



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

14th Assembly

LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE

Public Hearing Transcript

8:30 am, Friday, 16 February 2024

Litchfield Room

Members:

Hon. Dheran Young MLA, Chair, Member for Daly
Mr Manuel Brown MLA, Deputy Chair, Member for Arafura
Ms Lauren Moss MLA, Member for Casuarina
Mr Steve Edgington MLA, Member for Barkly
Ms Marie-Clare Boothby MLA, Member for Brennan

Witnesses:

Department of Health

Claire Doyle: Senior Legislation Officer, Legal Services
Rus Nasir: Acting Director First Nations Health & Wellbeing Division

Department of Attorney-General and Justice

Leonique Swart: Deputy Chief Executive Officer
Hannah Clee: Principal Lawyer, Legal Policy
Leanne Liddle: Director, Aboriginal Justice Unit
Warren Jackson: Deputy Directory, Aboriginal Justice Unit

Australian Lawyers Alliance

Cathy Spurr: NT Branch Committee President

Aboriginal Peak Organisations NT

Leeann Mick-Ramsamy: Chief Executive Officer

Legislative Assembly of the Northern Territory

Yingiya Mark Guyula MLA: Member for Mulka
John Greatorex: Linguistic and cultural interpreter

Department of the Chief Minister and Cabinet

Tom Leeming: Deputy Chief Executive Officer, Policy & Reform
Jean Doherty: Deputy Chief Executive Officer, Strategic & Corporate Services
Shaneen Tilmouth: Acting Executive Director, Office of Aboriginal Affairs
Kylie de Jesus Augusto: Acting Senior Director Cabinet Office & Secretariat Services

NT Anti-Discrimination Commission

Josie Short: Director

**INQUIRY INTO A PROCESS TO REVIEW BILLS
FOR THEIR IMPACT ON FIRST NATIONS TERRITORIANS
Department of Health**

The committee convened at 8.26 am.

Mr CHAIR: On behalf of the committee, I welcome everyone to this public hearing on the inquiry into a process to review bills for their impact on First Nations Territorians. I welcome to the table to give evidence to the committee from the Department of Health: Ms Claire Doyle, Senior Legislation Officer, Legal Services; and Rus Nasir, Acting Director, First Nations Health and Wellbeing Division. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public, you may ask the committee to go into a closed session and take your evidence in private.

Please each state your name and the capacity in which you are appearing.

Mr NASIR: Good morning all. Rus Nasir, Acting Director First Nations Health and Wellbeing Division, Department of Health.

Ms DOYLE: Claire Doyle, Senior Legislation Officer, Legal Services, Department of Health.

Mr CHAIR: Thank you. Would you like to start with an opening statement?

Mr NASIR: Thank you for the opportunity to come here to talk. Obviously we feel it is a really important discussion, particularly for the future of the Northern Territory and in particular NT Health. I will start by providing some background information on NT Health and why it is important for us.

NT Health has nearly 7,500 staff spread over five regions. We strive to have accessible care for all Territorians that is culturally appropriate, evidence-based and as close to home as possible. We do this with the core values of being safe, responsive and kind as our overall approach.

For this discussion it is important to recognise that Aboriginal Territorians make up 31% of the NT population, however make up 70% of hospital admissions and over 90% of primary healthcare presentations in remote areas. As we all know too well, I will not go through all of the statistics, Aboriginal Territorians, our people, experience significant disparity in most health, social and economic measures, and on too many measures some of the worst in the country.

For NT Health this underscores the need for us as a department to target interventions and support mechanisms to address the glaring inequities faced by Aboriginal Territorians. We understand that achieving health equity from our perspective is about active engagement with Aboriginal health consumers and communities, ensuring our approaches are reflective of the unique needs, perspectives and aspirations. We also recognise the importance of considering the broad impacts of legislation on Aboriginal Territorians.

When writing this the other night, cane toads came to mind and multitude of medications used to address chronic disease and about how policy change in one area can have significant detrimental on other areas. This is an example of this and what process we have in place to ensure things are done, and who oversees the whole lot.

I just mentioned that a new bill of law put forward in one area of government to solve a problem can have indirect negative consequences to the goals and aspirations of another and ultimately can create greater problems and issues. For this reason NT Health supports a model which ensures a thorough analysis of proposed new bills and laws prior to introduction into the Legislative Assembly.

Essentially, we support a framework akin to the regulation-making framework aimed at assessing potential impacts of new bills and laws for Aboriginal Territorians. We go into the frame what we think it could be, but obviously it is whatever you guys want it to be. The framework would involve

collaboration with various departments and other relevant stakeholders ensuring comprehensive assessment from multiple perspectives.

A committee would be established and comprise representatives from government departments, Indigenous organisations and subject matter experts. The committee would include implementation of a process, like the regulatory impact statement, to evaluate potential impacts on Aboriginal Territorians, assessing proposals against key principles and alignment with a key framework, such as the local decision-making framework; the National Agreement on Closing the Gap; the NT Aboriginal Justice Agreement; and international human rights instruments, such as the United Nations Declaration on the Rights of Indigenous Peoples.

NT Health advocates for robust consultation and collaboration across departments on other relevant areas to ensure that proposed policies and laws are thoroughly examined for their potential impacts on Aboriginal Territorians and communities. We believe that this inclusive approach will lead to more informed decision-making and ultimately contribute to reducing health disparities and providing equity for all Territorians.

From our perspective, there are so many social determinants which underpin good health. Sometimes we provide the health services at the end of the day and preventative programs, but things such as education, people going to prisons, young people going into custody—all those things—affect people's overall health and wellbeing.

At that point I will end. I thank you all for listening, and we will go from there.

Mr CHAIR: Thank you, Rus, for your opening statement. We will now open up to questions on the floor. Does anyone have any questions? I can start one off.

Ms BOOTHBY: Thanks for coming along today; I really appreciate your time. To assist the committee with understanding the current process when legislative changes happen, are you able to explain what the process is from your perspective and highlight any of the gaps that you see in terms of new legislation coming on board or changes to legislation?

Ms DOYLE: For the Department of Health and how we introduce a bill?

Ms BOOTHBY: Any legislation that comes to the Assembly, either before it does, during that process or after. I am curious to understand what the process is from the Department of Health, in particular in your department and for your staff and patients. How does that process work from your point of view?

Ms DOYLE: The Department of Health is told about legislation from other agencies through the Cabinet process. Before an agency will submit a Cabinet submission saying we would like approval to draft new legislation or we would like approval to introduce new legislation, it is sent around to the relevant agencies.

Sometimes we see bills and sometimes we do not if it does not have anything to do with the Department of Health, but usually we get a look at the bill before it is introduced into parliament so that we are able to consider it early on.

We do not really implement anything because, of course, we are not sure if it is going to pass, but once it does pass then we are able to form implementation working groups, if it directly affects us; for example, the *Health Care Decision Making Act*, which has passed. We were a stakeholder in that. It was AGD's bill, but we were told about it earlier because it directly affects our department, so we were able to establish a working group quite early. That bill significantly impacts the department, so it has quite high-level support. We are working with hospitals and clinics to introduce those changes. I hope that answers your question.

Usually, we are told about the bill. We will task it to the relevant division within the agency. It is a case-by-case basis depending on the bill.

Ms BOOTHBY: That is usually before a piece of legislation is drafted or tabled in parliament. Is that the usual process?

Ms DOYLE: Yes. Before it is drafted, you need approval to draft. That is by a Cabinet submission which is sent to relevant agencies. We get a chance to comment on it. That is when we can highlight,

'Hey, the Department of Health have these thoughts. Have you considered this? We support or we do not support your submission.' Then, of course, it is for Cabinet to decide whether to do it.

Ms BOOTHBY: Does your department have people or roles that are assigned to do that engagement with those stakeholders in your departments, like for the staff or for the patients et cetera?

Ms DOYLE: Yes. Depending on the bill and the subject matter, it will get tasked to the relevant areas. The Department of Health is a very big agency, so we try to task it as appropriately as possible. We have a legal services area and we are involved in all the Cabinet submissions that have anything to do bills. We try to task it to the most relevant division to engage with people who are affected and come up with concerns. We will relay that back through the Cabinet submission process.

Ms BOOTHBY: Is the First Nations Health and Wellbeing Division always in that process, or sometimes, or it depends? How does that work?

Mr NASIR: Sometimes. It is a good point you make about what happens within agencies. You really are as good as how good that person is who gets it across their desk and knows that agency.

There are some things that really do not line up. It might be DIPL changing some water functioning in a community. That might affect renal. We might be planning on doing a renal service out of there. Those things might not connect sometimes.

It brings up a good point about training people within departments on some of the broad issues. Chief Ministers do Closing the Gap training, understanding some of those issues that come through. But internally we aim to do that as well because sometimes you get a high turnover over staff and some things can be missed. That is the reality.

Ms BOOTHBY: Do staff go out to the different areas to consult locally? Or are they already in those areas, living there?

Mr NASIR: The department has staff in communities where we have primary health services, or we just have good networks. This also depends on the person who is in the position.

Mr CHAIR: Thank you. In your submission you noted that an assessment on whether the proposal is likely to impact significantly on First Nations Territorians should occur before a bill is introduced into the Assembly. You suggested that a process similar to the regulation-making framework could be established for this purpose. Could you briefly describe the regulation-making framework processes?

Ms DOYLE: Yes, sure. When an agency would like to put forward a Cabinet submission for approval to draft new legislation, they have to go through the regulation-making framework which is essentially a committee that assesses the proposal as to whether it will affect regulation and the economy of the Northern Territory.

When I was saying that it should be exactly the same as that—NT Health believes it is really important to have good policy at the start of the project instead of after it is introduced into parliament. We thought there should be a committee set up and that agencies have to submit their proposals to the committee, whether that is drafting instructions for the bill or just a very solid outline of the proposal. This committee, which could be made of experts on the various different frameworks and commitments that we have, could assess that proposal and then make comment on it and say, 'Have you considered these issues? Who have you consulted with?' We would be guided by their expertise.

Mr BROWN: Thank you for that. How would you envisage the process could be adapted to assess proposed legislation for its impact on First Nations Territorians?

Ms DOYLE: Our whole proposal is we will be guided by this committee and the Legislative Assembly. We will consider your recommendations, but we really believe that the best policy should be established up front. That is why we have suggested a similar committee to the regulation-making framework.

Mr NASIR: The regulation-making framework has a specific focus on the impacts on business and inefficient regulation, unnecessary red tape. It has a similar function and process, but the outcome is really primarily focussed outcomes for Aboriginal people. That is the fundamental difference, yes.

Regardless of whether that is a committee, NT Health would like to see a model where things are thought about. The Legislative Assembly gets all the information from all different aspects, and we do not miss things when they come through departments. This process would ensure you have all of the information and perspectives to make a decision.

Obviously, it is only an advisory bit that informs you and gives you that bit. The regulatory framework committee will give you a certification saying it has been through that—whether you have that or not is another story.

From our perspective, given the health outcomes, given the Territory and where we are at, we need to think well and get things right if we have any chance of moving forward, yes.

Ms MOSS: For my clarity in terms of what you are suggesting might work here and what you are already doing, is the suggestion that if you have this expert group and this interagency working group that is working quite well at the moment and appropriate stakeholders that they, as experts, would also provide feedback on whether they felt you had appropriately consulted with the right people in the right regions about whatever the bill was on a case-by-case basis?

Ms DOYLE: Yes. As part of their assessment of the policy this committee currently looks at who you have consulted. The Department of Health would be in favour of that. We work alongside lots of different Aboriginal community organisations for a lot of our policies, procedures, bills and services. We work very closely with these types of organisations, so we would be in favour of that.

Mr EDGINGTON: Looking at your submission, further down on the first page it says:

A similar framework could be established for assessing whether a proposal is likely to impact significantly on First Nations Territorians. A committee could assess whether proposals are ...

It talks about consistent with local decision-making, Closing the Gap and United Nations declarations. Is that not happening already?

Ms DOYLE: Do you mean in the Cabinet submission process?

Mr EDGINGTON: The regulation-making framework. Are those issues mandatory to be considered under that framework or not?

Ms DOYLE: The regulation-making framework, as it is at the moment, only assesses for impacts on regulation and businesses; it does not consider any other subject matter.

Mr EDGINGTON: Why doesn't it?

Ms DOYLE: I am not sure. That is the framework that has been established. The people who are currently on this committee are very specialised in considering the issues that they currently consider. You would have to have additional people considering these issues and provide training. I do not think the current membership of the regulation-making framework and their committee would be able to just start considering these issues without training. They are very specialised.

Mr EDGINGTON: To be clear then, if a legislative proposal came to the Department of Health through that regulation-making framework you have no set criteria to report back on; is that what you are saying?

Ms DOYLE: They have very set criteria which they assess proposals for, this regulation impact committee. I do not know it off the top of my head, but it is all online. They have a set criteria by which they assess proposals, but it is all about businesses and economics and how it will affect the Territory.

Mr EDGINGTON: To clarify, it does not at the moment include Closing the Gap ...

Ms DOYLE: No, it does not include ...

Mr EDGINGTON: ... what impact it might have on that or anything about what impact it might have on the United Nations declaration of rights?

Ms DOYLE: I am sorry; I have not been through the criteria recently ...

Mr NASIR: I will read it to you:

To reduce unnecessary impacts on business and the community of inefficient regulation, including excessive business red tape, unwarranted compliance burdens and restrictions on competition.

That is it.

Mr EDGINGTON: I do not have any more questions on that.

Picking up on what you said earlier, would it be more helpful to have additional criteria around Closing the Gap as a minimum when it comes to Health, and the Aboriginal Justice Agreement, Aboriginal Affairs policies and a whole range of things?

Mr NASIR: Yes, and to maybe look at the membership too. Find accountants who grew up with Aboriginal people.

Ms MOSS: In terms of the mechanisms that are currently in place, what do you think could be in place to advise the Legislative Assembly of issues that come up through the RMF process? If you are assessing against that criteria and you have come up with issues, what do you see as the mechanism for advising of those issues; how they have been considered; and how they have been addressed for members of the Legislative Assembly who might be considering that legislation?

Ms DOYLE: Part of the Cabinet submission process for the regulation-making framework is you have to include the regulation impact statement from the committee as part of your Cabinet submission. You have to say, 'Yes, Cabinet, we have gone to the committee. This is our impact statement and they are saying there is no impact or they said, yes, there is impact and we had to do a full assessment of the proposal. This is what we did. This is what was brought up and this is how we have clarified the policy or changed it. The committee is happy with it, here is our further certificate.' That is part of the Cabinet process.

I understand that there is not a public process because it would be cabinet-in-confidence, but the fact that the bill has gotten approval to introduce should signify to the other members that these issues have been thought about and are approved by this committee.

Ms MOSS: The introducing minister, for example, would answer any of those questions during the consideration in detail process or the introduction process?

Ms DOYLE: Yes.

Ms BOOTHBY: I read somewhere that the regulation-making framework process is not made public during that time, like those meetings that come together and the feedback they give. I was wondering if there was some other criteria set out in your suggestions where First Nations could be involved in that process. Is that something you would like to see that is public for the reason that other people can read it and see what is going on or other people might want to put forward more submissions because it might jog their memory on something? I would love to hear your views on that.

Ms DOYLE: Yes, it is important to be transparent with government. I acknowledge that the regulation-making framework is currently not public because the proposals are subject to cabinet-in-confidence. Further thought would have to be given to how to involve the public and how public submissions could be made. I do not think it is the best process, but it is a good starting block to think about.

Ms BOOTHBY: Could there be another way in which there could be more public engagement; is that what I am hearing?

Ms DOYLE: Yes.

Ms BOOTHBY: That you could somewhere in the process to allow—I am also trying to think of what currently happens now. There might be something on the Internet, but does everyone know it is there to look at? What do you see as the best way to get as many people involved in this process before it becomes legislation changes?

Ms DOYLE: For the Department of Health, we like to involve stakeholders as much as possible. When we draft legislation, we try to ask for approval from Cabinet to consult with targeted stakeholders. That allows some flexibility to discuss bills that have not been introduced with targeted stakeholders. I acknowledge that, yes, we are working within cabinet-in-confidence, so it is quite

tricky to involve the public before a bill is introduced unless you have an exposure draft bill, which is a really great way of seeking public feedback on the bill before it is introduced.

Ms BOOTHBY: Once it is introduced and it sits on the Notice Paper—in our language—for 30 days, give or take, what is the process then for the department? Do you do further consultation with stakeholders based on feedback?

