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Proof Committee Hansard

CONSTITUTIONAL RECOGNITION RELATING TO ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLES

Matters relating to constitutional change

(Public)

MONDAY, 25 JUNE 2018

CANBERRA

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CONSTITUTIONAL RECOGNITION RELATING TO ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLES

Monday, 25 June 2018

Members in attendance: Senators Dodson, McCarthy, Siewert and Ms Burney, Mr Leeser, Mr Snowdon.

Terms of Reference for the Inquiry:

To inquire into and report on:

1. A Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples will inquire into and report on matters relating to constitutional change, and in conducting the inquiry, the committee:
   a. consider the recommendations of the Referendum Council (2017), the Uluru Statement from the Heart (2017), the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples (2015), and the Expert Panel on Constitutional Recognition of Indigenous Australians (2012);
   b. examine the methods by which Aboriginal and Torres Strait Islander Peoples are currently consulted and engaged on policies and legislation which affects them, and consider if, and how, self-determination can be advanced, in a way that leads to greater local decision making, economic advancement and improved social outcomes;
   c. recommend options for constitutional change and any potential complementary legislative measures which meet the expectations of Aboriginal and Torres Strait Islander Peoples and which will secure cross party parliamentary support and the support of the Australian people;
   d. ensure that any recommended options are consistent with the four criteria of referendum success set out in the Final Report of the Expert Panel on Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution:
      i. contribute to a more unified and reconciled nation;
      ii. be of benefit to and accord with the wishes of Aboriginal and Torres Strait Islander Peoples;
      iii. be capable of being supported by an overwhelming majority of Australians from across the political and social spectrums; and
      iv. be technically and legally sound;
      v. engage with key stakeholders, including Aboriginal and Torres Strait Islander Peoples and organisations; and
      vi. advise on the possible steps that could be taken to ensure the referendum has the best possible chance of success, including proposals for a constitutional convention or other mechanism for raising awareness in the broader community;
   2. the committee present to Parliament an interim report on or before 30 July 2018 and its final report on or before 29 November 2018.
casey, dr dawn, private capacity

mills, ms donnella, deputy chair, national aboriginal community controlled health organisation

singer, mr john, chairman, national aboriginal community controlled health organisation

turner, ms patricia, chief executive officer, national aboriginal community controlled health organisation

committee met at 10:03

chair (mr leeser): good morning. i declare open the public hearing of the joint select committee on constitutional recognition relating to aboriginal and torres strait islander peoples. i take this opportunity to acknowledge the traditional owners on whose land we meet and pay respect to elders past and present. this committee was established by the australian parliament to progress the national recognition of aboriginal and torres strait islander peoples. our work is informed by the regional dialogues undertaken by the referendum council last year, which culminated in the uluru statement from the heart. as you'd be aware, the uluru statement recommended a first nation's voice to advise the australian parliament. our work is also informed by the earlier work of the 2015 parliamentary committee and the 2012 expert panel on constitutional recognition.

this hearing is being broadcast on the parliament's website and the transcripts of proceedings will be published on the parliament's website. those present here today are advised that filming and recording are permitted during the hearing. i'm also to remind members of the media who may be present or listening on the web of the need to fairly and accurately report the proceedings of the committee.

i am pleased to welcome representatives from the national aboriginal community controlled health organisation to give evidence. do you have any additional information about the capacity in which you appear?

chair: i am the deputy ceo of naccho, but i was invited here in a private capacity.

chair: although the committee doesn't require you to give evidence under oath, i should advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as the respective houses. the giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. the evidence given today will be recorded by hansard and attracts parliamentary privilege.

before i invite you to make a brief opening statement and we proceed to discussion, i should say that one of this committee's main purposes, obviously, is to look at designing the indigenous voice, as a result of the work that's occurred before, and to particularly look at ways in which current consultative mechanisms that exist and that various bodies use lead to greater prosperity and autonomy for first nations people. in my travels, i keep hearing good things about the work of naccho in that space, and i and other members of the committee are keen to hear about the consultation and engagement mechanisms that you've used. also, you are people who have had vast and broad experience in indigenous policy over the years, and we're keen for you to draw on your personal experience in those places. i now invite you to make a brief opening statement before we proceed to discussion.

mr singer: we thank the committee for the opportunity to come before you today in canberra to make comment on the constitutional recognition relating to aboriginal and torres strait islander peoples. the national aboriginal community controlled health organisation acknowledges aboriginal and torres strait islander peoples as the traditional owners of country throughout australia and our continuing connection to both our lands and seas, as well as to the country on which we meet today.

naccho is the national peak body, representing over 140 aboriginal community controlled health organisations across the country on aboriginal health and wellbeing issues. our members provide about three million episodes of care each year for about 350,000 aboriginal and torres strait islander peoples in varying remote areas. our services provide about one million episodes of care each year. we are funded by the federal government for a secretariat in canberra to increase the capacity of aboriginal and torres strait islander peoples involved in aboriginal community controlled health services to participate in national health policy development.

an aboriginal community controlled health organisation is a primary healthcare service which is initiated and operated by the local aboriginal community to deliver holistic, comprehensive and culturally appropriate health care to the community, which controls it through a locally elected board of management. the integrated primary healthcare model adopted by acchhos is in keeping with the philosophy of aboriginal community control and the holistic view of health. we firmly believe that addressing the ill health of aboriginal people can only be achieved by local aboriginal people controlling healthcare delivery. local aboriginal community control in health is essential to the definition of 'holistic health' and allows aboriginal communities to determine their own
affairs, protocols and procedures. Aboriginal and Torres Strait Islander people's health and wellbeing are impacted by daily racism, exclusion and a lack of control over our lives. These are significant matters that impact upon us.

NACCHO supports the further development of the Indigenous voice, a constitutionally enshrined Aboriginal and Torres Strait Islander people's advisory body to the parliament as proposed in the Uluru Statement from the Heart. The Indigenous voice provides a response to both Aboriginal and Torres Strait Islander people's exclusion from the Constitution and our exclusion from the development of significant laws and policies that affect our lives. The proposal for an advisory body reflects the successful model of Aboriginal community controlled health organisations, where we believe that addressing the ill health of Aboriginal and Torres Strait Islander people can only be achieved by Aboriginal people having a meaningful say over our healthcare delivery.

NACCHO also acknowledges the work of the 1,200 Aboriginal and Torres Strait Islander delegates who took part in the Indigenous Pacific dialogue as part of the work of the Referendum Council and the development of Uluru Statement from the Heart. In line with the philosophy underpinning Aboriginal community controlled health, we believe it is the voices that we should be listening to in terms of the Constitution.

CHAIR: Thank you, Mr Singer. Could I ask something about the structure of NACCHO and what you can tell us about the structure of NACCHO in terms of our thinking about what the Voice might look like, based on your success at NACCHO?

Ms Turner: Would you like me to answer that? The structure of NACCHO is that we have 140-plus Aboriginal community controlled health services associated at the local level. They are direct members of NACCHO. Each of them is responsible for the delivery of primary health care. The smaller clinics do the very basics and the larger clinics do very significant integrated and comprehensive primary healthcare delivery. That's where we would like each of our services to move to—that top-end service delivery.

Within each jurisdiction, at the state and territory level, there is what is called an affiliate. Our members, the local health services, which are called Aboriginal Community Controlled Health Services—ACCHS—are members of the affiliates, but the affiliates are not members of NACCHO. So NACCHO is constituted at the national level, compromised of an elected chair and deputy at an annual general meeting every three years, and there are nominees through the affiliates to the NACCHO board: two from each jurisdiction except Tasmania and the ACT, who have one each. So we have a board of 16.

We have been undertaking a comprehensive governance reform agenda, much of which has involved very significant reform of administrative systems—IT, financial, data and so on. All of our audit and specialist committees are subcommittees of the board. Each of those are chaired by independent experts in their field who are appointed by the board. The board, therefore, is dominated by the affiliates at the moment, but NACCHO is moving towards adopting a smaller board, up to nine, should the new constitution be accepted by the members at the AGM in October-November this year. It runs over those few days. Does that help?

CHAIR: Yes. Just go back to the affiliates again: are the affiliates delegates of the 140 organisations or are they other providers? Sorry, you were going a little quickly.

Ms Turner: The affiliate boards are made up of the member services in that state.

CHAIR: And those are those 140 organisations that you started with?

