



# LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

14<sup>th</sup> Assembly

## PUBLIC ACCOUNTS COMMITTEE

### Public Hearing Transcript

10.30 am, Friday 17 September 2021

Litchfield Room

**Members:**

Mr Joel Bowden MLA, Chair, Member for Johnston  
Mr Mark Monaghan MLA, Deputy Chair, Member for Fong Lim  
Mrs Robyn Lambley MLA, Member for Araluen  
Mr Bill Yan MLA, Member for Namatjira  
Mr Yingiya Mark Guyula MLA, Member for Mulka

**Witnesses:**

**Local Government Association of the Northern Territory**

Dr Jo Ann Beckwith: Senior Policy Adviser

**National Indigenous Australians Agency**

Ben Mudaliar: Regional Manager

Tom Dyer: Senior Advisor

Fleur Hill: Regional Manager

**NT Treaty Commission**

Ursula Raymond: Deputy Treaty Commissioner

Steve Rossingh: Director

The committee convened at 10.15 am.

## LOCAL GOVERNMENT ASSOCIATION OF THE NORTHERN TERRITORY

**Mr CHAIR:** Welcome, everyone, to the Public Accounts Committee hearing into local decision making. Dr Beckwith, on behalf of the committee, welcome. This is a formal proceeding of the committee; parliamentary privilege exists and the obligation not to mislead the committee applies. It is a public hearing which we are webcasting. If, at any time during the hearing, you are concerned that something you say should not be made public, please inform us and we can go into a private hearing or a closed session in-camera.

Could you please state your name and your position and whether you would like to make any opening remarks?

**Dr BECKWITH:** My name is Jo Ann Beckwith, Senior Policy Advisor for the Local Government Association of the Northern Territory. Thank you for the opportunity to be here today. I will say a few words about our association and some of the key points we have raised in our submission.

Most of you are familiar with the Local Government Association of the Northern Territory, but perhaps a few of you are not. We are the peak body that represents interests of the local government sector in the NT. We have 17 member councils that include five municipal, three shire, nine regional councils and 63 local authorities. Collectively, our member councils have 159 elected members and 3,200 employees.

The Local Decision Making policy is an ambitious initiative and is operating in a challenging policy space. We support the principles on which local decision making is based. Those principles are consistent with the national agreement on Closing the Gap, to which the local government sector is a signatory. We note that LGANT recently collaborated with the NT Government and APO NT in the preparation of the first NT Closing the Gap implementation plan.

This inquiry is timely. It is three years since the policy was put in place. This is not a comment on LDM, but it is good practice to take at any policy and look at it after a few years and see what is working. If there are areas that working less than optimal, make the adjustments so the policy will be more effective in achieving the objectives that it set out.

Our submission focuses on the perspectives of our regional councils which we consulted in the preparation of our submission. These councils provide a broad range of community programs and services to remote communities. They are major employers of Aboriginal people in their regions—often the major employer.

A majority of the elected members on each of our regional councils is Aboriginal. In the 2019–20 financial year, the percentage of Aboriginal councillors on regional councils ranged from a low of 60%—which is still a majority—up to 100% on a number of the councils. It should come as no surprise that they see themselves as Aboriginal-controlled organisations.

LDM promotes the transfer of service delivery to Aboriginal-controlled organisations. For a regional council this can be perplexing. A reasonable question they ask is, 'How is transferring services from one Aboriginal—controlled organisation such as a regional council to another providing greater empowerment, more good governance and accountability.

I note that our regional council members are elected by communities they serve, which are predominantly Aboriginal. Our councils reflect good governance and are regulated through the *Local Government Act*. Regional councils engage with their communities, their members live locally and are in connection with the community through their elected members, staff and the local authorities, which add another layer of a conduit between local communities and their regional councils.

Our councils are accountable through elections. If they do not perform, they can be replaced at the ballot box, if that is the desire of the communities they serve.

We recognise that Aboriginal community-controlled service provision is a model that can work. There are plenty of examples where it has worked well. We point, as many others do, to examples from the Aboriginal community-controlled healthcare services as probably the gold standard in that regard.

There are, however, concerns that in some cases—not all, but some—Aboriginal organisations are being too aggressively encouraged into a service provision role before they are well placed to be successful. If they fail to be sustainable, it is the community that suffers. If services are to be transferred—be it from a regional council to other Aboriginal-controlled organisations—we want to be confident that it will be a net positive for the communities that are served.

The local government sector is concerned about prospects that LDM agreements could result in the fragmentation of the current local government system through calls from some in the community for de-amalgamation. The concern is that de-amalgamation would result in the creation of smaller, weaker councils that may struggle in sustainability even more than the current situation. That could lead to the return to the fragmented system of small councils that existed before the 2008 reforms that occurred across the local government sector which resulted in the regional councils.

De-amalgamation of a council is a major step that creates significant impacts. It is not to be undertaken lightly. Thorough assessment is essential at any time if that is being contemplated, and it should involve major engagement with the affected regional council and their community long before any decision is made as to whether or not to de-amalgamate.

A key engagement issue for us is who speaks for the community in such a process; who has the right to represent the voice of the community in an LDM process when we get into an issue of perhaps we should de-amalgamate a council. Who represents or can speak for the council?

Within the local government sector, we have elections, so each elector has a voice at the ballot box. But if, through an LDM process, there is proposal to separate from a local government council area, who speaks for the community? Care must be taken to ensure that those less powerful in the community do not lose their voice in that process.

Our regional councils have had varying levels of involvement with LDM to date; some have had a lot, some quite limited. One thing that is a consistent message from them is that they do not feel sufficiently engaged with LDM initiatives. LDM can be hard for stakeholders to understand. By design, it is organic; it's principles based and can take many forms. The idea of designing LDM initiatives to reflect the local context is a good one. It provide flexibility and room to tailor processes and outcomes to local needs. That is a plus.

However, there is a flip side to that. LDM initiatives take many forms, from discrete local projects to regional-scale deals. That makes it challenges for stakeholders to understand just what it is. More engagement with regional councils will be beneficial, provided it is meaningful engagement. Our regional councils have experience and knowledge to contribute to these processes.

The magnitude of Aboriginal disadvantage is huge in the NT—we all know that—and there are limited resources to address the issues. We need to collaborate to get the most out of the available resources and expertise that we collectively hold.

Yesterday I was provided a copy of the NT Government submission. In closing, I will reflect on two points that were in its submission. It noted that some government agencies are concerned about the potential for confusion at the community level regarding LDM and other processes such as Indigenous voice and treaty. That potential for confusion is real, in our view, and is a concern that is shared by our regional councils and LGANT.

The NT Government submission also announced that an LDM monitoring and evaluation framework is being developed by the Northern Instituted of Charles Darwin University. We noted in our submission that strong evaluation is needed. As with any policy, it is essential to know what is working and what is not, not as a punitive process but as an adaptive approach that leads to stronger processes and outcomes. We view the involvement of CDU as a positive development in that area.

Thank you and I am happy to try to answer your questions.

**Mr CHAIR:** Thank you, Dr Beckwith. It is a very informal process here—not too confusing. It will be a general conversation almost with questions from the floor, which we will open and go from there. We probably have half-an-hour. See where we go. Thank you for your remarks.

**Mrs LAMBLEY:** Thank you. That was an excellent appraisal from your perspective. Is this the first opportunity you have had to provide that feedback to government on those issues you raised in your opening statement?

**Dr BECKWITH:** In a formal sense, yes, but there has been dialogue along the way. Our major contact in our government would be through the Local Government and Regional Development Division of the Chief Minister's Office. We have a very good working relationship. We have talked about some of these issues primarily. It has also come up in conversations. I represented LGANT on the working group putting together the implementation plan for Closing the Gap. We have also discussed our perspective there. The Aboriginal Affairs unit would have been directing that, so they are very much aware, through that process, of what some of these general concerns are, especially through the perspective of our regional councils being very much Aboriginal in nature ...