Ms DOYLE: It all depends on the bill. I do not think we would usually do further consultation on a bill that is already introduced. We try to do it as much as possible before the bill is introduced. It is not great to have amendments to the bill while it is there. Of course, it is a mechanism and it is really great if changes need to be made, but the Department of Health really likes to have the policy set before the bill is introduced. We usually like to do as much consultation with relevant stakeholders and ...

Ms BOOTHBY: If you have received an exposure draft that gives you that mechanism to consult based on the probable bill that has gone forward. But what happens if the information you have received ends up being very different from what is taken to parliament because of whatever process has happened after you have consulted? Do you have any thoughts on how that could be better addressed?

Ms DOYLE: I do not think I have really thought about it, to be honest. If we introduced a bill and for some reason it just was not what was needed—there was a lot of public outcry on it—we would of course consider that and make changes that were needed. Thankfully, we have the 30 days before it is debated. It really depends on the bills. Historically, the Department of Health bills are not that contentious. We provide healthcare services to all Territorians. Safe, responsive and kind is our vision. We try to work best for the public.

Mr BROWN: In your submission you note the importance of scrutiny committees in the legislative process. Can you clarify for the committee what you consider to be the appropriate role of the scrutiny committees and the legislative process?

Mr NASIR: My understanding is that the scrutiny committees come after the bills are drafted and so on. I guess what we are fundamentally raising is before they are proposed that you guys are equipped with as much information, evidence and perspective so that you can make an informed decision on that. It might go a different way for other reasons that you have to deal with, with your electorates and all of that sort of stuff, but essentially decisions are made with all of the information.

We feel that the model is not mutually exclusive, but it should happen and that there also should be scrutiny committees afterwards. The front end should be where all of the hard work is done so that you guys are given the most information and, be it for political reasons or whatever, you make the call. At least you know all of the information. For me, it is logical around decision-making.

Mr CHAIR: I have a couple of questions for you. In July 2021 the government amended the Cabinet process to include the Closing the Gap impact statement requiring agencies to demonstrate how submissions align or do not align with the national agreement. Apart from the Cabinet submission guide, what resources or training have been provided to agency staff regarding the development of Closing the Gap impact statements?

Mr NASIR: I think for Health, in our unit we have encouraged staff to do the Closing the Gap training course themselves. We hold regular team meetings and I sit down our staff and talk through some of the major issues happening in Aboriginal affairs, be it Corrections stuff to whatever, and how that spin-off comes to Health. Our division itself does that.

Essentially most of the major things in relation to Aboriginal health and Cabinet submissions or comment will come through our division. We will look at that and say this is something we should be looking at. If it is something particular to medicine, someone will take it to the Chief Medical Officer. But we will keep a close on that, essentially.

I think from the discussions I have had here and talking with Claire and others, we will conduct our own training and not just for Aboriginal staff, but for people who it will cross their desk for Cabinet comment and so on as well. Maybe that is something that could be looked at. This is probably the other part to it, that could be looked at across government.

Mr CHAIR: Is there a process provided for input from First Nations Territorians as well?

Mr NASIR: In relation to the Cabinet?

Mr CHAIR: Yes.

Mr NASIR: I think the process for us is not that; it is really asking the department what we think of a Cabinet submission. We have a process of asking health consumers in communities about how they want to have their services and so on. I think it is a bit of a separation between those two.

Mr CHAIR: With the Closing the Gap impact statements, what effect has that had on the development of Cabinet submissions for your department?

Mr NASIR: There are four priority areas from the Closing the Gap agreement. A big one is around community control, working better as an agency and so on. I think that is fine and helps, but for us it is about us in-house actually going through those processes ourselves. I am trying to equip my staff with not just thinking in health, but thinking more broadly about Aboriginal affairs and so on and how that works. Is it done formally? No, but it is done informally.

Mr CHAIR: So there is no formal process around that?

Mr NASIR: I would not say there was.

Mr EDGINGTON: The Closing the Gap impact statement, is that a separate process to the regulatory impact statement?

Ms DOYLE: Yes. The Closing the Gap statement ...

Mr EDGINGTON: Let me try and clarify. The regulatory impact statement relates to legislation. The Closing the Gap impact statement could relate to any Cabinet process or submission, but the Closing the Gap impact statement does not necessarily form part of the regulatory impact statement. Is that right

Ms DOYLE: Yes.

Mr EDGINGTON: Why is that?

Mr NASIR: Going back to the regulation-making framework, it is not in that committee's remit to actually look at that.

Mr EDGINGTON: Is that a breakdown or something that can be improved somehow to cover off on all those issues through a regulatory impact statement?

Ms DOYLE: I think that committee works very well as it has been established by government. I am not sure when the committee was established, sorry. I think they work very well with what they have been established to do and their terms of reference. I do not have any comment about whether they could be improved.

The Closing the Gap statement is part of the Cabinet submissions. In a Cabinet submission you have to identify whether it impacts or how it is addressing the Northern Territory Government's commitment to Closing the Gap. There are guidelines that have been published by government to help agencies prepare those statements. It is not really a separate statement; it is part of the actual submission. Then your certificate is just as an attachment with the submission. It all goes together and they are different. Whether you could combine them, I am not sure that would be a great process because they are quite different ways of looking at things.

Mr NASIR: I cannot comment for all responses to the Closing the Gap deal, but it could be that it aligns with targets six and seven. There is no deeper analysis of it.

Mr EDGINGTON: There is no committee put together to look at and analyse whether it does comply or is meeting those Closing the Gap targets? That is a statement saying, 'Yes, it does'.

Mr NASIR: I think people can get away with that. It aligns with six, seven and nine.

Ms DOYLE: It is the agency that prepares the statements, so it really does depend on whether the officer tasked with the Cabinet submission has undertaken the training and looked at the guidelines. We encourage that in NT Health, but it really is ...

Mr NASIR: Fundamentally, that is the issue—by stating that it does not give you guys any deeper information and knowledge around making a decision on it. It says seven and eight. Whereas the committee looked at all the different bits and pieces and asked more questions, then you get a bit of a broad picture.

Ms MOSS: I have a question for you, Rus, on something you mentioned previously. You talked about consumer feedback—notwithstanding that we always look at how we can improve the connection between consumer feedback and service delivery improvement, as well as the improvement of the development of policy and legislation. I am interested in what level of feedback you get at a consumer level from First Nations Territorians already, and what you are doing to look at—assuming you are always looking at how you can improve that level of feedback, particularly from remote Territorians.

Mr NASIR: As a department, what we have found is Aboriginal people actually do not complain through the normal processes as other consumers do. It is easy to say that, but how do you back that up? I think there are some fundamental issues. You have a health service in a community, and you have a disagreement with the person who could be managing the facility. How do you go about complaining to them about them? We have looked at all those things. I have had discussions. Chief Aboriginal health First Nations officer, Leanne Liddle, is pushing for a whole lot of reform in that regard.

People write formal letters to us or come to us and then go to AHPRA, if it is a health professional, or the health complaints commission. Whether people are taking that up or not is another story. We have drafted things in regard to the ways to make complaints. If anyone calls us, we say the process and the ways to do it. Whether that affects people—whether everyone in the Northern Territory knows that we are equipped to do that, or feel they can do that, is another story.

It is something we will be looking at and improving as much as possible, for us. Services do not get better unless we hear about what things are wrong and what people are not happy with. In answer, yes. We can do it better.

Mr EDINGTON: It is probably not relevant to this, but it sounds like they need some advocacy in some of the communities in regard to these issues, particularly access to justice, somebody to assist in writing feedback and writing complaints. What I see is a lack of access to justice, not only the legal system but also the complaints system and through Ombudsman complaints, health commissioners and those sorts of things. There appears to be a bit of a gap there.

Mr NASIR: We have spoken previously. I think the notion of when health clinics were part of the community and the Aboriginal people—for us it started with leprosy. Non-Aboriginal people did not want to work out there; it was all Aboriginal. This was only one or two generations ago. Aboriginal health workers went out, and that was the beginning of the health worker movement.

Essentially, those remote communities, with Aboriginal local people, they picked younger people to go and work in the community. Things changed a bit. Nurses can go out there now and so on. That is the notion of having local people working in the local clinic, having a big say in how things go. That is where we would like to get back to. But there is also the big movement to Aboriginal community-controlled health clinics. We are about half-half now.

The policy argument is done now. It will go to community control. It is how good that community-controlled primary healthcare movement can equip itself and move forward is the future, essentially.

Mr CHAIR: I believe there are no further questions. Thank you to both of you for attending today's hearing. It is much appreciated. We know answering questions can be difficult sometimes but we appreciate it.

Mr NASIR: You guys did not hold back.

Mr CHAIR: We will close today's session at 9.05 am. We will be back in two minutes with the Department of the Attorney-General and Justice.

The committee suspended.

Department of the Attorney-General and Justice

Mr CHAIR: On behalf of the committee, I welcome everyone to this public hearing on the inquiry into a process to review bills for their impact on First Nations Territorians. I welcome to the table to give evidence to the committee from the Department of the Attorney-General and Justice—I apologise in advance if I do not get the pronunciation of the names correct—Leonique Swart, Deputy Chief Executive Officer; Hannah Clee, Principal Lawyer, Legal Policy; Warren Jackson, Deputy Director, Aboriginal Justice Unit; and via videoconference Leanne Liddle, Director, Aboriginal Justice Unit. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public, you may ask the committee to go into closed session and take your evidence in private.

Can you please each state your name and the capacity in which you are appearing.

Ms CLEE: Hannah Clee, Principal Lawyer, Legal Policy.

Ms SWART: Leonique Swart, Deputy Chief Executive Officer.

Mr JACKSON: Warren Jackson, Deputy Director, Aboriginal Justice Unit

Ms LIDDLE: Leanne Liddle, Director, Aboriginal Justice Unit.

Mr CHAIR: Ms Swart, would you like to make an opening statement?

Ms SWART: Yes, thank you. I thank members of this committee for the opportunity to appear today and contribute to this important inquiry into possible processes for the review of bills for their impact on Aboriginal Territorians.

I acknowledge the Larrakia people, the traditional owners and custodians of the land and surrounding waters on which we gather today, and I pay respect to elders past, present and emerging. I thank them for their continued custodianship of these lands and waters.

I am the Deputy Chief Executive Officer of the Department of the Attorney-General and Justice. Today I am joined by my colleagues—I thank Leanne Liddle as she is actually on leave today and appearing by videoconference for this important inquiry. My colleagues are subject matter experts of matters included in this inquiry today.

The majority of the clients of the department, AGD, are Aboriginal Territorians. AGD recognises the importance of scrutiny in the review of bills for their impact on Aboriginal Territorians. AGD provides strategic law and legal policy services to government; administers custodial and community-based correctional services; delivers prosecution services; and delivers court, tribunal and broader justice services. It also comprises independent commissions and regulatory agencies, including NT WorkSafe.

AGD considers there are two main ways it can contribute to this inquiry. AGD provides specialist expertise in law, policy and legislation development, and is responsible for the implementation of the Aboriginal Justice Agreement.

Specifically, as the agency with administrative responsibility for matters that include the administration of justice and constitutional law development, as well as driving matters in respect of the Aboriginal Justice Agreement, AGD regularly develops legislation. The Legal Policy division is the part of the agency with responsibility for developing most bills, because it is quite a technical exercise—with the exception of NT WorkSafe, which is responsible for its own legislation.

In the previous financial year AGD completed 13 bills that were passed in the Legislative Assembly, and contributes roughly 40% to 50% of the bills that are introduced for government in most years.

AGD is also a mandatory commenting agency in the Cabinet Handbook for the purposes of receiving all Cabinet submissions, for reviewing legislation before it is presented to government.

It also participated in the scrutiny committee process of the 13th Legislative Assembly of the Northern Territory. This included the preparation of statements of compatibility for human rights, attendance at committee hearings to answer questions in relation to bills, and reviewing and implementing scrutiny committee reports.

Further, and importantly, AGD provides expertise on Aboriginal justice issues through the Aboriginal Justice Unit. The extensive consultation with Aboriginal Territorians, expert community bodies and agencies that drove the development of the Aboriginal Justice Agreement—the AJA—is most likely well known to members of this committee and is contained in the pathways to the AJA document, which can be found on the AGD website.

The foundation of the Aboriginal Justice Agreement is to ensure that Aboriginal Territorians who are in contact with the justice system as victims, offenders, witnesses and families are treated fairly, respectfully and without discrimination.

The three aims of the AJA are aligned to Closing the Gap and local decision-making principles. They are to reduce reoffending and imprisonment rates of Aboriginal Territorians; to engage and support Aboriginal leadership; and to improve justice responses and services to Aboriginal Territorians.

The AJA is obviously a mechanism for achieving Closing the Gap socioeconomic targets and it complements local decision-making, in that it has at its heart fundamental principles and evidence of practice of working in partnership and engaging Aboriginal Territorians and place-based community-led approaches.

The AJA commitments and actions provide examples of measures that are aimed at eliminating systemic racism and redesigning service models that are efficient, effective and meet the needs of Aboriginal Territorians.

AGD's written submission is based on past scrutiny practices that it was involved in, departmental processes that occur when legislative proposals are developed prior to the introduction of a bill and how the impact on First Nations Territorians is considered in these processes through the application of principles of the Aboriginal Justice Agreement, Closing the Gap and local decision-making.

AGD notes the discussion paper put out by this committee sought input on potential options which included a preferred body to conduct a review, such as a statutory body or an Assembly committee, and a requirement for a statement of compatibility against prescribed measures of self-determination.

AGD supports processes to scrutinise legislation for their impacts, both positive and negative, on Aboriginal Territorians. Its position is the model that facilitates this is a policy matter for the Legislative Assembly.

I am happy to take questions from the committee on behalf of the department and will direct them to my colleagues as needed.

Ms MOSS: In your submission you talked about noting the statement of compatibility and that potentially mandating that would provide a certain level of assurance that aspects of Closing the Gap, the AJA and local decision-making would be adequately considered and then raise the level of training and knowledge that people have of those particular agreements. Who would you say would be best placed to provide that training and resources to ensure that everybody had an understanding the requirements of Closing the Gap, LDM, AJA and indeed any other agreements that might come about in the future with a view to achieving better outcomes for Aboriginal Territorians?

Ms SWART: The question about who should deliver the training and coordinate that—I think was discussed when the Department of Health was giving evidence that in the Cabinet submission there is a section on impacts on Closing the Gap. That is coordinated through the Department of the Chief Minister and Cabinet. I understand they are giving evidence later on this afternoon. They also rolled out some training for their public service in Closing the Gap.

There is a role for a central coordinating agency. In terms of training, it needs to be informed not just by public service principles but also from people who are experts in this area as well as First Nations people. There is some complexity because there is the Closing the Gap principles, local decision-making—they are all aligned—and then there is the Aboriginal Justice Agreement.

In respect to Aboriginal justice issues, that would be the Department of the Attorney-General and Justice and the Aboriginal Justice Unit. I will ask Leanne Liddle if she has any input on that issue.

Ms LIDDLE: The lead for the training could sit with the Office of Aboriginal Affairs. Because it is government service delivery, I also think there needs to be a level of independence. You could bring in expert people as need be. I do not think it is a role for the Anti-Discrimination Commission to take on board. I believe that it needs to be held within government. There needs to be a single agency that is responsible for the training. At this stage because those major policy reforms are owned by the Office of Aboriginal Affairs that's where it best placed. We could feed into that process from the Aboriginal Justice Unit.

Ms SWART: If I could add something? With respect to who coordinates it, it is probably better from a central agency perspective. I agree that the Office of Aboriginal Affairs might be the best vehicle for that. I understand that the Anti-Discrimination Commission is appearing later today. If that were government policy or the Legislative Assembly's policy decision, that is a policy decision that needs to be made by government or the Legislative Assembly.

Ms BOOTHBY: Thank you for joining us today. I want to go to the Member for Casuarina's question and follow on from there about the training. Do you see that training would be beneficial to more closely engage with Aboriginal people when they are submitting feedback, I guess, to policy and legislation et cetera? Is that what you are saying here—that more people on the ground within the department would be able to go out and engage more closely?

Ms SWART: There are probably two things. One is an understanding about what Closing the Gap and local decision-making principles and Aboriginal Justice Agreement principles are and having a general awareness of that. Then also with respect to engagement with community it is a process of continuous improvement.

If I reflect—for example, I have been in the department for quite a long time—that is where everyone is moving towards. That is part of Closing the Gap priority reforms to engage closer. Definitely there is room for further training and expertise in that respect.

That was the process with the Aboriginal Justice Agreement development. If you would like some more information, I am sure Leanne and Warren can give you some more information about that process.