Ms Turner: Yes, within each jurisdiction. And two jurisdictions, Tasmania and ACT, are single-service jurisdictions. So they perform both a member and an affiliate role.

CHAIR: So the 140 organisations send affiliates, and the affiliates elect a board of 16?

Ms Turner: Essentially, yes.

CHAIR: Tell me why this particular structure was chosen?

Ms Turner: I have no idea.

CHAIR: Is anyone else able to answer?

Mr Singer: If you don't mind, Chair, I'm able to.

CHAIR: Yes, please.

Mr Singer: I suppose that if you look at a lot of us, Aboriginal and Torres Strait Islander people, being able to take control of the health agenda, it's putting it in place aligned with a lot of the cultural practices and where there is endorsement by the community in terms of individuals wanting to represent communities or organisations. So a lot of those processes were put in place to allow the local community then to elect representatives to that affiliate state or territory body, and from there that same process was then put in place through the other jurisdictions to
then put together a national board which represented the views of grassroots organisations. Apart from being involved by organising or arranging those representatives from the local level to come to the state level and to the national level, the affiliates also have a role in supporting our members in each jurisdiction, whether that is through governance, financial management, or clinical practices—a whole lot of different areas that affect our members and the work they do day to day.

**CHAIR:** Could you say something about the governance at the local level? So, if you have a local ACCHO, what do you need as basic governance? Is the governance structure different in different parts of Australia?

**Ms Turner:** Yes. In Victoria, historically you've had a lot of cooperatives that are multiservice deliverers—multifunctional service delivery arrangements. So you could have housing, education, health, youth programs, whatever, run by a co-op and they get a certain component for the healthcare delivery. Some of the clinics in Victoria are very small and some are large. In most cases, however, where it is an Aboriginal community controlled health service, they have a constitution and they elect a board. You have to be a member of the organisation to participate in the AGM, and some of them have varying terms of office for the elected boards. With the proposed NACCHO changes, NACCHO now administers the funding contract for itself and the affiliates for their core functions, which has been a big change. So the funding for the affiliates comes through NACCHO and they report back through us and we report to the Commonwealth. Essentially, we have cut nine separate contacts that the Commonwealth had down to one, and we are doing all of the work, of course. So it's a good cost saving, but it also strengthens the relationship between us and the affiliates and drives that relationship, as you would understand.

**Mr SNOWDON:** Just to clarify, please, Pat or John, the ACCHOs themselves are independently incorporated—

**Ms Turner:** Yes.

**Mr SNOWDON:** under either ORIC or ASIC—mostly ORIC. Some of them have turnovers of $40 million and $50 million. They are businesses as well as health services, in the sense that they've got to have very strong corporate governance so they properly carry out their functions. So I think that's very important to note.

**Ms Turner:** Yes.

**Mr SNOWDON:** Their boards, depending on where you are, might be a mixture of elected representatives and appointed experts.

**Ms Turner:** And skills based—

**Mr SNOWDON:** And skills based boards. Originally, starting back in 1972, these ACCHOs were community based bodies that emerged to say, 'We want to control our health.' Their business model has changed substantially, as has the government in terms of the way it deals. So it's changed the relationship and it's changed the way in which the organisations are governed, because they've now got to be very responsible for their own governance. So the affiliates in each state or territory have a role in monitoring the governance in most places. Where there might be an issue—someone has done something they shouldn't have done—the affiliates will come in and assist with fixing the problem. It's a very important way to do business because it means that the sector is actually looking after its own business. So going back to NACCHO now taking this contract means that NACCHO has got to be working with the affiliates to make sure the reporting back to the Commonwealth is in accordance with the Commonwealth's requirements. But, most importantly, it changes the relationship between NACCHO and the affiliates, and the affiliates and their service organisations. I hope that helps.

**CHAIR:** Thanks, Mr Snowdon.

**Ms Turner:** What we do is pull together. We have structures in place. We have a policy office that works with the affiliates, and I have CEO meetings with the affiliate CEOs every three months—just like we have board meetings every three months—interspersed so that, quite often, the specialist advice of the joint policy officer's network, the data group, the PHMOS, the public health medical officers et cetera is channelled through the CEOs to the board, and they can use the same at the state level. Under the new constitution, the members will directly elect the board, which will be a smaller board. One from each jurisdiction will be elected. That will give eight, and the board will have the power to appoint one additional person who may be among their skills mix. The election process will be run independently, of course. That's pending the adoption of the new constitution. It's to streamline governance and to stay in touch with the Australian Institute of Company Directors latest developments and recommendations on good governance. We have a close relationship there. There has been quite a lot of AICD training of our boards, but I've said to the members and the affiliates that it's pointless having annual training—which you're forced to do—because you've got a revolving door on the board. You need to have people on the board for longer terms—three to five years and half the board retiring—so that you have the...
corporate memory and the continuity of business and so on. Another important role that the affiliates play, which is underdone a lot in public, is the relationship that they must have in influencing policy and program responses at the state and territory level.

CHAIR: Ms Turner, I have two questions that spring from that, and then I want to give other members a chance to ask you some questions. Part of our terms of reference asks us to look at existing mechanisms—and you've got a very interesting existing mechanism—to demonstrate whether those existing mechanisms lead to better outcomes. Is there some evidence that, having had the ACCHOs and having NACCHO, the health outcomes are better in areas where they exist than where they don't? And what of the experience of NACCHO can you give us in terms of things that we should think about in designing the voice group?

Mr Singer: I can answer the one around the organisations. Our members are now providing a lot of evidence. If you look at 20 or 30 years ago, we were dealing with health issues but there wasn't a lot of evidence and there wasn't capacity then. But if you have a look now, a lot of our members are providing evidence of change within particular parts of the programs they deliver at that clinical level, so we are making an impact. You can also look at another strength, which is that ability around employment. If you look at our organisations 20 or 30 years ago, generally most of our community members were coming in as Aboriginal health workers. It is now 30 or 40 years down the track and we have Aboriginal people that are working in finances and as corporate services managers. We have CEOs. Out of 140 CEOs, we've probably got 90 to 100 CEOs who are women. That would be the only national organisation in Australia that could boast that many women working in key roles. We have Aboriginal people in a whole lot of different program areas, from public health medical officers through to nurses and other specialists.

CHAIR: I'm looking at health outcomes. How have the health outcomes being better as a result of this?

Ms Turner: Health outcomes have improved where independent research has been done and are generally very good. We're much better at keeping the patients in our service. We provide a continuity of care that enables having a long-term relationship. We're much better at following up and having a comprehensive service. So anyone can go to a GP and have what's called a health check, a 715, which is supposed to be a total health check, right? But the difference between our service and a normal GP is: we follow up. We make sure that there is a care management plan for that patient, depending on the outcome of that health check, and that person is monitored, contacted, brought in and so on. So, the patient journey is much more comprehensive, and we have been able to get some very good results. For people who have renal disease and type 2 diabetes, leading into renal, we have a comprehensive, one-on-one educational program with each patient, lessening the onset of end-stage renal disease by 18 months. So we've got these sort of results right around—

CHAIR: Ms Turner, I think the committee would be greatly assisted if NACCHO was able to write something for us about the link between consultation and better outcomes that you've experienced. That would be very helpful to us.

Ms Turner: It's not just consultation; it's community control.

CHAIR: Consultation engagement control, yes; and what community control actually means.

Mr Snowdon: Can I make a suggestion: perhaps you might ask Danila Dilba, Congress and the urban institute to provide their reports, which will be very good evidence of change.

Ms Turner: Yes; I'll make a note of that.

Senator Dodson: I have some general questions. We are dealing with makarrata, constitutional entrenchment, legislation, and the voice and what it might that look like. Have there been any discussions at the board or affiliate levels in relation to the specifics of things that have come out of the Uluru statement?

Ms Mills: If I could just add a comment to that. Those conversations are something that the board sees as a priority. We haven't spent a great deal of time to date. I was fortunate enough to be part of the Cairns dialogue and the Uluru conference last year. What I have taken away from having that opportunity to be in that space and to be with mob is that there is a clear position around moving forward and what that would look like for our people.

In reference to your question, it really was about how that mechanism would look. There were a lot of different ideas around it. I think the way that NACCHO conducts its day-to-day business is a model worth considering, because it's a representation of what our community connection looks like—when we talk about grassroots, how our people feel that sense of community and whether it moves from the membership space, is supported in the affiliate space and then having that national peak body overarching it.