**Mrs LAMBLEY:** And democratically elected.

**Dr BECKWITH:** Yes, and with governance structures.

**Mrs LAMBLEY:** Interestingly, yesterday we asked the representatives from the Department of the Chief Minister and Cabinet, Bridgette Bellenger and Bo Carne, about the tensions that exist. They identified one of the tensions was with them—as in the representatives of local decision making—and LGANT or local government authorities. The said there was a tension there, but when further pursued on the issue, they were not willing to elaborate on exactly what those tensions were. There seemed to be a vagueness. Bridgette, from memory, said, 'You will have to ask them.'

It came across, to me, that there was not a lot of communication about the tensions and these issues that you very clearly articulated a few minutes ago.

**Dr BECKWITH:** I do not see any bad relationship. There are issues. I would not use the word 'tension', but there are issues and perspectives that we would like to see taken on board and addressed.

**Mrs LAMBLEY:** That was the work they used. There seems to be a lot to sort through, from what I am gleaning. Would you agree a forum to talk through some of these issues might be ...

**Dr BECKWITH:** Yes, we want a more collaborative approach. We are hearing from regional councils that yes, they are consulted at the front end, and initially that seems to be good, but then it is not carried forward through the whole process. They somewhat become less engaged over time. Yet, these initiatives—depending on the nature of them—can have very significant impacts on regional councils or, in fact, in some cases it could be a regional council could be of great assistance in providing some expertise and guidance to assist in some of these transfers or services. But we need more dialogue.

**Mrs LAMBLEY:** What is an example of an LDM initiative that has butted with a local government authority in the NT? Are you able to talk openly about an example?

**Dr BECKWITH:** East Arnhem is the case that comes to mind. East Arnhem has put in its own submission to you. We support the concerns that are raised by East Arnhem.

It is mostly about the fact that they are 100% Aboriginal council and they could also be very severely impacted if there is a de-amalgamation. If there is a concern about relationship with the government, it is not at the department level. There have at times been political comments made that muddy the waters and do not allow the process of going through, doing the assessment and having the engagement with the councils to work out issues should there be a de-amalgamation or not. If it was to be decided to do so, under what conditions, what is the implementation plan, how would the remaining council handle those impacts; things like that.

At times there have been political statements that seem to prejudge outcomes. That has not been useful from our perspective. The problem has not been at the departmental level.

**Mrs LAMBLEY:** When you say de-amalgamation, no one has used that term before over the last 24-hours. What do you mean by that?

**Dr BECKWITH:** In the case of the Groote Eylandt, my understanding is that they want to carve out their own area, which would become its own local government council. We would take that out of what is currently the East Arnhem Regional Council.

The financial sustainability of our councils is quite fragile. Taking out a large group of people from an existing council has a lot of impact. How would that be managed and is that the wish of the people within that local government area? It is not clear how that is being determined. I mentioned in my opening statement, lack of clarity about how decisions are made and who speaks for community, and that seems quite muddled and not clear to us. That creates uncertainty. We want clearer lines of communication, to make sure that communities that are going to be affected if you did something like that which would have significant impacts that the whole community is going to have voice on it.

**Mr MONAGHAN:** Could I clarify, you mentioned East Arnhem is 100% Indigenous?

**Dr BECKWITH:** Yes, the council members—well they were in the previous election, not currently.

**Mr MONAGHAN:** I do not think they are. Gordon Walsh has been a Groote Eylandt council member for a while.

**Dr BECKWITH:** I stand corrected.

**Mr MONAGHAN:** What is your view of why there has been a groundswell in those places—to use the example of Groote Eylandt—to have other forums by which community can be heard. Why has it got to this stage, to an LDM?

**Dr BECKWITH:** I cannot speak to that as I do not know enough of the details or dynamics that are going on to have an opinion on that.

**Mr YAN:** You spoke about some friction between local government and government. Many of those local councils are democratically elected and being up to 100% membership, so effectively this is a council representing a community which has elected a majority of Aboriginal people. You talked about the change from moving something from one Aboriginal organisation, effectively which is the council, to another one. When tenders et cetera come out and things get shifted, are the councils able to tender for those services?

**Dr BECKWITH:** It depends on how they are framed. Sometimes language, in these procurement documents, define Aboriginality-controlled organisations in ways that would not allow a council to compete for those funds.

**Mr YAN:** In effect, the council, which is in the community representing predominantly Aboriginal people are excluded, at times, from tendering.

**Dr BECKWITH:** Yes, that is my understanding.

**Mr CHAIR:** That is the perplexing part for the community; you have an Indigenous-run council that cannot tender and it is procured out?

**Dr BECKWITH:** One of the things we have asked in the recommendation is to receive clarity on how those definitions are arrived upon, for us to have a better understanding of the logic behind them, because they constrain the ability of our regional councils to be competitive for funding in some circumstances.

We are not flush with cash and resources out there, so any loss of opportunity to be able to be competitive for funding is a significant thing for our councils.

**Mr YAN:** We have spoken, in this building many times, of how the communities progress and develop is to bring ownership and management of some of those services back to the communities. It sounds like we have a process which stops those communities from being part of the process and proactively takes it outside the community.

**Mrs LAMBLEY:** Are you suggesting that, with the rollout of the local decision making agreements it could, essentially, mean the death of local government in some parts of the Northern Territory?

**Dr BECKWITH:** As we know it.

**Mrs LAMBLEY:** As we know it, yes.

**Dr BECKWITH:** For instance, with the Groote Eylandt situation, that is the only one I am aware of where de-amalgamation is being put on the table. If that would go ahead it would create a precedent. You always worry, once a precedent is created—what is the next one?

I am relatively new to the NT. My understanding is there were reasons why there were reforms in 2008 to create the regional councils. We would like to see that system retained and remain strong.

**Mr MONAGHAN:** I go back to my previous comments because you are touching on it again with Groote Eylandt. Surely, you have had conversations with Groote Eylandt about it? It must come down to satisfaction of service, otherwise why would they want to change?

**Mrs LAMBLEY:** Maybe it is just division, though; it does not have to be that. It could be a multitude of reasons.

**Mr MONAGHAN:** That is why I am asking. Is there any mechanism by which you have engaged with Groote to determine what the reasons are behind them wanting to ...

**Dr BECKWITH:** That is a question best directed to East Arnhem Regional Council than ourselves. They spoke more of this in their submission. I do not feel comfortable speculating on other parties' motivation for why they are doing things.

**Mr MONAGHAN:** No, no, I was not suggesting you do. I was suggesting that LGANT would have been taking a leadership role in those conversations.

**Dr BECKWITH:** No. We have become involved once East Arnhem made it clear to us the concerns they had. We are supporting them in their efforts to make sure the process is a very transparent and fair one.

**Mrs LAMBLEY:** This is fascinating from the perspective that the government has imposed local decision making as a policy across the board and could be backing local decision making over and above all the existing government and democratically-elected processes and institutions that are currently in place. Is that what it looks like from your perspective—that LDM could take precedence?

**Dr BECKWITH:** That is one of the forms it could take. It comes in so many different forms. Another one is the Barkly deal. In that case, I see it as far more promising because it takes more of a regional perspective of bringing different layers of government as well as peak Aboriginal organisations together in what I see as a more collaborative model. We would like to see that one evaluated as well. That one is more positive.

It is not all LDM initiatives. Some can be quite positive.

**Mrs LAMBLEY:** When they are inclusive rather than potentially destructive or eliminating of other institutions.

**Dr BECKWITH:** Yes, when they are inclusive rather than a more collaborative.

**Mrs LAMBLEY:** Wow!

**Mr YAN:** I asked Bridgette Bellenger yesterday specifically, because she said they had difficulties bringing communities together or negotiating with communities. I asked whether they specifically use local government as that conduit and bring in the people who represent the community. In your opening statement you said that does not happen.

**Dr BECKWITH:** Not that I am aware of. There have been concerns mentioned that the entire community is not necessarily being fully engaged or that it is not transparent. There is talk about the community thinks this or that but who are you talking about.

**Mrs LAMBLEY:** Yesterday we heard from Bridgette Bellenger that their definition of local decision making was fluid—she did not say that word fluid—but you said organic, fairly open, I use the word obtuse. I do not get that for a government body to have such a fluid, obtuse, organic definition for something that potentially is so powerful. We heard from the many groups that submitted, that it is a problem; the lack of understanding. Is that what you are seeing throughout your councils?