Ms BOOTHBY: What about the current gaps that you see that exist with being able to ensure that proper engagement with Aboriginal people for legislative purposes takes place? Can you give us an example of where we could improve that area?

Ms SWART: Sorry, could you repeat the question?

Ms BOOTHBY: I am trying to understand what the gaps are that exist in the current process with engagement. Aboriginal people can put forward their feedback to the Legislative Assembly on the bills that are always before the House. Where do you see improvement can come from?

Ms SWART: There are limitations on the ability to consult deeply with community, particularly around time frames. The department is responsible for implementing policy of the government of the day. There are also resource challenges with that because (a) it takes a lot longer to do that and (b) there are a lot more resources that are involved in that.

It is always a challenge and we are limited. When I say 'limited', we are constrained by those factors and the expertise in doing that kind of thing. There is certainly room for improving in that respect.

The other issue is where that analysis and engagement comes into the process. The best time to do it is to front-end it in the policy development. Again, that is time and there are all those constraining factors. I will point to an example and perhaps Leanne or Warren could explain how it worked with the development of the AJA and the community courts legislation, which was a recent example.

Leanne, are you in a position to talk about how the community courts legislation started with consultation and went through to the introduction of the bill?

Ms LIDDLE: The benefit of that proposal was that we had an early heads-up that the community courts were to be a deliverable of the government. That enabled us to do a lot of consultation in

those 160 to 120 community places. That meant that when the draft bill came to the table we were well-equipped with the views of Aboriginal people across the whole of the Northern Territory. Internally we also ran workshops and information sessions for people who would have been impacted by the community courts.

We also were then able to access the datasets from our statistical team and that equipped us with a lot more favourable information to be able to sell to the community what we were proposing and therefore gave a really informed position where people were able to give us free and informed feedback when eventually it did become a draft bill and then a final bill.

Time, I think, was the critical factor. We had a definite benefit of lead-up time of the knowledge that was going to be put in legislation well before it was committed on the ground. It might be worthwhile talking to Warren so he can pick up something that I may not have said.

Mr JACKSON: I think the only additional thing I would say is that we had a working group which had stakeholders from the judiciary, the Aboriginal Justice Unit, the DPP, as well as the Aboriginal legal services. As well as the consultation process which informed the whole AJA, specifically that group was able to then bring that information together from community but also from a practical sense about how community courts might work and the introduction of the legislation through that process; as well as regulations, guidelines and other things that make community courts operational.

Ms BOOTHBY: To clarify, when you have the ability to go widely to consult, go deep and have those really strategic and deep conversations with Aboriginal people, because there is time before it hits drafting of that legislation, that enables Aboriginal people to truly be heard and consulted, because of the time factor?

Mr JACKSON: Yes, absolutely.

Ms SWART: I think that is certainly true because deep consultation takes a long time and not all bills are able to follow that and that is just how it is, really. Certainly that was an example of where that has gone really well.

Ms LIDDLE: If I can add, the benefit of that lead-up time enables us to get access to interpreters and cultural brokers. That means that Aboriginal people are not being consulted as a member of an organisation; they can choose whether their position when we do the consultation is part of their representation of, say, the Aboriginal Congress in Central Australia or it is just as Leanne Liddle an Arrernte woman who has a particular and different view.

There is benefit, as Warren said, in us developing the workshops where we invite people in and there is robust discussion about a bill and what is needed to make it work from there, alongside the data and stats. I cannot underestimate the value of the access to the interpreters. That is critical to make sure you get valid feedback that is not attached to an organisation.

Mr CHAIR: Just on that, I understand in I believe it was 2016 or 2017 there was an Aboriginal Affairs subcommittee to Cabinet group, which was made up of First Nations people from around the Territory. I suppose in principle it was a good committee setup. I am trying to get an understanding of whether that committee were able to scrutinise any legislation or bills that were being put forward and whether they had any say in those bills. Leanne, you may remember.

Ms SWART: I do not recall specifically on that process. It might be a question for the Department of the Chief Minister and Cabinet.

Mr CHAIR: My question was whether there was any crossover with any of the other agencies with that committee when bills were put forward.

Ms LIDDLE: My understanding is there was not. I am not sure if the committee at the time was established; OAA will be able to answer that question. It is the frequency of the meetings and the level for urgency with the piece of legislation that is critical as to how that input is built in and its impact on Aboriginal Territorians.

Mr CHAIR: Thank you, Leanne.

Mr EDGINGTON: Was there a scrutiny committee for the 13th Assembly?

Ms SWART: Yes.

Mr EDGINGTON: Can you give me a bit of background on how that worked?

Ms SWART: It was run by the Legislative Assembly. I will hand to my colleague, Hannah, who has a good recollection of that. We were both involved in the process.

Ms CLEE: There were two committees initially. There was the Social Policy Scrutiny Committee and Economic Policy Scrutiny Committee. At the time of a bill being introduced into the Assembly it was referred to either of those committees, dependent on the subject matter of the bill. It was then considered by the committees prior to going back to the Assembly for consideration.

Part of that process of the committee's consideration of the bill involved a call for submissions, so it really was subject to the committee determining how they were going to scrutinise particular bills. Not all bills went through the full process; again, it depended on the subject matter of the bills. At times there was a call for submissions which was put out to the public.

As a department we also provided a submission on the bill to the committee. Following that there was a hearing where people who had submissions were invited to appear, like we are today, responding to questions of the committee. For the department's perspective we would also be invited to attend and appear where we would be responding to questions primarily around the operation and the intent of the bills, noting that the policy content was really a matter for the government of the day.

Mr EDGINGTON: I see there is mention of the statement of compatibility of human rights. Was that introduced as part of that process?

Ms CLEE: Yes; sorry, I missed that point. At the same time when the bill was introduced it had a requirement that a statement of human rights compatibility was tabled along with the explanatory statement for the bill. That document set out how the bill would comply with or otherwise—its impacts in terms of the human rights compatibility which looked at the various treaties.

Mr EDGINGTON: Did that also consider aspects of compliance or how that legislation might have impacted on Closing the Gap?

Ms CLEE: Not Closing the Gap from recollection, but there are aspects of Closing the Gap that are interrelated with a number of the human rights bills.

Ms SWART: It was focused on human rights and it was linked to the Commonwealth system. I am not quite sure how the Commonwealth Parliament operates, but they have statements of compatibility with human rights, so it goes through all of the various treaties and declarations. I believe the declaration relating to Indigenous peoples was not included in that specifically, but otherwise it was around the various human rights. The compatibility statement required assessment against all human rights treaties and instruments demonstrating how it promotes or derogates from or balances against those principles.

Insofar as Closing the Gap, local decision-making and the Aboriginal Justice Agreement promotes or derogates from human rights instruments that is where the overlap would be. For example, we would suggest that you could adjust something similar to have a set of principles that are drawn from Closing the Gap, local decision-making and the Aboriginal Justice Agreement and have an assessment tool in the same way.

Mr EDGINGTON: Why did that scrutiny committee stop?

Ms SWART: That is a matter for the Legislative Assembly. It lapsed with the proroguing of the parliament at the time.

Mr EDGINGTON: Based on your knowledge and participation in that committee process, is that something that could potentially be used again with improvements, particularly around Closing the Gap, local decision-making and the Aboriginal Justice Agreement—perhaps even the inclusion of compatibility statements? Is that a process you would see as something that could be reintroduced?

Ms SWART: Certainly. In our submission we said yes, that is something that would promote the scrutiny and assessment for these principles. Yes. The exact model was a matter for policy, but that is certainly a process. The other option that was put forward was an independent statutory body. It all depends on what stage of the bill's life cycle that you would want to inject that assessment and scrutiny.

Mr EDGINGTON: As part of the scrutiny committee could you also perhaps seek submissions from a statutory body?

Ms SWART: Yes.

Mr EDGINGTON: Thanks.

Mr CHAIR: We often hear Aboriginal organisations and First Nations people being fatigued in the process when it comes to public policy and the scrutiny of legislation. Could you suggest how we can improve the high-quality culturally appropriate advice on bills from First Nations people to ensure that they are not becoming fatigued?

Ms SWART: I will open with a comment that I think that is right, especially in a small jurisdiction like the Northern Territory. I will ask Leanne to provide some input into that answer.

Ms LIDDLE: Certainly the feedback we got from the consultations on the AJA was that any consultation should not be conducted by a consultant. The government was to hold responsibility and accountability for that decision, it was best coming from government and its representatives.

People were saying they were quite happy on many occasions to come out of other meetings to be at our meetings because they had one person they could contact when they were unhappy with the outcome. They could then hold, for example, us responsible for failures in the system. This is where a good communication policy comes in and the use of interpreters and the cultural brokers. Going in and knowing your business and being an expert in consultation is a reason why we got such high attendance and such fulfilling content for the AJA that has then led to some of these bills, particularly community courts and the delivery of those outcomes.

Fatigue is because there is a lack of qualified practitioners out there who know how to deliver well. We were not out there to have a cultural experience; we were out there to deliver a decision that government had made and provide feedback in a process that was culturally appropriate.

I took with me, Warren Jackson who was then a commissioned officer in the Northern Territory Police Force. I took the people who mattered with us so that I did not have to get back to communities with decisions; the spokesperson was there to hold that agency accountable for any questions that the community had.

It lies in the way it is conducted. It is the area of expertise that few people have. You have to take into account the literacy levels and communication styles. I have seen my fair share of community consultations where people say fatigue is why they do not attend, but actually it is poor service delivery.

Ms SWART: It is not only true of Aboriginal Territorians, but also NGOs as well. The Northern Territory is a small but busy jurisdiction. If you are thinking about another layer of scrutiny—I do not mean that in a pejorative sense because obviously the AGD thinks it is a good idea—I think consideration for who is involved and how often we are consulting with the same groups of people, whether that be First Nations Territorians or NGOs that provide services. The impact on them is a definite consideration.

Mr CHAIR: Just quickly on one other question. We have three layers of government—Australian Government, Northern Territory Government and local government. Just reflecting on what Leanne was saying about not having consultants go out, and having agencies and those relationships in community, how would you see managing that with those three layers of government when there would be policy, decision-making legislation and streamlining that?

Ms SWART: Certainly getting partnerships with the Commonwealth Government and ensuring that there is not duplication is a really important factor. That is an area of continuous improvement for all governments and all layers of government.

Ms LIDDLE: From the Commonwealth perspective, our relationship with the team across all Commonwealth business is great. I am on the national Justice Policy Partnership team, representing the Northern Territory Government. That is another layer of accountability for the Northern Territory Government on any decisions that are made that impact on Closing the Gap outcomes 10 and 11, which is the increase in incarceration rates for young people and adults. There are multiple layers

that we feed into that also offer a level of accountability with peak bodies and national peak bodies on Northern Territory Government business.

Mr EDGINGTON: In July 2021 the government amended the Cabinet process to include a Closing the Gap impact statement. Since the introduction, what impact has that had on the submissions being provided by your department?

Ms SWART: I can talk in general terms about the processes. With respect to bills, we do quite a number of them. When we develop submissions, the general practice is that we have to assess for compliance with Closing the Gap or align it with Closing the Gap specifically. It does not necessarily mention local decision-making, but the principles are fairly similar and there are overlapping principles with the Aboriginal Justice Agreement. Particularly when we are developing our own legislation that is quite a close analysis.

Even before that was introduced, I think the department was acutely aware of the impact of the legislation it administers on Aboriginal Territorians. That flows through to Closing the Gap in relation to outcomes 10 and 11, which are about reducing incarceration rates for Aboriginal adults and children. It is a general practice and is something that everyone is aware of anyway when developing legislation.

The department develops legislation, general speaking, in consultation across the agency. That includes courts, Corrections and the Aboriginal Justice Unit. Usually the Legal Policy Division is the lead unit that develops it because it can be a technical exercise. We provide advice about impacts on Closing the Gap and impacts generally on Aboriginal Territorians in Cabinet submission processes. As a general rule, that is the process we follow.

Mr EDGINGTON: During the process as the lead agency, do you see submissions from other agencies?

Ms SWART: Yes. We are a mandatory commenting agency in the Cabinet Handbook which means that all Cabinet submissions come to the Department of the Attorney-General and Justice, whether it is about legislation or not. We look at legislation from other agencies.

Mr EDGINGTON: Are they required to also complete this Closing the Gap impact statement?

Ms SWART: It is in the Cabinet submission process, so yes. That is a general requirement of the Cabinet submission process.

Mr EDGINGTON: Has there been any training or development with staff in other agencies, including your agency, in regard to Closing the Gap?

Ms SWART: It might be a question better directed to the Department of the Chief Minister and Cabinet, which is responsible for the Office of Aboriginal Affairs. It rolled out some online training for departmental—across the public service. Some staff in the Department of the Attorney-General and Justice have done that training. It is an area of continuous improvement. We need to do more training. Staff are acutely aware of outcomes 10 and 11 under Closing the Gap, which affects our agency and our legislation a lot.

We draw on the expertise from the Aboriginal Justice Unit—as Leanne mentioned, she is the current NT Government representative on the national Justice Policy Partnership. We draw on that expertise. There are areas where we need further expertise and training. At the moment we are looking at what could be done in that space. There is some training, but whether that is being taken up across the board is a matter for analysis.

Mr EDGINGTON: When you say ‘some training’, is that a structured training program being delivered or is this mainly about continuous professional development of your staff taking that on themselves? Is there a structured program being delivered across your agency and others?

Ms SWART: As I understand it, there is an online training program module. There is a number of different online training modules that the public sector is required to do. There is one for Closing the Gap, which was rolled out by the Department of the Chief Minister and Cabinet.

Mr EDGINGTON: How long ago was that rolled out?

Ms SWART: I imagine you might need to ask the Department of the Chief Minister and Cabinet. I cannot remember off the top of my head, but it was last year.

Mr EDGINGTON: Have your staff completed it?

Ms SWART: Some have, not all. That has come to our attention and we are raising it at the executive level, because it is a really important aspect of how we do policy development.

Mr CHAIR: There being no further questions, I thank you all for coming. A special thanks to Leanne Liddle for attending in her time of leave; we appreciate that. The time is 9.48 am. We will close this session and have a break.

The committee suspended.

Australian Lawyers Alliance

Mr CHAIR: On behalf of the committee, I welcome everyone to this public hearing on the inquiry into a process to review bills for their impact on First Nations Territorians. I welcome to the table to give evidence to the committee from the Australian Lawyers Alliance, Cathy Spurr, NT Branch Committee President. Thank you for coming before the committee, we appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public, you may ask the committee to go into closed session and take your evidence in private.

Please state your name and the capacity in which you are appearing.

Ms SPURR: I am Cathy Spurr. I am the Northern Territory Branch President of the Australian Lawyers Alliance.

Mr CHAIR: Thank you. Ms Spurr, would you like to make an opening statement?

Ms SPURR: Yes. Thank you, Chair, and I also thank all the members of the Legal and Constitutional Affairs Committee for inviting the Australian Lawyers Alliance to appear today.

I would like to begin by acknowledging the Larrakia people, the traditional owners of these lands, and pay my respects to Larrakia elders past, present and emerging. I also want to extend this acknowledgement to any Larrakia people and other Aboriginal and Torres Strait Islander people who are listening through the live stream or attending today.

The ALA is a national association of lawyers, academics and other professionals dedicated to protecting and promoting access to justice, human rights and equality before the law for all, regardless of their position, wealth, gender, age, race or racial belief. The ALA is represented in every state and territory across Australia and we estimate that our 1,400 members represent up to 200,000 people every year nationally.

ALA members represent a variety of clients across Australia including those who have experienced discrimination. Despite best intentions, it would appear many outcomes for First Nations Territorians are going backwards or simply marking time. Examples of these are set out in our submission.

With regard to that, the ALA supports the Legislative Assembly of the Northern Territory enacting reform to provide a way or ways for reviewing all bills and other prospective legislation, including subordinate legislation, for their impact on First Nations Territorians. Any reform, however, must be achieved with the close involvement of First Nations members of the Northern Territory Legislative Assembly and First Nations communities across the Northern Territory. Any future body established or new process introduced must be both culturally safe and accessible, as outlined in more detail in our submission.

ALA members support the establishment in the Northern Territory of a statutory body that is composed of First Nations Territorians who are elected by First Nations communities and whose purpose is to provide advice to the Legislative Assembly of the Northern Territory on the impact bills may have on First Nations Territorians.

While any statutory body would be established by the Legislative Assembly of the Northern Territory, its composition and daily operation should be independent from the Legislative Assembly, government departments and agencies.