Senator Dodson: You talked about mechanisms. Was there any kind of preference? I know you favour the NACCHO mechanism. Were any other kinds of mechanisms raised?
Ms Mills: No, not in the conversations I've had to date. I'm a Torres Strait Islander Islander—my family links are from Masig and Naghir islands, and I'm based in Cairns. Depending on what your knowledge or understanding of what constitutional reform looks like or should look like in the community, there has been no real clear outcome as to what that could look like.

Senator DODSON: Maybe this is a question for the chairman, Pat, given Ms Turner's lengthy experience, or Dr Casey, because of her lengthy experience in this field. How would bodies like NACCHO or First Nations controlled organisations sit with the voice?

Ms Turner: It depends on whether you go a functional representation—whether it's legal services, health services, educational services or whatever, as representation for a voice, or you go from another elected structure, depending on what its functions are. From the community-controlled health perspective, I'd definitely support the establishment of a health commission, because we are such an integrated part of the health architecture of this country and we're getting better results, I believe. We do need to grow our delivery of comprehensive primary health care in the areas where we don't deliver at the moment in order to make sure that we can avoid preventable hospital admissions which, I believe, we do do where we're working very well. That's the high cost to the states—the overrepresentation of Aboriginal people in hospitals, just like in jails, at the negative end of the spectrum. Whereas, if we invested more in our model of the community-controlled health care at the local level, we could lower hospital admissions in my experience. I think a health commission has an important role to play.

The biggest failures are in economic development and wealth creation for Aboriginal and Torres Strait Islander people. I think much more needs to be done in areas where there is little or no employment in creating innovative employment and wealth creation initiatives, given that we own so much land. We've never been given the resources to really develop that in a way that is consistent with our culture and our responsibilities to country, along with making sure that all of the residents get a fair cut of the wealth that's created.

I was feeling bad at the 20-year level of the Northern Territory land rights act, and I said, 'We've got to invest more in the land so that the people can take it over and really run with it.' It was like talking to a brick wall, trying to get a response.

Senator DODSON: I'm just trying to get an idea of where the strengths are in the space of First Nations organisations and their capacity to do things, and whether there's a need for a separate kind of entity to represent your voice or your interest at a parliamentary level. That's the challenge to some degree that the parliament is looking at.

Ms Turner: My own view is that it would be very difficult. I've looked at every which way to get a voice enshrined in the Constitution. I think we can have recognition in the Constitution and a special place; I just don't know how you do it. You can set up a representative structure like we had with ATSIC with stronger regional authorities, but I wouldn't give them all the functions because I want a separate health commission, given the priority of health. I want a different machinery of government than PM&C—and I know they're sitting behind here, but—

Senator DODSON: They're covered by parliament privilege.

Ms Turner: I certainly don't like the arrangement—the machinery of government has worked against us in my opinion. You could have 20 regional authorities around Australia, including the Torres Strait which already exists, and then you could have three in Queensland, three in New South Wales, two in Victoria, one in Tassie, one in the ACT, two in South Australia and three in Western Australia and two in the Territory—I think that adds up to 20. Then within each jurisdiction, those chairs would elect one person to be on the voice—that would be eight—and each of the regional authorities would have no more than seven or nine members elected—you don't need a cast of thousands. They need an administrative arm at a regional authority level, but I would still argue that you don't need a huge national voice. If you had regional authorities, you would have to work that out. You have some statutory bodies already in relation to land councils and, if you had a health commission, that would be enough statutory bodies. So, it really depends, but I would get them to concentrate on economic development and employment at the local level. It's all in the detail as to whether you give them those functions or not.

Senator DODSON: Dr Casey, did you want to add anything?

Dr Casey: If you could give me just 10 minutes to explain. Over the last 20 years, I've been looking at, given my experience beginning at the National Museum, attitudes in this country. I've written about the psychology of this nation, and how all of a sudden in the nineties we started going backwards in a whole range of relationships with, particularly, Aboriginal people but in a range of other areas. I think it's really important that we do have constitutional recognition of Aboriginal and Torres Strait Islander people. If you look at how the attitudes have been driven in this country, they were driven earlier on by Dampier who described people as the most miserable
people on the earth. Subsequently, all government policy for many decades was driven by anthropologists, and all of us around here know that. It was coming from the best place, but that has continued to make Aboriginal people feel downtrodden hunter-gathers who haven't shifted out of that. I think the wording in the Constitution about our place in Australian society is really critical.

In relation to how you go about changing that attitude about the important issues of our connection to land, our connection to the environment, our connection to the sea, I think Australia is ready to discuss a treaty. What form does that take at a national level? At the functional level, I agree that there should be regional authorities. I think housing goes in there. The issues around health—it's been enlightening for me to come to work at NACCHO and see just how much we can do through health to improve the lives of Aboriginal people. I agree there needs to be a separate commission, because you have got to drive changes in a whole range of legislation. I think the authorities and the voice can be through legislation. Maybe I've been too long in the public service—and with the attitudes out there, of which I know a great deal—but it's hard to see how you're going to get a voice in the Constitution and that it be successful. However, you are politicians; you know better than me.

**Senator DODSON:** Not necessarily!

**Dr Casey:** The good thing about health is that, when you look back at it, we're the largest single employer in this whole of this country. We have now health workers in all of the areas that John has identified, but we have doctors coming through. We have specialists coming through. But what's having an impact on that is housing and the environmental health issues, and that's where I see a regional authority in terms of making those decisions at the local level. I did a review for the Western Australian government years ago about how you make governments accountable. I think you've got to hold secretaries much more accountable for the expenditure, and can that voice be at the Senate estimates table asking questions? In fact, Pat raised this the other day. So that's an area that I've not yet worked through.

**CHAIR:** Thanks, Dr Casey. Ms Burney.

**Ms BURNEY:** How are you all?

**Ms Turners:** Cold.

**Ms BURNEY:** It's bloody freezing in here. Somebody should do something about the temperature.

Thank you for that. Knowing most of you, I'm very aware of your past experiences, which is really helpful. I don't mind who takes these questions. One of the issues we have been grappling with is that what came out of Uluru was, at best, fairly vague, which has been good but has also been difficult because the expectation was that we would put the meat onto the bones of the Indigenous voice—hence this inquiry, I guess. The issue has come up about making sure that whatever is put in place regionally and nationally, if that's where we end up, has gender parity. We all know how things work, so that's something we're thinking, and I would like some comments on that. I'd also like a bit of an expansion on the importance of a regional elected structure that you have spoken about, making sure those smaller states and territories, including the Torres Strait, are not forgotten. The third thing I'm really interested in is the thing that you have raised about what happens if we go with what Uluru said, which was constitutional recognition only in one place, and it goes down: it sets everything back for two generations. We get nothing. I'd like some comments on those three things—gender parity to start with.

**Ms Turner:** I fully support gender parity and I argued for it when we were setting up ATSIC. Although, if you have an ideal size of a board between seven and nine, you know—

**Ms BURNEY:** Or decent representation.

**Ms Turner:** Yes. But I would agree with that just like I would agree that the regional authority staff employment conditions would have to be very carefully mapped out in the regulations or something so you didn't have unnecessary bullying or interference by elected members with administrative arms. What were the other specifics?

**Ms BURNEY:** There was the idea of the importance of the flow from local, regional and state, therefore making sure that what we end up with federally is legitimate out there in the community.

**Ms Turner:** I think that, if you had the elected regional authorities—and I wouldn't have more than 20, because I think when we were setting up ATSIC we started off with 80 and we cut it down to 60. We didn't actually put 80. That's how many there were, and we said, 'This is ridiculous.' We went to 60 and then we went to 35. But I believe it can be done with 20. Everyone will whinge and scream and carry on and say, 'We need more than that', but I don't believe we do. For goodness sake, we're not even a million people and we can't work this out. And so I think there's a lot of talk, but there's never enough meat on the bones of how to do something, which is very frustrating.
CHAIR: We're frustrated too.

Ms Turner: Yes. Look at all the reports. If you've got to have a referendum, I think the best we're going to do is get recognition as First Nations Peoples, our languages and whatever. I don't think that the Australian people have an appetite for anything more than that. Of course, if we become a republic and we have to rewrite the Australian Constitution, we'll have no Queen, so we might as well put us there where the Queen is.

Senator DODSON: I don't know whether we'll like that substitute!

Ms Turner: That's something I've been waiting a long time for. But anyway, sorry.