**Dr BECKWITH:** Yes. What is it, it takes so many different guises. A philosophical approach seems to be the one common element and everything else is open.

**Mrs LAMBLEY:** Do you see any dangers with the openness and lack of clarity, what does that mean for your councils?

**Dr BECKWITH:** It can lead to people disengaging. If you do not know what something is and it is amorphous to you, you have a lot on your plate, why would you invest in that. That goes against what we want to see happen, which is more engagement and collaboration. A layer is then put on top of that, discussions about things like Indigenous voice and treaty, and it becomes confusing.

At our last general meeting of Mayors, Presidents and CEOs, LGANT invited Ursula Raymond from the Northern Territory Treaty, people from LDM and Marcia Langton talking about Indigenous voice—it was a great session. We thought it was very important for our councils to start to get an understanding of what these processes are about so they can start to have a basic knowledge.

You can see in the Northern Territory's submission, they are struggling. They were honest in their submission; what will this look like in relation to Indigenous voice, where will LDM look like in relation to that or to Treaty. I think they too are struggling to figure out what is the path and now we have many different processes that could have voices from Aboriginal communities. It is great there are those voices, we want that, but how does it all come together. How do we not work at cross purposes?

**Mr CHAIR:** Doctor, do you have a view of how that could be distilled down? It is three years into a 10-year program.

**Dr BECKWITH:** Not off the top of my head; more engagement. LGANT and the sector in general would be happy to become more engaged and help look at some of those issues in collaboration with the other parties.

**Mr CHAIR:** When you say LDM at the regional council meetings, what is the general response?

**Dr BECKWITH:** When I spoke to the councils—I cannot speak for them—some have said they could see potential and others felt a little burned by the process and felt why bother. They started off well but then felt their concerns were not being heard. 'Being heard' means more than someone sitting there, taking notes about the concerns, and something is done with it; not just parked. They need to see more of the issues that they raise being tackled as part of the process. When that does not happen, you have disengagement.

**Mrs LAMBLEY:** In effect, local government is practising local decision making every day?

**Dr BECKWITH:** It is an unfortunate title for a policy.

**Mrs LAMBLEY:** Everything you do is about LDM, is it not?

**Dr BECKWITH:** Well, we are local.

**Mrs LAMBLEY:** Yes, you are a local form of government.

**Dr BECKWITH:** If there is one other comment we heard from regional council people was that people come to the regional councils because we are local and they know us. Sometimes the LDM people are there and sometimes they are not. In some cases, a few people made the comment that there was not enough of a presence at times from the LDM staff. As a result, those people who had questions would come to the regional council to talk about things that probably should have been discussed with the Northern Territory Government LDM people.

**Mrs LAMBLEY:** One of the questions you asked yesterday—which was brilliant—of the last speaker was that if you could recommend something to this inquiry that we could have in our list of recommendations what would it be?

**Mr CHAIR:** We only have five recommendations and you get to write one.

**Mrs LAMBLEY:** It can be a big one.

**Mr CHAIR:** Do you want to take that on notice for a minute? I go back to where you were talking about the LDM people. We have asked this question as well. How does it go across agencies, and who are the LDM people? What does that look like?

**Dr BECKWITH:** What did they tell you?

**Mrs LAMBLEY:** There were two staff.

**Dr BECKWITH:** Yes, that is perhaps part of the problem as well; they cannot be everywhere. When they are not out there people come to us because we are local.

For us, there are two big tickets. One is we want a more collaborative approach. The other is that we need to see evaluation—a proper scrutiny. Because things are opaque—I will use your term—it is hard for us to see what is working or not.

I noted in their submission that the NT Government talked about the 'runs on the board' they feel they have. That is good, but we need a more systemic approach to looking at evaluation via an external sources so that we can make sure it reaches its potential.

**Mrs LAMBLEY:** Greater recognition of local government within that whole ...

**Dr BECKWITH:** We feel that would be added value to the process.

**Mr YAN:** Bridgette Bellenger said yesterday whilst there are two staff in the team, every person within every government agency or department who goes out into the communities is effectively an LDM person championing LDM, which could be a health worker, teacher or anybody—because they are not specifically branded LDM.

I go back to the point that was just raised; that should the community councils be playing a larger part in the LDM process as that conduit between community, local government and Northern Territory Government.

**Dr BECKWITH:** I would like to have that conversation with them.

**Mr CHAIR:** What does collaboration look like in a better collaborative environment, in your view, Dr?

**Dr BECKWITH:** Without knowing the process more intimately, it is hard to say that. Again, I point to something like the Barkly deal as being more of a collaborative model where we have a seat at the table. I would even say that the experience we have just had on the Closing the Gap Implementation Plan. We were at the table as an equal partner with the NT Government and APO NT. That has been a very positive experience to date for us. We take our role in helping to achieve the Closing the Gap objectives quite seriously. We think we have something to offer.

We welcome any opportunity to be part of looking at who the processes are going forward and how regional councils can be a positive influence in that process. We do not want an adversarial situation; that is not useful to anybody.

**Mr CHAIR:** Considering the nature of the processes across a wide range of different communities and councils are there some type of measurements that go across? Do you have a set of KPIs, macro measurements or micro measurements? Is there some type of reporting system that is universal?

**Dr BECKWORTH:** Each council has to do an annual report as they are businesses in their own right. At LGANT we have a strategic plan that reflects the wishes of our executive. At any one time, we have 9 different councils on our executive and they help guide what things they would like to see us working on sector-wide. Does that answer your question?

**Mr CHAIR:** It does in some way. I am probing for a macro top line set of numbers and what are we trying to achieve? LDM or treaty will not do it in isolation. We have spoken with Health, Education and Attorney-General and it is all together.

**Dr BECKWORTH:** That is one of the things we were trying to do through the implementation plan for Closing the Gap. These are the commitments that each of these levels of government and peak bodies are trying to make; these are pieces and contributions to the puzzle. That is a new process we are feeling our way through.

**Mr CHAIR:** Closing the Gap has a tangible measurement, we are 'closing the gap'—can we get that age difference to bring mortality down.

**Dr BECKWORTH:** It also suffers problems in terms of evaluation. The link between the measures that people take and the hope of getting improvement on those objectives and what the objectives are, there is a big void between those two things. They suffer also from a problem of not being able to say: 'these are our winners, we have invested in these areas, these win, let us put more money and effort into the winners. Some of these were well-intentioned but perhaps off the mark but can be adjusted and others where this is never going to work, let us cut our losses and reinvest in areas that have more promise'. Evaluation is constantly a weak area across all these sectors.

**Mrs LAMBLEY:** After listening to you today, it makes me curious as to what the government's commitment is to local government going forward and what they see local government looking like in the future given the possibility of de-amalgamation as you put it. Is that their intention to allow that to happen?

**Dr BECKWORTH:** Those are questions for the government. All I can say is that our closest working relationship within government is with the Local Government and Regional Development division. That is a positive working relationship. We work closely on things like making sure that governance is excellent in providing training and opportunities for the sector.

We collaborate on many different committees. Recently, that group, the Northern Territory Electoral Commission and ourselves collaborated to ensure that there was a good turnout for local government elections et cetera. We had a debrief yesterday on that. Increasingly, we are getting to be at the table for some of those important things. I cannot speak for the views of other people in other parts of the government.

**Mrs LAMBLEY:** The Northern Territory has a long history in what, some would describe, as a disastrous de-amalgamation and amalgamation process. Once you start talking about this, I am sure you will get people concerned. Thank you for bringing that to our attention that there is that possibility. It is fascinating and something we need to follow up. Is that the intention of the LDM on Groote to break away and how does that impact on local government? It is not a question, but thank you for bringing it to our attention.

**Mr CHAIR:** Potentially, in a few weeks we will travel to some areas in the Territory to visit perhaps Groote and definitely Central Australia. Is there anywhere you recommend we should go?