I note that if this committee or the broader Legislative Assembly of the Northern Territory does not opt for establishing a statutory body, the ALA would be open to exploring the establishment of a governance committee instead, provided its remit included reviewing bills before the Legislative Assembly of the Northern Territory and providing advice on those bills. Either way, the key outcome sought is to improve the impact of legislation on First Nations Territorians.

Finally, in relation to a requirement to produce statements of compatibility, the ALA sees merit in this proposal, but only in addition to the establishment of the aforementioned statutory body. I note that statements of compatibility in other jurisdictions operate with reference to a specific framework against which analysis of prospective legislation can be measured.

For example, Queensland—another unicameral jurisdiction—requires statements of compatibility to accompany the introduction of new legislation. It also has the *Human Rights Act 2019*. As such, in the absence of a legislative human rights act in the Northern Territory, a set of rights and expectations would need to be produced against which the bills could be assessed for the purposes of drafting statements of compatibility.

That set of rights and expectations must be produced in consultation with First Nations Territorians and must include principles from the United Nations Declaration on the Rights of Indigenous People, principles from international law and covenants, rights derived from Australia's common law and judicial determinations and the Northern Territory's Closing the Gap commitments.

Mr CHAIR: Thank you, Cathy. I am noting that you said in your statement—I believe it is also expressed in the submission you have put forward—about a statutory advisory body composed of First Nations Territorians via local First Nations communities. Obviously we have the example in South Australia; the way their voice is established with their parliament.

I am trying to get a sense on—we have traditional owners from the Northern Territory and then we have generations of Aboriginal people who have lived here who are, for example, Torres Strait Islander people. How would you see the function of that statutory body establishing their involvement if they are not traditional owners from the Northern Territory?

Ms SPURR: I believe the statutory body needs to include a cross-section of both traditional owners and other people. You need that cross-section in order to look at all First Nations from all levels of the community and all areas within the community.

Mr CHAIR: Yes. The type of model and the capacity to address the inquiry in terms of reference—how would you see that?

Ms SPURR: The body itself?

Mr CHAIR: Yes, to what extent would you see that?

Ms SPURR: They would need to have capacity, so the body itself would need to determine which pieces of legislation need to be considered by them. Obviously they look at the legislation and determine whether they need to consult on this, and then that body would determine how that consultation would occur.

Ms BOOTHBY: Following on from the Member for Daly's question, you mentioned that the body would be made up of elected people. How many would there be? How would those people be elected from across the community to ensure that everybody is well represented?

Ms SPURR: I have not actually considered that question and the ALA has not considered that question. It would need to be considered given the breadth of the Northern Territory and the very different needs of people in the Top End, for example, from people in Alice Springs and other regions.

Ms MOSS: One of the questions we have already talked about with some of the other people who have appeared this morning is around the idea of consultation fatigue. What is your organisation's view on how we can make sure we are still getting quality advice from First Nations Territorians to inform policy and legislation without overburdening people who may already have a range of things that they are being consulted on?

Ms SPURR: It would be hoped that the statutory body would be able to deal with that. Our submission has partly dealt with that by ensuring that people get paid for travel, paid for time and that there is an ability to arrange for care for children to assist with the fatigue issue. You would also hope that the people on the statutory body would be able to come up with solutions to deal with that fatigue in their consultation of communities.

Ms BOOTHBY: I am curious about the process in which you find out there is going to potentially be a change to legislation from your organisation's point of view. Do you find out before it is introduced or after and, if so, is that time frame long enough for you to go to your members to consult with them about their views on that legislation?

Ms SPURR: Do you mean the ALA or the statutory body?

Ms BOOTHBY: The ALA, in terms of legislation.

Ms SPURR: I could not actually answer that. I am not across that, but I could ask the ALA to provide a further submission on that if you required it.

Ms BOOTHBY: I was curious as to the current process when you represent your members whether you feel that they are able to adequately engage with the process and, if not, what the gaps are to improve on?

Ms SPURR: I think I can say that we feel at the moment that we are adequately able to engage, so we are engaging by this process and the voluntary assisted dying process; we are making submissions around that. I am not, however, across how—the ALA picks up that legislation centrally and then puts it out to members. It would put it out to the Northern Territory members. The Northern Territory members choose to engage with that submission or not. I have engaged with this submission and the submission on voluntary assisted dying legislation. The scope is there, but I do not know how it is picked up initially.

Mr CHAIR: In the submission, it notes First Nations people and organisations being fatigued by the process of over-consultation with government agencies and the potential for this to happen during the process of ensuring First Nations people's views are expressed to the Legislative Assembly. How would you suggest ways to ensure we are managing fatigue in communities and for organisations, also ensuring we have culturally appropriate advice on policy and bills that are before the House?

Ms SPURR: The statutory body, or the body providing that advice, needs to prioritise which pieces of legislation require the most consultation. The body will need to manage that fatigue by working out which pieces of legislation should be consulted on and how. They might let go some minor pieces of legislation because of the fatigue issue.

Mr EDGINGTON: In regard to the Australian Lawyers Alliance, have you ever been asked to contribute or make some assessment of legislation before it is tabled in parliament?

Ms SPURR: I could not answer that. I know that when bills are put out, the ALA comments on those, but I do not know the process behind it. I can ask them that.

Mr EDGINGTON: That is after the bill is tabled in parliament?

Ms SPURR: I am really not sure about that. I believe there might have been a bill last year that advice was publicly sought prior to it being introduced. I would have to check with the ALA about that.

Mr EDGINGTON: I am interested to hear a bit more about—in your submission, you talk about a governance committee; could you elaborate on what that might look like?

Ms SPURR: I think it was intended that the governance committee, if it was to go in that way, go as part of the Aboriginal Justice Agreement and sit with the bodies that are already working through issues of law and so on.

Mr EDGINGTON: I am not sure what committees are in place, but I assume there are established committees that work on the Aboriginal Justice Agreement and Closing the Gap and give advice to government. Is that the type of governance committee you are talking about? Would it also give advice on legislation, for example, and the impact it might have on Closing the Gap or the Aboriginal Justice Agreement?

Ms SPURR: Yes, but that committee itself deals with the Aboriginal Justice Agreement only, as I understand, whereas the new governance committee would need to deal with which pieces of legislation they considered impacted First Nations Territorians and deal with all of those, not just those relating to justice.

Mr BROWN: You noted that culturally competent acknowledgement of First Nations consultative and decision-making processes need to be balanced against the need for business of the Legislative Assembly to be conducted in a timely manner. What would you consider to be an appropriate time frame for the review of bills for their impact on First Nations Territorians?

Ms SPURR: I think that is something the statutory body or governing body needs to determine, because every case will be different. A minor piece of legislation will not take anywhere near as long as something much more significant. The governing body or the statutory body needs to look at each bill and determine how much consultation will be needed for this and what type of consultation is likely to be fruitful. All those things go into the factor of how long it takes. It is a bit difficult to put an exact time frame on it because I think it will be different depending on the impact of the bill.

Mr EDGINGTON: I would like to pick up on something you said before. I think you were indicating that a committee or body should also look at subordinate legislation. Is that what you were indicating earlier?

Ms SPURR: I think the proposal is. The proposal from the ALA is yes, including subordinate legislation. Subordinate legislation can change matters that affect First Nations Territorians, but then that would be for the governing committee or the statutory body to say, 'Yes, we need to consider this' or 'No, we do not'.

Mr CHAIR: There are no further questions. Thank you, Cathy, for coming and for your time.

I note that it is 10.11 am. We will have a short break and be back for a 10.30 am start.

The committee suspended.

Aboriginal Peak Organisations NT

Mr CHAIR: On behalf of the committee, I welcome everyone to this public hearing on the inquiry into a process to review bills for their impact on First Nations Territorians. I welcome via videoconference to give evidence to the committee from the Aboriginal Peak Organisations Northern Territory Leeann Mick-Ramsamy, Chief Executive Officer. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing which is being webcast through the Assembly's website. A transcript will be made for use of the committee and will be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public, you may ask that the committee go into closed session and take your evidence in private.

Could you please state your name and the capacity in which you are appearing?

Ms MICK-RAMSAMY: My name is Leeann Mick-Ramsamy. I am the Chief Executive Officer of APO NT, the Aboriginal Peak Organisations in the Northern Territory. I have been approved by the governing group of APO NT, which represents our eight peak organisations in the Northern Territory,

to present today at the hearing. Our eight peaks, for those who are listening in, are: the Central Land Council; Northern Land Council; Tiwi Land Council; Anindilyakwa Land Council; North Australian Aboriginal Justice Agency; Aboriginal Territory Indigenous Business Network; Aboriginal Housing Northern Territory; and Aboriginal Medical Services Alliance in the Northern Territory.

Mr CHAIR: Ms Mick-Ramsamy, would you like to make an opening statement?

Ms MICK-RAMSAMY: Thank you for inviting APO NT to present today and appear at the inquiry. First I acknowledge the traditional owners of the land on which we are presenting today, the Larrakia people, and pay my respects to elders past, present and emerging. I also acknowledge the Aboriginal people here today who are listening in and those who are affected by the issues that we will be discussing today. I also acknowledge the Aboriginal lands across the Northern Territory on which we all meet, live and work.

The area of Closing the Gap for APO NT and our peak organisations is a very important issue. We will present in the best interest of all Territorians, particularly Aboriginal people who are affected by the Closing the Gap agenda, the best we can possibly present today to the best of our ability.

Mr CHAIR: Thank you. We will now open to the committee members for questions. Member for Arafura, I believe you have a question.

Mr BROWN: As part of its commitment to Closing the Gap, the government amended the Cabinet process to include Closing the Gap impact statement and committed to the development of a model to engage with Aboriginal people in new policies and legislation at the policy design phase through to finalisation.

As a member of the NT partnership working group, can you advise the committee what work has been completed to date regarding the development of an Aboriginal engagement model?

Ms MICK-RAMSAMY: The Aboriginal engagement model is in partnership with NT Government. We are working with NT Government at the moment on the local decision-making processes. That was one of the agenda items, to do a joint partnership.

We are also working at the governing group level to have a look at the different triaging, different engagement strategies through all of our different peaks but also from community through to the national partnership agreement as well.

Mr BROWN: When is it expected that the Aboriginal engagement model will be operational?

Ms MICK-RAMSAMY: I have been in this position for 12 weeks. This is something that has been put on the agenda as the new CEO. We are working on that this year. We have a meeting in the next couple of weeks.

Ms BOOTHBY: Thank you, Leann, for coming online from interstate today. I am curious to assist the committee to hear your views about how you guys are impacted by current legislation. When bills are put forward to the House, at what point do you get involved to be able to engage with your members and stakeholders? Is it before or after legislation is tabled? If you can help us with how that process currently stands we would have a better understanding.

Ms MICK-RAMSAMY: Prior to my engagement, there was a letter sent to Honourable Brent Potter MLA, Chair, Legal and Constitutional Affairs Committee by John Paterson, our APO NT Convenor. Quite a bit of work has happened. That was on 20 September 2023, prior to my engagement as the Chief Executive Officer. There was quite a detailed letter sent through. The governing committee has requested that I talk to the information that has already been sent to the committee previously.

We also have a joint Northern and Central Land Councils submission to the Legal and Constitutional Affairs Committee. There is the 'Discussion Paper—A process to review bills for their impact on First Nations Territorians' that the land councils have drafted and also sent through for discussion. That was done in October 2023.

Prior to my employment, there has been—there always has been through APO NT—the ability for the governing group to discuss legislative and other matters, whether it is at a national or a Territory level. That is what I am presenting today on behalf of the Northern and Central Land Councils, who are also our peak body members, which have the support of the governing group.

I have sent quite a detailed submission through as well. There are 11 recommendations that we have sent through on behalf of the committee.

Ms BOOTHBY: Do you think that there is enough time for your organisation and stakeholders to be involved in those bills?

Ms MICK-RAMSAMY: Sorry; what was the question?

Ms BOOTHBY: Do you think that there is enough time for your organisation and stakeholders to be involved in those bills to ensure that adequate engagement with Aboriginal people is able to be put forward to the Legislative Assembly?

Ms MICK-RAMSAMY: One of the recommendations talks about timing. I am not sure if you have those recommendations and the discussion paper from both our land councils in front of you. It was a joint discussion paper with 11 recommendations from the land councils. I can talk through those recommendations. The first one was:

Engage further with the Land Councils and other Aboriginal organisations to explore the ideas put forward in the discussion paper.

That was about timing, because the land councils have membership across the Northern Territory. To engage in any bill and legislation requires time. We also understand there is knowledge translation and language that needs to be—people are impacted in terms of making informed decisions when it comes to English being a second, third, fourth or seventh language. There definitely needs to be more time in reviewing any of the legislation that has been put toward our peaks, particularly through land councils.

The land councils have asked for buy-in early, and to be included at the onset. They have also provided examples of what has worked in the past and what could work in the future when it comes to the requirement of Aboriginal people to participate in review committees at a legislative level.

Mr CHAIR: I notice one of the recommendations in the submission put forward from APO NT was about the implementation of the Uluru Statement from the Heart. Given the result of the recent referendum, how would you see a new way of this being implemented for our people, and has APO NT changed its position on that?

Ms MICK-RAMSAMY: In the letter that was sent through from John Paterson in September, they said that APO NT—it does not matter if it is the Uluru statement or any other statement, but anybody that is set up needs to be:

- Aboriginal led
- adequately resourced
- empowered to have a meaningful impact on the legislative process and the final content of bills
- have the capacity to bring in subject matter expertise as appropriate
- operate with time frames that provide sufficient opportunity for Aboriginal people and their representative organisations to provide input
- developed with consideration to existing and any possible future Aboriginal representative bodies and forums. This includes land councils, the NT executive council, implementation of mechanisms across any other committees that require under legislation or policy, Closing the Gap—it had the Voice to Parliament and the Uluru statement.

Those go together, but in terms of the Closing the Gap commitment if we look at the priority reforms one, two, three and four, they all impact on Aboriginal and Torres Strait Islander people. The Uluru statement is something that, if the governing group have spoken about it, I am not privy to. I know that anything to do with Aboriginal advancement must be considered within the framework of those priority areas in regard to Closing the Gap.

Mr CHAIR: The Aboriginal governing group within APO NT is still supportive of the implementation of the principles within the Uluru Statement from the Heart?

Ms MICK-RAMSAMY: I would have to go back and ask them that specifically, but, like I said, there was a letter and information sent to the committee. I was not briefed on answering that question at the hearing.

Mr CHAIR: That is okay; thank you.

Mr EDGINGTON: I want to get a better feel for what formal arrangements are in place between the Northern Territory Government and APO NT. Does APO NT participate in any formal engagement structures such as matters in relation to Closing the Gap? Is there a committee that works with government to implement Closing the Gap?

Ms MICK-RAMSAMY: There are several different committees. John Paterson is on one of those committees as well; he is the APO NT Convenor. There are many committees and that is a very broad question. We have staff that are on committees and a governing group that is also represented on committees.

Mr EDGINGTON: What are they? There seems to be lots of different committees. Are there any peak committees that are working with government to deal with Closing the Gap and implementation of programs to meet those targets?

Ms MICK-RAMSAMY: I would have to have a closed session with you, if that is okay? I was not briefed on—and I do not have a list of all the committees, but I do know there are committees. I would have to write to you about those committees, but I definitely know that there are committees and there are different committees.

Mr CHAIR: We can take questions on notice. If you would like to do that, the option is available.

Ms MICK-RAMSAMY: Any questions that I cannot answer, if you would like detail them and send them to me because we can do a written reply back to the committee.

Mr EDGINGTON: I want to get a better understanding. Given that APO NT is the peak body, at what point is APO NT engaged with the government to discuss legislative changes?

Ms MICK-RAMSAMY: Again, that is a question which I will have to go back to and get a list of the various committees that APO NT is attached to. We have eight peaks, so I am not privy to all of them and what our members are doing. That would have to be summarised because there are various different things happening at the community level. When you look at decision-making, or these bodies, there is also a local community that feeds in, and members of our larger peaks. We also have our CEOs and structured approaches. I would have to look at that question and write to the different committees and working groups which are attached to that.

Mr EDGINGTON: You are not aware of any working groups which are working with government to contribute to legislative changes or comments on proposed changes to legislation?

Ms MICK-RAMSAMY: I know the land councils are, but again that is a very specific question. I need to keep within my brief as well, so any of those questions I would have to write back to you, as we have the eight peaks. It is not just a general one statement that I can make around that.