Ms BURNEY: That covers the three issues I raised. Thank you. Dawn, did you have anything to add to that?

Dr Casey: No.

Mr SNOWDON: Can I go to the point about a structure? Leaving aside the issues that led to that ATSIC's demise, there were two issues which we need to be thinking about: how the body relates to the parliament. Should it have the capacity to comment on legislation in the parliament?

Ms Turner: Yes.

Mr SNOWDON: Should it have the capacity to have a comment on legislation prior to cabinet and at cabinet? Those are two issues. As or a third one, you talked about the role of a health commission. I'm not suggesting this as a model particularly, but if you looked at Congress and its chambers and then you had an elected body that existed, clearly on health matters the health commission would be the chamber that handled it. Has that got some attraction? Clearly you've got to find some way of demarking the sort of general policy front, the specific policy issues which might confront a body and how it interacts with the parliament, and the need to make sure that experts in the field—for example, health, education or justice—have a way of linking in to whatever the voice might actually be doing.

Ms Turner: Yes. I know everyone argues the merits of having something in the Prime Minister's portfolio—that is, his department—but I think that the machinery-of-government arrangements have been very unclear and confusing for Aboriginal people, especially with the changes to the IAES and the budget cuts of the first Hockey-Abbott budget. We're still bleeding from that. I thought about a multifunctional commission with deputies heading up the functional areas, but then what would the regional authorities do? I do think that the highest priority at the local level is employment and economic development, honestly. And I think everyone else has had a go and failed, so let our people handle it with matched expertise made available from the private sector and the aid sectors—the overseas aid, not local aid. Not the Care Bears, right? Some of the international aid, I think, has been very interesting.

I think that, if you had regional authorities and you had a representative from each jurisdiction on the national voice, they'd have to have a body here that received the legislation—

Mr SNOWDON: Looked at it.

Ms Turner: looked at it and advised the ones who were on the national voice. The other state reps could make up the ones who negotiate with the states on behalf of the regional authorities. So you could have the regional authorities with different functional roles depending on whether or not they were employed full time as elected representatives. So if you had 20 and you had a maximum of nine, you'd have 180 or you'd have somewhere between 180 and 140 representatives. But, if they were paid, you'd certainly expect a good deal of work to be done. If they weren't, it would be a different story.

Mr SNOWDON: Parliament gets legislation thrown up every day.

Ms Turner: I know.

Mr SNOWDON: Some of it's got direct relevance, but some has indirect relevance to Aboriginal and Torres Strait Islander people.

Ms Turner: I suppose I take this for granted, but I know that in New Zealand that the front cover of the cabinet paper has implications for Treaty of Waitangi. You have to answer yes or no. So if it had implications for Aboriginal policy or Aboriginal and Torres Strait Islander policy programs, yes or no, then only the ones with 'yes' would be cleared.

Mr SNOWDON: Should the advice from the voice be tabled in the parliament?

Ms Turner: It should be tabled in cabinet.

Mr SNOWDON: So if the government decides they don't accept the advice, should they be required to table the reasons in the parliament?
Dr Casey: I personally think they should. Also there's legislation that people should be clearing—the budget—because we have to be accountable too. We have to understand: if there are major cuts for this area, it will go in this area. Clearly, people have got to not leak stuff and all of that, but there are several areas. Looking at major legislation—and you need very careful wording around what people are going to look at. Also, reasons for not accepting advice in key areas, depending on what it is, should be tabled in parliament.

Senator SIEWERT: You mean the government's reasons?

Dr Casey: Yes. Then they should be able to question departments. I think that's really critical at Senate estimates. Somehow or other that structure needs to—

Mr SNOWDON: Can I just follow that up? Pat, when you were the CEO of ATSIC, what was the relationship between ATSIC, the minister and cabinet?

Ms Turner: It was mainly through the minister. In all of my four years we got one meeting with the cabinet; whereas I think there should have been more—an event every year, at least.

Mr SNOWDON: So when there was a cabinet item coming up in reference to ATSIC—

Ms Turner: We got to comment.

Mr SNOWDON: Did you or the chair get invited to the cabinet meeting?

Ms Turner: No.

Mr SNOWDON: Should you have?

Ms Turner: Certainly, the chair should have. These are just matters of convention, aren't they? They're not written down in any statute, and I think they can be changed. What I struggle with is: how do we get the Australian population to accept a voice just for our people in the Constitution? I don't think that the Australian public would do it. I could be wrong, but I think there are all these other ways to skin a cat and they need to be very clearly articulated by you.

Dr Casey: If I could add one last thing—if authorities are set up, it can't be so they're only there for a couple of decades. People have got to mature and grow, and we've got to have the younger generation coming through. So it can't be: whoever's got the numbers can just abolish this overnight. ATSIC was a fantastic opportunity—even though I didn't work inside ATSIC—but the way you saw some regional councils making decisions was crucified by just a few.

Senator McCARTHY: Just two quick questions, following on from Warren's question around the power of the voice—and this is what we are putting to all witnesses. One of the suggestions is that it should not have the power to veto. I just want to know what your thoughts are on that position.

Ms Turner: The power to veto what?

Senator McCARTHY: Whatever comes before it in terms of legislation.

Ms Turner: I don't think it should, but that's my personal view.

Senator McCARTHY: Okay. What are your thoughts on the capacity to have either an elected process towards the voice or an appointed one?

Ms Turner: Elected.

Senator McCARTHY: Any particular reason?

Ms Turner: It's more democratic.

Dr Casey: Yes, and we can see how—

Ms Turner: You can have some criteria.

Dr Casey: Yes, and you can see how, when ministers come in and ministers go, they pick favourites and don't look at actual results. It's really self-determination, isn't it?

Senator McCARTHY: Thank you.

CHAIR: Thank you very much for your attendance here.

Senator SIEWERT: Can I ask a few questions.

CHAIR: Okay. Five minutes, Senator Siewert.

Senator SIEWERT: Thank you. I wanted to tease out the regional approach a little bit more. When you talk about the regional authorities and the health commission, how do you then get health into the Indigenous voice thinking?
Ms Turner: I think you have to have a regular briefing which can be written and can be face-to-face briefings. So have a regular update on health to the elected House of Representatives and meet face to face when there's a big issue.

Senator SIEWERT: So you foresee that, out of the elected from each of the regions, the reps from the health commission could be elected to the body? I'm not quite seeing how you'd have elected health officials—experts in health—there if you're electing from the regional authorities?

Ms Turner: No, I was separating out health because of the priority. I think there's been marked systems failure in the health area and, until our people are healthy, a lot of the other channels aren't going to be able to be handled.

Senator SIEWERT: Yes. I get why you're doing it. I'm then trying to look at how you make sure—

Ms Turner: I wasn't looking at a relationship between the regional authority and the health commission.

Senator SIEWERT: Okay. I'm just trying to look at how you get that health expertise. Would you have an ex officio from the health commission? You'd have an elected health commission and you could have expertise that way.

Ms Turner: It depends on how they constitute the health commission—whether they do it with a skills based board or an elected board from the sector. They might have a mix.

Senator SIEWERT: Okay. Do you see the need to make sure that you have got ex officio or whatever way to make sure you have got somebody that's dedicated to a health position on the voice?

Ms Turner: Yes.

Senator SIEWERT: Okay. I just wanted to make sure that we had that connection.

Ms Turner: Yes.

Mr Singer: There's also a lot of discussion around current programs or current areas that the government as well as organisations on the ground are working with. I think there needs to be a bit of a maybe different shift. You might have a discussion focusing on a lot of the social issues—that disadvantage we have been at for a long time—and thus organisations might be like the NACCHO members and those. But then who are you going to have the discussion with in terms of the economic development? That's the real picture we want to see as Aboriginal and Torres Strait Islanders. What's the economic development? Where's the end of the road in terms of a self-determination going to be? That's when we are people truly independent from government. Just look at that situation in the area where I'm from—the Anangu Pitjantjatjara Yankunytjatjara lands. Everything's government. There's hardly anything apart from the art centres and a few small businesses that are independent and self-reliant where people can move away.

When are we going to look at that picture in terms of economic development moving us away from government control in our day-to-day lives? When you look at that big picture of the Constitution and what the changes are, that's what it means to people: 'How am I going to move forward economically? How am I going forward further generations for my kids and their kids down the track?' It's not a single look at today and worrying about today. So I think there's that development part that's really gone out of our communities of Aboriginal people in terms of being able to develop policy. It has gone, and that there needs to be embedded as part of this reform. We're looking at changing the Constitution because Aboriginal people just aren't engaged in terms of any development. Look at all the local community councils now. They practically don't exist apart from a name tag, and their functions are practically zero.