**Dr BECKWITH:** Barkly because of the deal there to get a good understanding of that operates and what it can offer. As I said, I have a more positive view of that approach. That would be good in addition to the ones you have named.

**Mr YAN:** I go back to if you could write the one recommendation out of five. We gave you a little time to think of that.

**Dr BECKWITH:** It was about collaboration and greater involvement of the regional councils in the local government sector and see what role we can play that would be complementary and positive in this process. We do not want to see this as an adversarial situation; that is not useful to anybody.

**Mr CHAIR:** Does it become adversarial?

**Dr BECKWITH:** It can have the potential to. We do not want to see it go in that direction; we want to see more collaboration.

**Mr CHAIR:** Are there any areas of concern, though, in that?

**Dr BECKWITH:** As I said, if people do not feel that the engagement has been meaningful enough, you get disengagement. When you get disengagement, then you raise the possibility of people becoming unsatisfied.

**Mr CHAIR:** We have spoken about more marketing and knowledge about LDM.

**Dr BECKWITH:** It is more than that, though. Knowledge is important and it is important that everybody understands what it is. I could probably do with understanding it even more. I have read all their documents, but it is still hard to get your head around. I am someone who deals with these sorts of processes all the time.

It needs to be more than just information. It needs to be saying, 'Let us work cooperatively. How can we get the best out of the resources we have out there?'

We do not want it to become—I referred to it in the submission as the 'zero sum game'—take something from pot A and put in Pot B. No, we want to make a larger pot.

**Mr CHAIR:** Dr Beckwith, you have been very interesting and informative. Thank you very much for your time in coming in. We may be coming back to you at some stage to help with our recommendations.

**Dr BECKWITH:** Thank you very much for the opportunity to speak to you today.

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The committee suspended.

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## NATIONAL INDIGENOUS AUSTRALIANS AGENCY

**Mr CHAIR:** On behalf of the committee, I welcome everyone to the hearing. We welcome the National Indigenous Australians Agency. Thank you for coming. This is a formal proceeding of the committee, therefore parliamentary privilege and the obligation not to mislead the committee applies.

Being a public hearing, it is webcast. If, at any time, you will say something you think should not be made public, please let us know and we can go into a private, in-camera session, and therefore to not get yourselves in any trouble.

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

**Ms HILL:** I am Fleur Hill, Regional Manager, National Indigenous Australians Agency.

**Mr MUDALIAR:** I am Ben Mudaliar, also Regional Manager, National Indigenous Australians Agency.

**Mr DYER:** I am Tom Dyer, Senior Adviser, National Indigenous Australians Agency.

**Mr CHAIR:** Welcome. Today's hearing is fairly informal, in some respects. Would anyone like to make an opening statement or some brief remarks?

**Mr MUDALIAR:** Before we commence, I would like to take the opportunity to acknowledge, on behalf of the National Indigenous Australians Agency, the traditional owners and custodians of the country on which we are meeting today, the Larrakia Nation, and pay my respects to elders past, present and emerging. I also acknowledge other Aboriginal or Torres Strait Island members of the committee and witnesses present this morning.

Thank you for the opportunity to appear before the committee. The agency's Acting Chief Executive Officer and Central Group manager respectively, Blair Exell and Sam Jeffries, unfortunately are not able to attend today. I extend their apologies to the committee.

The agency was established by an Executive Order signed by the Governor-General on 29 May 2019 and the Order gives the agency a number of functions including:

- *to lead and coordinate Commonwealth policy development, program design and implementation and service delivery for Aboriginal and Torres Strait Islander peoples;*
- *to provide advice to the Prime Minister and the Minister for Indigenous Australians on whole-of-government priorities for Aboriginal and Torres Strait Islander peoples;*
- *to lead and coordinate the development and implementation of Australia's Closing the Gap targets in partnership with Indigenous Australians; and*
- *to lead Commonwealth activities to promote reconciliation.*

As I stated, in the NT the agency is led by Mr Sam Jeffries, our Central Group manager and he is supported by three regional managers responsible for Central Australia, the Top End and Tiwi Islands, Arnhem Land and Groote Eylandt. The regional offices are complemented by a Strategic Partnerships and Policy Branch also located in Central Group. My colleagues from Central Australia, Mr Byron Matthews and Dr Andy Johnston from the Northern Territory Strategy and Policy branch are also unable to attend and extend their apologies.

The agency has a spread of offices across the Territory, Darwin, Nhulunbuy, Katherine, Tennant Creek and Alice Springs, as well as an on-the-ground presence across these regions and in their communities to achieve the objectives of the agency in improving the lives of Indigenous Australians.

In the NT our key priorities are supporting economic growth in remote communities and strengthening the focus on jobs and wealth creation. The life-changing impact we all know that employment has on health and wellbeing of both individuals and in families, remains a priority for this agency and it will be particularly important in the coming years as Australia recovers from COVID-19.

Supporting the broader government objective of rebuilding the economy, the Indigenous Procurement Policy, in particular, has been a cornerstone over recent years in growing enduring Indigenous businesses. The agency

continues to support the progression of the IPP and advocate for effective Indigenous procurement and employment targets to be implemented across the Australian Government.

Specific to the NT, the agency is also responsible for administering the *Aboriginal Land Rights Act* and the Aboriginals Benefit Account. The ABA is a special account, as I am sure you know, established under the act which receives monies from the Commonwealth based on the value of royalties generated from mining on Aboriginal land in the NT to benefit Aboriginal people living in the NT.

Coordinating the implementation of the national agreement, Closing the Gap, is also something we are responsible for. The agreement sets ambitious targets and new priority reforms that will change the way governments work with Aboriginal and Torres Strait Island people, supported by regular reporting and greater accountability.

Finally, supporting the co-design of an Indigenous voice. This is a significant policy reform which, if agreed by government, would seek to enhance existing efforts to empower Aboriginal and Torres Strait Island people to have a say in the decisions that affect them.

For the benefit of the committee, I would like to go into more detail about the Australian Government's commitment to partnership and shared decision making under the Closing the Gap Priority Reform 1 and Indigenous Voice Co-Design process.

Through the Closing the Gap National Agreement and Commonwealth's Implementation Plan, the Commonwealth has committed to formal partnership arrangements to support Closing the Gap. Formal partnerships will be delivered in place between Aboriginal and Torres Strait Island people and governments in each state and Territory enshrining agreed joint decision making roles and responsibilities where Aboriginal and Torres Strait Island people have chosen their own representatives.

Details of the partnership and share decision making arrangements relevant to each of the socio-economic targets are highlighted in the outcomes and target section of the Commonwealth Closing the Gap Implementation Plan.

There are a number of actions to support priority reform one, including a justice policy partnership—which is one of five priority areas alongside social and emotional wellbeing, mental health, housing, early childhood care and development of Aboriginal and Torres Strait Island languages. The justice policy partnership commits all parties to jointly-established approaches in justice, both adult and youth incarceration.

We also have place-based partnerships. The National Agreement commits all parties to jointly establish six place-based partnerships to focus on implementation of the National Agreement at the regional or local level. The selection of these locations will occur through jurisdictional shared decision making processes, including relevant state or territories', local government and Aboriginal and Torres Strait Island communities, as well as the Commonwealth through NIAA Regional Managers.

The scope and implementation of place-based partnerships will be in line with the strong partnership elements outline in the National Agreement, and locations are to be agreed by the end of 2021.

Specific Commonwealth actions to support partnership and share decision making include:

- development of a partnership and shared decision making framework to support best practice across all Commonwealth portfolios in establishing and strengthening partnerships and shared decision making with Aboriginal and Torres Strait Island people
- a stocktake of existing partnerships
- supporting local shared decision making models such as Empowered Communities to ensure Aboriginal and Torres Strait Island people can participate in the development, delivery and evaluation of programs and policies that affect them
- creation of the NT Aboriginal investment corporation to administer investments and beneficial payments from the Aboriginals Benefit Account in the NT, which will transfer decision making over ABA funds from the government to the new Aboriginal-controlled body
- target level partnerships with all agencies with responsibility for targets currently working to identify, establish and or strengthen existing partnerships with relevant Aboriginal and Torres Strait Island stakeholders.