Ms MOSS: Hi, Leeann. You talked about the joint submission from the land councils and supporting the 11 recommendations of that submission as well. I was interested if APO NT had a view on the final recommendations about the evaluation of any processes that are put in place, or potentially put in place, as a result of this committee's work. Do you have a view on what period of time you would have thought we would need to evaluate those processes or structures?

Ms MICK-RAMSAMY: Sorry, what was that?

Ms MOSS: In terms of the land councils' submissions, which APO NT also supports, the last recommendation is:

Any processes that are established should be subject to evaluation after an appropriate timeframe.

I wondered whether APO NT has a view on what an appropriate time frame for evaluation would be.

Ms MICK-RAMSAMY: That is a broad statement as well—appropriate time frame. That would have to be if we want detail around that because to introduce new bills to parliament or change any legislation requires some time. Also, there would be various different areas that would need to change. I would be thinking that 'appropriate time frame' would reflect the different activities against anything that would need to be included in that bill. I cannot really give an appropriate time frame

because there would be several, maybe even multiple, different levels and layers of action outcomes and actions that would be required.

I do not want to answer, I am not quite sure, because there are lots of issues when we talk about Indigenous inclusiveness into any bill in parliament. We know that in terms of our outreach and our capacity to consult with our Aboriginal people in the Northern Territory our land councils are the ones that we would be relying on to do that work.

Mr EDGINGTON: One scenario, say, the Department of Health in the Northern Territory or the Attorney-General's department was putting together a submission to make legislative changes that would impact on Aboriginal people in the Northern Territory, do they consult with APO NT around what the proposed changes might look like?

Ms MICK-RAMSAMY: You would go to our eight peaks and consult. Our eight peaks at the governing level meet four times a year and they have a face to face. Obviously that is a means for one type of consultation, but definitely if you wanted to develop anything around parliamentary changes to any of the bills you would go individually to our peak agencies and discuss what their processes would be, because they would have a different process for consultation that would already be in place.

Mr EDGINGTON: Is that happening at the moment?

Ms MICK-RAMSAMY: The land councils engage in many different legislative—obviously because land councils do that and that is their role, as does AMSANT. All of our peaks are engaged in their own consultation process back to government and then they collectively come together as one voice across the Northern Territory under AP ONT.

Mr EDGINGTON: If a scrutiny committee process was being reconsidered by this committee, do you have any suggestions on how it could be improved to facilitate greater input from First Nations Territorians?

Ms MICK-RAMSAMY: In the submission from the Northern and Central Land Councils, because that is what APO NT—at our last governing group we support that collectively, that is why I am here today. Definitely what they have in terms of the 11 recommendations, but also that would be supported by the other peaks, that individual process of asking. Ideally, the Northern and the Central Land Councils are our bigger land councils with the constituent of people that cover the Top End and the bottom end of the Northern Territory, and they have processes in place already over decades where they have done this type of work. They are experts in how they do consultation with their local members, and APO NT support that.

Mr CHAIR: Given that a lot of First Nation Territorians and also organisations state that there is fatigue around the consultation process when it comes to providing input on public policy and scrutiny of legislation or the development of bills, from APO NT's position can you provide any suggestions on how some of these consultations can be more effective to ensure there is culturally appropriate advice on bills?

Ms MICK-RAMSAMY: On bills, did you say?

Mr CHAIR: Yes, bills and policy development as well.

Ms MICK-RAMSAMY: There are a couple. This is from an operational and policy perspective. We are engaged with the local decision-making process with the Chief Minister's department. It has been quite a useful process. I have been involved in that since I came on board, bringing community together with government—also the ability to have a look at what that looks like structurally on the ground in terms of community input and consultation. We are still working through that at the moment.

We have been funded an educational grant to set up an educational peak, working with the NT Education department strategically on how that would work in terms of a partnership approach into the future because that will end up to be policy in the future with an educational Aboriginal peak body.

What I have experienced in the first 12 weeks of my employment is those are examples that work well when we come together with the NT Government. It is a slower process, I must say. I mentioned

the letter that was sent through from John Paterson before, but we know that anything to do with Aboriginal engagement and community engagement in legislation will be slower because we need to create a medium where people come together and both parties move together collectively, and not one party should be moving in isolation or in front of another.

In that process, we have been trying to respectfully put a cultural framework in everything that we do. That has been one of the key elements. The primary element of my job is to bring a cultural framework in terms of how we negotiate into the future, but also how we are working with current funding, bodies and committees I am sitting on at the moment as well operationally.

Mr CHAIR: Thank you, Leeann. Were there any further questions from members on the panel?

Ms BOOTHBY: I have one more, Mr Chair. Leeann, following on from your answer about the training, we have been talking today with the other groups about training and developing the statement of compatibility. I am curious. Is that something that APO NT is open to, either running that training or being able to help others to deliver that training in other areas and agencies et cetera?

Ms MICK-RAMSAMY: We would welcome any new opportunity to work in partnership to implement the Closing the Gap action plan. I have read over the last couple of years both the implementation plans and this year's implementation plan, as well as the annual reports. APO NT would welcome any opportunity to work with the Northern Territory Government.

As I said, we have a governing group I meet with. We have face-to-face and two-hour teleconferences as well. Any agenda that you would like to present to the governing group or any questions that I was not able to answer here today, if you could write them and send them to me I will get the governing group to help answer those questions back to the committee.

Ms BOOTHBY: Thank you.

Mr CHAIR: Any further questions? Thanks for your time today, Leeann. We appreciate it. We believe you are on leave, so we appreciate your time today. There are some written questions we will send through to APO NT. The Member for Barkly had some and we also did. We will send those through in the near future. Thank you again for your time.

Ms MICK-RAMSAMY: Thank you very much. We will look forward to receiving those questions.

Mr CHAIR: Given the time is 11.04 am, we will close the meeting until 11.15 am.

The committee suspended.

Legislative Assembly of the Northern Territory

Mr CHAIR: On behalf of the committee, I welcome everyone to this public hearing on the inquiry into a process to review bills for their impact on First Nations Territorians. I welcome to the table, to give evidence to the committee, from the Legislative Assembly of the Northern Territory, Mr Yingiya Mark Guyula MLA, the Member for Mulka. Mr Guyula is accompanied by John Greatorex, who is a linguistic and cultural interpreter, appearing via videoconference. Thank you for appearing before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee, and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public, you may ask the committee to go into closed session and take your evidence in private.

Can you please each state your name and the capacity in which you are appearing.

Mr GUYULA: Yow. Thank you for having me here. My name is Yingiya Mark Guyula, Member for Mulka, Legislative Assembly of the Northern Territory.

Mr GREATOREX: John Greatorex, acting as a cultural and linguistic interpreter with Yingiya.

Mr CHAIR: Thank you to you both. Mr Guyula, would you like to make an opening statement?

Mr GUYULA: Thank you. First, I acknowledge the Larrakia people, on whose land we meet. I thank the committee here, the panel, for the work you are undertaking. I hope that we can bring some significant improvement for First Nations people to the parliament.

In 2016 I ran in the NT election because things were going very wrong in our communities. The impact of the intervention over nine years, the impact of the introduction of super shires, and the ongoing government neglect of our homelands towns meant that our communities, our systems of governance and our leaders were being undermined and ignored. Balanda laws and policies were being rolled out on top of us and over the top of Yolngu people every day. Sadly this is still happening today. The result is that we are suffocating under the weight of decision-making that comes from outside of our community.

In 2016 and 2020 I ran for election on the platform of Yolngu *rom ngurrungu* which means Yolngu way first. This message resonates with the First Nations people because we are sick and tired of having our law and leaders and elders so frequently set aside.

Coming here into the NT parliament, I started to see where these foreign laws were coming from and how the system worked. It became clear to me that for the most part First Nations communities are completely left out of these processes, yet these processes have a significant impact on our lives and often have had a significant negative impact on our lives.

This assessment that I am providing today is very much aligned with the Productivity Commission's view of the Closing the Gap report released last week. The NT Government, along with all of the governments in Australia, are failing to close the gap. The review has shown that this is very much to do with the inability of governments to work in partnerships with First Nations people and recognised the government does not know what is best for our communities. Rather, we know what is best for our people.

While I have been in this parliament, I have heard the government and opposition say that they believe in self-determination but, at the same time, they are still making the laws and policies for First Nations people and we are yet to be self-determining our day-to-day lives or our future.

This discussion before the committee is about holding parliament accountable to and in the decisions that are made in parliament. It is about creating a pathway so that First Nations people can provide an assessment to the parliament about how new laws may impact First Nations people.

The 'Yes' vote from the bush communities in the NT clearly demonstrates that our communities want better consultation and a say about decisions that affect our lives.

I would like to share a diagram with the committee members here which you might already have. This is an image that was created in Ramingining over 10 years ago by my late *dhuway*, Matthew Dhulumburrk Gaykamangu and Trevor Van Weeren as part of an Indigenous governance and leadership development project to CDU and the Northern Territory Government. This clearly shows the separation between two worlds; the way in which consultation occurs and decisions are made without our system of governance. The two systems do not intersect. Our decision-making and governance spaces are shown down below on this diagram and ultimately the Canberra and Northern Territory governance systems are at the top of the diagram; that is how far our spaces are.

Ultimately, I see treaty is a way of bridging this gap because the leaders from both spaces need to come together. This happens in a diplomatic Mulka space, which I named in my electorate. It is a respectful place where everyone is equal, where we can negotiate a way of living together that allows space for both ways, cultures and laws to exist together to create a future together.

This discussion today is similar. It is about creating a First Nations body that can be included in the work that the parliament does; a body of people who can look at the bills before parliament and assess if they will have a positive or negative impact on our people and on self-determination. The question we are exploring here is: who should do this assessment of bills? What does it look like? How is a space made in the Northern Territory to introduce a new way of including and understanding First Nations people?

I would like to talk briefly about the 2022 treaty report. I strongly believe in the work that has been done by the former Treaty Commissioner, Tony McAvoy, and the report that he provided to the government. I do believe that many nations want to achieve a level of self-governance. The treaty report laid out a process that could allow for steps towards self-governance and treaties through newly created First Nations local governments. This is a clear pathway for genuine self-determination.

I am aware that the treaty and truth commission does not currently exist but I believe that this inquiry should call for its return because it creates the independent space for the pursuit of self-determination. I believe it is important for First Nations people that the work of self-determination does not sit with the government. Rather, it should sit in an independent space that is focused on mediating between many diverse nation groups and government and transferring decision-making power back to the First Nations people.

As the process to review bills in parliament is part of the work of self-determination, I believe the treaty and truth commission may be the best space for the creation of a body to scrutinise bills that are introduced to parliament.

The treaty and truth commission could sit like a large body of water with several streams of self-determination flowing out from it. One of these streams would be the pursuit of treaty; one of the streams could be truth-telling; another stream can be the First Nations body in scrutinised bills. The question I ask of the committee is, if it is not the treaty and truth commission that does the work, then who is the appropriate independent body to continue the work that this committee has begun?

As I outlined in my submission, the Northern Territory does not currently have a statutory body dedicated to First Nations issues. Given the high number of First Nations people and the problems we face, there should be a statutory office dedicated to these issue, particularly the pursuit of self-determination.

I also believe the former legislation scrutiny committees should be reinstated, because this would allow for all Territorians to be involved in a process of scrutiny of bills before the parliament. I do not believe the return of the scrutiny committees by themselves fulfils the function of the motion I brought before the parliament, because the gap between the parliament and First Nations people is so bit. We need to make sure there is a First Nations body tasked with the job of facilitating better connection and understanding between these two spaces.

When I first came to parliament, it was a foreign space and I did not feel comfortable. The First Nations body should be about connecting First Nations people with the parliament by creating a culturally safe space where many languages meet, elders and leaders feel welcome and included, and the impacts of bills on our people can be freely discussed.

As I outlined in my submission, the compatibility test should draw from several areas to assess how bills before the parliament will impact First Nations people. This test should draw on whether there has been consultation between the bill according to First Nations law and custom that reflects the principle of free prior and informed consent and consultation. This is an important part of the test because communities are often inadequately consulted or receive information that is unclear or confusing.

Bills should be assessed to understand if genuine consultation has been undertaken which supports the principle of self-determination. It should look at whether the bill is consistent with the principles underlying the Northern Territory Government's local decision-making policy for communities to have control over their own affairs in order to enhance First Nations people rights of self-government. This is an important part of the test because it tests whether bills before the parliament are consistent with key government policy that promotes self-determination.

The test should look at whether the bill is consistent with the Northern Territory Government's commitments to Closing the Gap. This is also an important part of the test because, again, bills should be assessed to see if they are consistent with key government commitments that are about self-determination.

Finally, the test should look at whether the bill is compatible with the United Nations Declaration on the Rights of Indigenous Peoples and other international instruments to which Australia is a party.

They refer to self-determination. Australia is a signatory to these international statements and it is appropriate for our government to ensure that new bills are measures against these statements that promote and protect self-determination.

Measuring a bill against these criteria should allow us to better understand what the bill before the Assembly affirmed, and enhance the right of First Nations people of the Northern Territory. Currently, our rights are not affirmed and enhanced. We are seeing the highest level of avoidable deaths in our communities. Our families are sick and our houses are overcrowded.

The Closing the Gap report shows that only four of the 19 targets are on track. We can see that the current approach is not working and we need a shift. The Productivity Commission, in its review, states that if we are to see any improvements we need power shifting to communities and self-determination.

This process today is a part of creating a pathway to self-determination, through the establishment of an independent First Nations body who will scrutinise the bills that are before the parliament and test their capability of supporting the principle of self-determination for First Nations people.

Mr CHAIR: Thank you, Member for Mulka, for your opening statement. We will now open the floor to questions.

I note that you touched on the Treaty Commission and the truth-telling commission office closing down. From your perspective, talking to the importance of ensuring that we have treaties and truth-telling separated from government and an independent entity, and how that may help to close the gap—First Nations Territorians having a say on policies and bills that are put before the House, and why that is important to have the separation from government and independent from government.

Mr GUYULA: I would like to make myself clear, if I can ask for my language be used here today, to talk to my interpreter, John, about what it means. I will get back to you.

Mr GREATOREX: [Yolngu Matha spoken]

Mr GUYULA: How I found the Treaty Commissioner, the way they were working, sitting down with people on the ground and meeting community to community along the Top End—I was watching and people were saying, ‘That is becoming a lot clearer to us.’ That is the way we need to always approach Indigenous communities, through the Treaty Commission or even an Aboriginal organisation representing the country.

Mr BROWN: You expressed concern the statutory body could be too rigid and could assume the role of speaking on behalf of the people rather than conduit. Do you have any suggestions on how this could be managed to ensure that local decision-making and authority of elders and First Nation leaders is respected?

Mr GUYULA: [Yolngu Matha spoken]

Mr GREATOREX: [Yolngu Matha spoken]

Mr GUYULA: I have said that it is a hard area for everybody, but the statutory body needs to be flexible. It needs to look like what I was talking about with the truth-telling and treaty—how they worked. That is the system we need to see. People need to get an outcome of what we are making, what we are saying and what the people want to input for the government to understand.

Mr BROWN: What would that look like? Would that be groups from each community, each clan group, to give that advice instead of having someone directly advising government?

Mr GUYULA: I have already given you this diagram—people are there. I spoke about a metaphor of the dam up there, the water tank and ...

A Member: Streams.

Mr GUYULA: Streams that run through, and it connects with different clans as it goes along. Different clans have their own way of how things go—the language and autonomy they live by. It needs to go through that kind of system so everybody treats—not one size fits everybody. Even in this small space, it still needs to be clarified with all the communities.

Ms MOSS: I acknowledge the role you have played in bringing about this committee's body of work. I have a question about whether it is a statutory body, another structure—if there was something introduced as a review mechanism for legislation. The timeliness of Assembly business is an important consideration for us as members of parliament, but making sure you do that consultation thoroughly and in a culturally appropriate and sensitive way is paramount.

Have you thought about an appropriate time frame for how long it might take to go out and review bills, or how you might manage that potentially conflicting set of priorities around a time frame?

Mr GREATOREX: [Yolngu Matha spoken]

Mr GUYULA: [Yolngu Matha spoken]

It all depends on how the policies are coming out, or how we need to sort things out. The pathway towards understanding and good governance is that people out there really need to understand what is happening. It might take a bit of time or we might go back. If you can work on this again and come back, let us put something together and we sort it out. We can try and make things clear.

There is a problem out there in the communities. I walk into this Chamber and it looks different to me. How am I going to work with this? Can I talk with the government or can we change things around here so that they understand what is out there in the communities? We need to both understand each other.

