. As I've already indicated to the Commission, I have had the opportunity to visit a number of ACCOs and see - meet with their staff and see the work in action, and I am without doubt that the very best place to deliver the care that First Peoples need and deserve, first and foremost is through the Aboriginal Community-Controlled health sector, and continuing to invest in that sector and strengthening that sector is absolutely critical.

It is where we will be able to see self-determination in action. And there are many lessons for the mainstream hospitals to take from the way our ACCOs deliver care. I recognise that the hospitals that I have responsibility for overseeing have,

historically, focused almost exclusively on a biomedical notion of health. And yet the community, more broadly, understands that unless we have good mental health, unless we are at ease and at peace socially and emotionally, we cannot have good health. And that notion of wraparound care, tackling the physical health needs, the social determinants and the protective factors of culture, that we need to celebrate what our ACCOs do and privilege their work in the dialogue around health care in this State.

I'm - Aunty Jill and others have so much to offer and teach, and I want to - I've talked about setting up dialogue between our board chairs and our ACCOs for the mainstream health service and ACCOs. I think that's a critical thing that I can do and that I can take away from my - the opportunity to present to you and the experience of being part of Yoorrook. I do want to thank the Commissioners for this opportunity to appear before you and reiterate my opening remarks that this has been a very humbling experience for me, and I thank you for the commentary throughout our hearing today, the advice that you've given me, the things that you've asked me to do and to - and the fact that you've said to me that I need to use my powers that I have to deliver safe care, safe health care for First Peoples. And safe care for First Peoples cannot be delivered unless it's within a culturally safe environment. I thank you for the opportunity to appear before you today.

MS MCLEOD SC: If Commissioners have no further questions that was all I had for the Minister.

COMMISSIONER LOVETT: Maybe just one more, sorry -

COMMISSIONER HUNTER: No.

COMMISSIONER LOVETT: I tend to do this all the time. Can you just - we talked a bit about funding - paranoid my mic is not on now - funding for services to ACCOs and VACCHO and so forth, but what about broader investment in Closing the Gap? So we get the BAU, that's funded and we understand that and we talked a bit about that, but what kind of funding has been committed to broadly to Close the Gap from the Victorian implementation point of view.

THE HON MARY-ANNE THOMAS: Thank you, Commissioner Lovett. It is the Aboriginal Health and Wellbeing Partnership Agreement that is the way in which we have worked with community to deliver on our commitments under Closing the Gap. If you like, the Closing the Gap targets and the work that's needed to be done to achieve those targets has been subsumed into this document, which is the primary document now for the delivery - for the actions that community have told us will help us work towards Closing the Gap.

COMMISSIONER WALTER: And you have committed here today to implement that final indicators, measures and outcomes that will actually allow community and your own Department to see what is being - what community and

ACCOs have put forward as their key priorities are actually delivered and in a timely manner we don't have to wait until 2033 to find out?

THE HON MARY-ANNE THOMAS: Yes, Commissioner Walter.

COMMISSIONER LOVETT: You also committed to Commissioner Hunter through her questions around an independent oversight, particularly around hospitals and reporting around cultural safety and racism. What does that look like in the context to your Department's performance, independent oversight from our people getting access and responding?

THE HON MARY-ANNE THOMAS: Just to clarify, in response to Commissioner Hunter, I talked about some of the mechanisms that I thought that I had been advised were available to enable First Peoples to report on real time on their experience as a way of us understanding their experience of health care. I understand that throughout Yoorrook and, indeed, in other conversations including, potentially, at the Assembly, that there has been conversation about what would a productivity-type Commission look like here in Victoria. Is that what you were leaning into?

COMMISSIONER LOVETT: Yes, I don't have a particular reference, just more around how do we strengthen -

THE HON MARY-ANNE THOMAS: Yes.

COMMISSIONER LOVETT: The context is the government tell community how well they are doing with their funding and so forth looking at data, but then our people don't have any say in when you table the implementation of the VGAAR, for instance, in Parliament. Our people don't have a voice to say yep government did well on action 3, 5 and 7, it's always government telling government how good they are. What are some views around independence having our people involved in that process given we are inherent cultural rights holders?