People need and want to be able to develop their own programs on the ground, and they're not necessarily always going to be run nationally out of a national organisation like NACCHO. There are a lot of individual communities, regions and, in particular, remote areas where we want to see a voice or whether they want to describe it as to have our representatives from central desert. From my region, we don't feel we have any real good representation in terms of government deciding policy, deciding a whole lot of directions that they want to see or want to work with in terms of people in the desert. Government might look at that as a development to mine. Aboriginal Anangu people might look at it as a cultural precinct we want to have in the central desert to maintain to be able to practice our culture and show it off to the other groups as well as around the world. So that's what we see of the central desert, but government or other people might see it as a good place to dig a hole and get minerals. So where is it going to go in terms of that sort of stuff? For me, the most important thing that the Constitution has got to allow is our economic ability to move forward and be in a better position than the majority of community members where I'm from, who are still living close to poverty or in Third World conditions.
CHAIR: Thank you. Thank you for your attendance here today. If you have been asked to provide additional information, would you please forward it to the secretariat by Friday, 6 July. You will be sent a copy of the transcript of your evidence and will have an opportunity to request corrections to transcription errors.
ANDERSON, Professor Ian, Deputy Secretary, Indigenous Affairs Group, Department of the Prime Minister and Cabinet  
FOX, Mr Jamie, First Assistant Secretary, Indigenous Affairs Group, Department of the Prime Minister and Cabinet  
JEFFRIES, Mr William, Assistant Secretary, Close the Gap Refresh and Special Adviser Regional Government, Department of the Prime Minister and Cabinet  
RYAN, Mr Robert, Assistant Secretary, Empowered Communities, Department of the Prime Minister and Cabinet  

[11:02]

CHAIR: Welcome. Although the committee doesn't require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of parliament and therefore has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence that you give today will be recorded by Hansard and attracts parliamentary privilege. I now invite you to make a brief opening statement before we proceed to discussion.

Prof. Anderson: We're happy to go straight to questions if you like.

CHAIR: I suppose the first question is: is the department going make a formal submission to this committee?

Mr Fox: No, the department doesn't propose making a formal submission to the committee.

CHAIR: Perhaps you could help us then. On 26 October last year, when the Prime Minister responded to the Referendum Council he said:

We remain committed to finding effective ways to develop stronger local voices and empowerment of local people.

What does the department have in mind as to what that will look like? The central task of this committee is to find a way forward in developing those local voices in response. What shape should they take?

Mr Fox: It puts us in a slightly difficult position. The department may need to give advice to government on what shape that might take. We haven't done so at this stage and nor would we be in a position to canvass that with the committee, so it's a bit hard for us to comment in a hypothetical sense.

CHAIR: Maybe I could put it in a different way. What are the range of different local voice options that might be out there that we should be giving serious consideration to?

Prof. Anderson: I might reflect on where we are leading in the COAG refresh as a way into the conversation. Over the last 18 months governments across Australia have been working around resetting of a COAG approach and working with Indigenous Australians at a national and regional level around what the next set of priorities need to be for the next decade leading to an agreement in October this year. The conversations have been relatively consistent around what the high-level priorities are. For example, people point to health, education, children and families as framing the priorities. But there has also been a significant conversation that said that one of the things that we have failed over the last decade is to really get traction around implementation and driving reform. There have probably been two elements of that. Governments have not sufficiently driven system reform across government, so across the public sector and between governments. But the other key element of this has been, how do you get traction around change that drives things at a local and regional level? That's pointing towards a renewed commitment to some form of regional and local decision making. This is a part of a process, and we are yet to lock in agreement with our jurisdictional colleagues, but it is shaping up as an early priority in thinking around implementation.

I can give you a practical example of that. We can very easily agree that employment is a high-level priority and reset an employment target over the next 10 years. In the past 10 years we have kind of done that and we've focused on accountability. The thing that we've failed to do is around what the actual delivery mechanism is. How do we get the system reform agenda or the engine of government to work towards that? Prior to coming to government, one of the things that I have been doing over the past decade is working very closely with Indigenous colleagues from the Goulburn Valley. There was a pivotal moment that I think is shaping some of our early thinking around what you need to do to drive change. Working with Indigenous leaders in the Goulburn Valley, the Algabonyah, which is a community cabinet set up under Empowered Communities, when our local Indigenous leaders are all saying, 'Employment is our priority, too,' but then started to think about what that means at a really granular level—not what it means at high level in Canberra or in Melbourne, but what does it mean for us here in the Goulburn valley?
The first question is, who are the businesses who are open to employment in our community? Who are the local government agencies that are open to a commitment, such as the Goulburn Valley hospital, the Wesfarmers group, Kmart, Bunnings and so on? The second question was, what does that actually mean? How would we know that we get to parity in our local community? Some work done using a reasonably difficult process getting information out of the government at the time actually led them to say, 'We think that the parity gap is 230 jobs.' That gave that community the leverage to say to Wesfarmers, 'We think that part of your commitment over the next decade to reaching parity is X number of jobs per year. Local government shire, we think that your employment commitment should be X number of jobs. For the Goulburn Valley hospital it leads to X.'

My thinking then is, how do you scale up that sort of system nationally? It's a system that brings local leaders into a position where they say, 'We think at a granular level this is what we need to do and this is how we drive change in our community in our town.' It might look different in other communities such as Cape York or Central Australia, but essentially driving local decision-making to get traction on the ground to build the leverage with the local school, the local employers and the local health service.

Thinking about this, there are a couple of things that are framing observations. That's inflected in some of our other policy work that we are doing in Cape York, for example, and through Empowered Communities. One is that there are existing local and regional decision-making structures already. The Torres Strait Regional Authority. The Yaru group in the Kimberley, Murdi Paaki in New South Wales are some of the empowered community sites, all of which are at various stages of development, but nevertheless are on the pathway towards some sort of maturity. Any approach that we might be thinking about probably need to back into those local decision-making systems.

**CHAIR:** Let me stop you there. You've hit on something that, for me as somebody who hasn't spent very much time in Indigenous policy prior to being a parliamentarian, is difficult. If we're looking at creating a series of local voices, there are a range of different bodies you have just mentioned that might become the local voice. There are land councils; there are PBCs; we've just heard from NACCHO about the 140 organisations. I'm conscious of not trying to put a bureaucracy over the top of it, but I'm also conscious of making sure that we're not leaving people out or excluding people because they can't be part of one of those structures. What should we be thinking about, in terms of determining some recommendations in our report in terms of what would we choose at the local level and how do we put good experiences in isolated circumstances into something structural for the government and the opposition?

**Prof. Anderson:** I think what you're asking me is what are the design principles we might want to think about?

**CHAIR:** That's right. And if we're going to use existing structures, what do we choose and what do we exclude, and how do we ensure that if we choose an existing structure we're not inadvertently excluding people from participation?

**Prof. Anderson:** Can we answer that in two ways? I want to go to one live example, which is emerging in Cape York around Pama Futures, and then think about what is the runway or pathway to get to the more mature models.

**Mr Ryan:** Pama Futures evolved out of a few things. One was Empowered Communities. Cape York was an empowered community site, largely beginning around the Cape York welfare reform community, so the four communities out of about 12 in the Cape York region. The other strands were economic development and land, particularly land as it moved from a sort of determination space, where the main focus was on determinations over land, to a post-determination space where increasingly the focus was about how we manage land and how we get an economic benefit out of land. There was quite a powerful and a detailed process, with support from Minister Scullion and a group of Cape York leaders. They went through it last year to look at how we bring these three strands together of empowerment, economic development and reformed land arrangements which actually bring prosperity for Aboriginal people. Out of that came a report, *Pama Futures*, which was provided to both the Queensland government and the Australian government in March this year for consideration.