The Commonwealth has already established partnerships in the early childhood space and is developing health partnerships forums that support engagement between government and the Aboriginal and Torres Strait Island community-controlled sector in each state and territory.

In the NT, the agency is in discussion with APO NT about how we can assist it to build its capacity and capability to effectively engage and participate in Closing the Gap governance mechanisms.

I now go to Indigenous Voice, the co-design process. For the Indigenous Voice co-design process, the Commonwealth allocated \$7.3m to improve local and regional decision making and develop options for a national voice and constitutional recognition of Aboriginal and Torres Strait Island Australians. This followed recommendations of the Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples.

The Indigenous Voice co-design process was undertaken from October 2019 and concluded with the final report being provided to the Commonwealth on 30 July 2021. The process included consultation and engagement that has been one of the most significant of its kind in the history of Aboriginal and Torres Strait Island affairs. Overall, more than 9,400 people participated during the consultation and engagement process through consultation sessions, webinars, written submissions, an online survey and stakeholder meetings. The feedback we received strongly supported an Indigenous voice at local, regional and national levels.

The Commonwealth is currently considering the details of the final report, with public release of the report being a matter for government. The interim report, which was released for consultation in January 2021, outlined the initial proposals developed by the co-design groups in stage one of that process. These proposals included a framework and guiding principles for local and regional voices that aimed to ensure Indigenous Australians are empowered to work in genuine partnership with all levels of government at the local and regional level. This would include joint planning and shared decision making on how to address local community priorities and aspirations.

The interim report also set up the proposed process for determining regions, which would occur once the government's consideration of the proposals has been completed and the number of regions across Australia and for each state and territory has been agreed.

Subject to government support for the proposals, this would include two levels of government—the Commonwealth and the relevant state or territory government—working together with communities in that jurisdiction to develop and agree details of regional areas and boundaries within the number of regions agreed for that state or territory.

This approach was strongly supported in the consultation feedback which recognised that proposed flexible principles-based framework would allow communities to design their specific arrangements, building on what is already in place and works well.

Participation of all levels of government is a fundamental part of the local and regional voice proposal which also received strong support during consultations.

A senior officials group with representatives from each state and Territory government worked alongside the co-design process to provide input, discuss emerging ideas and ensure options developed could be informed by and work in a mutually beneficial way with existing approaches in states and territories, such as local decision making in the Northern Territory.

Should the Commonwealth support the proposals, the next step would involve detailed discussions with each state and territory government about how the proposed principles-based approach to local and regional voices could be applied in each jurisdiction, taking into account specific arrangements and conditions that exist in each state or territory. Subject to state and territory government support, this will be followed by a community-led design of specific arrangements in each region.

I thank the committee for allowing me to provide an opening statement. I and my colleagues will now gladly answer any questions that the committee may have following the tabling of our statement.

**Mr CHAIR:** Thank you for the opening statement; there is a lot to take in. Through this process, we are all learning more and more. As stated, a less formal meeting today and I will open up to the committee for questions.

**Mr MONAGHAN:** What brought the NDIA to the table of LDM in these communities? What do you see as the most important reason for partnering in those spaces? You have outlined some, but specifically to some of the agreements that are nearly in place?

**Mr MUDALIAR:** The agency has a clear commitment to an Indigenous empowerment agenda. The initiatives we are supporting, for example Empowered Communities, are evidence to that effect. Our Minister has been clear that he wants to support not just those existing initiatives but to take that further forward with initiatives like the Voice. Obviously, it is still a matter for government as to whether that proceeds and in what form.

The Indigenous empowerment agenda is an extension of where we saw a shift in Indigenous Affairs that probably emerged with former Prime Minister Turnbull, when he shifted the language to working with Indigenous Australians. This is the continuation of that policy momentum.

**Mr MONAGHAN:** You have a history of RPAs et cetera under Prime Minister and Cabinet. What do you see is the added value in this type of program or is there no added value. Is there a better way we can engage in this process, rather than individual agreements with these communities as you have done in the past?

**Mr MUDALIAR:** Any initiative that brings Aboriginal and Torres Strait Island communities to the table to talk about their needs and aspirations to create a forum in which they get to be part of the design, implementation and evaluation discussion, brings the principles of local decision making to the fore. While there is still that question of, to what extent does that work; that needs to be resolved through effective review and evaluation. We have a clear policy commitment that indicates we think there is a lot of merit in that approach.

**Mr MONAGHAN:** Is there a substantial financial commitment?

**Mr MUDALIAR:** We provide funding to Empowered Communities' backbone organisations to support implementation of the 'Empowered Communities' model. Noting that the question of whether an Indigenous Voice, local, regional or national, is yet to be resolved by government, the expectation is that there would be a financial commitment attached to that, if it was agreed to be implemented. There is also the in-kind support we provide in terms of partnering with NTG to enable implementation of local decision making as their policy vehicle.

**Mrs LAMBLEY:** Thank you for your opening statement, I truly knew very little about your agency. It is embarrassing to admit, but we are here to fact find. You are all based in the Northern Territory? Is that correct? Yes? What are you doing regarding the NTG's Local Decision Making policy? What is your part in what is happening on the ground?

**Mr MUDALIAR:** We could probably take that at each of the local levels. I defer to my colleagues.

**Ms HILL:** I am responsible for the Top End and Tiwi Island region. We have a number of local decision making agreements either in place or in work. We are trying very hard to address a 'no wrong door' approach within government. Whether our communities approach my staff or NTG staff, we are trying very hard to work together so that issues being raised are dealt with consistently across government and we are not getting that playing off people against each other and coming back with conflicting response, which are not helpful for the community.

Where NTG is establishing a local decision making agreement, or where one is under operation, NIAA staff is part of all those meetings and the service development discussions. We fund some of those services that are being developed, so it is very much a partnered approach from our perspective.

**Mrs LAMBLEY:** That is fascinating. We were not told about this yesterday, were we?

**Mr MONAGHAN:** They mentioned it.

**Mrs LAMBLEY:** Did they? Sorry, I missed that.

**Mr MONAGHAN:** Richard mentioned it.

**Mrs LAMBLEY:** So you are at the coalface negotiating, enabling?

**Ms HILL:** Yes. I was in Nauiyu two weeks ago sitting with the Green River Aboriginal Corporation, talking to them about their local decision making agreement that is in work at the moment.

**Mr MONAGHAN:** One that surprised me in your area was the Tiwi Island one because there seemed to be some hesitancy of them thinking, 'Oh, we do not need one', yet it seems to have been put together very quickly. I think in six weeks you have created it and it was only announced that it was finished this week. Can you talk us through the complexity of that from engaging communities to the point where some were saying, 'We think it is irrelevant for us', and suddenly they have one?

**Ms HILL:** I do not want to speak for the NTG here. From and NIAA perspective, we have had a very strong place-based practice on the Tiwi Islands for some time. The place-based practice we engage in, as an agency, is very much consistent with the local decision making ethos. Conceptually, it is really not a big shift to go from operating in a place-based way to operating under a local decision making model. It is not a huge jump.

**Mr DYER:** There was probably a long conversation with the Tiwis as well. It is, in a sense, a region as much as local. A long conversation happened with the different groups there. They came to the table several times. That takes time to work through before you can then jump forward.

**Mr MONAGHAN:** I was amazed at how quickly you got it together. That impressed me.

**Mr MUDALIAR:** It looks different in different regions. In my region, which takes in West Arnhem and East Arnhem Regional Council footprints, I have one local decision making agreement that the NTG has reached with the Anindilyakwa Land Council. We are not a signatory to that agreement, although as part of our agency commitments we have corporate plan targets which require us to be formally involved in LDM process and to partner wherever we can.

We have an arrangement that we engage in the LDM processes on Groote Eylandt and the Groote Archipelago through what is called the Groote Eylandt Executive Steering Committee which has senior representation from NTG and us. That gives us a capacity to monitor implementation. At our next GEESC meeting, we will be tabling some potential actions to be included in LDM implementation plans for the consideration of the current signatories to that agreement.