I might not be answering your question, but this is what I am saying: it will take a long time. I have asked a lot of people in the communities that are more qualified and have a very high level of English understanding and they say, 'No. We do not know what it is like in there.' My colleagues would understand that too.

There needs to be an open door so that we can all—the government departments can go out there. Consultants need to go out into the communities and work something out. If we say this is not working well, let us work on it together and make a pathway so that we will achieve something towards it.

Right now, it is just a one-way thing where people do not really have a say. We are not getting this, but our powers are being overtaken by foreign policies. That might not be clear, but I am trying to explain that it needs to be done properly.

Ms MOSS: I appreciate that. Thank you, Member for Mulka.

Mr GUYULA: Through all angles, we can work it out and sort things out.

Ms MOSS: I am hearing that it is before and after introduction of legislation. It is not just about the review. It is about doing the development better.

Mr GUYULA: Yow.

Mr CHAIR: Member for Mulka, just on that. You are talking about consultants, government departments and agencies going out to communities. A lot of our mob, First Nations people and Aboriginal organisations have a lot of fatigue and people are tired of consultants coming out, especially when it is around providing advice on policy and legislation. I was wondering how you would see a way to better manage that fatigue and tiredness in a culturally appropriate way for people to be able to give advice on bills and policy.

Mr GUYULA: Yes. [Yolngu Matha spoken]. This is really something that we really need to both work on. Self-determination needs to be recognised by how it is done in Indigenous communities, and we will see that. Over years and years decisions have been made for people on country, for Indigenous people, in the Chamber—whether here or in Canberra. When we get the result, it is not really clear. We do not know who made that decision and it overrides our policies and stuff.

It can be done. If we have clan groups, like the flow of the river that I spoke about with one side here, we can start working together. We will come together and we will say, 'Yow. This is what we want.' Governments—whether federal, state or territory—need to have representatives to come out and actually find out what the local decision-making policies are in Indigenous communities.

Mr EDGINGTON: Thanks for your submission, Yingiya. It is very comprehensive. I had a good read of that and the recommendations. What I take is that you support the reintroduction of scrutiny committees into parliament.

Mr GUYULA: Scrutiny committees, yes.

Mr EDGINGTON: The way I see that—and tell me if I am wrong—is that you support a scrutiny committee that would look at legislation to determine what impact there would be on Aboriginal people.

Mr GUYULA: [Yolngu Matha spoken]

Mr GREATOREX: [Yolngu Matha spoken]

Mr GUYULA: Yes, I am just trying to make it clear so I get my message out, what I am talking about. I am happy for the scrutiny committee to be in the Chamber in the parliament—an Indigenous body created, with decisions made or called by the people out there who can come and represent the communities out there in those areas.

This is all about asking, and saying, ‘This is not what we want,’ or ‘How can we run issues and work together?’ It is about pathways trying to close the gap and that our voices are heard, so our calls are heard in here and that we both communicate to one another from the communities.

Mr EDGINGTON: When it comes to that type of scrutiny to make sure that Aboriginal people are heard and their opinions are taken into account by a scrutiny committee, you talk about establishing a new body to have input to represent the interests of Aboriginal people?

Mr GUYULA: Yes.

Mr EDGINGTON: I want to follow through with that because APO NT was established in 2010. APO NT is the peak body and the membership of APO NT is all of the Aboriginal land councils. There is also NAAJA, the Northern Territory Indigenous Business Network, the Aboriginal Housing Authority of the Northern Territory and, of course, AMSANT which represents the medical services.

Could APO NT take on that role to represent the opinions and views and provide feedback through that peak body to a scrutiny committee in regard to what impact legislation would have on Aboriginal people?

Mr GUYULA: Yes. The scrutiny bodies I am talking about can be APO NT. I have always heard calls and stories from the Barkly and around that area about how their system works and we have tried, not very clearly, to understand theirs. We get a call from our end in North East Arnhem Land to try and work it out. If they understand each other—they are the bodies—and western areas of how things are working, if a body like APO NT is in that in-depth position that is what we are trying to get. We want to generally understand where we can all listen to one another.

Mr EDGINGTON: Further in your submission you talk about a statement of compatibility. I am trying to get a feel for what your thoughts are. Could a body like APO NT be responsible for discussing new legislation or policy with all their membership to get feedback and engage with people through all those different organisations to help put that statement of compatibility together that could ultimately be presented to a scrutiny committee?

Mr GUYULA: [Yolngu Matha spoken]

Mr GREATOREX: [Yolngu Matha spoken]

Mr GUYULA: If APO NT agreed. The Treaty Commission drafts up around the area—the communities—and gets views on self-determination, and our governance systems are working that they can work together. If APO NT are in line with the Treaty Commission on the latest updates of what the commission is producing, APO NT can work along with something like the Treaty Commission—it is being clearly understood by me when I sit there. I know APO NT are in there to do that kind of work, but we need to have a clear understanding of where they are. A lot of people in communities would still understand who APO NT are if they actually provide themselves—the Treaty Commissioner went out to communities and said who they are and what they are doing. Otherwise, if that is okay, it would be up to the people who can say, ‘Yes, we are happy with that. It will achieve something for us.’

Mr EDGINGTON: Ultimately, whilst people on the ground might not know who APO NT is, they may well know who the representative bodies are that form APO NT. As I said before, the membership

of APO NT is land councils; AMSANT, representing Aboriginal medical services; NAAJA, the Aboriginal justice agency; and the Aboriginal housing agency.

Perhaps there is more work to do when it comes to APO NT's connection with the people on the ground to explain their role. It sounds to me, from what you are saying, that APO NT could potentially—with some improvements to the work they do—be an advisory body to a scrutiny committee.

Mr GUYULA: I understand the Treaty Commission has listened to the self-determination of the people in communities. It is the call from Indigenous communities, and the powers of self-determination are given to the people on the ground. APO NT has those powers and strength from the people, working alongside people in communities.

I would like to clearly say that these bodies need to be given freedom of making choices and decisions—self-determination for First Nations people. Whether it is the Treaty Commissioner, it needs to be considered in creating the pathway. Self-determination for First Nations people to close the gap is where we want to go.

Ms BOOTHBY: Thank you for putting this together and sharing what you have so far, Member for Mulka. We have talked to some other agencies and organisations today before talking to you. There was mention of people within the agencies who go out to communities to do the engagement work either before the legislation is drafted and presented or after, in the 30-day period. I am curious how you see that currently works.

As the Member for Barkly talked about, APO NT and agencies do that work in the communities, and there may be others. Can you share with the committee how that works in reality in your community?

Mr GUYULA: [Yolngu Matha spoken]

Mr GREATOREX: [Yolngu Matha spoken]

Mr GUYULA: It is whether APO NT or other bodies go out and consult with people in communities and sit there as a representative body. All I am saying is, we want to see the powers held by housing, Northern Land Council and other areas that we have within APO NT need to clearly have in mind that it is the people out there who want to be heard. It is the people's decisions from communities that need to be heard.

I do not know if that is clear, but what I want to see is it worked on properly so that we close this big gap from there to here. This is how it is being seen by our people at the moment. We need to work on issues; how can we close this gap closely so we can achieve things for our people?

Ms BOOTHBY: With the diagram you have here, so the committee understands, where in this diagram is the representation of the land councils or other NGOs? What role do they play in this diagram?

Mr GUYULA: There are Yolngu elders and leaders here, representing the communities and clans out there. They are the governance body that needs to be recognised by the government up here—balanda. To close the gap, the Yolngu *rom* or *ngarra*—or parliament—needs to be recognised by the balanda governments.

Ms BOOTHBY: The water and streams you described—who would you see as being able to be the conduit? The water between the two. I think you mentioned in the recommendation on the statutory body—are you envisaging the clan in the diagram becomes the statutory body?

Mr GUYULA: The water we are talking about, yes. The streams that run will include both balanda and Yolngu working together, travelling along. If I can take you to another place, if we can travel that water, let us build two boats; Yolngu would travel on their own boat, and balanda would be travelling side by side—Yolngu and balanda working together towards the same destination. That is how we want to close the gap—a journey, rather than, 'We know what's best for you. We think we think we know what we can do for you.' That needs to come back—we know what is best for us. We do it this way, but we will go in the same direction.

Sorry, you have probably given me a hard one, but I have given you hard ones as well. What we want is to give ourselves, Indigenous people, self-determination. We want to make decisions on our decisions and we will walk along that pathway together.

Mr BROWN: Reflecting on the Member for Barkly's model on the APO NT, is that just the model you are looking at? I would imagine you would add other big entities in your region like Gumatj, Rirratjingu, Marthakal and Miwatj in this discussion; is that correct? You would make something like that?

Mr GUYULA: Yes, but let us look at it again and reconsider it. The real decision-making comes from the ground. It is not just those bodies that create issues that say, 'We will speak on behalf of you, but we need to consult with every other clan groups within the communities.'

Mr CHAIR: Thank you, Member for Mulka, for your submission, for bringing this forward to the committee about the important work that needs to be done.

Mr GUYULA: Thank you.

Mr CHAIR: The time is 12.17 pm. We will have a short break and be back here at 12.30 pm.

Note:

For Yolŋu speakers, 'yes' is often used to respectfully acknowledge a speaker's position and indicate that one has heard what has been said, and is not necessarily an indication of agreement with the point the speaker has made.

The committee suspended.

Department of the Chief Minister and Cabinet

Mr CHAIR: On behalf of the committee, I welcome everyone to this public hearing on the inquiry into a process to review bills for their impact on First Nations Territorians. I welcome to the table to give evidence to the committee from the Department of the Chief Minister and Cabinet: Tom Leeming, Deputy Chief Executive Officer, Policy and Reform; Jean Doherty, Deputy Chief Executive Officer, Strategic and Corporate Services; Shaneen Tilmouth, Acting Executive Director, Office of Aboriginal Affairs; and Kylie de Jesus Augusto, Acting Senior Director Cabinet Office and Secretariat Services. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public, you may ask that the committee go into closed session and take your evidence in private.

Could you please each state your name and the capacity in which you are appearing? Just make sure the red light is on to speak through the microphone so Hansard can pick that up.

Ms TILMOUTH: Shaneen Tilmouth. I am the Executive Director of the Office of Aboriginal Affairs in the Department of the Chief Minister and Cabinet.

Mr LEEMING: I am Tom Leeming, the Deputy Chief Executive Officer, Policy and Reform, in the Department of the Chief Minister and Cabinet.

Ms DOHERTY: Jean Doherty, Deputy Chief Executive Officer, Strategic and Corporate Services in the Department of the Chief Minister and Cabinet.

Ms DE JESUS AUGUSTO: Kylie de Jesus Augusto, Acting Senior Director Cabinet Office and Secretariat Services in the Department of the Chief Minister and Cabinet.

Mr CHAIR: I will now open for questions. Sorry; I have skipped ahead. Mr Leeming, would you like to give an opening statement?

Mr LEEMING: Chair and members, thank you for the opportunity to appear today. I will make a brief opening statement. I open by acknowledging that we are on Larrakia country and I pay my respects to elders past and present and to emerging community leaders.

The Department of the Chief Minister and Cabinet—and if it is all right I will say CMC in future because otherwise you are printing that phrase a lot. As you would be aware we lead the implementation of the NT Government’s Aboriginal Affairs agenda across various elements, including treaty, local decision-making, the Aboriginal Land And Sea Action Plan and the Aboriginal Affairs Strategy.

At a fundamental level, all of those elements are intended to support Aboriginal self-determination and decision-making consistent with the priority reforms under the National Agreement on Closing the Gap. We think a lot about bringing those priority reforms to life. Through that we are responsible for implementing a number of changes to increase the engagement of Aboriginal people in policymaking, much of which is relevant to your consideration.

I will provide some examples, most of which relate to the two initiatives that you identified in your invitation for us to appear. I will walk through those and, no doubt, you will have some further questions about them shortly. We are delighted to answer.

The first one is about the Closing the Gap impact statement. The NT Government has amended the NT Cabinet process to include a Closing the Gap impact statement in all Cabinet submissions. The NT Government was the first in Australia to implement this approach that others are now following.

The impact statement requires NT Government agencies to demonstrate how policies and reforms outlined in their Cabinet submissions align with the National Agreement on Closing the Gap, and how they support the NT’s performance against the socioeconomic targets in the agreement.

It is worth noting that all government-initiated draft legislation goes through the Cabinet process, so the impact statement compels agencies to assess and demonstrate the impacts of draft legislation on Aboriginal people through that process. If the responsible agency believes there are no impacts, for whatever kind of policy proposal they are putting up, they have to adequately justify why they think there is no impact on Aboriginal people.

Part of the Cabinet submission template also requires information on what engagement there has been with Aboriginal people and organisations on the policy proposal being put forward in the Cabinet submission.

There are some guidelines supporting the preparation of impact statements by action officers in government agencies so that they understand the requirements of the national agreement and how those can be applied in a practical setting and how they can apply to the kind of policy proposals they are putting forward through Cabinet submissions.

The Department of the Chief Minister and Cabinet through the Office of Aboriginal Affairs are undertaking an evaluation on the use of those impact statements. A report and recommendations are being developed to identify how we can further improve it.

To give you a taste of some of the indicative of findings there, it is definitely a work in progress. Agencies are using it, but we think agencies require additional support and training to really understand the Closing the Gap priority reforms and how to practically apply them in their policy proposals and to reflect that in their Cabinet submissions. It is a work in progress. The foundations are there in terms of agencies putting it in their Cabinet submissions, but there is further work to go to improve that. That is the Closing the Gap impact statement.

The second area that you asked us to talk about, and we are keen to talk about, is developing a model to engage with Aboriginal people. We have made progress in developing a model to engage with Aboriginal people on new policies and legislation from the policy design phase through to finalisation, which is one of the actions under our first Closing the Gap implementation plan. Consistent with the priority reforms that model is being development in partnership with the Aboriginal community-controlled sector through Aboriginal Peak Organisations NT—APO NT. That is being done in partnership.

While that is being developed we are not resting on our laurels; we are doing other things. There is a number of other things we are doing to try to bring the priority reforms to life and to make sure that we are increasing the engagement with Aboriginal people in policymaking. I will list a few, and if you want to dive deeper into some of them we would be very happy to.

The first one, and one of the most important ones and consistent with the first priority reform under Closing the Gap, is partnership arrangements to really embed shared decision-making into government structures. An NT Executive Council on Aboriginal Affairs has been established. That is co-chaired by the Minister for Aboriginal Affairs and by the lead convener of Closing the Gap NT, currently Dr John Paterson. Associated with that there is a series of sector-specific partnership groups, such as the NT Aboriginal Health Forum and the Children and Families Tripartite Forum, which are partnership groups specifically designed to inform policymaking, all of which have significant membership from Aboriginal community organisations. Those governance structures and partnerships are very important.

Second, we are doing a lot of change management across government around the third priority reform of transforming government organisations. The Office of Aboriginal Affairs has established an online Closing the Gap training module. There are a lot of small group training sessions being done. We hold every six months roundtables with all the CEOs of government departments to understand how they are going with Closing the Gap and how they are including Aboriginal people in their policymaking and so on.

The third prong is driving increased representation of Aboriginal people on government boards and committees. Again, it is a work in progress.

The fourth one is continuing to work on increasing the number of Aboriginal people employed in the public sector, particularly in policy and leadership roles so that people are in the system informing policy throughout.

The last one is place-based approaches to shared decision-making. This is not all happening just at an NT-wide level; it is also trying to establish mechanisms for these policy discussions and service design discussions to happen at regional and local level. For example, under the Closing the Gap framework there is a place-based partnership in Maningrida and there is also a number of local decision-making agreements in place or under development.

All of that is a work in progress. I have given you a very brief overview. I am very happy to dig into it. I think it is fair to say that as a department we recognise that change in the way government does business with Aboriginal Territorians is fundamental, needs to continue to improve and change. We are definitely not there yet. There is a long way to go, but we are always open to ideas of how to push further. We are all very happy to take questions on any or all of that, or anything else of course.

Mr EDGINGTON: You mentioned the NT Executive Council. Can you give us a bit more detail on who is the NT Executive Council? I think you said it is chaired by the minister. What are its functions and what role does it take overall?

Mr LEEMING: Absolutely, Shaneen has helpfully passed me a piece of paper. Shaneen, would you like to talk to it? Shaneen has had more direct experience of it than me, so she might as well talk to it.