It's very much a grassroots model. It's based on 12 sub-regions, largely based around local government areas, and it has a mix of cultural authority through traditional owners and prescribed body corporates, empowerment, which brings in natural leaders within that community, in particular a lot of the historical people who may not be traditional owners but actually play a key role in those communities, and then the people who are really focused around economic development. It brings those together at a sub-regional level to have discussion with the three levels of government—Commonwealth, state and local—and make decisions around how investment should happen, where the priorities are in that region and then out of that build that up to a regional approach, which they call the Cape York Futures Forum. That would look at the matters which need to be progressed at a regional level.
That report is still being considered by government, but the minister is certainly interested. He has a meeting, hopefully in July, with the leaders to look at what the next stages of that will be. We are also waiting for the Queensland government to respond. It's quite an evolution of Empowered Communities in that region. Professor Anderson, do you want me to go on to some of the thinking around legislation that has come out of that?

Prof. Anderson: Before you do, there are probably 10, 15 or 20 region across Australia where there is a similar maturity in the development of local systems. They all have their trade-offs. It's probably fair to say that none of them are perfect. One of the key issues is around cultural and political legitimacy. They've got to be owned by the region. They've got to be owned locally and they've got to be seen to be culturally legitimate. But the other important criterion is that they are context relevant—that they are relevant, and seen to be relevant, to the particular context. So that might lend itself to a design principle that says, 'We can't evolve widgets that we then apply across the country in the same way, in the same context, in every region.'

The other question they'd ask is: 'What's the runway? How does government invest in the development of those systems, recognising that not all communities are at the same point in their development for various reasons—historical and others?' So one of the challenges that I think it has for government is that we need to think about how government does its business very differently. If you look at the history of regional and local decision-making, it has a very common theme to it: it's about communities organising themselves in order to have a conversation with government, rather than government changing how government does business. So an important element of that—and this is part of the reform agenda that we're starting to drive within Prime Minister and Cabinet with our regional network—is to say: what are the skills and capabilities that we need within government—not within the community but within government—to actually negotiate and enable place-based decision-making and the creation of local decision-making terms? That is quite a significant shift away from how Prime Minister and Cabinet traditionally works to a much more transactional way. It requires a different system of government and a different set of capabilities.

In that light, we need to then think about: what is the runway? If Cape York or Murdi Paaki is at the mature end of the runway, how do we think about creating those possibilities for the development of regional governments from the beginning and creating the capabilities to support community to organise themselves in a way that makes sense and is culturally and politically legitimate in their own context?

Ms BURNEY: Thank you for that. I don't mind who takes the question. At the moment, of course, there is the Prime Minister's advisory council. I understand that's chaired by Dr Sarra and Andrea Mason. Can you describe how PM&C uses that group and how effective that is.

Prof. Anderson: It's set up with a reference, as is standard for advisory structures. The agenda is negotiated with the co-chairs.

Ms BURNEY: Who negotiates it?

Prof. Anderson: Prime Minister and Cabinet.

Ms BURNEY: So you do?

Prof. Anderson: Yes. The committee has set out a forward agenda over the next three years. We've had an opportunity to say, 'These are the key policy issues over the next period,' and they have then said, 'Well, these are the sorts of issues that we would like to surface and actually have a conversation about.' So it's done through negotiation.

Ms BURNEY: Does that committee make recommendations to you, or is it a conversation? Is specific legislation put in front of that committee, for example?

Prof. Anderson: Not, at this point, specific legislation. It's an element of both. The conversation will at points throw up inadequacies in our thinking or point in new directions, but the committee will also make recommendations in and of its own volition.

Ms BURNEY: To you?

Prof. Anderson: To the Prime Minister.

Ms BURNEY: I see. I have one other question. Obviously the task of this committee is a complex one. How would you see Prime Minister and Cabinet interacting with an elected body that might provide a voice to the parliament? That would be quite different to what you've got now, which is an appointed body.

Prof. Anderson: That would go to part of this issue that you can't just change the process without changing the nature of government and how the public sector works.

Ms BURNEY: Yes.
Prof. Anderson: I don't know. I can't speculate on how that would work, other than to say that there couldn't be status normal. We'd need to look at how we operate within that environment; otherwise it would be like two separate conversations.

Ms BURNEY: Yes, exactly.

Mr SNOWDON: You heard the submissions or the advice, the evidence, from the NACCHO representatives who were here, and, Professor Anderson, you've got a background in this area anyway. So how would you value the idea of setting up a health commission, and how would you make sure that, in any regional or national structure, the advice and competency of organisations which are expert in their fields are properly understood and listened to?

Prof. Anderson: I haven't seen a specific proposition around a health commission. Can I make some background observations?

Mr SNOWDON: You go right ahead.

Prof. Anderson: It comes to this challenge of sector-specific approaches to more generic approaches. There is a deep expertise in the Indigenous health sector, as you well know, that is backed in by a fairly strong organisational base and a strong structure that sits behind that. That's not the same across other sectors, and in some sectors that's actually quite weak. One of the advantages that that does have is that it provides a fairly robust framework for providing advice into the health system.

One of the weaknesses of those approaches is that it doesn't really connect the dots in other areas of policy that are not owned or don't sit within a particular sector. Indigenous economic development is such an example. It falls in the cracks between the different sectors. So I don't know that it would necessarily be an either-or proposition, but one of the challenges would be to think about how you frame policy that sits above specific sectors and goes to issues that are key for Indigenous Australia that don't really have the back-in or the buy-in of a really strong sectoral base.

Mr SNOWDON: I understand where you're coming from, and I appreciate that advice. Can I just go then to your Pama Futures. How would you contemplate the health advice in that system?

Mr Ryan: Senator, maybe I can answer it more broadly around—

Mr SNOWDON: I'm not a senator.

Mr Ryan: Sorry, yes; I should know that.

Mr SNOWDON: I have no desire to be!

Mr Ryan: Mr Snowdon, perhaps I'd answer it more broadly around Empowered Communities, because I know that last time I was on the phone when we addressed this committee and you raised that issue around the health sector. In fact, the Empowered Communities leaders have asked themselves about that particular issue because they're aware of the particular standing of that sort of health alliance through NACCHO, so they're now looking themselves at what type of formal relationship they should have. There are a number of regions where Aboriginal-controlled health organisations are part of our opt-in organisations and some where they're not, but they're now looking more broadly about the health field and how they, as a national group of leaders, should form that relationship. It's something they're looking at, and it's in that sector in particular, I think, that that sort of approach is being considered, because of nature of it.

Mr SNOWDON: How do these Empowered leaders become leaders?

Mr Ryan: It varies, but it's not an elected process. The leaders have self-selected. They opt in. They buy into the reform principles that underpin Empowered Communities. However, in each region, that could be slightly different, and it's an evolving space. Each of them is looking at how they actually configure themselves and how they deal with matters, such as treaty in Victoria. In Cape York the model they've come up with is really a grassroots model selected at the community level, so those communities themselves make the decisions about the group of people who speak for them, how those people connect to community and how they're accountable to community. There isn't one particular model.

The design report really talked broadly about three groups of leaders: leaders who had cultural authority, largely traditional owners; leaders who are natural leaders, who took that leadership role in a community; and then leaders of organisations. It was looking at broadly drawing leaders from those three groups. In each region they all determine themselves how they actually constitute themselves, but, as I said, it's evolving. I expect that over time they'll continue to adapt that model, particularly how they retain connection with community and credibility with community.
Mr SNOWDON: I won't comment on the evidence we've received which shows a disassociation, but I do want to make an observation that all the evidence we've had so far has been around having elected bodies. One person only has talked about self-appointed persons.

Senator SIEWERT: Who is unelected.

Mr SNOWDON: Who's unelected. The very strong theme that we're getting, talking to people in the Kimberley, in this case, is that these regional structures might look like the old ATSIC regional councils or something similar and would be elected from within the community. We just heard from NACCHO, who emphasised that their model—or the model that Professor Anderson talked about—was elected bodies. So I think there's a bit of a disconnect here between what we're being told by the community and what we're being told by leaders, self-appointed. You'd understand the dilemma?

Mr Ryan: Certainly, and, just to make the point, this is something that's determined by the leaders themselves, not government.

Mr SNOWDON: Yes, but they're self-appointed.

Mr Ryan: Yes. What I would say is: if you look at Pama Futures, that is a very different model, where it's probably better described as a consensus model rather than a self-selected model.

Mr SNOWDON: Is Apunipima part of Pama Futures?

Mr Ryan: Yes, it is.

Mr SNOWDON: So they're providing all the health advice?

Mr Ryan: Certainly in that region, yes.