That is a very mature LDM agreement to the extent to which service transfer is enabled by those arrangements. The process we are undertaking in partnership with NTG in the Yolngu region of East Arnhem is much steadier because working up governance is critical at those various sub-regional levels. We want to ensure we have a very good understanding, along with NTG, about how we can bring Yolngu and Balanda governance together, so we are working in a strong partnership arrangement. That is not a six-week process, it is deep engagement which is required for that place. Each place will have a different contextual requirement.

**Mr YAN:** Dr Beckwith of LGANT spoke of the value of a recent meeting where NIAA, LGANT, NTG and the Treaty Commission were together at the table discussing issues on Closing the Gap. This feeds into LDM as well. Where do you see NIAA value-adding to local decision making in the Northern Territory in that current framework?

**Mr MUDALIAR:** The value-add is the extent to which we can exercise our convening power with other Commonwealth agencies. The range of issues that those Indigenous stakeholders might bring to the attention of government, whether it is Territory or Commonwealth, are not always things that the NTG can activate. We have a role to play in convening other Commonwealth agencies to come to the table and at least, if not be directly there, to hear about the sorts of issues being raised and to engage with them in discussions that seek to understand whether there is a capacity to then address those issues through Commonwealth investment or other levers.

**Mr MONAGHAN:** Things like aged care and areas you control?

**Mr MUDALIAR:** Aged care, disability services through NDIA, health, noting that there is an NT health presence but Commonwealth health has a different scope of responsibility. It is understanding that the sorts of issues that affect communities cover the full spectrum of what government is responsible for. Our agency commitment is around Indigenous empowerment. To whatever extent we can enable other Commonwealth agencies to be part of those discussions, that is where the value-add lies.

**Mr MONAGHAN:** Thank you.

**Mrs LAMBLEY:** What work are you doing in Central Australia at the moment?

**Mr DYER:** We have an empowered community site at Central Australia, the NPY site, and the NPY Women's Council is the backbone organisation. There is also an LDM in the Barkly region. There is a conversation regarding Julalikari and the Barkly regional deal—which I think you were referring to in your last conversation.

The empowered community site regarding NPY is currently working through, not only local decision making, but using discretionary funds on the Indigenous Advancement Strategy, our funding source, to make decisions on funding priorities (inaudible) feel is useful.

**Mrs LAMBLEY:** Is Central Australia your area Tom?

**Mr DYER:** No, unfortunately our regional manager, Byron Matthews, was unable to attend.

**Mr MUDALIAR:** We can provide further detail on what we are doing in Central Australia on notice.

**Mr MONAGHAN:** We are possibly visiting there, so we may be able to invite him along.

**Mr YAN:** We are from Central Australia and the Top End can visit us and spend some time with Byron while we are there, if possible.

**Mr CHAIR:** Is it working? Are there outcomes?

**Mr MUDALIAR:** I want to make sure that my answer does not veer into the realms of opinion. From my observations, the LDM conversations I've participated in, they fulfil the Commonwealth's commitment to Indigenous empowerment. That does not mean every conversation is an easy conversation, in fact some have to be difficult conversations.

**Mr CHAIR:** that is part of that deep engagement?

**Mr MUDALIAR:** That is right. In my view, our engagement is meeting the Commonwealth's principles. It is consistent with what we understand to be NTG's principles on Indigenous empowerment. To that extent, it is a process that we will remain committed to, so long as the NTG has these current policy settings.

**Mrs LAMBLEY:** You work really closely with NTG—is that correct?—in some things but not others?

**Ms HILL:** Yes.

**Mr MUDALIAR:** Particularly with the Department of the Chief Minister and Cabinet, we have a commitment to collaboration, which is being articulated as part of a collaboration framework with identified principles. Under that, we are also working on specific collaboration projects. In the project that we are partnering with Chief Minister and Cabinet in East Arnhem, that is specifically about how LDM, Empowered Communities, a potential Voice and any other place-based initiatives come together so they are mutually supportive and easily understood by community and other stakeholders, as well as government agencies, to create the best platform possible for an Indigenous empowerment agenda.

**Mrs LAMBLEY:** It is just that one main project at the moment?

**Mr MUDALIAR:** Under that collaboration framework; the idea is that as we tackle challenges, generate learnings and understand failures, we are gathering a lot of lessons learned that can potentially be applied not just across other parts of the Northern Territory but more broadly across Australia, because this is not a challenge that is unique to the Northern Territory.

**Mr MONAGHAN:** We have heard that in some of the communities there is confusion about the variety of issue that are going on. What are you doing in that space to ensure there is clarity for those communities? I know part of it will be continuing to consult with people, but is there anything more that can be done in that space? Consultation could go for 10 years, and that is certainly not the outcome the communities want. Their history is that some of them have been consulted to death, every time government changes its policy.

**Mr MUDALIAR:** I can give a bit of detail about the process we have gone through in East Arnhem, which NTG is leading but we are partnering with. Part of that is facilitating conversations within Yolŋu communities at the sub-regional level, for them to be very clear in coming to us about what governance looks like for them.

Part of our reciprocal response is to come to them with a similar clarity about what Balanda governance looks like for the Commonwealth, the NTG and local government and trying to make that easily understood. That is a work in progress. No doubt when you have this many initiatives, it will raise questions amongst stakeholders about how it all fits together. We learn from each sub-regional workshop we go to and think how we can better refine our messaging so it is more easily understood. We have the capacity then to engage in dialogue about how these things come together.

**Mr MONAGHAN:** Do you have a hierarchy of initiatives from the federal government's perspective, or will that be something you will be led by community and those discussions?

**Mr MUDALIAR:** It is very much community-led. Clearly, the Closing the Gap framework sets out what our priority reform areas are and what the targets are that have been agreed with states and territories. But there is considerable scope across that range of potential areas for community to identify what—within those other issues as they play out at a local, regional or sub-regional level—they would like to pursue. The policy settings for us are very much to be led by community and what they identify.

**Mrs LAMBLEY:** You did not put in a submission, did you, to the inquiry? Is that right?

**Mr MUDALIAR:** That is correct.

**Mrs LAMBLEY:** Was there any reason for that?

**Mr MUDALIAR:** None that I am aware of.

**Mrs LAMBLEY:** Okay. It would be useful, as part of our complete package, to get some clarity on paper about what you do. You have given an excellent opening statement, but what you are doing in the Northern Territory would be great.

**Mr MUDALIAR:** We can go back and look at that.

**Mr CHAIR:** Are there any further questions? If you could put something together, that would be beneficial to the committee as well. On behalf of the committee, thank you for your attendance today and your time to speak with us today. Keep up the good work.

**Mr MUDALIAR:** Thank you.

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The committee suspended

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## NT TREATY COMMISSION

**Mr CHAIR:** We will continue with our Public Accounts Committee review into local decision making. On behalf of the committee I welcome to the hearing Ms Raymond and Steve Rossingh.

A couple of quick points. This is a formal proceeding of the committee, therefore, parliamentary privilege and the obligation not to mislead the committee applies. This is a public hearing which is being webcast. There will be a transcript and we may put that onto the website.

If, at any time during the hearing, you are concerned that what you say should not be made public please let us know and we can make it a closed session, therefore your evidence would then be private.

I ask you both to please state your name and position for the record.

**Ms RAYMOND:** Ursula Raymond. I am the Deputy Treaty Commissioner for the Northern Territory.

**Mr ROSSINGH:** I am Steve Rossingh, Director of the Northern Territory Treaty Commission.

**Mr CHAIR:** Ms Raymond, would you like to make some opening remarks?

**Ms RAYMOND:** Yes, we will do brief opening remarks and then we will go from there.

**Mr CHAIR:** It is a fairly informal proceeding ...

**Ms RAYMOND:** Yes, we have been watching—for the last two days, in fact.

First, I acknowledge the Larrakia First Nations are the traditional owners of the land we are meeting on today. It is a pleasure to be here. I also acknowledge the other First Nations people in the room and the Northern Territory.

The Treaty Commission commenced in 2019, which was followed by enabling legislation, *Treaty Commissioner Act*, in 2020.