Ms TILMOUTH: The Northern Territory Executive Council on Aboriginal Affairs was established to create the appropriate level of authorising environment for implementing the Closing the Gap agreement at a jurisdictional level. As Tom said, it is co-chaired by the Minister for Aboriginal Affairs and Dr John Paterson, who is currently the lead convener of Closing the Gap in the Northern Territory, representing the Aboriginal Peak Organisations of the Northern Territory.

Broadly, the purpose of the Northern Territory executive council is to do just that; it is to have oversight and close monitoring of the implementation of Closing the Gap in the Northern Territory and to make sure that the actions that are agreed to and the implementation plans are being implemented. It is also an opportunity to consider broader Aboriginal Affairs agenda items and, as these things evolve, that is very much becoming part of its remit.

Membership of that group and on the Executive Council, in addition to the co-chairs, include representatives from APO NT through the Central Land Council, Northern Land Council, Aboriginal

Housing Northern Territory, AMSANT—the Aboriginal Medical Services Alliance of the Northern Territory—the Northern Territory Indigenous Business Network and through the North Australia Aboriginal Justice Agency.

We also have representatives from government—a rotating Chief Executive from one of the government agencies. Considering the agenda, at any one meeting, the appropriate Chief Executive will be present to respond to the council's queries.

Mr EDGINGTON: It is quite a big council. We are talking about legislation scrutiny. Given the role in the Closing the Gap, is that NT Executive Council asked to comment about legislation that may impact on some of Closing the Gap targets?

Ms TILMOUTH: It would be within the remit of the Northern Territory Executive Council to consider legislative changes and reforms. That is as a result of the national policy partnerships that exist under Closing the Gap which are actively—I believe Leanne Liddle from the Aboriginal Justice Unit spoke to you earlier today—considering legislative reform across the nation. So, any of those changes or proposed changes or policy discussions happening at that national level certainly filter down to the Northern Territory Executive Council for its consideration. There is not a formal mechanism to comment officially, but it is certainly within the remit of their discussions.

Mr EDGINGTON: How long has the NT Executive Council been operating for?

Ms TILMOUTH: The National Agreement on Closing the Gap was signed by all jurisdictions in 2020. The Northern Territory Executive Council on Aboriginal Affairs was established shortly thereafter at the end of 2020, the start of 2021.

Mr EDGINGTON: How many bills or changes to NT legislation have been considered by the executive council?

Ms TILMOUTH: I do not have those stats with me. I am happy to take that on notice.

Mr CHAIR: Thank you; we will take that question on notice. Member for Barkly, read out the question again, please.

Mr EDGINGTON: How many bills has the NT Executive Council on Aboriginal Affairs actively considered and provided feedback for to the government?

The Closing the Gap impact statement looks like it has been in place since July 2021. Is that right? Does the Department of the Chief Minister and Cabinet have an overriding role to consider feedback from other agencies on how their feedback may meet that Closing the Gap impact statement? What is the process?

Ms DOHERTY: I will commence with the Cabinet process and that arrangement and then will pass over to my colleague in relation to the assessment process relating to any legislation which has identified impacts associated with the Closing the Gap National Agreement.

The Cabinet Handbook and the Cabinet Closing the Gap National Agreement Guideline—which I believe the Committee has already identified as a key piece of material in relation to this question—requires that all agencies, when they are seeking to draft legislation of the government, identify any Closing the Gap impacts relating to either priority reforms one to four or the 17 Closing the Gap targets.

As part of that identification process and through the approval to draft phase of the Cabinet submission, agencies are required to outline their understanding of the proposed impacts on Aboriginal people through the Closing the Gap framework. The assessment then triggers an evaluation by the Office of Aboriginal Affairs. There is a gatekeeping process, if you like, for all submissions which are requesting the drafting of legislation.

If those impacts are identified then the Cabinet Office Secretariat will provide the information to the Office of Aboriginal Affairs which will then undertake a more detailed assessment of the preliminary assessment—I guess you could call it—of the agencies which are drafting the submission. Through that process the Office of Aboriginal Affairs will then identify whether the legislative proposal needs any further consideration around Closing the Gap impacts. I will pass over to Tom or Shaneen for the areas in which the assessment process occurs.

Mr LEEMING: In the assessment process, when the policy comes up through Cabinet submission—whether it is an initiative or otherwise—we and other agencies will have a look at that proposal from a number of angles, including but not limited to whether the Closing the Gap impact statement has been robustly thought through and drafted. We will feed back to the agency that has drafted it before they finalise that submission to provide advice where it might need to be strengthened.

We do that across all aspects of the submission, with a particular focus from my colleagues in the Office of Aboriginal Affairs on the Closing the Gap impact statement. Our role as a central agency is overall we look at all aspects of those submissions and provide a round of feedback before it is considered by Cabinet.

Mr EDGINGTON: By the sounds of it the agencies will put that in writing and you will assess that. Who are the agencies consulting with to put their impact statements together?

Mr LEEMING: Part of the instructions around the impact statement is to describe the process of consultation with Aboriginal people that has happened in the development of that particular policy. We do not currently—although that is the second piece that I talked about, the development of a more consistent model for engaging Aboriginal people in policy proposals—mandate a specific process for people to follow because there is a wide variety of different policy types and instruments being considered; the nature and depth of consultation with Aboriginal people will necessarily vary according to what type of policy and what kind of instrument, including legislative instrument, is being considered to implement that policy.

As part of the Closing the Gap impact statement in that Cabinet submission the agency has to say, 'This is how we have done that'. We, as part of our comment on that, may say, 'You might want to think about doing more consultation, given the nature of the submission'.

Mr EDGINGTON: Who would they consult with?

Mr LEEMING: Who would the agencies consult with?

Mr EDGINGTON: Yes.

Mr LEEMING: It depends on the nature of the policy being proposed. Associated with the NT Executive Council on Aboriginal Affairs there is a number of policy partnership groups—the NT Aboriginal Health Forum, the Children and Families Tripartite Forum, the Justice Policy Partnership and the Joint Steering Committee on Housing. There is a variety of partnerships in place, so if it is a policy that has been put up in one of those areas, in most cases that group would have been involved in the development of that policy.

In those areas and in other areas where there is not an established policy partnership, then agencies will go and talk to the most relevant group. If it is a place-specific policy proposal, they will talk to local community stakeholders; if it is a sector-specific but Territory-wide thing, they will find the most relevant organisation.

Mr EDGINGTON: At what point would a department, or even the Department of the Chief Minister, go out and perhaps consult with Aboriginal people at the grassroots level in communities?

Mr LEEMING: Shaneen, you might want to add to this.

It depends. The things that go through Cabinet are many and varied—some very specific, local; some broad; some quite technical changes to legislation or regulation; some really broad. The nature of consultation at a grassroots levels will depend on what is most appropriate and have regard for consultation fatigue and overburdening the capacity of people in Aboriginal communities to engage. In fact we have—Shaneen you will remember the name—guidelines for engaging with Aboriginal ...

Ms TILMOUTH: The Remote Engagement and Coordination Strategy is the tool that is used by government agencies to coordinate efforts—with the aim of reducing consultation fatigue in communities, particularly where issues are emerging—making sure that government takes every effort to streamline and coordinate amongst themselves first before overburdening the community with multiple visits. That also includes allowing the community, organisations and people involved in that consultation to have papers, information and collateral around the meeting topic well ahead of time, so they have the opportunity to consider that information before any formal meetings are held.

Mr EDGINGTON: Is that information being fed up through the Closing the Gap impact statement?

Ms TILMOUTH: Yes, in some cases.

Mr EDGINGTON: What training has taken place in organisations with the staff responsible for putting Closing the Gap impact statements together? What training have they undertaken?

Ms TILMOUTH: On a number of fronts, the Office of Aboriginal Affairs has developed a Closing the Gap online training manual that we have promoted to all agencies to undertake. The module speaks to not only the socioeconomic outcomes and targets within the National Agreement on Closing the Gap, but more importantly the priority reforms which underpin the national agreement.

Those priority reforms really are about what and how we are doing business with Aboriginal people, organisations and communities, and making sure that, as jurisdictions, we are changing the way that we fundamentally engage. So, it is not just, 'We have achieved this action' or 'We are undertaking action in relation to this target'. We are undertaking action in a way that is consistent with the intent of Closing the Gap and making sure there are opportunities for shared decision-making and greater Aboriginal engagement and involvement in policy and decision-making.

In essence, that is the training available online to all public servants, but additionally, in relation to the Closing the Gap impact statement, I provided in-person training to all government agency secretariats to make sure at an agency level there was understanding of the expectation of the Closing the Gap impact statement, so they were able to actively support their own staff in preparing Cabinet submissions in accordance with the intent of the statement.

Mr EDGINGTON: Is that training module mandatory for all staff, or can staff choose if they want to participate in the training?

Ms TILMOUTH: No, it is not mandatory, but it is strongly encouraged.

Ms MOSS: There are people across government agencies who are involved in the development of legislation that might have an impact on Aboriginal Territorians. As well as Closing the Gap we have the AJA and the principles of LDM. I am interested in your involvement in regard to training and provision of resources on those agreements and policies of government to other agencies and staff members who might be in the development of legislation prior to introduction.

Ms TILMOUTH: In relation to LDM, because it is a Chief Minister and Cabinet policy that the department is tasked with implementing, in the early stages we have been part of the creation of the tools and training and supporting materials to support agencies with local decision-making.

Additionally, I am leading a review of LDM post-Public Accounts Committee inquiry and will consider the recommendations outlined in that inquiry to make sure LDM remains fit for purpose, making sure there is a complementary suite of tools for agencies and bureaucrats to use when they are making LDM agreements and engaging with Aboriginal communities and people.

I cannot speak to the training of the AJU necessarily, because that is under the management of Attorney-General and Justice.

Mr LEEMING: Training is an important part of it—all the different parts of training. Through the Office of Aboriginal Affairs we have made the training available, but it is more than just putting training out there. There is a bit of carrot and stick involved because it is putting training out there, making sure people have the materials and guidance to support them, having the review process we conduct of government submissions to say when someone wants to think a bit deeper about something. We meet every six months with the CEOs, with a focus on Closing the Gap, and at every one of those we say that we could do with an uplift in the number of people doing this training.

It is not just putting the training out there. It is providing levels of support and a bit of compulsion into getting people to do the training and, more importantly, apply it. It is one thing to have a broad knowledge of what Closing the Gap is and understand that it is not just about the outcomes, but the priority reforms, which are fundamental; it is another thing to understand how to apply that in your day-to-day work, drafting things like Cabinet submissions.

Mr CHAIR: Just going back a couple of questions to what Shaneen was answering in terms of the burden that can be placed on Aboriginal people from communities and organisations—I think around

2016 or 2017 there was an Aboriginal Affairs subcommittee of Cabinet. The principle of that group was relevant to this in terms of getting an understanding about whether that committee had a say on legislation and bills being drafted, policymaking and how it was influencing Cabinet, and was it helping to take a burden off a lot of the communities by having representatives from across the Territory.

Ms TILMOUTH: The Aboriginal Affairs subcommittee, in the evolution of the Aboriginal Affairs agenda over the last decade or so, was the precursor to the NT Executive Council on Aboriginal Affairs and it taught us many lessons on how to make sure that Aboriginal voices are reflected in the policy design and development of government, but also when legislation is being considered.

You are right. There were members represented from each of the five government regions at the time. The subcommittee meetings regularly followed where a community Cabinet meeting was held and considered emerging issues from that region. There were also whole-of-Territory, broader Aboriginal Affairs issues that were considered by the subcommittee of Cabinet. The representation certainly helped from the Aboriginal community members who were identified and nominated to participate on that subcommittee of Cabinet.

In an ideal world, it probably would have met more regularly, but the NT Executive Council on Aboriginal Affairs taking on the learnings from the way the subcommittee operated looks to create the authorising environment with the sector represented and making sure that we reflect community voices.

For example, the NT Executive Council meeting that was held in Maningrida in 2023 included an opportunity for a number of the local community members to meet with NT executive council and also to showcase some of the work that they were doing at an organisational level within Maningrida. Also, individual community members had access to the executive council there, both from the Aboriginal community-controlled sector and government, to raise issues and concerns and have that platform to discuss with the executive council.

Ms BOOTHBY: With the newly created NT executive council, do you think that if there was a formal mechanism to be able to review that legislation based on that wide representation of Aboriginal people that there is on that council? There are many in our submissions calling for a statute body to be able to do such an act and a mechanism there. Do you think that the council could play that role?

Mr LEEMING: Ultimately, it is a matter for government. From a departmental perspective, the NT Executive Council on Aboriginal Affairs could certainly auspice that happening. The work required to do the community scrutiny on legislation and consider all of that would need to sit with a subgroup or something where there is some capacity to do that. The NT Executive Council on Aboriginal Affairs would need to be the auspicing governing body of that detailed analysis, to report and that body could consider.

Ms BOOTHBY: What about a parliament scrutiny committee where the NT Executive Council could provide advice on that legislation? Would that be a conduit if there was that mechanism was available?

Mr LEEMING: It is an option worth exploring. We would have to think through. If that was the direction taken by the Legislative Assembly and/or government, then that is something that we could design to make happen. It has potential. It would need to be carefully designed.

Ms BOOTHBY: Do you think it would allow for that representation of Aboriginal people from across the Territory to have their say in that legislation through that body?

Mr LEEMING: If designed in the right way, yes.

Mr CHAIR: Going back to my question about fatigue on Aboriginal organisations and communities of First Nations people as well and the impact that has on policy legislation, how would you see a way to navigate that space and ensure that they are not overdoing it with people and organisations to ensure that there is culturally appropriate advice on bills and policy?

Mr LEEMING: It is a big question. In the broad scope if we can give the answer to it ...

Ms TILMOUTH: We would be doing it.

Mr LEEMING: We would be doing it, yes. I will throw to you in a second.

I think you would need to group things up a bit. You cannot just go out every time to lots of communities and say, 'What do you think about this specific bill?' That will overload people and the particular issue of that bill might not be of interest or particular relevance to the communities you are going to. You have to be selective about who you speak to about which bills and about going with three, four or five bills at a time rather than go back one by one.

You have to quite carefully design the grassroots bit of the consultation because the one message that we all hear constantly is, 'Stop coming out every time you have one little thing to consult on and asking us specific questions about that'.

Mr EDGINGTON: The current process when it comes to scrutiny of legislation that may impact on Aboriginal people, what can be done to improve Aboriginal participation around the scrutiny of legislation? Your department must have considered this at some point. What options have you come up with?

Mr LEEMING: Our department makes work the processes that the Legislative Assembly and the government of the day decide should be in place. We provide advice and make that work, depending on what decisions are made. I do not think it is our remit, as a department, to make decisions on where or how some of those trade-offs are resolved.

Mr EDGINGTON: In reality the only scrutiny at the moment is through the Closing the Gap impact statement. Is that right?

Mr LEEMING: The Closing the Gap impact statement provides a place in the Cabinet submission to make sure that the scrutiny that has occurred is recorded. That in itself provides a strong incentive for agencies to make sure that scrutiny has occurred.

I would not say the impact statement is the only place where scrutiny happens; it is an instrument by which government is ensuring that for government-initiated bills, agencies have thought through and consulted with Aboriginal communities to make sure that scrutiny has happened. In itself it provides a bit of scrutiny, but it is more about using that as a vehicle to make sure that broader scrutiny happens. Does that make sense?

Mr EDGINGTON: Sort of. What is the Aboriginal engagement model? I hear about this. What is it?

Mr LEEMING: I will try to zoom in on that one. It is a commitment under our first Closing the Gap implementation plan, which is a work in progress. Shaneen is working on that.

Ms TILMOUTH: The Office of Aboriginal Affairs is currently working with the Aboriginal Peak Organisations of the Northern Territory to develop an engagement model with Aboriginal people. From a policy perspective the model looks to provide departments with certainly not a standardisation but a key set of things and actions to have undertaken as part of the engagement—whether it be the Aboriginal community-controlled sector or communities in relation to the development of government policies, including legislation.

It is a 'how to' and a 'why' you should be doing it and the degree to which you should be engaging. That is currently under development. It provides both at a policy level and is looking to provide at a regional level some of the key things you might be doing as a department when undertaking those consultations.

Mr EDGINGTON: How does that fit with the Remote Engagement and Coordination Strategy?

Ms TILMOUTH: The Remote Engagement and Coordination Strategy is a how-to, and I would say the Aboriginal engagement is a 'why'. Coupled together, they will be two complementary tools to make sure your engagement with Aboriginal communities and organisations is comprehensive and done in a culturally responsive way.

Mr EDGINGTON: Getting back to the scrutiny committee, I think you indicated that the NT Executive Council could provide some feedback in regard to scrutiny of legislation through another auspice or body. What would that other body look like?