Mr SNOWDON: So, if you go back to our earlier discussion—which you observed, and Professor Anderson talked about the sectoral differences—can you see how it would be hard, I think, for someone outside the health sector to be suggesting that they've got better evidence or better knowledge about what's happening in the health sector than those people working in the Aboriginal health sectors?

Mr Ryan: Certainly, and I haven't seen anything from the Empowered Communities leaders that would contest that.

Mr SNOWDON: No, I'm sure you haven't.

Mr Ryan: But what they would like is to make sure that there's a collective-impact approach so that there's a partnership with the health sector to make sure—because it's such a crucial area—that these broader reform approaches that they're trying to do are combined with the strategies within the health sector to achieve a greater collective impact in that area.

Mr SNOWDON: How do they make sure that their particular priorities are reflective of the community's priorities and are owned by the community?

Mr Ryan: Again, each region determines how it does that. In one example, Inner Sydney, which takes in the La Perouse-Redfern area, they've done a local decision-making process. They set up community panels. There's the board, but the board itself didn't simply make that decision in isolation. There was a self-assessment process of the funded organisations about their performance. There were then community panels that were drawn from a diverse group of people—youth services, people who had experience in the community, elders—and they provided their assessment, and then that was considered by the board and a recommendation was made to government, jointly with government as it turned out. That's the approach that they've done there around how they bring community into their decision-making. Other regions are considering that model and whether that's appropriate for them or there's some sort of adaption of that that they might want to do.

Mr SNOWDON: If you were, in the abstract, designing something which would be a voice body which would want to have, you'd think, input into all relevant government legislation and indeed potentially advice on government expenditures, how would you do it?

Mr Ryan: How would we do it as government or in this case?

Mr SNOWDON: No, I'm asking in the abstract. I'm asking for a view. I'm asking for your opinion. I don't want you to give the government opinion or your boss's opinion, which we've heard about—which is a strange opinion, by the way.

Mr Ryan: What's most relevant is that I can talk about what I've observed from these groups of leaders. I think that's probably most useful. What they want to see in Cape York is that the decisions that are made in that region bring them together—they come together to look at what is necessary in that region. They describe it as a camp-fire governance model. So the people sit around the camp fire and they work through that. There are local
regional organisations who don't have authority but actually provide their expertise, and that would be, like, the health organisations or Cape York Institute or Cape York Land Council. They provide that input but, ultimately, the view is formed within the community about how that investment is delivering a benefit to the community, how that organisation delivering something might be performing, are there other priorities and where is that investment best used? They form that view and bring it to a table to talk to the three levels of government. Government then has the opportunity to bring its view to that partnership table.

Mr SNOWDON: I appreciate that. But what I'm thinking about is—let's assume we've got 20 of them.

Mr Ryan: Yes.

Mr SNOWDON: Government is going to write a new policy on Aboriginal employment; hopefully, we'll see the current one rewritten shortly. How do they communicate with them? And does the opportunity—as others have argued—that they should get sight of the legislation and, indeed, of the cabinet considerations prior to cabinet making a determination? How would that happen?

Mr Ryan: I think that goes beyond a regional model. If you're talking about—

Mr SNOWDON: Of course it does. It's talking about a voice.

Mr Ryan: Yes.

Mr SNOWDON: It accepts regionalism but we've got 20 regions; they might have a discursive voice, but government has a priority of introducing legislation around employment. How do we get the combined views of those 20 organisations to be reflected in advice from government to that organisation so we can respond?

Mr Ryan: That probably goes beyond by relevant experience in this space around the regional—

Prof. Anderson: I'm just trying to think about a way in which I can help you think this through. Given that we can't speculate on where the government is going to land.

Mr SNOWDON: No.

Prof. Anderson: Give me 20 seconds. One of the prima facie questions here might be—and I was trying to allude to this—are all communities at a point where they've got that robust framework? Some regions are not that connected for various reasons. Then the second question would be: if you get to a very mature development, what is the form of participation? Is it election based? Is it informal? Are there other mechanisms? People have been talking about the concept of earned autonomy. The more mature you get, the more they develop those sorts of resilient and robust mechanisms and prove to your community that you're actually doing that. What is government willing to give up? Is it discretion? Is it the shifting of investment into local priority areas outside the existing structures? That's the local bit. The bit at the national level is hard for us to speculate on, other than to observe that you're rightly going through the range of options, because that's kind of ahead of where we're at. We've really been in the focus around regional development. That's not very helpful.

Mr SNOWDON: No, that's not very helpful at all.

Senator SIEWERT: There's some regions that the government might say have earned more autonomy, but they're very divided communities, because they haven't actually earned it from the community. But government likes interacting with them because it's really nice and easy and it's all stitched up, but you've got a community that's extremely unhappy. How do you propose we deal with that? It looks nice to government; it's really easy.

Prof. Anderson: Often it's not, because there's a false niceness about that.

Senator SIEWERT: Exactly.

Prof. Anderson: So I think that's part of it—so actually say that it's not just about government, and that notion of being a legitimate structure is quite important. Now—

Senator SIEWERT: What's the test for that? What's government going to use as a test for that?

Prof. Anderson: So, again, this will be speculating.

Mr SNOWDON: Yes.

Prof. Anderson: Government has long-term observations of those communities, but maybe that's not enough; maybe there are other mechanisms that could be brought in to help assist that development process. We say that every community is potentially on a pathway and not every community is in nirvana, in the ideal spot. Local government is not in the ideal spot in Australia. Is there some way in which we can build peer-review processes into that developmental approach? We know that there are a lot of horizontal relationships between Indigenous communities. In communities in Shepparton, for example, I've got a certain set of experiences, not ideal, but working with communities in the west of New South Wales—Murdi Paaki—are there ways in which we can facilitate that sort of horizontal learning and development that's outside of government in which we'd call peer
review in the academic world? Are there other mechanisms that can really bolster development? That's not quite the answer.

Senator SIEWERT: No.

Mr SNOWDON: Can I just follow up on that question. I'm not sure if Mr Ryan or you, Professor Anderson, made this observation about your staff. There are certain skill sets that you'd think you'd need in having a community development model, which is what you're doing, around staff in communities. I'll ask two questions. One—out of the side of my tongue really—have you considered the old ASOPA, Australian School of Public Administration, operating out of Manly, which used to train all the patrol officers for New Guinea and Aboriginal communities? Many of those people became senior public servants, but they had cross-cultural training and were trained in a whole range of community development roles. Forgive me but, if I make an observation about most of the people I see working in the field, very few of them have got that sort of training or background. So how do we actually make sure that the people who are interacting from the government level, who are able to bring back this information to government in an appropriate way, understand the communities they're working in; have the cross-cultural skills and understanding to be able to do the work; and have the management backgrounds to be able to provide advice?

Prof. Anderson: I think that's fundamentally right. If I could leave one idea, it is that there are two sides to this ledger. If you want to think about ways to grow regional governance and build its capability to build the capability in the Indigenous world, it's not sufficient to just look outwards; you need to look inwards and redevelop the capability within government. Government systems need to change. In order to change, they need a different skill set than they've got at the moment, which is much more development aligned. So we have been looking internationally to best examples around international development to ask: what's the capability mix we need to have within, in our case, Prime Minister and Cabinet? That's a live process. We're running a recalibration exercise to identify the skills mix, the capability mix and the sort of structures we need within government. It's not enough to think about changing the Indigenous world or saying the Indigenous world's got to change; you've actually got to change government and public administration.

Mr SNOWDON: Thank you.

Senator DODSON: I just want to ask on that point, Professor Anderson. We had a submission earlier about getting government out of people's lives. Great aspiration—aspiration is a big word these days. I'm just wondering—and I hear what you say about preparing government or public servants for a different mindset or a different way of going around their activities. To the extent that we continue to retain control and the management of First Nations peoples, they're saying to us, 'We don't want you to keep controlling and managing our lives.' How is this process that you're going through in the reform, or the re-education, of public service people really going to lead to a form of liberation? If this was a third-world country, it would be for them to carry on in an independent manner, exercising their responsibilities for their nation-state. How is this ever going to get to that kind of parallel relationship, as it were, between the governments of Australia and First Nations people?

Prof. Anderson: I think it's a very difficult journey. One of the frames that we used early in the close the gap conversation, which doesn't always work, is about normalising accountabilities, to relate to Indigenous Australians from a government point of view as government relates to other citizens. I would argue—this is not speculation—that underpinning that is an understanding of the kind of realm of Indigenous life, the sorts of things that mums and dads take accountability for. Then how does that relate to the sorts of governance structures and processes? In that space it's really about how we share decision-making between government and community, noting that government can't abdicate its responsibilities.