The Treaty Commission has partnered with the Aboriginal Interpreter Service to translate all our education material and information sheets into 16 different language, including two Kriol languages. They have gone out across the Northern Territory. They are available in written and oral form.

It is important to note that the Treaty Commissioner's role is not to negotiate a treaty. Our role is to consult and inquire, report and make recommendations in accordance with the terms of reference that has been agreed to by the parties to the agreement, which is the Northern Territory Government and the four Aboriginal land councils.

Stage one was our initial consultation phase. That was all about introduction, education and awareness-raising. We met with more than 45 major Aboriginal organisations and representative bodies across the Northern Territory—in urban areas and in more regional areas. We also presented to a number of local Territory and Commonwealth departments and their agencies, numerous conferences, workshops, forums and outside the Northern Territory. These included: the NT public service Aboriginal forum; Aboriginal leadership and governance forum; the National Indigenous Legal Conference; the Garran Ovation at the Institute of Public Administration Australia National Conference; the Barunga Festival and the Garma Festival.

The end of our first stage was to provide to the Chief Minister a discussion paper, which we have done. This is a copy of our discussion paper. It is very easy to read. I am sure you have all read it. If not, you can download it from the Northern Territory Treaty Commission website ...

**Mr ROSSINGH:** I have some copies.

**Ms RAYMOND:** There are copies for each of you.

**Mr MONAGHAN:** Table those.

**Ms RAYMOND:** Yes, we will table those.

We are currently in stage two, following our discussion paper. We are now in extensive consultation with Aboriginal Territorians across the Northern Territory about the content of the discussion paper for an assessment on whether a consensus or majority view exists on all or any of the substantive items included in the discussion paper.

During this phase, we have so far visited 34 communities across the Northern Territory, including Kintore, which is near the WA border in the Western Desert. In October we will be visiting Ngukurr, Numbulwar, Barunga and Beswick. We will also be consulting on the Tiwi Islands.

We have commenced our process to start writing our final report, which is due to be delivered to the Chief Minister in March 2022. The final report will detail the outcome of our consultations, make recommendations of next steps to be taken and propose a negotiation framework for the treaty to proceed in the Northern Territory.

We thank you for the opportunity to be here today. We will open to questions and jump between Steve and I.

**Mr CHAIR:** Thank you, Ms Raymond. I open it to the floor.

**Mr MONAGHAN:** I will kick off. Your submission raised concerns about the LDM with respect to the treaty consultations. Can you elaborate on why there are concerns and what they look like?

**Ms RAYMOND:** We think LDMs are a good transition to a treaty process. At the moment, the LDMs are not formalised agreements; they are just like MOUs. They are not binding agreements for the communities that are signing up to an LDM. They are also not evaluated, so there is not KPIs or anything we can gauge them on.

The way the government approached that in relation to a treaty, there are pathways from an LDM to a treaty process that we could amalgamate and make a lot stronger. We think the LDMs are a good starting point for treaty making. Its current phase at the moment, the local decision making, is a bit vague about how people are making local decisions in their areas.

**Mr MONAGHAN:** From your view there is no rigour in the pathway to the outcomes of the LDMs come up with for their agreement? They are fairly fluid, in that sense? I do not want to put words in your mouth.

**Ms RAYMOND:** Yes, some still have not been finalised. The LDM process was an election commitment in 2016, so ostensibly, theoretically, they have been around for at least six years. We are not seeing any real outcome from any of those and there are a lot of places where they are still in the baby steps of LDMs.

**Mr ROSSINGH:** Other than Groote.

**Ms RAYMOND:** Other than Groote, yes. Groote is like the gold standard.

**Mr ROSSINGH:** Groote is substantial progress. One criticism has been that they are not legally enforceable. One of the reasons for that is there is not much substance to enforce in a lot of them. Often, there are statements of aspiration, process and what good community development practices should be. Whether you badge it up as LDM, it is documenting stuff that should be happening anyway.

The potential and promise was that it would be pretty transformational, with the aspiration of transferring or shifting of power from government to community control. It seems that it is an early margin of that. There does not seem to be any substantive movement.

**Mr MONAGHAN:** Do you have any view on why that is the case? Let us remove Groote, the gold standard. In the other places, why is that the case?

**Mr ROSSINGH:** There are lots of reasons. We outlined a couple in our submission. One is the environment is so congested at the moment; there is so much out there.

There needs to be some sort of mapping or alignment exercise to say 'This is all the stuff out there.' Every time you have a disjointed policy environment and you add a little patch on top, it is adding another layer of confusion; it is not adding a layer of clarity. There is a lot of confusion about what it means.

Second, the sort of stuff LDM has the potential to do is so transformational, it requires a big shift in mindset across government, particularly the public service. Unless you have a really focused, dedicated and well-resourced change management program, human nature is that people do not want to change and, more so, do not want to give out power.

This is primarily outside of the Department of the Chief Minister and Cabinet, but on the ground where these things have to be implemented—housing, education and all those frontline areas. Unless there is a big shift in how they operate, then it will never work. There needs to be resources put into doing that.

**Ms RAYMOND:** You would have seen from the Northern Territory Government's submission, that is the point it was making. Within the Chief Minister's department and Cabinet, that is where the LDMs are strongest. It has not been taken up in all the other government departments. They rely on the Chief Minister's department to do it, whereas it should be across government. It is not just for one agency. They need to make a change and it has to be whole-of-government. It probably is, but it is not implemented.

**Mr MONAGHAN:** You are not seeing evidence, particularly in some of the bigger departments like health and housing, that they are making that step change to incorporate it? We have heard that it is supposed to be spread across—it is not just Chief Minister's; it is implemented across all departments. You are saying you have not seen evidence of that?

**Ms RAYMOND:** No, I am saying that in the NT Government's submission, it is saying it is not happening across all those other government departments. We deal with the Chief Minister's department. That is their initiative and they are rolling it out as they are. You will have to get more information out of them about how ...

**Mr MONAGHAN:** Just to clarify, yes.

**Mr YAN:** We had NIAA in, and they were saying they have a partnership with the Northern Territory Government as part of those LDM discussions in communities. Do you have the same advantage? Is the Treaty Commission part of some of those discussions about LDMs in communities, or as you said, you tend to sit on the outside?

**Ms RAYMOND:** We have had discussions with Aboriginal groups around the Northern Territory and major organisations and they have talked about LDMs with us. We are not partnered with the NT Government or NIAA and other organisations like LGANT, for example, in those group negotiations or discussions with Aboriginal organisations and people.

**Mr YAN:** Do you think that you should play a greater part?

**Ms RAYMOND:** No, we are doing enough. We are independent of government. We have a specific role to play and we see synergies between local decision making and treaties. We are just getting on and doing that. No, I do not think we need to be involved in that process.

As Steve said, it is a very congested area in Aboriginal affairs in the Northern Territory, being the most over-governed group of people in the Northern Territory, really.

**Mr MONAGHAN:** Are there synergies and methodologies in engaging between treaty and LDM?

**Ms RAYMOND:** Yes, there are. We made that point in our submission that LDMs can be transitioned to treaties; they are a starting point. There needs to be a sharing of power. It means that treaties are formal, binding political agreements between equals. There would be an agreement between the Northern Territory Government and a First Nation—whether it is Yolngu or Aranda.

If LDMs were a lot more empowering for people and providing education, training and awareness of how to transition and be more self-governing. Rather than making an agreement, then that sets up an easier path towards treaty, which would take some time.

**Mr ROSSINGH:** There is overwhelming worldwide evidence that when—particularly in an Indigenous space—people are in control of the decisions that affect their daily lives, you start to see big changes in those headline outcomes you are talking about. This is all about facilitating that process.

**Mr CHAIR:** We see how congested it is and we have heard about confusion and ambiguity. I think I just heard you say that LDMs might be a precursor to treaty, in some way. Is this ...

**Ms RAYMOND:** Potentially, it can transition to that. There is some discussion with the LDM about some kind of power being devolved from the NT Government. It can roll into that treaty initiative and be much more binding and a structured agreement. It will be a legal document. Hopefully, it would also be part of domestic legislation to make it a lot stronger.