THE HON MARY-ANNE THOMAS: That's right. I think - well, I - I think that that is - the government will welcome the recommendations that Yoorrook has in regard to what that might look like. Can I say, in terms of health and wellbeing, the Forum which is held quarterly, is a - because it's a face-to-face meeting, we - it is hosted by different ACCOs, it is an opportunity for me to hear very directly about my performance. I can assure you, Mick Graham will tell me. I don't - but - I recognise what you are saying, Commissioner Lovett.

COMMISSIONER LOVETT: One other thing around Treaty, Minister, you're - the Department Secretary reports to you?

THE HON MARY-ANNE THOMAS: Yes.

COMMISSIONER LOVETT: What's your views, thoughts, around Treaty prepared in - and expectations around your Department being Treaty ready?

THE HON MARY-ANNE THOMAS: So I know that quite a lot of work is currently underway in order to be Treaty ready. I have not received a briefing on that work to date. But I also wanted to be very clear that my expectation to my Department is that we do not wait for Treaty. We have important work to do now.

COMMISSIONER LOVETT: And that's a really important point that we haven't actually got clarity on previously from a number of people coming forward but in the context to Treaty negotiations, though, just to separate that for a moment, they need to be thinking about what kind of power and resources and authority they need to transfer to communities, as well. Do you have an expectation on them doing that work?

THE HON MARY-ANNE THOMAS: Absolutely, Commissioner.

COMMISSIONER LOVETT: Because the reason why we are asking a lot of these questions is the Premier came forward and gave evidence and she said some of the departments will be ready and some might not be, and that's a bit of a barrier, because community are having to mobilise themselves and come together through the First Peoples' Assembly and Traditional Owner groups around Treaties. We're having to do all that work and we don't have the billions of dollars in resources and the infrastructure, but we've got the brains trust as a people but we don't get clarity that the government and, in particular, the departments are ready because that's a lot of work involved in that.

THE HON MARY-ANNE THOMAS: Commissioner Lovett, in preparation for coming here today, I did check in on the work that was being done but I have not had a formal briefing, and I will now request one.

COMMISSIONER LOVETT: And another last one, not that it's least important but last one: I did ask the Secretary of the Department around opportunities for our people, particularly in leadership roles and making sure that our people are briefing ministers on the issues that affect our lives. Now, your Department doesn't have a Deputy Secretary level position and other departments do, and I would encourage you to have conversations with him about making sure that there's opportunities for our people to sit at the table and in an equal way. And I understand that when there's considerations around these types of things, it's - I think the articulation that he gave was "level of complexity".

I asked a number of questions around a complex system and structure of the health system, and he couldn't give me many answers to those, understandably. But when it came to asking about opportunities for our people to be in more leadership roles and also having a safe and respectful workplace where they can come and be themselves and be respected for that, but opportunities at the leadership level, I'd encourage you to have a conversation with him about - and I'm not talking

about personalities, just opportunities for our people at the most senior levels because our people and the situation that we find ourselves in is incredibly complex because we haven't got - we've got the answers but we're not being listened to. So I just want to make that point as well; that again not personality driven, opportunity driven.

THE HON MARY-ANNE THOMAS: Thank you, Commissioner.

COMMISSIONER LOVETT: Thank you.

MS MCLEOD SC: That concludes the evidence of the Minister. It remains to thank the Minister for attending today.

THE HON MARY-ANNE THOMAS: Thank you, counsel.

COMMISSIONER NORTH: Yes, thank you.

THE HON MARY-ANNE THOMAS: Commissioners, thank you very much.

COMMISSIONER HUNTER: So that's the close of the hearing?

MS MCLEOD SC: Deputy Chair, I did mention a tender list of documents, we will defer that to Monday if we may.

COMMISSIONER HUNTER: Yes, and we will resume Monday - 9.30?

MS MCLEOD SC: 9.30.

COMMISSIONER HUNTER: Thank you. The session is closed.

<THE HEARING ADJOURNED AT 1.29 PM