If I can use a practical example, we know, for example, that the community controlled sector has a well-developed system of primary health care that has made an impact on better outcomes and has made an impact through the realm of what that sector can control: early diagnosis of cancer, treatment of chronic disease and so on. That system of care is fundamentally important and it's fundamental that it's driven locally by community in what are local settings. It can't do the lifting alone. If an Aboriginal patient who has been well cared for with diabetes then ends up in a local hospital that systematically misdiagnoses and doesn't give them access to appropriate therapeutics, then we don't get the full outcome of good-quality health care. It's government that drives hospitals and the kind of quality of care in hospitals. So, at the end of the day, we've got to find a way—and this is a really challenging one—of building a shared decision-making framework that gives the accountability as it exists for other citizens around those things that people need to take control of, but with government working in collaboration through shared decision-making models.

Senator DODSON: The thing that's often put to us is: 'That doesn't deal with sovereignty. That's good practice, an enlightened policy approach, but it doesn't deal with this question of the unceded sovereign position
of the First Nations people. Therefore we want a treaty with you as the Crown and we want to work out how we want to relate to you—those are the sorts of arguments we cop. We've got to deal with the notion of a treaty and we've got to deal with the notion of the sovereign position that First Nations still assert, and we've got to deal with the management that government has to deliver to enable people to get quality services and all the things that you're talking about. I'm not asking you to go into the political space on that. And we've had to deal with people coming in to say there's trauma, deep trauma, in the First Nations community, over many different things. How does this committee—I would appreciate any advice—deal with the juxtaposition here of serious, fundamental concerns that First Nations have got about unresolved matters to go back to settlement and the taking of these lands, and the quality of service and management over their lives and the creation of economic opportunities and those sorts of issues? It seems that, unless we can find a way through that—and it may well be along the lines you're speaking of, or some other way—until we find some accommodation of that, which seems to be the Makarrata Commission truth-telling, treaty-making, agreement-making sort of process—that may be a view that some might disagree with—where does this committee go? We've had a lot of focus on the Indigenous voice and how the voice ought to be constructed. We're not getting a lot on how to heal the situation in order for people to move on and take the advantage of what government is best trying to do, in its positive senses.

Prof. Anderson: I suspect some of the answer lies in the political realm. If we move down a path, government could do better in a more high-quality way and more collaborative way, working with legitimate Indigenous structures, that would be part of the platform. That platform would necessarily service these other issues you speak to, but how we respond to that is probably well beyond my remit as a public servant.

CHAIR: Given what you said, Professor Anderson, about the varying nature of different communities and how some are, for want of a better term, more sophisticated and able to have adopted a more sophisticated model of engagement with government, and others are at a different level of development, as it were, would we as a committee be better to come up with some principles rather than to put in place a whole design framework for what the voice body or bodies might look like?

Prof. Anderson: Design principles would be, I think, a very useful way—it's kind of where I started; a set of design principles could then further iterate through some of the detail. I think you have a challenge in terms of what you need to do. Some of those design principles would necessarily need to recognise the trajectory—that there is a runway, that there are some communities that have a longer history of doing regional development and there are some structures that are quite mature, and then there are some communities at various points of that continuum. We can provide you with some more advice to kind of illustrate that trajectory, but it would be very desktop, and it wouldn't reflect the other elements of critique about what's going on on the ground. I think that would be one of the issues. One of the other issues would be to make sure that you don't unwind good existing structures.

CHAIR: I think, to that extent, our committee has formally asked you for some advice about what existing structures are out there and how they—

Prof. Anderson: We can provide that.

CHAIR: We would welcome that.

Ms BURNEY: I have just got one question, and it's to William. I don't want you to be a public servant in this; I want you to take yourself back a few years to be the chairperson of the Murdi Paaki Regional Council. I think this goes straight to where we're heading, logically. Can you just describe to the committee Murdi Paaki Regional Council, how it was constituted and what your goals were, briefly. You can release yourself from the binds of being a public servant for a moment.

Mr SNOWDON: For a moment.

Mr Jeffries: Murdi Paaki was formed on the basis of a governance and leadership model. It was about representation; it wasn't about subject matter. One of the key things that was important to them—there were two things that they focused on. One was the relationship that they had amongst themselves as Aboriginal and Torres Strait Islander people in their communities and across the region; and the other was fundamentally a relationship with government about delivery programs and services.

Building a cohesive relationship for the regional assembly was quite paramount in its view, and one part of that was that the ATSIC regional council model had 10 councillors, but there were 16 communities. There were smaller communities who felt that they were unrepresented because they never had their councillor at the table. So designing a new model was to ensure that those communities got a voice at the table as well. Getting good operations across that was by looking at the purpose—what this was about and what its particular purpose was. It
kept going back to the people themselves; it wasn't about subject matter, but about the representation—about the issues they felt were important to them.

To get a cohesive relationship, they removed things that caused conflict from the table. Native title, land rights, cultural authority and money, basically, were things that they chose deliberately not to have on the table because that always conjured up strong political division around the table. The other thing about not having money—there were two parts to that. They're not constituted in any legislation or incorporation. The main reason behind that is that they feel that they will never have any parliament abolish them and never have an administrator appointed to control their affairs. So their regulator is Aboriginal people of the region. That's quite important to their ongoing thinking about this kind of stuff.

The other thing, Ms Burney, was that the regional council consulted for a period of about four years on developing the model—it wasn't done simply overnight—of how best to bring this structure together. It was using the ATSIC legislation at the time to move from a regional council to a regional authority, and they were in transition from a regional council to a regional authority when the legislation was abolished. There were discussions about whether they should constitute a legal framework. Their answer to that was: we don't want to hold money, so we don't have the need to have this legal framework around what we do.' It's been their will to ensure that their focus on leadership and governance has been important. It's not necessarily been about, again, the subject matter, but they do have a strong role in making sure that players in the subject matter, like health, education, employment, have a responsibility to be very accountable and very transparent about the services that they deliver in the region.

Ms BURNS: That's really helpful. Thank you.

Mr SNOWDON: Given the statement from the heart, is PM&C providing advice to the government on what a treaty or treaties might look like, what a makarrata commission might look like and what truth-telling might look like?

CHAIR: I don't think that's a question they can answer.

Mr SNOWDON: I'm just asking if they're providing advice; I'm not asking them to give the advice.

Mr Fox: I'm not sure I'm in a position to answer that question, Mr Snowdon.

Mr SNOWDON: So you're not deliberating at all what the statement of the heart said?

Mr Fox: I don't think we can go beyond what the Prime Minister said in October last year, which the co-chair referred to earlier.

Mr SNOWDON: All the Prime Minister said was that he was opposed to an elected body and didn't want constitutional reform. I'm not asking about that; I'm asking about a makarrata commission, truth-telling and possibly treaty-making.

Mr Fox: We can't answer that question.

Mr SNOWDON: Can you take it on notice and ask the Prime Minister if he can give us an answer.

CHAIR: Can I go back to Mr Jeffries, because I think Ms Burney's question was very helpful in getting a sense of what you did at Murdi Paaki. To what extent are your processes replicable in other places—whether they're some of the other places that Professor Anderson referred to earlier or other communities? And, if we were going to try to replicate them, what are the key ingredients that you need?

Mr Jeffries: I think across all the models around the country at the moment regarding what their variances are, some are PBCs, which are based on a group of people who are specific to that culture. The Murdi Paaki model is based on communities. There are a whole range of differences, but there is a set of principles, I think, that flow through all of them which talk about representation, leadership—those kinds of things. I think Murdi Paaki has always said that what we do is what we do for us and does not necessarily work for anybody else. But there are principles about participation, inclusiveness. There's no exclusion in that process; whereas other processes might unknowingly—not deliberately—exclude people for various reasons. Designing those kinds of things, where it's an all-inclusive model, continues to ensure that people have got an option to participate in this. Designing the model in that way has an all-encompassing provision so that people can be included, if they wish or need to participate.

CHAIR: Any further questions? Thank you for your attendance here today. If you've been asked to provide any additional information, would you please forward it to the secretariat by Friday, 6 July. You'll be sent a copy of the transcript of your evidence and you'll have an opportunity to request corrections to transcription errors. I now declare the public hearing closed.

Committee adjourned at 11:54