**Mr CHAIR:** When we have a treaty in the Northern Territory that will be enshrined in legislation. I do not know what the recommendation is, obviously. You suggest it will be ...

**Ms RAYMOND:** To enforce it, yes, it should be enshrined in domestic legislation. Then it cannot be at the will and whim of changing governments and stuff like that.

**Mr ROSSINGH:** In the discussion paper, we talked about umbrella and overarching legislation which codifies the process, the minimum standards, sets up the establishment of the machinery of government—all of that stuff that goes with it—and that would be legislated.

One of the key components of that legislation would be the ability for individual First Nations or groups of First Nations, to have treaties with the NT Government. That is a big part of the feedback we have had in our consultations; that people want the ability to have localised treaties. We are talking treaties, not treaty.

The overarching legislation, in some ways, is the headline treaty, and then there is the ability for these individual treaties. As Ursula said, ideally they will be legislated as well once they are executed.

**Mr CHAIR:** Let us fast forward five years. Do you have a view where LDMs will sit within that framework?

**Ms RAYMOND:** Ideally, they would be in the treaty. It would not be an LDM anymore, it would be a treaty.

**Mrs LAMBLEY:** Are the LDMs a kind of treaty or agreement now?

**Ms RAYMOND:** They are not binding, but they are a good precursor; an initial step to making an agreement about local decision making evolving into a treaty after long negotiation. Treaties take a long time so we are not expecting one to happen within 10 years, although there might be places that are ready to do that. For example, Groote Eylandt. They take time. It is sitting across the table negotiating with the government.

**Mrs LAMBLEY:** Do treaties include practical things like the provision of housing, or how police services operate in communities? Is it that sort of ...

**Ms RAYMOND:** The treaty would have to be a sharing of power. The government will have to give up some power; whatever is negotiated in the treaty. The sky is the limit on that.

**Mrs LAMBLEY:** You could put anything in it.

**Ms RAYMOND:** You could have whatever you like in it. It might be a treaty with a particular group. We will probably propose that there will be an overarching treaty, as Steve mentioned, that will set the minimum standards for all treaties to meet. People can either have one group treaty with the Northern Territory Government and or have their individual clan treaties. People might want treaties with the clan next to them as well. It is a political agreement and it is binding on how they relate to and do business with each other.

Sorry, I have forgotten your question.

**Mrs LAMBLEY:** All right.

**Mr YAN:** It is about service delivery.

**Mr CHAIR:** It is service delivery, like police services.

**Ms RAYMOND:** Sorry. A treaty group might decide they want to run their own police force, so they have police in their area within their clan lands or within their boundaries, and they run the police and the judiciary in that way.

That happens in other places overseas. In the US, for example, that happens very successfully. It is up to what people want to have in their treaty.

**Mrs LAMBLEY:** You talked about how Aboriginal Affairs is quite congested. You said the most over-governed area. Are you suggesting that with the implementation or creation of treaties that will decongest the environment?

**Ms RAYMOND:** Yes, potentially it can do that. People will have their own government. They will be self-governing, self-determining and making decisions on their lives on their land and how they live and what they would like to see happen on their country, or their clan estates.

The NT Government or federal government would have to then treat with that clan group or treaty body about any services that occur within that treaty boundary they might wish to discuss. It should be less congested because then they are determining and making their own decisions about what they want, rather than the government coming in and saying, 'These are the new initiatives we have', then coming in again, 'These are the change of the conditions and initiatives', and, 'This is out the door and now we have this.' The First Nations would have political agency.

**Mrs LAMBLEY:** Dr Beckwith from LGANT talked about how local decision making might lead to de-amalgamation of local government. How would the treaty system fit within the current democratic institutions and the layers of government we have at the moment?

**Mr ROSSINGH:** One example would be the recent amendments to the *Local Government Act* which increase the scope and authority of local authorities. You have the regional council as a whole, and each of the main communities now has a local authority. At the moment, the responsibility of the regional council is to consult with the local authorities on certain things. The things they must consult on are listed in the act.

But it does not give the local community any decision making, only an obligation that they have to be consulted. One way is to strengthen the local authority process and incorporate real decision making for the local authority, rather than just being consulted.

**Mr MONAGHAN:** You talked in your submission about the changed manage approach for governance and service delivery and people in that space. Would you see that then as only an interim measure? Under the progression of LDM to treaty where communities, groups or families—depending where they are or what their responsibilities are—are making those determinations themselves whether they run those?

It would seem then that that step change is irrelevant because they are running it themselves, if they choose to take it on. What are the implications? Is it an interim process or would you see it as something that would have a lasting effect on the way business is done when treaties are signed off?

**Ms RAYMOND:** A lasting treaty, you mean?

**Mr MONAGHAN:** No, no. I am referring to your submission. You mentioned at the start government agencies needing to do a step-management change in how they engage with people. When it becomes treaty, under what I am hearing, the community makes those decisions for themselves whether they wish to run it. That step management almost becomes irrelevant, rather than a stop-gap measure to get to there.

**Mr ROSSINGH:** Potentially, eventually. In the time frames we are looking at, overseas—certainly in British Columbia—takes on average almost 20 years from the first day that a First Nation says, 'We want to start a treaty negotiation process' to the day it is signed.

**Mr MONAGHAN:** Wow!

**Mr ROSSINGH:** Tla'min's (treaty in British Columbia)—that we done a fair bit of work on—took 22 years.

It is the same today. You could be looking at four to five years before the framework to even start a first negotiation. Then you might have the First Nation or group of First Nations decides to start a process and that takes 20 years. But there could be other First Nations do not even get to the starting line for another 10 to 15 years. We are talking a 50-year time frame. Eventually that is the goal, but it will take a long time to get there.

In New Zealand they have a separate office called the Office of Maori Crown Relations. They have a number of roles, but three key ones. One is the New Zealand government's negotiator for the modern settlement agreements. They have a responsibility, once the settlement agreement is executed, to coordinate the government's delivery of its obligations. They have to develop capacity in the public service. They have a capability framework which is assessed.

If you are working in the New Zealand government and you have anything to do with the implementation of these settlement agreements, you cannot work in that space unless you meet those competencies. It needs to be that structured for change to happen.

**Mrs LAMBLEY:** Are the settlement agreements treaties or the equivalent?

**Mr ROSSINGH:** They are the equivalent, yes.

Quickly, with the Treaty of Waitangi in 1840, there was a lot of dissatisfaction with how it was being implemented. In 1975 the New Zealand government created the Waitangi Tribunal, where Maori could bring their grievances. Once those grievances are logged, then there is a settlement process. You have these new settlement agreements, which are basically the modern treaties emanating from the original one.

**Mr MONAGHAN:** It is fascinating. It is probably that the Public Accounts Committee asks you guys to come back for a briefing because there is a heap of information that I was not aware of that would be really good for us to know as we move forward as well. That is another inquiry.

**Ms RAYMOND:** You have that discussion paper. You can read that. It has a lot of issues in it, so you can learn from that.

We were listening to other presenters and questions that the committee has asked about Groote Eylandt; and that being the gold standard. Groote Eylandt is unique. It is a discrete island. The population is one population. They have resources, finances and good governance. They are quite strong. They do not have to make any deals with anybody else. They do not have any shared borders.

They may well be one of the groups that decides they want to start a treaty process. They would be well-advanced on their current management systems and where they are.

Treaties also mean governments have to give up and share power. It also includes reparations for past history. We also have recommended and have submitted a truth telling paper; that there be a truth telling commission that starts immediately so that Aboriginal people can tell their truth about what has happened to them—the atrocities over decades and decades; for example, the Stolen Generations. We think that should commence immediately.

There are some other issues that are at play as well.

**Mr CHAIR:** Is there nothing further? Do you have any other points you would like to make before we conclude?

**Ms RAYMOND:** No, thank you.

**Mr CHAIR:** Thank you very much for your time and for attending. That concludes our hearing for today. We propose to follow up on a number of different areas, including yours and a few others.

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The committee concluded.

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