Mr LEEMING: That would be up to the NT Executive Council. It sounds like a cop-out, but the point of these things is co-design, to design these things in partnership, in line with priority reform one. I

would not want to pre-empt that process, because by definition we want to do it through a shared decision-making process with people we want to include in the policymaking process. I would not want to pre-empt the design of that by deciding what the department thinks it should look like.

Mr EDGINGTON: Is that something APO NT could do?

Mr LEEMING: The scrutiny itself?

Mr EDGINGTON: Yes, given that it is the peak organisation.

Mr LEEMING: APO NT is a really important partner of the department and the NT Government broadly across policy formulation and review in all its forms, including the development of legislation. Like any organisation, government or non-government, there are capacity and resourcing constraints, so an organisation like APO NT could absolutely play a role given the appropriate resourcing capacity and capability, which does not develop overnight.

Mr CHAIR: We have a couple of minutes left. Are there any further questions?

Thank you for your time. We appreciate you preparing your submission and appearing at the public hearing. I note the time is 1.13 pm. We will take a short break.

The committee suspended.

NT Anti-Discrimination Commission

Mr CHAIR: On behalf of the committee, I welcome everyone to this public hearing on the inquiry into a process to review bills for their impact on First Nations Territorians. I welcome to the table to give evidence to the committee from the Northern Territory Anti-Discrimination Commission, Josie Short, Director. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public you may ask the committee to go into a closed session and take your evidence in private.

Please state your name and the capacity in which you are appearing.

Ms SHORT: Josie Short, Director for the NT Anti-Discrimination Commission.

Mr CHAIR: Ms Short, would you like to make an opening statement?

Ms SHORT: I would, thank you. I would like to start by first acknowledging that we are on beautiful Larrakia country this afternoon and I pay my deepest respect to elders past, present and emerging. I thank them for their continuing care and custodianship of country and culture. I also acknowledge that this week was the 16th anniversary of the National Apology and the release of the Closing the Gap Annual Report which listed many targets either not to be met or declining. This highlights the dire need for reform and the processes we are discussing today.

Firstly, I apologise on behalf of the commissioner for him not being here in person today; he is currently overseas for family commitments. However, from the outset, if there are any questions which I am unable to answer today, I am more than happy to take them on notice and provide a timely response.

I would like to start by providing a bit of an overview of the Anti-Discrimination Commission. The objective of the Anti-Discrimination Commission is to promote equal opportunities for all Territorians and to eliminate discrimination in the Northern Territory. We administer the *Anti-Discrimination Act* and, in the absence of a human rights act, the *Anti-Discrimination Act* acts as beneficial legislation protecting many human rights in the Northern Territory.

We also represent human rights of the consumers receiving services under the *Disability Services Act* and the *Mental Health and Related Services Act* through our Community Visitor Program, which

the commissioner is also the principal community visitor. Our Community Visitor Program sits within the ADC but is a separate entity. They have their own annual report and other reporting obligations under their founding pieces of legislation.

We are an independent statutory body. We report to the Chief Executive Officer of the Attorney-General's department solely in relation to finances. Otherwise, we are completely independent and the commissioner reports directly to the relevant ministers for both the ADC work and the CVP work.

The commission use a human rights-based approach to the way in which we conduct our work. Internally, we comprise lawyers and staff members with backgrounds in legal and human rights, including discrimination, and have expertise in these areas. We also have experience in compliance with international human rights conventions and instruments, relevantly to this context, the United Nations Declaration on the Rights of Indigenous Peoples.

There is currently an inquiry into Australia's human rights framework at the federal level. Other states and territories benefit from having human rights commissions who are responsible for providing submissions and comment at that level. The Anti-Discrimination Commission would be responsible for leading any responses the Northern Territory have in that respect.

The scope of our work and expertise has significant relevance and aligns with the processes that we are discussing today. If we were to play a secretariat or hosting role, as proposed in our written submission, we could lend those expertise and experience to assist a First Nations committee to understand and apply the human rights context in which they may be required to comment and scrutinise proposed legislation.

Operationally the commissioner already has the function to examine proposed legislation and regulations and report on those to the minister on any inconsistencies with our *Anti-Discrimination Act*. We propose that this process could be expanded to report on any inconsistencies with international human rights instruments, the local government decision-making framework, Closing the Gap commitments, while also ensuring the views of any First Nations committee regarding bills that have potential impact, positive or negative, so that those views are also reported on.

We already have experience hosting an entity that scrutinises compliance with human rights in the area of mental health and disability through our Community Visitor Program. We propose a similar service for the review of bills in this context by hosting either identified positions internally or a First Nations committee within the commission, and provide our expertise in human rights and discrimination law to guide and enhance the work of a First Nations body.

The Northern Territory do not benefit from dual systems of government and two levels of moderation and scrutiny like other states and territories do. This makes it crucial that any body established for this purpose needs to be external from parliament and government departments. There needs to be separation from the entity proposing the bill and the one scrutinising it. An independent body such as the ADC ensures transparency and accountability by also bringing credibility and independence and expertise to this very important work.

By utilising an established statutory body, foundations are already in place to futureproof any new body that is created. It would also help ensure an efficiency in funds and reduce establishment time frames. A body hosted through the commission would be less risk than establishing a brand-new statutory body from scratch and would allow more flexibility in its governance, while also providing more stability, consistency and independence than an advisory committee to a Legislative Assembly committee.

The commission also have very strong and established relationships and networks with other jurisdictions, particularly federally, in Victoria and South Australia who are leading work in this area. We are a member of the Australian Council of Human Rights Authorities, which comprises all state, territory and federal human rights and discrimination authorities and plays an important role in monitoring human rights at all levels of Australian government. We have access to subject matter experts, not only nationally but internationally, through these channels. These networks and relationships will naturally be extended to any established body ensuring deeper capability-building opportunities.

Internally the commission have a very diverse workforce with our staff members coming from all walks of life and backgrounds; many of them have lived experience in a range of protected attributes under the *Anti-Discrimination Act*. We understand the intricacies of a diverse team and the importance of genuine consultation and inclusion, which really is the aim and purpose of our work.

Regardless of what the preferred body or model that you choose is, it is essential that there is adequate funding provided to ensure the success of this very important reform, and it is also essential that First Nations people are at the forefront of this process and that there is diverse representation from across the Northern Territory to ensure a cross-section of views are before parliament.

Mr CHAIR: Thank you, Ms Short, for that opening statement. I will open it to the floor now for questions.

Ms MOSS: I am interested in the function around examining current bills and regulations for inconsistencies with your act. What level of examination currently happens? Is it all proposed bills? If it is not, how are you prioritising what bills you look at and what you are not?

Ms SHORT: I do not have a detailed answer for that, and I would not want to presume the answer. We do have a function under the act, but the mechanism that is currently occurring and what is placed before us, I am not sure. I can take that on notice and get back to you.

Mr CHAIR: Thank you; we will take that question on notice. Member for Casuarina, can you repeat the question, please?

Ms MOSS: Does the Anti-Discrimination Commission currently examine all proposed acts for inconsistencies with the *Anti-Discrimination Act* and, if not, how do they prioritise which acts they look at and what they do not?

Ms SHORT: I will take it on notice and respond in full, but we definitely do not examine all proposed acts.

Mr CHAIR: You just spoke about whatever body is established to represent First Nations people when it is the review of legislation. I just want to clarify that when it is First Nations Territorians and it should be incorporated with diverse representation, I am assuming you mean with First Nations peoples, or is that a diverse view across the Territory?

Ms SHORT: With First Nations people across the Territory.

Mr CHAIR: Also, does the commission have experience in establishing advisory bodies that incorporate such representation?

Ms SHORT: Not in relation to advisory bodies, but we do have experience with our CVP program, which scrutinises human rights violations and acts in respect of the *Disability Services Act* and mental health act.

Mr CHAIR: Are you able to clarify for the committee why consideration should be given to the commission as a host for such a body?

Ms SHORT: As I said in my outline, our experience and expertise in human rights—which goes alongside the kinds of things that should be scrutinised in bills before parliament and which impact First Nations people—and the depth of our networks and expertise available.

Mr CHAIR: You touched on ensuring it is well resourced and equipped to be able to function. What would be required to enable the commission to have such a body?

Ms SHORT: It would depend on what the body looks like and what was decided. The actual structure and governance of that body needs to occur with input and co-design from First Nations people. It is a matter for you in the end, but if you have an internal committee sitting within the commission—enough funding to provide for that committee.

Ms BOOTHBY: I have a couple of questions. You mentioned before that when you review some of those acts or regulations, you can forward that to the minister. Do you mean one minister who oversees some of the anti-discrimination stuff, or do you mean depending on the particular legislation you would send it to a particular minister?

Ms SHORT: I would want to confirm, but I believe the commissioner reports directly to the Attorney-General and Minister for Justice. I imagine the report would go to that minister. If the pieces of legislation are being introduced by different ministers, there is potential that it could go back to them, but I would want to confirm that.

Ms BOOTHBY: Are you able to tell the committee how many recommendations you have sent on to a minister of the regulations you have been reviewing?

Ms SHORT: I am not able to answer that; sorry.

Ms BOOTHBY: Could you take it on notice?

Ms SHORT: Definitely.

Mr CHAIR: That question is taken on notice. Member for Brennan, can you repeat the question?

Ms BOOTHBY: How many recommendations have been submitted to a minister after reviewing an act or regulation?

Mr EDGINGTON: In the submission on behalf of the NT Anti-Discrimination Commission it says:

I support the establishment of a body for this purpose. I think consideration should be given to the NT ADC, if appropriately funded being the host for such a body.

Has the Anti-Discrimination Commissioner considered any existing bodies that could potentially take on this role rather than establishing new ones?

Ms SHORT: Again, I cannot answer whether the commissioner has put his mind to that. I have not, other than this was our preferred method and proposal.

Mr EDGINGTON: Is it possible to maybe take that on notice?

Ms SHORT: Sorry—if there is a separate body that could do the work?

Mr EDGINGTON: I am interested to know whether consideration was given to using any existing established bodies in the Northern Territory to take on the advisory role rather than establishing a new one.

Mr CHAIR: We will take that question on notice, noting that Julia has that question.

Mr EDGINGTON: How would you see that body? Would that body give feedback direct to government or would that body perhaps give feedback to a scrutiny committee established to scrutinise legislation?

Ms SHORT: The actual structure and governance of that body internally within the commission would need to be carefully co-designed. It is our proposal that a lot of the scrutiny would happen within that body within the commission, with our guidance, expertise and input. Then, similar to the CVP program, we could then report on its compliance with all of those principles and frameworks that we have listed with the views of the committee or First Nations body and the potential impact that those bills would have on First Nations people. That report would be provided to the minister.

Mr EDGINGTON: It would be like a compatibility statement to determine whether the bill complies with all those things around human rights—all of those things?

Ms SHORT: It would be with the addition of the views of this committee to make sure it is not just comparing it to pieces of legislation; it is also getting the views of the committee which represent their communities.

Mr EDGINGTON: When you say report that back to the minister, would your expectation be that the information would be made publicly available by the minister?

Ms SHORT: Yes.

Mr EDGINGTON: Another option—would the Anti-Discrimination Commissioner consider that sort of feedback going to a scrutiny committee rather than the minister to look at that and then report back to the minister?

Ms SHORT: I believe that would be something for consideration that we would not necessarily be opposed to—potentially in favour of.

Mr EDGINGTON: Thanks.

Mr CHAIR: On the consultation work that we do with a lot of Aboriginal communities—especially with government departments, consultants and different agencies going out and consulting with communities—how would you suggest we manage people’s fatigue in those organisations and First Nations people? Are you able to give any culturally appropriate advice on when we go out and consult on bills and policymaking?

Ms SHORT: Personally, I do not believe I can give advice on culturally appropriate ways of doing that. That needs to be in consultation with First Nations people.

I believe that having an internal committee or body of either elected or First Nations people who represent their communities will have a much better understanding of where the fatigue might be at in certain areas and their communities and would be the ones who would be making the decisions of how to consult—at least once the bill got to that stage—and what bills to consult on. Then they could manage some of that fatigue rather than that being a decision that is made elsewhere.

Mr CHAIR: How does the commission manage that when it is heading out? Do you have a function where you head out to communities to consult on certain policies and legislation?

Ms SHORT: I will take the question on notice.

Mr BROWN: During the 13th Assembly, statements of compatibility with human rights, as defined in the *Human Rights (Parliamentary Scrutiny) Act 2011*, were required for all bills introduced into the Northern Territory. Does the commissioner have the capacity to provide resources or training regarding the development of legislation to ensure compliance with the *Anti-Discrimination Act* and other human rights considerations?

Ms SHORT: Sorry; could you repeat that?

Mr BROWN: Does the commissioner have the capacity to provide resources or training regarding the development of legislation to ensure compliance with the *Anti-Discrimination Act* and other human rights considerations?

Ms SHORT: At the moment, no. In terms of capacity, it does not fall under our legislation or functions to provide compliance with acts when they are being developed. We obviously provide public education and training on the act and the purpose of the act. That is a way in which we try to eliminate discrimination in the Northern Territory, through our public and education processes and functions.

If we had the capacity and manpower internally, I imagine that would be something we would be able to do.

Mr EDGINGTON: You indicated that the NT Anti-Discrimination Commissioner examines acts and provides feedback to the government. Is that something that is seen as a role of the Anti-Discrimination Commissioner to do that?

Ms SHORT: It is currently a function under the act for the commissioner to do. How in-depth that currently is and is occurring is part of the question I want to take on notice.

Mr EDGINGTON: What I am getting at is: is it the Anti-Discrimination Commissioner who determines what acts he wants to provide feedback on?

Ms SHORT: Again, that is part of what I want to confirm. But we are only providing advice in any inconsistencies with our act.

Mr EDGINGTON: What I am getting to next is: has the minister’s office ever contacted the Anti-Discrimination Commission directly and said, ‘Look, here is this bit of legislation we are about to put up. Can you please give us some feedback about this legislation?’ Has that ever happened?

Ms SHORT: I do not have an answer for that at this stage. I can take that on notice as well.

Mr CHAIR: The question is on notice.

Ms SHORT: Could you repeat it?

Mr EDGINGTON: Has the minister's office ever contacted the Anti-Discrimination Commission directly to ask or to say, 'We have this proposed legislation. We would like you to examine and provide feedback about this proposed legislation'? Or even a bill that has been tabled in parliament?

Ms SHORT: Before it is introduced?

Mr EDGINGTON: Before and after.

Ms BOOTHBY: How would the commissioner determine under the statutory body—that committee within it—how many people would be on that and how they would be elected or appointed? Do you already have any ideas regarding that?

Ms SHORT: Again, that is exactly the kind of thing that needs to be co-designed. It is really important that there is input on how that is set up. I imagine that it would be a type of election committee to make sure that the people representing the communities are elected by those communities. Again, that really needs to be co-designed.

Ms BOOTHBY: Would there be any existing committees amongst some of the Aboriginal organisations, the land councils or the peak bodies that could take on that role and work with Anti-Discrimination Commission?

Ms SHORT: Potentially one of the other structures that I mentioned in the submissions was that we could have identified positions within the commission and that they are advised by or consult communities, or advised by APO NT or bodies that are already set up.

Ms BOOTHBY: Would you see the statutory body having rules around recommendations that must be implemented or is it just a recommendation? How do you see ...

Ms SHORT: The recommendations that are made by the commission to the scrutiny committee or the minister?

Ms BOOTHBY: Yes.

Ms SHORT: I imagine it would be advice being provided.

Ms BOOTHBY: Like an advisory board under a statutory body?

Ms SHORT: Correct.

Ms BOOTHBY: What about the engagement you would have with other agencies who are also out on the ground talking to Indigenous communities? Would you have government representation on that same body?

Ms SHORT: I think there would be consultation with stakeholders, but I do not envisage within the commission having other government bodies. The whole purpose of it is to be separate and to have that independence.

Ms BOOTHBY: Would you envisage the body to be looking at legislation or policy development that then creates legislation or as part of a committee scrutinising legislation once it is tabled?

Ms SHORT: It is a complicated question. I think we are looking more at the scrutiny once it is tabled, but there does need to be mechanisms for scrutiny prior to being tabled and consultation happening at the beginning and forefront. That is where the fatigue comes in as well; people do not feel like they are being taken along the process and it requires a lot more work at the end.

Mr CHAIR: There are no further questions. Thank you, Ms Short, for your time today. I note that the time is 1.47 pm, and declare the meeting closed.

The committee suspended.
